



General Assembly

Distr.
GENERAL

A/HRC/7/6/Add.1
27 February 2008

Original:
ENGLISH/FRENCH/SPANISH

HUMAN RIGHTS COUNCIL
Seventh 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 * **

* 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.

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

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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 1 January to 4 December 2007 (with respect to allegation letters), and to 4 January 2008 (with respect to urgent appeals). The report also contains summaries of government replies received until 21 January 2008.

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. In the original communications, the full names of victims and perpetrators have been provided to the Government concerned. In this report, the names of individual victims and alleged perpetrators have been replaced by initials in order to protect their privacy and to prevent further victimization as well as to avoid pre-judgement of the alleged perpetrators.

II. OVERVIEW OF COMMUNICATIONS

1. Communications sent

4. From 1 January to 4 December 2007 and 4 January 2008, respectively, the Special Rapporteur transmitted 59 communications to 38 Member States: Algeria,

Angola, Argentina, Australia, Bahrain, Bangladesh, Brazil, China, Colombia, Ecuador, Fiji, Guatemala, Guinea, Honduras, India, Iran (Islamic Republic of), Iraq, Kyrgyzstan, Malaysia, Mexico, Myanmar, Mongolia, Mozambique, Nepal, New Zealand, the Philippines, Qatar, Democratic Republic of the Congo, Saudi Arabia, South Africa, Sri Lanka, the Sudan, Sweden, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America and Uzbekistan.

5. 28 communications are allegation letters pertaining to allegations of human rights violations that had already occurred or reflected longstanding concerns. In 31 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. 52 out of 59 communications were sent jointly with other mandate holders of the Human Rights Council, as follows:

- The Special Representative of the Secretary-General on the situation of human rights defenders (24)

- The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (24)

- The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (9)

- The Special Rapporteur on the human rights of migrants (8)

- The Special Rapporteur on the sale of children, child prostitution and child pornography (7)

- The Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children (7)

- The Working Group on Arbitrary Detention (5)

- The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (5)

- Special Rapporteur on adequate housing as a component of the right to an adequate standard of living (4)

- The Special Rapporteur on the independence of judges and lawyers (3)
- The Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (3)
- The Special Rapporteur on extrajudicial, summary or arbitrary executions (2)
- The Special Rapporteur on freedom of religion or belief (2)
- The independent expert on minority issues (1)
- The Special Rapporteur on the right to food (1).

7. The largest number of joint communications (24) was sent together either with the Special Rapporteur on the question of torture or the Special Representative of the Secretary-General on the situation of human rights defenders. The Special Rapporteur stresses that this fact indicates a convergence in the understanding of the diverse forms of human rights violations experienced by women with that of more conventional forms of violations. This may also signal an erosion of the public / private sphere dichotomy used for so long to exclude violence against women from public concern and scrutiny. Additional trends in the communications received are identified in chapter III below on “Trends and Observations”.

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. As of 21 January 2008, the Special Rapporteur had received responses to 34 cases from Governments concerned and would like to express her particular appreciation for timely replies. The Special Rapporteur remains concerned that only 19 communications sent in 2007 have so far been responded to. Sixteen Governments failed to respond and some responded only partially to the issues raised. The Special Rapporteur expresses her appreciation to have received, during the course of 2007, 15 additional responses to communications sent in 2004, 2005 and 2006.

9. The following Member States did not respond to any of the communications that the Special Rapporteur sent in 2007: Algeria, Angola, Argentina, Bahrain, Brazil, Colombia, Ecuador, Fiji, Guinea, Iran, Myanmar, Mongolia, Mozambique, Democratic Republic of the Congo, South Africa and Sri Lanka.

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, to supply all information requested, including with respect to the Special Rapporteur's communications.

III. TRENDS AND OBSERVATIONS

11. The communications sent concerned a wide array of issues related to violence against women, its causes and consequences, as defined in the 1993 United Nations Declaration on the Elimination of Violence against Women. These included: arbitrary detention, torture or cruel, inhuman or degrading treatment or punishment, summary and extrajudicial executions; rape, sexual abuse and sexual exploitation; trafficking; and other forms of violence grounded in discrimination against women.

12. These various forms of violence against women were committed by both State and non State actors. Overall, 35 out of 59 communications (59 per cent of the total number) concern allegations of violence against women, or threats thereof, committed by State agents. Police officers and military personnel in particular were identified as the main perpetrators. The Special Rapporteur notes in this respect article 4 (b) of the Declaration on the Elimination of Violence against Women, which stipulates that States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should refrain from engaging in violence against women.

13. In addition, the Special Rapporteur also acted upon laws, regulations, drafts and specific legal provisions which seemed to discriminate against women and may condone or cause violence against women. Four letters were sent in this respect, and while this is a small percentage of the total number of communications, it reflects the importance the Special Rapporteur attaches to addressing the full spectrum of her mandate, including the causes and consequences of violence against women.

1. Torture or cruel, inhuman or degrading treatment or punishment

14. 24 communications concern cases in which authorities tortured women and sentenced or subjected them to cruel, inhuman and degrading treatment or punishment (including sentencing to death by stoning and corporal punishment). Such cases amount to 71 per cent of all abuses perpetrated by State agents that were subject of communications by the Special Rapporteur.

15. The Special Rapporteur notes that torture is prohibited under a wide range of international instruments, such as article 7 of the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Torture is also prohibited by many regional instruments as well as under international criminal law and international humanitarian law.

16. More specifically, the Special Rapporteur would like to stress that in its resolution 2005/39, the Commission on Human Rights reminded Governments that corporal punishment can amount to cruel, inhuman or degrading punishment or even to torture. The Special Rapporteur on the question of torture[†], the Human Rights Committee and the Committee against Torture have all called on States to abolish all forms of judicial and administrative corporal punishment without delay.

2. Sexual violence

17. 25 out of 59 communications (42 per cent of the total number) concern allegations of rape, sexual abuse and exploitation. 16 thereof (64 per cent) were allegedly committed by State agents.

18. The Special Rapporteur notes that, in recent years, there has been an increased and explicit recognition of some forms of violence against women in international and national courts as amounting to torture and ill-treatment, the best known examples being rape by private or public actors in conflict or in custodial settings. Other forms of violence against women, such as physical or sexual violence in an intimate

[†] See A/60/316.

relationship, if committed with the acquiescence of the State, may qualify as torture or cruel, inhuman or degrading treatment as well. In this regard, the Special Rapporteur on the question of torture joined the Special Rapporteur on violence against women in seven communications pertaining to allegations of rape.

19. Under international human rights law, notably the Declaration on the Elimination of Violence against Women and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, States have thus the obligations to criminalize acts of torture and violence against women, prosecute perpetrators and provide reparation to victims. Accordingly, States must thus do their utmost to prevent the perpetration of sexual violence, address any act of sexual violence and offer judicial remedies to the victims.

3. Violence against human rights defenders

20. The Special Rapporteur observes an ongoing trend to subject female human rights defenders and women's rights defenders to violence, including arbitrary detention and threats of violence. 24 out of 59 communications (41 per cent of the total number) concerned cases of this nature.

21. The great majority of these cases (16 out of 24; 67 per cent of the violence against human rights defenders cases) concerned women's rights defenders and the alleged perpetrators were mostly identified as State agents (21 out of 24; 87.5 per cent of the violence against human rights defenders cases).

22. In this respect, the Special Rapporteur would like to remind Member States that by ratifying the Convention on the Elimination of All Forms of Discrimination against Women they have committed themselves to take all appropriate measures to eliminate discrimination against women in the political and public life of their respective country and, in particular, to ensure to women, on equal terms with men, the right to participate in non governmental organizations and associations concerned with the public and political life of the country (article 7 of the Convention). Further, the Special Rapporteur wishes to reiterate the principle reiterated in Commission on

Human Rights resolution 2005/38 in which the Commission calls on States to facilitate the full, equal and effective participation and free communication of women at all levels of decision making in their societies.

4. Violence against women facing multiple and intersecting layers of discrimination

23. 19 out of 59 communications sent (32 per cent of the total number) concerned women facing multiple and intersecting layers of discrimination.

24. Women belonging to national, ethnic or religious minorities or lower social castes, indigenous women, and migrant women are strongly overrepresented among reported victims. The Special Rapporteur has also acted on a case of a transgender/gay activist, who was targeted due to his sex identity choice and his activity of bisexuals, gays and travesties' rights defender, as well as on a case of a lesbian couple, who was reportedly persecuted because of their sexual orientation.

25. In this regard, the Special Rapporteur would like to refer to Commission on Human Rights resolution 2005/41 on the elimination of violence against women in which the Commission calls on States to address the specific circumstances facing indigenous women and girls in relation to gender-based violence, especially sexual violence, arising from multiple, intersecting and aggravated forms of discrimination, including racism, paying particular attention to the structural causes of violence.

26. The Special Rapporteur would also like to draw the attention of Member States to article 22, paragraph 2, of the United Nations Declaration on the Rights of Indigenous Peoples[‡] which stipulates that States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

5. Trafficking of women, and sale of children

[‡] General Assembly resolution 61/295.

27. The Special Rapporteur expresses her concern over the many cases of trafficking in persons and sale of children on which she acted (11 out of 59; 19 per cent of the total number), and with respect to which women and girls were most affected.

28. Several communications sent concern groups of women or children being trafficked for the purpose of sexual exploitation. This fact reveals the existence of a net of criminal organizations, taking advantage of poverty, lack of knowledge and education, border guards' corruptibility and many other factors. In this regard the Special Rapporteur would like to stress the States' duty and responsibility to fight this ever-increasing phenomenon, whether the States are countries of origin, transit or destination of trafficking.

29. The Special Rapporteur encourages Member States to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, and to make use of the "Recommended Principles and Guidelines on Human Rights and Human Trafficking" developed by the Office of the United Nations High Commissioner for Human Rights.[§]

6. Failure to prevent and respond to violence against women with due diligence

30. According to the Declaration on the Elimination of Violence against Women and other human rights instruments, States have a duty to take positive action and exercise due diligence to prevent and protect women from violence, to prosecute and appropriately sanction perpetrators of violence and to ensure that victims of violence receive compensation. States have this duty regardless of whether the relevant acts have been committed by private or State actors. The failure to comply with any aspect of the due diligence obligation constitutes a human rights violation.

[§] E/2002/68/Add.1.

31. 28 out of 59 communications sent (47 per cent of the total number) concerned allegations that a State failed to meet its obligations of due diligence in combating violence against women. The Special Rapporteur has for instance acted on cases in which authorities have been reported to let investigations or prosecutions of acts of violence against women lag, or where authorities failed to administer appropriate punishments and penalties.

32. Several communications sent indicate that general problems of impunity and corruption in the public sector exacerbate gender-based violence by depriving women of the option to invoke the rule of law to counter social power structures that systematically discriminate against women.

33. The Special Rapporteur would like to recall her report on the Due Diligence Standard as a Tool for the Elimination of Violence against Women** and reiterate that States cannot delegate their human rights obligations to prevent and respond to violence against women with due diligence. They must therefore make appropriate, decisive and timely interventions whenever public or private actors, State or traditional justice mechanisms engage in and condone violence against women, or otherwise fail to address it adequately.

IV. COMMUNICATIONS SENT AND GOVERNMENT REPLIES RECEIVED

34. Country specific communications sent and Government replies received are presented in the language received. In some cases the Special Rapporteur provides suggestions on which additional information is required to respond effectively to the information received or draw the attention of Governments concerned to relevant findings and recommendations contained in her country mission reports and international human rights instruments.

Algérie

** E/CN.4/2006/61.

Lettre d'allégation

35. Le **6 mars 2007**, la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences et le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression ont envoyé une lettre d'allégation au Gouvernement concernant l'interdiction d'un séminaire sur les disparitions forcées à Alger.

36. Selon les informations reçues : le 7 février 2007, le séminaire « Pour la Vérité, la Paix et la Conciliation », organisé par le Collectif des familles de disparus en Algérie, SOS Disparus, Djazairouna, l'Association nationale des familles de disparus et Somoud, n'aurait pu se tenir en raison de l'intervention des forces de l'ordre alors même que les autorités algériennes auraient été informées et invitées à ce séminaire et que celles-ci n'auraient pas manifesté leur opposition à sa tenue. Les forces de l'ordre, venues en grand nombre, auraient empêché l'accès à la salle de conférence située dans un hôtel d'Alger et auraient également fait couper l'alimentation électrique. Les conférenciers déjà présents dans la salle se seraient alors installés à la tribune à la lueur des bougies, mais les forces de l'ordre auraient fait évacuer entièrement la salle.

37. La Rapporteuse Spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences avait appelé le Gouvernement à autoriser la tenue de ce séminaire, notamment lors d'une réunion au Ministère de l'intérieur le 27 janvier 2007.

38. De vives préoccupations furent exprimées selon lesquelles l'interdiction de ce séminaire, au lendemain de la signature par l'Algérie de la Convention sur les disparitions forcées à Paris, ne visait à empêcher les organisations non-gouvernementales susmentionnées de poursuivre leurs activités de défense des droits de l'homme en matière de disparitions forcées.

Observations

39. La Rapporteuse Spéciale regrette que le Gouvernement n'ait pas répondu à sa communication envoyée en 2007 et réitère son intérêt à recevoir des réponses concernant les allégations soumise.

Angola

Urgent appeal

40. On **13 December 2007**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the human rights of migrants and the Special Rapporteur on the question of torture sent an urgent appeal concerning the detention and deportation of a large number of Congolese nationals from Angola to the Democratic Republic of the Congo.

41. According to reports received, there have been serious human rights abuses against the Congolese deportees, which have been allegedly committed by the Angolan security forces at the border between the Democratic Republic of the Congo and Angola. These abuses have been purportedly targeted toward groups of migrant workers mainly composed of Congolese citizens who are involved in informal diamond mining activities in Angola.

42. The abuses reported include the systematic use of physical and sexual violence, confiscation of the migrant's belongings and separation of family members during the expulsion process. Allegedly, women were systematically raped by Angolan security forces, on many occasions in front of their children or in public. Women were continuously raped - while being expelled from their homes, in provisional detention facilities, at the checkpoints and during their transport to the border.

43. In addition, the health situation of the expelled migrants is a major concern. As most of them have been involved in informal diamond mining, they and their families, including children, have allegedly been forced to submit to invasive bodily searches (including the anal and vaginal cavities) to uncover hidden diamonds. According to the reports, the searches are being conducted in such a manner that they are causing psychological and physical trauma to the deportees. The mental and physical health of

women victims of sexual violence is of particular concern: it has been reported that they suffer from various pains in their vagina and lower stomach, and have been deeply traumatized by the abuse they suffered. Most of them have not received any health care upon their arrival to the Democratic Republic of Congo.

44. Furthermore, the Special Rapporteurs received information that migrants had been allegedly kept in incommunicado detention in harsh conditions before their deportations, subjected to beatings and other forms of ill-treatment, having been denied food and water provisions both during their detention periods and during their deportation to the Congolese border. Moreover, there were reports of deaths due to exhaustion or maltreatment.

Observations

45. The Special Rapporteur regrets that the Government of Angola did not reply to this communication and 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, and whether victims of rape have been granted reparation.

Argentina

Carta de alegación

46. El **10 de mayo de 2007**, la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, junto con la Relatora Especial sobre la trata de personas, especialmente las mujeres y los niños, enviaron una carta de alegación al Gobierno de la Argentina en relación con la trata internacional y interna de mujeres y niños.

47. Según la información recibida, las víctimas de trata internacional para explotación sexual en Argentina provendrían en su mayoría de Paraguay. Mujeres y niñas serían reclutadas por redes que operan en todo el territorio de este país,

principalmente en pueblos rurales y barrios pobres de Asunción. Estas redes ofrecerían a las mujeres y niñas trabajo como empleadas de limpieza en casas o en comercios, o no especificarían el tipo de trabajo a realizar. Se informa además que una de las razones por las cuales el engaño sería efectivo es porque antiguamente existía una práctica que consistía en enviar a niñas a trabajar a casas de familia con el compromiso de permitirles estudiar y mantener el contacto regular con sus familias de origen. Se estima que en pueblos del interior subsistiría la creencia de que esta práctica sigue ocurriendo. De esta manera, las víctimas migrarían hacia Argentina con la esperanza del empleo prometido, antes de resultar ser forzadas a trabajar en la prostitución. También se han recibido informes sobre casos de mujeres y niñas que habrían sido objeto de trata interna de personas con el fin de su explotación sexual en Paraguay, antes de ser llevadas a Argentina.

48. La mayoría de las mujeres y niñas víctimas de la trata entrarían a Argentina por uno de los pasos fronterizos legalmente habilitados. Muchas se desplazarían hacia la ciudad fronteriza de Encarnación antes de efectuar el cruce. Esta ciudad está unida a Posadas, la capital de la provincia de Misiones, por el puente internacional San Roque González de Santa Cruz. En Encarnación, se recurriría a “motoqueiros”, “mototaxis”, “combis”, vehículos particulares o autobuses de línea internacional o de larga distancia para atravesar el puente. También se usarían pequeñas embarcaciones para cruzar el río Paraná. Los reclutadores generalmente no cruzarían la frontera junto con las mujeres, sino que las esperarían al otro lado del puente, o en la terminal de ómnibus de Posadas. Otros puntos importantes de entrada de víctimas de trata de personas a Argentina serían Puerto Rico, el cruce de Bernardo de Irigoyen, y la zona de Candelarias.

49. En la mayoría de los casos, el cruce de la frontera se efectuaría de manera regular. Las mujeres adultas cruzarían la frontera con la documentación de su país de origen y accederían a una visa turista por un período de tres meses.

50. Las menores viajarían acompañadas o con un permiso regularmente obtenido. Sin embargo, también se señala que algunos tratantes contarían con la complicidad de las autoridades de policía de ambos lados de la frontera o aprovecharían momentos de escasa vigilancia. En este sentido, habría evidencia del pago de coimas a funcionarios

en la frontera por parte de los tratantes, y de la escasa vigilancia acerca del permiso de menores para poder viajar a Argentina.

51. Por otro lado, también se han reportado casos de uso de documentos falsificados o robados para ingresar al territorio argentino. Otra modalidad de ingreso de víctimas de trata sería la entrada por la categoría migratoria de Tránsito Vecinal Fronterizo (TVF), que permite el ingreso al territorio por 72 horas cuando las personas permanecen dentro de un radio de 50 kilómetros de la frontera. En este marco, las formalidades de entrada son simplificadas. Sin embargo, una vez que las mujeres habrían ingresado al territorio argentino por este medio, los reclutadores les suministrarían tarjetas migratorias con visa turista marcadas con sellos falsificados. En el puesto de control migratorio de San José, que se encuentra en el punto límite del radio de 50 metros para las visas TVF, funcionarios de la Dirección Nacional de Migraciones (DNM) habrían identificado varios casos de trata internacional de víctimas que habían ingresado con la visa TVF, y luego habrían presentado una tarjeta con un sello falsificado. Por último, existirían casos dónde se usaría documentos pertenecientes a otras personas para facilitar la entrada de mujeres mayores y menores de edad.

52. Las víctimas de trata interna provendrían principalmente de las provincias de Misiones, Corrientes, Chaco, Santa Fe y Tucumán. También se ha recibido informaciones sobre La Rioja y Buenos Aires como lugares de proveniencia de las víctimas. En los casos de trata interna, las víctimas también serían reclutadas principalmente mediante una promesa engañosa de empleo. El reclutador ofrecería directamente un trabajo de empleada de hogar o en un comercio, o recurriría al uso de anuncios poco explícitos sobre las tareas a realizar.

53. También se han recibido informes sobre casos de víctimas que fueron secuestradas con el fin de su posterior explotación sexual. Se estima que, durante los últimos cinco años, hay más de 70 casos de mujeres y niñas desaparecidas, habrían sido captadas por redes de tratantes en la provincia de Tucumán.

54. Las mujeres y niñas víctimas de trata provendrían generalmente de situaciones de pobreza extrema, habrían tenido difícil acceso a la educación y carecerían de oportunidades de empleo. En ambos casos de trata interna e internacional, los principales lugares de destino serían las provincias de Buenos Aires, Córdoba, Entre Ríos, La Pampa, Chubut, Santa Cruz y Tierra del Fuego.

55. Al llegar al lugar de destino, los tratantes recurrirían a distintos métodos de coacción que variarían entre amenazas psicológicas y formas extremas de violencia física. Testimonios recibidos, indicarían que las mujeres habrían sido amenazadas, violadas y golpeadas por los tratantes. En muchos casos también se les confiscarían sus documentos de identidad informándoles de que “contrajeron” una deuda con el tratante por los gastos del viaje, entre otros motivos adelantados.

56. Se informa que la explotación sexual de las víctimas de trata ocurriría en lugares denominados *whiskerías* y *cabarets* que constituirían la figura más común bajo la cual se esconderían los prostíbulos. Para los mismos fines, también se recurriría a departamentos llamados “privados”, especialmente en las grandes ciudades. Su funcionamiento sería similar al de los *cabarets* o *whiskerías*, y se explotaría como promedio a 7 mujeres por “privado”.

57. El sistema de las “plazas” permitiría que el proxeneta que no cuenta con un establecimiento propio pueda enviar a las víctimas a distintos prostíbulos, cada vez por un lapso de tiempo que varía entre una semana y 45 días, denominado “plaza”, por el cual cobraría una suma fija de dinero, sobre la base de lo que las mujeres explotadas puedan llegar a recaudar. El sistema impediría que las mujeres lleguen a establecer relaciones duraderas con un cliente al que podrían llegar a pedir ayuda o denunciar su situación, al mismo tiempo que respondería a la demanda de “chicas nuevas”.

Observaciones

58. La Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, lamenta no haber recibido respuesta a su comunicación enviada el 10 de mayo de 2007 al Gobierno de Argentina en el momento de

finalización del presente informe y reitera su interés en recibir respuestas en relación con las alegaciones sometidas.

Australia

Allegation letter

59. On **10 October 2007**, the Special Rapporteur on violence against women, jointly with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, sent an allegation letter to the Government regarding the recent adoption of the Northern Territory National Emergency legislation in response to the situation of child abuse in Aboriginal communities.

60. According to information received, on 14 June 2007 the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse released its final report *Little Children are Sacred* (Ampe Akelyernemane Meke Mekarle). The outcome of a research of eight months, the report provided a blunt description of the situation of “common, widespread and grossly under-reported” sexual abuse of children, in particular of girls, in Northern Territory Aboriginal communities, which is depicted as a “reflection of historical, present and continuing social dysfunction.” The report contains a broad set of recommendations ranging from prevention (including education, health services, housing, and employment measures) to law and order, protection of children, and rehabilitation.

61. On 17 August 2007, following the proposals tabled by the Minister for Families, Community Services and Indigenous Affairs, the Senate passed a package of legislation integrated by the Northern Territory National Emergency Response Bill 2007; the Social Security and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Bill 2007; and the Families, Community Services and Indigenous Affairs and Other Legislation Amendment 2007 (hereinafter “NTNER legislation”).

62. The recently adopted NTNER legislation includes a number of extraordinary measures applicable only to Aboriginal communities of Northern Territory, including a system of alcohol restrictions, as well as offences for breaching these restrictions; the acquisition of townships through five year leases; the licensing of community stores; the audits of publicly funded computer, with offences for illicit use; a ban on pornographic materials, an income management system; and changes to the communities' permit system. These measures were coupled with a substantial increase in the funding required to put them in place in the first twelve months after their entry into force.

Reply from the Government

63. On 22 November 2007, the government replied to the letter sent on 10 October 2007. It stated that the measures which comprise the NTER are necessary to ensure that indigenous inhabitants of the Northern Territory, and in particular indigenous women and children in relevant communities, are able to enjoy their social and political rights on an equal footing with other Australians.

64. The Australian Government declared to have taken immediate action following the *Little Children are Sacred* Report which confirmed the strong link between alcohol abuse, violence and the sexual abuse of children.

65. The Government said that the NTER implements Australia's obligations under the Convention on the Rights of the Child and claimed that the NTER was not in contrast with the International Convention on the Elimination of Racial Discrimination since the different treatment, indigenous people would be submitted to, was based on objective and reasonable criteria that implement a legitimate purpose under relevant treaties, including the Convention on the Rights of the Child.

66. It was maintained that the "special measures" for the purpose of the Racial Discrimination Act 1975, which implements Australia's obligation under the International Convention on the Elimination of Racial Discrimination, do not seek to take away rights and freedom. Rather, they provide the foundation for rebuilding

social and economical structures and give meaningful content to Indigenous rights and freedom.

67. Furthermore, it was stressed that State and Territory child welfare and authorities will be able to request the Government to income manage parents' welfare payments in circumstances where they consider it is necessary to ensure that parents meet their obligations to provide for their children's basic needs.

68. Regarding the consultation, the Government asserted that all prescribed communities have been visited by teams from the Operation Centre and that a series of regional community engagement workshops is underway. These workshops are informing community members about the emergency response, providing an opportunity for discussion, building relationships and seeking their involvement in the implementation of the response. Also, the Centrelink (the Government's welfare payment delivery agency) is meeting individually with those affected by the welfare reform measures. Further, Government Business Managers have been appointed for each community to provide an on-the-ground Government presence.

69. Moreover, the restrictions and general ban regarding alcohol and pornography were claimed to be on *all* people in prescribed areas with the unique purposes of helping these communities to deal with alcohol problems in a better way and avoiding young children to be exposed to sexually explicit material with adverse effect on the wellbeing and safety of these children. Also, the Government has introduced welfare reforms in the NTER to stem the flow of cash being used to buy substances such as alcohol, drugs and pornography, and to ensure that money meant for children's welfare is used for that purpose.

70. Additionally, it was stated that the Government will compulsorily acquire leases over towns and communities specified by legislation for a period of five years. The area of the land is less than 0.1 per cent of all indigenous land. The Government considers this as crucial to removing barriers to implementing the NTER. It will allow the Government to stabilize communities and ensure that children live in a cleaner environment with more sustainable housing. Further, underlying rights, title and

interest of the indigenous owners will be preserved and compensation will be provided whether payable.

71. Regarding the existing permit system, the Government affirmed it has created close communities which has hidden from public view and allowed some people to create a climate of fear and intimidation. Therefore, public access will be allowed for common areas in major communities, but homes will remain private and sacred sites will be respected. In fact, the permit system will be retained for 99.8 per cent of the indigenous land.

72. Finally, the Government assured that, even if a court or bail authority will still be able to consider customary law in limited circumstances, legislation makes it clear that the decision to grant bail or impose a particular sentence should not be based on whether the criminal behaviour would be assessed as less, or more serious, due to customary law or cultural practice.

Observations

73. The Special Rapporteur would like to thank the Government of Australia for its reply to her communication. She would like to appeal to the Australian Government that, in its implementation of the Northern Territory National Emergency legislation, it take all necessary measures to guarantee to indigenous women and girls the right to be free from any form of violence, discrimination and abuse, and monitor and address any negative impact on women of the implementation of this particular legislation. In this respect, the Special Rapporteur recalls article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, States should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and

effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms.

Bahrain

Allegation letter

74. On **25 October 2007**, the Special Rapporteur on violence against women, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an allegation letter concerning Ms G. J., a women's rights activist and involved in the *Bahrain Women's Petition*.

75. According to information received, in early October, a formal governmental decision has been revealed concerning a prohibition for Ms. G. J. to appear in the Bahraini press, including radio, television and all local newspapers. Allegedly, this prohibition may be related to a letter that she sent to His Highness the King of Bahrain calling for the dissolution of the Supreme Council for Women, which is chaired by Her Highness Sheikha Sabika Bint Ibrahim Al Khalifa.

76. Ms. G. J. had already faced charges in the past related to her professional activities. In 2005, she was criminally prosecuted for allegedly criticizing family judges. These proceedings were later discontinued. This case was the subject of a joint urgent appeal sent on 13 June 2005 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders. Since 2006, Ms. G. J. has allegedly been placed under surveillance, having her activities and movements monitored by security officials.

Observations

77. The Special Rapporteur regrets that the Government of Bahrain did not reply to her communication sent in 2007 and 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.

78. Furthermore, the Special Rapporteur deems it appropriate to make reference to article 7(c) of the Convention on the Elimination of all Forms of Discrimination against Women which explicitly provides for the promotion and protection of women in freely participating in public matters. States agreed to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, to ensure to women, on equal terms with men, the right to participate in non-governmental organizations and associations concerned with the public and political life of the country. Further, the Special Rapporteur wishes to reiterate the principle reiterated in Resolution 2005/38 of the Commission on Human Rights which calls on States to facilitate the full, equal and effective participation and free communication of women at all levels of decision making in their societies.

Bangladesh

Response from the Government to an allegation letter sent in 2006

79. On **17 November 2006**, the Special Rapporteur on violence against women, its causes and consequences and the Special Rapporteur on the question of torture sent an allegation letter to the Government of Bangladesh concerning M. K., a 14-year old girl, and her brother R. I., both residing in Uttar Chandani Mahal, Dighalia police station section, Khulna district. M. K. was on the receiving end of an attempt of rape and his brother was beaten. The full details of the allegations submitted have been reflected in the Special Rapporteur's previous report on communications sent and received.^{††}

^{††} A/HRC/4/34/Add.1.

80. On **4 April 2007**, the Government replied to the letter and stated that the allegations as referred to in the communication have been duly investigated by the concerned authorities in Bangladesh. Findings of the investigation were attached, responding specifically to questions asked by the Special Rapporteurs:

- The alleged facts stated in the summary of the case are not accurate.
- On 30 July 2006, a complain against assistant sub inspector (ASI) M. A. of Khulna district police was lodged by victim M. K. to the learned “Woman and Children Repression Prevention Tribunal”, Khulna. Subsequently, the Magistrate 1st class Mr. Z. R., Zone-A, Khulna was directed by the learned Judge of the Tribunal to conduct a judicial enquiry into the matter. The learned Magistrate submitted a report on 25 February 2007 stating that no prima-facie case was made out in the enquiry.
- An enquiry was held by Ms. R. B., assistant superintendent of the police (HQ), Khulna also. She found that on 21 July 2006 at about 3 pm, acting on a tip-off ASI M. A. along with a two constables rushed to the house of a wanted terrorist named R. I. (26), the victim’s brother, son of late H. at H. D. (dacoit) of village North Chandnimahal, police station-Digholia, District-Khulna. Sensing the presence of police, R. I. tried to run away from his house. Constable-1535 M. M. A. was sent to the nearest police camp for effecting reinforcement. Again, R. I. made an attempt to flee. But, ASI M. A. swooped on and arrested him. Then some of his relatives including M. K. arrived there and tried to free R. I. from police custody. At one stage, ASI M. A. was also assaulted by the relatives o R. I. However, he managed to round up R. I. Having been reinforced, police brought the situation under control. Then, R. I. and his accomplices were taken to Digholia police station and a case was registered against them (Case No-07 dated 22 July 06 under section 186/224/225/320/353/511 of Penal Code). After due investigation, a charge-sheet was submitted against 04 (sic) persons including R. I. At the time of writing the case was under trial. In course of enquiry, it was revealed that R. I. was arrested in broad daylight just on the bank of the pond. So the complain of attempt to rape

his sister Ms. M. K. and demanding bribe are totally baseless and fabricated.

- No compensation has been provided to the victim or the family of the victim by any organization so far.

Allegation letter

81. On **16 January 2007**, 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 Mrs. A. R. M. (born 11 November 1989), wife of Mr. J. M., from Khaliar Chak village, under the Paikgachha police station in Khulna district.

82. According to information received, on 23 July 2006, Mr. P. M., member of a rich and influential family and reportedly not related to the victim, allegedly raped Mrs. A.R. M. when she was alone at home. Upon hearing her crying for help, her neighbours and her husband, who arrived home by then, apprehended Mr. P. M. Soon after, Mr. P. M.'s brother, Mr. K. M., the son, Mr. B. M., and two relatives, Mr. S. M. and Mr. B. N. M., allegedly arrived on the scene, physically assaulted the victim and her family, including her husband, and took Mr. P. M. away thereby preventing him from being handed over to the police.

83. The Investigation Officer of the rape case, Sub Inspector Mr. M.U., submitted the Charge Sheet No. 141 to the Paikgachha Magistrate's Cognizance Court under section 9 (1) of the Women and Child Repression Prevention Act-2003. However, in his investigation report, Mr. M.U. submitted the charge against only the alleged perpetrator, Mr. P.M. The assault charges against the other four alleged perpetrators of the assault have been dropped even though the report mentions that while Mr. P.M. was raping the victim, he was apprehended by her family. Later, Mr. P.M.'s brothers and nephews came to the house, assaulted the victim's family members and took Mr. P.M. away. The Superintendent of Police of Khulna district, Mr. M.I. supervised the case in person by visiting the scene and, having interviewed the eyewitnesses, officially forwarded the police investigation report to the court, but failed to identify

the involvement of the fellow perpetrators. The case has now been forwarded to the Women and Child repression Special Tribunal of Khulna for trial.

84. As of 6 December 2006, the perpetrators allegedly complicit in the incident have not been arrested or charged. It is alleged that the police officers who dropped the assault charges against the four accomplices might have been bribed. The victim, her family and the case witnesses are subjected to threats. Mr. P.M. is allegedly pressuring the victim to withdraw the case by threatening to use his wealth and influence to bribe the police and ensure that they submit a false “Final report”. It is also alleged that Mr. P.M: allegedly also threatened a key witness trying to cause them to make false affidavits in his favour.

Response from the Government

85. On **25 January 2007** the Government of Bangladesh acknowledged receipt of the communication and on **25 May 2007**, it replied to the allegation letter dated 16 January 2007 concerning the alleged rape of Mrs. A R M of Paikgacha Police Station, District: Khulna, Bangladesh.

86. The Government stated that the allegations as referred to have been investigated by concerned agencies in Bangladesh. Mrs. A R M wife of Mr. Z M of village: Kahar Chak, Police station: Paikgacha, district: Khulna lodged an First information Report (F.I.R) against Mr.P M, son of late J N M of the same village at Paikgacha Police Station under section 9 (1) “women and Children repression Prevention Act 2000(amendment 2003)” on 25.7.2006. The investigations officer (I.O) of the said criminal case submitted charge sheet (No.141, dated 11.9.2006) against Mr. P M under section 8(1) of the said Act in the concerned court.

87. According to medical expert’s opinion, there was no sign of forcible sexual intercourse with the victim Mrs. A R M. On 25 January 2007, Mrs. M. declared through an affidavit that she was not raped by Mr. P. M. In her affidavit she also mentioned that there was a dispute between Mr. P. M. and her husband on land property issue. Mrs. M. confirmed that she had only an altercation with Mr. P. M.

about the disputed property of her husband. The alleged rape incident is, therefore, categorically ruled out.

88. The case against Mr. P. M. was under trial in the special Tribunal, Khulna. In the meantime, the alleged accused Mr. P. M. has been granted bail by the Honourable High Court Division, Dhaka. The victim and the accused will receive fair judgement as guaranteed by the law of the land.

89. On **13 June 2007**, the Government sent to the Special Rapporteur a letter with the affidavit signed by Ms. A. R. M. The content of the affidavit correspond to what the Government affirmed in its previous letter to the Special Rapporteur.

Observations

90. The Special Rapporteur would like to thank the Government of Bangladesh for its replies to her communication.

Brazil

Allegation letter

91. On **9 November 2007**, the Special Rapporteur on Violence against women, jointly with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, the Special Rapporteur on the right to food, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, sent an allegation letter regarding the human rights situation of the Guarani Kaiowá community of Nhanduru Marangatu, in the state of Mato Grosso do Sul, including recent allegations regarding abuses perpetrated by private security guards contracted by local farmers. The reported abuses against local communities by personnel of private security companies were the subject of a joint communication sent by the Special Rapporteur on the right to food and the Chairperson of the Working Group on the use of mercenaries on 8 November 2007 (BRA 18/2007).

A. The legal status of the Nhanduru Marangatu Indigenous Land

92. According to the information received, the Guarani Kaiowá community of Nhanderu Maragantu, integrated by 500 members, has been gradually expelled from their traditional lands in Mato Grosso do Sul by the opening of large commercial farms. Since 1999, they lived in an area of 26 hectares on the margins of road MS 384, in tarpaulin shacks, in the access to the ranches Fronteira, Morreo Alto and Cedro. Since 2004, the Guarani Kaiowá started to reoccupy their traditional lands then in hands of private owners, occupying an area of 400 hectares within the boundaries of several private farms.

93. The Nhanderu Maragatu Indigenous Land was officially recognized by Presidential Decree of 28 March 2005, which ratified the demarcation previously undertaken by the National Indian Foundation (FUNIA) of the Guaraní Kaiowá traditional lands. The land demarcated included an area of 9,317 hectares within the municipality of Antônio João, in the State of Mato Grosso do Sul.

94. The process of official recognition of the Nhanderu Maragatu indigenous land was however suspended by injunction of President of the Federal Supreme Court (STF) on July 2005, in response to an appeal filled by local farm owners, ordering the forceful eviction of the Guarani Kaiowá settlement in the Fazenda. On 15 December 2005, the eviction took place with the support of more than 150 members of the armed forces, including Federal police and military police. During their eviction, several of their properties were set on fire by private security guards contracted by local farmers.

95. As a result of this eviction, the community was resettled in the earlier location of 26 hectares on the margins of the road MS 384, in precarious conditions. During their resettlement, they reportedly experienced severe shortage of food and water, and unsanitary conditions, and numerous cases of malnutrition and maladies of the community's children were reported.

96. In August 2007, the Guarani Kaiowá community, in the framework of an agreement between the authorities and the local ranchers, returned to occupy 100

hectares of their traditional lands within the area homologated by the Presidential Decree, in order to allow for the asphaltting of road MS 384. In their current location, the community awaits the final decision of the courts in order to take possession of their traditional lands, as identified in the 2005 Presidential Decree.

B. Alleged abuses by private security guards

97. In addition, we have received numerous reports regarding alleged human rights perpetrated by private security guards employed by local farm owners against the members of the Guarani Kaiowá community of Nhanderu Marangatu. It is alleged that these abuses have increased after the indigenous community was evicted from their traditional lands on 15 December 2005, and that are committed with the intention of intimidating community members against their attempts to recover their traditional lands.

98. Reported abuses include the killing of Mr. D. R., a 45 years-old Guarani Kaiowá, on 24 December 2005. Mr. D. R. was reportedly shot in cold blood by a security guard employed by the Fronteira farm in the vicinities of the farm, who approached the victim and his two companions in a car, while they were on their way to gather vegetables from their small vegetable garden in preparation for the Christmas festivities.

99. According to the reports we have received, the reported abuses by security guards have increased since the community moved to their temporal resettlement within the private ranches of Nhanderu Marangatu, in August 2007. Since their resettlement, an approximate of 30 private security guards of the Gaspem company have been contracted by local landowners, have been deployed in the vicinities of the community's encampment, leading to a situation of increased tension.

100. Various episodes of sexual violence against Guarani Kaiowá women by private security guards have been reported. On 12 October 2007, at approximately 10.00 am, a group of four security guards attacked Ms. E. R. and her husband, Mr. V. N., while they were searching for firewood. After the guards battered her husband, Ms. E. R. suffered an attempted rape. During the same day, at approximately 4.00 pm, a similar

attack was suffered by Ms. S. R. and her husband Mr. A. F. V., in the company of their 9 years-old son. While Mr. A. F. V. was taken away and was severely beaten by the guards, Ms. S. R. was hit with a rifle butt and thrown to the ground, where she received several blows and was subject to sexual violence, in front of her child. Reportedly, Ms. S. R. eventually managed to escape, but she had to be hospitalized with strong pain on her chest.

101. In addition, according to the allegations, private security guards have repeatedly harassed the indigenous community, including by firing shots in the air. In this connection, it is reported that, on 5 October 2007, security guards opened fire at a distance of 50 m from the community's houses as a form of intimidation. On 30 October 2007, security guards fired shots in the air near a group of children while they were playing. Moreover, it has been reported that the personnel of the neighbouring farms have continuously subjected the community to surveillance, taking films and pictures of community members in the distance.

102. On 31 October, a police patrol reportedly interrupted during a ceremony being performed by the community in homage to the dead. The police's operation was allegedly in response to denunciations made by local ranchers, which claimed that the community was trying to invade ranch lands.

Observations

103. The Special Rapporteur regrets that the Government of Brazil did not reply to her communication and 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.

104. The Special Rapporteur would like to draw the attention of the Government to article 22, paragraph 2, of the United Nations Declaration on the Rights of Indigenous Peoples which stipulates that States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full

protection and guarantees against all forms of violence and discrimination. In addition, the Commission on Human Rights, in its resolution 2005/41 on the Elimination on Violence against Women, calls on States to address the specific circumstances facing indigenous women and girls in relation to gender-based violence, especially sexual violence, arising from multiple, intersecting and aggravated forms of discrimination, including racism, paying particular attention to the structural causes of violence. In this respect the Special Rapporteur recalls article 21, paragraph 2, of the United Nations Declaration on the Rights of Indigenous Peoples, which recognizes that States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of the economic and social conditions of indigenous peoples, and that particular attention shall be paid to the rights and special needs of women, youth and children, among others.

105. Furthermore, the Special Rapporteur would like to stress that the Committee on the Elimination of All Forms of Discrimination has referred extensively to the right of indigenous peoples to own, develop, control and use their communal lands, territories and resources. In this respect, States should make every effort to ensure that no decisions directly relating to indigenous peoples' rights and interests are taken without their prior informed consent.^{‡‡} Significantly, this implies certain practices aimed at safeguarding rights should be upheld when the State grants companies access to indigenous lands and territories for resources exploitation.

Colombia

Carta de alegación

106. El **19 de noviembre de 2007**, la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, envió una carta de alegación al Gobierno de Colombia en relación con el supuesto asesinato de I. Y. S. por miembros del grupo “Las Águilas”, en la ciudad de Buenaventura, Departamento de Valle del Cauca.

^{‡‡} General Recommendation 23 on the rights of indigenous peoples, paragraph 4(d).

107. Según las alegaciones recibidas, el día 24 de agosto del 2007, a las 15:00 de la tarde, I. Y. S., de 16 años de edad, estudiante de décimo grado de bachillerato, habría salido del colegio en compañía de una compañera de clase cuya identidad se desconoce. Se alega que caminaron por el barrio Bajo Firme de la ciudad de Buenaventura, cuando al llegar a la calle de Ramiro, fueron supuestamente abordadas por miembros del grupo armado conocido como “Las Águilas” quienes habrían obligado a I. Y. S. y a su compañera a trasladarse a la calle de la Guarapera, en el barrio Lleras.

108. Se informa de que los miembros del grupo armado habrían golpeado en varias ocasiones a la compañera de I. Y. S., exigiéndole “que dijera los nombres de las mujeres de los guerrilleros” antes de dejarla marcharse.

109. Se alega además de que esa misma noche del día 24 de agosto, los familiares de I. Y. S. habrían sido informados de su muerte, supuestamente ocurrida en el barrio Lleras. Se informa de que los paramilitares tras la petición por parte de los familiares de I. Y. S. de la entrega del cuerpo de la víctima, respondieron a los familiares de la siguiente manera: “Esto es para que aprendan a ser novias de guerrilleros, el cadáver va a permanecer toda la noche amarrado a un poste de la energía. Vengan mañana y se lo pueden llevar”.

110. Según las alegaciones recibidas, el cuerpo sin vida de I. Y. S. habría permanecido toda la noche en la calle, y al día siguiente, 25 de agosto, los miembros del grupo “Las Águilas” habrían sacado los órganos del cadáver antes de arrojarlo al mar. Se informa además de que cuando los familiares de I. Y. S. habrían logrado rescatar el cuerpo del mar, habrían percibido que éste presentaba heridas de cuchillo por todo el cuerpo.

111. Se teme que la relación sentimental de I. Y. S. con un miembro de la guerrilla, sea el motivo de su supuesto asesinato

Observaciones

112. La Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, lamenta no haber recibido respuesta a su comunicación de 19 de noviembre de 2007 en el momento de finalización del presente informe y reitera su interés en recibir respuestas en relación con las alegaciones sometidas.

Ecuador

Llamamiento urgente

113. El **17 de septiembre 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 y el Representante Especial del Secretario-General para los defensores de los derechos humanos, enviaron un llamamiento urgente al Gobierno de Ecuador en relación con el supuesto ataque sufrido por las Sras. G. U. y R. G., la primera lideresa del pueblo indígena zapara e integrante de la organización *Nacionalidad Zapara de la Amazonia Ecuatoriana* (NAZAE) y la segunda lideresa de las comunidades indígenas andoas, que trabajan conjuntamente con las comunidades zaparas en la defensa de sus derechos humanos y sus territorios tradicionales.

114. Según la información recibida, el 26 de agosto del 2007, en la ciudad de Puyo, en el transcurso de los Juegos Indígenas, la Sra. E. N. se acercó a la Sra. G. U. en la calle, invitándola a ella y a la Sra. R. G. a su casa para hablar sobre la posibilidad de colaboración en su trabajo con las comunidades indígenas.

115. Aproximadamente a las 9.00 pm del mismo día, estando reunidas las Sras. G. U. y R. G. en el patio de la casa de la Sra. E. N., en la calle Santo Domingo, un hombre habría entrado y les habría atacado con gas lacrimógeno. En ese momento, otros tres hombres habrían entrado en el patio y habrían golpeado a ambas con los puños, con los pies y con porras. La Sra. G. U. habría sido también golpeada en la cabeza con una piedra. Posteriormente, los asaltantes habrían encerrado a las Sras. G. U. y R. G. en el maletero de un coche y las habrían abandonado en la carretera durante la madrugada. Las dos mujeres habrían sido supuestamente violadas durante su secuestro.

116. Dos de los asaltantes habrían sido identificados por las víctimas como los Sres. N. S. V. y J. C. F., éste último miembro de la policía.

117. Se alega que las Sras. G. U. y R. G. habrían tratado de denunciar el incidente a la policía en Puyo, pero que su denuncia habría sido ignorada. Se alega asimismo que no habrían recibido un tratamiento médico adecuado en relación con las graves secuelas físicas del ataque.

118. Según las informaciones, las Sras. G. U. y R. G. habrían recibido amenazas de muerte en los últimos meses después de que NAZAE iniciara acciones legales para la defensa de sus comunidades frente a intereses comerciales.

Observaciones

119. La Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, lamenta no haber recibido respuesta a su comunicación de 17 de septiembre de 2007 en el momento de finalización del presente informe y reitera su interés en recibir respuestas en relación con las alegaciones sometidas.

Fiji

Urgent appeal

120. On **25 January 2007**, 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 urgent appeal to the Government regarding Ms I. J. and Ms V. B.. Ms V. B. was one of six pro-democracy activists who were arrested by the military on the night of 24 December 2006.

121. According to information received, on 15 December 2006, Commodore V. B., reportedly issued a warning against Ms I. J. and Ms V. B., to ‘stop saying things that could incite civil unrest’, and further implied that if they did not heed his warning the military would take action against them.

122. Furthermore, on 14 December 2006, Ms I. J.'s husband, Mr R. S. T., was informed that his contract as Chief Executive Officer of Air Fiji Limited (AFL) would be terminated as of 31 December 2006, under a Directive issued by Commodore V. B. In the same Directive, Commodore V. B. announced that Ms I. J. was to be removed from the Board of Post Fiji (PSL). Ms I. J. refused to accept the legitimacy of her termination as Board member, and responded on 20 December 2006, by conveying her apologies to the Chief Executive for not attending board meetings, as she would be out of the country. However, on 11 January 2007, Ms I. J. was informed through the FWRM that a travel ban had been issued against her and Ms V. B., preventing both women from leaving Fiji.

123. On 4 December 2006, whilst participating in the annual National Judicial Conference, Ms I. J. reportedly received a call to her mobile phone during which the caller warned her to be careful and threatened to rape her. According to reports the call was traced to a phone booth outside the military barracks in Nabua, Suva. It is believed that the call was in response to a report published by Ms I. J. in the Fiji Times on 30 November 2006, which criticized the military coup in the country.

124. Concerns were expressed that the series of acts of intimidation and harassment including the dismissal of Ms I. J.'s husband, as outlined above, form part of an ongoing campaign against human rights defenders in Fiji, and in particular Ms I. J., Ms V. B. and members of the FWRM, the *Fiji Women's Crisis Centre* (FWCC) and the *Pacific Centre for Public Integrity* (PCPI). Serious concerns were expressed that the afore-mentioned events, in particular the threat of sexual violence may be the latest attempts to silence women human rights defenders because of their legitimate activities in monitoring the human rights situation in Fiji.

Urgent appeal

125. On **29 January 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, 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. L. D., a Fijian businesswoman. Ms. Digitaki is associated with the pro-democracy movement in Fiji for turning her own office into a 'Pro-Democracy Shrine' that has featured quite often in the media. Banners covered the outside of her office with statements such as, "Democracy is our right", "Yes to Democracy, No to guns", "Ballots not bullets" and "By the vote we elect the government by the vote we remove the government".

126. According to information received, on Christmas Eve, 24 December 2006, at approximately 23:20, Ms. L. D.'s home was visited by a group of military soldiers. The soldiers requested that Ms. L. D. accompany them to a military camp for questioning. She was told that if she did not comply with their request she would be taken by force. On arrival at the camp Ms. L. D. was escorted through a passageway lined with cells, one of which contained her business partner Mr. I. I.; Ms. L. D. was subsequently detained in a dark cell. After a period of 20 minutes she was taken from the cell and asked to accompany a number of soldiers to Mr. P. W.'s house, a friend and fellow pro-democracy supporter. Ms. L. D. complied with the request.

127. On her return to the camp, Ms. L. D. was led to a dark hall where Ms V. B., was waiting. Ms. V. B. was the subject of an urgent appeal sent on 25 January 2007 by the Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders. Ms. L. D. and Ms. V. B. were subsequently subjected to a barrage of verbal abuse and torture, during which Ms. L. D. was threatened at gunpoint and made to lie face down on the ground. After enquiring if she was pregnant, one of the soldiers proceeded to jump on her back. The ordeal lasted approximately 45 minutes, after which Ms. L. D. and Ms. V. B., along with four other pro-democracy activists, including Mr. I. I. and Mr. P. W., were ordered to run to the camp gate. The group was followed outside the camp by two military trucks and they were forced to run some distance by the soldiers.

128. Before returning home, Ms. L. D. passed by her office. The office had been trashed and raided and the pro-democracy banners which used to cover its outside

were removed. Graffiti was on the wall saying "Merry Xmas Happy New Year Laisa Chang". (The reference is a derogatory one, referring to one of her male business clients. Ms. L. D. is one of the few businesswomen dealing in a male dominated corporate world in Fiji and she is often accused of sleeping with all her male associates. Similar comments were made by officers while she was in detention on 24-25 December 2006).

129. Previously on 9 December 2006, a group of armed men broke into the pro-democracy shrine, tearing down banners and damaging the property.

130. At the time of writing Ms. L. D. in hiding, in order to protect herself from arrest after a statement she made outlining the events of 24 December 2006, was made public, and fears for her physical integrity.

131. Concerns were expressed that the series of acts of intimidation and harassment, as outlined above, form part of a growing campaign against human rights defenders in Fiji. Serious concerns were expressed that the afore-mentioned events may be the latest attempt to silence Ms. L. D. because of her human rights activities, in particular her pro-democracy stance and defending the right to freedom of expression in Fiji.

Observations

132. The Special Rapporteur regrets that the Government of Fiji did not reply to any of her communications sent in 2007 and 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.

Guatemala

Llamamiento urgente

133. El **15 de junio de 2007**, 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 un llamamiento urgente al Gobierno de Guatemala en relación con los asesinatos de la Sra. M. C. G., encargada de Pastoral de la Mujer para las comunidades de Santa Ana y El Chal, en el departamento de Petén y sus hijos; del Sr. J. C. G. (24 años); los ataques en contra de la Sra. E. C. G. (18 años), miembros del Equipo de sensibilización de la *Asociación de Mujeres Ixqik de Petén* (AMPI), y las amenazas en contra de O. U. y otros miembros/as de dicha asociación.

134. De acuerdo con la información recibida, el 3 de junio de 2007, hacia las 5:30pm, dos hombres armados se habrían acercado en coche a la tienda ubicada en la casa de las Sras. E. C. G. y M. C. G., en El Chal, presuntamente para comprar bebidas. Uno de los desconocidos habría entrado en el domicilio de la familia y habría disparado por la espalda al Sr. J. C. G., quien falleció en el acto. El otro individuo se habría acercado a la Sra. E. C. G y le habría disparado, hiriéndola en el brazo. Al darse cuenta de lo sucedido, la Sra. M. C. G corrió y abrazó a su hija, por lo que recibió el resto de disparos, falleciendo en el acto.

135. Según se informa, la Sra. O. U., integrante de *Ixqik*, habría denunciado que el 1 de junio de 2007, hacia las 10:00pm, un individuo haciéndose pasar por borracho empezó a gritar enfrente de su casa, amenazando con tener una bomba con él. Asimismo, durante el mes de mayo de 2007, varios miembros del equipo de sensibilización habrían recibido mensajes de texto amenazantes, uno de los cuales decía ‘Nosotros vamos adelante...ya vas a ver qué te va a pasar’.

136. Además, en el 2005, la *Asociación de Mujeres Ixqik de Petén* habría sufrido una serie de amenazas y actos de intimidación, entre los que se incluyen varios allanamientos y un intento de asesinato.

137. Condenamos los asesinatos del Sr. J. C. G. y de la Sra. M. C. G y expresamos nuestra profunda preocupación por la seguridad e integridad física de la Sra. E. C. G así como por la del resto de los miembros de la *Asociación de Mujeres Ixqik de Petén* (AMPI). Además se teme que estos casos, puedan estar relacionados con la actividad de dicha organización en defensa de los derechos humanos, en particular en su lucha por la democracia en Guatemala.

Respuesta del Gobierno

138. El **7 de diciembre de 2007** el Gobierno de Guatemala envió a la Relatora Especial información relativa al caso. El Gobierno declara que en una reunión de la Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos con la Asociación de Mujeres de Perén Ixquik, las representantes de esta última manifestaron que la información relacionada con el hecho ocurrido el día 3 de junio 2007, en el que murieron dos personas, no tiene relación con las actividades que desarrollan en la Asociación. En cuanto a los demás hechos manifestados por las miembros de la Asociación, se encuentran en fase de investigación a cargo del Ministerio Público, habiéndose presentado denuncias a la Policía Civil y al Ministerio Público de los hechos relacionados.

139. En cuanto a los hechos del día 3 de junio de 2007, se informa que el Ministerio Público está llevando a cabo una investigación, cuyo resultado se trasladará oportunamente a la Relatora Especial.

140. Con relación a las amenazas recibidas por los integrantes de la Asociación de Mujeres, el Gobierno informa que:

- El 31 de octubre de 2005, la Fiscalía Distrital de El Petén, inicia la investigación en relación a la denuncia de la Organización sobre el supuesto allanamiento.

- Posteriormente, el 7 y 10 de noviembre, la organización fue de nuevo víctima de allanamiento y robo, por lo que la Fiscalía, inicia la investigación correspondiente para establecer si los ataques tienen relación al

trabajo que desarrolla la Organización de Mujeres o si se trata de delincuencia común.

- Se informa, que el proceso fue trasladado a la unidad de Delitos Cometidos contra activistas de Derechos Humanos de la Ciudad de Guatemala, para que se continúe con los trámites correspondientes.

- Se informa que entre el 31 de octubre y el 11 de noviembre de 2005, como parte de la investigación, se ordena al Servicio de Investigación Criminal, que realicen entrevistas a vecinos y miembros de la Asociación, se realizan inspecciones oculares, levantando huellas, se toman fotografías del lugar, se lleva a cabo el embalaje de indicios, que posteriormente serán trasladados al Almacén de Evidencias del Ministerio Público, y se solicitó a la representante legal de la Organización, información sobre sus miembros, se documentó en acta el traslado de cinco paletas de vidrio utilizadas para ventanas de aluminio y una mesa de madera que contiene marcas de pisadas de calzado al Almacén de Evidencias del Ministerio Público de San Benito, Petén, y se recibieron las siguientes declaraciones testimoniales:

- G. O. C. M., no individualiza a ninguna persona,
- O. L. U. M., quien hizo referencia al detalle de que recibió una llamada telefónica el día del primer allanamiento ilegal a las oficinas de la Asociación, no precisó ningún número,
- I. B. T. Q., específicamente se refirió a una cámara fotográfica la cual contenía un rollo utilizado para tomar fotografías de miembros de la Asociación con ocasión de una caminata realizada, no individualiza a persona alguna,
- C. I. C. R., no individualiza a persona alguna.

- El 21 de noviembre de 2005, se solicitó al Juzgado de Primera Instancia Penal y Delitos Contra el Ambiente de San Benito, Petén, Control Jurisdiccional del presente caso, siendo notificado el Ministerio Público el día 6 de diciembre de 2005.

- El 31 de enero de 2006, se recibe el expediente en la Unidad de Delitos cometidos contra Activistas de Derechos Humanos de la Ciudad de Guatemala, quienes continuaron con lo diligenciado por el Ministerio Público de El Petén.

- El 23 de febrero de 2006, se recibió el informe de la Unidad de Especialistas de Escena del Crimen del Ministerio Público del Petén, el cual contiene fotografías de la sede de la Asociación, de las evidencias y de las cuales se concluye que la posible huella de calzado sólo quedó documentada por medio de fotografías y video, no siendo posible revelar la huella, por ello, no se puede establecer el número de la horma de calzado, tipo, marca, peso, estatura de la persona que utiliza ese calzado. En las paletas de vidrio, martillo y cuchillo, no se encontraron huellas, lo que indica un resultado negativo para poder hacer un posterior cotejo”.

141. El 5 de septiembre de 2006, se recibió copia del informe de investigación del Servicio de Investigación Criminal de la Policía Nacional Civil, en el que se manifiesta que la escena del crimen ya había sido manipulada, por lo que no había suficientes evidencias.

142. El Gobierno informó que se están llevando a cabo las investigaciones oportunas, no habiendo sido aún posible identificar a los supuestos actores del delito.

143. Con relación a las medidas cautelares tomadas para proteger a los integrantes de la Asociación, el Gobierno informó que:

- Los miembros de la Asociación de Mujeres, solicitaron medidas cautelares ante la Comisión Interamericana de Derechos Humanos. Dado que tales medidas no fueron concedidas, el Estado, decidió brindarles protección a través del Cuerpo de Policía. Actualmente consiste en la presencia de miembros de seguridad en las instalaciones de la Asociación, así como seguridad perimetral en las residencias de algunos de sus miembros.

- El 10 de noviembre 2005, la Estación Policial de Santa Elena Flores, Petén, indicó que se le dio instrucciones para realizar patrullas constantes en la periferia de las instalaciones de la Asociación, agregando que continuarán vigilando este sector.

- La representante de la Asociación de Mujeres indicó que E. C. G. se trasladó de domicilio, por lo que su vida ya no corre peligro.

Carta de alegación

144. El **30 de noviembre 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 venta de niños, la prostitución infantil y la utilización de niños en la pornografía y el Relator Especial sobre los derechos humanos de los migrantes, enviaron una carta de alegación al Gobierno de Guatemala en relación con las adopciones internacionales de miles de niños.

145. Según la información recibida, en Guatemala alrededor de 5000 y 6000 niños serían dados en adopción cada año, convirtiendo a Guatemala en el segundo país del mundo con mayor número de adopciones internacionales, después de China. La demanda internacional provendría principalmente de familias estadounidenses, las cuales pagarían entre 13 y 40 mil dólares para “adquirir” un bebé guatemalteco.

146. La violencia contra las mujeres sería un factor a tener en cuenta, ya que bebés productos de violación sexual estarían siendo dados en adopción, en donde las madres serían coaccionadas o engañadas para dar al recién nacido en adopción. La crítica situación económica y social en que se encuentran estas mujeres sería otro factor que las hacen vulnerables a ser víctimas de las redes de niños que se dedican a adopciones.

147. En Guatemala se estaría llevando a cabo adopciones internacionales ilegales de menores de edad, y en gran parte de los casos, con el engaño a sus familias. La mayor parte de las adopciones, el 99.7%, se haría por vía notarial, teniendo como base en la Ley Reguladora de Tramitación Notarial de Asuntos de Jurisdicción Voluntaria, sin la observancia de los debidos requisitos para asegurarse cual es la procedencia del niño/niña. La adopción por esta vía no necesitaría resolución de juez/a competente, el juzgado de familia actuaría únicamente para solicitar a la trabajadora social que, bajo juramento, efectuaría el estudio socioeconómico respectivo. Las adopciones internacionales por vía judicial no llegarían al 0,3 por ciento del total de las adopciones realizadas.

148. Asimismo se habría descubierto que algunos Jueces de Familia habrían autorizado adopciones sin contar con la opinión favorable de la Procuraduría General de la Nación, en violación a la legislación existente en la materia. La participación de autoridades judiciales en dichas irregularidades, y el hecho de que los procedimientos para el trámite de las adopciones establecidos en las leyes generales están en desacuerdo con las leyes especiales de protección a la infancia, demostraría la existencia de un cuadro de prácticas de violación de los derechos humanos de la niñez.

149. Según información obtenida, habrían organizaciones asentadas en Guatemala que se dedicarían a la venta ilegal de menores de edad por medio de adopciones internacionales, como sería el caso de la “Casa Quivira.” Esta organización tendría como dirigentes ciudadanos provenientes de los Estados Unidos de América y se dedicaría a la venta de menores de edad a este país cobrando a las futuras familias un precio muy alto por cada uno de ellos. Supuestamente esta organización habría estado involucrada en la práctica de adopciones irregulares, donde 46 niños habrían sido rescatados y repartidos entre instituciones evangélicas y cristianas en el mes de agosto de este año. Supuestamente habrían ocurrido irregularidades en el juicio realizado contra Casa Quivira, por los hechos mencionados, con el objetivo de que dicha organización saliera impune en relación a los posibles delitos realizados.

150. Entre las prácticas irregulares de adopción se incluiría la realizada por medio de Alcaldes Municipales, consistente en la entrega de los niños/as por parte de su madre biológica a una pareja adoptiva. Los padres biológicos y los padres adoptivos comparecerían ante el Alcalde de la localidad, normalmente en zonas aisladas en las cuales no hay acceso a los juzgados o a las oficinas de un abogado, para que éste levantara un acta en la que constaría que los primeros entregan en adopción a su hijo. Posteriormente se asentaría la Partida de Nacimiento en el Registro Civil y el acto de la adopción quedaría consumado. Otra de las maneras sería por suposición de parto, en donde la madre biológica entregaría al niño a los padres adoptivos inmediatamente después del nacimiento. Ambas se internarían en el mismo sanatorio (privado), la madre biológica se registraría con el nombre de la madre adoptiva y el niño saldría de la clínica como hijo de la segunda.

151. En este contexto, la Comisión Interamericana de Derechos Humanos (CIDH) habría otorgado medidas cautelares a favor de 26 niños y niñas, solicitando al Estado de Guatemala informar el lugar y condiciones donde se encuentran actualmente los niños, su situación jurídica y familiar y las medidas que estarían adoptando para su protección.

152. La Comisión Interamericana de Derechos Humanos habría fijado un plazo de 10 días contados a partir del 21 de noviembre para que el Gobierno de Guatemala informara acerca de las medidas adoptadas. Del mismo modo, también habría solicitado que se actualizara dicha información cada mes.

Observaciones

153. La Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, agradece la detallada información proporcionada por el Gobierno con relación a su comunicación de 15 de junio de 2007; pero lamenta no haber recibido respuesta a su comunicación de 30 de noviembre de 2007 en el momento de finalización del presente informe y reitera su interés en recibir respuestas en relación con las alegaciones sometidas.

Guinée

Lettre d'allégation

154. Le **5 novembre 2007**, la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, le Rapporteur spécial sur la vente d'enfants, la prostitution des enfants et la pornographie impliquant des enfants et le Rapporteur spécial sur les droits des migrants ont envoyé une lettre d'allégation concernant l'exploitation d'enfants pour le travail domestique en Guinée. D'après les informations reçues :

155. En Guinée, des dizaines de milliers de filles travailleraient comme domestiques. Tandis que d'autres enfants de la famille seraient scolarisés, ces filles passeraient leur

enfance et leur adolescence à faire des travaux ménagers féminins: elles nettoieraient, laveraient le linge et s'occuperaient des jeunes enfants. Beaucoup d'entre elles travailleraient jusqu'à 18 heures par jour. La grande majorité d'entre elles ne seraient pas payées ; d'autres recevraient des paiements, souvent irréguliers, en général inférieurs à 5 dollars US par mois. De nombreuses filles employées comme domestiques ne recevraient aucune aide quand elles seraient malades, et elles auraient souvent faim car elles seraient exclues des repas familiaux. Elles seraient souvent tenues à l'écart, insultées et moquées. Beaucoup d'entre elles seraient aussi victimes de coups et de violence et de harcèlement sexuels. Malgré ces conditions, quitter la famille de l'employeur serait difficile pour beaucoup d'enfants employées domestiques qui ne pourraient pas rejoindre leurs parents et n'auraient pas d'autre endroit où aller. Ces filles vivraient dans des conditions analogues à l'esclavage. Certaines filles viendraient d'aussi loin que le Mali. Ces adolescentes maliennes en particulier viendraient en Guinée travailler comme domestiques pour gagner de l'argent pour leurs trousseaux.

156. De plus, un nombre important de ces mineurs seraient isolés dans la maison de leur employeur et seraient incapables d'accéder à toute information ou assistance de l'extérieur. Ils resteraient coincés pendant des années dans des situations traumatisantes et de maltraitance. Il n'y aurait pas d'organisme pour la protection de l'enfance pour contrôler de façon systématique le bien-être des enfants et faciliter leur retrait d'une maison où ils sont maltraités, si nécessaire; le Ministère des affaires sociales a la responsabilité de cette question, mais ne serait pas opérationnel. Il n'existerait pas non plus de système de placement en famille d'accueil qui puisse offrir aux enfants un environnement familial alternatif protecteur et contrôlé. Bien qu'il existerait un service d'inspection du travail, il manquerait de personnel et ne s'occuperait pas de la situation des enfants travaillant comme domestiques.

157. L'exploitation et la maltraitance des enfants employés comme domestiques constituent une violation du droit national et international. La Guinée est partie à la Convention relative aux droits de l'enfant et à tous les principaux traités régionaux et internationaux sur le travail des enfants, la discrimination selon le sexe et la traite. Selon le droit guinéen, les enfants ont droit à l'éducation, et la scolarisation dans l'enseignement primaire est obligatoire. L'âge minimum pour travailler est de 16 ans,

mais il y aurait une disposition qui prévoit que les enfants de moins de 16 ans peuvent travailler avec le consentement de leurs parents ou de leurs tuteurs légaux. Les enfants de plus de 16 ans sont autorisés à travailler dans certaines limites, mais doivent bénéficier de tous leurs droits du travail. De plus, le droit guinéen protègerait les enfants contre les châtiments corporels et autres violences physiques, les sévices sexuels, et la traite. Le droit international comporte aussi des interdictions claires contre certains comportements nocifs, pour protéger les enfants contre la discrimination, toute forme de violence, d'atteinte ou de brutalité physiques, de mauvais traitements ou d'exploitation, y compris la violence sexuelle, la traite et les conséquences nocives du travail des enfants. Il octroie aussi aux enfants le droit à l'éducation et établit la façon dont les devoirs envers les enfants devraient être remplis, que ce soit par l'Etat, les parents, les tuteurs légaux ou d'autres personnes ayant la garde d'un enfant.

Observations

158. La Rapporteuse spéciale regrette que le Gouvernement n'ait pas répondu à cette communication et réitère son intérêt à recevoir des réponses concernant les allégations soumises.

Honduras

Llamamiento urgente

159. El **22 de mayo de 2007**, la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, junto con la Presidente-Relatora del Grupo de Trabajo sobre la Detención Arbitraria y el Representante Especial del Secretario-General para los defensores de los derechos humanos, enviaron un llamamiento urgente al Gobierno de Honduras en relación con J. F. E., coordinador del grupo de travestís *Arcoiris*, asociación que trabaja por la defensa de los derechos de lesbianas, gays, bisexuales y personas transgénero (LGBT) y profesional del sexo en Tegucigalpa.

160. De acuerdo con la información recibida, el 20 de abril de 2007, hacia las 22:00 horas, J. F. E. fue agredido por cinco desconocidos mientras trabajaba en el barrio rojo habitado por gays y travestís en Comayagüela, Tegucigalpa. Según informes, uno de los individuos habría intentado quitarle la peluca antes de arrojarle al suelo y golpearle. Según se informa, un coche patrulla de la policía habría estacionado al lado del lugar donde se ubicaban los profesionales del sexo minutos antes de las 22:00 horas.

161. Los agentes policiales no solamente habrían sido testigos de la paliza propinada al Sr. J. F. E., sino que habrían alentado a los agresores gritando "¡Maten a este maricón, golpéenlo!". El Sr. J. F. E. utilizó un objeto afilado, posiblemente una botella rota, que habría encontrado en el suelo, para defenderse, hiriendo a uno de sus agresores, momento en el que habrían intervenido los agentes policiales.

162. El Sr. J. F. E. fue arrestado y acusado de intento de homicidio en segundo grado y de robo. Sus agresores quedaron en libertad. El 27 de abril de 2007 se celebró la vista preliminar y los cargos fueron elevados a intento de homicidio en primer grado. Actualmente se encuentra encarcelado en una celda de la Penitenciaría estatal, normalmente reservada a convictos, denominada "celda de la muerte" en la que suelen ubicarse a presos que sufren tuberculosis, VIH/Sida y enfermedades mentales. Según información recibida, no habría recibido atención médica.

163. Se teme que estos hechos estén relacionados con la actividad en defensa de los derechos humanos, particularmente de los derechos de lesbianas, gays, bisexuales y personas transgénero (LGBT), realizada por el Sr. J. F. E.

Respuesta del Gobierno

164. El **29 octubre 2007**, el Gobierno envió una respuesta a la comunicación enviada por la Relatora, en la cual informó que los hechos alegados no eran ciertos.

165. El informe médico practicado por la Dirección General de Servicios Especiales Preventivos, se afirma que el Sr. J. F. E. ingresó a la Penitenciaría Nacional por el supuesto delito de homicidio en el grado de Ejecución de Tentativa. En su declaración refiere que el día 21 de abril del 2007, fue agredido durante la noche por

cuatro personas que ingerían bebidas alcohólicas en un bar en la Ciudad de Comayagua; agregando que en el lugar donde lo agredieron se encontraba estacionada una patrulla con varios agentes policiales y en vez de protegerlo, los policías alentaban a estas personas para que continuaran golpeándolo. Uno de los agresores le dio un golpe en la frente (región frontal derecha) produciéndole una herida y él en su defensa rápidamente sacó un cuchillo e hirió a su atacante.

166. En ese preciso momento sí actuó la policía, capturando y llevando al Sr. J. F. E. a una Estación de Policía (CORE 7). Se le practicó al Sr. J. F. E. el examen físico respectivo, presentando buen estado de salud. Durante los cuatro meses siguientes no solicitó atención médica, pero a partir del 12 de julio del 2007 la solicitó y continúa recibiendo asistencia médica.

167. Al llegar a la Penitenciaría Central fue trasladado al módulo de diagnóstico y posteriormente a un lugar donde se encuentran los grupos vulnerables. En un principio vivió en compañía de otro homosexual. Pero posteriormente le fue asignado una celda. Admitió que sí recibió malos tratos físicos y psíquicos por parte de personas cuyo nombre se reserva por temor a represalias, pero dejó entrever que se trata de personas que se encuentran internas en la Penitenciaría Nacional.

Observaciones

168. La Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, agradece la información proporcionada por el Gobierno y agradecería recibir del Gobierno, así como de otros interesados, información sobre el resultado del proceso judicial relativo al Sr. J. F. E.

India

Allegation letter

169. On **9 March 2007** the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the sale of children, child

prostitution and child pornography, sent an allegation letter to the Government concerning the systematic physical and sexual abuse of girl-children employed as dancers in Orissan folk-opera troupes. It is alleged that the owners and managers of these troupes rely heavily on child labour, particularly on the use of very young girls as dancers. It was alleged that the Banaswari, Niyatti and Sudamvati Troupes are particularly concerned.

170. According to information received, most of the young girls were aged between ten and sixteen and hired out by their families in return for an advance on their wages. It was further alleged that each troupe employs between ten and twenty of these girls who come from poor families and are paid sub-standard wages. They are reportedly moreover kept in poor living conditions, sleeping only a few hours a day on mats on the floors or sometimes even outside. In one case, a girl had allegedly spent an entire day without eating.

171. It was reported that these young girls encounter a high level of physical, mental and sexual abuse, including beating and rape. They face sexual harassment and blatant advances from male performers as well as from older actors and management, and due to their vulnerable position, they have oftentimes no choice but to acquiesce. It is alleged that sexual abuse is common in the troupes. The Special Rapporteurs had also received allegation of past managers having raped young girls. It was further alleged that these young girls are also publicly humiliated, slapped and beaten by the opera management or directors for alleged misbehaviour or mistakes.

172. It is reported that on 17 December 2006, a young girl was publicly beaten by a male manager with a heavy wooden stick. All the girls interviewed, aged from ten and sixteen, admitted to being slapped or beaten with a stick as a form of punishment one to three times a week.

173. According to information received, these young girls were being exploited, physically and sexually abused and the State of Orissa and the Government of India had not yet taken action on the matter. Though national child labour legislation requires that government inspectors visit any business that uses children to insure that they are not abused, it is reported that there are currently no such inspections of the

troupes. Furthermore, the Government has hitherto reportedly not placed dancing in the Opera troupes on its list of hazardous employments for children.

Reply from the Government

174. On **19 November 2007**, the government of India sent a reply stating that comprehensive enquiries were undertaken which included visits to the headquarters of Banaswari, Niyatti and Sudamvati folk-opera troupes as well as the sites of their performance; interview with the female artists of the troupes and feedback from the opera visitors as well as the employees engaged in such performances. However, the aforesaid allegations could not be substantiated. The matter was also enquired into by the Labour Commissioner of Orissa through a team of officers having adequate exposure to the modus operandi of the opera parties and their recruitment process, who found the allegation to be without basis. The national Human Rights Commission of India has also been apprised of the findings of the enquiry by the Government of Orissa.

Allegation letter

175. 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, Rajshahi district, Bangladesh.

176. 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.

177. Some hours after being taken into custody, Ms. A. B. was raped by a BSF officer. The incident witnessed by a superior officer of the intelligence branch at the BSF, who were 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.

178. On 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 the 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.

179. 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.

180. 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.

181. 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.

Urgent appeal

182. On **23 August 2007**, 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, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal to the Government regarding attacks on the Dalit communities, particularly women, in Somebhadra District, Uttar Pradesh, India.

183. It is reported that in Sonebhadra District, the poorest District in Uttar Pradesh with a large Dalit population, Dalit families have been cultivating and living in a Government's waste lands, the Gram Sabha's, for years. Reportedly, the land ownership has always been a conflicting issue between the Upper Caste controlling land resources and Dalits and tribes.

184. Reports indicate that Dalits' reclaim of land has led to conflicts with forest officials and the Police, especially after the adoption of the "Schedule Tribe and other Forest Dwelling Communities (Recognition of Forest Rights) Act of 2006". It is further alleged that since the Act is not yet operational, the forest department officials have been harassing the activists working for the rights of the forest dwellers and the tribes, with the aim to ensure that evictions take place before the clauses of the Act are enforced. Reportedly similar actions are taking place in other parts of the country including Maharashtra, Madhya Pradesh and Orissa.

185. In this context, on 3 August 2007, Ms. R. and Ms. S. B., two members of the National Forum of Forest People and Forest Workers (NFFPFW) who have been working in the Sonebhadra District for the past seven to eight years, were arrested in Robertsganj under charges of provoking Dalits and Tibals to encroach forest lands. They were arrested under section 120 (B) and 447 of Penal Code; they were in Mirzapur jail and their bail applications have been rejected at the Circle Judicial Magistrate. On 5 August 2007, L. D. and S. P. were arrested from a local market in Rangarh, they are also in Mirzapur jail. As a consequence of these imprisonments, people have been staging a protest since 4 August in front of the District Magistrate (DM) office in Sonebhadra demanding immediate release of the activists. New charges have been brought against Ms. R. under article 4 of the National Security Act on 10 August.

186. Reports also indicate that on 10 August 2007, at around 9 p.m., the police attacked Dalit women in Chanduli Village, in Sonebhadra District, leaving fifteen women seriously injured. Two trucks loads of Police along with Upper Caste representatives of the locality descended on Chanduli village in Sonebhadra district. They were allegedly heavily armed, and demanded to see B., an active member of the

local organisation Kaimoor Kshetra Mahila Mazdoor Kisan Sangharsh Samiti (KKMMKSS). According to information received, when they did not find B. in the village, they started attacking women present in the village. Police and upper caste representatives barged into the house of B. and attacked his pregnant sister and sister-in-law; pulling them out and attacking them. In three hours, the police and upper caste representatives beat up around 15 women and destroyed their houses.

187. At the time of the incident, there were very few male members in the village as most of them were staging a protest in front of the DM's office in Sonebhadra against the arrest of Ms. R., Ms. S. B., L. D. and S. P.

188. This was allegedly the third attack of this kind against Dalits in less than two weeks and reportedly a consequence of the Dalits families' requests for land that started in the last two years, as a response to the forest department's Government Resolution of 2002-3 to clear forest lands from any encroachments.

189. During the events, the police reportedly left the village giving an ultimatum to remove the bricks of the houses by 11 August 2007, or they would come back with the administrative order to destroy the houses.

Observations

190. The Special Rapporteur would like to thank the Government for its reply to her communication of 9 March 2007. Nevertheless, the Special Rapporteur regrets that the Government of India did not reply to any other communications sent in 2007 and 2006.

191. 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.

Iran (Islamic Republic of)

Urgent appeal

192. On **7 March 2007**, 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 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 at least 24 women human rights defenders who were reportedly arrested while holding a peaceful demonstration in front of the Islamic Revolutionary Court in Tehran.

193. According to the information received: On 4 March 2007, the Iranian authorities arrested at least 31 women, seven of whom were released on bail on 6 March 2007. Ms. A. A., Z. B. Y., M. A., M. H., S. L., M. H., J. J., Z. P., M. M., N. K., M. M., N. A., E. A., A. F., S. F., M. M., S. T., P. A., N. A. K., S. E., F. G., N. J., S. S., and R. M. still remain in detention. A number of these women have allegedly gone on a hunger strike.

194. The women had staged a peaceful demonstration against the prosecution of several women, who had been charged with criminal offences against public order and security for having organized a peaceful women's demonstration in Haft-e Tir Square of Tehran on 12 June 2006. Many of the detained women are well-known women's rights defenders who have publicly expressed their views on numerous occasions. Reportedly, all of the detained women have been transferred to Ward 209 of the Evin Prison in Teheran. Allegedly, police officers also broke the teeth of Ms. N. J. by banging her head against the door of a police bus. Serious concern was expressed that the arrest and detention of the aforementioned women human rights defenders may be related to their peaceful and legitimate activities in defence of women's human rights.

Urgent appeal

195. On **14 March 2007**, the Special Rapporteur on violence against women, its causes and consequences, sent an urgent appeal to the Government regarding Ms. M. A. and Ms. S. S. The two women were among at least 31 women arrested on 4 March while holding a peace demonstration in front of the Islamic Revolutionary Court in Tehran. The same concerns had already been expressed in an urgent appeal that was sent on 7 March 2007 by the Special Rapporteur on violence against women, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders.

196. The Special Rapporteur on violence against women expressed appreciation that the Government had already released other women arrested on 4 March 2007. However, the Special Rapporteur remained gravely concerned about information indicating that Ms. M. A. and Ms. S. S. remain in detention in Section 209 of Evin Prison in Tehran. Information received indicates that Ms. M. A. has been held incommunicado since her arrest. Ms. S. S.'s outside contact was limited to two telephone conversations with her husband. In addition to charges of disturbing public order, the two women reportedly also face additional charges that have not been disclosed to them or their lawyers. It was also feared that the women do not receive adequate access to medical care, even though Ms. S. S. was said to suffer from chronic stomach pain and Ms. M. A. reportedly suffers from migraine and arthritis.

Urgent appeal

197. On **5 April 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 regarding Ms. N. K. and Ms. M. H.

198. According to information received: Iranian security agents arrested the two women on 3 April 2007 in Laleh Park (Tehran) while they were collecting signatures for a campaign to change Iranian laws that discriminate against women. It is reported

that Ms. N. K. and Ms. M. H. remain in detention and have been transferred to Evin Prison. Three other persons, Ms. S. A., Ms. S. I. and her husband Mr. H. N., who were arrested on the same occasion, have since been released on bail. The charges against the five persons were not known. The Special Rapporteurs expressed concern that the arrest and detention of Ms. N. K. and Ms. M. H. may be related to their peaceful activities in defence of women's human rights.

Urgent appeal

199. On **2 May 2007**, Special Rapporteur on violence against women, its causes and consequences and the Special Rapporteur on freedom of religion or belief sent an urgent appeal to the Government concerning the arrest of 278 women on 21 April 2007 alone for wearing overly loose headscarves or tight coats. 231 of these women were released after they signed papers promising they will not appear again “inadequately dressed in public”. Allegedly, until 29 April 2007, police in various cities of the Islamic Republic of Iran have also stopped and warned at least 16,000 women who were showing too much hair or wore a headscarf deemed too colourful. The Iranian Police Chief, Mr. E. A.-M., reportedly stated on 18 April 2007 that in 2006 more than one million women were stopped relating to the way they wear the hijab (Islamic veil) and 10,000 charged for violating the dress code.

Allegation letter

200. On **31 May 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 allegation letter to the Government concerning the situation of the following women's rights activists: Ms. Z. P., Ms. M. H., Ms. F. G., Ms. N. A. K., Ms. S. E., Ms. P. A., Ms. F. D. M., Ms. S. T., Ms. B. H., Ms. A. F., Ms. M. H. Z. and Ms. N. K.. Several of these women's rights activists have already been subject to an urgent appeal, which the Special Rapporteurs sent to the Iranian Government on 7 March

2007, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention.

201. According to the latest information received: on 7 May 2007, Ms. Z. P., Ms. M. H. and Ms. F. G. were summoned to court for their participation in a peaceful demonstration on 4 March 2007. The demonstration was directed against the prosecution of women activists in connection with a peaceful women's demonstration that took place on 12 June 2006 in Haft-e Tir Square of Tehran and was addressed in an urgent appeal we transmitted to your Excellency's Government on 16 June 2006. Ms. Z. P. reported to the Revolutionary Court after receiving a summons, where she was then arrested and transferred to Evin prison. Ms. Z. P. was released on bail on 17 May 2007.

202. On 24 April 2007, the Sixth Branch of the Revolutionary Court in Tehran sentenced Ms. N. A. K., Ms. S. E. and Ms. P. A. in connection with the peaceful demonstration of 12 June 2006 to three years' imprisonment for "collusion and assembly to endanger the national security," under article 610 of the Islamic Penal Code. The court ordered Ms. N. A. K., Ms. S. E. and Ms. P. A. to serve six months in prison, but suspended the remaining two-and-half years of their sentences. The same court sentenced two other women's rights advocates to prison terms on 18 April 2007 in relation to same demonstration. Ms. F. D. M. was sentenced to four years' imprisonment, of which three years were suspended, and Ms. S. T. was sentenced to two years' imprisonment, of which 18 months were suspended. The women, currently free, are expected to appeal against their sentences. The same day, Ms. B. H., a university student, was reportedly also tried, without the presence of her lawyer, due to her participation in the demonstration of 12 June 2006. On 26 May 2007, she was reportedly sentenced to a two-year suspended sentence for "acting against national security by participating in an illegal gathering."

203. On 11 April 2007, Branch 15 of the Revolutionary Court in Tehran gave Ms. A. F., a university student, a two-year suspended sentence in connection with the demonstration of 12 June 2006 for "acting against national security by participating in an illegal gathering." Several days later, she was summoned to court where she was questioned and informed that she was facing new charges in connection with a

peaceful gathering on 4 March 2007 held to protest against the prosecution of activists in connection with the demonstration in June 2006.

204. On this occasion, the Special Rapporteurs expressed their appreciation that Ms. M. H. Z. and Ms. N. K. have been released on bail on 15 April 2007. The two women were arrested on 3 April 2007 while collecting signatures in support of the “Million Signatures Campaign” to abolish laws that discriminate against women. The Special Rapporteurs had already communicated their concerns in relations to this case in an urgent appeal dated 5 April 2007. The Special Rapporteurs remained concerned that the charges against the two women have reportedly not been dropped and that they may be prosecuted at a future point in time.

205. Concern was expressed that the arrests and sentencing of the aforementioned activists may be solely related to their peaceful activities in defence of women rights and could form part of wider pattern of harassment against women rights activists.

Urgent appeal

206. On **5 July 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, 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. D. A., a women's rights defender from Tehran University. According to information received:

207. The Tehran Revolutionary Court convicted Ms. D. A. on charges of “Propaganda against the System” and “Disturbing Public Order” for having participated in a peaceful demonstration for a better recognition of women's rights and to remove discriminatory clauses against women from Iranian law, which took place in Haft Tir Square on 12 June 2006. Ms. D. A. was sentenced to two years and 10 months imprisonment and 10 lashes. The sentence has not been suspended and could be carried out at any time. Reportedly, several other persons arrested during the

demonstration have also been convicted and sentenced, but had their sentence suspended.

208. In an urgent appeal dated 16 June 2006, to which the Government responded by letter dated 15 August 2006, the Special Rapporteurs have already expressed their concern that Iranian security forces had arrested Ms. D. A. and others during the demonstration of 12 June 2006. The Special Rapporteurs have reiterated their concern that the conviction of Ms D. A. may be related to her peaceful activities in defence of women's rights in the Islamic Republic of Iran.

209. The Special Rapporteurs urged the Government to ensure that Ms. D. A. will not be subjected to any punishment, including the cruel, inhuman and degrading punishment of lashing, for having exercised her right to freedom of expression. The Special Rapporteurs were particularly concerned that the execution of the lashing sentence may be imminent.

Urgent appeal

210. 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.. Ms. R. S. is 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.

211. 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.

212. 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. It is alleged that she is being held in incommunicado detention as all efforts on the part of family members to contact her have as yet failed.

213. 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.

Allegation letter

214. On **30 November 2007**, the Special Rapporteur on violence against women, its causes and consequences sent an allegation letter to the Government regarding the "Family Protection Draft Bill" No.36780/68357 dated 22 July 2007.

215. According to information received, the Government of Iran recently submitted a Family Protection Draft Bill to Parliament, with the alleged aim of matching the current legal framework with today's realities. It appeared that the Head of the Legal Commission within Parliament stated at the time of writing that the bill would be open to discussion in the Parliament.

216. Allegedly, the "Family Protection Draft Bill", instead of upholding women's rights within the family, reverses rights currently enjoyed by women. In addition, the law reinforces the unequal legal power of men within the family. The Bill contains various articles which may violate women's rights.

217. First, under Iranian's civil code and its 1992 amendments, women have a very limited right to divorce, as they must extensively justify their request for divorce (such as on the basis of their husband's addiction, violence, etc) to prove that they are eligible to be divorced. Articles 17, 21, 26 and 31 of the "Family Protection Draft Bill", would make it even more difficult for women to obtain the divorce:

218. Article 17 establishes Family Counselling Centres. The aim of these centres is to consolidate the foundations of the family and prevent an increase in family dispute, in particular divorce. The Family court will have the obligation to ask the opinion of the family counselling centres. According to article 21, these centres will be made up of experts on Family studies, law, Islamic canon, and foundations of Islamic law.

219. Article 26 plans that registration of divorce by official offices shall be authorized only upon the issuance of a certificate stating the impossibility of reconciliation. The family counselling centre must give a certificate indicating the couple's agreement upon divorce.

220. Article 31 states that the court will first require reconciliation and arbitration before pronouncing the divorce. When one of the partners is unable to bring an arbitrator, the court shall, at the request of the party or directly, appoint an arbitrator from the qualified members of the Family Counselling Centres.

221. The above articles set different stages before the pronouncing of the divorce, which decreases the likelihood of obtaining a divorce.

222. Further, article 23 of the "Family Protection Draft Bill", would allow a man to marry up to four wives provided he can testify of his good financial capability and promises to the court to treat all wives equally. The current legal framework sets limitations to men having only a second wife, based on the permission of the first wife and justified by the first wife's specific health conditions, such as infertility. The husband's second marriage without the consent of his first wife is a ground to get divorce.

223. Article 2 of the Draft Bill provides that the Family Court will consist of three judges; it does not mandate for the presence of a female judge but only stipulates that a female judge be present if feasible. Given the current context of dominance of men within the Iranian judiciary, it is very likely that most family courts will be composed of three male judges.

224. In addition, article 25 allows the Government to charge women taxes for the portion of the money that belongs to them (“Mahriehs”). The Finance Ministry will be required to annually declare a suggested amount of Mahriehs and such marriage nuptials that exceed that amount will be subject to taxation during their registration. This means that young brides will be faced with paying taxes on a dowry that they may never receive. Iranian women generally do not receive their dowries unless their husbands die or divorce them.

225. Article 46 of the Bill further provides that an Iranian woman cannot marry a Muslim foreigner without the permission of the Government. If a marriage happens without governmental permission, the woman, her father, the registrar, and the husband will be punished to prison from 91 days to 1 year.

226. The Special Rapporteur expressed her concerns that the provisions of the “Family Protection Draft Bill” would put women in an increased situation of inequality and discrimination within the family. Concerns were further expressed that women victims of violence would be afforded fewer avenues for protection as it would be more difficult for them to divorce on grounds of violence perpetuated against them.

Allegation letter

227. On **30 November 2007**, 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, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent an allegation letter to the government concerning Ms. M. H.

228. Ms. M. H. is a journalist and activist for women’s rights. Ms. M. H. is also a member of the Campaign for Equality which is leading the One Million Signatures campaign, which calls for an end to discriminatory laws against women in the Islamic Republic Iran. She was a member of the Women’s Cultural Centre prior to its closure by the Iranian authorities, days before her summons. Ms. M. H. was the subject of an

urgent appeal sent by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on violence against women, its causes and consequences, and the Special Representative of the Secretary-General on the situation of human rights defenders on 7 March 2007.

229. According to information received, on 18 November 2007, Ms. M. H. was arrested when she reported to a branch of the Revolutionary Court in Tehran for questioning following a summons that had been issued to her. She has reportedly been accused of “disturbing public opinion”; “propaganda against the system”; and “publication of lies”, as a result of articles posted on a website of which she is the editor. No date for trial has reportedly been set yet.

230. Concern was expressed that the arrest of Ms. M. H. and the accusations that have been made against her may be directly related to her peaceful human rights activities, in particular her work to promote women’s rights in Iran.

Observations

231. The Special Rapporteur regrets that the Government of Iran did not reply to any of her communications sent in 2007.

232. 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 any measure has been taken by the Government of Iran to facilitate the full, equal and effective participation and free communication of women at all levels of decision making in their societies.

233. The Special Rapporteur also looks forward to receiving information about the draft Family Protection Bill, and whether considerations pertaining to women’s equal rights to divorce and marriage, as well as their protection from violence, have been taken into consideration in the final version of the Bill.

Iraq

Response from the Government to a communication sent in 2006

234. On **20 November 2006** the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegation concerning the late Ms. F. A. J., a women's rights activist from Haweeja who was the head of the women's rights organization Maternity and Childhood. Concern was expressed that Ms. F. A. J. was murdered because of her activities in the promotion and defence of women's human rights.

235. The full details of the allegations submitted have been reflected in the Special Rapporteur's previous report on communications sent and received.^{§§}

236. The government of Iraq replied to the letter dated on **18 June 2007**. It stated that on 2 November 2006 formal statements were taken from the complainants, namely, the victim's husband A. al S. S. H. and her brother M. A. H.. They requested that the charges against the suspects in detention, K. K. I. and Y. N. A., be dropped and that a complaint against the perpetrators of the offence be brought as soon as their identities were known. The investigating judge decided to release the two above-mentioned suspects due to lack of evidence and to continue the investigation.

Allegation letter

237. On **2 March 2007**, the Special Rapporteur on violence against women, its causes and consequences, and the Special Rapporteur on the question of torture, sent an allegation letter to the Government of Iraq concerning the reported murder of Ms. L. T. S., Mr. E. K. and Mr. G. S., three teenagers from A. S., Ninewah Governorate.

238. According to information received: Ms. L. T. S., aged 16 at the time of her death, was the granddaughter of Mr. T. S. B., the principal Mir (leader/prince) of the

^{§§} A/HRC/4/34/Add.1.

Yezidi ethnic group. The Yezidi are said to wield considerable political influence in the Ain Sefni area.

239. It was rumoured that Ms. L. T. S. had begun a romantic relationship with Mr. E. K., even though her family had planned to marry her to a cousin. These were reportedly seen as a stain on the honour of the T. B. family, especially since the boy belonged to a family of lower social status.

240. On 10 August 2006, E. K. and his friend G. S. allegedly came to visit L. T. S. at her family home, when they were spotted by several security guards of the family. All three teenagers managed to escape.

241. When the family found out that the three teenagers had sought temporary refuge at E. K.'s family home, several armed men allegedly led by E. T. B. and B. T. B., both sons of T. S. B., came to the K.' house and burned it down. E. K.'s family had to flee the area.

242. L. T. S., E. K. and G. S. continued their flight to Mosul to hide at the house of an acquaintance. However, that acquaintance was repeatedly threatened to either surrender the three teenagers to the T. B. family or see several of his relatives murdered. On 11 August 2006, the acquaintance took the three teenagers to Shalalat checkpoint in Mosul and handed them over to a group of armed men allegedly led by E. T. B. The men took the three teenagers to Baathree village, close to Ain Sefni. Reportedly, L. T. S.'s father H. T. S. was already present in the village along with about fifty armed men affiliated with the T. B. family.

243. With a crowd of local villagers watching, the armed men first broke E. K.'s hands and legs and gouged his eyes out. Thereafter, they shot him dead, riddling his body with bullets. Subsequently, G. S. and then L. T. S. were shot dead. It is alleged that several influential members of the T. B. family directly took part in the planning and the execution of the murders.

244. The bodies of the three teenagers were buried in an undisclosed location and have yet to be found. As of 1 February 2007, not a single person had reportedly been formally investigated, indicted or arrested in connection with the crimes.

245. Many family members of E. K. and G. S. have repeatedly fled the Ain Sefni area and are afraid to return. Concern was expressed that family members may face further acts of violent retribution.

Observations

246. The Special Rapporteur would like to thank the Government for its reply to her communication of 20 November 2006. The Special Rapporteur regrets that the Government of Iran did not reply to her communication sent on 2 March 2007 and reiterates her interest in receiving response from the Government in regard to the allegation submitted and would be particularly interested to know whether these cases have resulted in any arrests and prosecutions of alleged perpetrators.

Kyrgyzstan

Response from the Government to a communication sent in 2006

247. By letter dated **22 March 2007**, the Government of Kyrgyzstan responded to the allegation letter sent by the Special Rapporteur on violence against women, its causes and consequences on **23 November 2006** concerning Ms. R. G. D., an 82-year-old woman living in Ananievo, Issyk-Kul, who was raped in her home by Mr. S. A. A.. Concerns were expressed over the alleged impunity for this rape. Another issue that was raised by the Special Rapporteur in the same allegation letter was about the increasingly widespread practice of “bride-kidnapping”, whereby a woman or girl is taken against her will through deception or force and forced to marry one of her abductors. The full details of the allegations submitted have been reflected in the Special Rapporteur’s previous Report on Communications sent and received.***

*** A/HRC/4/34/Add.1.

In its letter the Government informed that:

248. On 23 April 2005 the investigation department of the Issyk-Kul district internal affairs office of Issyk-Kul province of Kyrgyzstan instituted criminal proceedings on the basis of evidence of an offence contrary to article 129, paragraph 1 (Rape), of the Code of Criminal Procedure of the Kyrgyz Republic.

249. In accordance with the requirements of Kyrgyz criminal procedural legislation, a police line-up of suspects was held, during which Ms. R. G. D. identified Mr. S. A. A. Forensic medical and biological examinations were ordered. Subsequently, Mr. D. K., an investigator of the district internal affairs office repeatedly took unwarranted decisions to terminate criminal proceedings against Mr. S. A. A. on the grounds of lack of sufficient evidence.

250. The Issyk-Kul district procurator's office made a recommendation to the Issyk-Kul provincial internal affairs office concerning investigator D. D. K.; as a result, Mr. D. K. was subjected to a disciplinary measure, which took the form of a reprimand.

251. On 20 December 2006, Mr. S. A. A. was indicted for the commission of an offence contrary to article 129, paragraph 1, of the Code of Criminal Procedure and was placed under house arrest. On 23 December 2006, Mr. S. A. A. was arrested and, on the basis of article 94 of the Code of Criminal Procedure, placed in pre-trial detention.

252. On 21 December 2006, the criminal case involving the rape of Ms. R. G. D. was referred to the Issyk-Kul inter-district court, where it was being heard at the time of the response.

253. With regard to the enquiry concerning "bride-kidnapping" in Kyrgyzstan, the following information was provided: In 2006, 73 statements and communications from citizens concerning the coercion of women into marriage were registered. With regard to 57 of the reported incidents, investigators of internal affairs offices took decisions not to institute criminal proceedings because citizens withdrew their original statements.

254. Criminal proceedings were instituted in connection with the remaining 16 incidents. The results of investigations of nine incidents were referred to the courts (in five cases, the courts handed down the verdict of guilty; four cases are still being heard). In two criminal cases, the investigation was suspended in connection with the search for the accused persons. Five criminal cases are being investigated. For the period under consideration, no criminal cases have been terminated and no defendants have been acquitted by the courts.

Observations

255. The Special Rapporteur would like to thank the Government of Kyrgyzstan for its reply to her communication of 23 November 2006 and for having undertaken an investigation and court procedure against the alleged perpetrator of the rape of Ms. R. G. D.

Malaysia

Response from the Government to a communication sent in 2004

256. On **18 May 2004**, the Special Rapporteur on violence against women, its causes and consequences, and the Special Rapporteur on the sale of children, child prostitution and child pornography sent an allegation letter to the Government of Malaysia concerning the trafficking of women and sale of children taking place in the region. According to information received, poor young Indonesian women were being trafficked to Malaysia. It was reported that there were cases of pregnant Indonesian women being trafficked to Malaysia for the purpose of selling their child after it is born for illegal adoptions. Further, some specific situations were brought to the attention of the Special Rapporteurs:

- In 2002 the Malaysian police were said to have uncovered at least 20 cases of baby selling in Sarawak, East Malaysia; among these it is reported the rescue of six

Indonesian women and four babies in Kuching and of eight babies and four women in Sibuh.

- In September 2003 a fishing boat heading towards Malaysia was allegedly intercepted. According to information received, on this boat, eight babies were found packed in Styrofoam in fish boxes which were punctured in order to allow the babies to breathe.

- On 17 September 2003, a 22 year-old woman from Central Java, Indonesia, was lured from Indonesia to Malaysia with the prospect of a good job, but actually she became a victim of trafficking in human beings. The woman was over five months pregnant.

Reply from the Government

257. On **29 May 2007** the Government replied to the letter sent on 18 May 2004. It stated that trafficking in persons, particularly women and children, was a serious problem in the Asian region exacerbated by an increasing involvement of organized criminal groups. To this end, on 26 September 2002, Malaysia signed the United Nations Convention against Transnational Organized Crime and ratified it on 24 September 2004. At the time of writing, Malaysia was in the process of tabling a Bill in Parliament criminalising the offence of trafficking in Malaysia, thus affording more protection to victims of the crime. Among others, the legislation would provide necessary shelters and relevant mechanisms, in keeping with the United Nations Convention against Transnational Organized Crime.

258. As regarding the allegations regarding the cases the Special Rapporteur's letter referred to, the following was reported:

- On 20 June 2002, a Royal Malaysian Police team rescued six Indonesian women and four babies in Kuching. The police arrested a couple (Mr. B. J. L. M. and Mrs. J S. H.). The suspected were charged in court for the offence of harbouring illegal immigrants and afterwards released on court bail of RM 10,000 with two sureties each.

- On 25 June 2002, the police rescue three babies and three children in Sibuhajohor. There is no information of any woman being rescued. One police report alleged that three arrests were made (Mr. L. S. K., Mr. W. T. H. and Mr. L. Y. M.). The investigation paper was sent to the Deputy Public Prosecutor and on 3 October 2003, instructions were given to conclude investigations as there was no evidence to show that the babies had been legally adopted by the suspects. The rescued babies were handed over to the Sibuhajohor Welfare Department on the order of the Court which adjudicated the matter. Another police report was lodged concerning two young girls aged two and six years old respectively and a boy aged 4 years old who were found in Sibuhajohor. Three arrests were made (Mr. L. K. S., Ms. H. P. H. and Ms. I. J.). The suspects in this case were initially remanded but then they have been released unconditionally as there was no supporting evidence to prove that the children had been kidnapped or smuggled. The charges against them were withdrawn. As for the children, they were initially taken into temporary custody and placed at a shelter by the Social Welfare Department. The children were subsequently released into the custody of Ms. H. P. H. on the instructions of the Court as there was supporting evidence to show that the children had been legally adopted by her. At the time of writing they lived under her care and custody.
- On 22 August 2003, in Johor, the police saw a boat docking at a jetty and a man carrying a white Styrofoam box. The man (Mr. A. Abd. R.) was detained and it was subsequently discovered that the box contained two babies. An accomplice (Mr. I. S.) was later arrested on 31st August. Both suspects were charged of unlawful transfer of possession, custody or control of child and importation of child by false pretenses. The Court impose a fine of RM 5,000 in default 12 months' imprisonment against Mr. A. Abd. R., who was placed behind bars, having failed to pay the fine. Mr. I. S. was charged in Court but the charges were withdrawn on the instructions of the Public Prosecutor due to insufficient evidence. However, action under preventive detention was taken against him. The babies rescued were handed over to the Indonesian Consulate on 22 October 2003.

- In September 2003, a woman purportedly from Central Java, Indonesia, alleged that she was victim of human smuggling and forced to work at a restaurant and to prostitute herself. The victim was said to have sought refuge at the Indonesian Consulate in Kuching, Sarawak. The details of this case are quite vague as it has not been indicated if the alleged victim has lodged a police report. More details would be required to enable the relevant authorities in Malaysia to investigate the above allegation.

Observations

259. The Special Rapporteur would like to thank the Government of Malaysia for its reply to her 2004 communication and notes with appreciation the ratification by Malaysia of the United Nations Convention against Transnational Organized Crime.

México

Carta de alegaciones

260. En **12 de marzo de 2007**, el Relator Especial sobre la tortura, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias enviaron una carta de alegación al Gobierno de México en relación con el supuesto ataque sufrido por la Sra. E. A. R., mujer indígena de 73 años de edad, quien falleció el 26 de Febrero de este año en Tetlalzingo, municipio de Soledad Atzompa, Veracruz.

261. Según la información recibida, el 25 de Febrero del 2007, la Sra. E. A. R fue violada por miembros del 63 Batallón de Infantería de la 26 zona militar de Lencero, Veracruz. La Sra. E. A. R fue hallada por sus familiares a quienes les dijo “los militares se me vinieron encima”. Debido a su crítico estado de salud, fue trasladada al hospital regional de Río Blanco en donde falleció al día siguiente. El certificado de defunción señala que la Sra. E. A. R murió como consecuencia de una infección en los intestinos y en el hígado. Dicho informe también señala que el cuerpo presentaba huellas de tortura y perforación del recto.

262. Este incidente se une a otros casos de violaciones sexuales cometidas por militares en contra de mujeres indígenas en zonas con un alto índice de marginación y pobreza. Esta situación fue analizada en el informe de la Misión a México de la Relatora Especial sobre la violencia contra la mujer. En dicho informe, la Relatora Especial señala como motivo de especial alarma las alegaciones de violaciones de mujeres indígenas cometidas por soldados, que han quedado impunes (E/CN.4/2006/61/Add.4, párrs. 26-37). Asimismo, la Relatora Especial recomienda en su informe reformar la legislación si fuera necesario, para que todos los actos de violencia contra civiles cometidos por personal militar sean investigados por las autoridades civiles, encausados por las autoridades civiles, y juzgados por tribunales civiles independientes e imparciales (párr. 69).

263. La situación fue analizada asimismo por el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas acerca de su visita a México, donde se señalaron a la atención del Gobierno de Su Excelencia “los abusos cometidos por elementos del ejército contra la población civil indígena en zonas de conflicto o de agitación social”, y especialmente violaciones de mujeres y niñas indígenas.

264. En la mayoría de los casos, estos hechos no son objeto de persecución penal debido a la “corrupción y a la impunidad en el sistema de justicia, por lo que muchos indígenas desesperan de acudir a la procuraduría y a los tribunales” (E/CN.4/2004/80/Add.2, párr. 36). En este sentido, el Relator Especial recomendó que cualquier información fiable sobre violaciones de mujeres/niñas indígenas deberá ser investigada de oficio por el ministerio público aunque no medie una denuncia formal (ibid. párr. 92).

265. Sin implicar de antemano, una conclusión sobre los hechos descritos, nos gustaría llamar la atención de Su Gobierno sobre el informe del anterior Relator Especial sobre la cuestión de la tortura, el Sr. N. R., donde señala que la violación es una forma de tortura excepcionalmente traumática (E/CN.4/1995/34, párr. 19). Igualmente, nos permitimos llamar su atención sobre las recomendaciones del Sr. R.

al Gobierno de México tras su visita en 1997 (E/CN.4/1998/38/Add.2). La recomendación 88 j) afirma que “Los delitos graves perpetrados por el personal militar contra civiles, en particular la tortura u otros tratos o penas crueles, inhumanos o degradantes, deben ser conocidos por la justicia civil, con independencia de que hayan ocurrido en acto de servicio”.

Respuesta del Gobierno

266. Mediante comunicación de 17 de mayo de 2007 dirigida a la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias, el Gobierno de México contestó al llamamiento enviado el 12 de marzo de 2007 por la Relatora conjuntamente con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas.

267. La comunicación del Estado consta en fotocopias de artículos del boletín informativo de la Secretaría de Relaciones Exteriores, Dirección General de Derechos Humanos y Democracia, bajo el título “Derechos Humanos: Agenda Internacional de México. Información para los representantes de México en el exterior”.

268. El artículo señalaba que una necropsia realizada el 26 de febrero por personal médico de la Procuraduría General de Justicia del Estado de Veracruz concluyó que la causa de la muerte fue un traumatismo craneoencefálico, fractura y luxación de vértebras cervicales y anemia aguda.

269. Pero diversas omisiones e inconsistencias en la primera necropsia practicada motivaron que la Comisión Nacional de Derechos Humanos solicitara el 7 de marzo a la Procuraduría llevar a cabo la exhumación del cuerpo. Según estos documentos, el 30 de abril de 2007, la Procuraduría General de Justicia del Estado de Veracruz concluyó que la muerte de E. A. R se debió a “causas fisiológicas y mecánicas y no a factores externos”. Asimismo, se informaba de que el Procurador General de Justicia de Veracruz, E. L., y el Fiscal Especial del caso, J. A., informaron en rueda de prensa sobre la decisión de cerrar el caso judicialmente al no encontrar elementos probatorios de los delitos de violación y homicidio.

Llamamiento urgente

270. El **24 de mayo 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 venta de niños, la prostitución infantil y la utilización de niños en la pornografía y el Representante Especial del Secretario-General para los defensores de los derechos humanos, enviaron un llamamiento urgente al Gobierno de México en relación con la Sra. L. C. R., periodista y defensora de derechos humanos, directora y fundadora del Centro Integral de Atención a las Mujeres (CIAM) en Cancún, una organización no-gubernamental que se dedica a la provisión de refugio y apoyo para las víctimas de violencia familiar, violencia sexual, y trata.

271. De acuerdo con la información recibida: El 7 de mayo de 2007, hacia las 12:20 horas, la Sra. L. C. R. llegó de Ciudad Juárez al Aeropuerto Internacional de la Ciudad de México acompañada de tres personas de la Agencia Federal de Investigaciones (AFI) que la escoltan a raíz de las amenazas de muerte que habría recibido por su trabajo.

272. La Sra. L. C. R., tres periodistas y los tres agentes viajaban del aeropuerto en un vehículo Suburban, propiedad de la Procuraduría General de la República. Después de viajar cinco kilómetros, entre Viaducto y Eje Central (Ciudad de México), el vehículo comenzó a perder el control y el chófer tuvo que detenerlo.

273. Al bajar del vehículo, los agentes habrían encontrado que la llanta y la rueda estaban a punto de salirse. Según la información recibida, los agentes de AFI consideraron que el problema del vehículo habría sido provocado deliberadamente para causar un accidente. La Sra. L. C. R. habría denunciado oficialmente el incidente ante la policía, exigiendo una investigación exhaustiva de lo sucedido.

274. La Sra. L. C. R. es autora del libro “Los demonios de Eden: El poder detrás de la pornografía infantil”, en el cual denuncia a la mafia de la pederastia en México, implicando a varios personajes públicos. En 2004, la Sra. L. C. R. habría sido acusada de difamación y a raíz de estas acusaciones fue detenida en diciembre de

2005. En 1999 fue víctima de una violación, un acto de intimidación con la intención de advertirle de los peligros de seguir con sus investigaciones sobre los crímenes de violencia sexual en México.

275. Se expresa profunda preocupación por la seguridad e integridad física de la Sra. L. C. R. y se teme que estos eventos puedan estar relacionados con la actividad en defensa de los derechos humanos de la Sra. L. C. R., en particular su participación en la protección de los derechos de las mujeres y de los niños en México.

Llamamiento urgente

276. El **7 de septiembre 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 tortura, el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas y el Representante Especial del Secretario-General para los defensores de los derechos humanos, enviaron un llamamiento urgente al Gobierno de México en relación con el Sr. F. P., miembro del pueblo indígena tlapaneca, quien había sido supuestamente víctima de golpes e intimidaciones por parte de personas presuntamente al servicio del Ejército.

277. Según la información recibida, el 30 de junio de 2007, el Sr. F. P. habría sido golpeado por los Sres. H. y A. M. S. al frente de la Comisaría Municipal de Ayutla de los Libres, estado de Guerrero. Mientras el Sr. F. P. se encontraba tendido en el suelo, uno de los hombres le mostró un arma que llevaba oculta bajo la ropa y le habría dicho: "Si intentas decir algo aquí te traigo tu comida...lo que estás denunciando con tu esposa I. en contra de los guachos es mentira, y ya sabemos que hasta Estados Unidos vas a ir, pero no te va a servir de nada porque es mentira lo que estás diciendo".

278. El 27 de julio de 2007, según las informaciones, cuando el Sr. F. P. se dirigía a su domicilio, se le acercó el tío de los dos hombres que lo habían agredido frente a la Comisaría Municipal de Ayutla, y le habría dicho: "deja de chingar a los guachos, sabemos que quieres ir hasta Estados Unidos a denunciar, y si no paras algo feo te puede pasar". El 1 de agosto, el mismo individuo lo volvió a amenazar con las

siguientes palabras: “Hijo de tu chingada madre, ya deja de decir que a tu esposa la violaron los guachos. Ya te dije que te vamos a partir tu madre”.

Carta de alegación

279. El **18 de diciembre de 2006**, la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, junto con el Relator Especial sobre la tortura, enviaron una carta de alegación al Gobierno de México en relación a casos de violencia sexual contra miembros del movimiento social “Frente de Pueblos en Defensa de la Tierra”. El 3 y 4 de mayo de 2006 hubo enfrentamientos entre fuerzas de seguridad y habitantes de los Municipios de Texcoco y San Salvador Atenco, Estado de México, que mantuvieron bloqueada la carretera Lechería-Texcoco. Estos eventos tuvieron como antecedente un conflicto político entre las autoridades municipales y grupos de vendedores e individuos pertenecientes al movimiento social arriba mencionado. Durante las protestas, varios manifestantes se enfrentaron de forma violenta a los cuerpos policiales del Estado de México. Los agentes de la Policía Federal Preventiva y la Agencia de Seguridad Estatal reaccionaron haciendo un uso de la fuerza aparentemente excesivo. Según informes, unos policías caminaron sobre personas que estaban acostadas y esposadas. Dos personas, entre ellos un menor de 14 años, fallecieron a consecuencia de los disturbios sin que hasta la fecha se hayan esclarecido las circunstancias de las muertes. Las fuerzas de seguridad detuvieron a 211 personas, incluidas 47 mujeres. Las mujeres tenían entre 18 y 40 años. Durante su detención fueron objeto de diversas modalidades de violencia sexual, física y/o verbal. Al menos 23 de ellas reportaron agresiones sexuales, tales como pellizcos y mordidas en los senos, violación por vía vaginal y anal con dedos y otros objetos y violación por vía oral. Los policías también ejercieron violencia sexual al amenazar verbalmente con la violación y al utilizar un lenguaje altamente discriminatorio relativo a la condición sexual de las mujeres detenidas. A algunas mujeres les quitaron la ropa violentamente. En contravención a lo dispuesto en los artículos 129 y 130 del Código de Procedimientos Penales del Estado de México, el personal del Centro Preventivo y de Readaptación Social Santiaguito de Almoloya de Juárez, Estado de México, no preservó las evidencias que las secuelas de las lesiones y abusos ocasionados por los policías dejaron en la la ropa

de las mujeres agraviadas. A la llegada de las mujeres agraviadas al Centro, empleados del Centro quitaron algunas prendas de vestir a unas mujeres y a otras las obligaron a lavarlas. Aunque las mujeres solicitaron desde un primer momento poner en conocimiento de las autoridades sus denuncias, no las registraron hasta la llegada de la Fiscalía Especializada de Delitos Violentos contra las Mujeres el 12 de mayo de 2006. Hasta la fecha del 4 de noviembre de 2006, 23 agentes de la Agencia de Seguridad Estatal fueron consignados por el delito de abuso de autoridad por la Fiscalía Estatal.

280. Solamente un agente policial de la referida Agencia Estatal fue consignado por actos libidinosos. Ningún agente fue consignado por el delito de violación o abuso sexual. La Fiscalía Federal Especial para Delitos Violentos contra Mujeres, que también tiene competencia de investigar el caso, todavía no ha formulado acusación contra ningún agente.

Respuesta del Gobierno

281. Por carta con fecha **17 de mayo de 2007**, el Gobierno informó que se decidió implementar procedimientos administrativos y judiciales en contra de los elementos de la Agencia de Seguridad Estatal (ASE) por los hechos suscitados en Texoco y San Salvador de Atenco el 3 y 4 de mayo de 2006. Se informa que la autoridad judicial emitió 17 órdenes de aprehensión en contra de elementos de la Policía Estatal por la probable responsabilidad por el delito de abuso de autoridad. Sin embargo, dichas órdenes, no han sido cumplidas en virtud del amparo concedido por el juez federal a favor de los policías acusados. El Gobierno también afirma que 4 jefes de destacamento del grupo de la ASE fueron destituidos de sus cargos y 5 fueron suspendidos por 90 días por tolerar tratos violentos por parte de sus compañeros a las personas con las cuales tuvieron contacto para su traslado y no velar por su integridad física.

282. En cuanto a las investigaciones sobre los supuestos abusos sexuales cometidos en contra de las mujeres detenidas, el Gobierno informa que el 15 de Mayo de 2006 la Fiscalía Especial para la Atención de los Delitos Relacionados con Actos de Violencia

contra las Mujeres (FEVIM) dio motivo al inicio de la averiguación previa AP/FEVIM/003/05-2006 .

283. También se informa que el 22 de mayo de 2006 la Comisión Nacional de Derechos Humanos (CNDH), emitió un informe preliminar en el que señala que 211 quejas fueron interpuestas ante este organismo nacional por los hechos ocurridos el 3 y 4 de mayo del 2006.

284. De las 23 mujeres que señalaron haber sido víctimas de abusos sexuales ante la Comisión Nacional de Derechos Humanos, 17 ratificaron su denuncia ante la Procuraduría General de Justicia del Estado de México y 2 de ellas han reconocido a sus agresores.

Observaciones

285. La Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, agradece las informaciones proporcionadas por el Gobierno en relación con sus cartas de 12 de marzo de 2007 y de 18 de diciembre de 2006. La Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias, agradecería recibir del Gobierno, así como de otros interesados, información sobre el resultado de los procesos judiciales relativos a los casos de San Salvador Atenco.

286. Por otro lado, la Relatora lamenta no haber recibido respuesta a sus comunicaciones de 7 de septiembre y de 24 de mayo de 2007 en el momento de finalización del presente informe y reitera su interés en recibir respuestas en relación con las alegaciones sometidas.

Myanmar

Urgent appeal

287. On **9 March 2007**, 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 the question of torture sent an urgent appeal to the Government regarding Ms. R. N., Ms. C. N. R., Ms. N. H. D. and Ms. P. R., four girls aged between 14 and 16 years from Kachin State reportedly detained at Putao Prison, Kachin State.

288. According to information received: In early February 2007, the four girls were gang-raped by three army officers and four soldiers from a Government military base of the State Peace and Development Council. The alleged perpetrators belong to Infantry Battalion No. 138, based in Munglang Shidi, Putao District, Kachin State.

289. Army officials reportedly gave money to the girls and their parents to induce them not to report their case to the police. However, in late February, the incident was reported by an independent news agency. After the information was released, the four girls were immediately arrested and are now detained at Putao Prison, Kachin State.

Allegation letter

290. On **10 May 2007**, the Special Rapporteur on violence against women, its causes and consequences jointly with the independent expert on minority issues, the Special Rapporteur on the sale of children, child prostitution and child pornography, the Special Rapporteur on the situation of human rights in Myanmar, the Special Rapporteur on trafficking in persons, especially women and children, and the Special Rapporteur on the question of torture sent an allegation letter to the Government.

291. On 2 November 2005, the Special Rapporteur on violence against women, its causes and consequences, along with the Special Rapporteur on the situation of human rights in Myanmar, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the sale of children, child prostitution and child pornography, the Special Rapporteur on trafficking in persons, especially women and children and the independent expert

on minority issues, sent a letter of allegation concerning reports of widespread and systematic violence against women and girls in Myanmar. The Special Rapporteurs used this opportunity to express their regret that, at the time of writing, they had not received any reply to this letter. This is of particular concern in view of the fact that they continue to receive allegations that such practices continue.

292. According to information received: Military forces continue to commit rape in several regions, including Karen/Kayin, Mon, Shan and Chin. Over the last 18 months, 125 cases of rape have been reported in Karen areas, and about 30 cases of rape against women and minor girls have been reported in Chin areas. The soldiers committing rape display extreme violence, sometimes torturing and murdering their victims.

293. The Special Rapporteurs would like to reiterate their concern that the reported cases indicate a trend of sexual violence which is particularly alarming, bearing in mind that the above figures reflect only cases of rape that have been reported. Real numbers may be much higher due to the fact that many women do not report incidents of sexual violence because of the trauma and stigma attached it. The Special Rapporteurs were also concerned that sexual violence seems to be particularly endemic in areas of Myanmar where ethnic minorities live. They had, moreover, not been informed about any attempts by the Government of Myanmar to identify, prosecute and punish the perpetrators and bring them to justice. Therefore, they were concerned that sexual violence and the consistent and continuing pattern of impunity have contributed to an environment conducive to the perpetuation of violence against women and girls.

Observations

294. The Special Rapporteur regrets not having received any reply to her communications sent in 2007 and reiterates her interest in receiving a reply from the Government in regard to all allegations submitted, particularly given the alleged widespread sexual violence and exploitation against women and girls.

Mongolia

Allegation letter

295. On **9 March 2007**, the Special Rapporteur on violence against women, its causes and consequences jointly with the Special Rapporteur on trafficking in persons, especially women and children, sent to the Government an allegation letter concerning Ms. B. E., a 28-year old woman from Dalanzadgad Soum, Umnugobi Province.

296. According to information received: When Ms. B. E.'s husband left for the Republic of Korea in search of work, she and her son remained in Mongolia. Ms. B. E. earned a low salary at the Mon-Fresh Co.Ltd, a local business. Ms. M., a resident of Erel Building 46, Apt.26, Bayanzurkh District, offered Ms. B. E. to accompany her to Beijing to work as her assistant. Ms. B. E. assumed that she worked as a translator in Beijing.

297. Ms. B. E. accepted the offer and placed her son with her mother. Before their departure to Beijing in April 2006, Ms. M. gave Ms. B. E. a loan of 300.000 Tugrik. Ms. M. and Ms. B. E. took the train to Beijing, crossing the border in Erlyan.

298. Upon their arrival in Beijing, Ms. M. demanded that Ms. B. E. to repay the loan of 300.000 Tugrik and forced her to work as a prostitute at a bar called "DEN" to repay her debt. Ms. B. E. did not speak Chinese and had never been to Beijing. Ms. M. also took away her passport, money and all phone numbers of friends and family members. Furthermore, Ms. M. reportedly beat Ms. B. E. when she refused to have sex with men, and threatened that she would call her family and friends and inform them that she was working as prostitute.

299. On 19 April 2006, Ms. B. E. escaped, taking her passport with her. On 1 May 2006, she returned to Mongolia with the help of two men, who also gave her 2500 Yuan to help her. Allegedly, Ms. M. called Ms. B. E. from Beijing and threatened that if she did not pay her a sum of 200.000 Chinese Yuan she would inform everyone that Ms. B. E. had worked as prostitute. On 5 May 2006 Ms. M. called again threatening

to provide the same information to the police. Allegedly, Ms. M.'s sister, Ms. S., who lives in Mongolia, had also threatened Ms. B. E.

300. On 10 May 2006, Ms. B. E. went to the police and filed a criminal complaint alleging that she had been trafficked to Beijing where she had been sexually exploited. However, on 28 May 2006, the Prosecutor closed the investigations into her case stating that Ms. B. E. had not been sold to a buyer as required by the definition of trafficking contained in article 113 of the Mongolian Criminal law. The prosecutor reportedly also took the position that the main alleged perpetrator and essential witnesses lived outside of Mongolia so that the case was outside the jurisdiction of the Mongolian authorities.

301. Ms. M. is presumed to still be in Beijing. Ms. B. E. remains in Mongolia in a destitute situation without support from her family or friends, who have ostracized her due to her involvement in, albeit forced, prostitution.

Observations

302. The Special Rapporteur regrets not having received a reply to the communication sent in 2007 and reiterates her interest in receiving a reply from the Government in regard to all allegations submitted.

Mozambique

Allegation letter

303. On **15 March 2007**, the Special Rapporteur on violence against women, its causes and consequences jointly with the Special Rapporteur on trafficking in persons, especially women and children, the Special Rapporteur on the sale of children, child prostitution and child pornography; and the Special Rapporteur on the human rights of migrants, sent an allegation letter to the Government concerning the trafficking in women and children for purposes of sexual exploitation and forced labour to Mozambique, and through and from Mozambique to South Africa.

304. According to the information received: From Maputo, women and children are reportedly trafficked via Ressano Garcia or the Lebombo border to Gauteng, in South Africa. Another route used for trafficking of persons to South Africa, specifically to Gauteng and KwaZulu-Natal, is the border at Ponta do Ouro. The trafficking of these persons continues further either to the south of Swaziland and directly to Johannesburg and Pretoria, or south to Durban and Pietermaritzburg. It is estimated that approximately 1000 Mozambican women per year are trafficked along these routes. Reportedly, children are also trafficked daily in trucks through the Kruger National Park or the Swaziland border. Mozambicans from the north are trafficked into South Africa via Zimbabwe. It is further alleged that people being trafficked from the Great Lakes Region and East Africa enter the north of Mozambique via Malawi or Tanzania. Mozambican ports are also said to be a stopping point for traffickers travelling by sea, who then continue the journey overland to South Africa.

305. It is moreover reported that small-scale trafficking networks, based at transit houses in the border region between Mozambique, Swaziland and South Africa, use minivan taxis to smuggle both migrants and trafficking victims across the border. Accomplices in Johannesburg, Maputo and in the Lebombo region in South Africa reportedly assist this process through recruiting, accommodating and transferring migrants and trafficked persons to the final destinations. Organized groups of Mozambican refugees living legally in South Africa are also reported to be involved in such activities.

306. In this context, young women attempting to find work in South Africa are allegedly led to believe that they will be offered employment as waitresses or domestic workers. However, upon arrival at the said transit centres the women are separated from others, and forced into prostitution or forced labour in agriculture, manufacturing or service industries. When subjected to forced labour, reports indicate that they are often subject to sexual abuse by their employers. Reports also indicate that young women and girls are sold, at the transit centres in Tonga and Johannesburg in South Africa, as “wives” to South African men. There are reports of “stocks” of women being displayed and of the possibility of “wives” ordered on demand.

307. Trafficked children are reportedly sold for 30 to 50 US \$ per child. Orphans are particularly vulnerable to trafficking, particularly because of a reported practice of informal adoption of children and because of adoption laws alleged to facilitate their trafficking. There is an estimated 1.6 million orphans in Mozambique, of whom 380,000 have lost their parents due to HIV/AIDS.

308. Moreover, AIDS is reported to play a major role in increasing the demand for the trafficking of younger and presumably uninfected sex workers. Extreme poverty may also render women and children more vulnerable to being trafficked.

309. So far, no suspected trafficker has ever been tried for trafficking in persons, but instead under laws related to kidnapping, corruption of minors and hijacking. Furthermore, it is reported that trafficking through several unguarded borders is facilitated by the complicity or the tolerance of some border authorities.

310. The Government of Mozambique has been undertaking considerable efforts to combat trafficking, including through the establishment of a National Campaign against Child Abuse. On 20 September 2006, the United Nations Convention against Transnational Organized Crime and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children were ratified. A national anti-trafficking law to ensure domestic implementation of the Protocol has yet to be adopted, however. At the time of writing, efforts to do so were reportedly at an advanced stage, and public debates had been held in several regions. The final draft law would reportedly be presented to the Council of Ministers in the near future and will be discussed during the March session of the Parliament.

Observations

311. The Special Rapporteur regrets not having received a reply to the communication sent in 2007 and reiterates her interest in receiving a reply from the Government in regard to all allegations submitted. Whilst recognising and commending the Government of Mozambique for the measures it was in the process of putting into place, the Special Rapporteur expresses concern that pending the full

implementation of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, trafficking in persons apparently continues unabated.

Nepal

Response from the Government to a communication sent in 2006

312. On **13 April 2006**, the Special Rapporteur on violence against women, its causes and consequences, and the Special Rapporteur on the sale of children, child prostitution and child pornography, sent a letter of allegation to the Government of Nepal concerning the trafficking and sexual exploitation of Nepalese girls in brothels in Calcutta and Mumbai, India. The full details of the allegations submitted have been reflected in the Special Rapporteurs' previous reports on communications sent and received.^{†††}

313. By a letter dated **23 January 2007**, the Government of Nepal sent a "Brief outline of the Efforts made by the Government of Nepal in addressing the problem of trafficking of women and children". This document, after a detailed introduction on the Government's commitment in fighting trafficking of women and children, states that there are no specific empirical studies carried out by the Government of Nepal to ascertain the statements made in the Special Rapporteurs' letter. However, legal arrangements have been made to curb such activities. The Trafficking in Persons (Control) Act, 1987, incorporates provisions of harsh penalty and imprisonment to the perpetrators of such crime (up to 20 years of imprisonment and Rs. 200,000.00 penalty). It also provided an extra-territorial jurisdiction in such cases allowing indicted person to be prosecuted in the Court of Nepal wherever the crime may have been committed. Any of the police offices in Nepal can accept the complaint of such cases. The principle of strict liability is applied, under which the statement of the victim or the plaintiff is considered as strong evidence against the defendant who has to prove his/her innocence. Cases under this Act are investigated and prosecuted by the Government attorney as a party of the case. The Government brings a judicial-

^{†††} A/HRC/4/34/Add.1 and A/HRC/4/31/Add.1, respectively.

case as an example of the sensitivity in the interpretation of laws on trafficking from the victims' perspective.

314. A table was provided with cases filed by prosecution officers to the court:

| Year | Total Cases Filed | Cases adjudicated by the court | Cases awaiting court procedures to be completed |
|-------------------------------------|--------------------------|---|--|
| 2058/059 (July 2001 - June 2002) | 136 | 72 | 64 |
| 2059/060 (July 2002 - June 2003) | 133 | 50 | 83 |
| 2060/061 (July 2003 - June 2004) | 173 | 88 | 85 |

315. The Government affirmed that the above table shows that perpetrators have been identified and penalised by decisions of the court. In case where sufficient evidence proves that alleged person is involved in the trafficking of person, s/he is kept in judicial custody during the prosecution of the case. Even when the court of first instance acquits an accused, the Office of Government Attorney files appeal to the Higher Court for the review of the verdict.

316. Furthermore it is reported that investigation and prosecution of every individual case takes place after the complaint is lodged. This may follow necessary physical and medical examinations as per the nature of the case and condition of the victim, which is determined by the investigating officer. The investigating officer, in co-ordination with the Office of the District Government Attorney files the case to the competent court for the adjudication of the case.

317. Moreover, the Government declared to have established a rescue/emergency fund in some districts which are considered as major transit points of trafficking. As regards to the efforts to undertake necessary rehabilitation of the returned girls and women, in view of the need for special care and protection of the victims of crimes related to trafficking, MWCSW has run a "women self-reliance and rehabilitation home" since 1998. Several NGOs in co-operation with the Government have been

providing shelter and training for the rehabilitation and provided means of livelihood to such victims in different parts of the country. The existing laws provide for the establishment of a rehabilitation fund to run social rehabilitation centre for the victims of trafficking. A committee for the overall co-ordination of the activities with different stakeholders is also envisioned.

318. Finally, the Government assured that there were instances of compensation to the victims. Half of the penalty amount accrued from the convicted criminal of trafficking is awarded to the victim or her/his minor children, in case the victim has already died.

Response from the Government to a communication sent in 2006

319. On **1 December 2006**, the Special Rapporteur sent a letter of allegation concerning Ms. M. R. C., a “metis” (persons who are men by birth but identify as women), human rights outreach worker and member of the Blue Diamond Society. She was verbally abused by members of the Durbar Marg Police, and was intimidated and humiliated by police (including by sexual violence). The full details of the allegations submitted have been reflected in the Special Rapporteur’s previous report on communications sent and received.^{***}

320. By a letter dated **7 June 2007**, the government of Nepal informed that upon inquiries by the concerned authorities of Nepal on the information contained in the communication sent by the Special Rapporteur, it has been revealed that Thamel being one of the most crowded areas in Kathmandu where incidences of clash and arguments between the people often happen, the police, in cooperation with the municipality officials, has been engaged in regular duty for managing traffic, removing of irregular parking as well as facilitating the smooth movement of crowd for the ease of commuters and pedestrians. They have not been engaged in taking photographs or filming the activities of the metis nor they have been indulged in verbal abuse or harassment of them as alleged in verbal abuse or harassment of them as alleged in the communication.

^{***} A/HRC/4/34/Add.1.

Allegation letter

321. On **2 May 2007**, the Special Rapporteur on violence against women, its causes and consequences, and the Special Rapporteur on the question of torture sent an allegation letter to the Government concerning alleged human rights violations committed by members of the Maoist party against a lesbian couple, 16 year-old D. (N.) C., from the Village-Tarahara Ward No.-08, and 20 year-old S. C., from Village-Pakali Ward No.-1. Both women belong to a low caste in the Sunsari district of Terai, the marginalized area of East Kathmandu, where the Communist Party of Nepal (Maoist) is exercising delegated authority.

322. According to information received, the two young women started living together in the beginning of 2006. They have been hiding in different places since their respective families do not approve of their lesbian relationship. Ms. D. C. was forcibly returned by her parents to her family home on several occasions, most recently on 22 March 2007. Her parents and her brother (who is a Maoist) informed the Maoists about their relationship in order to encourage them to discontinue their lesbian relation and lifestyle.

323. In October 2006, Ms. D. C. and Ms. S. C. were abducted and held in the Maoist camp in Lochani village in Morang District. At the camp, the Maoists called the couple derogatory names for homosexuals including “chakka” and “hijara” and ordered the girls to join the Maoist party and undergo the training for Maoist militia. As the young women refused to join the Maoist party and carry weapons, they were allegedly beaten, verbally abused, and deprived of food almost everyday. After being detained for almost one month, they managed to escape from the camp and went into hiding.

324. On 2 March 2007, the women were allegedly abducted again by the Maoists from Pakali village when they were on their way to celebrate the annual Hindu Holi festival in Pankali village in Sunsari district.

325. The women were taken into custody at the Maoist camp in Singiya village, Sunsari district. They were intensively interrogated about whether they were homosexuals. During their interrogation they were told that their blood should be tested in order to find out whether they are lesbian or not. The women were released after ten hours on the condition that they return with staff from the Human Welfare Society to their parents. Human Welfare Society was allegedly also summoned to the Maoist camp and subjected to part of the interrogation. Since the parents did not come, the Maoists allegedly informed the girls that they would talk to their parents separately and contact them soon again.

326. On 9 April 2007, the couple filed an official complaint to the Nepal National Human Rights Commission. Their complaint is registered as number 3403.

327. At the time of the writing, the couple was hiding, living under difficult economical conditions, surviving on daily labour but are allegedly frightened to go to work due to that their family members or Maoists may find them and abduct them again.

Urgent appeal

328. On **20 June 2007**, the Special Rapporteur on violence against women, its causes and consequences and the Special Representative of the Secretary-General on the situation of human rights defenders sent a letter to the Government of Nepal concerning human rights defenders Ms. R. M. and Ms D. K. M., members of the *Women's Rehabilitation Centre* (WOREC), in the Siraha district. WOREC is a non-governmental organization working on social justice and human rights, specifically women's rights, and the rights of marginalized groups in Nepal such as the Dalits. Ms R. M. and Ms D. K. M. have been involved in documenting cases of violence against women and providing support to victims for several years.

329. According to information received: On 14 June 2007, at approximately 13.00 pm, the offices of WOREC were surrounded by between 60 to 70 men who warned staff working at the time that if they did not leave the village within five days they would be raped and killed.

330. On 2 June 2007, at approximately 11.50pm, unidentified assailants attacked the *WOREC* office with sharp bricks. Staff working at the centre at the time, went outside to investigate and were met with a barrage of bricks before the assailants absconded. No serious injuries were sustained in the attack however staff claimed they felt their lives were being threatened. The police were called after the attack but allegedly maintained that they could not come to the scene of the attack for security reasons but assured staff that they would investigate the case the following morning. A few days later the main gate of *WOREC* was dismantled and thrown onto the road. Those responsible were identified as the alleged perpetrators in the rape cases mentioned below.

331. During the months of April and May 2007, Ms. R. M. and Ms. D. K. M. documented two cases involving the attack and rape of two local women. They also assisted the women in registering their claims with the police and obtaining legal and medical advice. Ms. R. M. and Ms. D. K. M. have been challenged on numerous occasions by members of the Govindapur community, in the Siraha district, for their activities in defence of human rights, however since April their situation has deteriorated considerably. Ms. R. M. has reportedly been threatened with death, rape and kidnapping, and in one incident an alleged perpetrator in one of the aforementioned rape cases, threatened her by saying that he 'had unleashed a man who would rape any woman and who will raise sensitive issues so the women should stay alert'. The Govindapur community has also strongly criticised Ms. R. M. and Ms. D. K. M. for taking the cited cases to the police instead of settling them within the community.

332. Concern was expressed that the aforementioned events are directly related to the work of Ms. R. M. and Ms. D. K. M. in defence of human rights, in particular their involvement in making public the cases of two female rape victims in the Govindapur community. Further concern is expressed at reports of a lack of response from the police in investigating the alleged threats against Ms. R. M. and Ms. D. K. M., and the attack on the office of *WOREC*.

Allegation letter

333. On **13 July 2007**, the Special Rapporteur on violence against women, its causes and consequences and the Special Rapporteur on the question of torture sent an allegation letter to the Government concerning Ms. K.K., a 15-year old girl with a mental disorder from Dekhatbhuli VDC, Kanchanpur.

334. According to information received: On 4 June 2007, when Ms. K.K. was on her way to visit her uncle, two police constables, Mr. H. C., from Zonal Police of Mahakali Zone, and Mr. R. S., from the Police Battalion Kanchanpur, requested her to accompany them. The two men took her to a house, which was situated next to a tea shop that belongs to Mr. R. S.'s brother, and raped her. Subsequently, the two police constables took Ms. K.K. to the residence of another police constable from Mahakali Zonal police, Mr. J. M., and left her there with Mr. J. M.'s wife, Ms. R. M. In the evening, Mr. J. M. and his nephew Mr. T. D. came to the house and proceeded to rape Ms. K.K. throughout the night.

335. Mr. J. M.'s wife, Ms. R. M., was at home when the rape occurred. On the morning following the rape, Ms. R. M. tore off Ms. K.K. clothes, accusing her of wanting to become her husband's second wife. Later that day, Ms. R. M. took her to the Zonal Police Office. After a preliminary investigation Ms. K.K. and Ms. R. M. were referred to the District Police Office. One of the police officers who initially interviewed Ms. K.K. was a man. Subsequently Ms. K.K. was taken to Mahakali Zonal Hospital in Kanchanpur for a medical examination, which confirmed that she had been raped.

336. Ms. K.K. was bleeding for several days from her uterus after the incident. The doctors who examined the victim prescribed medication for her physical injuries however, no counselling or specific protection measures have been provided to Ms. K.K.

337. Mr. R. S., Mr. T. D. and Ms. R. M. were arrested on 5 June 2007. They have been charged with rape by the District Court, and remain in detention. The two other perpetrators, police constables Mr. H. C. and Mr. J. M., are still at large despite the

arrest warrants issued against them. All three police constables have been suspended from their jobs.

338. Welcoming the investigative steps that the authorities have already undertaken, we urge the Government to ensure that all perpetrators are brought to justice without unnecessary delay. We also call on the Government to ensure that the child victim receives all necessary mental and physical health care; to protect her and her family from possible reprisals; and to compensate her for the violations she reportedly suffered at the hands of state agents on duty.

Reply from the Government

339. On **10 September 2007**, the Government replied to the letter sent on 13 July 2007, acknowledging receipt and noting the letter had been forwarded to Kathmandu with the request for information on this case.

Allegation letter

340. On **24 August 2007**, Special Rapporteur on violence against women, its causes and consequences sent an allegation letter to the Government concerning Ms. B. G. C., aged 15, permanent resident of Ramghat Village Development Committee, ward number 8, Surkhet District, Nepal.

341. According to information received, On 19 July 2007, Ms. B. G. C. was on her way home from Latikoili on a micro bus, when Mr. R. N. B., a soldier working in Midwestern Divisional Army Headquarter, Banke district, and Mr. Y. T., a civilian friend of Mr. R. N., sat down next to her and began questioning her. After learning Ms. B. G. C's name and address, the two men followed her off the first bus, and tried to persuade her to take a separate vehicle home with them, as they insisted they lived nearby. When Ms. B. G. C. got on a second bus, the men followed her.

342. Allegedly, Mr. R. N., and Mr. Y. T. then convinced Ms. B. G. C. to get off the bus and join them for some food. As soon as they were off the bus, Mr. Y. T. grabbed

her and dragged her to the ground, threatening her that she would be killed if she made any noise. Ms. B. G. C. was then violently attacked by both men. Mr. Y. T. raped her first, while Mr. R. N. watched; subsequently Mr. R. N., raped her as well, following which, the men left her naked on her own.

343. Ms. B. G. C. got on a bus and happened to be seated next to a nurse from the Bheri Zonal Hospital, who sent her to an NGO, Maiti Nepal, in Nepalgunj. Maiti Nepal took her for a medical examination, with the help of the District Police Office (DPO) in Banke district. The statement she gave to this DPO was then forwarded to the DPO in Surkhet. The next day Ms. B. G. C. was taken to the Bheri Zonal Hospital for another medical examination, which concluded that she had been raped.

344. On 3 August 2007, Ms. B. G. C., with the help of the NGO Advocacy Forum, filed a First Information Report (FIR) against the assailants with the DPO in Surkhet. While the DPO officers initially refused to register the report, presumably due to the involvement of army personnel, they finally accepted it.

345. The DPO in Surkhet requested that the Mid-Western Divisional Army Headquarters hand Mr. R. N., over to the police for investigation, which they did on 9 August. He is currently in police custody. The district court approved an extension of his detention for seven days starting from 13 August in order to complete investigations.

346. An arrest warrant has been issued for Mr. Y. T., but he has not been arrested yet and has reportedly fled the area. The Special Rapporteur expressed concern that there were fears for the safety of Ms. B. G. C. for reasons of personal security, as Mr. Y. T. has not yet been arrested.

Reply from the Government

347. On **23 October 2007**, the government replied to the letter sent on 24 August 2007, acknowledging receipt and noting the letter had been forwarded to Kathmandu with the request for information on this case.

Allegation letter

348. On **25 September 2007**, 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 to the Government regarding Ms. U. D. B., member of the “Badi Adhikari Sangharsa Samiti” (Badi community Struggle Committee), and women and male human rights defenders of the Badi community in Nepal.

349. According to information received, on 22 August 2007, three dozen women human rights defenders from the Badi community were reportedly beaten and detained in custody. They were protesting in Singha Durbar, in Kathmandu. Allegedly, the aim of their protestation was the rehabilitation of women who have been forced to work as commercial sex workers, the right to own land, the equal representation of male and female candidates in the constituent assembly, and the establishment of legal bodies at all levels of the government addressing issues as racial discrimination, untouchability and legal identity for their children who are deprived of citizenship certificates. All the protestors were released later on that day without being charged.

350. On 27 August 2007, 450 Badi women and men (225 of them were women from the Badi Community Struggle Committee and members of the Dalit Civil Society Movement) protested to enter in Singha Durbar. They were beaten with truncheons by the police. Reportedly, the police tried to take off the clothes of Ms. U. D. B., the coordinator of the Badi community Struggle Committee. 120 protestors were arrested by the police. Ms. U. D. B. and other women human rights defenders of the Women’s rehabilitation centre (WOREC) were taken to the Armed Police Battalion number-2 in Maharajgunj. They were released in the evening without charge against them.

351. On 7 September, members of the Badi Community protested again in front of Singha Durbar. They were severely beaten by the police. On 9 September, during another protest in Harihar Bhawan, members of the Badi community were beaten by the police with sticks and boots. The police also poked sticks into people’s organs. One of the victims is P. B., 18 years old, whose intestine was badly damaged.

Altogether 140 persons were arrested and taken to Mahendra Police Club in Maharagunj, Kathmandu, and were kept there for around 8 hours without being provided any food or water. Demonstrations seem ongoing.

Reply from the Government

352. On **31 October 2007**, the Government of Nepal replied to the letter sent on 25 September 2007, acknowledging receipt and noting the letter had been forwarded to Kathmandu with the request for information on this case.

Observations

353. The Special Rapporteur would like to thank the Government for its replies to some of her communications.

354. The Special Rapporteur regrets not having received any substantive responses to her communications sent on 2 May, 20 June, 13 July, 24 August and 25 September 2007 and reiterates her interest in receiving a reply from the Government of Nepal in regard to all allegations submitted, and whether the cases reported in the communications have resulted in any prosecutions of alleged perpetrators. She notes in this respect that according to the Declaration on the Elimination of Violence against Women, States have a duty to take positive action and exercise due diligence to prevent and protect women from violence, to prosecute and appropriately sanction perpetrators of violence and to ensure that victims of violence receive compensation. States have this duty regardless of whether the relevant acts have been committed by private or State actors.

New Zealand

Allegation letter

355. By letter dated 28 June 2007, the Special Rapporteur notified jointly with the Special Rapporteur on trafficking in persons, especially women and children and, the Special Rapporteur on the human rights of migrants that they had received

information regarding the case of Ms. **T.A.T** reportedly a trafficking victim of Ukrainian origin.

356. According to the information received, Ms. T.A.T was born in Ukraine. She was reportedly trafficked to Auckland, New Zealand in 2003. Ms. T.A.T is married to a citizen of New Zealand. They had a child born in 2005, who is therefore also a citizen of New Zealand.

357. According to information received, in 2003, Ms. T.A.T was deceived by unknown persons residing in the Ukraine into believing that papers had been arranged for her to work lawfully as a waitress in New Zealand. Upon her departure from Ukraine to New Zealand, she was told by her traffickers in Ukraine that she would be travelling with a false passport. When she protested against this, she was warned that she already owed her traffickers the sum of US\$ 5,000 for her ticket to New Zealand and for arrangements undertaken to provide her with a visa and temporary residence permit for New Zealand. She was also threatened that if she refused to comply with instructions, her family in Ukraine would suffer.

358. Information received also indicated that she flew to New Zealand via Bangkok in the company of a man. Once in Bangkok, she was informed that she would fly to New Zealand alone but that she would immediately be met with a man at the airport who would take care of her from then on. Upon arrival at Auckland Airport, this man, took away her passport and took her to an apartment in a nightclub in Auckland, where she was sold to a group of men who forced her to work as a prostitute. There were two other Ukrainian women in that same apartment who had also found themselves in her same situation and who had also been brought to New Zealand under similar circumstances of false promises.

359. It is also reported that, Ms. T.A.T and the women she lived and worked with, were never allowed to leave the apartment, except for once a week to buy their weekly groceries; on such occasions, they were always accompanied. The women were given very little food and when Ms. T.A.T fell ill during her captivity the traffickers were reluctant to let her see a doctor.

360. Six months after Ms. T. A. T. arrived in New Zealand, the nightclub was suddenly closed down and the traffickers who had forced her to work as a prostitute left the premises. It is alleged that, she was nevertheless still forced to continue working as a prostitute by the man who had initially met her at the airport upon her arrival in New Zealand, claiming that she had still not repaid her debt. Ms. T.A.T and the two other women, however, managed to escape from the flat and went into hiding. It is then that Ms. T.A.T met the man who later became her husband.

361. It is further alleged that, at that stage, Ms. T.A.T sent an application to the immigration authorities to obtain a residence permit. Her husband also wrote to the Immigration Office to support his wife's application, stressing that Ms. T.A.T had not voluntarily used false documents to enter New Zealand, but had been forced by her traffickers to do so. The immigration authorities nevertheless issued Ms. T.A.T with a Removal Order, arguing that they found no substantial evidence of Ms. T.A.T's actual identity.

362. Reports indicated that the authorities argued that she had committed a serious offence in using false documentation to enter the country and was therefore advised to make arrangements to leave the country voluntarily; otherwise she would be arrested and deported.

363. In order to respond to the authorities' request for identification, Ms. T.A.T managed to obtain copies of her birth certificate and her Ukrainian identity documentation from Ukraine. On 29 March 2007, Ms. T.A.T launched an appeal against the Removal Order, in accordance with Section 130 of the Immigration Act of 1987.

364. Finally, according to information received, investigations into the cases of the other Ukrainian women who were allegedly trafficked together with Ms. T.A.T are reportedly underway. Ms. T.A.T's house was searched and questioned as part of such ongoing investigations. It is reported that a number of the traffickers had been convicted but that some of the trafficked women had already been sent away from New Zealand. Other traffickers, including the man who met her at the airport,

allegedly remained at large. Moreover, Ms. T.A.T claims that this man and other members of the group that trafficked her to New Zealand were threatening her because they know that she is giving information to the authorities. She fears that she would face a risk to her life, if she were returned to the Ukraine.

365. On **20 July 2007**, the Special Rapporteur on violence against women, its causes and consequences and Special Rapporteur on the human rights of migrants wrote again to the Government asking for information of any developments on this case.

Reply from the Government

366. **By letter dated 5 July**, the Government acknowledges receipt of the letter sent by the Special Rapporteurs on 28 June 2007, and informed that T.A.T.'s file would be assigned to an investigator.

367. On **27 August 2007**, the Government of New Zealand replied to the letter concerning the case of Ms T. A. T. In its response, the Government stated that it had reviewed Ms. T. A. T.'s case, and that further enquiries by the relevant authorities were still being conducted. The Government noted that all enquiries conducted thus far show no evidence to support the claim that Ms. T. A. T. is a victim of trafficking, and accordingly, the Government disputes the veracity of the allegations contained in the abovementioned letter of 28 June 2007.

368. The Government also reported that any new information related to this case would be transmitted without delay to the Special Rapporteurs.

369. Finally, the Government further reported that Ms. T. A. T. was in New Zealand at the present time, and assured the Special Rapporteurs that no further step will be taken to return Ms. T. A. T. to her country until the enquiries of her case have been concluded.

Observations

370. The Special Rapporteur would like to thank the Government of New Zealand for its reply to her communication, and in particular for the Government's authorization to let Ms. T. A. T. stay in New Zealand until all enquires are concluded. She looks forward to receiving more information on the outcome of the investigations launched in the case.

People' Republic of China

Responses from the Government to communications sent in 2006

371. On **30 November 2006**, the Special Rapporteur sent an urgent appeal concerning Mr. G. Z., a lawyer and Director of a private firm in Beijing, his wife Ms. G. H., their children aged 13 years and two years and his 70 year old mother in law. Concerns were expressed for the physical and physical and psychological integrity of Mr. G. Z. as it is feared that he may be subject to torture or ill- treatment while in detention. Concern was also expressed that the charges against him may be fabricated and may represent an attempt to prevent him and deter others from carrying out legitimate legal work in defence of human rights. Further concerns were also expressed for the safety of his family, particularly his family, his wife, Ms. G. H. and his children as it was feared that they may be subject to further act of intimidation, harassment or violence because of Mr. G. Z.'s aforementioned human rights work.

372. The full details of the allegations submitted have been reflected in the Special Rapporteur's previous report on communications sent and received.^{§§§}

373. By a letter dated on **14 August 2007**, the government of China replied that on 15 August 2006, Mr. G. Z. was placed under investigation by Beijing public security authorities, in accordance with the law, on suspicion of the commission of a criminal offence, and, on 21 September, his arrest warrant was approved by the procurator's office. Beijing people's procurator's office No.1 laid charges against G. Z. for the offence of fomenting subversion of the State and instituted proceedings against him with Beijing people's intermediate court No.1.

^{§§§} A/HRC/4/34/Add.1.

374. Beijing people's intermediate court No.1 determined, following its consideration of the case in open proceedings, that: from December 2005 to May 2006, Mr. G. Z. had composed and published on website such as "dajiyuan. Com", "kanzhongguo.com" and others, nine articles with such titles as "three open letters from G. Z. to H. J. and W. J." and "this administration never stops killing people". In these articles, Mr. G. Z. engages in rumour- mongering and slander, vilifying the current Chinese state political and social system and inciting his readers to overthrow the authority of the State. At the same time, on 10 separate occasions, both from his home and in other places, Mr. G. Z. had given interviews to foreign media, such as "Radio Free Asia", "Voice of Hope", and other outlets, which held discussions with him and recorded his incitements to subvert the authority of the State. Those had been recorded by the foreign media as audio files and placed on their websites, for other people to listen to or download.

375. During investigation, Mr. G. Z. made candid confession to the facts of these offences, and of his own initiative provided information about other people who has committed extensive offences. This information contained important leads which checked out and helped in solving other criminal cases. On 22 December 2006, the Beijing city people's intermediate court No.1 ruled that Mr. G. Z.'s conduct constituted the offence of incitement to subversion of the authority of the State, but in view of his meritorious conduct in denouncing the offences of culprits, decided in accordance with the law, that his penalty should be rendered more lenient and reduce it below the statutory level. Thus for the offence of incitement to subversion of the authority of the State, he was sentenced to three years fixed term, to be suspended for five years, and stripped of his political rights for one year. After the court handed down its judgement at first instance, Mr. G. Z. declared himself willing to accept the verdict and did not lodge an appeal. The judgement has since become enforceable.

376. In the course of proceedings against Mr. G. Z. on the charge of incitement to subversion of the authority of State, the public security authorities fully upheld his rights in litigation and those of his family and conducted the proceedings in strict compliance with the law, applying the law in a civilized manner.

377. Three days before proceedings opened in this case, the court of first instance, in accordance with the stipulation of the law, notified the prosecutor's office and the defence counsel and published in advance the dates and venue of the trial. When the court rendered its judgement, Mr. G. Z.'s family were present in the public gallery.

378. When serving papers on Mr. G. Z., the court expressly informed him of his rights in litigation to appoint a lawyer to conduct his defence. Mr. G. Z. indicated that, as he was himself a lawyer, he did not need assign a lawyer to conduct his defence and he did not agree to his family appointing a lawyer for him. For that reason, the lawyers M. S. and D. X., from the M. S. law in Beijing, appointed by his brother G. Z., were unable to act in defence. Under these circumstances, the court decided, in order to ensure that Mr. G. Z.'s rights in litigation were fully upheld, that it should still appoint two lawyers to defend him, Q. L. from the Tianda law firm in Beijing (which goes by the English "East Associates"), and Y. X., from the Chao Yang law firm in Beijing, and Mr G. Z. agreed to this appointment.

379. In the course of the trial, in addition to conducting his own defence, Mr. G. Z. also received full defence services from his two defence lawyers. The allegations in the letter that we have received that the police harassed Mr. G. Z.'s family members and others are unfounded.

380. On **21 December 2006**, the Special Rapporteur sent an urgent appeal concerning Mr. C. G., a 34 year old blind self- taught human right lawyer in Linyi, Shandong province, and his wife Ms. Y. W., his lawyers Mr. L. J. and Mr. L. F., a member of his defence team, Dr T., and witness to his trial-Mr. C. G.(1), Mr. C. G.(2), Mr. C. G.(3) and Mr. C. G.(4)

381. Grave concerns were expressed that the charges against Mr. C. G. and his wife Y. W. were fabricated and were solely related to their legitimate activities in defence of human rights, in particular their defending villagers' rights. Serious concern was expressed that C. G. did not receive a fair trial as his lawyers were obstructed in all aspects of their work from collecting evidence from witnesses to meeting with their client. Concern was also expressed his lawyers were subjected to physical abuse and

detention to prevent them from representing their client at trial. Similar concerns were expressed for the fate of his wife, Y. W. Further concern was expressed for the physical and psychological integrity of any witnesses for the defence as it was feared that they have been subjected to acts of torture or brutality by the Yinin County PSB. The full details of the allegations submitted have been reflected in the Special Rapporteur's previous report on communications sent and received. ****

382. By a letter dated **2 August 2007**, the Government of China indicated that in the evening of 5 February 2006, because he was unhappy with the work of poverty alleviation officials sent to his village, guided by his wife Y. W. and others, he stormed into in the offices of the Dongshigu village committee in Shuanghou Township, Yinan County, and started smashing the glass panes in the doors and windows. Upon returning to C. G.(3)'s home in his village, he called on C. G.(4), C. G.(2), C. G.(1) and others villagers and urged them to go and smash up police cars in service at the Yinan county police and minibuses belonging to the Shuanghou township local authority. C. G.(4), C. G.(2) and their associate went round the village, shouting and urging people to go and smash up cars, set on locals officials, chasing them to the municipal offices, and then charged across to the east end of the village, bearing wooden clubs, rocks and other implements, and proceeded to smash the windows in three police cars belonging to the Shuanghou police station, rolled these vehicles over into the roadside ditch, and then set about attacking and beating up police officers on duty at the Yinan county public security bureau.

383. In the evening of 11 March 2006, C. G.(3), who had been drinking, claimed to have been beaten up in Dongshgu Village and burst into offices of the local village committee, where he started smashing office property. Claiming to be seeking an explanation for C. G.(3)'s beating, C. G. seized the opportunity to gather together C. G.(3), C. G.(5), Y. W. and others and, at 6p.m that same evening, they charged over to the Yinghou village section of state highway 205, where they proceeded to block the movement of traffic. First C. G. took up a position in the middle of the road and stopped the traffic, then he directed C. G.(5), C. G.(3) and the others to stand and shout in the middle of the road and to block the passage of all vehicles. Police officers

**** A/HRC/4/34/Add.1.

from the public security bureau arrived on the scene to direct the traffic and instructed C. G. to halt what he was doing, namely, urging a crowd of people to block the passage vehicles. C. G. totally ignored their instruction and continued calling on C. G.(5), C. G.(3) and the others to block the traffic. This had the consequence that more than 290 motor vehicles, including ambulances attending to pregnancy and childbirth emergencies, were unable to move and that a section of state highway 205 was blocked for a period of three hours.

384. On 10 June 2006, C. G. was arrested, in accordance with the law, by the Yinan County public security bureau in Shandong province on suspicion of offences of wilful damage to property and assembling a mob to disrupt the flow of traffic and, on 21 June, he was taken into custody with the approval of the procuratorial authorities.

385. After his case had been referred to the Yinan county people's court, C. G.'s wife assigned as his defence counsel the lawyers L. J., from the Yitong law firm in Beijing, and Z. L., from the Beijing office of the xingyun law firm, also known as the "Astorhyme" law firm, based in Zhejiang province. Before the proceedings opened at first instance, C. G. requested the replacement of his defence lawyers by one X. Z., a lecturer at the State Posts and Telecommunications College. In accordance with the provisions of the Chinese Code of Criminal Procedure, only a lawyer, person recommended by a civic organization or the defendant's or suspect's work unit and duly nominated by him or her, or the defendant's or suspect's legal guardian or close relative or friend, may act in his or her defence. X. Z., however, only had his office pass and personal identity document and was unable to produce any official letter of introduction or other credentials; the court had no means of verifying his identity or his relationship to C. G. and for that reason was unable to approve his attorney ship. The court appointed L. J., a lawyer from the Yangdu law firm in Shanong, Z. B., a lawyer from Shandong tonglixing State Law office, as defence counsel for C. G., but C. G. refused their service.

386. On 19 August 2006, the Yinan county people's court, meeting at first instance, found C. G. guilty of the offence of causing wilful damage to property and sentenced him to seven months' fixed-term imprisonment; it also found him guilty of the offence of gathering a mob to disrupt the flow of traffic and sentenced him to serve

four years' fixed-term imprisonment; the court decided that he should serve combined sentence of four years and three months' fixed-term imprisonment.

387. Following his sentencing at first instance, C. G. lodged an appeal. Linyi city people's high court in Shandong province, meeting at second instance, found that the court of first instance had restricted C. G.'s right to defence (the assigned defence counsel had not been accepted by C. G.), a factor which might have adversely influenced the fairness of proceedings, and, on 31 October 2006, it quashed the original judgement and sent the case back to the court of first instance for retrial. The allegations in the letter that we have received that the case was sent back to the original court because there had been insufficient evidence to convict C. G. for the offence of gathering a mob to disrupt the flow of traffic are unfounded.

388. On 27 November 2006, sitting at a reconstituted bench, the Yinan county people's court reopened the case in open proceedings, C. G.'s brother attended the court in the public gallery, and C. G.'s defence was conducted by the lawyers L. F. from the Beijing Ruifeng law firm and L. J. from the Beijing Yitong law firm. During the proceedings, Chen's rights in litigation were fully upheld: he exercised his own rights to defence and the lawyers appointed by him also made submissions in his defence. On 1 December 2006 the court ruled at first instance and made public its verdict: for the offence of wilful damage to property, it sentenced C. G. to seven months' fixed-term imprisonment and, for the offence of gathering a mob to disrupt the flow traffic, it sentenced him to four years' fixed term imprisonment and, for the offence of gathering a mob to disrupt the flow traffic, it sentenced him to four years' fixed term imprisonment, ruling that he should serve a combined term of four years and three months.

389. G. once again lodged an appeal. The Linyi city intermediate people's court, after hearing the case at second instance, ruled that Chen, as a means of giving vent to personal grievances, has caused and incited others to cause wilful damage to property, the amount of which was considerable, and that this conduct had infringed public and private ownership rights and constituted the offence of wilful damage to property; it found further that C. G., with the aim of influencing and exerting pressure on the

government, had assembled a mob to block traffic, that he had been responsible for organizing the process of assembling a mob to block traffic, that he had directed the operation and had served as the ringleader and that his conduct had therefore constituted the offence of assembling a mob for the purpose of disrupting traffic. As the original court judgement had been based on clear facts, the conviction had been correct, the sentence had been commensurate with the offence and the trial proceedings had followed due process, the court dismissed the appeal and ruled that the original judgement should stand. This ruling was published on 12 January 2007. During the proceedings at second instance, the court also heard the views of C. G.'s defence counsel and, in accordance with applicable evidence, found that the facts set out in the accusation by the procuratorial authorities and the charges brought against the defendant were sound and accordingly handed down the judgement referred above.

390. In their conduct of the proceedings against C. G., the public security authorities fully upheld his rights in litigation and those of his family members, acted in strict compliance with the law and applied the law in civilized manner. The proceedings in this case were all conducted in accordance with the law, the facts underlying the court's judgement were clear, the evidence was ample and conclusive, the sentence was commensurate with the offence and the trial proceedings followed due process.

391. With regard to the allegations in the letter to the effect that, on 30 October 2005, C. G.'s lawyer endeavoured to lay charges with the Yinana county court against public security officials from Shuanghou township for having caused intentional bodily harm to C. G., but that the court ignored this suit, it is the understanding of the Chinese government that the Yinan county court did receive an application from the lawyers to bring charges, but as the lawyers did not have C. G.'s power of attorney, following an investigation the court determined that the lawyers were not authorized to act for the plaintiff and rejected the application.

392. With regard to the allegations in the letter to the effect that L. J. and L. F. filed an administrative and civil action with the Linyi city intermediate people's court against the Linyi city public security bureau (including bureau chief, L. J.) and other government agencies, it is the government understanding that the court did receive

such an application from the lawyers, in December 2006, and that the matter is currently being investigated and no conclusion has been reached yet.

393. The allegations in the letter that public security officials have been harassing members of C. G.'s family, his lawyer and other persons are entirely without substance.

Urgent appeal

394. On **12 July 2007**, 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, 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. M. H., a well-known petitioner against family planning policies and forced evictions in Shanghai since 1989. Ms. M. H. was the subject of joint appeals sent on 10 May 2007, 1 February 2006 and on 5 January 2006. The Special Rapporteurs noted Government responses received in this regard, including those dated 18 April and 14 June 2006.

395. According to recent information received, on 15 May 2007 at approximately 6. am, Ms. M. H. was transferred from the police detention centre to prison. She was given inadequate clothing which left her virtually naked. When protesting against this treatment, she was beaten by police officers and placed in solitary confinement upon her arrival at the prison. Ms. M. H. embarked upon a hunger strike as a gesture of protest against her situation. She was subsequently subjected to forced feeding on three occasions by prison guards who tied her hands and forced a tube down her throat. She was placed under constant surveillance by inmates that had been assigned the task by prison guards. These prisoners seem to have also been ordered to harass Ms. M. H. and they proceeded to verbally abuse her.

396. At the time of writing, Ms. M. H. was in poor health, suffering from high blood pressure and arthritis. These conditions are further aggravated by her inadequate

living conditions. She has neither been provided with chairs, nor a bed. As such, she has no choice but to lie on the floor, often in cold and damp conditions. Ms. M. H. was visited by her husband on 28 June 2007. At this time her husband reported her ill-treatment and requested that the prison officials grant Ms. M. H.'s lawyers access to visit her in order to prepare for her upcoming appeal.

397. Serious concern is expressed at reports that Ms. M. H. is being detained in poor conditions which may prove detrimental to her health. Further concern is expressed that the reported ill-treatment of Ms. Mao M. H. in prison may be directly related to her peaceful work in defence of human rights in China, and may form part of a pattern of harassment of human rights defenders in the country.

Response from the Government

398. By letter dated on **15 August 2007**, the Chinese Government noted that it has carefully examined the matters referred to in the communications and informed that on 16 April 2007 M. H. was sentenced by the Yangpu district people's court to two years and six months' fixed-term imprisonment for the offence of causing malicious damage to property, to run from 30 May 2006 to 29 November 2008. She is currently serving her sentence in the Shanghai women's prison.

399. Upon being admitted to prison, M. H. underwent a physical examination which showed that, apart from an inclination to high blood pressure, all other indications were within the normal range. M. H. is currently sharing a cell with two other women prisoners, she has not been sent to the punishment cells nor has she been placed in solitary confinement. Her eating and sleeping arrangements are normal.

400. With regard to the issue of appeal, at the time of writing M. H. had not submitted any written application, nor had she applied to see her lawyer, so there was no proof that the prison refused to allow her lodge an appeal. The prison officers, acting in accordance with the law, treated the prisoners in a civilized manner. M. H. enjoys her rights on the same footing as the other prisoners, including the right to health and the right to appeal. The allegation that M. H. had been subjected to ill-treatment was not supported by the facts.

Urgent appeal

401. On **5 November 2007**, 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, 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. M. H., a well-known petitioner against family planning policies and forced evictions in Shanghai since 1989. Ms. M. H. was the subject of previously transmitted communications. According to information received:

402. On 13 September 2007, prison authorities reportedly ordered a fellow inmate to beat Ms. M. H. in punishment for revealing that she had been held in solitary confinement for 70 days in July and August 2007. This was in violation of Article 15 of the Chinese Prison Law which stipulates a maximum of 15 days for the solitary confinement of prisoners. Ms. M. H. was badly bruised as a result of the beating.

403. On 24 September 2007, prison authorities allegedly sent Ms. M. H. to the Nanhui Prison Hospital. She had previously refused to undergo a medical examination for fear that she would be forcibly injected with drugs, as had happened when she was held in a psychiatric institution in the 1980s. At the Nanhui Prison Hospital Ms. M. H.'s clothes were removed and she was tied to a bed and force-fed by other inmates.

404. Ms. M. H.'s husband, Mr. W. X., was prevented from visiting her at the Shanghai Women's Prison until 26 October 2007. During his supervised visit Ms. M. H. was repeatedly silenced by prison guards when she attempted to inform him of having been force-fed.

Observations

405. The Special Rapporteur would like to thank the Government of China for its reply to her communications of 2006 and 2007. Nonetheless, the Rapporteur regrets

that the Government of China did not reply to her communication sent on 5 November 2007 and reiterates her interest in receiving responses from the Government in regard to the allegations submitted. She would be particularly interested to know whether this case has resulted in any internal disciplinary measures against police officers involved in the alleged ill treatment of Ms. M.H..

406. The Special Rapporteur would also like to recall article 4 (b) of the United Nations Declaration on the Elimination of Violence against Women, which stipulates that States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should refrain from engaging in violence against women

407. Furthermore, the Special Rapporteur would like to bring to the Government's attention article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, States should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms.

Philippines

Urgent appeal

408. On **20 April 2007**, Special Rapporteur on violence against women, its causes and consequences, jointly with the 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 the situation of Mr. N. A., national

council member of Kilusang Magbubukid ng Pilipinas (Peasant Movement of the Philippines) and Chair of Bayan - Bagong Alyansang Makabayan, an alliance of human rights organizations which promote and defend the rights of peasants, workers, women, students and minorities; Ms. M. L. P.-D., an active campaigner for women's rights and a member of Selda, the Society of Ex-Detainees for Liberation, Against Detention and for Amnesty; and Mr. J. E. G., Secretary-General of the Panay of Karapatan.

409. According to information received: On 12 April 2007, Mr. N. A., Ms. M. L. P.-D. and Mr. J. E. G. were driving back home from the Antique province when they were ambushed by unidentified armed men in Oton town in Iloilo province. The gunmen opened fire at the vehicle and hit Mr. J. E. G. in the left side of his neck. Mr. N. A. and Ms. M. L. P.-D. were forcibly taken to the van of the assailants who drove off. The van was later found charred in Barangay Guadalupe, Janiuay, 30 kilometres northwest of Iloilo City. The whereabouts of Mr. N. A. and Ms. M. L. P.-D. remain unknown as of today. As for Mr. J. E. G., he was taken to the Iloilo hospital for surgery, and remains in critical condition.

Reply from the Government

410. On **7 June 2007**, the Government replied to the letter dated 20 April 2007. It informed the Special Rapporteur that investigation conducted by Iloilo City Police Office disclosed that on 12 April 2007 at around 9:30 pm, Mr. J. E. G., secretary general of KARAPATAN- Panay was driving a Mitsubishi L- 200 van with plate no. FEA -789, together with Ms. M. L. P.-D., member of the New People's army (NPA), Reafirmist Group and spokesperson of the society of ex- detainees for liberation against Detention and for Amnesty (SELDA) and Mr. N. A., chair of BAYAN-Panay. Said Van was owned by Mr. R. C., president of Panay Fruits and Trading Corporation.

411. Accordingly, the group was travelling from Antique province to Iloilo City to attend the Anak- Pawis assembly in San Jose, Antique when they noticed a Delica van with plate no. FVF- 463 tailing them from Guimbal, Iloilo. Upon reaching Barangay

Cabanban, Oton, Iloilo, they were overtaken and blocked by said Delica van. At that juncture, about three unidentified men wearing fatigue pants and armed with pistols alighted from the vehicle.

412. One of them shot Mr. J. E. G. at the neck while the other smashed the left side window of one of the L200 van. The men pulled out Mr. J. E. G. from L200 van and left him along the highway then drove said vehicle towards Iloilo City taking with them Ms. M. L. P.-D. and Mr. N. A.

413. Concerned residents in the area brought Mr. J. E. G. to the hospital for medical treatment. On the following day, the L200 van was found burned at the sugarcane plantation in Barangay Janiuay, Iloilo City.

414. Verification made with Land Transportation Office (LTO) region 6 revealed that the Delica Van plate no. FVF-463 was registered to a passenger jeepney. The owner of the Delica jeepney denied owning a Delica van and told the police that said plate number was lost long time ago and had reported the same to the LTO.

415. A petition of Writ of Habeas corpus for Ms. M. L. P.-D. and Mr. N. A. was filed by the counsels for the petitioners Mr. L. P. and Ms. R. A. before Presiding Judge Fe Gayanillo of regional Trial Court (RTC) branch 35, Iloilo City against Armed Forces of Philippines (AFP) Major Gen. J. N., Col. R. D. and Col. M. P. Docketed under No.7-8946.

416. Continuous investigation is being undertaken by the Police Regional Office 6 to locate the whereabouts of Mr. N. A. and Ms. M. L. P.-D. and for the possible identification and apprehension of the suspects.

417. No penal, disciplinary or administrative sanctions have been imposed as the identities of the suspects are not yet established.

Urgent appeal

418. On **2 March 2007**, 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 the question of torture, sent an urgent appeal to the Government regarding the arrest and alleged torture of Ms. M. A. (29) by army members in Kananga, Leyte, Eastern Visayas, in the Philippines. Ms. M. A. was reportedly six-months pregnant at the time.

419. According to information received: On 7 November 2006, around 3:30 p.m., Ms. M. A. disembarked from a bus at Kananga when a group of military officers apprehended her. The men introduced themselves as members of the 19th Infantry Battalion of the Philippine Army, they covered her eyes and took her to the military headquarters at Barangay Agutinh, Kananga. The army officers alleged that Ms. M. A. was suspected of involvement in the killing of a soldier at the Kananga market earlier that day.

420. Ms. M. A. was reportedly tortured in order to force her to reveal the whereabouts of her alleged companions from a paramilitary group calling itself the “New People’s Army”. One of the military officers put a plastic bag over her head and tied it around her neck, and two other men, identified as Mr. H. and Mr. T., hit her legs with their weapons. She was hit in the chest by a man called H. and hit in the head and the back by other soldiers. She was kept in military custody for three days and later moved to Kananga Municipal Prison.

421. On 26 January 2007, Ms. M. A. was transferred to the sub-provincial jail in Ormoc City, where she is currently being detained in a small and crowded cell. Ms. M. A. reportedly almost lost her unborn child as a result of the torture and still feels pain in her chest.

422. The Special Rapporteurs expressed concern over the health of Ms. M. A. and her child.

Response from the Government

423. On **7 June 2007**, the Government of Philippine replied to the letter dated 2 March 2007 concerning the case of Ms. M. A., based on information provided by the Philippine National Police.

424. The government stated that according to police report, on 7 November 2006, at around 2:00 PM, SSgt. G. B. A., a member of the 19th Infantry Battalion of the Philippine Army based in Kanaga, Leyte, was shot to death at the public market of Kanaga by two unidentified assailant. The gunmen reportedly left the crime scene in a hurry on motorcycle. SSgt. A. and his two companions Sgt. B. J. E. and Cpl. D. C. J. were buying food supplies at the time SSgt. A. was killed.

425. Sgt. B. J. E. and Cpl. D. C. J., both unarmed at that time, immediately followed the assailant and arrested at the scene was a woman suspected to be an accomplice, who was later identified as M. C. A., 20 years old, married and a resident of Sangka, Kanaga, Leyte. Ms M. A. was left behind allegedly to monitor the situation. A cell phone containing text messages implicating her as the lookout and accomplice in the killing of SSgt. A. was confiscated from her.

426. On 8 November 2006, Ms. M. A. signed a waiver of her rights pursuant to the provisions of art.125 of the revised penal code, duly subscribed and sworn to before the Asst. Prosecutor of the provincial Prosecutor's officer in Ormoc City.

427. In the morning of 09 November 2006, Ms. M. A. was brought for inquest before the Provincial Prosecutor's Office in Ormoc City for the crime murder under IS No.2006-120. In the afternoon of the same date, she was turned over to the Kanaga Municipal Police Station where she was temporarily detained while awaiting proper disposition of her case.

428. On 25 January 2007, she was physically examined at the Ormoc District Hospital, Ormoc City. On the same date she was transferred from her detention to the Leyte Sub provincial Jail, Ormoc City pending hearing of her murder case in court.

429. It does not appear that Ms. M. A. has instituted any complaint for the alleged human right violations committed against her. However, a case of murder against

Ms. M. A. was filed before the Provincial Prosecutor's Office, Ormoc city under IS No. 2006-120 on 09 November 2006 for her alleged involvement in the killing of SSgt A., pending trial before said Provincial Prosecutor office.

430. Reference is made to the results of investigation, medical examination and judicial inquiries as provided for in question number 1.

431. Based on the facts of circumstances, it appears that the warrantless arrest on Ms. M. A. by the military personnel was in accordance with the provisions of section 5, Rule 113 of the revised Rules in Criminal Procedures. Evidently, she had signed a valid waiver, thus waived her right pursuant to article 125 of the Revised Penal Code. Hence, there is no arbitrary detention committed against her to speak of under circumstances.

Observations

432. The Special Rapporteur thanks the Government for the reply on her communications and looks forward to receiving information on the outcome of the criminal investigations launched in the cases.

Qatar

Response from the Government to an urgent appeal sent in 2006

433. On **5 December 2006**, the Special Rapporteur sent an urgent appeal to the Government of Qatar, concerning Ms. M. A. I., and her two daughters Ms. F. I. M. A. and Ms. H. I. M. A. They were arrested and were not informed of the reason of their arrest.

434. The full details of the allegations submitted have been reflected in the Special Rapporteur's previous report on communications sent and received.^{†††}

^{†††} A/HRC/4/34/Add.1.

435. On **6 February 2007**, the Government of Qatar replied to the letter. The Government stated that having contacted the authorities and inquired about the background to and reasons for, these women's arrest there is no truth to the allegations in our letter. None of these women was hit by a police officer; on the contrary, Ms. M. A. I. and her daughters H. I. M. A. and F. I. M. A. assaulted a police officer who was in the process of arresting Ms. M. A. I.'s son in execution of a court order sentencing him to two months in prison. The wanted man attacked the police officer, stabbed him in the hand with a sharp instrument and fled the scene. The three women prevented the police officer from doing his duty. The deportation order issued against the three women has now been cancelled and that the women have been given permission to remain in the country.

Observations

436. The Special Rapporteur wishes to thank to the Government for the reply to the allegations submitted on 5 December 2006.

République démocratique du Congo

Appel urgent

437. Le **26 octobre 2007**, 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 Mme J. M. V., défenseur des droits de l'homme et coordinatrice de l'organisation non-gouvernementale Synergie des Femmes contre les Violences Sexuelles, basée à Goma au Nord-Kivu.

Selon les informations reçues :

438. Dans la soirée du 18 septembre 2007, six hommes armés en tenue militaire à la recherche de Mme J. M. V. se seraient rendus à son domicile, en vain. Ils auraient alors tenté de violer ses deux jeunes filles et leur auraient porté des coups ainsi qu'aux garçons qui habitent la maison. Les assaillants auraient menacé de mort avec leurs fusils tous les occupants de la maison.

439. Les forces de l'ordre auraient identifié les assaillants comme appartenant à la garde rapprochée d'un officier militaire résidant dans les environs de la résidence de Mme J. M. V. Celle-ci aurait déposé une plainte à l'auditorat militaire de Goma.

Appel urgent

440. Le **14 décembre 2007**, la Rapporteuse spéciale sur la violence contre les femmes, ses causes et ses conséquences, le Rapporteur spécial sur les droits de l'homme des migrants et le Rapporteur spécial sur la torture, ont envoyé un appel urgent au Gouvernement congolais, concernant des déportés congolais en Angola.

441. Selon les rapports portés à l'attention des Rapporteurs spéciaux, il y aurait eu des violations graves des droits de l'homme à l'égard des déportés congolais, qui apparemment auraient été commis par les forces de sécurité angolaises à la frontière entre la République démocratique du Congo et l'Angola. Ces violations auraient été sciemment dirigées vers des groupes de travailleurs migrants principalement composés de citoyens congolais qui travaillent dans des activités informelles d'extraction de diamants.

442. Ces violations reportées incluraient l'emploi systématique de violences physiques et sexuelles, la confiscation des effets personnels des migrants, la séparation des membres de la famille pendant le processus d'expulsion, et le viol systématique des femmes par les forces de sécurité angolaises, souvent devant leurs enfants ou en public. Les viols auraient eu lieu à tous les stades du processus de refoulement, lors de l'expulsion des femmes de leurs maisons, dans les lieux de détention provisoires, aux checkpoints et pendant leur transport vers la frontière.

443. De plus, l'état de santé des migrants expulsés est très préoccupant. Beaucoup d'entre eux ayant menés des activités informelles d'extraction de diamants, auraient été forcés, avec les membres de leurs familles incluant leurs enfants, de se soumettre à des fouilles corporelles inappropriées et envahissantes (incluant les cavités anales et vaginales) afin de découvrir des diamants cachés. Selon les rapports, les fouilles

auraient été effectuées de façon à causer des traumatismes, aussi bien physiques que psychologiques, aux déportés. La santé mentale et psychologique des femmes victimes de violences sexuelles est une grande préoccupation : il a été rapporté que quelques-unes d'entre elles souffrent de différentes douleurs dans leurs vagins et au bas-ventre, et ont été profondément traumatisées par les abus dont elles ont souffert. La plupart d'entre elles n'auraient reçu aucun soin médical depuis leur arrivée en République démocratique du Congo.

444. En outre, les Rapporteurs spéciaux ont reçu des informations selon lesquelles les migrants auraient été détenus secrètement et dans des conditions difficiles avant leur déportation, qu'ils auraient été battus et soumis à d'autres formes de mauvais traitements, et qu'ils auraient été privés d'eau et de nourriture, aussi bien durant la période de détention que pendant la déportation à la frontière congolaise. De plus, il y aurait eu des morts dues à l'épuisement et aux mauvais traitements.

Observations

445. La Rapporteuse Spéciale regrette que le Gouvernement n'ait pas répondu aux communications envoyées en 2007 et réitère son intérêt à recevoir des réponses concernant les allégations soumisees.

Saudi Arabia

Response to a communication sent in 2006

446. On **8 December 2006**, the Special Rapporteur on violence against women, its causes and consequences, and the Chairperson-Rapporteur of the Working Group on Arbitrary Detention sent a joint urgent appeal to the Government of Saudi Arabia regarding F.T. and her children N. and S.

447. According to information received, Mrs. F.T. and her husband were divorced against their will and subsequently imprisoned for living together as an unmarried couple.

448. On **29 January 2007**, the Government replied to the letter sent by the Special Rapporteurs stating that the competent authorities in the Kingdom of Saudi Arabia indicated that this matter, involving a family social dispute, has been referred to the court at the request of the persons concerned.

Urgent appeal

449. On **22 March 2007**, 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 A.A., a 19-year-old woman from al-Qatif.

450. According to the information received: Shortly after the woman reportedly met with a male companion, the two were kidnapped at knifepoint by a gang of seven men. The companion was attacked by the gang, but was then released. The woman was allegedly then raped by the gang.

451. On 1 November 2006, four members of the gang were sentenced to prison terms ranging from one to five years, in addition to sentences of flogging ranging from 80 to 1,000 lashes. The legal status of the remaining three defendants is not known as they had reportedly surrendered to the police only shortly before the conclusion of the trial.

452. A.A. was convicted in the same trial of Khilwa for being alone in private with a man who was not a member of her immediate family, after reportedly meeting with a male companion in 2006. The companion was convicted on the same charge. Both have been sentenced by a court in al-Qatif to 90 lashes and both are at risk of imminent corporal punishment.

Reply from the Government

453. On **16 July 2007**, the Government of Saudi Arabia replied to the communication dated on 22 March 2007 concerning the case of A.A.

454. The Government stated that the competent authorities in the Kingdom of Saudi Arabia indicated that the case in question was investigated by the security authorities on the basis of a complaint lodged by the woman's husband, in his capacity as her legal guardian, in which he claimed that his wife had been the victim of abduction and rape. The sentences handed down against the woman, her companion and those who raped her were based on their commission of offences designated as criminal acts under Saudi Law and substantiated by legally valid evidence and other means of proof consistent with international legal standards.

455. After the judgment was pronounced, the offenders declared themselves satisfied with the fairness of their sentences.

Urgent appeal

456. On **22 November 2007**, the Special Rapporteur on Violence Against Women jointly with the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture, the Special Rapporteur on freedom of religion or belief, sent an urgent appeal to the Government regarding the same 19-year-old Shiite woman from Al-Qatif. According to reports received, in 2006, the Shia woman and a male companion were kidnapped at knifepoint by a gang of seven Sunni men. The male companion was attacked by the gang, and later released. The woman was repeatedly raped by the gang.

457. Four members of the gang were at the time sentenced by the Qatif General Court to prison terms ranging from one to five years, with floggings of up to 1000 lashes. Three other gang members reportedly turned themselves in before the conclusion of the trial.

458. The victim of the gang rape and her male companion were convicted in 2006 of being alone in private with a member of the opposite sex who was not an immediate family member, under an offence known as Khulwa in sharia law.

459. Following the request of the review of the verdict, on 15 November 2007, a court in eastern Saudi Arabia increased the original sentence against the seven

members of the gang, and also increased the sentence against the 19-year old woman from 90 lashes to 200 lashes and a six month prison term. In addition, it is reported that the court revoked the professional license of her lawyer and banned him from defending her.

Observations

460. The Special Rapporteur would like to thank the Government of Saudi Arabia for its replies to two of her communications. With respect to the communication sent on 8 December 2006 and to the Government's reply to it on 29 January 2007, the Special Rapporteur would be interested to know what exactly the legal basis for such forcible divorce was, and whether further judicial proceedings have resulted or would result in any positive outcome for F.T and M.T.

461. Furthermore, the Special Rapporteur regrets not having received a reply to her communication sent on 22 November 2007 and reiterates her interest in receiving a reply from the Government in regard to all allegations submitted, in particular the reasoning for the sentencing of a victim of rape to corporal punishment and prison term. Such sentence would appear contradictory to the international human rights obligations of the Kingdom, notably the Convention on the Elimination of All Forms of Discrimination against Women and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Special Rapporteur acknowledges that the victim A.A. has been pardoned by the King in December 2007 and congratulates the King for his action. She nonetheless recommends that legal and judicial measures be taken to prevent other similar sentences from being handed down against victims of rape.

South Africa

Allegation letter

462. On **23 April 2007**, the Special Rapporteur on violence against women, its causes and consequences has jointly with the Special Rapporteur on trafficking in

persons, especially women and children, Special Rapporteur on the sale of children, child prostitution and child pornography, and Special Rapporteur on the human rights of Migrants, sent an allegation letter to the Government concerning the trafficking in women and children for purposes of sexual exploitation and forced labour, through and from Mozambique to South Africa.

463. According to the information received: South Africa is reported to be the main destination country for Mozambican victims of trafficking. Mozambique is particularly exposed to trafficking in persons due mainly to porous borders and the absence of protective legislation against trafficking.

464. From Maputo in Mozambique, women and children are reportedly trafficked via Ressano Garcia or the Lebombo border in Mozambique to Gauteng. Another route used for trafficking of persons to South Africa, specifically to Gauteng and KwaZulu-Natal, is the border at Ponta do Ouro. The trafficking continues further either to the south of Swaziland and directly to Johannesburg and Pretoria, or south to Durban and Pietermaritzburg. It is estimated that approximately 1 000 Mozambican women per year are trafficked along these routes. Reportedly, children are also trafficked daily in trucks through the Kruger National Park or the Swaziland border. Mozambicans from the north of Mozambique are trafficked into South Africa via Zimbabwe. It is reported that people being trafficked from the Great Lakes Region and East Africa enter the north of Mozambique via Malawi or Tanzania. Mozambican ports are also said to be a stopping point for traffickers travelling by sea, who then continue the journey overland to South Africa.

465. It is further reported that small-scale trafficking networks, based at transit houses in the border region between Mozambique, Swaziland and South Africa use minivan taxis to smuggle both migrants and trafficking victims across the border. Accomplices in Johannesburg, Maputo and in the Lebombo region reportedly assist them through recruiting, accommodating and transferring migrants and trafficked persons. Organised Mozambican refugees living legally in South Africa are also reported to be involved in such activities.

466. In this context, young women attempting to find work in South Africa are allegedly led to believe that they will be offered employment as waitresses or domestic workers. However, upon arrival at the transit centres the women are separated from others, and forced into prostitution or forced labour in agriculture, manufacturing or service industries. When subjected to forced labour, reports indicate that they are often subject to sexual abuse by their employers. Reports also indicate that young women and girls are sold, at the transit houses in Tonga and Johannesburg, as “wives” to South African men. There are reports of “stocks” of women being displayed and of the possibility to order “wives” on demand.

467. Trafficked children are reportedly sold for 30 to 50 US \$ per child. Orphans are particularly vulnerable to trafficking, particularly because of an alleged practice of informal adoption of children and because of adoption laws in Mozambique that are reported to facilitate their trafficking. There is an estimated 1.6 million orphans in Mozambique, of whom 380 000 have lost their parents due to HIV/AIDS.

468. In addition, the high prevalence of HIV/AIDS in South Africa is reported to play a major role in increasing the demand for the trafficking of younger and presumably uninfected sex workers. Furthermore, it is reported that trafficking through several unguarded borders with Mozambique is facilitated by the complicity or the tolerance of border authorities.

469. The Government has been undertaking considerable efforts to combat trafficking, including the ratification, on 20 February 2004, of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Furthermore, in June 2006, the President signed into law the Children's Act of 2005, which prohibits the trafficking of children, namely "the recruitment, sale, supply, transportation, transfer, harbouring or receipt of children, within or across the borders of the Republic." However, national legislation explicitly prohibiting trafficking in adults is still to be adopted. The protection of trafficking victims remains also remains inadequate. In December 2005, for example, 940 Mozambican illegal immigrants were deported without first being screened to identify if any amongst them were trafficked persons.

Observations

470. The Special Rapporteur regrets not having received a reply to the communication sent in 2007 and reiterates her interest in receiving a reply from the Government of South Africa in regard to all allegations submitted.

Sri Lanka

Allegation letter

471. On **23 April 2007**, the Special Rapporteur on violence against women, its causes and consequences and the Special Rapporteur on trafficking in persons, especially women and children sent an allegation letter to Government concerning a proposed regulation banning mothers of young children from migrating abroad for work.

472. According to information received: On 7 March 2007, the Ministerial Cabinet discussed a proposal reportedly made by the Minister for Women's Empowerment and Child Welfare that would ban women with children under 5 years of age from emigrating for work. If adopted such a regulation would also require mothers with children aged 5 or older to obtain approval for overseas employment from a government committee after submitting proof that they can provide appropriate caretakers for their children.

Observations

473. The Special Rapporteur regrets not having received a reply to the communication sent in 2007 and reiterates her interest in receiving a reply from the Government of Sri Lanka in regard to all allegations submitted.

The Sudan

Urgent appeal

474. On **21 March 2007**, the Special Rapporteur on violence against women, its causes and consequences jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture sent an urgent appeal to the Government regarding the sentencing to death by stoning of Ms. A. A. D. (23 years old) and Ms. S. I. F. (22 years old from the Tama ethnic group), by the Criminal Court of Al-Azazi, in Managil province, Gazeera state.

475. According to the information received: On 13 February 2007 and 6 March 2007 respectively, the Criminal Court of Al-Azazi, with Judge H. A. M. H. presiding, convicted Ms. S. I. F. and Ms. A. A. D. on charges of adultery and sentenced them to death by stoning. The two women are currently in detention in Wad Madani women's prison in Wad Madani, Gazira State. Ms. S. I. F. has one of her children with her in prison. The two women were reportedly convicted under article 146 (a) of the Sudan's 1991 Penal Code, which states that "whoever commits the offence of sexual intercourse in the absence of a lawful relationship shall be punished with: a) execution by stoning when the offender is married (muhsan); b) one hundred lashes when the offender is not married (non-muhsan)."

476. S. I. F. and A. A. D. did not fully understand Arabic, the language used during the entire judicial proceedings, and were not provided with an interpreter. The two women also had no legal representation.

Reply from the Government

477. On **20 April 2007**, the Government of the Sudan replied to the communication 21 March 2007 and informed the Special Rapporteur of the following:

478. On 26 June 2006, a report was filed with the Azazi police in Jazirah State against Ms. S. I. F. Following the completion of inquiries, the report was referred to a court of first instance of Jazirah State, which delivered its verdict on 13 March 2007, in case No. 10/2007, convicting the accused under article 146 (1) (a) of the 1991

Criminal Code (the penalty for adultery) and based on her confession. The accused is married and engaged in intercourse with others during the husband's absence.

479. Ms. A. A. D. was tried before a court of first instance of Jazirah State, in case No. 24/2007. She was convicted by the court on 6 March 2007 under article 146 (1) (a) of the 1991 Criminal Code (the penalty for adultery) and based on her confession. The accused is married and engaged in intercourse with others during the husband's absence.

480. The two women appealed the verdicts and the Jazirah State Appeal Court issued a ruling overturning the convictions and sentences and returning the case files for a retrial of the two women for a number of reasons, including the fact that they had not had legal assistance during the proceedings. The two women know Arabic very well and so the court did not have to appoint an interpreter, in accordance with article 137 of the 1991 Code of Criminal Procedures.

481. At the time of the response, the case files were before the Jazirah State court of first instance with a view to the retrial of the two women on instructions from Al-Jazirah Appeal Court.

Observations

482. The Special Rapporteur would like to thank the Government for its reply to her communication. She would be particularly interested to know the outcome of the retrial regarding Ms. S. I. F. and Ms. A. A. D. The Special Rapporteur would also like to stress that the death penalty as applied in this case does not seem to fall within the category of the "most serious crimes" for which international law countenances its possible application. In its general comment No. 6 (2003), the United Nations Human Rights Committee stated that "the expression 'most serious crimes' must be read restrictively to mean that the death penalty should be a quite exceptional measure". Similarly, this Committee observed that the restriction encapsulated in that phrase cannot be interpreted as permitting the imposition of the death penalty "for crimes of an economic nature, for corruption and for adultery, or for crimes that do not result in loss of life" (CCPR/C/28/Add.15, paragraph 8).

Sweden

Urgent appeal

483. On **11 January 2007**, the Special Rapporteur on violence against women, its causes and consequences, has jointly with the Special Rapporteur on the human rights of migrants and the Special Rapporteur on the question of torture, sent an urgent appeal to the Government of Sweden regarding Ms. L. K., a Turkish woman of Kurdish origin.

484. According to information received: in 1988, while still living in Turkey, L. K., then 16, was forced by her parents to enter a marriage with a 31 year-old man. Her husband abused her and their two sons, physically and mentally, almost every day throughout their marriage. Sometimes he would lock her and their two children out of the house and they would be forced to sleep outside. He also repeatedly threatened L. K. that he would hang her and make it look like suicide if she did not obey him. L. K. sought support from her family several times, but was told to return to her husband. Moreover, her mother threatened to marry her again to an even older man if she did not obey.

485. In 2004, following a relationship with one of her husband's friends, which was discovered by her family and discussed in a village meeting, L. K. went into hiding. According to reports, her brothers announced that they would kill her if they found her. Subsequently, she received help in leaving her village and fleeing the country. L. K. arrived in Sweden on 31 March 2005, where she applied for asylum on 1 April 2005, referring to the risk of violence committed in the name of honour. Her asylum application was rejected by the Swedish Migration Board (Migrationsverket) on 26 August 2006. Following that decision L. K. appealed to the Swedish Alien's Board (Utlänningsnämnden), which rejected her application on 29 October 2005. This decision could not be appealed, and the authorities prepared for her deportation. On 15 November 2005, temporary legislation came into force, which allowed for a review of rejected asylum applications. L. K.'s application was reviewed in

accordance with the new legislation, but once again rejected. The latter decision could not be appealed.

486. In March 2006 a new Aliens' Act came into force, according to which asylum applications are tried in first instance by the Swedish Migration Board. This decision of the first instance can be appealed to the Migration Court. If there are exceptional reasons or if there is a need for a legal precedent, this decision can be appealed a second time to the Appellate Migration Court. However, the procedure in the new Aliens' Act does not apply to those asylum-seekers who, like L. K., already had their case tried in full.

487. L. K., after having exhausted all the remedies in Sweden, was facing the risk of being deported to Turkey.

488. The Special Rapporteurs were gravely concerned that L. K. may face a serious risk of being killed in the name of "honour" if deported back to Turkey and urged the Swedish Government not to deport her.

Reply from the Government

489. By letters dated **17 January 2007** and **1 February 2007**, the Government requested a letter of attorney signed by Ms. L. K., due to secrecy legislation, in order to provide comprehensive information. While awaiting further examination, her deportation has been temporarily suspended.

490. On **12 June 2007**, the Government sent a third letter in which it stated that the facts alleged in the Special Rapporteur's urgent appeal correspond with the facts that Ms. L. K. had referred to in her application for asylum. However, it claimed that there were strong reasons to question the credibility of this story and this was the main reason for rejecting the application.

491. Either the Swedish Migration Board or the former Swedish Appeal Board, in their decisions of, respectively 26 August and 29 October 2005, are of the opinion that Ms. L. K. will not be subjected to violence or honour killings in case she returned to

Turkey. This conclusion was reached through the investigation that has taken place in connection with Ms. L. K.'s application for asylum.

492. The Government affirms that the legislation applicable in Ms. L. K.'s case, which concerns enforcement, is much more restrictive than the one applicable before the decision to refuse the alien entry into Sweden has entered into force.

493. The Swedish Migration Board decided to reject Ms. L. K.'s application of impediment to enforcement on the basis of the above-mentioned reasons. The Government advised that Ms. L. K. had the possibility to appeal the decision of the Board to the Migration Court in Sweden, Malmö.

Observations

494. The Special Rapporteur would like to thank the Government of Sweden for its reply to her communication. Nonetheless, the Special Rapporteur wishes to refer to her report to the Human Rights Council on her mission to Turkey^{***}, which focuses on the continued severe problems of "honour"-related violence, including murder and forced suicides, in South-eastern and Eastern Anatolia and highlights serious protection gaps for women at risk of "honour"-related violence. The Special Rapporteur would appreciate if the Government of Sweden could take due consideration of her report while examining a possible appeal by Ms. L.K. to the Government's decision and other similar cases.

Turkey

Responses to a communication sent in 2006

495. By letter dated **23 June 2006** the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on trafficking in persons, especially women and children, sent an urgent appeal to the

^{***} A/HRC/4/34/Add.2.

Government regarding Ms. T. B., a German citizen of Turkish descent. According to information received:

496. Ms. T. B. is a German citizen from Hamburg. In April 2006, Ms. T. B. travelled with her mother from Hamburg to the settlement of Karastlak Köyü in the village of Yeni Halfeti, Sanliurfa province, Southeast Turkey, where her grandmother and other relatives reside. Allegedly, her family had pretended that she was going to vacation in the village.

497. Upon Ms. T. B. arrival in the village, her mother took her passport and identity documents away and told her that she had to enter into an arranged marry with a close relative. According to the latest information received, Ms. T. B. is still in Yeni Halfeti. Reportedly, she faces serious limitation of her freedom of movement and is only on rare occasions able to leave her grandmother's house.

498. Concern was expressed that Ms. T. B. may be forced to marry her relative against her will or face severe violence, if she refuses. We appeal to your Excellency's Government to intervene in this case and ensure that the competent Turkish authorities undertake all necessary action to protect Ms. T. B. from forced marriage, any form of violence or the threat thereof.

499. By letter dated **29 June 2006**, the Government informed that it was established that Ms. T. B. during her vacation in Turkey, contacted the Provincial Gendarmerie Command in Sanliurfa by phone on 30 May 2006 and requested help from the authorities, stating that there were attempts to force her to get married to her uncle's son. The gendarmerie authorities had to refer the matter to the Foreigners Section of the Police, since Ms. T. B. was a German citizen. Ms. T. B. was then assisted by the authorities to return to Germany on 2, June, 2006. On 27 June 2006, the Provincial Gendarmerie Commander in Yeni Halfeti visited Ms. T. B.'s grandmother's premises and confirmed that she was not in Turkey.

500. According to a relative in Germany whom the Turkish authorities have contacted, Ms. T. B. has been granted protection at a social institution in Germany

under the German laws and she will be hosted in this institution until October 2006 when she will complete the age of 18.

501. In this framework, it has been confirmed that a forced marriage has not taken place during her stay in Turkey.

502. On **4 June 2007**, the Government of Turkey sent a second reply to the same letter dated **23 June 2006** concerning information requested in relation to any criminal action taken against any alleged perpetrators in the case of Ms. T. B., a German citizen of Turkish descent, who travelled with her mother from Hamburg to karastlak village of Yeni Halfeti, province of Sanhurfa, where her family attempted to force her into an arranged marriage with a close relative.

503. The Government's responded that in its letter of 29 June 2006 it stated that T. B. was assisted by the Turkish authorities to return to Germany on 2 June 2006; that she was assisted from the Provincial Gendarmerie Command in Sanhurfa and that a forced marriage did not take place during her stay in Turkey.

504. According to follow- up information received from the relevant authorities in Turkey, no complaint has been lodged with the office of the Chief Public Prosecutor of Sanhurfa concerning this incident. The Provincial Gendarmerie Command in Sanhura did not initiate any criminal investigation since T. B. reported to the gendarmerie officials that she had no complains others than her request for return to Germany. Indeed, the purpose of her application to the Gendarmerie Command was related to her identity card and German passport, which she initially claimed as lost. The Gendarmerie official, who investigated circumstances surrounding the case, concluded that she could not have been deprived of liberty through use of force since she was staying with her 80 year-old grandmother and made her application to the Gendarmerie Command in person. Therefore, the Gendarmerie authorities did not initiate any legal proceedings and referred the matter to the passport and Foreigners Branch of Provincial Directorate for Security, who assisted her to safely return to Germany.

Urgent appeal

505. On **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).

506. According to information received, Ms. C. M. is the daughter of an Iranian refugee Mr. A. M. (born in 1947 also in Marivan, father's Name: A.) 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 (IXIs) 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.

507. Ms. C. M. tried to leave by the same means as her husband but she was arrested at 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.

508. As Ms. C. M.'s family is in Canada, she could be sponsored for a family reunification visa and was interviewed by the Canadian Embassy on 13 March 2007. The Canadian Immigration authorities informed that her immigration application was approved. She was issued a visa to join her family in Canada and scheduled to depart on 25 July 2007.

509. However, the Turkish authorities have reportedly refused to grant her exit permission on the basis that they had classified her as IXI due to her marriage with Mr. I. Y., even though she came directly to Turkey from Iran and has never been in Iraq. Furthermore, since she was not a minor, she did not meet the criteria established by the

Turkish Government to authorize the resettlement on family re-unification grounds for the group of Iranian refugees who came from Iraq.

510. Ms. C. M. has been re-scheduled for a flight on 18 September 2007. UNHCR has requested exit permission for her, but has not yet received a reply from the Turkish Government. The lack of prospects of a durable solution in Turkey as well as the refusal by the Turkish authorities to authorize her departure puts Ms. C. M. in a vulnerable situation in Turkey. As an Iranian Kurdish refugee without family support, she may face an increased risk of violence or exploitation, if she cannot reunite with her family.

Allegation letter

511. **On 14 November 2007**, the Special Rapporteur on violence against women, its causes and consequences sent an allegation letter concerning the intervention by third parties in lawsuits regarding the death of women as a result of suicides that took place under suspicious circumstances or as a result of honour related killings.

512. The Special Rapporteur commended the Government for the extensive changes that were made recently to the Turkish Civil Code and the Turkish Criminal Code. These changes are positive steps towards the elimination of discrimination against women. Nonetheless, she drew the Government's attention to the specific provision in the Code of Procedure of the Criminal Code that seems to prevent third parties from intervening in cases of honour related crimes and alleged suicides on behalf of the dead victim.

513. According to information received, opportunities for intervention in lawsuits regarding the death of women as a result of alleged suicides or honour related murders are quite limited. The limitation is elaborated upon in clause 237 of article 5271 of the Code of the Procedure of the Criminal Code, which provides as follows:

“(1) The victim, individuals and legal entities who or which have suffered damage as a result of the offence and parties who are

financially liable may intervene in a criminal action by lodging complaints at every stage of the public prosecution before the court of first instance, until the judgment is rendered.

(2) No requests to intervene in the prosecution may be lodged during the proceedings of appeal. However, requests for intervention which are submitted to the court of first instance and rejected or which cannot be decided upon, shall be examined and decided upon if it is expressly stated in the application for appeal.”

514. In practice, it seems that first degree relatives (i.e. mother, father, husband and children) qualify under paragraph 1 as ‘injured parties’. In order to be recognized as legal party, close relatives of the victim have to give representation rights to a lawyer or the victim has to be personally present at the trial to demand the punishment of the perpetrators of the act of violence. Apparently, victims’ relatives are often reluctant or unwilling to defend the rights of women who committed suicide or were killed, since the perpetrators are generally kinsmen. As a result no lawyer may be appointed to defend the rights of the victim. Lawyers or non-governmental organizations wishing to vindicate the rights of the victim are thus not allowed to participate in such lawsuits.

515. Although the Turkish legal system envisages that the public prosecutor represent both the suspect’s and the victim’s rights, reportedly in many cases the rights of women killed or injured are not adequately defended as no lawyers, women’s organizations or other non-governmental organizations are allowed to intervene in court on behalf of the victims. Allegedly, this situation gives rise to deficient and partial investigations and judgments that do not take into account key elements behind the crimes.

516. The following specific cases were brought to the Special Rapporteur’s attention:

- A. A., a mother of five, had repeatedly applied to the Diyarbakir Baglar Police Department and other judicial offices to seek protection from her husband who used drugs and beat her. In January 2007 she was killed by her husband, leaving five

children behind. Women's organizations were not allowed to intervene in her case and were unable to raise issues that seemed to have been overlooked by the police and judicial bodies.

- G. T. was shot by her brothers in Istanbul in February 2004 and then taken to a State hospital where she was killed by her brothers in her hospital bed. The Women's Rights Commission of the Istanbul Bar Association requested the authorization to represent G. T. in the trial but its demand was rejected by the Court. The Women's Rights Commission wanted to raise in particular the issue of deficient security measures at the hospital, which facilitated the killing. In this respect, I sent an allegation letter to your Government dated 28 April 2004.^{§§§§}

517. In both cases, the courts allegedly rejected the request by organizations to intervene in the lawsuits based on clause 237 of article 5271 of the Code of Procedure of the Criminal Code.

518. Finally, according to information received, the Turkish National Assembly discussed amending clause 237 in period 22 of the 110th session during the 4th legislation year on 1 June 2006, as published in issue 122 of the National Assembly's Official Report. No amendment has been adopted yet.

519. Concerns are expressed that the provision of clause 237 and the resulting limitation of intervention by third parties who would wish to take part in judicial proceedings to defend the rights of women who allegedly committed suicides or were victims of honour-related crimes affects women disproportionately and prevent their equal treatment before the law.

Reply from the Government

520. On **18 December 2007**, the Government of the Turkey replied to the letter sent on 14 November 2007, with information on the general application of Article 237 of the Criminal Procedure Code. It stated that the parties who have the rights to

^{§§§§} E/CN.4/2005/72/Add.1.

intervene in criminal cases are listed exhaustively in the Criminal Procedure Code. The intervention of “victims, individuals and legal entities that have sustained damages as a result of an offence and those who are financially liable” is crucial in terms of revealing the truth in the criminal proceedings and to ensure a just judgment that provides them with immaterial satisfaction.

521. Article 237 of the Criminal Procedure Code lays down two conditions for intervention in criminal proceedings. The first condition is the connection with the offence in terms of violation of an interest. For this reason, the list of interveners has been listed exhaustively as such. The Court of Cassation, in many of its decisions, interpreted the parties that suffered damages as “those whose interest have been directly violated by the offence” or “those against whom the material or immaterial elements of the offence are directed”. The second condition concerns the time limit. The persons and legal entities that have the right to intervene under article 237, should either orally or in written, inform the Court of their intention to intervene in the case during the course of the prosecution until a judgement is rendered.

522. In view of the above, women’s organizations or other non-governmental organizations have the right to intervene in cases where they suffer damages as direct result of an offence, within the prescribed time limit.

523. The views and observations of the Special Rapporteur have been conveyed to the General Directorate for the Status of Women to be given due consideration in the preparatory work currently undertaken to develop a National Action Plan on the elimination of violence against women.

Observations

524. The Special Rapporteur would like to thank the Government for its replies to her communications. With respect to her communication dated 14 November 2007, she is encouraged by the Government’s note that her observations will be given due consideration during the development of a National Action Plan on the elimination of violence against women. Nevertheless, the Special Rapporteur would submit that the issue at hand requires a legislative amendment as already discussed at the Turkish

National Assembly on 1 June 2006. Moreover, the Special Rapporteur expresses concern that the exhaustive list of interveners may not grant third parties full access to such criminal proceedings, as their interest might not be considered as “directly violated”. In this regard, the Special Rapporteur would like to stress the importance of the participation of non-governmental third parties in judicial proceedings to defend the rights of women who have committed suicides or were victims of human rights violations.

525. Furthermore, the Rapporteur regrets not having received a reply to her communication sent on 14 September 2007 and reiterates her interest in receiving a reply from the Government of Turkey in regard to all allegations submitted.

United Arab Emirates

Response to a communication sent in 2006

526. On **18 October 2006**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the sale of children, child prostitution and child pornography, sent an allegation letter concerning the criminal charges against S. M.. Concerns are expressed that these charges and the possible closure of the shelter may be in retaliation for her activities in defence of women's rights since the shelter's work is reportedly viewed as a threat to the traditional culture and family values of the country and its continued operation largely depends on S. M.'s work.

527. By letter dated **23 April 2007**, the Government responded to the letter of allegation and enclosed the report of the Public Prosecution of Dubai.

528. On 7 August 2006, the victim notified the police that she had been assaulted by the accused, who had pushed her and pulled her by the hand, at the Hope Centre for the Welfare of the Needy. On 23 August 2006, the Public Prosecutions Office began an investigation into the case and took testimony from the victim and witnesses for the prosecution and the defense. On 14 September 2006, the Public Prosecutions

Office referred the accused, and the case to the criminal court, on a charge of physical assault of the victim, K. A. Abd al-K. K. On 13 December 2006, the court issued a verdict, in the presence of the parties, acquitting S. G. O. due to lack of evidence. The penalty prescribed by law for the offence is imprisonment and a fine, not closure of the premises.

Observations

529. The Special Rapporteur would like to thank the Government for its replies to her communication. Nevertheless, the Rapporteur would be particularly interested to be provided with more precise information on the course of the judicial proceeding and the reasons of the acquitting.

United Kingdom of Great Britain and Northern Ireland

Allegation letter

530. On **22 February 2007**, the Special Rapporteur on violence against women, its causes and consequences sent an allegation letter to the Government concerning Ms. S. A., a 15-year-old Afghan girl.

531. According to information received: S. A. applied for asylum in the United Kingdom on 9 November 2006. She was born in Samangan province (Afghanistan) and is a Sunni Muslim. She attended school in Samangan province from 1996 to 2001. She relocated with her family to Peshawar (Pakistan), but returned to Afghanistan in August 2006. She spent about 8 to 10 days in Kabul and then returned to the Samangan province. Upon return, her family realized that their house had been destroyed and their property there had been confiscated. S. A. stayed with a neighbour. A few weeks later, her father, who was a former soldier and had supported the Taliban, went to the authorities to enquire on the confiscated property. He was arrested. S. A.'s mother enquired about his whereabouts with the local authorities but received no reply. Two days later she approached the international forces and was told that they could do nothing about it as it was an internal matter.

532. S. A. and her mother were told by a prison guard that the father was held in a private prison and would only be released if S. A. agreed to marry the warlord A. K., a commander in the Junbish forces of General Abdur Rashid Dostum. S. A.'s father refused. A few days later, a delegation of women approached S. A.'s mother with the same request. S. A. told her mother that she would commit suicide if she was forced to marry A. K. and her mother asked for more time to consider the issue. Two days later, the women came back. They reportedly became aggressive when told that the S. A.'s mother would not agree and told S. A.'s mother that she would lose both her husband and her daughter.

533. The next day S. A. found out that her father had been killed. S. A.'s mother made immediate arrangements for the family to leave Samangan. S. A., her mother and brother left on 20 October 2006 for Peshawar, where they stayed for two weeks. S. A. travelled to the United Kingdom on 7 November 2006, arrived at Heathrow airport in London on 8 November 2006, and applied for asylum on 9 November 2006. S. A. has no family left in Afghanistan. Her mother is assumed to live in Pakistan.

534. On 4 January 2007, S. A. was refused asylum and humanitarian protection by the Home Office. She was granted discretionary leave to remain in the United Kingdom given that she was a unaccompanied child and the Home Office was not satisfied that adequate reception arrangements were available in her country of origin. When coming of age, however, S. A. may face removal to Afghanistan.

535. In the written explanation accompanying the decision, the Home Office stated *inter alia* that there is sufficient redress from the Afghan authorities with regard to the threat to S. A.'s life if she did not marry the warlord, A. K.

536. The Home Office further expressed the view that S. A. could move to Kabul where she had stayed for ten days upon return from Pakistan in August 2006 and where sufficient protection was said to be available both by the police authorities and the International Stabilization Assistance Force (ISAF). It was also stated that she would not be known in Kabul for A. K. wanting to marry her or in connection to her family.

Reply from the Government

537. On **27 March 2007**, the Government of the United Kingdom replied to the letter sent on 22 February 2007, concerning Ms S. A. who has appealed against the decision to refuse her asylum in United Kingdom.

538. Through the Immigration and Nationality directorate, the government confirmed that every asylum and human right claim is considered on its individual merit in accordance with the obligations of the State under the 1951 Convention relating the Status of Refugees and the European Convention on Human Rights (ECHR) against the background of the latest available country information.

539. The Home Office Country of Origin Information (COI) Service closely monitors the human rights situation in all countries that generate asylum seekers to the United Kingdom, including Afghanistan. It provides accurate, objective, sourced and up to date information on asylum seekers' countries of origin, for use by IND officials involved in the asylum determination process. In dealing with applications from female asylum seekers from Afghanistan, case workers have access to detailed Country of Origin Information Reports which are updated on rolling basis with information collected through out the year. Where material changes in country conditions occur these will be communicated to case workers as required. These reports focus on the main issues raised in asylum and human rights application to the UK. They are compiled from a wide range of reliable external information sources including international organisations such as UNHCR, and non – governmental organisations, such as Human Right Watch and Amnesty International, and the media.

540. The recently published October 2006 COI Report on Afghanistan which contains specific sections on women can be found on the Home Office website at: <http://www.homeoffice.gov.uk/rds/country-reports.html>

541. In addition, decision-makers have access to the Afghanistan Operational Guidance note (OGN) which provides information and guidance on the main categories of Afghan asylum claims and can be accessed via IND website.

542. The Government stated that it was aware that the situation for women may be difficult in Afghanistan and that granting asylum in individual cases may be appropriate. In order to maintain the integrity of the United Kingdom asylum system and prevent unfounded applications, it was important that the Government was able to enforce the return of those who are found not to be in need of protection and who have no rights to remain in the United Kingdom. The Government assured the Special Rapporteur that it will only enforce the return of those Afghan women it is satisfied are not in need of protection, and that it would not seek to enforce returns to Afghanistan unless it were satisfied it is safe to do so.

543. Having reviewed Ms S. A.'s case it was decided that, in light of her particular circumstances, a grant for leave in the United Kingdom would be appropriate. At the time of writing Ms. S. A.'s file was with the Government's Appeals Implementation Unit for preparation of status papers which will be forwarded to Ms. S. A. in due course.

Urgent appeal

544. On **28 September 2007**, 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 concerning Ms. S. M., aged 24, a Sri Lankan national of Tamil ethnicity. According to the allegations received:

545. At the time the letter was sent, she was detained at Yarl's Wood Detention Centre near Bedford, and was at risk of removal to Sri Lanka on Monday, 1 October 2007.

546. Between April 2000 and April 2007, she was tortured by the security forces for her alleged support for the LTTE. She suffered beatings, sexual assault and was threatened with death. Within the same period, she was also forced into providing assistance to LTTE activities, such as working in a LTTE-run hospital and collecting food. She fled Sri Lanka for the United Kingdom on 22 April 2007.

547. Concern has been expressed that Ms. S. M. may be at risk of torture or ill-treatment at the hands of the Sri Lankan security forces upon return. She may further be at risk of being abducted and extra-judicially killed by the LTTE for refusing to continue supporting them.

Observations

548. The Special Rapporteur would like to thank the Government for its reply to her communication of 22 February 2007, particularly for the information that Ms. S.A., given her circumstances, was granted leave in the United Kingdom. The Rapporteur reiterates her interest in receiving a reply in regard to the communication of 28 September 2007, particularly given the risks Ms. S. M. may face if removed to Sri Lanka.

United States of America

Response to a communication sent in 2006

549. On **26 March 2007**, the Government of the United States of America replied to a letter sent by the Special Rapporteur on **19 July 2006** regarding the case of J. L. G. The Government replied that in light of the circumstances it was understandable that Ms. J. L. G. felt more should have been done to prevent this crime. However, this matter should be evaluated based on evidentiary record. The facts as presented in the letter sent by the Special Rapporteur were not wholly accurate. In particular, the restraining order against Mr G. granted him a “mid week dinner visit” to be arranged by the parties”. Transcripts of conversations and police reports indicate that Ms. J. L. G. has agreed a visit between Mr. G. and their three daughters that evening; the Castle Rock Police Department was responsive to the information and numerous requests for assistance from Ms. J. L. G. throughout the course of the evening; and that the information available at the time revealed no indication that Ms. J. L. G. was likely to commit this crime against his children. Accordingly, since Ms. J. L. G. consented to the mid- week dinner visit, Mr. G. did not violate the restraining order by taking his

daughters out for the evening, a fact Ms. J. L. G. later acknowledged explicitly to the police department.

550. The Government also stated that the fact that Ms. J. L. did not prevail in her federal court case does not mean that the United States authorities failed to properly investigate her claim or that she was denied access to proper remedies in the United States court system. The judicial remedies available in the United States to victims of domestic violence were extensive.

551. The Government claims that the United States' conduct in this case was fully consistent with the provisions of the United Nations Declaration on the Elimination of Violence against Women and with United States obligations under the International Covenant on Civil and Political Rights. The facts demonstrate that there was no human rights violation. There was no failure to exercise due diligence; nor was there a failure to provide access to the mechanisms of justice and to just and effective remedies.

552. The Government declared to be among the world's strongest protectors of victims of domestic abuse. It regrets that even the strongest of laws cannot prevent every tragedy.

553. The Government also attached the extremely detailed "Response of the Government of the United States of America to the Inter- American Commission on Human Rights regarding J. L. G., Petition No. P-1490-05", which can be summarized as follow:

554. The State alleges that the events which occurred prior to the murders of Ms. J. L. G.'s three daughters, on 23 June 1999, confirm that she had agreed that Mr. G. could see their three daughters that evening for a mid-week dinner visit and that the visit was consistent with the restraining order. Therefore, the State alleges that the information available at the time revealed no indication that Mr. G. was likely to commit that tragic crime against his own daughters.

555. The State alleges that the evidentiary records show that throughout the evening of June 22, 1999, and the early hours of June 23, 1999, the police responded professionally to the information Ms. J. L. G. provided. The State argues that although the restraining order granted Mr. G. “temporary sole physical custody” of the children, it granted Mr. G. “parenting time with the minor children on alternating weekends commencing after work on Friday evening and continuing through 7:00 p.m. Sunday evening”. It also granted Mr. G. a “mid-week dinner visit” to be “arranged by the parties.” Therefore, the State argues that since Ms. J. L. G. consented to the mid-week dinner visit, Mr. G. did not violate the restraining order by taking his daughters for the evening.

556. The State argues that members of the Castle Rock Police Department were responsive to her numerous requests for assistance and took her concerns seriously. In response to her initial call, allegedly two officers were dispatched to Ms. G.’s house, one went directly to her house and the other one went to Mr. Gonzales’ house, and later joined the first officer at Ms. G.’s house. The State also alleges that at no point did Ms. J. L. G. show the officers a restraining order.

557. At approximately 8:43 p.m., Ms. J. L. G. called the police and informed the dispatcher that she had received a telephone call from her husband and that he was with the children at Elitch’s amusement park in Denver. In that occasion, the State alleges that Ms. J. L. G. did not mention any conversation with Rosemary Young (Mr. Gonzales’ girlfriend) nor did she mention any concern about Mr. G. mental state or the safety of her children, nor did she request that an officer should be dispatched to locate Mr. G. at the amusement park.

558. At 9:57 p.m., the State alleges that Ms. J. L. G. called again and expressed frustration that her daughters had not arrived home. She did not mention that she was concerned about the safety of any of the children. Nor did she request that the Castle Rock police put out an “APB” (all points bulletin to other police departments). According to the State, Ms. J. L. G. implicitly acknowledged that there was no restraining order violation when she explained to the police dispatcher in her first call to the Castle Rock police and in her subsequent conversations with an officer that she had agreed to the visit.

559. At approximately 12.30 am, on Wednesday, 22 June, Ms. J. L. G. showed up at the police department in tears. The State alleges that at this point she expressed concern about Mr. G.'s mental state saying that he had "lost it" and that he might be "suicidal". The State claims that the police ordered to locate Mr. G. and his vehicle through an "Attempt to Locate BOLO" (an acronym for "Be On The Look Out" which is directed to other jurisdictions so that they may notify the requesting police department if they locate the individual in question). According to the investigation, the State informs that Mr. G. reached the police station at 3.25 am and fired shots through the window. After an exchange of gunfire with the officers, Mr. G. died. When the officers approached Mr. G.'s truck, they discovered the bodies of the three young girls.

560. The State argues that the petition is inadmissible for failure to state a breach of a duty by the United States under the American Declaration. The State alleges that no provision of the Declaration imposes an affirmative duty on States to actually prevent the commission of the crimes perpetrated by Mr. G. Furthermore, the State also alleges that no other provision of the Declaration contains language that even addresses implementation of the enumerated rights as the American Convention. The American Convention, on the other hand, includes a provision that describes the actual obligations of State Parties regarding implementation of the rights enumerated in the Convention.

561. Furthermore, the State alleges that Ms. J. L. G. did not exhaust all available remedies to report the events suffered. Particularly, the State alleges that the actual facts of the case were not addressed in the domestic litigation. At the district court level, the Town of Castle Rock filed a motion to dismiss the claim. The District Court found that as a matter of law, Ms. J. L. G. had failed to state a claim upon which relief could be granted. Accordingly, the actual facts were not addressed in the litigation because the appeals process dealt with whether the federal law invoked by Ms. J. L. G., was available based on the allegations set forth in her complaint. The State claims that had Mr. G. survived an additional range of remedies such as criminal prosecution and criminal or civil contempt proceedings would have been available to Ms. J. L.

G.. The Supreme Court determined that the Fourteenth Amendment's Due Process Clause, granted police officers discretion in enforcing restraining orders, and determined that Ms. J. L. G. did not have federal entitlement to enforcement of the restraining order.

562. The State alleges that Ms. J. L. G. never filed a complaint with the Castle Rock Police Department or with the Town of Castle Rock which would have prompted an investigation of her complaint by the Castle Rock Police Department or the Town of Castle Rock. In addition, although Ms. J. L. G. chose not to pursue a claim under Colorado law, such as a civil suit in state court against the police officers under state tort law, the State alleges that "had she been able to establish that the Castle Rock police officers acted "willfully and wantonly" outside the scope of their employment, she should have filed a civil suit against them in state court." Furthermore, the State argues that the Colorado Governmental Immunity Statute would have permitted such a suit had she been able to meet this standard.

563. The State claims that the fact that Ms. J. L. G. did not obtain positive results at the federal judicial level through the decision of the United States Supreme Court in this specific case, does not mean that domestic violence victims do not have resources available to them at the state or local level or that protection orders do not effectively protect their beneficiaries.

564. The Government also describes a series of additional remedies and protections for victims of domestic violence at the national and state levels, such as a large sums of money devoted to implement programs related to domestic violence, as well as a diversity of laws that have been designed to improve the investigation of domestic violence cases.

Observations

565. The Special Rapporteur would like to thank the Government of the United States of America for its comprehensive reply to her communication. Moreover, the Special Rapporteur will follow with interest the deliberation of the Inter-American

Commission on Human Rights on this case (Petition No. P-1490-05), considering that the case was declared admissible on 24 July 2007.

Uzbekistan

Reply of the Government to a communication sent in 2006

566. On **21 July 2006**, the Special Rapporteur on violence against woman, jointly with the Special Representative of the Secretary-General on the situation of human rights defenders, sent an urgent appeal concerning Ms. M. T., a human rights activist.

567. On 7 July 2006, M. T. was transferred to the psychiatric department of the Tashkent women's prison. On 13 July 2006, her two lawyers went to visit her and reported that her physical condition had markedly deteriorated, one of her hands was bandaged and she uncharacteristically talked very slowly. When asked by one of her lawyers how her hand was damaged, she did not reply. She did say, however, that she has to take pills every day without being informed about what type of pills she is given. She is kept in a room with 16 drug users and persons with mental problems. On 14 July 2006, her lawyers sent a letter to the prison director to find out why M. T. was transferred to the psychiatric department, but they did not receive a reply.*****

568. On **14 August 2007**, the Government sent a letter which stated that false information was disseminated by mass media and NGOs about Ms. M. T.'s health conditions. It is reported that, according to the decision of the Court, Ms. M. T. had pledged guilty for committing such crimes as blackmail, robbery, embezzlement through appropriation and misapplication, fraud, evasion from tax payments, violation of trade rules and land tenure conditions, functional forgery, arbitrariness, distribution of materials containing threat to public safety and order. On 6 March 2007, she was convicted to 8 years of imprisonment with the deprivation of the right to take up any administrative and financially-liable positions within 3 years.

***** A/HRC/4/34/Add.1

569. The Government affirmed that since 7 July 2006, Ms. M. T. was serving a sentence in the colony of general regime and she had a right for health protection, including medical care outlined in the Criminal-Executive Code of Uzbekistan. She already contacted the medical unit of the colony and underwent in-patient treatment twice. On 11 August 2007, the medical examination states her health condition is satisfactory and she is able to work.

570. The government listed the four meetings with relatives Ms. M. T. had in accordance with article 9 of the Criminal-Executive Code:

- on 19 July 2006, a short meeting with her nephew, Mr. G. U.
- on 10 August 2006, a 3 day-meeting with her sister Ms. M. T.
- on 9 January 2007, a short meeting with her daughter Ms. M. T.
- on 10 August 2007, a short meeting with her younger brother Mr. R. T.

571. Furthermore, it is claimed that, in accordance with written request by Ms. M. T., lawyer Ms. D. N. visited her on 13 July 2006. Afterwards she never requested such visit. Finally, it is alleged that Ms. M. T. regularly receives parcels and packets from relatives. She also received and sent numerous letters to and from relatives.

Urgent appeal

572. On **13 April 2007**, the Special Rapporteur on violence against women, its causes and consequences, jointly with 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. M. T., Chairperson of the human rights organization *Plammenoe Serdtse*, Ardent Hearts Club, based in Ferghana City. She is also one of the founders of the national movement Civil Society and a 2005 Nobel Peace Prize nominee. Ms. M. T. was the subject of a communication sent by the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Representative to the Secretary-General for human rights defenders on 21 July 2006.

573. Ms. M. T. was also the subject of a communication sent by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the

promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders on 6 February 2006; of a communication sent by 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 on 18 July 2005; and of a communication sent by the Special Rapporteur on violence against women, its causes and consequences, with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on the situation of human rights defenders on 27 October 2005.

574. According to information received: On 6 March 2006, Ms. M. T. was sentenced to 8 years in prison. She is currently being detained at Tashkent Prison. Ms. M. T. reportedly spent seven months in solitary confinement and was held in a psychiatric unit for mentally ill and drug-addicted persons, located in a women's detention centre in the Mirabad district of Tashkent. Ms. M. T.'s health is deteriorating as a result of the conditions in which she is being held and is in need of urgent medical attention. It is reported that she has lost approximately 20 kilograms in weight and is suffering from a kidney-related illness caused by cold and low blood pressure. Ms. M. T. was last seen by her family on 9 January 2007 despite numerous attempts by relatives to visit her at the detention centre in order to bring her medication and food.

575. According to reports, members of Ms. M. T.'s family, including her brother Mr. R. T. and her daughter Ms. M. A., have been subjected to harassment and intimidation. On 22 December 2006 Mr. R. T. was evicted from his apartment and is under constant surveillance by the authorities. He has also received a warning that if he continues to object to the detention of his sister it will be difficult for him to continue to work and he will be forced to leave Tashkent. She was also warned that if she would then travel to Tashkent again (to see her mother) she will be killed. Ms. M. A. has been followed by individuals believed to be law enforcement agents.

576. Concern is expressed that the above-mentioned events form part of an ongoing campaign to silence human rights defenders in Uzbekistan. Grave concern is also

expressed at the reported ill-treatment of Ms. M. T. and consequent deterioration of her health.

Response from the Government

577. On **26 April 2007**, the Uzbekistan Government replied to the letter sent on 13 April 2007. It made reference to a series of provisions regarding citizens' rights and freedoms such as article 27 of the Constitution, the Law "On citizens' applications" and criminal and administrative legislations.

578. Moreover, the Government affirmed that judicial and non-judicial institutions on protection of human rights and freedoms were established and successfully functioned, which facilitated timely reaction to citizens' applications and the adoption of fair decisions upon issues raised. However, it claimed that some citizens, "pretending to be a victim of alleged violations by State bodies, premeditatedly refuse to submit applications to such institutions and instead target the attraction of attention of international human rights or other organizations to themselves. Thus, they pursue a political purpose to cause a wave of criticism against Uzbekistan."

579. Finally, the Government advised the Special Rapporteur to inform Ms. M. T. to appeal to competent bodies in Uzbekistan to restore her rights, provided that alleged violations have taken place.

Urgent appeal

580. On **10 July 2007**, the Special Rapporteur on violence against women, its causes and consequences, jointly with the Special Rapporteur on the question of torture, the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal to the Government concerning Ms. M. T., Chairperson of the human rights organization *Plammenoe Serdtse*, Ardent Hearts Club, based in Ferghana City. She is also one of the founders of the national movement *Civil Society* and a 2005 Nobel Peace Prize nominee. Ms. M. T. has been the subject of numerous urgent appeals by special procedures mandates. Government

responses dated 10 and 26 April 2007 have been noted. However, according to recent allegations received:

581. Ms. M. T. is being ill-treated by prison wardens whilst in detention in Tashkent prison, and this ill-treatment is having adverse effects on her health. She is frequently being humiliated and threatened with acts of violence against her daughter. She is also placed in solitary confinement, and has been denied access to medical treatment which she urgently requires. In addition, she has been denied her visitation rights, and delegates from the International Committee of the Red Cross have been prevented from seeing her.

582. Serious concern is expressed at the reported continuing ill-treatment of Ms. M. T. and the consequent deterioration of her health. Further concern is expressed that the above-mentioned events may form part of an ongoing attempt to silence human rights defenders in Uzbekistan.

Observations

583. The Special Rapporteur would like to thank the Government for its replies to some of her communications. With respect to the Government's reply of 26 April 2007 to her communication dated 13 April 2007, the Special Rapporteur would like to remind the Government of Uzbekistan that the special procedures mechanism of communications to and from Governments, as established by Member States, does not prevent any citizen from applying to the national protection mechanisms in place in his/her country. The two sets of mechanisms are complementary. The Special Rapporteur further notes that the Commission on Human Rights, in its resolution 2005/41, paragraph 17 (a), stressed "that States have an affirmative duty to promote and protect the human rights and fundamental freedoms of women and girls and must exercise due diligence to prevent, investigate and punish all acts of violence against women and girls, and [called] upon States to apply international human rights norms and to consider, as a matter of priority, becoming party to international human rights instruments that relate to violence against women and girls, and to implement fully their international obligations."

584. Finally, the Special Rapporteur would be interested to know whether the case reported in the communication of 10 July 2007 has resulted in any investigations into alleged ill-treatment by prison wardens.
