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

**Report of the Special Rapporteur on the question of torture, Theo van Boven,
submitted pursuant to Commission resolution 2002/38**

Addendum

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

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

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Introduction

1. This addendum to the report of the Special Rapporteur contains, on a country-by-country basis, summaries of general allegations and individual cases, as well as of urgent appeals, and government replies. Owing to restrictions on the length of documents, the Special Rapporteur has been obliged to reduce considerably details of communications sent and received. As a result, requests from Governments to publish their replies in their totality could not be acceded to. Observations by the Special Rapporteur have also been included where applicable. Such observations, which sometimes note the most recent findings of other supervisory bodies, in particular United Nations treaty bodies, are usually made when the information suggests that there may be a problem extending beyond the exceptional or isolated incident. The fact that there is no such observation in respect of a particular country merely reflects the state of information brought to the attention of the mandate, and does not necessarily mean that there is no substantial problem in that country. Observations are also included with regards to countries whose Governments have failed to provide the Special Rapporteur with any or without adequate information requested over a period of years.

2. During the period under review, i.e. from 1 December 2001 to 15 December 2002, the Special Rapporteur sent 109 letters to 65 countries. The Special Rapporteur also sent 68 letters reminding Governments of a number of cases that had been transmitted in previous years. The Special Rapporteur sent 294 urgent appeals to 82 Governments on behalf of individuals with regard to whom serious fears had been expressed that they might be subjected to torture and other forms of ill-treatment. A total of 72 Governments provided the Special Rapporteur with replies to allegations and appeals received during the period under review and in previous years.

SUMMARY OF CASES TRANSMITTED AND REPLIES RECEIVED

Albania

3. Par une lettre datée du 2 septembre 2002, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants, auxquels le Gouvernement a répondu par une lettre datée du 9 décembre 2002.

4. **Sabaudin Çela** aurait été arrêté sans mandat le 12 février 2002 et interrogé au poste de police de Vlora. Il y aurait été frappé sur la paume des mains et la plante des pieds par trois hommes en civil avant d'être relâché le jour suivant. Il aurait également été arrêté par le chef de la police criminelle du poste de police de Vlora le 5 mars 2002. Menotté et les yeux bandés, il aurait été violemment battu. Il aurait également reçu des coups de pied, de crosse de pistolet et de matraque. Il aurait également été brûlé avec des mégots de cigarette. Un coup de feu aurait été tiré près de sa tête. Il aurait été soupçonné de détenir des renseignements sur un meurtre. Inconscient, il aurait été ramené près de chez lui. Le lendemain, il aurait donné une interview à une chaîne de télévision. Peu après, le chef de la police criminelle de Vlora se serait rendu à l'hôpital pour le menacer, lui et sa famille, s'il portait plainte. Le 9 mars, le chef de

la police criminelle aurait été arrêté et inculpé de torture. Le procureur de Vlora aurait également lancé des mandats d'arrêt contre trois autres hommes.

5. Le Gouvernement a informé qu'un vice-lieutenant déclaré coupable des actes mentionnés ci-dessus faisait actuellement l'objet d'une procédure judiciaire.

6. **Neritan Gjikondi**, un jeune homme invalide, aurait été arrêté sans mandat d'arrêt le 7 janvier 2002 et emmené au poste de police de Vlora où il aurait été violemment battu. Le 9 janvier, son père aurait eu une conversation avec le fonctionnaire de police ayant dirigé l'arrestation de son fils qui lui aurait avoué que ce dernier avait été maltraité lors de sa détention. Il n'aurait pas été présenté devant un magistrat avant le 14 janvier 2002, bien que, selon la loi, il aurait dû être amené devant un juge dans les 48 heures suivant son arrestation. Il aurait été alors mis en détention préventive. Son père aurait déposé plainte pour abus d'autorité auprès du procureur de Vlora le 12 janvier 2002. Le bureau du procureur aurait indiqué qu'une enquête allait débiter. En mars 2002, Neritan Gjikondi continuait à être détenu dans une cellule surpeuplée d'un poste de police de Vlora.

7. Le Gouvernement a clarifié qu'il avait été arrêté le 12 janvier 2002 et que la plainte déposée par la famille contre un agent de police avait été retirée alors que l'enquête était en cours. En conséquence, le cas avait été clos.

8. **Dedë, Zef et Gjokë Përgjini**, trois frères, auraient été arrêtés à Lezha le 5 avril 2002 par des policiers, suite à une altercation entre certains membres de leur famille et des policiers. Zef Përgjini aurait été arrêté par des policiers masqués et aurait été conduit au deuxième étage d'un poste de police où il aurait été violemment frappé, en particulier sur les jambes. Au poste de police, Dedë Përgjini aurait été frappé par des membres masqués des forces d'intervention rapide. Il aurait eu des hématomes et des côtes fracturées. Il aurait par la suite déposé plainte auprès du procureur de Lezha. Le 25 avril, un spécialiste médico-légal l'aurait examiné, ainsi que Gjokë Përgjini. L'Ombudsman aurait conclu après enquête que les trois frères avaient été maltraités durant leur détention au poste de police de Lezha et que leurs dossiers contenaient plusieurs erreurs. Il aurait également critiqué le rôle du procureur local, qui aurait dû ordonné leur mise en liberté, et le fait que leur détention préventive ait été ordonnée au poste de police et non par une cour, comme l'exige la loi. L'Ombudsman aurait finalement recommandé que des poursuites pénales soient engagées contre six policiers, y compris le chef du poste de police de Lezha, et qu'un procureur extérieur au district soit chargé de superviser l'enquête.

9. Le Gouvernement a informé le Rapporteur spécial qu'un procès pénal avait été initié contre des agents du poste de police en question et que des mesures administratives avaient été prises par la police contre quatre autres personnes.

10. **Mark Preng Ndoja** aurait été frappé par deux policiers de Rrëshen, district de Mirdita, le 5 juin 2001. Il aurait été détenu pendant trois heures et aurait subi de nouveaux mauvais traitements. Le 11 juin 2001, il aurait porté plainte auprès de l'Ombudsman. Étant donné l'absence de témoins, ce dernier n'aurait pas pu conclure la véracité des allégations de Mark Preng Ndoja. Il aurait néanmoins demandé au directeur de la police de Rrëshen de mener une enquête.

11. Le Gouvernement a indiqué que l'Ombudsman étudiait actuellement ce cas.
12. **Gjet Mark Gjoka** aurait été arrêté le 9 février 2002 alors qu'il était venu au poste de police de Rrëshen pour déposer une plainte contre un voisin. Il aurait reçu des coups de poing d'un policier pendant qu'un autre l'aurait frappé avec un poste de radio. Il aurait porté plainte pour mauvais traitements auprès du procureur, qui n'aurait pas pris action. Gjet Mark Gjoka aurait été par la suite menacé par les deux policiers qui l'auraient maltraité.
13. Le Gouvernement a répondu qu'aucune plainte alléguant des mauvais traitements n'a été présentée au poste de police.
14. **Ali Plaka**, un membre de l'Association albanaise des paraplégiques, aurait été insulté et frappé par un garde du corps du Ministre du travail et des affaires sociales, un officier de police membre de la Garde républicaine, le 18 avril 2002. Il se serait le jour même plaint auprès des autorités concernées et de l'Ombudsman. Le 4 mai 2002, ce dernier aurait demandé à ce que des poursuites pénales soient initiées contre le garde du corps.
15. Le Gouvernement a dénié qu'il ait été frappé par un officier membre de la Garde républicaine.
16. **Sokol Çullhaj** et **Erando Salluku** auraient été arrêtés le 24 novembre 2001 par un policier et emmenés au poste de police n° 1 de Tirana. Ils y auraient été frappés, en particulier avec une matraque. Le soir du 30 novembre, ils auraient à nouveau été arrêtés par le même policier, qui les aurait frappés et leur aurait donné des coups de pied. Ils auraient été relâchés le jour suivant. Le 3 décembre, Erando Salluku aurait été examiné par un expert médico-légal qui aurait conclu que les hématomes présents sur ses mains avaient été causés par un instrument. L'Ombudsman aurait conclu que les allégations des deux jeunes hommes étaient fondées et aurait recommandé que le policier soupçonné soit suspendu de ses fonctions et que des poursuites pénales soient engagées contre lui.
17. Le Gouvernement a indiqué qu'un procès criminel avait été initié contre un agent de police impliqué dans ce cas. Cependant, la plainte avait été retirée durant l'enquête et le cas a été clos.
18. **Ymet Xhuti** aurait été arrêté le 12 mai 2002 par un policier de Korça avec qui il aurait eu des conflits personnels. Ce dernier aurait insulté Ymet Xhuti et aurait tiré deux coups de feu dans sa direction. Le policier se serait fait retirer son pistolet par un ami de Ymet Xhuti et aurait alors appelé deux civils pour l'aider. Les trois auraient alors frappé Ymet Xhuti qui se serait finalement évanoui. Il aurait été conduit par ses amis à l'hôpital de Korça où il aurait été soigné aux soins intensifs. L'hôpital aurait informé la police de Korça et Ymet Xhuti aurait été examiné par un expert médico-légal. Le policier responsable aurait été suspendu de ses fonctions et des poursuites pénales auraient été engagées contre lui. Des mandats d'arrêt contre ses deux acolytes auraient également été lancés.

19. Le Gouvernement a répondu qu'un procès criminel avait été initié contre l'agent de police en question. Cependant, au cours de l'enquête, le procureur avait conclu que l'agent n'avait pas de responsabilité pénale en relation avec ce cas.

20. Par une lettre datée du 17 octobre 2002, le Rapporteur spécial a rappelé au Gouvernement un certain nombre de cas qu'il avait envoyés en 1999 et 2001, au sujet desquels il n'avait pas reçu de réponse.

Appels urgents

21. On 31 May 2002, the Special Rapporteur sent an urgent appeal on behalf of a **group of prisoners** who was said to have launched a hunger strike in protest of the poor conditions in which they were being detained in the Rresheni police station. Since prisons are overcrowded, detainees having been sentenced were allegedly being forced to carry out their sentences in pre-trial detention cells in police stations rather than prisons or correction facilities. Due to the lack of space in the police station in Rreshen, 32 convicts are being held in six pre-trial detention cells that should normally hold 18 persons. It was reported that the officers present at the police station were also concerned by the issue of overcrowding, but could not provide a solution themselves. It was reported that hunger strikes have also previously been held at the Pogradec, Berat and Skrapar police stations for similar reasons. It was alleged that the General Directory of Prisons has been ignoring this issue over the years. The following persons were said to have started a hunger-strike mid-May 2002: **Dritan Nikoll Lusha, Artan Gjon Beleshi, Ndue Gjok Kola, Gjovalin Mark Kola, Gjovalin Ded Kadeli, Preng Pjeter Gjiku, Petrit Gjon Përleku, Arben Ndue Përleku, Arben Preng Ceku, Bardhok Bib Kola, Vasil Ndue Buna, Arjan Preng Përleku and Pjetër Ndu Shurbi.**

Observations

22. The Special Rapporteur acknowledges the Government's responses to the allegations submitted this year and hopes that information will be provided on cases submitted in previous years. However, the Special Rapporteur would appreciate receiving more detailed information, in particular on the outcome of any investigation, and would like to remind the government of its obligation to thoroughly investigate all torture cases even in the absence of a formal complaint.

Algeria

23. Par une lettre datée du 2 septembre 2002, le Rapporteur spécial a informé le Gouvernement qu'il continuait à recevoir des renseignements selon lesquels un grand nombre de personnes détenues dans les commissariats de police ou de gendarmerie seraient soumis à des tortures et autres formes de mauvais traitement. Les méthodes employées seraient les suivantes: la méthode dite «du chiffon» qui consisterait à introduire un chiffon gorgé d'eau sale, à laquelle serait souvent ajouté du grésil ou de l'eau de Javel, dans la bouche d'une personne jusqu'à ce qu'elle s'étouffe; les bastonnades, en particulier avec des bâtons et des tuyaux en caoutchouc, et la flagellation, en particulier sur le visage et les organes génitaux; la «fallaqa» qui consisterait à frapper la plante des pieds avec un bâton fin ou un câble électrique; la suspension au plafond par un système de poulies ou de crochets, soit par les poignets,

soit par les pieds, soit par les deux en même temps (position dite «du sac»); la suspension par le sexe qui consisterait à passer un câble en lasso sur la verge ou au niveau de la racine de l'appareil génital externe et de tirer vers le haut; les chocs électriques appliqués sur le corps préalablement mouillé, en particulier sur les lobes d'oreille, les mamelons et les parties génitales; l'utilisation d'une matraque électrique hérissée de pointes ou d'un «stylo» semblable à un fer à souder; les brûlures avec des mégots de cigarette, par l'essence, le chalumeau ou le fer à souder; la technique dite «de l'échelle» qui consisterait à suspendre une personne par ses poignets et ses chevilles en X à une échelle que l'on laisserait tomber brusquement jusqu'à ce que la tête heurte le sol (une variante consisterait à ligoter une personne à une chaise et projeter cette dernière contre le sol); l'utilisation des tenailles pour arracher la peau du thorax, de l'abdomen ou des ongles, les plaies ainsi provoquées étant par la suite saupoudrées de sel; l'utilisation de lames de rasoir pour entailler la peau; la sodomisation, en particulier avec le canon de pistolet, un manche à balai ou une bouteille; et les simulacres d'exécution et les menaces de torture sur des membres de la famille proche de la personne détenue, ainsi que l'exposition (soit visuelle, soit auditive) aux tortures soumises par d'autres détenus.

24. Les principaux lieux de torture seraient les suivants: le Centre de Châteauneuf, aussi appelé poste de commandement opérationnel ou centre de lutte antiterroriste (CLAT), le cellules en sous-sol du commissariat central d'Alger, le commissariat de la police judiciaire sis rue Hocine Asselah, communément appelé Cavaignac, les commissariats de Bab El Oued et de Bourouba (Hussein Dey) et les centres de la sécurité militaire de Ben Aknoun et de Haouch Chnou (Blida). Selon les renseignements reçus, de nombreuses personnes seraient arrêtées sans mandat d'arrêt et les membres des forces de l'ordre effectuant ces arrestations ne s'identifieraient que très rarement auprès des familles ou autres personnes présentes lors des arrestations. Les familles auraient ainsi beaucoup de mal à connaître les lieux de détention de leurs proches dans les premiers jours suivants une arrestation. Les personnes arrêtées auraient souvent les yeux bandés de manière à éviter qu'elles connaissent les lieux de leur détention. Parfois, certaines personnes seraient transportées dans le coffre de voitures. Selon les renseignements reçus, depuis la promulgation de la loi antiterroriste en 1992, la durée de la garde à vue aurait été prolongée à 12 jours. Cette durée serait par ailleurs rarement respectée et la garde à vue pourrait durer plusieurs semaines, durant lesquelles la famille et les avocats des personnes arrêtées auraient beaucoup de mal à connaître le lieu et les raisons de leur détention.

25. Par cette même lettre, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants. Par une lettre datée du 9 décembre 2002, le Gouvernement a répondu à certain d'entre eux.

26. **Malek Arab** aurait été arrêté en mars 1997 à Ouled Koriche (Alger) par des agents de la sécurité militaire. Lors de son arrestation, ses poignets auraient été attachés avec du fil métallique. Il aurait ensuite été jeté au sol et menacé de mort sous le regard de ses parents. Sa mère et sa fille, âgée de deux ans, auraient reçu des coups de poing. Il aurait été emmené à moitié dévêtu en garde à vue au Centre de Châteauneuf où il aurait été détenu pendant 30 jours. Il y aurait été frappé, électrocuté sur les lobes d'oreille et les parties génitales et aurait été sodomisé avec une barre de fer. Il aurait également été soumis à la technique du chiffon, qui aurait été préalablement imbibé d'eau sale des toilettes. En conséquence, il souffrirait de

troubles psychiques et de rectorragies abondantes. Il aurait par la suite été incarcéré à la prison d'El Harrach.

27. **Kamal Barar** aurait été arrêté le 16 septembre 1997 par des policiers cagoulés et transféré, la tête enveloppée dans une chemise, dans une voiture banalisée au commissariat d'Hussein Dey d'où il aurait été immédiatement emmené au commissariat des Anassers (les sources). Il aurait été transporté dans le coffre arrière d'une voiture, cagoulé et les mains attachées dans le dos. Il y aurait été détenu en garde à vue pendant cinq jours. Il y aurait été soumis à la technique du chiffon avec du grésil après avoir été attaché sur un banc, et aurait reçu des coups de pied au visage, à l'abdomen et aux organes génitaux. Il serait ensuite resté trois jours dans une cellule de deux mètres carrés avant d'être présenté au parquet. Il aurait été relaxé par la section correctionnelle du tribunal d'Hussein Dey. Il aurait par la suite été examiné par un médecin légiste qui lui aurait accordé une incapacité de travail temporaire de 13 jours et aurait constaté des contusions thoraco-abdominales et lombaires, des plaies multiples au cuir chevelu et des traumatismes divers.

28. **Mohamed Amine Takarli**, un patient soigné pour troubles nerveux, aurait été arrêté par des militaires le 6 décembre 1997. Il aurait été détenu dans un lieu tenu secret pendant 22 jours. Il y aurait été soumis à la technique du chiffon, fouetté avec un tuyau en caoutchouc et électrocuté. Il aurait également été soumis à des sévices sexuels. Par la suite, il aurait fait plusieurs crises nerveuses accompagnées de syncopes et aurait reçu une injection intraveineuse d'un produit non déterminé. Présenté au parquet le 28 décembre 1997, il aurait été incarcéré à la prison d'El Harrach, où, après des démarches de son avocat, il aurait reçu des soins médicaux.

29. Le Gouvernement a indiqué qu'il avait été présenté devant le procureur de la République d'Hussein Dey le 28 décembre 1997 pour appartenance à une organisation terroriste et détention de munitions de guerre. Celui-ci avait requis l'ouverture d'une information judiciaire suite à laquelle le juge d'instruction avait ordonné sa mise en détention provisoire. Il a été condamné à 30 mois de prison le 18 octobre 1998 par le tribunal pénal d'Alger. Il a été libéré le 7 janvier 1999 suite à une grâce présidentielle. Lors de sa présentation devant les juges, il n'aurait pas signalé avoir été victime de mauvais traitements.

30. **Nawal Zemzoum** (f) aurait été arrêtée à Alger par des hommes armés habillés en civil le 15 octobre 1997 et aurait été transférée dans un centre de détention qu'elle n'aurait pu identifier, mais qui était surveillé par des policiers en uniforme. Elle y serait restée au secret pendant 25 jours durant lesquels elle aurait été menacée de viol et de mort, aurait été soumise, les mains attachées dans le dos et les yeux bandés, à la technique du chiffon (imbibé d'eau savonneuse) et aurait été brûlée avec des mégots de cigarette sur la main gauche, alors qu'elle était interrogée sur son mari. Elle serait ensuite restée pendant quatre jours dans une cellule avant d'être présentée à un tribunal dont le juge aurait refusé sa requête d'informer sa famille.

31. **Abdellatif Branine** aurait été arrêté le 6 janvier 1997. Il serait resté en garde à vue au commissariat d'Aïn Taya pendant 60 jours. Pendant 22 jours, il y aurait été soumis à la technique du chiffon et à des électrochocs. Il aurait été filmé alors qu'il était suspendu avec des fils électriques attachés aux orteils. Un fer à repasser brûlant aurait été appliqué sur son thorax. Il aurait également été attaché pendant trois jours à

un arbre. Il souffrirait de surdit  et de probl mes de vision. Malgr  ses demandes, le magistrat instructeur aurait refus  qu'il soit soumis   une expertise m dicale.

32. Le Gouvernement a r pondu qu'il avait  t  pr sent  devant le procureur de la R publique de Tizi Ouzou le 3 mars 1997 pour financement d'activit s terroristes. Il a  t  remis en libert  par la suite. Il a  t  arr t    nouveau le 6 f vrier 2001 suite   une ordonnance du pr sident du tribunal p nal de Tizi Ouzou et jug  et acquitt  le 31 mars 2001. Le Gouvernement a  galement inform  qu'Abdelatif Branine n'aurait pas signal  avoir  t  victime de mauvais traitements ni au procureur de la R publique ni au juge d'instruction ou aux juges de si ge.

33. **Hakim Khelili**, l'un des fils de M^c Khelili, un d fenseur des droits de l'homme, aurait  t  arr t  le 4 f vrier 1998   son domicile en compagnie de son fr re Farid, par une vingtaine de militaires et de policiers. Il aurait  t  d tenu en garde   vue au commissariat des Cinq-maisons (El Harrach). Il y aurait  t  frapp    plusieurs reprises. Il souffrirait de troubles mentaux qui se seraient aggrav s suite au traitement auquel il aurait  t  soumis.

34. Le Gouvernement a clarifi  qu'il n'avait jamais fait l'objet d'une garde   vue.

35. **Mohamed Boukhalfa** aurait  t  arr t  le 18 ao t 1998 en compagnie de son  pouse, sa fille, Khansa, alors  g e de 33 jours, et son neveu Mouloud Habchi,  g  de 10 ans. Ils auraient  t  conduits par des gendarmes   la brigade de Bab Djid (La Casbah). Mohamed Boukhalfa y aurait  t  maintenu en garde   vue pendant 24 jours et le reste de sa famille pendant 11 jours. Il y aurait  t  sodomis  et un gendarme lui aurait urin  dans la bouche. Il aurait eu les pieds  cras s et sept dents arrach es avec une tenaille. Sa femme aurait  t  menac e de viol devant lui. Suite   ce traitement, il aurait  t  forc  de faire des aveux devant une cam ra. Le 13 septembre, il aurait  t  forc  de r p ter ses aveux devant un magistrat apr s avoir  t  menac  de nouvelles tortures s'il se r tractait devant la cour. Il aurait ensuite  t  incarc r    la prison d'El Harrach.

36. Le Gouvernement a inform  le Rapporteur sp cial qu'il avait  t  pr sent  devant le procureur de la R publique d'Alger pour escroquerie, usurpation de fonction, faux et usage de faux. Une information judiciaire avait  t  requise devant le juge d'instruction et celui-ci avait ordonn  son placement en d tention provisoire. Il a  t  condamn  en appel par la cour d'Alger   quatre ans de prison. Il se trouve toujours en d tention et n'a jamais signal  avoir  t  victime de mauvais traitements au cours de sa garde   vue.

37. **Mohamed Harim** aurait  t  arr t  le 16 octobre 1998 par des policiers en civil. Il aurait  t  d tenu en garde   vue au commissariat d'El Harrach pendant un jour avant d' tre transf r  au centre de la s curit  militaire dit des trois caves   El Harrach, avant d' tre emmen  au commissariat central. Il y aurait  t  frapp  sur les testicules et aurait  t  soumis   la technique du chiffon. Il aurait  t  menac  d' tre sodomis  et de p n tration orale. Il aurait eu une h maturie qui aurait n cessit  son hospitalisation. Il aurait  t  incarc r    la prison d'El Harrach. Une plainte aurait  t  d pos e par son avocat pour pratiques ind centes envers Mohamed Harim.

38. **Salim Amara** aurait été arrêté à son domicile à Bordj El Kiffan, Alger, le 27 septembre par des policiers. Il aurait été détenu en garde à vue pendant neuf jours au commissariat de Aïn Taya où il aurait reçu des coups de poing et de pied et aurait été soumis à la technique du chiffon durant une semaine. Il se serait évanoui à plusieurs reprises. Il aurait été menacé de mort s'il revenait sur ses aveux devant le juge d'instruction. Il souffrirait d'épistaxis et de douleurs thoraciques. Il aurait finalement été incarcéré à la prison d'El Harrach.

39. Le Gouvernement a indiqué qu'il avait été présenté devant le procureur de la République d'El-Harrach le 5 octobre 1998 pour appartenance à une organisation terroriste. Ce dernier avait requis l'ouverture d'une information judiciaire suite à laquelle le juge d'instruction avait ordonné son placement en détention provisoire. Il a été traduit devant le tribunal criminel d'Alger le 11 avril 2000, avant d'être acquitté et remis en liberté ce même jour. Quant aux allégations de mauvais traitements, il n'en n'aurait pas fait état lors de la procédure judiciaire.

40. **Mourad Kerchouche** aurait été arrêté par des membres de la sécurité militaire de Dély Ibrahim habillés en civil à Belfort, El Harrach, le 9 mars 1998. Il aurait été détenu en garde à vue pendant quatre jours dans un lieu tenu secret. Il y aurait été soumis à la technique du chiffon et aurait été frappé à plusieurs reprises. Il aurait eu des côtes fracturées et aurait fait une crise de bronchite asthmatiforme.

41. **Malik Medjnoun** aurait été arrêté le 28 septembre 1999 à Tizi Ouzou par des hommes de la sécurité militaire. Il aurait été détenu en garde à vue pendant sept mois au Centre de Châteauneuf, où il aurait été soumis à la technique du chiffon, à des bastonnades et flagellations. Il aurait dû être hospitalisé pendant 28 jours à l'hôpital militaire de Tizi Ouzou avant d'être incarcéré le 2 mai 2000 à la prison de Tizi Ouzou.

42. **Abdelhakim Chenoui**, un maquisard repentant dans le cadre de la «concorde civile», aurait été arrêté par la police le lendemain de sa reddition, soit le 19 septembre 1999, à Tizi Ouzou. Il aurait été détenu en garde à vue pendant six mois au Centre de Châteauneuf où il aurait été soumis à la technique du chiffon et à des chocs électriques. Il y aurait également été sodomisé avec un manche à balai et aurait été suspendu par les coudes, ainsi que frappé à plusieurs reprises. Il aurait été filmé avouant avoir assassiné le chanteur Matoub Lounès. Il aurait finalement été incarcéré à la prison de Tizi Ouzou.

43. Le Gouvernement a noté que le 2 mai 2000 Malik Medjnoun et Abdelhakim Chenoui (Mahieddine Chenoui) avaient été présentés devant le procureur de la République près le tribunal de Tizi Ouzou, qui avait requis une information judiciaire devant le juge d'instruction. Ce dernier leur avait notifié qu'ils étaient inculpés d'assassinat et d'appartenance à une organisation terroriste. Quant aux mauvais traitements allégués, les inculpés ne les avaient pas signalés devant le procureur de la République, ni devant le juge d'instruction.

44. **Dahmani Redouane**, 15 ans, aurait été arrêté le 20 juin 2000 à Dellys (Boumerdès). Il aurait été détenu en garde à vue pendant huit jours au commissariat de police de Dellys. Il aurait été obligé d'être témoin des tortures qu'aurait subies une autre personne. Il aurait lui-même été déshabillé, frappé, soumis à des chocs électriques aux orteils et sur les parties génitales, soumis à la technique du chiffon et

aurait reçu des cendres de cigarette dans les yeux. Il aurait également été fouetté avec un câble électrique et brûlé avec des mégots de cigarette sur le visage. Présenté le 28 juin 2000 devant un juge d'instruction en présence des policiers qui l'auraient ainsi traité, il n'aurait pas osé se plaindre du traitement dont il aurait fait l'objet.

45. Le Gouvernement a confirmé sa garde à vue, mais a noté qu'il n'avait jamais signalé avoir été victime de mauvais traitements au cours de celle-ci ni au procureur de la République ni au juge d'instruction.

46. **Mokrane Saâdoun**, étudiant et militant des droits de l'homme, aurait été arrêté par des agents de la sécurité militaire le 7 juin 2000 à Tizi Ouzou. Il aurait été soupçonné de collecter des informations sur les violations des droits de l'homme en Kabylie. Il aurait été détenu pendant six jours à la caserne de Tizi Ouzou où il aurait été soumis à la technique du chiffon et à des chocs électriques. Il aurait finalement été incarcéré à la prison de Tizi Ouzou.

47. **Saïd Zaoui**, un ancien adhérent du Front islamiste du salut (FIS), âgé de 70 ans, aurait été arrêté le 7 février 2001 en compagnie d'une vingtaine de personnes lors d'une rafle opérée en représaille à l'explosion d'une bombe au passage d'une patrouille des services de sécurité à Dellys. Il aurait été soumis à la technique du chiffon et frappé à plusieurs reprises, ainsi que soumis à des chocs électriques. Il aurait eu les yeux bandés la plupart du temps. Il aurait ensuite disparu.

48. Le Gouvernement a indiqué qu'il avait été présenté devant le procureur de la République de Dellys pour avoir financé des activités terroristes. Suite à l'information judiciaire menée par le juge d'instruction de la chambre de première instance, il a été renvoyé devant la chambre d'accusation de la cour de Tizi Ouzou qui a requalifié les faits en délit de non-dénonciation aux autorités d'un crime et, à son tour, a renvoyé l'affaire devant le tribunal correctionnel de Dellys. Ce dernier l'a condamné à une amende de 5 000 dinars le 27 juillet 2001. D'après le Gouvernement, Saïd Zaoui n'a pas fait part aux autorités judiciaires de violences physiques au cours de sa garde à vue.

49. **Mohammed Ohrib** et son oncle, **Benaouda Amour Miloud**, qui auraient été condamnés par la cour de Mostaganem en 1995 à la peine de mort, auraient été soumis à des mauvais traitements au début du mois de juin 2001 de la part des gardiens de la prison de Chlef, où ils seraient détenus. Mohammed Ohrib aurait été frappé en particulier sur les oreilles. Les autorités pénitentiaires auraient refusé de le faire examiner. Benaouda Amour Miloud aurait été en particulier frappé au ventre. Ils passeraient toutes leurs journées menottes aux mains, même lorsqu'ils reçoivent des visites.

50. Le Gouvernement a indiqué qu'une enquête administrative et une enquête judiciaire avaient été déclenchées par le directeur de l'établissement pénitentiaire après que ces deux détenus avaient fait état de mauvais traitements. Lors de l'enquête, les deux détenus ainsi que deux agents de rééducation avaient été entendus par le magistrat. L'enquête n'a pas établi qu'ils avaient été victimes de brutalités et le dossier a été classé par le procureur de la République le 20 avril 2002, les faits n'ayant pas été établis.

51. Par la même lettre, le Rapporteur spécial a informé le Gouvernement qu'il avait également reçu des renseignements selon lesquels les membres des familles de groupes armés d'opposition, tels que le Groupe salafiste pour la prédication et le combat (GSPC), auraient été arrêtés et soumis à des mauvais traitements dans le but d'intimider les membres de ces groupes ou de pousser ces derniers à commettre des crimes de manière à justifier de nouvelles opérations militaires. Le Rapporteur spécial avait en particulier reçu des renseignements sur les cas individuels suivants.

52. **Cherif Adda**, un agriculteur de Sidi-Daoud (Dellys) aurait été arrêté sur le lieu de son travail par des membres de la sécurité militaire le 28 février 2002. Lors de son arrestation, il aurait reçu des coups de pied et de bâton en présence de plusieurs témoins. Il aurait été assassiné en détention en présence de deux témoins et son corps aurait été placé dans un véhicule auquel on aurait mis feu. Il aurait été arrêté en raison de son lien de parenté avec le chef du GSPC, Hassan Hattab.

53. **Rabia Chérif**, l'épouse du chef du GSPC, aurait été arrêtée à Haouch Benzerga, commune de Bordj-El-Bahri, le 27 février 2002 par des membres de la sécurité militaire. Elle aurait reçu des coups et subi des violences à caractère sexuel. Elle aurait en particulier été amenée devant son frère nu et elle aurait été menacée d'être violée.

54. **Rabah Rabia-Chérif**, son frère, aurait été arrêté le 26 février 2002 par un groupe de civils armés qui auraient été identifiés par la suite comme des membres de la sécurité militaire. Il aurait été déshabillé avant d'être ligoté, pieds et mains liés, sur une table en béton et soumis à la technique du chiffon. Il aurait également été soumis à des chocs électriques, en particulier sur les parties génitales, aux oreilles et à la tête. Il aurait ensuite été jeté dans une cellule noire.

55. **Yahia Aouine**, l'époux de la sœur d'Hassan Hattab, aurait été arrêté le 27 février 2002 à Benzerga, commune de Bordj-El-Bahri, par des membres de la sécurité militaire. Il aurait été frappé, soumis à la technique du chiffon et aurait été électrocuté.

56. **Ahmed Saadi** aurait été arrêté par des membres de la sécurité militaire le 1^{er} mars 2002 à Benzerga et détenu jusqu'au 16 mars 2002. Il aurait été électrocuté et soumis à la technique du chiffon. Il aurait été arrêté parce qu'il est marié avec l'une des sœurs d'Hassan Hattab.

57. **Hocine Houdi** aurait été arrêté le 2 mars 2002 à Biskra. Il aurait reçu des coups de bâton et aurait été soumis à la technique du chiffon, ainsi qu'à des électrochocs. Cela aurait duré jusqu'au 21 mars. Il aurait été soumis à ces traitements parce qu'il est marié à l'une des sœurs de Rabah Rabia-Chérif.

58. **Saïd Hattab**, le père d'Hassan Hattab, aurait été arrêté le 1^{er} mars 2002 à Dergana, commune de Bordj-El-Bahri, par des membres de la sécurité militaire. Il aurait été frappé et soumis à des chocs électriques.

59. **M'hamed Ridane** aurait été arrêté le 28 février 2002 par des membres de la sécurité militaire. Il aurait été frappé avec un bâton et soumis à la technique du chiffon, ainsi qu'à des électrochocs, le 16 mars 2002. Il aurait été arrêté parce que trois de ses fils auraient rejoint des groupes armés d'opposition.

60. Par la lettre datée du 9 décembre 2002, le Gouvernement a informé le Rapporteur spécial qu'ils avaient tous été présentés devant le procureur de la République près le tribunal d'Alger le 6 mars 2002. Ce dernier avait requis l'ouverture d'une information judiciaire devant le juge d'instruction. Quant aux allégations de mauvais traitements, le Gouvernement a indiqué que ces personnes n'avaient pas signalé aux autorités judiciaires en avoir été victimes. Par ailleurs, un certificat médical établi pour chacun d'entre eux le 5 mars 2002 ne fait pas mention qu'ils aient fait l'objet de mauvais traitements.

61. Par la même lettre, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des renseignements concernant les incidents qui auraient suivi la mort d'un lycéen, Massinissa Guermah, dans les locaux de la gendarmerie d'Ait-Douala en Kabylie le 18 avril 2001. Des forces antiémeutes auraient été dépêchées sur place et auraient reçu l'ordre de tirer à balles réelles sur les manifestants. Les incidents auraient fait plus d'une centaine de morts et plusieurs centaines de blessés, dont un grand nombre seraient handicapés à vie.

62. Le Rapporteur spécial a également informé le Gouvernement qu'il avait reçu des renseignements concernant les incidents qui auraient eu lieu lors de la marche du 14 juin 2001 à Alger. Les forces de l'ordre seraient intervenues avec force suite aux heurts entre les manifestants d'origine kabyle et des jeunes algérois. Les manifestants auraient reçu des coups de pied, de crosse et de matraque. Une dizaine de manifestants auraient été blessés lors de l'intervention des forces de l'ordre. Des centaines de personnes auraient par la suite été arrêtées et détenues, en particulier dans les locaux de la gendarmerie.

63. Finalement, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels une centaine de parents de personnes disparues auraient été violemment dispersées par les forces de l'ordre lors d'une manifestation pacifique à Constantine le 8 novembre 2001. Ces familles se seraient réunies entre 9 h 30 et 10 heures devant le bureau du gouverneur (wali) de Constantine. Les forces de sécurité leur auraient demandé de se disperser alors que de tels rassemblements ont lieu depuis plusieurs mois chaque jeudi. Quatre femmes auraient été en particulier frappées avec des bâtons. L'une d'elles, **Naima Saker**, aurait été traînée hors d'une cabine téléphonique d'où elle essayait d'appeler pour alerter des amis. De plus, les manifestants auraient été insultés et menacés. Durant le mois d'octobre 2001, les forces de l'ordre auraient à plusieurs reprises empêché les familles de se réunir afin de manifester pacifiquement pour demander aux autorités de faire la lumière sur la disparition de leurs parents. Dans des circonstances similaires, trois membres du Comité SOS-Disparus ont été interpellés le 14 mars 2002 lors de la dispersion violente de plusieurs dizaines de personnes, membres de familles de disparus, personnalités politiques et autres citoyens, qui s'apprêtaient à manifester à l'appel du Front des forces socialistes (FFS), à Alger. Des manifestants, dont des femmes, auraient été passés à tabac par les policiers.

Appels urgents

64. Le 25 janvier 2002, le Rapporteur spécial a envoyé un appel urgent en faveur de **Boubaker Kamas** qui aurait été arrêté à El Khroub, dans la province (wilaya) de

Constantine, par trois hommes habillés en civil se réclamant de la sécurité militaire, souvent aussi appelé Département du renseignement et de la sécurité, le 9 janvier 2002. Bien qu'il aurait dû être présenté devant une cour dans les 12 jours ayant suivi son arrestation, il n'a pas été revu depuis son arrestation.

65. Par une lettre datée du 12 février 2002, le Gouvernement a précisé qu'il avait été arrêté par la police judiciaire et présenté le 22 janvier 2002, après sa garde à vue, devant le procureur de la République près le tribunal de Skikda. Celui-ci avait ordonné l'ouverture d'une information judiciaire pour appartenance à une organisation terroriste et apologie du terrorisme. Ce même jour, le juge d'instruction avait demandé son placement en détention provisoire.

66. Le 8 février 2002, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Président-Rapporteur du Groupe de travail sur la détention arbitraire en faveur de **Hocine Cheikh**, un étudiant en relations internationales à l'université de Genève, qui aurait été détenu dans la cellule 3 B de la prison d'El Hamri, à Oran, en raison de son orientation sexuelle. Il aurait été arrêté chez lui à Oran par la police le 25 janvier 2002 sans mandat d'arrêt. Il n'aurait pas eu accès à un avocat, mais trois jours après son arrestation, aurait été présenté devant un magistrat et se serait vu inculqué de détournement de mineur, ainsi que d'incitation à la débauche.

67. Par une lettre datée du 1^{er} mars 2002, le Gouvernement a clarifié qu'il n'était pas poursuivi en justice pour son orientation sexuelle mais pour acte de pédophilie. Le 29 janvier 2002, il avait été présenté devant le procureur de la République près le tribunal d'Oran qui avait demandé l'ouverture d'une information judiciaire pour fausse déclaration et incitation de mineur à la débauche. Ce même jour, le juge d'instruction de la deuxième chambre avait ordonné son placement en détention provisoire. Le Gouvernement a indiqué que, depuis son placement en détention à l'établissement pénitentiaire d'Oran, Hocine Cheikh n'a manifesté aucune intention d'entamer une grève de la faim.

68. Le 9 avril 2002, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Président-Rapporteur du Groupe de travail sur la détention arbitraire en faveur de **Abdelkrim Khider** et **Fateh Ladada**, qui auraient été arrêtés à Dellys le 23 mars 2002. Ils auraient été transférés dans une base de la sécurité militaire à Ben Aknoun qui dépend du Département du renseignement et de la sécurité. Cependant, leur lieu de détention n'aurait pas été confirmé officiellement, de même que la raison de leur arrestation.

69. Le 29 avril 2002, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Président-Rapporteur du Groupe de travail sur la détention arbitraire en faveur de **Abdelkrim Khider** et **Fateh Ladada** (voir ci-dessus), qui continueraient à être détenus au secret. Le 11 avril, leurs familles auraient appris qu'ils étaient détenus à la prison de Serkaji à Alger. Des craintes ont été exprimées quant au fait que leur arrestation ait un lien avec le fait qu'ils ont fourni des rapports sur des violations des droits de l'homme à des organisations étrangères.

70. Par une lettre datée du 8 juillet 2002, le Gouvernement a informé le Rapporteur spécial que les deux hommes avaient été présentés le 30 mars 2002 devant le procureur de la République près le tribunal d'Alger Sidi-M'hamed, qui avait requis

l'ouverture d'une information judiciaire devant le juge de la deuxième chambre d'instruction. Ce dernier leur avait notifié qu'ils étaient inculpés d'appartenance à un groupe terroriste et d'apologie du terrorisme. Ils ont été placés en détention par ordonnance motivée du juge d'instruction. L'appel dont fit l'objet cette dernière a été rejeté par la cour d'Alger le 13 avril 2002.

71. Le 18 juillet 2002, le Rapporteur spécial a envoyé un appel urgent conjointement avec le Président-Rapporteur du Groupe de travail sur la détention arbitraire en faveur de **Mohammed Yahi**, qui aurait été arrêté le 25 juin à Lassouaf, quartier de Dellys, par des membres de la base de sécurité militaire locale, dépendant du Département du renseignement et de la sécurité. Il serait depuis lors détenu au secret à la base de sécurité militaire de Blida.

72. Le 30 septembre 2002, le Rapporteur spécial a envoyé un appel urgent au sujet de **Madani Abbassi**, président du Front islamique du salut (FIS), qui serait assigné à domicile depuis 1997. Son appartement serait gardé en permanence par les services de sécurité qui interdisent à toute personne de lui rendre visite, à l'exception de sa femme et de deux membres de sa proche famille. Il lui est également interdit de disposer de moyens de communication avec l'extérieur ainsi que de consulter un médecin de son choix. Son état de santé se serait détérioré de façon inquiétante. Il aurait été conduit aux urgences en septembre 2002 après qu'il aurait menacé d'entamer une grève de la faim s'il n'y était pas amené. Cependant, le diagnostic serait tenu secret et ne lui aurait pas été communiqué. Des craintes ont été exprimées quant à sa vie s'il ne recevait pas les soins médicaux appropriés à son état de santé.

73. Par une lettre datée du 4 novembre 2002, le Gouvernement a spécifié que, le 9 septembre 2002, il avait subi des examens médicaux à l'hôpital Mustapha Bacha, suite à son malaise le 7 septembre et la visite d'une équipe médicale chez lui le 8 septembre. Le 14 octobre, il a subi d'autres examens médicaux et un autre rendez-vous médical avait été fixé pour le 11 novembre 2002.

Suite donnée aux plaintes signalées dans des communications précédentes

74. Par une lettre datée du 15 novembre 2002, le Gouvernement a répondu aux cas envoyés par le Rapporteur spécial par une lettre datée du 19 août 2001 (voir E/CN.4/2002/76/Add.1, par. 33 et 34) concernant **Reda Benameur** et **Khaled Matari**. Le Gouvernement a indiqué qu'ils avaient été présentés le 15 octobre 2000 au procureur militaire de la République qui avait requis l'ouverture d'une information judiciaire pour les chefs d'inculpation d'appartenance à une organisation terroriste opérant à l'étranger et actes terroristes. Le juge d'instruction militaire les a inculpés et placés en détention provisoire. Cependant, ayant par la suite estimé que cette affaire n'était pas de la compétence de la juridiction militaire, le parquet militaire de Blida s'en est dessaisi de l'affaire et le dossier a été transmis au parquet de la République du tribunal de Birmandreis. Après avoir reçu notification de leur inculpation, ces deux personnes avaient été placées en détention provisoire par ordonnance du juge d'instruction.

75. Par une lettre datée du 4 janvier 2002, le Gouvernement a répondu à un appel urgent envoyé par le Rapporteur spécial le 26 octobre 2001 (ibid., par. 37) concernant **Nacer Hamani**. Le Gouvernement a noté que, après avoir informé le procureur de la

République, la police judiciaire l'avait mis en garde à vue dès son arrivée à Alger, soit le 1^{er} octobre 2001, et ce jusqu'au 27 octobre 2001. À cette date, il avait été présenté devant le procureur de la République près la cour d'Alger, qui avait ordonné sa remise en liberté.

Observations

76. The Special Rapporteur acknowledges the Government's responses. However, he notes the denial of most allegations on the basis of the absence of complaint. In view of the nature of the allegations brought to his attention, it is unreasonable to expect alleged victims to formally file any complaint. In that respect he would like to remind the Government of its obligation to thoroughly investigate all torture cases even in the absence of a formal complaint. Furthermore, the Special Rapporteur notes with concern that the Government did not extend to him an invitation to visit Algeria. He would like to recall that a request for such a mission was initially made in 1997.

Argentina

77. Por carta de fecha 2 de septiembre de 2002, el Relator Especial notificó al Gobierno que recibió información según la cual malos tratos, en particular descargas eléctricas, asfixias y amenazas de muerte, serían perpetrados de manera generalizada tanto en el ámbito de las investigaciones policiales como en las prisiones de algunas jurisdicciones. Por otro lado, no se daría una respuesta adecuada a esta problemática por parte del poder judicial y tampoco habría políticas institucionales para prevenir tanto la práctica de la tortura como las circunstancias que la favorecerían. El Procurador Penitenciario habría realizado distintas denuncias penales contra el Servicio Penitenciario Federal, sobre la base de relatos de malos tratos presentados por los propios internos. Pero existiría una denominada "cultura del golpe" por parte del personal penitenciario, en que los internos admitirían cualquier mecanismo represivo sin denunciarlo, y las denuncias por apremios ilegales no prosperarían a causa de la dificultad probatoria.

78. Muchas investigaciones judiciales frente a los hechos de brutalidad policial resultarían condescendientes y se omitiría deliberadamente impulsar este tipo de causas, que permanecerían estancadas sin que se adopte resolución alguna. Además, existiría una reiterada práctica por parte de los funcionarios judiciales de realizar una errónea calificación de los hechos asimilando el delito de torturas por el de apremios ilegales. De acuerdo con el Código Penal de la República Argentina, se diferenciaría el delito de tortura seguida de muerte, tortura y apremios ilegales, basando tal distinción en la intensidad del dolor producido. Para el caso de tortura corresponde prisión perpetua si la muerte se produce como resultado de los tormentos, de lo contrario, de 8 a 25 años de prisión y de 1 a 5 años si el hecho no llega a configurar el tipo penal de tortura pero sí el de apremios ilegales. Muchos serían los casos en que se resolvería aplicando la figura de apremios ilegales cuando el hecho merecería la calificación de tortura.

79. En la mayoría de las comisarías y prisiones de todo el país, y de acuerdo con lo establecido legalmente, existiría una situación de hacinamiento o de superpoblación carcelaria lo que pondría en peligro la vida y la salud de los detenidos.

80. Por la misma carta, el Relator Especial notificó que recibió información sobre los casos individuales siguientes:

81. **Moira Aquino** y **Sabrina Ocampo** habrían resultado heridas con balas de goma disparadas por la policía el 26 de mayo de 2002 en Buenos Aires tras un altercado entre dos patrulleros y una travestida y su acompañante. La Sra. Aquino habría resultado herida en la espalda y la sien y la Sra. Ocampo al costado de la boca. Habrían sido finalmente examinadas por un médico forense el 30 de mayo de 2002. Agentes de la policía federal habrían tratado de disuadirlas de presentar recurso de amparo.

82. **Sebastián Ruiz** habría sido detenido por agentes de la comisaría n.º 31 en General Roca (Río Negro) el 11 de noviembre de 2001. Habría sido fuertemente golpeado cuando estaba bajo custodia policial. Antes de ser puesto en libertad, habría sido amenazado de muerte. Una denuncia habría sido interpuesta a la Fiscalía n.º 3 y al Juzgado de turno n.º 2.

83. **Daniel Celesia** y otras tres personas habrían sido detenidos el 8 de noviembre de 2001 y conducidos a la comisaría de Billinghamurst, en el área de San Martín (Buenos Aires), donde unos agentes les habrían pedido dinero a cambio de no abrir un sumario en su contra. Daniel Celesia habría sido maniatado, golpeado y amenazado con ser sometido a torturas. Tras una investigación sobre los hechos, seis agentes involucrados habrían sido detenidos.

84. **Roberto Rojas** habría sido golpeado por un grupo de policías en la ciudad de Ushuaia el 3 de noviembre de 2001. Los policías, que también le habrían disparado, habrían declarado más tarde que habrían actuado de tal manera porque el Sr. Rojas estaba corriendo de manera sospechosa. Habría sido trasladado a un hospital. Su hermano habría intentado denunciar los hechos ante el procurador provincial pero la denuncia no habría sido aceptada.

85. **Carlos Fabián Ruiz** habría sido detenido por estado de embriaguez en la calle por agentes de la Comisaría n.º 3 de Trelew (Chubut), en noviembre de 2001. Los policías le habrían propinado patadas, sobre todo en la cabeza y en el ojo izquierdo. Una denuncia habría sido interpuesta ante el Juzgado de Instrucción n.º 3.

86. **F. A. Rodríguez**, un travestido, habría sido interceptado por la policía el 19 de octubre de 2001 en Buenos Aires. Un policía le habría tirado del cabello y agredido con gas lacrimógeno tras solicitarle su documento de identidad. Otros policías la habrían arrojado al suelo y pateado antes de llevarla a la Comisaría n.º 25, donde habría sido nuevamente pateada y golpeada, especialmente en la cara. Habría sido obligada a firmar una declaración, a pesar de no poder leerla debido al gas lacrimógeno y a los golpes. Habría sido puesta en libertad el día siguiente. Una denuncia habría sido interpuesta ante el Defensor del Pueblo y el Juzgado de Instrucción n.º 27, el 25 de octubre de 2001.

87. **Un grupo de niños Mapuche** con edades comprendidas entre los 6 y los 17 años habrían sido detenidos y golpeados por la policía el 12 de octubre de 2001 en Neuquén. Los niños habrían participado en una protesta pública y habrían hecho

pintadas en las paredes de la compañía petrolera Repsol-Ypf. La policía habría intentado dispersar a los manifestantes con la detención de algunos de ellos y golpeando a los que querían impedir las detenciones. **Kvrvf**, de 16 años, habría sido llevado a la comisaría de policía donde habría sido mantenido incomunicado durante dos días. Durante su traslado a la comisaría, habría sido tirado del pelo y golpeado.

88. **Oscar Ariel López** habría recibido una paliza en los cuarteles generales de la policía de Contraventores (Mendoza), el 16 de junio de 2001. Habría sido detenido nuevamente a mitades del mes de septiembre en Maipú (Mendoza), y llevado a la comisaría n.º 10, acusado de robo. Le habrían obligado a desnudarse y a orinar sobre su ropa. Seguidamente le habrían forzado a ponerse de nuevo la misma ropa mojada. Debido al trato supuestamente recibido, habría presentado cortes en la cabeza y moratones en todo el cuerpo. Una denuncia por apremios ilegales contra miembros de esta comisaría habría sido interpuesta al Juzgado de Instrucción n.º 4. En octubre del mismo año, otra denuncia habría sido interpuesta ante la Inspección General de Seguridad, en el departamento de Godoy Cruz, por amenazas proferidas por la policía contra la familia López.

89. **Mario Vargas** habría sido detenido el 30 de junio de 2001 en el barrio de San Martín, Mendoza, en el curso de una incursión policial durante la cual varios vecinos habrían sido golpeados por la policía. El Sr. Vargas habría sido detenido con otras 18 personas en una celda sin techo y con rejas electrificadas de la Comisaría n.º 6. De allí habrían sido transferidos a los cuarteles generales de la policía de Contraventores donde habrían sido esposados y amenazados. El Sr. Vargas habría sido puesto en libertad al cabo de ocho horas.

90. La gendarmería habría hecho un uso excesivo de la fuerza el 17 de junio de 2001, cuando habría procedido a despejar de forma violenta un grupo de trabajadores desocupados que habría decidido cortar la Ruta 34, a la altura del pueblo de General Mosconi (Salta), como medida de protesta en reclamo del mantenimiento y aumento de los subsidios que recibían. El enfrentamiento entre la gendarmería y los manifestantes habría culminado con 2 muertos, 12 civiles heridos, 27 detenidos y numerosas órdenes de captura contra los principales líderes de la protesta. Los detenidos habrían sido amenazados y golpeados en el momento de la detención. Algunos de ellos también habrían sido sometidos a descargas eléctricas. Certificados médicos confirmarían dichas alegaciones. Uno de los manifestantes, **Iván Dorado**, de 17 años, correría riesgo de quedar paralítico por el tiro que recibió. **Edgar Cabrera**, un discapacitado mental de 27 años, habría sido ahorcado con un lazo, bajado por la fuerza del caballo que montaba y pateado por gendarmes. Le habrían roto las costillas y le habrían cortado una oreja. Todos los detenidos habrían sido posteriormente puestos en libertad.

91. **Mariano Savay, Fernando Esteche, Omar Couyeme, Ramón Burgos, Jorge Campos, Miguel Ángel Quiroga, Joaquín Campos, Jorge Segovia, Alberto Varela, Diego Rebaja, Héctor de la Cuadra, Federico Campos, Marcelo Ruiz y María Alejandra Escalada** (m) habrían sido detenidos el 8 de junio de 2001 en la ciudad de La Plata durante una huelga general. Habrían sido transferidos a la Comisaría n.º 1. La Sra. Escalada habría sido transferida a la Comisaría de Mujeres de La Plata. Todos habrían sido mantenidos de rodillas durante cuatro horas, habrían sido golpeados y no se les habría dado comida o sábanas.

92. **Lucas Mauricio Baigorria Anzorena** habría sido detenido por la policía en un bar en Uspallata (Mendoza), el 19 de mayo de 2001. Habría sido llevado a la Comisaría n.º 23, donde unos policías le habrían propinado golpes. De acuerdo con un informe médico, dichos tratos le habrían causado una lesión en una costilla. Los policías habrían mantenido que el detenido se había herido solo.

93. **Los detenidos de la Cárcel de máxima seguridad de Melchor Romero** (Buenos Aires) serían frecuentemente sometidos a palizas por parte de los funcionarios de este centro. Dichos apaleamientos tendrían lugar en la enfermería, donde no operaría el circuito cerrado de televisión. Los detenidos serían forzados a desnudarse y, maniatados con las manos detrás en la espalda, serían sometidos a patadas y golpes de palos. Serían sometidos a descargas eléctricas tras ser objeto del método conocido como el “submarino” (consistente en sumergir la cabeza de los detenidos en agua fría). Asimismo, serían golpeados con porras de goma en la planta de los pies. Los abogados de los presos tendrían dificultades para tener acceso a ellos. En diciembre de 2001, numerosos detenidos habrían empezado una huelga de hambre para protestar contra dichas condiciones de detención. En menos de diez días, la división n.º 3 de la Corte de San Isidro habría recibido 15 denuncias de malos tratos en esta cárcel. En julio de 2001, la madre de **Jorge Oscar Mareco**, un detenido en la unidad 29 de la cárcel, habría interpuesto una denuncia ante la Fiscalía General Departamental, según la cual su hijo habría sido repetidamente sujeto a golpizas y habría sido encerrado en una celda de castigo. En el pasado, el Sr. Mareco ya habría interpuesto otras denuncias por malos tratos contra funcionarios de la cárcel. Otro preso que habría presenciado uno de los apaleamientos al que habría sido sometido se habría ahorcado en abril de 2001.

94. **Detenidos en la Seccional Matanza 5ª “González Catán”** se encontrarían en situación de hacinamiento, debido a que la capacidad de alojamiento de esta dependencia policial sería de 20 personas y se encontrarían 52. Según informes, se habría interpuesto una acción de *habeas corpus* en favor de la totalidad de los detenidos alojados en dicha Seccional. En el mes de abril, se habría formulado una nueva petición de *habeas corpus* respecto de la totalidad de los detenidos alojados en esta misma dependencia policial. Sólo la primera solicitud habría sido aceptada. Un juez habría ordenado el alojamiento de al menos 20 de los detenidos en unidades carcelarias del Servicio Penitenciario Bonaerense.

95. **Los presos del pabellón 2 del módulo I del Complejo Penitenciario Federal II de Marcos Paz** habrían sido atacados por 20 agentes de la Sección Requisita el 24 de enero de 2001. Los agentes, equipados con cascos, escudos, palos y escopetas habrían empezado con golpear a todos los internos que encontraban a su paso y arrinconarlos a todos entre las celdas 12 y 14. Luego les habrían dejado salir a uno por vez y les habrían pegado al pasar. Los 41 internos de ese pabellón, al ser entrevistados en forma individual por dos asesores letrados de la Procuración Penitenciaria, habrían denunciado estos hechos. La denuncia habría sido tramitada ante el Juzgado Federal n.º 1 de Morón.

96. **Benedito**, un niño de 12 años, habría sido detenido en Bernardo de Irigoyen (Misiones), el día 24 de enero de 2000 por efectivos de la policía provincial, quienes lo habrían amenazado con un cuchillo en el estómago, un arma en la boca y

otra en la nuca. Este trato se habría repetido varias veces. Posteriormente, habría sido llevado hasta las cercanías de su casa donde habría sido esposado a un árbol. Finalmente, habría sido liberado en una zona de montes al tiempo que disparaban al aire con sus armas. El padre del niño habría realizado la correspondiente denuncia.

97. El 14 de febrero de 2000 personal de Infantería habría ingresado a la seccional de la **Comisaría n.º 1 de San Isidro** a fin de realizar una requisita, ocasión en la que los detenidos habrían tenido que permanecer con los brazos en la nuca durante una hora y media, desnudos. A aquellos que por cansancio bajaban los brazos les habrían propinado golpes con palos. Las pertenencias y alimentos de los detenidos habrían sido destruidos. Asimismo, el lugar se encontraría superpoblado, sin ventilación ni mobiliario, por lo que los detenidos deberían comer en el suelo. Tampoco se les suministraría elementos de limpieza ni alimentos. Los detenidos lesionados habrían sido **Osvaldo Cerviño, Rafael Giménez, Matías Cerviño, Pablo Tolava, Eduardo Galván, Juan Carlos Sánchez, Ramón Leiva, Damián Arroyo y Martín Ramirez**. Estos hechos habrían sido denunciados por la titular de la Defensoría de Pobres y Ausentes n.º. 4 de San Isidro, y la investigación estaría a cargo de la Unidad Funcional de Investigaciones n.º 6 del Departamento Judicial de San Isidro.

98. **Detenidos en la Comisaría de Los Pinos, Seccional Matanza 22^a**, se encontrarían en condiciones de hacinamiento. Las condiciones de higiene y orden serían deplorables. Los calabozos no contarían con ventilación adecuada ni suficiente, las instalaciones eléctricas resultarían precarias y los sanitarios exigüos para la cantidad de personas alojadas. Según la información recibida, dos detenidos habrían estado cohabitando en los llamados “buzones” durante 15 días. El “buzón” sería una celda que cuenta con una puerta de chapa ciega y un pasaplatos que, a su vez, funciona como única ventilación a un pasillo exterior que no posee ventilación natural. El 16 de julio de 2001, se habría interpuesto acción de *habeas corpus* en favor de los 26 alojados en la Comisaría de Los Pinos en virtud de que se encontrarían agravadas las condiciones de detención. Un juez habría hecho lugar a la acción y se habrían ordenado una serie de medidas para el mejoramiento de las condiciones edilicias y habitacionales. Otra abogada habría formulado una denuncia sobre la existencia de un agravamiento ilegítimo de las condiciones de los detenidos alojados en la misma Comisaría de Los Pinos, en la cual narraría las condiciones y situación de los calabozos existentes en ella, condiciones de maltrato, hacinamiento y deficiente alimentación. En esta ocasión, el juez no habría hecho lugar al pedido de *habeas corpus*.

99. El 19 de abril de 2000, una represión policial contra trabajadores agrupados frente al Congreso Nacional en Buenos Aires en protesta por la reforma de las leyes laborales, habría terminado con 50 personas heridas, algunas de ellas de bala, otras golpeadas con las culatas de las armas. **Carlos Hernández**, uno de los sindicalistas que habría participado en las manifestaciones, habría sido herido por un policía armado con una navaja. Catorce integrantes de la Guardia de Infantería de la Policía Federal habrían sido procesados por los delitos de apremios ilegales y lesiones.

100. **Treinta y seis presos del Pabellón 7 de la cárcel de encausados ubicada en el Barrio Güemes de la Ciudad de Córdoba** habrían recibido una golpiza por parte de agentes del Servicio Penitenciario de Córdoba el 26 de julio de 2000, mientras eran

trasladados a una nueva cárcel que se construyó en la localidad de Bouwer (Córdoba). Los reclusos habrían sido encadenados y golpeados con palos en ambos centros penitenciarios. De acuerdo con la información recibida, durante un control médico se habría determinado que 13 de los reclusos “presentaban golpes”. Las familias de los presos habrían recibido amenazas de muerte por parte del personal del Servicio para que los reclusos no identificaran a los guardias. Veintisiete funcionarios de las cárceles habrían sido imputados por la Fiscalía de Instrucción n.º 2 de Córdoba, y su detención habría sido solicitada a un juez.

101. **Sergio Martín Almada**, un detenido cuyas causas de imputación estarían en trámite ante el Juzgado de Transición n.º 1 y ante la Cámara de Apelación y Garantías del Departamento Judicial de La Matanza, habría recibido, en el mes de enero de 2001, un disparo de escopeta en las piernas y habría sido golpeado por personal del Servicio penitenciario de la Unidad Carcelaria n.º 29 en el mes de enero. El 12 de marzo le habrían aplicado gas paralizante y le habrían propinado patadas y golpes de puño. El jefe del penal le habría dado varios puntazos de navaja en la pierna. También habría sido golpeado en la planta de los pies con palos de goma.

102. **Gabriel Alejandro Rhein** habría sido llevado a una dependencia policial el 23 de junio de 2000, donde el oficial principal le habría colocado una bolsa en la cabeza y golpeado en la cara. El 24 de junio, habría denunciado los hechos ante el titular de la Unidad Funcional de Investigaciones n.º 5 de La Matanza.

103. **José Adrián Maidana**, menor de edad, habría sido interceptado el 24 de febrero de 2000, lo habrían obligado a subir mediante violencia física y amenazas una camioneta en la ciudad de Villa Ballester (San Martín). En presencia de un agente de la policía de la provincia de Buenos Aires habría sido esposado, su cabeza habría sido cubierta con una bolsa de nylon y habría sido amenazado de muerte. El menor habría sido seguidamente entregado a la comisaría de Villa Ballester con visibles lesiones físicas. El 10 de septiembre de 2001, el agente de policía involucrado y dos personas más habrían sido condenados a tres años de prisión por el Tribunal en lo Criminal n.º 4 de San Martín. El hecho habría sido calificado por los jueces como privación ilegal de la libertad agravada y no como tortura, como habría solicitado el fiscal, entendiéndose que las lesiones provocadas fueron de carácter leve. Con relación a la utilización de una bolsa de nylon para producir asfixia temporal, el tribunal habría entendido que, si bien la misma puede constituir un medio para poner en peligro la vida, tal circunstancia no habría sido acreditada, ni tampoco se habría constatado en el caso las consecuencias que produce la utilización del “bolseado”, a las que habría hecho referencia el testimonio médico.

104. **Germán Gustavo Ramos** habría sido aprehendido en enero de 2001 por efectivos de la policía de la seccional de González Catán. Éstos le habrían colocado una bolsa en la cabeza, provocándole asfixia. El detenido habría denunciado dicho trato en el momento de su declaración indagatoria ante el titular de la Unidad Funcional de Investigaciones n.º 5 de La Matanza.

105. **Diecisiete detenidos**, entre los cuales tres condenados y tres enfermos de SIDA, alojados en la **Comisaría 29ª de Villa Gobernador Gálvez** (Santa Fe), habrían sido víctimas de apremios ilegales el 22 de enero de 2000, al finalizar el horario de visitas. Efectivos de las seccionales 25ª y 26ª y del Comando

Radioeléctrico de Villa Gobernador Gálvez y efectivos del Cuerpo Guardia de Infantería habrían golpeado con bastones a los presos porque éstos habrían piropeado a una oficial. También les habrían tirado gases lacrimógenos y balas de goma. Tras la presión de los familiares, un juez de instrucción habría ordenado que los internos fueran revisados por un médico forense para constatar las lesiones que sufrían. Dos familiares de los presos habrían sido amenazados de muerte.

106. Por esta misma carta, el Relator Especial notificó que recibió más información sobre el caso de **Nadia Echazú**, un travestido a propósito de quien el Relator Especial transmitió una comunicación el 10 de agosto de 2001 a la que el Gobierno habría respondido seguidamente (E/CN.4/2002/76/Add.1, párrs. 58 y 59), habría sido atacada con gases, golpeada y detenida el 7 de octubre de 2001 por agentes de la Comisaría n.º 25 de Buenos Aires, en el curso de una manifestación a favor de la prevención contra el SIDA. En la comisaría habría sido amenazada con una pistola. Una denuncia habría sido interpuesta ante el Defensor del Pueblo.

107. Por carta de fecha 2 de septiembre de 2002 enviada con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, el Relator Especial notificó al Gobierno que recibió información sobre los casos siguientes. El Gobierno contestó a tres de ellos por carta de fecha 18 de noviembre de 2002.

108. **Walter Daniel Benítez** habría sido repetidamente golpeado por funcionarios del Complejo Penitenciario n.º 1 de Ezeiza después de haber solicitado su traslado a otra prisión. Su abogado habría presentado una solicitud de *habeas corpus* a la Corte federal de Lomas de Zamora, tras la que se habría ordenado un examen médico. El 7 de noviembre de 2001 habría sido encontrado ahorcado en el mismo centro. Una investigación habría sido iniciada en relación con su muerte.

109. **Daniel Chocobar**, detenido en el penal de General Alvear (Buenos Aires), habría denunciado que personal del Servicio Penitenciario Bonaerense aplicaba tormentos físicos y psicológicos a los reclusos de la unidad. Éstos serían sometidos a duchas con agua fría en la madrugada, baños violentos aplicados con mangueras y golpes. En los dos días anteriores a su presentación ante la justicia, en junio de 2001, habría sido mantenido encerrado, sólo se le habría permitido salir para ducharse y se le habría impedido dormir más de dos horas seguidas. Los testimonios de otros 30 presidiarios de la unidad habrían resultado concordantes con las alegaciones del Sr. Chocobar. Uno de los testigos, **Juan Ramón González Sosa**, habría muerto en noviembre de 2001 tras haber sido sometido a quemaduras en una celda de castigo de la unidad 28 de la prisión. El Gobierno informó de que la denuncia presentada por éste fue planteada en el marco de una acción de *habeas corpus* tramitada ante la Cámara de Apelación y Garantía en lo Penal del Departamento Judicial de San Isidro. Consecuentemente, la Secretaría de Derechos Humanos del Ministerio de Justicia de la Nación solicitó copia de lo actuado al tribunal interviniente, estando en estos momentos a la espera de respuesta. Igualmente, se destacó que el Servicio Penitenciario Bonaerense no recibió comunicación alguna que informara del inicio de instrucción penal a los efectos de investigar el hecho referido, motivo por el cual no se iniciaron actuaciones sumariales administrativas.

110. **Julio Daniel Aguirre**, menor de edad, habría sido detenido y golpeado el 8 de enero de 2001 en la provincia de La Pampa por personal policial de la Seccional

Primera de la ciudad de Santa Rosa, de la Brigada de Investigaciones y del Comando Radioeléctrico. Sus padres no habrían sido autorizados a verle hasta el día siguiente. Habría sido seguidamente trasladado a la Seccional Quinta. El menor habría comunicado a sus padres que en la Seccional Primera lo habían pateado, golpeado con machetes de goma y le habían tirado un polvo blanco en los ojos. Tendría señales de golpes en todo el cuerpo, especialmente en la zona del abdomen, de las costillas y en la espalda. El 16 de enero habría sido trasladado a un centro asistencial, donde sus padres no habrían podido visitarle, por encontrarse el menor castigado. El 21 de enero, el menor habría manifestado mareos, dolor de cabeza y fiebre y habría vomitado sangre, pero los operadores del centro asistencial no le habrían prestado la atención necesaria. El 3 de marzo de 2001 habría sido finalmente trasladado al Hospital Lucio Molas, donde los médicos habrían diagnosticado la posibilidad de un virus infeccioso. Posteriormente y tras la solicitud de los padres, habría sido trasladado al Hospital Eva Perón de Buenos Aires, donde habría llegado en coma. Sin que los padres hubieran dispuesto nada, el 23 de marzo de 2001 se habría ordenado su traslado a la ciudad Santa Rosa (La Pampa). El menor habría fallecido en el trayecto. La causa judicial iniciada a raíz de una denuncia presentada por los padres habría sido tramitada ante el Juzgado de Instrucción en lo Criminal y Correccional n.º 1, a cargo del mismo juez que ordenó la detención de la víctima.

111. El Gobierno informó de que del resultado de la investigación surgió que su muerte no fue consecuencia de torturas, que el joven compareció ante el juez competente 40 horas después de su detención, sin presentar evidencia alguna de tortura y que ni él ni ninguno de los demás imputados denunciaron ante el juez haber sido víctimas de tortura.

112. **Juan Carlos “Chicharra” Sánchez** habría sido detenido en la calle por policías de la División Delitos y Leyes Especiales (ex Brigada de Investigaciones) de la Provincia de Corrientes, el 10 de enero de 2000, y llevado sin orden de detención a la sede de la ex Brigada. Este mismo día los vecinos de la ex Brigada habrían oído gritos provenientes de allí. El Sr. Sánchez no habría vuelto a aparecer desde entonces. Sólo se habrían encontrado las esposas que le pusieron al detenerlo, dobladas y manchadas con sangre. Un Juez de Instrucción habría ordenado la detención y el procesamiento de diez policías por “privación ilegítima de la libertad, seguida de muerte”. Sin embargo, la Cámara Segunda del Crimen de Corrientes habría revocado en forma definitiva ese fallo el 29 de noviembre de 2000, dictaminado la libertad de los imputados.

113. El Gobierno confirmó que esta muerte dio lugar al inicio de una instrucción penal preparatoria tramitada ante la Unidad Funcional de Instrucción n.º 1 del Departamento Judicial de La Plata con intervención del Juzgado de Garantías n.º 2 del mismo Departamento Judicial. Se solicitó copia de la causa a la Unidad Funcional de Instrucción Interviniente, estándose a la espera de respuesta. Asimismo, el Servicio Penitenciario de la Provincia de Buenos Aires inició actuaciones sumariales administrativas.

114. Por carta de fecha 11 de septiembre de 2002 enviada con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, el Relator Especial notificó al Gobierno que recibió información sobre **María Dolores Gómez**, defensora oficial de la provincia de Buenos Aires, quien

habría sido amenazada y atacada debido a las denuncias que habría efectuado sobre las condiciones en que viven los presos de las cárceles de la provincia y los tratos que supuestamente reciben por parte del personal penitenciario. El 14 de mayo de 2001, la Sra. Gómez habría recibido una llamada de una persona que se encuentra detenida en la cárcel de Rawson (Unidad 6), quien le habría advertido que el jefe de la Unidad 29 y el de Sierra Chica estaban planeado un supuesto asalto contra ella. La Sra. Gómez habría puesto estos hechos en conocimiento de la Fiscalía y la causa habría sido remitida a la Unidad Funcional n.º 2 y al Juzgado de Garantías, sin que ninguna medida relevante que permita aclarar estos hechos hubiera sido adoptada. El 2 de junio de 2001 la prensa habría difundido información relativa a la denuncia efectuada por una persona que se encontraba detenida en la cárcel Melchor Romero en la cual habría señalado que un jefe del Servicio Penitenciario Bonaerense le habría propuesto organizar un atentado contra la vida de un familiar de la Sra. Gómez. El fiscal a cargo de la investigación de dicha denuncia se habría declarado incompetente, cuestión que habría paralizado la investigación. El 27 de agosto de 2001, la Comisión Interamericana de Derechos Humanos habría solicitado al Estado argentino la adopción de medidas cautelares para proteger su vida e integridad personal. Sin embargo, no obstante la recomendación de la Comisión, la investigación se encontraría inmovilizada.

115. Por carta de fecha 4 de octubre de 2002, el Gobierno aseguró que se han adoptado todas las medidas de investigación necesarias. El Gobierno también señaló que existen dudas sobre la veracidad de la existencia del riesgo denunciado y que los temores expresados por esta persona no encuentran respaldo en ningún hecho materialmente probado. Sin perjuicio de ello, la seguridad personal de la Sra. Gómez se encuentra cubierta por la guardia provista por la Gendarmería Nacional. En relación con la aparición de testimonios que indicarían la existencia de un plan en su contra, el Gobierno indicó que éstos deben ser tomados en cuenta en el contexto de la masiva cobertura periodística que se ha realizado sobre este caso.

116. Por carta de fecha 3 de octubre de 2002 enviada con el Relator Especial sobre la situación de los derechos humanos y las libertades fundamentales de los indígenas, el Relator Especial notificó al Gobierno que recibió información según la cual un ataque habría sido perpetrado la noche del 16 de agosto de 2002 por la Policía de la provincia de Formosa contra miembros del pueblo indígena Toba-Qom, integrantes de la Comunidad Nam Qom, del Lote 68 de la ciudad de Formosa, como represalias al homicidio del suboficial Juan de la Cruz Barrios. Entre las supuestas víctimas se encontrarían niños, mujeres –algunas de ellas embarazadas– y hombres de distintas edades que habrían sido amenazados, insultados, sometidos a tratos vejatorios, golpizas y agresiones sexuales. Los familiares de las personas sospechadas de haber cometido el homicidio habrían sido las más molestadas. Una denuncia contra la Policía de la provincia de Formosa habría sido interpuesta ante la fiscalía por algunas de las supuestas víctimas. Sin embargo, algunas de ellas habrían preferido mantenerse en el anonimato por miedo a nuevas represalias. El 12 de septiembre de 2002, el Relator Especial envió un llamamiento en relación con estos incidentes.

117. Por esta misma carta y en relación con estas alegaciones, el Relator Especial notificó al Gobierno que recibió información sobre los casos siguientes:

118. **Ricardo López** habría sido esposado, puesto boca abajo y golpeado en presencia de sus familiares el 16 de agosto de 2002. Seguidamente habría sido obligado a subir en una camioneta donde habría sido nuevamente y repetidamente golpeado, en particular en la cara, e interrogado delante de su hermana de 15 años **Lisa López** y su hermano **Santiago López**, de 10 años. Lisa López también habría sido golpeada por policías varones. Los tres hermanos habrían sido trasladados a la comisaría del Barrio Eva Perón, donde habrían sido separados. En la comisaría Lisa López habría sido agredida sexualmente. Desde entonces la menor sufriría severas crisis de pánico y un bloque emocional que le impediría manifestarse. En la comisaría, Ricardo López habría sido sometido a una paliza, a amenazas e insultos. Durante su detención, no se le habría proporcionado alimentos y el uso del baño no le habría sido permitido. Habría sido obligado a permanecer en situaciones incómodas durante períodos prolongados y a hacer flexiones. Más tarde habría sido trasladado a una comisaría situada en Mojón de Fierro donde habría recibido un trato similar. A pesar de que sus lesiones serían bien visibles, cuando habría sido examinado por un médico forense en presencia de la policía, el médico no las habría registrado. Habría sido puesto en libertad el día siguiente.

119. **Mariela Haydee López** habría sido detenida al atardecer del 16 de agosto de 2002 por cinco policías vestidos de civil que no se habrían identificado. Habría sido obligada a subir a una camioneta policial junto con sus hermanos Ricardo, Lisa y Santiago (véase el caso anterior) y conducida con ellos a la comisaría del Barrio Eva Perón. Allí habría sido separada de sus hermanos, sujeta de los cabellos y abofeteada por cinco policías que la habrían amenazado con quitarle su bebé y encarcelarla.

120. **Bonita Ocampo** habría sido detenida junto con su marido el 17 de agosto de 2002. Sus dos hijas, de seis y tres años, así como su bebé de tres meses habrían sido de esta manera abandonados en el domicilio familiar durante la detención de sus padres. El padre de Bonita Ocampo, **Mauricio Ocampo**, un anciano de 74 años, también habría sido detenido. En la subcomisaría del barrio de Nam Qom, habría sido obligado a desnudarse y a permanecer de pie contra una pared delante de todos los otros detenidos durante dos horas.

121. **Omar Torales** habría sido detenido el 16 de agosto de 2002 por agentes de la policía en el Barrio Nam Qom y conducido a la comisaría del Barrio Eva Perón, donde habría sido interrogado bajo la amenaza de romperle un dedo. Habría sido empujado y obligado a tirarse al suelo boca abajo con las manos atadas en la espalda. Durante los interrogatorios habría sido golpeado, habría recibido patadas en los riñones y en la espalda y obligado a hacer “el salto de rana” con las manos en la cabeza. Los policías le habrían cortado el pelo con un cuchillo contra su voluntad mientras se burlaban de él. No se le habría proporcionado alimentos ni agua hasta la tarde del 17 de agosto. Como resultado de los golpes recibidos, habría tenido dificultades para hablar y para orinar. Más tarde habría sido trasladado a la Comisaría de Mojón de Fierro donde un policía no habría dejado que la médica interviniente hiciera un informe sobre las lesiones que supuestamente presentaba. Habría sido puesto en libertad ese mismo día.

122. **Diosnel Torales** habría sido detenido por la policía el 16 de agosto de 2002. Habría sido sumergido por la fuerza en un pozo en presencia de su esposa.

Llamamientos urgentes

123. El 12 de septiembre de 2002, el Relator Especial envió un llamamiento urgente sobre la situación de la **comunidad indígena de Toba Nam Qom**, en la provincia de Formosa. El 16 de agosto de 2002, más de 100 agentes de la policía provincial, la mayoría de civil, con armas de fuego y sin exhibir orden judicial, habrían irrumpido en los domicilios de unos miembros de la comunidad indígena Toba Nam Qom de Formosa, más conocida como Lote 68. Los policías habrían sacado a unos indígenas de sus domicilios y les habrían llevado esposados a la Comisaría Especial de Asuntos Rurales del barrio Eva Perón, donde les habrían interrogado sobre un grupo de aborígenes acusados de participar en un tiroteo a unos 20 kilómetros de Formosa en el cual un policía habría muerto y otro habría sido herido. Algunos de los detenidos habrían sido encapuchados con una bolsa de plástico que dificultaba su respiración mientras les interrogaban, otros habrían sido golpeados de tal forma que uno de ellos tendría serias lesiones en el tímpano y otros tendrían hematomas en el rostro y caminarían con dificultad. Los policías también habrían amenazado de muerte a una mujer de la comunidad. Ocho de los detenidos habrían sido acusados de homicidio y resistencia a la autoridad y seguirían bajo custodia policial cuando el Relator Especial envió este llamamiento.

124. El 12 de noviembre de 2002, el Relator Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias en relación con **Juan David Enríquez**, quien desde 1998 sufriría por parte de la policía de la provincia de Buenos Aires –específicamente personal policial de la comisaría Tercera de Ezeiza y seccional Primera de Ezeiza– constantes y permanentes hostigamientos, persecuciones, detenciones arbitrarias, golpes, abusos y amenazas de muerte. A partir de agosto de 2002, funcionarios de la policía lo habrían repetidamente insultado y amenazado en proximidad de su casa. Se expresaron temores de que dichos acontecimientos estarían relacionados con las denuncias que Juan David Enríquez, sus familiares y abogados habrían presentado ante distintas dependencias judiciales contra miembros de estos destacamentos policiales.

125. Por carta de fecha 29 de noviembre de 2002, el Gobierno informó que el 19 de septiembre de 2002 la Oficina de Control de corrupción y Abuso Funcional Auditoría de Asuntos Internos del Ministerio de Seguridad de la provincia de Buenos Aires inició una investigación sumarial ante la posible comisión de falta disciplinaria. El Gobierno informó igualmente de que de acuerdo con los resultados de esta investigación y la determinación de la responsabilidad penal se podría proceder a la exoneración del personal policial involucrado.

Seguimiento de las comunicaciones transmitidas previamente

126. Por carta de 28 de diciembre de 2001, el Gobierno respondió al llamamiento urgente enviado el 26 de julio de 2000 en relación a **Vanesa Lorena Ledesma** (cuyo nombre legal es Miguel Ángel Ledesma) y **Vanesa Piedrabuena** (E/CN.4/2001/66, párr. 48) y sobre el cual el Gobierno ya había proporcionado información por cartas de 22 y 28 agosto de 2000 (ibíd., párr. 49). En relación con el caso de la primera, el Gobierno indicó que nueve agentes fueron imputados por el delito de vejámenes y

lesiones, y que a requerimiento de la Fiscalía interviniente, el Juzgado de Control n.º 3 dictó el sobreseimiento total en octubre de 2000. El Gobierno indicó igualmente que se agotaron las instancias procesales tras motivadas resoluciones y no fueron cuestionadas por recurso alguno. En relación con el caso de Vanesa Piedrabuena, el Gobierno informó de que el caso todavía se encuentra en etapa investigativa y se han iniciado actuaciones administrativas.

Armenia

127. By letter dated 23 September 2002, the Special Rapporteur advised the Government that he had received information on the following individual cases, to which the Government responded by letter dated 21 November 2002.

128. **Karen Asloian** was reportedly ill-treated and threatened in pre-trial detention at Stepanakert military police station in February 1999, reportedly in an attempt to force him to confess to a murder, as well as in the custody of the military police in Yerevan, where he was reportedly transferred on 16 February and kept for seven months without an official warrant. In Yerevan, he was reportedly beaten, including by being whipped with thin twigs on the soles of his feet to the point of losing consciousness, reportedly in the presence of a senior official of the criminal department of the military police. Fellow soldiers of Karen Asloian reportedly stated at the trial at Lori Regional Court in December 1999 that they had given false testimony during the pre-trial detention stage, under the order of the investigator of the military procuracy. The soldiers had reportedly been beaten and otherwise ill-treated, and threatened with arrest by the military police, both in Stepanakert and in Yerevan. Karen Asloian was said to be held at the strict regime colony of the town of Artik. He was believed to be in a poor state of health. On 21 February 2002, his family reportedly lodged a second complaint with the Presidential Human Rights Commission urging them to investigate the torture allegations.

129. The Government informed the Special Rapporteur that on 8 February 2001, the Court of Cassation concluded that his rights had not been violated. Furthermore, on 17 July 2001, a Commission set up by order of the Procurator General reviewed the criminal case involving the alleged victim. In its report to the Human Rights Commission of the President's Office, it concluded that neither during the proceedings nor during the court hearings had any act of violence been committed against him and that no violations of substantive or procedural rules had occurred.

130. **Vaghan Ghukasian**, a freelance journalist, was reportedly summoned to the Ministry of the Interior and severely beaten by the head of the criminal investigation department and another officer on 6 June 2000, allegedly in retaliation for a paper he had written which was critical of the head of the criminal investigation department and of the investigation into the October 1999 shootings at the parliament. On 9 June 2000, he reportedly went to the Polyclinic 19 in Yerevan where abrasions and bruises on his chest, right hand and forehead were diagnosed.

131. The Government indicated that on 15 June 2000, the Office of the Military Procurator had decided not to institute criminal proceedings in the absence of an act constituting an offence. On 30 June 2001, the alleged victim provided the Office of the Military Procurator with additional information concerning the treatment he was

reportedly subjected to by members of the Central Criminal Investigation Department of the Ministry of Internal Affairs. However, according to the Government, a forensic examination conducted on 6 August 2001 found that it was not possible to establish whether his body bore any injuries. The Government added that on 30 September 2001, the case materials had been forwarded to the Procurator's Office of Tsentr and Nork-Marash districts. The latter subsequently decided not to institute criminal proceedings on the grounds that the actions of members of the Central Criminal Investigation Department did not constitute an offence.

132. By the same letter, the Special Rapporteur advised the Government that he had received follow-up information regarding **Nairi Unanian**, a former journalist, and his brother **Karen Unanian** (see E/CN.4/2002/76/Add.1, para. 63). Nairi Unanian was allegedly beaten with rubber batons. In May 2000, Nairi and Karen Unanian were said to have written to the President withdrawing all their statements against Aleksan Arutiunian, Arutiun Arutiunian (ibid., para. 64), Nairi Badalian, and Musheg Movsisian (ibid., para. 65) on the grounds that they had been extracted under duress. While giving testimony during the trial on 17 April 2001, Nairi Unanian repeated his allegations that he was tortured during the pre-trial investigation and was forced to make statements against a number of people allegedly involved in the October 1999 shootings. A formal statement he had made on 8 June 2000 describing the ill-treatment during the pre-trial investigation had reportedly not been included in the material before the court. During the court hearing the day after, the prosecution reportedly submitted to the court Nairi Unanian's formal statement of 8 June. The prosecution reportedly explained that on 1 June 2000, Nairi Unanian had filed a complaint regarding the method of investigation, in response to which an intradepartmental investigation was opened. The investigation reportedly concluded on 30 June with a decision not to initiate criminal proceedings for lack of sufficient evidence.

133. The Government informed the Special Rapporteur that Nairi Unanian had not filed a complaint against any specific person and that criminal proceedings were still underway in the court of first instance of Tsentr and Nork-Marash districts in the city of Yerevan at the time of writing. It added that the court will assess the statements made, including the allegations of use of violence.

Follow-up to previously transmitted communications

134. By letter dated 7 January 2002, the Government responded to all cases transmitted by the Special Rapporteur in August and September 2001 (ibid., paras. 62 to 69).

135. Concerning **Nairi** and **Karen Unanian** (see above and E/CN.4/2002/76/Add.1, para. 63), the Government responded that on 1st June 2000, Nairi Unanian had stated that M. Movsisian, H. Haroutunian and N. Badalian had not abetted the crime and that he had been forced to give false testimonies. On 30 June 2000, the Investigator of the General Procuracy of Armenia decided not to initiate criminal proceedings against those accused of misconduct in the investigation due to the absence of *corpus delicti*.

136. Concerning **Arutian Arutiunian** (ibid., para. 64), the Government indicated that on 10 May 2000, the General Procuracy of Armenia had received his complaint alleging illegitimate actions by the investigation team of the Military Procuracy. According to the investigation by the General Procuracy of Armenia the complaint was declared not to be well-founded. The hunger strike started by Arutian Arutiunian in protest at the lack of medical attention was not known to the pre-investigation body.

137. Concerning **Musheg Movsisian** (ibid., para. 65), the Government responded that the conclusion of a forensic medical report ordered by the Office of the Military Prosecutor, which was received on 13 January 2000, indicated only previous scars from a surgical operation. On 14 May 2000, the Office of the General Prosecutor received the complaint from the above-named regarding illegitimate actions taken against him. On 17 March 2000, the General Prosecutor of Armenia turned it down as unfounded.

138. Concerning **Vahagn Ghukasian** (ibid., para.68), the Government noted that he had been questioned by the head of the General Department of Criminal Investigations and his deputy in relation to a text he had written. They stated that they had not beaten him. On 4 September 2001, the assistant to the General Prosecutor of Kentron and Nork – Marash stated that after examination, his allegations were dismissed on grounds of lack of sufficient evidence. A subsequent investigation into the criminal damage to his car was terminated on 3 September 2001 on grounds of inability to identify the perpetrator.

139. Concerning **Rafik Tononian** (ibid., para. 69), the Government replied that on 3 September 1998, he was informed that he was under investigation and detained as a preventive measure. On 28 August 2000, he applied to the Gegharqounik regions procuracy and stated that he was a believer and ready to incur liability for the penalty specified by the law. On 1 November 2000, he was sentenced to two years' imprisonment. Regarding the allegation of beatings, which are being denied by the Government, no complaint had been submitted by Rafik Tononian.

140. Concerning **Rafik Safarian** and **Zhora Khachatryan** (E/CN.4/1997/7/Add.1, para. 2), the Government replied that on 23 March 1995 criminal proceedings had been initiated by the Prosecutor's Office of Yerevan's Spandarian district (now Kentron community). Both victims and many witnesses had been interrogated, however the person responsible for the crime was not identified and the pre-trial investigation was suspended on 23 May 1995.

141. Concerning **Razmik Grigorian** (ibid., para. 4), the Government responded that he had been summoned to the Interior Ministry on 8 May 1995 in connection with the murder of Vachik Gharibian. Razmik Grigorian subsequently died in the office of the Head of the Department. The preliminary investigation concluded that his death was due to a heart attack and that he had not been exposed to any violence. The part of the criminal case concerning his death was terminated due to the absence of *corpus delicti*.

142. Concerning **Rouben Hakobian** (E/CN.4/1998/38/Add.1, para. 13 (a)), the Government responded that he and other Deputies of the National Assembly were

charged by the General Prosecutor in connection with riots in Yerevan city. He was detained on 26 September 1996 and held in custody in solitary confinement. In the absence of any grounds for keeping him in detention, he was released by a decision dated 12 October 1996. On 8 May 1998, criminal proceedings were terminated after his allegations were considered groundless.

143. Concerning **Gagik Mkrtchian** and **Davit Vardanian** (ibid.,(c)), they were arrested on 25 September 1996 in connection with the riots in Yerevan and subjected to beatings, inter alia, by the Head of the Security Service of the former President of Armenia and by the Head of the Department of Criminal Investigations of the Ministry of Interior Affairs. They were held in solitary confinement at the Ministry of National Security. Gagik Mrktchian was held in custody as a precautionary measure, but was released 10 days later. After his complaint, a criminal case was initiated and the Head of the Department of Criminal Investigations was detained on 15 October 2001. The criminal investigation is ongoing. The Government indicated that, when questioned, the staff on duty on 25 September 1996 denied that Gagik Mkrtchian had been detained and beaten.

Australia

Follow-up to previously transmitted communications

144. By letter dated 9 January 2002, the Government provided further information in relation to an urgent appeal sent on 12 June 2001 (see E/CN.4/2002/76/Add.1, paras. 70 and 71), stating that the Australian Human Rights Commissioner had issued his final report concerning the complaint of **Carlos Cabal Peniche** and **Marco Pasini Bertran** in which he had found that none of the facts gave rise to a breach of article 7 and 10 of the International Covenant on Civil and Political Rights.

Austria

145. By letter dated 2 October 2002, the Special Rapporteur advised the Government that he had been informed of measures taken by the United Nations Mission in Kosovo (UNMIK) to waive the immunity from prosecution, enjoyed by all UNMIK personnel under UNMIK Regulation 2000/476, in particular with respect to an Austrian CIVPOL officer who had reportedly been suspected, along with two members of the Kosovo Police Service (KPS), of torturing and ill-treating an ethnic Albanian detainee. This Austrian police officer, who had reportedly been arrested on 26 February 2002 and subsequently placed in investigative detention, was allegedly driven by Austrian officers across the border into Macedonia, from where he was flown to Austria. Following an investigation by CIVPOL into the alleged ill-treatment of the detainees and the Austrian police officer's exit from Kosovo, the case file was said to have been passed to an international investigative judge, who formally indicted the suspect. The Austrian Government was said to continue to refuse to extradite the officer concerned to face the charges, despite an international arrest warrant. Furthermore, the police officer was believed to be still working in the Austrian police force.

Azerbaijan

146. By letter dated 2 September 2002, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, advised the Government that he had received follow-up information on **Ilgar Javadov** (E/CN.4/2002/76/Add.1, para. 84), who had reportedly died following his detention at police station No. 9 in Baku's Sabail district on 13 May 2001. On 26 February 2002, one day after the victim's family had openly protested the lack of an impartial investigation, the investigator of Sabail district reportedly informed the lawyer that the criminal case against three police officers had been closed for lack of evidence. However, the criminal case against a fourth police officer allegedly remained open. On 2 March 2002, the case was referred to Sabail district court. Following a complaint by Ilgar Javadov's wife, challenging the impartiality of the court, the case file was reportedly referred to the Supreme Court on 2 April 2002. The police officer was said not to be in custody, but reportedly had to sign an undertaking not to leave Baku.

147. By letter dated 13 November 2002, the Government responded that he had resisted his arrest when asked to present his identity documents. He was eventually taken to the ninth precinct, where he asked to use the lavatory in the station yard. A while later, his body was found by a police officer in the yard. The Government confirmed that the Procurator's Office for the Sabail District of Baku had initiated criminal proceedings on 13 May and indicated that three police officers were detained as suspects on 15 May for abuse of authority, i.e., an illegal arrest. A thorough investigation could not prove whether he had been deliberately killed or whether he had slipped while attempting to escape by climbing one of the walls. On 25 May 2001, the Sabail district court determined that the three officers concerned should be placed under house arrest as they presented good guarantees to be present during the investigation into the death of Ilgar Javadov. The Government indicated that the case was still under investigation at the time of writing.

Urgent appeals

148. On 10 June 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **inhabitants of Nardaran settlement** who had reportedly been approaching authorities with repeated requests for settlement of social and economic problems and replacement of local authorities in Nardaran since January 2002. Eight elders were reportedly arrested at the Prosecutor's Office on 3 June and accused of terrorist activities. On the same day, policemen and officers of internal troop, apparently led by the vice-chief of Baku City Police, and equipped with truncheons and arms reportedly cordoned off the village area. Inhabitants of Nardaran crowded on the square and moved towards the mosque for the evening prayer. Policemen blocked the way to the mosque and allegedly started beating people with truncheons, as well as with sticks and stones, in order to disperse the crowd, which began to throw stones at them. Policemen are then said to have fired on people and four persons are believed to have received shots. **Alikhasan Agabalaoglu Agayev** was said to have been shot dead and **Khalid Mamedov** to have suffered neck injuries. Women with children were then said to have run to the square. As a result, police and army officers were believed to have fired in the air above the heads of those gathered, and to the ground.

As a result, more than 50 people are said to have sustained severe injuries and one died. After midnight the police are believed to have stopped firing, and to have left the scene. A number of men were reportedly arrested and relatives of some of those who were being treated at the hospital of Sabunchinski had reportedly been arrested on 4 June. The following persons were believed to have been arrested: **Elman Qasimov, Hadjibala Ahmedov, Ssadi Qasimov, Rasha Aliyev, Elkhan Djabbarov, Farhad Shikhaliyev, Vusual Agamoglanov, Mizaaga Azizov, the leader of the Salyan branch of the Islamic Party of Azerbaijan, Elshan Agamaliyev, Seyfulla Aliyev, Hamid Yakhshybeyov, Hikmet Veliyev, Zameddin Rahimzade, Fuzuli Babayev, Etibar Zakiyev and Inayat Rustamov** as well as **Hafiz Atakishiyev**, a well-known criminal who was said to be accused of illegal possession of fire arms and drugs. It was not known where all these people were currently detained.

149. On 26 September 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Djebayil Alizade**, the Chairman of the Association of the Baku and Villages (*Baki ve Kendler Birliyi*) who is said to be one of the informal leaders of the protest movement in Nardaran. He was reportedly arrested without arrest warrant on 20 September 2002 in Nardaran village by more than 10 plain - clothes police officers. Allegedly, during the arrest, a policeman threatened to kill his five-year-old grandson, **Hasan Nadir oğlu Alizade**. Djebayil Alizade was reportedly immediately transported to an unknown location. Fears were expressed that he was beaten on the way to his place of detention. Reportedly, at the time the Special Rapporteur transmitted this urgent appeal, his face was covered in bruises and scratches, his left ribs were broken, and his inner organs were painful. He was reportedly unable to bend his knees or lift his hands. He was believed to have been beaten before being brought to trial on 22 September 2002. The judge reportedly decided to arrest him on charges under three articles of the Criminal Code related to resisting arrest and participating in acts of disrupting public disorder. The initial term of investigation permitted by the judge is three months. Djebayil Alizade's lawyer was said to have applied to the Court of Appeal, demanding to have the order for his arrest rescinded. Later in the same evening, the inhabitants of Nardaran learned from law enforcement agencies that Djebayil Alizade was being detained in isolation in the temporary detention facilities at the Ministry of Foreign Affairs' Department of Banditry and Terrorism. From the same sources it became known that Djebayil Alizade was accused of participating in the events of 3 June 2002, when a clash between Nardaran residents with police resulted in the shooting and arrests of local inhabitants and the death of one person. The Special Rapporteurs on the question of torture and on extrajudicial, summary or arbitrary executions intervened on 10 of June 2002 in connection with this incident. Fears have been expressed that the above-named may not have received any medical treatment for the injuries he allegedly sustained upon and after his arrest. **Beylar Mahammad oğlu Khudaverdiyev**, one of his relatives who came to the place of detention with some food for him, was reportedly kicked by policemen, following which he had a heart attack and lost consciousness. Three of his relatives, **Nadir Djebayil oğlu Alizade, Novruzali Nurali oğlu Alizade** and **Farman Rahman oğlu Djebayilov** were reportedly taken into custody and were still being detained at the time the Special Rapporteur sent this urgent appeal.

Follow-up to previously transmitted communications

150. By letter dated 18 December 2001, the Government responded to all cases transmitted by the Special Rapporteur in September 2001 (see E/CN.4/2002/76/Add.1, paras 75 to 82).

151. Concerning **Gulhar Pashayeva** (ibid., para.76), the Government responded that she had been taken to the police station on 18 November 2000 for disrupting public order. She was fined 110,000 manat on 20 November 2000 by the Shehi City Court. Her statement before the procurator's office in Shehi alleging that the municipal police had used violence against her was examined and a forensic examination was conducted, which found no signs of injury.

152. Concerning at least 120 persons beaten in Baku (ibid., para. 78) the Government replied that on 18 November 2000, a group of individuals had breached public order by smashing windows of administrative buildings, overturning a number of police cars and resisting arrest causing injury. During investigations into the case, it was established that **Anvar Gulusoy, Tekhran Samir ogly Lyatifov, Ismail Alekper ogly Sadykhly, Farzali Ashraf ogly Gasymov, Sadyg Vagif ogly Samedov, Elhan Mamed ogly Gulamov** and **others**, who had been involved in an illegal conspiracy, decided to disrupt public order. They were remanded in custody and transferred to the Court of Serious Crimes. It was not established that the accused persons had been injured or tortured.

153. Concerning **Anvar Gulusoy** (Anvar Djabril ogli Guliev, ibid., para. 76), the Government indicated that he had been taken to Shehi police station on 19 November 2000 for grave breach of public order. Criminal proceedings were instituted against him and he was sentenced to four years in prison. It could not be proved that he had been beaten by members of the police force either during the investigation or while in detention at the police station.

154. Concerning **Vajif Hadjibeyli** (Hadjiev) (ibid., para. 82), the Government noted that the Democratic Congress Party had staged an unauthorized rally, leading to a stand-off during which 42 police officers were injured and 11 of the individuals most actively disrupting public order were detained. Vajif Hadjibeyli sustained slight injuries. However, the pre-trial investigation did not establish that they had been inflicted by law enforcement personnel. He declined the services of a legal counsel and assumed his defence himself.

155. Concerning **Suleyman Mamedov** (ibid., para. 78) and **Amrali Babayev** (ibid., para. 79), the Government responded that an investigation failed to corroborate reports of ill-treatment.

Observations

156. The Special Rapporteur acknowledges the response of the Government (E/CN.4/2002/76/Add.1, paras 85 to 104) to the recommendations formulated in his predecessor's mission report (E/CN.4/2001/66/Add.1) and he would appreciate continuing to receive information on measures taken to implement the recommendations included in this report.

157. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Human Rights Committee in its consideration of the second periodic report of Azerbaijan in October 2001 under the Covenant on Civil and Political Rights, in which the Committee “[w]hile welcoming the steps taken to bring its law into compliance with international standards to prevent torture, [...] is deeply concerned at the reported failure to ensure application of such legal provisions and at continuing reports of the use of torture and cruel, inhuman or degrading treatment or punishment.” (CCPR/CO/73/AZE, para. 10)

Bangladesh

158. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information on the following individual case.

159. **Badal** reportedly died in police custody at the Kapasia Police Station in Gazipur District. It was reported that he was arrested by a Sub-Inspector of the Detective Branch (DB) on 8 May 2002 in Boroipara, Narayanganj, Dhaka. Two other young men from the area, known as **Jahangir** and **Badal Shikdar**, and a 13-year-old boy, **Johurul Islam**, were also reportedly arrested. The three men and the boy were reportedly detained in connection with a case filed under the Repression of Violence Against Women and Children Act of 2000 concerning the rape and murder of a nine-year-old girl. The four of them were allegedly presented before the court on 9 May 2002, and sent back to jail. The minor was held in detention for two more days, during which he was allegedly beaten. The detainees were reportedly blindfolded, and interrogated under duress. Badal was allegedly subjected to electric shocks. On 17 May 2002, Badal's condition became critical and he was transferred to the Dhaka Central Jail for treatment by the medical officer of Narayanganj District Jail and later to the Dhaka Medical College Hospital, where he died soon after being admitted to the Emergency Department. The Metropolitan Magistrate's inquest report allegedly mentioned that Badal's body bore only three injuries, and that he had a high fever and a headache. The Head of the Dhaka Medical College Forensic Department was believed to have been dissatisfied with the report, emphasizing that Badal's nails were blue. Police claimed that he was asking for drugs, which he was denied. As a result, he died. The First Class Magistrates Court in Narayanganj court ordered a Judicial Inquiry into this case after Badal's mother filed a complaint on 19 May 2002. However, she later withdrew the complaint allegedly in exchange for money from the DB police. The Public Prosecutor of the Dhaka Metropolitan Magistrate Court reportedly stated that there were no legal provisions allowing for the withdrawal of a murder case under the Code of Criminal Procedure, and since murder is considered as an offence against the State, it is therefore his responsibility to deal with the case.

160. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 2001 regarding which no reply had been received.

Urgent appeals

161. On 26 March 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of

Bahauddin Nasim, special assistant to Sheikh Hasina, the leader of the opposition in the parliament and President of Awami League. He was detained at Dhaka International Airport on 28 February 2002 while waiting to take a flight to the United States in order to receive treatment for a heart condition. He was accused of “attempting to tarnish Bangladesh’s image abroad” because he had in his possession books and CDs that contained images of torture against minorities. He was reportedly also accused of having carried out “terrorist attacks”. He was blindfolded and transferred to the Dhaka cantonment, where he was interrogated by the Joint Interrogation Team of the Bangladesh Army Defense Force Intelligence (DGFI). He was reportedly blindfolded for six consecutive days at the Dhaka cantonment and detained in a dirty cell with no bed, and was allegedly hanged by a rope tied to his wrists from a rotating ceiling fan and beaten on the knees with an iron hammer during this time. He was allegedly subjected to electric shocks, cold water was poured through his nostrils, and he was severely beaten. He was reportedly not allowed to eat or sleep during his detention. Following a writ petition, a Bench of the High Court Division of the Supreme Court ordered the authorities to arrange for medical treatment to be provided to him and access to his lawyers.

162. On 27 March 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on arbitrary detention on behalf of **Dr Mohiuddin Alamgir**, who had reportedly been arrested at Dhaka Zia International Airport on 15 March, for investigation of allegations that he had instigated government officials and employees to join a rally against the then Bangladesh Nationalist Party (BNP) government of Begum Khaleda Zia, in early 1996. On 24 March, he reportedly testified that while he was in police custody three masked men had beaten him with lathi (bamboo sticks) and glass bottles filled with water, in particular on his buttocks, feet and other muscular parts of his body. He was allegedly not allowed to take his medicine for diabetes. The magistrate is believed not to have ordered an investigation.

163. By letters dated 24 May and 2 July 2002, the Government replied that he had been arrested on 15 March 2002 and sent to the Dhaka Central Jail on 22 March, where he was placed under detention for 30 days. Dr. Alamgir had been held in police custody for four days as ordered by the court. Various cases had been brought against him, including a case of sedition on 8 April 2002 for instigating government employees to join an anti-Government rally, a case from September 2001 for abetting in an attempted murder, and four embezzlement cases. Several other government officials were also charged with anti-State activities in the same series of incidents. The Government assured the Special Rapporteur that Dr Alamgir had not been subjected to any ill-treatment. The doctors of the jail hospital carried out regular check-ups, and he was allowed to meet regularly with his lawyers and family members. By letter dated 28 November 2002, the Government further informed the Special Rapporteur that he was released on bail on 18 September 2002. It added that he was exercising his right to legal recourse.

164. On 25 April 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Bahauddin Nasim** and **Dr Mohiuddin Alamgir** on behalf of whom the Special

Rapporteurs intervened on 26 and 27 March 2002 respectively (see above). Bahauddin Nasim was reportedly in poor health as a result of torture to which he was allegedly subjected during his detention and required urgent examination by a medical board. It was also reported that the High Court ordered the police on 3 April to disclose where, and under what legal authority, they had held Bahauddin Nasim for seven days on remand and in their custody. It also ordered that a new medical board be set up to examine Bahauddin Nasim. On 8 April 2002 a "stay order" was issued by the Appellate Division of the Supreme Court, following an appeal by the Attorney General on behalf of the Government. The "stay order" prevents the High Court from carrying out its directive and Bahauddin Nasim's lawyers are seeking its withdrawal. Dr Mohiuddin Alamgir was also allegedly being denied medical attention and was the target of an attempted attack by a man armed with a knife in his cell at Dhaka Central Jail on 14 April 2002. On 24 March, he allegedly testified before the High Court that he had been tortured.

165. By letter dated 28 May 2002, the Government responded that Bahauddin Nasim had been taken into custody at Zia International Airport on 28 February 2002, after US\$ 6600 had been found on him and a number of booklets damaging to state interests. Two cases were lodged against him. He was produced before the court the following day and held in police custody for five days. Thereafter, he was taken to the Dhaka Central Jail. On 23 March 2002, he was produced before the Metropolitan Session Judge Court, where he made allegations of torture. Physicians at the Dhaka Central Jail had examined him earlier and had found no evidence of torture or illness. In jail, he was provided with medical assistance, including medication, and was allowed to meet regularly with his lawyers and family members.

166. On 26 August 2002, the Special Rapporteur sent an urgent appeal on behalf of Kamal **Ahmed Majunder**, a former member of parliament of the opposition party, the Awami League. He had reportedly been held in Dhaka since 21 or 22 August 2002 under section 54 of the Code of Criminal Procedure, which allows detention for further questioning without an arrest warrant.

167. On 24 October 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Saber Hossain Chowdhury**, Political Secretary to the leader Sheikh Hasina of the Awami League, who had reportedly been arrested on 20 October 2002 at Dhaka Airport, and on behalf of **Sheikh Fazlul Karim Selim**, member of parliament and former Minister of Health, who had reportedly been arrested by the army at his residence in Dhaka. As both were allegedly arrested under section 54 of the Code of Criminal Procedure, the police was allowed to detain him without an arrest warrant. The men were allegedly held incommunicado in an undisclosed location until the evening of 21 October 2002 when they were produced before a court in Dhaka. However, it was reported that they were sent back to police custody for further interrogation and had not since then been allowed to see a lawyer or their families.

168. By letters dated 28 and 29 November 2002, the Government informed the Special Rapporteur that Saber Hossain Chowdhury and Sheikh Fazlul Karim Selim had been released on bail on 20 and 28 November 2002, respectively. The cases brought against them were under investigation at the time of writing. The Government

further reassured the Special Rapporteur that they were able to exercise their right to legal recourse.

169. On 30 October 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions regarding more than 3,000 people who were reportedly arrested in a joint operation code-named **Operation Clean Heart** to crack down on criminals, in which nearly 40,000 army troops were said to be taking part. This operation was reported to have begun on 17 October 2002. Checkpoints had been set up in many interdistrict routes where army personnel stopped, questioned and searched vehicles and performed body searches. In cities, house-to-house searches had reportedly been conducted in some areas, and occupants had been picked up for questioning. Some of them had returned home within hours, but others had allegedly not been seen for days. Some of those released had reportedly been sent to the hospital with severe injuries, in particular caused by beatings while in army custody. It was also believed that at least 10 people, whose bodies were allegedly bearing marks of torture, had died in unknown circumstances while in police custody. Fears were expressed that the armed forces used excessive force during the raids and subjected a number of people to ill-treatment during interrogation.

Belarus

170. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 2001 regarding which no reply had been received. By letter dated 4 November 2002, the Government responded that this letter was under consideration and that an investigation into the cases annexed to the letter was under way. A response will be provided in the future.

Belgium

Suite donnée aux plaintes signalées dans des communications précédentes

171. Par une lettre datée du 2 décembre 2002, le Gouvernement a répondu aux cas inclus dans la lettre envoyée par le Rapporteur spécial le 9 octobre 2000 (voir E/CN.4/2001/66, par. 168 à 175)

172. Concernant **Samira Adamu** (ibid., par. 169), le Gouvernement a indiqué qu'il avait été accompagné à l'avion qui devait l'amener à Lomé par trois gendarmes alors qu'un quatrième filmait la procédure. L'usage d'un coussin était autorisé au moment des faits afin d'éviter les cris et les gestes brusques. Lorsque les gendarmes constatèrent que Samira Adamu avait perdu conscience, un médecin fut appelé et l'on procéda à plusieurs tentatives de réanimation. Elle fut immédiatement transportée à un hôpital où elle décéda deux heures plus tard. Le résultat de l'autopsie est connu du parquet mais relève du secret de l'instruction. Le Gouvernement a noté qu'une procédure pénale a été entamée par la saisine d'un juge d'instruction près le tribunal de première instance de Bruxelles en vue d'initier une instruction judiciaire. Deux gendarmes ont été inculpés de coups et blessures volontaires ayant provoqué la mort sans intention de la donner. Une action disciplinaire est actuellement suspendue et ne pourra reprendre son cours qu'après la conclusion de l'action judiciaire. Finalement, le Gouvernement a indiqué que, suite au décès de Samira Adamu et à la démission du

Ministre de l'intérieur, il a été décidé que de nouvelles mesures seront prises à l'avenir en ce qui concerne les éloignements forcés.

173. Concernant **Prince Obib** (ibid., par. 170), le Gouvernement a informé qu'il était rentré à Lagos à sa propre requête et qu'aucune plainte n'avait été déposée contre lui.

174. Concernant **Kifle Alemayhu** (ibid., par. 171), le Gouvernement a donné des renseignements ne correspondant pas au cas mentionné par le Rapporteur spécial. Selon le Gouvernement, Kifle Alemayhu serait arrivé en février 2000 en Belgique au départ de Douala (Cameroun). Il aurait par la suite fait l'objet de plusieurs tentatives d'éloignement avec escorte de la police fédérale. Le 29 juin 2000, il lui a été signifié qu'il avait cinq jours pour quitter le territoire belge. La plainte de l'intéressé a été déclarée non fondée.

175. Concernant **Blandine Kaniki** (ibid., par. 172), le Gouvernement a noté que des fonctionnaires du Service de l'inspection des centres ont mené une enquête interne sur les événements mentionnés. Elle avait été hospitalisée le 24 novembre 1998 et était retournée au centre deux jours plus tard. Malgré de nombreuses consultations avec le médecin du centre, elle ne fit jamais mention d'une éventuelle grossesse. Les mesures d'éloignement avaient été suspendues dans l'attente des résultats d'une enquête interne qui furent transmis au juge d'instruction pour suites. Le 17 mars 1999, la cour d'appel de Bruxelles avait ordonné sa mise en liberté et elle a été admise sur le territoire à titre provisoire pour la durée de l'enquête. Depuis, elle ne s'est plus présentée pour la prorogation de son titre de séjour et n'aurait plus de titre de séjour en Belgique. Enfin, le Gouvernement a rappelé qu'il n'y avait toujours pas de prononcé judiciaire définitif au moment où cette réponse a été transmise.

176. Concernant **Hovhannes Karapetyan** (ibid., par. 173), le Gouvernement a indiqué qu'après une tentative d'éloignement le 3 juin 1999 il avait été ramené au centre fermé de Stenokkerzee où il se montra agressif, occasionna des dégâts matériels et s'en prit au personnel. Il ne put être examiné par un médecin que le jour suivant étant donné son agressivité. Le médecin indiqua que la fracture du coude qu'il présentait était la conséquence d'une ancienne fracture non soignée. Il fut admis sur le territoire pour la durée de l'enquête après qu'une plainte eut été portée contre lui pour dégradations et troubles de l'ordre public et que lui-même eut porté plainte pour coups et blessures. Celle-ci fut finalement déclarée non fondée. Il fut arrêté en avril 2002 pour port d'arme et reçut l'ordre de quitter le territoire.

Belize

177. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information on **Julio Aldana, Sergio Martínez, Juan Carlos Narváez** and **Tenencio Villanueva**, all detainees at the medium security section of Hattieville Prison of non-Belize nationality, who had reportedly been beaten with rifle butts and batons, kicked and punched by prison guards after the latter had discovered that they attempted to escape on 27 May 2002. Three of the detainees were reportedly shot in the leg and one was fired upon at head level, resulting in a superficial bullet wound along the skull. All four were said to have subsequently required medical attention in hospital. In addition to the gunshot wounds and resulting

loss of blood, their injuries were described as including severe lesions, contusions and, for at least two of the men, broken thigh or jaw bones. Shortly after the incident, the superintendent of prisons was said to have admitted that the men had been shot but that guards had only fired on them to prevent them from fleeing after they had ignored the guards' orders to stop.

Bolivia

178. Por carta de fecha 2 de septiembre de 2002, el Relator Especial notificó al Gobierno que recibió información relativa al ejercicio de la fuerza por parte de la Unidad Móvil Para el Patrullaje Rural (UMOPAR), una unidad de lucha antidroga. De acuerdo con esta información, la Ley 1008 otorgaría a la UMOPAR la autorización para ingresar en las propiedades privadas cuando sus agentes tuvieran el conocimiento de la preparación o comisión de un delito en el lugar en cuestión. Allí, los agentes de la UMOPAR tendrían el poder de arrestar y mantener en detención incomunicada a cualquier sospechoso, interrogar a testigos y recoger evidencias. Según la ley, tales actividades deberían realizarse en presencia de fiscales especiales, excepto en casos de delito flagrante. Sin embargo, en la práctica los fiscales no dirigirían ni controlarían las acciones llevadas a cabo por la UMOPAR. En la región de El Chapare (Cochabamba), los efectivos de la UMOPAR harían un uso excesivo de la fuerza en sus operaciones. Las personas detenidas o investigadas serían frecuentemente intimidadas, amenazadas y golpeadas.

179. En particular, el Relator Especial recibió información sobre los siguientes casos individuales en la región de El Chapare:

180. **Epifanio Cruz**, alcalde municipal de Chimoré, habría sido detenido junto con otras seis personas el 21 de septiembre de 2000 durante varias horas en dependencias de la UMOPAR. Durante su detención no habrían podido ser visitados por miembros del Centro de Justicia y Derechos Humanos de Chimoré, entidad dependiente del Ministerio de Justicia. Según un informe médico forense, el Sr. Cruz habría presentado múltiples contusiones y hematomas en la cabeza.

181. **Cirilo Mollo Martínez** habría sido detenido por miembros de la fuerza de la Policía Nacional el 21 de septiembre de 2000, al intentar escapar del gas lacrimógeno durante la dispersión de un bloqueo en Villa Tunari. Habría recibido patadas y habría sido golpeado por tres agentes. Un periodista habría presenciado el apaleamiento.

182. **Feliciano Mamani**, Secretario General de la Federación Especial de Campesinos del Trópico, habría resultado herido como consecuencia de gas lacrimógeno durante los mismos acontecimientos en Villa Tunari. El Sr. Madani habría presentado una fractura doble de tibia y peroné tercio inferior izquierdo. Un médico del hospital de Villa Tunari habría señalado que las heridas requerían una intervención quirúrgica de emergencia, por lo que habría sido evacuado por aire a la ciudad de Santa Cruz para ser internado en la Clínica Urkupiña. La intervención del Defensor del Pueblo en este caso habría facilitado dicha evacuación.

183. **Ricardo Eysaguirre** habría sido detenido el 22 de septiembre de 2000 por miembros de la UMOPAR en Lauca Eñe y golpeado por dos militares. Habría sido puesto en libertad cinco horas más tarde en Shinahota, después de haber presenciado

el asesinato de Virgilio Aguilar. El Sr. Eysaguirre habría presentado múltiples contusiones en el vientre, los testículos, los pies y los brazos.

184. **Teodoro Ramírez Escapa** habría sido detenido y golpeado por cuatro agentes de la UMOPAR el 17 de octubre de 2000. Le habrían atado las manos y lo habrían llevado a los bosques. Habría sido interrogado y sometido a palizas durante el camino y lo habrían sumergido en un río dos veces, hasta que se habría desmayado. Más tarde habría sido golpeado de nuevo con palos y amenazado de muerte con un arma de fuego.

185. **José Vargas Guillén** habría sido interceptado por cuatro hombres vestidos de civil que le habrían pedido sus documentos de identidad el 26 de octubre de 2000 en la localidad de San Isidro. Habría sido llevado a Vinvhuta en taxi, con los ojos vendados con un plástico y sus manos atadas con un cinturón en la espalda. Durante su traslado a la comisaría de Shinahota habría recibido patadas y habría sido golpeado con un palo y con una piedra.

186. **Clemente Padilla Choque** y **José Vargas** habrían sido detenidos por siete hombres uniformados el 17 de octubre de 2000 en la localidad de Churo Grande. Habrían sido llevados a unas colinas donde habrían sido objeto de una paliza. Habrían sido tumbados con la cara al suelo y golpeados con una rama hasta que ésta se habría roto. Habrían sido llevados a un lugar donde se encontrarían otros detenidos y a continuación habrían sido trasladados en camión a una base de la UMOPAR ubicada en Chimoré. Allí, habrían sido forzados a permanecer de pie durante dos horas e interrogados bajo amenaza de muerte sobre el paradero de dos personas. Los soldados habrían amenazado a los detenidos con meterlos en un saco y tirarlos al Río Chimoré y habrían intentado someterlos a descargas eléctricas. Los detenidos habrían sido posteriormente trasladados a la comisaría técnica judicial.

187. **Celio Paulis** habría sido golpeado y detenido en Alto San Isidro el 27 de octubre de 2000 por cuatro hombres vestidos de civil. Su mujer también habría recibido un puñetazo. Habría sido llevado a Vinchuta en un camión de la UMOPAR. Una vez allí, habrían atado sus manos detrás de su espalda, lo habrían tirado al suelo y le habrían dado patadas en la cabeza. Habría sido amenazado de muerte y con ser tirado al río.

188. **Freddy Molina Guzman** habría sido detenido por las fuerzas de tarea conjunta el 31 de mayo de 2001 en San Pedro (Chipiriri), por posesión de explosivos. Habría sido sometido a palizas durante su detención. Un certificado médico forense señalaría tumefacciones en la cabeza, tumefacciones y contusiones en el hombro izquierdo y en el muslo derecho, hematomas en la zona renal, heridas en el brazo derecho y dificultades de movimiento del brazo izquierdo.

189. **Doce personas** habrían resultado heridas el 9 de noviembre de 2001 cuando las fuerzas de seguridad habrían golpeado un grupo de personas que habrían intentado erigir un bloqueo en San Lorenzo, entre Villa Tunari y Chipiriri. Una de las personas heridas no habría participado en las protestas. Varios informes médicos señalarían que estas personas habrían tenido muñecas rotas y contusiones múltiples en las espaldas y nalgas de dichas personas. Algunas de ellas habrían tenido serias dificultades para caminar.

190. **Raúl Ajaye Condori**, del Valle Sajta, habría sufrido múltiples contusiones después de haber sido detenido por miembros de las fuerzas de seguridad el 12 de noviembre de 2001.

191. **Numerosas personas** habrían sido detenidas en la ciudad de Cochabamba y en la zona de Sacaba después de unas manifestaciones en enero de 2002. Unos detenidos habrían sido sometidos a palizas por miembros de las fuerzas de seguridad. Los detenidos no habrían tenido acceso a atención médica a pesar de sus heridas. Los detenidos transferidos a la prisión de Abra habrían denunciado abusos físicos y extorsiones por parte de otros internos y habrían sido posteriormente separados de dichos internos. Activistas de los derechos humanos que habrían intentado acceder a los detenidos también habrían sido víctimas de violencia. El **padre Luis Sánchez** y un abogado habrían solicitado tener acceso a las celdas de la Policía Técnica Judicial donde se encontraban algunos de los detenidos. Cuando el Sr. Sánchez habría intentado explicar a los agentes la importancia de tal visita, éstos le habrían golpeado y empujado al suelo.

192. **Luciano Marzana Soria** y su hijo **Daniel Marzana Carrasco** habrían sido detenidos y golpeados por un patrulla militar el 30 de enero de 2002. Los militares los habrían llevado a unos kilómetros de la casa y sometido a nuevas palizas antes de dejarlos en libertad. Los dos habrían presentado contusiones y moratones.

193. **Máximo Romero Huarayo** habría sido detenido por un grupo de soldados el 9 de febrero de 2002. Habría sido golpeado con culatas de pistola, mangos de hacha y porras. Al terminar, los soldados lo habrían abandonado desnudo. Después de los hechos habría presentado contusiones múltiples y habría tenido dificultades para andar.

194. Por la misma carta, el Relator Especial notificó al Gobierno que recibió información relativa a los métodos utilizados para realizar investigaciones en diversos centros de detención: Centro Especial de Investigación Policial, Fuerza Especial de Lucha contra el Narcotráfico y Policía Técnica Policial. Según dicha información, estas investigaciones se basarían en torturas y malos tratos con el objetivo de lograr un auto de incriminación. Los autos de incriminación no serían legalmente aceptados pero se convertirían en “diligencias de Policía Judicial” y muchos jueces los utilizarían como prueba de cargo para el juicio. Durante la fase de investigación, el límite de tiempo de detención legalmente permitido se sobrepasaría con frecuencia. En muchos casos la policía procedería a la detención sin la autorización de la autoridad competente, la asistencia de un abogado sería impedida por la policía y los fiscales adscritos a la institución llenarían la orden de detención cuando el detenido sería puesto a disposición del juez, tras varios días de interrogatorios, haciendo constar una detención de solamente el tiempo legalmente permitido de 48 horas. Además, en las comisarías la libertad de las personas detenidas se negociaría con los agentes policiales.

195. Finalmente, el Relator Especial notificó al Gobierno que recibió información acerca de las condiciones de detención en los centros penitenciarios. De acuerdo con esta información, el hacinamiento en las cárceles bolivianas alcanzaría unos niveles muy altos, en particular en San Pedro de la Paz, con aproximadamente un 300% de

hacinamiento en relación con su capacidad, y en Palmáosla. Unas de las razones que explicarían esta superpoblación carcelaria sería el gran número de personas que se encuentran en detención preventiva y la lentitud de los procesos judiciales. En los centros penitenciarios todos los presos convivirían en los mismos espacios, independientemente de los delitos de los que serían acusados y de sus edades. Familias enteras, principalmente campesinas, residirían en las cárceles como único modo de sobrevivir. El presupuesto diario destinado a cada preso sería de 0,45c\$ con el que se financiaría una alimentación muy precaria y sin ningún control nutricional. Además, las cárceles carecerían de servicios sanitarios adecuados, el número de médicos sería insuficiente, los remedios existentes en caso de enfermedad serían escasos y las salidas de emergencia estarían excesivamente limitadas. En cuanto a los servicios educativos, sólo existirían en algunos penales de las ciudades más importantes. La mayoría de los centros también carecerían de servicios de atención psicológica y de trabajo social y hasta de personal especializado en el tema penitenciario. En algunos centros, los presos más antiguos serían los responsables de la seguridad interna. De hecho, ante la supuesta falta de medios y medidas tomadas por las autoridades penitenciarias, los detenidos se organizarían entre ellos para garantizar ciertos servicios, mejorar la alimentación, crear centros de abastos y pensiones, construir nuevas celdas o ejercer turnos de vigilancia. También se ha informado que la corrupción, facilitada por los bajos sueldos de los funcionarios, el alcoholismo y la drogadicción serían muy frecuentes en las cárceles y serían justificados como un mal menor.

196. Por carta de fecha 2 de septiembre de 2002 enviada con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, el Relator Especial notificó al Gobierno que recibió información sobre los siguientes casos:

197. **Nilda Escobar Aguilar**, cultivadora de hoja de coca, habría recibido disparos de botes de gases lacrimógenos durante unos enfrentamientos entre productores de hoja de coca y miembros de las fuerzas conjuntas del campamento de Río Blanco en Isarzama. Estos enfrentamientos habrían tenido lugar el 16 de octubre de 2001, cuando los campesinos habrían querido impedir a las fuerzas conjuntas entrar en el sindicato rural de Quillacollo. La Sra. Escobar Aguilar habría sido transferida a un centro médico donde habría fallecido poco después, debido a un trauma encefálico, lesiones en el cráneo y en el lóbulo frontal de su cerebro. En el curso de estos enfrentamientos otras personas habrían resultado heridas. **Juan Valderrama Peredo** habría recibido atención médica por un corte en su músculo pectoral derecho. Habría sido puesto en libertad posteriormente. **Benancio Corrales Vidal** habría sido hospitalizado por contusiones múltiples. También habría sido puesto en libertad posteriormente.

198. En septiembre de 2000, a raíz de los bloqueos de caminos entre Cochabamba, Chimoré y Santa Cruz realizados por productores de hoja de coca que exigían el cumplimiento de los convenios firmados con el Gobierno en octubre de 1997 y mayo de 1998 para la implementación de un programa de desarrollo alternativo al producto de la hoja de coca, fuerzas conjuntas, compuestas por miembros del ejército y de la policía, habrían hecho un uso excesivo e indiscriminado de la fuerza al proceder a desbloquear las carreteras. Durante los incidentes, seis personas habrían perdido la vida y más de 80 habrían resultado heridas.

199. Por carta de 17 de octubre de 2002, el Relator Especial recordó al Gobierno varios casos que le había transmitido en 2001 respecto a los cuales no había recibido respuesta.

Observaciones

200. The Special Rapporteur draws attention to the concerns expressed by the Committee against Torture expressed in May 2001 after its consideration of the initial periodic report of Bolivia under the Convention against Torture as follows: “[t]he continuing complaints of torture and other cruel, inhuman or degrading treatment, resulting in many occasions in death, both in police stations and in prisons and military barracks; [t]he impunity accorded to human rights violations and, in particular, the use of torture, which appears to be widespread, resulting from the lack of any investigation of complaints and the slow pace and inadequacy of such investigations, which demonstrates the lack of effective action by the authorities to eradicate these practices and, in particular, the dereliction of duty on the part of the Public Prosecutor's Office and the courts. The lack of investigations is compounded by the failure to remove the accused police officers from office, further reaffirming impunity and encouraging the continuation or repetition of these practices.” (A/56/44, para. 95 (b) and (c)). The Special Rapporteur hopes to be in a position to respond positively to the invitation extended to him by the Government in June 2001 and that in the meanwhile a response will be provided to the cases submitted for consideration to the Government.

Brazil

201. By letter dated 29 April 2002, the Special Rapporteur, jointly with the Special Rapporteur on the right to food, advised the Government on the observations of the latter upon his visit to **44th Distrito Policial (Guaianazes, São Paulo State)** on 15 March 2002. The Special Rapporteur on the right to food noted that the cells were holding four times more people than their official capacity. In each of the five cells measuring approximately 16 square metres, up to 32 persons were detained at the time of the visit. These cells were very dirty and smelly and did not have any proper lighting and ventilation systems. Detainees had to sleep, in shifts, on the bare concrete floor. A hole was used as a toilet and shower. Food was kept in unsanitary conditions next to the toilets. There was no drinkable water in the cells. In particular, the Special Rapporteurs drew the Government's attention to the cases of **Marcio Ferreira da Silva**, who had allegedly been sentenced to 11 months of imprisonment for a minor offence, and was believed to have already served 12 months of imprisonment and of **Alcides Barão de Lima**, who had allegedly been forced to sign a self-accusatory statement. Similarly, concerns were expressed regarding the health condition of **Rogaciano Alfredo Lunas**, who was allegedly suffering from high pressure and heart troubles and **Jose Claudio de Sousa Filho**, who was reportedly in need of an urgent liver transplantation.

202. By letter dated 11 September 2002, the Special Rapporteur advised the Government that he had received information on the following individual cases.

203. **Ricardo Colares** was reportedly arrested by police officers on 7 December 2001, in the State of Amapá, on suspicion of murder. He was allegedly handcuffed

and brought to a farm between the cities of Santana and Macapá, Amapá State. He was alleged to have been beaten and asphyxiated several times while he was interrogated about several thefts. He was said to have stayed the whole night handcuffed inside a car's trunk. He was then obliged to give a press interview allegedly under threat of being ill-treated again.

204. **Geicemar Mendes Gomes**, a detainee at *Complexo Penitenciário do Amapá*, State of Amapá, was reportedly beaten on 18 October 2001. He was allegedly subjected to the so called "Russian roulette" (*Roleta Russa*). He allegedly received a shot in his right ear. He was reportedly brought to the emergency room after having lost a large amount of blood.

205. **Cristiano José Batista da Silva** was reportedly arrested on 23 July 2001 in Toritama, State of Pernambuco. On that day, around 200 members of the Movement of Landless Workers (*MST - Movimento dos Trabalhadores Sem Terra*), including him, were protesting by blocking the highway and looting a truck that was carrying sugar. After the distribution of the product among the peasants at a nearby camp, Cristiano José Batista da Silva went back to the highway with the truck driver, where the police had reportedly pulled them off. The police reportedly pointed guns at him and upon finding out that he was a member of *MST*, they allegedly started cursing and beating him with a scythe they had found in the truck. He was reportedly brought to the Caruaru First police station where he reportedly continued to receive kicks and punches, as well as threats. As the Chief of the Police was not present, he was allegedly taken to the Second police station of Caruaru. He was said to have eventually been taken to the Regional Hospital of Caruaru for a medical examination, where he was reportedly diagnosed with bruises on his body.

206. **Argemiro Pereira Santos** was reportedly arrested by military police officers in Caruaru, State of Pernambuco, at the Patio of Events (*Pátio de Eventos*), on 5 June 2001. Police officers allegedly took him to a deserted place where he was interrogated. Reportedly, since he could not provide them with any money, they covered his face with a plastic bag stinking of gasoline and beat him in the kidney area and in the genitals. Police officers allegedly threatened him not to tell what had happened to anyone at the Penitentiary, where he was remanded.

207. **Israel Monteiro do Nascimento** was reportedly arrested in Caruaru, State of Pernambuco, on 14 June 2001, by the military police officers. He was reportedly taken to a deserted spot, where his head was covered with a plastic bag soaked with gasoline and he allegedly received electric shocks to his chest and was punched on the head and genitals. It was said that he was subsequently forced to confess to being the owner of 700 grams of marijuana at the police station.

208. **Aluizio Albino da Silva** was reportedly arrested on 30 August 2001 in Vitória de Santo Antão, State of Pernambuco, beaten and asphyxiated with a plastic bag in order to make him confess to possessing marijuana. He reportedly signed a statement which he could not read.

209. **Edemilson Bezerra da Silva** was reportedly arrested on 9 March 2001 in Sítio Campo Novo, Caruaru, State of Pernambuco, beaten and subjected to electric shocks on his head and on his testicles by police officers. He was reportedly brought

to the police station in Caruaru, where he was charged with drug dealing . It was alleged that during his trial, he told the judge about the treatment to which he had allegedly been subjected, but to no avail.

210. **Celestino Juvêncio Pedro da Silva** was reportedly arrested on 10 November 2000 between Caruaru and São Caetano, State of Pernambuco, handcuffed and brought to a neighbour's property where he was questioned about drugs that were supposedly hidden inside his house. He was allegedly beaten and had his head covered with a plastic bag. It is reported that he was then taken to the police station at the Petrópolis neighborhood. He was believed to have been vomiting blood when he arrived there. It was said that he did not receive any medical treatment and that he was threatened with extraction of confession from him to drug possession.

211. **Domingos Sávio de Souza** and **Josevânio Pereira dos Santos**, both sentenced prisoners held in the open-regime City Jail, in Floresta, State of Pernambuco, reportedly left the jail on 11 December 2001. Shortly afterwards, they were allegedly arrested by some military police officers for no apparent reason, and taken to a nearby deserted spot, where they were said to have been asphyxiated with a plastic bad and to have received kicks in the abdomen. A police officer allegedly fired shots in order to intimidate Domingos Sávio de Souza into confessing to a murder.

212. **Tarcício Santos Nogueira** was reportedly arrested by military police officers on 22 March 2001 at a gas station and taken to the police station of Floresta and later to a neighbouring city called Belém de São Francisco. On the way, he was allegedly asphyxiated with a plastic bag, kicked in the stomach and forced to walk on burning coal in a deserted spot. Reportedly, he was eventually taken back to the Florestan Police Station where he was put in a cell under the surveillance of an officer who had been threatening him. He was reportedly forced to sign some papers that he was not allowed to read in the presence of the chief of police.

213. **Adalberto Cesário da Silva** was reportedly arrested on 8 August 2002 in Floresta, handcuffed and beaten in front of his family. He was allegedly taken to Petrolândia, but about one kilometer before the city, it was alleged that his feet were tied up, and he was stripped naked before being hung upside down from a tree branch. In that position, he was allegedly beaten and threatened with being killed. It was also reported that he was asphyxiated with a plastic bag. Police officers were said to have tried to insert an iron bar into his butt. Reportedly, he was eventually taken to the police station of Belém de São Francisco, where he was accused of being caught in flagrante delicto in possession of marijuana. He was then taken to the Floresta City Jail.

214. **Márcio Augustinho de Souza** and **Manoel Quixabeira Filho** were reportedly arrested on 27 June 2000 on suspicion of homicide. They were taken to the Carnaubeira and Floresta police stations. During their transfer to the latter police station, it was alleged that they were beaten and threatened that they would be shot dead. They were reportedly taken out of the car to two different bushes. Military police officers were said to have shot a gun allegedly in order to make Manoel Quixabeira Filho believe that Márcio Augustinho de Souza had been killed with a view to intimidating him into confessing to a murder. It was also believed that they

were both asphyxiated. It was believed that they were made to sign papers at Floresta police station without being allowed to read them.

215. **Luzinaldo Marques da Fonseca** was reportedly arrested on 22 August 2001 at the bus station of Florestan and taken to the regional police station in Florestan where, being handcuffed, he allegedly received kicks in the chest. It was reported that he was not allowed to contact his family during his stay at the station.

216. **Márcio Alexandre de Souza Silva**, and a friend, **José Marivaldo dos Santos**, were reportedly abducted on 12 November 2001 by two military police officers who were said to have taken them to the bank of the São Francisco River, where they were allegedly asphyxiated with plastic bags, drowned in water, and hit on the head with the butt of guns. José Marivaldo dos Santos was allegedly threatened with guns and knives.

217. **Orlando José Alves** was reportedly arrested by 16 hooded police officers from the CIOSAC special team on 20 February 2000. He was allegedly subjected to the technique known as “pau de arara”, had a gun put into his mouth and dipped into a barrel full of water. He was reportedly taken to the police headquarters where he was allegedly punched and kicked, in particular in the ribs. Reportedly, he was later transferred to the Florestan main police station and three days after his arrest to the City Jail.

218. **Milton Delgado dos Santos** was reportedly arrested on 17 December 2001 by police officers from the CIOSAC special team. He was reportedly manhandled, threatened and insulted. **Maria da Penha dos Reis**, his daughter-in-law who was two months pregnant, was said to have been threatened and to have had a miscarriage as a result. A police investigation was said to have been opened on 27 December, in particular on the basis of a medical certificate delivered on 17 and 19 December.

219. **Romuel Gomes de Sá Torres** was reportedly approached by approximately 10 police officers from the CIOSAC special team around 17 December 2001. He was allegedly beaten and handcuffed face against the ground. It was alleged that police officers also stuck thorns under his fingernails and asphyxiated him with a plastic bag on two occasions. His legs were tied to a tree branch and he was left hanging upside down. He was also constantly threatened with death. A police inquiry was reported to have been opened on 17 December 2001 at the Salgueiro police station.

220. **Josemar Gomes Feitosa Adilson Santos da Silva** and **Adailton Santos da Silva** were reportedly arrested on 27 February 2002 at the Airi neighbourhood in Floresta by some 20 military police officers. They were reportedly taken to a river where they were threatened with death and hit with the butt of revolvers. They reportedly had their necks twisted and received kicks in the stomach and legs. It was believed that they were subjected to this treatment in order to make them confess to a crime and to incriminate somebody they did not know. A judge was said to have eventually sent an order to the Prison Guard Commander for their release. It was alleged that since their release, they had been threatened by police officers.

221. **Arenilson Alves da Silva** and **Advânio da Silva Alves**, mentally disabled persons, were reportedly arrested by police officers on 31 December 2001 in the Airi

neighbourhood in Floresta. They were said to have been handcuffed with no explanation given and tied with a rope to a tree. In that position, they were allegedly beaten, especially on the face. Later, they were reportedly taken to another deserted spot, where Arenilson Alves da Silva's father joined them. He was also allegedly beaten with a wooden stick and a rock. As a result, he was believed to have lost consciousness. Reportedly, Arenilson Alves da Silva was then asphyxiated with six plastic bags placed over his head. He was said to have also had his arm stung with a thorny plant called "chique-chique" and to have been tied to a car with a rope and dragged on the dirt. The two persons named above were then reportedly taken to the Riacho do Navio, where they were allegedly beaten in order to make them confess to taking part in a robbery. Afterwards, they were reportedly taken to the Regional Police Station in Floresta where Arenilson Alves da Silva was forced to confess to participating in a robbery while he was beaten with an iron stick and threatened. Advânio da Silva Alves was believed to have also been forced to confess when a gun was placed on his head. Both were then reportedly taken to the City Jail where they allegedly remained for 23 days.

222. **Francisco das Chagas Gomes de Sousa** was reportedly detained at the 10th Police Station in Teresina, in the State of Piauí, by members of the civil police in October 2001. Five days after his arrest, he was reportedly released with apparent bruises, cuts, a dislocated knee and coughing blood, allegedly as a result of the treatment to which he had been subjected while in detention. On the following day, he reportedly died at the hospital. It was reported that members of the federal police subsequently found a torture instrument at the police station, and confirmed that most of the 800 people held there the year before had been detained without notification to the judicial authorities and subjected to various forms of ill-treatment and extortion.

223. **Sidney da Costa Tavares** was reportedly beaten while in custody at the Police District No. 8, in São Paulo State, after he allegedly gave a testimony related to the beating of another detainee, **Otávio Luís Cepi Teixeira**, to a non-governmental organization on 13 June 2002. Sidney da Costa Tavares was reportedly beaten with a rubber club and subjected to electric shocks and a bag was pulled over his head and a piece of cloth shoved into his mouth. As a result, he allegedly lost one tooth and suffered from shaking in his hands. He was believed to have undergone a forensic examination at a forensic medical institute (IML). It was reported that he was taken to a State Penitentiary Centre (Penitenciária do Estado) on 20 June 2002. While being transferred to prison, another plastic bag was allegedly pulled over his head and his hands and feet were reportedly tied.

224. **Detainees at the pre-trial detention centre of Belem 2 Centro de Detenção Provisório**, in São Paulo City, were allegedly hooded by guards for three consecutive nights, taken from their cells and beaten and given minimal medical treatment for injuries in September 2001. Seventeen detainees were reportedly accused of having planned an escape attempt. The Prisons Administration Secretariat informed that initial forensic examinations could not substantiate these claims, although detainees reported that the examinations had been cursory.

225. **Detainees at DACAR 1 women's prison**, in the city of São Paulo, were allegedly awoken by gunshots on 22 April 2001. Members of the *Grupo de Operações Especiais* (GOE), a military police troop, had reportedly entered the detention centre

and began shooting and beating female detainees. The GOE members were accompanied by the prison officer responsible for discipline and the operation was said to have followed protests by inmates. On 25 April 2001, an independent delegation, including a member of Christian Action for the Abolition of Torture (ACAT), a representative of a federal deputy, a municipal deputy and a State deputy who visited DACAR 1, reported that all women had been kept awake since the morning of the raid three days earlier and that they had had no electricity or water. A number of alleged victims reportedly complained about the widespread beatings and ill-treatment by prison guards, abuse, humiliation of visitors and lack of medical assistance and treatment. Furthermore, the delegation reportedly found evidence of ill-treatment. Regarding the conditions of detention, it was alleged that rubbish was everywhere and that a stench permeated the whole building. Details regarding specific detainees were brought to the attention of the Government.

226. By the same letter, the Special Rapporteur advised the Government that he had received further information on conditions of detention in prisons and other centres of detention. In this context, he noted and reaffirmed the recommendations made by his predecessor and reminded the Government, in particular of recommendation (w) in the report on his mission to Brazil (E/CN.4/2001/66/Add.2), which states: “The appalling overcrowding in some provisional detention facilities and prisons needs to be brought to an immediate end, if necessary by executive action, for example by exercising clemency in respect of certain categories of prisoners, such as first-time non-violent offenders or suspected offenders. The law requiring separation of categories of prisoner should be implemented”. In relation to the conditions of detention, the Special Rapporteur received the following information.

227. **Detainees at Butantã Women’s prison**, in the State of São Paulo, were reportedly held in cells without toilets, or access to natural light or water.

228. **Detainees at the 68th police station**, São Paulo City, were reportedly held in four overcrowded cells, with no ventilation, bedding or access to natural light and exercise. Medical attention and access to lawyers were believed to be limited. **Denilson Augusto de Oliveira** was reported to be suffering from tuberculosis, but no medical tests had yet been done. **Alessandro dos Santos Rodrigues** had reportedly been detained for more than six months without trial. **Edilson Severino de Alcantara** reportedly sustained bruises and injuries in the left shoulder and in the chest apparently as a result of the punches and kicks he had received from police officers. **André Nonato de Lima** was believed to have been beaten by police officers twice with clubs. As a result, he apparently sustained abrasion in his head and bruises in the back.

229. **Detainees at the Itaquaquetuba Prison**, State of São Paulo, were reportedly held in overcrowded cells, without toilets, bedding or exercise. Medical attention and access to lawyers and families was believed to be limited. The prison, which has an official capacity of 24 detainees, was believed to hold more than 45 inmates, a number of them were believed to be teenagers. **J. E. F. L.** and **W. A. C.**, two juveniles, were reportedly beaten with a leather device called “pica de boi”, on 4 August 2002, following their refusal to move to Suzano and Guarulhos Prison for fear of being killed there by rival gangs. Their bodies were reportedly covered with bruises, but no investigation into the case had reportedly been carried out.

230. **Detainees at Vila Independência Detention Centre**, State of São Paulo, were reportedly held in overcrowded cells, without access to natural light or bedding. Medical attention and access to lawyers and families was believed to be limited. **Antônio Carlos de Araújo** and **Valter Vieira da Silva** were reported to have been routinely beaten and forced to engage in obscene sexual acts, such as oral sex, to one another. Both apparently had bruises all over their body and they feared for their life. **Ricardo Luiz Ribeiro** was reportedly beaten with clubs and barrels. **Josivaldo Celestino dos Santos** was reportedly kicked during the night by prison staff and as a result he was said to have bruises on his arms and legs. **Marcelo Carlos Estevão** was reportedly beaten with iron bars and had his shoulders dislocated. **Ivanildo Souza de Mota** was reportedly beaten by police officers. **Daniel Correia de Araújo** and **Luiz Carlos Alves** were both believed to suffer from AIDS and were being held in the punishment cell. They allegedly received no medical attention. **Álvaro de Oliveira Carneiro** was reported to suffer from bouts of epilepsy without receiving medical attention.

231. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted to it in 1997, 1998, 1999 and 2001 regarding which no reply had been received.

Urgent appeals

232. On 12 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of some **20 detainees in Urso Branco Prison**, Porto Velho, Rondonia State, who reportedly were in danger of being killed by other inmates. Most of those in danger are reported to have been transferred from holding cells (*seguro*), which are used for inmates deemed to be at risk from others. On their arrival, two were reportedly attacked with boiling water by prisoners and guards. On 5 July, 34 more detainees were reportedly transferred from the central police station in the State capital, Porto Velho, to the holding cells. In the past the prison had not proved to be under control.

233. By letter dated 14 August 2002, the Government informed the Special Rapporteur that those crimes were being thoroughly investigated. The Government explained that there is currently no indication that State agents are involved in such killings. The information available indicates that some detainees were determined to kill other inmates. Several measures have been taken to reinforce security within the prison, such as control of the prison (on a temporary basis) by a police force comprising 55 members; the hiring of 45 new prison wardens; the construction of two new prisons in Rondonia; and the establishment of regular visits by the Public Prosecutor and the Brazil Bar Association to the prison in order to confiscate any weapons they might find and prevent possible situations of rebellion or threats against inmates.

Observations

234. The Special Rapporteur acknowledges the response of the Government (E/CN.4/2002/76/Add.1, paras 179 to 239) to the recommendations formulated in his predecessor's mission report (E/CN.4/2001/66/Add.2) and he would appreciate

continuing to receive information on measures taken to implement the recommendations included in this report.

235. The Special Rapporteur notes with concern that no response has been provided to a number of cases brought to the attention of the Government since 1997 as well as to the numerous cases included in the annex of his predecessor's mission report in 2001 (*ibid.*). He would appreciate continuing to receive information on measures taken to implement the recommendations included in this report.

Bulgaria

236. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in to it 1996, 1997 and 2000 regarding which no reply had been received.

Observations

237. The Special Rapporteur notes with concern that no response has been provided to the cases brought to the attention of the Government since 1996.

Burundi

238. Par une lettre datée du 17 octobre 2002, le Rapporteur spécial a rappelé au Gouvernement un certain nombre de cas qu'il avait envoyés en 1999 et 2001, au sujet desquels il n'avait pas reçu de réponse.

Appels urgents

239. Le 21 février 2002, le Rapporteur spécial a envoyé un appel urgent en faveur de **Zacharie Ntahoshikira, Marie Nditije, Martin Nijimbere, Appolinaire Ndeyimana, Emile Sibomana, Ferdinand Ntumwizere, Libère Buhuraguza, Ntirumera** et sa femme **Christiane**, et les dénommés **Raphaël, Frédéric, Antoine, Niyirangabo** et **sept autres personnes non identifiées** qui étaient détenus à la brigade de gendarmerie de Bururi, dans la province de Bururi, apparemment en raison de leur collaboration avec des membres de l'opposition armée. Certains seraient membres du Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie (CNDD-FDD) et d'autres du Front pour la démocratie au Burundi (FRODEBU).

240. Par une lettre datée du 20 mars 2002, le Gouvernement a informé le Rapporteur spécial qu'un certain Raphaël arrêté pour des motifs de vols à main armée et de tueries avait dénoncé ses complices. Toutes ces personnes avaient été mises à disposition du parquet de Bururi. Le procureur de la République a promis de faire une instruction accélérée sur cette affaire. Le Gouvernement a précisé que toutes ces personnes font l'objet d'un traitement humain en détention.

241. Le 4 juillet 2002, le Rapporteur spécial a envoyé un appel urgent conjointement avec la Rapporteuse spéciale sur la situation des droits de l'homme au Burundi et le Président-Rapporteur du Groupe de travail sur la détention arbitraire en faveur de **Bayubahe**, chef du camp de Gatwe pour les personnes déplacées, **Antoine**

Zigamasabo, un chauffeur, **Gerard Niyogendako** et **William Kabura**, deux commerçants, ainsi que **Gerard Bankintore**, qui auraient été arrêtés dans la zone de Bigina, commune de Kayogoro, province de Makamba, le 29 juin 2002. Ils seraient détenus à la brigade de gendarmerie de Gatwe. Ils seraient soupçonnés de collaboration avec des membres de groupes armés d'opposition. Le commandant de brigade aurait indiqué que ces personnes seraient libérées lorsqu'elles auraient payé une somme d'argent importante.

242. Le 13 novembre 2002, le Rapporteur spécial a envoyé un appel urgent conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Rapporteuse spéciale sur la situation des droits de l'homme au Burundi au sujet de **Elvis Kazungu**, **Léonidas Ntakaye**, secrétaire général du Parti pour le redressement national (PARENA), **Zénon Nimubona**, porte-parole du PARENA, **Christophe Hicintuka**, secrétaire exécutif du PARENA, **Benoît Ndorimana**, **Hilaire Ntahomvukiye**, **Innocent Nsabiyumva** et **Thierry Bizoza Ndayishimeye**, membres du PARENA et au moins **trois autres étudiants**, arrêtés entre le 1^{er} et le 5 novembre 2002 et détenus au secret à la Documentation nationale par la Brigade spéciale de recherche et la Police spéciale de roulage à Bujumbura. Elvis Kazungu aurait été violemment battu lors de son arrestation et aurait besoin de soins médicaux. Le 11 novembre, une organisation non gouvernementale aurait cherché à le faire hospitaliser sans succès.

Cambodia

243. On 22 August 2002, the Special Rapporteur, jointly with the Special Representative on the situation of human rights in Cambodia, sent an urgent appeal on behalf of at least eight Falun Gong practitioners living in Cambodia, including **Wang Minchun**, aged 58, and her husband, **Jiang Linzhong**, aged 61, both Chinese nationals living in Phnom Penh under the protection of the United Nations High Commissioner for Refugees, who were believed to be at risk of deportation to China. It is reported that the above-mentioned persons used to practice Falun Gong with Zhang Xinyi and her husband Li Guojun, on behalf of whom the Special Rapporteur on the question of torture transmitted an urgent appeal to the Chinese authorities on 15 August 2002.

Cameroon

244. Par une lettre datée du 2 septembre 2002, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des renseignements concernant le Commandement opérationnel de Douala, une unité composée de forces de l'armée de terre et de l'air, de la gendarmerie et de la police. Cette unité aurait été créée par le décret présidentiel 2000/227 le 20 février 2000 pour lutter contre le grand banditisme à Douala et dans la province du Littoral. Le Commandement opérationnel aurait arrêté sans mandat d'arrêt et soumis à des tortures et autres mauvais traitements des centaines de personnes, dont un grand nombre aurait été exécuté de nuit, en particulier dans les camps de la gendarmerie de Mboppi, surnommé «Kosovo», de la base navale et de la brigade antigang de Bonanjo et le camp Berthaux. Les personnes ainsi arrêtées auraient été détenues, souvent les mains attachées dans le dos, dans des cellules surpeuplées et auraient été privées de nourriture durant plusieurs jours consécutifs. Ceux ayant des blessures sérieuses, en particulier après des bastonnades collectives,

auraient été laissés sans les moindres soins. Certains détenus seraient décédés des suites de leurs blessures et n'auraient été retirés de leur cellule que quelques jours après leur mort. Un état d'insalubrité et de puanteur aurait régné en permanence dans ces cellules. Les personnes arrêtées seraient arbitrairement accusées de «vol aggravé» ou de «détention illégale d'arme», ce qui permettrait leur détention préventive pour une plus longue période. Ces deux crimes seraient également passibles de la peine de mort.

245. Un état d'impunité totale règnerait sur les actions commises par le Commandement opérationnel, seule une dizaine d'officiers et de sous-officiers ayant fait l'objet de poursuites pour «assassinat, tortures, corruption et violation de consigne» devant le tribunal militaire de Yaoundé dans le cas de l'affaire dite des «neuf jeunes de Bépanda» arrêtés dans la nuit du 23 au 24 janvier 2001 et conduits à la brigade antigang de Bonanjo. Le 20 mars 2001, le Président Biya aurait en effet ordonné l'ouverture d'une enquête. Une commission d'enquête aurait été établie au mois d'avril et aurait abouti à l'arrestation d'une dizaine d'officiers. Les rapports de cette commission n'auraient toutefois pas été rendus publics. De même, les rapports de la Commission nationale des droits de l'homme sur la situation n'auraient jamais été rendus publics. Le général en charge du Commandement opérationnel aurait été muté à la tête de la sixième région militaire de Bamenda, le colonel commandant la légion de gendarmerie du Littoral aurait été démis de ses fonctions et le Ministre de la défense aurait été nommé ministre de la justice.

246. Le Commandement opérationnel de Douala aurait fini par être démantelé une année après sa création, mais le décret officiel de dissolution n'aurait toujours pas été publié et des craintes ont été exprimées quant au fait que cette unité spéciale serait toujours opérationnelle et aurait changé de nom pour s'appeler maintenant «Centre opérationnel de la gendarmerie». Les personnes arrêtées seraient emmenées à la base dite du «Kosovo» où elles seraient privées de nourriture et d'eau jusqu'à ce que mort s'ensuive. Les corps seraient ensuite emballés dans des sacs plastique bleus et emmenés au «cimetière de Bois des singes» ou dans une carrière proche de la voie ferrée à une trentaine de kilomètres sur la route entre Douala et Yaoundé.

247. Par la même lettre, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants.

248. **Olivier Ntanhkou Sandé** aurait été recherché par des éléments du Commandement opérationnel en tenue militaire et en civil les 4 et 5 avril 2000. Ne l'ayant pas trouvé, ces derniers auraient arrêté et frappé ses amis de la concession, sise à l'Omnisports. Le 7 avril, Olivier Ntanhkou Sandé se serait rendu de son propre chef à la deuxième région militaire de manière à connaître les raisons pour lesquelles il était recherché. Avec d'autres personnes détenues à la deuxième région militaire, aussi connu sous le nom de camp militaire «Kosovo», il aurait été bastonné avec des bâtons, des machettes et des fils de fer électrique. Lors de cette bastonnade, le capitaine en question aurait ordonné à ses hommes de tirer dans les jambes de certains détenus: 14 personnes auraient ainsi été sérieusement blessées. Après six mois, il aurait finalement comparu devant un juge qui, après lui avoir demandé combien de temps il avait déjà passé en prison, l'aurait condamné à six mois de prison fermes lors d'un procès expéditif pour calomnie. Il aurait alors été immédiatement remis en liberté.

249. **Roger Mbella Toto** aurait été arrêté le 13 août 2000 par des éléments du Commandement opérationnel suite à un litige foncier avec sa sœur. Après avoir été emmené au poste de Mboppi, il aurait été transféré au camp dit «Kosovo» à Bonango où il aurait été immédiatement flagellé. Le 10 novembre 2000, un capuchon l'empêchant de voir quoi que ce soit aurait alors été mis sur sa tête et il aurait été emmené à la base navale, où le commandant de la marine aurait lu une liste de 25 personnes devant être exécutées. Comme cette liste était différente de celle du capitaine en question, tous les détenus auraient été ramenés à la base dite «Kosovo». Deux semaines plus tard, les 25 détenus auraient toutefois été exécutés. Le 13 novembre 2000, Roger Mbella Toto aurait été sorti de sa cellule et fouetté. Il aurait également été suspendu par le pied gauche et aurait reçu une balle dans la jambe. Début décembre, il aurait eu le pied droit brûlé au chalumeau par le même capitaine. Il aurait finalement été libéré le 23 février 2001. Il aurait subi une intervention chirurgicale à l'hôpital de Laquintinie. Il serait décédé quelques semaines après être sorti de l'hôpital.

250. **Moulyy Sosso** aurait été arrêté par des policiers du commissariat de la sécurité publique d'Edéa dans la nuit du 29 octobre 2001. Il aurait reçu deux balles dans les jambes et aurait ensuite été transféré à la prison d'Edéa.

251. **Bernard Momo** aurait été arrêté par des membres du Commandement opérationnel le 13 octobre 2000. Il aurait été emmené à la base dite «Kosovo» où il aurait été bastonné. Sa famille l'aurait vu cinq jours après son arrestation et aurait constaté que son corps était couvert de blessures. Il aurait été vu pour la dernière fois le 6 février 2001. Il aurait été exécuté en compagnie d'une cinquantaine d'autres détenus dans la nuit du 7 au 8 février à la carrière de Log Badjeck, vers Edéa. Son corps aurait été par la suite incinéré.

252. **Jonas Loughe** aurait été arrêté le 23 août 2000 et conduit à la base dite «Kosovo». Il serait décédé cette nuit-là des suites des tortures auxquelles il aurait été soumis.

253. **Sidi Bakari** aurait reçu trois balles (joue droite, bras gauche et mollet) lors d'une rafle menée par le Commandement opérationnel au port dans la nuit du 16 août 2000. Il serait décédé le 29 août 2000 au matin à l'hôpital de Laquintinie.

254. **Nyack Jean Nkembe** aurait été arrêté le 23 août 2000. Il aurait reçu un coup de machette sur la tête et plusieurs coups de matraque. Il aurait fait l'objet d'un traitement médical pendant 64 jours à l'hôpital de Laquintinie, ayant trois côtes cassées et une plaie importante au niveau du cuir chevelu.

255. **Paul Mounah** aurait été criblé de balles lors de son arrestation le 4 août 2000. Le Commandement opérationnel serait intervenu suite à un litige familial à la demande de ses sœurs. Il aurait eu la main gauche broyée, une blessure ouverte au flanc gauche et la jambe droite transpercée. Il aurait reçu plusieurs coups de machette alors qu'il était attaché. Il serait resté hospitalisé pendant deux mois à l'hôpital de la Laquintinie. Le 10 août 2000, il aurait déposé une plainte auprès du procureur de Douala.

256. **Bias** aurait reçu une balle dans la cuisse le 8 août 2000 au quartier de Bonamikengue à Edéa. Tombé à terre, il aurait ensuite été aspergé de gaz lacrymogène avant d'être traîné sur le sol sur une centaine de mètres. Il aurait été menotté et envoyé à la gendarmerie d'Edéa où il n'aurait reçu aucun traitement médical.
257. **Rosine Kondo** (f) aurait reçu une balle dans le pied le 8 mars 2000 alors qu'elle était à bord d'un car sur la route de Ndog-Passi. Elle aurait été par la suite hospitalisée à l'hôpital de Laquintinie.
258. **Lare Haoua** (f) aurait été frappée par des éléments de la brigade antigang avec un bout de bois, appelé communément «mangossi», lors de sa détention au commissariat central en mars 2000. Elle aurait été soupçonnée de trafic de drogue et aurait été placée sous mandat de dépôt le 23 mars 2000.
259. **Jules (alias Junior) Potga Seh** aurait été arrêté le 12 janvier 2001 avec sa sœur cadette. Cette dernière aurait reçu une balle dans le tibia droit au moment de son arrestation. Elle aurait été relâchée le lendemain sans avoir été entendue. Le 28 janvier, Jules Potga Seh aurait été vu pour la dernière fois par sa famille. Il aurait été exécuté le 31 janvier 2001 à Logbadjeck.
260. **Ethe Jacques Mateke** aurait été arrêté le 18 mars 2000 au domicile de son cousin et conduit au camp de Bonanjo par des éléments du Commandement opérationnel. Il y aurait reçu des coups de crosse, aurait été obligé de regarder le soleil pendant cinq heures, et sa fiancée, qui aurait été arrêtée en même temps que lui, aurait été déshabillée devant lui pour l'humilier. Il aurait eu plusieurs plaies aux jambes et aux bras et des troubles de la vision.
261. **Sylvestre Likeng Oum** aurait été arrêté le 28 octobre 2001 par des agents de police du commissariat de la sécurité publique qui l'accusaient d'être en fuite. Lors de sa détention, il aurait reçu des balles dans les jambes. Il aurait été vu par son père pour la dernière fois le 2 novembre. Le 5 novembre, sa famille aurait été informée de son décès. Son corps aurait été gardé à la morgue de l'hôpital de district d'Edéa. Selon un rapport du médecin légiste, son décès serait dû à des hémorragies consécutives à des blessures aux jambes.
262. Par cette même lettre, le Rapporteur spécial a également informé le Gouvernement qu'il avait reçu des renseignements sur les conditions de détention à la prison de New Bell, que son prédécesseur avait visitée en mai 1999 (voir, en particulier, E/CN.4/2000/9/Add. 2, par. 26 à 31). Lors d'un recensement en date du 17 octobre 2000, 2 255 personnes, dont 1 345 en détention préventive (dont certains depuis plus de cinq ans), étaient détenues dans cette structure officiellement prévue pour accueillir 800 personnes. Tous les matins à 6 heures et tous les soirs à 18 heures, les détenus devaient se présenter devant leur chef de cellule. Ceux ne répondant pas à l'appel seraient traduits devant les autorités pénitentiaires pour tentative d'évasion et envoyés en cellule disciplinaire pour quelques jours au gré de l'humeur des agents d'encadrement responsables. Ceux détenus dans la cellule disciplinaire, un lieu clos, seraient laissés en short et dormiraient à même le sol. Ils se serviraient d'un seau pour leurs besoins hygiéniques, seau qui ne serait vidé qu'une fois par jour. Seules deux cellules bénéficieraient de fosses sceptiques qui se vidangeraient tous les deux jours à

l'aide de seaux attachés au bout d'une ficelle, les matières fécales étant ensuite rejetées dans des rigoles se trouvant derrière les bâtiments. Les toilettes des autres cellules se déverseraient directement dans ces rigoles. Lors d'inondations, les matières fécales stagneraient dans la grande cour de la prison. La ration journalière serait composée de maïs mélangé avec des haricots et de l'huile de palme. La valeur énergétique d'une telle ration ne suffirait pas aux besoins nutritionnels quotidiens. Les problèmes de malnutrition seraient chroniques parmi la population carcérale. Les détenus mineurs devraient en outre bénéficier de rations de riz, mais ces dernières seraient vendues par le cuisinier à l'extérieur de la prison.

263. La position de «chef de cellule» se négocierait avec les gardiens autour de 20 000 francs CFA. Une équipe de détenus aurait été chargée par les précédents régisseurs de New Bell de faire respecter l'ordre dans la prison. Ces détenus molesteraient leurs camarades en utilisant des gourdins et des ceintures qui leur seraient fournis par le personnel pénitentiaire et pourraient ordonner leur mise en cellule disciplinaire. Les actions de cette équipe de détenus seraient couvertes par le régisseur, qui refuserait d'écouter les plaintes des codétenus ayant été maltraités.

264. Le dispensaire de la prison n'aurait à sa disposition que du paracétamol. Aucun antibiotique ne serait administré. Seuls les détenus pouvant payer leurs médicaments ou les recevant de leurs familles seraient soignés.

265. Le Rapporteur spécial a transmis des renseignements sur les cas individuels suivants.

266. **Charles Janvier Essimbi** serait décédé le 8 octobre 2001 au dispensaire de la prison de New Bell où il avait été admis quatre jours auparavant. Il serait mort le jour même où le médecin du dispensaire aurait demandé à la sœur de Charles Janvier Essimbi 10 000 francs CFA pour son transfert dans un hôpital.

267. **Yvette Mbanza**, une condamnée à mort détenue à la prison de New Bell, aurait été molestée et piétinée par un gardien, alors qu'elle se trouvait au parloir avec sa fille qui lui rendait visite de manière officielle le 9 octobre 2001. Malgré les protestations de ses codétenus, aucune action n'aurait été prise à l'encontre de ce gardien.

268. Par une lettre datée du 17 octobre 2002, le Rapporteur spécial a rappelé au Gouvernement un certain nombre de cas qu'il avait envoyés en 1998 et 2001, au sujet desquels il n'avait pas encore reçu de réponse.

Appels urgents

269. Le 29 mai 2002, le Rapporteur spécial a envoyé un appel urgent conjointement avec le Président-Rapporteur du Groupe de travail sur la détention arbitraire en faveur de **Nwa nchang Thomas**, un membre du Southern Cameroon National Council, qui aurait été arrêté le 18 mai 2002, alors qu'il distribuait des tracts demandant la libération de Camerounais originaires du sud détenus au commissariat de police de Bamenda, province du Nord-Ouest. Il aurait été transféré à la prison centrale de Bamenda où il n'aurait toujours pas été inculpé.

270. Le 14 juin 2002, le Rapporteur spécial a envoyé un appel urgent conjointement avec le Président-Rapporteur du Groupe de travail sur la détention arbitraire en faveur de **Ahmadou Hassan, Asamu Isa** et **Yunusa Mbaghoji**, qui auraient été arrêtés sans mandat par des gendarmes le 13 mai 2002 à Douala. Ils auraient été menottés et jetés, face contre terre, dans une jeep, et transportés jusqu'à la gendarmerie de Bamenda. **Ousman Haman** aurait été arrêté le 29 avril 2002. Lors de son arrestation, il aurait été emmené par des gendarmes dans le ranch d'Alhadji Baba Ahmadou Danpullo, un riche commerçant et membre du Rassemblement démocratique du peuple camerounais. Il y aurait été frappé sur la plante des pieds une cinquantaine de fois par un commandant de la gendarmerie, sur ordre d'Alhadji Baba. Ses pieds auraient ensuite été trempés dans de l'eau avant de recevoir l'ordre de sauter sur le sable, alors qu'il recevait des coups. Il aurait été ensuite détenu, nu, à la brigade Terre à Bamenda, où il aurait été frappé par d'autres détenus. Il aurait perdu conscience à plusieurs reprises. Il aurait été relâché sous caution par le tribunal supérieur de Bamenda le 17 mai. Il aurait été arrêté de nouveau le 23 mai alors qu'il était traité à l'hôpital militaire de Bamenda pour ses blessures. Tous les quatre auraient finalement été transférés le 23 mai à la prison centrale de Bafoussam où ils seraient détenus sans avoir été inculpés. Ils auraient été arrêtés sur ordre d'Alhadji Baba parce qu'ils seraient membres de la communauté des Mbororo et s'opposeraient à l'acquisition par ce dernier de leurs terres ancestrales.

271. Le 10 octobre 2002, le Rapporteur spécial a envoyé un appel urgent conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et le Président-Rapporteur du Groupe de travail sur la détention arbitraire au sujet de **Nchendze Henry, Edwin Limfouyuy, Joseph Jumrau, Thomas Kombau** et **Tobias Koungso**, prétendument arrêtés sans mandat d'arrêt le 11 septembre 2002 à Kumbo par des membres des forces de sécurité et transférés par la suite à la prison centrale de Bafoussam, où ils auraient été soumis à des mauvais traitements. Par ailleurs, **Agbor Nfaw Joseph**, 70 ans, **Enow John Enow**, 65 ans, **Tane Daniel Agbor, Tambe Atem Valery, Ojong Samuel Ndip** et le docteur **Shinyuy George** auraient été arrêtés à Mamfe le 27 septembre 2002 par des membres des forces de sécurité et transférés dans une prison dont les cellules ne contiendraient ni toilettes, ni douche et dans lesquelles ils auraient été forcés de dormir à même le sol cimenté. Le docteur Shinyuy George serait décédé des suites des traitements qu'il aurait subis après son arrestation.

Observations

272. The Special Rapporteur acknowledges the response of the Government (E/CN.4/2001/66, paras 220 to 230) to the recommendations formulated in his predecessor's mission report (E/CN.4/2000/9/Add.2) and he would appreciate continuing to receive information on measures taken to implement the recommendations included in this report.

273. The Special Rapporteur notes with concern that no response has been provided to cases brought to the attention of the Government since 1998 as well as to the numerous cases included in the annex of his predecessor's mission report in 1999 (ibid.). He would appreciate continuing to receive information on measures taken to implement the recommendations included in this report.

Canada

Urgent appeals

274. On 2 April 2002, the Special Rapporteur sent an urgent appeal on behalf of **Muhammad Zeki Muhammad Mahjoub**, who was said to be at imminent risk of being forcibly returned to Egypt. He had reportedly been held in custody since June 2000 under a ministerial security certificate, because he is considered a threat to Canada. The Egyptian authorities are said to suspect him of being one of the leaders in exile of the armed Islamist group called Tali'at al-Fatah (Vanguard of the Conquest). He was reportedly sentenced in absentia in April 1999 to 15 years' imprisonment following an allegedly unfair trial of 107 people accused of being members of armed Islamist groups by Egypt's Supreme Military Court. The defendants are said to include more than a dozen people forcibly returned to Egypt from various countries, who were reportedly held in unacknowledged incommunicado detention by the State Security Investigation. Several defendants alleged that they had been tortured.

275. By letter dated 11 June 2002, the Government responded that no decision had been made by the Minister, under the 1985 Immigration Act, as to whether to deport him on security grounds. Any decision will involve a careful balancing of various factors, including the risk of torture, the possibility of seeking assurances and the possibility of compliance. When such a decision is taken, effective domestic remedies for challenging it will be available to Muhammad Zeki Muhammad Mahjoub. He may obtain a stay of execution of the removal order pending the exhaustion of those remedies.

276. On 18 November 2002, the Special Rapporteur sent an urgent appeal on behalf of **Manjinder Pal Singh**, a Sikh from the State of Punjab, who was reportedly facing imminent and forcible repatriation to India, where he may be at risk of torture and other forms of ill-treatment. It was reported that he was denied refugee status by the Immigration and Refugee Board on 11 December 2001. His recourse for humanitarian reasons was reportedly rejected on 16 November 2002. It was alleged that he had been harassed by the Punjab police because his brother-in-law, Sarjit, was believed to be a member of Dal Khalsa, an organization promoting the creation of Khalistan. On 12 October 2000, he was reportedly arrested and taken into police custody where he was reportedly suspended and repeatedly beaten, in particular on the sole of his feet, before being released on 14 October 2000. A few weeks later, he reportedly left for Canada. His family, including his wife and children, were said to have gone into hiding since then. Manjinder Pal Singh was allegedly suffering from Post Traumatic Stress Disorder (PTSD) and from a left anterior/posterior cruciate rupture on his left knee, for which he was under medical treatment.

Central African Republic

277. Par une lettre datée du 17 octobre 2002, le Rapporteur spécial a rappelé au Gouvernement un certain nombre de cas qu'il avait envoyés en 2001, au sujet desquels il n'avait pas reçu de réponse.

Chad

278. Par une lettre datée du 25 septembre 2002, le Rapporteur spécial, conjointement avec la Représentante spéciale du Secrétaire général pour la question des défenseurs des droits de l'homme et le Rapporteur spécial sur l'indépendance des juges et des avocats, a informé le Gouvernement qu'il avait reçu des renseignements selon lesquels M^e **Jacqueline Moudeïna**, responsable juridique de l'Association tchadienne pour la promotion et la défense des droits de l'homme, et 13 autres personnes auraient été blessées le 11 juin de 2001 à N'Djamena, lors d'une manifestation dite «pacifique» d'une centaine de femmes devant l'ambassade de France. Les femmes auraient voulu ainsi exprimer leur mécontentement à l'égard du «rôle joué par la France dans le soutien au régime de Déby aux dernières élections présidentielles». La police antiémeutes serait intervenue en faisant preuve d'un usage excessif de la force. M^e Jacqueline Moudeïna aurait été blessée à la jambe droite alors que des agents de police lançaient une grenade en sa direction. Elle aurait ultérieurement été conduite à la clinique Providence pour y recevoir les soins nécessaires. M^e Jacqueline Moudeïna avait déjà été l'objet d'une intervention du Rapporteur spécial sur l'indépendance des juges et des avocats en date du 18 juin 2001 à propos du même incident.

279. Par une lettre datée du 17 octobre 2002, le Rapporteur spécial a rappelé au Gouvernement un certain nombre de cas qu'il avait envoyés en 1997 et 1999, au sujet desquels il n'avait pas reçu de réponse.

Appels urgents

280. Le 19 juin 2002, le Rapporteur spécial a envoyé un appel urgent en faveur de **Amadou Yaille**, originaire de Braou/Binder qui aurait été arrêté au début du mois de mai 2002 en compagnie de sept autres personnes pour avoir désarmé des douaniers qui effectuaient une opération dans son village. Grâce à l'intervention du président de la section de Fianga de l'Association jeunesse anti-clivage, les sept autres personnes ont été relâchées. Le 27 mai, des représentants de cette organisation auraient tenté, en vain, de rencontrer Amadou Yaille. Le commandant de brigade leur aurait dit qu'il avait reçu l'ordre de le détenir au secret, apparemment à Gounou-Gaya ou à Bongor. Il serait accusé d'être un «coupeur de route».

281. Le 29 octobre 2002, le Rapporteur spécial a envoyé un appel urgent conjointement avec le Président-Rapporteur du Groupe de Travail sur la détention arbitraire et la Représentante spéciale du Secrétaire générale pour la question des défenseurs des droits de l'homme concernant **David Mamtadjinan**, Président de la section de la Ligue tchadienne des droits de l'homme de Maro, et **Sylahorbe Maningonal**, membre du bureau de la section, tous les deux en détention. David Mamtadjinan aurait été arrêté le 3 octobre 2002 par le responsable de l'Agence nationale de sécurité (ANS), et lorsque Sylahorbe Maningonal aurait cherché à s'enquérir du motif de l'arrestation de son collègue, il aurait lui aussi été arrêté. Ce dernier aurait été soumis à la technique dite de «l'arbatachar» et violemment battu. Il aurait ainsi dénoncé un gendarme à la retraite qui aurait été arrêté le 19 octobre 2002 et le chef de canton de Maro qui aurait été entendu par l'ANS. Ces deux défenseurs des droits de l'homme seraient accusés, apparemment sans preuves manifestes, de détention illégale d'armes et d'appartenance à un groupe armé. Ils auraient été par la

suite transférés à la prison de Sido. Par ailleurs, les Rapporteurs ont noté que le responsable de l'ANS qui aurait conduit ces arrestations serait l'objet de poursuites judiciaires pour actes de torture remontant à l'époque du Président Hissein Habré.

Observations

282. The Special Rapporteur notes with concern that no response has been provided to the cases brought to the attention of the Government since 1997.

Chile

Seguimiento a las comunicaciones transmitidas previamente

283. Por carta de 14 de mayo de 2002, el Gobierno respondió a todos los casos incluidos en la carta enviada por el Relator Especial el 10 de agosto de 2001 (E/CN.4/2002/76/Add.1, párrs. 281 a 286).

284. En relación con **Alfredo Alegría Saavedra, Wilson Pérez Melgarejo, Rufino Pérez Abayay** y una mujer encinta llamada **Ana Ayala Medina** (ibid., párr. 282). El Gobierno indicó que el Departamento de Asesoría Técnica de la Policía de Investigaciones de Chile registra sólo a Wilson Pérez Melgarejo, con una tarjeta informativa por robo del año 1995 y que en el Libro Núm. 9 A "Registro de Detenidos" de la Brigada de Investigación Criminal del mes de julio de 1996, no aparecen los nombres de las personas que se señalan en el documento anexo de la Nota al Relator Especial. Así pues, se concluye que las personas que en el documento se indican, no habrían sido detenidas por funcionarios de la Policía de Investigaciones de Chile.

285. En relación con **Cristina Poblete Cerda** (ibid., párr.283). El Gobierno indicó que el nombre de la arriba mencionada no aparece en el Libro N° 9ª "Registro de Detenidos" de la Brigada de Investigación Criminal de Viña del Mar del mes de julio de 1996 y que tampoco tiene registrados antecedentes policiales ni cargos judiciales pendientes en el Departamento de Asesoría Técnica de la Policía de Investigaciones de Chile.

286. En relación con **Juan Aliste Vega, Oscar Bruces Espinosa, Carlos Gutiérrez Quiduleo, Carlos Playa Villaruel y Juan Tapia Olivares** (ibid., párr.284) indicando que aún no ha recibido la información respectiva. El Gobierno señaló que hará llegar la respuesta correspondiente una vez concluida la investigación.

287. En relación con **Juan Coliñir** y sus hijos **Alberto Coliñir Painemil y Ruperto Coliñir Painemil, Bernardino Parra Mela** y su hijo **Manuel Parra Catrilaf**, y los hermanos **Aurelio Catrilaf Parra y Juan Catrilaf Parra** (ibid., párr.285). El Gobierno indicó que mediante Parte de la Tercera Comisaría Padre Las Casas, Alberto Patricio Coliñir Painemil, Aurelio Catrilaf Parra y Juan Segundo Catrilaf Parra pasaron a disposición del 2º Juzgado del Crimen de Temuco, en cumplimiento de una Orden Amplia de Investigar por varios delitos, y detenidos como consecuencia de los hechos ocurridos el 20 de noviembre de 1999 en el interior de un fundo privado. Este último caso dio origen a una querrela por el supuesto delito de violencia innecesaria presentada en la Fiscalía Militar de Ejército y Carabineros de

Temuco, no existiendo en la causa ningún funcionario de Carabineros inculcado o procesado. Finalmente, el Gobierno añadió que en el ámbito institucional se dispuso la investigación correspondiente, negándose los afectados a declarar o proporcionar información que permitiera aclarar los hechos denunciados y esclarecer eventuales responsabilidades.

288. En relación con **Úrsula Rojas Villacura** (ibid., párr.286) indicando que aún no ha recibido la información respectiva. El Gobierno señaló que hará llegar la respuesta correspondiente una vez concluida la investigación.

Observaciones

289. The Special Rapporteur acknowledges the response of the Government (E/CN.4/2000/9/Add.1, paras 2 to 19) to the recommendations formulated in his predecessor's mission report (E/CN.4/1996/35/Add.2) and he would appreciate continuing to receive information on measures taken to implement the recommendations included in this report.

China

290. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information on the following individual cases.

291. **Li Wangyang**, a veteran labour activist in Shaoyang, Hunan province, was reportedly sentenced on 20 September 2001 to ten years' imprisonment on charges of "incitement to subvert State power", after he allegedly went on hunger strike, demanding compensation for ill-treatment to which he had allegedly been subjected in the past. It was believed that he was seriously ill with heart problems and goitre.

292. **Xu Jian**, a lawyer from Baotou City, Inner Mongolia, was reportedly arrested in December 1999 and sentenced to four years' imprisonment by Baotou City Intermediate People's Court on 18 July 2000 for "incitement to overthrow State power". He was allegedly held in Area Two of Chifeng Prison, Inner Mongolia, and that he was believed to suffer from hepatitis. His condition was said to have deteriorated to a critical level.

293. By the same letter, the Special Rapporteur advised the Government that he had continued to receive information on the following individual cases of Falun Gong practitioners.

294. **Hélène Petit**, a French woman, was reportedly assaulted by police officers on 20 November 2001 in Tienanmen Square, Beijing, where she was alleged to have gathered with other foreigners to peacefully protest the alleged persecution of Falun Gong practitioners. Reportedly, she was grabbed by the arms by two police officers and taken away in a police van. It was reported that she was forcibly put into the van and that her legs hit the door many times as a result of which she allegedly sustained bruises on her legs. In the police van a police officer reportedly squeezed her neck against the hedge of the seat and cut it with the strap of her handbag, strangling her and preventing her from moving. At the police station she was reportedly pushed

down the stairs and a policeman is thought to have tried to force his hands into her genitals.

295. **He Zhihong** (f) was reportedly arrested on 3 July 2001 by the Sa District Police, Daqing City, and taken to the Fuqiang Police Station, Daqing City, where she was allegedly beaten and kicked by police officers. As a result, she reportedly sustained bruises on her face and arms. On 4 July 2001 she was reportedly transferred to the Daqing Detention Centre, where it was alleged that she was chained to an iron chair and prevented from sleeping for six consecutive days by officers from Daqing Police Station and the Sa District Police Station. As she reportedly went on hunger strike to protest this treatment, she was allegedly force-fed. Despite her poor condition, she was reportedly sent to perform forced labour in the Harbin City Drug Rehabilitation Centre, Harbin City, Heilongjiang Province. In October 2001 she reportedly went again on hunger strike and was allegedly forced-fed.

296. **Tang Zengye** (f) was reportedly arrested on 3 July 2001 for practising Falun Gong and transferred to Daqing Detention Centre, where she was alleged to have been beaten and kicked. She was reported to have been handcuffed and hung up for one day and later handcuffed to an iron chair for four consecutive days. It was also reported that she went on hunger strike to protest this treatment and that she was eventually force-fed. On 10 July 2001 a doctor allegedly inserted a force-feeding tube into her nose approximately 20 times and on 12 July 2001 she was reportedly force-fed and dragged on the floor. An unknown substance was reportedly injected into her by force and as a result she is believed to have become extremely weak. Instead of being transferred to a hospital, she was reportedly sent to the provincial drug rehabilitation centre in Harbin City.

297. **Chen Yutao** was reportedly taken to Huanxiling Labour Camp on 25 September 2001, after having been detained for nine months in both the Detention Centres No. 3 and No. 1 in Jilin City and sentenced to two years of forced labour. Reportedly, upon his arrival at the labour camp, he was beaten with electric batons for three hours by guards led by a policeman. Other inmates are believed to have been instigated to beat him and to deprive him of food.

298. **Wang Zhaohui**, a Falun Gong practitioner, was reportedly arrested, detained and beaten on 8 August 2001 at the Chuanying Branch of the Jilin City Police Bureau and sent to Yongji County Detention Centre two days later. It was reported that he was beaten again in the Detention Centre and that he went on hunger strike to protest both the detention and the treatment to which he was subjected. On 24 August 2001 he was reportedly sentenced to three years of forced labour and sent to Huanxiling Labour Camp, where he was allegedly handcuffed and beaten by the guards. A policeman was said to have stepped on his shoulder for a long time. As a result, he was allegedly unable to lift his arms for a fortnight. He was reported to have been kept in Unit No. 3 where the other inmates were allegedly instigated by the guards to attack him.

299. **Chen Aizhong**, a Falun Gong practitioner, was reportedly sentenced to three years of forced labour on 12 September 2001 and sent to Tanghsan No. 1 Labour Camp in Hebei Province, where he reportedly died on 20 September 2001. It was alleged that when her sister saw her body in the mortuary, she observed bruises all

over the corpse. Their younger brother **Chan Aili**, a Falun Gong practitioner as well, was reportedly detained in Tangshan City Jidong Prison. On 8 January 2002 he was said to have been seen by somebody who indicated that his weight had considerably gone down and that he showed several signs of dementia.

300. **Ming Zhao**, a Falun Gong practitioner studying in Ireland, was reportedly arrested on 1 May 2000 in Beijing and sent to Turn He Labour Camp, Beijing. He was believed to have been kept in custody for 22 months without having been charged. It was reported that in the labour camp he went on a hunger strike but was violently force-fed. During his first month of detention at the labour camp, he was reportedly beaten, in particular on the head, and kicked on the legs while he was tied to a chair. He was believed to have been deprived of sleep and to have been forced to remain in uncomfortable postures known as the “military squatting” and the “driving plane” (sticking the back and arms to the wall with the face towards the ground). Two weeks before being released, he was allegedly tightly tied on a wood bed board by five policemen and subjected to electric shocks. He was reportedly released on 12 March 2002.

301. Thousands of Falun Gong practitioners are reportedly detained in Wanjia Labour Camp, Harbin City, Heilongjiang Province. They are allegedly forced to work long hours, violently force-fed when on hunger strike to protest against their detention or the conditions of their detention, or not given enough food, injected with debilitating drugs and subjected to sleep deprivation or forced to sleep on wet weed mats or on the ground. Despite the fact that winter temperatures are said to range between -10° C and -20° C at night, detainees were reported to wear thin clothing and guards allegedly left the doors and windows open. It was reported that virtually all the practitioners have scabies all over their bodies and some have developed cankers. They were said to be often held in solitary confinement in approximately two square metres cells for long periods, during which they were allegedly beaten and not allowed to have visits, to talk, to take baths or to wash their clothes. The Special Rapporteur had also received information according to which some detainees had been tied to an iron chair for extended periods, raped, subjected to electric shocks and beaten.

302. In particular, the Special Rapporteur had received information on the following individual cases.

303. **Zhang Yulan** (f) was reportedly sent to the Wanjia Labour Camp in October 1999, where she was alleged to have died on 15 June 2001. Her family was reportedly not allowed to see her corpse until 23 June 2001. It was reported that her body sustained deep rope marks on her neck.

304. **Li Xiuqin** (f), detained at Wanjia Labour Camp since 26 December 1999, started a hunger strike on 2 April 2001 to protest the treatment to which she was allegedly subjected in the camp. She was believed to have been force-fed 16 times during her 25 days of strike and to have been given rotten milk. It was reported that she was grabbed by the hair, slapped and kicked on several occasions by the chief of the Wanjia Labour Camp Hospital. Reportedly, on 18 June 2001 she was isolated into a small cell where her hands were cuffed behind her back and pulled up until her toes were off the ground by a guard. While in this posture, she was allegedly beaten. She

was reported to have died after about 40 consecutive hours of hanging. Her body was believed to have been cremated by the police before notifying her relatives of her death. The family was allegedly sent an urn containing her ashes.

305. **Shao Ying** (f) was reportedly sent to Wanjia Labour Camp in 2000. On 3 April 2001 she allegedly went on hunger strike to protest her detention, which she claimed to be illegal, and the treatment to which she was believed to have been subjected while in custody. It was reported that she was beaten, in particular on the head and chest, and kicked by the Chief of the Wanjia Labour Camp Hospital. Another doctor reportedly inserted a tube into her stomach and then pulled it out four consecutive times. She is believed to have died on 20 June 2001 after a guard allegedly hung her in the air for approximately 40 hours.

306. **He Miao** (f) and **Deng Weiguo** were reportedly arrested in July 2001 by officers from Harbin City Police Department. Deng Weiguo reportedly died after having been thrown out of a window from the 12th floor of the Police Department building. He Miao was allegedly transferred to Wanjia Labour Camp where she was believed to have gone on hunger strike to protest her detention. She was allegedly beaten by guards and subsequently taken into solitary confinement. She was believed to have been force-fed with tubes by a doctor helped by some guards on 29 October 2001. She was reportedly grabbed by the hair, and repeatedly punched, slapped and kicked. She was said to have been force-fed and beaten again on 1 November 2001. It was alleged that on the 30th day of her hunger strike, on 20 November 2001, she was dragged into a guard's office, handcuffed to a heater pipe, punched, kicked and slapped by a guard and another detainee.

307. **Gao Shuyan** (f), a detainee at Wanjia Labour Camp, was reportedly put in solitary confinement on 2 April 2001 and beaten by a guard. As a result, the following day she allegedly went on hunger strike in protest. On 6 April 2001 she was reportedly force-fed. It was reported that on 16 April 2001 she was sent to the camp hospital where she was allegedly forcibly given an injection.

308. **Guo Minxia** (f) had reportedly gone on hunger strike several times to protest her detention, which she claimed was illegal. It was reported that she was beaten by the guards and other prisoners. On 24 October 2001 she was allegedly slapped twice by the chief of the Wanjia Labour Camp Hospital. She was reported to have been forcibly given an injection and taken into solitary confinement. On 7 November 2001 doctors from the camp allegedly pulled out her hair. She was believed to have been force-fed for over 50 days and to have vomited blood on the fortieth day. On 6 December 2001 she was sent again to the Wanjia Labour Camp Hospital along with four other Falun Gong practitioners on hunger strike, **Hao Xiuzhi**, **Ding Yanhong**, **He Miao**, and **Shang Yuxia**. It was reported that they were all force-fed, hit and kicked by the medical staff.

309. **Guo Hongyu** (f) was reportedly confined to an iron chair on 4 May 2001. Several guards, the Chief of the Wanjia Labour Camp Hospital, and the leader of team No.12 were reported to have forced a tube into her nose. As a result, her nasal cavity and oesophagus were damaged and she started bleeding. She was then reportedly kept restrained to an iron chair.

310. **Tan Guizhen** (f) was reportedly sent to a small cell and tied to an iron chair on 1 May 2001. She was reported to have gone on hunger strike to protest the treatment to which she was subjected. On 4 May 2001 she was reportedly force-fed by a guard who allegedly pulled up and down the force-feeding tube allegedly with a view to hurting her.

311. **Hao Xiuzhi** (f) reportedly went on hunger strike in October 2001 to protest her detention, which she claimed was illegal. She was alleged to have been force-fed and forcibly injected on her ninth day of strike. She was believed to have been grabbed by the hair, pinched and beaten by the guards and nurses.

312. **Shang Yuqiu** (f) reportedly went on hunger strike on 20 October 2001 to protest her detention, which she claimed was illegal. On 20 November 2001 she was reportedly grabbed by the hair and her head was hit against a wall by a doctor after she refused to be force-fed. She was believed to have been beaten by two male doctors until her face was bleeding.

313. **Wu Jiyang** (f) reportedly went on hunger strike on 24 January 2001 to protest her detention and the treatment to which she was subjected. As a result, she was reported to have been tied to the top of a cell door and hung by her wrists. It was alleged that she had difficulty breathing and that she fainted. On her sixth day of hunger strike, she was reportedly force-fed and tied to an iron chair.

314. **Liu, Li Pan, Liu Fengzhen, Xie Jinxian, Yang Huiling, Song Yusu, Wu Shulian, Cao Liandi, Wu Xinru and X Shurong**, and approximately 60 other female detainees were reportedly taken to male units on 24 May 2001 by order of the director of the labour camp. The women were allegedly hung up, beaten, subjected to electric shocks, forced to stand 24 hours a day or to remain in uncomfortable postures for extended periods, deprived of sleep and not allowed to take showers or change clothes. Several women were believed to have been raped by inmates and guards. Reportedly, Song Yusu was put into a water tank; Wu Shulian was drenched and subjected to electric shocks; Cao Liandi was hung up until she lost consciousness; Xie Jinxian, Wu Xinru and X Shurong were hung up, beaten with batons and subjected to electric shocks; Yang Huiling was hung up and her arm was dislocated; and Liu Fengzhen and Xie Jinxian were sent back to the female units where they were tied up and hung for five to six days, and beaten by the head of the female unit No.12.

315. **Liu Dongyun** (f) was reportedly grabbed by the hair by a chief, pushed to the ground, beaten and kicked on 24 January 2001. It was alleged that she was subsequently grabbed by the hair and dragged into a solitary cell. She reportedly went on hunger strike for 30 days to protest this treatment. She was reportedly released on 10 May 2001.

316. **Lei Chuanqing** (f) was reportedly beaten by male police guards allegedly for refusing to stop practising Falun Gong. She was believed to have sustained bruises all over her body and to have had difficulty moving for one month. On 18 June 2001 she was reportedly beaten approximately 40 times by two section chiefs and forced to take off her pants in front of them.

317. **Wang Guihua** (f) was reportedly sentenced to one year of forced labour in Wanjia Labour Camp on 21 January 2001, after she allegedly went to Beijing in December 2001 to appeal to the Government to stop the persecution of Falun Gong practitioners. It is reported that in Wanjia Labour Camp she was beaten after she allegedly practiced Falun Gong with other detainees.
318. **Li Lan** (f) was reportedly isolated in a cell for over seven months and tied to an iron chair. She allegedly went on hunger strike to protest. On 16 November 2001, two guards reportedly sealed her mouth with tape and beat her. **Lu Shiping** (f), another detainee, was reportedly subjected to the same treatment. On the following day, Li Tan was allegedly slapped in the face and gagged with dirty socks.
319. **Ding Yanhong** (f) was reportedly beaten by two guards on 2 November 2001 because she had allegedly been talking with her cellmate. It was reported that on the following day she was beaten again by two other guards. She was believed to have been beaten again with a broom on 6 November 2001.
320. **Pan Xuanhua** (f) was reportedly beaten by six policemen on 26 April 2000 and forced to sit on an iron chair for three days. She allegedly went on hunger strike for 17 days to protest this treatment and was forced to sit again on an iron chair for seven days and later taken to a solitary cell for approximately 45 days. On 10 August 2000 she was sent again, along with other Falun Gong practitioners, **Zhang Hong, Li Yanhong, Zuo Xiuyun** and **Wang Fang**, to an isolation cell where she was kept for five months. While in solitary confinement she was reportedly handcuffed and forced to listen to loudly played recordings that allegedly slandered Falun Gong. On 24 January 2001 she was reportedly knocked to the ground, grabbed by the hair and arms and taken again to an isolation cell where she was allegedly beaten and kicked. Subsequently she was reportedly forced to sit on an iron chair. The guard reportedly beat her with his fists and with electric batons.
321. **Sam Guo** was reportedly arrested in March 2000, and sent to the Feng Tia Detention Centre. He was reportedly interrogated and beaten by the police. It was reported that he was forced into a cell containing 25 prisoners. It was believed that he was punched in the chest and kicked by other inmates, who then stripped him naked and proceeded to slowly pour icy water on him starting from the head down. It is said that the water was so cold that his head turned numb.
322. Many Falun Gong practitioners are reportedly detained in Shijiazhuang Labour Camp, Hebei Province, where it was alleged that in 2001 the Labour Camp authorities resorted to violence against them, including subjecting detainees to beatings with clubs, electric batons and ropes, hanging them handcuffed on iron pipes for extended periods during which only the tips of their toes could touch the ground, inserting needles into their fingers, smashing their fingers with hammers, depriving them of sleep, forcing them to stay in uncomfortable postures for long periods and brainwashing them. Such assaults are reported to have been intensified in the second fortnight of June 2001. Several Falun Gong practitioners, including **Tao Hongsheng, Liu Xiurong, Liu Shusong, Zhao Fengnian** and **Ding Gangzi**, reportedly died as a result of such treatment.

323. A number of Falun Gong practitioners were also reported to be detained in Masanjia Labour Camp, Shenyang City, Liaoning Province. They were reportedly forced to work 15 hours a day, forced to stay in uncomfortable postures for extended periods (for instance, practitioners are said to be kept in a head-down bending posture or forced to stand against a wall, to squat in a 30cm by 30cm area, or to stand with the knees bent and the arms held parallel to the ground), beaten, subjected to electrical shocks, kept in 8 by 3 feet isolation cells handcuffed to the door for one to two weeks, and deprived of sleep. Some prisoners were believed to have been hung, with their arms and legs spread for up to four hours.

324. In particular, the Special Rapporteur transmitted information on the following individual cases.

325. **Jiang Yuqing** (f) was reportedly taken to a separate room on 2 August 2000 and beaten until she allegedly vomited blood. It was reported that afterwards she could not eat and that she could barely walk. She was believed to have sustained cuts and bruises all over her body, to have suffered from pain in her internal organs and to have passed blood in her stool for over one month. She was also alleged to have lost consciousness.

326. **Yu Suzhen** (f) was reportedly assaulted along with seven other Falun Gong practitioners of Cell No. 2 on 7 August 2000. It was reported that her hair was pulled and that she was slapped in the face. On 13 September 2000 she was reportedly subjected to electric shocks.

327. **Qi Zhenrong** (f) had allegedly been stripped naked and hit with electric batons several times. It is alleged that as a result she sustained blisters and bumps. In September 2001 she reportedly took part in a hunger strike staged by 130 Falun Gong practitioners, who were protesting their detention. She allegedly fasted for more than 40 days and was eventually transferred to Masanjia Labour Camp Hospital.

328. By the same letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received follow-up information concerning **Geshe Sonam Phuntsok** on behalf of whom the Special Rapporteur sent an urgent appeal on 9 November 1999 (E/CN.4/2000/9, para. 236) to which the Government replied on 16 May 2000 (E/CN.4/2001/66, para. 310), indicating that inquiries revealed that there were no such lamas as Geshe Sonam Phuntsok in Karze county. According to the new information received, he was reported to have been sentenced in 2001.

329. By letter dated 10 October 2002, the Special Rapporteur, jointly with the Special Representative on human rights defenders, advised the Government that he had received information according to which **Li Qun**, who allegedly wrote a letter on 13 March 2000 to the Office of Appeal of Nanjing City government calling on the Government to respect the rights of Falun Gong practitioners allegedly being confined and forcibly given harmful drugs in the Nanjing Psychiatric Hospital, was reportedly taken herself to the psychiatric hospital, where she was allegedly force-fed and forced to take psychotropic drugs, with apparent damage to her brain.

330. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases sent in 1998, 1999 and 2001 regarding which no

reply had been received. By letter dated 11 November 2002, the Government informed the Special Rapporteur that an investigation into the cases included in the letter was under way. The Government indicated that a response will be provided in the future.

Urgent appeals

331. On 24 January 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on violence against women, and on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Connie Chipkar**, a Canadian Falun Gong practitioner, who had reportedly been arrested in Tienanmen Square, Beijing, on 23 January 2002. It is alleged that she wore a sash that read "Falun Gong" and "SOS" and began to practise Falun Gong.

332. On 5 February 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of religion or belief on behalf **Wei Yanjiang**, a 60-year-old woman from Huludao City, Liaoning Province, who was reportedly arrested on 22 December 2001 in Beijing. She was believed to have been detained at the Shunyi County Police Station, Beijing, where she was handcuffed and forced to stand outdoors in the cold winter weather, wearing only a shirt. To protest against her arrest, she is believed to have gone on hunger strike. On the eighteenth day of her hunger strike, she was reported to have been sent to Masanjia Labor Camp, where in March 2001, three Falun Gong practitioners were allegedly beaten to death.

333. By letter dated 24 May 2002, the Government responded that Wei Yanjiang had twice been taken into administrative detention for disrupting public order and has spent a year in re-education through labour. Following her release, she showed no willingness to reform and continued to take part in activities that disrupted social order. On 8 January 2002, the Huludao City law enforcement authorities assigned her to three years' re-education through labour. The re-education facility treated her sympathetically. She was found to be suffering from a heart disease and was given prompt treatment. She was not ill-treated.

334. On 6 February 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on extrajudicial, summary or arbitrary executions and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Xu Fuming, Hu Yong, Gong Bangkun, Gong Shengliang** and **Li Tongjin** (also known as "Immanuel"), who were reportedly sentenced to death on 29 December 2001 in Hubei Province in connection with their membership of an unofficial Christian organization, the Hunan (South China) Church. Fears had been expressed that their confessions may have been extracted under duress. They also intervened on behalf of three women, **Zhang Hongjuan, Li Tongjin** and **Yang Tongni**, who had reportedly been detained on separate occasions between August and October 2001, and were said to have been tortured during interrogation in an apparent attempt to make them confess to having had a sexual relationship with Gong Shengliang., who was reportedly sentenced to death on charges including rape. Police officers at the Public Security Bureau detention centre in Zhongxiang City, Hubei Province, reportedly shackled Zhang Hongjuan's and Li Tongjin's hands and feet, ripped open their shirt and beat them on the chest with an electric baton. Yang Tongni was reportedly kicked

and beaten, tied up with a rope, whipped with a leather belt, had her hands cuffed behind her back and had books wedged between the handcuffs and her back by police officers at Jingmen Police School and Jingmen No.1 Detention Centre. Yong Tongni and Li Tongjin were reported to be serving three-year terms at Shayang Labour Camp in Hubei Province. The whereabouts of Zhang Hongjuan were not known.

335. On 8 February 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Chen Yunchuan**, who was serving a two-year sentence in Datangwan Prison of Zhangjiakou City, Hebei Province. His wife, **Wang Lianying**, was said to be missing since January 2001, their daughter, **Chen Hongni**, was said to be detained without warrant in Gaoyang Labor Camp in Baoding City, Hebei Province, and their son, **Chen Aizhong**, was said to have been sentenced to three years of forced labor in the Tangshan No. 1 Labor Camp in Hebei Province. On 20 September 2001, eight days after having been sentenced, the latter was allegedly tortured to death. His body was said to have been covered with wounds and bruises. Furthermore, another son, **Chen Aili**, was reportedly detained in the Tangshan City Jidong Prison where he was believed to be suffering from serious depression and diagnosed as having a low immune function due to depression. It is alleged that he was forced to take drugs through force-feeding. They are all said to have been detained for practising Falun Gong.

336. By letter dated 3 September 2002, the Government informed the Special Rapporteur that the handing down of criminal sentences and labour re-education sentences on them was conducted in accordance with the law and did not entail the infringement of any human rights. Concerning Chen Yunchuan, the Government indicated that he was sentenced on 9 January 2001 to a term of two years' imprisonment for using threats of violence to obstruct public officials in the performance of their duties. He was serving his sentence in the north district prison in Shijiazhuang. While in prison he manifested good behaviour and his state of mind was stable. Concerning Wang Lianying (Wang Lianrong), the Government reported that she was detained by the Hebei public security authorities for disrupting public order. She was released in early 2001 and her whereabouts were not known at the time of writing. Concerning Chen Aili, the Government noted that on 9 January 2001 he was sentenced to two years' imprisonment for using threats of violence to obstruct public officials in the performance of their duties and was first sent to ZhuoIn county jail in Hebei Province. The Government indicated that while in prison he committed self-mutilations and went on hunger strike in protest against his sentence. In August 2001 he was transferred to Jidong Prison in Hebei, where he continued his hunger strike. He showed symptoms of severe mental depression and other psychological disorders and was consequently transferred to hospital for treatment. He eventually ended his hunger strike. According to the Government, his health condition improved after December 2001. Concerning Chen Aizhong, the Government noted that on 17 November 2000 he was sentenced to three years' re-education through labour for seriously disrupting public order and was sent to Tangshan City labour re-education facility on 12 September 2001. Before being admitted to the facility, he went on hunger strike and his health condition was poor. At the facility, he was provided with supplementary nutrition by intravenous and nasal feeding. He was transferred to Tangshan City people's hospital on 19 September 2001 after he started coughing and

vomiting. The Government confirmed that he died the day after as a result of the collapse of his respiratory and circulatory systems and acute renal failure. Concerning Chen Hongni (Chen Hongping), the Government informed the Special Rapporteur that on 17 November 2000 she was sentenced to three years' re-education through labour. The Government assured the Special Rapporteur that the labour re-education facility fully respected her human rights and that at no time was she subjected to corporal punishment or ill-treatment.

337. On 9 April 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of four workers' representatives, namely **Yao Fuxin, Xiao Yunliang, Pang Qingxiang** and **Wang Zhaoming**, who had been charged with "illegal assembly and demonstration" for their part in organizing protests in Liaoyang City, Lianing Province. It was reported that up to 30,000 workers in north-eastern China have been demonstrating since 11 March against lay-offs, alleged management corruption and insufficient severance pay. Yao Fuxin was reportedly detained on 17 March and has since been hospitalized for "heart problems" which may have been caused by his detention. Yao Fuxin was reportedly detained incommunicado until 31 March. At the time of writing, he was reportedly not allowed to receive visits, and the real state of his health was not known.

338. On 11 April 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Liang Zhenxing, Liu Chengjun, Zhou Runjun (f), Lei Ming, Zhao Jian, Yun Qinglin** and **Li Yanmei (f)**, who have reportedly been detained during a security crackdown in Changchun City and accused of having tapped, on 5 March 2002, into the signal of eight major television stations, in order to broadcast footage exposing the Chinese Government's alleged persecution campaign against Falun Gong practitioners. Local police officials are said to have indicated that 15 other people have been arrested in connection with the same broadcast. An official of the Changchun Re-education through Labour Bureau has reportedly indicated that between 100 and 200 people have been detained since the broadcast and would probably be sent to a labour camp.

339. By letter dated 28 June 2002, the Government responded that Liang Zhenxing, Liu Chengjun, Zhou Runjun, Lei Ming Zhao Jian, Yun Qingbin, Chen Yanmei and other diehard adherents of Falun Gong had severed the local cable television transmission lines and had inserted Falun Gong audio and visual materials, seriously endangering public security. The suspects were subsequently arrested for breach of articles 124 and 300 of the Chinese Criminal Code, inter alia, for sabotage and using a heretical sect to disrupt the application of State law. The case is currently being heard. The allegation that between 100 and 200 people have been arrested in connection with this case and that they are likely to receive sentences in labour camps have no basis in fact. The Government stated further that Falun Gong was an evil cult. In order to protect human rights, it had banned the organization. In relation to the overwhelming majority of ordinary practitioners, the Government primarily adopts the method of persuasive education to help them break free from the sect. Torture is strictly prohibited in China.

340. On 28 May 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Yao Fuxin, Xiao Yunliang, Pang Qingxiang**, all workers' representatives, as well as **Wang Zhaoming**, on behalf of whom the Special Rapporteurs intervened on 11 April 2002. They were reportedly still held in detention. Yao Fuxin was believed to be seriously ill, possibly due to ill-treatment. The right side of his body appears to be numb. His family had allegedly appealed for his release to receive medical treatment, but to no avail. Following their detention, demonstrations calling for their release and an investigation into the alleged embezzlement of funds from the Liaoyang City Ferroalloy factory, where Yao Fuxin was employed, have reportedly taken place. On 15 May 2002, demonstrators, including **Gu Baoshu** as well as a retired woman and her son, were allegedly beaten by plain-clothes policemen. The whereabouts of another activist, **Wang Dawei**, remained unknown since mid-April, when reportedly he was travelling to Beijing from Liaoning Province to file a petition to the central authorities against the current situation at the Ferroalloy factory.

341. By the same urgent appeal, the Special Rapporteurs intervened on behalf of **Gu Baoshu**, an activist involved in demonstrations, who was allegedly severely beaten by the police on 16 April 2002. He was released after several hours of interrogation. He was reportedly covered in bruises, suffering from severe chest pains and had blood clots in his eyes. He was reportedly threatened and harassed by the police, following his demands for those responsible for his beatings to be investigated and his medical costs to be paid for by the Public Security Bureau.

342. On 24 June 2002, the Special Rapporteur sent an urgent appeal on behalf of **Won**, a North Korean asylum-seeker, who had reportedly sought refuge in the South Korean Consulate in Beijing on 13 June 2002. He was violently removed by police officers from the South Korean Consulate on that day. It was believed that South Korean diplomats, who attempted to protect him, were injured as a result. His son was believed to have also entered the South Korean Consulate during these events, and to be currently seeking asylum in South Korea, along with 17 other North Koreans currently inside the Consulate. It was feared that Won may forcibly be returned to North Korea, where he would be at risk of torture upon his return.

343. By letter dated 28 November 2002, the Government informed the Special Rapporteur that an inquiry has confirmed that he had already left China for another country. It did not have any information about the other individuals mentioned in the Special Rapporteur's communication.

344. On 9 July 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Wand Aihua**, a Falun Gong practitioner from Yubei District, Chongqing City, Sichuan Province. She was reportedly arrested on 6 March 2002 and taken to Lianglu Police Station where she was allegedly subjected to threats and other forms of ill-treatment. As a result, she could hardly lift her arm. On the same day, she was sent to Yubei Detention Centre where she was subjected to further acts of ill-treatment. Her whole body was allegedly swollen. On the following day, she was allegedly subjected to further ill-treatment.

345. By letter dated 4 October 2002, the Government informed the Special Rapporteur that she had been taken into custody on 12 May 2000 for causing public disturbance and sentenced on 20 June 2000 to a one year's re-education through labour. On 6 March 2002, she was detained for disseminating propaganda materials and for disrupting public order in Chongqing and placed in detention as she showed resistance by refusing to eat and by banging her head against a wall. The police custody centre took the necessary measures to prevent her from further self-inflicted injuries. The Government assured the Special Rapporteur that she was not subjected to verbal abuse or torture.

346. On 22 July 2002, the Special Rapporteur sent an urgent appeal on behalf of **Li Wangyang**, a former labour activist, who was denied medical treatment while being detained in Chishan Prison in Yanjiang City, Hunan Province. He was said to be suffering from heart disease, hyperthyroidism, neck and lower back pain and to be going blind. He was reportedly sentenced in September 2001 to ten years' imprisonment on charges of "incitement to subvert State power", after campaigning for compensation for the ill-treatment he had received in prison while serving a previous term of imprisonment for his involvement in the 1989 pro-democracy movement. He was twice released on medical grounds. He allegedly spent many periods in solitary confinement and suffered several beatings from prison guards while imprisoned for the first time. Following his release, he went on a 22-day-long hunger strike in February 2001 to demand compensation for the ill-treatment he received in prison and for costs of medical treatment of his illnesses, but to no avail. Furthermore, his sister, **Li Wanglin**, was allegedly sent to a labour camp for three years in July 2001 for publicly supporting her brother in his appeal for compensation for the abuses he had allegedly suffered in prison.

347. On 26 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Ryu Mi-hwa** (f), **Han Sol-hee** (f), **Roh Myung-ok** (f), **Jeong Eun-mi** (f), aged 10, **Jeong Eun-chul**, aged 8, **Kim Chul-nam**, **Kim Ji-sung**, **Nam Chun-mi** (f) and her new-born baby and four other Korean nationals whose names are unknown, who were allegedly detained in in Manzhouli Prison in the Inner Mongolia Autonomous Region of China and were believed to be at risk of imminent forcible return to the Democratic People's Republic of North Korea, where, it was feared, they could face serious human rights violations, including arbitrary detention, torture or death in custody. They were reportedly arrested on 31 December 2001 in Hulunbeier City, Inner Mongolia, while being led through north-east China towards the neighbouring State of Mongolia by a South Korean pastor, Chun Ki-won, and his assistant, Jin Qilong, an ethnic Korean Chinese national, who were also reportedly arrested, charged with "helping other people to illegally cross the national border", tried by the Hulunbeier Municipal People's Court in Inner Mongolia and sentenced to payment of fines.

348. On 16 September 2002, the Special Raporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention, the Special Representative on human rights defenders and the Special Rapporteur on the independence of judges and lawyers on behalf of **Dr. Wan Yanhai**, the founder and coordinator of the AIZHI (AIDS) Action Project, a non-governmental organization that provides information on HIV/AIDS and promotes the protection of human rights in the context of HIV/AIDS. He was allegedly detained by State security authorities

on 24 August 2002, and held without being allowed to contact his family or friends. His detention was believed to be related to his alleged dissemination of information he had obtained from an AIDS research report on concerns about the collection of blood in Henan Province.

349. By letter dated 28 November 2002, the Government informed the Special Rapporteur that he had been detained by members of the Beijing State Security Bureau on suspicion of unlawfully transmitting State secrets abroad. Reportedly, the detainee requested in writing that his family should not be notified of his detention and voluntarily renounced his right to legal counsel. The Government further indicated that, in view of his positive attitude in acknowledging his guilt, he was granted a discharge on 20 September 2002. The Government gave assurances that he was not subjected to ill-treatment while in detention and that, at the time of writing, Wan Yanhai's health was entirely satisfactory.

350. On 2 December 2002, the Special Rapporteur sent an urgent appeal on behalf of **Luo Rong** (also known as Yoko Kaneko), a Chinese Falun Gong practitioner with permanent residence in Japan, and her sister, **Luo Zhen**. Luo Rong had reportedly been arrested as she was handing out Falun Gong leaflets on 24 May 2002 during a visit to Beijing and transferred to a labour camp. She was reportedly seriously ill and was hospitalized for high blood pressure. She was believed to have bruises around her wrists and to have lost weight. Luo Zhen had reportedly been arrested on 5 November 2002 by the Public Security Bureau in Mudanjiang City, Heilongjiang Province, following her involvement in publicizing her sister's case. She was allegedly held in incommunicado detention and her family was not informed of her whereabouts.

351. On 11 December 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Yang Jianli**, a Chinese citizen permanently residing in the United States of America, who has been active in the movement to promote democratization in China. He had reportedly been arrested on 26 April 2002 in Kunming, for reportedly entering China with false or incomplete identity documents. Since then, he had been held in incommunicado detention. Authorities informally acknowledged his detention after two months, when the Linyi City Public Security Bureau in Shandong Province informed Yang's brother by telephone of his detention.

Follow-up to previously transmitted communications

352. By letter dated 14 December 2001, the Government responded to an urgent appeal sent in July 2001 by the Special Rapporteur on behalf of **Han Yuejuan** (ibid., para. 365). On 21 July, Ms. Han and others plotted and mobilized nearly 1,000 Falun Gong practitioners to besiege the seat of the Guangdong provincial government. On 5 July 2001, she was arrested under a writ issued by the Guangzhou Municipal People's Prosecutor on a charge of mobilizing and using a sect to break the law. A competent public security organ is conducting a judicial investigation into the case. Ms. Han's mental and physical health is duly protected and she is not being subjected to torture.

353. By letter dated 31 January 2002, the Government responded to an urgent appeal sent in October 2001 by the Special Rapporteur on behalf of **Zhang Maoxing** and his eldest daughter, **Zhang Juan** (ibid., para. 367). The two were detained

together on suspicion of obstructing law enforcement through the organization of a cult (Falun Gong), and held at the Jiujiang Public Security Bureau's detention centre. After being admitted, Zhang Maoxing began to fast and all attempts to rescue his life, including intravenous infusions, failed. He was in no way tortured. His daughter was sentenced in March 2001 to two years of re-education through labour, but was released on parole in August 2001 and is now living at home.

354. By letter dated 19 February 2002, the Government responded to an urgent appeal sent in October 2001 by the Special Rapporteur on behalf of **Huang Guodong** (ibid., para. 366). He was arrested on 9 February 2001, on tips from other citizens when he was carrying out illegal Falun Gong activities. He confessed to all his offences. On 1 October 2001, he began to fast at Mudanjiang No. 1 detention centre. He refused to take food or medical treatment and even went so far as to remove intravenous needles. On 29 October 2001 he was sent to Northern Hospital in Mudanjiang City for medical tests. All results were normal, but he has a urethra infection for which he is being treated. Allegations of torture and starvation are unfounded.

355. By letter dated 19 February 2002, the Government responded to a letter sent by the Special Rapporteur jointly with the Special Rapporteur on violence against women on 30 September 2001 (ibid., paras. 351 to 353).

356. Concerning the detention of **42 young women** (ibid., para.352), the Government replied that the director of Fengjia Township Police Station and the deputy director had summoned and illegally detained 12 local women and two non-local women engaged in prostitution during an extensive campaign to combat prostitution and protect the legal rights of women from June 1997 to June 1998. They were subsequently sentenced to six months' imprisonment suspended for one year, and to one year suspended for two years by the People's Court of Xinhua County, later reduced to six months each, suspended for one year.

357. Concerning the detention of a **young woman** by the head of the Public Security Bureau Communication Department of Xinmi City, Henan Province (ibid., para.353), the Government responded that all cases involving prostitution handled by the Public Security Bureau of Xinmi City in May 1999 were properly dealt with. The accusation of illegal detention and torture of a young woman is unfounded and false. The Government observes its legal obligations under the Constitution and the Women's Rights and Interests Protection Act and strives to strengthen its legislation on women's rights. Efforts have been made to prevent and combat prostitution, as well as to ensure women's rights to personal safety and property.

358. By letter dated 4 October 2002, the Government responded to a joint urgent appeal sent by the Special Rapporteur with the Special Representative of the Secretary-General on human rights defenders on 21 June 2001 on behalf of **Zhang Shanguang** (E/CN.4/2002/76/Add.1, para. 367). The Government informed the Special Rapporteur that he was convicted of illegally providing intelligence information and sentenced to 10 years' imprisonment with 5 years' deprivation of his political rights in December 1998. Upon admission into Hunan No.1 Prison, he had been recovering from tuberculosis. Appropriate to his physical condition, he was assigned the job of sweeping floors by the prison authorities. In an attempt to obtain

permission to receive medical treatment on parole, he refused to carry out any work. The prison authorities are encouraging him to mend his ways. He has not been denied medical treatment and has not been made to work long hours. The Government firmly opposes the practice of mistreatment and torture of criminals through manual labour.

Observations

359. The Special Rapporteur notes with concern that no response has been provided to a number of cases brought to the attention of the Government since 1998 but he acknowledges the letter dated 11 November 2002 by which the Government expressed its intention to cooperate with the Special Rapporteur in providing responses to these cases. He hopes that the pending invitation since February 1999 to the Special Rapporteur to visit the country will come to fruition in the near future.

Colombia

360. Por carta de 2 de septiembre de 2002, el Relator Especial notificó al Gobierno que recibió información según la cual los centros de reclusión tendrían un grave problema de hacinamiento y sus servicios y estructura física se habrían deteriorado considerablemente, quebrantando los derechos de las personas privadas de libertad a la dignidad y a no recibir tratos o penas crueles, inhumanos o degradantes. De acuerdo con la información recibida, la mayoría de los establecimientos carcelarios y penitenciarios carecerían de recursos financieros, logísticos y humanos. En algunos casos de hacinamiento, las autoridades penitenciarias y carcelarias habrían improvisado locales de reclusión que no contarían con condiciones mínimas adecuadas y ajustadas a la normativa vigente y las normas internacionales.

361. Asimismo, el Relator notificó haber recibido información sobre los altos niveles de violencia y de trato abusivo que se habrían observado en las cárceles y otros centros de detención. Dicha violencia se daría tanto por parte de guardias contra los reclusos como entre los reclusos mismos. De acuerdo con esta información, una parte importante de los directores de las cárceles colombianas pertenecerían a las fuerzas militares o policiales, hecho que va en contra las Reglas Mínimas para el Tratamiento de los Reclusos adoptadas por las Naciones Unidas. Además grupos organizados de reclusos tendrían el control interno en los centros carcelarios, hecho que también va en contra de los principios incluidos en las Reglas Mínimas.

362. Con respecto al derecho a recibir tratamiento médico, se alegó que autoridades judiciales o fiscales habrían negado a muchos reclusos, sindicados o condenados moribundos y en condiciones terminales la detención hospitalaria, domiciliaria o la suspensión de la pena. Se habría observado una falta generalizada de cumplimiento de las normas que obligan a la realización de un examen médico de los internos al ingreso de los penales. La mayoría de los centros carcelarios y penitenciarios carecerían de programas sanitarios adecuados y la salud de reclusos requiriendo tratamiento externo habría sido afectada por demoras en su traslado. Las sentencias T-606 y T-607 de la Corte Constitucional, ambas de octubre de 1998, habrían confirmado las graves deficiencias en la prestación de servicios de salud a las personas privadas de libertad y la falta de un adecuado sistema de seguridad social de salud en los centros carcelarios y penitenciarios del país.

363. Con respecto a las requisas para las visitas, la práctica de tactos vaginales se estaría realizando de manera frecuente y en forma totalmente contraria a las normativas vigentes, y a pesar de una directiva del Ministerio de Justicia y del Derecho y del Instituto Nacional Penitenciario y Carcelario (INPEC) de 1997 que prohibiría dicha práctica.

364. Finalmente, se alegó que la Ley 684 de 13 de agosto de 2001 no obligaría a poner a los capturados en delito flagrante de modo inmediato ante la autoridad judicial, sino tan sólo a “comunicar” sobre dicha captura, en contra lo previsto en la Constitución (art. 58). Según el artículo 59 de esta misma Ley, se otorgarían “facultades de policía judicial a miembros de las Fuerzas Militares”. Encargando la realización de delicadas funciones investigativas a un ente militar, se pondría en peligro la autonomía de la Fiscalía. Asimismo, por falta de control jurisdiccional inmediato, se podrían producir detenciones masivas y eventualmente torturas y desapariciones. La Defensoría del Pueblo habría interpuesto una acción pública de inconstitucionalidad contra varios artículos de esta Ley.

365. Por esta misma carta, el Relator Especial notificó al Gobierno que recibió información sobre los siguientes casos individuales:

366. **Oveimar Vega González, Heidi Vega González, Edgar Amado Flórez Sergio N** (Sergio Bayron Velásquez Restrepo) y un menor de edad habrían sido detenidos por agentes del Departamento Administrativo de Seguridad (DAS) el 30 de noviembre de 2001 en el casco urbano de Popayán, acusados de pertenecer a una organización armada. El menor de edad habría sido sometido a descargas eléctricas y los demás detenidos habrían sido repetidamente golpeados antes de ser trasladados a la sede del DAS en Bogotá. Habrían presentado quebramientos de salud después de dichos hechos. La Procuraduría General de la Nación y la Fiscalía General de la Nación habrían sido informadas sobre estos hechos.

367. Por carta de fecha 1.º de noviembre de 2002, el Gobierno confirmó que fueron detenidos por su pertenencia al Ejército de Liberación Nacional (ELN) y previa diligencia de allanamiento y registro de la Fiscalía General de la Nación. Pasaron inmediatamente a disposición de la Unidad de Reacción Inmediata de Popayán de la Fiscalía General de la Nación quien ordenó su detención preventiva. El Gobierno aseguró que mientras permanecieron en las instalaciones del DAS recibieron un trato digno y ajustado a la ley y recibieron la visita del Defensor del Pueblo Seccional y de la Delegada del Comité Internacional de la Cruz Roja, quienes pudieron dar fe del buen estado físico de los detenidos. El Sr. Velásquez Restrepo puso en conocimiento de la Defensoría del Pueblo un presunto maltrato y fue remitido inmediatamente al Instituto de Medicina Legal, donde quedó descartado cualquier maltrato. Asimismo, el Gobierno indicó que el menor capturado contó con la presencia de un Representante del Ministerio Público y quedó desde el momento de la detención por cuenta del Despacho Judicial. Debido a su edad fue remitido por la Fiscalía al Centro de Formación de Menores Toribio Maya, donde se encontraba recluido cuando el Gobierno transmitió esta respuesta. Pasó a disposición del Juzgado Penal de Menores el 3 de diciembre de 2001. La Oficina Asesora Jurídica del DAS envió información en la que comunicó que la Oficina de Control Interno Disciplinario de la entidad comisionó a la Personería Municipal de Popayán para escuchar en versión libre a los funcionarios implicados. En septiembre de 2002, se comisionó a la

Personera Delegada para Asuntos Administrativos de Popayán para que practicara visita especial a las instalaciones de la Seccional DAS Cauca. Se ha citado en dos ocasiones al menor, sin que a la fecha haya comparecido a rendir declaración. Asimismo, la Fiscalía Seccional Cauca informó de que no se adelanta investigación por las presuntas lesiones personales infringidas por miembros del DAS, a Sergio Bayron Velásquez Restrepo, Obeimar Homero Vega González, Heidi Ley González Castaño y Edgar Amado Flórez.

368. **José Abelardo Ordóñez Agudelo** habría sido capturado en la vereda El Zagual, municipio de Corinto (Cauca) el 8 de junio de 2001 y conducido a la estación de policía situada en el centro urbano. Habría recibido patadas y golpes así como amenazas de muerte por parte de agentes de la policía.

369. **Dumal Alberto Abril Ruiz**, detenido en la cárcel del distrito judicial de Villavicencio (Meta), habría sido golpeado por personal del INPEC el 25 de septiembre de 2001. Al día siguiente habría sido trasladado a un centro penitenciario de Bogotá donde se habría ordenado su ingreso en un centro hospitalario.

370. **Julio Alberto Ciro** habría sido detenido el 28 de diciembre de 2001 junto con otras tres personas por miembros de la Policía Nacional, quienes le habrían propinado patadas, puñetazos y golpes de culata. En el cuartel le habrían golpeado tras taponarle la cara con una bolsa de plástico que le impedía respirar. Los detenidos habrían sido amenazados con ser entregados a los paramilitares.

371. **Edgar Enrique Mosquera Salazar** habría sido abordado en Cali (Valle) el 17 de junio de 2002 por miembros de las Autodefensas Unidas de Colombia (AUC) que le habrían obligado a subir en un vehículo donde habría sido golpeado y amenazado. Habría permanecido incomunicado en las instalaciones del Grupo de elite antisequestro conformado por efectivos militares y policiales (GAULA) adscrito a la III Brigada del Ejército hasta el 25 de junio de 2002. Le habrían obligado a firmar un documento según el cual sus derechos habían sido respetados.

372. **Juan Dael Hurtado Vallejo** habría sido golpeado el 18 de junio de 2002, cuando dos miembros de las AUC se habrían introducido en su domicilio y lo habrían obligado a subir en un vehículo, donde habría sido golpeado. Le habrían conducido hasta una zona rural donde habría observado a efectivos del GAULA y habría recibido amenazas de muerte. Posteriormente habría sido llevado a instalaciones de la III Brigada del Ejército, donde habría permanecido esposado durante más de 24 horas, sin recibir alimentos y en situación de incomunicado, antes de ser trasladado a la cárcel de Villahermosa. Le habrían obligado a firmar un documento según el cual sus derechos habían sido respetados.

373. **Cuatrocientas cincuenta mujeres, niños y ancianos indígenas de la comunidad U'wa** concentrados en el sitio de las Canoas, a unos cuatro kilómetros de Gibraltar (Norte de Santander) habrían sido desplazados forzosamente por fuerzas mixtas compuestas por efectivos de la policía y del ejército el 11 de febrero de 2000. Éstas habrían hecho uso de maquinaria pesada y gases lacrimógenos, obligando los indígenas a lanzarse al río del Cubujan. Como consecuencia de este ataque, tres niños habrían fallecido, varios niños y mujeres habrían resultado heridos y otros habrían desaparecido.

374. Por carta de fecha 2 de septiembre de 2002, el Relator Especial, junto con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, notificó al Gobierno que recibió información sobre los siguientes casos:

375. Incursiones paramilitares habrían tenido lugar a finales de diciembre de 2001 en la región de Catatumbo (Norte de Santander) en el curso de las cuales la población civil habría sido víctima del uso excesivo de la fuerza por parte de los paramilitares. Catorce personas, entre las cuales **Marco Aurelio Jaimés** y **Rodolfo Forero**, habrían sido asesinadas por un grupo de paramilitares, otras 20 personas, incluyendo niños, habrían sido utilizadas como escudos humanos durante los enfrentamientos con grupos guerrilleros. **Daniel Robles** habría sido degollado después de que le habrían cortado una oreja y le habrían sometido a otros malos tratos. **Luis Albero Cano** habría sido acuchillado y llevado como rehén. Al menos tres batallones de la V Brigada del Ejército se habrían encontrado en el área en el momento de los hechos. Sin embargo estas unidades no habrían actuado para evitar las acciones de los paramilitares en la zona.

376. Diecisiete comunidades indígenas de Florida, Pradera y Jamundi afiliadas a la Organización Regional Indígena del Valle del Cauca (ORIVAC) habrían sido objeto de frecuentes ataques por parte de efectivos de las fuerzas paramilitares de las AUC. Durante los ataques los indígenas habrían sido torturados y algunos asesinados. El cuerpo de **Javier Noscué**, quien habría sido secuestrado por estas fuerzas, habría sido encontrado decapitado y con marcas de tortura el 3 de junio de 2002. El cuerpo de **Luis Eduardo Machín** habría sido encontrado el 4 de junio. Antes de desnucarle, le habrían rociado la cara con ácido y le habrían cortado los dedos. A principios de junio, los paramilitares de las AUC habrían interceptado a **Walter Quitumbo** y le habrían rayado el cuerpo con un cuchillo y habrían asesinado **Bertulfo Hincapié Machín**, **Denis N. (m)** y **Ulcué**. Unos meses antes, el 23 de enero, **Henry Troche** y **Carlos Itimo** habrían sido secuestrados junto a seis otras personas por miembros de las AUC. Los cuerpos de los ocho individuos habrían aparecido el día siguiente. El 20 de enero, **Ferney Trochez Labio** y **Juan Carlos Ipia** habrían sido retenidos por fuerzas paramilitares. Sus cuerpos con signos de tortura habrían sido hallados unos días más tarde. El 19 de enero aproximadamente 200 paramilitares de las AUC habrían incurrido en el corregimiento “La Diana”, Municipio de Florida, paralizado las actividades de los pobladores y disparado contra el colegio indígena de “Cajones”, destruyendo las instalaciones e intimidando a los estudiantes. **Diego Fernando Pinzón** y **Jesús Arvey Diache Dagua** habrían sido asesinados por los paramilitares delante de todos los pobladores. Más tarde, los miembros de las AUC se habrían dirigido hacia otras veredas y habrían matado a **Everardo Jesús Alavarez Millar Montoya** y otro poblador todavía no identificado. Del mismo modo, el 16 de enero de 2002, varios efectivos de las AUC habrían irrumpido en el Instituto Departamental de Educación Básica Indígena Comunitaria y Complementaria (IDEBIC), en el corregimiento “La Diana”, destrozado las instalaciones y disparado indiscriminadamente contra los estudiantes. Los más jóvenes habrían sido intimidados e interrogados acerca de las supuestas actividades guerrilleras de los más mayores.

377. Por carta de fecha 17 de octubre de 2002, el Relator Especial recordó al Gobierno varios casos que le había transmitido en 2001 respecto a los cuales no había recibido respuesta.

Llamamientos urgentes

378. El 5 de junio de 2002, el Relator Especial envió un llamamiento urgente juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos y el Relator Especial sobre la situación de los derechos humanos y libertades fundamentales de los indígenas en relación con la detención y los malos tratos supuestamente infligidos a **Rigoberto Medina Dagua**, profesor indígena de la Escuela Cristóbal Colón, y a su hermano **Willinton Medina Dagua**, en la Vereda La Despensa, Municipio de Jamundí (Valle del Cauca). El 28 de mayo de 2002, miembros del Ejército Nacional pertenecientes a la III Brigada de Cali habrían requisado, supuestamente sin orden judicial, la residencia del Sr. Medina Dagua y habrían agredido físicamente a los dos detenidos, acusándoles de ser guerrilleros y de esconder armas. Ambos habrían sido detenidos y llevados a la III Brigada, donde habrían sido golpeados en el rostro.

379. El 25 de julio de 2002, el Relator Especial envió un llamamiento urgente en relación con **José Angel Grueso Vargas**, quien en el pasado habría sido vinculado a la Central Unitaria de Trabajadores (CUT) y a las organizaciones M-19 y FARC y quien habría sido torturado mientras se encontraba en detención en relación con dichas actividades. En marzo de 1998 habría viajado a Suecia, de donde habría sido expulsado el 23 de julio de 2002 a pesar de su solicitud para permanecer debido a que dadas sus pasadas actividades y el hecho que ya habría sido torturado temía por su integridad física si volvía a Colombia. Habría llegado a Bogotá ese mismo día. Teniendo en cuenta las informaciones recibidas sobre su pasado, se expresaron tumores de que pudiera ser nuevamente sometido a torturas.

380. Por carta de fecha 5 de diciembre de 2002, el Gobierno solicitó al Relator Especial más información sobre este caso, con el fin de proporcionarle la información solicitada.

381. El 26 de julio de 2002, el Relator Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias sobre la situación de los miembros de la comunidad de **campesinos de la Granja La Galleta** militantes del partido político Corriente de Renovación Socialista (CRS), en el Municipio de Montebello (Antioquia). Estas personas habrían sido objeto de ataques por parte de grupos paramilitares supuestamente respaldados por miembros del ejército. El 1.º de marzo de 2002, uno de estos grupos paramilitares habría asaltado varias de sus casas y secuestrado a cinco campesinos, cuyos cuerpos habrían sido hallados dos días después con signos de tortura. El 17 de marzo y el 16 de julio otros campesinos de la comunidad habrían sido asesinados. El cadáver de uno de ellos, **Héctor Jesús Ayala**, un testigo en unos procesos judiciales en los que estarían implicados miembros de las fuerzas armadas, también habría presentado signos de tortura. Las solicitudes formuladas para asegurar su protección habrían sido ignoradas. En vista de estos ataques se expresaron temores por la vida e integridad física de los campesinos.

382. Por carta de fecha 6 de diciembre de 2002, el Gobierno informó de que la Unidad Seccional de Fiscalías de Santa Bárbara abrió una investigación que fue remitida a la Fiscalía 18 especializada de Medellín. De acuerdo con el DAS, un grupo

armado ilegal presumiblemente de autodefensas sería el responsable de los hechos. Por lo anterior, se solicitó a la Policía Nacional y al Ministerio de Defensa Nacional que adoptasen las medidas de protección pertinentes.

383. El 25 de octubre de 2002, el Relator Especial envió un llamamiento urgente juntamente con el Presidente Relator del Grupo de Trabajo sobre la Detención Arbitraria y el Relator Especial sobre la independencia de los magistrados y abogados en relación con la situación de 200 habitantes de la Comuna 13 de la ciudad de Medellín que habrían sido detenidos en ausencia de adecuadas garantías procesales en el contexto de la operación Orión, llevada a cabo en la ciudad por el ejército y la policía. Numerosos retenidos habrían sido objeto de malos tratos, golpizas y exposición permanente al sol y al agua en las instalaciones policiales en donde permanecieron. El 21 de octubre habrían sido interrogados **Edilson de Jesús Durango Murillo, Pedro Luis Vargas David, Jhon Jairo Castañeda, Alberto Castañeda Castaño** y sus hijos **Jhon Fredy Castañeda Zapata, y Jorge Eliécer Castañeda Zapata**.

384. Por carta de fecha 5 de diciembre de 2002, el Gobierno informó de que diversos grupos armados se han instalado recientemente en la Comuna 13 de Medellín, aumentado considerablemente los índices de criminalidad e inseguridad en la zona. Bajo estas circunstancias y con el ánimo de asegurar el orden público, se decidió poner en marcha la operación Orión, el 16 de octubre de 2002. En el marco de esta operación se restablecieron los servicios esenciales interrumpidos por los grupos armados, se liberaron 20 personas secuestradas, se desactivaron artefactos explosivos y se incautaron municiones, explosivos y armamento. Se reportaron 319 personas capturadas, de las cuales 244 se encontraban detenidas y judicializadas por órdenes de la Fiscalía cuando el Gobierno transmitió la presente. El Gobierno aseguró que esta operación fue supervisada por la Procuraduría General, la Defensoría del Pueblo y la Personería de Medellín. El Gobierno indicó que transmitirá al Relator Especial información acerca de los resultados de las investigaciones y que se ha oficiado a la Fiscalía General de la Nación para que confirme los datos de las personas detenidas, así como las garantías judiciales que se habrían observado para interrogar a las personas mencionadas en el llamamiento del Relator Especial.

385. El 2 de diciembre de 2002, el Relator Especial envió un llamamiento urgente juntamente con el Presidente-Relator del Grupo de Trabajo sobre la Detención Arbitraria y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos en relación con **Telberto González** Presidente del Sindicato Departamental SINDAGRICULTORES de Sucre, quien se encontraría incomunicado desde el 30 de octubre de 2002 cuando habría sido interceptado por seis soldados del batallón Bafin de Corsal y subido a una camioneta sin orden de arresto.

Seguimiento de las comunicaciones transmitidas previamente

386. Por carta de fecha 3 de diciembre de 2001, el Gobierno proporcionó más información sobre **Roberto Antonio**, un caso incluido en la carta del Relator Especial de 10 de agosto de 2001 (E/CN.4/2002/76/Add.1, párr. 371) a la que el Gobierno ya había contestado con anterioridad (ibíd., párr. 372). El Gobierno indicó que la Fiscalía General de la Nación cursó una investigación previa en la que Roberto Antonio aparece entre las víctimas pero en dicha investigación no figura denuncia alguna sobre

su desaparición. En particular, el Gobierno señaló que no se tiene constancia del hallazgo del cadáver de Roberto Antonio, ni de ninguna denuncia. Asimismo, se indicó que no se hallan identificados los autores de la desaparición de la persona identificada como Roberto Antonio. La investigación previa se suspendió posteriormente al no encontrarse ningún elemento que ayudase a determinar esta desaparición o la identificación de los autores o partícipes en la misma. Por último, el Gobierno señaló que se desconoce quien es la familia de la víctima y si éstos han sido compensados.

387. Por carta de fecha 17 de enero de 2002, el Gobierno proporcionó más información sobre **Israel Quintero Gómez**, un caso incluido en la carta del Relator Especial de 10 de agosto de 2001 (ibíd., párr. 373) a la que el Gobierno ya había contestado con anterioridad (ibíd., párr. 374). El Gobierno indicó que en la declaración jurada de su mujer se menciona que su esposo, tras haber sido abordado y al parecer agredido por dos desconocidos cuando se dirigía al Colegio, regresó posteriormente al mismo y no le volvió a suceder nada. Dicha declaración consta en la investigación preliminar iniciada por la Fiscalía Delegada ante los Jueces Penales del Circuito Especializados-Barrancabermeja. Igualmente, el Gobierno señaló que el Sr. Quintero no denunció ante la Fiscalía haber sido víctima de amenazas y que dicha Fiscalía no tenía conocimiento de su muerte.

388. Por carta de fecha 31 de enero de 2002, el Gobierno proporcionó más información sobre los homicidios ocurridos en la **región de Mapiripan en julio de 1997**, un caso incluido en la carta del Relator Especial de 10 de agosto de 2001 enviada juntamente con el Relator Especial sobre ejecuciones extrajudiciales, (ibíd., párr. 380) a la que el Gobierno ya había contestado con anterioridad (ibíd., párr. 381). El Gobierno indicó que existe una acción penal, contencioso-administrativa, y disciplinaria ante la Procuraduría General de la Nación. En lo que respecta a la investigación penal, debe impartirse sentencia en relación con los procesados, y los miembros de la fuerza pública, incluyendo a un coronel y un sargento, continuando el juicio en relación con dos de los procesados. Asimismo, continua la investigación en la Unidad Nacional de Fiscalías de Derechos Humanos y Derecho Internacional Humanitario en su fase instructiva en la que se encuentran vinculadas varias personas. Según informó el Gobierno, son responsables por estos actos las denominadas AUC, quienes contaron con la colaboración directa de algunos miembros de la Fuerza Pública-Ejército Nacional. El Gobierno indicó igualmente que, aun cuando no se ha dictado sentencia, los procesados se encuentran cobijados con medida de aseguramiento de detención preventiva, permaneciendo abierta la investigación debido al gran número de personas involucradas en el caso y al cambio constante de nombre y lugar de las mismas. Finalmente, de dictarse sentencia condenatoria en el proceso penal se dispondría el pago de indemnización a los familiares de las víctimas que se constituyeron en parte civil por los perjuicios causados con el hecho punible, de acuerdo a lo aprobado dentro del mismo, y el equivalente hasta mil salarios mínimos legales mensuales.

Observaciones

389. The Special Rapporteur acknowledges the response of the Government (E/CN.4/2000/9/Add.1, paras 20 to 55) to the recommendations formulated in his predecessor's mission report (E/CN.4/1995/111) and he would appreciate continuing

to receive information on measures taken to implement the recommendations included in this report.

Congo

390. Par une lettre datée du 17 octobre 2002, le Rapporteur spécial a rappelé au Gouvernement un certain nombre de cas qu'il avait envoyés en 2001, au sujet desquels il n'avait pas reçu de réponse.

Côte d'Ivoire

391. Par une lettre datée du 17 octobre 2002, le Rapporteur spécial a rappelé au Gouvernement un certain nombre de cas qu'il avait envoyés en 2001, au sujet desquels il n'avait pas reçu de réponse.

Suite donnée aux plaintes signalées dans des communications précédentes

392. Par une lettre datée du 11 juillet 2002, le Gouvernement a répondu à une lettre envoyée par le Rapporteur spécial le 30 septembre 2001 (E/CN.4/2002/76/Add.1, par. 399 à 403).

393. Concernant **Émile Constant Bombet, Kouamé Ndri Katchibo, Kouacou Brou Michel et Kouadio Ahou**, le Gouvernement a précisé que les faits dénoncés auraient été commis dans le contexte du coup d'État du 24 décembre 1999, au cours duquel des exactions ont été commises par les soldats auteurs du putsch. Le Gouvernement a précisé qu'aucune des supposées victimes n'a déposé plainte et, étant données les circonstances, l'État de Côte d'Ivoire ne pouvait prendre l'initiative de la poursuite judiciaire.

394. Par la même lettre, le Gouvernement a également répondu à des cas individuels transmis par le Rapporteur spécial en 1996 (E/CN.4/1997/7/Add.1, par. 107).

395. Concernant **Sylvie Anoma**, le Gouvernement a informé qu'une enquête fut ouverte par le tribunal d'Abidjan suite à la plainte déposée par celle-ci le 12 juillet 1995. Le Gouvernement a informé également que la plaignante ne s'est pas par la suite présentée aux convocations du juge d'instruction militaire.

396. Concernant **Guillaume Kibafori Soro** et huit autres membres de la Fédération estudiantine et scolaire de la Côte d'Ivoire, le Gouvernement a confirmé qu'ils furent mis aux arrêts le 27 septembre 1995 et interrogés durant quelques jours à la Direction de la surveillance du territoire et à l'école de police. Elles furent toutes remises en liberté par la suite. Le Gouvernement a nié que les personnes arrêtées furent torturées à l'école de police. Le Gouvernement a également informé qu'afin d'éviter des mauvais traitements un programme de formation et d'éducation des forces de sécurité a été entrepris dans le cadre du maintien d'ordre.

Cuba

397. Por carta de fecha 2 de septiembre de 2002, el Relator Especial notificó al Gobierno que recibió información sobre los casos individuales siguientes.

398. **Jesús Álvarez Castillo**, periodista, habría sufrido una lesión en el cuello tras haber sido supuestamente golpeado por miembros de una brigada de respuesta rápida y por funcionarios del Ministerio del Interior el 4 de marzo de 2002 en Ciego de Ávila. Otros periodistas también habrían resultado heridos al intentar informar sobre actividades disidentes. Ese mismo día unas personas que se habrían concentrado ante el hospital en el que el periodista estaba recibiendo tratamiento habrían sido golpeadas y detenidas. Entre ellas se habrían encontrado **Juan Carlos González Leiva**, presidente de la Fundación Cubana de Derechos Humanos, y los periodistas **Lexter Tellez Castro** y **Carlos Brizuela Yera**. Durante su detención, el estado de salud de Juan Carlos González Leiva, invidente, se habría deteriorado. Habría sufrido una lesión cervical, habría presentado problemas de presión arterial y se habría desmayado dos veces. Estos incidentes se inscribirían en el contexto de los sucesos del 27 de febrero de 2002, cuando 21 personas de nacionalidad cubana habrían entrado con un autobús en los terrenos de la embajada de México en La Habana. En el curso de este incidente, **Andrew Cawthorne**, periodista, y el cámara **Alfredo Tedeschi** habrían sido golpeados con porras por varios agentes de policía y miembros de los servicios de seguridad del Estado. El 25 de abril de 2002, el Relator Especial ya envió un llamamiento urgente en relación con este caso.

399. **Bernardo Arévalo Padrón**, fundador y director la agencia de prensa independiente Prensa Línea Sur, habría sido detenido y condenado a seis años de prisión por “desacato” al Presidente Fidel Castro y al Vicepresidente Carlos Lage. En abril de 1998, dos guardias de la prisión de alta seguridad de Ariza le habrían propinado una paliza que le habría dejado varias lesiones y trastornos de memoria.

400. **Eddy Alfredo Mena y González**, coordinador provincial del Movimiento de Jóvenes Cubanos por la Democracia, habría sido condenado en julio del 2000 a cinco años de cárcel por “desacato”, “desórdenes públicos” y “daños”, junto al presidente del grupo, **Néstor Rodríguez Lobaina**. En septiembre de 2000, Eddy Alfredo Mena habría recibido una paliza a manos de presos comunes, que lo habrían golpeado con palos. En agosto de ese mismo año habría protagonizado una huelga de hambre en protesta por la suspensión de sus visitas. Néstor Rodríguez Lovaina habría empezado una huelga de hambre para quejarse de las condiciones de insalubridad en las que estaría preso. En septiembre de 2000, habría sido golpeado por un preso común que le habría fracturado la mandíbula. Néstor Rodríguez habría empezado otra huelga de hambre en abril de 2002, tras ser supuestamente golpeado por personal de la prisión.

401. Por carta de fecha 10 de septiembre de 2002 enviada con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, el Relator Especial notificó al Gobierno que recibió información según la cual **Francisco Chaviano González**, presidente del Consejo Nacional por los Derechos Civiles en Cuba, habría sido condenado a 15 años de prisión tras haber sido acusado en 1994 de revelar secretos relativos a la seguridad del Estado y de falsificar un documento. Habría estado recluido en una celda de castigo durante al menos tres meses en 1999, período durante el cual habría sufrido de úlcera duodenal, artritis, problemas respiratorios e hipertensión y no habría recibido tratamiento médico. El 17 de junio de 1999 los guardias de la cárcel le habrían fracturado la tibia y le habrían causado heridas en la cara.

Habría emprendido diferentes huelgas de hambre para llamar la atención sobre las condiciones de su encierro.

402. Por carta de fecha 3 de diciembre de 2002, el Gobierno aseguró que las autoridades cubanas no le han causado daño ni lesión alguna y que éste se encuentra en buen estado de salud. Además, recibe el tratamiento médico adecuado para los padecimientos que presenta, aunque estos no son de gravedad. Finalmente, el Gobierno aseguró que recibe visitas familiares regularmente y que ha tenido la oportunidad de visitar su residencia familiar en varias ocasiones.

403. Por carta de fecha 12 de noviembre de 2002 enviada con el Relator Especial sobre las formas contemporáneas de racismo, discriminación racial, xenofobia y formas conexas de intolerancia, el Relator Especial notificó al Gobierno que recibió información sobre **Eduardo Luis Cepeda Álvarez**, activista del Movimiento Cristiano Liberación, quien habría sido detenido el 13 de octubre de 2002 en el parque Serafín Sánchez por tres agentes del Departamento de Seguridad del Estado. Habría sido golpeado en la cabeza y conducido a una estación policial ubicada en la calle Julio Antonio Mella, donde habría recibido diversos insultos de índole racista. Habría sido encerrado en un calabozo y no se le habría proporcionado ni agua ni alimentos.

Llamamientos urgentes

404. El 25 de abril de 2002, el Relator Especial envió un llamamiento urgente juntamente con el Relator Especial sobre el derecho a la libertad de opinión y de expresión y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos en relación con **Juan Carlos González Leiva**, presidente de la Fundación Cubana de Derechos Humanos, detenido en el cuartel de la Seguridad del Estado de la provincia Holguín. Habría sido detenido el 4 de marzo de 2002 junto con otros siete activistas cuando realizaban un acto de protesta pacífica frente al hospital Antonio Luaces Iraola, en Ciego de Avila, donde se encontraba el periodista **Jesus Alvarez Castillo**, quien habría sido golpeado por agentes de la policía. También habrían sido detenidos los periodistas **Carlos Brizuela Yera** y **Lexter Tellez Castro**, mientras cubrían la noticia de la protesta. Todos habrían sido golpeados por oficiales de la Seguridad del Estado, de la policía y por miembros de las Brigadas paramilitares de Respuesta Rápida. Además de tener dolores de cabeza y malestar general, González Leiva habría tenido dolores en la zona del hígado así como una gastritis muy fuerte. **Lázaro Iglesias Estrada**, también miembro de la Fundación Cubana de derechos humanos, habría sido detenido ese día mientras participaba en la misma protesta y habría sido golpeado y detenido por efectivos de la Seguridad del Estado. Habría permanecido detenido en el penal Cerámica Roja en una celda muy húmeda con once reclusos comunes.

405. El 30 de octubre de 2002, el Relator Especial envió un llamamiento urgente en relación con la situación de **Leonardo Bruzón Avila**, quien estaría en huelga de hambre desde el 27 de agosto de 2002 por encontrarse confinado en una prisión desde el 22 de febrero de 2002 hasta el momento sin conocer de qué se le acusa. Su madre habría declarado que las autoridades cubanas le habían prometido trasladar a su hijo a un hospital y en cambio lo harían confinado en una celda de aislamiento en la prisión de Quivicán. Habría logrado ver a su hijo el 20 de octubre de 2002. Según la madre, el

hijo pesaba menos de 70 libras, no podía hablar, tenía dolor en el pecho y tenía el cuerpo lleno de hematomas.

Seguimiento de las comunicaciones transmitidas previamente

406. Por carta de fecha 11 de noviembre de 2002, el Gobierno respondió a la carta enviada por el Relator Especial el 15 de agosto de 2001 (E/CN.4/2002/76/Add.1, párrs. 413 a 419).

407. En relación con **Eduardo Díaz Fleitas** y **Fermín Scull Zulueta** (ibíd., párr. 415), el Gobierno indicó que fueron detenidos el 10 de noviembre de 1999, procesados por su participación en actos de desorden público y sancionados a un año de reclusión domiciliaria. Según señaló el Gobierno, todas las alegaciones relativas a amenazas, violencia y hostigamiento contra ellos son falsas.

408. En relación con **Orlys Reyes Navarro** (ibíd., párr. 416), el Gobierno aseguró que las alegaciones incluidas en la carta del Relator Especial son falsas. El Gobierno informó de que esta persona cumple sanción en la Prisión Provincial de Guantánamo por el delito de lesiones graves. El 27 de marzo de 2000 pasó al régimen de mínima severidad por buena conducta y el 14 de marzo de 2001 se le concedió la libertad condicional.

409. En relación con **Filiberto González Chávez** (ibíd., párr. 417), el Gobierno indicó que no existe ninguna evidencia sobre la veracidad de los hechos alegados. El Gobierno añadió que cuando las autoridades le contactaron acerca del contenido de la comunicación éste lo desmintió personalmente.

410. En relación con **Edelmiro López Cruz** (ibíd., párr. 418), el Gobierno indicó que la viuda del arriba mencionado reconoció públicamente la adecuada atención que fue brindada a su esposo, el cual falleció en el hospital del establecimiento penitenciario como consecuencia de una fiebre tifoidea que se complicó con una tromboembolia pulmonar.

411. En relación con **Andrés García Aguilera** (ibíd., párr. 419), el Gobierno indicó que en febrero de 2000, se resistió a la realización de una requisita personal realizada al conocerse que se dedicaba a la venta ilegal en el interior del penal de psicofármacos. El Gobierno aseguró que a pesar de su resistencia, las autoridades actuantes respetaron plenamente los procedimientos establecidos, lo cual fue confirmado en la investigación realizada por la Fiscalía Militar.

412. Por carta de fecha 11 de noviembre de 2002, el Gobierno respondió a la carta enviada por el Relator Especial el 15 de agosto de 2001, juntamente con el Relator Especial sobre la promoción y la protección del derecho a la libertad de expresión (ibíd., párrs. 420 a 423).

413. En relación con **Yoani Varona**, **Leonardo Varona** y **Roberto Rodríguez Rodríguez** (ibíd., párr. 421), el Gobierno precisó éstos fueron detenidos y sancionados como responsables de actos de alteración del orden público, ofensa a la dignidad de otros ciudadanos y atentados contra la propiedad ajena, hechos que provocaron la respuesta espontánea de los residentes y propietarios del área. El

Gobierno aseguró que las autoridades sólo intervinieron para restablecer el orden y no llevaron a cabo ni actos de violencia ni acciones calificables como de tortura o de malos tratos.

414. En relación con **José Luis Aguilar Hernández** (ibíd., párr. 422), el Gobierno informó que cometió actos ofensivos y agravios contra personas que participaban en una peregrinación religiosa el 17 de diciembre de 1999. Las autoridades intervinieron para restablecer el orden después de que las personas ofendidas reaccionaran contra el arriba mencionado. El Sr. Aguilar Hernández fue detenido y sancionado, encontrándose en estos momentos en libertad. El Gobierno aseguró que no ocurrió ningún acto de violencia física.

415. En relación con **Belkis Barzaga Lugo** (ibíd., párr. 423), el Gobierno señaló que fue detenida y procesada después de que ofendió y agredió a ciudadanos civiles que participaban en una tradicional marcha religiosa el 17 de diciembre de 2000. El Gobierno aseguró que no se cometió violencia alguna contra esta persona y que no le fue denegada atención médica. Finalmente, el Gobierno informó que actualmente Belkis Barzaga Lugo se encuentra en libertad al haberse sobreseído su expediente.

Observaciones

416. The Special Rapporteur acknowledges the Government's responses, but finds insufficient substantive information in the denial of allegations of torture so as to remove all concerns in this regard.

Democratic Republic of the Congo

Appels urgents

417. Le 15 janvier 2002, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Président-Rapporteur du Groupe de travail sur la detention arbitraire et le Rapporteur spécial sur la situation des droits de l'homme en République démocratique du Congo en faveur de **Zelokata Baratomo, Koma Zongo Yvon** et **José Venze**, qui auraient été appréhendés par des agents de la police d'intervention rapide (PIR) le 31 décembre 2001 et emmenés à la Légion nationale de la PIR, dans la commune de Kasa-Vubu. Le 4 janvier, ils auraient été transférés en secret au cachot de la Direction extérieure de la Détection militaire des activités anti-patrie. Le motif de leur détention n'était pas connu.

418. Le 19 mars 2002, le Rapporteur spécial a envoyé un appel urgent conjoint avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires, le Rapporteur spécial sur l'indépendance des juges et des avocats et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo concernant le procès ouvert le 15 mars 2002 devant la Cour d'ordre militaire (COM), de 115 personnes accusées d'avoir participé à l'assassinat du Président Laurent-Désiré Kabila le 16 janvier 2001, dont **Anne-Marie Masumbuko** et **Rosette Kamwanya Beya**, qui seraient les épouses du major Bora Janvier Kamwanya qui serait en fuite, et **Fonokoko Rachidi, Nelly Ngoie Twite, Cibalonza Balole Koko, Charlotte Atanjok Otshudi** et **Marcelline Nabintu**, les épouses d'officiers militaires recherchés, mais qui ne seraient pas elle-mêmes accusées d'avoir

participé à l'assassinat. La plupart de ces accusés auraient été détenus au secret et sans être formellement inculpés pendant plus d'un an sur ordre de la Commission internationale d'enquête établie par le Gouvernement. Des craintes ont été exprimées quant au fait que nombre d'entre eux auraient été torturés dans le but de leur extraire des aveux. Ils n'auraient eu droit qu'à des visites de leurs familles d'une durée de 10 minutes par semaine et, jusqu'au 14 mars 2002, ils n'auraient eu aucun contact avec leurs avocats. Certains n'auraient d'ailleurs pas encore eu de contact avec leurs avocats, qui, pour la plupart, n'auraient pas eu accès aux dossiers de leurs clients. Ces accusés seraient détenus indifféremment, hommes et femmes, anciens militaires et civils, dans une cellule connue sous le nom de pavillon 1 au Centre pénitentiaire et de rééducation de Kinshasa. Ce pavillon serait gardé par des forces militaires du Zimbabwe (Zimbabwe Defence Forces) qui contrôleraient arbitrairement l'accès de leurs avocats. La COM aurait été créée en 1997 par le Président Laurent-Désiré Kabila, avec pour juridiction les cas de discipline militaire. Elle servirait maintenant à traduire en justice des civils, en particulier des personnes soupçonnées de faire partie de l'opposition politique. Les arrêts de la COM ne peuvent faire l'objet d'un appel. Un grand nombre d'accusés risquerait la peine de mort s'ils sont reconnus coupables.

419. Le 14 juin 2002, le Rapporteur spécial a envoyé un appel urgent conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo en faveur de **Édouard Kayimbo Sasula**, qui aurait été appréhendé le 22 mai 2002 à Lubumbashi par l'Agence nationale de renseignement (ANR) et placé en détention à la direction provinciale de l'ANR/Lubumbashi. Le 25 mai 2002, il aurait été transféré à Kinshasa à l'insu de sa famille et placé en détention au cachot de l'ANR/Roi Baudouin (ex-Lemera) à Kinshasa/Gombe. Depuis lors, ses proches à Kinshasa et à Lubumbashi n'auraient plus eu de ses nouvelles. Il lui serait reproché d'avoir laissé les supporters de l'équipe de football Tout-puissant Mazembe porter des t-shirts à l'effigie de l'homme d'affaires congolais Raphaël Katebe Katoto, candidat à la présidence de la République pendant la transition, vice-président de l'Alliance pour la sauvegarde du dialogue intercongolais et président du mouvement politique Dynamique pour la transition neutre.

420. Le 18 juillet 2002, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur l'indépendance des juges et des avocats, la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo et le Président-Rapporteur du Groupe de travail sur la détention arbitraire, en faveur de M^e **Mpinga Tshibas**, bâtonnier du Kasaï-Oriental, qui aurait été arrêté par l'ANR/Mbuji-Mayi, alors qu'il devait tenir un point de presse sur «l'utilisation abusive de l'appareil et des biens de l'Etat: cas du Parti du peuple pour la reconstruction et le développement (PPRD)» dans sa résidence le 3 juillet 2002, au cours de laquelle il semblerait que M^e Tshibas devait annoncer la création officielle de son alliance politique.

421. Le 25 juillet 2002, le Rapporteur spécial a envoyé un appel urgent conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo en faveur de **Delly**

Bonsange, éditeur du quotidien *Alerte Plus*, paraissant à Kinshasa, qui aurait été arrêté le 22 juillet 2002 par des inspecteurs judiciaires du parquet de la cour d'appel de Kinshasa/Matete. Il aurait été interrogé à propos de la publication par son journal, le 11 juillet, d'une information selon laquelle le Ministre de la sécurité et de l'ordre public aurait été empoisonné. Le directeur de publication, **Raymond Kabala**, en faveur duquel un appel urgent a été envoyé le 23 juillet 2002, aurait cité Delly Bonsange comme étant l'auteur du titre de l'article incriminé. Raymond Kabala, qui serait détenu dans une cellule du Centre pénitentiaire et de rééducation de Kinshasa (ex-prison centrale de Makala) serait torturé quotidiennement pour qu'il révèle la source des informations publiées concernant l'état de santé du Ministre.

422. Le 2 septembre 2002, le Rapporteur spécial a envoyé un appel urgent conjointement avec la Représentante spéciale du Secrétaire général pour la question des défenseurs des droits de l'homme et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo à propos de l'état de santé du détenu **N'sii Luanda Shandwe**, président du Comité des observateurs des droits de l'homme, au sujet duquel un appel urgent conjoint de la Représentante spéciale du Secrétaire général pour la question des défenseurs des droits de l'homme, du Président-Rapporteur du Groupe de travail sur la détention arbitraire et de la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo avait déjà été transmis le 23 avril 2002. N'sii Luanda Shandwe serait tombé gravement malade au Centre pénitentiaire et de rééducation de Kinshasa (CPRK). Il serait atteint de la fièvre typhoïde et de la malaria. Il aurait été mis sous perfusion et aurait reçu de puissants médicaments contre la douleur. Le docteur du CPRK aurait recommandé que le détenu subisse une opération chirurgicale suivie d'un traitement plus approprié dans un autre centre médical mieux équipé que l'infirmerie du CPRK. Il semble cependant que les autorités pénitentiaires se seraient opposées à son transfert.

423. Le 2 octobre 2002, le Rapporteur spécial a envoyé un appel urgent conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression et la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo concernant l'arrestation de plusieurs dizaines de Parlementaires-Debout ainsi que des militants du parti politique Union pour la démocratie et le progrès social par la police et les Forces armées congolaises (FAC) à Kinshasa/Limete, le 26 septembre 2002 lors d'une marche organisée conjointement. Cette marche aurait été dispersée par des policiers et des membres des FAC, dont certains étaient en civil alors que d'autres étaient en uniforme munis de leurs armes. À l'approche des manifestants, les agents de l'ordre auraient procédé, d'une part, à un certain nombre d'interpellations suivies de confiscation des pièces d'identité, et, d'autre part, à des fouilles systématiques ainsi qu'à plusieurs arrestations. Les personnes ainsi arrêtées auraient été emmenées vers une destination inconnue où elles auraient été violemment battues à coups de matraque, de crosse de fusil et de poignard militaire, ce qui aurait entraîné le décès d'un parlementaire-Debout. Parmi les personnes arrêtées se trouveraient **Raoul Nsolwa**, **Cosmas Lofudu**, **Faustin Nyati**, **Bavon Mukendi**, **Freddy Kimbani**, **J.L. Badinabo**, **Pascal Saïdi**, **Elie Ongala**, **Thomas Kalala**, **Papytsho Kitabuni**, **J.C. Mwana Ntambwe**, **Makangila Moke**, et **Aimé Muyombo**. **Olenga Ndomanueno** et **Christian Nzeba** seraient parmi les manifestants grièvement blessés et abandonnés sur place dans la rue. Des craintes ont été exprimées quant au fait que les personnes arrêtées lors de

cette manifestation risquaient d'être soumises à des mauvais traitements durant leur détention.

424. Par une lettre datée du 17 octobre 2002, le Rapporteur spécial a rappelé au Gouvernement un certain nombre de cas qu'il avait envoyés en 1998 et 1999, au sujet desquels il n'avait pas reçu de réponse.

Suite donnée aux plaintes signalées dans des communications précédentes

425. Par lettre datée du 27 février 2002, le Gouvernement a répondu à un appel urgent envoyé par le Rapporteur spécial conjointement avec la Rapporteuse spéciale sur la situation des droits de l'homme en République démocratique du Congo et la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires le 21 septembre 2001 (E/CN.4/2002/Add.1, par. 487). Selon le Gouvernement, lorsque le Ministère des droits humains fut mis au courant de la tenue imminente du procès de 77 détenus à la COM, il dépêcha l'un de ses assistants juridiques pour s'assurer de la régularité du procès, dont les audiences et débats contradictoires étaient publics. Le Gouvernement a informé que chaque prévenu a comparu en personne, assisté par un collectif d'avocats désignés d'office. Aux termes de l'arrêt de la cour, 39 prévenus ont été acquittés, 13 condamnés à la peine capitale, un condamné à cinq ans de prison, 14 condamnés à 10 ans de servitude pénale principale (SPP), deux à 15 ans de SPP. En ce qui concerne les 13 condamnés à mort, le Gouvernement a réaffirmé l'engagement de respecter le moratoire annoncé sur la peine capitale lors de la cinquante-septième session de la Commission des droits de l'homme, en mars 2001.

Observations

426. The Special Rapporteur regrets that no response has been provided to the cases brought to the attention of the Government since 1998 as well as to urgent appeals. In view of the nature of the latter, he would appreciate receiving prompt information on measures taken to ensure that the right to physical and mental integrity is properly respected.

Djibouti

427. Par une lettre datée du 17 octobre 2002, le Rapporteur spécial a rappelé au Gouvernement un certain nombre de cas qu'il avait envoyés en 1999, au sujet desquels il n'avait pas reçu de réponse.

Dominican Republic

428. Por carta de fecha 2 de septiembre de 2002, el Relator Especial notificó al Gobierno que recibió información sobre **Carlos Javier Méndez**, quien habría sido fuertemente golpeado el 3 de abril de 2002 por un policía en el centro de detención El Parque Mirador Norte en Santo Domingo. Habría sido introducido en una cisterna de agua contaminada y obligado a beber de ella mientras era repetidamente golpeado. Le habrían obligado a tener una cebolla en su boca durante varias horas y le habrían introducido otra en el recto. Además habría recibido amenazas para que no denunciara los malos tratos. Se habría abierto una investigación policial sobre los hechos y dos

capitanes habrían sido puestos bajo investigación por fiscales de la justicia civil en junio de 2002.

Observaciones

429. The Special Rapporteur considers it appropriate to draw attention to the relevant finding of the Human Rights Committee in its consideration of the fourth periodic report of the Dominican Republic in April 2001 under the Covenant on Civil and Political Rights, in which the Committee expressed its concern “that, despite being prohibited by the Constitution (article 8.1), torture is widespread, occurring in prisons and elsewhere, that not all its forms are classified as crimes under the law and that no independent body exists to investigate the many complaints of torture and cruel, inhuman or degrading treatment. Reports that acts of torture have not been investigated, that the perpetrators of those acts have in the majority of cases not been brought to trial and that victims and their families have not been compensated are also cause of concern.” (CCPR/CO/71/DOM).

Ecuador

430. Por carta de fecha 2 de septiembre de 2002, el Relator Especial notificó al Gobierno que recibió información sobre el caso individual siguiente.

431. **Patricio Ordoñez Maico**, homosexual, habría sido detenido el 31 de mayo del 2001 por dos agentes de la Policía Nacional de Quito, uno de los cuales le habría golpeado en la espalda. Habría sido conducido a un puesto de asistencia inmediata en la zona de Mariscal, donde lo habrían atendido dos agentes de policía. Uno de ellos habría abusado sexualmente del detenido. Habría sido amenazado de muerte para que no presentara una denuncia contra los policías. El 2 de junio de 2001, Patricio Ordoñez y **Jairo Cortez Jalca**, homosexual, habrían sido interceptados por agentes de la Policía Nacional en Quito. Los agentes les habrían propinado una paliza y robado dinero y objetos personales. Los dos hombres habrían interpuesto sus denuncias ante la policía judicial los días 28 y 29 de junio de 2001, pero no habrían recibido información alguna sobre el resultado de las investigaciones de la policía judicial.

432. Por la misma carta, el Relator Especial notificó al Gobierno que recibió información según la cual desde que el nuevo intendente de la Policía Nacional de Guayas asumió el cargo en septiembre de 2001, el número de redadas policiales en las calles de Guayaquil habría aumentado. El colectivo de lesbianas, gays, bisexuales y transexuales habría resultado especialmente afectado por dichas operaciones. Varias personas habrían sido detenidas sin que estuvieran cometiendo delito alguno. Además, algunos de los presuntos delitos de los que se les habría acusado y por los que se habría detenido a estas personas no serían punibles con la privación de libertad, sino con la imposición de multas. Durante las redadas que habrían tenido lugar entre el 9 y 11 de noviembre de 2001, al menos 433 personas habrían sido detenidas, entre ellas numerosos lesbianas, gays, bisexuales y transexuales. Todos habrían sido llevados al Centro Provisional de Detención, donde habrían sido encerrados en la celda colectiva conocida como Lagartera, una celda de 15 por 10 metros aproximadamente donde entre el 9 y 14 de noviembre del 2001, una media de 50 personas habrían permanecido recluidas cada día. En la Lagartera se recluiría a los presos más agresivos. Éstos habrían robado la ropa, el dinero y los teléfonos móviles de algunos

de los detenidos encerrados en la Lagartera. Entre el citado grupo de detenidos habría cuatro menores. Uno de ellos habría sido presuntamente violado por otros detenidos.

433. Por carta de fecha 10 de septiembre de 2002 enviada con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, el Relator Especial notificó al Gobierno que recibió información según la cual varios travestís habrían sido arbitrariamente detenidos y golpeados el 15 de junio de 2001 cuando la policía habría efectuado una redada en el centro de Guayaquil. **Henry Rodríguez Lozano**, coordinador del Departamento de Transgénero de la Fundación Amigos por la Vida, habría intentado tomar fotografías de la redada. Habría sido detenido, amenazado de muerte y su cámara confiscada.

434. Por carta de fecha 10 de septiembre de 2002 enviada con la Relatora Especial sobre la violencia contra la mujer, sus causas y sus consecuencias, el Relator Especial notificó al Gobierno que recibió información sobre **Narda del Rocío Torres Arboleda**, quien habría sido agredida el 12 de junio del 2001 por unos hombres que la habrían golpeado e insultado en relación con su homosexualidad. El 13 de junio de 2001 habría sido conducida a la comisaría n.º 5 de la Policía Nacional, en Quito, para presentar una denuncia. La policía habría tardado un tiempo en empezar a dar muestras de tomarse en serio sus quejas y no llevó a cabo investigaciones al respecto. El 28 de agosto, **Adriana Patricia Chávez Chávez**, compañera de Narda Torres, habría sido agredida por los mismos dos hombres implicados en el anterior ataque. El 3 de septiembre, la Comisión Ecuémica de Derechos Humanos (CEDHU) habría dirigido una carta al ministro de Gobierno solicitando que se abriera una investigación sobre las denuncias realizadas por las dos mujeres. El 5 de diciembre, habrían sido nuevamente acosadas e intimidadas cuando llegaban a su casa. La Sra. Torres habría sido golpeada de refilón por un vehículo. Las autoridades ecuatorianas no habrían informado ni a Narda Torres, ni a Adriana Chávez de que se estuviese llevando a cabo investigación alguna sobre sus denuncias.

435. Por carta de fecha 17 de octubre de 2002, el Relator Especial recordó al Gobierno varios casos que le había transmitido en 1999 y 2001 respecto a los cuales no había recibido respuesta.

Llamamientos urgentes

436. El 23 de julio de 2002, el Relator Especial envió un llamamiento urgente juntamente con el Relator Especial sobre el derecho a la libertad de opinión y expresión y el Presidente Relator del Grupo de Trabajo sobre la Detención Arbitraria en relación con **Luis Muñoz**, menor de edad, **Ivón Ramos**, **David Conrado**, **Juan Pablo Barragán**, **José Luis Proaño**, **Alberto Saltos**, **Stalin Saltos** y **Julila Butterfly**, ciudadana norteamericana, quienes habrían sido arrestados el 16 de julio de 2002 en Quito por agentes de la Policía de Migración. El arresto se produjo de manera violenta, mientras estas personas participaban en una manifestación pacífica de un grupo de ecologistas contra la construcción de un oleoducto de crudos pesados. Fueron conducidas a los locales de la Policía de Migración y al Centro de Detención Provisional de Quito. No fueron informadas de las razones de su detención y no se les permitió contactar con sus familiares ni abogados.

437. Por carta de fecha 26 de septiembre de 2002, el Gobierno informó de que de acuerdo con las autoridades policiales, los manifestantes fueron detenidos porque obstaculizaban la vía pública, delito que el Código sanciona con dos días de prisión sin necesidad de orden judicial. Con respecto a Julia Butterfly, el 17 de julio de 2002 se inició acción penal de deportación ordenando su prisión preventiva. El Gobierno aseguró que las detenciones se verificaron con apego a procedimientos aplicados habitualmente por cuerpos policiales y que las alegaciones de malos tratos o torturas carecen de fundamento ya que los detenidos gozaban de un estado de salud físico y psicológico satisfactorio al recuperar la libertad, según lo constató su propio abogado defensor.

Egypt

438. By letter dated 2 September 2002 sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information on the following individual cases.

439. **Ahmed Taha Mohamed Yousef** was reportedly arrested instead of his brother on 23 February 2002, and taken to the El Wayli Police Station, in El Wayli district, Cairo, where he was allegedly beaten to death. It was also reported that one officer beat him in the street while he was allegedly handcuffed. The three policemen involved were reportedly sentenced to five years' imprisonment with hard labour and to payment of civil compensation.

440. **Said Qenawy Selim** was reportedly arrested on 27 February 2001 after being accused of theft. He was allegedly detained in a police station for 11 days during which he was not referred to any judicial authority for investigation. Reportedly, on 8 March 2001, his family was allegedly informed that he had been transferred to the morgue. It was reported that his corpse revealed several injuries. The family was believed to have later been subjected to intimidation by the officers of Imbaba Police Station.

441. **Mohamed Samir Aboul Wafa**, a detainee at the Hadayek Al-Qubba Police Station, reportedly died while in custody on 13 January 2001. His father allegedly saw marks of physical violence on his arms and chest and around his neck as well as marks left by ropes on his shoulders and around his ankles. It was reported that the body, which was also examined by the Hadayek Al-Qubba public prosecutor and a forensic expert summoned by the latter, was found to have been bleeding from the nose, ears and mouth. The expert allegedly stated that the death was caused by a sharp decline in the blood circulation and respiratory system. The family was reported to have filed complaints to various authorities requesting an investigation.

442. **Khaled Salem Mohamed Salem** was reportedly arrested on 9 May 2000 by officers from the Qesna police. He was allegedly referred to the prosecutor's office on suspicion of attempted murder and held for four days for investigation. It was reported that on 17 May 2002, his relatives were informed about his death. The ambulance driver who brought him to the hospital allegedly testified that during the transfer to the hospital the detainee was bleeding from his ear, nose and mouth and other parts of his body. The family reportedly filed a case with the Qesna

prosecutor's office, demanding an investigation into his death. His two brothers, Ahmed and Mohamed Salem, reportedly went on hunger strike afterwards.

443. **Abdel Hamid Ramadan Abdel Hamid Zahran** (commonly known as **Khaled Zahran**) was reportedly arrested on charges of drug trafficking on 12 August 1999. It was reported that on 10 March 2000, he was summoned to the Qalyubeya State Security where other detainees allegedly saw him in a bad condition. Khaled Zahran reportedly died the following day. The doctor who conducted the forensic examination reportedly concluded that his death was the result of a rib fracture as well as a heart and respiration failure. He was also said to have noticed bruises on his kidneys and blood clotting in his brain. An account of the facts had allegedly been transmitted to the relevant authorities.

444. **Ahmed Hassan Ahmed** was reportedly arrested on 27 February 2000 and detained in the investigation unit of Shobra El-Kheima Police Station. On 2 March 2000 his relatives were allegedly informed of his death. One of his relatives who assisted in the ritual washing of the corpse in the Nasser Public Hospital reportedly observed that the body revealed several injuries. An autopsy was allegedly conducted on the same day. An account of the facts was reportedly sent to the Minister of the Interior and to the public prosecutor's office.

445. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information on the following individual cases.

446. A 19-year-old university student was reportedly arrested by a police officer from the Department for Eradicating Crimes Against Public Morality at the Interior Ministry, in Cairo, on 19 May 2002, and taken to the Vice Squad headquarters in the Tahrir Administrative Compound where he was allegedly beaten, severely shaken and forced to sign a confession stating that he had been a passive partner in an anal sex relationship with several men over a three-year period. He was reportedly transferred to Qasr El-Nil Prosecution office for further interrogation. Although the medical tests he allegedly underwent on 21 May 2002, upon the prosecutor's order, did not show any evidence of anal sex, he was reportedly found guilty of "habitual practice of debauchery" and of "enticing passers-by to commit indecency", and sentenced on 8 June 2002 to three years' imprisonment, a fine and three additional years of probation or close supervision

447. **Mahmoud Abd El Fatah**, aged 17, was reportedly whipped, subjected to electric shocks and threatened with dogs while in custody after he was allegedly sentenced in 2001 to three years' imprisonment with hard labour and to three years' probation for alleged habitual debauchery.

448. **Saif al-Islam Mohammad Raswan** was reportedly subjected to electric shocks, beaten and suspended from a horizontal pole while detained at a branch of the State Security intelligence in Giza for several days in May 2001.

449. **Nacibov Khabib Gasimagmetovich, Magomededov Akhmed Abdullaevich** and **Magomedov Nazim Magomedbekovich**, all students at the Islamic International University "Al-Azhar", Cairo, were reportedly taken from their home on 9 May 2001. They were reportedly subjected to electric shocks and beaten

while in custody. Their relatives were allegedly not informed about the reasons for their arrest nor their whereabouts.

450. **Mahmoud Abdel Hafiz Mostafa**, a security official in a restaurant in Mohandessin, was reportedly insulted, slapped with a shoe on the face, flung on the ground and beaten by an officer of the State Security Investigation (SSI) at Imbaba Police Station, on 7 March 2000. Complaints were allegedly filed to the relevant authorities. In particular, an account was reportedly transmitted to the Imbaba Police Station and referred to the prosecution, on 7 March 2000.

451. **Ramadan Mostafa Mohamed** was reportedly summoned on 8 March 2000 to the Al-Matareya Police Station, where he was allegedly slapped on the face, hung to a door with his hands tied behind his back and beaten while in this position. Reportedly, he was subsequently pulled from his legs, waist and head, and beaten on the shoulders at the same time. He was also reported to have been subjected to the *falaka* (a long stick with a rope looped through its ends, which, when twisted secures the feet of the victim who is bastinadoed with another stick or whip on his or her feet). He was reportedly released the following day. He reportedly filed an account to the Prosecutor's Office of Al-Matareya on 12 March 2000 and was referred to a doctor for a medical examination.

452. **Saber Sayed Ali Agami** was reportedly assaulted and beaten by police officers, on 9 March 2000, in Qasr Al-Nil Street. He allegedly lost consciousness and was transferred to Abdien Police Station, where an account of the incident was reportedly filed. It was reported that he was subsequently transferred to Ahmed Maher Hospital for medical examination, according to which he suffered a double fracture in his lower and middle jaw. Complaints were reported to have been sent to the relevant authorities.

453. **Ali Sayed Abou Serei Sayed** was reportedly assaulted on 6 February 2000 by a SSI officer, a soldier and a third person with whom he previously had some conflicts. Reportedly, his hands were tied to his back and he was dragged, blindfolded and bleeding from his head and face, to Al-Wasty Police Station, where it was alleged that his hands were tied behind his back and his feet were tied with iron shackles. He was allegedly hung to a door, slapped and beaten until he fainted. It was reported that as a result, he suffered from a brain contusion, abrasions and bruises and superficial wounds. He was allegedly transferred to the Beni Suef Public Hospital. An account was reportedly filed with a public prosecutor and other relevant authorities.

454. **Hamza Radi El-Sayed** was reportedly arrested on 14 January 2000 by police assistants of Al-Sharabeya Police Station and dragged to the police station's investigation unit. He was allegedly referred to the prosecutor's office on 15 January 2000, which decided to release him by warranty of his residence. However, he was reportedly sent back to Al-Sharabeya Police Station and forced into a dark room known as the "refrigeration room", where the investigation chief and his aides allegedly subjected him to various forms of ill-treatment. Reportedly, his hands were tied behind his back, he was slapped on the face, nape of the neck and back, flogged on the back and drenched with cold water and subjected to the *falaka*. It was thought that he was released before an inspection committee came to the police station. He

reportedly sustained scars on his back, abrasions all over his body and a swollen neck. An account was reportedly filed with a prosecutor.

455. By the same letter, the Special Rapporteur informed the Government that he had received follow-up information regarding **Farid Zahran**, an NGO activist on behalf of whom the Special Rapporteur transmitted a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on 26 September 2001 (E/CN.4/2002/76/Add.1, para.509), and regarding which the Government already responded by a letter dated 15 October 2001 (*ibid.*, para. 510), who was reportedly released on bail on 2 October 2001. According to the new information received, the prison authorities refused to let him be examined by a medical expert about his heart condition despite his requests. It was also reported that he was beaten at the time of his arrest and kept blindfolded for four hours afterwards, as well as held in solitary confinement for almost two weeks.

456. By letter dated 16 September 2002, the Special Rapporteur advised the Government that he had received information on the following individual cases.

457. **Sabah Abdel Hamid Ahmed**(f) was reportedly summoned on 16 January 2001 to the Al-Waily Police Station, where she was allegedly ordered to remove her shoes and repeatedly subjected to the *falaka*. It was alleged that when her feet were swollen, police assistants poured hot water on the ground and ordered her to keep jumping on it. Released three days later, she was reportedly threatened with being arrested again when she went to the Al-Waily Police Station to file a complaint. At the Al-Demerdash Hospital, doctors allegedly refused to issue a medical report without police permission. She reportedly filed a complaint to the Attorney General, which is alleged to have been referred to Al-Waily prosecutor's office on 22 January 2001.

458. **Rania Fathi 'Abd al-Rahman**, a 15-year-old girl, was reportedly detained in April 2001 for one day, together with other family members. She was allegedly subjected to electric shocks while held at the police station of Shubrat al-Khaima's first precinct. Reportedly, a family member who subsequently filed a torture complaint was intimidated and harassed. No investigation was reported to have been initiated.

459. By letter dated 2 October 2002, the Government informed that the two letters dated 2 September 2002 sent by the Special Rapporteur and by the Special Rapporteur jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions had been forwarded to the competent authorities. The Government also indicated that due to the need for a translation into Arabic, the large number of cases and the lack of essential details, it would be difficult to provide information by the foreseen deadline. Yet, the Government assured the Special Rapporteur that all efforts would be made to respond to his requests.

460. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 2001 regarding which no reply had been received.

Urgent appeals

461. On 8 January 2002, the Special Rapporteur sent an urgent appeal on behalf of **Muhammad Muhammad Suleiman Ibrahim El-Zari** and **Ahmed Hussein Mustafa Kamil Agiza** who were reportedly forcibly returned to Egypt by the Swedish authorities on 18 December 2001. It is believed that they have been described in various international publications as members of an armed Islamist group although they reportedly denied this. They were reportedly detained incommunicado in an unknown location.

462. By letter dated 10 September 2002, the Government informed that the Swedish consular authorities and lawyers visited them in prison and praised the treatment they were receiving. Representatives of the Swedish News Agency in Cairo, who also visited the two prisoners, reportedly published a positive account of the interview with them. The Government assured that both men were being treated in accordance with international human rights standards.

463. On 25 January 2002, the Special Rapporteur sent an urgent appeal on behalf of **five men** detained in connection with their actual or perceived sexual orientation and who had already been detained, early January 2002 in Buhaira Province, south-east of Alexandria. On 15 January, the Public Prosecutor of Damanhour reportedly ordered the men to be detained while investigations were carried out into allegations of "habitual debauchery", a charge allegedly used to criminalize homosexual acts. As the Public Prosecution reportedly ordered the defendants to be medically examined by forensic experts, fears were expressed that the men would be forcibly subjected to anal examinations.

464. On 14 March 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Yassir Ahmad Fouad, Mansour Hassan Muhamad, Ali Rizq Muhammad, Muhammad Ahmad Hussein** and **Samir Mahmud Ali** who had reportedly been sentenced on 11 March 2002 to three years' imprisonment at a trial held in Damanhour, Al-Beheira Province, on charges of "habitual practice of debauchery" and "operating a house for the purpose of debauchery". It was reported that they had confessed under duress to consensual homosexual acts. The prosecutor was said to have confirmed that they had been subjected to an anal examination. The men had allegedly been beaten at Beheira Security Directorate and Damanhour Prison and two of them had reportedly been subjected to electric shocks at Damanhour Police Station No. 1 detention facility.

465. By letter dated 4 June 2002, the Government responded that Yassir Ahman Fouad, Mansour Hassan Muhamad, Ali Rizq Muhammad, Muhammad Ahmad Hussein and Samir Mahmud Ali had been arrested on suspicion of engaging in habitual debauchery, as defined under the provisions of the law, and sentenced to three years' imprisonment by the Damanhour Court. An appeal lodged in Damanhour was upheld in a ruling handed down on 13 April 2002, and the accused were acquitted.

466. On 24 May 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Special Representative on human rights defenders on behalf of nine activists who were

reportedly arrested in May 2002 after they had announced that they were organizing a peaceful demonstration to protest against alleged massacres committed by Israeli troops in the Palestinian occupied territories.

467. **Manal Khaled**, an editor working for an Egyptian TV station, and **Sameh Kamal**, a computer engineer, were reportedly arrested on 5 May 2002 at El Tahrir Square by several plain-clothes policemen, taken to Kasr El Neil Police Station and presented to the State Security Prosecution, where they were said to have been charged with holding documentation and publications that allegedly disrupt public security. The whereabouts of the two men were said to be unknown.

468. **Engineer Ali Abd El Fatah**, the Secretary-General of the Popular Committee of Solidarity with the Palestinian Intifada, three owners of a publishing house, **Gamal Mady**, **Ahmed Abd El Hafez** and **Khaled Souleman**, and two owners of a printing house, **Ahmed Ali** and **Ashraf Ali** were reportedly arrested at their homes on 14 May 2002 by members of the Alexandria State Security Investigation. They were reportedly beaten and insulted during their arrest. They were said to have been brought before Cairo State Security Investigation (SSI), and charged with publishing propaganda to disrupt public security.

469. **Dr. Gamal Abd El Fatah Abd El Dayeim**, another activist from the Popular Committee of Solidarity with the Palestinian Intifada, was reportedly arrested on 13 May 2002 in Hadayiek, El Maadi, by members of an anti-drug force from the Directorate of Cairo Security. He was reportedly assaulted, beaten and insulted, before he was taken to the Security Directorate and brought before El Basateen Prosecution, where he was charged with selling expired medicines and with announcing false news, propaganda and publication that disrupt public security. He was reportedly released on 19 May on bail, following a decree by the South Cairo Public Prosecutor.

470. By letter dated 21 June 2002, the Government replied that Manal Ahmad Khaled and Sameh Kamal Yusuf had been arrested on 10 May 2002 and presented on 12 May 2002 before the State security prosecution, which decided that they should be released once their addresses had been confirmed. Dr. Gamal Abd El Fatah Mohammed had been arrested on 13 May 2002 following a search authorized by a warrant issued by the Department of Public Prosecutions (DPP), in which contraband medicines were found on the premises of a pharmacy he owned in Cairo. He was presented to DPP, which decided to remand him in custody for a period of 15 days pending investigation. On 19 May 2002, the Deputy Public Prosecutor ordered his release on bail of 1,000 Egyptian pounds. He was released after paying the bail. Ahmed Abd El Hafez and Ashraf Ali Abd El Hafez were arrested on warrant by the Supreme State Security Prosecution on 10 May 2002. On 14 May 2002, Ali Abd El Fatah, Khaled Hasan Souleman, Gamal Sa'ad Mady and Ahmed Mahmud Abd El Hafez were arrested for preparing and printing statements and publications inciting the citizens. They were presented before the State Security Prosecution, which decided to take them into custody pending further investigation. They are being re-interviewed.

471. On 17 July 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of

'Aziza 'Abbas Muhammad who had reportedly been arrested on 8 July 2002. She was allegedly held incommunicado at an unknown location, possibly by members of the SSI. It was reported that she had previously been twice detained and interrogated before being released the following day. On 29 June, her two sons, one of them a minor, was reportedly accused of trying to supply their father Nabil 'Abd al-Majid al-Maghrebi, who is currently serving a life sentence at a maximum security prison in Tora for being a member of an armed Islamist group, with a mobile telephone. The young men had reportedly been issued with a 30- day detention order and had been sent to the Istiqbal Tora Prison.

472. On 25 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Sayida Muhammad Gad al-Rab**, a law student, who had reportedly been arrested on 21 July 2002 in the 'Ain Shams District of Cairo by members of SSI. She was said to be held incommunicado at an unknown location. Her arrest may have been connected to the arrest of her husband, Muhammad Ghuneim, who has been detained for almost a decade without charge or trial under emergency legislation, as an alleged member of an armed Islamist group.

473. On 2 October 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Mohamed Ahmed Abdo Hegazy**, a student who was reportedly arrested on 5 September 2002 by SSI in Port Said and charged with "spreading rumors that disrupt public security" after the publication of his poems. He was allegedly ill-treated while at SSI, as he was handcuffed and blindfolded. His detention was allegedly extended by 11 and 15 days by the State Security, on 7 September 2002 and 18 September, respectively. He was reportedly kept in Mazra'et Tora Prison.

Follow-up to previously transmitted communications

474. By letter dated 2 January 2002, the Government responded to the letter sent jointly with the Special Rapporteur on violence against women on 30 September 2001 on behalf of **Salha Sayid Qasim** (E/CN.4/2002/76/Add.1, para.506). The Government has been unable to verify the allegations made by her due to the lack of any official records with regard to her arrest or detention.

Observations

475. While noting that no response has been provided to a number of cases brought to the attention of the Government since last year, the Special Rapporteur acknowledges the letter dated 2 October 2002 by which the Government expressed its intention to cooperate with the Special Rapporteur in providing responses to these cases. Furthermore, the Special Rapporteur notes with concern that the Government did not extend to him an invitation to visit Egypt. He would like to recall that a request for such a mission was initially made in 1996.

476. The Special Rapporteur notes the concerns of the Human Rights Committee expressed in October 2002 after its consideration of the third and fourth periodic reports of Egypt under the International Covenant on Civil and Political Rights as follows: "[w]hile noting the creation of institutional machinery and the introduction of

measures to punish any violations of human rights by employees of the State, the Committee notes with concern the persistence of torture and cruel, inhuman or degrading treatment at the hands of law-enforcement personnel, in particular the security services, whose recourse to such practices appears to display a systematic pattern. It is equally concerned at the general lack of investigations into such practices, punishment of those responsible, and reparation for the victims. It is also concerned at the absence of any independent body to investigate such complaints (articles 6 and 7 of the Covenant).” (CCPR/CO/76/EGY, para. 13) These concerns were also most recently echoed by those expressed by the Committee against Torture after its consideration of the fourth periodic report of Egypt under the Convention against Torture as follows: “[t]he many consistent reports received concerning the persistence of the phenomenon of torture and ill-treatment of detainees by law enforcement officials, and the absence of measures ensuring effective protection and prompt and impartial investigations. Many of these reports relate to numerous cases of deaths in custody; [t]he Committee expresses particular concern at the widespread evidence of torture and ill-treatment in administrative premises under the control of the State Security Investigation Department, the infliction of which is reported to be facilitated by the lack of any mandatory inspection by an independent body of such premises.” (CAT/C/XXIX/Misc.4 (non edited version), para. 5 (b) and (c))

El Salvador

Seguimiento de comunicaciones transmitidas previamente

477. Por carta de 29 de noviembre de 2002, el Gobierno respondió a dos casos incluidos en una carta enviada por el Relator Especial el 10 de octubre de 1996 (E/CN.4/1997/7/Add.1, párr.144).

478. En relación con **Carlos Ulises Bonilla**, el Gobierno confirmó que fue detenido por miembros de la Policía Nacional Civil el 2 de noviembre de 1995 por el delito de amenazas agravadas y disparos de arma de fuego y fueron puestos a la orden del Juez de Paz de San Alejo. De acuerdo con la información proporcionada por el Gobierno, los agentes utilizaron la fuerza contra él cuando éste prestó resistencia a su detención con un arma de fuego y un machete. El 3 de junio de 1996, se inició un proceso en contra de los dos agentes implicados por el delito de lesiones graves. Carlos Ulises Bonilla fue sometido a un examen médico forense que reveló un trauma cerrado de abdomen por golpes contusos. Las lesiones sufridas sanaron en un período de 30 días. El 17 de diciembre de 1996, se dictó sobreseimiento provisional a favor del inculpado por considerar el Tribunal que los únicos elementos de juicio provenían de los agentes captores, a su vez imputados por lesionar a Carlos Ulises Bonilla. Ese mismo día se dictó Auto de Apertura a juicio contra estos dos agentes. Estos fueron absueltos por el jurado el 9 de abril de 1997 y el tribunal dictó Sentencia Absolutoria el 17 de este mismo mes.

479. En relación con **Héctor José Vásquez Orantes**, el Gobierno confirmó que fue detenido el 21 de enero de 1996 por la falta penal de escandalizar en estado de ebriedad. El 7 de febrero de 1996, el Juzgado de Paz de Tepecoyo tomó su declaración cuando éste se encontraba en el Hospital San Rafael de la Ciudad de Santa Tecla. Declaró que un agente le había dado una patada en el abdomen. El caso fue remitido al Juzgado de Primera Instancia de Armenia, el cual el 4 de julio de 1997

dictó veredicto absolutorio a favor del agente acusado por Héctor José Vásquez Orantes.

Equatorial Guinea

480. Por carta de fecha 25 de septiembre de 2002, el Relator Especial notificó al Gobierno que recibió información sobre la detención de al menos 140 personas opuestas al régimen político en marzo de 2002. La ola de detenciones habría empezado con la detención de **Felipe Ondó Obiang**, uno de los líderes de la Fuerza Demócrata Republicana (FDR), junto con su cuñado, **Emilio Ndong Biyogo**, el 14 de marzo de 2002 en Malabo, Isla de Bioko. Debido a los supuestos malos tratos a los que habría sido sometido durante su detención, el Sr. Ondó Obiang habría quedado cojo. Todos los detenidos habrían sido acusados de intento de golpe de Estado y habrían sido juzgados entre el 23 de mayo y el 9 de junio de 2002. Sesenta y ocho de ellos habrían sido declarados culpables y sentenciados a penas de prisión que irían de los 6 años y 8 meses a los 20 años. De las personas declaradas culpables, 65 estarían cumpliendo su condena y 60 de ellos habrían sido sometidos a malos tratos. La mayoría de los detenidos habrían sido encerrados en las prisiones de Bata y de Malabo a la espera de su juicio. Allí habrían sido colocados en celdas pequeñas y sin ventilación donde habrían permanecido desnudos. Durante esta detención, no se les habría permitido la visita de sus familiares, abogados ni médicos. En algunos casos, los familiares no habrían sido informados de lugar de detención de su pariente. Se alega que algunos de los detenidos habrían sido sometidos a malos tratos para obtener de ellos confesiones antes del juicio. Otros también habrían sido sometidos a malos tratos durante el periodo en el que se celebró el juicio para que no se retractaran de sus confesiones. Uno de los métodos utilizados para sustraer información habría sido atar los codos y los tobillos de los detenidos detrás de su espalda y suspenderlos de esta forma de una barra atada al techo. Muchos habrían sido golpeados en la espalda, los pies y el torso. Consecuentemente, algunos de los detenidos habrían padecido lesiones tales como roturas de brazos. Durante el juicio se habría podido observar que al menos 30 detenidos tenían un brazo roto o dificultades para caminar. Durante el juicio, varios detenidos habrían solicitado asistencia médica pero su solicitud habría sido ignorada.

481. Por la misma carta y en relación con estas alegaciones, el Relator Especial notificó al Gobierno que recibió información sobre los siguientes casos individuales. Todos ellos estarían detenidos en la prisión de Black Beach en Malabo. Se alega que las condiciones de detención en esta cárcel serían muy duras, sobre todo debido al hacinamiento de presos. Las celdas serían demasiado pequeñas y carecerían de luz y ventilación. La alimentación de los detenidos sería inadecuada y los alimentos que sus familias les proporcionarían no les llegarían. A los detenidos no se les permitiría salir en ningún momento de sus celdas. Dos de los detenidos habrían sido trasladados a un hospital y muchos más padecerían agotamiento, hambre y fiebre. Se expresaron temores en cuanto a la integridad física y la vida de estas personas si seguían sin agua, comida y asistencia médica.

482. **Guillermo Ngema Elá**, cofundador de la FDR, habría sido detenido el 15 de mayo de 2002. Durante su detención habría sido sometido a palizas que le habrían causado heridas y roto un brazo.

483. **Cándido Obiang Abia** habría sido detenido a mitades del mes de marzo de 2002 y seguidamente preso en Bata y en la prisión de Black Beach, a la espera de su juicio. No habría podido firmar su confesión, supuestamente sustraída bajo malos tratos, debido a que los huesos de sus manos estaban rotos. Habría sido hospitalizado el 2 de junio de 2002 por agotamiento, desnutrición y fiebre.

484. **Donato Ondó Ondó** habría sido detenido a mitades del mes de marzo de 2002 e inicialmente preso en Bata y en la prisión de Black Beach. Habría sido golpeado en el Palacio de África, en Bata, o en una playa cercana y tendría los dos brazos rotos. Durante su detención habría sido alimentado por otros presos.

485. **Mariano Ekua** habría sido detenido a mitades del mes de marzo de 2002 e inicialmente preso en Bata y en la prisión de Black Beach. Durante su detención le habrían roto sus dos muñecas. También se alega que tras negar su confesión durante el juicio, habría sido golpeado en la cabeza con la culata de una pistola por un guardia de la cárcel.

486. **Laureano Ondó Monsuy** habría sido detenido a mitades del mes de marzo 2002 e inicialmente preso en Bata y en la prisión de Black Beach. Durante su juicio se pudieron observar heridas en su pecho.

487. **Ovono Akubenga** habría sido detenido a mitades del mes de marzo 2002 e inicialmente preso en Bata y en la prisión de Black Beach. Durante su detención habría sido sometido a malos tratos que le habrían causado lesiones en sus genitales y problemas de orina.

488. **César Elá Ondó** habría sido detenido por ser el hijo de Felipe Ondo Obiang. Habría sido sometido a malos tratos durante su detención. Durante su juicio habría negado sus confesiones previas en las que habría implicado otras personas en el golpe de Estado.

489. **Santiago Elá Obiang, Roque Nbe Nzo y Virgilio Nguema Iona** habrían sido detenidos bajo las mismas circunstancias. Durante su detención, sus codos y tobillos habrían sido atados detrás de su espalda y habrían sido suspendidos de esta forma a una barra atada al techo.

490. **Fabián Nsué Nguema Obono**, abogado y secretario general del partido de la oposición Unión Popular, habría sido detenido el 19 de abril de 2002. El 30 de julio habría sido sentenciado a un año de prisión por difamación contra el Jefe de Estado. Durante su detención habría sido sometido a malos tratos que habrían resultado en la rotura de sus muñecas. No habría recibido asistencia médica.

491. **Juan Ondó Nguema**, detenido bajo condiciones similares, se habría quejado de fuertes dolores de estómago y se habría desmayado el 1.º de julio de 2002, después de haber estado cuatro días sin recibir comida y sin apenas beber agua. Habría sido transferido a un hospital donde habría fallecido el 5 de julio de 2002. En respuesta a las acusaciones formuladas por los partidos de la oposición respecto a su muerte, el Partido Democrático de Guinea Ecuatorial (PDGE) habría informado que cuando Juan Ondó Nguema ingresó en el hospital, le habrían diagnosticado una neumonía, un absceso hepático y una anemia.

492. Por carta de fecha 17 de octubre de 2002, el Relator Especial recordó al Gobierno varios casos que le había transmitido en 1998 y 1999 respecto a los cuales no había recibido respuesta.

Llamamientos urgentes

493. El 1.º de marzo de 2002, el Relator Especial envió un llamamiento urgente juntamente con el Representante Especial sobre la situación de los derechos humanos en Guinea Ecuatorial sobre **Faustino Ondo Ebang**, un militante del partido de oposición Unión Popular, quien habría sido torturado en la comisaría central de Bata. El 17 de febrero de 2002, el Gobernador civil de la provincia de Kie-Ntem habría firmado la orden de detención de Faustino Ondo Ebang, ordenando su traslado a los « barracones de la policía de Bata ».

494. El 15 de marzo de 2002, el Relator Especial envió un llamamiento urgente juntamente con el Representante Especial sobre la situación de los derechos humanos en Guinea Ecuatorial y el Presidente-Relator del Grupo de Trabajo sobre la detención arbitraria sobre **Felipe Ondó Obiang** y miembro del partido no reconocido FDR y de su cuñado **Emilio Ndongo Nchama**, miembro del partido Unión Popular. El 14 de marzo, habrían sido detenidos sin orden judicial por elementos militares y mantenidos secretos. Habrían sido torturados. El 15 de marzo, **Guillermo Nguema Ela**, cofundador de FDR, habría sido llevado por elementos militares a un lugar desconocido.

495. El 21 de marzo de 2002, el Relator Especial envió un llamamiento urgente juntamente con el Representante Especial de la Comisión de Derechos Humanos encargado de examinar la situación de los derechos humanos en Guinea Ecuatorial y el Presidente Relator del Grupo de Trabajo sobre la Detención Arbitraria sobre **el Teniente Coronel Lorenzo Ondó Elá, el Teniente Coronel Segismundo Obama Esono, el Comandante Mariano Endongo Esangui y un número no identificado de civiles y militares** quienes habrían sido detenidos sin orden judicial por elementos de la Seguridad Nacional. Los detenidos serían objeto de interrogatorios en un centro de detención apartado.

496. El 26 de marzo de 2002, el Relator Especial envió un llamamiento urgente juntamente con el Representante Especial sobre la situación de los derechos humanos en Guinea Ecuatorial y el Presidente Relator del Grupo de Trabajo sobre la Detención Arbitraria sobre los siguientes familiares de Felipe Ondó Obiang: sus hijos **César Ela Ondo, Pedro Alogo Mozuy y Marisol**, su sobrina **Natalia**, quien estaría embarazada, sus hermanos **Alejandro Madang y Juan Ovono Obiang**, así como un pariente militar guardaespaldas del Ministro de Comunicación y Transporte.

497. El 24 de mayo de 2002, el Relator Especial envió un llamamiento urgente juntamente con el Presidente-Relator del Grupo de Trabajo sobre la Detención Arbitraria sobre unos 19 jóvenes de la etnia Bubi, quienes habrían sido detenidos en la cárcel de Balck Beach los días 17 y 18 de mayo de 2002, acusados de realizar entrenamientos militares en los bosques de la Isla de Bioko. Las detenciones habrían sido llevadas a cabo durante una ceremonia tradicional en honor al último Rey Bubi.

Dichos jóvenes habrían sido torturados durante el periodo de detención hasta llegar a sufrir mutilaciones.

498. El 31 de mayo de 2002, el Relator Especial envió un llamamiento urgente sobre algunos de los acusados en el proceso que se está llevando a cabo en este momento por atentado contra el Jefe del Estado, forma de gobierno e inducción a la violencia, en Malabo. Algunos de los procesados tendrían muñecas rotas y otros serían incapaces para valerse por sí mismos a raíz de los malos tratos que habrían sufrido durante interrogatorios. Sus abogados habrían declarado que después de cada sesión del proceso, los imputados seguirían siendo sometidos a malos tratos por la policía, por haberse retractado de sus declaraciones. **Santiago Ovono Moro** se encontraría en estado crítico y habría prestado declaraciones sentado en una silla. Los acusados estarían sometidos a condiciones de detención muy duras, como permanecer desnudos en las celdas y sin comida.

499. El 21 de junio de 2002, el Relator Especial envió un llamamiento urgente sobre algunos de los acusados en el proceso que se ha llevado a cabo del 23 de mayo al 7 de junio en Malabo contra 144 personas acusadas de atentado contra el Jefe del Estado, forma de gobierno e inducción a la violencia. Algunos de los condenados tendrían graves problemas de salud, en especial de articulación, a raíz de los malos tratos supuestamente sufridos antes, durante y después del proceso. Ninguno habría recibido atención médica, por lo que sus condiciones físicas se habrían deteriorado considerablemente. En especial, **Donato Ondó Ondó, Guillermo Nguema Ela, Felipe Ondó Obiang** y **Norberto Evuna Mikó** correrían el peligro de sufrir daños físicos irreversibles.

500. El 8 de julio de 2002, el Relator Especial envió un llamamiento urgente juntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias sobre las condiciones de detención de **Juan Ondó Nguema, Cándido Obiang Abia, Felipe Ondo Obiang, Guillermo Nguma Ela, Plácido Micó, Donato Ondó Ondó, Pablo Nguema Mbá** y **Mariano Oyono Nsué** en la cárcel de Black Beach en Malabo. El 27 de junio, las autoridades de la prisión Black Beach habrían impedido que los familiares de los hombres antes mencionados y de otras 56 personas más les llevaran comida. Estos prisioneros estarían detenidos en celdas húmedas, sin recibir comida ni agua en cantidades suficientes y sin acceso a ningún tratamiento médico. El 1.º de julio de 2002, Juan Ondó Nguema y Cándido Obiang Abia habrían sido trasladados al hospital regional de Malabo ya que padecían fiebre y agotamiento debido a inanición. Juan Ondó Nguema habría fallecido en la madrugada del 5 de julio como consecuencia del tratamiento a que fue sometido durante su detención.

Observaciones

501. The Special Rapporteur regrets that no response has been provided to the cases brought to the attention of the Government since 1998 as well as to urgent appeals. In view of the nature of the latter, he would appreciate receiving prompt information on measures taken to ensure that the right to physical and mental integrity is properly respected. The unsolicited invitation issued by the Government to the Special Rapporteur to visit the country remains on his agenda.

Eritrea

502. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999 and 2000 regarding which no reply had been received.

Urgent appeals

503. On 9 April 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of 10 journalists: **Yusuf Mohamed**, editor of *Tsigenay*, **Mattewos Habteab** and **Dawit Habtemichael**, the editor and a journalist of *Megaleh*, **Medhanie Haile** and **Temesgen Gebreyesus**, the deputy editor and a board member of *Keste Debena*, **Emanuel Asrat**, editor of *Zemen*, **Dawit Isaac** and **Fessehaye Yohannes**, of the newspaper *Setit*, **Said Abdulkader**, of the magazine *Admas*, and **Seyum Tsehaye**, freelance photographer. These journalists from privately-owned media reportedly went on hunger strike on 1 March 2002, to protest against their illegal detention, and to demand “justice before a fair and independent court”. Reportedly, no formal charges have been brought against them.

Ethiopia

504. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1997, 1999 and 2001 regarding which no reply had been received.

Urgent appeals

505. On 23 April 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on the right to freedom of opinion and expression and on extrajudicial, summary or arbitrary executions and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Bekele Jirata**, the vice-president of Macha Tulama Association, a long-established and officially recognized Oromo welfare association, **Gemeda Dinagde** and **Dereje Sibiu**, medical doctors, **Nekemte Wakjira Abdissa**, a medical doctor in Gimbi, **Ayana Kabata**, **Tesfaye Burayu** and **Getachew Ummata**, all teachers in Nekemte, **Biratu Qanani**, **Atsede Tola**(f) and **Lemlem Tesfaye** (f), all students in Nekemte, **Zelalem Abebe** and **Bekele Tedla**, both students in Najjo, **Biratu Qanani**, **Berhanu Ismail** and **Tadelle Kalbassa**, all teachers in Mendi, **Mohamed Aberra**, **Ahmed Said** and **Meseret Tamiru** (f), all students in Gimbi, **Tolessa Debela** and **Daniel Gemechu**, Addis Ababa University students, and **Fikru Negassa**, a student shot in Shambu, who had all reportedly been arrested in many towns in western Oromia and some in Addis Ababa, following demonstrations in late March 2002. It was reported that they were being held incommunicado in police stations and prisons, including Dedessa special detention centre near Najjo. In particular, Bekele Jirata is said to have been arrested in Addis Ababa around 12 April. **Girma Beyene**, a student, was reportedly shot dead by the security forces in Ambo, while Fikru Negassa had a leg amputated in an Addis Ababa hospital as a result of being shot.

506. On 14 June 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Birru Bale**, a former senior civil servant, **Tamire Tessema**, **Tesfaye Adola**, **Basha Bariso** and others, including children who were said to have been detained incommunicado after the police reportedly opened fire on peaceful demonstrators in the town of Awassa on 24 May 2002, killing at least 25 people. Hundreds of people were reportedly gathering in the Looqe quarter on the outskirts of Awassa for a planned demonstration in the town centre against the government plans to upgrade Awassa to city status when federal troops sent by the regional Government dispersed the protestors with live ammunition. Many of those killed were school students, including **Hameso Kieso**, **Bunara Gionamo**, **Tefesse Yeba** and **Sata Badacho**.

507. On 12 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Kebede Mammo**, a school director, and **Abebe Chimde**, **Mosissa Futasa**, **Kebede Humnasa**, **Dinsa Serbessa** and **Tesfaye Taressa**, all school teachers from the Basha Aboye secondary school in Gudar, Oromia region, who had reportedly been arrested in Gudar on 5 July 2002. It was reported that they were being held incommunicado without charge in the Ambo Palace Prison near Ambo town. Their arrest may have been connected to the demonstrations by school students in the Oromia region in March and April 2002 (see above).

508. On 14 August 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Ziad Hussein Abarusky** and four others, all employees of the Ethiopia-Djibouti Railway at Dire Dawa (one of them a senior official), who were reportedly arrested without charge at the end of June 2002 in Dire Dawa city in Oromia region. They were said to be held incommunicado in Memria Prison on the outskirts of Dire Dawa. Ziad Hussein Abarusky was reportedly severely ill-treated, and allegedly sustained injuries to his sexual organs, leaving him unable to walk. He was reportedly refused medical attention and access to his family.

509. By letter dated 7 November 2002, the Government informed that he had been detained in accordance with the Constitution and the Criminal Procedure Law of Ethiopia and without violating his human rights. While in detention, he was visited by representatives of the International Committee of the Red Cross. Concerning the other four individuals, the Government responded that it was difficult to properly respond to the allegation as the said individuals were not identified by name.

510. On 20 August 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on human rights defenders on behalf of **Million Tumato**, a medical doctor, **Mengistu Gonsam**, acting director of a non-governmental development organization, **Game Gatiso**, **Beshu Tulu** and **Mesfin Kitessa**, businessmen, **Girma Chuluke**, chair of Sidama zone assembly, **Tongola Torba**, chair of Aroressa district assembly, **Tekele Dulo** and hundreds of others were reportedly detained in Awassa in July and August 2002 in connection with a peaceful

demonstration on 24 May 2002. The detainees were reportedly held incommunicado without charge or trial.

511. By letter dated 8 November 2002, the Government informed that these individuals are held in detention for their alleged participation in instigating and organizing an illegal demonstration and inciting violence between the security forces and those who took part in the illegal demonstration held on 24 May 2002. Also, they participated, on 23 July 2002, in the murder of three people, wounded another person and destroyed a government-owned vehicle. The Government further stressed that these individuals are detained in accordance with the Constitution and the Criminal Procedure Code and that the individuals in custody are in good condition, with full respect for their physical and mental well-being. They have also been visited in detention by representatives of the International Committee of the Red Cross. Regarding the allegation that **hundreds of people are arrested in Awassa**, the Government pointed out that there are only very few people detained, in connection with the above-mentioned violence. The Regional Administration provided also information indicating that **Game Tatiso**, one of those detained, had been released on bail.

Observations

512. The Special Rapporteur notes with concern that no response has been provided to cases brought to the attention of the Government since 1997.

Gambia

513. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 regarding which no reply had been received.

Urgent appeals

514. On 12 December 2002, the Special Rapporteur sent an urgent appeal on behalf of **Bisher Al-Rawi**, an Iraqi national, and his brother, **Wahab Al-Rawi**, as well as **Jamil El Banna**, a Jordanian national, who had reportedly been arrested along with another business associate at Banjul Airport on 8 November 2002 and questioned on their alleged links to suspected terrorist groups. The four men, all of whom are based in the United Kingdom, had reportedly travelled to the Gambia in connection with a peanut processing company set up by Wahab Al-Rawi. The men had reportedly been held in several houses and their exact location was not known at the time the Special Rapporteur sent the urgent appeal. At least one of the men had reportedly been threatened by investigators from the United States of America, who were said to be involved in the questioning of the detainees. Another of the suspects may have been injured during his detention. Wahab Al-Rawi and a third business associate, both of whom are British nationals, were reportedly released without charge on or around 5 December and left the country. Concerns were expressed on the health conditions of Jamil El Banna, who is believed to be a diabetic.

Observations

515. The Special Rapporteur notes with concern that no response has been provided to cases brought to the attention of the Government since 1998.

Georgia

516. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received further information on the conditions of detention in Georgia (E/CN.4/2002/76/Add.1, para. 533) and on the relevant legislation regarding the treatment of prisoners. According to this information, although the Criminal Procedural Code and other legislative acts prohibit torture and degrading treatment, the existing laws are not properly implemented. It was reported that according to the legislation a person is not considered to be detained from the moment of arrest, but from the moment he or she is brought to a police station and a detention order is issued. As a result, persons under arrest are said to remain unprotected by the law guaranteeing detainees' rights for a lapse of time that might last for several hours. Moreover, it was alleged that the Criminal Procedural Code does not specify the status of a detainee within the 12 first hours of police custody. Reportedly, a detainee must be interrogated within 24 hours after he or she is recognized as a suspect and may be required to undergo a medical examination only after interrogation. Finally, it was reported that law enforcement officials responsible for acts of ill-treatment are not punished. It was alleged that, according to article 242 of the Criminal Code, as amended in May-June 1999, accused persons are deprived of the right to make a claim to the Court in relation to ill-treatment perpetrated during investigation.

517. By the same letter, the Special Rapporteur advised the Government that he had also received information according to which Jehovah's Witnesses, and other minority religions such as Baptists and Pentecostals, have become targets of violence. The deputy head of Tbilisi police was reported to have refused on three occasions to confirm that police forces would protect Jehovah's Witnesses from further attacks in an interview with a journalist on 8 February 2001. A Supreme Court decision on 22 February 2001 upholding a lower court's decision to revoke the registration of two Jehovah's Witness entities with the Georgian Ministry of Justice is feared to have further contributed to a climate encouraging subsequent attacks on Jehovah's Witnesses. On 16 March 2001 the Procurator General of Georgia reportedly issued an instruction for an investigation to be carried out by Tbilisi City Procuracy into allegations of violence committed by Basil Mkalavishvili and his followers (E/CN.4/2002/76/Add.1, para. 564). However, none is said to have been punished for any of the attacks on religious minority groups, despite testimonies by eye-witnesses and video evidence. Several Protestant leaders are said to be reluctant to publicize incidents of harassment as a result of the apparent impunity for such attacks.

518. By letter dated 15 November 2002, the Government informed that in conformity with the Law on Imprisonment of Georgia and corresponding subordinate relevant legislation, prisoners are entitled to living space. Food, clothes, medical service, safe labour conditions, unrestricted meetings with a lawyer, telephone conversations, to receive and sent correspondence, packets, parcels and money under the control of the administration. The Government also informed that prisoners have also the right to enjoy to their leisure time and have access to a series of activities, including religious activities. The Government further assured that they enjoy the right to lodge complaints on illegal activities allegedly committed against them.

According to the Government, upon arrival to the penitentiary, the prisoners must be informed in written of their rights and rules of treatment. Further, the living space for the detainee must be correspondent to constructing-technical, sanitarian and hygienic norms and has to ensure conditions needed for health protection of prisoners. On the other hand, the Government has acknowledged that living conditions in penitentiaries give rise to serious concerns mainly due to financial restrictions. This is particularly true in jail no. 5, where the poor and overcrowded condition deteriorated after the April 2002 earthquake. The Government also informed that the current medical service in penitentiaries needs urgent settlement. However, according to the Government, despite the hard living conditions in Georgian penitentiaries, torture or inhuman degrading treatment does not exist.

519. Regarding the criminal procedure, the Government confirmed that a person is only considered detained from the moment s/he is brought to a police station and an arrest order is made. The Government also acknowledged that as to the rights of a person deprived of liberty during first 12 hours following arrest, the current legislation is rather vague. Indeed, the law gives no definite provisions as to the rights of the persons deprived of their liberty before criminal proceedings are opened. Equally, it is not clear why a detainee is not allowed to require medical examination upon arrival to the place of inquiry and before the first interrogation takes place. Further, the Government admitted that recent amendments to the Criminal Procedural Code have not improved it. Conscious that its procedural legislation is currently not satisfactory, the Government has informed that a new Criminal Procedure Code is presently being elaborated.

520. Regarding allegations on violence against minority religions, while the Government informed that activities of various religious groups are to be regulated by passing a specific law, it has also acknowledged that a change of mentality of the Georgian society, which sees the Georgian Orthodox Church as a keystone of independent Georgian State and other religions as a threat against the foundation of the State, is needed. The Government is currently considering urgent steps to guarantee the equality and freedom of all religions before the law. In addition, a series of criminal proceedings were instituted following assaults against various religious minorities. In accordance with a decision of the Ministry of Internal Affairs and the Prosecutor-General's Office, seven criminal cases were joined in a single one, which was heard by the Tbilisi Circuit Court on 25 October 2002. The latter decided to continue the trial. A criminal case against defrocked priest Basil Mkalavishvili was also transferred to the Tbilisi Circuit Court on 5 October 2001.

521. By the same letter, the Special Rapporteur advised the Government that he had received information on the following incidents, to which the Government responded by letter dated 11 November 2002.

522. In an attack on 6 March 2001 in the town of Sachkhere, the mayor and local police reportedly refused to intervene when alerted that Jehovah's Witnesses were being attacked by a group of about 150 men. Four Orthodox priests are reported to have led the group of men, who were said to have invaded the home of **Alexi Ichkitidze**, a Jehovah's Witness, and assaulted him and his wife **Nana**, as well as a friend, **Savle Gotsadze**. The day before, a smaller group of about 20 men was reported to have physically assaulted four Jehovah's Witnesses in Sachkhere.

523. The Government informed the Special Rapporteur that on 11 April 2002, criminal proceedings had been instituted on illegal interference in performing religious ritual and violence. However, the preliminary investigation was ceased because of lack of evidences. This decision was later reexamined by the Regional and General Prosecutors Offices who found it legal.

524. On 17 June 2001, a group of around 60 supporters of the defrocked priest Basil Mkalavishvili reportedly attacked the Ortachala congregation of men, women and children in Tbilisi. The group reportedly illegally entered a private home where a religious meeting was being held, by smashing down the front door and breaking windows. Several items of furniture, personal belongings, and hundreds of pieces of religious literature were reportedly seized and burned outside. Reportedly, men were beaten with wooden clubs, and one woman had her dress ripped by an attacker who then threatened to strip her and parade her naked in the street. **Giorgi Kiknavelidze**, along with a number of others, allegedly required medical treatment for bleeding and bruising after having been severely beaten. Two police officers when arriving at the scene of the attack reportedly stated: "If we had known that this was an attack on you 'people' we would not have bothered to come."

525. The Government informed the Special Rapporteur that criminal proceedings had been instituted on 22 June 2001 by Prosecutor's Office of Mtatsminda-Krtsanisi district for interference with performing religious rites by Jehovah Witnesses, on damage and destruction of property and physical violence. The case was subsequently sent to Prosecutor's Office of Tbilisi, where similar cases were already under investigation. The case was sent back to Mtatsminda-Krtsanisi district Prosecutor's Office where investigation was underway at the time the Government transmitted this response.

526. Further, the Special Rapporteur advised the Government that he had also received information on the following individual cases to which the Government also responded by letter dated 11 November 2002.

527. **Zeza Nadiradze** was reportedly arrested in the village of Samtavisi in Kaspisky region on 16 November 2001. It was alleged that he was subjected to electric shocks to his genitals, burned with a cigarette and beaten in an attempt to force him to confess his participation in a robbery. It was also believed that one officer attempted to rape him. A medical examination carried out on 19 November 2001 allegedly found bruises, burns and abrasions. At the first court hearing, the judge reportedly ordered his release because of the injuries but the criminal case against him was said to remain open. An investigation was allegedly opened into the case but no one was said to have been charged.

528. The Government informed the Special Rapporteur that criminal proceedings had been instituted on 20 November 2001 by the Prosecutor's Office of Georgia against those policemen allegedly involved. The investigation was still underway at the time the Government transmitted this response.

529. **Alexander Guguneishvili**, a student, was reportedly arrested by ten police officers on 20 April 2002, when he was talking to his friends in the yard of School

No. 16 in Rustavi. It was alleged that on 25 May 2002 police threw him to the floor and tried to push a sawn-off gun into his trousers to fabricate a case against him. He was allegedly handcuffed and hung on an iron bar attached between two tables, for around five or six hours. A gas mask with the openings for the eyes covered was reportedly pulled over his head so that he could not see anything. He was allegedly beaten while in this posture. He was also believed to have been subjected to electric shocks. No medical examination was reportedly carried out at the police station. According to the information received, upon request of the lawyer, the director of the Expertise and Special Research Centre at the Ministry of Justice examined Alexander Guguneishvili at the end of April. The expert reportedly documented a laceration of his lower lip and abrasions, which could have resulted from beatings with a heavy, blunt object or objects, and injuries on the upper part of his feet resulted from electric shocks. At the time of writing, Alexander Guguneishvili was detained at the investigation-isolation facility No. 5 in Tbilisi and no investigation was reported to have been opened. It was alleged that none of the police officers involved in these facts had been suspended from duty.

530. The Government informed the Special Rapporteur that criminal proceedings had been instituted on 10 July 2002 against policemen of Rustavi Police Department for abuse of authority. The case was later transferred to Kvemo Kartli District Procuracy where investigation was underway at the time the Government transmitted this response. However, according to the Government, factual circumstances of the case have not been stated yet. The case was also transferred to Isani Samgori Procuracy of Tbilisi.

531. By the same letter, the Special Rapporteur advised the Government that he had received follow-up information on the following individual case.

532. Concerning **Mamuka Rizhamadze** (E/CN.4/2002/ 76/Add.1, para.579), the Kutaisi procuracy reportedly set up a commission composed of forensic experts to reconsider the case in autumn 2000 and concluded that he had committed suicide. According to an independent forensic expert appointed by the family, the commission had not examined all the evidence, in particular a piece of skin which had been sealed by Kutaisi procuracy after the post-mortem examination it had carried out in June 2000, and which had reportedly not been opened since. In December 2000, the Chairperson of the Parliamentary Human Rights Committee reportedly stated that she had received a letter from a prisoner who claimed to have seen how Mamuka Rizhamadze died, and how he was hanged, and that he was threatened with a view to making him testify that Mamuka Rizhamadze had committed suicide. She allegedly made these statements in an edition of the "60 minutes" programme. Following the broadcast, the procurator of Kutaisi reportedly contacted Elene Tevdoradze, the Chairperson of the Parliamentary Human Rights Committee, and stated he would open a new investigation into the death of Mamuka Rizhamadze. However, no new investigation had been opened as at the end of June 2001, and no fourth post mortem had reportedly been carried out, as allegedly requested by the Kutaisi procuracy.

533. By letter dated 11 November 2002, the Government informed the Special Rapporteur that a third court medical expertise confirmed that he died by asphyxia caused by him hanging on the loop. Expertise also concluded that there were light injuries on his corpse but investigation could not prove that they were a result of

violence committed by police staff members. Reportedly, the injuries were too old and it was not excluded that the deceased got them before being placed in the isolator. The Government further informed that the Procuracy of Georgia studied the decisions on the case and found them lawful.

534. By letter dated 2 September 2002, sent jointly with the Special Rapporteur on extrajudicial, summary and arbitrary executions, the Special Rapporteur advised the Government that he had received information according to which **Pridon Pirtakhia**, a pre-trial detainee in the Isolator No. 5 in Ortchala Prison, reportedly died on his way to hospital on 16 November 2001. He had reportedly been found with slit wrists on his bed in a communal cell. According to the head of the Isolator, Pridon Pirtakhia had reportedly informed him 24 hours before his death that he intended to commit suicide. No steps were said to have been subsequently taken to place him under observation. No autopsy was reported to have been carried out.

535. By letter dated 30 October 2002, the Government informed that he was suspected an attempt of sexual intercourse with minors using threat and abuse to their life and health. On 15 November 2001, he was sentenced to three months of detention. According to the evidences given by the nine defendants who resided in the same cell than the above-mentioned person, Prison Pirtakhia committed suicide by cutting his veins with his own razor. He was immediately given a medical care and transferred into the hospital of penitentiary where he died. Based on evidences of the personnel of the jail no. 5 and issued medical certificate, it is stated that no violence took place against him, he enter in the jail with no body injuries, he told the prosecutor that he did not want to remain alive. For providing his security, he was put in the cell no. 47 and a special control had to be exercised over the cell. Because of the lack of evidences, the criminal case on driving Pirtakhia to commitment of suicide was ceased.

Observations

536. The Special Rapporteur acknowledges the responses provided by the Government. He notes the concerns of the Committee against Torture expressed in May 2001 after its consideration of the second periodic report of Georgia under the Convention against Torture as follows: [t]he admitted continuing acts of torture and other acts of cruel, inhuman or degrading treatment or punishment in Georgia committed by law-enforcement personnel; [t]he failure to provide in every instance prompt, impartial and full investigations into the numerous allegations of torture, as well as insufficient efforts to prosecute alleged offenders in non-compliance with articles 12 and 13 of the Convention, resulting in a state of impunity of alleged offenders; [t]he instances of mob violence against religious minorities, in particular Jehovah's Witnesses, and the failure of the police to intervene and take appropriate action, despite the existence of the legal tools to prevent and prosecute such acts, and the risk of this apparent impunity resulting in such acts becoming widespread; [t]he unacceptable conditions in prisons, which may violate the rights of persons deprived of their liberty as contained in article 16." (A/56/44, para. 81 (a), (b), (d) and (g)) These concerns were also most recently echoed by those expressed by the Human Rights Committee after its consideration of the second periodic report of Georgia under the International Covenant on Civil and Political Rights as follows: "[t]he Committee expresses its concern at the still very large number of deaths of detainees

in police stations and prisons, including suicides and deaths from tuberculosis. (...) The Committee remains concerned at the widespread and continuing subjection of prisoners to torture and cruel, inhuman or degrading treatment or punishment by law enforcement officials and prison officers.” (CCPR/CO/74/GEO, paras 7 and 8) The invitation issued by the Government to the Special Rapporteur to visit the country remains on his agenda.

Germany

537. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information on the following individual cases, to which the Government responded by letter dated 29 November 2002.

538. **Josef Hoss** was allegedly ill-treated by police officers of the Special Deployment Command on 8 December 2000, in the North Rhine-Westphalian town of St. Augustin. A group of masked men allegedly opened the doors of his van and pulled him out of the vehicle onto the road. The men, who appeared to be police officers, reportedly handcuffed, kicked and hit him with their batons and fists, in particular in the ribs and back. Shortly afterwards, he reportedly lost consciousness and woke up leaning against a wall, still handcuffed, with a cloth bag over his head. It was reported that he was subsequently taken to a police station in St. Augustin, where he was reportedly placed in a cell without any explanation. He was reportedly arrested on suspicion of possessing hand-grenades and firearms. He was reportedly released later the day after. According to the medical report of the doctor who examined him in Siegburg on 11 December 2000, he was said to have suffered abrasions to his left eye, the ridge of his nose, right eye socket, and back of his head. He reportedly sustained several bruising. In addition, there were signs that degrees of force had been applied to Josef Hoss's teeth, and that he had two fractured ribs. A second medical examination conducted on 19 December 2000 was said to have confirmed the injuries. He reportedly suffered from post-traumatic stress disorder as a result of the incident. No investigation is believed to have been initiated into the incident.

539. The Government recognized that these allegations are broadly correct. It provided detailed information regarding the reason for his arrest. The Government clarified that the Special Police Forces (*Spezialeinsatzkommando* - SEK) decision to arrest him was based on information provided by the District Police Authority concerning dangers inherent in the operation and the consequent efforts of SEK to carry out the operation with as little risk as possible. SEK had also to take into account the possibility that the arrested person might have been in possession of weapons. The Government further informed that as he had been injured during the operation, he was examined by an emergency doctor who found that he sustained abrasions and bruising, but considered him to be fit for detention. On 21 August 2001, the Public Prosecution Office in Bonn charged him with negligent violation of the Weapons Act. On 16 January 2002, Siegburg Local Court discontinued the proceedings on ground of insignificance. Finally, the Government informed that an investigation into causing bodily harm during the performance of official duty was under way at Bonn Public Prosecution at the time of writing. According to the Government, Siegburg District Police Authority and the competent supervisory authority will assess disciplinary aspects of the police officers' conduct once the investigation proceedings have been concluded.

540. **Walter Herrmann** was reportedly arrested on 18 September 2001 in Cologne. One police officer reportedly twisted his ears and grabbed hold of his testicles at the time of the arrest, which Walter Herrmann resisted. At Cologne-Kalk Police headquarters, he was reportedly violently pinned down to the ground. He was allegedly subsequently taken into a cell with his arms twisted high behind his back. In the police cell, while handcuffed, he was allegedly pinned to the floor. At the time, his face was reportedly pressed against the cell floor. Then, two police officers allegedly twisted his arms behind his back and attached his legs with foot restraints to metal bolts incorporated into the structure of the floor of the cell. Walter Herrmann reportedly sustained multiple injuries as a result. He was reportedly taken to hospital by the police, where he remained for seven days. According to a preliminary medical report issued by the Kalk Evangelical Hospital, his injuries included first degree concussion, bruising to the cranium, an open fracture of the bridge of the nose, bruising to the chest and a fracture to a rib. Cologne's Police headquarters allegedly passed on the case to Cologne State Prosecutor's Office in order for the Prosecutor to determine whether the police officers were responsible for any criminal offence.

541. The Government informed that the allegation according to which he was intentionally and brutally ill-treated while being restrained at Police headquarters without having offered any form of resistance has not been confirmed. The Government confirmed that investigation proceedings against those police officers who participated in the coercive measures were conducted at the Cologne Public Prosecution Office. Following a request made by the competent Criminal Investigation Department (CID), the alleged victim submitted a medical report referred to above. The investigation proceedings have not been concluded yet.

542. By letter dated 2 September 2002, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, advised the Government that he had received information on the following individual case.

543. **Stefan Neisius** reportedly died in a Cologne hospital on 24 May 2002. He had been admitted to hospital on 11 May 2002 after having allegedly been ill-treated by several police officers of Cologne's First Police Inspectorate (*Polizeiinspektion 1*) at Eigelstein Police Station earlier the same evening. With the help of police reinforcements and through the use of pepper-spray, police officers reportedly restrained Stefan Neisius, placing him in handcuffs and brutally beating him. Two police officers reportedly made statements confirming the ill-treatment of Stefan Neisius at the police station. They reportedly stated that they had witnessed police officers surrounding Stefan Neisius, as he lay handcuffed on the floor of the police station, and repeatedly kicking him in the head, body, arms and legs. Due to the severity of his bleeding, he was reportedly taken to a Cologne hospital where he went into a coma. According to a statement made on 24 May 2002 by the Chief of Cologne Police, a special investigative commission had been established under the guidance of the Public Prosecutors' Office to examine the allegations of police ill-treatment. Six police officers were reportedly suspended from service shortly after the allegations of ill-treatment came to light on suspicion of having physically assaulted Stefan Neisius.

544. By letter dated 12 September 2002, the Special Rapporteur, jointly with the Special Rapporteur on racism, racial discrimination, xenophobia and related forms of

intolerance and the Special Rapporteur on the human rights of migrants, advised the Government that he had received information on the following individual cases, to which the Government responded by letter dated 14 November 2002.

545. **Denis Mwakapi**, a man originally from Kenya, was reportedly assaulted by four individuals on 23 December 2000 in Nuremberg allegedly because they believed that he was aggressive towards his German wife. Denis Mwakapi reportedly sustained a swollen upper lip during the assault. Three police vehicles reportedly arrived at the scene shortly afterwards. Both Denis Mwakapi and his wife reportedly attempted to inform the police officers of the background to the incident. However, the police officers allegedly arrested Denis Mwakapi after he became agitated. One of the police officers was alleged to have forcefully twisted his arm behind his back, fracturing his lower right arm in the process. Reportedly, the police officers subsequently handcuffed and placed him in a police vehicle, in spite of the detainee's repeated requests for a doctor, and took him to *Nürnberg Mitte* Police Station, where his request to be medically examined was allegedly denied. He was reportedly released some hours later. A medical examination conducted on the same day at the *Klinik für Unfallchirurgie* revealed that he had suffered a fractured arm. He was subsequently hospitalized on 26 December 2000 in order to undergo an operation and remained in hospital until 5 January 2001. He reportedly lodged criminal complaints of physical assault and denial of assistance with the Public Prosecutor's Office. The latter allegedly informed his lawyer that proceedings against the two police officers had been terminated. A subsequent attempt by Denis Mwakapi's lawyer to have the investigation reopened also reportedly failed.

546. The Government indicated that Denis Mwakapi was taken to Nuremberg Central Police Station for clarification of the above-mentioned incident because he was reportedly unwilling to clear up the facts on the spot. Physical coercion was needed during his transfer since he put up resistance to it and behaved aggressively. He was placed in preventive detention after his wife expressed fears that she could not cope with him, in particular due to his drunkenness. When he later complained of pain in his arm some hours later, the police officers concerned did not believe him, as there were no visible signs of injury. The investigations carried out by the Public Prosecution Office against the two police officers accused of causing bodily harm, failure to lend assistance and prosecution of innocent persons did not result in facts sufficient to constitute an offence. The behavior of the accused police officers was considered under these circumstances correct, necessary and proportionate. It is not clear whether the spiral fracture of his right forearm that he sustained is the result of the police officers' coercion or of the fight he previously sustained with the two men. The Nuremberg-Fürth Public Prosecution Office terminated the investigation proceedings. After further investigations, the Nuremberg-Fürth Public Prosecution Office terminated the investigation proceedings and the Regional Prosecution Office attached to Nuremberg Higher Regional Court rejected the appeal against the decision to terminate proceedings. Finally, his application for a judicial decision in the proceedings to force the Public Prosecution Office to press criminal charges was rejected as unfounded in a ruling by the Criminal Division of Nuremberg Higher Regional Court dated 27 May 2002.

547. **Doviado Adekou**, a Togolese asylum-seeker, was allegedly ill-treated in the town of Mettmann, North Rhine-Westphalia on 1 October 2001, as police officers

attempted to detain him for the purposes of placing him in pre-deportation detention centre. A police officer reportedly attempted to handcuff him but had to call two more police officers into the room when his attempts failed. The three police officers allegedly grabbed hold of Doviado Adekou's arms and pulled him face-down onto the floor. While he lay on the floor of the office, he was allegedly punched in the right eye. He was later taken to Wuppertal Clinic, where he was said to have been treated until 9 October 2001. A complaint assault was said to have been lodged with Mettmann's District Police Authority.

548. The Government informed that in the light of information according to which Doviado Adekou would seek to avoid his deportation, the Mettman District Enforcement Officers decided to place him in custody and bring him before a magistrate to examine an arrest warrant for ensuring his deportation. A struggle started between him and officers of the District Administration at the moment of his arrest on 1st October 2002. As a result, the enforcement officers sustained injuries and Daviодо Adekou was seriously wounded in the right eye, which he lost later. The deportation scheduled for 12 October 2001 was cancelled. An investigation was initiated following Daviодо Adekou's complaint filed on 24 January 2002 at the District of Mettmann Police Authority. A date for the completion of the investigation could not be foreseen at the time of writing. The Government has also indicated that after this incident, it had been decided by the District Administration that such arrests would only be carried out in consultation with police officers and that the enforcement officers would also be trained more thoroughly in arrest techniques.

549. **Svetlana Lauer**, a woman from the former Soviet Union, was reportedly ill-treated by several police officers in Hallstadt on 20 February 2002. Police officers reportedly forced their way into her home after she had actively resisted their entry because of their failure to produce a written search warrant. She was allegedly hit on the head several times and her arms were twisted in the back by police officers. Being handcuffed, her hair was reportedly pulled violently. While she was resisting the officers, she was allegedly kicked and her head was hit on the floor. She was then taken to Hallstadt police station, where she was later charged with resisting arrest and physically assaulting police officers on duty. Svetlana Lauer reportedly remained in the same semi-naked state during the two hours she spent at the police station, during which time she was interviewed by male police officers. According to a medical report issued on 26 February 2002, Svetlana Lauer's injuries included multiple bruising and grazing, in particular on the head, shoulders and thorax.

550. The Government informed the Special Rapporteur that the Bamberg Public Prosecution Office launched an investigation against the police officers involved in the incident after she had filed a criminal complaint on 22 February 2002. According to the results of the investigation, which is not yet completed, she was not abused, insulted, hit, kicked, or otherwise humiliated, the officers did not intentionally hit her head against the wall, nor pulled her hair. Instead, it is reported that Sveltana Lauer behaved very aggressively and that it cannot be ruled out that she hit her head or other body parts against the wall during the physical fight that took place between her. According to a medical examination carried out on 28 February 2002, it could not be conclusively determined whether the documented injuries were the result of mistreatment by the police officers. An investigation proceeding in relation to these

facts is pending against Sveltana Lauer based upon obstructing enforcement officers in the execution of their official duties, defamation, and bodily harm.

Urgent appeals

551. On 18 February 2002, the Special Rapporteur sent an urgent appeal on behalf of **19 ethnic Chechens** who were believed to be at risk of being forcibly returned to the Russia Federation following their failed attempts to gain refugee status. One of them, **Sulim Chadisov** was reportedly forcibly returned to the Russian Federation on the morning of 18 February after having been detained at Langenhagen prison, Hannover. It was believed that he and his family had fled Chechnya to Germany in July 2001 after Russian military operations near their village had intensified. It was also reported that during twice-yearly study visits in Moscow, he had been detained by the police on several occasions.

552. By letter dated 9 April 2002, the Government responded that the case of Sulim Chadisov had been subject to a legal examination before his deportation on 18 February 2002. The decision of the Federal Office for the recognition of foreign refugees to refuse his claim as “manifestly unfounded” had been confirmed by the court. A report of the Foreign Office states that no corroborated information exists that, since October 1999, deported Russian nationals of Chechen ethnicity have been subjected to repression. There was however a risk for persons who have been active in the Chechnya question. The Government has requested information from governmental and non-governmental sources as to the whereabouts of Sulim Chadisov.

553. On 28 February 2002, the Special Rapporteur sent an urgent appeal on behalf of **Mehmet** and **Naday Turgay**, and their five children, **Berivan, Rojin, Rewesen, Merwan** and **Emin**, all from Kurdish origin, who were said to be at risk of imminent deportation to Turkey on 1 March 2002 by the Aliens Office of Osnabrück. Their asylum applications were said to have been refused on several occasions and Mehmet Turgay was reportedly sentenced to six years' imprisonment by the Landgericht Osnabrück for illegal trade with narcotics and conditionally released on 5 April 2001. It was believed that a number of the Kurdish Workers Party (PKK) have denounced the latter as a member of the PKK during trials in Turkey.

554. By letter dated 26 March 2002, the Government replied that it was not in a position to interfere in the asylum determination procedure or stop a deportation. The Government could only assist by providing relevant information to the responsible authorities and courts, which were not, however, bound by it. The deportation of Mehmet Turgay did not take place as planned on 1 March 2002, as he had disappeared in the meantime. He is searched for by the police. Due to his criminal convictions, deportation was ordered pursuant to article 47 of the Aliens Law. The Government has requested a renewed examination of the existence of any legal obstacles to removal of Mehmet Turgay, such as a risk of torture. According to information received, he appears not to be searched for in Turkey.

Observations

555. The Special Rapporteur acknowledges the detailed information provided by the Government.

Greece

556. By letter dated 4 September 2002 sent jointly with the Special Rapporteur on the human rights of migrants, the Special Rapporteur advised the Government that he had received information on the condition of detention of foreigners in **Attica General Police Directorate** on Alexandra Avenue in Athens. It was reported that although the centre had been designed to hold some 80 inmates, approximately 150 men were detained there. They were said to be distributed in 19 narrow rooms of approximately 12 square metres and some were also believed to actually spend their day time and sleep on the floors of the corridors. In particular, it was alleged that 12 detainees shared four single mattresses in one of the corridors. Reportedly, such overcrowding had led to unsanitary conditions that might threaten the detainees' health. It was reported that the centre was infested with cockroaches. Soap, toilet and laundry were allegedly bought by the detainees themselves from police officers at high prices. As far as the food was concerned, detainees were reported to have complained about the amounts and type of food served as being nutritionally deficient. Detainees were also believed to be deprived of exercise, educational programs, fresh air and enough light after the sunset. Further, it was reported that they had no proper access to physicians or to their counsel and did not receive information regarding the reasons and length of their detention, their family members or the status of their asylum claims when such claims had been filed.

557. By the same letter, the Special Rapporteur advised the Government that he had also received information on the **Korydallos Prison** in Athens, where a number of undocumented migrants were allegedly held. Although many of them had allegedly already served their sentence, they were reportedly housed in Korydallos prison as they could be deported in view of the situations in their respective countries. They were reported to live in severe overcrowding conditions. The prison, reportedly designed to house 640 inmates, was allegedly housing over 2,200 prisoners. It was reported that most of the foreigners detained in Korydallos Prison were not informed about their current legal status and about the length of their detention.

558. By letter dated 6 November 2002, the Government transmitted information regarding the conditions of detention in **General Police Command of Attica and Korydallos Prison**. The detention of aliens pending deportation is a major concern for Greek authorities and efforts are being done to minimize their prolonged periods of detention. Orders were given to police regional agencies to carry out inspections in all detention facilities; to give further strict orders and clear instructions to their existing services concerning the sanitary and equipment conditions of all detention facilities; and to monitor their implementation. In addition, a senior officer has been ordered to conduct a local inspection of all facilities where aliens are detained pending deportation. As far as the detainees' meals are concerned, the board allowance was reportedly doubled in 2001 with a view to improving the quality and quantity of food. When a detainee falls ill and adequate health care is not possible in the place of detention, the detainee is transferred to the nearest hospital. According to the law,

police officers are obliged to allow and facilitate detainees' communication with their relatives and the consulate of their country. However, these rights are said to be restricted when the investigating work is compromised. The Government also informed that a program is being implemented to improve the building infrastructure of the Hellenic police. On the other hand, the jail located at the 7th floor of the Security Command of Attica at Alexandra Avenue will be decommissioned in the next future.

559. By letter dated 13 September 2002 sent jointly with the Special Rapporteur on racism, the Special Rapporteur advised the Government that he had received information on the following individual cases, to which the Government responded by letter dated 28 November 2002.

560. **Lazaros Bekos** and **Eleftherios Kotropoulos**, two Roma youths aged 17 and 18 respectively, were reportedly beaten during their detention in Mesolongi police station on 8 May 1998. A forensic report allegedly confirmed that they sustained injuries. It was also reported that, upon two Sworn Administrative Inquiries (SAI) conducted by the police, two police officers were placed on temporary suspension and two other officers were sanctioned with a fine. In addition, three police officers were reportedly indicted for bodily harm after the two youths pressed charges. The Director of the Security Service at the concerned police station, was allegedly tried for these alleged, although he was believed to have been acquitted for lack of evidence on 8 October 2001.

561. The Government informed that while the minors had not filed a complaint during their detention, or at the prosecutor's office, a medical report conducted at the State Hospital of Mesolongi stated that they were bruised. A second medical report, produced after the consultation of a private doctor indicated that they sustained ecchymoses. Following a written denunciation by a non-governmental organization, an administrative inquiry was conducted. No definite conclusions could be drawn as to when, how and by whom the minors' moderate injuries had been inflicted. Nonetheless a disciplinary sanction was imposed to the Commander of the Security Department of Mesolongi for insufficient supervision and control of his subordinates, since their injuries had been probably inflicted during their detention, although the possibility that they had been caused during their arrest, in which citizens participated, cannot be ruled out. This sanction was revoked after the minors testified under oath that he had not participated in their questioning. Criminal proceedings were instituted against three police officers. The case was brought to the Judicial Council, which discharged two police officers and committed to trial the Commander of the Police Station. He was later acquitted by a three-judge court of appeal in Patras, because it was ascertained that the injuries documented by the coroner were most probably caused during their arrest, as they both engaged in a violent fight.

562. **Andreas Kalamiotis**, a Roma, was reportedly beaten with hands and truncheons and kicked in front of his wife and children by police officers on 15 June 2001 in Pefkakia, Agia Pefkakia region. He was allegedly taken to a police station where he was believed to have been insulted and threatened by a police officer. On the following day he was reportedly taken to the police headquarters in Athens and before a public prosecutor. He was allegedly accused of resisting arrest, insulting and threatening the police authorities. Reportedly, when he went to the forensic service in

Aghias Anapafseos street, he was told that before being examined he had to submit a complaint to the Police Station of Agia Paraskevi, which he allegedly avoided for fear of retaliation.

563. The Government informed that he had been arrested after police had arrived at his home following a complaint by neighbours that he was disturbing their peace by playing loud music. As he opposed resistance, he was handcuffed and brought to the Police Station. A criminal case file was opened against him for resistance against the authorities, insult and threat and he was brought before the competent public prosecutor, who instituted criminal proceedings against him and committed him to trial. The administrative inquiry revealed that the two police officers who had participated in the arrest, detention and committal of Andreas Kalamiotis had acted legally, as he had used violence against them and refused to comply with their orders. According to the inquiry, the scratches he had suffered had been caused by the resistance he offered to avoid being handcuffed by the policemen and his fight with them. The Government further informed that during his detention and when he was brought before the public prosecutor he did not ask to file a complaint against police officers or to be examined by a doctor.

564. **Theodore Stefanou**, a 16-year-old Roma, was reportedly punched and slapped in the face during 15 minutes by a police officer and in presence of two other officers in a police station of Argostoli on 4 August 2001. Later on that day, he was allegedly beaten again while being interrogated and before being released. It was reported that according to a medical report, he was found to be suffering in particular from a head injury caused by beating. On 7 August 2001, he allegedly pressed charges against the Commander of the Argostoli Police Station. Reportedly, four other Roma relatives, **Nikos Theodoropoulos**, aged 18, **Nikos Theodoropoulos**, **George Theodoropoulos** and **Vasilis Theodoropoulos** were also arrested and taken to the same police station. Nikos Theodoropoulos was reportedly taken to a room where the police commander and another officer allegedly interrogated, beat, punched and slapped him and stepped with their boots on his almost naked feet. He was reported to have been kept in custody and to have been beaten again when he allegedly said that he would not sign anything without the presence of a lawyer. The other person named Nikos Theodoropoulos was reportedly beaten as well.

565. The Government informed that the SAI that was conducted to investigate the denunciations revealed that they were ungrounded, as the persons that were allegedly abused testified under oath that no one had mistreated them, except for minor **Theodoros Stefanou**, who claimed that a policeman had used violence against him, in the presence of the Commander, an allegation that was not corroborated by any other witness statement, although at least five more Romas were present in the Department during his stay there. According to the certificate issued by the Hospital of Argostoli, where **Stefanos Theodorou** went after leaving the Security Department of Argostoli, his examination showed that he was suffering from “a reported head injury, caused by beating 12 hours before. He complains about dizziness and strong headache”. According to testimonies by other witnesses and to his statement, when he went to the Security Department his arm was tied and he was in pain, which (in conjunction with the possible time of infliction of the injuries according to the hospital’s certificate) leads to the conclusion that they had been caused under unspecified circumstances before he voluntarily went to the Security Department that day.

566. By letter dated 17 September 2002 sent jointly with the Special Rapporteur on the human rights of migrants, the Special Rapporteur advised the Government that he had received information on the following individual cases.

567. **Arjan Hodi**, an Albanian national, was reportedly arrested by two police officers on 27 March 2001 in Mytilene and taken to Mytilene police station, where he was allegedly beaten with a truncheon by one police officer. He was reportedly released one hour later, severely injured. It was alleged that on his way home he lost consciousness and that he had to be subsequently hospitalized. Reportedly, on 29 March 2002, criminal proceedings were started against the officer allegedly responsible as well as against other police officers who were present when Arjan Hodi was allegedly being beaten. However, the alleged victim reportedly withdrew the criminal complaint he had filed after the above-mentioned police officer apologized and paid for his hospital fees. Although the withdrawal of the complaint did not halt criminal proceedings in this case, the investigation was said to have stagnated. In October 2001, the prosecuting authorities in Mytilene reportedly stated that this officer would probably not testify to the investigating judge before early 2002, due to many other pending cases. An administrative inquiry reportedly concluded that two officers had unlawfully arrested and tortured Arjan Hodi, referred the case to a Disciplinary Board, and recommended the dismissal of one of them from service, and a lesser sanction for the other officer.

568. **Rangasamy Nadaraja**, a Tamil from Sri Lanka, was reportedly arrested on 12 June 2001 at Venizelos airport in Athens where he was in transit from Bangkok to France. He was believed to have been subjected to torture by public officials in Sri Lanka. Reportedly, following his arrest in Greece, he was taken handcuffed to the airport police station where, out of fear, he signed documents that he could not understand since they were in Greek. On 15 June 2001, he was allegedly brought before a judge, who sentenced him to four months' imprisonment or a fine (which he was unable to pay). It was reported that he had no legal representation and an interpreter who only spoke to him in English, a language which he understands only poorly. Reportedly, on 13 July 2002, as he refused to board the plane and be deported, he was kicked by one of the guards that escorted him. He was reportedly pushed and shoved by the other guards. It was further reported that he was eventually returned to the airport police station cells where he was kept until 9 August 2001 when he was allegedly transferred to the Hellenikon Holding Centre, at the former Athens airport. He was released in mid-September on the expiry of the maximum period - three months - allowed for detention pending deportation.

569. **Ardal** (also spelled Erdan) **Akgun**, aged 17, **Ozgan Eshik** (also spelled Isik Ozcan), aged 17, **Hanafi Alton** (also spelled Altun Hanifi), aged 36, **Bülent Sahin**, aged 27, **Halil Gilgil**, aged 20, **Farhad Damir**, aged 18, **Gehad Korlalg**, aged 26, **Khalid Bagish**, aged 29, **Mehmet Nuri Aktay**, aged 29, and **Rahme** (also spelled Rahmi) **Tunc**, aged 29, were among a number of foreign nationals, including women, children and asylum-seekers, that were reportedly beaten by coastguards in the old Academy of the Merchant Navy at Souda, Crete, in May-June 2001. On 6 June 2001, they were allegedly examined by local doctors, who allegedly observed injuries on at least 16 of them that were apparently consistent with their allegations. Five migrants were reportedly transferred to hospital for further medical check-ups and treatment.

On 8 June 2001, the Chief of the Port Authority reportedly ordered an administrative inquiry after a non-governmental organization allegedly publicized its concerns about this incident. Reportedly, the group, allegedly composed of 164 persons, was subsequently moved to the premises of the old airport of Hania, where migrants were believed to be detained in a room of 100-150 square metres, with only three toilets, and no possibility of exercise in the open. It was alleged that women and children were held together with men and conditions were further aggravated by the high summer temperatures. By mid-June all members of the group were reported to have been transferred to Athens. Reportedly, the Ministry of the Merchant Navy stated that an administrative inquiry had been undertaken and that disciplinary proceedings had been started against one ranking officer and five coastguards for "irregular performance" of their duties. The Chief of the Port Authority was however reported to have concluded that the officer had used violence "in a non-preventative manner" and had concealed the incident, while five coastguards were guilty of physical or emotional abuse, homophobic denigration, and inflicting a "military-style punishment" (forcing one of the detainees to hop like a rabbit). It was reported that one officer and one coastguard had each been punished with 20 days' confinement to barracks, and the other coastguards with 30 to 50 days' jail.

570. **Refat Tafili**, a 16-year-old Albanian national who reportedly arrived irregularly to Greece in December 2000, was reportedly pushed to the ground and kicked, in particular on his stomach and legs, by three plainclothes police officers who allegedly raided a house in the Aghios Stephanos quarter of Athens on 8 February 2001. It was also reported that his eyes were dazzled with an electric torch. He was allegedly taken to the police station in Aghios Stephanos and turned out onto the street when he started being seek. Early the next morning, he was reportedly admitted to the intensive care unit of the General State Hospital of Athens, where he was diagnosed a double rupture of the spleen, and where he allegedly underwent an emergency operation for its removal. On 17 February 2001, he was reportedly re-arrested while he was about to leave the hospital and taken to Papagos police station, Athens, to be detained pending deportation, and to Police Headquarters in Athens, where he allegedly filed a complaint against three officers. Reportedly transferred to Aghia Paraskevi police station, he was allegedly held in a cramped and unhygienic cell, together with five adult immigrants, denied food as well as his prescribed medication, and only allowed to leave the cell twice a day to go to the toilet. As a result of the serious deterioration of his health condition, he was reportedly taken in handcuffs and with a high fever and internal bleeding to the Sismanoglio Hospital, where he remained until 5 March 2001. On 26 February 2001, following the appeal filed by his lawyers against the deportation order issued by the Ministry of Public Order on 22 February, he was allegedly granted leave to remain in Greece for a further six months. It was reported that criminal proceedings were initiated by the police department and that an administrative inquiry had been opened.

571. **Ferhat Çeka**, a 67-year-old Albanian pensioner, was reportedly shot and wounded on 8 March 2002, when he was apprehended by soldiers close to the military outpost of Aghia Ioanna, shortly after crossing irregularly into Greece. It was reported that a dog caught him by his jacket and that a group of soldiers proceeded to search him, allegedly taking everything he had on him, including his passport. He was reportedly ordered to lie face down on the ground and subsequently kicked and beaten with rifle-butts on his side, back and shoulders. He was later reportedly ordered to

stand up and walk and was then shot with a pistol while he was on his feet. Reportedly, he was left lying on the ground until a military doctor came and tried to bring him the first medical aid before he was transported to the hospital in Kastoria, where he underwent an operation. It was reported that while he was in the hospital, he was reportedly questioned without the assistance of a lawyer or of an interpreter and he was asked to sign a document he could not understand because it was written in Greek. A medical report issued by the hospital allegedly confirmed that he was admitted with a bullet wound and underwent an operation in which his right kidney was removed as well as part of the right lobe of the liver. It was believed that in March 2002 the Greek military authorities initiated an administrative inquiry into this incident. Without being made public, the results of this inquiry were reportedly forwarded to higher military authorities for review and subsequently to the Military Prosecutor of Thessaloniki. It was alleged that the latter had not yet decided whether to initiate criminal proceedings.

572. **Afrim Salla**, a 15-year-old Albanian, was reportedly wounded by border guards on the night of 7 June 2001 when a group of 12 Albanians crossed the border into Greece irregularly. It was alleged that the border guards fired at them, hitting Afrim Salla in the spine. The teenager was allegedly found some hours later by the border guards and taken to hospital in Kastoria, from where he was later transferred to the hospital in Thessaloniki, where he underwent an operation. His injuries were alleged to have left him permanently paralysed from the waist down. His family allegedly filed a civil claim on his behalf for compensation. The case file was reportedly forwarded to the Prosecutor's Office in Kastoria, which allegedly ruled that there were no grounds for bringing charges against any border guard. This decision was reportedly confirmed by the Appeals' Prosecutor.

573. **Kreshnik Shenaj**, a 17-year-old Albanian from Fier district, was reportedly beaten by soldiers of a border patrol shortly after he irregularly entered in Greece in November 2000 along with three other Albanians. Allegedly, the four migrants were taken to a small barrack, where they were kicked and beaten again. Kreshnik Shenaj was reportedly forced to run in the direction of a nearby wood by a soldier who allegedly fired close to the teenager's feet. Reportedly, he was chased by a police dog that bit his left leg, releasing him only upon the order of a soldier. On 18 November, the four Albanians were reportedly transported to Kakavija border post. From there, Kreshnik Shenaj was reportedly taken to the hospital in Gjirokastra (Albania), where he was interviewed two days later still in state of shock.

Urgent appeals

574. On 4 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the human rights of migrants on behalf of **Joseph Emeka Okeke**, a Nigerian deportee detained at the General Police Directorate of Attica (GADA). On 25 June 2002, he was allegedly kicked and beaten with a large rectangular black object that had two claw-like extensions that reportedly transmitted electric shocks. He was then reportedly taken to Eleftherios Venizelos Airport, where he was put on an Alitalia flight. Due to protests by the Alitalia stewardesses, notably concerning the fact that his feet and hands were tied and handcuffed respectively and that the police tried to tape his mouth shut, he was reportedly taken off the aircraft. He was then taken to the Pallini Police Department, where he was told to face the wall

and kneel down. A policeman reportedly kicked him hard in the ribs and continued to beat him. He was eventually transferred to the General Police Directorate of Attica (GADA) detention centre. He reportedly filed a complaint against the treatment he had received. The Minister of Public Order has reportedly ordered a SAI be carried out by a high-ranking officer to investigate these allegations and that a medical examination of Joseph Emka Okeke would be carried out by two forensic surgeons on 27 June 2002. Police officers allegedly responsible reportedly threatened Joseph Emeka Okeke who was subjected to several hours of interrogation and intimidation, without the presence of his lawyer. **Rotimi Alakia**, an asylum seeker from Sierra Leone who witnessed the alleged treatment of Joseph Okeke had also reportedly been threatened and harassed by police officers, in order to ensure that he would not testify during the SAI or in court.

575. By letters dated 14 and 26 August 2002, the Government responded that Okeke Joseph-Emeka had resisted three deportation attempts. The police involved in the deportation procedure had acted within the law to bend his resistance. The violence exerted was absolutely necessary for the execution of the deportation. Two forensic doctors attested superficial scratches resulting from the physical fight between the officers and Okeke Joseph in putting handcuffs around his wrists. There was no indication of the use of electroshocks, a method unknown in Greece, at least for the last few decades. Furthermore, Okeke Joseph stated that he did not intend to press charges.

576. On 17 April 2002, the Special Rapporteur sent an urgent appeal on behalf of **Ömer Berber** and **Mehmet Genç** who had allegedly been conditionally released from prisons in Turkey for six months on health grounds, after they took part in a hunger strike in protest against a new prison system for political prisoners. They had reportedly been convicted of membership of an armed opposition group. At the time the Special Rapporteur sent this urgent appeal, they were reportedly detained in Dimartiko police station awaiting their forcible return to Turkey, where they were alleged to be at risk of being arrested for illegally leaving Turkey and of being subjected to torture or other ill-treatment, in view of the fact that detainees seen as pro-Kurdish or belonging to extreme groups are said to be at particular risk of ill-treatment.

Observations

577. The Special Rapporteur acknowledges the detailed information provided by the Government. The Special Rapporteur notes the concerns of the Committee against Torture expressed in May 2001 after its consideration of the third periodic report of Greece under the Convention against Torture as follows: “[a]lthough the domestic legislation provides a satisfactory framework for protecting human rights in general and of certain Convention rights in particular, difficulties in effective implementation, which may amount to a breach of the Convention remain, including the following: (a) Evidence that the police sometimes use excessive or unjustifiable force in carrying out their duties, particularly when dealing with ethnic and national minorities and foreigners; (b) The harsh conditions of detention in general and, in particular, the long-term detention of undocumented migrants and/or asylum-seekers awaiting deportation in police stations without adequate facilities.” (A/56/44, para. 87)

Guatemala

578. Por carta de fecha 2 de septiembre de 2002, el Relator Especial notificó al Gobierno que recibió información según la cual **Jaime Danilo Guamuch**, de 15 años, **Mario Soto**, de 14 años, **Gerson Mejia**, de 15 años, y dos menores más habrían sido heridos por balas disparadas desde un vehículo el 10 de agosto de 2002 por la noche en la zona seis de la ciudad de Guatemala cuando un vehículo blanco de cuatro puertas se detuvo en su proximidad. Jaime Danilo Guamuch habría resultado herido en la pierna izquierda, Mario Soto en la nalga izquierda y Gerson Mejia en el testículo derecho. Los tres jóvenes habrían ingresado al Hospital San Juan de Dios y una organización no gubernamental (ONG) de derechos humanos se habría hecho cargo de los medicamentos y del material necesario para su tratamiento médico. Otros dos jóvenes que también habrían resultado heridos durante el mismo ataque habrían sido conducidos al hospital pero no habrían sido ingresados. La policía no habría llevado a cabo ninguna investigación respecto a este caso.

579. Por carta de fecha 11 de septiembre de 2002 enviada juntamente con la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos, el Relator Especial notificó al Gobierno que recibió información según la cual **Israel Orrego**, trabajador de OASIS, una organización que trabaja para la prevención del VIH/SIDA y la defensa de los derechos humanos de las minorías sexuales, habría sido agredido por efectivos de la Policía Nacional Civil en la ciudad de Guatemala el 22 de marzo de 2001. Una mujer policía lo habría puesto contra una pared y le habría hecho preguntas sobre sus preferencias sexuales mientras lo habría registrado. A continuación habría sido registrado por otro hombre policía y otro le habría propinado un golpe seco en la espalda. El día siguiente, otros miembros de OASIS, **Gonzalo Pérez** y **Olga Morales** (m), habrían sido abordados por la misma patrulla de la Policía Nacional Civil y habrían sido puestos contra una pared y registrados detenidamente, incluyendo su ropa interior, por dos agentes de la policía. Al protestar por este trato, una mujer policía le habría agarrado por las nalgas. Estos hechos habrían ocurrido mientras dichas personas realizaban una ronda de información sobre prevención de VIH/SIDA, sobre preservativos y centros de atención en salud y atención legal.

580. Por carta de fecha 17 de octubre de 2002, el Relator Especial recordó al Gobierno varios casos que le había transmitido en 1999 respecto a los cuales no había recibido respuesta.

Llamamientos urgentes

581. El 1.º de marzo de 2002, el Relator Especial envió un llamamiento urgente juntamente con el Presidente Relator del Grupo de Trabajo sobre la Detención Arbitraria sobre más de 40 agentes del Departamento de Operaciones Antinarcóticas (DOAN) que habrían asaltado el poblado de Chocón, Livingston (Izabal), el 29 de enero de 2002. Los agentes del DAON habrían abierto fuego contra los habitantes del lugar. **Abigail Cverna Castañeda** y **Leonel Haroldo Días Valenzuela** habrían muerto como consecuencia de los disparos. **Humberto Orallano Sis**, **Carlos Humberto Padilla**, **Profirio Sánchez** y **Elio Hernández** habrían sido detenidos y

habrían sido llevados al Juzgado de paz de Livingston. Habrían sido sometidos a malos tratos durante la noche del 30 de enero por agentes del DOAN.

582. Por carta de fecha 22 de marzo de 2002, el Gobierno precisó que los agentes del DOAN acudieron a la aldea en respuesta a un llamamiento de unos pobladores indicando que en la aldea había una balacera. Según los agentes, abrieron fuego tras ser ellos mismos atacados con armas de fuego. La posible responsabilidad penal de agentes del DOAN debe dilucidarse a través de las investigaciones del Ministerio Público quien hasta el momento se mantiene en el procedimiento preparatorio penal y no ha expresado una hipótesis oficial. El Gobierno informó igualmente de que se han iniciado las diligencias pertinentes para otorgar las medias cautelares a los peticionarios y pobladores de esta aldea, añadiendo que se están desarrollando investigaciones y que próximamente se procederá a la Revisión Judicial de la Prisión Preventiva de los detenidos, resolviéndose de forma definitiva sobre su situación jurídica.

583. El 8 de agosto de 2002, el Relator Especial envió un llamamiento urgente junto con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario-General sobre la situación de los defensores de los derechos humanos en relación con **Luz Margoth Tuy Jiatz**, miembro de la Procuraduría Auxiliar de Derechos Humanos en el departamento de Sololá, quien estaría detenida desde el 16 de julio de 2001. La Policía Nacional Civil la habría acusado de fomentar disturbios después de su participación en manifestaciones el 26 de marzo de 2001. Desde entonces, la oficina de la Procuraduría Auxiliar de Derechos Humanos estaría vigilada por hombres desconocidos y habría recibido varias llamadas amenazando de muerte a sus empleados. Se alega que esta detención y amenazas podrían estar relacionadas con sus actividades relativas a la investigación sobre el asesinato del líder indígena Teodoro Saloj en octubre de 2000 que resultó en la acusación de nueve policías. Debido a que habría tenido un ataque de ansiedad mientras estaba encarcelada, se expresaron temores por su salud si no se le ofrecían las medidas médicas necesarias.

584. Por carta de fecha 16 de septiembre de 2002, el Gobierno indicó que el Juzgado de Primera Instancia Penal emitió orden de aprensión sobre la Sra. Tuy Jiatz en abril de 2001, tras ser sindicada de los delitos de sedición, instigación a delinquir, reuniones y manifestaciones ilícitas, desorden público y usurpación de atribuciones. El 16 de agosto de 2002, el Juzgado de Primera Instancia Penal del Departamento de Sacatepéquez declaró sin lugar la petición de apertura a juicio solicitada por el Ministerio Público en contra de la Sra. Tuy, sobreseer el proceso penal en contra de la misma, ordenar dejar sin efecto legal las medidas de coerción decretadas en su contra, cerrando en forma irrevocable el proceso, así como ordenar su inmediata libertad. En relación con las amenazas de muerte de las que fue objeto, al no existir denuncia alguna ni en la Policía Nacional Civil ni en el Ministerio Público, no se cuenta con mayores elementos de prueba para la individualización de los responsables.

585. El 22 de agosto de 2002, el Relator Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias sobre la situación de peligro e inseguridad de los niños de la calle en la ciudad de Guatemala. El 20 de julio, seis jóvenes habrían sido ametrallados por un hombre desconocido mientras estaban durmiendo. **Roberto Lomez Gomez y Luis**

Armando Linares, ambos de 17 años, y **Loani Brigitte Izaguirre**, hondureña, habrían fallecido inmediatamente. **Julio José Chacón Ortiz** y **José Antonio Abrego Moran** y **Javier Acuna Rivera**, de 17 años, habrían sido gravemente heridos y trasladados al hospital. Asimismo, el 10 de agosto, **Jaime Danilo Guamuch**, de 15 años, **Mario Soto**, de 14 años y **Gerson Mejia**, de 15 años, habrían sido heridos de gravedad por disparos proviniendo de un coche que pasaba por la calle cuando estaban caminando en una carretera de la zona 6 de la Ciudad de Guatemala. El 15 de agosto de 2002, Alejandra Paola Palma habría sido gravemente herida por dos hombres que le habrían tirado en la cabeza dos piedras de 25 kilos, mientras dormía en una estación de autobús. La policía todavía no había identificado los responsables de estos crímenes cuando los Relatores Especiales transmitieron este llamamiento urgente.

Seguimiento de comunicaciones transmitidas previamente

586. Por carta de 11 de octubre de 2001, el Gobierno informó sobre el caso de **Celso Balán** (E/CN.4/2002/76/Add.1, párr. 600) indicando que, en relación con la versión de los hechos, ésta debería compararse con otras versiones si bien en el expediente sólo consta la del arriba mencionado. El Gobierno informó que en el interrogatorio que se le hizo a Celso Balan, éste indicó que individuos desconocidos le habían perseguido, ignorando sus propósitos y que la investigación ha estado a cargo de la Agencia Fiscal n° 1 del Ministerio Público de Chimaltenango y del Servicio de Investigación Criminal de la Policía Nacional Civil. Celso Balan declaró que, días posteriores a haber recobrado el conocimiento, fue examinado por un médico el cual le indicó que debido al tiempo que había transcurrido ya no sería posible detectar residuos de la bebida en su cuerpo, realizándosele únicamente un dictamen médico que se encuentra en poder de su abogado. En relación con el procesamiento penal de los responsables, el Gobierno indicó que no ha sido posible establecer la identidad de los implicados o si pertenecen a algún cuerpo de seguridad o grupo armado. Esta razón, unida a la no aportación de nuevos elementos a la investigación ha motivado el archivo provisional del expediente con fecha de 21 de octubre de 2000. Asimismo, se agregó que al no establecerse la responsabilidad de agentes del Estado, no cabe la obligación de algún tipo de compensación; si bien la Policía Nacional Civil le brindó protección. Finalmente, se indicó que se informará, si se dispone de nuevos elementos que conduzcan a la identificación de alguno de los posibles atacantes.

Observaciones

587. The Special Rapporteur notes with concern that no response has been provided to a number of cases brought to the attention of the Government since 1999.

Guinea

588. Par une lettre datée du 2 septembre 2002, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants.

589. **Fayia Johnson**, un médecin âgé de 40 ans, aurait été accusé d'appartenir au Revolutionary United Front (RUF) à la suite d'une querelle le 11 mars 2001 avec un homme du village voisin de Kaladou au sujet de la propriété d'un bien. Le médecin aurait été conduit par un groupe de soldats à la prison de Nongoa. Le lendemain, sa

famille aurait été informée de sa mort. Il aurait eu la gorge tranchée et le ventre ouvert.

590. **MH**, une réfugiée sierra-léonaise de 15 ans, aurait été arrêtée par les autorités guinéennes en décembre 1999, et détenue pendant six mois dans une prison à Forécariah, avant d'être libérée. Durant sa détention, elle aurait été violée par trois gardiens de prison qui lui auraient promis la liberté en échange d'un rapport sexuel.

591. Par une lettre datée du 17 octobre 2002, le Rapporteur spécial a rappelé au Gouvernement un certain nombre de cas qu'il avait envoyés en 2001, au sujet desquels il n'avait pas reçu de réponse.

Guinea-Bissau

592. Par une lettre du 2 septembre 2002, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des renseignements relatifs aux conditions de détention dans les centres pénitenciers. En particulier, à Bra, les prisons militaires feraient office de centre de détention de civils et de cellules des principaux commissariats de police. Dans les différentes régions du pays, les seuls lieux de détention seraient ceux des commissariats de police, et il n'existerait aucune procédure d'enregistrement des prisonniers. Il n'y aurait pas de gardiens de prison et la garde des prisonniers serait assurée par des membres des forces de police ou des soldats. Les lieux de détention seraient par ailleurs surpeuplés et dépourvus d'installations sanitaires. La nourriture n'y serait pas fournie par les autorités, mais par les familles des détenus.

593. Suite à un complot présumé en vue d'un coup d'État en novembre 2000, de nombreux détenus auraient été placés à la Segunda Esquadra dans des cellules si largement surpeuplées, qu'une dizaine de détenus aurait préféré dormir dans un coin de la cour. La plus grande des cellules mesurerait environ 12 m de long, 7 m de large et 4 m de haut, et contiendrait 19 prisonniers. Les sept autres cellules, dont deux sans fenêtre, ne mesureraient pas plus de 5 m de long sur 3,5 m de large et 4 m de haut, et contiendraient chacune de six à huit prisonniers. Ces cellules seraient par ailleurs entourées d'ordures et de déchets. Une pièce attenante contiendrait six toilettes et quatre lavabos et serait utilisée par tous les détenus de la prison, malgré le dysfonctionnement de ces installations. Faute d'autres installations sanitaires, les détenus seraient obligés de se soulager dans un coin de l'une des cours.

594. Le surpeuplement serait également grave et les installations sanitaires absentes à la Marinha et à la forteresse d'Amura. À la Marinha, située au bord de la mer, la situation serait d'autant plus grave que les cellules et les cours seraient inondées avec la montée des marées. Une petite pièce que les détenus utiliseraient pendant la journée en guise de toilettes ne pourrait être utilisée de nuit à cause des serpents.

595. L'état de santé des détenus serait en général mauvais et plusieurs prisonniers auraient contracté des maladies graves, notamment le colonel **Baba Dajassi**, détenu à la Segunda Esquadra, qui serait décédé de la typhoïde le 4 février 2001. Il n'aurait été transporté à l'hôpital que la veille de sa mort. D'autres prisonniers souffrant de maladies chroniques telles que l'hypertension ou le diabète auraient vu leur état de santé se détériorer et n'auraient pas reçu de soins médicaux jusqu'à la fin février 2001, date à laquelle, suite aux appels d'organisations non gouvernementales, un

médecin travaillant pour les Nations Unies aurait effectué des visites hebdomadaires et l'UNICEF fourni de l'eau aux militaires détenus.

596. Par cette même lettre, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants.

597. **Une dizaine de dirigeants de partis politiques d'opposition**, dont plusieurs membres du Parlement qui avaient précédemment critiqué la manière dont le Gouvernement avait traité l'affaire des promotions, auraient été arrêtés entre le 24 et le 26 novembre 2000 et accusés d'avoir fomenté un complot avec le général Mané en vue de renverser le Gouvernement sans être pour autant officiellement inculpés. Ils auraient été détenus au poste de police de la Segunda Esquadra à Bissau, dans des conditions inhumaines, et remis en liberté sous caution après une semaine, sur ordre, semble-t-il, du Président, qui aurait également donné ordre de les assigner à résidence avec obligation de se présenter deux fois par semaine aux autorités judiciaires. Les restrictions à leurs déplacements n'auraient été levées qu'en mars 2001. Au moins deux d'entre eux auraient été passés à tabac lors de leur arrestation.

598. **Caramba Turé**, un membre du Parlement représentant le parti d'opposition Uniao para a Mudança (Union pour le changement) aurait été arrêté à son domicile le 24 novembre 2000 par une quinzaine de membres des forces de sécurité et des forces armées. Il aurait été emmené à la présidence, où il aurait été frappé à la tête, sur le dos et à l'oreille gauche, apparemment en présence d'un ministre du Gouvernement et d'officiers supérieurs. Il aurait été remis en liberté le 26 novembre, sans avoir été inculpé, et assigné à résidence pour deux semaines.

599. **Fernando Gomes**, le président de l'Aliança Socialista da Guiné (Alliance socialiste de Guinée-Bissau) et ancien président de la Ligue des droits de l'homme de Guinée-Bissau, aurait été arrêté à son domicile le 25 novembre par une cinquantaine de soldats et de membres de la police de sécurité de l'État. Il aurait été violemment passé à tabac en présence de sa famille et de ses voisins, et bien que déjà très mal en point à la suite des coups qu'ils auraient reçus, il se serait vu refuser l'accès aux soins médicaux pendant sa détention. Après sa remise en liberté le 30 novembre, il n'aurait obtenu qu'en janvier 2001 l'autorisation de se rendre à l'étranger pour se faire soigner.

600. Plusieurs officiers soupçonnés de soutenir le **général Mané** auraient été arrêtés le 22 novembre 2000 par des soldats restés fidèles au Président Iala. Le lendemain, à Bissau, des forces loyalistes auraient attaqué la base aérienne de Bissalanca, où habitait le général Mané, et l'auraient contraint à fuir, avec sa famille et quelques partisans. Par la suite, les autorités auraient publié plusieurs comptes rendus contradictoires au sujet de la capture du Général Mané. La version officielle des faits attesterait qu'il avait été tué avec trois de ses compagnons au cours d'un affrontement avec des forces loyalistes à Blom de Benjemita, dans la région de Biombo de Quinhamel. D'autres sources indiqueraient qu'il avait été capturé vivant et battu à mort et qu'il aurait reçu a posteriori une balle dans le corps pour faire croire qu'il avait été abattu. Aucune commission indépendante n'aurait été chargée d'enquêter sur son décès, les autorités ayant fait valoir qu'une enquête ne servirait à rien si ce n'est à rouvrir de vieilles blessures et ranimer des haines anciennes.

601. Par une lettre datée du 17 octobre 2002, le Rapporteur spécial a rappelé au Gouvernement un certain nombre de cas qu'il avait envoyés en 1998 et 1999, au sujet desquels il n'avait pas reçu de réponse.

Observations

602. The Special Rapporteur notes with concern that no response has been provided to cases brought to the attention of the Government since 1998.

Haiti

603. Par une lettre datée du 17 octobre 2002, le Rapporteur spécial a rappelé au Gouvernement un certain nombre de cas qu'il avait envoyés en 1997, 1999 et 2001, au sujet desquels il n'avait pas reçu de réponse.

Appels urgents

604. Le 6 juin 2002, le Rapporteur spécial a envoyé un appel urgent avec le Rapporteur spécial pour la promotion et la protection du droit à la liberté d'opinion et d'expression en faveur de **Darwin Saint Julien**, du journal *Haiti Progrès*, et **Allan Deshommes**, de Radio Atlantik, qui auraient été détenus depuis le 27 mai 2002 sans avoir fait l'objet d'une inculpation. Il semblerait par ailleurs que les deux journalistes, qui auraient été grièvement blessés lors des affrontements ayant précédé leur arrestation, n'auraient pas encore reçu les soins médicaux nécessaires. Ils auraient été arrêtés alors qu'ils couvraient une manifestation organisée par le groupe de travailleurs Batay Ouvriyè (Lutte ouvrière) à Saint Raphaël. Des hommes armés, vraisemblablement payés par un grand propriétaire terrien local, et des fonctionnaires locaux s'en seraient pris aux manifestants, faisant deux victimes. Sept personnes, dont les deux journalistes, auraient été arrêtées par la police, prétendument en vue d'assurer «leur protection». Le 29 mai, les autorités haïtiennes auraient envoyé un hélicoptère à Saint Raphaël dans le but d'emmener les sept prisonniers à Port-au-Prince. Ces derniers seraient désormais incarcérés au pénitencier national dans la capitale, censé n'abriter que des criminels ayant été jugés.

605. Par une lettre datée du 25 juin 2002, le Gouvernement a indiqué que les deux hommes avaient été libérés le 8 juin 2002, leur détention prolongée n'étant due qu'au manque de juges appelés à les auditionner.

Observations

606. The Special Rapporteur notes with concern that no response has been provided to cases brought to the attention of the Government since 1997.

Honduras

607. Por carta de fecha 2 de septiembre de 2002, el Relator Especial notificó al Gobierno que recibió información sobre al menos **13 personas** que habrían resultado heridas tras participar en una manifestación supuestamente pacífica el 18 de julio de 2001 en Tegucigalpa. Las fuerzas de seguridad habrían hecho un uso excesivo de la fuerza al intentar dispersar a los manifestantes, con la utilización de escudos, balas de

goma, gas lacrimógeno y bastones. Diversas personas habrían sido detenidas, entre ellas defensores de los derechos humanos, líderes sindicales, campesinos e indígenas.

608. Por carta de fecha 17 de octubre de 2002, el Relator Especial recordó al Gobierno varios casos que le había transmitido en 1998 y 2001 respecto a los cuales no había recibido respuesta.

Llamamiento urgente

609. El 16 de agosto de 2002, el Relator Especial envió un llamamiento urgente juntamente con el Presidente-Relator del Grupo de Trabajo sobre la Detención Arbitraria sobre la situación de unos campesinos caficultores supuestamente detenidos por miembros de la Policía Nacional en el Municipio de Zambrano, a 30 kilómetros de Tegucigalpa, el 13 de agosto, cuando realizaban una marcha pacífica hacia Tegucigalpa. **José Ángel Saavedra** y más de 800 campesinos habrían sido mantenidos detenidos en los locales de la Cuarta Estación Policial de Belén. La manifestación habría sido dispersada por efectivos de la Policía Nacional que habrían utilizado carros rompemanifestaciones, tanquetas de agua y bombas lacrimógenas, lesionando a muchos campesinos. Un recurso de Exhibición Personal interpuesto en favor de estas personas ante la Corte Suprema de Justicia no habría dado ningún resultado. Se expresó particular preocupación porque los heridos o lesionados reciban inmediata atención médica gratuita.

Observaciones

610. The Special Rapporteur notes with concern that no response has been provided to cases brought to the attention of the Government since 1998.

India

611. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information according to which beatings and arrests had been carried out by police forces on the tribal peoples of Nagarnar in the Indian State of Chhattisgarh between 8 March and 11 March 2002, in connection with a decision taken in May 2001 by the National Mineral Development Cooperation (NMDC) to construct a steel plant in Nagarnar. The people living in Nagarnar had reportedly claimed that the acquisition of land for the steel plant was unconstitutional, and had referred the matter to the National Commission for Scheduled Caste and Scheduled Tribes subsequent to the decision. In the meantime, on 24 October 2001, activists were said to have been arrested and the police reportedly fired at an assembly, injuring 45 persons. The National Commission reportedly ruled that the land acquisition process was unconstitutional and therefore null and void ab initio. Nevertheless, the recommendations were said to have been ignored by the State Government and the NMDC. On 8 March 2002, local authorities reportedly issued an ultimatum to the tribal peoples living in Nagarnar who had not yet accepted compensation for acquiring the land on which they were living, asking them to accept such compensation immediately. At the same time the ultimatum was issued, hundreds of policemen reportedly arrived at Nagarnar, started to indiscriminately beat people who were said to be peacefully protesting by sitting on the street and carried out a large-scale hunt for those who refused to accept financial compensation, notably

in the villages of Nagarnar, Amaguda and Kasturi, allegedly breaking into the ir homes, and beating the inhabitants. 169 people were reportedly arrested. On 11 March, approximately 500 armed policemen were said to have been deployed in order to arrest the few remaining people who refused to accept the compensation cheques. Those who refused it were allegedly beaten. Around 300 people, most of whom were women, were believed to have been detained. Three women were reportedly forced to leave their newborn babies outside the prison.

612. By the same letter, the Special Rapporteur advised the Government that he had received information on the following individual cases:

613. **Sushil Kumar**, a 15-year old pupil at Sarvodaya Bal Vidyalaya, West Vinod Nagar in Delhi, was reportedly severely beaten across his left ear by a teacher allegedly instigated by the principal of the school on 5 October 1999. The school was said to be under the jurisdiction of the Government of the National Capital Territory of Delhi. The beating allegedly resulted in internal bleeding and complete loss of hearing. The next day, his family reportedly attempted to lodge a first information report (FIR) with the police station Mandawali-Fazalpur, Delhi 92, but the inspector reportedly refused to accept it. On 10 October, the family lodged a report with 19 authorities. On 13 October, the Special Court of the Human Rights Commission allegedly ordered the Deputy Commissioner of Police (East District, Delhi) to submit to them a report on the incident. As a result, a FIR was lodged, however this was said to have contained factual mistakes and to have exhibited a favorable bias towards the teacher. The principal of the school was said to have established himself as investigating officer in the case, and no independent investigation was said to have been carried out.

614. **Nazir Ahmad Bhat**, a 17-year-old student, was reportedly stopped by a police constable in Sopore and taken to the Border Security Force (BSF) camp where he allegedly was placed naked into a room and burned with gunpowder. He was reportedly taken to S.M.H.S. Hospital Srinagar with about 50-60% burns. A FIR had reportedly been lodged with the police station Sopore.

615. **Kaisar Ahmad Dar**, a 15-year-old student, was reportedly beaten with rifle butts by a number of members of the Indian Armed Forces camped at Seer Hamdan Anantnagh, who were also said to have inserted a wooden pole into his rectum, until he lost consciousness. His sister **Naza** and his neighbour **Abdul Rahman Khan** who reportedly rushed up to him were also said to have been severely beaten. Kaisar Ahmad Dar's bladder was perforated, and his health was said to have been seriously impaired.

616. On 6 July 2001, a contingent of 22 Restriya Rifles (RR) reportedly entered into the village Tarzoo in the Sopore District, Baramulla and fired in the air discriminately, before entering three houses and allegedly beating their inhabitants, in particular **Ghulam Ahmad Rather** and his wife **Nissara Begum** as well as **Abdul Aziz Wani**. The latter's state of health was said to be critical and he was reportedly transferred to hospital.

617. **Taja Begum** and her son **Lateef Ahmad** were said to have had their house raided by soldiers of the Special Operations Group (SOG) Magam in Kawoosa in

Budgam on 3 July 2001. They were reportedly separated from other inhabitants, and placed into a room where Taja Begum was said to have been forced to strip, to drink chili water, and was allegedly severely beaten. Her son was also said to have been beaten, and his legs were reportedly rolled over. They were subsequently taken away. As a result, the villagers of Kawoosa allegedly demonstrated on the Srinagar-Gulmar road to demand their immediate release. The SOG reportedly beat the demonstrators with *lathis* and fired in the air to disperse them. Twelve persons were allegedly injured as a result of the police action.

618. **Mrs Hajra** as well as her son in law, **Javeed Ahmad Dar** and his wife, who are residents of Munawarabad, Srinagar were reportedly arrested at their home and taken into custody by soldiers of the SOG camped at Khanyar Srinagar on 2 June 2001. Mrs Hajra was said to have had rollers rolled over her legs, causing injuries. The next morning they were reportedly released after a large number of residents protested against their arrest and detention.

619. **About thirty women and eight men** were reportedly detained in an army camp by personnel of the 14th Bihar Regiment stationed at Butungal in Doda for about five hours on 30 October 2000, after protesting against the arrest of Amina Bano, resident of Bihota in Doda, by the same regiment. During the detention, the women were said to have been assaulted and molested and the men were said to have been severely beaten. The villagers reportedly went to see the District Magistrate at Doda, who was said not to have initiated any proceedings.

620. **Yasin Malik**, the Chairman of the Jammu Kashmir Liberation Front (JKLF) and executive member of the All Parties Huriyat Conference, was reportedly arrested in Srinagar, Kashmir, on 25 March 2002, during a press conference. Although, his condition reportedly required life-sustaining anti-coagulant medications and proper monitoring by a specialist, he was reportedly beaten while in custody. In particular, it was alleged that he was subjected to blows to an ear, as a result of which, he was said to have been unable to hear through this ear. He reportedly also sustained several wounds on his legs and thighs. It was alleged that Yasin Malik subsequently went on hunger strike and as his condition deteriorated, he was transferred to a police hospital where he did not receive proper medical treatment.

621. By letter dated 2 September 2002 sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information on the following individual cases.

622. On 28 October 2001, local police reportedly opened fire on a demonstration against U.S. air strikes in Malegaon, State of Maharashtra, killing seven protestors. According to officials, the protestors began throwing stones at the police who was said to have baton-charged the crowds, and to have begun shooting. Three more people were killed the following night when protestors tried to block the main road connecting Malegaon to the capital Delhi. According to the police, they used baton charges and tear gas to disperse the crowd but when that failed, they fired at the protestors.

623. **Kallu**, alias **Raja Ram**, son of Buddhu, reportedly died on 29 October 2001, three days after he was arrested and detained at the Mariyaon police station in

Lucknow, Uttar Pradesh. A sub-inspector and other officers were said to have arrested Kallu and his two brothers, **Surendra Kumar** and **Gopal Ram**, and to have transferred them to the police station. Upon their arrival there, the three brothers were allegedly beaten with sticks and rods. The Sub-inspector allegedly hung Kallu upside down and tied his hands and legs, reportedly poured water into his nose. Surendra Kumar was said to have filed a case for murder against the Sub-inspector and four other officers. The Lucknow Police chief reportedly denied any responsibility on the side of the authorities, and was believed to have insisted that Kallu had died from tuberculosis.

624. **Bashir Ahmad Sofi** was reportedly arrested on 25 October 2001 by members of the SOG stationed at the Air Cargo in Srinagar. Although his family was reportedly not informed about his whereabouts, they allegedly later discovered that he was detained at a police hospital in Jammu. The police was said to have transferred Bashir Ahmad Sofi to S.M.H.S. Hospital Srinagar on 16 December 2001. He was said to have had his kidneys damaged and to have sustained marks of ill-treatment all over the body. He reportedly died on 3 January 2002 as a result of his injuries.

625. **Professor Davinderpal Singh Bhullar** was reportedly sentenced to death on 25 August 2001, after having been tried by a designated court created under provisions of the Terrorist and Disruptive Activities (Prevention) Act (TADA). The death sentence was said to have been solely based on a confession extracted under duress. It was reported that he was kept in police custody until the end of March 1995 and that he had been assaulted by officers of the Punjab police, and forced to sign blank pieces of paper, under the threat that the police would otherwise kill him in a false encounter. Apart from this statement, no other corroborated evidence was said to have been presented by the prosecution. Of the 133 prosecution witnesses, none was said to have identified Professor Bhullar.

626. **Muhammad Ashraf Lone**, a resident of Krusan district, Kupwara was allegedly abducted by three pro-government militants from his shop. He was reportedly ill-treated by them before being handed over to the B. Coy. of 8th RR, where he was said to have been subjected to ill-treatments by a major and to have died seven days later. His relatives were reportedly initially not informed about his whereabouts. They were said to have filed a FIR with the police station at Lalpora Kupwara, and two of the pro-government militants were reportedly arrested.

627. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1997, 1998, 1999, 2000 and 2001 regarding which no reply had been received.

Urgent appeals

628. On 14 January 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to education on behalf of **123 Muslim delegates**, from various parts of the country, including **Maulanan Aatur Rahman Wajdi**, who were taking part in a Muslim Educational conference being organised in Surat by Tahrik-I-Ehya-e-Ummah (Movement For Reformation of the Community) on the issue of new educational policy. They were reportedly detained by the police on 27 December 2001 on the grounds that they were suspected to be members of the banned

organisation Students Islamic Movement of India (SIMI). All were reportedly remanded to 14 days police custody and have allegedly been subjected to various forms of ill-treatment. In particular, it was alleged that Suhail Ismail Patel, held at Athwa Lines Police station, was severely beaten in front of his wife who was visiting him on 5 January 2002.

629. On 15 March 2002, the Special Rapporteur sent an urgent appeal in relation with **an amended version of the Prevention of Terrorism Ordinance (POTO)**, originally approved by the Union Cabinet on 15 October 2001. The text was introduced in the Lok Sabha (the lower chamber of the Parliament) on 25 February 2002 and was initially due for discussion on 8 March or the following week. If approved, the text will then have to pass to the Rajya Sabha (the higher chamber). If approved by the Parliament, the POTO would then become an Act enforceable initially for a period of three years. Concerns have been expressed that the following provisions of the POTO may not provide sufficient safeguards as recommended under international law: (a) Section 48 (2) of the POTO provides for 90 days' detention in custody without charge or trial by order only of a judicial magistrate. This period can be extended to 180 days on application by the Public Prosecutor to the Special Court, in order to allow the investigations to be completed. The provision for remand also includes the possibility for police to request the transfer of an accused person from judicial to police custody for a period of time for the purposes of further investigation. (b) Section 51 (4) is reported not to provide for the presence of a lawyer during the whole period of interrogation of a suspect. (c) Section 32 is said to provide for confession made to a police officer to be admissible in trial. (d) In section 32 additional provisions (sub-sections (2), (3), (4) and (5)) have reportedly been included, designed to provide safeguards for detainees against the possibility of being subjected to torture during interrogations in police custody. The Special Rapporteur welcomes that sub-section 4 requires that a person from whom a confession has been recorded should be produced before a magistrate within 48 hours of the confession having been made. This could be a safeguard to ensure that the accused is being properly treated, and also to ensure that the confession was given willingly and without duress. However, he was still concerned that 48 hours is a dangerously long period of time and that it should be further limited. A time limit should be fixed also in sub section 5, for the referral of the detainee complaining of torture to a Medical Officer. In addition, under the same sub-section 5, it is the Special Rapporteur's view that magistrates should be obliged to ask the detainee about his treatment rather than placing the onus on the detainee to say that he or she has been tortured. The Special Rapporteur noted with concern that in sections 32 and 51, there is no apparent provision for sanctions against police where the safeguards presented above are not complied with. Section 56 provides for immunity from prosecution for "any authority on whom powers have been conferred under this Ordinance, for anything which is in good faith done". It is feared that this provision may effectively result in being an offer of impunity to police officers who use torture or cruel, inhuman or degrading treatment during interrogations. Fears were expressed that the term "good faith" in fact is extremely wide ranging and vague and it is not clear who should bear the burden of proving it. It could be claimed that even torture of an arrested person suspected of "terrorist activities" is an act done in good faith. It is also reported that the Government did not present the Ordinance to the National Human Rights Commission (NHRC) for comments at any stage of its preparation. The NHRC was reported to have publicly declared its opposition to the text after its publication, stating that the

existing legislation, if properly implemented, is definitely sufficient to combat all kind of “terrorist activities” and that there is therefore no need for a new law.

630. On 15 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Special Representative on human rights defenders on behalf of **Partha Chettri, Maheshwar Dahal, Aditi Shah** (f), all three journalists, and **Moti Prasad**, a student. All were Nepalese nationals in detention in India and were facing imminent deportation to Nepal where it was feared that they might be at risk of torture. Reportedly, the four were arrested by the Special Branch of the New Delhi Police on 11 July 2002, as they had reportedly been issued with “Quit India Notices”. It was believed that the four had been attending a meeting of the *Akhil Bharatiya Nepali Ekta Samaj* (India-Nepal People's Solidarity Organization), along with other human rights activists from India. This is a public forum which has been publicising human rights violations committed by Nepalese security forces personnel, in the context of the ongoing Maoist “People's War”. A habeas corpus petition, requiring the detainees to be brought before a judge or into court, has reportedly been filed on their behalf in the High Court in New Delhi. The High Court was said to have ordered the Home Ministry and Police Commissioner, Delhi, to stay the deportation until 15 July.

Follow-up to previously transmitted communications

631. By letter dated 5 December 2001, the Government responded to an urgent appeal sent on 25 September 2000 by the Special Rapporteur jointly with the Special Rapporteur on freedom of opinion and expression and the Chairman Rapporteur of the Working Group on arbitrary detention concerning the case of **Ito Tongbam, Surjit Chonthamcha, Robin Thokchom** and **Khundrakpam Tomcha** (E/CN.4/2001/66, para. 560). According to the Government, Ito Tongbam and Surjit Chonthamcha were arrested during an operation conducted on 10 September 2000 and handed over to Singjamei police station on the following day. The Government confirmed that the other two men were not arrested on 10 September 2000 and that Khundrakpam Tomcha was killed in the general area of Singjamei Thokchom Leikai on Imphal on the night of 11 September 2000 during an encounter with the 17 Assam Rifles Patrol. His body was handed over to the police and was disposed of as per the legal provisions. Robin Thokchom was detained in accordance with the law.

632. By letter dated 5 December 2001, the Government responded to the case of **Kesar Singh** transmitted by the Special Rapporteur on 16 August 2000 (E/CN.4/2001/66, par. 540), stating that during a search operation, he and Sarabjit Singh had been found in possession of ammunition and arrested. During the interrogation, the two accused had revealed that the recovered ammunition was to be used to commit crimes in the Chandigarh area. The case is currently under trial. The allegations of torture on grounds of human rights activities are baseless and an attempt to preempt legal action against him by the local police in the future.

633. By letter dated 6 May 2002, the Government responded to the case concerning **Deshpal Singh** and **Gurmeet Singh** included in a letter sent by the Special Rapporteur on 16 August 2000 (E/CN.4/2001/66, para. 550). The Government informed that the enquiries conducted confirmed that they were killed by a police party. A case FIR No. 9 dated 31 January 2000 was registered in Bhatinda Police

Station. However, a magisterial enquiry further concluded that police action was justified and was taken as a last resort to prevent loss of life and property. A petition relating to the matter was dismissed by the Punjab and Haryana High Court. Monetary interim relief has been granted to the respective next of kin of the deceased.

634. By letter dated 5 June 2002, the Government responded to the case of **Mohammad Ramzan Wani** transmitted by the Special Rapporteur on 19 November 1999 (E/CN.4/2000/9, para.489), stating that he had been killed while the Special Operations Group was taking him to effect some more recoveries and came under fire of militants at Hyderpora bypass. As he had been involved in militant activities, his family was not entitled to any compensation.

635. By letter dated 5 June 2002, the Government responded to a case concerning the alleged excessive use of force by the police against Manjolai Tea Estate Workers included in a letter sent by the Special Rapporteur jointly with the Special Rapporteurs on extrajudicial, summary or arbitrary executions and on violence against women on 31 August 2001 (E/CN.4/2002/76/Add.1, para. 670). The Government informed the Special Rapporteur that a Commission of Inquiry was appointed by the Government of Tamil Nadu in order to clarify the causes and circumstances that led to use of force by the police and to casualties. On the one hand, the Commission held that the use of force to disperse the crowd at Kokkirakulam Road was warranted. On the other hand, the Commission stated that the chasing of the demonstrators in the river amounted to excessive use of force and therefore recommended the retirement of the responsible police officials. The Government subsequently decided to take disciplinary action in this regard. The Commission of Inquiry was of the view that there was no beating by police on the riverbed while the chased demonstrators were trying to swim and that the Police did not intentionally cause their death. Monetary relief was granted to the families of the deceased. Finally, the Government assured that no woman taken to Tirunelveli police station was stripped naked, beaten or verbally humiliated.

636. By letter dated 19 July 2002, the Government responded to the case concerning **Jagannath Shaw** included in a letter sent by the Special Rapporteur on 22 August 2001 (E/CN.4/2002/76, Add.1, para. 615). The Government informed that he was produced before the Sub-divisional Judicial Magistrate of Chandernagore on 11 December 1998, but neither he nor his lawyer made any allegation regarding assault upon him. He was kept on judicial custody until 15 December 1998, when he was released on bail. During an enquiry, the alleged victim stated that he had been assaulted while in detention at Bhadreswar police station but he was unable to identify the alleged perpetrators and could not produce any medical documents confirming the allegations. The Government also informed that both the then officer-in-charge of the police station and the investigating officer denied the allegations of assault and threats.

637. By letters dated 5 June 2002 and 10 October 2002 respectively, the Government transmitted information on a number of cases included in the letter sent by the Special Rapporteur jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions on 31 August 2001 (E/CN.4/2002/76/Add.1, paras. 644 to 657)

638. Concerning **Safdar Ali Sheikh** (ibid., para. 645). The Government explained that on 1 June 1999, Police Station Thathri received a docket from Medical Officer, Thathri to the effect that the above named person has been brought to the hospital by Capt S. Panday of the Army in an injured condition and he died later. Postmortem of the dead body conducted by a board of doctors and inquest proceeding were initiated. The Government indicated that, in the course of an investigation, Safdar Ali Sheikh agree to help the security forces in recovery of arms and ammunition and while he was being taken for recovery, he fell down in a 20 feet deep ditch and, as a result, sustained critical injuries. The postmortem report and enquiries conducted by the police during the inquest have thus established that the above mentioned person died due to injuries sustained in the fall.

639. Concerning **Anayat-Ullah** (ibid., para. 646), the Government indicated that a case was registered at PS Doda and an investigation was set in motion. During the course of investigation, the complainant changed his statement and said that his son was killed by some unknown militants and not by the army and he also produced an affidavit in support of his statement. Finally, the Government stated that efforts to trace the accused were not successful and the investigation was hence closed as untraced.

640. Concerning **Kalu Chakrabarty** (ibid., para. 647), the Government informed that a case of unnatural death was registered and that an inquest was conducted by the Executive Magistrate on 4 September 1999. During the latter, only some scratches and bruises were noticed on the body of the deceased. The Government also informed that the results of a post mortem examination conducted on 6 September 1999 attributed the cause of death to the effects of hanging.

641. Concerning **Abdul Qadir Ganai** (ibid., para. 655), the Government indicated that on 15 October 2000 Police Station Khag received an information that a patrolling party of the security forces was fired upon by some unknown militants near Fujipora crossing. The security forces returned fire in self defense and during the cross firing, the above mentioned person sustained bullet injuries. It was registered a case at P.S. Khag and investigations were initiated. It was confirmed that Abdul Qadir Ganai sustained his injuries during cross firing between militants and security forces.

642. Concerning **Abdul Majid Khan** (ibid., para. 656), the Government indicated that his mother lodged a written report stating that on 8 January 2001, the 59 Field Regiment, along with his troops, searched her house and their medical shop and later they took with them her son. The army troops assured that Abdul Malid Khan will be released the next day after questioning. A case was registered at Police Station Tangmarg which is presently under investigation.

643. By letter dated 22 October 2002, the Government provided information on **Dulumaya Tamang** and **Sandimaya Tamang**, a case included in the letter sent by the Special Rapporteur jointly with the Special Rapporteur on violence against women on 22 November 1999 (E/CN.4/2000/9, para. 509). The Government indicated that on 5 August 1997, the complainant Kamilimaya Tamang lodged a complaint at Joyrampur police post stating that on 4 August 1997 at 9:00 p.m. constables of Joyrampur police post entered in the house of the complainant and forcibly picked up her two daughters and raped them. The Government further pointed out that, on

receipt of the complaint, a case was registered at Dhakukhana Police Station and investigated into. The investigating officer visited the site and recorded the statement of the witnesses. The victims were also medically examined. The girls identified two constables of 13th A.P. Battalion who were deployed at Jayrampur police post on the date of occurrence. Both accused were arrested and sent into custody and the case is under trial.

Observations

644. While the Special Rapporteur acknowledges the replies of the Government on a number of cases sent in the past, he notes with concern that numerous individual cases remain unaddressed since 1997. The Special Rapporteur also notes with concern that the Government did not extend to him an invitation to visit India. He would like to recall that a request for such a mission was initially made in 1993.

Indonesia

645. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information on the following individual cases.

646. **Murjono Murib**, a Papuan political activist who was allegedly detained in Wamena Prison, Papua, was reportedly beaten with the barrel of a gun by members of the Police Mobile Brigade (Brimob) on 4 February 2002, while in custody.

647. Eight people were reportedly detained on 14 June 2001, after a demonstration in Bandung. They were allegedly held incommunicado for five to seven days and beaten at the time of their arrest, and while in custody. **L.V. Mardiyono** was reportedly beaten and kicked at the time of the arrest and beaten with a bamboo pole known as "roton" in the Bandung Police Station. He was believed to have sustained several injuries and had subsequently difficulties to hear. **Wirya Wangsa Direja** was alleged to have been beaten, kicked and hit with a "roton" as well, to have been burnt on his arm with a cigarette and to have fainted. Franciscus Black was allegedly hit with a long iron bar, kicked in the head and subsequently denied medical assistance. He was also believed to have been hit with a police gun and to have fainted. **Normalinda binti Muslim** was reportedly exposed to teargas and subsequently taken to Gedung Sate where she was believed to have been beaten with a "roton" on the back of her head. It was alleged that she was given four stitches without anaesthetization. She was allegedly transferred to Polda Jabar and three months later to Banceuy Prison. **Deni Kusmarna** was reportedly beaten on his neck with a "roton" before being taken to Gedung Sate, where he was thought to have been beaten again. It was alleged that he was afterwards taken to Polda Jabar where he was allegedly interrogated and beaten.

648. **George Hormat** was reported to have been kicked in the head, sternum and groin in the governor's office, the Bandung Police Station and the Polda Jabar. He was believed to have sustained bruises on his face and torso. **Edi Irwansah** was reportedly beaten on the mouth, on the back of his head and his back and kicked in the abdomen. He was allegedly taken to the Polda Jabar where he was said to have been beaten again. **Khapi**, who allegedly was not participating in the demonstration, was reportedly stabbed on his back with a bayonet by a policeman and fell unconscious. It

was alleged that he was taken to the Polda Jabar and repeatedly punched, kicked and hit with a “roton” and death threatened. **Albertus Budi Pratomo** was reportedly hit on the head with a teargas canister and fell unconscious. He was allegedly taken to Gedung Sate while still unconscious, to the Bandung Police Station and to the Polda Jabar, where he was thought to have been beaten and kicked until he was eventually allowed to see his lawyer on 18 October 2001.

649. **Ir. Ismanto**, the head of Seulalah Village, Langsa, was reportedly beaten on the face and chest by eight members of Brimob and local police from East Aceh, on 9 January 2001, when the latter barged in his house asking if he had given money to the GAM. It was alleged that he fell unconscious as a result of the beating.

650. **Muchsin** was reportedly arrested in November 2000 and taken blindfolded and with his hands tied behind his back to Banda Aceh police station. He was reported to have been tortured with pliers in order to make him confess his belonging to GAM. Reportedly, the nail of his left thumb was almost pulled off and his nose was squeezed so hard that it was punctured by the left nostril. Severe scars were allegedly caused on his upper right forearm and right nipple and injuries to his right ear. He was believed to have collapsed under the pain and to have woken up in hospital.

651. **Amri Rusli, Hamdani M, Abdurrahman Dahlan, Imran Ahmad, Maimum Rudin, Yusri Umar and Marzuki Abubakar** were reportedly beaten on 2 February 2000 by members of the military forces, who were allegedly canvassing the coastal area of Simpang Ulim and Julok districts in search of GAM members. It was alleged that as a result, Amri Rusli sustained broken ribs and that the other above-named persons suffered from short-winded due to beatings on the chest.

652. By the same letter, the Special Rapporteur advised the Government that he had received follow-up information concerning **Hubertus Wresman** (E/CN.4/2002/76/Add.1, para 737), according to which Yohannes G. Bonay, Director of the Institute for Human Rights Study and Advocacy (Elsham) and other Elsham monitors had been summoned for police questioning on 10 September 2001. They were allegedly suspected of defamation after they reportedly wrote a letter to the National Commission for Human Rights urging it to conduct an independent investigation into the alleged involvement of Kopassus members in Hubertus Wresman’s case. Gaspar Wespar (also known as Charles Guefar), Hubertus Wresman’s uncle, allegedly denounced the involvement of the Army Special Forces Commander in Betaf and has reportedly gone missing after a Regional Military Commander allegedly stated in a letter addressed to a non-governmental organization that he would have Gaspar Wespar prosecuted for making these allegations.

653. By letter dated 2 September 2002 sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information on the following individual cases.

654. **Yoni Karunggu**, a 17-year-old member of the Nduga tribe, reportedly died while in custody at Police Headquarters in Polres, Jayapura. An autopsy conducted by Jayapura General Hospital allegedly determined his death to be the result of beating and torture. Yoni Karunggu was reportedly arrested along with 103 others, after a

police post in Abepura was allegedly attacked by unidentified people on 7 December 2000 (CN.4/2002/76/Add.1, para. 716).

655. **Musa Kuluwa** and **Mandinus Yikwa**, who allegedly suffered gunshot wounds, were reportedly kicked and beaten before being arrested along with 16 other persons on 3 May 2001 by members of the Brimob. Four other people were believed to have been killed during this incident.

656. **Murhaban Sulaiman**, **Idris Muis**, **Salem Arahman**, **Muhammad Ismail**, aged 16, **Ansari Ramli**, aged 15, **Muhammad Nazar**, aged 14, **Fadli Maden**, aged 13, **Majnun Sami**, aged 14, **Fakri M Garu** and three other young people were reportedly beaten with gun barrels, kicked, punched and ordered to take off their clothes by members of the Task Force Hunt Unit Infantry 203/AK on 19 August 2001 in Kuto Baru village. Three of them were reported to have managed to escape, while the others were believed to have been taken in the direction of Jambo Reuh, Idi District. Their bodies were allegedly found in a grave at the base of a canyon in Kayu Tiga village on 20 August 2001.

657. By letter dated 11 September 2002 sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur advised the Government that he had received information on the following individual case.

658. **Nurma**, a 15-year-old girl from Ujong Tanah, Bakongan, and **Noriza**, a woman from Alue Dua Meuh (Alor Dua Mas) village were reportedly taken off a bus in a sweeping operation by Brimob soldiers on 22 September 2000 in Gelombang village. The two women were reported to have been held at the Brimob post in Lhok Jamin where they were believed to have been forced to work as "sex slaves" until they were reportedly released on 2 December 2000.

659. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998, 1999, 2000 and 2001 regarding which no reply had been received.

Urgent appeals

660. On 18 January 2002, the Special Rapporteur sent a joint urgent appeal with the Special Representative on human rights defenders on behalf of **Junaidi**, a humanitarian worker and the chairperson of SIRA Aceh Besar, a district chapter of Aceh Referendum Information Center. He was allegedly arrested in connection with his activities with SIRA on 8 January 2002, by members of the Army Strategic Reserve Command (KOSTRAS). It was unclear whether he was detained in the police or military sub-district headquarters.

661. On 27 February 2002, the Special Rapporteur sent a joint appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Representative on human rights defenders and the Chairman-Rapporteur of the Working Group on arbitrary detention on behalf of **Hasan Basri**, who has been held in military detention, Linud 700/BS Military Post in Pulo Ie in Jeuram village, Krueng Sabee Sub-district, West Aceh District, since 1 January 2002. It was believed that he was detained because the military suspected that two of his children were members of

the Free Aceh Movement, Gerakan Aceh Merdeka(GAM). A representative from a local non-governmental organisation who was allowed access to him in early February reported that Hasan Basri was suffering injuries including cracked teeth and blurred vision as a result of being tortured. The Commander reportedly threatened the NGO representative, stating that he did not believe in human rights, and that if he were to shoot a member of the NGO and throw them in Krueng Sabee river, there would be no consequences for him.

662. On 15 March 2002, the Special Rapporteur sent a joint urgent appeal with the Special Representative on human rights defenders on behalf of **Nasrullah Ibrahim, Muhammad** and **Riza Pahlevi**, all members of the human rights organization Solidarity for Victims of Human Rights Abuse, *Solidaritas Persaudaraan Korban Pelanggaran Hak Asasi Manusia* (SPKP HAM) whose current whereabouts were unconfirmed, though they were believed to be held at the regional police headquarters (Markas Polisi Daerah, Mapolda), in the provincial capital Banda Aceh, Aceh Province. They were reportedly detained by uniformed police on 12 March 2002, in Seumet village, Montasik Sub-district, Aceh Besar District. It was reported that human rights activists who went to the regional police headquarters to inquire about the three, were told that they were not in police custody.

663. On 22 March 2002, the Special Rapporteur sent a joint urgent appeal with the Special Representative on human rights defenders on behalf of **Koes Sofyan**, head of the South Aceh Branch of the human rights organisation Solidarity for Victims of Human Rights Abuse (SPKP HAM) whose current whereabouts were unknown. He was allegedly arrested on 14 March 2002 in Aceh by two men believed to be members of the Special Forces Command (Kopassus) and detained in Blang Pidie Sub-district, South Aceh district. His arrest is allegedly connected with the arrests on 12 March of Nasrullah Ibrahim, Muhammad and Riza Pahlevi, members of SPKP, who were released on 16 March after being held for four days at the regional police headquarters Mapolda.

664. On 23 May 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary execution on behalf of **Riki Muhammad**, who had reportedly been arrested with two other men by soldiers in the village of Tumpok Blang in the province of Aceh, on 12 May 2002 during military operations in Sawang Sub-district, against the armed opposition group Free Aceh Movement, Gerakan Aceh Merdeka (GAM) and detained at a military post in Lhok Kuyuen. When relatives tried to meet them there, soldiers allegedly threatened to shoot them if they asked again, and fired warning shots. The army is reportedly maintaining a cordon around Sawang Sub-district, and people living there have to apply for permission to leave the area. Two other people detained during the military operations have reportedly been found dead.

665. By the same urgent appeal, the Special Rapporteurs intervened on behalf of **Si Bai, Hasbi** and **M. Ali**, who were reportedly taken from police detention in Aceh province by masked men, believed to be from the Police Mobile Brigade (Brimob) and the military in mid-May. They have not been seen since. Si Bai and Hasbi were reportedly detained with three other persons on 12 May 2002 and taken to the Kotafajar Police Sektor (Polsek) in Kluet Utara. It was reported that the following

day, M. Ali was also detained and taken to Polsek Kotajafar. Two of the detainees were released on 12 May, and another on 13 May.

666. On 7 June 2002, the Special Rapporteur sent an urgent appeal on behalf of **Hasan Basri**, on behalf of whom the Special Rapporteur had sent an urgent appeal on 27 February 2002 (see above), who had allegedly been in army custody since 1st January 2002 at the military post of the Yonif Linud 700/BS infantry battalion in Pulo Ie, Jeuram village, Krueng Sabee Sub-district, West Aceh District. It was reported that he has been forced to watch other detainees being tortured and executed. He has apparently had also to watch soldiers from the Army Strategic Reserve Command (Kostrad) carry out five executions.

667. On 23 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Representative on human rights defenders on behalf of **Zikrillah**, a student and human rights activist. On 6 July 2002, Zikrillah, who is a volunteer with *Jaringan Rakyat Pemantau HAM* (JRP HAM), the People's Network for Human Rights Monitoring in Pidie District, was reportedly arrested during military operations. He was reportedly taken to the Mereudu Sub-district Military Command (Koramil) where he was forced to admit that he was a member of the armed opposition movement, the Free Aceh Movement (GAM). He was later moved, together with a man called **Nasrudin** and two others who had also been held at Koramil, to a temporary military post established by troops from the Army Strategic Command (Kostrad) in the village of Dayah Jambe, in Mereudu Sub-district. The two unnamed men were subsequently released.

668. By letter dated October 2002, the Government informed that these two students were both taken in for questioning on 26 June 2002 in the course of security measures carried out to guaranteed the security of the community against criminal acts committed by members of GAM (Free Aceh Movement). In the absence of any conclusive evidence as to their involvement in any criminal activity and in view of their young age, both students were released. Nasrudin was released on 29 June 2002 and his father, fearing for his safety, requested the security authorities to take Nasrudin under protection. Zikrillah was returned to his family on 7 July 2002 and a few weeks later, following complaints that he had received death threats from GAM, he was also officially placed under the protection of the security authorities on 9 August 2002. Finally, the Government pointed out that, since that time, both have remained under the protection of the security authorities and at no time during their short detention were they subjected to any form of torture, or to cruel, inhuman or degrading treatment.

669. On 26 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on behalf of **Zulkarnain Ismail** and **Abdul Muthaleb Abdullah**, who were reportedly arrested in the early hours of 25 July 2002 in Pidie District, Aceh Province. It was reported that they were arrested by troops from the Siliwangi Military Command and members of the Police Mobile Brigade (Brimob), from the village of Rehng Krueng in Mereudu Sub-district, Pidie, Aceh, on suspicion of being members of the armed opposition group, the Free Aceh Movement (GAM) and detained at Mereudu Police Sector, Polsek Mereudu. They were allegedly beaten as a

result of what, one of them was believed to be suffering from head injuries. It was reported that they did not have access to lawyers.

670. On 14 August 2002, the Special Rapporteur sent an urgent appeal on behalf of **Saiful Anwar**, who was reportedly arrested at Langsa Old Bus Terminal in Langsa town, East Aceh District, at on 3 August 2002 by members of Gegana, an elite police unit, and taken away in a Black Kijang truck. Reasons for his arrest were said to be unknown. He was believed to be held incommunicado at Idi Rayeuk Police Sector (Polsek Idi Rayeuk). However police officers at Polsek Idi Rayeuk reportedly refused to provide information about whether he was held there.

671. On 11 October 2002, the Special Rapporteur sent an urgent appeal on behalf of **Bahraini**, a farmer from Krueng Meusegop village in Aceh Province who had reportedly been detained by members of the troops stationed at Dayah Simpang Mamplam Military Post in Samalanga Sub-district, Aceh Jeumpa District (TNI BKO Posko Dayah Simpang Mamplam) on 1 September 2002. It was believed that he was subsequently transferred to Samalanga Sub-district Military Command Post (Koramil Samalanga). However, when contacted by a local human rights organization, the Commander of Samalanga Koramil reportedly denied that Bahraini had been detained. On 5 September, a representative from Krueng Meusegop village was reportedly allowed to see – but not to speak to – him in Samalanga Koramil. The representative reportedly expressed concern that Bahraini may have been tortured or illtreated. Since 5 September 2002, he had allegedly been kept incommunicado in an unknown location.

672. On 27 November 2002, the Special Rapporteur sent an urgent appeal on behalf of **Nurdin Ilyas**, a farmer from Syamtalira Bayu Sub-district, North Aceh District, who was reportedly arrested by troops from the Infantry Battalion (TNI BKO Yonif/125) and the Army Strategic Reserve Command (Kostrad) whilst traveling to Peuntet market on 18 November 2002. It was believed that he was being held incommunicado in Cot Matahee military post in Blang Mangat Sub-district where Kostrad troops were stationed at that time. It was reported that he did not have access to lawyers, medical treatment or his family.

673. On 2 December 2002, the Special Rapporteur sent an urgent appeal on behalf of

674. **Ronald Ramandey** and his wife **Amelia Kiri**, who had reportedly been shot and injured and subsequently arrested in November 2002 during operations carried out by the police against an armed opposition group in Wasior Sub-district, Manokwari District. It was reported that they were initially detained in Tandia village, Wasior Sub-district, where they allegedly received some treatment for their injuries, and moved to Polres Manokwari in Manokwari town, on 26 November 2002. Since their arrival, they have reportedly been held incommunicado and have not had access to medical treatment or a lawyer.

675. On 3 December 2002, the Special Rapporteur sent an urgent appeal on behalf of 22 people who were allegedly arrested during a meeting in the Fandini Dalam area of Manokwari town on 26 November 2002. 12 others had reportedly been arrested on 27 November, after raising the Morning Star flag - a symbol of Papuan independence - in front of YPK Fandini elementary school. A further eight people had allegedly

been detained in Amban and Sowi neighbourhoods later that day. Although those detained had already been released on 26 November, **Bernardus Acame, Manfred Bame, Zeth Dimara, Izach Dowansiba, Luther Dowansiba, Karel Kasima, Wilson Kofias, Frengky Mandacan, Korneles Mandacan, Frans Nauw, Kristofel Nauw, Boas Sraun, Yulian Nauw** and three other men and two women whose names are unknown were reportedly still in incommunicado detention at Manokwari Police Resort, Manokwari town, at the time the Special Rapporteur sent this urgent appeal.

Observations

676. While the Special Rapporteur acknowledges the replies of the Government on a number of cases sent in the past, he notes with concern that numerous individual cases, in particular raised in urgent appeals, remain unaddressed since 1998. The Special Rapporteur also notes with concern that the Government did not extend to him an invitation to visit Indonesia. He would like to recall that a request for such a mission was initially made in 1993.

677. The Special Rapporteur notes the concerns of the Committee against Torture expressed in November 2001 after its consideration of the initial periodic report of Indonesia under the Convention against Torture as follows: (a) The large number of allegations of acts of torture and ill-treatment committed by the members of the police forces, especially the mobile police units ("Brimob"), the army (TNI), and paramilitary groups reportedly linked to authorities, and in areas of armed conflict (Aceh, Papua, Maluku, etc.); (b) Allegations of excessive use of force employed against demonstrators or for purposes of investigation; (c) Allegations that paramilitary groups, reported to be perpetrators of torture and ill-treatment in Indonesia, are supported by some parts of the military, and sometimes reportedly are joined by military personnel." (CAT/C/XXVII/Concl.3, para. 7) He further shares the concerns of the Committee about: "(a) a climate of impunity, advanced in part because of the fact that there has been little progress in bringing to trial members of the military, the police or other state officials, particularly those holding senior positions, who are alleged to have planned, commanded and/or perpetrated acts of torture and ill-treatment; (b) The failure of the State party to provide in every instance prompt, impartial and full investigations into the numerous allegations of torture reported to the authorities, as well as to prosecute alleged offenders, as required in articles 12 and 13 of the Convention." (ibid., para. 8)

Iran (Islamic Republic of)

678. By letter dated 13 September 2002, the Special Rapporteur advised the Government that he had received information according to which in March 2002, Iran's parliament (Majles) passed a bill allegedly aimed at limiting the practice of torture and the use of forced confessions in criminal trials, in accordance with Article 38 of the Constitution which prohibits the use of torture to extract confessions. The use of torture as a punishment or for other purposes was however said not to be specifically prohibited in the Constitution. This Parliamentary bill was reported not to have upheld the right of detainees charged with a criminal offense to have prompt access to legal counsel, nor did it set limits on the permitted length of time that a detainee may be detained incommunicado. Both practices were believed to facilitate the use of torture by law enforcement agencies. It was alleged that the bill also

stipulated that certain categories of suspects were exempted from the safeguards contained in the bill. These include: members of apostate groups, a definition that could include members of the Bahai religious minority; Mohareb (those at war with God), a term that is said to be applied to many types of Government critics; and those accused of espionage, a charge believed to have a very loose definition in Iranian penal law.

679. Nevertheless, on 9 June, the bill was reportedly rejected by the Council of Guardians, a body of twelve senior clerics appointed by the Supreme Leader Ayatollah Khamene'i, whose role is to ensure that all laws passed by the Majles are compatible with their interpretation of Islam. The Council argued that the bill would limit the authority of judges to adjudicate on the admissibility of confessions and therefore ruled that the bill was against the principles of Islam. Fears were expressed that this may authorize judges to accept as evidence in court confessions extracted by illegal means. The bill was subsequently sent back to the Parliament for revision, and was said, at the time of writing, to be under review by the legal and judicial affairs committee of the Parliament.

680. By the same letter, the Special Rapporteur advised the Government that he had received information on the following individual cases.

681. **An Iranian national**, who had reportedly been arrested in the city of Mashhad and convicted of raping and killing his 16-year-old nephew, was reportedly to be executed by being thrown off a cliff in a sack in July 2002. Legal experts were alleged to have stated that if he were to survive the fall, he would be hanged.

682. **Alireza N., Mohammad A., Sattar S., and Alireza Q.**, four prisoners, were reportedly sentenced to death on 8 May 2002 after receiving 75 lashes each. They were reportedly charged with "killing an officer of the State Security Forces". The same court was said to have ordered another prisoner's right hand and left foot to be amputated.

683. **Babak Pilehvar and Hossein Rezamehvar** reportedly had their right hands amputated in early May 2002 in the city of Shiraz. Upon their recovery, their left legs would reportedly be amputated.

684. **Two members of the Iranian national football team** reportedly received dozens 170 and 70 lashes respectively for "moral corruption" in the beginning of July 2002. The players had reportedly been identified by videos and photographs found in an illegal brothel in Tehran.

685. Reportedly, on 19 May 2002, Iran's deputy police chief, Brigadier-General called for a wider practice of amputations.

686. By letter dated 16 September 2002 sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur advised the Government that he had received information according to which, Iran's presidential adviser on women's issues allegedly defended the practice of stoning women to death for adultery at a meeting at the beginning of July 2002 with Belgium's deputy prime minister, stating that the punishment was correct under sharia law and "safeguarded the inviolability of

the family". She furthermore allegedly stated that "once the conditions needed to justify death by stoning, namely the existence of four witnesses to the act, were fulfilled, the perpetrators "deserved the punishment".

687. **Azam**, a woman from the village of Badali near Behbahan, was reportedly sentenced by a court in southern Iran in July 2002 to have both her eyes gouged out in public, after she threw acid powder at a man who wanted to rape her at gunpoint and caused him to be blinded. The mullah-judge reportedly added that the punishment "must be carried out in public, in order to set an example for members of the public." Azam was allegedly also sentenced to a year in jail for "throwing" obnoxious materials.

688. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998, 2000 and 2001 regarding which no reply had been received.

Urgent appeals

689. On 28 March 2002, the Special Rapporteur sent a joint urgent appeal with the Special Representative on the situation of human rights in the Islamic Republic of Iran and the Chairman-Rapporteur of the Working Group on arbitrary detention on behalf of **Siamak Pourzand**, an intellectual responsible of the Tehran Cultural Centre who had allegedly been arrested on 24 November 2001. It was alleged that he had been put on trial at the Mahrabad Court on 6 March 2002. His own lawyers have reportedly not been given access to him. Fears were expressed that his reported confession in the first trial session did not express the free decision Siamak Pourzand's will.

690. On 23 April 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression concerning the reported ban of the regional weekly newspaper "Chams-e-Tabriz" and sentencing of its editor, **Ali-Hamed Iman** to eight months imprisonment and 74 lashes on 16 April 2002, by a court in Tabriz. The latter had reportedly been found guilty of fifteen offences, including "insulting religion and the Prophet", "trying to stir up ethnic tension", "insulting the leaders of the regime" and "publishing lies".

691. On 10 May 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Siamak Pourzand**, on behalf of whom the Special Rapporteurs intervened on 12 February 2002 (see above). On 6 March 2002, closed and unannounced proceedings reportedly began against him. He was allegedly denied access to medical assistance, although he suffers from diabetes and a heart complaint. He was reportedly sentenced on 3 May 2002 to eight years' imprisonment on charges of "undermining state security through links with monarchists and counter-revolutionaries". Charges against him were allegedly based on confessions believed to have been extracted under duress.

692. On 15 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers on behalf of **Soltani**, a lawyer, who had been sentenced on 9 July 2002 by the First Instance Tribunal of Tehran to four months imprisonment and deprived of his right to exercise his

profession for five years. It was believed that he was sentenced for having declared during a trial in March 2002, regarding which there is not yet any final decision, that his clients who are accused of alleged political charges, had been tortured during interrogation. During a hearing, his clients are said to have testified that they had been tortured. It is also reported that Soltani's lawyer, **Seyfzadeh Mohammad**, was also sentenced to four months imprisonment and deprived of his right to exercise his profession for three years.

693. On 20 August 2002, the Special Rapporteur sent a joint urgent appeal with the Special Representative of the Secretary-General on human rights defenders and the Special Rapporteur on the independence of judges and lawyers on behalf of **Nasser Zarafchan**, a lawyer on behalf of whom previous urgent appeals were sent on 11 January 2001 and 18 October 2001, by the Special Rapporteur on the independence of judges and lawyers, the Special Representative of the Secretary General on Human Rights Defenders and the Special Representative of the Commission on Human Rights on the situation of human rights in the Islamic Republic of Iran and a communication by the Special Rapporteur on the independence of judges and lawyers on 30 April 2002. He was reportedly detained on 8 August 2002, pending the hearing of his appeal against a decision of the Military Court of Tehran on 16 July 2002. This decision confirmed the sentence of five years imprisonment and 70 lashes and a five year suspension from legal practice, which had been imposed by the Military Tribunal of Tehran on 19 March 2002. Reportedly, although he was suffering from liver cancer, he was subject to medical tests to determine whether he was healthy enough to undergo the carrying out of the flogging sentence.

694. On 20 August 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Manuchehr Mohammadi**, one of the leaders of the student movement detained in 1999 on whose behalf the Special Representative on the situation of human rights in the Islamic Republic of Iran had already intervened by letter dated 28 November 2001. He was reportedly transferred from Evin prison in Tehran to a prison in Ghaemshar in the north of Iran in July 2002. Several days afterwards, he was said to have been beaten unconscious by criminal inmates. On 4 August 2002, he was reportedly placed into solitary confinement for 10 days and was not allowed to receive visitors or make telephone calls. Shortly before the imposition of solitary confinement, he was reportedly beaten with cables on his back by prison guards, leading to extensive bruising. He was also believed to suffer from malnutrition, and gum infections for which he was said to have been denied treatment.

695. On 4 October 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the independence of judges and lawyers on behalf of **Said Masouri**, a detainee in Wing 209 of Evin Prison in Tehran who was facing imminent execution. It is alleged he had reportedly been illtreated and threatened with summary execution if he refused to make a televised confession. As a result, he reportedly lost a lot of weight. In June 2002, Branch 6 of the Revolutionary Court, located in Evin prison in Tehran, sentenced him to death on various charges, including "acting against state security", "membership of a proscribed organization" and other security provisions. He was reportedly not allowed to choose his own lawyer and was allocated one by the court.

696. On 16 October 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on behalf of **Chini Maqsoud** and a group of artist from the Republic of Azerbaijan. Chini Maqsoud was reportedly at risk of imminent flogging (74 lashes) for his involvement in a party allegedly deemed by judicial authorities to be "depraved". Artists performing at the party were also arrested shortly after 21 September 2002 and barred from leaving the country until further investigation.

697. On 11 November 2002, the Special Rapporteur sent an urgent appeal on behalf of **Seyyed Hashem Aghajari**, a professor at Tehran's Tarbiat Modares University who was arrested on 8 August 2002, following a speech he gave on 19 June in Hamedan, in which he called for a "religious renewal". On 7 November 2002 he was sentenced to 74 lashes, eight years' imprisonment - to be served in "internal exile" - and death following a closed trial in Hamedan. Further, it was reported that he was in urgent need of medical attention to his right leg, amputated at the knee and apparently bruised and infected. He was reportedly unable to stand up, walk or use the prison's hygiene facilities.

698. On 13 November 2002, the Special Rapporteur sent an urgent appeal on behalf of **Dr Hossein Ghaziyan**, a university lecturer and director of the *Ayandeh* Research Group (polling institute), **Behrouz Geranpayeh**, a journalist and Director of the National Institute for Research and Opinion Polls, **Abbas Abdi**, a journalist and **Mohsen Goudarzi**, the director of the National Plan for Assessing Iranians' Opinions and Values. All four men were reportedly detained in connection with an opinion poll on US-Iranian relations. It is believed that on 10 November 2002, a member of parliament stated that Dr Hossein Ghaziyan and Behrouz Geranpayeh were "under considerable pressure", and that both men are being held in an "illegal military prison". This is widely thought to be *Prison 66*, in north Tehran, which is under the control of the Revolutionary Guards, a state security force. Behrouz Geranpayeh, who was brought to his place and allowed to see his wife on 7 November, was believed to have lost 10 to 12 kilograms, to be weak and in need of regular doses of "intravenous medicine. Fears were expressed over his health. The Islamic Iran Participation Front (IIPF), which is said to be a political group supporting President Khatami, reportedly stated that Abbas Abdi was held in "solitary confinement with no access to family or lawyer".

Observations

699. The Special Rapporteur notes with concern that no response has been provided to a number of cases brought to the attention of the Government since 1998 as well as to urgent appeals. In view of the nature of the latter, he would appreciate receiving prompt information on measures taken to ensure that the right to physical and mental integrity is properly respected.

Iraq

Urgent appeals

700. On 26 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on extrajudicial, summary or arbitrary executions and on the situation of human rights in Iraq on behalf of **Hamza Qassim Sabbat**, also known as Abu Haitham, and **Ibrahim 'Abd al-Jasim Mohammad**, also known as Abu Ayub, who were said to have appeared on the national television on 25 July 2002 and confessed their involvement in "terrorist acts" inside Iraq for the benefit of a foreign country. It was feared that their confessions may have been extracted under duress. The two men were also said to be at risk of being sentenced to death. During their confessions, they reportedly admitted that they were members of groups that had been trained in Iran and sent to Iraq to kill Iraqi officials, members of the security forces and the military, as well as to carry out bomb attacks in the capital, Baghdad. The two also reportedly confessed their involvement in rocket missile attacks targeting government buildings in Baghdad in 2000 and 2001, as well as in a "plan to destabilise the country" in the aftermath of the attacks on New York and Washington on 11 September 2001.

Follow-up to previously transmitted communications

701. By letter dated 11 January 2002, the Government responded to the letter sent by the Special Rapporteur on 30 September 2001 (E/CN/2002/76/Add.1, paras. 753 to 758) and provided information on all the cases transmitted.

702. Concerning **Nasser Taresh Sajet Jabr al-Sa'idi** (Al-Shaikh Nasser Taresh al-Sa'idi) (ibid., 754), the Government indicated that he was arrested on 1 July 1999. He confessed to taking part in the murder of a number of state officials, including the former Director of Security of Saddam City and was handed over to the Criminal Court which sentenced him to death. The verdict was challenged through the appeal courts and the court of cassation.

703. Concerning **Yahya Mushin Ja'far Ali** (Al-Shaikh Yahya Mushin Ja'far al-Zeini) (ibid., para. 754), the Government responded that he was called in for questioning on 2 July 1999. No evidence was found of his involvement in any criminal activity and he was duly released. He was not subjected to any form of coercion or torture.

704. Concerning **Mohammed Aziz Rahif Jabr al-Aqqabi** (Al-Shaikh Mohammad 'Azoiz Rahif al'-Aqqabi) (ibid., para.755), the Government responded that he had been called in for questioning on 20 September 2000, after a criminal had testified against him. The interview failed to produce any evidence against him and he was duly released. He was not subjected to any ill-treatment.

705. Concerning **Iyyad Taresh Sajet al-Sai'idi** and his brothers **Salem Hamid** and **Fahd** (ibid., para.756), the Government responded that they had been brought in on 26 June 1999 to clarify certain information relating to their brother Nasser Taresh Sajet Jabr al-Sa'idi (see above). After their statements had been taken, they were duly released. They were not subjected to coercion or ill-treatment.

706. Concerning **'Adul-Wahhab al-Rifa'i** (ibid., para.757), the Government responded that the authorities had no information about him and that he had not been placed under arrest.

707. Concerning **Su'ad Jihad Shams al-Din Mahdi al-Baghdadi** (Su'ad Jihad Shams al-Din) (ibid., para.758), the Government responded that she had been arrested under article 75 of the Antiquities Act on charge of dealing with antiquities. She was released on bail of 10,000 Iraqi dinars on 22 July 1999.

708. The Government further outlined the legal guarantees applicable to the judicial process such as the right to a defence counsel in accordance with the Code of Criminal Procedures and the fact that court records are automatically sent to the Court of Cassation to review the verdict. The extraction of confessions by force is forbidden under Iraqi law, and is punishable by law. In accordance with article 331 and 332 of the Penal Code and article 127 of the Code of Criminal Procedures any confession obtained by coercion is inadmissible.

Observations

709. The Special Rapporteur acknowledges the Government's responses, but finds insufficient substantive information in the denial of allegations of torture to displace the concern raised by the allegations so as to remove the concerns in this regard.

Israel

710. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information on the following individual cases.

711. **Abdallah Mahmud Abu Daka**, a resident of the Gaza Strip, was reportedly arrested on 15 January 2002 and taken to the General Security Service (GSS) Interrogation Unit at the Shikma Detention Center in Ashkelon, where he was believed to have been held incommunicado for at least 26 days. Reportedly, on 6 February 2002, a lawyer attempted to meet with him but was prevented from doing so because an Order Prohibiting Meeting with Counsel valid for 5 days had been imposed against Abdallah Mahmud Abu Daka.

712. **Khaled Mershed Hassan Rawashdeh**, a taxi driver, **Muhammad Yusuf Muhammad a-Salamin**, a taxi driver, **Muhammad Khalil Suleiman Sufia (Abu Seif)**, **Mahmud Muhammad Hawamdeh**, **Muhammad Yusuf Muhammad Salamin**, **'Abd al-Muttaleb Muhammad Musleh Mahariq**, all residents of As Samu', Hebron District, **Mahmud Muhammad Hawamdeh (Thefa)**, a resident of Samoa, Hebron District, and three other men were reportedly stopped and beaten for two hours on 23 July 2001 by soldiers from the Shimshon Battalion permanently stationed in the West Bank. Three women, a child and an elderly man that were travelling in the same cars were reportedly ordered to leave the area. Reportedly, Muhammad Khalil Suleiman Sufia was taken by one soldier behind a parked army jeep and beaten with a helmet and rifle butt and another object, in particular on his head and left ear. It was alleged that the nine men were lined up against a wall and beaten with rifle butts and helmets by the soldiers. It was alleged that afterwards the nine men were forced under death threats to severely beat each other. The two taxi drivers and two other of the men were reportedly subsequently taken by residents of Karma for medical control.

713. **Khaled al-Akra'** was reportedly arrested in February 2001 and taken to Nablus Central Prison, where he was believed to have been handcuffed to a window, punched and beaten with sticks for six days before being released.

714. **Adnan al-Hajjar**, from the town of Taybeh, south of Nazareth, was reportedly arrested on 5 February 2001 and placed under administrative detention. Reportedly, the order was signed by the Prime Minister as Minister of Defence the day of his arrest and an order prohibiting the lawyer and family from discussing the case was imposed. It was alleged that Adnan al-Hajjar was held with another detainee in a three meters by one and a half meters cell for 23 hours a day. It was alleged that about four or five times a week he was woken up in the middle of the night for interrogation, during which he was reportedly handcuffed. The interrogations sessions were believed to have last up to 24 hours. Due to the tightness of the handcuffs on his wrist, he allegedly suffered from a bone infection which needed an operation. It was also reported that he was placed in an extremely hot, small dirty room before being taken straight to an extremely cold room. He was also alleged to have been subjected to extremely loud noise and to not have been allowed to change clothes for two weeks. His release was reportedly ordered on 5 August 2001.

715. **Hamzeh Muhammad 'Abd al-Fatah Za'ul**, a 15-year-old resident of Husan village, Bethlehem District, was reportedly arrested in his house on 6 January 2001, handcuffed, blindfolded, and taken to the detention centre at Etzion, where he was alleged to have been repeatedly beaten and kicked all over his body, in particular on his chest and neck, during interrogation. He was reportedly stroke on his face with small pellets fired from a close distance. He was also believed to have been kept with three other detainees in a small and pungent bathroom with no windows for several hours. He was allegedly taken to Telmond Prison on 25 January 2001 and tried one month later in Beit El. He was reportedly released on 7 April 2001.

716. **Muhammad Yasser Muhammad Za'ul**, a 14-year-old resident of Husan Village, was reportedly arrested in his house on 25 December 2000, handcuffed and blindfolded, thrown into a car along with two other youth, kicked and taken to Etzion, where he was allegedly kicked in the abdomen and kept blindfolded and handcuffed during interrogation, beaten and struck with sticks. A police officer allegedly grabbed his head and slammed it against a wall five times. He was believed to have been injured in the face by small plastic pellets. He was allegedly ordered to stand with his face against a wall and his right leg rose for about two hours while still handcuffed and under the threat of being beaten again whenever he lowered his leg. It was alleged that he was taken to a police station where he was held in a one and a half meter square cell during ten days before being transferred to Telmond Prison. He was reportedly released on 2 May 2001.

717. **Mufid Hussein Muhammad Hamamreh**, a 15-year-old resident of Husan Village, was reportedly arrested on 9 November 2000, blindfolded, handcuffed and taken to a jeep, where his head was allegedly put next to the speaker of a tape recorder that they played at high volume for a few minutes. He was reportedly taken to Etzion where he was believed to have been beaten on his legs, bumped into a door while blindfolded and pushed from one soldier to another for about 15 minutes. It was alleged that cold water was sprayed on him, mostly into his ears, mouth and chest. Further, he was reportedly punched, beaten with a metal ruler and burnt with

cigarettes. It is alleged that afterwards an empty pail was put on his head and that water was splashed on the upper part of his body for half an hour. He was also believed to have been forced to swallow pieces of ice. It was reported that he was later brought to a police station where he was kicked. On 17 November 2000 he was reportedly taken to the Gush Etzion Military Court and afterwards to Megiddo Prison, where he was alleged to have stayed until his release, on 2 May 2001.

718. **Isma'il Ahmad Hassan Sabatin**, a 17-year-old resident of Husan Village, was reportedly arrested on 14 November 2000, blindfolded, hit, kicked and taken to the Gush Etzion station. Reportedly, a hook was put over his head and he was kicked, slapped, beaten with a plastic pipe and forced to remain in contorted positions while in custody. It was alleged that cold and hot water was alternatively poured on him and that he was kept in a room with first the air conditioner and after the heat. It was also alleged that his head was put in a toilet that a soldier flushed. He was reportedly transferred to Meggido before being on 23 May 2001.

719. **'Abd al-Jabber Sultan Mahdi**, a 15-year-old resident of al-'Arrub Refugee Camp, Hebron District, was reportedly arrested by 15 soldiers and two policemen who allegedly entered his house on 5 November 2000. It was alleged that his hands were cuffed behind his back and that he was blindfolded. He was reportedly hit on the head, beaten and kicked in the way to Gush Etzion where he was allegedly tied to a chair and questioned about his involvement in clashes with soldiers. It was reported that while interrogated, he was beaten on the face and head and his head was put in the toilet. After being allegedly forced to sign a testimony, he was reportedly taken to a cell, where he is thought to have been kept for 45 days, before being transferred to Telmond Prison to await trial. He was reportedly released on 7 March 2001.

720. **Patrick Baz**, a photographer, was reportedly shot in the finger by an Israeli soldier while he was allegedly covering clashes between Israeli forces and stone-throwing Palestinian protesters in Ramallah on 18 October 2000. It was reported that he was precisely hit on one of the fingers that were on the camera and while he was standing at certain distances from the clashes.

721. **Mahfouz Abu Turk**, a photographer, was reportedly wounded in the hand by a rubber-coated metal bullet fired by Israeli troops while he was allegedly covering clashes between Palestinians and Israeli forces in Bethlehem on 17 October 2000. It was reported that he was subsequently taken to hospital in Beit Jala, where he allegedly received four stitches for the wound. On 29 September 2000 he was reportedly hit in the left thigh with a rubber-coated metal bullet allegedly fired by Israeli troops, while he was covering clashes at Jerusalem's Al-Aqsa mosque.

722. **Mazen Dana**, a cameraman who was covering clashes on Hebron's Shalalah Street, was reportedly hit in the left foot and leg by live rounds fired by Israeli forces on 2 October 2000.

723. **Nisrin Assili** (f) was reportedly kicked and beaten by the police on 1 October 2000 at St Mary's Well in Nazareth. She was allegedly hit on her head, back and chest and thrown on the ground. She was believed to have been pushed by the policemen until she lost consciousness. An investigation was said to have been open by the *Mahash*.

724. **Hazem Bader**, a cameraman, was reportedly wounded in his right hand by a rubber-coated metal bullet while covering clashes between Israeli troops and Palestinian demonstrators at Jerusalem's Al-Aqsa mosque on 29 September 2000. It was believed that the bullet was fired by an Israeli soldier from an estimated range of 15 meters and although the journalist was standing away from the demonstrators. According to the information received, the bullet broke three bones of his hand and Hazem Bader had two metal plates inserted. As a result of the incident, he was alleged to have lost the mobility of two fingers and to have been unable to work.

725. **Khaled Abu Aker**, a journalist, was reportedly hit in his shoulder with a truncheon and punched in his face by police officers at Jerusalem's Al-Aqsa mosque on 29 September 2000, after he allegedly refused to hand over to a police officer a rubber bullet that he had picked up off the ground.

726. By the same letter, the Special Rapporteur advised the Government that he had received further information on the conditions of detention in prisons where Palestinian children are detained: Megiddo prison (for male minors older than 16), Telmond prison (for male children below the age of 16) and Ramle (Neve Tertzze) (for women and girls), (E/CN.4/2002/76/Add.1, paras 783 et sq.)

727. Reportedly, there are 870 detainees in Megiddo, including approximately 100 children. It was believed that the Israeli intelligence was attempting to recruit collaborators from amongst the children held at Megiddo prison in return for reducing their punishment. Numerous detained Palestinian children also alleged that they had been physically and psychologically pressured to collaborate with the Israeli authorities. In Telmond prison, three prisoners were said to have been held in every four square meters cell which contains a toilet. It was reported that one of the prisoners was forced to sleep on the ground and there was inadequate bedding material. The rooms were said to have small windows which were covered by iron. Family visits were believed not to be allowed, which means that the prisoners were not supplied with money to buy supplies from the canteen. Reportedly, they also could not receive clothes from their relatives.

728. In this context and by the same letter, the Special Rapporteur advised that he had received information on the following individual cases.

729. **Sultan Abdul Jabber Maadi**, aged 16, was reportedly arrested on 20 March 2002 and brought to Etzion Detention Center. It was believed that he had his hands and legs tied, that he was blindfolded and beaten on the chest. He was allegedly held for 16 days in a small 4 square meters isolation cell before being transferred to Megiddo Prison where he was prevented from receiving family visits. At the time of writing, it was reported that the Red Cross had not yet visited him.

730. **Jaafar Rasmi Ali Al Asmar**, aged 17, was reportedly arrested on 9 January 2002 and brought to Maale Adumim settlement where it was alleged that his hands were tied and that he was beaten by policemen and interrogators on his legs and stomach. On the same day he was taken to Etzion Prison and placed in a small four square meters isolation cell for one month before being transferred to Megiddo.

Reportedly he was prevented from receiving family visits, lackde clothes and was unaware of when he will be brought to court.

731. **Qassem Farid Abu Awda Jaber**, aged 17, was reportedly arrested on 25 May 2001 on Shalaa street in Hebron, where he was believed to have been handcuffed and slapped on his face. He was reportedly taken to Majnouna prison and on the way was severely beaten on the stomach and back and his hair was pulled. Reportedly, he stayed in Majnouna prison for 21 days before being transferred to Megiddo. It was reported that since August 2001, he was denied access to his family.

732. By the same letter, the Special Rapporteur advised the government that he had received follow-up information on the following individual cases.

733. **Sanna Amer**(f), a 14-year-old Palestinian girl who was reportedly arrested on 20 February 2001 at noon in Hebron and on behalf of whom the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on Violence against Women on 16 October 2001 (E/CN.4/2002/76/Add.1, para. 815), was allegedly hit on her right cheek at the time of her arrest. It was alleged that she was subsequently taken to an interrogation room where she was hit again, causing a bruise on her arm. On 11 March 2001, she was reportedly transferred to Ramle Prison. It was reported that her arms and legs were tied to her bed for two nights and that once untied. She was also believed to have been deprived of any human contact and with nothing to occupy her time for 12 days. At the end of June 2001, she was reportedly beaten with sticks on her arms and legs. It was alleged that her arms were tied behind her back and that she was kicked by the police in the stomach, as a result of what she allegedly cough blood. It was alleged that she did not receive any medical treatment, although she felt pain when eating or drinking. It is alleged that during the trial, on 12 July 2001, her legs and hands were bound and she appeared not to have a clear understanding of the judge's questions. She was allegedly released in November 2001, one month after she became eligible for parole.

734. **Su'ad Hilmi Ghazal** (f), a 17-year-old detainee at Ramle Prison on behalf of whom the Special Rapporteur wrote a joint urgent appeal on 26 September 2001 (ibid., para. 813), was reportedly subjected to detention in isolation for a prolonged period and to restriction to receive parental visits in April 2001.

735. **Daoud al-Dir'awi**, a lawyer and human rights activist on behalf of whom the Special Rapporteur sent a joint urgent appeal with the Special Representative on Human Rights Defenders on 17 September 2001 (ibid, para. 812) to which the Government responded by letter dated 21 June 2002 (see below), was reportedly subjected to ill-treatments from the time of his arrest on 10 September 2001 until the morning of 18 September 2001, when two lawyers from a human rights organization allegedly visited him. Reportedly, he was kept seated in a chair with his hands and feet handcuffed to the back for much of the time between 10 September and 18 September (this method is commonly known as *Shabeh* position) and was deprived of sleep. He was also believed to have been threatened with the arrest of his wife, who, as his lawyer, was allegedly not allowed to visit him.

736. **Adnan al-Hajjar**, a human rights lawyer on behalf of whom the Special Rapporteur sent a joint urgent appeal with the Special Representative on human rights

defenders and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on 1 May 2001 (*ibid.*, para. 803), was reportedly released on 23 May 2001 without charge. It was reported that while in detention in Ashkelon Prison he was kept shackled to a chair and interrogated for 20 hours a day over 14 to 15 days. He was believed to have been deprived of sleep for four days during this interrogation. It was also alleged that guards shouted in his ears loudly enough to cause physical pain.

737. By letter dated 13 September 2002 sent jointly with the Special Representative on human rights defenders, the Special Rapporteur advised the Government that he had received information according to which **Dr. Mustafa Barghouti**, a doctor and human rights defender as well as President of the Union of Palestinian Medical Relief Committees, was reportedly arrested on 2 January 2002 after a press conference with the participation of an international delegation including delegates from the United States and European countries. He was reportedly beaten at al-Ram checkpoint, as a result of what he had a fractured kneecap and various lacerations and bruises on his face and body. Some international delegates, including the Member of the European Parliament **Luisa Morgantini**, who were allegedly protesting against new attempts to arrest Dr. Mustafa Barghouti, were reported to have also suffered bruises and other injuries.

738. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999, 2000 and 2001 regarding which no reply had been received.

Urgent appeals

739. On 8 February 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women on behalf of **female Palestinian prisoners** held at Neve Tirtza women's prison in Ramle, on behalf of whom the Special Rapporteurs already intervened on 26 September and 16 October 2001. It was reported that after the last suicide bombing in Jerusalem on 28 January 2002, the criminal prisoners in Neve Tirza screamed death threats at the twelve prisoners detained allegedly because of their political activities and threw glasses into their cells. About 30 riot police, men and women, sprayed the cells of those prisoners with tear gas, even though it is believed that there are strict directives prohibiting spraying tear gas inside a closed space. The police reportedly entered the cells of the Palestinian women and started beating them with their truncheons. **Amne Muna** was allegedly subjected to the worst beating and tear gas was sprayed on her face. All the women were reportedly put in isolation and were handcuffed for some hours.

740. By letter of 14 February 2002, the Government responded that Neve Tirtza was a prison for women who were sentenced for periods of imprisonment. The prisoners were treated with respect for their dignity and receive on-going medical treatment from the prison's medical team. Ms Amna Muna was charged and convicted as accomplice in the murder of a 16-year-old Israeli boy. She incited the other inmates to riot. The prison service has therefore been forced to separate her from other inmates on several occasions. This has also entailed moving her to a different detention facility.

741. On 21 February 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on arbitrary detention on behalf of **William Jehard Shuman**, a British citizen, who was reportedly arrested on 5 January 2001 by the General Security Service (GSS) Shin Bet in Jerusalem and on behalf of whom the Special Rapporteur intervened on 22 June 2001. Since his arrest, he has reportedly been held in administrative detention and in complete isolation at the Ashmoret prison for about 106 days. As a result, his mental health was believed to be very fragile. On 18 February 2002, the Beer Sheva District Court reportedly postponed the hearing on the extension of his administrative detention and to have claimed that it is not authorized to rule on the holding of William Jehard Shuman in isolation.

742. On 2 April 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on arbitrary detention on behalf of '**Abd al-Salam 'Adwan** a nurse, who had been arrested on the night of 7 March 2002 from Maqassed Hospital in Jerusalem, where he works, and was taken to the Moskobiyya Detention Centre in Jerusalem. He was then reportedly transferred to Shikma Prison, Ashkelon, where he was said to be held in incommunicado detention. It was not known why 'Abd al-Salam 'Adwan is being held. On 26 March, his lawyer was reportedly told that there was an order prohibiting access to counsel for 10 days. The International Committee of the Red Cross (ICRC) was also said not to have been able to see him, as his name was not on the list given to them by the Israeli authorities.

743. On 2 May 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on the right to freedom of opinion and expression and on the independence of judges and lawyers and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Marwan Barghouti**, a Palestinian Legislative Council (PLC) Member. On 15 April 2002, Israeli forces in Ramallah reportedly detained him. Since his arrest, he was said to have been prevented from sleeping and from receiving food, water and medical treatment. For the past 12 days, he had reportedly been kept in complete isolation, with the exception of a single meeting with his lawyer, on 16 April. He was reportedly prevented from seeing members of the International Committee of the Red Cross (ICRC).

744. On 7 May 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers on behalf of **three Jewish detainees** who had reportedly been arrested on 30 April 2002 on suspicion of planning attacks against Arabs and other security offenses, and were presently said to be under interrogation by the General Security Service (GSS). Since then they have reportedly been held in incommunicado detention in an unknown location. On 30 April, an Order Prohibiting Meeting with Counsel and a gag order on their identity were imposed against them. The Order which was originally valid for 4 days was said to have been extended for an additional 6 days through 8 May. An appeal submitted by the suspects' attorney to the Jerusalem District Court and a petition filed to the High Court of Justice on 2 May against the above orders was reportedly rejected.

745. On 23 May 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Marwan Barghouti**, on behalf of whom the Special Rapporteurs had sent an urgent appeal on 2 May (see above). As a result of the treatment he was subjected to during

interrogation, he was reportedly admitted to the prison's clinic on 20 May and was said to suffer from severe pain in his back and hands, as a result of prolonged hours in the "shabeh" position. Due to nails sticking out of the chair, on which he was reportedly forced to sit for prolonged hours, his back is said to be bleeding. He was allegedly also subjected to sleep deprivation and has been kept in solitary confinement. On 19 May, the military court of Beit El extended his detention for another twelve days.

746. On 27 May 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Yusri el-Jamal**, sound man at Reuters and **Ayman el-Kawasmi**, head of a local radio station El Horriya, who had allegedly been put in administrative detention for three months, together with **Maher el-Dessuki**, journalist at the Ramallah-based Al-Quds Educational television, **Kamal Ali Jbeil**, journalist at the daily Al-Quds, and **Hussam Abu Alan**, photographer for Agence France Presse (AFP), on behalf of whom an urgent appeal was sent by the Special Rapporteur on the right to freedom of opinion and expression on 29 April 2002. Yusri el-Jamal was reportedly arrested by Israeli soldiers on 30 April 2002 outside the hospital of Hebron where he had gone, together with Reuters cameraman **Mazen Dana**, to film wounded people. They were allegedly blindfolded and handcuffed and taken to a district coordination office where they were forced to lie on the floor for several hours without food or drink, and interrogated the next morning. Mazen Dana was freed, but Yusri el-Jamal was held as he was reportedly suspected of "aiding a terror organisation". Ayman el-Kawasmi was reportedly also arrested on 30 April 2002 and taken, blindfolded and handcuffed, to the district coordination office from where it is reported that he was taken the next day to the Ofer detention centre. According to reports, Maher el-Dessuki and Kamal Ali Jbeil were arrested by Israeli soldiers on 18 April 2002 and were taken to the Ofer detention centre, while Hussam Abu Alan was arrested on 24 April near Hebron where he went to cover the funerals of two Palestinians. He is reportedly suspected of "aiding the Tanzim terror organisation".

747. On 12 June 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers on behalf of **Ramzi Kobar**, a field researcher with the Palestinian Society for the Protection of Human Rights and the Environment (LAW) who had accompanied the General Director of LAW, **Khader Shkirat**, on 9 June 2002, to the Petah Tikva Detention Center where Khader Shkirat was scheduled to meet with his client Marwan Barghouti, on behalf of whom the Special Rapporteur intervened on 2 and 23 May in conjunction with the Special Rapporteur on the right to freedom of opinion and expression. Upon arrival, Khader Shkirat was reportedly told to wait because Marwan Barghouti was being interrogated, and later was informed that he would not be allowed to meet his client since they considered that he was late for the appointment. He was reportedly later informed that Ramzi Kobar had been arrested for interrogation and was being held in the Petah Tikva Detention Center.

748. On 15 July 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative on human rights defenders on behalf of **Yousef Mahmoud Towreeg**, an Al-Haq fieldworker, who had reportedly been arrested on 14 July 2002 at the Doma checkpoint. His whereabouts were unknown.

749. On 8 November 2002, the Special Rapporteur sent an urgent appeal on behalf of **Hazim al-Natsha**, who was reportedly held at the Ofer detention centre, west of Ramallah since 29 April 2002 after he left a local hospital in Hebron, where he had been treated for serious injuries resulting from a shot in the stomach and the leg during the April siege of Hebron. It was reported that during his stay at the hospital, al-Natsha had two operations, during which his right leg was broken and he allegedly needed another operation of his leg. Reportedly, every time he asked for the prison doctor, he was given instead a medicine called "Elatrolet 10mg" which reportedly caused severe pain in his stomach and did not heal his wounds or relieve his pain. **Hussein al-Sawa'eed**, who was also held at the Ofer detention centre, was reportedly in need of an operation to remove a large swollen lump in his neck. However, he was allegedly not allowed to do so by the prison authorities and was only given painkillers.

750. On 2 December 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on arbitrary detention and the Special Representative on human rights defenders on behalf of **Abed Rahman al-Ahmar**, a field researcher with the Palestinian Human Rights Monitoring Group (PHRMG) who had been reportedly arrested again on 22 November 2002 in the Daheishe Refugee Camp and was believed to be detained at the Etzion Detention Center for interrogation regarding a relative of him. His detention had reportedly been extended for 11 days and had been set to finish on 3 December 2002. Reportedly, he was held in overcrowded and harsh conditions in cold cells without beds, was not given food during the day and was not allowed a daily walk outdoors. Furthermore, he was reportedly not receiving proper medical care or the medication he had to take on a regular basis despite reports that he was suffering from severe back and stomach aches.

Follow-up to previously transmitted communications

751. By letter dated 10 January 2002, the Government responded to a joint urgent appeal sent by the Special Rapporteur with the Special Representative on human rights defenders on 1 June 2001, on behalf of **Abed Rahman Al-Ahmar** (Abed al-Rahman al Ahmar) (E/CN.4/2002/76/Add.1, para.809). The Government informed that he was arrested on 24 May 2001 on suspicion of activities with the Popular Front organisation and various terror attacks. He has been arrested a number of times in the past and spent extensive periods in administrative detention. A petition before the High Court about his interrogation and conditions of detention was dismissed on 12 June 2001. The Court examined the allegations of ill-treatment, inter alia, by examining his arms during the hearing. The Court further found that he had not been denied medical treatment during detention.

752. By letter dated 21 June 2002, the Government responded to a joint urgent appeal sent by the Special Rapporteur with the Special Representative on human rights defenders on 17 September 2001, on behalf of **Daoud al-Dir'awi** (ibid., para. 812). The Government informed that he was arrested on 10 September 2001 on suspicion of involvement in illegal military activities on behalf of the Popular Front for the Liberation of Palestine. An administrative detention order was issued against him on 27 October 2001. For the protection of intelligence sources, regular criminal

procedures could not be applied. The Government stated that international law permitted administrative detention when there was no effective alternative and there existed a clear threat to security. A special investigation into the torture allegations concluded that there was no basis to these allegations. He was released in March 2002.

Observations

753. The Special Rapporteur notes with concern that no response has been provided to a number of cases brought to the attention of the Government since 1999 as well as to urgent appeals. In view of the nature of the latter, he would appreciate receiving prompt information on measures taken to ensure that the right to physical and mental integrity is properly respected. The Special Rapporteur also notes with concern that the Government did not extend to him an invitation to visit Israel.

754. The Special Rapporteur also notes the concerns of the Committee against Torture expressed in November 2001 after its consideration of the third periodic report of Israel under the Convention against Torture as follows: “(f) the continued use of incommunicado detention even in the case of children, is a matter of grave concern to the Committee. g) Despite the numerous allegations of torture and ill-treatment by law enforcement officials received by the Committee, very few prosecutions have been taken against alleged perpetrators.” (CAT/C/XXVII/Concl.5, para. 6)

Italy

755. Par une lettre datée du 2 septembre 2002, le Rapporteur spécial a informé le Gouvernement qu’il avait reçu de nouveaux renseignements relatifs aux incidents qui auraient eu lieu du 20 au 23 juillet 2001 à Gênes à l’occasion du sommet du G-8, au sujet desquels le Rapporteur spécial avait déjà transmis une communication le 30 septembre 2001 (E/CN.4/2002/76/Add.1, par. 816 et suiv.) à laquelle le Gouvernement avait répondu par une lettre datée du 31 octobre 2001 (*ibid.*, par. 817). En particulier, le Rapporteur spécial a transmis des renseignements sur les cas individuels suivants.

756. **Sara Bartesaghi Gallo** (f) aurait été arrêtée et battue par des membres des forces de l’ordre le 21 juillet 2001, alors qu’elle se trouvait à l’école Diaz, où plusieurs participants du Genova Social Forum étaient réunis. Elle aurait été évacuée du bâtiment en brancard et amenée à l’hôpital Galliera. Un certificat médical confirmerait ses allégations de mauvais traitements. Deux heures après son arrivée au centre hospitalier, elle aurait été transférée avec d’autres personnes au centre de détention de Bolzaneto où elle aurait été forcée de se tenir contre un mur les mains en l’air. Lorsqu’elle aurait demandé d’aller aux toilettes, une femme agent de police l’y aurait accompagnée en la bousculant, lui crachant dessus et l’humiliant. Plus tard, elle aurait été forcée de se tenir debout les bras contre un mur durant une heure. Elle aurait également été forcée de se déshabiller complètement devant deux agents de police masculins. Au cours de sa détention à Bolzano, elle aurait dormi dans des cellules particulièrement froides et n’aurait mangé que des sandwiches qu’un agent de police lui aurait amenés de sa propre initiative.

757. **Matteo Bertola** aurait été détenu et battu par des membres des forces de sécurité le 21 juillet 2001 à l'école Diaz. Il aurait reçu divers coups de matraque. Il aurait reçu des soins médicaux à l'hôpital de Sanpierdarena où on lui aurait diagnostiqué un traumatisme crânien et des lésions au dos. Le 23 juillet 2001, il aurait été transféré à la prison d'Alessandria et ensuite à celle de Pavie.

758. **Fabrizio Lungarini**, avocat, aurait été détenu et battu par la police le 21 juillet 2001 après avoir pris des photographies de manifestants se faisant violemment arrêter par des membres des forces de l'ordre. Lors de son arrestation, on lui aurait tordu le bras derrière le dos, et il aurait reçu des coups de matraque. Il aurait été transféré au centre de détention de Bolzaneto où il aurait été forcé de se tenir debout les bras croisés derrière la tête abaissée. Il aurait également été frappé après avoir été obligé de se déshabiller complètement. Il aurait plus tard été transféré à l'Istituto di Pena, à Alessandria, où un des agents lui aurait donné un coup de poing à l'œil droit. Il aurait été mis en liberté le 22 juillet. Il aurait porté plainte au procureur de la République de Gênes.

759. **Alessandro Minisci** aurait été frappé par des forces de l'ordre à l'école Diaz dans la nuit du 21 juillet 2001. Lorsque la police serait entrée dans le bâtiment, les agents auraient ordonné à tous les occupants de se coucher face à terre et ensuite de se tenir debout contre un mur. Au cours de l'intervention policière, Alessandro Minisci aurait été frappé à la nuque et aurait été tiré par l'oreille.

760. Par une lettre datée du 15 novembre 2002, le Gouvernement a indiqué que la magistrature avait entamé des enquêtes visant d'une part à identifier les auteurs des pillages et autres destructions et d'autre part à vérifier les prétendus abus qu'auraient subis les manifestants, en particulier lors des perquisitions à l'intérieur de l'école Diaz, lors de leur privation de liberté à la caserne Polstato de Gênes-Bolzaneto et lors des cortèges dans les rues. Le Gouvernement a clarifié que toutes ces enquêtes préliminaires étaient encore en cours. Les autorités judiciaires ont indiqué que, au plus tard au début de 2003, ces enquêtes seront achevées, mais que leurs résultats sont couverts par le secret de l'instruction. Néanmoins, il est possible d'anticiper que les éléments réunis au cours des enquêtes ont permis de procéder à l'inculpation de plusieurs fonctionnaires publics, y compris de haut niveau, appartenant aux forces de l'ordre. Le Gouvernement a assuré le Rapporteur spécial qu'il lui ferait connaître les résultats définitifs de ces enquêtes le plus rapidement possible.

Suite donnée aux plaintes signalées dans des communications précédentes

761. Par lettre datée du 19 février 2002, le Gouvernement a répondu à une communication transmise par le Rapporteur spécial le 30 septembre 2001 concernant les événements qui ont eu lieu à Gênes durant le sommet du G-8 (E/CN.4/2002/76/Add.1, par. 816 à 821). Le Gouvernement a informé que neuf enquêtes, y compris deux ayant pour objet les prétendus abus et violences des forces de police, étaient en cours au parquet de la République auprès du tribunal de Gênes. Sept magistrats auraient été engagés pour effectuer des vérifications, dont des commissions rogatoires en Espagne et en Allemagne, afin d'obtenir des témoignages des plaignants. La magistrature a également recueilli de nombreux rapports médicaux élaborés par des hôpitaux publics. Ces enquêtes n'avaient pas encore permis d'aboutir à des résultats concrets et les seules décisions prises par les juges portaient sur les

confirmations d'arrestation ou sur des ordonnances des mesures de prudence émises par le juge des investigations préliminaires, à la demande du procureur. Le Gouvernement a assuré qu'aucune des échéances prévues par la loi n'était arrivée à terme.

762. Par une lettre datée du 16 août 2002, le Gouvernement a transmis des renseignements sur les conditions de détention dans la prison de Sassari (ibid., par. 822). Le Gouvernement a indiqué que l'organe judiciaire chargé de mener les enquêtes nécessaires est le bureau du procureur du tribunal de Sassari. Simultanément, une enquête administrative a été menée et des mesures disciplinaires ont été prises contre des agents de la prison. Cependant, la plupart de ces mesures ont été remises à plus tard dans l'attente des résultats des procédures criminelles également engagées. Dans l'attente de ces résultats, des agents ont été démis de leurs fonctions comme mesure intérimaire.

Jamaica

763. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information regarding **Richard Williams** who was reported to have been shot dead by police on 8 June 2001 in Spanish Town, near Kingston, after having been beaten. It is alleged that his mother arrived at her son's workplace after hearing screams. She was allegedly beaten. It is reported that the national human rights organisation Families Against State Terrorism (FAST) visited the scene of the killing shortly after it took place. The killing is thought to be under investigation by police officers from the Bureau of Special Investigations, charged with investigations into all cases of shooting by police officers. It was feared that the investigation into the incident might be undermined by attempts by police officers to intimidate and harass members of Richard Williams' family. On 6 August 2001, two members of Richard William's family were arrested and detained at Hunts Bay police lock-up, Kingston, along with several other young men. In particular, Williams' nephew, **Levan Linton**, was reportedly beaten and subsequently held in incommunicado detention. It is alleged that William's sister, **Angella Dick**, was also arrested when she came to the police station to find out why her son had been arrested. Police officers allegedly hit her with their rifle butts and threw her out. It is reported that police refused to say why the men had been arrested and that lawyers and representatives from FAST, who arrived to provide legal assistance to the men, were also harassed and ill-treated.

764. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998, 2000 and 2001 regarding which no reply had been received.

Urgent appeals

765. On 17 April 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Kaydeen Brown**, a 19-year-old pregnant woman, **Ian Mundel**, **Jermaine Wilson**, "**Copper**", and other residents of Duhaney Park, Kingston. Police and soldiers had reportedly cordoned off the Duhaney Park district of the capital, Kingston, on 9 April

2002, and had raided a number of homes, killing **Michael Scarlett** in an alleged extrajudicial execution. It was believed that Michael Scarlett was forced onto his bed and shot, however the police are said to have claimed that they had shot him after he had opened fire on them. They reportedly beat and arrested his girlfriend, Kaydeen Brown, and charged her with possession of firearms, in an apparent attempt to intimidate her so that she does not testify about the killing. The police is furthermore said to have arrested other residents, namely Ian Mundel, Jermaine Wilson and a man known by the name of "Copper". The arrests are believed to be in retaliation for the killing of a police officer Basil Black, who was reportedly shot in the head when he responded to an emergency call in Duhaney Park on 6 April, and the wounding of his colleague PC Kevon Chambers. Kaydeen Brown was first said to have been held in a severely overcrowded cell in Hunts Bay police station with no access to medical attention. She was now said to be held in incommunicado detention at Metcalf Remand Centre, in Kingston. Many local people have been severely beaten by police.

766. By letter of 12 June 2002, the Government responded that the Bureau of Special Investigations was currently investigating the police operations in the Duhaney Park community on 9 April 2002. The preliminary report stated that during the search of wanted men and illegal firearms, a police officer shot Michael Scarlett in self-defence, who subsequently died at Kingston Public Hospital. An illegal firearm was found on the deceased. His common-law spouse was detained at the Duhaney Park police station where she was charged with illegal possession of firearm and ammunition. She was then moved to the Hunts Bay police station and remanded at the Metcalfe Street Remand Centre for women. In an interview with the Bureau of Special Investigations, she denied having been beaten or removed naked from the home of the deceased. She is currently on bail and was due to appear in court on 24 May 2002. The investigation is ongoing. There is no confirmation that Ian Mundel, Jermaine Wilson or a person known as "Copper" were arrested or had complained.

767. On 26 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Dave Beckford**, who had reportedly been beaten and threatened by police. He is the brother of Reagon Beckford, who was allegedly killed by police officers in March 2001. The police officers were allegedly trying to intimidate the family of Reagon Beckford, to prevent them from pursuing their quest for justice. On 23 July 2002, a Senior Superintendent, head of the Crime Management Unit, who was due to give evidence at an inquest in relation to this death and an estimated 30 other police officers, some of whom were attached to the Hundred Man Police Station, reportedly entered the home of the Beckford family in Braeton. Police officers allegedly beat Dave Beckford on the chest, face and testicles, and choked him. A human rights organization complained on behalf of the Beckford family to the Commissioner of Police. It was alleged that relatives of other persons killed along with Reagon Beckford have also been subject to intimidation and threats.

Observations

768. The Special Rapporteur notes with concern that no response has been provided to cases brought to the attention of the Government since 1998.

Japan

769. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information on the following individual cases.

770. **Patrick Loughlin**, a British national who has been living in Japan since 1993, was reportedly arrested on 30 October 1999. He is reported to have been accused of “grievous bodily harm leading to death” and sentenced on 31 March 2000 to four year’s imprisonment. He has so far been held at the detention centres of Kariya and Okazaki and he was detained at Nagoya Detention Centre at the time of writing, where he is believed to have been submitted to severe beatings, to a restraining belt which almost led to suffocation and to periods of solitary confinement. He is also believed to have suffered sleep deprivation, dietary restrictions and lack of proper medical attention.

771. **Abdul Amir Befkin**, an Iranian national currently serving a 12-year imprisonment sentence in Haramicho, Fuchi-Shi, is reported to be in a poor condition. Before being detained he was weighting about 75kg but he is now believed to weight 37 kg and to be on a wheelchair. He is reportedly suffering from a disease which affects his stomach and prevents him to eat properly.

772. By letter dated 13 November sent jointly with the Special Rapporteur on the human rights of migrants, the Special Rapporteur advised the Government that he had received information according to which migrants may be at risk of ill-treatment by immigration authorities during interrogations at Special Examination Rooms and by private security guards in detention facilities located in Narita Airport and other Japanese ports of entry, in particular at airport premises known as Landing Prevention Facilities (LPFs) and at an “Airport Rest House” outside the airport side. It is alleged that foreign nationals have been strip-searched, beaten or denied food by security guards. Some LPF detainees are also believed to have been held incommunicado and not been allowed to communicate with independent legal advisors or with their consular or diplomatic missions. Reportedly, in many cases, detainees at LPFs have been denied medical treatment by staff of security companies and by immigration officials. Some detention cells located in the LPFs and where migrants have been held for several weeks are reported to have no windows.

773. It was also reported that asylum-seekers have had their requests for asylum rejected without an adequate examination of their case and without consideration of the risks they may face if deported. Many asylum seekers are alleged to have been denied access to interpreters and lawyers, even during interviews, and to have been forced to sign documents written in languages they do not understand and without having been informed of their contents. It is alleged that by signing these documents the asylum-seeker may agree to waive his or her right to appeal against decisions taken by the immigration officials. Migrants and other foreign nationals detained in the LPFs were reportedly not properly informed of their rights. For instance, according to the information received, the detainees were only informed verbally by immigration officials at entry ports about their refugee status determination process

but they are not given written information on the asylum procedure in a language they understand.

774. The Special Rapporteurs have also transmitted information according to which foreign nationals, including migrants, were transferred from Special Examination Rooms of the immigration authorities to their detention facilities and back from the detention facilities to the air carriers on the day of their flight by private security companies. It was reported that private security companies have been contracted to monitor those detained in the LPFs. At least one of these private companies was believed to have asked the detainees to pay for their "accommodation". It is alleged that detainees that have refused to pay have been strip-searched. Force is also reported to have been used by staff of the security company against detainees who protested these requests. The Special Rapporteurs have been informed that no investigation on these allegations has been carried out by the authorities.

775. Finally, the Special Rapporteurs reported that in many cases, the denial of entry as well as human rights abuses are linked to the nationality of the person. It is reported that since 11 September 2001, several asylum seekers have been refused entry into Japan only because they came from countries such as Afghanistan or the Middle East region. According to the information received, from 11 September 2001 and 30 April 2002 at least 14 Afghan asylum-seekers have been denied entry into Japan at Narita Airport. They were allegedly detained at the Narita Airport LPF for as long as several weeks and later transferred by the immigration authorities to the East Japan Immigration Centre in Ushiku. Their claims for refugee were all rejected and deportation orders were issued. However, the Special Rapporteurs have been informed that in May 2002 almost all Afghan asylum seekers in Tokyo were granted provisional release.

776. In that connection, the Special Rapporteurs advised the Government that they had received information regarding **Ali Ahmad**, an Afghan asylum-seeker member of the minority Shia community, who had reportedly been detained at the LPF in Kansai Airport, Osaka, in September 2001. He was involved in fighting against the Taliban forces. His asylum claims have been rejected. An order to leave Japan was reportedly issued two days later. He was allegedly transferred to an Immigration detention room within Kansai Airport. Because the immigration officers yield at him, he was so scared to be subjected to physical violence that he signed all documents that he was asked to sign, including a document waiving his right to appeal the decisions taken by the immigration officials. On 18 February 2002, five months after the first deportation order had been issued, he was reportedly granted a provisional release. During the first three months of his detention, Ali Ahmad lost 35 kilograms.

Urgent appeals

777. On 14 March 2002, the Special Rapporteur sent an urgent appeal on behalf of at least **19 Afghan asylum-seekers** who were reportedly at risk of being forcibly returned to Afghanistan. Deportation orders were said to have already been issued for almost all of them. Many were believed to be from the Hazara ethnic group, who were reportedly persecuted when the mainly Pashtun Taliban were in power. They were interrogated on 17 September 2001 about any links they might have with Osama bin-Laden's Al-Qaeda organisation. They were reportedly arrested in October and most of

them are held at Higashi-Nihon Immigration Centre in Ushiku. All nine men's applications for refugee status were reportedly refused in November. Many of those detained are reportedly in deteriorating mental and physical health, and detention is likely to worsen their condition. Several detainees are reportedly suffering from eating disorders and some from acute weight loss.

Kazakhstan

Urgent appeals

778. On 15 March 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Mikhail Vershinin**, a Russian citizen member of the Jehova's Witness Community in Almaty, who was reportedly arrested by plainclothes police officers at his home in Almaty on 2 August 1999. He and two former work colleagues arrested at the same time, his half-brother **Jevgeny Turochnik** and a former police officer **Kopaï** (who was said to have been arrested on 31 July 1999) were reportedly beaten, suffocated with a plastic bag and detained in a metal box during the first three days of their detention. They were said to have been deprived of food, water and reportedly had no access to sanitary facilities. It is alleged that Kopaï had two fingernails ripped out. As a result of the treatment they were allegedly subjected to, the three above-named reportedly confessed that they had killed 42 young prostitutes. He was reportedly detained in a communal 12-person cell in prison with about 36 detainees who had to take turns sleeping. The cell is said not to have had any natural light nor ventilation. Mikhail Vershinin was reportedly sentenced to death on 28 September 2001. During court appearances, his face was covered with bruises allegedly as a result of severe beating. He is said to have been convicted solely on the basis of his confessions extracted during his pre-trial detention. As a result of the treatment he was allegedly subjected to during his pre-trial detention and the prison conditions, Mikhail Vershinin is said to have developed diabetes with neuro-dermatological complications. The penitentiary administration is said to refuse to provide him with medical treatment. In the summer 2000, he reportedly tried to commit suicide, but was reportedly not given any medical assistance. Since he was sentenced to death, he has reportedly been transferred to a wing for death row prisoners and detained in a small metal cell (box), measuring 2 m³, without light. His family has reportedly been denied access to him since his arrest, and has been barred from providing him with medication, food and books. He is said to have been and to continue to be subjected to severe beatings on a regular basis.

Observations

779. The Special Rapporteur considers it appropriate to draw the attention of the Commission to the relevant finding of the Committee against Torture in its consideration of the initial periodic report of the Kazakhstan in May 2001 under the Convention against Torture, in which the Committee expressed its concern that "[t]he allegations of acts of torture and other cruel, inhuman and degrading treatment or punishment committed by law-enforcement officials of the State party or with their acquiescence, including beatings and other actions in breach of the Convention against political opponents of the Government. (...) The pattern of failure of officials, including the procuracy, to provide in every instance prompt, impartial and full

investigations into allegations of torture reported to the authorities, as well as a failure to prosecute alleged perpetrators, as required by articles 12 and 13 of the Convention. The Committee appreciates, but expresses concern, over the Government's acknowledgement of superficial investigations, destruction of evidence, intimidation of victims, and forced repudiation of testimony by investigators and personnel of the Ministry of Internal Affairs; (h) The overcrowding and lack of access to adequate medical care in prisons and pre-trial detention centres, and particularly in juvenile detention centres, where there are reports of incidents of self-mutilation by detainees.” (A/56/44. para. 128 (b), (d) and (h))

Kenya

780. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1996, 1997, 1998 and 2001 regarding which no reply had been received.

Urgent appeals

781. On 24 May 2002, the Special Rapporteur sent a joint urgent appeal with the Special Representative on human rights defenders on behalf of **Dr. Moses Njue**, the Central Provincial Pathologist in Nyeri and **Dr. Andrew K Gachie**, an independent pathologist, who were said to have received threats and to have been threatened with de-registration for making a finding of torture in a post-mortem report in the case of the late **Paul Kimani Wambiru**, who was reportedly arrested for theft in Endarasha in March 2002. He was held at Muiga Police Station and subsequently at Nyeri Police Station. He was found dead on 25 March on the street in Nyeri. On 4 April 2002 the post-mortem was conducted by the two above-mentioned doctors. Dr Gachie appeared for the family and the Independent Medico-Legal Unit (IMLU), an independent non-governmental organisation partner of the International Rehabilitation Centre for Torture Victims. They are said to have found the left testicle crushed, and the bladder and intestines ruptured. The findings included peritonitis, bilateral haemothorax (blood in lung cavity), facial bruising and subconjunctival haemorrhages. The injuries were determined to have been inflicted by blunt objects and they concluded that the cause of death was torture in police custody. The body was buried and five policemen were arrested and charged with murder. The accused requested a repeat post-mortem and an exhumation was conducted two weeks later. The Chief Government Pathologist, who appeared in his private capacity, found the cause of death was brain inflammation. On 2 May, the Director of Medical Services in Kenya and the Permanent Secretary of the Ministry of Health called a press conference at which they threatened to de-register Drs. Njue and Gachie for lying. On 3 May, Drs. Njue and Gachie were summoned to the Ministry of Health and asked to harmonise their report with the one of the Chief Government Pathologist. The two doctors refused, and in response Dr Njue was dismissed as Provincial pathologist. On 7 May, the Attorney General obtained a court order barring reburial (planned for 8 May) and ordered a third post-mortem, which eventually took place on 8 May. This post-mortem confirmed the torture-related injuries. It is nevertheless reported that this post-mortem report will not be made public. The Director of Medical Services has now stated that doctors working in the Kenyan Civil Service and in the University may no longer carry out post-mortems for IMLU.

782. On 6 November 2002, the Special Rapporteur sent a joint urgent appeal with the Special Representative on human rights defenders on behalf of **HUREDICA Violence Victims Organisation**, a non-governmental organisation that documents and files claims on behalf of victims of acts of violence. On 26 October 2002, five officers from the Criminal Investigation Department reportedly raided the offices of this organisation in Nakuru. Officers were said to have confiscated documents and files containing evidence on ethnic violence. Three officials from HUREDICA were reportedly arrested: **Kinuthia**, the acting Chairman, **Joseph Kairo Mbugua**, the organizing secretary, and **John Ikuma Kariuki**, the Njoro area representative. It was alleged that they were interrogated and intimidated into abandoning any claims filed against the Government. On 1st November, 16 police officers reportedly raided the offices of Muslims for Human Rights (MUHURI) in Monbasa and confiscated files containing information on the Likoni/Kaa Ya Bombo clashes in 1997. These two incidents reportedly followed the release on 18 October of the Akiwumi Commission of Inquiry report on politically instigated violence which holds military, government and law enforcement officials responsible for numerous human rights violations that took place between 1991 and 1998.

Observations

783. The Special Rapporteur acknowledges the response of the Government (E/CN.4/2002/76/Add.1, paras 85 to 104) to the recommendations formulated in his predecessor's mission report (E/CN.4/2001/66/Add.1) and he would appreciate continuing to receive information on measures taken to implement the recommendations included in this report.

784. The Special Rapporteur regrets that no response has been provided to cases brought to the attention of the Government since 1996 as well as to the numerous cases included in the annex of his predecessor's mission report in 1999 (E/CN.4/2000/9/Add.4).

Kyrgyzstan

785. By letter dated 2 September 2002 sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information regarding **a peaceful demonstration** in Aksy on 17 March 2002 demanding the release of Azimbek Beknazarov, a Parliamentarian who was being detained and had reportedly been tortured (see below), that was reportedly fired upon by special police forces (OMON). The police reportedly began beating women participating in the demonstration. When **Tursunbek Akunov**, the Chairman of the Human Rights Movement of Kyrgyzstan, was arrested, the demonstrators are said to have demanded that he be released. At this point, an order was reportedly given by the District Prosecutor to open fire upon the crowd. Several persons were allegedly wounded and five reportedly died as a result, including **Sovetbek Tagayev**, **Kadyrkul Saparaliyev**, **Begaly Chetinbayev**, and **Urkumbaev Satynay**, with at least two persons having received direct shots to the head. At least 12 persons were said to have suffered serious bullet wounds. The Minister of Internal Affairs has reportedly stated that the police was obliged to resort to live ammunition, due to a lack of rubber bullets and tear gas.

786. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 2000 and 2001 regarding which no reply had been received.

Urgent appeals

787. On 31 January 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on arbitrary detention on behalf of **Azimbek Beknazarov**, the Chairman of the Committee of Judicial and Legal Matters of the Legislative Council of the Parliament, on whose behalf the Special Rapporteur on freedom of opinion and expression intervened by letter dated 25 January 2002. Azimbek Beknazarov was reportedly arrested on 5 January 2002, following allegations that he had mishandled a murder case in 1995, when he was an investigator at the office of the Toktogul District Prosecutor. On 8 January 2002, he was said to have been charged with abuse of power. It was believed, however, that his arrest may be the result of his recent criticism of the Government policies. The 1995 murder case refers to a fight between **Japaraly Kamchybekov**, a captain at the Jalal-Abad district police department, and a local resident, Jolchu Bukeev who later died in hospital. As an investigator Azimbek Beknazarov had reviewed the case, but decided not to file a criminal case against Kamchybekov, as he had allegedly acted in self-defence. On 5 November 2001, Jolchu Bukeev's relatives reportedly appealed to local prosecutors to reconsider the case against Japaraly Kamchybekov. On 9 November 2001, a criminal case was reportedly filed against the latter, and on 30 November, he was reportedly sentenced to eight years in prison. On 2 January 2002, they furthermore appealed to prosecutors that Azimbek Beknazarov be punished for having detained Bukeev's brothers during the investigation. Two days later, the Prosecutor of the Southern Jalal-Abad Province reportedly ordered the detention of Azimbek Beknazarov. It was also believed that the authorities exerted pressure on Bukeev's brothers, who were serving prison terms for other crimes, to write an appeal against Azimbek Beknazarov. In detention Japaraly Kamchybekov was said to have been tortured to make him sign evidence that incriminates Azimbek Beknazarov. Furthermore, several militiamen reportedly brought **Japaraly Kamchybekov's father** by force to the Department of Internal Affairs in Jalal-Abad, where he was subsequently beaten. The authorities allegedly subjected him to ill-treatment in order to force him to give evidence against Azimbek Beknazarov and to compel his son to do the same. Protests against Azimbek Beknazarov's arrest allegedly began on 10 January 2002, at the office of the Human Rights Movement of Kyrgyzstan in Bishkek and have reportedly spread, resulting in numerous threats to and arbitrary arrests of protesters. On 15 January, in Bishkek, 25 persons reportedly went on hunger strike, including two Deputies of the Legislative Council. By 18 January, there were said to be approximately 170 hunger strikers in Kyrgyzstan in support of Beknazarov, of which some reportedly reached a critical stage. On 17 January, **Chynybekov Talant**, who had been conducting a hunger strike for eight days, was reportedly arrested in the street by militia officers and taken to an undisclosed location. On 22 January, the head of the Bishkek Municipal Hospital reportedly dismissed **Tolobaeva Batiya**, Director of the Rehabilitation Centre, as she had offered medical assistance to many of the hunger strikers.

788. On 25 February 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression and the Chairman-

Rapporteur of the Working Group on arbitrary detention on behalf of **Azimbek Beknazarov** (see above). On 14 February, he was allegedly beaten by two security officials wearing masks. As a result, he was said to have lost consciousness and was later forced to write a statement indicating that he had not been beaten. Two deputies of Parliament reportedly saw him in bad condition on 19 February.

789. By letter dated 29 April 2002, the Government responded that during the investigations, Japaraly Kamchybevok and his father had recorded statements freely without any coercion and that the latter had neither been detained nor been remanded in custody. It also informed the Special Rapporteur that the preventive measure against Azimbek Beknazarov had been replaced with a pledge not to travel abroad. According to the Procurator-General, he had not been beaten in police custody in Jalal-Abat City Internal Affairs Office, no injections were given to him and no legal action was performed against him. Concerning the demonstrations against his arrest, the Government indicated that the security forces did not arrest and made no threats against the persons who had declared a hunger strike. However, on 14 January 2002, 17 persons were issued with warnings, two were fined and three were placed under administrative detention by the Aksyi district court. Chynybekov Talant was not detained and was not taken to the Internal Affairs offices. For her part, Tolobaeva batiya had not been dismissed.

790. On 7 October 2002, the Special Rapporteur sent an urgent appeal on behalf of five suspected members of Hizb-ut Tahrir who had reportedly been arrested on 26 September 2002 during a special operation launched by officers from the Suzak District Department of Internal Affairs and the Ministry of Internal Affairs: **Abdurahmanov** and **K. Moldosmanov** in the village of Suzak, **N. Nadjiev** in the village of Jyide, **Addukaharov** in the village of Bek-Abbad, and **A. Kadyrov** in the village of Dostuk in Nooken District.

Lebanon

791. Par une lettre datée du 17 octobre 2002, le Rapporteur spécial a rappelé au Gouvernement un certain nombre de cas qu'il avait envoyés en 2001, au sujet desquels il n'avait pas reçu de réponse.

Appels urgents

792. Le 12 juin 2002, le Rapporteur spécial a envoyé un appel urgent en faveur de **Fadi Taybah, Umar al-Rifa'i, Ahmad al-Darj** et **16 autres personnes** qui auraient commencé une grève de la faim depuis trois semaines à la prison de Rumieh. Ahmad al-Darj aurait une plaie infectée à la jambe droite et aurait été hospitalisé à l'hôpital d'al-Hayat depuis le 9 juin 2002. Fadi Taybah souffrirait de pertes de connaissance, de paralysies dans la main gauche, et souffrirait d'insuffisance cardiaque. Umar al-Rifa'i aurait une tension très basse. Tous auraient été arrêtés pour avoir participé à une violente confrontation entre des activistes armés musulmans sunnites et des membres des forces militaires et de la sécurité, dans la région de Dhinniyya en février 2000. Ils auraient été soumis à des mauvais traitements à la prison de Tripoli, au Ministère de la défense à Beyrouth et après leur transfert à la prison de Rumieh. Ils auraient reçu des coups de pied, auraient été frappés et auraient été soumis à la technique dite «du Ballanco», par laquelle la victime est soulevée du sol grâce à un bâton passé en les

coudes alors que ses poignets sont attachés dans le dos. Ils auraient été détenus au secret pendant près d'un mois. La plupart n'aurait eu accès à leurs avocats et à leurs familles que deux mois après leur arrestation.

793. On 22 August 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Ahmad Abu Ghosh Masjad Ghayth, Ali al-Hamawi** and **Fadi Taybah**, who had reportedly been released on bail in June 2002 by order of the Justice Council, and re-arrested on 13 August in connection with a bombing. They were said to be part of the hunger-strikers referred to in the communication sent on 12 June 2002 (see above). They were believed to be held incommunicado at the Ministry of Defence Detention Centre in al-Yarze.

794. Par une lettre datée du 22 juillet 2002, le Gouvernement a assuré qu'aucune des personnes mentionnées dans les deux appels urgents envoyés par le Rapporteur spécial en 2002 n'avait été victime de mauvais traitement ou de torture. Des soins médicaux avaient été dispensés à tous les prisonniers au centre médical de Rumieh (Roumyé) et dans les hôpitaux. Par une lettre datée du 29 juillet 2002, le Gouvernement a confirmé que certains détenus avaient observé une grève de la faim jusqu'au 3 juillet 2002. D'après le Gouvernement, leur condition sanitaire avait fait l'objet d'un suivi et ils avaient eu accès tous les soins médicaux nécessaires. Un médecin a précisé que l'état de santé de Mohammed El-Durj requerrait une opération chirurgicale. Cependant, ce dernier aurait refusé de se faire opérer s'il n'était pas auparavant mis en liberté. Le Gouvernement a également informé le Rapporteur spécial que les détenus en questions avaient été jugés devant le Conseil de justice. Enfin, par une troisième lettre, datée du 22 octobre 2002, le Gouvernement a indiqué que leur traitement continuait à être conforme aux règles et lois en vigueur dans les prisons sans aucune discrimination, qu'ils suivaient un régime alimentaire sain et recevaient régulièrement des visites médicales. Le Gouvernement a aussi précisé que les prisonniers sont autorisés à contacter leurs parents et leurs avocats afin de mieux gérer leurs affaires. Concernant les cinq détenus transférés au Ministère de la défense pour y être interrogés par la direction des renseignements, le Gouvernement a indiqué que ce transfert avait été effectué sur l'ordre du procureur général et qu'ils avaient été renvoyés à la prison de Rumieh deux jours plus tard sans avoir été soumis à un quelconque mauvais traitement. Aucun d'entre eux n'a été soumis à une détention administrative ni n'a été incarcéré à la prison de Yarzé. Enfin, le Gouvernement a précisé que sept d'entre eux ont été libérés.

Suite donnée aux plaintes signalées dans des communications précédentes

795. Par une lettre datée du 5 décembre 2001, le Gouvernement a transmis des renseignements sur la situation des immigrés irréguliers et les garanties juridiques prévues par la législation libanaise en la matière (E/CN.4/2002/76/Add.1, par. 905).

796. The Government indicated that the new Criminal Procedures Act of 2 September 2001, as amended by Law No. 359 of 16 August 2001, had entered into effect on 7 November 2001 (see E/CN.4/2002/76/Add.1, para. 909). The Act specifies a maximum period for remand in custody of 48 hours, renewable for a further 48-hour period with the approval of the Department of Public Prosecutions. It fully guarantees to any person in custody the right to contact a member of his/her family and a lawyer

of his/her choice. The assistance of a physician is also provided for. The majority of the allegations made, particularly as concerns the arrest of women, are unfounded. Caritas together with other humanitarian organizations periodically monitor and investigate the circumstances in which illegal immigrants are arrested and detained.

797. Par une lettre datée du 25 octobre 2002, le Gouvernement a indiqué que le peu d'empressement des autorités consulaires à fournir aux migrants les documents nécessaires pour leur retour dans leur pays d'origine explique certains retards dans le processus d'expulsion. Le Gouvernement a aussi indiqué que la Direction de la sécurité publique est responsable des inspections des centres dans lesquels sont détenus les migrants. Les allégations selon lesquelles les migrants y sont tenus dans conditions dures ou dégradantes ne sont pas fondées.

798. Par deux lettres datées des 23 et 25 octobre 2002, respectivement, le Gouvernement a transmis des renseignements sur des cas inclus dans une lettre envoyée par le Rapporteur spécial le 30 septembre 2001 (ibid., par. 893 à 907) et rappelés dans sa lettre du 17 octobre 2002.

799. Concernant **Bassima Huriya** (ibid., par. 897), le Gouvernement a indiqué qu'elle avait refusé de porter plainte contre la police judiciaire lorsqu'elle avait été interrogée par le procureur public près la cour de cassation en charge de l'affaire. Après avoir mené une enquête, ce dernier a décidé, le 7 mai 2002, de clore le cas et de ne prendre aucune action contre les agents de la police judiciaire soupçonnés de l'avoir battue, étant donné le manque de preuves et du fait qu'il n'était juridiquement plus possible de prendre des actions concernant des faits ayant eu lieu plus de trois ans auparavant.

800. Concernant **Fatima Yunes** (ibid., par. 898), le Gouvernement a noté que, malgré le fait qu'elle avait comparu devant un magistrat accompagnée de son avocat à plusieurs reprises, elle ne dénonça jamais avoir été victime de mauvais traitements avant la dernière audience. Après avoir interrogé également l'agent accusé de mauvais traitements, le magistrat décida de ne pas accepter la version présentée par la détenue. Le Gouvernement a précisé que rien n'indique qu'elle ou son avocat ait sollicité les services d'un médecin légal et qu'aucune plainte judiciaire n'a été enregistrée contre les agents de la sécurité de l'État.

801. Concernant **Heba Ma'sarani** (ibid., par. 900), le Gouvernement a indiqué que, après avoir mené et conclu une enquête le 30 avril 2002, le procureur près la cour de cassation décida de clore le cas et de ne pas prendre d'action contre les agents de police de Bab al-Ramla, étant donné le manque de preuves les impliquant dans les mauvais traitements dénoncés par la détenue et le fait qu'il n'est légalement pas possible de prendre des actions concernant des faits ayant eu lieu plus de trois ans auparavant.

802. Concernant **Huyam Ali Aylan** (ibid., par. 902), le Gouvernement s'est référé à l'information transmise auparavant dans sa lettre du 20 août 2001. Le Gouvernement a également indiqué que, lors d'une entrevue avec le procureur près la cour de cassation en charge mener l'enquête sur cette affaire, elle aurait affirmé que les allégations concernant les mauvais traitements étaient fausses. Elle déclara également

que sa tante, **Khadija Hussain Marwa** (ibid., par. 903), ne fut pas soumise à des mauvais traitements non plus et qu'elle eut accès aux soins médicaux nécessaires.

803. Concernant **Huda Yamin, Lina Ghurayeb** et **Mona Shkayban** (ibid., par. 904), le Gouvernement a assuré qu'elles avaient été détenues selon le droit en vigueur et qu'elles n'avaient en aucun cas été victimes de mauvais traitements. Le Gouvernement a également informé qu'elles avaient été envoyées à la prison de Ba'abda et remises en liberté sous caution 12 jours après leur arrestation.

Liberia

804. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information on the following individual cases.

805. **William Kesseley, Bockarie Musa, Kota Doga** and **Dennis Samurai**, four staff members of the Liberian Broadcasting Service (LBS), were reportedly arrested on 25 March 2002 by police. The four men were said to have been held in custody for several days in Police headquarters before they were brought to court. In detention, William Kessely was allegedly hung upside down, flogged at different times with a cane and an electric cable by other inmates reportedly acting on the orders of the police. The other staff members were reportedly also flogged in the police cells.

806. **Emmanuel Mondaye**, a reporter from the *Inquirer*, an independent newspaper, was reportedly arrested in Gbargna by Liberian security forces on 11 May 2002, and taken to the National Police headquarters in Monrovia where he was held for several days. He was reportedly picked up by the Liberian security forces after he saw ATU soldiers looting a United Nations office in Gbarnga. They reportedly arrested him, stripped him naked, and flogged him. He was reportedly released on 23 May 2002.

807. By letter dated 11 September 2002 sent jointly with the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur advised the Government that he had received information according to which several women had been raped by the Liberian security forces during fighting between them and forces of the Liberians United for Reconciliation and Democracy (LURD) on 9 May 2002 in Gbargna town.

808. **Fatu Kollie** was reportedly raped by a member of the Liberian security forces behind the Gbarnga Methodist School, in Gbarnga, on 9 May 2002.

809. **Annie Goll** was reportedly gang-raped by four men from a band of government militia fighters, inside the Gboveh High Building in Gbargna town, on 9 May 2002.

810. **Hawa Flomo** was reportedly abducted and held for two days while she was believed to have been repeatedly raped by a member of the Anti terrorist Unit (ATU), near the Cuttington University College, on 9 May 2002.

811. A **23-year-old displaced woman** was reportedly arrested by Government security forces at Sherman Farm, located between Bong Mines and Kakata, Margibi

County on 20 February 2002. The woman was reportedly gang-raped and then severely flogged by members of the security forces leading to severe bruising on her body.

812. A 14-year-old girl, **KF**, was allegedly gang raped in February 2002 by seven members of the ATU in Sawmill, Bomi County. She was said to have been fleeing from Sawmill during a supposed attack on the area. Under the guise of coming to rescue her, ATU members reportedly took her to a tent and held her there for six days, during which time all seven were believed to have repeatedly raped her.

813. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 2001 regarding which no reply had been received.

Urgent appeals

814. On 30 April 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on extrajudicial, summary or arbitrary executions, on the right to freedom of opinion and expression and on the independence of judges and lawyers, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative on human rights defenders on **Tiawan Gongloe**, a human rights lawyer, who was arrested on 21 April 2002 and was allegedly stripped naked and then severely beaten through the night. As a result, he reportedly has difficulty in hearing, his left eye is swollen and bloodied and his head and body are said to be badly bruised. After the pressure from lawyers, the police reportedly brought him to the Cooper Hospital where he is said to be receiving treatment. He appears to have been arrested in connection with a speech he gave at a March 2002 conference in Guinea on peace in the Mano River Union, which was printed in *The Analyst* newspaper, in which he stated that civil society groups could play a role in the attainment of peace in the Mano River Union and condemned the use of violence by the State.

815. On 27 June 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Hassan Bility**, editor of the *Analyst*, a newspaper that had allegedly been closed down twice in the past as a result of writing and publishing articles deemed critical of the government. He was reportedly arrested on 24 June 2002 along with three other persons by two plain clothes men who are believed to belong to the Criminal Investigation Division of the Liberia National Police. At the time of his arrest, he was allegedly slapped and kicked. He was held in incommunicado detention. He was thought to have been arrested on suspicion of operating a Liberians United for Reconciliation and Democracy (LURD) Terrorist Cell in Monrovia. On 13 May 2002 he had received a death threat from a colonel in the Liberian National Police who accused him of writing against President Taylor. This threat reportedly came in relation to a speech by Taiwan Gongloe (see above) the contents of which were considered as threatening to the government and its national security.

816. On 12 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf **Hassan Bility** (see above) who had allegedly disappeared from custody. On 2 July,

state lawyers reportedly failed for the second time to produce him for trial, claiming he was not in state custody although Information Minister reportedly said on 25 June that he was undergoing investigation at the national security agency.

817. On 30 September 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative on human rights defenders on behalf of **Sheikh K.M. Sackor**, the Executive Director of Humanist Watch, a human rights non-governmental organization, who was arrested on 25 July 2002 and whose whereabouts had since then remained undisclosed. Fears were again expressed regarding the whereabouts of **Hassan Bility**, who suffers from malaria, and was allegedly being denied access to medical care. **Mohammad Kamara** and **Ansumana Kamara** who were reportedly arrested together with Hassan Bility on 24 June, by two men in plain clothes believed to be members of the Criminal Investigation Division of the National Police, are believed to remain held at the National Security Agency (NSA). All four men have reportedly been accused of belonging to the armed opposition Liberians United for Reconciliation and Democracy (LURD). It was alleged that none has however been charged with any offence. Writs of habeas corpus filed by lawyers on their behalf have reportedly been blatantly disregarded. Finally, the Special Rapporteur welcomed the information according to which Moriah Sando Nyenetue had been released without charge in early September. At the time of her arrest on 20 August, fears had been expressed that she may have been detained solely because of her connection with Hassan Bility, by whom she has a child.

Libyan Arab Jamahiriya

818. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information according to which Libya had begun to apply the penalty of amputation, which, although provided for in domestic legislation, namely in Law N° 148 of 1972 (on the ft), had not until now been implemented in practice.

819. **Ali Mansour Mhemmed Al-Guinaidy** was reportedly sentenced on 13 October 2001 to the amputation of his right arm by the Criminal Court of Misurata. The amputation was reportedly carried out on 23 June 2002 at Misurata's central hospital, in the presence of the Libyan National Television, which was said to have filmed the whole procedure.

820. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 regarding which no reply had been received.

Urgent appeals

821. On 4 October 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Mohamed Massaud Izbeda, Hussein Seif Salem Aljadik, Abdelwahhab Seif Salem Aljadik, Abdallah Mohamed Massaud Izbeda, Belgasim Mohamed**

Massaud Izbeda and Rajab Mohamed Massaud Izbeda. On 1st September 2002, 62 prisoners allegedly detained on political grounds had been released. On 5 September 2002, Mohamed Massaud Izbeda whose son, Abdallah Mohamed Massaud Izbeda, had not been released, reportedly went to the headquarters (almathaba) of the Revolutionary Committee of Beni-Ouleed to find out about his whereabouts. He was reportedly kept at the headquarters where he was allegedly physically assaulted by members of the "revolutionary committee". It is reported that he was released from the almathaba later that afternoon, and went home where he died during the night, allegedly as a result of the treatment he had been subjected to. On 7 September, members of the Revolutionary Committee reportedly went to his family with the request to remove his corpse from the cemetery. This was said to have led to clashes with protesters, four of whom were arrested, namely Hussein Seif Salem Aljadik, his brother Abdelwahhab Seif Salem Aljadik, Belgasim Mohamed Massaud Izbeida and his brother Rajab Mohamed Massaud Izbeida, and taken to the "mathaba" (prison). On 13 September, it was reported that Hussein Seif Salem Aljadik had died in prison, allegedly as a result of the treatment he had been subjected to while in detention. His brother Abdelwahhab, who was reportedly released the same day, was severely injured. He is said to have broken legs and arms. As to Rajab Mohamed Massaud and Belgasim Mohamed Massaud Izbeida, they were said to remain in prison and their whereabouts were unknown.

Observations

822. The Special Rapporteur notes with concern that no response has been provided to cases brought to the attention of the Government since 1998.

Madagascar

Appels urgents

823. Le 27 mai 2002, le Rapporteur spécial a envoyé un appel urgent avec le Rapporteur spécial pour la promotion et la protection du droit à la liberté d'opinion et d'expression en faveur d'**Ali Sarety**, le responsable à Ambanja, province d'Antsiranana (Diégo-Suarez), du comité de soutien à Marc Ravalomanana, le candidat présidentiel déclaré élu le 29 avril 2002. Ali Sarety aurait été arrêté par des membres de la sécurité du président sortant, Didier Ratsiraka, le 11 avril. Il aurait par la suite été emmené au camp de gendarmerie Pardes à Antsiranana, où il aurait été détenu jusqu'au 17 mai. Il y aurait été détenu sans avoir été inculpé en compagnie de 18 autres personnes arrêtées dans la province d'Antsiranana. Ali Sarety aurait alors été transféré à Ambanja le 17 mai. Le tribunal de première instance d'Ambanja aurait inculpé Ali Sarety de possession illégale d'armes. Il serait actuellement traité au centre médico-chirurgical de Saint-Damien, pour des problèmes neurologiques, probablement dus aux coups qu'il aurait reçus au moment de son arrestation. Seule l'intervention d'un spécialiste d'Antananarivo pourrait permettre un traitement médical adéquat. Les autorités locales refuseraient toutefois son transfert dans la capitale.

Malaysia

Urgent appeals

824. On 4 February 2002, the Special Rapporteur sent an urgent appeal on behalf of **Dr. Badrul Amin**, a leader of the Keadilan political party, who had been released from the Kamunting Detention Center on 13 November 2001. On 31 January 2002, Dr. Amin was reportedly re-arrested under the Internal Security Act (ISA) by police authorities as he was reporting back to the Rawang police station, as part of the conditions for his release from the Kamunting Detention Center. It is believed that Dr. Amin's arrest is the result of his continuation to publicly speak out against the Malaysian Government's alleged injustice. It is reported that following his release in November, the Malaysian authorities had placed him under stringent restrictions, requiring that he report weekly to the Rawang police station, and forbidding any delivery of mail, presence at public gatherings, or involvement in political activities.

825. By letter dated 25 June 2002, the Government indicated that his detention order was suspended on 3 November 2001 in accordance with Section 10(1) of the 1960 Act. He was subsequently released from the Kamunting Detention Centre and placed under restricted residence in Gombak District, Selangor, in accordance with Section 8 (5) of the same Act. The legal status of Badrul Amin Baharon was not changed by the suspended detention, although he may enjoy freedom outside the Detention Centre. The Government pointed out that the suspension of the Detention Order was revoked on 31 January 2002 in accordance with Section 10(4) of the 1960 Act after it had been clearly established that the individual had intentionally breached the conditions set forth for the suspension of the Order as stipulated under Section 8(6) of the same Act. The above-mentioned person is therefore required to serve the remainder of his detention period.

826. On 23 April 2002, the Special Rapporteur sent an urgent appeal on behalf of **Mohd Ezam Mohd Noor**, Head of National Youth (NY), **Chua Tian Chang**, NY vice-president, **Lokman Noor Adam**, Executive Secretary of Youth Wing (NJP), **Saari Sungip**, former Jemaah Islamiah Malaysian president, **Hishamuddin Rais**, freelance journalist/film-maker, and **Dr. Badrul Amin Bharom**, National Youth Exco of the National Justice Party – NJP, who had reportedly been detained last year for their alleged participation in a plot to overthrow the government, and were sentenced in June 2001 to two years of imprisonment at the Kamunting Detention Centre in Perak, without having had recourse to a trial. It was reported that they started a hunger strike on 10 April 2002, in protest against their continuing detention without trial. They are said to be experiencing health problems in connection with the hunger strike, are not receiving adequate medical attention and are being denied access to their medical records.

827. By letter dated 11 July 2002, the Government further informed that they started a hunger strike on 10 April 2002 to protest against the facts that the Government could not meet their demands for their immediate release and for allowing former Deputy Prime Minister Anwar Ibrahim to undergo spinal surgery abroad. According to the Government, they were at all stages granted access to their respective families and lawyers and on 13 April 2002, representatives from the Commission on Human Rights of Malaysia met with them to hear their complaints

and to check on their situation. One medical officer of the Centre was tasked to constantly monitor the health of the six individuals and at the same time, one medical doctor from Taiping Hospital undertook medical examination on each of them on a daily basis. On 17 April 2002, Badrul Amin Baharon and Hishamudin Rais were taken to Taiping Hospital to undergo medical treatment. They subsequently stopped the hunger strike. The remaining detainees stopped the hunger strike in the morning of 20 April 2002. Allegations that they were not receiving adequate medical attention were baseless as two medical officers were always on stand-by to monitor their health.

828. On 6 May 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of the following 18 persons from the organisation Alaigal who had reportedly been arrested on 1 May 2002, during the annual May Day march that took place in Kuala Lumpur: **Mohanarani (f), Dr. Kumar Devaraj, Nathan**, the chairperson of the Livestock Committee Bukit Tinggi Estate, **A. Devindran**, three members of the Party Sosialis Malaysia, **Dr. Nasir Hashim, V. Selvan, K. Ramasamy**, five persons from the Plantation Workers Support Committee, **Sivami Subramaniam, Sevam Doraisamy, Vankat Rao Naidu, Eswaran Sengalrayan, Ravi Chandran Muniandy**, two members from SUARAM, **S. Arutchelvan, Choo Shin Chei**, and three members from WIMTECH, **Lee Siew Hwa (f), Shaharuddin Adnan, Abdul Rahman Abdul Aziz**, as well as a 8-year old boy, who were reportedly arrested in several areas of Medan Dang Wangi and Kuala Lumpur City centre, after an assault led by the Dang Wangi police District OCPD, at the front of the demonstration. Several demonstrators were said to have been hurt.

829. By letter dated 14 August 2002, the Government informed that the arrests were made only after the demonstrators refused to disperse. According to the Government, there was no child arrested during the incident. The 17 individuals mentioned in the Special Rapporteur's urgent appeal were taken to Dang Wangi Police Station for interviews and investigations and all of them were released on bail on 2 May 2002. The bail was extended until 15 June 2002, the date these persons were requested to be present for further investigations. However, none of them turned up at the police station. The Government has further informed that the Royal Malaysia Police has submitted their investigations papers to the Deputy Public Prosecutor. On 16 May 2002, three of the arrested individuals filed a complaint with Tun H.S Lee Police Station. As far as the Special Rapporteur has been informed by the Government, their cases are still under investigation.

830. On 22 August 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the human rights of migrants and the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning the amendments to the **Immigration Act** that entered into force on 1st August 2002. The amendments reportedly impose fines, up to five years imprisonment as well as mandatory whipping of up to six strokes of the cane for foreigners who are in Malaysia illegally. Reference was made to at least 64 undocumented migrant workers who were said to have been charged under this new Immigration Act in the last fortnight. They have allegedly been sentenced to up to three years imprisonment and one to six strokes of the "rotan", a long bamboo rod.

831. On 17 October 2002, the Special Rapporteur sent an urgent appeal on behalf of **Abdul Murad Sudin, Azahar Abdul Samad, Bakkery Mahamud, Nik Abdul Rahman Mustapha** and **Shaari Mustapha**, who had reportedly been arrested under the ISA on 16 October 2002. Their whereabouts were unknown. It was alleged that the police claimed that they had links with al-Qaeda and with Jemaah Islamiyah, a group accused of acts of terrorism.

832. By letter dated 25 November 2002, the Government confirmed that the Immigration Act 2002 as amended provided for the caning of irregular migrants and their employers as a deterrent to irregular migration. The Government specified that caning was not mandatory and it was not applied against women nor against men older than 50. According to the Malaysian Penal Code, caning could only be administered on certain parts of the body, and the cane used could not be more than half-an-inch in diameter. Each sentence was accurately monitored by a medical officer and ceased when the latter considered that the sentenced person was unfit to be whipped. The Government considered itself as having been just and fair in implementing the Immigration Act.

Follow-up to previously transmitted communications

833. By letter dated 12 April 2002, the Government responded to the urgent appeal sent by the Special Rapporteur on 12 October 2001 on behalf of **six religious teachers** (E/CN.4/2002/76/Add.1, para. 945). The Government stated that the Police had grounds to believe that they were involved in militant activities that could threaten the public order and internal security of Malaysia. At the time the Government transmitted this response, they were detained at the Taiping Detention Center for a period of two years pursuant to an order issued by the Home Minister. Finally, the Government indicated that the Constitution and legislation of Malaysia ensure its citizens the right to freedom of speech and expression and that this right shall be enjoyed within established parameters so long as they do not threaten public order and internal security.

834. By letters dated 21 and 25 November 2002 respectively, the Government transmitted information on cases which were included in a letter sent by the Special Rapporteur on 5 October 2000 (E/CN.4/2001/66, paras. 700 to 704).

835. Concerning the allegation regarding the break up of a demonstration in September 1999 in Kuala Lumpur (*ibid.*, para. 700), the Government responded that the police personnel on duty during the incident had acted within the parameters provided by the Police Act 1967, which *inter alia* govern the conduct of operation by police personnel in handling cases of illegal assembly or demonstration. The latter allow the police to resort to the use of reasonable force in order to disperse and bring to an end illegal assembly.

836. Concerning **Rosman Mohd Ariffin** (*ibid.*, para. 702), the Government confirmed that he had been detained on 21 September 1998 and indicated that he had been released on bail on 2 October 1998.

837. Concerning **Mohamad Suffian** (ibid., para. 703), the Government informed the Special Rapporteur that he was not in the list of those arrested on 17 April 1999.

Maldives

838. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received follow-up information on the following individual cases.

839. **Mohamed Nasheed**, an outspoken Parliamentarian advocating reforms in Parliament, on whose behalf the Special Rapporteur on torture and the Special Rapporteur on freedom of opinion and expression had intervened on 29 October 2001 (E/CN.4/2002/76/Add.1, para. 946), reportedly continued to be held incommunicado in Malé police station until 31 October 2001 when he was finally allowed to meet a relative for 45 minutes. He was reportedly kept in an underground cell without natural light. During his detention he was allegedly not permitted to consult with, or engage the services of, a lawyer. On 8 November 2001, he was allegedly taken to court. Following a short trial lasting only two hours, he was reportedly found guilty of the theft of unspecified “government property” and sentenced to be banished for two-and-a-half years to a remote atoll. At the High Court, he was said to have been allowed the services of a lawyer but his lawyer was not permitted to represent him in court. He was allegedly transferred to house arrest in Malé on 23 June 2002. His arrest was believed to have been politically motivated.

840. By letter dated 28 February 2002, the Government responded to the urgent appeal previously transmitted on his behalf 29 October 2001. The Government indicated that his trial had been conducted in open court in accordance with due process with the law and that the sentence had not been different from the sentences of the court in cases involving similar circumstances. The Government further informed that he had appealed to the High Court.

841. The Special Rapporteur has received further information regarding **Mohamed Zaki**, aged 50, **Ibrahim Moosa Luthfee**, **Ahmad Didi**, and **Fathimath Nisreen** (f). The Special Rapporteur on Torture, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention had already intervened on behalf of Mohamed Zaki and Ibrahim Luthfee on 12 February 2002 (see below). Ahmed Ibrahim Didi was reportedly arrested on 31 January 2002 at the Bandaranaike International Airport in Colombo, Sri Lanka, by Sri Lankan Interpol officers, and taken back to Malé. He was reportedly about to board a plane to Bangkok where he was going for medical treatment for a heart problem. Fathimath Nisreen, personal secretary to Ibrahim Luthfee, was reportedly arrested without warrant from the offices of “Viuga” in Malé on 1 February 2002, also by police from the National Security Service. All four were reportedly arrested because of their alleged involvement in writing and contributing to an Internet bulletin called *Sandhaanu*, which carries articles deemed critical of the government. They were reportedly taken to Malé Police Headquarters where they were held in solitary confinement for two weeks. They were then said to have been transferred to Dhoonidhoo detention centre, a small island approximately five kilometres from Malé. They were allegedly not permitted visits from relatives or friends while detained at Dhoonidhoo. The detainees were reportedly

brought to the criminal court in Malé for the first time on 29 May 2002. They were reportedly charged with “committing acts that were hostile to the government” and “defamation”. It was reported that at no time were the detainees allowed to be represented by a lawyer. On 26 June Ahmed Didi and Fathimath Nisreen were reportedly transferred to an island prison called Mafushi. Mohamed Zaki and Ibrahim Luthfee were transferred to Mafushi prison on 27 June. At Mafushi prison, they were reportedly kept in solitary confinement, in cells measuring 4 x 4 feet and had to sleep on the concrete floor on a piece of plywood. They were said not to have been permitted visits from family members. On 7 July 2002, all four detainees were reportedly brought back to court in Malé. Mohamad Zaki, Ibrahim Luthfee and Ahmad Didi were said to have been sentenced to life imprisonment on the charges of insulting the President and his government, trying to overthrow the government by calling out to the people to come forward and fight, causing hatred in the people’s minds towards the government by forming the above-mentioned newsletter, spreading false news and for forwarding the *Sandhaanu* newsletter to others through email. Fathimath Nisreen was reportedly sentenced to ten year’s imprisonment on charges of writing false information, expressing her dissatisfaction with the government’s policies, trying to overthrow the government by calling out to the people to come forward and fight, and of supporting the *Sandhaanu* originators. The four detainees were reportedly returned to Mafushi island prison where facilities were reported to be very basic and the prisoners reportedly had to sleep on a concrete floor.

842. By letter dated 1 December 2002, the Government responded that they had been tried in an open and fair trial and in due process of law. The Government further informed the Special Rapporteur that they had been found guilty by the Criminal Court of the Republic of the Maldives of having engaged in unlawful, illegal and subversive activities against the lawfully elected government, defamation and other criminal offences. According to the Government, none of them was ill-treated nor was anyone of them denied any rights granted under the Constitution and the national legislation.

Urgent appeals

843. On 12 February 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on arbitrary detention on behalf of three businessmen, **Mohamed Zaki, Ismail Zaki and Ibrahim Luthfee**, and **Naushad Waheed** (see above). All the above-named, except Ibrahim Luthfee whose whereabouts were unknown, were believed to be held incommunicado at Dhoonidhoo detention centre.

Mali

844. Par une lettre datée du 17 octobre 2002, le Rapporteur spécial a rappelé au Gouvernement un certain nombre de cas qu’il avait envoyés en 1999, au sujet desquels il n’avait pas reçu de réponse.

Mauritania

Appel urgent

845. Le 17 avril 2002, le Rapporteur spécial a envoyé un appel urgent conjointement avec le Rapporteur spécial pour la promotion et la protection du droit à la liberté d'opinion et d'expression et du Président-Rapporteur du Groupe de travail sur la détention arbitraire en faveur de **Mohammed Baba Ould Said, Bechir Ould El Hassen** et **Mohammed Fall Oumere**. Mohammed Baba Ould Said, résidant en France et en visite en Mauritanie, et Bechir Ould El Hassen, un homme d'affaires, auraient été arrêtés le 12 avril 2002 par la Direction de la sûreté de l'État, sous l'accusation d'implication dans la création du réseau Conscience et résistance, un mouvement politique clandestin dont les dirigeants seraient basés hors de Mauritanie. Mohammed Fall Oumere, directeur du journal *La Tribune*, aurait été arrêté le 13 avril 2002 dans la ville de Boutilimitt et transféré immédiatement à Nouakchott, après que le journal *La Tribune* eut publié un article sur la visite en Mauritanie d'un dirigeant de Conscience et résistance. Ces trois personnes seraient détenues au secret au siège de la Direction de la sûreté de l'État à Nouakchott.

Mexico

846. Por carta de 2 de septiembre de 2002, el Relator Especial notificó al Gobierno que recibió información sobre los casos individuales siguientes.

847. **Treinta y ocho personas, todas homosexuales o travestís**, habrían sido golpeadas y detenidas por agentes policiales los días 6 y 7 de abril de 2002 en Aguascalientes, Estado de Aguascalientes, y a continuación llevados a la dependencia policial más cercana. El 13 de abril de 2002, la policía habría insultado y golpeado a **César Froilán Vásquez y Ernesto Martínez**, activistas de la organización Comité Orgullo Gay Lésbico Bisexual Transgénero de Aguascalientes. Ernesto Martínez casi habría sido estrangulado por uno de los agentes. En esta ocasión, otras personas, homosexuales también, habrían recibido empujones y golpes por parte de la policía y seguidamente detenidas. Las personas homosexuales y travestís de Aguascalientes serían frecuentemente objeto de represiones y hostigamientos por parte de las autoridades locales. El alcalde de la ciudad habría ordenado a la policía el arresto "de toda persona con apariencia homosexual" a la que se encuentre caminando por la avenida López Mateos en el centro de la ciudad.

848. **Guillermo Veléz Mendoza** habría fallecido el 29 de marzo de 2002 mientras estaba bajo la custodia de efectivos de la Agencia Federal de Investigaciones (AFI). De acuerdo con la Procuraduría General de la República, habría fallecido a causa de un trauma en el cuello y asfixia por sufocación. Sin embargo una autopsia realizada posteriormente habría revelado que el detenido presentaba 36 contusiones supuestamente provocadas por golpes.

849. **Cuarenta y seis personas viajando en un autobús de la cooperativa "Pueblos Unidos del Rincón de la Sierra, S.C.L"** en la línea Yagallo-Ixtlán-Oaxaca el 1.º de enero de 2002 habrían sido detenidas por la población de Tantetze de Zaragoza con el consentimiento y el apoyo de las autoridades locales. Habrían sido amenazadas de muerte y golpeadas mientras las habrían conducido a la cárcel y al palacio municipal, donde algunos de los detenidos habrían permanecido recluidos hasta el 6 de enero del mismo año. Durante su detención, no se les habría proporcionado alimentación ni cobijas ni se les habría permitido salir al baño y

habrían sido continuamente sujetos a amenazas de muerte, sobre todo por parte del presidente municipal de Tantetze de Zaragoza, quien habría incitado a la población local a atacar a los detenidos. Una parte de los viajantes habrían sido trasladados a Santo Domingo Cacalotepec y otros habrían sido trasladados a la comunidad de San Miguel Yotao. La mayoría de las personas detenidas habrían sido golpeadas en diversas partes del cuerpo (sobretudo en las piernas, espalda, cabeza, hombros) con palos, varillas o con las manos. Muchas de ellas habrían presentado infecciones respiratorias, falta de apetito, dolores de cabeza, diarrea y debilidad corporal. Seis viajantes habrían sido esposados y cuatro más harían tenido las manos atadas detrás de la espalda en una posición forzada que habría durado aproximadamente dos horas.

850. **Alejandro Flores Tapia** habría sido detenido y golpeado el 27 de diciembre de 2001 en Ciudad de México por policías judiciales del Distrito Federal, entre ellos los tripulantes de la patrulla 1861, quienes lo habrían trasladado a la Primera Agencia Investigadora. Allí habría sido golpeado de nuevo hasta que ya casi no habría podido sostenerse de pie.

851. Por carta de fecha 15 de noviembre de 2002, el Gobierno informó de que los hechos, tal y como constan en la declaración ministerial, no coinciden con los denunciados ante el Relator Especial sobre la cuestión de la tortura, ya que como afirma el mismo denunciante, no existió tortura. De este caso conoció la Comisión de Derechos Humanos del Distrito Federal (CDHDF), a raíz de una denuncia presentada por la hermana del denunciante. Alejandro Tapia Flores desmintió la afirmación inicial, hecha en una primera entrevista entre el denunciante y representantes de la CDHDF y en la que afirmaba que fue la policía la que le había causado las lesiones, ratificando su declaración ministerial y aclarando que no había existido tortura y que las lesiones del tórax y de la cara se las había hecho en un partido de fútbol. La CDHDF solicitó medidas cautelares aunque actualmente la investigación fue detenida por desistimiento del arriba mencionado. Finalmente, el Gobierno indicó que al no haberse presentado denuncia alguna por tortura, no se siguió proceso alguno y no hubo por lo tanto lugar a compensación alguna.

852. **Eustacio Yáñez Ledesma** habría sido detenido en el Estado Queretaro y conducido a la prisión de San Juan del Río después de haber estado involucrado en un accidente de tráfico el 11 de noviembre de 2001, en el que también se habría visto afectado el Gobernador del Estado. El 2 de diciembre de 2001, dos hombres encapuchados habrían entrado en su celda y lo habrían amenazado con matar a su familia si no confesaba que había intentado asesinar al Gobernador. Le habrían atado las manos detrás de la espalda y le habrían propinado golpes en el estómago. Una denuncia habría sido interpuesta por la familia ante la Comisión Estatal de Derechos Humanos (CEDH), la cual habría recomendado a la Procuraduría General de Justicia del Estado (PGJE) que iniciase una investigación sobre dichas alegaciones. Al entrevistarse con la familia del preso, el Gobernador les habría comunicado que mientras Eustacio Yáñez estuviera en la cárcel, su seguridad podría estar garantizada pero que estaría en peligro de muerte si saliera en libertad. Eustacio Yáñez habría sido puesto en libertad bajo fianza el 19 de marzo de 2002. La CEDH y otra organización de defensa de los derechos humanos habrían solicitado a la Comisión interamericana de Derechos Humanos que pidiera al Gobierno mexicano protección para él y su familia.

853. Por carta de fecha 24 de septiembre de 2002, el Gobierno informó de que el 18 de marzo de 2002 el Juez de Primera Instancia Penal del Distrito Judicial de San Juan del Río, Querétaro, le otorgó libertad bajo caución y que el proceso penal en su contra seguía su curso. El Gobierno también indicó que la Procuraduría General de Justicia está llevando una investigación sobre las alegaciones de tortura en el Centro de Prisión Preventiva de San Juan del Río.

854. **César Salazar Góngora**, un indio maya bailarín y activista gay de 24 años, habría sido secuestrado por tres jóvenes en la ciudad de Mérida, Estado de Yucatán, el 10 de agosto de 2001. César Salazar Góngora habría sido violado y golpeado con una piedra. Sus agresores le habrían herido la oreja con un cuchillo y le habrían abandonado en el pueblo de Tixkokob. El 13 de agosto de 2001, habría interpuesto una denuncia ante la procuraduría local y habría sido examinado por un médico. Tras denunciar los hechos, habría recibido cerca de 65 amenazas de muerte por teléfono. El 27 de agosto del mismo año, las autoridades le habrían comunicado que su denuncia no se encontraba y que el hostigamiento por teléfono no constituía un crimen. El 28 de agosto habría interpuesto una segunda denuncia y se habría iniciado una investigación. Sin embargo, dicha investigación no habría avanzado desde entonces.

855. Por carta de fecha 15 de noviembre de 2002, el Gobierno informó de que no se encontró denuncia alguna por tortura en la que aparezca el Sr. Salazar como víctima. Se indicó que, con fecha 28 de agosto de 2001, éste presentó una denuncia ante la autoridad ministerial del Estado de Yucatán, encontrándose entre los hechos denunciados una posible violación, otras agresiones físicas sufridas por el peticionario, así como subsecuentes amenazas a raíz de su denuncia. La Averiguación Previa iniciada se encuentra en etapa de integración, no habiéndose presentado el arriba mencionado a comparecer cuando fue requerido para ello e imposibilitando consecuentemente la conclusión de las investigaciones. Finalmente, el Gobierno resaltó que para que las autoridades ministeriales puedan iniciar una investigación es indispensable que las personas ofendidas presenten la denuncia correspondiente ante la Procuraduría General de Justicia del Estado, ya que de lo contrario, el Estado mexicano se ve imposibilitado para esclarecer los hechos.

856. **Faustino Jiménez Álvarez**, residente en Tierra Colorada, municipio de Juan R. Escudero (Guerrero), habría sido arrestado en su casa el 17 de julio de 2001 por agentes de la policía. Habría sido arrastrado por el pelo y le habrían propinado patadas repetidamente. Los policías lo habrían introducido en un vehículo por la fuerza. Su mujer habría intentado impedir que se llevaran a su marido y habría sido amenazada de muerte. Cuando su familia habría solicitado información sobre su paradero a la Procuraduría General de Justicia de Estado y a las autoridades de la Policía Judicial de la región, éstas les habrían contestado que no estaba bajo su custodia. El 2 de julio la familia habría interpuesto una denuncia sobre su desaparición ante la Procuraduría General en Chilpancingo y ante la CEDH.

857. Por carta de fecha 7 de noviembre de 2002, el Gobierno informó de que, desde que su esposa denunció su desaparición, se han realizado diversas acciones tendentes a la localización del mismo. La autoridad ministerial inició una averiguación previa y se determinó, como resultado de las diligencias efectuadas, que no existían evidencias que permitiesen presumir que Faustino Jiménez Álvarez hubiera sido detenido como

consecuencia de una orden de aprehensión de la Procuraduría General de la República o de la Procuraduría General de Justicia del Estado de Guerrero. En julio de 2002, su esposa identificó a un Comandante y al Jefe del Grupo de la Policía Judicial del Estado que, según se desprende de las investigaciones realizadas, estuvieron aparentemente vinculados con la desaparición del arriba mencionado. En octubre de 2001, se determinó ejercitar acción penal en contra de las personas referidas, solicitando el libramiento de las correspondientes órdenes de aprehensión. Al respecto, la defensa de los inculpados ha promovido juicios de amparo, en contra de las órdenes de aprehensión referidas, sin que hasta el momento hayan obtenido resultados satisfactorios. Por otra parte, la PGJ Guerrero ha implementado diversas acciones para lograr cumplimentar las mencionadas órdenes, lo cual no ha sido posible hasta la fecha debido a que las personas se han sustraído de la acción de la justicia. La Comisión Estatal de Derechos Humanos de Guerrero emitió en marzo de 2002 una recomendación a la Procuraduría General de Justicia del Estado aceptada en su totalidad. El Gobierno indicó igualmente que se designó a un Ministerio Público Especial para que se encargue de estas investigaciones. En julio 2001, la Comisión Nacional de los Derechos Humanos inició un expediente de queja, turnado al Programa Especial sobre Presuntos Desaparecidos y que en estos momentos en etapa de integración.

858. **José Antonio García Sandoval**, habría sido aprehendido en su domicilio en la ciudad de Miguel Alemán (Tamaulipas) en mayo de 2001, por agentes de la Policía Preventiva. Habría sido golpeado, especialmente en la cara, y habría recibido patadas. Habría sido mantenido incomunicado durante 24 horas y amenazado con tratos similares en el caso que denunciara el incidente. A pesar de presentar costillas rotas y otras lesiones, dos exámenes llevados a cabo por médicos forenses no habrían señalado ninguna anomalía. Una denuncia habría sido interpuesta ante la Procuraduría General pero no se habría tomado medida alguna.

859. **Omar Guerrero Solís** habría sido detenido y golpeado por agentes de la Policía Judicial Federal el 8 de marzo de 2001 en el Estado de Michoacán, y trasladado a la comandancia de Ciudad Altamirano (Guerrero). Habría sido llevado hasta un río donde habría sido sometido a golpes, a inmersiones prolongadas en el agua y a descargas eléctricas en diversas partes del cuerpo. Le habrían introducido agua mezclada con chile por la nariz y lo habrían amenazado con asesinar a su familia. El 9 de marzo habría sido internado en la clínica de Agua Caliente, donde habría sido nuevamente golpeado por agentes policiales y dos civiles, le habrían cortado con una navaja, le habrían encajado agujas hipodérmicas y amenazado con cortarles los testículos y con matarle. El 11 de marzo, miembros del ejército habrían intentado llevárselo de la clínica pero los médicos lo habrían impedido dado la gravedad de su salud. El 12 de marzo habría sido trasladado a las instalaciones de la PJJ de la Ciudad Altamirano donde habría sido sometido a tratos similares. El día siguiente habría ingresado en el Centro de Readaptación Social (CERESO) de Cocuyo de Catalán, donde un custodio lo habría amenazado con cortarles los testículos y le habría herido con una navaja en la ingle y el pie derecho. No habría recibido atención médica más que la le habrían proporcionado otros presos del penal. El 4 de mayo de 2001, supuestamente por órdenes del director del penal, unos custodios lo habrían golpeado con macanas y navajas y le habrían propinado patadas. Otro preso, **Amadeo Campos**, habría sufrido el mismo trato. A este último también le habrían infligido una herida de unos 15 cm. de longitud en la pierna, sitio en el cual los custodios habrían

introducido repetidamente la punta de sus botas. A continuación y estando ambos presos inconscientes, habrían sido trasladados al CERESO de Acapulco, donde Omar Guerrero Solís habría sido confinado en un área de castigo.

860. Por la misma carta, el Relator Especial notificó al Gobierno que recibió información suplementaria sobre **Jacobo Silva Nogales** y su esposa, **Gloria Arenas Agís**, a favor de los cuales el Relator Especial transmitió un llamamiento el 16 de noviembre de 1999 (E/CN.4/2000/9, párr. 755) al cual el Gobierno contestó el 10 de septiembre de 2000 (E/CN.4/2001/66, párr. 746). Los dos estarían detenidos bajo la acusación de posesión de arma de fuego, terrorismo, asociación para delinquir y secuestro, en el Penal de Máxima Seguridad de Almoloya de Juárez y en el Centro de Readaptación Social de Neza-Bordo respectivamente. Ambos se encontrarían en huelga de hambre para pedir su libertad inmediata en virtud de las supuestas irregularidades que habrían tenido lugar durante su detención y su proceso penal, en particular por lo que se refiere a su derecho de defensa. Se teme por la salud y por la integridad física y psicológica de estos prisioneros. En efecto, Jacobo Silva Nogales habría sido trasladado a la sección de enfermería del penal debido a su grave pérdida de peso y el estado general de salud de Gloria Arenas Agís se estaría deteriorando rápidamente.

861. Por carta de fecha 28 de noviembre de 2002, el Gobierno informó de que determinaron poner fin a la huelga de hambre 60 días después de haberla iniciado. Durante estos dos meses, se les brindó atención médica a cargo del personal adscrito al Centro Federal n.º 1 y al Centro Preventivo Neza-Bordo.

862. Por carta de fecha 17 de octubre de 2002, el Relator Especial recordó al Gobierno varios casos que le había transmitido en 2001 respecto a los cuales no había recibido respuesta.

Llamamientos urgentes

863. El 28 de enero de 2002, el Relator Especial envió un llamamiento urgente juntamente con el Presidente Relator del Grupo de Trabajo sobre la Detención Arbitraria sobre **Manuel Cruz Méndez**, **Antonio Gómez Luna** y **Andrés Gómez Luna** quienes habrían sido detenidos por miembros del PRI en el Ejido Cuahtémoc. El 19 de enero de 2002, Francisco Cruz Pérez, defensor de la Región de San Jerónimo Tulijá, miembro de la Red de Defensores Comunitarios por los Derechos Humanos, habría solicitado al Ministerio Público que investigara la situación de Manuel Cruz Méndez. Habría sido informado de que éste estaba a punto de ser trasladado al penal de Cerro Hueco y que sólo disponía de dos minutos para entrevistarse con él. El detenido habría manifestado encontrarse mal debido a los golpes que habría recibido. Ese mismo día, un grupo de aproximadamente ocho personas, provenientes de San Jerónimo Tulijá y conocidos por la población de esa zona como presuntos paramilitares, habrían dado sus declaraciones ante el Ministerio Público en contra de los detenidos.

864. Por cartas de fecha de 18 de marzo y 8 de abril de 2002, el Gobierno indicó que la Comisión de Derechos Humanos del Estado de Chiapas inició de oficio un expediente con la finalidad de conocer el paradero y situación jurídica de los mismos. Antonio y Andrés Gómez Luna manifestaron haber sido golpeados por las personas

del Ejido al momento de su detención y haber sido trasladados a la ciudad de Palenque por elementos de la Policía Sectorial sin haber recibido maltrato alguno. Posteriormente fueron revisados por el médico de turno a su llegada a la Procuraduría General de Justicia del Estado de Chiapas. Asimismo, el Gobierno indicó haber estado en todo momento al tanto de la situación de los arraigados y que éstos señalaron que durante su arraigo fueron bien tratados.

865. El 28 de enero de 2002, el Relator Especial envió un llamamiento urgente juntamente con el Presidente Relator del Grupo de Trabajo sobre la Detención Arbitraria sobre **Francisco Jijón Torres**, quien habría sido golpeado y amenazado el 22 de diciembre de 2001 por la policía del Estado de Guerrero para que se confesara como autor de un robo. Tras liberarlo, los policías le habrían aconsejado no denunciar lo ocurrido. El 29 de diciembre de 2001, habría acudido a un médico para el tratamiento de sus heridas. El 7 de enero de 2002, se habría presentado a la oficina del Ministerio Público acompañada de un abogado para hacer una denuncia. Al principio un funcionario se habría negado a aceptarla y le habría amenazado con ser golpeado de nuevo. Otro funcionario aceptó finalmente ocuparse de su denuncia, pero el denunciante lo habría reconocido como uno de sus agresores. El Ministerio Público habría negado su implicación en los hechos y habría iniciado una investigación.

866. Por carta de fecha 18 de marzo de 2002, el Gobierno informó de que en enero de 2002 las autoridades ministeriales procedieron a girar instrucciones a elementos de la Policía Judicial del Estado para que realizaran las correspondientes diligencias de investigación. Asimismo, el Gobierno señaló que las autoridades ministeriales del Estado de Guerrero están integrando dos indagatorias en donde se investiga como probables responsables a un agente auxiliar del Ministerio Público del Fuero Común, al Jefe de Grupo Habilitado de la Policía Judicial del Estado y a dos elementos de la Policía Judicial del Estado. El Gobierno añadió que la Comisión Estatal de Derechos Humanos de Guerrero, con motivo de los presuntos hechos, inició un expediente de queja, en estos momentos en proceso de integración, con la finalidad de determinar si hay o no responsabilidad de algún funcionario estatal.

867. El 14 de marzo de 2002, el Relator Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre la violencia contra la mujer y la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias sobre **Valentina Rosendo Cantú**, una indígena de 17 años de la comunidad de Barranca Bejuco, municipio de Acatepec (Guerrero). Habría sido golpeada y abusada sexualmente por cuatro soldados el 16 de febrero de 2002. Su marido la habría conducido al Centro de Salud de Caxitepec, pero el médico se habría negado a emitir un certificado por miedo a represalias. Finalmente, en el Hospital General de Ayutly le habrían diagnosticado un traumatismo abdominal y hemorragias debido a los golpes. Habría presentado una denuncia el 26 de febrero ante la Comisión Nacional de Derechos Humanos (CNDH) con la asistencia de Organización Independiente de Pueblo Mixtecos-Tlapanecos. La CNDH no habría empezado su investigación. El Procurado Militar habría abierto una investigación sobre los hechos. El 2 de marzo soldados habrían intimidado a los miembros de su comunidad con disparos al aire.

868. Por carta de fecha 14 de mayo de 2002, el Gobierno indicó que el 5 de marzo de 2002, la Comisión de Defensa de los Derechos Humanos inició un expediente de queja debido a la denuncia interpuesta por el presidente de la Liga Mexicana para la

Defensa de los Derechos Humanos. Entre las diligencias de investigación efectuadas figura la toma de declaración a Valentina Rosendo y a su esposo. Asimismo, el Gobierno informó de que los agraviados fueron acompañados a la Agencia del Ministerio Público del Fuero Común del Distrito Judicial de Allende para que presentaran la respectiva denuncia penal así como al Hospital para que se pudiera valorar clínicamente a Valentina Rosendo Cantú. Debido a la presunta participación de servidores públicos de ámbito federal, el expediente de queja fue remitido a la CNDH, iniciando ésta, el 6 de marzo de 2002, un expediente de queja que actualmente se tramita en la Cuarta Visitaduría General. Debido a que la denuncia se formuló bajo la presunción de la participación de elementos del Ejército mexicano, la averiguación previa fue remitida a la Procuraduría General de Justicia Militar, donde continua abierta. Finalmente, el Gobierno indicó que remitirá mayor información en cuanto disponga de la misma.

869. El 14 de marzo de 2002, el Relator Especial envió un llamamiento urgente juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias sobre **Vicente López Pérez** y sus hijos **Vicente López Rodríguez** y **Mariano López Rodríguez**, quienes habrían sido detenidos por la policía municipal de Simojovel por haber supuestamente robado y asesinado a un agricultor en diciembre de 2001. El 6 de diciembre dos individuos identificados por Vicente López Pérez y sus hijos como agentes de la Policía Judicial del Estado (PJE) les habrían llevado a un edificio donde les habrían vendado los ojos y los habrían golpeado repetidamente. En varias ocasiones, les habrían cubierto la cabeza con bolsas de plástico hasta casi asfixiarlos. Vicente López Pérez habría sido puesto en libertad, y en abril de 2002 habría presentado una denuncia sobre los hechos.

870. Por carta de 19 de agosto de 2002, el Gobierno informó de que fueron entregados por pobladores del Ejido Constitución como probables responsables de un homicidio, lesiones y robo con violencia. Seguidamente, pasaron a disposición de las autoridades ministeriales. Vicente López Pérez obtuvo la libertad tras no haberse acreditado responsabilidad alguna y Vicente López Rodríguez fue sentenciado a 12 años, 6 meses y multa, encontrándose su caso, tras la apelación de la sentencia, a espera de resolución. El menor de edad Mariano López Rodríguez se encuentra en el Centro de Diagnóstico y Tratamiento de Menores Villa Crisol. Según señaló el Gobierno, no consta que hubiesen sido objeto de malos tratos y tortura. Asimismo, los exámenes de integridad física y edad clínica que se les practicó durante su puesta a disposición e investigación del personal médico adscrito al Hospital Integral de Simojovel certifican la ausencia de lesiones. El Gobierno indicó igualmente que existe una averiguación previa iniciada en abril de 2002 por Vicente López Pérez en contra de elementos de la Agencia Estatal de Investigación por el delito de abuso de autoridad en agravio de Vicente y Mariano López Rodríguez. En relación con la denuncia presentada por Vicente López Pérez y en la que indica que no tuvo acceso a un intérprete durante su comparecencia ante el Ministerio Público, el Gobierno informó que éste sí contó con un intérprete así como con una persona de su confianza, quienes aceptaron sus respectivos cargos. Sobre la queja presentada por la organización Centro de Derechos Humanos Fray Bartolomé de las Casas, A. C. , ante la Comisión Estatal de Derechos Humanos por motivo de probables amenazas susceptibles de inferirse en contra de los arriba mencionados, se implementaron en su favor y por la Procuraduría General de Justicia de Chiapas, medidas cautelares suspendidas posteriormente por considerarlo apropiado la citada Comisión.

871. El 14 de agosto de 2002, el Relator Especial envió un llamamiento urgente juntamente con el Presidente-Relator del Grupo de Trabajo sobre la detención arbitraria sobre la situación de las siguientes personas, residentes en la Comunidad San Isidro Aloapan, Distrito de Iyshioni (Oaxaca), que pertenecen a la etnia indígena Zapoteca y son miembros, salvo la menor de edad, del Consejo Indígena Popular de Oaxaca Ricardo Flores Magón (CIPO-RFM): **Gerardo Alavez García, Nazario López Alavez, Félix Alvarez Cruz, Gustavo Pérez Alavez, Marcelino Alavez Cruz, Isidro Aloapan y Miriam Alavez**, menor de cinco años de edad cuyo paradero sería desconocido. Habrían sido detenidos el 11 de agosto de 2002 en la Comunidad San Isidro Aloapan (Oaxaca), por el presidente municipal de la comunidad vecina de San Miguel Aloapan al mando de un significativo contingente de hombres armados. Su detención se habría producido mientras se encontraban plantando árboles en tierras de su comunidad. Habrían sido conducidos a San Miguel Aloapan y, al día siguiente, a la prisión de Ixtlan. Durante su captura, habrían sido insultados y golpeados, resultando heridos. A pesar de haber supuestamente sido testigos de estos incidentes, miembros de la Policía Preventiva no habrían intervenido.

872. Por carta de fecha 19 de noviembre de 2002, el Gobierno confirmó que la autoridad municipal de San Miguel Aloapan ordenó su detención. Fueron puestas a disposición del Ministerio Público y posteriormente puestas en libertad bajo caución. El Gobierno aseguró que se trató de una riña entre personas de dos comunidades pero que no existe evidencia alguna de tortura. Las averiguaciones previas respecto a este caso se encuentran en trámite de integración, por lo que el Ministerio Público todavía no ha ejercido la acción penal. De los exámenes médicos realizados por los servicios forenses de la Procuraduría General de Justicia del Estado de Oaxaca, se desprende que los detenidos no se encontraban heridos de gravedad.

873. El 28 de octubre de 2002, el Relator Especial envió un llamamiento urgente sobre **Jerónimo Hernández Refugio y Victorino Valente Ventura** quienes habrían sido arrestados por la PJE el 21 de octubre de 2002. Se les torturaría para declararse culpables de asalto y de cinco secuestros. El 22 de octubre de 2002 habrían sido trasladado al CERESO de Acapulco, donde se encontrarían aislado, sin permiso de tener visitas.

874. Por carta de fecha 19 de noviembre de 2002, el Gobierno informó de que estos mismos hechos fueron denunciados ante la Comisión de Derechos Humanos de Guerrero (CDHG). Sin embargo, según el Gobierno, hasta la fecha no se ha interpuesto ninguna denuncia ante las autoridades ministeriales. Consecuentemente, no se ha iniciado por ahora ninguna investigación penal. A su vez, la investigación iniciada por la CDHG se encuentra a la espera de la recepción de información solicitada a los superiores jerárquicos de los agentes de la Policía Judicial señalados como responsables. Estos estarían adscritos a la Comandancia del Municipio de Coyuca de Benítez. El Gobierno también indicó que los dos hombres fueron examinados por un médico una vez que fueron detenidos. De acuerdo con sus respectivos informes médicos, Victoriano Valente Ventura se encontraba en buen estado de salud y Jerónimo Hernández Refugio sólo presentaba una lesión en ambos ojos que no fue calificada como grave.

Seguimiento de comunicaciones transmitidas previamente

875. Por carta de fecha 19 de noviembre de 2002, el Gobierno proporcionó información suplementaria sobre los casos individuales siguientes.

876. En relación con **Valentín Carrillo Saldaña** (E/CN.4/2002/76/Add.1., párr. 992), el Gobierno precisó que un capitán de caballería fue condenado en primera instancia el 16 de marzo de 1999 por un Juez Militar adscrito a la Primera Región Militar a 30 años de prisión ordinaria, destitución de empleo e inhabilitación para volver a pertenecer al instituto armado, por el delito de violencia contra las personas causando homicidio calificado en agravio de Valentín Carrillo Saldaña. Mediante sentencia de apelación del 17 de enero de 2000, el Supremo Tribunal Militar redujo su condena a 20 años de prisión ordinaria por el mismo delito. El Gobierno aclaró igualmente que el condenado se encontró preso durante todo su proceso judicial. El 15 de octubre de 2001 el Tribunal Colegiado en Materia Penal del Primer Circuito, un órgano jurisdiccional civil, le negó el amparo que solicitó previamente. El Gobierno aseguró que el Capitán continúa cumpliendo su pena en la Prisión Militar adscrita a la III Región Militar de la secretaría de la Defensa Nacional.

877. En relación con **Alberto Gómez (López) García** (ibíd., párr. 993), el Gobierno ha indicado que una queja iniciada ante la CNDH fue concluida en el año 2002 durante el procedimiento.

878. Por cartas de 3 de diciembre de 2001, 2 de agosto de 2002 y 19 de noviembre de 2002, el Gobierno contestó a casos transmitidos por el Relator Especial el 15 de agosto de 2001.

879. En relación con **Teodoro Juárez Sánchez** (ibíd., párr. 1008), el Gobierno informó de que se inició una queja en 1997 tras la cual la CNDH emitió una recomendación dirigida a la Procuraduría General de Justicia Militar. Ésta se encontraría parcialmente cumplida.

880. En relación con **Pablo Gaspar Jiménez** (ibíd., párr. 1008), el Gobierno informó de que existe una queja ante la CEDHGRO por privación de libertad supuestamente cometida por elementos del Ejército. A su vez, la CEDHGRO declinó su competencia a favor de la CNDH.

881. En relación con **María Estela García Ramírez** (ibíd., párr. 1011), el Gobierno indicó que los hechos no son exactos. Informó de que la Comisión Estatal de Derechos Humanos de Oaxaca formuló a la Procuraduría estatal una medida cautelar respecto al planteamiento que interpuso la arriba mencionada ante esa Comisión. Esta medida cautelar fue aceptada, instruyéndose al Director de la policía ministerial del Estado para que no se adoptasen medidas no fundamentadas. Finalmente, el Gobierno añadió que no se localizó denuncia alguna relacionada con los hechos señalados por la quejosa y que no existe autoridad responsable en esos hechos delictivos al desprenderse de los informes policiales que no participaron en ellos autoridades estatales.

882. En relación con **Antonio Santiz Gutiérrez** (ibíd., párr. 1013), el Gobierno informó de que la supuesta víctima no dio inicio a ninguna averiguación por el delito

de tortura. La CNDH concluyó el expediente en virtud de que fue resuelto en el procedimiento en julio de 2000.

883. En relación con **Luciano Rodríguez Linares** (ibíd.1, párr. 1015), el Gobierno indicó que las alegaciones son inexactas al denotarse contradicciones tanto de las declaraciones vertidas como de la videocasete proporcionada. El Gobierno señaló que el procedimiento de responsabilidad administrativa aún no ha concluido y que el órgano encargado de la investigación de los hechos y del procesamiento de los responsables es la Agencia del Ministerio Público Investigadora n°1 en Delitos Sexuales de la Procuraduría General de Justicia y la Secretaría General de Gobierno del Estado de Nuevo León. Igualmente, el Gobierno señaló que Luciano Rodríguez Linares, según el dictamen médico que se le realizó, no presentaba lesiones visibles traumáticas recientes. El Gobierno indicó igualmente que a la fecha aún no se ha encontrado algún responsable y confirmó el no ejercicio de la acción penal dentro de la averiguación previa.

884. En relación con **Adrián Martín Gómez Pérez** (ibíd., párr. 1016), el Gobierno indicó que la Procuraduría General de Justicia del Estado de Nuevo León no cuenta con reporte alguno o denuncia o averiguación previa iniciada por los hechos que este interno denuncia, resultándole consecuentemente imposible a dichas autoridades contestar el cuestionario solicitado por las Naciones Unidas. Asimismo, el Gobierno informó que Adrián Martín Gómez manifestó a la CEDH de Nuevo León que no fue agredido en la prisión por lo que la investigación respectiva se concluyó en septiembre de 2000 con un acuerdo de no violación. El Gobierno añadió que en estos momentos, la CEDH se encuentra integrando el expediente de queja por nuevas denuncias interpuestas por el arriba mencionado y por su esposa, manifestando que facilitará mayor información en cuanto disponga de la misma.

885. En relación con **Pascual Cruz López y Mariano Cruz Montejo** (ibíd., párr. 1017), el Gobierno informó de que se inició una averiguación previa ante el Ministerio Público del Estado de Chiapas. Ésta fue consignada el 20 de septiembre de 2002 al Juzgado Mixto de Primera Instancia de Catazajá, donde el procedimiento todavía se estaba llevando a cabo cuando el Gobierno transmitió la presente información. El Gobierno indicó igualmente que los dos hombres fueron examinados por un médico, quien concluyó que los dos presentaban lesiones que tardan en sanar menos de 15 días y no ponen en peligro su vida ni dejan secuelas ni cicatrices visibles. Finalmente, el Gobierno informó de que los tres elementos de la policía municipal de la Ciudad de Palenque, Chiapas, señalados por las presuntas víctimas como responsables de los agravios supuestamente recibidos, fueron dados de baja.

886. En relación con **Walter Daniel** (ibíd., párr. 1018), el Gobierno informó de que nunca fue detenido ni torturado por la Procuraduría General de Justicia del Estado de Guerrero. El Gobierno indicó que existe una orden de aprehensión girada en contra del peticionario por su presunta responsabilidad en delitos de motín, daños, provocación para cometer un delito, ataques a las vías de comunicación y ejercicio indebido de propio derecho.

887. Por carta de fecha 19 de agosto de 2002, el Gobierno proporcionó información suplementaria sobre **Alberto de Jesús, Enrique y Mario Coutiño Morales**, los cuales fueron objeto de un llamamiento urgente enviado por el Relator Especial el 12

de julio de 2001 (ibíd., párr. 1021) al que el Gobierno ya contestó por cartas de 19 de septiembre y 9 de octubre de 2001 (ibíd., párr. 1022). El Gobierno indicó que se sigue el proceso penal en el Juzgado de Primera Instancia, encontrándose éste en etapa de instrucción. Igualmente, el Gobierno añadió que no existen antecedentes en los que los inculpados figurasen como ofendidos o víctimas en la comisión de algún delito y que éstos, en sus respectivas comparecencias y declaraciones, no manifestaron en ningún momento haber sido objeto de actos de tortura.

888. Por cartas con fecha de 3 de diciembre de 2001 y 21 de enero de 2002, el Gobierno proporcionó información suplementaria sobre **Gerardo Cabrera González**, quien fue objeto de un llamamiento urgente enviado por el Relator Especial el 23 de julio de 2001 (ibíd., párr. 1023) al que el Gobierno ya había contestado por carta de fecha 9 de noviembre de 2001 (ibíd., párr. 1024). El Gobierno señaló que Gerardo Cabrera fue detenido cuando elementos del 19 Batallón de Infantería se percataron de que llevaba un objeto que resultó ser un fusil AK47. En la misma fecha, fue puesto a disposición en la Agencia Única del Ministerio Público de la Federación (con sede de Zihuatanejo, Guerrero), iniciándose una averiguación previa que el 16 de julio de 2001 fue consignada con detenido al Juzgado Tercero de Distrito. El juez determinó, respetando las garantías de audiencia y de defensa del inculpado, la existencia de elementos suficientes para procesarle por el delito de violación a la Ley Federal de Armas de Fuego de Uso Exclusivo del Ejército, Armada y Fuerza Aérea, dictándose auto de formal prisión el día 16 de julio de 2001. La causa penal iniciada se encuentra en trámite. Adicionalmente, el Gobierno indicó que se encontraron otras averiguaciones en las que el arriba mencionado se encuentra involucrado como presunto responsable y que se remitirá mayor información en cuanto se disponga de la misma.

889. Por cartas de 12 y 21 de febrero de 2002, el Gobierno proporcionó información suplementaria sobre **José Francisco Gallardo Rodríguez**, quien fue objeto de un llamamiento urgente enviado por el Relator Especial el 31 de agosto de 2001 (ibíd., párr. 1025) al que el Gobierno ya contestó por carta de 30 de noviembre de 2001 (ibíd., párr. 1026). El Gobierno indicó que en octubre de 1996, la Comisión Interamericana de Derechos Humanos concluyó que éste había sido víctima de diversas violaciones de sus derechos, debiendo ser liberado inmediatamente. El 20 de diciembre de 2001, la Corte Interamericana de Derechos Humanos decretó la adopción de medidas provisionales para proteger su vida e integridad. El Gobierno de México determinó su traslado a un Centro de Readaptación en Chalco y el 7 de febrero de 2002 fue puesto en libertad al reducirse las penas al tiempo cumplido en prisión. Desde su liberación, José Francisco Gallardo dispone de protección personal preventiva, con una guardia a cargo de elementos de la Policía Federal Preventiva y de la posibilidad de interponer las acciones procesales que considere procedentes.

890. Por carta de 3 de diciembre de 2001, el Gobierno proporcionó información suplementaria sobre **Héctor Pérez Córdova**, quien fue el objeto de un llamamiento urgente enviado por el Relator Especial el 6 de marzo de 2001 al que el Gobierno ya contestó en diciembre de 2000 (ibíd., párr. 1039). El Gobierno informó de que la denuncia presentada por éste es falsa, al no haber sido objeto, ni él ni ningún otro interno, de maltrato por parte de los elementos de custodia del Centro Preventivo de Readaptación Social Topo Chico. Igualmente, el Gobierno señaló que tras habersele denegado por motivos de seguridad que la televisión le entrevistase en la prisión,

Héctor Pérez profirió insultos contra el jefe de seguridad. Consecuentemente, fue trasladado a otro dormitorio durante siete días, periodo durante el cual no se ordenó su confinamiento aislado y se le suministraron alimentos y sus medicamentos prescritos. Finalmente, el Gobierno añadió que Pérez Córdova fue reingresado el 1.º de noviembre de 1999 al Centro de Readaptación Social de Topo Chico donde se le practicó un historial clínico, diagnosticándosele que padecía esclerosis múltiple, hipercolesterolemia, antecedentes de accidente cerebro-vascular sin secuelas aparentes, reflujo gastroesofágico y disfonía secundaria a la esofagitis por reflujo. Debido a esto, fue remitido al Hospital de la Universidad Autónoma de Nuevo León donde está siendo sometido a atención médica especializada.

891. Por carta de fecha 3 de diciembre de 2001, el Gobierno proporcionó información suplementaria sobre **Rodolfo Montiel Flores y Teodoro Cabrera García**, un caso incluido en una carta enviada por el Relator Especial en octubre de 2000 a la que el Gobierno ya había respondido por carta de 24 de agosto de 2001 y por carta de diciembre de 2000 (ibíd., párr. 1043). El 8 de noviembre de 2001, el Presidente de México dictó la excarcelación de los arriba mencionados, encontrándose ambos desde ese momento custodiados por una escolta de la Policía Federal Preventiva. Por comunicado de 10 de noviembre de 2001, manifestaron que contarían con acompañamiento por parte de Brigadas Internacionales de la Paz a partir del 12 de noviembre de 2001 y hasta decidir sobre una propuesta de medidas concretas y definitivas a adoptarse en su favor por el Gobierno. Asimismo, el Gobierno señaló que el 1.º de octubre de 1999 se inició una averiguación previa por los delitos de lesiones y tortura cometidos contra Rodolfo Montiel Flores y Teodoro Cabrera García y en contra de Artemio Carballo Nazario, Calixto Rodríguez Salieron y José Concepción Calderón Flavián, elementos del Ejército mexicano adscritos al 40º Batallón de Infantería. Debido a que los probables responsables son elementos del Ejército mexicano se aprobó la competencia de la averiguación previa por los delitos de lesiones y tortura a favor de la Agencia del Ministerio Público Militar.

892. Por carta de fecha 7 de agosto de 2002, el Gobierno proporcionó información suplementaria sobre **Victoriana Vázquez Sánchez y Francisca Santos Pablo**, quienes fueron objeto de un llamamiento urgente enviado por el Relator Especial el 19 de mayo de 1999 (E/CN.4/2000/9, párr. 751) al que el Gobierno ya contestó por carta de 17 de agosto 1999 (ibíd., párr. 752). Según informó el Gobierno, el Agente del Ministerio Público especializado en delitos sexuales del fuero común de Omotepec (Guerrero), inició una averiguación previa sobre este caso. Se instruyó asimismo a un médico legista para el reconocimiento de las arriba mencionadas, el cual no apreció huellas de violencia corporal, coito reciente, embarazo o enfermedad venérea. El Gobierno añadió que las presuntas agraviadas no asistieron a la diligencia de inspección ocular y que no han podido ser ubicadas para que puedan colaborar en la investigación. Asimismo, la Procuraduría General de Justicia Militar no pudo continuar con las investigaciones iniciadas al no desprenderse elementos de convicción contundentes que permitiesen acreditar la participación de elementos del Ejército, solicitándose por el Agente del Ministerio Público Militar el archivo definitivo del caso.

893. Por carta de fecha 16 de agosto de 2002, el Gobierno proporcionó información suplementaria sobre **Jacobo Silva Nogales y Gloria Arena Agis**, quienes fueron objeto de un llamamiento urgente enviado por el Relator Especial el en relación 16 de

noviembre de 1999 (ibíd., párr. 755) al que el Gobierno respondió por cartas de 10 de septiembre de 2000 (E/CN.4/2001/66, párr. 746), de 8 y 28 de mayo de 2001 y de 30 de noviembre de 2001 (E/CN.4/2002/76/Add.1, párr. 1042). El Gobierno indicó que en diciembre de 1999 se inició una averiguación previa que posteriormente se canalizó a la Delegación de la Procuraduría General de la República en Estado de Guerrero para su debida integración. Igualmente, se indicó que a la averiguación previa iniciada en la Agencia Cuarta de Procedimientos Penales de Chilpancingo, Guerrero, se le acumuló la indagatoria iniciada en la Agencia Segunda de Procedimientos Penales de Chilpancingo, con motivo de la denuncia presentada por Gloria Arenas Agis por el posible delito de tortura cometido en su agravio por Servidores Públicos. Sobre el estado de salud de Jacobo Silva Nogales, el Gobierno señaló que éste puso fin, tras 60 días, a la huelga de hambre que había iniciado en apoyo a la “Jornada Nacional por la Libertad de Presos Políticos y de Conciencia”. El Gobierno agregó que durante la huelga de hambre se le brindó atención médica para vigilar su estado de salud, reflejándose en su cuadro clínico que su vida no corría peligro. Tras la revisión efectuada por los médicos ACAT-México, éstos recomendaron la adopción de varias medidas de cuidado. Tras la revisión médica que se le realizó en junio de 2002, la médica recomendó, entre otras medidas, someter al arriba mencionado a una vigilancia estrecha. En relación con el estado de salud de **Gloria Arenas Agis**, el Gobierno informó que de la revisión que se le realizó se deducía “buen estado de salud general y de hidratación, sin compromiso cardiopulmular ni gástrico, signos vitales dentro de los parámetros normales, refiriendo sin ingesta voluntaria de alimentos sólidos, únicamente de líquidos”. Igualmente, el Gobierno señaló que la arriba mencionada ingresó, en julio de 2001, en el Centro de Readaptación Social de Nezahualcoyotl por los delitos de delincuencia organizada en relación al acopio de armas, posesión de cartuchos, terrorismo y asociación delictuosa, existiendo un proceso pendiente en la actualidad por los delitos de homicidio calificado, tentativa de homicidio calificado, daño en propiedad ajena y rebelión. Asimismo, el Gobierno agregó que se han llevado a cabo reuniones en la Secretaría de Gobernación a efectos de valorar su situación así como los posibles cauces legales de solución.

894. Por carta de fecha 19 de agosto de 2002, el Gobierno proporcionó información suplementaria sobre **Juan Chivarría de la Cruz** y **Miguel Hernández de la Cruz**, un caso incluido en la carta enviada por el Relator Especial el 8 octubre de 1999 (E/CN.4/2000/9, párr. 741) a la que el Gobierno ya contestó por carta de 15 de diciembre de 1999 (ibíd., párr. 742). El Gobierno indicó que se giraron instrucciones a las instancias judiciales federales para esclarecer la muerte del periodista P. T. True Mitchel, determinándose, como consecuencia de las investigaciones realizadas, la aprehensión de los arriba mencionados por su probable responsabilidad en la comisión de los delitos de homicidio calificado y robo. Fueron investigados y consignados ante el juez de primera instancia. En agosto de 2001, se dictó una sentencia absolutoria, apelada por el Ministerio Público y en estos momentos a espera de resolución.

895. Por carta de 21 de agosto de 2002, el Gobierno proporcionó información sobre la situación jurídica actual de **Juan Sosa Maldonado**, **Gaudencio García Martínez** (E/CN.4/1998/38/Add.2, párr. 19), **Alfredo García Luna** (E/CN.4/1999/61, párr. 462 y E/CN.4/2000/9, párr. 760), **Celso García Luna** (E/CN.4/1999/61, párr. 462 y E/CN.4/2000/9, párr. 760), **Juanario Crispín Almaraz Silva** (E/CN.4/1999/61, párr. 462 y E/CN.4/2000/9, párr. 759), **Agustín Pacheco Hernández** (E/CN.4/2001/66,

párr.728) y **Octaviano Hernández Pacheco** (ibíd., párr. 720 y E/CN.4/2002/76/Add.1, párr.1032), El Gobierno indicó que todos ellos fueron beneficiarios de la aplicación de la Ley de Amnistía decretada, el 8 de diciembre de 2000, por la Legislatura del Estado de Oaxaca. Dicha Ley está dirigida a beneficiar a las personas involucradas en la comisión de diversos delitos de orden común y federal.

Observaciones

896. The Special Rapporteur acknowledges the continuing disposition of the Government to respond to information regarding individual cases brought to the attention of the Government. He nevertheless notes with concern that no information has been provided on measures taken to implement the recommendations made by his predecessor after his visit to Mexico in 1998 (E/CN.4/1998/38/Add.2). In that respect, he appreciates that non-governmental organizations provided him with relevant follow-up information on these recommendations last year (E/CN.4/2002/76/Add.1, paras 949-989 and 996-999).

Morocco

897. Par une lettre datée du 17 octobre 2002, le Rapporteur spécial a rappelé au Gouvernement un certain nombre de cas qu'il avait envoyés en 2000, au sujet desquels il n'avait pas reçu de réponse.

Appels urgents

898. Le 15 janvier 2002, le Rapporteur spécial a envoyé un appel urgent en faveur de **131 prisonniers d'origine sahraouie** qui seraient détenus à la prison de Lakhal à Laayoun, au Sahara occidental. Ils auraient commencé une grève de la faim le 25 décembre 2001 pour protester contre leurs conditions de détention. Un certain nombre d'entre eux auraient dû être hospitalisés. Leurs familles ne pourraient plus les visiter.

899. Par une lettre datée du 4 mars 2002, le Gouvernement a informé que les 97 détenus qui ont participé à la grève de la faim l'ont tous volontairement interrompue. Le Gouvernement a indiqué que la raison principale de la grève était de protester contre la soi-disant lenteur de la procédure judiciaire concernant 15 cas de détention provisoire en cours d'instruction. Le Gouvernement a assuré que les grévistes ont été visités par des membres d'organisations marocaines des droits de l'homme, qu'ils ont eu accès à des consultations médicales et qu'aucun d'eux n'a été hospitalisé. Le Gouvernement a fourni également une liste relative aux grévistes de la faim. Par ailleurs, en vue d'améliorer les conditions de détention de la prison de Laayoune, l'administration pénitentiaire a pris des mesures pour entreprendre son extension et a transféré une quarantaine de détenus vers d'autres établissements proches de leur milieu familial.

900. Le 2 septembre 2002, le Rapporteur spécial a envoyé un appel urgent en faveur de **Belkacem Hakimi**, détenu à la prison de Oukacha à Casablanca depuis juillet 1985. Il souffrirait de douleurs croissantes dans la colonne vertébrale et serait récemment tombé à terre sans que personne ne lui porte assistance. Il aurait finalement été examiné à l'hôpital, mais n'aurait pas été informé des résultats. Les

médecins auraient cependant indiqué que son état de santé serait très préoccupant et qu'il risquerait la paraplégie.

901. Par une lettre datée du 30 septembre 2002, le Gouvernement a assuré qu'il bénéficiait de la protection médicale nécessaire. Il a également été indiqué qu'il a pris connaissance des détails de toutes les consultations médicales le concernant et qu'il a interrompu la grève de la faim qu'il avait entamée le 23 août 2002 le 28 du même mois. Par une seconde lettre, datée du 17 octobre 2002, le Gouvernement a informé qu'il a été examiné par deux médecins de l'hôpital universitaire Ibn Rochd de Casablanca. Suite à cette visite, le 3 octobre 2002 il aurait demandé à être hospitalisé afin de déterminer si son état de santé exige une intervention chirurgicale sur une hernie discale.

Suite donnée aux plaintes signalées dans des communications précédentes

902. Par une lettre datée du 28 décembre 2001, le Gouvernement a répondu à une lettre envoyée par le Rapporteur spécial le 5 octobre 1999 (E/CN.4/2000/9, pars. 787 et 788) concernant les manifestations qui se sont déroulées à Laayoune en septembre 1999. Le Gouvernement a informé que les personnes arrêtées suite à ces événements et condamnées à des peines allant de 10 à 15 ans de prison ont toutes pu bénéficier de la mesure de grâce royale du 7 novembre 2001. Le Gouvernement a également transmis la liste des 35 personnes en question. L'une d'elles, Chibi Zahra, est décédée en prison.

903. Par une lettre datée du 25 février 2002, le Gouvernement a répondu au cas de **Ahmed Sanoussi** (connu aussi sous son nom d'artiste, «Bziz»), inclus dans une lettre envoyée par le Rapporteur spécial le 10 octobre 1996 (E/CN.4/1997/7, Add.1, par. 334) et rappelé dans des lettres postérieures du Rapporteur spécial. Le Gouvernement a informé que, d'après l'enquête effectuée par le procureur général près la cour d'appel de Rabat, Ahmed Sanoussi n'aurait jamais déposé plainte auprès des autorités judiciaires compétentes en vue de dénoncer les faits reprochés aux agents de l'ordre marocains.

Mozambique

Urgent appeals

904. On 14 February 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Amir Ali Mohamed**, who allegedly is in urgent need of medical treatment after having been shot in the head by police. He was believed to be held at Machava prison in Maputo. It was alleged, that prison officials have refused to transfer Amir Ali Mohamed to a hospital, despite his critical condition. He was reportedly first arrested on 6 January 2002, in connection with a car theft. It is alleged, that he remained handcuffed during one week, as the police claimed that they had lost the keys to the handcuffs. On 14 January, he was allegedly driven by three police officers to the Mavalane suburb of Maputo, where they reportedly shot him twice in the head and left him for dead. It appears that local residents alerted Amir Ali Mohamed's family, who took him to Maputo hospital. He remained in hospital until 20 January, when he was transferred to the third "esquadra" police station. The following day he was

apparently transferred to Machava prison. While he reportedly received some treatment at hospital, the bullet is said to be still lodged in his head.

Myanmar

905. By letter dated 1 October 2002 sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on violence against women its causes and consequences, the Special Rapporteur advised the Government that he had received information on the following individual cases.

906. **Maw Plu Meh**, an ethnic Karenni woman, was reportedly gang-raped near Daw Thè village, Loikaw Township, on 24 August 1996 by soldiers. It was alleged that Maw Plu Meh died as a result of her injuries.

907. **Naw Paw Lweh**, aged 15, and **Paw Lweh's Aunt** were allegedly raped in their house on 20 March 1997 in Poe Zeh village, Kyi In Seik Kyi Township, Karen State, by a Sergeant.

908. **Naw Aye Yin** and **Naw Thein Za** were allegedly gang-raped and executed on 23 March 1997 in Gar Lay Kee, Kya In Seik Kyi Township, Karen State, by soldiers from Light Infantry Battalion (LIB) No. 205. It was reported that the naked bodies of the two women had been left at the edge of a forest.

909. **Nang Pong**, **Nang Aye**, **Nang Pool**, **Nang Kham Arm**, **Nang Parng**, and **Nang Soi** were reportedly raped and executed on 28 March 1997 in Wan Phui village, Kho Lam tract, Nam Zarng township, Shan State, by 100 State Law and Order Restoration Council soldiers from Infantry Battalion (IB) No. 246. It was reported that the women had been accused of being Shan United Revolutionary Army (SURA) soldiers' wives.

910. **Naw Khin Mya**, an ethnic Karen woman, was reportedly kidnapped and gang-raped for two days on 10 September 1997 in Lar Aw Kor village, Thaton Township, by soldiers from LIB 534.

911. **Naw Lar Lu** and **Naw His His Thart** were reportedly gang-raped and executed on 22 December 1997 in Ta Lay Ko village, Tavoy District, Karen State, by soldiers from IB/LIB No. 280/285. It was also reported that the soldiers had taken Naw His His Thart's 14-year-old daughter and 8-year-old son away.

912. **Naw Shiri**, an ethnic Karenni woman, was reportedly gang-raped and executed on 4 February 1998 in Shodawko village troops from LIB 427.

913. **Naw Chit Bay** was reportedly raped and executed on 18 February 1998 in Kaw Thay Der, Toungoo District, Karen State, by a soldier from LIB 59.

914. **Naw Ma U**, aged 20, was reportedly raped and executed on 7 April 1998 in Ba Hat, Karen State, by an officer from LIB 234.

915. **Naw MuMu**, aged 50, was reportedly raped on 28 June 1998 in Shwe dee village, Kler Lwee tu / Nyaung Lay Bin District, Karen State. She was then reportedly asked for 18000 Kyats and released.

916. **Pay Moe**, an ethnic Karenni woman, was reportedly gang-raped on 21 December 1998 near Shadaw relocation Site, Shadaw Township, by five soldiers from LIB 412.

917. **Ma Pah Cho** was reportedly raped on 29 June 1998 in Ma U Bin, Karen State, by Officer Mg Mg Thein from LIB 350.

918. **Naw Htee Moo** was allegedly raped in front of her husband before they were both executed on 28 June 1998 in Shwe dee village, Kler Lwee tu / Nyaung Lay Bin District, Karen State by a Captain from LIB 60.

919. **Naw Paw Lu**, aged 16, was reportedly raped and executed on 20 July 1998 in Htit Baw village, Mutraw District, Karen State, by an officer from LIB 230.

920. In 1998, young women from the same village were reportedly summoned to garrison camp by a major for allegedly having links with the Karenni army. These women were allegedly beaten and raped by the major himself, and forced to do hard labour for three days. It was also reported that a platoon commander along with two lower commanders raped 4 girls, including 12-year-old girl **Bu Myar**.

921. **Naw Mu Tu** and **Naw Mu Naung** were allegedly gang raped on 26 July 1998 in front of their brother in Mae-ta-bu, a Karen village in Mon State, by soldiers from IB 61. It was reported that their brother had made a complaint but no action had allegedly been taken.

922. **Naw Bee** and **Naw Cho Yee** were reportedly raped and executed on 8 October 1998 in Du Soe Pwe Plaw, Karen State, by soldiers from LIB 552.

923. **Ma La Myint** and **Ma Kyunt**, aged 16, were allegedly raped and executed on 13 October 1998 in Aung Chan Than, Kler Lwee tu District (Nyaung Lay Bin), Karen State, by a Captain from LIB 59.

924. **Naw Mu Tu**, aged 18, was reportedly raped and executed on 13 October 1998 in Pa Wa Plaw, Tavoy District, Karen State, by a Captain

925. **Naw Kee Ker** was allegedly raped and executed on 4 November 1998 in K'nye Chaw, Karen State, by a soldier from LIB 42.

926. **Nang Zing** and **Nang Pang** were allegedly raped and executed on 3 June 1997 in Ter Leng village, Lai Kha Township, Shan State, by troops from LIB 424.

927. **Nang Thun** and **Nang Kham**, two ethnic Shan women, were reportedly robbed, raped and executed on 6 June 1997 at a local Military base in Murng Kerng Township by troops from LIB 519.

928. **Nang Suay Khin, Nang Lek, Nang Suay-Yunt** and **Nang Phawng** were reportedly gang-raped on 27 November 1997 in Wan Parng village, Shan State, and forcibly moved to Murng Nawng relocation site by soldiers from LIB 524. It was reported that these women had been raped by each soldier until evening and then executed.
929. **Nang Zing-Yunt**, an ethnic Shan woman, was reportedly raped and executed on 28 January 1998 in Mawk Zarm village, Nam Pa Luk tract, Murng Kerng Township, by troops from Lai Kha-based LIB 515. It was reported that her father and relatives had also been executed and their house burnt down.
930. **Aye Mung**, and **Aye Sa** were reportedly raped and executed on 19 April 1998 in Nar Mon and Wan Pek villages, Ham Ngai tract, Murng Kerng Township in Huay Kyawng, Shan State, by SPDC troops of LIB 513.
931. **Nang Sa** and **Aye Nang** from the villages of Nar Mon and Wan Pek were forcibly relocated to Ham Ngai relocation site, Murng Kerng township, Shan State, where they were reportedly raped on 3 May 1998 by a group of SPDC soldiers from IB 9. It was reported that both women were raped, executed and then buried under thin earth.
932. **Zarm Hawm**, an ethnic Shan woman, was allegedly raped and then executed by fire on 11 May 1998 in a farm hut, four miles east of Lai Kha town relocation site, by troops from LIB 442. It was also reported that her parents and one villager had been tied up and left in the forest. Her mother was said to have died of grief.
933. **Nang Kham, Nang Lu, Nang Oom**, aged 16, and **Nang Loi Khio**, aged 16, were reportedly raped and executed by SPDC troops from IB 225, near Ta Sang, on 18 May 1998. It was reported that their bodies had been mutilated and their breasts cut off.
934. **Nang Suay**, an ethnic Shan woman, was allegedly gang-raped and executed on 6 June 1998 near Kho Lam, Nam Zarng Township, by SPDC troops from IB 246.
935. **Nang Thawn, Nang Mya Zing**, and **Nang Mawn** from Nar Kharn village, Murng Nai Township, Shan State, were reportedly gang-raped and executed on 14-15 July 1998 by 12 SPDC troops from LIB 524. It was reported that a man accompanying two of the women had also been executed.
936. **Nang Kya Non**, an ethnic Shan woman, was allegedly raped and executed on 17 July 1998 in Lai Kha town by troops from LIB 515. It was reported that a complaint had been registered with LIB 515 Commander and the accused was allegedly assigned to a distant outpost.
937. **Nang Poi**, a 17-year-old ethnic Shan girl from Wor Tawng village, Ho Lin tract, Murng Pan Township, was allegedly raped and executed on 27 September 1998 by SPDC troops from LIB 520, while her family was staying overnight and tending their rice and soybean in a deserted village. It was reported that her brother and parents had been interrogated and executed.

938. **Nang Sa** was reportedly raped, beaten and executed on 10 December 1998 in a farm hut just outside of Nawng Kaw village, Wan Zard tract, Kae See Township by a Captain from LIB 424. It was alleged that the village headman witnessed him leaving the house and reported it to the town community leaders. The captain and his soldiers reportedly arrested, beat and tortured to death the headman, claiming that they had found a walkie-talkie in his house.

939. **Nu Harn, Sing La, Naang Hurng, Naang Muay, Zaw Yaen, Naang Kui, Kham Non, Seng Hurng, Zing Nyunt, Kham Leng, Pa Maai, Pa Awng, and Pa La** were reportedly accused of assisting Shan soldiers. They were allegedly raped on 17 January 1999 in Tawng Seng village, Huay He tract, Ho Pong Township by SPDC troops from Murng Pawn (in Loi-Lem). It was alleged that one girl had been released while the other 13 women were taken away with the troops as porters. Four of them had reportedly been executed and the others disappeared.

940. **Nang Kawng Tip**, aged 17, was reportedly raped and executed on 13 April 1999 near Murng In village, Murng Poo tract, Murng Sart Township, Shan State, by 7 Murng Sart-based SPDC troops from LIB 527.

941. **Naw Khi Kyi** was allegedly raped and executed on 15 April 1999 in Hay Tah Weh, Kler Lwee tu District (Nyaung Lay Bin), Karen State, by a Captain.

942. **Naw Pun na** was reportedly raped and executed on 25 April 1999 in Shwe Kah Mang, Kler Lwee Lwee Tu District (Nyaung Lay Bin), Karen State, by a Captain.

943. **Naang Zing Mya**, an ethnic Shan girl originally from Wan Paang village, Nawng Hee tract, Nam Zarng Township, was reportedly raped and executed on 24 May 1999 by SPDC troops from Co.4 of LIB 247. It was alleged that the village headman had advised the parents not to make complaints.

944. **Naang Yaen, Naang Kham, Naang Zaan, and Naang Zing**, four ethnic Shan women and girls were reportedly gang-raped and executed on 29 May 1999, in Kaeng Lom tract, by SPDC troops from LIB 246 and IB 12. The troops reportedly separated them from their parents and took them to different places, where they were gang raped and executed.

945. **Naw Thsan Tin** was reportedly raped and executed on 22 July 1999 in Lek kaw wa, Kler Lwee too District, Karen State, by a Captain from LIB 440.

946. **Naw The Moe, Naw Po Pree, Naw Per Say**, aged 16, and **Naw Thu**, aged 9, were allegedly raped and executed on 31 July 1999 in Ta Po Kee, Karen State, by LIB 101, Section 4. It was reported that Naw The Moe was five months pregnant

947. **Naang Mon**, originally from Kaeng Lom village but relocated to Kun Hing town, was allegedly gang-raped and executed on 16 September 1999 by SPDC troops from IB 246. It was reported that she had been forced to accompany the troops for four days during which she was repeatedly raped by their Captain. On the last day a captain reportedly ordered his officers to rape her one by one, after which she was reportedly given to a private who, after raping her, executed her with his bayonet.

948. **Mi Than Aye**, aged 16, was allegedly gang-raped in September 1999 in War-ta village, Yebyu Toenship, Tenasserim Division, by soldiers from Battalion IB 103. The soldiers reportedly took her parents away, tied her up and raped her one after another until she lost consciousness.

949. **Nawng Pe** and **Naang Khin Lu** originally from Wan Pae village but relocated to Kun Hing town relocation site, were reportedly arrested on 29 September 1999 by troops from IB 246. They were allegedly accused of being wives of SSA soldiers and interrogated. They were then taken by troops on patrol for 5 days and 4 nights during which time they were reportedly abused, raped and then executed.

950. **Pa Poi**, **Naang Awng**, **Naang Mawn** and **Pa Loi Pe**, originally from Kung Pek village, Huay Awn tract, and relocated to Murng Kerng town relocation site, were reportedly accused of having provided rice for the Shan rebels on 30 October 1999 by SPDC troops from LIB 514. The women were allegedly raped all night and then executed.

951. **Naw Kaw La**, a pregnant woman, and **Saw Nay Moo Moe** were reportedly raped and executed on 4 April 1999 in Paung Aw tau, Kler Lwee tu District (Nyaung Lay Bin), Karen State, by Special troops.

952. **Naang Nguay** and **Nang Lern**, aged 17, from Nam Pa Man village, Kaeng Lom tract, Kun Hing Township, were reportedly raped and executed on 11 January 2000 by SPDC troops from Co.2 of IB 102.

953. **Naang Ser**, aged 18, from Kun Hing town, was reportedly accused of supporting Shan soldiers, and repeatedly raped and beaten to death by SPDC troops from IB 246 on 22 January 2000. It was reported that her father and brother had also been accused of supporting Shan soldiers, and had been tortured and beaten to death. It was also reported that the girl's cousin, who was working as a porter for the SPDC troops, tried to intervene to save his relatives, but was severely beaten, became mentally unbalanced and later died.

954. **Maw Keh Lah**, a 13-year-old Karenni girl, was reportedly raped at her house on 8 February 2000 in Daw Kraw Ku village, Prusoe Township, by a soldier from LIB No. 427. Both her father and her sister, aged 9, reportedly tried to stop the rape and were shot in the legs. It was said that the village headman had tried to take the case to court, but no response from the authorities had allegedly been received.

955. **Naw Paw Kyaw**, aged 16, **Naw Kya Sein**, aged 17, and **Naw Tway Nyo** were allegedly gang-raped on 22 March 2000 in Kyaw Be Loo, Doo Pla Ya District / Myawlamyaing, Karen State, by soldiers from SPDC 881.

956. **Naang Mya Ki**, **Naang Mya Lu** and **Naang Thun Nae**, aged 18, were allegedly raped and beaten to death on 13 March 2000 by SPDC troops from LIB 359 in Pa Sak village, Waeng Nur tract, Murng Sart Township. It was reported that the troops had seized the women while they were collecting firewood in the forest and interrogated them. A captain allegedly took the youngest girl into a nearby bush and

raped her. He then reportedly told his junior officers to rape the women, after which, the troops allegedly beat them to death with sticks.

957. **Naw Kleh**, aged 14, and **Naw Htoo Paw** were reportedly raped and executed on 28 March 2000 in Petakah village, in Buko-Kwakee area, by soldiers from a combined column LIB No. 516 and LIB No. 518. It was reported that the soldiers had captured three men from the village along with the victims and reportedly executed one of them.

958. **Naang Ong**, aged 15, **Naang Thun Nae**, aged 18, and **Naang Paan Yaen**, originally from Wan Khem village, Wan Khem tract, Kae See Township, and relocated to Kae See town, were reportedly accused on 26 March 2000 of being wives of Shan rebels. It was reported that SPDC troops from Co.3 of LIB 514 had tied them up, interrogated them and gang-raped them. Initially, three SPDC officers reportedly raped the women all night and half of the next day, and then the remaining 30 troops allegedly gang-raped the women and executed them.

959. **Naang Oo**, a physically and mentally disabled 18 year-old girl, originally from Kun Pan village and relocated in Kun Hing, was reportedly gang-raped and killed on 11 April 2000 by SPDC troops from IB 246. It was alleged that the Captain interrogated her for some time, beating and torturing her. He then reportedly ordered his troops to, "Take her away, I don't want to see this kind of fool anymore." The soldiers allegedly gang-raped and executed her, then dumped her body into the river.

960. **Naang Kham Leng**, aged 16, and **Naang zing Nyunt**, aged 17, originally from Kung Sa village, Wan Saang tract and Nam Tawng village, Wan Lur tract, Lai Kha Township, were reportedly detained and raped on 2 May 2000 by SPDC troops from Co.3, IB 55. The troops allegedly detained the girls for six days and five nights, during which they were repeatedly raped by a captain and his officers. It was alleged that the captain had eventually ordered their execution.

961. **Naang Muay Phawng**, **Naang Zaam Pao**, **Naang Htun Nae**, **Naang Khur Wan**, **Naang Lao Sai** and **Naang Seng Hurn**, all Ethnic Shan women, were reportedly stopped by SPDC troops from IB 246 in May 2000 and taken towards Kun Hing town. It was alleged that the captain raped one of them and told his troops to rape the other women. The captain then reportedly ordered his troops to sit the women in a group and execute them.

962. **Mi Khin Htee** was reportedly raped in June 2000 in Sin-Swe village, Yebyu Township, Tenasserim Division, by the Commander from LIB No. 273. Neighbours allegedly heard the rape but could not help as his soldiers were guarding the house.

963. **Pa Mung** was reportedly raped and beaten to death on 8 July 2000 near Kun Hing Township by 35 SPDC troops from Co.4 of IB 246.

964. **Mi San Htay**, an ethnic Mon girl, was reportedly raped on 23 September 2000 in Kwe-ta-lin village, south of Yebyu Township, by Sergeant San Win from LIB 282. He allegedly summoned her to his barrack, took her to the kitchen and raped her.

965. **Naang Tawng**, aged 18, and **Naang Maai**, aged 16, originally from Haang Lin village, Naa Poi tract, relocated to Nam Zarng town relocation site, were reportedly arrested, raped and beaten to death on 18 July 2000 by SPDC troops from Co.3 of IB 66.
966. **Naang Seng** and **Naang Maai**, accused of providing rice for the Shan soldiers, were reportedly taken into a farm hut near Wan Phui village, Kho Lam tract, Nam Yarng Township, on 11 July 2001, where they were allegedly gang-raped and beaten to death by SPDC troops from IB 247.
967. **Naang Kham**, a 16-year-old Shan woman living with her husband on their farm in Central Shan State, was allegedly beaten with a stick and guns and raped for eight hours in August 2001 by troops from LIB 246. She was seven months pregnant and reportedly lost consciousness several times. It was reported that her husband had also been beaten, taken away and never returned.
968. **Mi Htwe Yin** was reportedly taken in hostage on 8 October 2001 in Son-htitar village, north of Ye Township by a sergeant of IB 61. She was reportedly beaten and raped but managed to escape.
969. **Ma Ma Sein**, a 15-year-old Karenni girl, was allegedly raped on 28 October 2001 near Kone Suu village, Lawpita, Loikaw Township, by three privates from IB 72 based at Lawpita. It was reported that the Commander had threatened to detain her parents if they pressed the case.
970. **Naw Moo Lah Aing**, aged 16, and **Ma Chi Win**, aged 18, were reportedly gang-raped on 11 February 2002 in Mae Thraw Kee Kawkareit Township, Karen State, by troops from IB No. 10 under LID No. 88. The troops allegedly took them outside of the village, tied them up and raped them. No action was reportedly taken.
971. **Naw Leh Say**, aged 17, and **Naw Moo Moo**, aged 18, were reportedly raped on 19 February 2002 in Pa Na Mi village, Tavoy district, Karen State, by a member of SPDC militia.
972. **Naw Ta Sei**, aged 15, was reportedly beaten and raped on 7 June 2002 in Le Seit village, Mergui, Tenasserim Division, by two soldiers from LIB 552.
973. According to reports, on 8 June 2002 troops from SPDC IB 77 ordered Kya-ka-wa and Ka-toe-hta villages in Kaw-ka-rik Township to relocate to Aung-lan village. It was reported that troops raped **Naw Paw Gay**, the wife of Kya-ka-wa village head, and took away 59 unmarried persons, both male and female.
974. **Su Mar**, aged 18, was reportedly assaulted by a private from the Markrawshe base of LIB 428 on 15 July 2002. A schoolteacher allegedly witnessed the incident and tried to stop the soldier, but three other soldiers reportedly appeared and assaulted him. According to reports, the girl's parents and the village chief allegedly brought the case to the LIB No. 428 Commander for justice the next morning, but no legal action was said to have been taken.

975. **Five Mon villagers** were reportedly killed on 22 July 2002 by soldiers from IB 62, based in Thanbyuzayat, who had allegedly previously raped and executed 16-year-old **Mi Eat-Sar**, the headman's granddaughter.

976. **Maw Lee Meh**, a 17-year old Karenni girl, was reportedly raped on 25 August 2002 by a private Myint Lwin from SPDC LIB 530 in Daw Tamagyi village, Dee Maw So Township, Kayah State. It was alleged that the parents reported the case to the responsible company Commander, who was believed to have threatened them and to have dismissed the incident.

977. By letters dated 5 November 2002 and 6 December 2002 respectively, the Government responded that allegations according to which the armed forces were allowed to use rape as a weapon against women of ethnic groups in the Shan State were unfounded. The Government also informed the Special Rapporteur that it had sent investigation teams to the areas where the human rights violations allegedly took place.

978. Concerning the cases of Naw Paw Lweh and Paw Lweh's Aunt, Nang Zing and Nang Pang, Nang Thun and Nang Kham, Nang Suay Khin, Nang Lek, Nang Suay-Yunt and Nang Phawng, Nang Zing-Yunt, Aye Mung, Nang Sa and Aye Nang, Zarm Hawm, Nang Kham, Nang Lu, Nang Oom and Nang Loi Khio, Nang Suay, Nang Thawn, Nang Mya Zing and Nang Mawn, Nang Kya Non, Nang Poi, Nang Sa, Nu Harn, Sing La, Nnang Hurung, Naang Muay, Zaw Yaen, Naang Kui, Kham Non, Seng Hurng, Zing Nyunt, Kham Leng, Pa Maai, Pa Awng and Pa La, Nang Kawng Tip, Naang Zing Mya, Naang Yaen, Naang Kham, Naang Zaan and Naang Zing, Naang Mon, Nawng Pe and Naang Khin Lu, Pa Poi, Naanf Awng, Naang Mawn and dPa Loi Pe, Naang Nguay and Nang Lern, Naang Ser, Naang Mya Ki, Naang Mya Lu and Naang Thun Nae, Naang Ong, Naang Thun Nae and Naang Paan Yaen, Naang Oo, Naang Kham Leng and Naang Zing Nyunt, Naang Muay Phawng, Naang Zaam Pao, Naang Htum Nae, Naang Khur Wan, Naang Lao Sai and Naang Seng Hurn, Pa Mung, Naang Tawng Naang Maai, Naang Seng and Naang Maai, Naang Kham, the Government denied the allegations sent by the Special Rapporteur and indicated that the alleged perpetrators (whose names were transmitted to the Government by the Special Rapporteur) were not found on the list of the persons who were serving in the battalion mentioned by the Special Rapporteur and/or that the said battalion was not operating in the area referred to in the Special Rapporteur's letter. In addition, the Government informed the Special Rapporteur that many of the villages mentioned in his letter were deserted in 1996 or do not exist in the areas indicated.

979. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1996, 1997, 1998, 2000 and 2001 regarding which no reply had been received. The Government further indicated by letters dated 5 November 2002 and 6 December 2002 that the authorities were in the process of investigating into the remaining allegations and will keep the Special Rapporteur informed of the developments on this matter.

Urgent appeals

980. On 14 February 2002, the Special Rapporteur sent an urgent appeal on behalf of **Dr. Slai Tun Than** on whose behalf the Special Rapporteur on freedom of opinion

and expression and the Chairman-Rapporteur of the Working Group on arbitrary detention intervened on 1 February 2002. He was reportedly arrested on 29 November 2001 and was since then detained incommunicado in an unknown location. He was now believed to be held incommunicado at Insein Prison where it was feared that he was receiving any medical attention for his chronic eye condition delivered through the International Committee of the Red Cross.

981. By letter dated 21 March 2002, the Government responded that he had been given a fair trial in accordance with the domestic legislation. On 5 February 2002 he was found guilty and sentenced to seven years' imprisonment.

982. On 14 June 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Khin Maung Win** (Sunny), a photographer and cameraman, who had reportedly been transferred on 21 May 2002 to an undisclosed destination by Kalay prison authorities, after he, together with **Khun Myint Tun**, an elected Member of Parliament of the National League for Democracy (NLD) and **at least 25 prisoners** held on alleged political charges were found guilty of starting a hunger strike in support of their demands for the release of all prisoners held on alleged political charges. It is reported that a protest movement had started on 16 May in that prison, where Sunny has been held since August 1997, when he was sentenced to seven years' imprisonment for his part in making a video of an interview with Aung San Suu Kyi and smuggling it out of the country. Sunny's family and friends have had no news of him since his transfer.

983. By letter dated 31 October 2002, the Government responded that **Khin Mmaung Win** had been sentenced on 15 August 1997 to seven years' imprisonment for making connection between KNU insurgents and Daw Suu Kyi and giving assistance to KNU by collecting funds for insurgents. While in the prison, he started a hunger strike, which finished voluntarily the following day. The Government also indicated that the members of the Myanmar Red Cross Society are visiting him in the prison and at present he is in good health.

984. On 26 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights in Myanmar on behalf of **U Win Tin**, a 72-year-old journalist, who was serving a 20-year sentence for subversion charges, in particular anti-government propaganda, in Rangoon's Insein prison. His health was seriously deteriorating since early July, mainly because of haemorrhoid pains, an old urinary infection and prostate troubles. He was reported not to have been provided with the medications recommended by the prison doctor.

985. By letter dated 23 September 2002, the Government responded that his health condition had improved and that the doctors considered that his health condition was good enough to be discharged from the hospital. However, due to his old age and the fact that he can receive better medical treatment in the hospital prison ward, the authorities have decided to allow him to stay in the hospital. The Government also assured that he had access to the prescribed medicine.

986. On 23 August 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on arbitrary detention on behalf of **Thet Naung Soe, Thaw Thaw Myo Han, Nyunt Win, Htoo Kyaw Win, Khin Maung Win, Thoung Htite, Kyaw Swa and Kyaw Zin Oo**, all students who were reportedly arrested on 17 and 18 August 2002 in Yangon. Their whereabouts and whether they have been charged was reportedly unknown. During the night of 17 August, Thaw Thaw Myo Han, Htoo Kyaw Win, Kyaw Swa and Kyaw Zin Oo were reportedly arrested by Military Intelligence personnel at their homes, allegedly for their involvement in a protest. On the evening of 18 August, Thet Naung Soe, who allegedly staged a peaceful solitary protest in front of Yangon City Hall about economic and social conditions in Myanmar and holding a banner of red cloth with a flying peacock on it, which is the symbol of student resistance in Myanmar, was reportedly arrested within minutes by the local police. Khin Maung Win and Thoung Htite were reportedly arrested at the same time, although it was not clear whether the latter two had joined the protest or were onlookers.

987. By letter dated 11 November 2002, the Government responded that Khin Maung Win had posted anti-government leaflets at five places around Dagon University compound on 16 August 2002, that Thet Naung Soe wrote anti-government leaflets and posted them at 11 places around Yangon University compound on 17 August 2002. He also sent these leaflets to Departments, some Ministries and to rectors of various universities, he furlled Peacock flag and he shouted vehemently to instigate demonstrations. In relation with other students, the Government stated that only Khin Maung Win and Thet Naung Soe were detained for their disturbing actions. Finally, the Government pointed out that torture and other forms of ill treatment are prohibited by relevant laws.

988. On 7 October 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the situation of human rights in Myanmar on behalf of **Aye Kyaw Zwa, Chit Hsaung Oo, Khin Tun**, a former member of the New Generation Youth League, **Ko Hla Htut Soe, Ko Htay, Ko Myint, Ko Nay Win** and his brother **Ko Yin Maung, Lay Ko Tin, aka Tin Maung Win, Maung Maung Aye aka Ko Baydar, San Shwe Maung, U Aung or Maung Htay, lawyer, U Cho, U Khin Maung Lay, U Kyi Myint**, a former secretary general of the Burma United Democratic Party (BUDP) **U Soe Tint, U Win Swe, U Zaw Pe Win**, a former chair of the BUDP, **U Zaw Win** and **at least 13 others**. On 25 September 2002, Military Intelligence reportedly arrested them and allegedly confiscated books and leaflets from their domiciles. They were allegedly held incommunicado.

Observaciones

989. The Special Rapporteur notes the Government responses dated 5 November and 6 December 2002, but finds insufficient information in the blank denial of allegations of torture to remove the serious concerns raised by the numerous individual cases brought to the attention of the Government, a large number of which have remained unaddressed since 1996.

Namibia

990. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 2000 regarding which no reply had been received.

Nepal

991. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information according to which in response to attacks on dozens of security personnel by Maoists in November 2001, the Government had declared a nationwide emergency. The declaration of the state of emergency was reportedly accompanied by the suspension of sub-clauses (a), (b) and (d) of clause (2) of Article 12, clause (1) of Article 13 and Articles 15, 16, 17, 22 and 23 of the Constitution of Nepal. The rights contained in these clauses - the rights to freedom of thought and expression, assembly and movement, the right not to be held in preventive detention without sufficient ground, and the rights to information, property, privacy and constitutional remedy - were said to have been suspended throughout the whole country. On 21 February 2002, the Parliament reportedly extended the state of emergency by three months. According to the information received, the army has been allowed to detain people for up to 48 hours, possibly at undisclosed locations and without any safeguards otherwise guaranteed under the Nepalese law. The King of Nepal reportedly also announced the Terrorist and Disruptive Activities (Prevention and Control) Ordinance 2001 which is said to grant wide powers to arrest people involved in "terrorist" activities. It is furthermore said to allow detention without charge for up to 90 days, with possible extension to 180 days. The Communist Party of Nepal (CPN) (Maoist) was declared a "terrorist organization" under this Ordinance. Since its promulgation, dozens of people, including lawyers, students and teachers, have reportedly been arrested throughout the country on suspicion of being members or sympathizers of the CPN (Maoist). While the right of *habeas corpus* is not suspended, it is alleged that lawyers fear to exercise this right since it is believed that they may themselves then be arrested under the Ordinance for "supporting terrorism".

992. After the breakdown in the talks between the Government and the Maoists and the deployment of the army in late November 2001, more than 2,500 people were said to have been arrested on suspicion of being members or supporters of the CPN (Maoist) and, most of the time, have been held by the army and police in incommunicado detention in unknown locations or in unacknowledged detention. Relatives were reported to have been unable to obtain information regarding their whereabouts for several days, sometimes weeks. The police unit allegedly responsible for detaining such suspects in urban areas is said to be called the "anti-terrorist unit", also referred to as the "striking force". Unofficial places of detention are said to include the Kathmandu Deputy Superintendent of Police's office in the Hanuman Dhoka police station; the "Anti-Terrorist Unit" in the premises of the National Police Academy in Maharajgunj, Kathmandu; and the Regional Police Training Centres in Kakani near Kathmandu, in Pokhara, Kaski district, in Nepalgunj, Mid-Western Region and in Biratnagar, Eastern Region.

993. Police and army are said to have pressurized human rights organizations to refrain from investigating complaints of human rights violations, including torture and other forms of ill-treatment. A number of lawyers representing people charged in connection with Maoist activities or involved in torture compensation cases have reportedly received threats. After the declaration of the state of emergency, human rights groups are said to have had their ability to operate freely and to verify allegations of serious human rights violations, including torture, undermined by the government.

994. Successive governments have reportedly failed to ensure that proper investigations are carried out in cases of human rights violations. In cases where investigations have been carried out, they were reportedly done by the police, the army or by officials of the Ministry of Home Affairs or Ministry of Defence, under whose authority the police and army respectively function. Apart from the National Human Rights Commission, there is said to be no permanent mechanism to investigate independently allegations of human rights violations by the police or army. As a result, it is said that very few alleged perpetrators of human rights violations have been brought to justice. Police are said to frequently refuse to allow injured detainees to see a doctor or delay doing so for several days, by which time signs of torture are more difficult to ascertain. Victims are also said to be often threatened by police officers not to complain to a doctor about ill-treatment or torture. In addition, police officers are said to often remain present during the prisoner's examination.

995. Torture methods are said to include beatings of the feet (*falanga*) with bamboo sticks, iron or PVC pipes; the rolling of a weighted bamboo stick or other round object along the prisoner's thighs, resulting in muscle damage (*belana*); the simultaneous boxing on the ears (*telephono*); rape; electric shocks; and beatings with nettles. There have also been reports of mock executions and people being buried alive up to their necks in a pit they were forced to dig themselves. Beatings with nettles is said to be often inflicted on women, particularly on their breasts and genitals.

996. In particular, the Special Rapporteur advised the Government that he had received information on the following individual cases.

997. **Suk Bahadur Lama** was reportedly arrested on a criminal charge and died as a result of injuries allegedly as a result of the treatment he was subjected to during six consecutive days at Kawasoti Ilaka police post, Nawalparasi district in August 1999. A post-mortem reportedly found that he had multiple burn injuries on both feet, cauterized abrasions on the upper back, and contusions on the body, legs and soles of the feet. Eight police officers were allegedly suspected and were said to have been released on condition of appearing in court when required, pending the commencement of their trial. On 6 November 2001 all police officers charged with his murder were allegedly acquitted by the Nawalparasi court.

998. **Lal Bahadur Tamang, Subit Tamang, Ran Bahadur, Yaman Singh Lama** and **Krishna Bahadur Tamang** were reportedly arrested on 5 April 2002 in Balaju, Kathmandu. At the Kerkar Sakha (interrogation section) at Hanuman Dhoka Police station, Kathmandu, they were allegedly questioned about allegations of forgery,

which they reportedly denied. Subsequently the officers are said to have forced them to lie down, beat them with a stick on their back, buttocks, hands, and the back of their thighs and legs. All of them reportedly sustained bruises and contusions as a result. On 7 April 2002, all of them were reportedly taken to the office of the Chief District Officer, and were charged under the Public Offences Act. They were said to have only received food after they had appeared in court. Police are said not to have taken any of them to see a doctor as required under Article 3 Torture Compensation Act (TCA).

999. **Sarita Chapagain Sharma** was reportedly assaulted and threatened by security officials on 12 March 2002 in Kohalpur Bazaar, Banke district. When she, the security personnel reportedly pulled her by the hair and kicked her. They are also said to have dragged her 11-year old son out of the room. Two of the security officers then reportedly pointed their guns at her chest and demanded that she hand over money that they claimed belonged to Maoist rebels, which she denied having in her possession. As a result of being threatened with death, she reportedly gave them 25,000 Rupees.

1000. **Sanjit Danel** was reportedly arrested on 9 February 2002 by some policemen in plainclothes accusing him of having thrown stones at an army vehicle. He was reportedly taken to Kalopul police post in Kathmandu, before being taken to the Kamal Pokhari Area Police Office. There, he is said to have looked very weak and to have born marks of ill-treatment, such as bruises, as a result of having been severely beaten with a bamboo stick and kicked with boots on his head, chest and hands at Kamal Pokhari Area Police Office. On 13 February, an inspector allegedly asked his mother to deposit 8,000 Rupees for his release. Sanjit Danel was subsequently released. On 25 March 2002, his father reportedly filed a case under the TCA at the Kathmandu district court. The court registrar is said to have refused to register the case unless the father deposit a court fee as required when filing a civil case. His lawyers submitted that cases under the TCA were not civil cases. However, the registrar refused to lodge the case. After the lawyers challenged this before the court itself and submitted to the judge that he should consider torture as a criminal offence by referring to court decisions in other countries and provisions of international treaties, the case was finally allowed to be filed without payment of court fee.

1001. **Chhabilal Adhikari** was reportedly tortured by police who arrested him on 20 December 2001. Police reportedly blindfolded him and put him in a trench for a whole night. The next day, during interrogation about the activities of the Maoists in his village, he was reportedly whipped on his head and feet, as a result of which he lost consciousness. He was said to have been released on bail after 21 days, allegedly while still unconscious. The police reportedly ordered his relatives to sign a document stating he was in good health. Chhabilal Adhikari was admitted to hospital.

1002. **Gulam Mohammed Safi**, originally from Kashmir, India, was reportedly arrested on 16 August 2000 by five armed police officers in plain clothes in Bhaktapur. He was reportedly taken to an unacknowledged place of detention, where he is said to have been severely beaten. His present whereabouts were said to be unknown. It was suspected that he may have been handed over to the Indian authorities for questioning in connection with activities of Kashmiri militants.

1003. **Bishnu Pukar Shrestha**, a member of the Nepal Bar Association, who had spoken out against the increasing number of “disappearances”, was reportedly arrested by plainclothes police officers on 2 September 1999 in Kathmandu. His whereabouts remained unknown for 10 months. It is, however, believed that he was held incommunicado by the “Anti-Terrorist Unit” within the premises of the National Police Academy at Maharajgunj, Kathmandu, an alleged secret place of detention. During interrogation, Bishnu Pukar Shrestha was reportedly tied to a chair, laid on the ground and subjected to *falanga*. He was reportedly released on 6 or 7 July 2000.

1004. The Special Rapporteur advised the Government that he had received a number of cases involving allegations of torture at Hanuman Dhoka Police Station. Police officers at this police station are said not to have taken detainees to a doctor as required under Article 3 of the Torture Compensation Act (TCA); nor were reports of the check-up of the physical condition of the detainees by the police itself submitted to the court as required under the same article in case it is not possible to take a detainee to see a doctor. In particular, the Special Rapporteur transmitted information on the following individual cases.

1005. **Basudev Subedi** was reportedly arrested on 18 March 2002. He was reportedly taken to Hanuman Dhoka police station. He was reportedly not taken to court until two weeks after his arrest. During detention, he was said to have been beaten on his knees, back and hands with a rubber hose (sometimes with an iron rod inserted into it), sticks and a hammer for six days for about half an hour per day. Police reportedly did not take him to see a doctor as required under Article 3 of the TCA. He was furthermore not allowed visits from his family members during the first two weeks. In custody, he was reportedly detained in a room with 12 other detainees leaving insufficient space for all of them to sleep.

1006. **Manila Gurung** was reportedly arrested on 26 March 2002 in Kathmandu and taken to the Sorakhutte Wada police custody. She was reportedly transferred to Hanuman Dhoka police station. At Sorakhutte Wada police custody, an inspector is said to have forcefully kicked her and made her lie down on the floor after which he kicked her for some time. At Hanuman Dhoka police station, she was allegedly beaten with a stick on her hand. She was reportedly asked to sign a statement without having the opportunity to read it. As a result of the treatment she was allegedly subjected to, she is said to have been suffering from chest and back pain.

1007. **Bishnu Tiwari** was reportedly arrested on 15 February 2002 by police officers in plainclothes. He was reportedly taken to Hanuman Dhoka police station. When he failed to provide the required information on thefts, his hands were reportedly tied behind his back and he was forced to lie down on the floor and beaten on the soles of his feet with a rubber hose (sometimes with an iron rod inserted into it) for two hours. Police officers reportedly also beat him on his legs, back and thighs with sticks. He was said to have been beaten in the same manner for two days. He was reportedly denied food for four days. He was taken to the court on 6 March 2002, nineteen days after his arrest, contrary to the Constitution which reportedly prescribes that detainees have to be produced before a judicial authority within 24 hours of their arrest. The police reportedly did not take him to see a doctor as required under Article 3 of the TCA. He was furthermore reportedly asked to sign a paper which he was not allowed to read.

1008. **Chandra Kumar Sunuwar** was reportedly arrested on 16 February 2002 in Patan. He was reportedly taken to Hanuman Dhoka police station. Police officers reportedly did not take him to see a doctor as required under Article 3 of the TCA. After his arrest, he was said to have been punched by police on the way to the police station. In police custody, both of his hands were reportedly tied to a hook on the wall and he was beaten with a rubber hose (sometimes with an iron rod inserted into it) on his buttocks, thighs, legs and back. Three policemen reportedly beat him in a same manner for three days. In detention, he was reportedly not provided with food for several days. He was taken to the court on 6 March 2002.

1009. **Tirtha Lama** was reportedly arrested in his room by some policemen on 26 February 2002. He was reportedly taken to Hanuman Dhoka police station "for investigation". He was reportedly taken to the Kerkar Sakha (interrogation section). When he denied any knowledge of the theft he was accused of, his legs were reportedly tied together and officers are said to have beat him on the soles of his feet with a rubber hose (sometimes with an iron rod inserted into it). He was reportedly also subjected to method referred to as *belana*). Three police officers beat him with sticks, hit and kicked him. He was reportedly beaten at least for seven days during interrogation in the same manner and fainted many times. As a result, he reportedly made a confession. On 6 March 2002, he was reportedly taken to the court. The judge reportedly ordered the police to take him to a hospital for a thorough medical check-up. Three days after the court order, police finally took him to Bir Hospital. As Thirtha Lama did not have money to buy it, he could not obtain the medication. The doctor reportedly directed him to return to the hospital for a check-up but police are said to have refused to take him.

1010. **Guddu Barma** was reportedly arrested on 29 June 2002 at the Maitidevi temple and subsequently interrogated in connection with murders. He was reportedly taken to Kamalpokhari Police Station where he was kept for one day before being transferred to Hanuman Dhoka Custody. While in custody, he was reportedly kicked and beaten with a plastic pipe and a wooden stick for about 15 days. He reportedly confessed as a result. He had reportedly been beaten in front of the prosecutor, been denied medical attention in custody, and had not been provided with food during his detention. He was reportedly taken to court 20 days after his arrest.

1011. **Shankar Karki** was reportedly arrested by the police on 6 July 2002. He was said to have been taken to Hanuman Dhoka Custody for interrogation, having been charged with theft. The next day, he was allegedly beaten with a wooden stick on the soles of his feet, arms, palms and back. The police is also said to have kicked him on his thighs and slapped his face. He was said to have been taken to court 23 days after his arrest. Although he allegedly bore visible signs of torture, the judge reportedly did not raise the question of how he had sustained these injuries.

1012. **Krishana Prasad Kafle** was reportedly arrested on 25 June 2002, on suspicion of being involved in trafficking girls. He was reportedly taken to Krishna Nagar police station where he was allegedly later beaten by drunken policemen. He was reportedly punched, slapped, beaten with a wooden stick and kicked to his buttocks, back, chest and thighs. He was reportedly also pulled by his hair and thrown against the cell walls. After 22 days of detention, he was transferred to Hanuman

Dhoka Custody. He was reportedly taken to court 23 days after his arrest. The judge is said to have ordered the police to take him to the hospital for a medical check-up, but they are said to have ignored the order for several days.

1013. **Kamal Thakuri** was reportedly arrested on 5 July 2002 on suspicion of theft, and taken to Sankhu Police Station where he was kept for one day, during which time he was said to have been slapped and beaten with a wooden stick on the soles of his feet and on his back. The next day he was reportedly transferred to Hanuman Dhoka Custody, where three policemen allegedly beat him on his soles, palms and back with a plastic pipe during interrogation. He was reportedly taken to court 14 days after his arrest and given money for food thereafter.

1014. **Govinda Acharya, Khil Bahadur Bhandari, Seepak Sapkota, Dipendra Rokaya, Manarishi Dhital, Ram Bhakta Maharjan**, all working for the *Janadesh* weekly, **Ishwor Chandra Gyawaki** and **Nim Bahadur Budhatoki**, managing editor and computer operator respectively of the *Dishabodh* monthly, **Om Sharm**, *Janadisha* daily's editor and **Deepak Mainali** were reportedly arrested on 26 November 2001. The journalists, who allegedly work for Maoist publications, were held in solitary confinement for 26 days before being transferred to Bhadracol Prison, in Katmandu.

1015. **Bijay Raj Acharya**, the owner of a publishing house specialized in children's literature and political works, was reportedly arrested on 9 January 2002 by a group of army and police officers. He is alleged to have been first taken to Singha Durbar police station in Katmandu and transferred to the Balaju army barracks two days later. He was allegedly blindfolded, his hands and legs were tied and he was subjected to electric shocks.

1016. **Krishna Sen**, a journalist, was reportedly arrested on 20 May 2002 by security personnel. He was reportedly detained incommunicado at an unknown location and is said to have died in custody. It is believed that the funeral rites were completed by the Nepalese authorities without the presence and knowledge of his family.

1017. Finally, the Special Rapporteur has transmitted information regarding the conditions of detention in the **Chisapani Barrack**, Banke District. Detainees are said to be given neither a bed nor food for the first two or three days and they are kept alone while their statements are taken. Male and female detainees are reportedly kept in the same cells and male detainees are believed to be stripped naked, beaten and forced to walk, naked, for collecting water where women are present. It is alleged that detainees are not allowed to raise their heads to look around in the barrack. Men are believed to be beaten, in particular on the sensitive organs of their bodies, with rubber batons. Before being released, most of the detainees are allegedly threatened with death not to disclose information about the treatment they have been subjected to during their detention.

1018. By letter dated 2 September 2002, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, advised the Government that he had received information regarding **Ram "Volta" Prakash Yadav, Birenda Yadav** and **Ram Sagar Swornakar** were reportedly killed by policemen on 24 July 2002 by plainclothes policemen, who reportedly beat and

punched them. They were then reportedly taken to Gahabar temple, situated between Kashaha and Musarniya. They were allegedly taken off the vehicle and told to run, and when they began running, the police is said to have opened fire at them. It is believed that the three men had been arrested under suspicion of being involved with the Maoist group.

1019. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1997, 1998, 1999, 2000 and 2001 regarding which no reply had been received.

Urgent appeals

1020. On 9 January 2002, the Special Rapporteur sent an urgent appeal on behalf of **Thakur Prasad Kandel, Tanka Prasad Devkota** and **Badri Bahadur Pandey**, three teachers from Jeevan Jyoti Secondary School in Gorkha District and also members of Amnesty International, who had been arrested in December 2001 on suspicion of being members or sympathizers of the CPN (Maoist). They were believed to be held incommunicado.

1021. By letter dated 25 April 2002 the Government clarified that the three men had been arrested on suspicion of involvement in terrorist activities. The Government also informed the Special Rapporteur that by order of the District Administration Office they were placed under detention in District Jail, Gorkha, on 13 and 16 January 2002.

1022. On 22 January 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers and the Chairman-Rapporteur of the Working Group on arbitrary detention on behalf of **Sita Baidik** who had reportedly been arrested on 16 January 2002 and taken to the area police office in Tulsipur. When he husband, **Padam Prasad Baidik**, attempted to see her in custody the following day, he was reportedly arrested as well. It was said that they had been handed over to army officers from an army camp in the district called Bahini Adda where they were held incommunicado. It was believed that they had been arrested on grounds of their previous student activities with the Nepal National Free Students Union and an alleged membership or support of the CPN-Maoist.

1023. On 24 January 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of Working Group on arbitrary detention on behalf of **Bidur Khadka** and his nephew, **Santosh Khadka**. Bidur Khadka was reportedly arrested by police on 30 December 2001, allegedly on suspicion of having been involved in a bombing on a field near the Children's Hospital in Kave District, Central Region two days earlier. The bombing is said to have been blamed on the CPN-Maoist. He was said to be held at the Banepa area police station in Kavre District. During interrogation, he was allegedly severely tortured. He is reportedly unable to walk, and bones in his hands are allegedly broken. He was said to have been taken to the Sheer Memorial Hospital in Kavre District for medical treatment four or five days after the arrest. The hospital reportedly asked the police to bring him back for follow-up treatment after seven days, but they are said not to have done so. Santosh Khadka was reportedly arrested on 19 January and threatened in order to make him implicate his uncle in the bombing. Both were believed to be held incommunicado.

1024. On 5 february 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression on behalf of **Bijay Raj Acharya**, the publisher of a magazine called Srijanashil Prakashan (Creative Publications) which specializes in children's literature and political works, who had reportedly been arrested from his home in Kathmandu on 9 January 2002 by a joint team of army and police officers. On the second day of his detention, he was transferred to the Balaju Army Barracks where he was allegedly blindfolded and had his hands and legs tied, as well as subjected to electric shocks. After two days, he was reportedly transferred to Hanuman Dhoka police station, where he was permitted a visit from his relatives. Bijay Raj Acharya is believed to have been arrested because the authorities believe that through his work he may be supporting or furthering the aims of the CPN-Maoist.

1025. On 13 February 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Surya Prasad Sharma** who was reportedly being held in incommunicado detention at an army barrack of Kalidal Gulma in the Baglung district. He had allegedly returned home on 13 January 2002 after living underground for five years as a supporter of the CPN-Maoist. He reportedly intended to surrender to the authorities, and had approached members of mainstream political parties to assist him. On 14 January, three army personnel in uniform reportedly arrested him and took him to the Kalidal Gulma army barrack for questioning. He was believed to have tried unsuccessfully to escape from custody on 22 January and to have been severely beaten. When relatives visited the army camp on 23 January, one of the army personnel reportedly told them that Surya Prasad Sharma had escaped on 21 January while he was being taken to Amalachour village, in order to show a Maoist hide-out. The soldier allegedly claimed that Surya Prasad Sharma had jumped in the Kaligandaki river on the way back to the army barrack.

1026. On 14 March 2002, the Special Rapporteur sent an urgent appeal on behalf of **Gopal Budhathoki**, the editor and publisher of the weekly newspaper Sanghu (Bridge), was reportedly arrested by the security forces on 3 March 2002 in Kathmandu. Although the authorities have acknowledged that he is in army custody in Kathmandu, his current whereabouts are unknown. The Prime Minister indicated on 6 March that he was being held by the army on charges of demoralizing the security forces in his publication. This comment reportedly referred to an article that appeared in Sanghu which criticized the behaviour of the army high command during the ongoing fighting with the CPN (Maoist).

1027. By letter dated 2 April 2002, the Government informed the Special Rapporteur that Gopal Budhathoki had been released on 26 March 2002.

1028. On 18 March 2002, the Special Rapporteur sent an urgent appeal on behalf of **Ramnath Mainali**, a lawyer and member of the Supreme Court Bar Unit of the Nepal Bar Association, who had reportedly been arrested by army personnel in Kathmandu, on 14 March 2002. Army officers are then said to have denied knowledge of the arrest. His arrest was believed to be connected to his activities as lawyer with *Janadesh Weekly* allegedly accused of supporting the Maoist movement in Nepal. In particular, Ramnath Mainali has also been involved in filing a habeas corpus writ petition on behalf of Govinda Acharya, who assumed the role of editor of *Janadesh*

Weekly after Krishna Sen's arrest. The Nepal Bar Association is reported to have made inquiries on behalf of Ramnath Mainali with high level police officers, who denied knowledge of the arrest, and with the Ministry of Home Affairs, to no avail.

1029. On 21 March 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression, the Special Representative on human rights defenders and the Chairman-Rapporteur of the Working Group on arbitrary detention on behalf of **Shyam Shrestha**, editor of Mulyankan Monthly, **Dr. Mahesh Maskey**, a member of the central coordination committee of the Intellectuals Solidarity Group, and **Pramod Kafle**, chairperson of the Group for International Solidarity (GRINSO-Nepal) on 16 March 2002 at the Tribhuvan International Airport (TIA) in Kathmandu, by security personnel while boarding a flight to New Delhi, India, to take part in a conference on the current conflict between Maoist rebels and the Nepalese government. The conference in New Delhi sought to create a peaceful political situation to the problem of Maoist insurgency. Although the military authorities have acknowledged that they are in army custody in Kathmandu, their current whereabouts were unknown.

1030. By letter dated 2 April 2002, the Government informed the Special Rapporteur that the three men named above had been released on 26 March 2002.

1031. On 30 April 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention concerning the situation of journalists and publishers whose rights are reportedly restricted under Emergency Regulations applied under the state of emergency declared on 26 November 2001. The following journalists were said to have been detained since that day under the Terrorist and Disruptive Activities (Prevention and Control) Ordinance, 2001, which grants extensive powers to arrest people suspected of involvement in "terrorist" activities: **Om Sharma**, editor of the Janadisha Daily, **Govinda Acharya**, editor of the Janadesh Weekly, **Khil Bahadur Bhandari**, executive editor of the Janadesh Weekly, **Deepak Sapkota**, reporter for the Janadesh Weekly, **Ishwor Chandra Gyawali**, executive editor of the Dishabodh Monthly, and **Manarishi Dhital**, reporter for the Dishabodh Monthly. **Sudarsan Raj Pandey**, editor and publisher of Utthan weekly and Terai Today daily, was reportedly arrested on 26 March 2002. It was reported that as of 4 April 2002, he was being held incommunicado at the Suryabinayak Army Camp in Bhaktapur. **Lal Prasad Sharma**, reporter for the Kantipur Daily, reportedly arrested on 9 January 2002 for his reporting critical of the army. All the above-named were believed to have been arrested without a warrant and held in incommunicado detention in unknown places.

1032. On 3 June 2002, the Special Rapporteur sent an urgent appeal on behalf of **Tikajung Shahi**, a lawyer, who had reportedly been arrested on 29 May 2002 by four army personnel in civilian clothes. He requested permission to fetch medicines for his heart condition. He was believed to be held at the Chisapani army barracks in Nepalgunj.

1033. On 7 June 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Shanta Shrestha**, General Secretary of the Association for Promoting the Welfare and

Honour of the Democratic Freedom Fighters (APWHDF) and a founder member of the Nepal Mahila Sangh (Nepal Women's Association), affiliate to the Nepali Congress Party (NC), who had reportedly been arrested on 31 May 2002 by security forces. Her current whereabouts and the reason for her arrest were unknown, but it is believed that the latter might be linked to her activities in 1950 and 1990 during the pro-democracy movements, as well as in the APWHDF, which is a forum established to honour the activists who were involved in the pro-democracy movements.

1034. On 7 June 2002, the Special Rapporteur sent another joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Som Bahadur Ghale Tamang**, an indigenous rights activist, who had reportedly been arrested by police at his home in Dhumbarahi, Kathmandu on 2 June 2002, the day after he was involved in a peaceful demonstration for indigenous rights. The Nepal Tamang Ghedung (Tamang indigenous peoples organization), which campaigns for indigenous peoples rights. Nepal Tamang Ghedung and other community organizations organized a peaceful demonstration in Kathmandu on 1 June in a protest against a government ban (since June 1999) on local authorities to use of indigenous languages in official documents. It was reported that the police arrested 13 other people during and after the demonstration. The whereabouts of Som Bahadur Ghale Tamang were not known.

1035. On 21 June 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Pramod Kumar Shrestha**, who had reportedly been arrested by the army on 9 May 2002. His whereabouts and the reasons for his were not known, although he is reportedly a member of the main opposition political party, the Communist Party of Nepal-United Marxist Leninist (CPN-UML).

1036. On 21 June 2002, the Special Rapporteur sent another joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Bipin Bhandari, Dil Bahadur Rai, Ramhari Rupakheti, Shusila Thapa** (f) and **Nita Gautam** (f), all students, who had reportedly been arrested by police on 17 June 2002 in Kathmandu. It was reported that neither their whereabouts or the reasons for the arrest were known, although information received indicated that they are all members of the All Nepal National Independent Students' Union (Revolutionary), which had reportedly been declared a restricted organisation after the state of emergency was declared, as it is alleged to have links with the armed opposition Communist Party of Nepal (Maoist).

1037. By letter dated 30 September 2002, the Government informed that Bipin Bhandari, Dil Bahadur Rai, Ramhari Rupakheti and Shusila Thapa had not arrested by the police and that Nita Gautam, was under detention at Central Jail in Kathmandu.

1038. On 12 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the rights to freedom of opinion and expression on behalf of **Binod Tiwari**, an assistant editor for the newspaper *Ekyabaddata* (Solidarity), and **Meena Sharma**, editor, who had reportedly been arrested by security forces on 24

May 2002. Binod Tiwari was released a few hours after his arrest and re-arrested on 29 May in Sundhara, Kathmandu. Meena Sharma was reportedly detained at the Central Jail in Kathmandu and Binod Tiwari at the Soraw Khutte police station in Thamel, Kathmandu. Binod Tiwari has been questioned at the army headquarters in Tundikhel on several occasions since his arrest. *Ekyabaddata* is deemed critical of the Government and to support the aims of the CPN (Maoist).

1039. On 25 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Dhana Bahadur Gurung**, a pro-Maoist journalist and secretary of the Federation of Nepalese Journalists' (FNJ) Kathmandu Section and FNJ Council member, who had reportedly been arrested by plainclothes security officers on 19 July 2002. His whereabouts were unknown.

1040. On 8 August 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers on behalf of **Hari Prasad Phuyal**, a lawyer who had reportedly been arrested by police on 22 May 2002 in Himalipath, Biratnagar. He was reportedly taken to the District Police Office in Biratnagar, before being transferred to Morang prison under a preventative detention order. On 29 May, he was allegedly seen being supported by two men as he was not able to walk. His face was allegedly swollen. It was believed that he had been arrested in connection with his work as a lawyer representing members of the armed political group the Communist Party of Nepal (CPN).

1041. On 20 August 2002, the Special Rapporteur sent an urgent appeal on behalf of **Ramesh Gautam**, who had reportedly been arrested by army personnel on 3 August 2002 in Maitidevi in Kathmandu. He had reportedly not been seen since then. It is believed that he may have been arrested because the security forces suspect that he and/or his relatives are members or sympathizers of the CPN (CPN) (Maoist).

1042. On 2 October 2002, the Special Rapporteur sent an urgent appeal on behalf of **Chandra Bahadur Choudari**, who had reportedly been arrested by army personnel on 27 August 2002 in Dhipur Village Development Committee, Dang district, Mid-western region. The army officers allegedly threatened to kill him and his mother and tied her to a tree so she could not follow them. It is believed that Chandra Bahadur Choudari was then forcibly taken away to an unknown destination. Relatives made inquiries at the local police office and with the army, but both the police and the army denied he had been arrested.

1043. On 4 October 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Mukunda Gajural**, the Secretary of Jibanpur Village Development Committee, **Saligram Sapkota**, **Nirmal Dhakal**, **Uttam Phuyal**, **Dinas Dhakal** and **Gita Dhakal** (f), who had reportedly been arrested on 29 September 2002 at Gagal Fadi Village Development Committee, Ward No 7, Kathmandu, by army personnel who said they were from the Sundarijal army post. They were believed to be held incommunicado at Tokha army camp. It was believed that they were suspected of supporting the activities of the banned armed opposition group, the CPN (Maoist). However, the six were reported to be active members of the main opposition party, CPN-UML.

1044. On 11 December 2002, the Special Rapporteur sent an urgent appeal on behalf of **Bhogendra Yadav**, who had reportedly been arrested by army personnel on 1st December 2002 in Chhapradi Chowk in Siraha town. It was believed that he was held at the Choharba army barracks. He was reportedly arrested on suspicion of supplying medicines to members of the CPN (Maoist).

Observaciones

1045. The Special Rapporteur regrets that no response has been provided to cases brought to the attention of the Government since 1997. He also finds that the few responses he was provided with by the Government in response to urgent appeals unsatisfactory as they do not address the concerns expressed therein. The Special Rapporteur welcomes the invitation transmitted to him to visit the country. Such visit remains on his agenda.

Niger

1046. Par une lettre datée du 17 octobre 2002, le Rapporteur spécial a rappelé au Gouvernement un certain nombre de cas qu'il avait envoyés en 1997, au sujet desquels il n'avait pas reçu de réponse.

Observations

1047. The Special Rapporteur notes with concern that no response has been provided to a number of cases brought to the attention of the Government since 1997.

Nigeria

1048. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998 and 2000 regarding which no reply had been received.

Urgent appeals

1049. On 26 March 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on violence against women, its causes and consequences, and on extrajudicial, summary or arbitrary executions on behalf of **Amina Lawal**, who had reportedly been sentenced to death by stoning on 22 March 2002 by a Sharia court at Bakori in the Katsina State, after she confessed to having had a child while divorced. The alleged father of her baby girl denied having sex with her and the charges against him were discontinued. This most recent sentence of death by stoning for alleged adultery was handed down three days before a Sharia court in Sokoto State reportedly upheld the appeal by **Safiya Husseini Tungar Tudu** who had also been convicted of adultery and sentenced to death by stoning.

1050. On 20 August 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on extrajudicial, summary or arbitrary executions and on violence against women, its cause and consequences, on behalf of **Amina Lawal** who had reportedly been sentenced to death by stoning by a Sharia court in Katsina State and on behalf of whom the Special Rapporteurs had intervened on 26 March 2002

(see above). On 19 August 2002, the Islamic court of appeal in Funtua, Katsina State had reportedly upheld the original sentence of stoning to death after she confessed to having had a child while divorced. It was said that the sentence would be carried out in January 2004 after her eight-month-old daughter, Wasila has been weaned.

1051. On 30 August 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the independence of judges and lawyers on behalf of **Ahmadu Ibrahim, Fatima Usman (f) and Mallam Ado Baranda**, who had reportedly been sentenced to death by stoning and whose sentences could be carried out at any time. They reportedly did not have access to legal representation when the sentences were handed down. Ahmadu Ibrahim and Fatima Usman were convicted for adultery and Mallam Ado Baranda for the rape of a nine-year-old girl.

Observations

1052. The Special Rapporteur regrets that no response has been provided to a number of cases brought to the attention of the Government since 1998.

Norway

Urgent appeals

1053. On 25 November 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on the right to freedom of opinion and expression and violence against women, its causes and consequences, on behalf of **Siamak Ghonchehe**, an Iranian citizen from Saghaz, Iranian Kurdistan, **his wife and two children** who were reportedly facing imminent and forcible repatriation to the Islamic Republic of Iran. He and his family had arrived in Norway on 29 July 2001. He had reportedly fled his country after three friends members of the same political party as him, the Kurdistan Democratic Party of Iran. It was reported that his request for asylum had been denied by the Immigration Appeals Board on the grounds that he did not present any documented proves of his political involvement in Iran. It was alleged that he could appeal this decision but that he would nonetheless be deported pending the review of his case. They were said to be in hiding in order to avoid deportation.

1054. By letter dated 9 December 2002, the Government confirmed that the family's application for asylum had been rejected by the Directorate of Immigration on 14 February 2002 on the basis that the grounds for asylum were not proved to be founded. The Immigration Appeals Board made a final decision to reject the application on the same grounds. Furthermore, the Appeals Board learned that the family had come to Norway on a visa to visit Siamak Ghonchehe's sister. Therefore, it was considered that the family had left Iran on a valid passport, with a valid exit permit and a valid visa showing their correct identity. In the view of the Appeals Board, it was unlikely that the family would have been granted such a permit if the Iranian authorities had been monitoring them because of Siamak Ghonchehe's political activities. The Government informed the Special Rapporteur that his communication would nonetheless be appended to the case dossier.

Oman

Urgent appeals

1055. On 1st July 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Dr Faiza Alani**, an Australian national, who had reportedly been held at the Seeb police station in Muscat since 26 June 2002. She was allegedly being denied food, water and toilet facilities, as well as access to a lawyer. She was reportedly suing an Omani national, who claimed to be a representative of the Ministry of Education in the United Arab Emirates (UAE). The Omani national reportedly received a commission from the Omani Ministry of Higher Education for every foreign teacher he brought to the country and it is believed that there was never a job for Dr Alani in the UAE. In July 2001, her passport was allegedly confiscated. She was said to have been taken to an unknown location and kept there for several hours during which she was attacked before being released. On 8 May 2002, Dr Alani reportedly filed a case with an administrative court against the police. Two hearings have reportedly taken place so far. The last one was held on 24 June and was adjourned until October. When she left the court, the police asked her to go to the Seeb police station in Muscat, where she has been held since the morning of 26 June.

1056. By letter dated 30 October 2002, the Government clarified that she had been arrested under the terms of an order issued by the Department of Public Prosecutions on 15 July 2001 related to a breach of the Immigration Act. It assured the Special Rapporteur that Faiza Alani had not been assaulted. The Government also indicated that she was taken to a detention facility located at the Office of the Governor of Rustaq, where she was not detained with male prisoners. It also denied allegations according to which she was denied food, water and access to toilet facilities and that she was not provided with sleeping accommodation. As for the confiscation of her passport, the Government explained that this was done to ensure that she would return to the police station after being released on bail, since no one had come to post bail on her behalf. The Government confirmed that she was taken to Seeb police station on 26 June 2002 and pointed out that this was done under the terms of the deportation decision issued on 12 March 2002. Arrangements were subsequently made for her departure from the country that she eventually left.

Pakistan

1057. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information regarding **Ali Asghar Zaidi** who had reportedly been arrested by personnel of the Crimes and Investigations Agency (CIA) on 15 August 2001, in Karachi. He was allegedly taken to the Preedy Police Station where he is reported to have been beaten with batons, in particular, on his chest and knees. As a result, his legs were broken. Due to his alleged critical condition, he was reportedly taken to the hospital where doctors are believed to have confirmed the allegations of torture. He was taken back to the police lock-up where he was allegedly held incommunicado.

1058. By letter dated 2 September 2002 sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1059. **Shamshad Ali** was reportedly arrested in Gujranwala in December 2001 by Sabzi Mandi police on suspicion of manufacturing valves in the name of another company. He is reported to have fallen unconscious and subsequently died in the police lock-up on 19 December 2001 after having been interrogated.

1060. **Muhammad Naseem** was reportedly arrested on 1 December 2001 after having been accused of illegal possession drugs. He is reported to have been taken to a police lock-up in Muzaffar Garh where he reportedly died.

1061. **Mian Muhammad Arshad**, a close friend of Pakistan Peoples Party (PPP) General Secretary, reportedly died in the custody of the National Accountability Bureau (NAB) at Chamba House on late September 2001. The Bureau allegedly claimed the detainee died as a result of the heart attack he suffered while he was interrogated. Marks of injuries on his body and head were allegedly found on his corpse while he was at the city morgue. An initial autopsy found a fracture of three ribs on the left side, a lacerated wound on his left eyebrow, a linear abrasion on his left buttock, a contused swelling on his temporal region and a bruise mark on the nose.

1062. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999 and 2001 regarding which no reply had been received.

Urgent appeals

1063. On 2 May 2002, the Special Rapporteur sent an urgent appeal on behalf of **Elham Tohtam**, an Uighur man from Ghulja, Xinjiang Uighur Autonomous Region (XUAR), and two or three other Uighur men, **Ablitip Abdul Kadir**, **Zaher**, and **Anwar alias Abdul Latif**, who had reportedly been arrested on 22 April 2002 in Rawalpindi. Anwar's wife and son are also said to be in custody. They are believed to be detained secretly by the Intelligence Bureau in Rawalpindi. It was feared that they were at risk of imminent forcible return to China around 5 May 2002, where they were believed to be at risk of torture.

1064. On 20 September 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions regarding intimidation and death threat against **Amir Mateen**, correspondent in Islamabad of the English-language daily *The News*. The intimidation of the journalist allegedly began after he had written articles about the Government's supposed intention of rigging the general election set for 10 October 2002. He reportedly filed a complaint at a police station in Islamabad, but to no avail. He was allegedly openly threatened by secret service agents who warned him that "if [he] did not stop writing against the government, [he] could be physically harmed". Besides, he was allegedly told that "in view of his heart problems, [he] will not be able to bear a day's torture".

1065. On 8 November 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Dr. Amir Aziz** who had reportedly been arrested on 21 October 2002 in a joint operation of Pakistani intelligence and the United States of America Federal Bureau of Investigation (FBI). His whereabouts were unknown. He was said to be interrogated in connection with suspected links with al Qaeda militants and members of the Talibans. A written petition in the Lahore High Court was filed on 6 November. On 6 November, Pakistani intelligence and FBI agents reportedly detained another three men from Lahore's Ghurki Hospital. Their whereabouts were unknown.

Follow-up to previously transmitted communications

1066. By letter dated 12 December 2002, the Government responded to a number of cases initially included in previous letters sent by the Special Rapporteur.

1067. Concerning **Inderjit Lohana** (see E/CN.4/1995/34, para. 520), the Government reported that it was not possible to find trace of the reported incident. According to the Government, neither Inderjeet Lohana nor his brother have ever been under custody of any security force.

1068. Concerning **Bebal Khatoon Shirazi** (ibid., para. 521), the Government indicated that a judicial enquiry was conducted and that a criminal case was registered on 10 April 1994 at Thatta Police Station. However, the case was dismissed on 30 December 1994 as no evidence had been found to involve law enforcement agents into her death.

1069. Concerning **Syed Ali Haider Shah** (ibid., para. 525), the Government reported that a post-mortem examination was conducted and its results sent to Dadu District Magistrate. A judicial enquiry revealed that the detainee died of natural cause during interrogation.

1070. Concerning **Khan Muhammad Korai** (ibid., para. 527), the Government indicated that the Sindh High Court had passed an order on 12 April 1994 that a First Information Report (FIR) be registered against the involved army officers. The complainant, i.e., the deceased's brother, recorded his statement. The Police sent a summary of the case under "C" class to the SDM, Moro.

1071. Concerning **Qalander Bukhsh Brohi** (ibid., para. 528), the Government reported that he was seriously injured during an encounter with police.

1072. Concerning **Muhammad Arif Khatiyani** (ibid., para. 534), the Government indicated that the case had been investigated by the police before being dismissed. According to a doctor of Rajputana Hospital, it was a natural death.

1073. Concerning **Muhammad Sarwar** (ibid., para. 537), the Government reported that his death was due to cardio-vascular failure of left ventricle of heart. Accordingly, the case was dismissed. The Government also informed the Special Rapporteur that a postmortem examination was performed by a forensic of Thatta Hospital.

1074. Concerning **Nazir Ahmed** (ibid., para. 538), the Government indicated that an enquiry had been conducted by the Judicial Magistrate of South Karachi. Action was subsequently taken against those found responsible and a minor penalty was imposed.

1075. Concerning **Noor Muhammad Qureshi** (ibid., para. 539), the Government reported that a FIR was registered against police officers under the directives of Sindh High Court. The case was still under investigation with the Sub-Divisional Police Office of Phulcli at the time of writing.

1076. Concerning **Farooq Ahmed** (ibid., para. 542), the Government indicated that he had not been detained at any police station of Central District.

1077. Concerning **Mohammad Tariq** (ibid., para. 543), the Government reported that he had never been detained in North Nazimabad or Taimoria Police Station.

1078. Concerning **Shamin** (ibid., para. 548), the Government indicated that a FIR had been registered at Peerabad Police Station against three individuals. An investigation was conducted but allegations claimed by the victim were found to be false.

1079. Concerning **Iqbal Otho** (E/CN.4/1996/35/Add.1, para. 483), the Government reported that he had never been arrested by the Crime Investigation Agency.

1080. Concerning **Ghulam Hussain Magsi** (ibid., para. 484), the Government confirmed that he had been arrested but denied that he was held in an isolation cell. A judicial enquiry was conducted into his death. Further, a medical report revealed that he died due to strangulation. A criminal case was registered against concerned police officers, who were on court bail pending a decision of the Crime Branch Karachi at the time of writing. It was however concluded that he had committed suicide in the lock-up. Remedy was provided to the heirs of Ghulam Hussain Magsi even to the extent of registering a murder case against the police officers in whose custody the death had occurred.

1081. Concerning **Bachal Janwari** (ibid., para. 486), the Government indicated that allegations on his death are baseless since he was alive at the time of writing. The Government informed the Special Rapporteur that he was still held at District Jail Larkana, where he had been sent back from the District Jail Dadu on 3 December 1995.

1082. Concerning **Zahid Ali Khan** (ibid., para. 487), the Government clarified that he was already injured when he was arrested and that an investigation revealed that he had been previously abducted by two men who reportedly tortured him. A FIR was filed against two police officers for probable negligence in handling the detainee. The case was later dismissed when, on the basis of the investigation, the two said officials were not found guilty.

1083. Concerning **Rahim Dada Jamali** (ibid., para. 488), the Government reported that a FIR was registered at Police Station Dadu but that the case was later dismissed.

1084. Concerning **Athar Iqbal Arain** (ibid., para. 490), the Government indicated that all injured persons had been transferred to the jail hospital. According to the Government, as none of them was seriously injured, they were discharged from hospital. However, Athar Iqbal Arain died in his cell on 29 July 1994. The Government confirmed that a case was registered against Superintendent Jail and others and was pending in the court of law.

1085. Concerning **Aftab Ali Beg** (ibid., para. 492), the Government assured the Special Rapporteur that this incident did not take place and that there was no record of similar allegations at Liaquatabad Police Station.

1086. Concerning **Jamil Ahmed, Abdul Razzaq, Mamoon Rashid and Mohammad Shahid** (ibid., para. 493), the Government indicated that a Judicial Commission has been constituted to probe into the veracity of these allegations.

1087. Concerning **Mohammed Saleem Jafri and Nadeem Ahmed** (ibid., para. 494), the Government indicated that none of them had ever been arrested by either the police or rangers.

1088. Concerning **Kamran Qureshi** (ibid., para. 495), the Government reported that he died during an encounter with police officers and rangers. The Government also said that a Judicial Commission had been constituted to investigate the circumstances of the encounter.

1089. Concerning **Kaki** (E/CN.4/1997/7/Add.1, para. 354), the Government indicated that a FIR had been registered. However, an investigation later revealed that the complaint filed by the alleged victim's brother was baseless. According to its results, she was not raped by the soldier mentioned in the complaint. Accordingly, the case had been dismissed.

1090. Concerning **Niaz Bibi** (ibid., para. 355), the Government reported that he had not been detained. However, it indicated that he had been injured after a quarrel and as a result, was hospitalized.

1091. Concerning **Seema Zarin** (ibid., para. 356), the Government indicated that she had never been arrested and that therefore allegations of torture were baseless.

1092. Concerning **Aslam Subzwari** (ibid., para. 357), the Government reported that according to Deputy Inspector General (DIG) of Karachi when the detainee expressed that he was feeling pain in his chest, he was sent to Jinnah Hospital under police custody but he died due to a heart attack. The District Magistrate of Central Karachi ordered an inquiry and an inspector was charged with negligence for the absence of treatment of the detainee. However, the explanation given by the inspector concerned was found satisfactory and he was exonerated. The Government further indicated that a Judicial Commission had been constituted by the Federal Government to investigate the incident.

1093. Concerning **Shazia Bano** (ibid., para. 358), the Government indicated that according to DIG of Karachi, no raid had ever been conducted at the location referred to in the allegation. According to him, Farooq Dada had been killed in an encounter

with police. The Government also confirmed that an enquiry had been launched by the Federal Government for further information.

1094. Concerning **Tariq Hussain Rizvi** (ibid., para. 359), the Government indicated that the case was pending in court at the time of writing.

1095. Concerning **Farhan Effendi** (ibid., para. 360), the Government indicated that the case was still pending at the Suppression of Terrorist Activities (STA) Court in Hyderabad at the time of writing.

1096. Concerning **Feroze Uddin** (ibid., para. 361), the Government reported that according to the investigation conducted by the DIG of Karachi, the allegations of torture transmitted by the Special Rapporteur were not correct. It added that a FIR regarding the incident regarding the firing had been registered at the New Karachi Police Station. Further, the Federal Government constituted a Judicial Commission to investigate the incident.

1097. Concerning **Sayeed Hassan** (ibid., para. 362), the Government indicated that an investigation conducted by DIG of Karachi had concluded that nobody named Sayeed Hassan had ever been arrested by Buffer Zone Police on 12 December 1995.

1098. Concerning **Shahid Delhalvi** (ibid., para. 363), the Government reported that an investigation conducted by DIG of Karachi concluded that nobody named Shahid Delhalvi had ever been arrested by any police agency.

1099. Concerning **Salim** (ibid., para. 368), the Government confirmed that he had been arrested on 11 April 1994 but that allegations of torture were not correct.

1100. Concerning **Rashid Ameen** (ibid., para. 369), the Government reported that an investigation conducted by the DIG of Karachi had concluded that nobody named Rashid Ameen had ever been arrested by the police in New Karachi and that no complaint had ever been filed with the police.

1101. Concerning **Abdus Saboor** (ibid., para. 370), the Government replied that an investigation conducted by DIG of Karachi had concluded that nobody named Abdus Saboor had ever been arrested by the police in New Karachi and that no complaint had ever been filed with the police.

1102. Concerning **Nasir Bande Ali** (ibid., para. 371), the Government confirmed that he had been arrested on 22 May 1996. As he was injured at the time of his arrest, he was taken to Abbassi Shaheed Hospital where he died while he was under treatment. An enquiry was conducted by the Senior District Magistrate of New Karachi but nothing controversial came on record. A Judicial Commission was constituted by the Federal Government to investigate the incident.

1103. Concerning **Javed Masih** (E/CN.4/1998/38/Add.1, para. 292), the Government reported that departmental action has been taken by the police against those officers involved.

1104. Concerning **Mohammad Farooq** (ibid., para. 239), the Government replied that he had been seriously injured in an exchange of firing with a mobile police party on 5 September 1996 and that he subsequently died on his way to hospital.

1105. Concerning **Mohammad Yusuf Jakhrani** (ibid., para. 298), the Government reported that according to medical reports, the cause of his death had been a heart failure. Consequently the case had been dismissed.

1106. Concerning **Gul Muhammad** (E/CN.4/2000/9, para. 831), the Government indicated that on 20 May 1999 six police officers were formally accused in relation with his death.

1107. Concerning **Jamil Ahmed** (ibid., para. 832), the Government clarified that he had been arrested on 25 February 1999 on suspicion of attempted murder and arson. It further indicated that District and Sessions Judge of Karachi Central has been appointed as Inquiry Officer in consultation with the High Court of Sindh.

1108. Concerning **Arman Danish** (ibid., para. 833), the Government clarified that he had been arrested on 14 January 1999 for illegal possession of weapons. As he complained about physical discomfort while in police custody, he was taken to a private clinic. On 18 January 1999 he was taken to Abbasi Shaheed Hospital before being released. The Government further indicated that an investigation into his death was later launched. However, the family reportedly did not allow the exhumation of his corpse. A petition connected with this case was still pending and Sindh High Court at the time of writing.

Observations

1109. The Special Rapporteur acknowledges the responses of the Government with regard to cases brought to the Government's attention in the past. He nevertheless notes with concern that no information has been provided on measures taken to implement the recommendations made by his predecessor after his visit to Pakistan in 1998 (E/CN.4/1997/7/Add.2).

Paraguay

1110. Por carta de 17 de octubre de 2002, el Relator Especial recordó al Gobierno varios casos que le había transmitido en 1996 y 2001 respecto a los cuales no había recibido respuesta.

Llamamiento urgente

1111. El 5 de febrero de 2002, el Relator especial envió un llamamiento urgente sobre **Juan Francisco Arrom, Anuncio Martí y Víctor Antonio Colman**. Después de haber estado desaparecidos desde el 17 de enero de 2002, Juan Francisco Arrom y Anuncio Martí fueron encontrados el 30 de enero con evidentes signos de tortura, infringida al parecer por parapoliciales. El Defensor adjunto del Pueblo tras su visita a Víctor Antonio Colman en el Departamento de Investigaciones de Delitos constato que el Sr. Colman había sido golpeado al parecer por los miembros de la policía encargados de su detención.

1112. Por carta de 13 de febrero de 2002, el Gobierno informó que la Comisión Interamericana de Derechos Humanos (CIDH) solicitó la adopción de medidas cautelares para proteger su vida e integridad física el 6 de febrero de 2002. El Gobierno añadió que, por Resolución de 1 de febrero de 2002, la Fiscalía ordenó la libertad de Anuncio Martí Méndez. Ese mismo día, el Ministerio Público formuló imputación contra Juan Francisco Arrom Suhurt por la comisión de un hecho punible contra la libertad de las personas. El Gobierno agregó que, en base a la denuncia presentada por familiares de Anuncio Martí por la supuesta desaparición forzosa, el Ministerio Público está llevando a cabo una investigación. En lo relativo a la protección de las víctimas, la Fiscalía solicitó al Comandante de la Policía Nacional, el 5 de febrero de 2002, que se sirviera disponer de la protección de Anuncio Martí. Además de las diligencias propias de investigación, se siguen buscando nuevos elementos de prueba. La Jueza dictó con posterioridad la libertad ambulatoria de Juan Francisco Arrom Suhurt, así como su protección policial, quedando Anuncio Martí Méndez totalmente desvinculado del proceso judicial.

Observaciones

1113. The Special Rapporteur notes with concern that no response has been provided to cases brought to the attention of the Government since 1996.

Peru

1114. Por carta de fecha 2 de septiembre de 2002 enviada con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, el Relator notificó al Gobierno que recibió información según la cual **Nazario Víctor Valencia Porrás** habría sido conducido en estado de ebriedad a la Comisaría de Matucana el 28 de junio de 2001. Habría sido mantenido detenido durante tres días sin que existiera ninguna orden judicial que justificara su detención. Los efectivos policíacos lo habrían golpeado para introducirle en una celda. El 1 de julio de 2001, su hermana habría sido informada de que Nazario Valencia se había suicidado el día anterior. Su cuerpo habría sido trasladado al Hospital de San Juan para la realización de la autopsia. En la morgue, los hermanos del fallecido habrían observado que el cuerpo presentaba hematomas y rasguños en la cara, nariz y espalda y signos de quemaduras en las piernas. Estas marcas no aparecerían en el informe de la autopsia. El 2 de julio, el hermano del fallecido habría interpuesto una denuncia por asesinato, pero el Fiscal habría solicitado el archivo definitivo de la denuncia basándose en que no existirían elementos probatorios. Otra denuncia penal por tortura seguida de muerte habría sido transmitida al Fiscal de la Nación. El 17 de julio de 2001 se habría llevado a cabo la diligencia de exhumación programada por la Fiscalía Mixta de Huarochirí, Matucana. El informe realizado tras la exhumación confirmaría las lesiones mencionadas. Familiares y testigos de los hechos habrían sido amenazados por efectivos de la Comisaría de Matucana.

1115. Por carta de fecha 27 de noviembre 2002, el Gobierno informó que el ministerio público ordenó a la policía nacional iniciar una investigación preliminar. Según el Gobierno, se realizó una autopsia y se identificó a los presuntos autores del asesinato, todos miembros de la policía nacional. Un proceso disciplinario así como un proceso penal contra los presuntos autores del crimen han sido abiertos.

1116. Por carta de fecha 17 de octubre de 2001, el Relator Especial recordó al Gobierno varios casos que le había enviado en 1998, 1999 y 2001 respecto a los cuales no había recibido respuesta.

Llamamientos urgentes

1117. El 28 de febrero de 2002, el Relator Especial envió un llamamiento urgente sobre la huelga de hambre que están llevando a cabo desde el 11 de febrero mas de **600 prisioneros en el Penal Castro Castro**, también conocido como Canot Grande, en Lima. Además, las condiciones de detención en la prisión de Challapalca (Puno), que esta situada a más de 4.600 metros no serían adecuadas. Como consecuencia del frío y las dificultades para acceder a dicho centro que limitan seriamente el derecho de los presos a mantener un contacto con familiares y abogados los presos estarían también haciendo una huelga de hambre para protestar contra las condiciones de detención. Se alega que en circunstancias similares ocurridas en el pasado las autoridades penitenciarias habrían hecho un uso excesivo de fuerza.

1118. El 25 de Julio de 2002, el Relator Especial envió un llamamiento junto con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias sobre la situación del recluta **Rolando Quispe Berrocal**, quien habría sido agredido por tres militares con pasamontañas el 8 de julio de 2002, cuando se encontraba de guardia en el Cuartel Domingo Ayarza (excuartel Los Cabitos) de Ayacucho. Debido a una sustancia que le habrían obligado a inhalar, el recluta habría perdido el conocimiento. El día siguiente fue obligado a realizar 20 flexiones por no haberse presentado a la formación reglamentaria. Sin embargo, debido a su malestar tuvo que ser inmediatamente trasladado a la enfermería del cartel y al Hospital Regional de Huamanga, Ayacucho, donde un médico habría encontrado en su recto un objeto de aproximadamente cinco centímetros de diámetro y 18 de largo. Durante su estancia al hospital, habría sido puesto bajo custodia militar, lo cual habría dificultado el contacto con sus familiares, abogados y miembros de organizaciones de derechos humanos. Durante su convalecencia y su aislamiento en el hospital habría sido interrogado y obligado a firmar hojas en blanco o documentos que no pudo leer. El fuero militar habría abierto una instrucción contra el recluta por presentar denuncias falsas y alegando que se trataba de un homosexual que se habría introducido él mismo el objeto encontrado en su cuerpo. Desde el incidente, él y su familia habrían sufrido actos de hostigamiento e incluso amenazas de muerte.

1119. Por carta de fecha 27 de noviembre de 2002, el Gobierno confirmó que al ser trasladado a la enfermería, se diagnosticó que había sido víctima de violación sexual y tortura. El Gobierno informó que la secretaría Ejecutiva del Consejo Nacional de Derechos Humanos impulsó acciones con los diferentes sectores del Estado a fin de recabar información sobre este caso. De la información recabada, desprende que el Primer Juzgado Penal de Huamanga abrió una instrucción contra tres sargentos por el delito de tortura agravada. La Sala Superior Mixta de Ayacucho confirmó la sentencia de primera instancia que declaró fundada la declaración de habeas corpus y ordenó la suspensión definitiva del servicio militar voluntario y que se le conceda la baja de las filas del Ejército. Por otra parte, se informa que el Fuero Militar abrió un proceso a Rolando Quispe Berrocal por delito de falsedad. El Gobierno indicó igualmente que el Secretario Permanente de la Comisión Nacional de Derechos Humanos solicitó al

Prefecto de Ayacucho que evalúe la factibilidad de otorgarle garantías personales. Por otra parte, el Secretario General del Ministerio de Defensa designó un Equipo Especial para realizar la ampliación de la investigación.

Observaciones

1120. The Special Rapporteur notes with concern that no response has been provided to a number of cases brought to the attention of the Government since 1998. The Special Rapporteur considers it appropriate to draw attention to the views expressed by the Committee against Torture after consideration of the situation in the country under the procedure provided for by Article 20 of the Convention against Torture, a summary of which may be found in report A/56/44. paras 144-193.

Philippines

1121. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1122. **Alfredo Bantecil** was reportedly beaten by two national police officers on 18 September 2001, after a private quarrel with a neighbour. He was interrogated about his alleged involvement with the New People's Army. He was allegedly beaten. He was reportedly released without charges.

1123. **17 farmers and six extended families** living in Barangay Talomo, Sto. Tomas, Davao del Norte, were reportedly victim of excessive force during an attempted eviction, along with destruction of property, on 8 August 2002. Tear gas was allegedly sprayed on the farmers. About 22 persons, including children between 2 and 13 years-old were allegedly affected by the tear gas, experienced vomiting and severe irritation of the eyes, as well as shock and trauma. An agreement was said to have been later reached, with farmers being given fifteen days to relocate their homes and being able to harvest their crops. On 9 August 2002, the security guards are said to have already demolished one house, in breach of the agreement.

1124. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998, 2000 and 2001 regarding which no reply had been received.

Urgent appeals

1125. On 10 July 2002, the Special Rapporteur sent an urgent appeal on behalf of the four following children detained at the Angeles District Jail, Pampanga Province: **Manuel Flores**, aged 10, was reportedly arrested by the Angeles District police for vagrancy and sniffing glue and has been since detained in the Angeles District Jail, for more than a month; **Felix Cusipag**, aged 12, was reportedly arrested by the local police for vagrancy and sniffing glue and has been in prison for more than one month; **Camaroding Ajisalie**, aged 17, has been in prison for five months as he has reportedly been sentenced to six months and one day of imprisonment for sniffing glue; **Michael Navarro**, aged 17, has been detained for two months. He has been charged with attempted robbery and he has had four court hearings already. Despite existing juvenile detention facilities in the district, these four children are kept in the

same prison block as adult detainees. Allegedly, the four children are detained 23 hours a day in a small dark and very hot cell with no sleeping facilities apart from the concrete floor. There is no electric fan and no ventilation in the cell. All of them are said to be wearing rags. It was reported that the only toilet facility is an unclean hole in the floor of the cell, infested by insects, only a few feet from where the children sleep. In addition, they reportedly do not have soap or water for washing in the cell.

Follow-up to previously transmitted communications

1126. By letter dated 7 August 2002, the Government responded to a letter sent by the Special Rapporteur jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions on 30 September 2001 concerning **Joel de Jesus, Lorenzo de los Santos, Cesar Fortuna, Rameses de Jesus, Lenido Lumanog, Romeo Costibolo** and **Augusto Santos** (E/CN.4/2002/76/Add.1, paras. 1230 to 1237). The Government indicated that all of them were accused of murder and had been convicted to the death penalty by the Regional Trial Court. The Court did not give credence to the allegations of torture of the convicted men. The case was pending before the Supreme Court, to which it was transmitted for automatic review.

Observations

1127. The Special Rapporteur notes with concern that no response has been provided to a number of cases brought to the attention of the Government since 1998.

Portugal

Follow-up to previously transmitted communications

1128. By letters dated 13 December 2001 and 15 January 2002 respectively, the Government responded to the letter sent by the Special Rapporteur on 30 September 2001 (see E/CN.4/2002/76/Add.1, paras 1238 to 1255) and to the joint letter sent by the Special Rapporteur and the Special Rapporteur on extrajudicial, summary and arbitrary executions on 30 September 2001 (*ibid.*, paras 1256 to 1259).

1129. Concerning **Carlos Zurita** (*ibid.*, para. 1240), the Government reported that it was not possible to confirm the case since the alleged victim did not file any complaint and the case was dismissed without investigation.

1130. Concerning **Pedro Sousa** and **Pedro Azevedo Silva** (*ibid.*, para. 1241), the Government confirmed that Pedro Azevedo Silva had been hit with a truncheon in the face and kicked in the legs by an identified officer and was subjected to ill-treatment in a precinct in Lisbon by an unidentified officer. During the criminal procedure, it was revealed that a third officer was accused of assault against another demonstrator. While no clinical data was found concerning Pedro Soussa, the Government indicated that the doctor who examined Pedro Azevedo referred to "bruised injury in the left cheekbone mucous membrane which caused three days of illness". An inquiry ordered by the Ministry and conducted by the Inspectorate General of Internal Administration resulted into a disciplinary procedure upon which a disciplinary penalty was imposed by the Minister. The National Directorate of the Public Security Police also initiated disciplinary procedures against the third police officer. Criminal proceedings were

initiated by the Public Prosecutor's Department of Lisbon (DIAP) which indicted the two above-mentioned identified police officers. The criminal procedure was still underway at the time of writing.

1131. Concerning **Jorge Manuel da Conceição Simões** (ibid. Para. 1242), the Government clarified that it was not possible to prove that the alleged assault took place since there was no witnesses and the officers denied it. These officers reportedly stated that the detainee hit himself against the walls and doors. When he was examined at the Hospital of Anadia, he presented external injuries in the anterior face of the thorax and an oedema in the scalp. The facts were investigated by the Inspectorate General of the Internal Administration (IGAI), by decision of the Minister of Internal Administration, together with similar complaints against the same officers of the Nucleus of Criminal Investigation of the Republican National Guard (GNR) of Anadia. The results of the inquiry indicated that there were responsibilities that could be attributed to seven members of the Nucleus of Criminal Investigation. The Government also reported that the Public Prosecutor responsible for the procedure considered that the facts constituted a crime of a military nature and sent it to the Military Court of Coimbra. Four officers have already been indicted by this Court and the date for the trial was already scheduled. However, in the case of Jorge Simões, a criminal inquiry had previously been opened by the Public Prosecutor's Department, in the scope of which the alleged assault were investigated and the inquiry, closed.

1132. Concerning **Marco Fernandes** (ibid., para. 1243), the Government responded that the allegations transmitted by the Special Rapporteur were ascertained by the IGAI. The Government added that disciplinary proceedings were initiated by the Regional Command of the PSP of Madeira against responsible officers. The procedures were later forwarded to the IGAI by decision of the Minister of Internal Administration. Upon conclusion of these procedures, each officer involved was suspended from duty for 200 days. The Judicial Court of Funchal also started a criminal inquiry into these facts. This procedure was still at the phase of investigation at the time of writing. The Government also indicated that Marco Fernandes was taken to the Hospital Centre of Funchal, where he was diagnosed with "bruised injury in the scalp and traumatism in the same region".

1133. Concerning **Cândido Ventura Coelho** (ibid., para. 1244), the Government indicated that the allegations included in the Special Rapporteur's letter correspond to the account presented by the alleged victim. However, these facts have not been confirmed and the complainant has given contradictory statements. He was examined at a hospital and by a Court's expert. Both referred to the same injuries, i.e. "ciliary haematoma on the left side and cervical excoriation on the left side". According to the Government, disciplinary proceedings were opened by the National Directorate of the PSP against a police officer that the alleged victim identified as his aggressor. No final decision was yet rendered regarding the disciplinary procedure at the time of writing. Furthermore, the Public Prosecutor's Department of Lisbon (DIAP) also launched a criminal inquiry, but later ordered the dismissal of the proceedings due to lack of evidence.

1134. Concerning **Vaz Martins** (ibid., para. 1247), **Duarte Teives Henriques** (ibid., para. 1248) and **Rogério Alexandre de Almeida Camoesas** (ibid., para. 1249), the

Government informed the Special Rapporteur that the corresponding decisions respect criteria of evaluation of proof, guiltiness and conformity and degree of the penalties. Regarding Vaz Martins, the case is in the phase of the gathering of information. Regarding Duarte Teives, the case has been dismissed and no officers was proved to be responsible.

1135. Concerning **Marcelino Avelino Ramos Soares** (ibid., para. 1251), the Government indicated that an enquiry into allegations of ill-treatment had been conducted by the “Servicio de Auditoria e Inspección”. The case was subsequently closed because of lack of evidence that the detainee had been assaulted or subjected to excessive use of force by the prison employees. The Government added that criminal proceedings had been conducted by “Servicios del Ministerio Público del Tribunal Judicial) of Oeiras, which also closed the case.

1136. Concerning **Augusto da Conceição Mata** (ibid., para. 1252), the Government reported that an enquiry had been conducted by the “Servicio de Auditoria e Inspección”, which did not found any evidence of disciplinary infraction by the guards. Following a new complaint filed by the alleged victim with the Office of the General Prosecutor, the “Servicio de Auditoria e Inspección” resumed the proceedings on 23 October 1998. After having examined the case again, the latter confirmed its previous decision to close the case. The criminal proceedings at the Judicial Court (Tribunal Judicial) of Cartaxo were also terminated because of lack of evidence.

1137. Concerning **Alberico A. Lopes Correira** (ibid., para. 1253), the Government reported that criminal proceedings had been initiated against him for bodily harm and assault against physical integrity of the prison staff.

1138. Concerning **Belmiro Francisco Schat Duarte dos Reis Santana** (ibid., para. 1254), the Government reported that following an enquiry conducted by the “Servicio de Auditoria e Inspección”, disciplinary proceedings were initiated against one prison official. The latter was dismissed from his functions. The Government indicated that a criminal complaint had been filed in connection with the case. Criminal proceedings were initiated and led to a nine months’ imprisonment sentence suspended by two years. The prison official concerned appealed the sentence. The decision of this appeal was still pending at the time of writing.

1139. Concerning **António Palma** (ibid., para. 1255), the Government indicated that based on an enquiry conducted into allegations of ill-treatment, it was concluded that the use of force in this case was necessary and adequate in view of the violent behavior of the detainee. Finally, the Government informed that the prosecutor closed the case.

1140. Concerning **Francisco António Viceto Cordeiro** (ibid., para. 1257), the Government responded that an enquiry into his death had been conducted by the “Servicio de Auditoria e Inspección”. However, the case was filed due to a lack of evidence proving that he had been assaulted or that a disciplinary infraction had been committed. Further, the Government informed the Special Rapporteur that the results of an autopsy concluded that the cause of the death was pneumonia and that no signs of violence were found on the corpse. Finally, it added that the prosecutor had also closed the case.

1141. Concerning **Dionisio Alberto Oriola** (ibid., para. 1258), the Government reported that an enquiry into his death had been conducted by the “Servicio de Auditoria e Inspección”, the “Servicio del Ministerio Público del Tribunal Judicial de Coimbra” and the judicial police. In the context of penal proceedings, an autopsy was carried out by the Forensic Legal Medical Institute of Coimbra. The Government further added that the case was eventually closed because of a lack of evidence of disciplinary infraction. It was concluded that he had committed suicide by hanging.

1142. Concerning **Carlos Araújo** (ibid., para. 1259), the Government confirmed that the allegations transmitted by the Special Rapporteur were broadly true. Nevertheless, the Government clarified that the aggression to other detainees was not fully proved. An autopsy was carried out by the Institute of Forensic Sciences, which issued a report that indicates that the death was the consequence of an internal bleeding as a result of the serious traumatic abdominal injuries due to a bullet. The IGAI opened an inquiry following an order by the Minister of Internal Administration. At the end of the inquiry, the opening of a disciplinary procedure, conducted by the IGAI, was proposed. It was concluded that the police officer did not take the necessary precautions to avoid hitting Carlos Araújo and that he could or should have thought that it could happen. The administrative procedure was suspended pending the conclusion of the criminal one. A criminal inquiry was opened by the Public Prosecutor at the Judicial Court of Évora. As a result, the police officer concerned was indicted and the case was heard by a judge of that court. The judicial sentence was not final at the time of writing.

Observations

1143. The Special Rapporteur acknowledges the detailed responses provided by the Government to the cases brought to its attention in the past.

Qatar

Urgent appeals

1144. On 22 November 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right on behalf of **Firas Nassuh Salim Al-Majali**, a Jordanian national working as a journalist with the Qatari television Network, who had reportedly been sentenced to death on 22 October 2002 by the Criminal Court of Doha after having been convicted of taking part in espionage activities. He had allegedly been arrested on 8 January 2002 and held in solitary confinement over long periods since then.

Republic of Moldova

Urgent appeals

1145. On 12 March 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on arbitrary detention on behalf of **Ivan Burgudji**, an ethnic Gagauz Representative in Transdnistria and Head of Legal Department of Gagauz People's Assembly, who was reportedly arrested at

gunpoint in his office on 8 March 2002 by a group of unknown civilians who had entered the building of the Gagauz People's Assembly in Comrat. He was allegedly beaten. It was believed that the civilians who carried out the arrest were members of the special batallion "Fulger" of the Moldovan Ministry of Interior, whose commander had reportedly been nominated as new Moldovan Minister of Interior. The Organisation on the Security and Cooperation in Europe (OSCE) mission in Moldova is said to have tried to contact the Moldovan Minister of Interior and the Moldovan General Prosecutor to establish the present whereabouts of Ivan Burgudji with no avail.

Romania

1146. Par une lettre datée du 17 octobre 2002, le Rapporteur spécial a rappelé au Gouvernement un certain nombre de cas qu'il avait envoyés en 2001, au sujet desquels il n'avait pas reçu de réponse.

Suite donnée aux plaintes signalées dans des communications précédentes

1147. Par lettre datée du 21 novembre 2002, le Gouvernement a répondu à un certain nombre des cas inclus dans la lettre envoyée le 15 août 2001 et faisant état des mauvais traitements infligés à plus de 400 détenus entre 1997 et 2000 (E/CN.4/2002/76/Add.1, par. 1260 et 1264). Le Gouvernement a informé le Rapporteur spécial que sa réponse était pour l'instant partielle et que des efforts seront déployés pour identifier les circonstances des autres cas soumis.

1148. Concernant **Ciubotaru Petru**, le Gouvernement a informé le Rapporteur spécial qu'une plainte fut enregistrée auprès du parquet militaire territorial. Les enquêtes qui ont suivi ont démontré qu'il avait été immobilisé par deux militaires des troupes de gendarmerie le 1^{er} août 2002 pour avoir commis une infraction de brigandage. Au cours d'enquêtes ultérieures, il a été établi que les policiers en question n'avaient pas commis les actes reprochés et que les lésions traumatiques causées lors de son arrestation l'avaient été dans des conditions légitimes. Pour ces raisons, aucune poursuite pénale n'avait été engagée.

1149. Concernant **Cordas Costel**, le Gouvernement a indiqué qu'alors qu'il purgeait sa peine, il s'était infligé des coupures au visage, au cou et aux avant-bras, ce qui avait nécessité son immobilisation pour sa propre protection. Le Gouvernement note par ailleurs qu'il a reçu huit sanctions disciplinaires pour destruction de biens, agression sur sa personne et sur le personnel pénitentiaire. Suite à sa participation à différentes activités éducatives et culturelles, il avait adopté une conduite normale pour laquelle il avait été récompensé par la levée de certaines mesures disciplinaires.

1150. Concernant **Costin Georgel** et **Barbu Dumitru**, le Gouvernement a informé que la plainte selon laquelle ils auraient été victimes de menaces et d'actes de violence en détention afin de les forcer à admettre un crime fut enregistrée au parquet militaire de Ploiesti. Les enquêtes qui ont suivi ont démontré que les policiers n'avaient pas perpétré les actes reprochés et que, dans la nuit du 25 au 26 janvier 2001, Costin Georgel et Barbu Dumitru avaient commis une infraction de vol pour laquelle une procédure pénale avait été intentée

et une mesure de détention préventive autorisée. Pour ces raisons, aucune poursuite pénale n'avait été engagée contre les policiers.

1151. Concernant **Cotoi Toma**, le Gouvernement a indiqué qu'il avait porté plainte auprès du parquet militaire territorial de Bucarest pour actes de violence policière. Durant l'instruction, des preuves ont démontré que, le soir du 25 février 1997, il s'était rendu coupable de recel de biens volés, raison pour laquelle il avait été mis en détention préventive et poursuivi devant les tribunaux. Puisque les éléments de preuve n'ont pas démontré que les policiers avaient commis les actes reprochés, aucune poursuite pénale pour enquête abusive n'avait été engagée.

1152. Concernant **Dragomir Marian Daniel, Oprisanu Adrian et Pirvuta Constantin**, le parquet militaire de Constanta avait ordonné leur poursuite devant les tribunaux pour vol qualifié.

1153. Concernant **Ilie Petre, Nedelcu Gheorghe et Gheorghe Victor**, le Gouvernement a indiqué qu'ils avaient été poursuivis devant les tribunaux pour complicité de brigandage et autres infractions y relatives.

1154. Concernant **Neacsu Vasile-Costel**, le Gouvernement a répondu qu'il avait saisi le parquet militaire en alléguant qu'un adjudant-chef avait volé une montre dans la maison de ses parents. Les enquêtes effectuées après l'enregistrement de la plainte au parquet militaire de Bacau n'ont pas confirmé ses allégations et, par conséquent, aucune poursuite pénale n'a été engagée.

1155. Concernant **Rupa Vili**, le Gouvernement a indiqué qu'il avait saisi le parquet militaire en alléguant que, le 28 janvier 1998, plusieurs policiers de la municipalité de Hunedoara l'avaient frappé et lui avait volé de l'argent. Les enquêtes effectuées après l'enregistrement de sa plainte n'ont pas confirmé ses allégations et, par conséquent, aucune poursuite pénale n'a été engagée. Par ailleurs, les enquêtes ont révélé que, après avoir été trouvé en possession de substances toxiques (mercure), Rupa Vili avait été immobilisé par les policiers en raison d'un comportement violent. Le Gouvernement a également informé le Rapporteur spécial qu'après vérification effectuée au pénitencier de Deva, les allégations selon lesquelles Rupa Vili avait passé 81 jours avec les menottes aux pieds n'ont pas été confirmées.

1156. Concernant **Gabor Ciprian**, le Gouvernement a noté qu'il avait saisi le parquet militaire en alléguant qu'un adjudant-chef de police avait pénétré sans droit dans sa maison, volé plusieurs biens et l'avait agressé physiquement pour le contraindre à admettre une infraction de vol, et qu'un autre adjudant-chef de police avait refusé d'enquêter sur ses allégations. L'enquête menée suite à l'enregistrement de sa plainte auprès du parquet militaire territorial ayant démontré que les policiers avaient agi dans les limites de leurs pouvoirs, aucune poursuite pénale n'a été engagée.

1157. Concernant **Ladaru Viorel**, le Gouvernement a indiqué qu'il avait saisi le parquet militaire en alléguant que, dans la nuit du 8 au 9 août 2002, un lieutenant de police l'avait agressé physiquement pour le contraindre à admettre une infraction de vol et à dénoncer les auteurs d'une infraction de brigandage. Les

enquêtes effectuées après l'enregistrement de cette plainte auprès du parquet militaire territorial n'ont pas confirmé ses allégations et, par conséquent, aucune poursuite pénale n'a été engagée.

1158. Concernant **Lepadatu Adam**, le Gouvernement a répondu qu'il avait demandé l'ouverture d'une enquête auprès d'un lieutenant en alléguant que, dans la nuit du 6 au 7 janvier 2002, il avait été frappé par deux policiers de Bacau qui voulaient le contraindre à faire de fausses déclarations. Les enquêtes effectuées après l'enregistrement de sa plainte auprès du parquet militaire territorial n'ont pas confirmé ses allégations et, par conséquent, aucune poursuite pénale n'a été engagée.

1159. Concernant **Haica Viorel**, le Gouvernement a indiqué qu'il s'était plaint que des policiers de la municipalité de Tg. Jiu avait tiré sur lui et l'avait frappé avec la crosse d'un fusil et une baïonnette, lui causant ainsi des blessures nécessitant 12 à 14 jours de traitements médicaux. Les enquêtes menées après l'enregistrement de sa plainte auprès du parquet militaire de Craiova ont confirmé qu'un policier avait tiré sur Haica Viorel après l'avoir sommé de s'arrêter alors qu'il tentait de fuir. Les enquêtes n'ont pas par ailleurs confirmé les autres actes de violence mentionnés dans la plainte. Pour ces raisons et considérant les circonstances entourant l'utilisation de l'arme à feu par le policier, aucune poursuite pénale n'avait été engagée.

1160. Concernant **Soare Mugurel**, qui était décédé d'une balle dans la tête le 19 juin 2000 après avoir tenté de poignarder un policier, le Gouvernement a indiqué que les enquêtes menées avaient révélé que les policiers qui l'avaient intercepté avaient agi dans des conditions de légitime défense. Pour ces raisons, aucune poursuite pénale n'avait été engagée.

1161. Concernant **Ionita Emil**, le Gouvernement a précisé qu'il n'avait pas été admis à l'hôpital pénitentiaire de Bucarest-Jilava durant la période allant du 1^{er} au 24 mars 1999, ce qui contredisait les affirmations selon lesquelles il y avait été battu.

1162. Concernant **Iordache Marinica Leonard**, le Gouvernement a répondu que, pendant qu'il purgeait sa peine pour vol qualifié, il s'était comporté de façon inadéquate et avait été sanctionné disciplinairement 12 fois pour avoir manqué de respect et pour avoir frappé d'autres détenus et avoir menacé le personnel. Le Gouvernement a de plus indiqué que, le 3 août 2002, aucun incident entre Iordache Marinica Leonard et le personnel du pénitencier Briala n'avait été enregistré dans les registres.

1163. Concernant **Luchian Neculai**, le Gouvernement a indiqué que les enquêtes effectuées ne confirmaient pas les allégations de mauvais traitements. Lors de son arrivée au pénitencier de Botosani, il avait été affecté aux activités de production et récompensé. Il a reçu la visite de sa mère à plusieurs reprises et n'a été sanctionné disciplinairement qu'une seule fois, le 15 novembre 1999, suite à une altercation avec d'autres détenus. Ses droits de visite lui avaient alors été retirés.

1164. Concernant **Popa Ovidiu Uben**, le Gouvernement a informé le Rapporteur spécial que les vérifications effectuées auprès du pénitencier de Colibasi avaient confirmé qu'il avait été frappé par un adjudant-chef, qui avait été par la suite sanctionné administrativement par un changement de fonction et un sursis de promotion de deux ans. Aucune poursuite pénale n'avait été engagée contre cet adjudant-chef au motif que Popa Ovidiu Uben avait retiré sa plainte.

1165. Concernant **Stamate Georgica**, le Gouvernement a répondu qu'il avait frappé plusieurs fois un autre détenu, lui causant ainsi des lésions multiples qui avaient entraîné la mort. Pour cet homicide, il avait été condamné à 22 ans de prison. Le Gouvernement a de plus indiqué que, lors de sa détention, il avait eu un comportement inadéquat et avait été classé dans la catégorie des détenus dangereux. Le Gouvernement a précisé par ailleurs qu'il avait maintenu des contacts avec sa famille et qu'il avait reçu des colis. Il avait refusé pendant plusieurs jours de s'alimenter pour des raisons médicales et personnelles. Le Gouvernement a indiqué que les dossiers médicaux de Stamate Georgica révélaient qu'il avait reçu des traitements pour des maladies chroniques cardiovasculaires et psychiques et des problèmes au niveau de la colonne vertébrale lombaire pendant la période du 3 mai 2000 au 5 avril 2001. Le Gouvernement a ajouté qu'il avait refusé à deux reprises une intervention chirurgicale pour une péritonite aiguë. Il est décédé le 15 octobre 2001 pour insuffisance cardiorespiratoire aiguë. Le Gouvernement a enfin noté que Stamate Georgica était au centre médical de Tichilesti le 23 janvier 2000 et non au pénitencier de Braila, et que ses fiches médicales ne faisaient pas mention d'agression physique. Les allégations selon lesquelles il aurait été battu sont fausses.

1166. Concernant **Stupu Ionel**, le Gouvernement a indiqué que, lors de son arrivée au pénitencier de Miercurea Ciuc, il avait sur le corps des lésions qu'il s'était infligées lui-même. Il avait refusé cinq fois de manger pendant la période de mai à décembre 2002. Le Gouvernement a par ailleurs signalé que Stupu Ionel avait été sanctionné disciplinairement en juillet 2000 pour s'être infligé des blessures avec une lame. À partir du mois de décembre, il avait été admis périodiquement à l'hôpital pénitentiaire de Tg. Ocna pour bronchite, cardiopathie douloureuse et psychopathie polymorphe. Il avait été admis d'urgence à l'hôpital municipal d'Onesti pour tentative de suicide par ingestion de médicaments. Il est sous constante surveillance à cause de ses tentatives de suicide répétées.

1167. Concernant **Neculai Emil**, le Gouvernement a souligné qu'alors qu'il purgeait sa peine au Centre de rééducation de Tichilesti, il avait eu un comportement inadéquat. Le 19 mars 2000, il avait été puni de huit jours d'isolement pour comportement agressif envers le personnel. Le même jour, il avait été puni à nouveau de 10 jours d'isolement pour avoir tenté de disloquer un barreau de sa cellule et tenté de s'enfuir. Le Gouvernement a noté que, pendant la période en question, des représentants d'organisations non gouvernementales avaient visité le Centre et avaient eu des entretiens avec les mineurs s'y trouvant. Aucune violation des droits de l'homme n'avait alors été observée.

1168. Concernant **Ogaru Cosmin Ionut**, le Gouvernement a indiqué que celui-ci n'avait pas informé la direction du pénitencier de Colibasi de l'incident du 16

octobre 2000. Le Gouvernement a ajouté que les dossiers du pénitencier ne faisaient pas mention d'actes de violence et que ses fiches médicales ne révélaient pas qu'il avait été traité pour agression.

1169. Concernant **Carbunaru Cornel, Carbunaru Milica et Carbunaru Marian**, le Gouvernement a répondu qu'ils avaient été poursuivis devant les tribunaux pour vol qualifié et recel.

Observations

1170. The Special Rapporteur acknowledges the Government reply and welcomes the Government's intention to follow-up on the numerous cases brought to its attention in 2001 (E/CN.4/2002/76/Add.1, para. 1260 et sq.). He is still waiting to receive information on measures taken to implement the recommendations included in his predecessor's mission report (E/CN.4/2000/Add.3).

Russian Federation

1171. By letter dated 2 Septembre 2002, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1172. **Nadezhda Ubushaeva** (f) was reportedly peacefully demonstrating with her family against their forcible eviction outside the Parliament building in Elista, Republic of Kalmykia, in April 2001 when she was allegedly dragged by police officers to a police car and beaten with a hard instrument. She is alleged to have been subsequently taken to a police station where she is believed to have been held for about two hours. According to the information received, a medical examination carried out on 13 April 2001 recorded injuries on her hips, shoulders and face.

1173. Regarding the situation in the Republic of Chechnya, the Special Rapporteur has continued to transmit information on the following individual cases.

1174. **Adam Mourtazov** and **Magaram Khabiboulin** are said to have been among 19 persons who were reportedly arrested during a military operation in Grozny on 1 March 2002. The two men are believed to have been beaten while in custody. They have been missing since then.

1175. **Magomed Astamirov** was reportedly arrested in Gekhy on 10 August 2001 by soldiers and taken to Urus Martan. It is reported that he was beaten and subjected to electric shocks while in detention. His feet were allegedly placed in a basin of water and electricity was put in his ears, fingers and other parts of the body. He is believed to be now in a wheelchair.

1176. **Chernoreche village**, on the outskirts of Grozny, was reportedly encircled by federal forces on 28 June 2001 and raided on the following day. It is alleged that the male population was beaten and subjected to electric shocks.

1177. **Musa Dakhaev, Movsar Khamaev, Sultanbek Shakhidov, Lechi Musaev and Sultan Beriev** were reportedly beaten by soldiers on 29 May 2001. Their faces were allegedly covered and their hands tied. He was allegedly beaten. Musa Dakhaev was allegedly hung by his bound arms and subjected to electric shocks. They were subjected to mock executions. They were reportedly not allowed to sleep or to eat for the two days.

1178. **Mansur**, aged 2, was reportedly injured in his legs on 6 May 2001, after a tank belonging to the federal forces started shooting in Grozny. Other children are also believed to have been injured.

1179. A number of persons were reportedly arrested and injured in the central market of Grozny on 1 May 2001. It is alleged that many individuals, including women and children, were hit, beaten with rifle crosses and kicked by soldiers. 30 persons were detained and 23 were taken to the Temporary Department of Internal Affairs (known in Russian by the acronym, "VOVD") in Zavodskoe. A forensic doctor allegedly examined the detainees and confirmed that they had been beaten. **Bislan Abusoltovich Abubakarov**, a 33-year-old mentally ill begger was reportedly injured in the legs and liver. He is alleged to have died some hours later as a result. **Abdul-Mutalib Abdurakhmanovich Jabraïlov** reportedly died as a result of the injuries he sustained on his legs and liver and of an injury caused by knife in the heart area.

1180. **Turpal Khaladov and Salambek Umalatov** were reportedly arrested on 27 April 2001 in Grozny. They were reportedly taken by soldiers to VOVD. It is alleged that witnesses in Khankala reported that they saw them and that they had bruises on their faces. On 6 May 2001, their relatives were reportedly informed by the procurator's office that their complaints had been transferred to the VOVD. At the time of writing, the Special Rapporteur had no information regarding their current whereabouts.

1181. **Zelimkhan Murdalov** was reportedly detained on 2 January 2001 in Grozny on suspicion of possession of cannabis. On 5 January 2001, the Grozny city procurator along with the city commandant searched the cells of the VOVD but did not find him. It is reported that the procurator was told by other detainees that Zelimkhan Murdalov was seen on 3 January 2001 with a broken right arm - the bone was reportedly protruding from the skin -, with his genitals torn off, his ear cut off and that he was suffering from concussion. A doctor reportedly gave testimony stating he treated Zelimkhan Murdalov, but that his wounds were light and that the injuries were sustained in a "fall". On 7 January 2001, a criminal investigation was reportedly opened into his "disappearance".

1182. **Alaudin Sadykov** who assisted in the distribution of humanitarian aid and worked with the Russian Emergency Services (MChS) was reportedly detained on 5 March 2000, by the special police (known in Russian by the acronym, "OMON"). It is alleged that at the time of his arrest he was hit with rifle butts and a black hood was placed over his head. He was reportedly taken to the Oktiabrsky District Temporary Department of Internal Affairs (VOVD) where he is believed to have been beaten. He was allegedly forced to take in his hands red-hot pieces of metal. An officer allegedly wrote "Chichik", a derogatory term for an ethnic

Chechen, on his forehead with a knife. He was then reportedly dragged to a cellar where up to six men are said to have used him like a “live football”, breaking his teeth and ribs and kicked him until he was unconscious. A human rights organisation researcher photographed the injury. The head of the detention facility is believed to have ordered that he be hidden in another cell when members of an international organisation visited the centre. The prosecutor is also thought to have acted to conceal the facts to the commission, although he was allegedly aware of what happened. Alaudin Sadykov was reportedly released on 24 May 2000.

1183. **Zaindi Bisultanov**, a lawyer from Grozny, was reportedly detained by federal soldiers on 2 February 2000 in Prigorodny Sovkhoz. It is alleged that he was thrown in a basement. Although injured, he crawled out of the basement, whereupon soldiers forced him at gunpoint back once more and threw in a grenade in the basement. On 5 June 2000, Zaindi Bisultanov was reportedly detained again and beaten on the chest and back, and over his kidneys and liver. He is alleged to have been subjected to methods referred to as “lastochka”, i.e., his hands were tied behind his back in a painful raised position with a rope that cut into his skin, and to have been taken to a basement from which he is thought to have managed to escape. A complaint was reportedly filed with the Grozny procuracy in October 2001.

1184. By letter dated 2 September 2002 sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1185. **Tsotsin-Yurt village** was reportedly surrounded by special federal army forces on 7 October 2001. **Ayub Artsoev** and his 15-year-old son, **Said-Magomed** were reportedly beaten by soldiers on 8 October 2001. **Aset Artsoeva**, his wife, is reported to have been struck by a rifle butt on the back of her neck and fell unconscious. It is alleged that her husband was taken away and that as relatives and neighbours tried to ask the soldiers the reasons of his arrest, the soldiers opened fire to the group of villagers. As a result, **Birlant Dzhonalieva** (f) was reportedly hit and wounded on the lower left side of her stomach and **Tseda Artsoeva** (f) was reportedly struck by a grenade which hit her on the side. It is reported that Ayub Artsoev was brought to the village two days later with broken arms and ribs and swollen head. **Magomed Mutaev** and his son **Akhmed Mutaev** were reportedly beaten on 12 October 2001. It is reported that they were both punched and kicked in front of their family. They were allegedly handcuffed and blindfolded and before being beaten, in particular with a hammer. On 7 November 2001, another operation was reportedly conducted in the village. The whole male population was reportedly interrogated and beaten. The majority of them are reported to have been released after 72 hours but 16 of those arrested were allegedly held in custody until 21 November 2001. In the course of this second operation, **Buivasar Usmanov** was reportedly killed. A third military operation is reported to have been conducted in the village on 30 December 2001. Male villagers from as young as 14 up to 60 years of age, and a woman, **Malika Ustrakhanova** and her young baby, were reportedly detained and taken to the outskirts of the village where they were all allegedly beaten. Most of those detained were reportedly released on 1 January 2002, but at least seven of them,

Shaikh-Akhmed Magomadov, Alkhazur Movlaevich Saidselimov, Khanpash Baisultanov, Akhmed Baisultanov, Suleyman Baisultanov, Salamu Mazaev and Khamzat Israilov have been missing since then. **Abbas Israilov**, was reportedly detained by Russian authorities at the VOVD in Kurchaloy on 5 January as he sought to ascertain the whereabouts of his brother. In the course of this operation, **Musa Ismailov, Idris Zakriev and Alkhazur Saidselimov** reportedly died while at the soldiers' hands. Musa Ismailov and Idris Zakriev's bodies were found on 3 January 2002. It is alleged that their ears, noses and genitals had been cut off. Alkhazur Saidselimov's body was found heavily disfigured on 7 January 2002.

1186. **Bislan Khasaev** was reportedly arrested by federal troops on 22 June 2001 and taken to a pit where he was allegedly held until 23 June 2001 with seven other detainees. It is reported that they were beaten, asphyxiated and subjected to electric shocks. Bislan Khasaev's relatives were reportedly informed on his death on 25 June 2001, after they could not fulfil the conditions allegedly imposed by the soldiers for his release. His right arm was dislocated or broken and there were bruises on his legs and chest.

1187. **Said-Emin Bilalovich Gushaev** and his son **Khizir Said-Eminovich Gushaev** were reportedly arrested by soldiers on 6 May 2001 in Geldigen village, Kurchaloy district. Said-Emin Bilalovich Gushaev's mother, **Kilsan Idrisovna Gushaeva** was allegedly knocked down by a military tank that smashed their home. The two men were then taken away and beaten. Kilsan Idrisovna Gushaeva is reported to have died immediately after the incident, Said-Emin Bilalovich Gushaev allegedly sustained damages on his kidneys and on the face and Khizir Said-Eminovich Gushaev reportedly had two fingers broken and an internal bleeding.

1188. **Yashurkaev Abdul-Vakhab Sulimovich** reportedly disappeared along with 11 other men in the course of a military operation conducted by federal troops in Argun between 11 and 14 March 2001. His body was reportedly found on 2 March 2002. The corpse was decapitated and presented knife wounds. It is alleged that there were blue weal on his legs and across his ribs and that his left shoulder was smashed, as a result of which the bones were visible.

1189. **Umatgeri Edilbekov** and his friend **Magomed Malsagov** were reportedly detained on 23 December 2000 by federal troops. Their bodies were found around 3 March 2001. Regarding Magomed Malsagov's body, it is reported that his hands were tied behind his back and that the skin on his scalp had been stripped. Regarding Umatgeri Edilbekov's body, it is reported that the throat and one cheek had been cut and that several of his nails were missing

1190. **Kazbek Vakhaev** was reportedly taken by soldiers to the "Internat" detention facility in Urus Martan on 1 August 2000. There he was allegedly beaten during interrogation. According to official documents, he was released on 11 August 2000 but according to men detained with Kazbek Vakhaev, the latter was taken from his cell on 13 August 2000. It is reported that on 21 August 2000, his body was identified. It is alleged that the local procuracy began an

investigation and later claimed that Kazbek Vakhaev had been released on 14 August 2000, but was kidnapped, without stating by whom.

1191. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 2001 regarding which no reply had been received.

Urgent appeals

1192. On 18 January 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on arbitrary detention and the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Shaikh-Akhmed Magomadov, Akhmed Ezerpashaevich Baisultanov, Khanpash Ezerpashaevich Baisultanov, Suleyman Ezerpashaevich Baisultanov, Salamu Maziev, Khamzat Israilov, Abbas Magomadov, Shamil Mandyzhadziev** and **Malika Ustrakhanova** (f), who reportedly "disappeared" after having been taken into custody by Russian federal forces during a raid on the village of Tsotsyn-Yurt, in the Kurchaloy district of Chechnya. On 30 December a group of soldiers is said to have entered the village searching for Chechen fighters who had supposedly sought shelter in the village. They are said to have rounded up a large group of men and boys, aged between 14 and 60. The soldiers reportedly took them to the outskirts of the village, stripped them, insulted them and beat them severely. They reportedly tried to cut off the ear of Abbas Magomadov, and cut off another man's fingers off. They are said to have held around 100 men for at least two days, forcing them to sleep outdoors in freezing temperatures. On 1 January 2001, the soldiers reportedly let go most of the men. Many had reportedly been unable to walk as a result of the beating. The soldiers are said to have taken the above-mentioned persons away with them. Malika Ustrakhanova was allegedly beaten on the back and hands. She was believed to have been released. **Khamzat Israilov**, a relative of Leche Idrisov (see below), who was said to have been severely wounded in an exchange of gunfire, is said to be detained at Kurchaloy regional centre of the military commandant. The others have reportedly not been seen since. Abbas Magomadov reportedly went to the Temporary Department of Internal Affairs (VOVD) in Kurchaloy on 4 January to find out about the whereabouts of his brother, Shaikh-Akhmed Magomadov, and is said to have been taken into custody. He has also reportedly not been seen since. Furthermore, on 7 January 2002, three bodies were said to have been found, badly disfigured by explosives, including **Alkhazur Movlaevich Saidselimov**, one of the men allegedly taken away after the raid. During the raid, soldiers had reportedly approached the house of 70-year-old Leche Idrisov, where two Chechen fighters had allegedly hidden, using two men, Musa Ismailov and Idris Zakriev, as human shields. In the ensuing gunfight, both men are said to have been severely wounded. Russian soldiers reportedly then shot both men dead and took their bodies away. Their bodies were said to have been found on 3 January: they had allegedly been severely mutilated with knives, and had their ears and noses cut off. Soldiers are said to have beaten **Idris Khadaev** as well as the son of the Tsakaev family. Both are believed to have subsequently died.

1193. On 7 June 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of

Said-Magomed Imakaev, Said-Khusein Imakaev, his son, **Ruslan Utsaev, Movsar Taisumov, Idris Abdulazimov** and **Aslambek**, who were said to have been taken from their homes in the village of Novye Atagi, Chechnya on 2 June 2002 by approximately 20 members of the Russian security forces. The men's families have reportedly been unable to find out where they are being held. On 3 June, the military commander in Shali was said to have indicated to Said-Magomed Imakaev's wife that her husband was being held in that town. However, on 4 June, an official from the Federal Security Service of the Russian Federation (FSB) in Shali said that her husband was not being held in the town, but might have been taken to the village of Mesker-Yurt in the Shali district.

1194. By letter dated 21 August 2002, the Government informed the Special Rapporteur that on 17 June 2002 an application had been filed on behalf of the alleged victims with the Office of the Procurator of Shalinskiy. On 28 June 2002 the latter initiated a criminal case which was still in progress and which was monitored by the Procuracy of the Chechen Republic. The Government also indicated that in the context of the initial investigation, no facts confirmed that these persons were detained by the Federal Forces. They were not listed among the detainees in the registry of the criminal militia of the Temporary Joint Group from the Ministry of Internal Affairs of the Russian Federation in the Chechen Republic or the Ministry of Internal Affairs of the Chechen Republic.

1195. On 27 September 2002, the Special Rapporteur sent a joint urgent appeal with the Special Representative on human rights defenders and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Said-Emin Saidarovitch Magaziev** who had reportedly been detained by unidentified members of the Russian federal troops who had arrived in the standard military armored vehicle and "UAZ" jeep during the night from 17 to 18 September 2002 at Zakan-Yurt village, Achkhei-Martanovsky district. He is a nephew of Lidia Yusupova, the head of the Grozny office of the Human Rights Center "Memorial" and fears have been expressed that his arrest may be an attempt to put pressure on Memorial staff in Chechnya. Furthermore, on 21 August 2002, Interior Ministry officers reportedly detained **Said-Husen Itzlaev**, brother of the head of the Urus-Martan representative office of Memorial. On the next day was reportedly transferred to the temporary detention unit in Grozny, where he was allegedly severely beaten.

1196. By letter dated 11 December 2002, the Government responded that Said-Emin Saidarovitch Magaziev had been taken to an unknown location by unidentified masked persons carrying automatic weapons. The Achkhei-Martanovsky inter-district procurator's office had instituted criminal proceedings on 28 September 2002 and investigations were being carried out. The Government stated that no evidence connecting his abduction to the human rights activities of Lidia Yusupova had been found. In relation to the detention of Said-Husen Itzlaev (S.-Kh. Itslaev), the Government informed the Special Rapporteur that a preliminary investigation had established that on 21 August 2002, Said-Husen Itzlaev was detained by officers from the District Internal Affairs office to obtain information about his missing brother, Said-Selim Itslaev, who had gone into hiding after refusing to stop at a car checkpoint. The officers forcibly took him to the police lock-up at the Urus-Martanovsky district Internal Affairs office. An

inquiry concluded that during the investigation, physical force was used against him. On 22 August 2002, he was taken to the base of the special Ministry of Internal Affairs militia for the Chechen Republic in Grozny. He was released shortly thereafter. The Government assured the Special Rapporteur that the detention of Said-Husen Itslaev was not connected with the human rights activities of his other brother, Dukki Itslaev. The Government added that on 26 September 2002, criminal proceedings were launched against unidentified militia personnel for acts exceeding their authority.

1197. On 10 December 2002, the Special Rapporteur sent an urgent appeal on behalf of **Mannopzhon Rakhmatullayev**, an Uzbek imam at the mosque of the Russian town of Marx, who was believed to be in danger of imminent and forcible deportation to the Republic of Uzbekistan. On 2 October 2002, officers from the procuracy of Saratov region detained him following a request by Uzbekistan to hand him over. On 16 October 2002, the Procurator General of the Russian Federation reportedly sanctioned Mannapzhon Rakhmatullayev's handover to the Uzbek authorities. However, his lawyer is said to have protested against the decision and lodged a complaint with the Saratov Regional Court, which was considered on 25 and 26 October. Although the judge ordered the release of Mannapzhon Rakhmatullayev, he was reportedly re-arrested when leaving the courtroom and taken to investigation-isolation prison No. 1 in Saratov, where he was believed to be held. Uzbek authorities were said to be accusing him of "religious extremism" on charges of "attempting to overthrow the constitutional order of Uzbekistan" and "possession of firearms".

Follow-up to previously transmitted communications

1198. By letter dated 13 December 2001, the Government replied to a letter sent by the Special Rapporteur jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions on 10 September 2001 concerning alleged cases of torture and extrajudicial executions in the Chechen Republic by Federal troops (E/CN.4/2002/76/Add.1, paras 1277 to 1306). The Government reported that the Office of the Procurator of the Chechen Republic and the Office of the Military Procurator of the North Caucasus military district were actively monitoring the activities of the Republic's law enforcement personnel and military units whenever citizens are detained, in conformity with the Constitution of the Russian Federation. According to the Government, constant and systematic checks carried out in 2002 by the office of the procurator of the Chechen Republic during special operations by military and law enforcement personnel found no instances of detainees deliberately kept unregistered at the holding facilities of the Ministry of Internal Affairs or at the temporary remand units at Chernokozovo. In the majority of the cases referred to by the Special Rapporteur, criminal proceedings have been initiated and an investigation is being carried out. This was the case for the following individuals: **Said-Magomed Said-Rachmanovitch**, abducted on 13 January 2000, **Kal'bek Pashaev** and **Vakhi Kamilov** abducted on 8 October 2000 whose bodies were discovered in the village of Berdykel, the **Arsabiez brothers** who died on 15 March 2001, **S. R. Musaev**, **O. Metaev**, **M. Mahomadov**, **Rustam Riskhanov**, **Ramzan Riskhanov**, **T. Timarov**, **I. Tazurkaev** and **I. Larsanov** who died in February 2001, **Elelbek D. Isaev** whose body was discovered on 13 September 2000, **Y.Y. Beksultanov** whose body was found on

27 November 2000 in the village of Samashki, **K. Chimaev, V. Mahomadov, K. Khisriev** and **I. M. S. Dokhtulaev** dead in unknown circumstances, **K. Gazaev** whose body was found on 24 November 2000 in Davidenkovo, **the Agaev family** whose bodies were found on 9 December 2000 in Shaami-Yurt, **A. Zaurbekov** and **K. Hasarov** whose bodies were discovered on 26 January in Grozni, **M. Taimaskhanov** and **Khalimov** whose bodies were found in the village of Djalka, and **K.K. Gerikhanov** and his son **U.K. Gerikhanov** who died on 12 May 2001. In many of these cases, the pre-trial investigations were currently suspended for the reasons stipulated in article 195, paragraph 1 (3), of the Russian Soviet Federated Socialist Republic (RSFSR) Code of Criminal Procedure, namely failure to identify a person against whom formal charges can be brought. The Government also mentioned that the allegations referred to in the communication from the Special Rapporteurs relating to widespread famine among **inhabitants of Alleroi**, the holding of detainees in pits, and the murder of villagers in Alleroi and Tsentoroi have not been corroborated. Besides, according to a report from the central Military Procurator's Office, on 6 November 2001, a criminal case against a junior sergeant serving on a contract basis, was referred to the court martial of the North Caucasus Military district for consideration on its merits. He was indicted for the killing **R. A. Djamalov**, whose body was discovered on 21 August 2001. The Government added that it would be premature to provide further details about this case, taking into account the principle of the presumption of innocence. With reference to other cases submitted by the Special Rapporteurs, namely **A. Yarshurkaev, M. Yusupov, A. Uzaev, B. Usmanov, U. Akhyadov, S. Visaev** and an individual named **Aslanbek**, the Procurator's Office of the Chechen Republic and local law enforcement bodies have not received any reports of unlawful actions against them. Finally, the Government stated that it was too early to allege that the above-named citizens were victims of torture and extrajudicial execution by Russian military personnel. Information indicates that members of illegal groups who murder peaceful citizens in order to terrorize the population of the Chechen Republic often wear camouflage identical to that of federal military personnel.

1199. The Government also responded to two letters sent by the Special Rapporteur on 21 March 2000 (E/CN.4/2001/66, paras 865 to 889) and on 10 September 2001 (E/CN.4/2002/Add.1, paras 1268 to 1274). The Government informed that no "filtration camps" have been set up in the context of anti-terrorism operations in the Chechen Republic. The remand centre of Naour district village of Chernokosovo was set up following an order of the Ministry of Justice dated 8 February 2000. Between 22 December 1999 and 9 February 2000, a reception and dispatch centre operated in which undocumented vagrants were held for up to 10 days. The Government also informed the Special Rapporteur that during an inspection of Chernokosovo by the Procurator of the Chechen Republic conducted on 16 February 2000, none of the interviewed detainees complained of torture and no traces of ill-treatment were found. The Government indicated that the centre had also been visited several times by the European Committee for the Prevention of Torture. An inspection of the Office of the Procurator of the Chechen Republic on reports of ill-treatment of individuals held in Chernokosovo between December 1999 and February 2000 revealed no information about physical abuse.

1200. The Government also reported that between 20 January and 5 March 2000, Tolstoi-Yurt was also a temporary reception and dispatch centre for undocumented vagrants. According to the Government, inmates were provided with food and medical assistance and underwent a medical examination upon arrival. Most of them were released after their identity was established. Those against whom criminal proceedings were brought for membership of illegal armed groups were transferred to Chernokosovo remand centre. The inspections conducted by the Office of the Procurator of the Chechen Republic revealed no instances of detainees being beaten or mistreated and no complaints were lodged.

1201. Concerning **Zaindi Kantaev** (E/CN.4/2001/66, para. 869) and **Zura Bityeva** (ibid., para. 870), the Government indicated that the information transmitted by the Special Rapporteur has not been corroborated.

1202. Concerning the killing in February 2000 of over 20 inhabitants of the Novaya Katayama micro-region of the Staropromyslovaya district in Grozny, among which, **Khamid Khashiev, R.V. Taimaskhanova, A. A. Akaev** and **M. Goigov** (ibid., paras 872 and 879), the Government reported that the Office of the Procurator of the Chechen Republic is pursuing criminal investigations. Concerning **Anzor Khashiev** (ibid. para. 879), the Government clarified that he was not found among the victims.

1203. Concerning **Ramsan Rasayev** (ibid., para. 873), the Government indicated that the allegation according to which he had been beaten up at the Assinovskaya checkpoint was not corroborated.

1204. Concerning **Isa Muradov** (ibid., para.874) and **Aindi Altimirov** (ibid., para. 876), the Government responded that criminal proceedings into their death had been instituted by the Office of the Procurator in Urus-Martan district.

1205. Concerning **Taus Sultanove** (ibid., para.875), **Kosym Reshiev, Natasha Chernovaya, Khava, Lyusya** and a **man from Shatoi** (ibid., para. 877), as well as **Said Selim Tugoev, Saipudin Saadulayev** and **Sulieman Bisayev** (ibid., para. 880), the Government informed the Special Rapporteur that the Office of the Procurator of the Chechen Republic had not been able to verify the information transmitted by the Special Rapporteur.

1206. Concerning **Rashid Dadaev** (ibid. para. 881), the Government indicated that he had died as a result of gunshot wounds during an operation to eliminate members of illegal armed groups. The Government also confirmed that **Umar Uzarov, Dagman Tepsurkaeva** and **Khadishat Basaeva** sustained gunshot wounds of varying severity. According to the Government, an investigation was initiated by the military procurator of the Northern Caucasus Military Area and the Central Military Procurator's Office of the Russian Federation.

1207. Concerning **Badrudy Eskiev** (ibid., para. 884), the Government replied that according to an inquiry conducted by the Lyublino Interdistrict Prosecutor's Office, tests revealed that he was an opium addict in need of medical treatment. On 27 October 1999, he made a confession in presence of his lawyer. On 16 December 1999, he was sentenced to six months' deprivation of liberty by the

Lyublino Intermunicipal Court. According to the Government, no physical or mental coercion was applied to him by members of the Tekstilshchiki district militia.

1208. Concerning **Zelimkhan Abdul-Vabovich Temirsultanov** (ibid., para. 885), the Government indicated that the Nikulino Interdistrict Procurator's Office in Moscow had conducted an inquiry which could not confirm allegations of ill-treatment. According to a forensic examination conducted on 18 September 1999 at Sklifosovsky Emergency Care Research Institute, the alleged victim did not show any signs of bodily harm.

1209. Concerning **Razmik Nagdalian** (ibid., para. 886), the Government noted that the Tverskaya Interdistrict procurator's Office in Moscow had not been able to verify the information transmitted by the Special Rapporteur.

1210. Concerning **Islam Bashirov** (ibid., para. 887), the Government replied that according to an inquiry conducted by the Cheremushki Interdistrict Procurator's Office, a criminal proceeding for illegal possession of drugs had been instituted against him. He failed to appear for a court hearing on 27 December 1999. The claims of the alleged victim that he had been victim of physical violence while in custody of the militiamen could not be corroborated.

1211. Concerning **Suleiman Saidmukhamedovich Mudaev** (ibid., para. 888), the Government responded that by decision of the Khoroshevo municipal court on 29 December 1999, he was given a suspended sentence of one year's deprivation of liberty and put on probation for six months. According to an inquiry, no breaches of the law were committed by the Organized Crime Unit personnel during his detention. The Government added that investigations into the remaining allegations of torture and ill-treatment were continuing.

1212. Concerning the military operations conducted in **Sernovodsk** and **Assinovskaya** (E/CN.4/2002/76/Add.1, paras 1271 and 1273) from 2 to 4 July 2001, the Government informed the Special Rapporteur that the Office of the Procurator of the Chechen Republic initiated criminal proceedings and set up task forces to carry out the investigations, which were still in progress at the time of writing.

1213. Concerning **Ruslan** (ibid., para. 1269) as well as **Said Mahomed Bakkhaev** and **Said Hasan Salamov** (ibid., para. 1270), the Government indicated that the Office of the Procurator of the Chechen Republic had not been able to verify the information transmitted by the Special Rapporteur.

1214. By letter dated 12 February 2002, the Government provided the Special Rapporteur with an interim response to a number of cases included in a letter sent on 17 November 1997 (see E/CN.4/1998/38/Add.1).

1215. Concerning **Dmitry Zhukov** (ibid., para. 363), the Government indicated that on 10 February 1999, a court martial found a Caporal guilty of physically assault and humiliation. The Caporal was sentenced to 33 months' deprivation of liberty at an ordinary-regime corrective labour colony. However, pursuant to an

amnesty dated 24 December 1997, he did not have to serve the whole sentence on the grounds that he had served one third of the prescribed penalty.

1216. Concerning **Denis Adreyev** (ibid., para. 364), the Government indicated that on 27 December 1995, the alleged victim twisted his ankle while being drunk and was taken to the first aid station attached to his military unit. Upon receiving medical attention, he started behaving in a disorderly manner and using abusive language towards two officers and attempted to offer physical resistance. In this context, the officers forcibly handcuffed him and took him to a guardhouse. The Government noted that pre-trial investigative authorities found that the officers had abused their authority. However, on 19 November 1996, the criminal proceedings against them were discontinued on the basis of a change in the situation.

1217. Concerning **Mikhael Kurbarsky** (ibid., para. 369), the Government indicated that following a pre-trial investigation instituted by the Office of the Military Procurator of the Far East Military District on 21 March 1996, a Major and a Senior Lieutenant were found guilty of improperly carrying out their official duties, owing to a careless attitude towards military service, resulting in death by negligence. Accordingly, the Khabarovsk garrison court martial sentenced them to curtailment of military entitlements for two years with ten percent of their pay retained by the State.

1218. Concerning **Nicolay Mikheyev** (ibid.), the Government reported that a criminal case in connection with his death was opened on 28 March 1996 by the Office of the Military Procurator of the Far East Military District. A court martial found that he had been severely beaten by a private from the same unit, resulting in his death. On 1 November 1996, the court sentenced the aggressor to three years' deprivation of liberty to be served at an ordinary-regime corrective labour colony.

1219. Concerning **Sergey Bannikov** (ibid., para. 372), the Government replied that one of his aggressors was sentenced on 13 May 1997 by the court martial of the Kronstadt garrison to 30 months' deprivation of liberty to be served at an ordinary-regime corrective labour colony. The Government also informed that the appeal mentioned in the Special Rapporteur's letter was refused.

1220. By letter dated 26 February 2002, the Government provided the Special Rapporteur with a response to a number of cases included in a letter sent on 17 November 1997 (see E/CN.4/1999/38/Add.1).

1221. Concerning **Mikhail Yurochko, Yevgeny Mednikov and Dmitry Elsakov** (ibid., para. 348), the Government reported that an inquiry did not confirm their allegations that they had been subjected to violence during the investigation.

1222. Concerning **Nikolay Andreevich Abramov and Aleksandr Derkayev** (ibid., para. 349), the Government replied that five militiamen were brought to justice for abuse of authority, convicted and sentenced to various terms of deprivation of liberty.

1223. Concerning **Sergey Osintsev** (ibid., para. 350), the Government noted that criminal proceedings were initiated by the Office of the Procurator for Stavropol territory. The pre-trial investigations were suspended on 31 May 1996 since it was not possible to establish the identity of the culprits.

1224. Concerning **Aleksandr Voevodin** (ibid., para 351), the Government indicated that an inquiry did not confirm his allegations according to which illegal investigative methods had been used.

1225. Concerning **Aleksandr Vladimirovich Ashenkov** (ibid., para. 352), the Government noted that an inquiry did not confirm his allegations according to which illegal investigative methods had been used.

1226. Concerning **Yelena and Irina Smirnova** (ibid., parar. 353), the Government indicated that during the pre-trial investigation and the court proceedings they did not lodge any complaint .

1227. Concerning **Andrey Evgenyevich Arekhin** (ibid, para. 354), the Government noted that an inquiry conducted by the Lenin district Procurator's Office in Saranska did not find any breach of the law by members of the law enforcement agencies. The Government added that criminal proceedings against the alleged victim were halted on 27 February 1998 when he was assigned to mandatory re-education.

1228. Concerning **Vladimir Firsov and Dmitry Bogdankevich** (ibid., para. 355), the Government noted that criminal proceedings had been initiated by the Office of the Procurator of the Republic of Mordova in response to their complaints of unlawful actions by members of the militia. The case was later forwarded to the Office of the Procurator Office in Saranska for further investigations.

1229. Concerning **Oleg Igonin** (ibid., para. 360), the Government confirmed that he died of asphyxiation after having been subjected to torture. Two leaders of the Mordovan Ministry of Internal Affairs criminal investigation task forces were sentenced to nine years and six months' deprivation of liberty respectively, and the head of the Lenin district Internal Affairs office's criminal investigation unit, to five years' deprivation of liberty, all of them in a normal-regime correctional colony. The deceased's mother was awarded a monetary compensation for moral damage. On 3 March 1999, the criminal bench of the Supreme Court confirmed the sentences.

1230. Concerning **Oleg Kovalenko, Konstantin Yunak and Yury Dikhtyarenko** (ibid., para. 361), the Government confirmed that criminal proceedings had been instituted against the chief of the municipal Internal Affairs office's criminal investigation unit. Proceedings were suspended while a search for him was initiated. A case against other members of the militia was made the subject of separate proceedings and forwarded to the courts. Two were found guilty while the proceedings against a further two former members of the militia were halted when the period of prescription ran out.

1231. Concerning **V.N. Ishenko** (ibid., para. 366), the Government responded that the Office of the Procurator in Moscow was checking reports alleging that he was subjected to violence by members of the 42nd Moscow militia unit.

1232. Concerning **Evgeny Lisitsky** (ibid., para. 368), the Government confirmed that he had been severely beaten by the officer on duty of the 7th Internal Affairs office of the Krasnoarmeisky district Internal Affairs Administration and had subsequently died of craniocerebral trauma. The Government added that the officer concerned was found guilty of deliberate grievous bodily harm and abuse of authority and sentenced to eight years' deprivation of liberty in an ordinary-regime correctional colony. On 12 November 1996, the Volgograd oblast court confirmed the sentence.

1233. Concerning **Yan Igorevich Mavlevich** (ibid., para. 375), the Government informed the Special Rapporteur that no complaint had been filed against members of the law enforcement agencies.

1234. By letter dated 19 March 2002, the Government provided the Special Rapporteur with a response to a number of cases included in a letter sent on 17 November 1997 (see E/CN.4/1998/38/Add.1).

1235. Concerning **S. Baskakov** (ibid., para. 358), the Government responded that on 12 May 1997, the criminal case against a criminal investigating officer involved in the allegations of torture was sent for trial to Magadan City Court. During the period 2000-2001, this court twice referred the case back for further investigations. On 24 January 2002, the Procurator of Magadan filed a supervisory protests with the Praesidium of the Magadan Oblast Court with a view to overturning another ruling by the court to refer the case back for further investigation.

1236. Concerning **V. Polyakov** (ibid., para. 359), the Government noted that on 27 October 1995 a decision was taken to discontinue criminal proceedings on the grounds that the militia officers had committed no crime. In the subsequent period from 1995 to 1997, the Magadan Oblast Procurator's Office and the Department of the Office of the Procurator-General of the Russian Federation that supervises the investigation of crimes have repeatedly overturned the decision not to prosecute. On 14 April 1997, the Magadan City Procurator's Office decided once again not to prosecute the case. The Government added that it is now not possible to check the legality of this decision because the prescribed time limit for storing the materials relating to the discontinuation of proceedings has expired.

1237. Concerning **Pavel Fedorov** (ibid., para. 362), the Government noted that in the past he had been twice diagnosed with "psychotic behavior" and as "suffering from a residual organic disorder" and that on a number of occasions he has committed acts of self-mutilation. During an interview on 13 October 1995 with an officer after allegations that he was supplying the colony with drugs, he slipped his hand into his pocket. Aware that he was a psychopath and assuming that he might have an offensive object in his pocket, the officer punched Pavel Fedorov in the chest, as a result of which he sustained bodily injuries. The Government further noted that the following day the detainee reported to the medical service

for treatment and was admitted to the medical unit. On 16 October 1995, he was placed in a punishment cell after he threatened to mutilate himself. He subsequently lacerated his forearm and was therefore admitted to the prison hospital. The Government reported that on 8 December 1995, Arkhangelsk City Assistant Procurator decided not to prosecute because of the lack of criminal evidence. At the same time, the Director of Arkhangelsk Oblast's penal institutions issued an order publicly rebuking the involved officer.

1238. Concerning **Oleg Fedorov** (ibid., para. 367), the Government confirmed that criminal proceedings in connection with his death had been dropped for lack of evidence that a crime had been committed. However, two officers were dismissed from their posts since their actions in relation with this case were judged to be serious breaches of service discipline.

1239. Concerning **Said Selim Bekmurzayev** and **Sultan Bekmurzayev** (ibid., para. 371), **Saidkhamzat Abumuslimov**, **Adam Saigatkhadzhiev**, **Andi Vagapov** and **Adnan Abumuslimov** (ibid., para. 373), **Salambek Hamzatov**, **Raisa Abdurahmanovna Gunayeva**, **A. Takayeva** and **U. A. Akayev** (ibid., para. 370), as well as an Afghan refugee named **Salim** (ibid., para. 374), the Government informed the Special Rapporteur that it had not been possible to establish the veracity of the allegations transmitted.

Observations

1240. While the Special Rapporteur acknowledges the replies of the Government on a number of cases sent in the past, he notes with regret that many individual cases, in particular raised in urgent appeals, remain unaddressed. Furthermore, the Special Rapporteur notes with concern that the Government did not extend to him an invitation to visit the Russian Federation, with regard to the situation in the Republic of Chechnya. He would like to recall that a request for a joint mission with the Special Rapporteur on violence against women, its causes and consequences was made in April 2000.

1241. The Special Rapporteur notes with concern that no information has been provided on measures taken to implement the recommendations made by his predecessor after his visit to the Russian Federation in 1994 (E/CN.4/1995/34/Add.1).

1242. The Special Rapporteur notes with concern the views expressed by the Committee against Torture expressed in May 2002 after its consideration of the third periodic report of the Russian Federation under the Convention against Torture as follows: "(a) Numerous and consistent allegations of widespread torture and other cruel, inhuman or degrading treatment or punishment of detainees committed by law enforcement personnel, commonly with a view to obtaining confessions; (...) (c) A persistent pattern of impunity for torture and other ill-treatment benefiting both civil and military officials, a lack of reported decisions by judges to dismiss or return a case for further investigation citing the use of torture to obtain a confession, and the very small number of persons convicted of violations of the Convention." (CAT/C/CR/28/4, para. 5). With respect to the situation in the Republic of Chechnya, the Special Rapporteurs also

notes the concerns of the Committee against Torture: "(a) Numerous, ongoing reports of severe violations of human rights and the Convention, including arbitrary detention, torture and ill-treatment, including forced confessions, extrajudicial killings, and forced disappearances, particularly during "special operations" or "sweeps", and the creation of illegal temporary detention centres, including "filtration camps". Allegations of brutal sexual violence are unusually common. Additionally, armed units which are reported to be very brutal towards civilians have been sent again into the conflict area." (ibid., para. 7)

Rwanda

1243. Par une lettre datée du 17 octobre 2002, le Rapporteur spécial a rappelé au Gouvernement un certain nombre de cas qu'il avait envoyés en 2001, au sujet desquels il n'avait pas reçu de réponse.

Saudi Arabia

1244. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1245. **Muhammad al-Dawsari, Sa'id al-Subay'i and Muhammad al-Hadithi** were reportedly sentenced to 1,500 lashes each, in addition to 15 years' imprisonment in June 2001. The floggings were scheduled to be carried out at a rate of 50 lashes every six months for the whole duration of the 15 years. They were allegedly convicted in connection with drug charges.

1246. **Abdel Moti Abdel Rahman Mohammad**, an Egyptian national was reportedly subjected to forcible surgical removal of his left eye at King Fahd Hospital in Medina in August 2000. It is alleged that the operation was carried out as a judicial punishment of *Qisas* after he was found guilty of disfiguring Shahata Ajami Mahmoud, another Egyptian national, by throwing acid at his face and damaging his left eye.

Urgent appeals

1247. On 19 February 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression on behalf of **Shaikh Ahmad Turki al-Sa'ab, Hamad 'Ali Daseeny al-Hutailah, and Hamad Qulayan al-Zbeyd**, all members of the minority Shi'a Muslim community, who were believed to be held incommunicado. Shaikh Ahmad Turki al-Sa'ab, who is said to be a leading member of the Ismaili branch of the Shi'a Muslim community, was reportedly arrested in Najran on 15 January. Around 4 February, the two others were reportedly arrested, also in Najran. The arrest of all three men is believed to be connected with an interview that Shaikh Ahmad Turki al-Sa'ab gave to a foreign journalist in which he reportedly expressed some criticism of the Saudi Arabian authorities' policy towards the Ismaili community in the country. The two others were reportedly present during the interview.

1248. By letter dated 3 December 2002, the Government informed the Special Rapporteur that Sheikh Ahmed Turki al-Saab, Hamad al-Hutailah and Hamad al-

Zubaid were detained on suspicion of entering in contact with dubious foreign bodies and jeopardizing the security and interests of the country. The Government added that after questioning, those against whom there was sufficient evidence for charges to be brought against them were referred to the competent court, which will determine whether they are innocent or guilty.

1249. On 24 April 2002, the Special Rapporteur sent an urgent appeal on behalf of **Gary Dixon**, also known as O'Nions, a British national. He had reportedly been sentenced after a trial in camera and without the presence of a lawyer on 2 April 2002 to 800 lashes, eight years in jail and fined for producing and selling alcohol. He had reportedly been extradited from the United Arab Emirates to Riyadh on 15 March 2001, in connection with car-bombings that took place in Saudi Arabia in late 2000.

1250. By letter dated 2 July 2002, the Government informed that his lawyer lodged an appeal against the judgment on 17 April 2002 and that the appeal was still being considered by the competent court at the time of writing.

1251. On 1st August 2002, the Special Rapporteur sent a joint urgent appeal with the Special Representative on human rights defenders on behalf of **Sa'd bin Sa'id Zua'ir**. He was reportedly arrested at Riyadh airport by the General Intelligence al-Mabahith al-Amma police in the middle of July, and had since been held in incommunicado detention. He was apparently planning to travel to Qatar to take part in one of Aljezeera television's current affairs programs in order to raise awareness of his father's detention in Saudi Arabia. His father, **Dr. Sa'id bin Zua'ir**, the former head of the Department of Information at Imam Muhammad Ibn Sa'ud University, was allegedly arrested for his criticism of the Government in early 1995 and has since been held without charge or trial in al-Ha'ir Prison outside Riyadh.

Follow-up to previously transmitted cases

1252. By letter dated 11 December 2001, the Government responded to an urgent appeal sent by the Special Rapporteur in 21 March 2001 on behalf of **a group of foreigners including the British citizen Gary Dixon** (see E/CN.4/2002/76/Add.1 para. 1319). The Government indicated that, when sufficient evidence was furnished for their indictment, they admitted their involvement in the bombings which occurred in the cities of Riyadh and al-Khobar and all the details of their confessions were recorded. They were not subjected to any degrading or inhuman treatment at any stage of their examination and their embassy is in constant contact with them and is kept fully informed of the progress of the investigations. They are being well treated and enjoy full health care.

1253. By letter dated 11 December 2001, the Government responded to an urgent appeal sent by the Special Rapporteur on 24 August 2001 on behalf of a group of persons arrested in the city of Jeddah in July 2001 (*ibid.*, para. 1320). The Government informed that they were arrested for renting residential apartments and converting them into shelters for undocumented foreigners, which is a criminal punishable offence. The Government informed that they were sentenced to deportation from the country following the settlement of all their entitlements.

Observations

1254. The Special Rapporteur notes with concern the views expressed in May 2002 by the Committee against Torture after its consideration of the initial periodic report of the Saudi Arabia under the Convention against Torture as follows: “[t]he sentencing to, and imposition of, corporal punishments by judicial and administrative authorities, including, in particular, flogging and amputation of limbs, that are not in conformity with the Convention.” (CAT/C/CR/28/2. para. 4 (b))

Senegal

1255. Par une lettre datée du 2 septembre 2002, le Rapporteur spécial a informé le Gouvernement qu’il avait reçu des renseignements concernant **Jacques Tiwa**, un membre du Parlement étudiantin camerounais en exil au Sénégal, qui aurait été passé à tabac au moment de son arrestation par deux policiers, le 24 juillet 2002 devant le délégué du Haut Commissariat des Nations Unies pour les réfugiés (HCR). Il aurait été roué de coups de matraque et de pied. Deux agents de sécurité employés par le HCR auraient aussi participé à ce passage à tabac qui aurait duré près de 45 minutes. Il aurait été par la suite emmené au commissariat central, et le lendemain en prison. À aucun moment de sa détention, il n’aurait reçu de soins médicaux, bien que saignant de l’arcade sourcilière droite, ayant deux dents cassées et de nombreux hématomes sur le corps. Le 31 juillet, il aurait comparu devant le tribunal de flagrants délits de Dakar pour délits de rébellion et d’outrage à des agents de la force publique dans l’exercice de leur fonction. Le tribunal l’aurait relaxé et aurait arrêté que les frais des soins médicaux doivent être à la charge du Trésor public sénégalais.

1256. Par une lettre datée du 2 octobre 2002, le Gouvernement a accusé réception de la lettre concernant Jacques Tiwa et informé le Rapporteur spécial que la réponse sera communiquée dès que disponible.

Sierra Leone

1257. By letter dated 2 September 2002 sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information regarding **Solomon Y.B. Rogers**, a 69-year-old senior Revolutionary United Front (RUF) representative, who reportedly died in Pademba Road prison on 20 July 2001. He was reportedly a diabetic patient, ill and suffering from palpitations, hypertension and swollen feet. In the days preceding his death he reportedly had been provided with medical care by the prison doctor. Concerns had however been expressed that Solomon Rogers was not given access to specialist medical attention. It was reported that it was only when another prisoner, who had reportedly witnessed his health worsening, called for help that he was transferred to the prison infirmary. He reportedly died hours later.

Singapore

Urgent appeals

1258. On 4 November 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Chee Soon Juan**, Secretary General of the Singapore Democratic Party, who had reportedly been sentenced to a prison term of five weeks on 8 October 2002 following a rally he organized on 1st May to promote workers' rights. It was reported that he shares a poorly ventilated cell measuring only 7 by 15 metres with two other detainees and sleeps on a straw mat, next to a bucket that serves as the prisoners' toilet. As a result, he was suffering from insomnia as well as nausea, back pains and loss of weight. During visits, his wife was reportedly harassed by prison authorities.

1259. By letter dated 25 November 2002, the Government reassured the Special Rapporteur that he was not subjected to ill-treatment in prison and that he did not suffer nausea and weight loss. According to the Government, although Spartan, Singapore penal institutions meet the basic needs of all inmates and all of them have access to medical attention. The Government also indicated that there is proper toilet with flushing system in every cell. Juan Chee Soon was incarcerated for 32 days, during which he was attended 13 times by doctors on 49 times by the nursing staff. The Government further informed that he would perform physical exercise on most days. He was visited by a Visiting Justice (VJ), who checked the well-being of the prisoner. Regarding his wife, the Government informed that she requested to change the date of the second visit three times but that prison authorities accommodated all her requests. She did not complain about the treatment received during the three visits she made to her husband.

Spain

1260. Por carta de 4 de septiembre de 2002, el Relator Especial, junto con la Relatora Especial sobre los derechos humanos de los migrantes y con el Relator Especial sobre el racismo, la discriminación racial, la xenofobia y las formas conexas de intolerancia, notificó al Gobierno que recibió información sobre los siguientes casos. Por carta de 14 de noviembre de 2002, el Gobierno contestó a la comunicación del Relator, proporcionando información sobre todos los casos.

1261. **Boaventura Simão Vaz**, un ciudadano de Guinea-Bissau, habría sido detenido el 1 de marzo de 2001 en Madrid. Un agente de la policía nacional vestido de civil le habría pedido los documentos de identidad y conducido a una comisaría de policía, donde tres agentes le habrían propinado puñetazos y patadas, lo habrían empujado al suelo y lo habrían amenazado con una pistola. En la comisaría no habría recibido la atención médica necesaria. Más tarde habría acudido a los servicios de urgencias del Hospital San Carlos. Un informe médico emitido por el hospital el 7 de marzo confirmaría la rotura de cinco costillas y una hemorragia interna. Habría estado varios días hospitalizado. El 13 de marzo de 2001, habría interpuesto una denuncia ante un juzgado de Madrid.

1262. El Gobierno precisó que Boaventura Simão Vaz fue detenido cuando, en compañía de otro ciudadano de Guinea-Bissau, habría intentado vender pastillas a dos funcionarios del Cuerpo Nacional de Policía vestidos de paisano que se encontraban en servicio. Cuando los funcionarios de policía mostraron sus respectivas placas profesionales, Boaventura Simão Vaz intentó fugarse, lo que originó un forcejeo con los agentes, causando lesiones a uno de los policías al que el referido agarrándole por el pelo golpeó contra la calzada. El Gobierno indicó que como los dos individuos ofrecieron importante resistencia, y comenzaron a proferir insultos y gritos, se tuvo que emplear la fuerza mínima imprescindible para proceder a su detención. Durante la detención del reseñado se le ocupó un cuchillo de grandes dimensiones. De los hechos acaecidos se tramitaron las correspondientes diligencias y se informó a los detenidos de los motivos de su detención así como de sus derechos constitucionales, en acta escrita. Boaventura Simão Vaz fue asistido en el Hospital Clínico San Carlos y tras ser emitido el parte médico correspondiente regresó nuevamente a los calabozos.

1263. **Marta Elena Arce Salazar**, una ciudadana de Costa Rica, habría sido detenida el 2 de abril de 2001 en Barcelona. Los agentes de policía la habrían golpeado antes de conducirla a la comisaría de policía de Rambla Nova. Tras su petición, habría sido transferida al Hospital del Mar, donde se habría expedido un certificado médico. Los cuatro agentes que la habrían llevado a la comisaría la habrían acusado de agresión a un agente con un bote de gas. Ella habría admitido que llevaba uno en el bolsillo y éste habría estallado cuando la habrían tirado al suelo. Habría permanecido detenida en la comisaría hasta las 11 de la noche del día siguiente. A continuación, habría sido trasladada al Centro de Internamiento de Extranjeros (CIE) de la Verneda y tras pasar la noche allí, habría comparecido ante un juez. Por la tarde del mismo día habría sido puesta en libertad. Durante el tiempo que habría estado recluida en la comisaría, habría tenido que dormir en un colchón sobre el suelo, la primera noche no le habrían dado mantas y no habría podido hablar por teléfono con un abogado ni con familiares o amigos. No habría podido ver a un abogado hasta el 4 de abril de 2001.

1264. El Gobierno informó de que Marta Elena Arce Salazar se encaró en actitud ofensiva y negándose a identificarse a unos agentes que habían cuestionado un grupo de migrantes en relación con el robo de un teléfono móvil. De acuerdo con las explicaciones proporcionadas por el Gobierno, se soltó de la sujeción policial y sacó del bolso un aerosol de defensa personal con la intención de utilizarlo contra el agente. Bajo estas circunstancias fue detenida, informada de sus derechos y conducida al hospital Percamps de Barcelona. Posteriormente fue trasladada a la comisaría de Ciutat Vella y se le designó un letrado. El Gobierno aseguró que el trato recibido por Marta Elena Arce Salazar fue el mismo acordado a cualquier detenido.

1265. **Ibrahim Saad Llah**, un hombre de origen palestino nacido en Libia, habría sido agredido por efectivos de la Policía Nacional el 9 de mayo de 2001, cuando habría acudido a la comisaría para solicitar la documentación necesaria para salir de Ceuta y viajar a la península. En la comisaría, dos agentes lo habrían golpeado con porras mientras otros dos le habrían propinado puñetazos. Habría recibido golpes en el costado, las piernas, la cabeza y el tórax. Habría permanecido

detenido en la comisaría durante dos días. Habría presentado una denuncia ante la Audiencia de Ceuta contra cuatro policías nacionales.

1266. El Gobierno informó de que Ibrahim Saad Llah fue detenido por policías del Grupo Operativo de Fronteras de la Unidad de Extranjería y Documentación de la Comisaría de Policía de Ceuta conforme a ley y quedó anotado en el libro de detenidos. Los actuantes procedieron a practicarle un cacheo al objeto de comprobar si entre sus ropas portaba algún documento que pudiera identificarlo y confirmar su origen. Sin embargo, Ibrahim Saad Ellah se negó a ser cacheado y adoptó una actitud de impedimento activo a la actuación, por lo que tuvo que ser compelido contundentemente para ello. El Gobierno aseguró que el detenido no fue sometido a trato denigrante ni vejatorio alguno. La denuncia interpuesta por Ibrahim Saad Ellah fue sobreseída por el titular del Juzgado de Instrucción n.º 4 de Ceuta el 18 de agosto de 2001. Posteriormente una demanda de asilo en España formulada le fue denegada por la autoridad competente y en la actualidad se encuentra en paradero desconocido.

1267. **Abdelhak Archani**, un ciudadano marroquí, habría sido apresado en julio de 2001 por tres agentes de policía vestidos de civil, que le habrían propinado una paliza. Los agentes lo habrían introducido en un vehículo y lo habrían trasladado al arcén de una autopista, donde lo habrían golpeado con porras y sometido a insultos de índole racista. Posteriormente habría ingresado en el hospital de L'Esperit Sant en Santa Coloma de Gramanet. Más tarde, dichos policías habrían afirmado que habían encontrado a Abdelhak Archani ebrio en la calle y que se habrían limitado a llevarlo a su casa. Se habría iniciado una investigación judicial sobre los hechos.

1268. El Gobierno precisó que Abdelhak Archani ocasionó numerosas discusiones que necesitaron la intervención policial cuando se encontraba ante la Subdelegación del Gobierno de Barcelona vendiendo turnos para la cola de extranjeros que esperaban hacer trámites administrativos. Según explicó el Gobierno, como el denunciante presentaba síntomas de embriaguez, agentes de policía le advirtieron de que debía abandonar el lugar y se ofrecieron a trasladarlo a su domicilio. Abdelhak Archani fue trasladado de forma voluntaria y no forzosamente. Durante el trayecto, abandonó el vehículo tras manifestar tal deseo. Las investigaciones realizadas y el informe del médico forense demuestran que en ningún momento fue objeto de malos tratos por parte de la policía. El caso fue sobreseído provisionalmente, al no quedar debidamente justificada la perpetración del delito.

1269. **Nouredine Hathout**, un ciudadano marroquí, habría sido agredido por tres policías en Málaga el 24 de noviembre de 2001. Un agente lo habría agarrado por la pechera y lo habría empujado contra la pared. Acto seguido, tres agentes lo habrían insultado con expresiones racistas. Tras ser cacheado, habría sido acusado de traficar con drogas y amenazado con la paralización de sus trámites para obtener la nacionalidad española. A continuación lo habrían llevado a una comisaría de policía, donde durante una hora le habrían negado el derecho a contactar con un abogado y a ser llevado al hospital. Más tarde, cuando aparecieron otros agentes, habría sido trasladado a la clínica Carlos Haya, donde le habrían practicado un reconocimiento médico cuyo informe habría constatado

la presencia de contusiones y erosiones en ambos lados del cuello. Después habrían vuelto a llevarlo a la comisaría, donde habría sido golpeado otra vez. En la comisaría habrían intentado hacer pasar por suya una navaja que no lo sería. Habría quedado en libertad diez horas después. El relato policial que la subdelegación del gobierno habría ofrecido a la prensa contradiría esta versión. El 26 de noviembre se habría presentado una denuncia contra los agentes ante el juzgado de guardia de Granada.

1270. El Gobierno informó de que en las diligencias policiales consta que la persona fue debidamente informada de los derechos que le asisten y que fue asistida durante su declaración por un letrado del Colegio de Abogados de Málaga y puesta en libertad al término de 21,5 horas de detención. También consta que fue trasladado al servicio de urgencias del hospital Carlos Haya donde fue asistido, al igual que uno de los funcionarios actuantes. Esta persona está imputada por el delito de atentado y su caso estaba pendiente de resolución cuando el Gobierno transmitió esta información. La celebración del juicio estaba prevista para el 29 de octubre 2002.

1271. El 22 de enero de 2002 la policía habría cargado contra **inmigrantes indocumentados que se manifestaban pacíficamente en la Alcazaba de Almería** para reivindicar la concesión de permisos de trabajo y residencia. La manifestación habría acabado con 11 detenciones y hasta 20 heridos. La policía habría intervenido con gases lacrimógenos y balas de goma para dispersar a unos 300 manifestantes. Los manifestantes detenidos habrían sido conducidos a una comisaría de policía donde habrían sido nuevamente golpeados, les habrían impedido ir al baño y les habrían tenido sin alimentos ni mantas para abrigarse durante 48 horas. El gobierno habría informado de que sólo había habido dos heridos leves, pero la Cruz Roja habría señalado que hasta 20 personas habían resultado afectadas por el gas lacrimógeno, o habían sido golpeadas por la policía o atropelladas por otros manifestantes en su huida precipitada de la carga policial. Se habrían cursado órdenes de expulsión habrían sido cursadas contra dichos inmigrantes y ocho marroquíes habrían sido trasladados a un CIE de Valencia, donde habrían permanecido cuatro días sin recibir asistencia médica, a pesar de haber llegado allí en un estado lamentable.

1272. El Gobierno informó de que los días 21 y 22 de enero de 2002 se produjeron concentraciones de extranjeros dirigidas por el Sindicato de Obreros del Campo (SOC), que se iniciaron frente a las dependencias de la Subdelegación del Gobierno en la plaza López Falcón, de Almería. El Cuerpo Nacional de Policía intervino para evitar que las personas acamparan en el lugar, permitiendo el paso a los extranjeros que pretendían acceder a la Oficina de Extranjeros para realizar trámites administrativos. Llegada la hora de cierre de dicha oficina, permanecían concentradas unas 500 personas, a cuya identificación procedió la policía. Se produjeron nueve detenciones, una de ellas por resistencia a la autoridad. En la madrugada del 22 de enero, en el cerro San Cristóbal se fueron concentrando un número aproximado de 200 extranjeros con la intención de acampar en el lugar. La Subdelegación de Gobierno dio instrucciones a los miembros de la policía para disolver a los concentrados. Tras los preceptivos avisos verbales se inició la actuación policial según los dispositivos establecidos, durante la cual los policías actuantes sufrieron continuas agresiones y lanzamiento de piedras por parte de los

concentrados. Se practicó un total de 31 detenciones. Algunos de los detenidos se habrían lesionado, principalmente por las carreras emprendidas y caídas, debido a la escasez de luz y lo accidentado del terreno. También resultaron heridos tres detenidos. Algunos de los lesionados fueron atendidos *in situ* y otros fueron trasladados a un centro asistencial, donde fueron atendidos por contusiones leves y cefaleas, y uno de ellos permaneció en observación bajo una crisis de ansiedad. El Gobierno aseguró que la actuación policial fue ajustada a la ley.

1273. Por esta misma carta del 4 de septiembre de 2002, el Relator Especial, junto con los otros dos arriba mencionados Relatores Especiales, notificó al Gobierno que recibió alegaciones sobre las condiciones de vida en el **centro Fuerte de la Purísima Concepción de Melilla y el centro San Antonio de Ceuta**, dos centros de acogida para jóvenes inmigrantes, donde los niños vivirían en condiciones de hacinamiento grave. El centro San Antonio tendría una capacidad para unas 30 personas pero albergaría a más de 100 menores. Por falta de espacio, algunos de ellos dormirían en el suelo o sobre mesas. También se ha informado de que los internos compartirían un solo baño. Los menores se habrían quejado de la suciedad de la ropa de sus camas y de la carencia de ropa de vestir. Con respecto a la alimentación, muchas de las comidas contendrían carne de cerdo, alimento que gran parte de los internos no podría comer por razones religiosas. En ninguno de los dos centros los niños tendrían servicios de recreación. En estos centros niños y niñas habrían sufrido extorsiones, robo o violencia física por parte de internos más mayores o habrían sido sometidos a prácticas disciplinarias abusivas por parte de miembros del personal, quienes también recurrirían frecuentemente a amenazas de expulsión. De acuerdo con la información recibida, niños internos en el Centro San Antonio habrían sido encerrados en un cuarto pequeño, oscuro y sucio sin retrete y con sólo unos colchones durante una semana como castigo. El Defensor del Pueblo habría presentado una queja relativa a las condiciones de esta celda de castigo en el año 2000. Desde entonces, el personal del centro habría mejorado la habitación añadiéndole luz y una ventana. Una noche de octubre de 2001, todos los menores el centro Fuerte de la Purísima Concepción habrían tenido que salir y esperar durante horas en el exterior porque uno de ellos habría robado una sábana. Se alega también que no existiría ningún organismo oficial activamente responsable de garantizar que los niños no acompañados en Ceuta y Melilla reciban el cuidado y la protección a los que tienen derecho por ley. Tampoco existiría ningún mecanismo efectivo para facilitar que estos menores puedan interponer denuncias o ejercer el derecho a ser escuchados. Los funcionarios del Gobierno delegarían tales responsabilidades a las autoridades locales, quienes, a su vez y por falta de medios, confiarían a los centros de denuncia y a la policía la denuncia de los abusos.

1274. En relación con estas alegaciones, el Gobierno aseguró que las disposiciones legislativas españolas sobre el niño y la familia parten de las convenciones internacionales. Sobre el supuesto maltrato a menores en el centro San Antonio, actualmente llamado centro La Esperanza, el Gobierno de España informó que en marzo de 2001 se iniciaron obras de ampliación que permiten el alojamiento en torno a 110 menores. El Gobierno afirmó que no es cierto que en el centro estuvieran alojadas niñas y que los menores carecieran de espacio de ocio y que tampoco es cierto que los menores hayan sido encerrados en un “cuarto

pequeño, oscuro y sucio”. El Gobierno aseguró que el trato a los menores es profesional y totalmente alejado de cualquier visión autoritaria de la atención social. El Adjunto al Defensor del Pueblo, alto comisionado ante el Parlamento español para el control de la Administración realizó una visita al centro el 10 de mayo 2001, descartó la existencia de malos tratos y señaló que no había ninguna investigación abierta en esta materia. Asimismo, el Gobierno indicó que en Ceuta no se ha producido ningún caso de menores que, no pudiendo retornar a sus países o quedar a disposición de los servicios de protección de menores de Marruecos, hayan sido retornados sumariamente. En cuanto a la afirmación que no “existe ningún organismo oficial relativamente responsable de garantizar que los niños no acompañados en Ceuta reciban un cuidado y la protección a los que tienen derecho por ley”, el Gobierno indicó que se trata de una afirmación gratuita. Por ley, la Ciudad Autónoma de Ceuta ejerce estas competencias y responsabilidades a través de la Consejería de Bienestar Social.

1275. En relación con los migrantes menores en Ceuta y Melilla, los Relatores Especiales recibieron información sobre los siguientes casos individuales.

1276. **Mohamed Garbagui**, de 13 años, habría sido detenido en la calle por una patrulla de la policía de Ceuta y conducido al centro de acogida de San Antonio. Allí, dos cuidadores lo habrían llevado a una celda de castigo donde lo habrían desnudado, golpeado con las manos y con un palo y abofeteado. No le habrían dado suficientemente de comer, le habrían confiscado la almohada y lo habrían obligado a tumbarse en el suelo. El menor se habría escapado del centro y, acompañado por el representante de una ONG, habría acudido a una clínica, donde habría recibido tratamiento médico por las lesiones sufridas. El 29 de junio de 2001 habría interpuesto una denuncia ante el Juzgado de Instrucción n.º 2 de Ceuta. Previamente ya habría presentado otra denuncia ante la Dirección General de la Policía de Ceuta. No sería la primera vez que habría habido casos de malos tratos a menores de edad en este centro de acogida. Según la información recibida, en 2000, la Fiscalía de Menores de Ceuta habría abierto una investigación sobre denuncias de abuso sexual de al menos 12 menores del centro.

1277. El Gobierno informó que el 20 de junio 2002 fueron remitidas diligencias policiales al Juzgado de Instrucción n.º 2 de Ceuta, imputando a dos cuidadores del centro de menores San Antonio como presuntos autores de unas lesiones causadas a Mohamed Garbagui. Consultado dicho juzgado informó que tal procedimiento ha sido archivado. La última constancia de la presencia del menor en Ceuta fue el 22 de febrero de 2002, fecha en que fue detenido por orden del Juzgado de Menores de la ciudad. El Gobierno indicó igualmente que no se tiene noticia alguna de que en el centro San Antonio se haya producido ningún tipo de abusos sexuales. No obstante, el 14 de abril de 2000, la directora del centro puso en conocimiento de la Comisaría del Cuerpo Nacional de la Policía que un individuo conduciendo un auto solía merodear por los alrededores de la zona buscando menores para abusar sexualmente de ellos. Miembros del Grupo de Menores del Cuerpo Nacional de Policía iniciaron investigaciones que resultaron en la detención de tres individuos a los que se les instruyeron diligencias policiales, que fueron entregadas en el Juzgado de Instrucción n.º 4. Todos ellos fueron puestos en libertad. Sobre este asunto se interesó el Defensor del Pueblo, que promovió una investigación sumaria e informal. El Defensor del Pueblo

recibió, en síntesis, la información que precede y en escrito de 2 de octubre 2000 dio por concluida la investigación.

1278. **Said M.** y **Hassan U.**, dos argelinos, el primero de ellos de 17 años, habrían sido golpeados por la policía local de Ceuta en el momento de su detención el 14 de octubre de 2000 y en la comisaría de policía a la que habrían sido conducidos. En la comisaría Said M. habría perdido el conocimiento y lo habrían reanimado arrojándole agua con una manguera, con la que también lo habrían golpeado. Habrían sido nuevamente obligados a entrar en un vehículo policial, los habrían golpeado otra vez y los habrían llevado a la misma zona donde los habrían detenido. Allí los habrían encontrado unos guardias civiles, a los que habrían pedido ayuda y quienes los habrían conducido al hospital del Instituto Nacional de la Salud (Insalud) en Ceuta. El informe médico habría constatado diversas lesiones y cortes y el 19 de octubre de 2000 un periódico habría publicado una fotografía de las lesiones presuntamente causadas a uno de ellos.

1279. El Gobierno informó que el 14 de octubre de 2000, fuerzas de la Guardia Civil instruyeron un atestado por supuesta agresión con resultado de lesiones en el que consta como denunciante, los dos ciudadanos argelinos, Said M. y Hassan U. y que según declaran se produjo a las 10 de la noche del día anterior. Consultado el Juzgado de Primera Instancia e Instrucción n.º 3, informó verbalmente de que el 13 de abril el procedimiento había sido archivado. Tanto en este caso como el anterior el archivo es una declaración de voluntad judicial que pone fin al proceso por falta de presupuestos necesarios para decretar la apertura a juicio oral y, en su caso, dictar auto de procesamiento.

1280. **Shihab R.** (seudónimo), menor de edad, habría sido detenido por la policía de Ceuta a finales de octubre de 2001 cuando se encontraba en el puerto, dispuesto a intentar cruzar a la península española. Habría sido conducido a una comisaría y más tarde trasladado al cuartel de la Guardia Civil. Durante el trayecto, habría sido golpeado en los brazos, las piernas y la cabeza. También habría recibido golpes de porra y patadas. En las instalaciones de la Guardia Civil habría sido nuevamente golpeado antes de ser llevado al centro San Antonio. Un informe médico emitido por el Insalud el 2 de noviembre de 2001 señalaría que el menor presentaba una fractura estable del segundo metacarpo de la mano izquierda. Se alega que no habría recibido tratamiento médico hasta que las Hermanas Carmelitas de la Caridad de Vedruna lo habrían llevado al Hospital de la Cruz Roja.

1281. **Omar H.** (seudónimo), de 16 años, habría llegado a Ceuta desde Tánger en septiembre de 2001. A los pocos días de estar en España, habría sido detenido por efectivos de la policía. Omar H. habría notificado a la policía que era menor de edad, a pesar de lo cual habría sido conducido a una comisaría donde habría pasado todo un día. De acuerdo con la información recibida, durante su detención habría recibido golpes de porra en la espalda y en los muslos. A continuación habría sido conducido al centro San Antonio.

1282. En los casos de Shihab R. y Omar R, el Gobierno indicó que no se tiene constancia de los hechos relatados y que resulta imposible comprobar la veracidad

de la denuncia que posibilite poner en marcha la correspondiente investigación sobre los hechos denunciados.

1283. **Salah S.** (seudónimo), un menor alojado en el centro Fuerte de la Purísima Concepción, habría sido sometido a una paliza por dos funcionarios del centro en octubre de 2001 después de una pelea con otro interno. De acuerdo con la información recibida, los miembros del personal le habrían propinado patadas y golpes en las pantorrillas y lo habrían abofeteado.

1284. El Gobierno aseguró que las lesiones sufridas por el menor fueron ocasionadas por otro menor interno, y que los trabajadores del Centro de Menores Purísima Concepción de Melilla se limitaron a separar a ambos menores y recabar asistencia médica.

1285. **Ayman M.** (seudónimo), de 16 años, habría sido entregado a las autoridades policiales marroquíes de la ciudad de Nador. Habría sido llevado junto con otros menores a una comisaría donde unos policías les habrían pisado los pies, interrogado sobre su origen y encerrado en un almacén. Antes de ser puestos en libertad, habrían sido golpeados con un palo largo de alto voltaje por aproximadamente diez agentes de la policía. A Ayman M. este trato le habría causado magulladuras en la muñeca izquierda. Se alega que entre el 27 de julio y el 18 de septiembre de 2001, las autoridades de Melilla habrían expulsado a al menos 32 menores no acompañados con edades comprendidas entre los 11 y los 17 años y este tipo de expulsiones se habría elevado a al menos 70 en febrero de 2002.

1286. El Gobierno indicó que no se ha podido constatar el expediente de Ayman M. No obstante, se niega que se haya producido una repatriación en las circunstancias descritas en las alegaciones. En 2002 se han realizado 72 repatriaciones de menores en Melilla y en ninguna de ellas se ha utilizado esposas, ni mucho menos los menores han sufrido malos tratos por parte de autoridades.

1287. **Un total de 40 menores extranjeros**, con edades comprendidas entre 13 y 17 años residentes en el centro Fuerte de la Purísima de Melilla, habrían iniciado una huelga de hambre el 4 de marzo de 2002 para protestar contra la política de reagrupación familiar, que, según denunciaban, no funcionaba, ya que no había familiares esperándolos al otro lado de la frontera. Además, habrían denunciado que no les estaban dando el permiso de residencia una vez vencido el plazo de nueve meses que establecía la ley, y que algunos educadores del centro los maltrataban.

1288. El Gobierno indicó que algunas ONG anunciaron que se iba a producir, sin embargo la huelga de hambre no llegó a producirse.

1289. Por carta de 12 de septiembre de 2002, el Relator Especial, junto con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Relatora Especial sobre los derechos humanos de los migrantes, notificó al Gobierno que recibió información sobre los siguientes dos casos. Por carta de 14 de noviembre de 2002, el Gobierno contestó a la comunicación de los Relatores Especiales, proporcionando información sobre los dos casos.

1290. **Youssef R.**, un marroquí de 20 años, habría fallecido el 8 de agosto de 2001 en el hospital de Ceuta, una hora y media después de que unos agentes de la Policía Nacional habrían empleado la fuerza contra él para reducirlo por presunto robo en la zona fronteriza de El Tarajal. En el momento de su detención, Youssef R. habría amenazado a los agentes con unas tijeras y habría intentado cruzar de nuevo la frontera para huir a Marruecos. Finalmente, habría sido esposado y conducido a la comisaría de policía, donde le habrían prestado los primeros auxilios antes de llevarlo al hospital. Una autopsia, realizada el 10 de agosto, determinaría que la muerte se había producido por asfixia y que el cadáver presentaba contusiones en la cara y una costilla rota.

1291. El Gobierno informó de que Youssef R. habría sido alcanzado por un agente de policía cuando intentaba escapar de unos agentes que querían identificarle en relación con un robo que habría ocurrido poco antes. Youssef R. estaría en un estado de excitación anormal y habría ofrecido resistencia al agente de policía. Ante esta resistencia y el hecho que el interceptado llevaba unas tijeras en la mano, el agente lo habría reducido por la fuerza. Durante el forcejeo, Youssef R. se habría golpeado con el bordillo de una acera. El personal de una ambulancia cuya presencia había sido requerida le habría prestado las primeras atenciones médicas pero habría fallecido durante su traslado al hospital, supuestamente por una parada cardiorrespiratoria. Este caso sería actualmente objeto de una investigación judicial, pero nadie ha sido imputado o procesado.

1292. **Essa Marong**, un ciudadano gambiano, habría fallecido bajo custodia el 2 de diciembre de 2001, a las 24 horas de haber sido detenido y sometido a medidas de inmovilización, entre ellas la colocación de una mordaza, por agentes de los *Mossos d'Esquadra*, policía autonómica de Cataluña. Se alega que de acuerdo con una explicación oficial de la muerte, Essa Marong había ingerido una bolsa de cocaína, y que ésta se le había reventado en el estómago. Sin embargo, familiares y amigos habrían manifestado que su muerte podía tener relación con malos tratos y la Asociación de Gambia habría constatado la presencia de fracturas múltiples. El informe de la autopsia mencionaría una hemorragia interna masiva. Un juzgado de Lleida habría abierto una investigación sobre la muerte bajo custodia.

1293. El Gobierno confirmó que Essa Marong habría ingerido, antes de su detención, una bolsa de cocaína. Ésta habría reventado en el estómago del detenido, provocándole la muerte.

1294. Por carta de 25 de septiembre de 2002, el Relator Especial notificó al Gobierno que recibió información sobre los siguientes casos individuales. Por carta de 15 de noviembre de 2002, el Gobierno contestó a la comunicación del Relator Especial y proporcionó información sobre todos los casos.

1295. **José Ramón Ramada Estévez** habría sido trasladado a la Dirección General de Seguridad de Madrid el 8 de enero de 2001. Habría permanecido cuatro días en régimen de incomunicación durante los cuales habría recibido bofetadas y golpes en la cabeza, en los testículos y en el estómago y habría sido sometido a amenazas y tirones de pelo, bigote y patillas. Una denuncia habría sido interpuesta ante el Juzgado de Instrucción n.º 1 de San Sebastián.

1296. El Gobierno confirmó que fue detenido el 8 de enero de 2001 a su llegada al aeropuerto de Madrid-Barajas. Se le informó de sus derechos y de los motivos de su detención, y el Juzgado Central de Instrucción acordó su traslado a Irún para estar presente en un registro. A continuación prestó declaración en presencia de un letrado de oficio del Colegio de Abogados de Madrid. El Gobierno aseguró que fue diariamente reconocido por un médico forense de la Audiencia Nacional, durante todo el tiempo en que estuvo detenido y hasta que el Juzgado Central de Instrucción n.º 3 de la Audiencia Nacional decretó su prisión incondicional. No se tiene constancia de que haya presentado denuncia alguna con motivo del trato recibido durante su detención. El detenido fue posteriormente condenado por pertenencia a banda armada y por secuestro.

1297. **Iñaki Krutxaga** (José Ignacio Cruchaga) habría sido entregado a la Policía Nacional de Barcelona el 11 de enero de 2001. Habría permanecido en régimen de incomunicación durante cinco días en la Jefatura Superior de Policía de Cataluña. Durante estos días habría sido golpeado en distintas ocasiones. Los policías le habrían aplicado una bolsa de plástico en la cabeza mientras uno de ellos lo habría golpeado en la cara hasta el punto de hacerle sangrar la nariz. También se alega que habría sido desnudado de cintura para abajo y tumbado en una mesa con las piernas colgadas mientras que un agente le habría estrujado los testículos y otros le habrían golpeado con un listín telefónico en la cabeza. Dichos tratos se habrían repetido tres veces. Un policía lo habría amenazado con tirarlo por las escaleras. Una denuncia habría sido interpuesta ante el Juzgado de Instrucción n.º 4 de Bilbao.

1298. El Gobierno confirmó que Iñaki Krutxaga fue detenido por la Guardia Urbana de Barcelona el 11 de enero de 2001, cuando circulaba con otra persona a bordo de un vehículo que iban a utilizar como coche bomba. Habría ofrecido resistencia e intentado huir. El Gobierno indicó que se le informó de manera inmediata de sus derechos y de los motivos de su detención, siendo asistidos durante todo el tiempo que duró la detención por un médico forense. Ambos detenidos prestaron declaración en presencia de letrados del Colegio de Abogados de Barcelona.

1299. **José Manuel Zubillaga y Peio Goikoetxea** (Pedro Miguel Goicoechea Garralda) habrían sido transferidos a la Dirección General de la Guardia Civil (DGGC) en Madrid el 25 de febrero de 2001. Durante los interrogatorios, José Manuel Zubillaga habría sido golpeado, obligado a desnudarse de cintura para abajo y amenazado con electrodos. Peio Goikoetxea habría sido golpeado y obligado a realizar flexiones. Le habrían cubierto la cabeza con una bolsa en la cabeza, impidiéndole respirar, y lo habrían amenazado con someterlo a descargas eléctricas. Habría sido obligado a permanecer de pie desnudo de cintura para abajo y con los brazos levantados durante varias horas. Ambos habrían sido mantenidos cuatro días en régimen de incomunicación. Una denuncia habría sido interpuesta ante el Juzgado de Instrucción n.º 1 de Pamplona.

1300. El Gobierno indicó que fueron detenidos por su presenta pertenencia a la banda terrorista Euskadi ta Askatasuna (ETA) y aseguró que el trato que se les

dispensó fue correcto y señaló que no hay constancia de ninguna interposición de denuncia contra componentes de la Guardia Civil en relación con estos casos.

1301. **Jon Zubiaurre Agirre, Aitor García Justo y Asier García Justo** habrían sido conducidos a la comisaría de la Ertzaintza, policía autonómica vasca, de Oiartzun el 9 de marzo de 2001. **Jon Zubiaurre Agirre** habría sido obligado a flexionar las rodillas y golpeado, sobretodo en la cabeza durante los interrogatorios. Al caerse al suelo, lo habrían levantado estirándole del pelo. Le habrían puesto un casco y seguidamente lo habrían golpeado en la cabeza. Habría sido trasladado al hospital y posteriormente conducido de nuevo a la comisaría, donde habría recibido el mismo trato que durante los primeros interrogatorios. Habría sido conducido al hospital una segunda vez. Aitor García Justo habría sido obligado a estar de pie contra la pared y con las rodillas flexionadas durante tiempos prolongados. Asier García Justo habría sido obligado a tener la cabeza agachada y a hacer flexiones doblando las rodillas. Habría sido golpeado en la cabeza y le habrían tirado del pelo. Los tres habrían sido mantenidos en régimen de incomunicación durante cuatro días. Denuncias habría sido interpuesta ante el Juzgado de Instrucción n.º 2 y n.º 4 de San Sebastián.

1302. El Gobierno informó de que se estaba a la espera de recibir la información que se solicitó con fecha 14 de octubre a la Dirección de Régimen Jurídico del Departamento de Interior del Gobierno Vasco. Por carta de 12 de diciembre de 2002, el Gobierno transmitió más información sobre el caso. En particular, indicó que los tres fueron reconocidos a diario por un médico forense y visitados por una Comisión judicial tres veces entre el 9 y el 12 de marzo de 2001. Fueron puestos a disposición del Juzgado Central de Instrucción n.º 5 de la Audiencia Nacional el 13 de marzo de 2001, el cual ordenó la prórroga de su detención. En relación con Jon Zubiaurre Aguirre, el Gobierno informó que el 22 de junio de 2001, el Juzgado de Instrucción n.º 5 de San Sebastián acordó el sobreseimiento provisional y archivo de diligencias en virtud de la denuncia interpuesta. Esta resolución fue confirmada por la Sección 2 de la Audiencia Provincial de San Sebastián el 15 de febrero de 2002. El Gobierno informó de que no consta ninguna denuncia interpuesta por Aitor García Justo. En relación con Asier García Justo, el Gobierno indicó que el 15 de noviembre de 2001, el Juzgado de Instrucción n.º 4 de San Sebastián dictó acto de sobreseimiento provisional y archivo de diligencias en virtud de la denuncia interpuesta.

1303. **Zigor Goikoetxea (Zigor Coicoechea Basabe) y Jorge del Campo** habrían sido conducidos a la comisaría de la Policía Nacional de Indautxu (Bilbao), el 20 de marzo de 2001. Durante su traslado a la comisaría, **Zigor Goikoetxea** habría sido golpeado en la parte trasera de la cabeza. Una vez en la comisaría, habría recibido golpes por todo el cuerpo y en los testículos. Posteriormente habría sido transferido a la Dirección General de la Policía Nacional, en Madrid. **Jorge del Campo** habría recibido golpes en la cabeza. Durante su detención se habría puesto enfermo pero no le habrían dado agua y le habría impedido descansar por las noches. Habría sido trasladado a la AN, Madrid. Los dos habrían sido mantenidos en régimen de incomunicación durante tres días. Una denuncia habría sido interpuesta ante los Juzgados de Instrucción n.º 1 y n.º 3 de Bilbao en relación con los dos casos.

1304. El Gobierno confirmó que ambos fueron detenidos el 20 de marzo de 2001 durante una operación policial consistente en la desarticulación de un *talde* (grupo) “Y” de apoyo a la organización terrorista ETA. Según indicó el Gobierno, fueron informados de manera inmediata de sus derechos y de los motivos de su detención y estuvieron constantemente asistidos, durante el tiempo que duró la detención, por un médico forense. Los detenidos pasaron a disposición del Juzgado Central de Instrucción 5 de la Asamblea Nacional y fueron puestos en libertad provisional a la espera de la celebración de la vista oral.

1305. **José Cruz Sarasola**, de 71 años, **Joxe Elizegi** (José Elicegui Michelena), **Bixente Goia Etxebeste** (Vicente Goya Echebeste), **José Ángel Altzuguren** e **Imanol Larrañaga Alberdi** habrían sido trasladados a la Dirección General de la Guardia Civil en Madrid, tras ser detenidos el 23 de marzo de 2001. **José Cruz Sarasola** habría sido golpeado por dos policías. Durante uno de los interrogatorios los policías le habrían hecho escuchar una cinta de llantos y gritos de mujeres y niños. A Joxe Elizegi le habrían cubierto la cabeza con una bolsa, impidiéndole respirar, al mismo tiempo que le habrían propinado golpes en la cabeza y un agente le habría apretado los testículos. Se alega que en otras ocasiones habría recibido golpes en el cuerpo, le habrían aplicado electrodos por todo el cuerpo y lo habrían empujado de un lado para otro. Le habrían bajado los pantalones y lo habrían amenazado con penetrarle con una barra. Estos tipos de tratos se habrían repetido varias veces. Sobre Bixente Goia Etxebeste, se alega que durante el primer interrogatorio habría recibido golpes en la cabeza y en el pecho. En Madrid habría recibido otras golpizas, le habrían aplicado electrodos en las piernas, le habrían tapado la cabeza con una bolsa, provocándole asfixia y lo habrían desnudado de cintura para abajo. Habría sido forzado a permanecer de pie frente a una pared desde la hora del desayuno hasta la hora de la comida. Sobre José Ángel Altzuguren se alega que le habrían cubierto la cabeza con una bolsa impidiéndole respirar, al mismo tiempo que le habrían golpeado repetidamente. Le habrían agarrado de las orejas para levantarlo del suelo. Se alega que también habría sido sometido a electrodos. Dichos tratos le habrían causado lesiones en los pies y pérdida de audición del oído izquierdo. Imanol Larrañaga Alberdi, a quien habrían tapado la cabeza con una manta y una bolsa, habría sido sometido a golpizas durante un primer interrogatorio. Habría sido obligado a realizar flexiones y amenazado con electrodos. En un segundo interrogatorio habría sido forzado a bailar en presencia de más guardias civiles. Le habrían colocado varias veces una bolsa en la cabeza, impidiéndole respirar. Todos habrían sido mantenidos en régimen de incomunicación durante cinco días. Una denuncia habría sido interpuesta en relación con Joxe Elizegi, Bixente Goia Etxebeste, José Ángel Altzuguren e Imanol Larrañaga Alberdi,

1306. El Gobierno informó de que los mencionados fueron detenidos por su presunta pertenencia a la banda terrorista ETA. El Gobierno aseguró que el trato que se les dispensó durante todo el tiempo que permanecieron detenidos y bajo la custodia de la Guardia Civil fue correcto. En relación con Bixente Goia Etxebeste, el Gobierno informó de que pasó a disposición del Juzgado Central de Instrucción n.º 1 de Madrid el 27 de marzo de 2001. El Gobierno indicó que no hay constancia de ninguna demanda interpuesta contra componentes de la Guardia Civil en relación con José Cruz Sarasola e Imanol Larrañaga Alberdi. El Gobierno informó igualmente de que Joxe Elizegi, Bixente Goia Etxebeste y José Ángel Altzuguren

interpusieron una denuncia ante el Juzgado de Instrucción n.º 14 de Madrid por un presunto delito de torturas o malos tratos. La autoridad judicial competente solicitó información al respecto, habiendo procedido a su cumplimentación, y desconociéndose el estado actual de tramitación.

1307. **Eider Pérez Aristizabal** (m), habría sido conducida al Cuartel de la Guardia Civil de Intxaurrondo, San Sebastián, el 26 de marzo de 2001 y posteriormente transferida a la Dirección General de la Guardia Civil en Madrid. Le habrían atado las manos y los tobillos y seguidamente colocado una bolsa en la cabeza, a la vez que habría sido golpeada con un periódico. Habría sido introducida en un coche con una bolsa en la cabeza y sin ser informada de adónde la llevaban. Durante el viaje, habría recibido golpes y le habrían impedido respirar en varias ocasiones. Se alega que habría sido amenazada de muerte. Habría sido trasladada a Madrid, donde cinco o seis guardias civiles la habrían sometido a tratos similares a los descritos. Habría sido mantenida en régimen de incomunicación durante cinco días. Una denuncia habría sido interpuesta ante el Juzgado de Instrucción n.º 1 de San Sebastián.

1308. El Gobierno informó que fue detenida por su presunta pertenencia a la banda terrorista ETA y que pasó a disposición del Juzgado Central de Instrucción n.º 1 de Madrid el 30 de marzo de 2001. El Gobierno aseguró que durante todo el tiempo que permaneció detenida y bajo la custodia de la Guardia Civil, el trato que se le dispensó fue correcto. La arriba mencionada interpuso una denuncia en el Juzgado de Instrucción n.º 1 de San Sebastián, pero el procedimiento todavía se encontraba en fase de instrucción cuando el Gobierno transmitió su respuesta.

1309. **Aitor Olaizola** habría sido detenido por la Guardia Civil el 26 de marzo de 2001 en Irun y seguidamente trasladado a la Dirección General de la Guardia Civil, en Madrid. Durante el viaje a Madrid habría recibido puñetazos en la cabeza y el estómago y golpes en una herida que tenía en la cara. Habría sido obligado a desnudarse y le habrían atado las manos por detrás de la espalda. También lo habrían envuelto con una manta con las manos atadas. Se alega también que le habrían colocado una bolsa y habría sido tirado al suelo y sometido a patadas y pisotones, así como a electrodos. Habría sido golpeado con una porra en la cabeza, espalda, genitales y otras partes del cuerpo. Habría sido mantenido en régimen de incomunicación durante cinco días. Una denuncia habría sido interpuesta ante el Juzgado de Instrucción n.º 1 de San Sebastián.

1310. El Gobierno informó de que Aitor Olaizola fue detenido por su presunta pertenencia a la banda terrorista ETA. El Gobierno indicó que se instruyeron diligencias y que el arriba mencionado pasó a disposición del Juzgado Central de Instrucción n.º 1 de Madrid el 30 de marzo de 2001. El Gobierno aseguró igualmente que durante todo el tiempo que permaneció detenido y bajo la custodia de la Guardia Civil, el trato que recibió fue correcto. El detenido interpuso una denuncia en el Juzgado de Instrucción n.º 15 de Madrid, pero el procedimiento todavía se encontraba en fase de instrucción cuando el Gobierno transmitió esta respuesta.

1311. **Ibai Martínez de Treviño**, 18 años, habría sido detenido el 28 de abril de 2001 en Vitoria por agentes de la Guardia Civil que no se habrían identificado

como tales. Habría sido conducido al Cuartel de la Guardia Civil de Sansomendi. Durante el trayecto habría tenido que ir con cabeza la agachada y entre sus piernas. En el cuartel, su cabeza habría sido golpeada contra una pared y habría recibido varios puñetazos en la cabeza, golpes en los testículos y patadas. Le habrían obligado a permanecer de pie durante un largo rato. Al día siguiente habría sido trasladado a la Dirección General de la Guardia Civil, en Madrid. En la Asamblea Nacional habría recibido dos puñetazos por parte de un policía a quien habría pedido un cigarrillo. Habría sido mantenido en régimen de incomunicación durante tres días.

1312. El Gobierno informó que Ibai Martínez de Treviño pasó a disposición del Juzgado Central de Instrucción n.º 6 de la Audiencia Nacional, en Madrid. El Gobierno indicó igualmente que el mencionado interpuso una denuncia ante el Juzgado de Instrucción n.º 1 de Vitoria, desconociéndose el estado actual de la tramitación, si bien el órgano judicial competente remitió una copia de la denuncia, a fin de que se informase de todo lo relacionado con ella. Según indicó el Gobierno, esta denuncia fue presentada transcurridos más de nueve meses desde la detención y obedece claramente a una estrategia de defensa procesal y de ataque sistemático a las Fuerzas y Cuerpos de Seguridad del Estado.

1313. **Oier Gómez Mielgo**, de 17 años, y **Urko Arroyo López de Erentxum** (Erenchún), de 17 años, habrían sido conducidos a los cuarteles de la Guardia Civil de Sansomendi y de Legutio el 28 de abril de 2001. Oier Gómez Mielgo habría sido llevado a un local parecido a un garaje donde le habrían obligado a permanecer de rodillas y con la cabeza agachada. Habría recibido golpes en las costillas y uno de los agentes le habría bajado los pantalones y los calzoncillos, amenazándolo con violarlo. En los cuarteles habría sido golpeado contra los marcos de las puertas y obligado a permanecer nuevamente de rodillas y con la cabeza agachada durante un par de horas. Durante los interrogatorios, habría recibido golpes en la cabeza, el cuello y las costillas. Urko Arroyo López de Erentxum habría sido encapuchado y llevado a un garaje donde habría sido obligado a realizar flexiones. Se alega que habría sido fuertemente golpeado y que le habrían cubierto la cabeza con una bolsa 11 veces, impidiéndole respirar. Habría sido amenazado en relación con las mujeres de su familia y con la violación de su novia, supuestamente detenida también. Ambos habrían sido mantenidos en régimen de incomunicación durante un día. Una denuncia habría sido interpuesta ante el Juzgado de Instrucción núm. 4 de Vitoria.

1314. El Gobierno aseguró que durante el tiempo que permanecieron detenidos, no acaeció ningún hecho que pudiera considerarse como una incidencia fuera de las acciones íntegramente procesales. El Gobierno indicó que los dos menores disfrutaron de las garantías previstas en la Ley reguladora de la responsabilidad penal de los menores, pasando a disposición del Fiscal de Menores de Madrid antes de transcurridas 24 horas de su detención. El Gobierno confirmó igualmente que los detenidos interpusieron una denuncia ante el Juzgado de Instrucción núm. 4 de Vitoria desconociéndose el estado actual de tramitación.

1315. **Santi Aragón** (Santiago Vicente Aragón Iroz) habría sido conducido a la Comisaría de la Ertzaintza de Oiartzun el 22 de agosto de 2001. Durante los interrogatorios habría sido obligado a flexionar las rodillas y a levantar los brazos.

Para que no pusiera rectas las piernas, un agente se habría sentado apoyando los pies en la parte trasera de sus rodillas. Habría recibido un golpe en la cabeza. Habría sido mantenido en régimen de incomunicación durante cinco días. Una denuncia habría sido interpuesta ante el Juzgado de Instrucción núm. 3 de San Sebastián.

1316. El Gobierno informó que se estaba a la espera de recibir la información que se solicitó con fecha 14 de octubre a la Dirección de Régimen Jurídico del Departamento de Interior del Gobierno Vasco. Por carta de 12 de diciembre de 2002, el Gobierno proporcionó información suplementaria sobre este caso. El Gobierno indicó que fue puesto a disposición del JCI núm. 5 de la AN el 26 de agosto de 2001, quien prorrogó el periodo de detención. El Gobierno aseguró que recibió tres visitas de una Comisión judicial entre el 23 y el 25 de agosto de 2001 y que fue reconocido a diario por un médico forense. El Gobierno indicó igualmente que el 9 de julio de 2002, el Juzgado de Instrucción n.º 3 de San Sebastián dictó el sobreseimiento provisional de la causa relativa a la denuncia interpuesta por el detenido y ordenando el archivo de la misma.

1317. **Peru Álvarez Fernández de Mendibil** (Pedro Álvarez Fernández De Mendía) habría sido conducido de Barcelona a la Dirección General de la Guardia Civil el 24 de agosto de 2001. Durante el traslado, habría recibido golpes, sobretodo en la cabeza, y habría sido amenazado con una pistola. Más tarde habría sido golpeado en la cabeza y tirado al suelo, habría recibido patadas en las costillas y le habrían estirado los testículos. Se alega que sus manos, su espalda y sus brazos habrían sido envueltos con gomas para que los golpes no dejaran marcas. En otra ocasión habría sido envuelto con una manta con las piernas atadas y tirado al suelo. Tres agentes se habrían puesto encima de él y uno de ellos le habría tapado la cabeza con una bolsa, provocándole sensaciones de asfixia. Habría sido obligado a realizar flexiones y a realizar saludos militares. Durante su detención la luz de su celda habría estado siempre encendida y habría sido constantemente amenazado en relación con su familia y con la violación de su novia. Habría sido mantenido en régimen de incomunicación durante cinco días. Una denuncia habría sido interpuesta ante un Juzgado de Instrucción de San Sebastián.

1318. El Gobierno informó que fue detenido por su presunta colaboración con la banda terrorista ETA. Por estos hechos se instruyeron diligencias que se entregaron en el Juzgado Central de Instrucción n.º 5 de la Asamblea Nacional, originando diligencias previas. Igualmente, el Gobierno aseguró que no acaeció hecho alguno durante el tiempo que permaneció detenido que pudiese considerarse como una incidencia fuera de las acciones íntegramente procesales. A través de autos del Juzgado Central de Instrucción n.º 5 se decretó la incomunicación del arriba mencionado y se prorrogó su detención. El Gobierno agregó que le fueron practicados reconocimientos médico-forenses los días 24, 25, 26 y 27 de agosto y que pasó a disposición judicial el 28 de agosto de 2001. No hay constancia de ninguna interposición de denuncia contra componentes de la Guardia Civil por los hechos mencionados.

1319. **Unai López de Okariz López** habría sido conducido de Barcelona a la Dirección General de la Guardia Civil el 24 de agosto de 2001. Habría sido

repetidamente golpeado en la cabeza que le habrían cubierto con una bolsa. Habría sido envuelto con una manta térmica y atado con cinta adhesiva y golpeado de nuevo. Un médico que le habría examinado no habría señalado marcas de malos tratos y sólo habría observado que estaba muy nervioso. Habría sido obligado a desnudarse de cintura para abajo y a separar las piernas mientras uno de los agentes le habría estrujado los testículos. Habría sido mantenido en régimen de incomunicación durante cinco días. Una denuncia habría sido interpuesta ante el Juzgado de Instrucción n.º 4 de San Sebastián.

1320. El Gobierno informó de que fue detenido por su presunta colaboración con la banda terrorista ETA. Por estos hechos se instruyeron diligencias que se entregaron en el Juzgado Central de Instrucción n.º 5 de la Asamblea Nacional, originando diligencias previas. Igualmente, el Gobierno indicó que no acaeció hecho alguno durante el tiempo que permaneció detenido que pudiese considerarse como una incidencia fuera de las acciones íntegramente procesales. A través de autos del Juzgado Central de Instrucción n.º 5 se decretó su incomunicación, prorrogándose igualmente el período de detención. Según añadió el Gobierno, a Unai López de Ocariz López le fueron practicados reconocimientos médico-forenses los días 24, 25, 26 y 27 de agosto, negándose a ingerir con regularidad la comida que se le suministró desde el momento de su detención y limitándose únicamente a tomar agua y fruta. El arriba mencionado pasó a disposición judicial el 28 de agosto de 2001, y no consta interposición de denuncia alguna contra componentes de la Guardia Civil por los hechos mencionados.

1321. **Fernando García Jodra** habría sido conducido de Barcelona a la Dirección General de la Guardia Civil el 24 de agosto de 2001. Durante el trayecto, habría sido golpeado, sobre todo en la cabeza, y le habrían estrujado los testículos mientras sus manos estaban presuntamente esposadas y sus ojos tapados con un antifaz. En Madrid, habría recibido más golpes en la cabeza, la cara y los testículos, habría sido desnudado y le habrían colocado una bolsa en la cabeza. Lo habrían tirado al suelo y envuelto con una manta con una bolsa siempre colocada en la cabeza, provocándole sensación de asfixia. Habría sido mantenido en régimen de incomunicación durante cinco días. Una denuncia habría sido interpuesta ante el Juzgado de Instrucción n.º 4 de San Sebastián.

1322. El Gobierno informó de que Fernando García Jodra fue detenido por su presunta colaboración con la banda terrorista ETA. Por estos hechos se instruyeron diligencias que se entregaron en el Juzgado Central de Instrucción n.º 5 de la Asamblea Nacional, originando diligencias previas. El Gobierno aseguró que durante el tiempo que permaneció detenido, no acaeció hecho alguno que pudiese considerarse como una incidencia fuera de las acciones íntegramente procesales. A través de autos del Juzgado Central de Instrucción n.º 5 se decretó su incomunicación y se prorrogó el período de detención. Le fueron practicados reconocimientos médico-forenses los días 24, 25, 26 y 27 de agosto, negándose éste a ingerir con regularidad la comida que le fue suministrada desde el momento de su detención, limitándose únicamente a consumir agua y fruta. El 28 de agosto de 2001 pasó a disposición judicial, no constando interposición de denuncia alguna contra componentes de la Guardia Civil por los hechos mencionados, y no habiéndose recibido comunicación o requerimiento judicial que haga suponer lo contrario.

1323. **Eneko (Iñigo) Balantzategi Coca** habría sido conducido a la Dirección General de la Guardia Civil el 27 de agosto de 2001. Habría sido golpeado en la cabeza varias veces, obligado a desnudarse y a realizar flexiones. Mientras estaba desnudo le habrían tirado agua por encima y le habrían pasado algo frío por los testículos. Lo habrían amenazado con electrodos. Le habrían colocado una bolsa en la cabeza y de esta manera habría tenido que realizar más flexiones. También habría sido golpeado en los testículos. Habría sido puesto en libertad el 29 de agosto de 2001, sin haber pasado ante un juez. Durante los tres días de su detención habría sido mantenido en régimen de incomunicación. Una denuncia habría sido interpuesta ante el Juzgado de Instrucción n.º 2 de Vitoria.

1324. El Gobierno informó de que el mencionado fue detenido por orden del Juzgado Central de Instrucción n.º 5 de la Asamblea Nacional, originando diligencias previas. Interpuso una denuncia en el Juzgado de Instrucción n.º 40 de Madrid por un presunto delito de torturas o malos tratos, si bien, y tal y como informa el Gobierno, durante el tiempo que permaneció detenido, no acaeció hecho alguno que pudiese considerarse como una incidencia fuera de las acciones íntegramente procesales. La Autoridad Judicial competente solicitó una copia autorizada de las diligencias policiales a cuya cumplimentación se procedió. La Dirección General de la Guardia Civil desconoce el estado actual de tramitación.

1325. **José Ramón Acedo Espina** habría sido conducido a la Comandancia de la Guardia Civil de Palencia el 29 de agosto de 2001. Allí habría sido repetidamente golpeado con un libro en la cabeza. Desde el momento de su detención, habría sido mantenido encapuchado, con los ojos tapados. Se alega que habría sido obligado a desnudarse y acto seguido habría recibido más golpes y que le habrían cubierto la cabeza con una bolsa, impidiéndole respirar. Habría sido amenazado de muerte. Habría sido mantenido en régimen de incomunicación durante cinco días antes de ser conducido a la Dirección General de la Guardia Civil, Madrid. Una denuncia habría sido interpuesta ante el Juzgado de Instrucción n.º 2 de San Sebastián.

1326. El Gobierno informó de que durante el tiempo que el mencionado permaneció detenido, no acaeció hecho alguno que pudiese considerarse como una incidencia fuera de las acciones íntegramente procesales. Asimismo, se señaló que no hay constancia de la interposición de denuncia alguna contra componentes de la Guardia Civil en relación con los hechos mencionados y que tampoco se ha recibido comunicación o requerimiento judicial que haga suponer lo contrario.

1327. **Jon Etxeberria Oiarbide** (Juan Echeverría Oyarbide) habría sido conducido al Cuartel de la Guardia Civil de Sansomendi el 2 de septiembre de 2001 y posteriormente a la Dirección General de la Guardia Civil, en Madrid. Habría sido golpeado y amenazado de muerte. Le habrían cubierto la cabeza con una bolsa que le habría impedido respirar. Habría tenido que realizar flexiones al mismo tiempo que habría sido golpeado. Le habrían obligado a desnudarse y lo habrían mojado con agua fría. Lo habrían tumbado al suelo, mojado los testículos y amenazado con electrodos. Habría sido mantenido en régimen de incomunicación durante cinco días. Una denuncia habría sido interpuesta.

1328. El Gobierno informó que durante el tiempo que éste permaneció detenido, no acaeció hecho alguno que pudiese considerarse como una incidencia fuera de las acciones íntegramente procesales. Asimismo, se señaló que no hay constancia de la interposición de denuncia alguna contra componentes de la Guardia Civil en relación con los hechos mencionados y que tampoco se ha recibido comunicación o requerimiento judicial que haga suponer lo contrario.

1329. **Juan Carlos Subijana, Raúl Vallinas Aduna y Sendoa Domínguez** habrían sido conducidos al Cuartel de la Guardia Civil de Sansomendi el 4 de septiembre de 2001 y posteriormente a la Dirección General de la Guardia Civil. Sobre Juan Carlos Subijana se alega que antes de llegar allí, los agentes lo habrían obligado a bajar del coche y le habrían propinado golpes en los testículos y en la cara. Durante los interrogatorios, habría sido golpeado con un listín y con palos envueltos en periódicos. Le habrían colocado una pistola en la nuca, amenazándole de muerte. Habría sido sometido a descargas eléctricas después de mojarlo. En otra ocasión, le habrían puesto dos capuchas, lo habrían envuelto con mantas y atado con cinta adhesiva. En esta postura, le habrían colocado bolsas en la cabeza, impidiéndole respirar. Habría sido mantenido en régimen de incomunicación durante cinco días. Una denuncia habría sido interpuesta ante el Juzgado de Instrucción n.º 4 de San Sebastián. Raúl Vallinas Aduna habría sido obligado a realizar flexiones estando desnudo y habría recibido golpes en la cabeza durante los interrogatorios. Lo habrían mojado y amenazado con aplicarle electrodos. En una ocasión, le habrían colocado una bolsa en la cabeza, impidiéndole respirar. Habría sido mantenido en régimen de incomunicación durante cuatro días durante los que no le habrían permitido dormir. Se habría interpuesto una denuncia ante el Juzgado de Guardia de Vitoria. Por lo que se refiere a Sendoa Domínguez, se alega que durante el trayecto habría recibido golpes, sobre todo en la cabeza. Le habrían encapuchado la cara y seguidamente rociado con un aerosol. Durante su detención le habrían colocado varias veces bolsas en la cabeza, impidiéndole respirar y habría tenido que realizar flexiones estando desnudo. Le habrían propinado golpes en la cabeza y en los testículos y aplicado descargas eléctricas en el cuello. Habría sido mantenido en régimen de incomunicación durante cuatro días. Una denuncia habría sido interpuesta ante el Juzgado de Instrucción n.º 2 de Vitoria.

1330. El Gobierno informó de que durante el tiempo que permanecieron detenidos, no acaeció hecho alguno que pudiese considerarse como una incidencia fuera de las acciones íntegramente procesales. Asimismo, se señaló que en relación con Juan Carlos Subijana, éste interpuso una denuncia en el Juzgado de Instrucción n.º 5 de Madrid, acordando la autoridad judicial el sobreseimiento provisional de las actuaciones. Por lo que se refiere a Raúl Vallinas Aduna y Sendoa Domínguez, el Gobierno señaló que no hay constancia de la interposición de denuncia alguna contra componentes de la Guardia Civil en relación con los hechos mencionados y que tampoco se ha recibido comunicación o requerimiento judicial que haga suponer lo contrario.

1331. **Aitor Duran** (Aitor Duran Ruiz De Eguino) habría sido detenido por la Guardia Civil el 4 de septiembre de 2001 en Lekeitio. Habría sido golpeado y desnudado y seguidamente amenazado con agresiones sexuales. Habría sido envuelto con mantas, atado con cinta aislante. En otra ocasión habría sido

sometido a descargas eléctricas. Su cabeza habría sido cubierta con una bolsa que le habrían impedido respirar. Le habrían amenazado con violar a su novia. Habría sido mantenido en régimen de incomunicación durante cuatro días. Una denuncia habría sido interpuesta.

1332. El Gobierno informó que durante el tiempo que éste permaneció detenido, no acaeció hecho alguno que pueda considerarse como una incidencia fuera de las acciones íntegramente procesales. Asimismo, se indicó que el arriba mencionado interpuso una denuncia en el Juzgado de Instrucción n.º 3 de Vitoria, la cual está archivada. No obstante, y tal y como indica el Gobierno, esta Autoridad Judicial ofició al Juzgado de Instrucción de Guernica, dado que la detención se produjo en ese partido judicial, desconociéndose por parte de la Dirección General de la Guardia Civil el procedimiento y el estado actual de la tramitación.

1333. **Iban Ortigosa** habría sido detenido por la Guardia Civil el 4 de septiembre de 2001 en Vitoria. Habría sido introducido en un vehículo donde habría sido golpeado, sobre todo en la cabeza. Le habrían amenazado de muerte y con violar a su novia. Durante los interrogatorios habría sido golpeado de nuevo y obligado a permanecer de pie al lado de una pared pero sin apoyarse en ella. Habría sido mantenido en régimen de incomunicación durante cuatro días. Se habría interpuesto una denuncia.

1334. El Gobierno informó de que durante el tiempo que el mencionado permaneció detenido no acaeció hecho alguno que pudiese considerarse como una incidencia fuera de las acciones íntegramente procesales. Asimismo, el Gobierno indicó que no hay constancia de la interposición de denuncia alguna contra componentes de la Guardia Civil en relación con los hechos mencionados.

1335. **Joseba Gorosarri Ramos** habría sido conducido al Cuartel de la Guardia Civil de Sansomendi el 5 de septiembre de 2001 y posteriormente trasladado a la Dirección General de la Guardia Civil, en Madrid. Le habrían golpeado en la cabeza cubierta con una capucha. Habría tenido que desnudarse y hacer flexiones mientras le habrían propinado más golpes. En otra ocasión habría sido fuertemente golpeado al negarse a desnudarse de nuevo. De acuerdo con la información recibida, se habría desmayado y al recuperar el conocimiento, se habría encontrado tumbado en el suelo y desnudo. Entonces le habrían tapado la cabeza con una bolsa, impidiéndole respirar. Lo habrían mojado con agua fría y le habrían aplicado electrodos en el cuello, espalda y testículos. Le habrían apuntado a la cabeza con una pistola y le habrían amenazado de muerte. Estos tratos se habrían vuelto a producir en otros interrogatorios. Habría sido mantenido en régimen de incomunicación durante cinco días. Se habría interpuesto.

1336. El Gobierno informó de que durante el tiempo que éste permaneció detenido, no acaeció hecho alguno que pudiese considerarse como una incidencia fuera de las acciones íntegramente procesales. Asimismo, el Gobierno señaló que no hay constancia de la interposición de denuncia alguna contra componentes de la Guardia Civil en relación con los hechos mencionados.

1337. **Unai Romano** habría sido conducido al Cuartel de la Guardia Civil de Sansomendi el 4 de septiembre de 2001 y posteriormente trasladado a la Dirección

General de la Guardia Civil, en Madrid. Allí habría sido golpeado, sobre todo en la cabeza, con una porra. Durante los interrogatorios le habrían tapado varias veces la cabeza con bolsas, produciéndole sensaciones de asfixia. Se alega que le habrían aplicado descargas eléctricas en los testículos y en los lóbulos de las orejas. Estos tratos se habrían repetido en distintas ocasiones. Tras haber sido examinado por un médico forense, habría sido llevado a un centro hospitalario. Unai Romano habría intentado autolesionarse cortándose las venas de la muñeca a mordiscos. Un juez habría pasado por el hospital y habría decretado el ingreso en prisión en situación de detención incomunicada hasta su declaración judicial, prevista para el 10 de septiembre de 2001. Al prestar su declaración ante el juez, habría relatado los tratos aquí descritos, pero el juez no le habría dado credibilidad. Una denuncia habría sido interpuesta ante el Juzgado de Instrucción n.º 4 de San Sebastián.

1338. El Gobierno indicó que el mencionado fue detenido por su presunta pertenencia a la organización terrorista ETA. El Gobierno informó de que el agente que prestaba servicio de custodia en los calabozos informó al responsable del servicio de que el detenido emitía ruidos anormales, que se hallaba en un gran estado de excitación y que deambulaba propinándose golpes en la cabeza. Ambos agentes calmaron al detenido y durante el resto de la noche observaron que descansaba de manera normal. A la mañana siguiente, y dado que Unai Romano presentaba los ojos cerrados e inflamados y lesiones en las muñecas, se avisó a la médico forense del Juzgado Central de Instrucción n.º 1 de la Asamblea Nacional, la cual determinó que se le practicara un reconocimiento exhaustivo en un centro hospitalario, en el cual permaneció cinco horas, volviendo posteriormente a ingresar en los calabozos. El 11 de septiembre de 2001, el arriba mencionado presentó denuncia por malos tratos, haciéndose cargo de la instrucción el Juzgado n.º 25 de Madrid, el cual, con fecha 9 de julio de 2002, dictó auto de sobreseimiento y archivo de las actuaciones realizadas hasta ese momento en relación con tres de los imputados. Permanecen imputados en la instrucción cinco agentes.

1339. **Luis Mariñelarena Garziandia** habría sido detenido por la Policía Nacional el 18 de octubre de 2001 en Soraluze y posteriormente trasladado a San Sebastián y a la Dirección General de la Guardia Civil, en Madrid. Durante los interrogatorios habría sido golpeado en la cabeza y en los testículos y amenazado de muerte. Habría sido mantenido en régimen de incomunicación durante cuatro días. Una denuncia habría sido interpuesta.

1340. El Gobierno aseguró que fue inmediatamente informado de sus derechos y de los motivos de su detención y que prestó declaración en presencia de un letrado del Colegio de Abogados de Madrid. El Gobierno señaló igualmente que durante su detención, fue asistido diariamente por el médico forense designado por el titular del Juzgado Central de Instrucción n.º 1 de la Asamblea Nacional y que no consta denuncia alguna presentada por el trato que recibió durante su detención. Ha sido condenado por pertenencia a banda armada y por asesinato.

1341. **Simone Begiristain Lasa** (m) y **Ricardo Aramburu Gerenabarrena** habrían sido trasladados a la Dirección General de la Guardia Civil, en Madrid tras ser detenidos por la Policía Nacional el 19 de octubre de 2001 en Eibar.

Simone Begiristain Lasa habría sido obligada a permanecer de pie y recta, la habrían empujado y le habrían dado golpes en la cabeza con un bolígrafo, le habrían pisado los pies y le habrían dado pequeños golpes cada vez que se agachaba. Le habrían zarandeado la cabeza, obligándola a mirar alternativamente a los distintos agentes que la interrogaban. En otras ocasiones habría recibido una patada y puñetazos en la cabeza, rompiéndole un diente de su prótesis. Ricardo Aramburu Gerenabarrena habría sido golpeado en la cara, la parte posterior de la cabeza, el pecho, los riñones, las costillas, la pierna, los testículos y la ingle. También habría sido sometido a tirones de pelo y de patillas. Habría tenido que permanecer de puntillas durante aproximadamente 35 minutos mientras un policía le habría dado golpes en los talones y tobillos para que alzase o separase los pies. En otra ocasión habría tenido que ponerse de cuclillas mientras le habrían propinado más golpes. Ambos habrían sido mantenidos en régimen de incomunicación durante cinco días. Se habría interpuesto una denuncia ante el Juzgado de Instrucción n.º 1 de San Sebastián en relación con el caso de Ricardo Aramburu Gerenabarrena.

1342. El Gobierno aseguró que ambas personas mencionadas fueron informadas inmediatamente de sus derechos y de los motivos de su detención. Los dos prestaron declaración en presencia de letrados del Colegio de Abogados de Madrid y fueron asistidos por un médico forense designado por el titular del Juzgado Central de Instrucción n.º 1 de la Asamblea Nacional. Este mismo juzgado decretó la prisión incondicional para los dos detenidos. Finalmente, el Gobierno señaló que no consta denuncia alguna presentada por el trato que recibieron durante el periodo de su detención.

1343. **Jokin Zerain** (Joaquín Cerain Alvarado) habría sido trasladado a la Dirección General de la Guardia Civil, en Madrid, tras su detención en Vitoria el 6 de noviembre de 2001. Durante el trayecto, habría sido golpeado en la parte posterior de su cabeza y amenazado de muerte y le habrían colocado una bolsa encima de la cabeza, provocándole sensaciones de asfixia. En la comisaría de Madrid, un guardia civil le habría obligado a desnudarse de cintura para abajo y lo habría amenazado con violarlo. Se habría interpuesto una denuncia ante el Juzgado de Instrucción n.º 4 de San Sebastián.

1344. El Gobierno informó de que la detención fue ordenada por el Juzgado Central de Instrucción n.º 1 de Madrid. El detenido permaneció un plazo muy breve en dependencias policiales y sin que se practicase ninguna diligencia, salvo la reseña fotográfica y dactilar. Asimismo, el Gobierno manifestó que no hay constancia de la interposición de denuncia alguna contra componentes de la Guardia Civil en relación con los hechos mencionados.

1345. **Ana Belén Ergues Gurrutxaga** (m), habría sido conducida a la Dirección General de la Guardia Civil el 7 de noviembre de 2001. Habría tenido que arrodillarse contra una pared mientras un policía le habría apretado las espaldas y otro le habría pisado los pies. Otros policías le habrían agarrado por el pelo y le habrían hecho mover la cabeza de arriba a abajo. Le habrían cubierto la cabeza con un jersey y le habrían propinado golpes mientras la habrían obligado a mantener los brazos levantados. También le habrían propinado patadas. Habría

sido mantenida en régimen de incomunicación durante cinco días. Se habría interpuesto una denuncia ante el Juzgado de Instrucción n.º 4 de San Sebastián.

1346. El Gobierno informó de que la mencionada fue detenida tras haber hecho explotar un coche bomba. El Gobierno aseguró que fue informada inmediatamente de sus derechos y de los motivos de su detención y que fue reconocida durante la detención por un médico forense adscrito al Juzgado Central de Instrucción n.º 4 de la Asamblea Nacional. No se tiene constancia de que ésta presentara denuncia alguna con motivo del trato recibido durante su detención.

1347. **Jorge Olaiz Rodríguez** habría sido detenido por la Guardia Civil el 26 de noviembre de 2001 en Pamplona. En los cuarteles habría sido golpeado por todo el cuerpo, sobretodo en la cabeza. Al negarse a realizar flexiones, un agente le habría estrujado los genitales. Varias veces le habrían cubierto la cabeza con una bolsa, impidiéndole respirar, mientras le habrían propinado golpes. Habría sido trasladado a la Dirección General de la Guardia Civil, en Madrid, donde habría recibido golpes de porra en la cabeza. Habría sido obligado a quitarse la ropa y tumbarse boca abajo con las manos y los pies atados y le habrían vuelto a aplicar bolsas en la cabeza. Estando desnudo lo habrían mojado con agua fría. Habría sido mantenido en régimen de incomunicación durante cinco días.

1348. El Gobierno informó que fue detenido por su presunta pertenencia a la banda terrorista ETA y que pasó a disposición del Juzgado Central de Instrucción n.º 1 de Madrid, el 30 de noviembre de 2001. El Gobierno aseguró que durante el tiempo que permaneció detenido, no acaeció hecho alguno que pudiese considerarse como una incidencia fuera de las acciones íntegramente procesales. Asimismo, se manifestó que no consta la interposición de denuncia alguna contra componentes de la Guardia Civil en relación con los hechos mencionados.

1349. **Zigor Bravo** habría sido detenido por la Guardia Civil el 6 de 2001 en Vitoria. Habría sido golpeado en la cabeza con un libro y con las manos. Le habrían cubierto la cara con una bolsa varias veces, impidiéndole respirar. También le habrían puesto una capucha y habría sido introducido en un coche donde habría sido nuevamente golpeado en la cabeza y amenazado de muerte. Habría sido trasladado a Madrid donde habría sido sometido a interrogatorios durante los cuales le habrían propinado golpes con la mano en la cabeza.

1350. El Gobierno informó de que su detención fue ordenada por el Juzgado Central de Instrucción n.º 1 de Madrid y que permaneció un plazo muy breve en dependencias policiales sin que se practicara ninguna diligencia, excepto la reseña fotográfica y dactilar.

1351. Por carta de 25 de septiembre de 2002, el Relator Especial, junto con la Relatora Especial sobre la violencia contra las mujeres, notificó al Gobierno que recibió información sobre los siguientes casos. Por carta de 15 de noviembre de 2002, el Gobierno contestó a esta carta, proporcionando información sobre todos los casos.

1352. **Lierni Armendáriz González de Langarika** habría sido detenida en Barcelona el 11 de enero de 2001 por la Policía Municipal y seguidamente

entregada a la Policía Nacional. Habría permanecido cinco días en régimen de incomunicación durante los cuales habría sido repetidamente sometida a empujones contra una pared, tirones de pelo, bofetadas y golpes en la cabeza. Habría sido obligada a ponerse de cuclillas y a caminar en esta postura. Los policías le habrían apretado las orejas, obligándola a ponerse de puntillas. A continuación habrían hecho lo mismo apretando debajo de la mandíbula. Un policía le habría levantado la camiseta, tocándole el pecho y diciéndole que quería estar a solas con ella. Se habría interpuesto una denuncia ante el Juzgado de Instrucción n.º1 de San Sebastián.

1353. El Gobierno precisó que fue detenida cuando se disponía a colocar un coche bomba. Según consta en la declaración de los agentes actuantes, intentó huir, por lo que los agentes tuvieron que a reducirla por la fuerza. Una vez inmovilizada y esposada, fue cacheada e informada verbalmente de sus derechos constitucionales. En las dependencias de la Jefatura Superior de Policía de Barcelona se materializó formalmente el acta de información de derechos que se adjuntó al cuerpo de diligencia. El 11 de enero de 2001, la detenida fue visitada por el médico forense del juzgado en funciones de guardia de Barcelona, quien reportó “erosiones recientes en la cara anterior de la muñeca derecha y erosiones en la cara anterior de ambas rodillas de carácter leve”, consecuencia lógica de la resistencia a la detención y de la colocación de grilletes. Por estos hechos se tramitaron diligencias en la Brigada Provincial de Información de Barcelona, las cuales fueron elevadas al Juzgado de Instrucción n.º 3 de la Asamblea Nacional. En relación a las diligencias previas seguidas en el Juzgado de Instrucción n.º 26 de Barcelona, por presuntos malos tratos. El 14 de enero de 2002, se dictó auto de sobreseimiento libre y archivo de las mismas, el cual ha sido confirmado mediante auto posterior ordenando el archivo definitivo de la causa.

1354. **Miren Okariz** habría sido conducida al Cuartel de la Guardia Civil de Intxaurrondo (San Sebastián), el 25 de febrero de 2001, y posteriormente transferida a la Dirección General de la Guardia Civil en Madrid. Durante los interrogatorios habría sido golpeada y obligada a permanecer de pie de cara a una pared. Habría sido obligada a bajarse los pantalones mientras un policía le habría tocado el cuerpo con un palo. Habría sido forzada a realizar flexiones hasta extenuación. Habría sido puesta en libertad el 28 de febrero de 2001 sin haber pasado ante un juez. Durante los cuatro días de su detención habría sido mantenida incomunicada.

1355. El Gobierno informó de que fue detenida por su presunta pertenencia a la banda terrorista ETA, y aseguró que el trato que recibió durante el tiempo que permaneció detenida y bajo la custodia de la Guardia Civil fue correcto.

1356. **Leire Gallastegi** habría sido conducida al Cuartel de la Guardia Civil de Intxaurrondo (San Sebastián), el 26 de febrero de 2001 y posteriormente transferida a la Dirección General de la Guardia Civil en Madrid. Durante los interrogatorios habría sido golpeada, sujeta a empujones contra una pared, sometida a amenazas contra su madre y desnudada en varias ocasiones de cintura para arriba. Se alega que un agente la habría llevado a una celda donde le habría tocado los pechos mientras le obligaba a poner sus manos en sus genitales. Le habrían introducido una pistola en la boca y la habrían obligado a correr por un

pasadillo mientras la apuntaban con una pistola. Habría sido mantenida en régimen de incomunicación durante cuatro días. Se habría interpuesto una denuncia ante el Juzgado de Instrucción n.º 1 de San Sebastián.

1357. El Gobierno informó de que la mencionada fue detenida por su presunta pertenencia a la banda terrorista ETA y aseguró que durante todo el tiempo que permaneció detenida y bajo la custodia de la Guardia Civil, el trato que se le dispensó fue correcto.

1358. **Alicia Sáez de la Cuesta Martínez de San Vicente** habría sido conducida desde La Coruña a la Dirección General de la Guardia Civil, en Madrid el 26 de marzo de 2001. Habría sido introducida en una furgoneta donde una guardia civil le habría sujetado las piernas y otro la cabeza. En la furgoneta le habrían tapado la cara, atado las manos detrás de la espalda y propinado golpizas. Se alega que los guardias civiles habrían hecho comentarios sobre su cuerpo mientras la habrían toqueteado. La habrían cambiado de coche y en el nuevo vehículo habría sido sometida a más golpes y su cabeza habría sido cubierta por una bolsa que le habría impedido respirar. Habría sido golpeada y obligada a realizar ejercicios físicos hasta extenuación. Habría sido forzada a desnudarse y a sentarse con las manos y los pies atados por detrás. En esta situación habría sido golpeada, le habrían gritado fuertemente en el oído y le habrían tapado la cabeza con bolsas, provocándole asfixia. Habría sido mantenida en régimen de incomunicación durante cinco días. Se habría interpuesto una denuncia.

1359. El Gobierno informó de que la mencionada fue detenida por su presunta pertenencia a la banda terrorista ETA y que pasó a disposición del Juzgado Central de Instrucción n.º 1 de Madrid el 30 de marzo de 2001. La autoridad judicial acordó su ingreso en prisión, situación que se mantenía cuando el Gobierno transmitió la presente información. Finalmente, el Gobierno señaló que el trato que la detenida recibió durante todo el tiempo que permaneció detenida y bajo la custodia de la Guardia Civil, fue correcto. La detenida interpuso una denuncia en el Juzgado de Instrucción n.º 6 de Madrid, encontrándose el procedimiento en fase de instrucción cuando el Gobierno transmitió la presente información.

1360. **Ainara Fresneda Etxebarria** habría sido conducida a la Comandancia de la Guardia Civil en Pamplona el 27 de marzo de 2001 y seguidamente trasladada a la Dirección General de la Guardia Civil, en Madrid. Durante el trayecto habría llevado un antifaz y habría sido constantemente golpeada en la cabeza. En Madrid le habrían colocado una bolsa en la cabeza varias veces, impidiéndole respirar. Habría sido obligada a desnudarse y a realizar flexiones, siempre con los ojos tapados, y habrían arrojado agua sobre su cuerpo. La habrían desnudado de cintura para arriba y le habrían tocado los pechos. Habría sido conducida a un calabozo donde habría tenido que permanecer de pie y con la cabeza cubierta con una bolsa. Habría sido amenazada con ser violada. Se alega que habrían puesto un preservativo al palo de una escoba y la habrían obligado a tocarlo con la mano, amenazándola con penetrarla con el palo. Habría sido obligada a realizar flexiones en bragas y, al caerse al suelo, la habrían levantado estirándole el pelo. Habría sido mantenida en régimen de incomunicación durante cuatro días. Se habría interpuesto una denuncia ante el Juzgado de Instrucción n.º 1 de Pamplona.

1361. El Gobierno informó de que la mencionada fue detenida por su presunta pertenencia a la banda terrorista ETA y que pasó a disposición del Juzgado Central de Instrucción n.º 2 de Madrid el 30 de marzo de 2001. El Gobierno aseguró que el trato que recibió durante la detención y custodia de la Guardia Civil fue correcto y que no hay constancia de interposición de denuncia alguna contra los componentes de la Guardia Civil por estos hechos.

1362. **Nerea Bengoa Ziarsolo** habría sido conducida desde Barcelona a la Dirección General de la Guardia Civil, en Madrid el 24 de agosto de 2001. Le habrían cubierto la cabeza con bolsas y la habrían golpeado. Habría sido puesta de cara a la pared mientras unos agentes le habrían dado patadas por detrás. Le habrían atado las manos y las piernas con gomaespuma y cinta adhesiva. La habrían obligado a desnudarse y habría sido sometida a tratos similares. Los agentes le habrían tocado los pechos con las manos y con un palo. En otra ocasión habría sido nuevamente obligada a desnudarse y la habrían tumbado sobre una mesa con las piernas separadas y habría sido sometida a tocamientos por parte de los agentes. Habría sido mantenida en régimen de incomunicación durante cinco días. Se habría interpuesto una denuncia ante el Juzgado de Instrucción n.º 2 de San Sebastián.

1363. El Gobierno informó de que la mencionada fue detenida por su presunta colaboración con la banda terrorista ETA. Se instruyeron diligencias entregadas en el Juzgado Central de Instrucción n.º 5 de la Asamblea Nacional, dando lugar a diligencias previas. El Gobierno aseguró que durante el tiempo que duró la detención no acaeció hecho alguno que pudiera considerarse como una incidencia fuera de las acciones íntegramente procesales y que, a través de autos del referido Juzgado Central, se decretó la incomunicación y prórroga del periodo de detención de la arriba mencionada. Los días 24, 25, 26 y 27 de agosto le fueron practicados reconocimientos médico-forenses, y la detenida se negó a ingerir con regularidad la comida que se le suministró desde el momento de su detención. El 28 de agosto de 2001 pasó a disposición judicial, no constando denuncia alguna contra componentes de la Guardia Civil por los hechos mencionados.

1364. **Leire Markina** habría sido conducida de Pamplona a la Dirección General de la Guardia Civil, en Madrid, el 29 de noviembre de 2001. Durante el trayecto habría sido golpeada y le habrían tirado del pelo. Habrían tenido que hacer dos paradas para permitirle vomitar. En Madrid habría sido sometida a interrogatorios durante los cuales habría recibido golpes en la cabeza y le habrían cubierto la cara con una bolsa, impidiéndole respirar. En otra ocasión habría sido desnudada y tras amenazarla con violarla, un agente se habría bajado la bragueta y habría empezado a tocarla. Estando desnuda y con una bolsa en la cabeza, habría tenido que realizar flexiones. Habría sido mantenida en régimen de incomunicación durante cinco días y puesta en libertad el 28 de diciembre de 2001, tras abonar una fianza.

1365. El Gobierno informó de que fue detenida por su presunta pertenencia a la banda terrorista ETA. El Gobierno indicó que se instruyeron diligencias y que pasó a disposición judicial el 4 de diciembre, habiéndosele dispensado un trato correcto durante todo el tiempo que permaneció detenida y bajo la custodia de la Guardia Civil. Interpuso una denuncia ante el Juzgado de Instrucción n.º 8 de

Madrid por un supuesto delito de torturas o malos tratos. Finalmente, el Gobierno agregó que la autoridad judicial competente solicitó información al respecto, habiendo procedido a su cumplimentación y desconociéndose el estado actual de tramitación.

Llamamientos urgentes

1366. El 21 de febrero de 2002, el Relator Especial envió un llamamiento urgente en relación con **Ibai y Miguel Aiensa, Iratxe Sanz, Francisco Ruiz, Eneka Royo y Maria Couso**, quienes habrían sido detenidos en Pamplona y otras poblaciones próximas el 21 de febrero de 2002, por colaboración con banda armada, y que se encontrarían incomunicadas en el marco de la legislación antiterrorista. Ibai Aiensa estaría convaleciente de una reciente intervención quirúrgica en el tórax y presentaría dolencias cardíacas.

1367. Por carta de 23 de abril de 2002, el Gobierno informó de que el 21 de febrero, la Jefatura del Servicio de Información y la Novena Zona de la Guardia Civil de Navarra realizaron una operación antiterrorista contra presuntos integrantes de un presunto “*talde* legal armado” de ETA, habiéndose solicitado previamente los correspondientes mandamientos de entrada y registro. De los registros realizados, en presencia del secretario judicial, resultaron arrestadas varias personas, a las cuales, en el momento de la detención, se leyeron sus derechos y se informó sobre la causa de la detención. Iratxe Sanz, María Couso y Eneka Royo, tras haber sido reconocidas por el médico forense del Juzgado Central de Instrucción de la Asamblea Nacional, fueron puestas en libertad. Como consecuencia de tales actuaciones, se instruyeron diligencias entregadas, junto con los otros tres detenidos y efectos intervenidos, en el Juzgado Central de Instrucción n.º 1 de la Asamblea Nacional. El Gobierno indicó igualmente que la autoridad judicial ordenó el ingreso en prisión incomunicada e incondicional de los hermanos Ayensa y de Francisco Ruiz, por presunta pertenencia a ETA. Estos detenidos han sido acusados de la realización de varios atentados terroristas. En relación con el trato recibido por los detenidos, el Gobierno mencionó que son reconocidos al menos una vez al día por el médico forense adscrito al referido juzgado. En relación con la supuesta convalecencia de Ibai Ayensa, el Gobierno respondió que este detenido fue trasladado de las dependencias policiales al servicio de urgencias del hospital de San Carlos, por indicación del médico forense y para que se le efectuase una revisión y confirmación de su medicación. Una vez allí, fue reconocido por un facultativo que determinó el tratamiento y medicación que le fueron puntualmente suministrados. En cuanto a la denuncia que Ibai Ayensa interpuso alegando haber sido objeto de malos tratos cuando fue detenido en 1996, el Gobierno indicó que no se tiene conocimiento de resolución alguna de culpabilidad por dicho motivo ni de quienes intervinieron en esa detención. Finalmente, el Gobierno recordó que la estrategia seguida por los detenidos de ETA consiste en denunciar de forma sistemática “malos tratos y tortura”, con la intención de ralentizar los procesos penales y de poner en tela de juicio la actividad de las fuerzas de policía en su respeto de la normativa y de los derechos de los detenidos.

1368. El 2 de octubre de 2002, el Relator Especial envió un llamamiento urgente en relación con **Ohiana Baquedano Maidagán, Rafael Berasategui Lezarbide,**

Aizeti Fernández Zábala, Ohiana Lizaso Machain, Joaquín Errasti Elorza, Aritz Lasa Mendizabal y Juan Minteguiaga Oyarbide, supuestamente detenidos por la Guardia Civil entre el 28 de septiembre y el 1 de octubre de 2002 en el País Vasco, en aplicación a la legislación antiterrorista y según las órdenes del Juzgado Central de Instrucción n.º 2 de la Audiencia Nacional. Conforme a dicha legislación, los detenidos se encontrarían incomunicados. Se alega que Aritz Lasa Mendizabal habría sido golpeado por la Guardia Civil. Sus respectivos abogados habrían solicitado procedimiento de *habeas corpus* para cada uno de ellos, pero dicha solicitud habría sido denegada.

1369. Por carta de 15 de noviembre de 2002, el Gobierno informó de que fueron detenidos por la Guardia Civil por su presunta pertenencia a ETA. El Gobierno aseguró igualmente que durante todo el tiempo que permanecieron detenidos y bajo la custodia de la Guardia Civil, el trato que se le dispensó fue correcto.

Seguimiento de las comunicaciones transmitidas previamente

1370. Por carta de 17 de enero de 2002, el Gobierno respondió a la comunicación enviada por el Relator Especial el 10 de octubre de 2000, proporcionando información sobre todos los casos incluidos en dicha comunicación.

1371. En relación con el fallecimiento de **Antonio Augusto Fonseca Mendes** (E/CN.4/2002/76/Add.1, párr. 1510) sobre el cual el Gobierno ya proporcionó información mediante su carta de 17 octubre de 2001 (E/CN.4/2001/66, párr. 950). El Gobierno informó de que el Juzgado de Instrucción n.º 1 de Las Palmas dictó, en diligencias previas, un auto de sobreseimiento y archivo el 30 de abril de 2001. La Audiencia Provincial de las Palmas desestimó un recurso interpuesto contra este auto el 27 de julio de 2001. Igualmente, el Gobierno agregó que el médico forense titular de Arrecife, dictaminó, en la autopsia que realizó a Antonio Augusto Fonseca Mendes, que su muerte se debió a causas naturales. En una segunda autopsia realizada a petición de los familiares y por un médico distinto, se señalaba como posible causa de la muerte un supuesto golpe en el lado derecho del cuello. En un tercer informe forense, realizado por el mismo médico que emitió el primer dictamen, y en cuya valoración se incluía esta vez el informe del Instituto Nacional de Toxicología, se ratifican las conclusiones del primer informe, afirmándose que la causa de la muerte fue edema pulmonar agudo (muerte natural). En un último dictamen, emitido por un forense distinto, se confirmaron las conclusiones del primer y tercer dictamen. El Gobierno indicó que la actuación policial se produjo sin irregularidad alguna, no siendo el fallecido objeto de ningún tipo de violencia durante su estancia en la comisaría. En relación con este caso, el Gobierno adjuntó abundante documentación complementaria.

1372. En relación con **Trinidad Arteaga Orejón** (E/CN.4/2001/66, párr. 951), el Gobierno informó de que se instruyeron diligencias con motivo de su detención. Dichas diligencias, instruidas por la Comisaría de Distrito con motivo de la detención, por un presunto delito de atentado a agente de la autoridad, fueron remitidas al Juzgado de Instrucción n.º 2 de Valladolid. El día 13 de junio de 2000, el referido juzgado dictó sentencia en la que se condena a la arriba mencionada a 30 días de multa. No se inició procedimiento disciplinario alguno al no encontrarse policías imputados por estos hechos.

1373. En relación con **Araceli Benita Ramos Dacosta** (ibíd., párr. 952), el Gobierno informó que el juicio de faltas seguido ante el Juzgado de Instrucción n.º 3 de Figueres en relación con la actuación de agentes del Cuerpo de Mossos d'Esquadra, fue sobreseído provisionalmente por el juzgado instructor. Asimismo, la actuación en la que se enmarca dicha denuncia dio lugar a la incoación de un atestado policial en el que la arriba mencionada figura como detenida y denunciada.

1374. En relación con **Emilio Romero Arancibia** (ibíd., párr. 953), el Gobierno informó de que fue detenido por un presunto delito de atentado contra agente de la autoridad. El arriba mencionado pasó a disposición judicial, incoándose por el Juzgado de Instrucción n.º 15 de Barcelona diligencias previas, que todavía estaban en tramitación cuando el Gobierno transmitió la presente información.

1375. En relación con **Sami Bouhamla-Rieda** (ibíd., párr. 954), el Gobierno informó de que fue detenido por la Guardia Civil de San Antonio de Portmany (Ibiza), el 25 de mayo de 2000. Se instruyeron las diligencias correspondientes por el Cuerpo de la Guardia Civil. Igualmente se iniciaron diligencias previas ante el Juzgado de Instrucción n.º 4. Según el Gobierno, no consta denuncia alguna por malos tratos.

1376. En relación con **María de los Ángeles Robles García** (ibíd., párr. 955), el Gobierno informó de que fue detenida el 11 de febrero de 2000 por golpear a uno de los funcionarios del Cuerpo Nacional de Policía, que efectuaba labores de control en la Estación de Autobuses de Badajoz. Sobre estos hechos recayó sentencia definitiva de la Audiencia Provincial de Badajoz, por la que se absolvió a los Policías actuantes y condenó a la arriba mencionada por sendas faltas contra el orden público y contra las personas.

1377. Por carta de fecha 17 de enero de 2002, el Gobierno contestó a la comunicación enviada por el Relator Especial el 15 de agosto de 2001 (E/CN.4/2002/76/Add.1, párrs. 1325 a 1450), proporcionado detallada información sobre los casos incluidos en dicha comunicación.

1378. En relación con **Aiden Judiev** (ibíd., párr. 1326), el Gobierno informó de que fue detenido por estar acusado de los delitos de trata de blancas, extorsión y falsificación de documento público y de pertenecer a un grupo organizado de súbditos de países del Este dedicados al reclutamiento y explotación sexual de mujeres. De acuerdo con las explicaciones proporcionadas por el Gobierno, Aiden Judiev reaccionó violentamente, tanto en la detención como con ocasión del registro de su habitación, por lo que en ambos casos los funcionarios actuantes tuvieron que recurrir a la fuerza física, estando estas actuaciones policiales supervisadas por un magistrado juez del Juzgado Central de Instrucción n.º 1 de la Asamblea Nacional. El día de la detención Aiden Judiev fue asistido por el médico de guardia en el Área de Salud Pública del Distrito de Vallecas y al día siguiente fue examinado por los Servicios Médicos de la Policía, a petición del detenido y asistido nuevamente por el facultativo de guardia del Área de Salud Pública del Ayuntamiento de Madrid. Pasó a disposición judicial el 26 de febrero.

En relación con las lesiones que Aiden Judiev denunció, se inició procedimiento judicial por el Juzgado de Instrucción n.º 36 de Madrid.

1379. En relación con **Beanissa Belaouni** (ibíd., párr.1327), el Gobierno facilitó copia del informe correspondiente a los antecedentes de su detención. En dicho informe se refleja que se recibió declaración a los policías actuantes en la intervención. De las declaraciones de los policías se desprende que éstos decidieron proceder a su identificación al observar la actitud extraña que mostró cuando se dio cuenta de la presencia policial. Tras un fortísimo forcejeo con los policías y tras haber intentado la huida, fue finalmente reducido y esposado, siendo posteriormente trasladado a la Comisaría de Chamberi y posteriormente a Casa de Socorro. Después de que Beanissa Belaouni fuese atendido por el facultativo, regresaron a la Comisaría, donde fue encerrado en los calabozos por disposición del inspector de guardia. El Gobierno aseguró que no fue víctima de malos tratos ni agresiones y que, cuando Beanissa Belaouni manifestó que las esposas le apretaban, uno de los Policías se las aflojó. El Gobierno agregó que se considera que la actuación policial fue correcta en todo momento y que se ha propuesto el archivo provisional de las actuaciones hasta que se pronuncie sobre estos hechos la Autoridad Judicial.

1380. En relación con **Aurelio Fernández Álvarez** (ibíd., párr. 1329), el Gobierno informó que, a la vista del libro de incidencias de la jefatura de servicios del Centro Penitenciario de Huelva, no aparece registrada anotación alguna relativa al arriba mencionado y distinta de la de su ingreso en el establecimiento el 12 de septiembre de 1997. En relación con el interno **José Manuel Soriano Saltavella** (ibíd.), el Gobierno indicó que únicamente consta que el 4 de octubre de 1997, éste ingresó en el departamento de aislamiento para cumplir 14 días de aislamiento en celda.

1381. En relación con **Aurelio Fernández Álvarez** (ibíd., párr. 1330), el Gobierno indicó que éste inició una fuerte discusión cuando se le dijo que tendría que esperar en relación con los arreglos que había solicitado en su celda. El interno exigió la presencia inmediata del Jefe de Servicios y del Subdirector de Seguridad, llegando a insultar y causar varias lesiones al funcionario. El funcionario se defendió con el palo de una escoba causando al interno dos heridas leves. Éste fue examinado por el servicio médico del propio centro penitenciario y por el servicio médico forense. Ese mismo día, Aurelio Fernández Álvarez fue cacheado sin haber sido objeto de golpes o malos tratos y los días 17, 18 y 19 de septiembre de 1999, a distintas horas, protagonizó incidentes regimentales, tales como agresiones, insultos y amenazas graves a funcionarios y otros internos. Asimismo, rompió material de limpieza, siendo necesario el uso de aerosoles de acción adecuada para repeler sus agresiones. El 17 de septiembre se personó el médico de guardia del centro penitenciario para reconocerle. Dado el alto grado de agresividad del detenido, este reconocimiento médico sólo pudo ser visual. Todos los hechos fueron remitidos al Juzgado de Guardia y al Juzgado de Vigilancia. Tras ser denunciados los hechos, el Juzgado de lo Penal n.º 3 de Alcalá de Henares dictó sentencia el 7 de julio de 2001, absolviendo al funcionario de prisiones de la falta de lesiones y del delito contra la integridad moral del que había sido imputado, concurriendo en él la eximente completa de legítima defensa, y condenando al interno como autor de un delito de lesiones y de un delito de

atentado. La Administración Penitenciaria siguió la información reservada correspondiente, dictándose resolución de archivo, al no deducirse responsabilidad para funcionarios de instituciones penitenciarias. Por otro lado, y por auto de 25 de noviembre de 1999, el Juzgado de Instrucción n.º 3 de Alcalá de Henares, acordó el sobreseimiento y archivo de las tres diligencias previas iniciadas en relación con estos hechos. Asimismo, el arriba mencionado interpuso habeas corpus el 18 de septiembre de 1999 por aislamiento injustificado, torturas y malos tratos y otro escrito denunciando e insultando a varios funcionarios. El Juzgado de Instrucción n.º 3 de Alcalá de Henares remitió testimonio de la resolución recaída en el procedimiento habeas corpus en la que se denegaba la admisión a trámite. La Administración Penitenciaria siguió al respecto una información reservada, dictándose resolución de Archivo al no dilucidarse responsabilidad para funcionarios de instituciones penitenciarias. La Comisión Disciplinaria del propio Centro inició un expediente disciplinario administrativo a Aurelio Fernández, resultando sancionado como autor de dos faltas muy graves que fueron confirmadas por el Juzgado de Vigilancia Penitenciaria.

1382. En relación con **Eugenio Cabra Ramírez** y **Antonio Martínez Pacheco** (ibíd., párr. 1331), el Gobierno indicó que ambos internos protagonizaron múltiples incidentes e incitaron al resto de internos a un motín, teniendo que ser reducidos y esposados. Para conseguir que ambos entraran en sus respectivas celdas, fue necesario, debido a su violencia activa, el uso de defensas de goma, quedando los dos inmovilizados de pies y manos. Su actitud se mantuvo hasta el 3 de febrero, momento en el que fueron sacados de las celdas de aislamiento. El Gobierno informó igualmente de que los servicios médicos del centro penitenciario atendieron tanto las lesiones leves sufridas por los internos como las lesiones sufridas por los funcionarios. Finalmente, el Gobierno indicó que el Juzgado de Instrucción n.º 5 de Almería dictó acto de sobreseimiento a favor de los funcionarios implicados.

1383. En relación con **Mohamed Abdelkader Abdeslam** (ibíd., párr. 1332), el Gobierno indicó que fue llevado a la enfermería cuando comunicó que se había tragado un hierro. Tras comprobarse que éste no había ingerido objeto alguno, se le indicó que pasase al despacho médico, momento en el que sacó una cuchilla, agredió a un funcionario y se autolesionó en el cuello, por lo que se le redujo, se le aplicó sujeción mecánica y posteriormente se le dio asistencia médica en el mismo centro. Los hechos se notificaron al Juzgado de Vigilancia Penitenciaria de Madrid y al Juzgado de Guardia. Por su parte, el Juzgado de Instrucción n.º 1 de Madrid inició diligencias previas que fueron archivadas. Una asociación de derechos humanos ha recurrido el auto de archivo. Finalmente, el Gobierno indicó que no se tiene constancia de los hechos referidos a las fechas 27 de marzo y 12 de abril de 1999.

1384. En relación con **Reinaldo Gómez Guijarro** (ibíd., párr. 1333) el Gobierno informó de que fue trasladado de galería después de proferir insultos contra los funcionarios con el ánimo de conseguir el apoyo del resto de los internos y alterar el orden regimental. Según explicó el Gobierno, al salir, se abalanzó contra los funcionarios que le acompañaban produciéndose un enfrentamiento. Estos tuvieron que utilizar medios coercitivos para repeler sus ataques. Cuatro funcionarios y el interno fueron reconocidos por el médico, apreciándose lesiones

leves. Según la información proporcionada por el Gobierno, la Administración Penitenciaria instruyó información reservada en el CP Madrid V, habiéndose dictado resolución de “dejar en suspenso” hasta resolución judicial. La aplicación de medios coercitivos fue puesta en conocimiento del JVP y del Juzgado de Instrucción n.º 1 de Colmenar Viejo. En la causa seguida en el JP n.º 24 de Madrid se dictó Sentencia condenatoria para el interno, que fue recurrida. En relación con los hechos acaecidos en el CP Villabona, el Gobierno informó que tras haber finalizado una llamada telefónica, el detenido agredió al Subdirector de Seguridad. Además, trató de lesionarse dándose cabezazos contra el detector de metales. Bajo estas circunstancias, se le aplicó sujeción mecánica. El Gobierno señaló que la Administración Penitenciaria recogió el incidente como Novedad de Guardia, sin que se siguiese ninguna otra actuación administrativa y que en el juicio de faltas que se siguió ante el Juzgado de Instrucción n.º 5 de Oviedo se absolvió a los funcionarios. En relación con los hechos acaecidos el 5 de febrero de 2000 en el CP Valladolid, el Gobierno informó que los funcionarios tuvieron que intervenir cuando los internos pidieron la medicación que ya se les había proporcionado por la mañana. La Administración Penitenciaria instruyó información reservada en el CP de Valladolid, habiéndose dictado resolución de “dejar en suspenso” en espera de la resolución judicial. La aplicación de los medios coercitivos fue puesta de inmediato en conocimiento del JVP y del Juzgado de Instrucción n.º 4 de Valladolid, habiéndose dictado auto de sobreseimiento provisional y archivo del procedimiento abreviado tramitado.

1385. En relación con **Jesús Mingallón Calles** (ibíd., párr. 1334), el Gobierno informó que se ordenó su reducción y sujeción mecánica mediante esposas hasta que desapareciese su estado de ansiedad después de que el interno insultó y amenazó a unos funcionarios y empezó a autolesionarse. En su parte médico, se establece que no se apreciaron lesiones. El Juzgado de Instrucción n.º 2 de Manzanares instruyó juicio de faltas pero dictó sentencia absolutoria. El caso fue definitivamente archivado el 2 de marzo de 1999.

1386. En relación con **Pedro Antonio (Pedro José) Rocha Vázquez** (ibíd., párr. 1335), el Gobierno indicó que el detenido se puso violento cuando otro interno se negó a darle tabaco y un funcionario le pidió que se calmara. Bajo estas circunstancias, se decidió reducirlo y aislarlo. El gobierno indicó igualmente que no se le aplicó el régimen de limitación de comunicaciones y que nunca se le impidió comunicarse con miembros de asociaciones externas. Los hechos fueron puestos a conocimiento del Juzgado de Instrucción n.º 8 de Almería a través de dos diligencias previas, ambas sobreseídas posteriormente.

1387. En relación con **Juan Pedro López Sánchez** (ibíd., párr. 1336), el Gobierno informó de que se aplicaron medios coercitivos con aplicación de sujeción mecánica para reducirlo cuando se abalanzó sobre unos funcionarios y golpeó a uno de ellos. Los hechos fueron puestos a conocimiento del Juzgado de Vigilancia Penitenciaria n.º 1 de Madrid, incoándose diligencias previas por el Juzgado de Instrucción n.º 1 de Madrid, actualmente archivadas. Tanto el interno como un funcionario fueron reconocidos de lesiones leves por el facultativo del centro.

1388. En relación con **José Alberto Iglesias Jiménez** (ibíd., párr. 1337), el Gobierno informó de que fue trasladado en el departamento de aislamiento debido a las amenazas e insultos que profirió a los funcionarios. Como ofreció resistencia al traslado, los funcionarios tuvieron que reducirle por la fuerza. Una vez en la celda, José Alberto Iglesias se autolesionó y la doctora que le atendió indicó que se procediese a su inmovilización mecánica. Por prescripción facultativa y para evitar que se autolesionase nuevamente, el arriba mencionado continuó esposado hasta la mañana del día siguiente. Una vez retiradas las esposas, se le volvió a inmovilizar dada la actitud agresiva y amenazadora que mostró ante la visita de la doctora. Dicha inmovilización cesó al día siguiente por prescripción médica. Estos hechos fueron puestos a conocimiento del Juzgado de Vigilancia Penitenciaria y se remitió el certificado médico al Juzgado de Guardia de El Puerto de Santa María. El detenido fue sancionado a 14 días de aislamiento por amenazas a funcionarios y resistencia activa y siendo recurrida la sanción, el Juzgado de Vigilancia Penitenciaria estimó el recurso parcialmente. El interno interpuso un recurso de reforma contra el auto que le fue desestimado.

1389. En relación con **Francisco Zurita Escalona** (ibíd., párr. 1338), el Gobierno informó que se ordenó su aislamiento provisional cuando intentó pasar tabaco a otro preso eludiendo el control de los funcionarios y seguidamente instigó al resto de los internos a amotinarse. El preso interpuso denuncia ante el Juzgado de Instrucción n.º 1 de Jaén, incoándose diligencias previas por lesiones que fueron posteriormente archivadas. El médico del centro que visitó a Francisco Zurita afirmó en su informe que éste no presentaba lesiones y que dio positivo a opiáceos.

1390. En relación con **José Gregorio Mackanilly Camuesco** (ibíd., párr. 1339), el Gobierno informó de que ordenó su traslado cuando éste se negó a salir de su celda. Según explicó el Gobierno, fueron necesarios medios coercitivos debido a la oposición que mostró. El interno fue reconocido por el médico del establecimiento, el cual apreció lesiones de carácter leve. Finalmente, el Gobierno indicó que estos hechos fueron comunicados al Juzgado de Guardia y que el JP n.º 1 de El Puerto de Santa María condenó a José Gregorio Mackanilly Camuesco como autor de un delito de resistencia y una falta de lesiones. El Juzgado de Vigilancia Penitenciaria n.º 4 de Andalucía dictó auto declarando que la aplicación de las medidas coercitivas era ajustada a derecho en cuanto a la necesidad y proporcionalidad de las mismas. Asimismo, conoció de los hechos en el recurso presentado por este interno contra la sanción de aislamiento en celdas, estimando parcialmente el recurso y rebajando la sanción a tres días de aislamiento. Por su parte, la Administración Penitenciaria ordenó la apertura de información reservada, dictando posterior resolución de archivo.

1391. En relación con **Sergio Castro Ponte e Ignacio Povedano Villar** (ibíd., párr. 1340), el Gobierno informó de que fue necesaria la utilización de medios coercitivos cuando los dos internos bloquearon una puerta y se armaron con patas de mesas, negándose a regresar a sus celdas. Ambos internos y dos funcionarios resultaron levemente lesionados. El Gobierno indicó igualmente que el Juzgado de n.º 4 de Oviedo dictó sentencia ejecutoria condenando a Sergio Castro Ponte a 6 meses de prisión, 3 arrestos de fin de semana e indemnización al Estado por un valor de 49.092 Ptas. como autor de un delito de resistencia y dos faltas de

lesiones. Por su parte, Ignacio Povedano Villar fue declarado en rebeldía. La Administración Penitenciaria instruyó información reservada, dictándose auto de archivo el 29 de marzo de 2001.

1392. En relación con **Sebastián Pérez Gozán** (ibíd., párr. 1341), el Gobierno informó que no consta que haya estado en el CP Villabona, ni en ningún otro. El Gobierno señaló igualmente que se informó al Juzgado de Instrucción n.º 6 de Oviedo, donde se seguían las diligencias previas, de la no constancia del arriba mencionado.

1393. En relación con **Isaac García Heredia** (ibíd., párr. 1342), el Gobierno informó que el día 14 de noviembre de 1998, insultó y amenazó gravemente a los funcionarios al no permitirle realizar una llamada telefónica no autorizada. El uso de la fuerza fue necesario debido a la resistencia activa que mostró. Además, incitó al interno **Bueno Nieves** para que iniciase un plante. Al no lograrlo, éste ingirió media botella de lejía. El facultativo de guardia que atendió a Isaac García Heredia, reflejó en el parte elevado que éste rehusó el tratamiento. El Gobierno añadió que los medios coercitivos fueron declarados conformes en un auto del JVP de Huelva.

1394. En relación con **Antonio Albao Cruz** (ibíd., párr. 1343), el Gobierno informó que se ordenó su aislamiento provisional cuando opuso resistencia a un cacheo y agredió a tres funcionarios. Los hechos fueron denunciados ante los Juzgados de Guardia y de Vigilancia Penitenciaria. El Juzgado de Instrucción n.º 3 de los de Badajoz inició diligencias previas y dictó una resolución que recurrió el interno. El procedimiento fue remitido al Juzgado de Instrucción n.º 2 de Badajoz, el cual dictó Sentencia en juicio de faltas, declarando como hechos probados que no constaba en autos que el interno hubiese agredido a ningún funcionario ni que los funcionarios hubiesen agredido al interno. En la Sentencia consta que los peritos médicos que prestaron declaración manifestaron que las lesiones de los funcionarios y del interno eran compatibles con un forcejeo de intensidad leve o moderada, no por acción directa o por golpes.

1395. En relación con **José Luis Galdón Cabrera** (ibíd., párr. 1344), el Gobierno informó que fue visto por los servicios médicos del centro, los cuales manifestaron que presentaba hedor etílico, que refirió dolor en oído izquierdo, que se negó tanto a que se le valorara como a que se le realizara una analítica. Igualmente, el Gobierno señaló que la Comisión disciplinaria del centro decidió imponer al interno, como autor de una falta grave recogida en el Reglamento penitenciario, la sanción de 25 días de privación de paseos y actos recreativos comunes. El JVP en resolución al recurso de alzada contra el acuerdo sancionador, ratificó dicha falta y rebajó la sanción a 15 días.

1396. En relación con **Jesús Cela Seoane** (ibíd., párr. 1345), el Gobierno informó que tuvo que ser reducido y aislado provisionalmente cuando se resistió a un cacheo y agredió a un funcionario. Según indicó el Gobierno, las lesiones de ambos fueron de carácter leve, habiendo sido realizados ambos reconocimientos por el médico de guardia del CP. La dirección del establecimiento puso estos hechos en conocimiento del Juzgado de Guardia y del JVP. El Juzgado de Instrucción n.º 8 de Badajoz dictó una sentencia condenatoria contra este interno

por una falta contra el orden público. Las diligencias previas seguidas por la denuncia del interno están archivadas.

1397. En relación con **Miguel Medina Olias** (ibíd., párr. 1346), el Gobierno informó que ninguno de los internos de las celdas adyacentes ni el funcionario oyeron ni observaron nada anormal durante la noche de su muerte. En el informe médico de autopsia se refleja parada cardio-respiratoria, siendo la causa fundamental una obstrucción coronaria y reflejándose muerte de etiología natural. El Juzgado de Instrucción n.º 1 de Colmenar Viejo inició diligencias previas, dictándose auto de archivo el 17 de febrero de 1999. La Administración Penitenciaria inició información reservada en la que, el 6 de junio de 1999, se dictó resolución de archivo. El Gobierno, también proporcionó información sobre los otros presos mencionados en el mismo párrafo del informe del Relator Especial. El Gobierno indicó que ocho internos fueron aislados provisionalmente como instigadores del plante. En relación con el interno que, según la información recibida por el Relator Especial, habría sido golpeado en la cabeza, el Gobierno informó que el Juzgado de Instrucción n.º 1 de Colmenar Viejo siguió diligencias previas, encontrándose pendiente del Juicio Oral y la Administración Penitenciaria tramitó información reservada relativa al incidente provocado por este último interno. Finalmente, se dictó resolución de “dejar en suspenso” hasta que recayese resolución judicial en las diligencias previas tramitadas ante el Juzgado de Instrucción n.º 1 de Colmenar Viejo, aunque no se desprendía responsabilidad disciplinaria para funcionarios de IIPP.

1398. En relación con **Francisco Javier Domingo Martín** (ibíd., párr. 1347), el Gobierno informó que el 19 de marzo de 1999 se interpuso una denuncia por malos tratos ante el Departamento de Justicia de la Generalitat. La Dirección General de Servicios Penitenciarios y de Rehabilitación instruyó Diligencias informativas con la finalidad de esclarecer los hechos y el Juzgado de Instrucción n.º 7 de Lleida inició diligencias previas. El Gobierno informó que, de la investigación realizada por la Inspección Penitenciaria se desprende que, el 1 de febrero de 1999, comunicó a los funcionarios que se había tragado una hoja de afeitar pero en el Departamento de Enfermería del CP se comprobó la no veracidad de la autolesión. El interno se negó a ser reingresado hasta no tener la oportunidad de entrevistarse con el Subdirector de Régimen Interior. Los funcionarios tuvieron que utilizar la sujeción mecánica para trasladarlo al Departamento de Régimen Cerrado. Posteriormente, amenazó con beberse una botella de lejía, acción que fue evitada por un funcionario. Fue trasladado al Hospital Arnau de Vilanova de Lleida pero no se apreció ninguna lesión por la posible ingesta. Posteriormente, el interno ingresó en el departamento de ingresos del CP, inmovilizado de pies y manos para evitar posibles nuevos actos de autolesión. La aplicación de los medios coercitivos fue comunicada al JVP de Lleida, quien ratificó la aplicación de dichos medios al considerarlos ajustados a derecho. El Gobierno señaló igualmente, que no consta que Francisco Javier Domingo Martín se hubiera hecho encima sus necesidades fisiológicas, y de serlo, lo sería debido a la situación de somnolencia en la que se encontraba como consecuencia de su medicación psiquiátrica. Asimismo, y en relación con las diligencias de investigación penal instruidas por el Juzgado de Instrucción n.º 7 de Lleida se dictó Auto de sobreseimiento provisional por no resultar acreditada la

comisión de ningún delito. Igualmente, la Dirección General de Servicios Penitenciarios y de Rehabilitación archivó las diligencias informativas.

1399. En relación con **Antonio Porto Martín** (ibíd., párr. 1348), el Gobierno informó que agredió con un puñetazo a un funcionario y a continuación se negó a cumplir la orden de cambiarse de celda, amenazando a los presentes. En estas circunstancias, explicó el Gobierno, el uso de la fuerza física fue necesario para reducirle. En relación con este hecho denunciado, se informó que Antonio Porto Martín fue considerado por el JP de Palencia como autor de un delito probado de resistencia a la autoridad. En relación con las actuaciones administrativas, la Dirección General de IIPP procedió a la apertura de información reservada, archivada el 14 abril de 2000 al no haberse encontrado indicios racionales de responsabilidad disciplinaria en los funcionarios de IIPP. En relación con el segundo hecho denunciado, de fecha 24 de marzo de 2000, se informó que no hay ninguna documentación sobre incidente regimental en el CP de La Moraleja, no constando que el mencionado interno fuera atendido por lesiones en marzo de 2000. Respecto al tercer hecho denunciado, de fecha 8 de abril de 2000, el Gobierno indicó que difícilmente pudieron ocurrir en Madrid V, puesto que Antonio Porto Marín fue trasladado el 1 de abril de 2000 al CP de Valencia-Preventivos.

1400. En relación con **Bernabé Vallejo Fernández** (ibíd., párr. 1349), el Gobierno informó que en ninguno de los registros del CP de Almería ni en los del Centro Directivo consta incidente alguno correspondiente al 10 de febrero de 1999 y en el que se haya visto implicado este interno. A la solicitud de información realizada por el Juzgado de Instrucción n.º 5 de Almería al establecimiento penitenciario en relación con los hechos denunciados por el interno y por los que se estaban tramitando diligencias previas, el establecimiento respondió que no se tiene ningún tipo de información sobre los hechos denunciados.

1401. En relación con **Manuel Gómez Fernández** (ibíd., párr. 1350), el Gobierno informó que el 20 de febrero de 1999, el arriba mencionado prendió fuego a la celda que ocupaba como medida de protesta contra los servicios médicos del CP. Ante el estado de agitación y violencia que presentaba, se le trasladó al departamento de aislamiento donde permaneció esposado durante aproximadamente tres horas. No constan actuaciones judiciales.

1402. En relación con **Agustín López Montserrat** (ibíd., párr. 1351), el Gobierno informó que se autolesionó con un trozo del espejo y lesionó a dos funcionarios. Según informó el Gobierno, el empleo de medios coercitivos fue necesario para reducirle. Posteriormente fue aislado hasta el 26 de febrero de 1999. Estos hechos se participaron al Juzgado de Guardia de Valdemoro, no constando diligencias.

1403. En relación con **Manuel Martínez Romero** (ibíd., párr. 1352), el Gobierno informó se resistió activamente a un cacheo. Una vez sujetado, se le encontró un pincho metálico con forma de cuchillo. Como consecuencia de esta intervención, resultó lesionado uno de los funcionarios. Las diligencias previas que se siguieron en relación con estos hechos derivaron en un juicio de faltas cuya sentencia fue absolutoria, recurrida y desestimada por la Audiencia Provincial de Madrid. En la

historia clínica de Manuel Martínez Romero consta que éste presentaba inflamación de mano izquierda y que en la radiografía que se le hizo el 26 de febrero de 1999 no se apreciaron alteraciones significativas.

1404. En relación con **Juan José García López** (ibíd., párr. 1353), el Gobierno informó que reaccionó de forma desmedida, con insultos, amenazas y retos cuando los funcionarios le ordenaron de cumplir con el ordenamiento interno y levantarse de la cama puesto que ya eran las 9h45. Dada su resistencia activa, se ordenó su traslado a Aislamiento, siendo necesaria en su traslado, la utilización de la fuerza física para sujetarlo y la colocación de esposas para conducirlo. Los hechos fueron puestos en conocimiento del JVP de El Puerto de Santa María y del Centro Directivo, incoándosele al arriba mencionado expediente disciplinario en el que fue sancionado con diez días de aislamiento. Recurrida la sanción, el JVP estimó parcialmente el recurso, rebajando la calificación a falta leve, e imponiéndole tres días de privación de paseos y actos recreativos comunes. Como consecuencia del forcejeo, el interno presentaba una contusión leve del dedo tercero de la mano derecha.

1405. En relación con **David Moyano Cazorla** (ibíd., párr. 1354), el Gobierno informó agredió a varios funcionarios cortando a uno de ellos en la cara con una cuchilla. Varios funcionarios resultaron heridos. El 16 de octubre de 2000, el detenido fue sentenciado como autor responsable penalmente de un delito continuado de resistencia, con agravante de reincidencia y condenado a nueve meses de prisión con accesoria de inhabilitación especial para el derecho al sufragio pasivo durante el tiempo de la condena. Igualmente se le condenó, como autor responsable penalmente de siete faltas de lesiones, a la pena para cada una de ellas, de un mes de multa con cuota diaria de 200 pesetas, debiendo asimismo abonar las costas procesales e indemnizar a seis funcionarios de IIPP. Por estos mismos hechos, la Administración Penitenciaria inició información reservada, de la que tampoco se dedujo responsabilidad disciplinaria para los funcionarios de IIPP y en la que se dictó resolución de Archivo.

1406. En relación con **Ahmed Aounaich** (Ahmed Aounallah) (ibíd., párr. 1355), el Gobierno informó que en el informe cursado por el departamento de aislamiento consta que este interno amenazó varias veces a los funcionarios que le acompañaban de regreso a su módulo. El interno y una asociación para los derechos humanos interpusieron una denuncia ante el Juzgado de Guardia, dictándose posteriormente y en el juicio de faltas, Auto de archivo. Asimismo, el Gobierno indicó fue sancionado por las autoridades del CP de Madrid V a diez días de aislamiento en celda como autor de una falta muy grave. No se realizaron exámenes médicos al no existir incidentes que los requirieran.

1407. En relación con **Madharbi Rachid** (ibíd., párr. 1356), El Gobierno informó que el único incidente que se dio entre este interno y el funcionario encargado de Departamento fue el derivado de la actitud de Madharbi Rachid al rechazar su racionado de la comida. Este interno se calmó tras una conversación con el educador y en ningún momento hubo palabras o hechos que atentaran contra la integridad física o moral del mismo. Igualmente, el Gobierno indicó que no consta que Madharbi Rachid requiriera la presencia de los servicios médicos y que fue el Juzgado de Instrucción n.º 4 de Vitoria el encargado de instruir

diligencias previas, dictándose posteriormente resolución de sobreseimiento libre y archivo.

1408. En relación con **Jesús Amador de Val, José Quilis Iniesta, Daniel Ramírez Córdoba, José Martínez Camino y Francisco Javier Rodríguez Gantes** (ibíd., párr. 1357), el Gobierno informó que los hechos a los que se refiere la denuncia no concuerdan con la realidad. Según la información proporcionada por el Gobierno, Rodríguez Gantes destrozó el arco detector de metales y rompió varios cristales. Posteriormente, este interno fue aislado con aplicación de sujeción mecánica y según el examen médico presentaba lesiones leves. Ese mismo día, el interno Amador del Val golpeó el arco detector de metales negándose a ser cacheado a su salida del patio y retó a los funcionarios, al tiempo que Ramírez Córdoba le incitaba para que se enfrentara a ellos. Según indicó el Gobierno fue necesario utilizar la fuerza física dado que este interno se negó a deponer su actitud. Al concluir la hora de patio, Quilis Iniesta y Ramírez Córdoba se negaron a pasar a sus celdas y se enfrentaron a los funcionarios con sendas cuchillas de afeitar, produciendo varias heridas a tres funcionarios y cortes en el uniforme a un Jefe de Servicios, con lo que fue igualmente necesario el uso de medios coercitivos para inmovilizarles. A las 21h20, Martínez Camino prendió fuego a la celda, siendo necesario la intervención para sacarle. Asimismo, el Gobierno señaló que todos los internos y funcionarios afectados por estos incidentes fueron reconocidos por los servicios médicos, emitiéndose los correspondientes partes de lesiones. El Juzgado de Instrucción n.º 3 de Palencia abrió diligencias previas, acordándose auto de sobreseimiento y archivo el 19 de enero de 2000. El Gobierno agregó que el JVP de Valladolid, conoció de los hechos tanto por la participación de medios coercitivos (expediente sancionador contra Quilis Iniesta, desestimando el recurso) como por el expediente de queja abierto a raíz de la queja presentada por la madre de este interno, que se incluyó en las diligencias previas antes mencionadas. La Dirección General inició información reservada, dictándose posterior resolución de archivo.

1409. En relación con **Daniel Ramírez Córdoba** (ibíd., párr. 1358), el Gobierno informó que desafió a los funcionarios y ofreció fuerte resistencia cuando se le pidió que entregase unas espinilleras. Dicha resistencia tuvo que ser vencida mediante la fuerza física indispensable y el uso de esposas. Igualmente, el arriba mencionado amenazó de muerte a los actuantes, forzó las esposas y causó desperfectos en la celda, siendo posteriormente asistido por el médico de guardia, el cual emitió parte de lesiones de pronóstico leve. Estos hechos fueron denunciados ante el Juzgado de Instrucción n.º 3, incoándose diligencias previas. Los medios coercitivos aplicados fueron estimados conforme a derecho por auto del JVP de Huelva de fecha 8 de marzo. Finalmente, el Gobierno indicó que el CP de Huelva inició un expediente sancionador contra este interno y que la Administración Penitenciaria abrió información reservada, dictándose posterior resolución de “dejar en suspenso” hasta que finalicen las actuaciones judiciales.

1410. En relación con **Leandro Rosa Gómez** (ibíd., párr. 1359), el Gobierno informó que a la Dirección del Centro no le consta ninguna incidencia con fecha de 8 de mayo de 1999 en relación con él. Igualmente, el Gobierno señaló que se tiene conocimiento de una denuncia contra dos funcionarios interpuesta ante el

Juzgado de Instrucción n.º 9 de Huelva. Sin embargo, no consta la celebración de ningún juicio oral en relación con el caso.

1411. En relación con **Sergio Sampedro Espinosa, Víctor Echevarría Llarralde, Francisco Martínez García, Felipe Martínez Gallego, Mohamed Larbi y Manuel Catoira Casal** (ibíd., párr. 1360), el Gobierno indicó que los hechos a que se refiere la denuncia no se corresponden con la realidad. En relación con los hechos en el CP Villabona, el Gobierno proporcionó la siguiente información: Sergio Sampedro, tras habersele indicando que debía esperar hasta el día estipulado para recoger un paquete, arrancó la ventana y comenzó igualmente a aporrear la puerta de su celda, siendo secundado con golpes y destrozos por los demás denunciados a excepción de Mohamed Larbi. Consecuentemente, los funcionarios intervinieron haciendo uso de medios coercitivos reglamentarios. Asimismo, el Gobierno señaló que se incoaron diligencias previas en el Juzgado de Instrucción n.º 6 de Oviedo, transformadas en procedimiento abreviado en el Juzgado de lo Penal (JP) n.º 2 de Oviedo. Los internos fueron condenados como autores responsables de una falta de daños a una pena de multa de 20 días y Echevarría Llarralde, como autor de un delito de resistencia a la autoridad y una falta de daños, a siete meses de prisión y a multa de 20 días. Igualmente, todos ellos fueron condenados a indemnizar al Estado por los daños causados. La Administración Penitenciaria tramitó información reservada, en la que se dictó resolución de “dejar en suspenso” a falta de recibir oficialmente el testimonio de la sentencia. En relación con los hechos en el CP de Teixero, el Gobierno proporcionó la siguiente información: el 30 de mayo de 1999, Sergio Sampedro Espinosa agredió con un bolígrafo a unos funcionarios y más tarde se autolesionó, siendo atendido por el servicio médico. En el recuento de relevo, Sergio Sampedro no estaba visible y cuando entró el Jefe de Servicios en la celda, este interno se abalanzó violentamente sobre él, propinándole varios puñetazos y patadas. Posteriormente y por prescripción médica, se procedió a su sujeción mecánica. El Gobierno señaló que por estos hechos se incoaron diligencias previas en el Juzgado de Instrucción n.º 3 de Betanzos. La Administración Penitenciaria tramitó información reservada, dictándose posterior resolución de “dejar en suspenso” hasta tanto finalizasen las actuaciones judiciales. En relación con los hechos en el CP de Soto del Real, el Gobierno proporcionó la siguiente información: el 17 de agosto de 2000, Sergio Sanpedro, tras haber finalizado una llamada telefónica autorizada y al no permitírsele realizar otra, reaccionó violentamente, insultando y amenazando a los funcionarios. Consecuentemente, le fueron aplicados medios coercitivos, apreciándose en el informe médico “contusión en ojo izquierdo con hematoma. Contusiones y excoriaciones por espalda y región anterior del tórax. Contusión en mano derecha”. Según el Gobierno, no constan actuaciones judiciales sobre estos hechos.

1412. En relación con **Carmelo Sanjuanes Núñez** (ibíd., párr. 1361), el Gobierno informó que al ser amonestado por el funcionario de servicio tras haber alborotado el orden del centro, se enfrentó al mismo de forma desafiante y agresiva, por lo que fue necesario utilizar la fuerza física mínima e imprescindible para que depusiera su actitud. Bajo estas circunstancias fue trasladado al módulo cinco en aislamiento provisional hasta que se calmó. El informe médico para la aplicación de la medida de aislamiento provisional, realizado el 16 de junio de 1999, refleja que el interno presentaba una lesión en vía de curación en dorso de

la nariz, eritema en cara lateral izquierda del cuello y lesiones leves que no precisaron asistencia. El Gobierno señaló igualmente que tanto la utilización de la fuerza física como el aislamiento provisional se participaron de forma inmediata al JVP de Bilbao. Carmelo Sanjuanes Núñez elevó denuncia contra dos funcionarios, dictándose auto de sobreseimiento libre y archivo en las diligencias previas que fueron incoadas en el Juzgado de Instrucción n.º 3 de Vitoria.

1413. En relación con **Manuel Alcántara Ruiz** (ibíd., párr. 1362), el Gobierno informó que se resistió agresivamente a salir de su celda y cuando un funcionario intentó sacarlo, el detenido le propinó un fuerte empujón, cayendo ambos al suelo como consecuencia del forcejeo. Asimismo, el Gobierno indicó que el interno se intentó golpearse la cabeza, lo que no pudo hacer al estar sujetado por los funcionarios. Una vez de nuevo en la celda, tuvo que ser sujetado mecánicamente mediante esposas dado que intentó nuevamente autolesionarse. Esta medida fue ratificada por los servicios médicos del centro. Tanto el interno como el funcionario fueron reconocidos por los servicios médicos del establecimiento, presentando ambos lesiones leves. El Gobierno señaló igualmente que con ocasión del expediente disciplinario incoado, el detenido reconoció ante la Comisión disciplinaria que cuando el funcionario le agarró por el brazo, le esquivó y que ambos se cayeron al suelo habiendo un pequeño forcejeo. Asimismo, reconoció que estaba muy nervioso, que intentó darse cabezazos y que el funcionario le sujetó para evitar que se autolesionase. Finalmente, el Gobierno agregó que se siguió un juicio de faltas ante el Juzgado de Instrucción n.º 1 de Ocaña, en el cual se dictó, el 23 de mayo de 2000, sentencia declarando la libre absolución del funcionario y del interno al no haberse mantenido la acción criminal por ninguna de las partes.

1414. En relación con **Pedro Escudero Gallardo** (ibíd., párr. 1363), el Gobierno informó que se autolesionó como protesta por no facilitársele la medicación no prescrita que reclamaba, requisándosele posteriormente un pincho de fabricación casera. Igualmente, se indicó que fue aislado tras haber amenazado con la pata de una mesa a los funcionarios, forzado las dos cancelas y exhibido una cuchilla. Posteriormente fue reducido, esposado y aislado en su celda debido a su reacción violenta, resultando con heridas leves tres funcionarios. Se le administró un inyectable y una vez más calmado, se le retiraron las esposas. En el reconocimiento que el médico del centro realizó a Pedro Escudero, se le apreciaron excoriaciones de pequeño tamaño en los dedos de las manos que el interno se produjo ya en su celda al romper unos cristales. El Gobierno añadió que el JVP n.º 1 de Madrid conoció de la aplicación de los medios coercitivos y que el juicio oral por estos hechos se encuentra en trámite en el JP n.º 11 de Madrid. Por su parte, la Administración Penitenciaria tramitó información reservada, dictándose el 28 de abril de 2000, resolución de dejar en suspenso hasta resolución judicial en el procedimiento judicial abierto.

1415. En relación con **Juan Manuel Utrillas Mengual** (ibíd., párr. 1364), el Gobierno informó que reaccionó violentamente y con golpes a un cacheo, resultando los funcionarios y el propio interno con lesiones leves. Por estos hechos se siguieron diligencias previas en el Juzgado de Instrucción n.º 4 de Valladolid, pasando a procedimiento abreviado ante el Juzgado de lo Penal n.º 2 de Valladolid y condenándole como autor de un delito de atentado y una falta de lesiones.

Igualmente, el Gobierno agregó que se abrió información reservada por la Administración Penitenciaria, dictándose posterior resolución de archivo.

1416. En relación con **Juan Sebastián Moreno Cortés** (ibíd., párr. 1365), el Gobierno informó de que fue hallado en estado aparentemente inconsciente. Reconocido por los servicios médicos, se le apreciaron signos y constantes normales con lo que no se le prescribió tratamiento alguno. Tres horas más tarde, los funcionarios volvieron a requerir la presencia de los servicios médicos, los cuales apreciaron una considerable disminución del nivel de conciencia así como en el murmullo vesicular en bases, con una baja tensión arterial y pulso filiforme. Consecuentemente, se le administró oxígeno y Naloxona y fue trasladado urgentemente al Hospital General Universitario donde fue atendido por el servicio de urgencias, falleciendo poco después. El Gobierno añadió que el día previo a su muerte, Juan Sebastián Moreno había protagonizado un incidente grave y tuvo que ser reducido, resultando lesionados seis funcionarios y el Jefe de Servicios. Tras este altercado, el interno fue reconocido por el médico de guardia, quien observó erosiones múltiples en la espalda y en el muslo derecho y una contusión en labio superior sin que ninguna de las heridas revistiera gravedad. Asimismo, el Gobierno informó de que el 13 de septiembre de 2000, se dictó auto de sobreseimiento provisional en las diligencias previas seguidas en el Juzgado de Instrucción n.º 1 de Picassent en relación con la muerte de Juan Sebastián Moreno y con los incidentes que éste había protagonizado la víspera de su fallecimiento, desestimándose posteriormente los recursos interpuestos por su madre. En este sentido, el Gobierno agregó que en el auto de la Audiencia Provincial de Valencia consta que esta muerte se produjo por reacción adversa a drogas. Igualmente quedó acreditado que el resto de las lesiones que se apreciaron en el fallecido se habían producido en la reducción a consecuencia del altercado provocado una 24 horas antes de su fallecimiento y en ningún caso consideradas como lesiones mortales según el informe forense.

1417. En relación con **José María Yáñez Martínez** (ibíd., párr. 1366), el Gobierno informó de que reaccionó violentamente cuando un funcionario le informó que su equipaje sobrepasaba el peso autorizado y que debía dejar parte del mismo a efectos de su traslado. Sin embargo, no se aplicó ningún medio coercitivo. Al día siguiente, José María Yáñez manifestó su intención de no querer marcharse y cuando se iba a proceder a su traslado, empezó a cortarse en el brazo con una cuchilla de afeitar. Estos hechos se participaron a los Juzgados de Vigilancia Penitenciaria y de Guardia, desconociéndose las actuaciones seguidas. Igualmente, el Gobierno señaló que los informes médicos de los tres facultativos que reconocieron al arriba mencionado constatan una serie de lesiones leves que no denotan ninguna contradicción entre ellos. Básicamente todos coinciden en su localización en las diferentes regiones de la superficie corporal. Finalmente, el Gobierno agregó que los hechos determinantes de la aplicación del medio coercitivo constituyen presupuesto legal de aplicación de los mismos, que dichos medios son reglamentarios, que se aplicaron de manera proporcionada y que se observó la previsión del examen médico.

1418. En relación con **Gabriel Bea Sampedro** (ibíd., párr. 1367), el Gobierno informó de que el 28 de julio de 1999 comenzó a insultar a un funcionario cuando éste le dijo que tendría que esperar por la instancia que había solicitado,

agrediendo posteriormente al Jefe de Servicios y a los funcionarios que acudieron en su ayuda. El interno cesó únicamente en su agresión cuando fue reducido mediante fuerza física y uso de aerosol, tras lo que quedó provisionalmente aislado. Resultaron lesionados tres funcionarios y el propio interno que renunció a recibir atención sanitaria. El Gobierno indicó igualmente que se abrieron diligencias previas en el Juzgado de Instrucción n.º 2 de Salamanca, siendo archivadas el 4 de julio de 2000.

1419. En relación con **Edmundo Balsa Franco** y **Cesar Ruiz Beltrán** (ibíd., párr. 1368), el Gobierno informó que con fecha 25 de agosto y en relación con los mencionados internos, no consta incidente alguno. Según la información proporcionada, el único incidente que consta en relación con Edmundo Balsa Franco, es que éste rompió y el 20 de agosto y en actitud violenta, los cristales de su celda, diciendo que lo había hecho “porque me da la gana” al tiempo que golpeaba la puerta de la celda. Consecuentemente se le aplicó la medida de aislamiento provisional hasta el día 22. El Juzgado de Instrucción n.º 7 de Almería también participó que no conoce ningún asunto en relación con esas fechas y esos nombres, no constando actuaciones judiciales.

1420. En relación con **Miguel Ángel Sánchez Cano** (ibíd., párr. 1369), el Gobierno informó de que reaccionó violenta y agresivamente a un cacheo y a una orden de traslado al módulo de aislamiento. Después de un primer intento de agresión, consiguió introducirse en otra celda cerrando la cancela de seguridad, a la vez que golpeó con una bolsa bandolera a un funcionario. Finalmente, el arriba mencionado fue reducido mediante el empleo de defensas de gomas, fuerza física y esposas. El Gobierno informó que, cuando los funcionarios le condujeron esposado a aislamiento, se lanzó contra una puerta, abriéndose una brecha en la frente y, tras un instante de conmoción, comenzó a gritar buscando apoyo en otros internos. Igualmente, se opuso activamente a que se le curase la herida, aplicándosele sujeción mecánica hasta que se le pudo realizar dicha cura. Permaneció con sujeción mecánica hasta las 6.30 de la tarde del 27 de agosto de 1999 y en aislamiento provisional hasta las 10.55 de la mañana del día siguiente. Como consecuencia de estos hechos, resultaron contusionados levemente los funcionarios y el interno. El Gobierno señaló que se tramitaron diligencias previas en el Juzgado de Instrucción n.º 4 de los de El Puerto de Santa María (Cádiz), no habiendo recaído aún resolución judicial. Por su parte, la Administración Penitenciaria tramitó información reservada, dictándose posterior resolución de dejar en suspenso la conclusión de las actuaciones judiciales. El Defensor del Pueblo fue informado de estos hechos a través de una denuncia presentada por una asociación de derechos humanos. La dirección del centro penitenciario de Puerto I inició un expediente administrativo contra el detenido, habiendo reconocido dicho interno y ante la Comisión Disciplinaria que la lesión en la frente se la había producido él mismo.

1421. En relación con **José Chorro Leal** (ibíd., párr. 1370), el Gobierno informó de que fue necesario utilizar medios coercitivos para repeler la agresión del mencionado cuando se negó a ser cacheado integralmente. El Gobierno señaló igualmente que el detenido golpeó a los funcionarios y se golpeó la cabeza contra el suelo como consecuencia del forcejeo. El Juzgado de Instrucción n.º 2 de Valdemoro condenó al interno por una falta de lesiones, desestimándose el recurso

que presentó y confirmándose la resolución. En el reconocimiento que se le realizó, el interno presentaba una herida contusa de 2 centímetros en zona frontoparietal, un hematoma de 5 milímetros en el ángulo externo del ojo derecho y equimosis de 1 centímetro en la cara laterocervical derecha. El funcionario también presentaba varias excoriaciones.

1422. En relación con **Fernando De La Fuente Iglesias** (ibíd., párr. 1371), el Gobierno informó de que dentro del mes de septiembre, no consta incidente alguno relativo al arriba mencionado. Asimismo, el Gobierno indicó que sí consta uno con fecha de 29 de agosto de 1999 en el que el interno fue reducido por la fuerza después de que golpeó a un funcionario. A continuación fue aislado provisionalmente. Se le inició expediente disciplinario, siendo sancionado a diez días de aislamiento en celda, sanción que fue confirmada íntegramente al ser desestimado el recurso que contra dicha sanción presentó este interno ante el Juzgado de Vigilancia Penitenciaria. En el recurso de alzada ni alegó ni citó que los funcionarios le hubiesen golpeado.

1423. En relación con **Rosa Ruiz Uceda** y **Manuela Baldeón** (ibíd., párr. 1372), el Gobierno informó de que con ocasión de una pelea que tuvo lugar el 21 de agosto de 1999 entre Rosa Ruiz Uceda y varias internas, las funcionarias ordenaron a Rosa Ruiz Uceda que subiera a su celda y que el resto de las internas involucradas fuesen trasladadas a la enfermería para su revisión. Más tarde, Rosa Ruiz Uceda se autolesionó en la cabeza con un objeto metálico, siendo posteriormente curada. El Gobierno recalcó que es falso que la jefa de servicios y varios funcionarios se personaran en su celda, y que su actuación se ciñó al momento de la pelea entre las internas. En relación con estos hechos recayó auto de archivo tanto en las diligencias previas seguidas en el Juzgado de Instrucción n.º 2 de Colmenar Viejo como en procedimiento abreviado tramitado ante el Juzgado de Instrucción n.º 1 de Colmenar Viejo. Finalmente, el Gobierno añadió que, según los preceptivos reconocimientos médicos realizados por el facultativo oficial del establecimiento, ambas internas presentaban lesiones leves y no se consideró conveniente su aislamiento provisional debido a su patología.

1424. En relación con **Andrés Delgado Martín** (ibíd., párr. 1373), el Gobierno informó de que fue trasladado inmediatamente a la enfermería tras mostrar a los funcionarios unos cortes que se había hecho en un brazo. Mostró agresividad y violencia y se negó a regresar a su módulo. Bajo estas circunstancias, fue reducido y trasladado al módulo 11. Más tarde fue nuevamente trasladado a la enfermería cuando los funcionarios se percataron de que se había hecho más cortes. Una vez curado, amenazó, insultó e intentó agredir a los funcionarios y dio patadas contra el mobiliario de la enfermería. Consecuentemente, se le inmovilizó y se le aisló provisionalmente para evitar más problemas. No se han constatado actuaciones judiciales en relación con este caso.

1425. En relación con **Manuel Márquez Hita** (ibíd., párr. 1374), el Gobierno informó de que fue trasladado a la enfermería cuando manifestó haberse tragado 50 pastillas. Ante el médico oficial del centro, el preso manifestó haber sido agredido por los funcionarios pero no se dejó explorar, razón por la que no consta parte de lesiones. Posteriormente fue trasladado al hospital Princesa de España, de Jaén. Interpuso una queja ante el Juzgado de Vigilancia Penitenciaria de Granada

contra el Jefe de Servicios y dos funcionarios, incoándose un procedimiento que fue desestimado en auto de 5 de octubre de 2000. Al arriba mencionado se le inició expediente disciplinario en el centro penitenciario de Jaén y fue sancionado a diez días de privación de paseos y actos recreativos comunes. Esta sanción fue objeto de recurso por parte del interno, que fue desestimado por el Juzgado de Vigilancia Penitenciaria. Asimismo, se le inició otro expediente disciplinario, en el que el Juzgado de Vigilancia Penitenciaria estimó parcialmente el recurso interpuesto y rebajó la sanción de 15 a 10 días de privación de paseos y actos recreativos comunes.

1426. En relación con **Roberto Carlos Fernández Pardiñas** (ibíd., párr. 1375), el Gobierno informó de que con ocasión del recuento reglamentario fue necesario reiterarle la orden de que se levantara de la cama y una vez levantado tuvo que ser reducido debido a que golpeó y se abalanzó violentamente contra unos funcionarios. Según el Gobierno, para conducirlo al departamento de aislamiento fue necesaria la utilización de la fuerza física debido a su resistencia, resultando con lesiones leves tanto el interno como el funcionario, según se constata el reconocimiento realizado por el médico de guardia del centro. El 24 de marzo de 2000, se acordó el sobreseimiento respecto de los funcionarios que habían sido acusados por el preso, desestimándose posteriormente el recurso interpuesto por éste. La Comisión disciplinaria del centro penitenciario de Madrid II le sancionó como autor de dos faltas muy graves a 28 días de aislamiento en celda. Posteriormente el juez de vigilancia penitenciaria estimó parcialmente el recurso interpuesto por este interno, rebajando la sanción a 14 días de aislamiento.

1427. En relación con **Isaac Laínez Fernando** (Faraudo) (ibíd., párr. 1376), el Gobierno informó de que el interno comenzó a dar golpes en su celda, amenazando a unos funcionarios cuando éstos le pidieron que se tranquilizara. Tras ser curado por el médico de un corte que se había hecho en el cuello con una bombilla, continuó amenazando con autolesionarse, procediéndose consecuentemente a su inmovilización. Según indicó el Gobierno, las lesiones sufridas por el preso fueron calificadas como leves por el médico del centro. Estos hechos fueron puestos en conocimiento del juez de vigilancia penitenciaria. Por su parte, la Comisión Disciplinaria sancionó al interno por la comisión de dos faltas muy graves, rebajándose posteriormente la sanción por el juez de vigilancia penitenciaria, al estimar parcialmente el recurso de alzada interpuesto por este interno.

1428. En relación con **Javier Colindres Rodríguez** (ibíd., párr. 1377), el Gobierno informó de que comenzó a gritar momentos después de ser ubicado en una celda tipo americana. El funcionario le explicó los trámites que estaba realizando y cuando se le cambió de celda respondió con amenazas. Pasados unos minutos, se escucharon golpes y gritos en su celda, encontrándose posteriormente a este interno con la cabeza y la mano ensangrentadas. Javier Colindres, tras haber sido atendido en enfermería, fue reingresado al departamento de ingresos. Según la información proporcionada, éste presentaba una herida inciso profunda de 7 cm en región supraciliar del lado derecho. Por auto de 6 de julio de 2000, el Juzgado de Instrucción n.º 1 de Valdemoro archivó las diligencias previas abiertas en relación con estos hechos. La Administración Penitenciaria inició una información

reservada, dictándose posterior resolución de “dejar en suspenso” a la espera de resolución judicial.

1429. En relación con **Jesús Ángel Fernández Gómez** (ibíd., párr. 1378), el Gobierno indicó que tras haber sido examinado por los servicios médicos del establecimiento, exigió ser atendido por un médico especialista fuera del conducto reglamentario. Al mismo tiempo, comenzó a proferir amenazas y coacciones hacia el médico del establecimiento y los funcionarios. El Gobierno indicó que para poder aislarle provisionalmente fue necesario el empleo la fuerza física debido a la fuerte resistencia que ofreció. Fue aislado provisionalmente durante aproximadamente 28 horas pero no se utilizaron otros medios coercitivos. En el informe médico se reflejó que no se apreciaban lesiones. Estos hechos fueron denunciados por una asociación de derechos humanos. Sin embargo, el Juzgado de Instrucción n.º 1 de Vitoria dictó resolución de sobreseimiento provisional y archivo de las diligencias.

1430. En relación con **Alejandro Rada Vargas** (ibíd., párr. 1379), el Gobierno indicó que fue esposado y conducido a la enfermería después de que amenazara con autolesionarse y manifestó su intención de agredir a los funcionarios. Fue examinado por el médico oficial del establecimiento sin que se destacase nada de anormal. El Gobierno añadió que se instruyó expediente disciplinario y se siguió procedimiento abreviado ante el Juzgado de Instrucción n.º 1 de Ocaña, encontrándose archivadas las actuaciones judiciales desde mayo de 2000.

1431. En relación con **Antonio Córdoba Toledo** (ibíd., párr. 1380), el Gobierno indicó que durante su traslado al hospital se golpeó voluntariamente la cabeza en el furgón. Fue visto por un médico forense de los Juzgados de Plaza de Castilla de Madrid, el cual apreció herida contusa en región frontal media por autolesión. Igualmente, el Gobierno señaló que al reingreso en el centro penitenciario, el Sr. Córdoba manifestó que al salir del hospital le pusieron los grilletes a la espalda, por lo que amenazó con golpearse, y que un guardia civil le golpeó la cabeza contra el furgón. Finalmente, el Gobierno añadió que la Comisión Disciplinaria del centro penitenciario impuso a este interno una sanción de seis días de privación de paseos y actos recreativos comunes como autor de una falta muy grave de coacción a las autoridades, sanción que fue ratificada por el Juzgado de Vigilancia Penitenciaria n.º 3 de Madrid. No consta denuncia alguna presentada por el arriba mencionado ante Juzgado de Guardia.

1432. En relación con **Antonio Gabarre Jiménez** (ibíd., párr. 1381), el Gobierno indicó que el arriba mencionado provocó un incidente con resistencia activa e intento de agresión a un funcionario, siendo necesaria la aplicación de sujeción mecánica. Fue sancionado por la Comisión Disciplinaria del centro penitenciario. El juez de vigilancia penitenciaria estimó parcialmente el recurso, modificando la sanción de aislamiento por la privación de paseos.

1433. En relación con **Emilio Fernández Amador** (ibíd., párr. 1382), el Gobierno indicó que tras ser examinado por un médico a su solicitud, el detenido le insultó al negarse éste último a prescribirle la medicación que pedía. Una vez en su celda, el preso requirió una nueva visita médica alegando la introducción de objetos en su abdomen y fue trasladado a la enfermería. El interno no aceptó la

decisión de dejarle en observación e intentó agredir a los funcionarios. Ante las amenazas y actitud autolesiva que mostraba este interno, fue necesaria la aplicación de fuerza física para conducirlo a la celda de observación de la enfermería, donde quedó esposado. Se aconsejó retirar de su abdomen dos cuerpos extraños que se habían observado en las radiografías y al día siguiente, y tras haberse autolesionado en el brazo, se negó a ser curado, solicitando ser trasladado a un hospital. El 22 de marzo de 2000, cuando iba a ser trasladado al Hospital Clínico de Salamanca, se opuso al cacheo, siendo trasladado el día siguiente. Una vez allí, se negó a que se le extrajesen los cuerpos extraños. El Gobierno agregó que se abrieron diligencias previas por el Juzgado de Instrucción n.º 3 de Salamanca, siendo sobreseídas provisionalmente y archivadas.

1434. En relación con **Javier Fernández de Dios** (ibíd., párr. 1383), el Gobierno indicó que este interno puso todo el material de la celda en la puerta, arrojando posteriormente dos botellas de lejía contra la puerta cuando los funcionarios le pidieron que la desalojase. Finalmente, desalojó la puerta y fue reducido. En ese momento, amenazó e insultó a los funcionarios, intentando agredirlos con un palo de escoba, siendo necesario el empleo de la fuerza física para quitárselo. Más tarde se autolesionó y amenazó a los funcionarios con denunciarles como responsables de sus heridas. Fue visto inmediatamente por el médico del establecimiento quien reseñó varias lesiones. Finalmente, el Gobierno indicó que el procedimiento abreviado seguido por estos hechos ante el Juzgado de Instrucción n.º 2 de León fue provisionalmente sobreseído y archivado y que el interno fue sancionado con 14 días de aislamiento, tras haberse iniciado un expediente disciplinario.

1435. En relación con **Edelmiro Fernández Rial** (ibíd., párr. 1384), el Gobierno informó que reaccionó violentamente a un intento de cacheo. El Gobierno informó igualmente de que se siguen diligencias previas ante el Juzgado de Instrucción de Betanzos en relación con estos hechos y que el interno fue sancionado por la Comisión disciplinaria del centro penitenciario de Teixeiro. Dicha sanción fue recurrida y estimada parcialmente por el juez de vigilancia penitenciaria.

1436. En relación con **Diego Gil Sabariego** (ibíd., párr. 1385), el Gobierno informó de que increpó a la asistente técnico sanitaria por no haberle llevado la medicación a su celda. Tras haber tomado la metadona tiró el bote al suelo, insultando posteriormente al funcionario que le ordenó que lo recogiera. Consecuentemente, se decidió bajar al arriba mencionado a la planta baja del departamento y una vez tranquilizado, reconoció su error y pidió disculpas. El Gobierno indicó que no constan actuaciones judiciales.

1437. En relación con **Rafael Herranz Sánchez** (ibíd., párr. 1386), el Gobierno informó que se negó a estampar su huella dactilar a efectos de identificación y aun habiéndosele informado de que debía ser identificado, mantuvo su actitud. Fue necesario utilizar la fuerza física para vencer su resistencia. Tras el incidente, fue examinado por un médico. Éste reseñó excoriaciones en la mano derecha. Por su parte, en el informe del Subdirector médico del centro penitenciario consta que el 25 de abril de 2000, en consulta médica reglamentaria de aislamiento, el interno solicitó un analgésico para el dolor, no existiendo ni incidencia ni consulta posterior sobre su patología banal, de carácter leve y afectando tan sólo a la

epidermis de su mano. Asimismo, el Gobierno informó que de estos hechos conoció el Juzgado de Instrucción n.º 1 de Navalcarnero, incoándose diligencias previas, sobreseídas provisionalmente. Tras el recurso del Ministerio Fiscal se transformaron en juicio de faltas, a la espera de fijación de fecha. Finalmente, el Gobierno informó de que el preso fue sancionado como autor de una falta muy grave. Su sanción fue recurrida en alzada y el Juzgado de Vigilancia Penitenciaria n.º 2 de Madrid estimó parcialmente el recurso.

1438. En relación con **Francisco Javier Gómez Carrasco, Fermín Faus Lemus, Fernando Soto y Antonio Saavedra Lemus** (ibíd., párr. 1387), el Gobierno informó de que con ocasión de un cacheo, Francisco Javier Gómez Carrasco empezó a correr hacia el patio portando un pincho carcelario y una porra con la que trató de agredir a otro interno. Una vez en el patio, se negó a entregar a los funcionarios estos objetos, intentando agredirles y siendo consecuentemente necesaria la utilización de fuerza física, defensas de goma y esposas. En ese momento, Fermín Faus y Antonio Saavedra empezaron a insultar a los funcionarios, a amenazar con producir destrozos y a incitar al resto de los internos. Por otra parte, no se tiene ninguna constancia de incidente alguno en relación con Fernando Soto. Reconocidos por el facultativo de servicio, Francisco Javier Gómez Carrasco presentaba lesiones leves que no precisaban asistencia; Fermín Faus Lemus presentaba lesiones leves y Antonio Saavedra Lemus no presentaba lesiones. Finalmente, el Gobierno informó de que, por estos hechos se siguen diligencias previas en el Juzgado de Instrucción Juzgado de Instrucción n.º 3 de El Puerto de Santa María sin que se tenga constancia de su resolución. El Juez de Vigilancia Penitenciaria Juez de Vigilancia Penitenciaria desestimó el recurso de alzada interpuesto por Gómez Carrasco contra el acuerdo por el que se le sancionó. La Administración Penitenciaria inició información reservada, dictándose posterior resolución de “dejar en suspenso” hasta la finalización de las actuaciones judiciales.

1439. En relación con **Ízaro López Bidaguren** (ibíd., párr. 1393), el Gobierno precisó que fue presentada en dependencias policiales el 4 de enero de 2000 y que al día siguiente fue reconocida en las dependencias del INSALUD de Vallecas (Madrid). El Gobierno señaló igualmente que el 6 de enero fue reconocida dos veces por el médico forense y que pasó a disposición judicial al día siguiente.

1440. En relación con **Jon Urretabizkaia Sauquillo** (ibíd., párr. 1394), el Gobierno informó de que fue presentado por la Brigada Provincial de Información de Bilbao en dependencias policiales el 3 de enero de 2000. Según el Gobierno, la detención se llevó a cabo violentamente dado que el arriba mencionado ofreció resistencia y estaba armado. Al día siguiente, el detenido fue reconocido por los facultativos de los servicios médicos de la Dirección General de la Policía (DGP) y las diligencias instruidas fueron elevadas al Juzgado Central de Instrucción n.º 4 de la Audiencia Nacional.

1441. En relación con **Julen Uriarte Iturriaga** (ibíd., párr. 1395), el Gobierno informó de que fue necesario el uso de la fuerza para reducirle en el momento de su detención debido a la fuerte resistencia que mostró. Fue reconocido por el médico forense los días 4, 5 y 6 de enero y pasó a disposición judicial el día 7 de enero.

1442. En relación con **Guillermo Merino Bilbao** (ibíd., párr. 1396), el Gobierno informó de que la detención se llevó a cabo violentamente dado que el arriba mencionado se encontraba armado y ofreció fuerte resistencia. Al día siguiente, Guillermo Merino fue reconocido por los facultativos de los servicios médicos de la DGP y las diligencias instruidas al efecto fueron elevadas al Juzgado Central de Instrucción n.º 4 de la Audiencia Nacional.

1443. En relación con **Mikel Izpura** (ibíd., párr. 1397), el Gobierno informó de que fue detenido en virtud de diligencias previas incoadas por el Juzgado Central de Instrucción n.º 5. Fue trasladado al Centro de Salud del Distrito de Vallecas, donde se le expidió un parte facultativo posteriormente remitido a la autoridad judicial. En el momento de su detención, fue informado tanto de los motivos de su detección como de sus derechos. Durante su estancia en las dependencias policiales, fue asistido los días 17 y 18 por el médico forense de la Audiencia Nacional cuyos partes facultativos también fueron remitidos a la autoridad judicial. Finalmente, el Gobierno indicó que el detenido pasó a disposición judicial el 18 de enero de 2000, decretándose su prisión incondicional. Según el Gobierno, no se tiene constancia de ninguna denuncia relativa al trato que recibió en las dependencias policiales.

1444. En relación con **Josu Gotzon Larrea Elorriaga** (Jesús Ángel Larrea Elorriaga) (ibíd., párr. 1398), el Gobierno informó de que fue trasladado al Centro de Salud del Distrito de Vallecas, donde se le expidió parte facultativo por contusiones y molestias en el cuello ocurridas en el momento de la detención en México. Durante su estancia en las dependencias policiales, el arriba mencionado fue asistido los días 17 y 18 por el médico forense de la Audiencia Nacional, cuyos partes facultativos fueron remitidos a la autoridad judicial. Pasó a disposición del Juzgado Central de Instrucción n.º 5 de los de la Audiencia Nacional el 18 de enero de 2000.

1445. En relación con **Mikel Arrieta Llopis** (ibíd., párr. 1399), el Gobierno indicó que en las dependencias policiales en Madrid, donde fue examinado por un médico cuyo parte facultativo fue remitido al Juzgado Central de Instrucción n.º 6. Asimismo, el Gobierno informó de que Mikel Arrieta fue reconocido a diario por el médico forense de la Audiencia Nacional, quien remitió los correspondientes partes facultativos y que pasó a disposición judicial el 19 de enero de 2000, decretándose su prisión incondicional. En relación con la denuncia de malos tratos que interpuso, se abrieron diligencias previas por el Juzgado de Instrucción n.º 10 de Madrid.

1446. En relación con **José Ángel Ochoa de Iribe Landa** (ibíd., párr. 1400), el Gobierno informó de que en las dependencias policiales en Madrid, fue examinado por un médico, cuyo parte fue remitido a la Autoridad Judicial. Según indicó el Gobierno, detenido fue diariamente reconocido por el médico forense de la Audiencia Nacional, cuyos partes facultativos fueron igualmente remitidos a la Autoridad Judicial que entendió del procedimiento. Finalmente, el Gobierno agregó que el detenido pasó a disposición judicial el 19 de enero de 2000, decretándose prisión incondicional. Según el Gobierno, no consta denuncia alguna relativa al trato que esta persona recibió en las dependencias policiales.

1447. En relación con **Garikoitz Gastesi** (ibíd., párr. 1401), **Gorka Urbieto Huizi** (ibíd., párr. 1402) **Egoitz Urbe** (ibíd., párr. 1403) **Oroitz Gurrutxaga** (ibíd., párr. 1404) y **Mikel Lujambio Legasa** (ibíd., párr. 1405), el Gobierno informó de que fueron detenidos en virtud de diligencias previas incoadas por el Juzgado Central de Instrucción n.º 6 de la Audiencia Nacional y por estar implicados en actividades terroristas y ser integrante de un talde “Y” de apoyo a ETA. Por estos hechos se instruyeron diligencias remitidas al referido Juzgado Central de Instrucción. Durante su estancia en dependencias policiales, fueron visitados por la Comisión Judicial, el secretario y el médico forense de la Audiencia Nacional. Finalizadas todas las actuaciones policiales, pasaron a disposición del mencionado Juzgado Central de Instrucción, ordenándose su posterior ingreso en prisión. No consta que hayan presentado denuncia alguna por presuntas torturas o malos tratos.

1448. En relación con **Mikel Ostolaza** (ibíd. párr.1406), el Gobierno informó de que pasó a disposición del Juzgado Central de Instrucción n.º 1 de la Audiencia Nacional el 22 de abril de 2000 y que se prorrogó su detención. El Gobierno indicó igualmente que Mikel Ostolaza interpuso una denuncia por un supuesto delito de malos tratos o tortura, archivada posteriormente por el Juzgado de Instrucción n.º 3 de San Sebastián.

1449. En relación con **Gorka Imaz** (ibíd. párr.1407), el Gobierno informó que pasó a disposición de Juzgado Central de Instrucción n.º 1 de la Audiencia Nacional el 22 de abril de 2000. Según el Gobierno, no se interpuso ninguna denuncia en relación con este caso.

1450. En relación con **Jokin Solano Salaberria** (ibíd. párr.1408), **Iñaki Gurrutxaga Rafael** (ibíd. párr.1409), **Ahiletz Zuloaga Larrea** (ibíd. párr.1410), **Imanol Gorrtxategi Rodríguez** (ibíd. párr.1411), **Iñaki Miner Canflanca** (ibíd. párr.1412), **Ángel Telleira Lujambio** (ibíd. párr.1413), **Jon Gasamanes Uranga** (ibíd. párr.1414), **Unai Quijera Uranga** (ibíd. párr.1415), **Gotzon Aramburu Sudupe** (ibíd. párr.1416) y **Urtzi Aira Urruzola** (ibíd. párr.1417), el Gobierno informó de que pasaron a disposición de Juzgado Central de Instrucción n.º 1 de la Audiencia Nacional el 1.º de mayo de 2000 y que se prorrogó su detención Según el Gobierno, se interpusieron denuncias en relación con los casos de Imanol Gorrtxategi Rodríguez, Jon Gasamanes Uranga, Unai Quijera Uranga, Gotzon Aramburu Sudupe y Urtzi Aira Urruzola.

1451. En relación con **Eneko Alonso Olabiaga** (ibíd. párr.1418), el Gobierno informó de que pasó a disposición del Juzgado Central de Instrucción n.º 1 de la Audiencia Nacional el día 19 de mayo de 2000. El Gobierno añadió que esta detención no fue prorrogada y que en relación con este caso se interpuso denuncia. En el Juzgado de Instrucción n.º 2 de San Sebastián se abrieron diligencias previas, archivadas tras la declaración de los agentes de la Ertzaintza ante el Juez. La decisión judicial fue recurrida ante la Audiencia Provincial de San Sebastián.

1452. En relación con **Iker Iñigo** (ibíd., párr. 1419), el Gobierno informó de que fue detenido por su presunta participación en diversos atentados terroristas. El

Gobierno aseguró que fue examinado por un médico forense durante su permanencia en las dependencias policiales.

1453. En relación con **Aitor Domezain Artola** (ibíd., párr. 1420), **Josea Astigarraga** (ibíd., párr. 1421), **Lartaun Rodríguez Aldanondo** (ibíd., párr. 1422), **Aitor Pagola** (ibíd., párr. 1423), **Garikoitz Mendizábal** (ibíd., párr. 1424) y **Gorka Iruretagoyena Mujika** (ibíd., párr. 1425), el Gobierno informó que fueron detenidos por estar implicados en actividades terroristas y ser integrantes de un talde “Y” de apoyo a ETA y en virtud de diligencias previas incoadas por el Juzgado Central de Instrucción n.º 3 de la Audiencia Nacional. El Gobierno señaló igualmente que por estas detenciones se instruyeron diligencias remitidas al mencionado Juzgado, a cuya disposición pasaron los detenidos. Durante su estancia en dependencias policiales, fueron visitados los días 14 y 15 de junio de 2000 por la Comisión Judicial, el secretario y el médico forense de la Audiencia Nacional. Los detenidos presentaron una denuncia ante el Juzgado de Instrucción n.º 1 de San Sebastián por presuntos malos tratos, dictándose posterior auto de sobreseimiento libre y archivo de las actuaciones.

1454. En relación con **Gaizka Gartzia Urbieta** (ibíd., párr. 1426), el Gobierno informó de que fue detenido como presunto autor de un delito de terrorismo. En el momento de su detención fue informado tanto de su incomunicación cautelar como de los derechos que le asistían. La protección de las garantías procesales quedó reflejada tanto en el acta de detención, lectura de derechos y notificación de la incomunicación cautelar como en la diligencia de comunicación a la autoridad judicial del hecho de la detención. Recibido el auto del Juzgado Central de Instrucción n.º 6 de la Audiencia Nacional por el que se dispone que no se debía decretar la incomunicación a Gaizka Gartzia Urbieta, se le comunicó, tanto a él como al Juzgado de Guardia de San Sebastián, el levantamiento de incomunicación. Entre los derechos que ejerció están el de declarar ante la autoridad judicial y el de que la familia designase un abogado. Según agregó el Gobierno, los hechos que denunció el arriba mencionado en relación con el interrogatorio, la comida o los mareos, de ser ciertos, hubieran sido puestos de manifiesto en el momento de realizar la declaración ante el letrado o posteriormente a la finalización de la entrevista reservada. Sobre este caso, el Gobierno proporcionó abundante documentación complementaria.

1455. En relación con **Javier Sábada García** (ibíd., párr. 1427), el Gobierno informó de que fue detenido en virtud de una orden dictada por la Audiencia Nacional. El Gobierno aseguró que fue sometido a observación médica, constando que no presentaba ni lesiones cutáneas ni dolor articular. En el informe emitido con ocasión de un posterior reconocimiento médico, consta que el arriba mencionado no presentaba ningún signo externo o interno que hiciera sospechar maltrato físico o psíquico.

1456. En relación con **Leire Martínez Pérez** (ibíd., párr. 1428), el Gobierno informó de que fue entregada por las Autoridades mexicanas en virtud de diligencias previas incoadas por la Audiencia Nacional. El Gobierno indicó que en el momento de su detención fue informada tanto de los motivos de su detención como de sus derechos. Tras su reconocimiento médico se extendió un parte facultativo que fue remitido a la Audiencia Nacional. Igualmente, el Gobierno

aseguró que durante su estancia en las dependencias policiales fue asistida por el médico forense de la Audiencia Nacional los días 26 y 27 de julio de 2000. Los partes médicos fueron remitidos a la autoridad judicial. La detenida pasó a disposición del Juzgado Central de Instrucción n.º 3 de la Audiencia Nacional el día 28 del mismo mes, decretándose prisión incondicional. No consta denuncia alguna interpuesta por la mencionada relativa al trato recibido en dependencias policiales.

1457. En relación con **David Pla** (ibíd., párr. 1429) y **Aitor Lorente Bilbao** (ibíd., párr. 1430), el Gobierno aseguró que fueron reconocidos médicamente por una comisión judicial el 28 de julio de 2000, no presentando lesión alguna. El Gobierno señaló igualmente que no consta denuncia alguna por malos tratos contra funcionarios policiales.

1458. En relación con **Aritz Aietaran** (Aritz Ayestaran Cobos) (ibíd. párr.1431) y **Jordi García (González)** (ibíd. párr.1432), el Gobierno indicó que pasaron a disposición del Juzgado de Guardia de San Sebastián el 12 de agosto de 2000 e ingresaron cinco horas más tarde en la prisión de Martutene. El 14 de agosto, fueron trasladados desde la prisión al Juzgado de Instrucción n.º 5 de San Sebastián y horas más tarde el Juzgado determinó su puesta en libertad, siendo posteriormente trasladado a la prisión de Martutene.

1459. En relación con **Oskar Amaro** (Oscar Julián Amaro López) (ibíd. párr.1433), el Gobierno indicó que éste fue trasladado al Hospital de Basurto el 13 de agosto de 2000. Este mismo día, el juez y el médico forense se personaron en el calabozo en presencia de uno de los agentes. Más tarde, el detenido fue atendido por un médico, el cual emitió un informe. El 14 de agosto, fue nuevamente visitado por un médico y trasladado otra vez al hospital. Ese mismo día recibió visita del juez y del médico forense y horas más tarde recibió visita de su abogado. Los días 15 y 16 de agosto de 2000, recibió la visita de la comitiva judicial, para llevar a cabo un reconocimiento médico forense. El 17 de agosto de 2000, el detenido pasó a disposición del Juzgado Central de Instrucción n.º 5 de la Audiencia Nacional. El Gobierno facilitó abundante documentación sobre este caso.

1460. En relación con **Eneko Zestau Aranibar** (ibíd., párr. 1434), el Gobierno informó de que fue detenido cuando se dirigía a colocar un artefacto en una entidad bancaria. El Gobierno aseguró que fue examinado por un médico forense durante su estancia en las dependencias policiales.

1461. En relación con los casos de **Gorka Urteaga Ardoia** (ibíd., párr. 1435), **Iñaki Urteaga Ardoia** (ibíd., párr. 1436) y **Iratxe Sorzabal** (ibíd., párr. 1450), el Gobierno informó de que las alegaciones a las que se refiere la denuncia son falsas y que no se tiene conocimiento de la interposición de denuncia alguna por tales hechos.

1462. En relación con **Amaía Paskual de Frutos** (ibíd., párr. 1437), el Gobierno informó de que fue conducida a la Casa de Socorro de San Sebastián, donde fue reconocida por un facultativo el mismo día de su detención. Dicho facultativo apreció en la detenida ansiedad y le administró un tranquilizante. Una vez en

dependencias policiales en Madrid, la detenida fue examinada a diario por un médico forense de la Audiencia Nacional quien remitió los correspondientes partes a la Audiencia Nacional. No consta denuncia alguna interpuesta por la arriba mencionada relativo al trato recibido en dependencias policiales.

1463. En relación con **Jon Igor Solana** (ibíd., párr. 1438) y **Harriet Iragui** (ibíd., párr. 1439), el Gobierno informó que fueron detenidos tras haber cometido un asesinato. Al ser sorprendidos por la policía en su huida, comenzaron a disparar contra los agentes, repeliendo éstos la agresión con sus armas reglamentarias. La policía consiguió vencer la resistencia que Igor Solana ofreció, reducirle y desarmarle. Su compañero Harriet Iragui, fue detenido al día siguiente presentando una herida por disparo de arma de fuego en un brazo, causada en el enfrentamiento mantenido con la policía en la tarde del día anterior. Fue trasladado al hospital lo más rápidamente posible. El Gobierno aseguró que tanto durante su estancia en el hospital como en las dependencias policiales fue sometido a repetidos reconocimientos médicos, y en ninguno de ellos se detectó el más mínimo vestigio de los malos tratos que denuncia haber padecido. Todas las actuaciones que sobre ambos detenidos se practicaron, estuvieron supervisadas por el Juzgado Central de Instrucción n.º 3 de la Audiencia Nacional, y por el Juzgado de Instrucción n.º 17 de Sevilla. La asistencia del médico forense, del secretario judicial y el conocimiento en cada momento de la situación y circunstancias de los detenidos por dichas autoridades se encuentra recogidos en las actuaciones judiciales que se tramitan ante la Audiencia Nacional.

1464. En relación con **Ibon Muñoa Arrizabalaga** (Ibon Muñoa Arizmendiarreta) (ibíd., párr. 1440), el Gobierno informó que fue trasladado a dependencias policiales en Madrid, donde fue reconocido por un facultativo, cuyo parte médico fue remitido al Juzgado Central de Instrucción n.º 3 de la Audiencia Nacional. El Gobierno aseguró que durante su detención, Ibon Muñoa Arizmendiarreta fue reconocido diariamente por el médico forense de la Audiencia Nacional, el cual también remitió los partes facultativos al Juzgado.

1465. En relación con **Mikel Zuluaga** (ibíd., párr. 1441), el Gobierno informó de que fue reconocido por el médico forense una hora y 50 minutos después de haber sido detenido. Minutos más tarde, el médico forense adscrito al Juzgado de Instrucción n.º 7 de Bilbao, en funciones de guardia comunicó a los funcionarios policiales que el detenido se encontraba en un “estado de intensa angustia”, lo que hacía imprescindible la administración de un ansiolítico por vía intravenosa. Consecuentemente, se solicitó la presencia de un médico para la administración de dicho fármaco, para cuya aplicación, Mikel Zuluaga tuvo que ser inmovilizado.

1466. En relación con **Nerea Garro Pérez** (ibíd., párr. 1442), el Gobierno informó de que fue detenida como integrante de ETA y que se tramitaron diligencias que fueron remitidas al Juzgado Central de Instrucción n.º 6 de la Audiencia Nacional. Igualmente, se indicó que la detenida pasó a disposición del referido Juzgado Central de Instrucción el 11 de noviembre de 2000 y que el médico forense de dicho Juzgado la visitó y reconoció diariamente durante su estancia en las dependencias policiales. No consta que Nerea Garro Pérez haya interpuesto denuncia alguna por los tratos recibidos.

1467. En relación con **Asier Urretabizkaia** (ibíd., párr. 1443) y **Víctor Goñi** (ibíd., párr. 1444), el Gobierno informó de que fueron detenidos entre los días 6 y 7 de noviembre del 2001, practicándose diligencias remitidas al Juzgado Central de Instrucción n.º 6 de la Audiencia Nacional. Igualmente, se indicó que pasaron a disposición del referido Juzgado, el cual decretó su ingreso en prisión. El Gobierno aseguró que fueron visitados y reconocidos diariamente. Ambos presentaron una denuncia por presuntos malos tratos. El Juzgado de Instrucción n.º 6 de Madrid inició las correspondientes actuaciones judiciales en el caso de Asier Urretabizkaia.

1468. En relación con **Igor Martínez de Osaba Arregui** (ibíd., párr. 1445) y **Iñigo Muerza Santos** (ibíd., párr. 1446), el Gobierno informó de que pasaron a disposición del Juzgado Central de Instrucción n.º 6 de la Audiencia Nacional el 14 de noviembre de 2000. El Gobierno aseguró que durante su detención, fueron reconocidos por los servicios médicos de la DGP y los días 11, 12 y 13 por un médico forense. Según indicó el Gobierno, no se tiene conocimiento de denuncia o manifestaciones de presuntos malos tratos mientras permanecieron detenidos.

1469. En relación con **Asier Karrera** (Asier Carrera Arezana) (ibíd., párr. 1447), el Gobierno aseguró que se respetaron sus derechos constitucionales y que el detenido fue tratado por los funcionarios policiales correctamente. Durante el periodo de detención ante la policía, Asier Carrera Arezana no efectuó manifestación alguna relativa al trato recibido y no consta que haya presentado denuncia. El detenido fue reconocido por el médico forense los días 11, 12 y 13 de noviembre de 2000. El 14 de noviembre pasó a disposición del Juzgado Central de Instrucción n.º 6 de la Audiencia Nacional.

1470. En relación con **Roberto Iziolaza Lomas** (ibíd., párr. 1448), el Gobierno informó de que fue detenido por colaboración con la banda armada ETA. El Gobierno aseguró que durante su estancia en las dependencias policiales informó fue asistido por un médico forense cuyos partes facultativos se remitieron directamente a la autoridad judicial.

1471. En relación con **Iñaki Beaumont Echevarria** (ibíd., párr. 1449), el Gobierno informó que pasó a disposición del Juzgado Central de Instrucción n.º 6 de la Audiencia Nacional el 14 de noviembre de 2000. Durante su detención, fue reconocido por los servicios médicos de la DGP y los días 11, 12 y 13 por el médico forense. No se tiene conocimiento de denuncia alguna o manifestación de presuntos malos tratos mientras permaneció detenido.

1472. Por esta misma carta, el Gobierno aseguró que el ordenamiento jurídico español considera la tortura como un delito de carácter público y perseguible de oficio a través de un procedimiento rápido e imparcial. Cuando un funcionario se extralimita en sus funciones es enjuiciado tanto por los Tribunales de Justicia como por la Administración.

1473. En relación con la duración de la detención, el Gobierno señaló que el artículo 17.2 de la Constitución establece que “la detención preventiva no podrá durar más del tiempo estrictamente necesario para la realización de las averiguaciones tendentes al esclarecimiento de los hechos y en todo caso en el

plazo máximo de setenta y dos horas, el detenido deberá ser puesto en libertad o a disposición de la Autoridad judicial”. En el supuesto en el que la detención se haya producido como consecuencia de la presunta participación en hechos delictivos de carácter terrorista, el artículo 520 *bis* 1. de la Ley de Enjuiciamiento Criminal establece la posibilidad de ampliar la duración de la detención hasta otras cuarenta y ocho horas, previa autorización del Juez competente (Juez Central de Instrucción de la Audiencia Nacional). Asimismo, el artículo 520 *bis* 2. de la misma Ley, establece el régimen de incomunicación previa gubernativa para los casos de personas detenidas como presuntos partícipes en delitos cometidos por personas integradas o relacionadas con bandas armadas o individuos terroristas o rebeldes. Dispone dicho precepto que “detenida una persona por los motivos expresados en el número anterior, podrá solicitarse del Juez que decreta su incomunicación, el cual deberá pronunciarse sobre la misma, en resolución motivada, en el plazo de veinticuatro horas. Solicitada la incomunicación, el detenido quedará en todo caso incomunicado sin perjuicio del derecho de defensa que le asiste y de lo establecido en los artículos 520 y 527, hasta que el Juez hubiere dictado la resolución pertinente”. Los efectos producidos por la incomunicación son los previstos en el artículo 527 de la Ley de Enjuiciamiento Criminal: “el detenido o preso, mientras se halle incomunicado, no podrá disfrutar de los derechos expresados en el presente capítulo, con excepción de los establecidos en el artículo 520, con las siguientes modificaciones: *a)* en todo caso, su abogado será designado de oficio. *b)* no tendrá derecho a la comunicación prevista en el apartado *d)* del número 2. *c)* Tampoco tendrá derecho a la entrevista con su abogado prevista en el apartado *c)* del número 6.” En este sentido, se señala como la naturaleza y circunstancias de estos hechos delictivos imponen la necesidad de desarrollar investigaciones más complejas que las necesarias para la averiguación de delitos comunes. Al mismo tiempo, la existencia de estructuras organizadas incrementa notablemente la capacidad de estos grupos para dificultar la persecución de los delitos por parte de los cuerpos policiales. Al mismo tiempo, se recuerda el apartado tercero del mencionado artículo, el cual establece que “durante la detención, el Juez podrá en todo momento requerir información y conocer, personalmente o mediante delegación en el Juez de Instrucción del partido o demarcación donde se encuadre el detenido, la situación de éste.”

1474. En lo relativo a los traslados, el Gobierno informó que éstos se efectúan respetando la dignidad y los derechos de los detenidos y la seguridad de la conducción, valorándose, en la elección de los recursos a emplear, la peligrosidad del sujeto, el delito que se le imputa, la duración del recorrido y cualquier otra circunstancia que pueda concurrir. En el Libro de Registro se consignan todos los traslados y personal que lo realiza, así como las horas de entrada y regreso e incidencias que hayan producido. Los traslados de detenidos a la Audiencia Nacional se efectúan en vehículos turismo oficiales sin distintivos, ocupando el detenido una de las plazas traseras, debidamente acomodado y custodiado por agentes.

1475. En relación con el elevado número de denuncias presentadas por ciudadanos incurso en causas relacionadas con el entorno de ETA, el Gobierno señaló que la presentación sistemática de denuncias por tortura en cuantas detenciones se producen forma parte de una estrategia de la banda terrorista ETA y del Movimiento de Liberación Nacional Vasco (MLNV) para deslegitimar el

sistema jurídico y político del Estado español y poner en tela de juicio la legalidad de determinadas diligencias de investigación policial. Asimismo, el Gobierno señaló que la presentación de las denuncias se suele realizar tras tomar contacto, finalizada la incomunicación, con abogados de Gestoras Pro Amnistía, organización que intenta asumir las funciones de asistencia letrada y asesoramiento jurídico de los detenidos por presunta implicación en hechos terroristas. El Gobierno transmitió igualmente la copia de un documento incautado suscrito por ETA en el que la organización da a sus miembros la instrucción de, ante cualquier detención, denunciar automáticamente haber sido torturados.

1476. Por la previamente mencionada carta del 15 de noviembre de 2002, el Gobierno manifestó el malestar que causa a las autoridades españolas la credibilidad que desde distintos organismos internacionales encargados de velar por el respeto de los derechos humanos, y en especial el Relator Especial sobre la tortura, se otorga a las denuncias por torturas formuladas por presuntos miembros o colaboradores de organizaciones terroristas, las cuales vienen siendo trasladadas al Gobierno sin que, al parecer, las circunstancias y procedencia de las mismas incidan en la acogida y el tratamiento de que son objeto. Igualmente, y en relación con las personas que se mencionan en la referida carta de 15 de noviembre de 2002, el Gobierno informó de que las detenciones practicadas se ajustan en todo momento a los requisitos exigidos por el ordenamiento jurídico, incluido el cumplimiento estricto del artículo 520 *bis* de la Ley de Enjuiciamiento Criminal. Dicho artículo prevé una serie de medidas extraordinarias para ciertas categorías de delitos (terrorismo y rebeldía) cuya aplicación se efectúa con carácter excepcional y bajo estricta supervisión judicial. La adecuación de estas medidas a la Constitución española ha sido expresamente afirmada por el Tribunal Constitucional. Asimismo, el Gobierno indicó que el respeto escrupuloso a la dignidad y derechos de estas personas detenidas o que se encuentran bajo la custodia de las Fuerzas y Cuerpos de Seguridad del Estado, se halla constatado mediante reconocimientos médico-forenses. Estos reconocimientos se llevan a cabo aun a pesar de no contar en algunas ocasiones con el consentimiento del detenido, personándose el facultativo todos los días en dependencias policiales a cualquier hora y sin que el instructor de las diligencias policiales tenga conocimiento o aviso anterior de su llegada.

1477. En relación con las alegaciones sobre la manifestación que tuvo lugar en Barcelona el 24 de junio de 2001 (ibíd., párrs. 1451 a 1509), el Gobierno indicó, por carta de fecha 18 de enero de 2002, que dado que manifestaciones y actos similares celebrados en otros países en contra del Banco Mundial y de la globalización fueron aprovechados para la comisión de hechos violentos, daños y enfrentamientos organizados contra la policía, se organizó un operativo policial llevado a cabo por miembros de distintas Unidades de Intervención Policial.

1478. En relación con la afirmación según la cual grupos de violentos en la cola de la manifestación habrían provocado daños en propiedades privadas ante la pasividad de la policía, se informó que dos razones explican que se esperase hasta el final de la manifestación para proceder a su detención. Por una parte, la intervención policial contra un grupo particular dentro de una masa involucraría con consecuencias nefastas a la misma. Por otra parte el Gobierno indicó que, una vez causados los daños y antes de poder ser aislados por la policía, los grupos de

violentos se introdujeron de forma rápida en la manifestación. El Gobierno negó que policías de paisano cometieran daños y apalearan a la gente y aseguró que la policía intervino de forma proporcional a la agresión sufrida y en uso del derecho legítimo de defensa. Muestra de ello, es el hecho de que en ningún momento se emplearon armas de fuego ni medios desproporcionados, resultando ser los propios policías los heridos de mayor gravedad, hecho probado en diligencias policiales con certificados médicos. Según el Gobierno, ningún manifestante fue agredido con pelotas de goma lanzadas por la policía, dado que no se hizo uso de este elemento antidisturbios.

1479. Igualmente, el Gobierno indicó que durante esta manifestación no se impidió la atención médica y que en ningún momento se presentaron quejas o denuncias por parte del Servicio Médico de Urgencias relativas a la actuación policial. El Gobierno indicó igualmente que la Policía no irrumpió en el Centro de Atención Primaria de Pere Camps para detener a alguno de los manifestantes heridos. Asimismo, en el atestado policial se certifica que todos los manifestantes fueron detenidos en la vía pública, si bien alguno de ellos, siempre después de la detención, fue llevado al tal centro.

1480. Según indicó el Gobierno, a los detenidos trasladados al Centro Policial de la Verneda se les leyeron sus derechos y se les facilitaron todos los medios que requirieron, no sufriendo ninguno de ellos malos tratos o vejaciones. Finalmente, el Gobierno señaló que no se ha constatado que las lesiones a particulares de carácter grave fueran producidas en la carga policial. Igualmente, el Gobierno informó que al inicio de la tarde, las unidades policiales detuvieron a 22 personas, entre ellas a dos menores de edad, que fueron trasladados inmediatamente a la Comisaría del Distrito de Sant Martí por delitos tales como desórdenes públicos, daños y atentado a agente de la autoridad. Una vez allí, se confeccionó el atestado policial, se les leyeron sus derechos, los cuales fueron en todo momento respetados, se comunicó al Colegio de Abogados las detenciones, se les ingresó en los calabozos y se instó a los colegiados para que acudieran a las dependencias policiales. Tras haber sido oídos en declaración, los detenidos pasaron a disposición judicial y los dos menores de edad fueron entregados a sus representantes legales. Durante el tiempo que duró la detención no se presentó ninguna solicitud de habeas corpus.

1481. En relación con **Luis César Gallego Rodríguez** (ibíd., párr. 1469), el Gobierno hace referencia al informe médico de la Unidad Regional de Sanidad de Cataluña de la Dirección General de la Policía, en el que consta: “Contusiones-erosiones en ambas rodillas producidas en la detención. No se aprecia infección. Ligero dolor a la palpación de la rodilla izquierda. Aconsejamos visitar médico”.

1482. En relación con **Josefina Rams Massuet** (ibíd., párr. 1471), el Gobierno indicó que en el informe médico expedido por la Unidad Regional de Sanidad de Cataluña de la Dirección General de la Policía consta “Ligera erosión hemicara izquierda”. En relación con **Javier Gascue Rodríguez** (ibíd., párr. 1471), el Gobierno indicó que no consta hoja de asistencia médica en las diligencias policiales.

1483. En relación con **Lucas Jiménez Achimon** (ibíd., párr. 1473), **Mirko Martota** (ibíd., párr. 1485) **Tiago Nuno Pereira Dos Santos** (ibíd., párr. 1490), **Iñaki Tapia Aretxaga** (ibíd., párr.1506), el Gobierno indicó que no consta hoja de asistencia médica en las diligencias policiales.

1484. En relación con el resto de los firmantes, el Gobierno indicó que no se tiene conocimiento policial de que hayan recibido asistencia facultativa en ningún centro hospitalario. Asimismo, las personas a las cuales se hace referencia en el informe del Relator Especial (E/CN.4/2002/76/Add.1), excepto Luis Cesar Gallego Rodríguez y Lucas Jiménez Achimón, ejercitaron sus derechos mediante la interposición de una querrela ante el Juzgado de Instrucción n.º 22 de Barcelona, acordándose posteriormente archivo de las actuaciones a través de resolución firme. El Gobierno facilitó una copia de la resolución.

Observaciones

1485. The Special Rapporteur acknowledges the detailed responses provided by the Government to the cases brought to its attention in the current and previous years.

Sri Lanka

1486. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information according to which there was an apparent rise in reports of torture and other forms of ill-treatment involving personnel of the Special Task Force (STF) deployed in the North and East of Sri Lanka, as well as in reports of torture allegedly committed by the Special Investigation Branch of the police in Amparai district. A high number of rape cases had allegedly been reported recently. It was reported that most of the cases have occurred in the context of the armed conflict between the security forces and the Liberation Tigers of Tamil Eelam (LTTE). It was believed that the authorities may have failed to bring to justice those members of the security forces suspected of being responsible. As of mid-June 2001 seven indictments had reportedly been presented to the High Courts with regards to the alleged perpetration of torture and the Prosecution of Torture Perpetrators (PTP) Unit in the Attorney General's department has in addition processed investigative material in another six cases. However, despite these initiatives, it was reported that so far no one has been found guilty by a court of law in relation to charges of torture, or for rape in custody although some prosecutions have been brought in cases where the victim of rape was also murdered. Furthermore, no policy of compensation was said to have been worked out, and insofar as compensation has been granted it is said to be very insignificant. Furthermore, the Special Rapporteur had received a considerable number of alleged cases of torture having been carried out as part of routine criminal investigations as opposed to in areas characterized by civil strife, conflict or security operations. The practice of torture was said to be considerably more extensive and intensive in the latter areas.

1487. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information on the following cases. By letters

dated 7 and 29 November 2002 respectively, the Government transmitted interim responses regarding a number of them.

1488. **Mahendranathan Shankar** was reportedly arrested in Kandarmadam on 4 July 2001 by army personnel from the Urelu army camp. It was reported that he was undressed and blindfolded and that his hands were tied behind his back. It was also reported that he was pushed against a door, as a result of which his lip was injured. He was also allegedly assaulted with sticks and wires and burnt with cigarette butts. It was believed that he was handed over to the police at Kankesanthurai on 9 July 2001, where he was believed to have been assaulted by two police officers. A case filed before the Supreme Court in August 2001 was reportedly still pending at the time of writing.

1489. The Government responded that the Special Investigations Unit of the Police Department (SIU) had initiated an investigation on 10 October 2002. SIU made several attempts to trace the whereabouts of the alleged victim in order to record his statement. The Government indicated that the outcomes of its efforts will be provided to the Special Rapporteur.

1490. **Krishnasamy Thiviyar**, a former secretary of the Jaffna University Students Union, was reportedly taken into custody by the army on 2 July 2001. He was allegedly ill-treated by army personnel at the time of his arrest. His hands were reportedly tied behind his back and he was blindfolded with his shirt. He was reportedly beaten with the butt of a gun and kicked. He was taken to the Urelu army camp where it was alleged that soldiers undressed him, pulled his pubic hair, beat him with sticks and kicked him in the face. As a result, he was said to have sustained an injury to his mouth. He was reportedly assaulted in a similar way on the following day. He was allegedly seen with marks of injuries on his cheek and lower lip. He was also said to be suffering from back pain as a result of the ill-treatment. A fundamental rights petition was reportedly submitted on 9 August 2001. When the petition was taken up for inquiry by the Supreme Court on 22 August, the court was reported to have ordered that Krishnasamy Thiviyar be examined by a Judicial Medical Officer (JMO) and that the report of the examination be submitted to the court. The following hearing was believed to have been scheduled for 30 October 2001.

1491. **Alagaiah Murugathas**, a man from Vinayagapuram, Thirukovil, Amparai district, was reportedly arrested by the STF on 30 June 2001. The latter reportedly pulled a plastic shopping bag over his head which had been filled with petrol, put chilli powder into his eyes and beat him with wicket poles all over his body. Eight STF personnel reportedly stood on his chest. After he was handed over to the Special Investigation Branch of the police at Amparai town, he was allegedly beaten with a wooden pole all over his body by a police constable. Alagaiah Murugathas was reportedly seen with marks of severe injuries allegedly due to the treatment he had been subjected to on his back and thigh and red marks in his eyes, suspected of having been caused by the petrol and/or the chilli powder.

1492. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1493. **Ponnappapillai Sivanesan**, a man originally from Chulipuram, Jaffna district, but living as a displaced person at Ilanthaimoddai, Nanaddan, Mannar district, was allegedly assaulted in his home and taken into custody by the STF to the Ilanthaimoddai STF camp on 25 June 2001. His wife and three children were allegedly also assaulted by them at the time of his arrest. It was reported that he had been released in the afternoon of 26 June 2001 with a severe warning not to go to any hospital for treatment. He was reportedly admitted at the Mannar hospital, before being transferred to Vavuniya hospital.

1494. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1495. **Sivalingam Satheeskumar**, a man from Thirukovil, Amparai district, was reportedly taken into custody by the STF on 16 May 2001 and held at the Thirukovil STF Camp. Soon after taking him into custody, STF officers reportedly pulled a shopping bag soaked in petrol over his face and assaulted him at the same time. They also reportedly put water and then chilli powder into his eyes. He was also allegedly suspended between two tables and assaulted with wicket poles while hanging between them. More than two months after having been subjected to this treatment, he reportedly continued to have marks of the beatings on his back and on his thigh.

1496. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1497. **Thangarasa Sathan**, a man from Marambaikulam Vavuniya, was reportedly taken into custody by the Counter Subversive Unit (CSU) of police on 5 March 2001. It was believed that he was taken into custody for possession of a hand grenade. An attorney-at-law allegedly asked the court to institute a prosecution against the officials responsible for alleged ill-treatment.

1498. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1499. **R. Vigneswaran**, a man from Chunnakam, was reportedly taken into custody at Urelu army camp on 8 February 2001. It was alleged that as a result of the treatment he was subjected to at the camp, he reportedly vomited blood. Soldiers reportedly are said to have warned him not to complain about his treatment while in detention and also not to obtain treatment from a hospital.

1500. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1501. **L. P. Maithreepala Senadira**, from Pansalgodella, Galamuna, was reportedly taken into custody by the Polonnaruwa tourist police on 7 January 2001. It was reported that he was tied to a pillar, his clothes were removed and he was beaten with a pipe and sticks by a Sub-Inspector, as a result of which, his sexual organs were reportedly severely injured. He was allegedly taken to the Polonnaruwa Hospital by the sub-inspector himself. It is alleged that the injuries

to his sexual organs required six stitches, and his back showed signs of severe beatings.

1502. The Government responded that the statement of the alleged victim had been recorded by the SIU. The case was settled by the National Human Rights Commission and compensation was paid by the accused officers.

1503. **Nadarajah Thiruchelvam**, a journalist of Point Pedro working in Jaffna for the daily newspapers *Valampuri* and *Thinakaran*, was reportedly taken into custody on 2 January 2001, and held handcuffed for 12 days in solitary confinement by the Terrorism Investigation Division (TID) of the police in Colombo. It was reported that he was taken into custody by the police in Wellawatte while on a visit to the capital with his family. It was alleged that he was assaulted with pipes and severely beaten.

1504. The Government responded that an investigation initiated on 7 March 2002 by the Police was still continuing.

1505. **Sarojinidevi Thavarajah**, a woman originally from Thiddy, Kankesanthurai, Jaffna district but living as a displaced person in Colombo, was reportedly taken into custody by members of the TID and detained at their offices along Chaitiya Road, Colombo 1 on 25 September 2000. The next day, she was reportedly taken to the TID offices situated in the police headquarters and interrogated about giving shelter to a person suspected of being an LTTE member. She was allegedly beaten with a piece of wood and with belts. She was believed to have collapsed but was reportedly still beaten. It was also alleged that her hair were pulled and that she was refused water. Similarly, on 27 September 2000, she was reportedly taken from Chaitiya Road to the TID office in the police headquarters. She was allegedly handcuffed and beaten. She was allegedly taken to the Colombo General Hospital on 28 September 2000. On the way to the hospital, she was allegedly threatened not to reveal how she had been treated. It was reported that as told a doctor what had happened, the TID officers refused to give her water and made her stand as a punishment for the rest of the day. On 8 November 2000, she reportedly had to be admitted to hospital again and this time she was examined by another doctor. Again, she was believed to have explained to him how she had been treated. According to the medical report, there were scars of seven injuries on her body which may have been caused by torture while held by the TID. It was reported that she was not allowed any visitors until 19 October 2000 and that she first saw a lawyer on 4 January 2001.

1506. The Government responded that an investigation had initiated on 28 October 2002. The statement of the victim was recorded on 11 November 2002. The following day, the complaint was voluntarily withdrawn by the victim, who expressed that she did not want to pursue the case.

1507. **Nadaraja Rasalingam**, a man from Manat Senai, Kalmunai, was reportedly taken into custody by personnel of Amparai CSU on 18 September 2000. It was reported that during the time of detention and investigation at the CSU, Nadaraja Rasalingam was injured in his left eye by a police constable. Boiling water was allegedly poured into his mouth on one occasion. A polythene

bag, soaked in petrol, was allegedly put over his head covering his face and he was beaten by the police constable with bamboo sticks.

1508. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1509. **Muniyandi Selvarasa**, a man from Markandu Veethi, Kalmunai, was reportedly taken into custody by the Amparai CSU on 18 September 2000. It was alleged that he was handcuffed and that his hands were placed on a table and his fingers were beaten with a pole. He was beaten and boiling water was forcibly poured into his mouth. A police constable allegedly urinated into his mouth. It was also reported that his fingers were broken and that he experienced problems speaking.

1510. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1511. **Anthoipillai Reginold**, a man from Sammanthurai, Amparai district, was reportedly taken into custody by the Amparai CSU of police on 18 September 2000. A police constable reportedly inserted a ball point pen into his ear, forced a mixture of chili powder and salt into his mouth and made him chew it. The detainee was also reportedly forced to drink sewage water from a nearby drain. He was allegedly beaten with a handle of an axe and burnt with ignited cigarettes. He was reportedly handcuffed and beaten with a guava pole on his back and all over his body and trampled on. A fundamental rights case has reportedly been filed in the Supreme Court.

1512. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1513. **Maruthiah Yogaraja**, a man from Narayanan Veethi, Periya Neelavanai, Kalmunai, Amparai district, was reportedly taken into custody by the Periya Neelavanai police on 14 September 2000. Police officers reportedly handed him over to the Kalmunai police station, without giving any reason for his arrest, and the next day transferred him to the Amparai CSU. It was alleged that boiling water was poured into his mouth, that he was forced to eat cow dung, and was beaten with a bamboo stick and wire and forced to eat the vomit of another detainee. Several months after, he was reportedly seen with marks of injuries on his body. Anthoipillai Reginold was reportedly held in the same cell as Maruthiah Yogaraja.

1514. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1515. **Murugesapillai Santhanasara** was reportedly deported from Norway on 14 April 2000. From 9 to 13 August 2000, he was allegedly detained in Negombo police station, where it was reported that he was handcuffed and that his head was covered with a plastic bag. He was reportedly hit with a pole while being questioned about his connections with the LTTE, during the time he stayed in

Norway. He was reportedly released on 21 August 2000 after he was produced before the Negombo magistrate.

1516. The Government responded that following the attempts of the Criminal Investigation Department (CID) to trace the whereabouts of the alleged victim, the investigation initiated on 9 October 2002 was continuing.

1517. **Jayakanthan** was reportedly among seven Tamil young men taken into custody on 9 and 10 August 2000 by the Kirilapone police in Colombo after a search operation in the Grand Pass area. He was allegedly beaten while his head had been covered with a plastic bag filled with chili pepper. He was reportedly released from the detention after two weeks. As a result of the ill-treatment, he allegedly sustained an injury to his leg.

1518. The Government responded that an investigation had been conducted in November 2002. In a statement of the alleged victim recorded on 13 November 2002, the latter withdrew his complaint.

1519. **Selvarajah Thamichelvan**, a man from Pattarakalli Koviladi, Thavadi South, Kokuvil, Jaffna district, was reportedly arrested on 22 June 2000 by officers of the TID while he was staying at his brother's house in Wattala, Colombo, in order to travel abroad. It was alleged that while being held in detention at the TID office, the officers hit his ears with both hands on either side, after which his left ear started bleeding. They allegedly grabbed him by the back of his head and slammed his face onto the tabletop. They also reportedly took a paperweight and hit him on his head with it, causing injuries. The TID officers reportedly tied his legs, hung him upside down and beat him with wicket poles and wires. They reportedly covered his head with a bag soaked in petrol. Finally, it was reported that the TID officers also squeezed his penis with a pair of pliers and burnt him with cigarette butts on his hands. In May 2001, he was reportedly seen with marks of injuries sustained as a result, including on his back. It was reported that there were also marks of injuries still visible on his chest, forehead, thighs, buttocks, both upper arms and wrists. The marks of injuries caused by burning cigarette butts were also still visible on both his hands. He was said to have filed a fundamental rights petition in the Supreme Court in May 2001. A JMO who allegedly examined him on 20 March 2001 reportedly observed several scares.

1520. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1521. **Subramaniam Kannan**, a man from Vavuniya, was reportedly taken into custody, on 20 June 2000, and was held during 42 days in the 211 Brigade Army camp in Vavuniya. He was reported to have been handed over to the army on 26 June 2000. It was alleged that during his detention he was beaten with batons and subjected to electric shocks, before he was allegedly over to the CSU of the police. At the CSU, his head was reportedly covered with a plastic bag that had been filled with petrol. It was believed that he was repeatedly beaten and that barbed wire was inserted into his rectum.

1522. The Government responded that the CID had initiated an investigation on 3 June 2002, upon advice of the Attorney General. A statement of the victim was recorded on 1 August 2002. A medical examination conducted on 24 August 2002 confirmed that the alleged victim had been assaulted. The Government also informed that investigations were continuing.

1523. **Thushan Silva**, and his brother **Ranga Silva** as well as one of their friends, **Nimal Silva Gunaratne**, a person allegedly suspected of murder, from Panadura, Ratnapura district, were reportedly taken to Panadurai police station custody on 22 May 2000, and kept in custody for one week. It was believed that the son of the Inspector General of Police and his fellow officers from the Panadura police station severely beat them and that Nimal Silva Gunaratne lost the sight in one eye as a result. A fundamental rights application was reportedly filed in the Supreme Court by the latter.

1524. The Government responded that an investigation initiated on 11 October 2002 was still continuing. The statements of the alleged victims were recorded and a report of a JMO was needed.

1525. **Nagaraja Vamanaeswaran**, a student from Muttur, was reportedly taken into custody in the Trincomalee Police Headquarters and Uppuveli police station, and admitted twice to Trincomalee base hospital for medical treatment for the injuries inflicted on him.

1526. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1527. **A man known as "old father"** was allegedly arrested by STF of Thirukovil, on 3 May 2000. It was alleged that his buttocks were severely beaten with a dried bull's penis and he was also beaten with a pole all over his body. He was then reportedly handed over to the Amparai CSU, where the policemen removed his shirt and banian (men's underwear), and tied his hands with it, pushed him down and then beat him with a pole on his soles as a result of which he had difficulties in walking and lost his sight.

1528. **Sivaguru Ravaneethan**, a Tamil from Sinnakulam Vavuniya was reportedly taken into custody by a person dressed in army uniform and two others dressed in civilian clothes and sent to the JOSSOP army camp on 26 April 2000. It was alleged that the soldiers removed his clothes, tied his hands and feet and beaten him for several hours with their boots, pipes and an iron rod. It was reported that he was released the following day after being forced to sign a letter that he had not been taken into custody or assaulted by the army.

1529. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1530. **Mohamed Farik Sanoos**, a man living in Colombo, was reportedly taken into custody on 26 April 2000 by officers of the CID. He was reportedly beaten, handcuffed, forced to sit on the floor and dragged along by his tie in front of his family and neighbours before being taken to the 4th Floor of Police Headquarters.

A fundamental rights petition filed was pending in the Supreme Court of Sri Lanka.

1531. The Government responded that an investigation initiated on 11 October 2002 revealed that the alleged victim left the country.

1532. **Ratnam Mahendram**, a man from Saraswathy, Matha Vaithiyakulam, Vavuniya was reportedly taken into custody by army personnel of Kadiyiruppu Junction Army camp on 23 April 2000. He was allegedly forced to remove his clothes, blindfolded and his hands and legs were tied. Following this, he was allegedly beaten for about half an hour with pipes while being asked about his connections with LTTE. It was believed that he was released on 24 April 2000.

1533. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1534. **Kathiravelu Jagathas**, a man from Thonikal Vavuniya, was reportedly taken into custody for one week in Sanasa Army camp, on 14 April 2000. He was allegedly assaulted for three hours with a wicket stump and hung on a beam. It was believed that he was not given any form of medical treatment for his injuries. He was reportedly released two weeks after his arrest and threatened by the army personnel not to tell anyone about the ill-treatment.

1535. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1536. **Navaratnam Sureshkarana**, a man from Koddady, was reportedly taken into custody and ill-treated for seven days in Achchelu Army camp on allegations of connections with LTTE on 1 March 2000. He was reportedly undressed down to his shorts, and his legs were tied to the bench with a rope. His hands were allegedly folded under the bench and handcuffed, and a big club was pressed on his chest by two soldiers on both sides. After removing handcuffs, pins were reportedly inserted under his finger nails. Soldiers were said to have scratched his nipples with their finger nails. It is alleged that he was subjected to similar treatment for seven consecutive days.

1537. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1538. **Balachandralal Piratheepan**, a man from Thirunelvely, Jaffna district, was reportedly taken into custody at the Urelu army Camp on 25 February 2000. It was reported that he had been beaten repeatedly for four days while being interrogated about his alleged connection with the LTTE. Two of his toe nails were allegedly pulled out with tweezers and his hair was reportedly pulled out.

1539. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1540. **Sinnathurai Vijayaruban**, a man from Urumpirai East, was reportedly taken into custody by the soldiers of the Urelu Army camp repeatedly from 22 to

25 February 2000. He was allegedly beaten with a bat-shaped reaper plank and kicked with boots. His hair was said to have been pulled out with tweezers, and the soldiers reportedly pinched his nipples while beating him with s-lon pipes (a pipe used for plumbing made of hard plastic). It was also believed that he had been beaten with a bunch of keys tied to a long string. It was further reported that he was made to bend over and soldiers tied a polythene shopping bag over his face and tied it tightly around his neck, bringing him close to suffocation. During the day, he was reportedly kept blindfolded and his left hand handcuffed.

1541. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1542. **Selvarasa Nandakumar**, a man from Kokuvil, Jaffna district, was reportedly taken into custody when he went to report at Urelu army camp on 2 March 2000 as requested by five soldiers who had come to his home earlier that day. He was allegedly put in a dark room for three consecutive days, beaten with bars and hammers. The soldiers allegedly inserted a ball point pen between his fingers, after keeping all fingers tight and rolled it. It was alleged that he had been released on 6 March 2000.

1543. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1544. **Markandu Srivasakam**, a man from Valveddithurai in Jaffna, was reportedly taken into custody at Kotahena police station, Colombo, after his deportation from the Netherlands at the beginning of February 2000. He was reportedly arrested by some men dressed in civilian clothes, supposedly CID officers. He was allegedly beaten with batons and riffle butts for four days with a view to making him admit that he had relations with the LTTE. He was reportedly released after four days in custody.

1545. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1546. **Rasaiah Baleswaran**, a man from Point Pedro, was reportedly taken into custody by Kandy police and allegedly beaten on 29 January 2000. According to the information received, he was beaten with PVC pipes and broomsticks. As a result, three of his teeth were reportedly broken, and he also suffered serious injuries to his face, elbow and knees. After being held in custody for 17 days, he was reportedly released on 5 February 2000 without having been produced in court. Following the release, he was believed to have received medical treatment at Kandy General Hospital.

1547. The Government responded that the SIU had initiated an investigation on 10 October 2002. SIU made several attempts to trace the whereabouts of the alleged victim in order to record his statement. The Government also indicated that the outcomes of its efforts will be provided to the Special Rapporteur.

1548. **Periyathamby Kuhananthan**, from Thavalai Iyattalai, Varani, Jaffna district, was taken into custody by army personnel on 22 January 2000, and

subsequently sent to the Chuddipuram army camp. It was reported that soldiers pulled his ears and beard with their hands and with pliers. During the night, a trunk of a palm tree was allegedly put on his legs and the soldiers stood on it. At the same time one of the soldiers reportedly throttled his neck.

1549. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1550. **Stephens Pius Romulus** was reportedly taken into custody by CID officers, on 20 January 2000. He was said to have been held there for four days. He was allegedly beaten with a bat and given electric shocks with a view to making him admit that he had relations with the LTTE. It was reported that he was later admitted to the General Hospital in Colombo.

1551. The Government responded that an investigation initiated on 11 October 2002 revealed that the alleged victim left the country. The Government further indicated that the investigation is continuing.

1552. **Kadiravel Kamalarasan**, from Grandpas area, was reportedly taken into custody at the Grandpass police station on 6 January 2000. He was reportedly suspended upside down, a shopping bag filled with chili powder was put over his head and rubbed into his sexual organs. It was said that he was made to lie on a table and water was poured into his nostrils so that he almost suffocated. They reportedly put his hands on a table, put a nail on one of his fingers, and hit the nail. He was also allegedly beaten on the soles of his feet with a rod. The Committee to Inquire into Undue Arrest and Harassment (CIUAH) was said to have investigated the case. He was reportedly presented to a JMO who allegedly found that his injuries were consistent with his allegations.

1553. The Government responded that an investigation initiated on 11 October 2002 was still continuing and that the Police were looking for the whereabouts of the alleged victim.

1554. **B. Manivannan** and his brother **Babu** were allegedly taken into custody at Trincomalee prison in January 2000. It was reported that he had been beaten and left unconscious, naked and bleeding. It was reported that he had urinated over his whole body. Babu was also allegedly severely beaten by the police in Trinco prison.

1555. **Balasubramaniam Subaharan** was reportedly arrested on 3 December 1999 at a security checkpoint by members of the Tamil Eelam Liberation Organization (TELO), an armed Tamil group said to be working alongside security personnel. He was reportedly taken to the TELO camp near the army camp in Vavunathivu, Batticaloa district, and handed over the following day to the Counter Subversive Unit of the police in Batticaloa town. At the time of arrest, he was working for the Department of Youth Service and he was also the organizer of the People's Alliance party in the area. He was alleged that during his detention at the TELO camp he had been beaten with a wooden pole and a chain, immersed in water and held upside down with both his legs tied together. The detainee also claimed that the neck of a bottle was inserted into his anus and that he was

subjected to electric shocks. As a result of the ill-treatment, he reportedly suffered from chest pain, had difficulty passing urine, painful bowel movements and impaired vision and hearing. In July 2000, he was awarded 100,000 Rupees as compensation by the Supreme Court of Sri Lanka who found his allegations of torture to be a violation of his fundamental rights. Members of TELO had reportedly been arrested in connection with his ill-treatment. It was however not known if any charges had been brought against them or what action, if any, had been taken against the army personnel alongside whom the TELO members were deployed.

1556. The Government responded that the CID had initiated an investigation on 14 February 2001. The report of the CID investigation was sent to the Department of the General Attorney on 28 May 2002.

1557. **Rajaratnam Thevaratnam**, a man from Pandiruppu, Kalmunai, Amparai district, was reportedly arrested by STF personnel on 11 October 1999 in Kalmunai. According to a fundamental rights petition allegedly filed by him before the Supreme Court on 31 October 2000, he was assaulted with poles and sticks and was hung up by his hands and a shopping bag soaked in petrol was put over his face. It was reported that upon being transferred to the STF Camp in nearby Karaithivu later that day, he had been assaulted in a similar way with wicket poles. The STF personnel reportedly applied chilli to his genitals and administered electric shocks. He also alleged that, after being transferred into the custody of the Counter-Subversive Unit of the police in Amparai town on 13 October 1999, he was severely assaulted with S-lon pipes. He was reportedly later transferred into the custody of the TID in Colombo, where he was allegedly whipped with wire and slapped on both ears. He was reportedly suffering from hearing difficulties and has marks of torture on his hands, legs and several places on his back.

1558. The Government responded that the SIU had initiated an investigation on 10 October 2002. SIU made several attempts to trace the whereabouts of the alleged victim in order to record his statement. The Government indicated that the outcomes of its efforts will be provided to the Special Rapporteur.

1559. **Ratnam Sivakumar**, a student from Karanthan South, Jaffna district, was reportedly taken into custody ill-treated at the Urelu Army camp. He was reportedly severely beaten on the buttocks, leading to bleeding from his anus. After the ICRC delegation left the prison the next day, he was reportedly beaten again with a club and on his soles. Two days later, he was allegedly taken to the Anti Terrorist Unit Detention Centre at Kankesanthurai.

1560. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1561. **Four young fishermen** from Duwa, Negombo were reportedly taken into custody on 27 April 2001 and severely assaulted while being taken to the Negombo police station. Police reportedly claimed that they were being arrested on suspicion of causing damage to a water supply pipeline. The police themselves

reportedly took the assaulted fishermen to the hospital. Medical reports were obtained. One of the fishermen was said to have suffered an injury on his arm.

1562. The Government responded that an investigation had been conducted in October and November 2002. The statements of the four complainants were recorded. Minor injuries were reported. The Government further indicated that disciplinary actions will be taken by the Police Department.

1563. **Kumaravel Perinbanathan**, a resident of Pesalai, Mannar district, was reportedly arrested on 25 June 2001 from his home by police and navy personnel. He was reportedly placed in their jeep and taken to the Pesalai Police Post, where he was allegedly assaulted, before being taken to another police post in Unit 5, Pesalai. There, his hands were reportedly tied and he was allegedly hung from a beam, and assaulted with an s-lon pipe and a wooden wicket. He was reportedly later brought back to the Pesalai Welfare Centre, he was allegedly beaten again in the presence of several witnesses.

1564. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1565. **Periyakarupan Tharshaman**, a man from Palamunai, Mannar district, was reportedly taken into custody at the Unit 5 Police Post on 23 June 2001, after he had allegedly been abducted by LTTE members. It was reported that in the police station his hands were tied together and a bag filled with petrol and chilli powder was put over his head covering his entire face. Chilli powder was reportedly thrown into his mouth and applied to his gunshot wound. He was similarly ill-treated on 24 June 2001, before being taken to Mannar Police Station and to Mannar Hospital.

1566. The Government responded that the SIU had initiated an investigation on 10 October 2002.

1567. **Kanthappan Sarojini**, a woman from Kurumanveli, Kaluwanchikudy, was reportedly taken into custody on 10 January 2000 by the personnel attached to the CSU of the Amparai Police. Her uncle and another person, who were at her home on a visit, were said to have also been arrested and taken to Amparai CSU. On 20 February 2000 she was allegedly taken to Damana police station. On 20 July 2000, she was reportedly produced before Magistrate in Amparai, who had ordered her remand, and then sent to Badulla Prison. While in detention at Amparai CSU, she was said to have had been hung upside down, whipped with a wire, kicked with boots, and beaten with sticks and pipes. She was treated at the Amparai Government Hospital. The magistrate in Amparai reportedly ordered the JMO in Badulla on 12 September 2000 to examine her and submit the medical report to the court.

1568. The Government responded that the CID had initiated an investigation on 7 February 2002 was continuing. A medical examination conducted by a JMO on 17 December 2000 confirmed that the alleged victim had been assaulted. The statement of the alleged victim was recorded on 19 November 2002.

1569. **Girissa (Gresha) De Silva** was reportedly taken to the police barrack at Ahangama on 22 March 2002, where his clothes were removed by force and his hands tied behind the back. He was reportedly suspended from the beams, and beaten with wooden poles and S-Lon pipes by the officer in charge, two sergeant inspectors, and one sergeant and others in civilian clothing. He was furthermore reportedly suspended by his fingers, and denied water. As a result, he was allegedly unable to use his hands which felt numb. He was reportedly released and hospitalized from 23 March to 11 April 2002. He was said to have lost the use of both hands. He reportedly lodged a complaint with the police station at Galle. A representative from the Deputy Inspector General was said to have recorded a statement from him while he was in hospital.

1570. The Government responded that the SIU had concluded an investigation on 22 October 2002 and forwarded its findings to the Department of the Attorney General. The investigation revealed that on 23 March 2002 a JMO confirmed that Girissa de Silva had been subjected to ill-treatment.

1571. **Waragodamudalige Gerald Mervin Perera** was said to have been on a life support system in hospital as a result the treatment he was allegedly subjected to at the Wattala Police Station on 3 June 2002 in the presence of his wife. He was reportedly brutally assaulted by the officers attached to this police station. It was alleged that his hands were tied behind his back, that he was blindfolded, hung on a beam and brutally beaten for about one hour. He was said to have been released on the 4 June 2002 and subsequently taken to Yakkala Wickramarachchi Ayurvedic Hospital and later transferred to Navaloka Hospital in Colombo. While in the hospital, he reportedly made a statement to an officer from Grandpass Police Station, Colombo, about the treatment in detention. His state of health worsened by 15 June 2002, and doctors were said to have advised his family that his situation was critical and life-threatening. Fears were expressed that the life support system may be removed due to excessive costs. None of the perpetrators had reportedly been arrested.

1572. The Government responded that a medico-legal report issued on 18 June 2002 indicated that he had been assaulted. An investigation initiated by the CID on 2 July 2002 was still continuing. On 7 October 2002, the statement of three suspects was recorded.

1573. **Nimal Silva Gunaratne** was reportedly detained for 101 days from 19 June 2000 in an illegal detention centre, where he was reportedly ill-treated leading to the loss of the use of one eye. He reportedly filed a fundamental rights petition but his family was said to have been put under pressure to withdraw the case. Although the injuries were allegedly very severe, the Attorney-General did reportedly not file case for torture against the alleged perpetrators.

1574. The Government responded that the investigation initiated by the CID on 2 July 2002 was still continuing. A medical examination conducted by a JMO on 10 November 2000 confirmed that he had been assaulted. The statement of the alleged victim was recorded on 22 July 2002.

1575. **Kodithuwakkuarrachige A. Samarasinghe** was allegedly severely beaten and had liqueur poured through his nose ill-treated during his detention at Badurueliya Police Station, Kalutara District, from 11 to 14 November 2001. As a result of this treatment, he was said to have suffered from a mental illness and to have been taken to the mental hospital in Mulleriyawa, where he was not admitted, and to the General Hospital Kalutara (Nagoda), where he was hospitalized until 22 November 2001. On 3 December 2001, he was allegedly produced before a JMO in Colombo, who reportedly referred him back to hospital. Complaints had reportedly been filed at the National Human Rights Commission. No steps had reportedly been taken by the Attorney General's Department to file criminal charges against the suspected perpetrators.

1576. The Government responded an investigation initiated on 9 October 2002 was still continuing. The statement of the alleged victim was recorded on 22 October 2002 and a JMO was requested to send a report on 13 November 2002.

1577. **Hewage Ranjini Rupika**, a three-month-pregnant woman from Girikola, Agalawatte, was reportedly hit with wooden poles and kicked in the stomach ill-treated by the officer in charge of the Matugama Police and subsequently taken to the police station on 11 September 2001. It was reported that although she began to bleed she was denied medical assistance. She was reportedly released on 15 September 2001. As a result of the alleged ill-treatment and bleeding, she reportedly lost the baby.

1578. The Government responded an investigation initiated on 14 October 2002 was still continuing. The statement of the alleged victim was recorded on 2 October 2002 and a JMO was requested to send a report on 13 November 2002. Statements of the accused officers were to be recorded.

1579. **H. Fonseka**, from Modara, Moratuwa, was reportedly arrested by Panadura police officers on 4 June 2002, and thrown twice into the Panadura River by a police officer. Some people reportedly intervened and saved him. He was said to have been unconscious when he was saved. A medical report dated 6 June 2002 from Panadura Base Hospital allegedly reported several injuries due to drowning. A complaint had reportedly been made regarding attempted murder but no action had so far been taken. The case was reportedly brought before the National Human Rights Commission.

1580. The Government responded that an investigation had been initiated on 11 October 2002. The statement of the alleged victim was recorded on 30 October 2002. The latter said that the case was settled and that he had voluntarily withdrew the complaint on 8 February 2002.

1581. **Lance Corporal Kavinda**, a disabled Navy officer, was reportedly arrested and beaten with a club and taken to Padukka Police Station on 29 October 2001. In the police station, he was allegedly slapped on both ears, kicked in the lower abdomen and verbally abused. It was reported that as had felt sick, he had been taken to Padukka Hospital. He reportedly sustained injuries to both ears, left hip and lower abdomen, which were reflected in a medical report. The Attorney General did reportedly not take any action to file charges under the Act no.22 of

1994.

1582. The Government responded that an investigation had been initiated on 25 October 2002. In his statement, the alleged victim said that the case had been settled on 23 October 2002 at the National Human Rights Commission. Accused persons agreed to pay Rs. 45,000 as compensation.

1583. **A. M. E. De Silva** of Egoda, Ekala, was reportedly slapped twice by a police constable at Je-ela Police Station on the 9 January 2001. Further, one officer reportedly put his hand between his legs and grabbed his neck and several other officers beat and kicked him. He was forcefully undressed, and beaten on the soles with the belts. The police is said to have insulted navy personnel in the process. On 10 January 2001, a legal officer and a medical officer reportedly came to the police station and examined him. A complaint was lodged at Je-ela police station and at the ASP's office at Peliagoda. He was allegedly hospitalized at Negombo General Hospital until 18 January 2001. As a result of the ill-treatment, he reportedly had pains in his chest and abdomen and was unable to urinate. On 16 January 2001, he was reportedly taken to the Magistrate's Court, who released him on bail. Complaints had reportedly been lodged at the National Human Rights Commission.

1584. The Government responded that an investigation initiated on 8 October 2002 was still continuing. On 30 October 2002, statements of the victim and witnesses were recorded. At the time the Government responded to the Special Rapporteur, a report of the Prison Hospital doctor was awaited.

1585. **Namal Fernando** was reportedly arrested Pitipana Duwa, Negombo, on 6 October 2001 by several police officers from the Mundalama police station. A man in civilian clothes reportedly punched him in the face and a police officer reportedly beat and kicked him. He was also reported to have been pinned to the ground while a police officer pointed a gun at him. Later, another police officer allegedly hit his chest and knees with a gun butt. Due to the severe pain, Namal Fernando was said to have involuntarily defecated. He was taken to hospital at Mundalama on 7 October 2001. On the same day he was reportedly produced before the Magistrate and remanded. He was said to have been released the next day without charge. It was believed that he had been arrested on mistaken identity. He allegedly entered Ragama Hospital for treatment.

1586. The Government responded that an investigation was conducted in November 2002. The statement of the alleged victim was recorded on 14 November 2002. Minor injuries were reported. Two accused individuals were due to appear before the Special Investigations Unit on 19 November 2002. A Home Guard involved in the case has been suspended of his functions and disciplinary action will be taken against an accused officer.

1587. **Ajith Nawaratne Bandara** was allegedly taken into custody and assaulted by the Keselwatte Police personnel on 2 May 2001. He was subsequently taken to the Panadura Hospital District Medical Officer's (DMO) official residence by the police sergeant and his assistant but was allegedly not examined by the doctor. Upon having been released on 4 May 2001, he was reportedly hospitalized for five

days. It was reported that although complaints were made to the officer in charge of Panadura police and the Human Rights Commission, no action was said to have taken place.

1588. The Government responded that an investigation initiated by the CID on 21 August 2001 was still continuing. A medical examination conducted by a JMO on 7 August 2001 confirmed that he had been subjected to ill-treatment. The statement of the alleged victim was recorded on 7 November 2001.

1589. **Vijitha Dissanayake** was allegedly arrested by Mathugama Police around 21 March 2001. He was allegedly beaten, burnt with cigarettes and had a finger cut off by officers of the Mathugama police station, in particular the officer in charge. Upon his release, he was allegedly admitted to the Mathugama hospital and subsequently transferred to the teaching hospital in Nagoda, Kalutara, where he reportedly stayed six days. No legal action was said to have been taken against the OIC.

1590. The Government responded that the CID had initiated an investigation on 5 August 2002. On 11 September 2002 the CID held an identification parade during which three suspects were identified. On 8 October 2002, the attorney General advised the CID to file indictments and to take disciplinary action against them.

1591. **A.M. Maithreepala** was reportedly arrested on 29 December 2000 by a sub-inspector of Rajagiriya Police, where he was allegedly taken and severely beaten, despite the fact that he had recently undergone an operation. He was said to have been later produced before the courts and remanded. He reportedly died as a result of the beatings on 19 January 2001. No complaint had reportedly been made for fear of reprisals from the police.

1592.

The Government responded that the investigation was continuing. So far, statements of neighbors and relatives had been recorded.

1593. **Bandula Rajapakse, R.P. Sampath Rasika Kumara, Mr. Ranaweera and Chaminda Dissanayake** were reportedly ill-treated on 19 and 20 February 2002 in the police station of Ja-ela. The policemen are said to have beaten Bandula Rajapakse, R.P. Sampath Rasika Kumara, and Mr. Ranaweera, on the back using rubber hoses and PVC pipes. R.P. Sampath Rasika Kumara was reportedly beaten on the knees and fingers as well. Chaminda Dissanayake was allegedly kicked by a policeman. Bandula Rajapakse was denied water. The four men were allegedly taken to a District Medical Officer and produced before a magistrate, who reportedly ordered their release on bail and that they were examined by a JMO. The Deputy Inspector General of Police was said not to have conducted a criminal investigation.

1594. **Angaline Roshana** was reportedly forcibly taken to Narahenpita police station where she was allegedly assaulted and forced to sign a confession on 3 December 2000. She was also believed to have been threatened with being suspended and beaten.

1595. The Government responded that the CID had initiated an investigation on 20 March 2002. The statement of the victim was recorded on the same day. On 25 March 2002, a medical examination conducted by a JMO confirmed that she had been assaulted. The CID investigation revealed that she had been arbitrarily detained and tortured by officers attached to the Narahenpita police station. On 4 June 2002 the Attorney General advised the CID to arrest and produce the alleged perpetrators before the Court and to forward the reports on the case in order to take disciplinary actions.

1596. **Eric Antunia Kramer** was allegedly beaten and subjected to other forms of ill-treatment by police from Mutuwal police station on 28 and 29 May 2002 to determine whether he had been involved in this attempted burglary. He was allegedly beaten all over the body and the soles of his feet with a leather belt and wooden poles, slapped and kicked. It was also alleged that an officer put a leather belt around his neck, tightened it and threatened him to kill him. As a result of this treatment, he was said not to be able to walk properly and to have received treatment in a hospital. A complaint was lodged with the authorities.

1597. The Government responded that an investigation initiated by the SIU on 14 October 2002 was continuing.

1598. **T. K. Hiran Rasika**, aged 10, and **E. A. Kasun Madusanka**, aged 12, were reportedly arrested on 9 July 2002 by two police officers from Hiniduma police station who allegedly hung them on beams by their legs and beat them. They reportedly also pulled their hair with pliers and inserted pins under their fingernails. The boys were released on 10 July and reportedly had to be hospitalised for their injuries. The two officers had reportedly not been charged but only transferred to another police station.

1599. By letter dated 7 November 2002, the Government informed the Special Rapporteur that a police investigation had been initiated in the context of which the statements of several persons involved in the incident, including the alleged victims, were recorded. A medical report issued by the JMO of Karapitiya Hospital, Galle, indicated that Hiran Rasika did not sustain injuries and that Kasun Madusanka sustained a non grievous abrasion caused by a blunt weapon. An inspector of police was transferred to Colombo on disciplinary grounds and charged with neglect of duties, discreditable conduct and being an accessory to breach of discipline. A police constable was transferred to Akmeemana police station and charged with discreditable conduct, oppressive conduct, neglect of duties, and falsehood or prevarication. A second police constable was sent a warning letter and a senior superintendent of police (SSP) was instructed to take disciplinary action against the police officers involved in the incident.

1600. By letter dated 16 September 2002 sent jointly with the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur advised the Government that he had received information on the following cases. By letter dated 16 December 2002, the Government responded to a number of them.

1601. **Thambipillai Thanalakshmi** was allegedly raped in her house at Meesalai by soldiers from the Sri Lankan army on 7 July 2001. Her mother was reportedly hit when she tried to rescue her. A complaint was reportedly filed with police in Kodikamam. It was alleged that two soldiers had been arrested by the military police on 12 July 2001.

1602. The Government responded that two suspects for her rape were produced at an identification parade conducted by the Jaffna Magistrate on 25 July 2001. However, the alleged victim could not identify them. At the time the Government responded to the Special Rapporteurs, the two men were in fiscal custody. Reports on the investigations had been sent to the Attorney General.

1603. **Mahendiran Nageswari** was reportedly sexually abused by personnel attached to the STF camp at Kaluthawalai in April 2001. She was later admitted to the Batticaloa teaching hospital. The matter was alleged to have been reported to the Kaluwanchikudy police station for inquiries.

1604. The Government responded that the case was proceeding. So far, the accused, a man belonging to the Special Task Force, has been charged by the Batticaloa Magistrate Court

1605. **Vijayaratnam Subashini** and **Thangiah Vijayalalitha**, aged 14, were reportedly sexually assaulted by more than ten Navy personnel, on 20 April 2001. It was alleged that Vijayaratnam Subashini had been blindfolded and her hands had been tied behind her back and that the soldiers had touched and squeezed her breasts and her genital area for about two hours. They both were later said to have been taken into custody in Vavuniya army camp.

1606. The Government responded that the District Secretaries of Mullathivu and Vanni had been requested to check their presence in the addresses they gave upon their release on 13 June 2002 in order to record their statement and initiate an investigation into the allegations of torture.

1607. **Sivamany Archunan** and **Wijikala Nanthakumar** were reportedly arrested by members of the navy accompanied by members of the Special Investigation Unit (SIU) of the police in Mannar on 19 March 2001. They were allegedly beaten and raped by navy and SIU personnel at the office of the Counter-Subversive Unit (CSU) of the police along Palimunai Road. The two women were also believed to have been hung on a crossbar which was placed between two tables. The initial medical examination by the JMO Mannar allegedly did not confirm rape as both victims had refused to be examined reportedly as a result of threats from the CSU officers taking them to hospital. Later examinations by the JMO Mannar and the JMO Colombo reportedly did confirm that they had been raped. After widespread protests, an investigation by the CID from Colombo was allegedly ordered. A Mannar magistrate hearing was said to have taken place on 3 April 2001

1608. The Government responded that following a directive made by the Inspector General of Police, the CID conducted an investigation into the allegations included in the Special Rapporteurs' communication. On 4 April 2001,

the alleged victims were interviewed by CID officers at the Mannar Police Station. In their statements, the two alleged victims reported that they had been raped and subjected to other forms of torture by both Naval and Police personnel. The two alleged victims subsequently underwent a medical examination by the consultant Judicial Medical Officer of Colombo. A series for identification parades were held in Mannar Magistrate Court, in which 14 Naval and Police personnel were produced. The latter were also produced before Mannar Magistrate Court and later released on bail by Vavuniya High Court. At the time the Government responded to the Special Rapporteurs, indictments were being prepared by the Attorney General.

1609. **Yogalingam Vijitha** was allegedly raped while in detention in the Negombo police station, between 21 and 27 June 2000. She was believed to have been beaten with poles on her knees, back, chest and the lower abdomen, and trampled on with boots. She was reportedly forced to lie on a table and pins were inserted under the nails of her fingers and toes, and she was slapped on her ears. On another occasion all her clothing, except her underwear, was reportedly removed and her face was covered with a polythene bag filled with chilli powder and petrol. It was also alleged that chilli powder was inserted into her vagina, as a result of which she fainted. She was reportedly produced in the Colombo Chief Magistrate Court on 21 July 2000, who allegedly ordered that she be examined by a JMO. The latter reportedly confirmed that she sustained scars, that she was suffering from post traumatic stress disorder and depression. A fundamental rights petition was reportedly filed in March 2001 and continues to be heard. She was said to have been released on 26 April 2001.

1610. The Government informed the Special Rapporteurs that the Supreme Court, who heard the Fundamental Rights application filed by the alleged victim, gave a judgment in her favor and granted her a compensation of Rs. 250,000. The Court also directed the Attorney General to pursue the possibility of criminal prosecution against those responsible for. Police has made several attempts to trace her whereabouts until it was found out that she had gone abroad. The Government expressed that it would welcome any further information that would help in locating her.

1611. **A mother of two children** was reportedly raped by a STF commando at Cheddipaalayam in Batticaloa district, on 5 February 2001. According to the reports, the woman was collecting firewood when she was raped by a member of the STF. It is alleged that he had also threatened to kill her, if she complained to anyone. She was reportedly admitted to Batticaloa Hospital. The suspect who is said to be attached to Cheddipaalayam STF camp, whose name is known to the Special Rapporteur, was reportedly arrested by the police and produced before the Batticaloa District Judge.

1612. **Velmurugu Thanalaxmi, Velmurugu Thangeswaray** and another woman, **Thamotharam Yokampikai** were reportedly raped by Sri Lanka Army (SLA) soldiers attached to the Kumburumoolai army camp, who were on duty at a checkpoint in Vembu on 10 August 2000. It was also alleged that the men in the houses were assaulted by the soldiers. One of the victims allegedly complained to the officer in charge of Kumburumoolai army camp.

1613. **A 33-year-old mother** of one child, married to a man working in Korea, was reportedly taken into custody by the officers of Negombo CID on 27 June 2000 and ill-treated for two days. She was believed to have been beaten with the rear of the chair and to have been threatened with further ill-treatment. On 30 June 2000, some drunken male police officers were said to have gone to her cell and forced her to remove all her clothes. It was reported that she had later been admitted in the Negombo hospital.

1614. **Poomany Saravanai**, a 70-year-old woman from Karanthan, Neervely West, Jaffna, was reportedly raped by two Sri Lanka Army service personnel on 31 May 2000, while her son was allegedly held at gunpoint and severely beat him. She was said to have made a complaint to the National Human Rights Commission and to have identified the perpetrators. It was not known whether any action had been taken by the authorities in response to her complaint.

1615. By letter dated 16 September 2002 sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on violence against women, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1616. **Jeyanthi Veerasingham** was reportedly raped and killed while in custody, in an army detachment at Sanasa transit camp, on 17 February 2000. The army reportedly handed over her body to the Vavuniya hospital, claiming that she had committed suicide by swallowing cyanide. The Magistrate inspected her body at the Vavuniya hospital mortuary and reportedly instructed the police to conduct further investigation. The Magistrate reportedly also instructed the JMO of Vavuniya hospital to hold a postmortem examination.

1617. **S. Umadevi**, a student from Nawalapitiya, Imbulpitiya Estate, was reportedly abducted, raped and murdered on 12 September 2001 at Kopiwatte, Mallanda in Nawalapitiya on her way home. Her parents were said to have filed a case with the Nawalapitiya Police. However, the woman police constable was said to have been abusive and not willing to accept their complaint. The same evening, her father was said to have heard that the corpse of a young woman was had been found in the shrubs near the Malkanda bridge. He reportedly went to the spot and identified the body as that of his daughter. The police reportedly did not show any concern about this case and have so far failed to arrest any suspects, or to visit the home of the victim.

1618. By letter dated 20 September 2002 sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1619. **W A P Jayaratne**, a corporal in the Special Forces brigade of the army, reportedly died during interrogation by the military on 21 June 2001. He had reportedly been arrested on 7 June by the SIU of the Military Police. Within hours of his death, four corporals of the SIU were said to have been taken into custody

by the Mahawela police. Army headquarters were also said to have appointed a military court of inquiry into his death.

1620. **Kandaiyan Udayakumaran** was reportedly taken into custody by the navy personnel on 28 February 2001. On the following day, his family was reportedly informed that he had been handed over to the Mannar police. On 1 March 2001 navy personnel reportedly brought his dead body to Mannar base hospital. According to the post mortem report, the death was caused due to strangulation. Two navy personnel were allegedly arrested. At the time of writing, a magistrate's inquiry was said to be continuing.

1621. **W. Sujeewa Priyadarshana** reportedly died as a result of ill-treatment by police officers and personnel of Thebuwana Police on 30 January 2001 while in remand custody. He was allegedly taken into custody on 15 January 2001 by two sub-inspectors of Thebuwana Police who allegedly severely beat him. He was reportedly produced before a court on 16 and 30 January 2001 and twice remanded. A complaint had reportedly been made with the Matugama A. S. P. on both 15 and 16 January 2001, but the entry was said not to have been entertained. As the report of JMO was reportedly not available during a magisterial enquiry on 31 May 2001, the verdict on his death was reportedly not given. Police were believed to be evading an enquiry.

1622. **Mullakandage Lasantha Jagath Kumara**, a soldier from Payagala, was allegedly taken into custody by Payagala Police on 12 June 2000 and detained for five days. He was reportedly subjected to ill-treatment during the period. He said to have been produced before Kalutara Magistrate on 17 June 2000 and remanded. As a result of severe beatings, he reportedly died at Welikada Prison on 20 June 2000. It was alleged that according to the autopsy conducted by the JMO, the death had been due to damage caused to muscles and tissues by a blunt weapon, which rendered the kidneys ineffective. An enquiry into this death was said to have been held at Colombo Magistrate's Court and later handed over to a Deputy Inspector General. Police personnel belonging to Payagala police station had allegedly been named as suspects. However, police officers who investigated the murder and presented materials before court were said to cover up for the police officers involved in the murder.

1623. **Jayakodige Anura Wijesiri** was reportedly found hanging inside his police cell in the Ingiriya Police Station on 12 January 2001. On 11 January, he had reportedly been visited by his brother who he allegedly told that he had been beaten by two police sergeants on the previous night and was in fear of renewed ill-treatment that night. The district medical officer was said to have reported that the cause of death was suicide. However, the magistrate reportedly ordered a second post-mortem to be done by a JMO. The latter reportedly found two hearts and four lungs inside the dead body. It was believed that the body had been reopened in the hospital mortuary in order to subvert the second post-mortem, and other body parts had been placed inside before the second post-mortem was carried out. Despite requests to investigate the case and bring the perpetrators to justice, no investigation was said to have been carried out.

1624. By letter dated 13 December 2001, the Government informed the Special Rapporteur that a Directorate of Human Rights and Humanitarian Law had been created in the Sri Lanka Army. The mandate of the new Directorate includes overseeing the implementation of human rights norms and standards in line with domestic constitutional and other legal provisions and those relating to international human rights law.

Urgent appeals

1625. On 16 May 2002, the Special Rapporteur sent an urgent appeal on behalf of **Lalith Rajapakse** who had reportedly been arrested on 19 April 2002. Three police officers reportedly assaulted him and took him to the Kabdana police station, accusing him of theft. When his grandfather went to see him, he reportedly found that his grandson was lying on the floor of the cell unconscious, allegedly as the result of the treatment he had been subjected to. He was reportedly taken to the Ragama Hospital in a very serious medical condition. From there he was said to have been immediately transferred to ward 55 of the Colombo Central Hospital. He reportedly

1626. remained unconscious until 7 May 2002. His condition was said to remain very critical, and his family, who are said to be poor, cannot provide him with adequate medical attention.

1627. The Government responded that the CID had initiated an investigation on 24 July 2002, upon advice of the Attorney General. The statement of the alleged victim was recorded on 22 August 2002. A statement of a JMO recorded on 11 October 2002 revealed that Lalith Rajapakse had been assaulted.

1628. On 13 September 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on the independence of judges and lawyers and on extrajudicial, summary or arbitrary executions and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Nandini Herat**, who had reportedly been arrested on 8 March 2002 by the police in Wariyapola, near Kurunegala. While in custody, she was allegedly subjected to torture of a sexual nature by five police officers. It was reported that in early August the officers, who are still in their posts, were charged with the torture of Nandini Herat before the Magistrates' Court of Wariyapola. Although the magistrate allegedly issued a warning that the witnesses should not be intimidated, the police officer in charge of the station reportedly went to Kandy remand prison where Nandini Herat is currently being held, allegedly in order to ask her to withdraw the case. Her father was also allegedly threatened when he duly requested a copy of the initial complaint made to the police against his daughter. Two lawyers who had been asked to act on Nandini Herat's behalf have already withdrawn their services as a result of intimidation.

1629. By letter dated 10 October 2002, the Government responded that the Attorney General had instructed the Criminal Investigations Department (CID) to take over the investigations on the alleged torture of the above-mentioned person. The Attorney General had also directed the CID to arrange for another medical examination of the alleged victim by the JMO and the CID had been asked to submit all reports of the medical examination and the investigation in order to

enable the consideration of filing indictments under the Convention against torture and other cruel, inhuman or degrading treatment or punishment act. Finally, the Government stated that the CID has also been directed by the Attorney-General to conduct criminal investigations into the threat to Mr. **Priyantha Gamage**, Counsel of Ms. Herath and Mr. **Nishantha Kumara**, by Wariyapola Police.

Follow-up to previously transmitted communications

1630. By letter dated 6 December 2001, the Government responded to the urgent appeals sent jointly with the Chairman-Rapporteur of the Working Group on arbitrary detention on 23 July 2001 and with the Special Representative of the Secretary General on human rights defenders on 2 August 2001 and to the communication sent jointly with the latter on 30 August 2001 (see E/CN.4/2002/76/Add.1, paras. 1517, 1534 and 1535). The Government indicated that upon being informed that a group of Liberation Tigers of Tamil Eelam (LTTE) cadres were in the area of Uralu, search operations were conducted by a group of army personnel. In this context, in the morning of 2 July 2001, **Krishnaswami Thivyan** and another person traveling with him disobeyed to an order to stop. While the other one managed to escape, Krishnaswami Thivyan was apprehended. As he was in possession of a weapon, he was detained under the Prevention of Terrorism Act. As a result of detailed interrogation, a LTTE safe house in which a considerable arsenal was hidden was discovered in Urumbirai. Krishnaswami Thivyan was handed over to the Anti-Terrorist Unit of the Sri Lanka Police in Kankasanthurai to proceed with the investigations on his alleged involvement in terrorist activities. Representatives of the International Committee of the Red Cross and the National Human Rights Commission of Sri Lanka were permitted to visit him during his detention. According to the results of the investigations, Krishnaswami Thivyan had been in charge of LTTE activities within Jaffna University. He has been indicted before the High Court in Jaffna by the Attorney General who has filed three cases under the Prevention of Terrorism Act. By letter dated 16 April 2002, the Government further informed that in January 2002, in pursuance of ongoing efforts to resolve the conflict in the North East and with the view to creating a suitable environment in which fruitful negotiations could take place between the Government and LTTE, the Attorney General began to withdraw indictments filed against persons whose indicted involvement in terrorist activity was minimal. As a result, on 22 February 2002, the indictment against Thivyan Krisnasamy for having failed to provide information regarding LTTE terrorist activity was withdrawn. Further, on 15 March 2002, the High Court of Jaffna discharged Thivyan Krisnasamy in the two other cases pending against him after witnesses failed to appear in Court. By the same letter, the Government assured that he was not subjected to torture or other form of cruel, inhuman or degrading treatment while in detention.

1631. By letters dated 7 December 2001, 18 December 2001, 21 December 2001, 8 April 2002, 29 April 2002 and 29 November 2002, the Government responded to cases previously transmitted.

1632. Concerning the case of **Shanmugam Manogaran** (E/CN.4/2002/76/Add.1, para. 1512), the Government responded that the CID had made several attempts to find the whereabouts of the alleged victim in order to record his statement.

However, since all the attempts have been unsuccessful, the CID could not pursue its investigations.

1633. Concerning the case of **Michael Edwards** (ibid., para. 1513), the Government responded that the Inter-ministerial Standing Committee on Human Rights had directed the CID to initiate an investigation. However, by an affidavit dated 27 November 2002, the alleged victim informed the Standing Committee on Human Rights that he did not wish to participate in the investigation and that he did not want the alleged perpetrators to be prosecuted. In these circumstances, the CID decided to terminate its investigations.

1634. Concerning the case of **Nadarajah Thiruchelvan** (ibid., para. 1414), the Government responded that on 25 April 2001, the CID had initiated an investigation. The latter revealed that the records of the Terrorism investigation Department (TID) indicate that this person had never been arrested by the TID. In these circumstances, further investigations into allegations of torture could not be continued. However, the Government expressed that further action could be taken if more information regarding this case is provided by the Special Rapporteur.

1635. Concerning the case of **Vijitha Siriwardena (Dissanayake)** (ibid. para. 1515), the Government responded that the CID had been directed by the Attorney General to conduct inquiries on the allegations of torture. The CID investigations revealed that according to the JMO of Nagoda hospital who examined the alleged victim on 22 March 2001, the burn marks and the cut injuries of the fore finger of the left hand were self-inflicted. The alleged victim was invited by the CID to undergo a second medical examination by a JMO in Colombo but he did not appear to the appointment. In these circumstances, it was not possible for the CID to pursue its investigations. On 22 July 2002, the case was forwarded to the Attorney General who was to file action against Vijitha Siriwardena for making false complaints.

1636. Concerning **Uchita Thussara Kumaea** (ibid., para. 1518), the Government responded that upon completion of criminal investigations, the Attorney General will be invited to consider the institution of criminal proceedings against those responsible for his torture and death.

1637. Concerning **Velauthapillai Rajani** (ibid., para. 1520), the Government responded that the Military Police (CCMP) had conducted inquiries into her disappearance, rape and death and identified four army personnel as responsible for these crimes. Six army personnel were subsequently arrested and handed over to the Kankasanthurai Police for the conduct of criminal investigations. The case was subsequently sent to the Attorney General, who presented indictment in the High Court of Colombo against a Corporal, a Lance Corporal and two privates of the Sri Lanka Army. The Government also informed that the body of the victim was exhumed under judicial supervision in October 1996 and that a Post Mortem Examination was conducted by a qualified Forensic Pathologist.

1638. Concerning the rape and murder of **Ida Hamilitta (Ida Camaleeta)** (ibid., para. 1521), the Government indicated that investigations had been conducted by the CID of the Police and that a post mortem examination was conducted by a

qualified JMO. Initial investigations revealed that a group of soldiers entered her house on 20 July 1999, raped and killed her. As a result, two soldiers were arrested and produced before a magistrate. They were identified during an identification parade conducted on 20 July 1999. Further investigations revealed the complicity of three other soldiers in the rape and killing. The latter subsequently surrendered to the Magistrates Court. The case was transferred to the Chief Magistrates Court of Colombo who initiated a non-summary case. On 3 July 2001, the Court discharged three of the suspects due to lack of evidence but the two main suspects remained accused. The non-summary inquiry was still continuing when the Government transmitted this information.

1639. Concerning **Krishnapillai Thayayothy** (ibid., para. 1522), the Government responded that Serunuwara Police investigations had been obstructed by the fact that the location of the grave in which the victim was buried was under the control of terrorist groups. The Assistant Superintendent of Police (ASP) of Serunuwara interviewed the deceased's relatives, who did not implicate security forces in the murder of the victim. The case was transferred to the Magistrate who, without being able to exhume the body of Krishnapillai Thayayothy, concluded the inquest, issued a death certificate and forwarded the information to the International Committee of the Red Cross (ICRC). The Government responded that further investigations, including a Post Mortem Examination, were expected to proceed upon the restoration of normality in the area.

1640. Concerning **Wijkala Nanthan** and **Simvamani Sinnathamby Weeralon** (ibid., para. 1524), the Government responded that criminal investigations on the alleged rape and torture against them were conducted by the CID. In the context of these investigations, the two alleged victims were examined by the District Medical Officer of Mannar on 27 March 2001 and by the Consultant Judicial Medical Officer of Colombo. Further, a series of identifications parades permitted to identify 14 suspects belonging to the naval and police personnel of Mannar, who were subsequently arrested. Upon conclusion of criminal investigations, the case was transferred to the Attorney General.

1641. Concerning the case regarding a widowed mother of two (ibid., para. 1525), the Government indicated that a complaint was lodged on 24 June 2001 and that Maradana police launched an investigation within 48 hours after she was allegedly raped. Four suspects were reportedly remanded. The Attorney General assigned a State Counsel to advise the police in the conduct of the investigations. The Judicial medical Officer who examined the alleged victim could not confirm signs of penetration or signs of resistance. During an identification parade conducted on 6 July 2001 by the Magistrate of Maligakanda, the complainant identified two of her alleged aggressors, including a Reserve Police Constable. The latter has been dismissed from his functions. The police investigation was concluded and case was forwarded to the Attorney General, who was due to advise the Police to institute non-summary proceedings at the Magistrates Court against the suspects.

1642. Concerning the case of **Lakshmi Pillai** (ibid., para. 1527), the Government responded that the suspects were murdered by members of the Liberation Tigers of Tamil Eelam (LTTE) on 28 May and 1 August respectively, while the criminal

proceedings were still pending. In this context, criminal proceedings into this case had to be terminated.

1643. Concerning the case of **Sivasothy Krishnapillai** (ibid., para. 1528), the Government responded that criminal investigations had been initiated and the victim had been examined by a JMO. Three persons were arrested in relation to the crime and produced before the Batticaloa Magistrate. Non summary proceedings were instituted against them and the Attorney General indicted them to stand trial before the High Court.

1644. Concerning the case of a **17-year-old Tamil schoolgirl** (ibid., para. 1529), the Government responded that a soldier had been arrested and brought before the Jaffna Magistrates' Court after inquiries had been conducted by the Chunnakkam Police. The case was later transferred to the Mallakkam Magistrates Court, where a hearing was scheduled to be held on 21 December 2001. The soldier who allegedly raped the girl was dismissed from his functions pending completion of Court proceedings.

1645. Concerning the case of **Sri Balakumar Ajanthana** (ibid., para. 1530), the Government responded that it was unable to provide the Special Rapporteurs with further information since inquiries from Police Stations in Jaffna Peninsula had not revealed the occurrence of such incident. The Government indicated that it is willing to further investigate into the allegations transmitted by the Special Rapporteur if the exact address of the alleged victim is communicated to it.

1646. Concerning the case of **Rajeshwari Krishnarajah** (ibid., para. 1531), the Government responded that inquiries conducted by the Kodikaman Police confirmed that the victim had been raped. However, the perpetrators had not yet been identified and the alleged victim had not been able to certify that they belonged to the Sri Lanka Army. The case was sent to the Chavakachcheri Magistrates Court.

1647. Concerning the case of the **13-year-old girl** (ibid., para. 1532), the Government responded that the victim had been immediately taken to a hospital for treatment. She was interviewed in connection with her rape and examined by a Judicial Medical Officer. Following criminal investigations, non-summary proceedings were instituted against the suspected for rape. The latter was brought before the High Court, who sentenced him to 25 years imprisonment and to pay compensation to the victim. In its response, the Government did not make any mention to the alleged involvement of five police officers of the Criminal Investigation Division (CID) in the rape of the minor.

1648. Concerning the case of **Anthoni Pillai Wimalaraj** (E/CN.4/2001/66, para. 957), the Government responded that on 8 August 2000, the CID interviewed the alleged victim, who reported the treatment allegedly inflicted with full details but who was unable to identify the alleged perpetrators. Given his contradictory statements on the identity of his alleged aggressors, the Attorney General directed the CID to record further statements. The CID investigations revealed that on 20 September 1999 the alleged victim was examined by a JMO who indicated that it was not possible to confirm that the injuries were sustained while in custody. The

Government informed the Special Rapporteur that since the perpetrators could not be identified, it was not possible to take further action.

1649. Concerning the case of **Saravana Bhavan Kurrukul** (ibid., para. 958), the Government responded that the CID, with the collaboration of a special team from Colombo, conducted an investigation into the allegations of rape and murder. The CID recorded statements of the Army personnel based in Boch Army Camp, of the alleged victim's relatives and neighbors. Army Officers indicated that on the night of the crime, there was a regimental party and most officers had consumed alcohol. However, only two of them left the camp for "listening duties". The victim's brother, who was the only witness of the alleged abduction, stated that he was not able to identify the perpetrators because they were wearing black masks. However, he stated that their breath smelled of liquor. According to a report issued on 2 January 2000 by a Colombo JMO, Saravana Bhavan Kurrukul was raped prior to be strangled to death. A subsequent report on a government analyst indicated that there was no evidence to conclude that the blood stains found on her dress was human blood. On 17 August 2002, the Attorney General's Department advised the CID that a criminal prosecution could not be launched and that no further inquiries into this case were needed, unless any new information regarding the alleged perpetrators is provided.

1650. Concerning the case of **Ghanasingham Kulasingham** (ibid., para. 959), the Government responded that a postmortem examination conducted by a JMO attached to the Jaffna General Hospital had indicated that the death was due to injury caused by assault. A Captain and a Lieutenant were subsequently arrested. At the time the Government responded to the Special Rapporteur, the case was being heard at the Magistrate Court Anuradhapura. The Government informed that once the verdict of the court will be issued, it will be provided to the Special Rapporteur.

1651. Concerning the case of **Kalithas Selvam** (ibid., para. 960), the Government responded that the CID had conducted an investigation into the allegations of torture and has made several unsuccessful attempts to interview the victim in order to record his statement. The Department of the Attorney General advised to take further action to trace the alleged victim in an effort to pursue investigations.

1652. Concerning **Weerage Buddika Weerasinghe** (E/CN.4/2000/9, para. 934), the Government responded that the Supreme Court ruled in October 1997 that he had been victim of unlawful detention but not of torture. The Government also informed that an investigation into the allegations of torture had been ordered on 27 July 2000. The Attorney General decided to refrain from instituting criminal proceedings against the alleged perpetrators on the grounds that the alleged victim kept giving contradictory statements and that the medical evidence to corroborate perpetration of torture was weak. However, the Attorney General directed the Inspector General of Police to institute disciplinary action against a Sergeant and two Sub Inspectors, who were held liable by the Supreme Court for the unlawful detention of Weerage Buddika Weerasinghe. On 7 September 2002, the CID recommended disciplinary action as well.

1653. Concerning **Sinnarasa Anthonymala** (ibid. para. 935), the Government responded that criminal investigations had been conducted in the context of which the alleged victim made a statement recorded on 18 February 2001 at Welikada Reman Prison in presence of her lawyer. She alleged that she had been tortured by the Navy and the CID personnel while in custody. However, in an affidavit sent to the High Court through her lawyer on 22 November, Sinnarasa Anthonymala requested the authorities to refrain from taking legal action against the alleged perpetrators of torture. After having checked the authenticity of the documents and since the alleged victim was not prepared to cooperate with the investigation, the Attorney General decided to terminate the proceedings.

1654. Concerning **Anura Sampath** (ibid. para. 936), the Government responded that the CID had initiated an investigation on 15 July 1999 and that on 10 January 1999 a post-mortem examination was conducted by a Judicial Medical Officer in Colombo. The latter determined that the cause for his death was hemorrhagic shock following multiple muscular contentious injuries caused by blunt weapons. The Government also informed that the suspects were produced before a court on 30 December 1998 but bailed out on 24 September 2001. On 14 August 2001, the General Attorney instructed the CID to institute non-summary proceedings against a Sub Inspector and a Police Constable for committing murder. The case was proceeding before the Magistrate Court, Moratuwa, and the next trial was scheduled to be held on 27 January 2003.

1655. Concerning **Sathasivam Sanjeevan** (ibid. para. 937), the Government responded that an investigation into the allegations submitted by the Special Rapporteur had been launched on 31 July 2000 by the CID. According to this investigation, the alleged victim was admitted to the Kalmunai General Hospital on 14 October 1998. A medical officer stated that he sustained few non-serious injuries and that Sathasivam Sanjeevan did not complain that he was tortured. On the other hand, his parents alleged that when they visit him at Kalmunai Police Station the same day, he reported that he had been tortured on the night of 13 October 1998. While he was being transferred to Ampara Police Station on 15 October 1998, the convoy was allegedly attacked by LTTE members. According to the above-said investigation, the alleged victim was injured during the attack and subsequently taken to Ampara Hospital, where he died. Upon consideration of the investigative materials, the Attorney General concluded that they did not provide a basis to institute criminal proceedings. However, in November 2002, the Attorney General and the CID recommended that disciplinary action should be taken in relation to this case.

1656. Concerning **Gopalaratnam Thananjeyan** (ibid. para. 938), the Government responded that the CID had launched an investigation into the allegations submitted by the Special Rapporteur. In this context, in January 2001, the alleged victim accused two Sergeants and four other police officers of torture. On 25 July 2002, the alleged victim issued another statement in which he withdrew his allegation of torture because he was unable to identify the perpetrators. Accordingly, on 16 September 2002, the Attorney General instructed the CID to terminate the investigation.

1657. Concerning **Kumar Selvaratnam** (ibid. para. 939), the Government responded that the Supreme Court had directed the CID to investigate into the allegations of torture against him. After various attempts to find his whereabouts in order to interview him and record a statement as required to prosecute the alleged perpetrators, on 1 June 2002 the CID informed the Attorney General that they had been unable to record the victim's statement. In this context, the CID was advised to temporally suspend the investigations.

1658. Concerning **Suppu Udavakumar** (ibid. para. 940), the Government responded that he had been examined by a JMO on 24 September 1999. The latter confirmed that he had been subjected to torture but could not precise the time of the occurrence. The Government also informed that preliminary investigations into allegations of torture were launched on 2 August 2000 by the CID, who recorded the victim's statement on 11 August 2000. Upon completion of these investigations, the case was forwarded to the Attorney General's Department in December 2000. It was considered that Suppu Udavakumar's statements were inconsistent and lack of credibility. Accordingly, the Attorney General concluded that it was not possible to launch criminal prosecutions.

1659. Concerning **Pichamuththu Chandran** (ibid. para. 940), the Government responded that the CID had launched an investigation into the allegations of torture on 16 January 2001, recorded statements from the victim, accused police officers and witnesses. On the basis of a medical report issued by the JMO on 10 February 2000, the investigation revealed that he sustained several injuries while in custody. The case was forwarded to the Department of the Attorney General, who was subsequently instructed to take disciplinary action against the accused police officers.

1660. Concerning **Arunasalam Logeshwaran** (ibid. para. 940), the Government responded that he had submitted a Fundamental Rights violation application to the Supreme Court on 4 November 1998. On 23 September 1999 he was examined by a Judicial Medical Officer, to whom he complained that he had been subjected to torture by Kandy SIU officers. His statement was recorded on 20 December 2001. The case was forwarded to the Attorney General on 12 June 2001. The latter concluded that the victim's statements and the affidavit filed by him at the Supreme Court were contradictory. Accordingly, the Attorney General instructed the CID on 26 August 2001 not to institute criminal proceedings.

1661. Concerning **Solamuththu Loganathan** (ibid. para. 940), the Government responded that an investigation ordered on 16 January 2000 and conducted by the CID had revealed that police officers assaulted him at the time of the arrest on 12 June 1998. A medical report issued by a Judicial Medical Officer on 16 June 1998 as well as evidence provided by the victim's relatives confirmed that he had been subjected to torture while in custody in Kandy and Colombo. The case had been forwarded to the Attorney General.

1662. Concerning **Samimuttu Benedict** (ibid. para. 940), the Government responded that the CID had launched an investigation into allegations of torture on 16 January 2001. Based on his statements and on a medical report issued on 23

September 1999 by a JMO which indicated that Samimuttu Benedict had been tortured, the CID forwarded the case to the Department of the Attorney General.

1663. Concerning **T. (Siyadoris) Ranjani** (ibid. para. 941), the Government responded that the Supreme Court determined in June 1998 that she had indeed been assaulted while in police custody and ordered the State to pay her Rs. 10,000 as compensation. In March 1999, the CID launched a criminal investigation into the allegations of torture. Despite several attempts to trace the whereabouts of the alleged victim in order to record her statement, the CID has not been able to interview her. The case was forwarded to the Department of the Attorney General on 12 June 2000 and further efforts to trace the victim were pursued. In June 2001 the CID was informed that she was working in Saudi Arabia and another attempt was made to trace her through the Sri Lanka Embassy in Riyadh. The Government responded that the CID needed the victim's record to proceed with the investigations.

1664. Concerning **Muthuthamby Vanitha** (ibid. para. 942), the Government responded that the CID had launched an investigation into allegations of torture on 7 March 2000. The CID repeatedly attempted to trace her whereabouts in order to interview her and record her statement. In June 2001, it was reported that she left for the United Kingdom and the Government contacted with the Sri Lanka Embassy in London and the British Immigration Service Documentation Unit. As all these attempts to find her had been unsuccessful, the CID was unable to conduct further investigations.

1665. Concerning **Periyathamby Subramaniam** (ibid. para. 943), the Government responded that the CID had launched an investigation into allegations of torture on 27 June 2000. This investigation revealed that according to a medical report issued by the Judicial Medical Officer who examined the alleged victim on 5 April 2000, he had not been subjected to torture. The Government further informed that since there was no evidence to prove that he had been tortured, CID has not been able to pursue its investigation.

1666. Concerning the case of 35 young men and women allegedly detained at **Thavady Camp** and subjected to torture in January 1997 (ibid. para. 944), the Government responded that since the Special Rapporteur did not provide it with the names of the alleged victims, it has not been possible to proceed with the investigation.

1667. Concerning **Kanapathipillai Sasikumar** (ibid. para. 945), the Government responded that on 3 July 2000 the CID had launched an investigation into allegations of torture. The statement of the alleged victim was recorded on 24 April 2002. A Major involved in his arrest acknowledged that the minimum force had been used to arrest him as he had shown resistance. A medical report submitted by the alleged victim to the Supreme Court confirmed that he had been assaulted. However, the allegations of torture were not consistent with the contents of the medical report. Another medical report issued by a Judicial Medical Officer on 8 September 1999 also indicated that Kanapathipillai Sasikumar had been assaulted. In a statement given by the victim on 24 April 2002, the latter said that he was unable to identify the alleged perpetrators. The

High Court decided to dismiss the case on 15 March 2002 on the grounds that the alleged victim had withdrawn his complaint.

1668. Concerning **Bathatha Jayatunge Gamage Malsha Kumari** (ibid. para. 946), the Government responded that the CID had launched an investigation on 3 July 2000. According to the investigations, she committed suicide on 14 February 1998 after a family dispute. In this context, it had not been possible to undertake further investigations since the CID could not record a statement of the victim.

1669. Concerning **K.A. Sisira Kumara** (ibid. para. 947), the Government responded that the CID had launched an investigation on 3 July 2000 and recorded the statement of the alleged victim and three witnesses. A medical report issued by a JMO on 19 August 2000 confirmed that she had been subjected to ill-treatment. The investigation revealed that a Fundamental Rights application had been submitted to the High Court on 7 January 1999 alleging that she had been subjected to torture by four police officers. On 30 August 2001, the Attorney General advised the CID to indict the accused officers and to take disciplinary action against them. The Government responded that these indictments were served on 19 December 2001 before the Gampaha High Court. The next session of the trial was scheduled to take place on 11 February 2003.

1670. Concerning **Pradeep Kumara Dharmaratne** (ibid. para. 948), the Government responded that an investigation had been launched on 3 July 2000 and its report forwarded to the Attorney General on 6 December 2000. The CID was instructed by the Attorney General to file indictments against the accused officers and was advised to take disciplinary action against the accused officers.

1671. Concerning **Velusamy Baskaran** (ibid. para. 949), the Government responded that the CID had launched an investigation on 3 July 2000. On 21 January 1999, Velusamy Baskaran was examined by the District Medical Officer, who was unable to find any visible mark of torture. It revealed that on 24 May 1999, the Supreme Court ordered his release, upon which the alleged victim allegedly stated that he did not seek redress from the Government. On 2 November 2001, the Attorney General advised the CID to dismiss the case due to absence of evidence to institute criminal proceedings.

1672. Concerning **Neelian Yogesan (Neelian Yogeswaran)** (ibid. para. 949), the Government responded that the CID had launched an investigation on 25 July 2000. On 10 April 1999, the alleged victim was examined by a District Medical Officer, who did not corroborate allegations of torture. On 24 May 1999, a Court ordered his release, upon which the alleged victim allegedly stated that he did not seek redress from the Government. The Court recommended that a disciplinary inquiry could be instituted against the involved police officers. However, in the absence of evidence, the Attorney General was unable to institute criminal proceedings against the alleged perpetrators.

1673. Concerning **Wadival Kanagaratnam (Vadivel Kanagaratnam)** (ibid. para. 949), the Government responded that the CID had launched an investigation on 21 July 2000. It revealed that the victim was examined by a District Medical Officer on 21 January 1999 but that the latter was unable to find any visible mark

of torture. On 6 December 2000, the CID forwarded the case to the Attorney General who was unable to institute criminal proceedings since available investigative material was not sufficient.

1674. Concerning **Somasundaram Shanmugarajah** (ibid. para. 949), the Government responded that the CID had launched an investigation on 12 July 2000. It revealed that a Fundamental Rights application was submitted to the High Court alleging that he was tortured by police officers of Nuwara Eliya police station. On 25 January 1999, he was examined by the District Medical Officer who could not confirm the allegations of torture. On 24 May 1999, a Court ordered his release, upon which the alleged victim allegedly stated that he did not seek redress from the Government. In this context, the Attorney General was unable to institute criminal proceedings.

1675. Concerning **Michaelpillai Rober Wellington** (ibid. para. 950), the Government confirmed the allegations submitted by the Special Rapporteur. It further indicated that a Lieutenant had been arrested in this connection and that non-summary proceedings were before the Point Pedro Magistrate courts.

1676. Concerning **Vythilingam Thiruchelvam** (ibid. para. 951), the Government responded that an investigation had been launched on 20 November 2000. The CID made several unsuccessful attempts to trace the whereabouts of the alleged victim in order to record his statement regarding the allegations of torture.

1677. Concerning **Kandasamy Kalanidi (Kanthasamy Kalanithy)** (ibid. para. 952), the Government responded that the CID, including a special team sent from Colombo, had conducted an investigation into the alleged incident on 20 November 2000. The investigation did not reveal any evidence of rape and medical evidence indicated that the victim died as a result of consuming insecticide. Investigations concluded that the alleged victim committed suicide. The only evidence which linked the victim's death with the officers of the Murusuvil Army camp is that she previously visited the camp. Upon reception of the case on 30 January 2001, the Attorney General concluded that prosecution was not possible due to lack of sufficient evidences. The Government indicated that it was willing to resume investigations if new evidence of torture and murder was provided.

1678. Concerning **Vallipuram Suganthi** (ibid. para. 953), the Government responded that the CID had launched an investigation on 8 March 2000 and attempted several times to trace the alleged victim in order to record her statement. Upon having been informed that she left for Switzerland, the CID contacted with the Sri Lanka Permanent Mission in Geneva and with the Swiss Federal Judicial Police. It was indicated that the alleged victim had left Switzerland in November 2001. In these circumstances, it was not possible for the CID to conduct further investigations.

1679. Concerning **Thambirajah Kamalathanan** (ibid. para. 954), the Government responded that the CID had initiated an investigation on 24 November 2000. Several attempts had been made to trace the whereabouts of the alleged victim in order to record her statement. So far, the CID had only been able

to record the statement of the victim's mother on 10 December 2000. The latter indicated that her son had left for Germany in 1999. It is believed that he came back to Colombo since then but the CID has not been able to find. In these circumstances, it was not possible for the CID to conduct further investigations. The Attorney General advised to suspend the investigations.

1680. Concerning **Kanapathypillai Navaratnam** (ibid. para. 956), the Government responded that the CID had initiated an investigation on 27 November 2000 and attempted to trace the whereabouts of the alleged victim in order to record her statement on the allegations of torture. Once the alleged victim was found in Jaffna, she did not give her statement. The Government indicated that in the absence of the latter, it was not possible to consider the investigation of either criminal proceedings or disciplinary inquiries.

1681. Concerning **Mahalingam Mahenthiren (Mahendran)** (ibid. para. 957), the Government responded that many attempts had been made, including through the ICRC, to trace his whereabouts in order to record his statement on the allegations of torture. He was eventually found and expected to meet the special investigation team at the office of the District Secretary of Vavuniya on 29 September 2001. However, he did not come to the appointment. The Attorney General instructed to terminate the investigation since the alleged victim did not cooperate with the investigation.

1682. Concerning **Veeraputhiran-Thevy (Veeraputhiran Devi)** (ibid. para. 958), the Government responded that the CID had been ordered to initiate an investigation on 24 November 2000. However, all CID's efforts to trace her, including through the Ministry of Foreign Affairs, in order to interview her, failed. The Government indicated that under the advice of the Attorney General, both the CID and the police will pursue their efforts to find her with a view to prosecute the alleged perpetrators.

1683. Concerning **S. Selvarani** (ibid. para. 960), the Government responded that the CID with the assistance of the military had conducted investigations into the case. On 16 February 2001, the CID recorded the statements of the victim and her mother and the clothes worn by the alleged victim at the time of the incident were sent to an official analyst for examination. The CID's investigation revealed that on 18 March 1998 the assistant judicial medical officer examined the alleged victim and confirmed that there had been involuntary penetration of the vagina. The Government informed the Special Rapporteur that some army personnel who had been at the army check-point on the day of the incident were produced before Jaffna magistrate in an identification parade. However, the victim failed to identify any of those produced as her aggressors. The CID was continuing its investigations.

1684. Concerning **Ehamparam Damayanthi** (ibid. para. 961), the Government responded that on 30 December 1999 the CID had recorded her statement, in which she said that the Army did not subject her to torture and that she had undergone training in an LTTE Women's Unit. The CID's investigations also revealed that she had been examined by a JMO on 30 July 1997. However, as the examination took place five months after the alleged incident, the officer was

unable to certify that she had been tortured during her detention. On 5 September 2002, the Attorney General concluded that since the allegation of torture had not been proved and the victim herself refuted the allegation in her statement, there was no evidence to institute criminal proceedings against the alleged perpetrators. On the advice of the Attorney General, the CID was expected to send extracts of the investigation notes to the relevant sections of the Army and Police, requesting disciplinary inquiries.

1685. Concerning **Selvarathnam Raveensagar (selvaratnem Ravinsagar)** (ibid. para. 962), the Government responded that the case had been forwarded to the Inter-Ministerial Working Group on Human Rights (IMWG) on 24 November 2000, who directed the CID to conduct an investigation. The investigation lasted two years and was carried out under the supervision of the IMWG. The CID recorded statements of the victim and of the police officers allegedly involved in the torture. In his statement, the alleged victim said that he could not identify any of the police officers who allegedly tortured him and that he was not interested in pursuing the investigation any further. In these circumstances, the Attorney General ruled that the institution of criminal prosecution was not feasible. However, the Government expressed its willingness to take further necessary action if new evidence was provided.

1686. Concerning the case of **Kandasamy Sri Ram** (ibid. para. 963), the Government responded that on 24 November 2000, the CID had been ordered to initiate an investigation. However, when the CID attempted to interview him through the Consul for Sri Lanka in Hong Kong, where he left for, Kanadasamy Sri Ram stated that he did not wish to pursue the matter further. The CID investigation also revealed that when the Human Rights Commission of Sri Lanka invited him to file a formal complaint against the officials who allegedly torture him, he replied that he was not interested in initiating any procedure. In these circumstances, the attorney General, instructed the CID to terminate the investigations. However, the Government expressed its willingness to take further action on this case with the assistance of the Special Rapporteur in view to institute criminal proceedings against the alleged torturers.

1687. Concerning **Selvaraiah Thenuka** (ibid. para. 964), the Government responded that the CID had unsuccessfully attempted to find out the whereabouts of the girl in order to record her statement. The CID was later notified by an affidavit dated 10 December 2001 transmitted by the father of the alleged victim that the incident included in the Special Rapporteur's communication did not occur and that he did not want the matter to be further investigated. The father further stated that he did not want his daughter to undergo a medical examination, as requests by the CID. In these circumstances, the Attorney General advised the CID not to take further action.

1688. Concerning **Srilal Priyantha** (ibid. para. 965), the Government responded that the alleged victim had not made any formal complaint regarding the alleged torture and assault against the police officers. Since the version of the alleged victim lacked of credibility, the Attorney General instructed the Criminal Investigations Department to terminate its inquiries in relation to the case.

1689. Concerning **Pasupathipillai Yogendran** (ibid. para. 966), the Government responded that the CID had initiated an investigation on 20 November 2000. On 29 November 2000 a statement of the victim was recorded by the CID in order to ascertain the identity of the alleged perpetrators. However, the alleged victim had not been able to identify or describe them. In these circumstances, the Attorney General advised the CID not to take any further action regarding the case. The Government expressed that it would welcome any further information from the Special Rapporteur that would assist in its efforts to bring the alleged perpetrators to justice.

1690. Concerning **Luis Rama** (ibid. para. 968), the Government responded that a statement made by the alleged victim had been recorded on 19 March 2001 at Welikada Prison. In her statement, Luis Rama said that she had been assaulted and tortured by the Navy and the CID personnel while in custody. However, in affidavit sent on 27 November 2001 through her lawyer, the alleged victim requested the authorities to refrain from taking legal action against the alleged perpetrators. In this context, the Attorney General decided to terminate the proceedings after the authenticity of the documents submitted was checked.

1691. Concerning **Sivalingam Kajenthiran (Gajaindran)** (ibid. para. 969), the Government responded that the CID launched an investigation on 18 December 2000.

1692. Concerning **Rasanayakam Uthayakumar** (ibid. para. 970), the Government responded that according to a report dated 4 January 2001 issued by the JMO who conducted the post-mortem examination, there was no evidence that suggested that the death was due to a cause other than suicide by hanging. It was also reported that there was no evidence of previous injuries on the body. In absence of any other evidence, the Attorney General concluded on 24 February 2001 that the institution of criminal proceedings was not possible.

1693. Concerning **Sivam Ashokumar** (ibid. para. 971), the Government responded that the CID had initiated an investigation under the direction of the IMWG. This investigation revealed that the victim had been member of the PLOTE organization and had been assaulted and tortured by other members of the same organization during a dispute over misappropriation of the organization's finance. A medical report issued by the District Medical Officer corroborates that the alleged Sivam Ashok Kumar had been tortured. The CID investigation did not reveal any acquiescence by any official of the state either in the execution of the relevant act or in preventing the prosecution of the perpetrators. Two individuals were arrested by CID on suspicion of being involved in the incident. The latter had been granted bail pending the completion of a non-summary inquiry in the Vavuniya Magistrate Court. A hearing was scheduled to take place on 12 December 2002.

1694. Concerning **Arumugam Pakkiri** (ibid. para. 972), the Government responded that inquiries conducted by Vavuniya Defence Coordinating Unit had indicated that this person had not been arrested. The Government also informed the Special Rapporteur that so far any attempt to locate the alleged victim had

been unsuccessful. The Government expressed its willingness to continue in its efforts to trace his whereabouts in order to record his statement.

Observations

1695. The Special Rapporteur acknowledges the continuing disposition of the Government to provide him with detailed information on individual cases brought to its attention in the past. He takes note with interest of the creation of a Directorate of Human Rights and Humanitarian Law within the Sri Lankan Army and would appreciate further information on its activities.

1696. The Special Rapporteur notes with concern that no response has been provided to a number of cases brought to the attention of the Government since 1998. The Special Rapporteur considers it appropriate to draw attention to the views expressed by the Committee against Torture after consideration of the situation in the country under the procedure provided for by Article 20 of the Convention against Torture, a summary of which may be found in report A/57/44, paras 123-195.

Sudan

1697. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1698. **Sebit Hassan Ramada** was reportedly arrested in July 2001 in Rodom, Southern Darfur. It was reported that he had been kept in incommunicado detention in Buram for 16 days during which he had allegedly been beaten.

1699. **Haggar Sesingere** was reportedly arrested in July 2001 in Rodom, Southern Darfur, and kept in incommunicado detention for six weeks. He was believed to have been beaten and to have had his fingernails pulled out while in custody.

1700. **A group of 56 Christians**, among which six women and three children, were reportedly given 15 to 20 lashes each after being convicted of public disorder in April 2001 in a trial in Khartoum at which they were allegedly refused legal representation. It was alleged that they had been arrested at a meeting in a church and that police had used tear gas and live ammunition to disperse the crowd gathered inside.

1701. **Nagi Marghani Mohamed Salih**, a 24-year-old student at Omdurman College of Technological Science and member of the Student Democratic Front, was reportedly arrested by the Security Forces on Khartoum on 2 March 2002. It was reported that he had been taken to the Security Forces' offices near the Farough Cemetery (Maghabir Farough), where he was believed to have been beaten and threatened with rape with an empty bottle. As a result, he allegedly suffered from injuries on his ear, chest, back and legs. He was reportedly released on the same day.

1702. By letter dated 11 September sent jointly with the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur advised the Government that he had received information on **Alawiya Mohamed Abdullah**, a woman from Kad al Haboub, Darfour province, who had reportedly been sentenced for adultery on 4 June 2002, which is said to be punished with execution by stoning or one hundred lashes. The sentence was reportedly given and executed on the same day without allowing any opportunity for appeal and without any medical checks being carried out, despite the fact that Alawiya had allegedly recently given birth, was breast feeding, and was generally in a very poor state of health.

1703. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1999, 2000 and 2001 regarding which no reply had been received.

Urgent appeals

1704. On 8 January 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on extrajudicial, summary or arbitrary executions, on violence against women and on the situation of human rights in the Sudan on behalf of **Abok Alfa Akok**, an 18-year-old Dinka tribeswoman from Southern Darfur in Western Sudan, who had been sentenced to death by stoning for adultery. She was said to be pregnant at the time of her conviction and did not have legal representation during the trial. Reportedly, the trial was conducted in Arab, which is not her language. It was alleged that the sexual act this young woman is charged with was coerced.

1705. On 18 January 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on extrajudicial, summary or arbitrary execution and on the human rights situation in the Sudan on behalf of **Abdu Ismail Tong**, a student from Guinea and **Yousif Yaow Mombai** from the Democratic Republic of Congo, both Christians, who had reportedly been sentenced on 12 December 2001 by the Criminal Court in Nyala City, Darfur, to amputation of the right hand after being convicted under Article 171 of 1991 Penal Code of "hidyha" theft (alsargha alhadiyha). On 25 December 2001, the Special Court in Alfahir City, reportedly sentenced **Mohamed Adam Yahya** and **Ahmed Sulieman Mohamed** to execution by hanging, in addition to amputation of the right hand after being convicted of armed robbery. On 27 December 2001, the same court is believed to have sentenced **Adam Ibrahim Osman** and **Abd Allaha Ismail Ibrahim** to cross amputation, i.e., amputation of right hand and left foot, after being convicted of banditry (armed robbery) and possession of unlicensed weapons under Articles 162 and 168b of the 1991 Penal Code, which states that the punishment for armed robbery is cross amputation. Implementation of the execution is waiting the approval of the Head of provincial judiciary.

1706. On 24 January 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression and the on the human rights situation in the Sudan and the Chairman-Rapporteur of the Working Group on arbitrary detention on behalf of **Hassan Al Sayeir** who had reportedly been arrested in Niyala city on 10 January 2002 by security forces. He was

reportedly taken to a security forces' detention centre where he has been denied any visit from his family and his lawyer. It is believed that he is asthmatic and requires medication. However, despite the families' attempts to have it delivered to him, security forces are said to have refused to accept his medication. **Ibrahim Albashier Musa**, a student at the Niyala University and member of the Democratic Front of Sudanese Students (DFSS),

1707. a coalition of Democratic and Communist students, was reportedly arrested on 5 January 2001 by security forces in Niyala city. It is reported that he was then forced to return daily to the security offices for interrogation between 5 and 12 January, and reported that nearly daily he was subjected to various forms of ill-treatment. On 12 January, security forces are said to have arrested and detained him where he remained at the time of writing. **Hussain Adam Suliman**, a teacher at the Ed Da'ain Secondary School, was reportedly arrested on 5 January 2002, by security forces in Ed Da'ain City. It was believed that he remains in incommunicado detention in an undisclosed location. All three men were arrested by security forces for alleged involvement in the regional distribution of a public communiqué by the Communist Party, which condemned the government's policy regarding famine issues and tribal conflict in the Darfur region.

1708. On 2 May 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the situation of human rights in the Sudan and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Mohamed Mahmoud** and **Abdel Galeel Osman**, both aged 70, who were reportedly arrested on 20 April 2002 by members of the Security Forces in Gabra, Khartoum. While Mohamed Mahmoud was released on 23 April, Abdel Galeel Osman was said to continue to be held in incommunicado detention in an unknown location. On 21 April, Ahmed Sidahmed was reportedly arrested allegedly in connection with the political activities of his uncle, Mohamed Mahmoud.

1709. By the same urgent appeal, the Special Rapporteur sent a joint urgent appeal on behalf of **Mahmoud Hashim Ahmed Ali** who had reportedly been arrested in Aldouom on 20 April 2002 and was said to be held incommunicado in an unknown location.

1710. On 24 May, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on the right to freedom of opinion and expression and on the situation of human rights in the Sudan on behalf of **25 students who are members of the African National Front (ANF)**, who had reportedly been arrested on 21 May 2002 by the security services in Khartoum. They were allegedly charged with several offences ranging from "war against the State" to sedition, breaching public peace and causing injuries. The students were apparently arrested for taking part in a celebration marking the anniversary of the establishment of the Southern People's Liberation Movement/Army (SPLM/A), the main political and armed opposition movement in southern Sudan. The celebration, which was reportedly peaceful, was organized by the ANF, a national association of students originating mainly from southern Sudan.

1711. By letter dated 18 June 2002, the Government transmitted a response of the Advisory Council on Human Rights, which *inter alia* stated that the organization

of the demonstration mentioned in the Special Rapporteur's letter had negative consequences on the unity, security and stability of the country. It also notified that criminal charges were brought against each of the 25 students in question. The accused were defended by lawyers and were allowed to see their families. The Advisory Council also informed that procedures were conducted under the direct supervision of the office of the Director General of Public prosecutions of the Ministry of Justice and assured that security organs and personnel were not involved in the process. Finally, the Advisory Council informed that the court sentenced the students on 4 June 2002 for violations of relevant provisions of the Penal Code. This ruling is subject to appeal.

1712. On 30 May 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on the right to freedom of opinion and expression and on the situation of human rights in the Sudan and with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Yasir Ramadan, Abdullah Hamad** and **Adam Issa**, three students and members of the Umma Party, who had reportedly been arrested by the security forces, on 16 May 2002 in Nyala. According to the information received, the three students were arrested while they were assisting Umma party and Ansar Sect students to establish a students union. They were reportedly being held incommunicado at an undisclosed location.

1713. On 13 June 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on the right to freedom of opinion and expression and on the situation of human rights in the Sudan and the Chairman-Rapporteur of Working Group on Arbitrary Detention on behalf of the three following members of Organisatin of Islamic Call, *Monazmat Aldawa Al Islamiya*: **Dr. Alamin Mohamed Osman**, MDI Secretary General, who had reportedly been arrested in Almanshiya on 10 June. No charges have reportedly been brought against him. He is being held on suspicion of belonging to the banned People's National Congress (PNC), which was established during 2000 following a split in Sudan's ruling party in December 1999. Dr. Alamin is reportedly being detained at the Security Headquarter offices in Khartoum. **Abd Alaziz Fadi Almuola**, MDI Administrative Manager, was reportedly arrested on 10 June. **Salah Babiker Asmali**, MDI Finance Manager, was reportedly arrested on 11 June. Both men are thought to have been arrested on suspicion of belonging to the PNC and being supporters of Al Turabi. The whereabouts of both of these men remained unknown.

1714. On 24 June 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on the right to freedom of opinion and expression and on the situation of human rights in the Sudan and the Chairman-Rapporteur on Working Group on Arbitrary Detention on behalf **Professor El Amin Mohamed Osman**, Secretary General of Aldawa Al Islamiya, **Abdul Atiz**, **Fadi El Mula**, **Mohamed Mumin**, **Salah Asmali**, **Doctor Issa Buhra**, **Halima Abdul Daym (f)**, **Ismail Mustafa**, and **Mubarak**, all senior staff members of Aldawa Al Islamiya. It was reported that Professor El Amin Mohamed Osman, Abdul Atiz, Fadi El Mula and Mohamed Mumin were arrested by the security services on 12 June 2002 and the rest of the above-named persons, on 17 June 2002. All of them were believed to be currently detained incommunicado. Professor El Amin Mohamed Osman, who is suffering from diabetes and hypertension, was reportedly not allowed to bring

his medication to the place of detention. It was thought that Professor El Amin Mohamed Osman may be held at the security office in Khartoum North. Aldawa Al Islamiya is an international religious organization preaching the precepts of Islam and working on activities relating to charity, development and educational work. It was alleged that its staff members may have been arrested on suspicion of being closed to the Popular National Congress (PNC), which was banned in February 2001 by the government.

1715. On 26 June 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on extrajudicial, summary or arbitrary executions, on the independence of judges and lawyers, and on the situation of human rights in the Sudan on behalf of 14 prisoners charged with armed robbery who had reportedly been sentenced to death by the Niyala Special Court No1. On 8 May 2002, five of the detainees, namely **Mohamed Abakar Haroun, Khaleel Tahir Bashier, Adam Abd Allah Mohamed, Ahmed Jouma Mohamed and Habieb Ali Abd Algadir** were reportedly sentenced to death by hanging with crucifixion by the Niyala Special Court. The other detainees, namely **Adam Musa Biraima, Adam Alzain Ismail, Abd Allah Wadai, Mohamed Abd Alrasoul Thabit, Mohamed Abd Almahmoud Mohamed, Abd Allah Mukhtar, Hafiz Suliman Yahya, Hamad Mohamed Adam, and Dakhru Abd Allah Jouma**, were all reportedly sentenced to death by hanging by the same Court. This judicial body, reportedly established in accordance with the 1998 State of Emergency Act by the Governors of Southern and Northern Darfur Provinces, deals with crimes of armed robbery, crimes against the state, as well as crimes relating to drugs and public nuisance. Lawyers are reportedly forbidden to stand before the Special Court and plaintiffs are given the right to appeal only when sentenced to death or amputation. Under such circumstances, the appeal must be made within seven days of the sentence to the District Chief of Justice, whose decision is final. Accordingly, the aforementioned prisoners did not benefit from legal representation during their respective trials. Their lawyers have reportedly launched an appeal with the District Chief of Justice whose outcome is still being awaited.

1716. On 23 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on extrajudicial, summary or arbitrary executions, on the independence of judges and lawyers and on the situation of human rights in the Sudan on behalf of **eighty-eight people** who had been condemned to death by the "special" or "emergency" court in the city of Nyala on 17 July 2002. They reportedly were at imminent risk to be executed by hanging or crucifixion and had seven days to appeal to the Chief Justice of the Nyala District, southern Darfur Province, Western Sudan. These people were allegedly tried without proper legal representation. At least 35 of the detainees allegedly complained of being badly beaten with sticks, gun butts and hoses by police officers in Nyala in June. Their defence lawyers reportedly asked the court for medical examinations to be carried out on those who were allegedly tortured. This request was allegedly refused and on 2 July the defence lawyers reportedly withdrew from the court in protest at this decision. They were part of a group of at least 130, mostly from the Rizeigat community in southern Darfur, who had been arrested on 6 May. They were allegedly convicted of having participated in the recent clashes between the Rizeigat and the Maalyia ethnic groups in Al-Tabet, Southern Darfur.

1717. On 25 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on the right to freedom of opinion and expression, on extrajudicial, summary or arbitrary executions and on the situation of human rights in the Sudan and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Salah Mohamed Abdel Raham**, a community leader for the Rizeigat tribe involved in tribal peace initiatives (People to People Peace Dialogue), who had reportedly been held incommunicado by the security forces in Darfour since 9 July 2002. He was reportedly arrested because of his connection with 26 men detained after clashes between the Rizeigat and Ma'aliya tribes. He and the 26 other detainees, who are reportedly facing the death penalty, have since been transported to Port Sudan via Wad Meddani.

1718. On 26 August 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the situation of human rights in the Sudan and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Abdel Wahid Mohamed Ahmed Nour, Nafir El Din Tampour, Ahmed Ibrahim and 63 others** who had allegedly been arrested between July and August 2002 in Zalingei, Tour and Nyartati in Western Darfur province, and Golou in Jebel Mara province. They were reportedly arrested following an attack by armed militia on the village of Tour, Western Darfur, in early July and accused of involvement in a new armed political group called the Darfur Liberation Front. It was believed that some had been tortured by the security forces and that they were being held in very poor conditions in Nyala. The whereabouts of Ahmed Ibrahim and 23 other persons were unknown. Eleven of the detainees were said to be seriously ill: Nafir El Din Tampour was reportedly arrested from his hospital bed where he was being treated for kidney problems; Abdel Wahid Mohamed Ahmed Nour was said to have only has one lung.

1719. On 11 September 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the situation of human rights in the Sudan on behalf of **Rehab Abdel Bagi Mohamed Ali** (f) and **Farid Abbas** who had reportedly been arrested on 1 September 2002. No reasons were said to have been given for their arrests. The Sudanese Security Forces have reportedly refused to disclose their whereabouts. She was believed to be detained in the political section of the security forces' offices near Farouk cemetery in Khartoum.

1720. On 30 September 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Dawood Haroon**, who had reportedly been arrested in June 2002 in Darfur province. He was said to be held incommunicado and without charge by the security forces in the town of Zalingei, Western Darfur. He was then reportedly transferred to a detention centre in the town of Nyerteitei, Western Darfur, before being transferred back to Zalingei. The Special Rapporteur welcomed the information according to which other individuals arrested at the same time as him were released. It was however alleged that some of them were tortured during their detention, while others are said to be suffering ill-health because of poor conditions of detention.

1721. On 29 October 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on the situation of human rights in the Sudan and on the

right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Ahmed Isameldin, Amunel Ageigel, Mao Rominio, Yaser Mohamed Abdallah, Hisham Ali, Ahmed Al Amir Mohamed, Musaab Abulhassan, Talal Abdulrahman, Ahmed Al Azhari (AL-Zaeem), Yasir Mohamed Abdelrahman, Abdullah Hassan Gaafar, Digheim Osman, Mohamed Abdullah, Alrashir Tamim Al Dar, Mutasim Ahmed, Abbas El Jack, Abu Median Hamdan, Mahmoud Satti, El Naeim Ali, El Sahfie Ibrahim, Omer Hassan** and **Mohamed El Tayib**, as well as a number of other students, who had reportedly been arrested by the security forces between 10 and 24 October 2002 and were said to be held at various security offices. Their arrests seemed to be connected with previous clashes between security officers and students at the University of Bahr-El-Ghazal after students attempted to celebrate the 38th anniversary of demonstrations against the military Government of General Abboud in October 1964. Alrashir Tamim Al Dar was reported to have lost consciousness after being beaten; Ahmed Al Amir Mohamed was said to have a bullet lodged in his right leg; and Mutasim Ahmed, in his shoulder.

1722. On 20 November 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on extrajudicial, summary and arbitrary executions and on the situation of human rights in the Sudan on behalf **Mohamed Ibrahim Abdallah, Sadul Adam Abdelrahman, Abdullah Rabhi, Mohamed Hamid Ahmed** and **Mohamed Issa Tiue**, who were reportedly at imminent risk of cross-amputation and execution by hanging. They were allegedly held in Kober prison in Khartoum. The Constitutional Court in Khartoum reportedly rejected their appeal. They had reportedly been found guilty of a bank robbery in Nyala in 1998 and sentenced on 18 March 1999. It was believed that they had been denied legal representation.

1723. On 22 November 2002, the Special Rapporteur sent a joint urgent appeals with the Special Rapporteur on the situation of human rights in the Sudan and Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Garang Wek Atheny, Gabriel Akol Akol Kuc, Ajiing Lual Lual** and **Ahmad Labuo**, and the following Dinka civil servants: **Andrew Lual Buolo, Gabriel Lual Deng, Lino Garang Athian, Garang Mawien Angok** and **Gai Gai**, who had reportedly been arrested on 20 October 2002 in Aweil, the capital of Northern Bahr al-Ghazal state. They were allegedly held incommunicado at the General Army Headquarters in Khartoum North.

1724. On 25 November 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on the right to freedom of opinion and expression and on the situation of human rights in the Sudan and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **25 students of the University of Khartoum**, at least 11 of whom had reportedly been arrested. On 12 November 2002, an Islamic student militia group said to support the Government, together with a new unit of armed security forces called the City War Forces raided student halls of residence on the campus of the Faculty of Education. These raids were reportedly in response to a student strike in protest against attacks on student demonstrators by security forces on 22 October 2002 and against the banning of Khartoum University Students Union (KUSU). Students

were allegedly beaten at random with iron bars, guns and iron chains. 14 were reportedly admitted to hospital, including **Mujahid Yousif, Mohamed Ahmed Fadl Al Moula, Usma Al Amin Alrayah, Omar Abdelrahman, Musa Al Adam Alshiekh, Walid Alhaj Mustafa, Muhasab Anwar Muhasab, Alshafieh Alamin, Amar Abdelsalam, Alyaghout Issa, Osman Moahmed Osman, Abdelgadir Musa Mohamed, Awad Al Gied Moahmed and Mohamed Abdulla.**

1725. By the same urgent appeal, the Special Rapporteur also intervened on behalf of 20 students who had reportedly been admitted to hospital after having been seriously injured after the same security units had raided on 13 November 2002 student hostels at Shampat: **Gorashi Hamid, Omar Osman, Fatah Arahman Aldaw, Alamin Barkat, Gosai Osman, Husham Ahmed, Ahemd Izaldin, Yasir Jammied, Sohail Mohamed Osman, Faris Alhassan, Nusaiba Abdelrahim, Ahmed Ali Abdelrahman, Muhnad Abdelrahim, Ahmed Mohamed Osman, Yosif Moahmed Abdulla, Abdelrahman Shamo, Sami Mohamed Osman, Omar Alhozouli, Walid Atta and Altayib Abu Algasim.** They were said to have been later arrested and taken to Omdurman East police station before being transferred to security forces offices in Al Sahafa East in Khartoum, where they were allegedly tortured. Some were allegedly taken to the offices of the District Attorney for Crimes against the State for interrogation.

1726. On 3 December 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on violence against women, its causes and consequences, on the situation of human rights in the Sudan and on the independence of judges and lawyers on behalf of 17 women from the village of Munwashi, in Darfour, Western Sudan, who had reportedly been accused of adultery between 12 and 20 November 2002. Apparently, the reason given for these charges was that they are all unmarried, but have given birth to babies who were between the ages of 6 and 18 months. Summary trials were reportedly held on 12, 14 and 20 November and the following women were sentenced to receive 100 lashes: **Um Alnas Mohamed Ahmed, Hanan Abdulrahman Mohamed, Hagir Mohamed Ahmed, Nimat Abakr Abdelgadir, Rasha Bahr Aldin Adam, Fatima Abdulla Adam, Gada Mosa Hamid, Shamael Omar Fadl, Hawa Yousif Abdelgadir, Fathia Ahmed Abdulrahman, Laila Adam Siraj, Kaltoum Isam Adam, Rawda Abdelgabar Mohamed and Gadah Abdelgabar.** The sentence was allegedly carried out the same day. The women had reportedly no opportunity to seek legal advice or to make appeals. No men have reportedly been charged in connection with the incidents. **Zahra Hassan Ali, Asma Mohamed Ahmed and Zakia Altayeb** had reportedly not yet been brought to court.

1727. On 4 December 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the situation of human rights in the Sudan and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of the three following brothers: **Al-Shafi' al-Tayeb Yusuf, Hashem al-Tayeb Yusuf** and **Khidder al-Tayeb Yusuf**, who had reportedly been arrested on 29 November 2002 by members of the security in the Kalakla suburb of Khartoum looking for their brother Lenin al-Tayeb Yusuf, a student leader of the Sudan Students' Democratic Front. They were reportedly being denied access to lawyers and family members.

1728. By the same urgent appeal, the Special Rapporteur intervened on behalf of **Mohamed Awad Abdalla** and **Hussam Aldin Yousif**, who had reportedly been arrested by security officers on 13 November 2002 in the Shambat area. The men were reportedly first taken to offices belonging to the political section of the security forces near Maghabir Farough in Khartoum, and were later transferred to the Executive Security offices inside the building of the Army General Command Headquarters (Alghiyada Ala'amma). They were allegedly subjected to beatings with water hoses and whipped with "soots" (leather whips). Hussam Aldin Yousif was reportedly released on 26 November, after he allegedly signed a pledge promising not to get involved in any future demonstrations against the regime. Mohamed Awad Abdalla was reportedly transferred to Kober prison, where he remained in detention without charge or trial. On the same day, **Ahmed Hussain** was reportedly arrested from his hospital bed in Omdurman hospital, where he was receiving medical care after being injured during clashes between students and the police. He was reportedly released on 25 November.

1729. Finally, the Special Rapporteur intervened on behalf of **Atif Alsouni** who had reportedly been arrested on 22 November 2002 from the Alrank student association building in Abu Sie'ed, Omdurman. His whereabouts were said to be unknown. **Omer-Al Farouk Omer Abdel Aziz** was also reportedly arrested on 1st December 2002 from the campus of the University of Khartoum and was allegedly beaten upon arrest. He was said to be sick and to make daily use of medicines. His whereabouts were reportedly unknown.

Observations

1730. The Special Rapporteur remains seriously concerned by the information he brought to the attention of the Government, in particular through the sending of urgent appeals, and regrets that he was not provided with any reply.

Sweden

Urgent appeal

1730. On 10 January 2002, the Special Rapporteur sent an urgent appeal on behalf of **the wife and five children of Ahmed Hussein Mustafa Kamil Agiza** who had reportedly been denied refugee status in Sweden in an unfair procedure, and were also at risk of forcible return to Egypt. The Special Rapporteur requested information regarding measures to ensure that their claims for protection would be examined in a fair asylum procedure.

1731. By letter dated 27 February 2002, the Government informed the Special Rapporteur that on 14 January 2002 the Committee against Torture requested Sweden not to proceed with the expulsion while the case is under consideration by the Committee. Accordingly, the Swedish Migration Board decided on 18 January 2002 to stay the enforcement of the decision to expel them. By letter dated 7 April 2002, the Government informed that according to the Security Police, Ahmed Agiza had a leading role in an organization involved in terrorist activities. Under these circumstances, the Migration Board referred the case to the Government on 12

November 2001. One month later, the Swedish authorities sought guarantees that Ahmed Agiza and his family would be treated in accordance with international law upon their return in Egypt. Based upon the guaranties received, on 18 December 2001, the Government decided not to grant them permission to reside in Sweden and ordered their expulsion, which was enforced on the same day. The Government also informed that the Swedish Ambassador in Cairo has so far twice visited Ahmed Agiza in prison in Cairo and will continue to visit him. According to the Ambassador, he showed no signs of having been subjected to torture. The detainee was also visited by a Swedish journalist, his parents and a lawyer. The Ambassador has been given the possibility to be present at Ahmed Agiza's trial. On 8 March 2002 a detailed report of this case was transmitted to the Committee against Torture on behalf of the Government.

1732. On 19 April 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on violence against women, its causes and consequences, and on extrajudicial, summary or arbitrary executions on behalf of **Mahnaz Allayveysi Ghasem**, of Kurdish origin, who was said to face imminent and forcible repatriation to the Islamic Republic Iran, where she may be at risk of torture and other forms of ill-treatment or even honour killing. It is alleged that her family threatened her by phone with death for living in a non-marital status with a man in Finland. In November 2001, she reportedly filed an application for asylum. It is reported that this application has now been rejected and that there is no appeal available. A first attempt to deport her to Iran was made on 17 April 2002, but the captain of the air plane refused to take her on board because of her state of agitation. She was then taken to Karolinska Sjukhuset hospital where she had already been treated for an incurable brain tumour. Furthermore, they reportedly indicated that further examinations would be needed in three months time to decide whether chemotherapy may have an effect. She is said to be seriously depressed and to begin to lose contact with her environment because of her brain tumour.

1733. By letter dated 29 April 2002, the Government informed the Special Rapporteur that Mahmaz Allaveysi Ghasem applied for asylum under another name on 14 April 1998. In her application she claimed that she fled Iran when the authorities discovered that she and her husband were involved with the Kurdish Democratic Party of Iran (KDPI). As the Migration Board decided not to grant her permission to reside and the Aliens Appeal Board refused her appeal, she left from Finland, where she applied for a residence permit under a different name. In accordance with the Dublin Convention, she was returned to Sweden, she applied for a residence permit under a third name and acknowledged that the previous information she provided to the authorities was false. She reported that she had been ill-treated by her Iranian husband when they were living in Germany. She also stated that she could not return to Iran because she lacked work and a place to live and risked being stoned for adultery or being killed by her family. On 3 December 2001, the Migration Board decided not to grant her a residence permit based upon the consideration that the information she had provided was not reliable due to the fact that she had been given different information at different stages of the asylum investigation. In her appeal to the Aliens Appeals Board she stated that she was probably suffering from a brain tumor. However, the Board considered that her health condition was not a sufficient reason in accordance with law, to grant her a residence permit and noted that she should be able to have access to treatment for her condition

in her home country. She further filed other three applications with the Board, which were turned down on 25 March 2002 and 17 April 2002 respectively. On and 23 April 2002, the Board decided to stay the enforcement of the decision on refusal of entry awaiting the outcome of its decision on a third application filed by the alleged victim. The Government also informed that there has been no application filed with the European Court of Human Rights which has been forwarded to the Government. The Government further indicated that the Special Rapporteur's communication had been transmitted to all relevant authorities dealing with aliens' rights. Finally it informed that persons with a well-founded fear of persecution because of gender or sexual orientation can be granted subsidiary protection.

Switzerland

Appel urgent

1734. Le 22 février 2002, le Rapporteur spécial a envoyé un appel urgent en faveur de Hüseyin Arslan, un citoyen turc d'origine kurde, qui se trouvait en rétention à l'aéroport de Zurich et qui faisait l'objet d'un arrêté d'expulsion vers la Roumanie, premier pays dans lequel il se serait rendu après avoir quitté la Turquie. Il serait arrivé sur le territoire suisse le 12 février 2002 après avoir été libéré d'une prison de type F en raison de son état de santé préoccupant suite à la grève de la faim «tournante» qu'il aurait entamée en octobre 2000 pour protester contre l'isolement cellulaire et les brutalités policières. Un rapport médical attesterait d'une grave déficience de sons système nerveux, de problèmes d'ouïe et de vue, ainsi que d'une perte de mémoire, nécessitant des soins appropriés. Sa libération conditionnelle aurait été assortie d'une interdiction de sortie du territoire.

1735. Par une lettre datée du 7 mars 2002, le Gouvernement a précisé qu'il n'a pas été expulsé vers la Roumanie. En effet, la Commission suisse de recours en matière d'asile (CRA) a déclaré recevable son appel et son renvoi a été suspendu en attente de la conclusion de la procédure de recours.

Syrian Arab Republic

Urgent appeals

1736. On 18 January 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Riad Sairafi, Ahmad Sairafi and Jamal al-Masri** who are three relatives of Mamun al-Humsi, a member of Parliament. They were believed to have been arrested by members of the military intelligence accusing them of provoking "public disorder" on 26 December 2001, after they applauded Mamun al-Humsi at the latest hearing of the latter's trial, at the Damascus Criminal Court. They are now reportedly held in 'Adra Prison, where Mamun al-Humsi had been held incommunicado since his arrest on 9 August 2001. He was put on trial before the Criminal Court in Damascus on 30 October, charged with offences including "attempting to change the constitution by illegal means". It was also believed that other relatives of Mamun al-Humsi are being harassed and intimidated by the authorities.

1737. By letter dated 11 April 2002, the Government confirmed that they had been arrested upon an order issued by a judge. They were subsequently released.

1738. On 11 April 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers and the Chairman-Rapporteur of the Working Group on arbitrary detention on behalf of **Riad Seif**, an independent member of the Syrian People's Assembly who was sentenced to five years imprisonment on 4 April 2002 by the Criminal Court in Damascus. He was reportedly found guilty of a number of offences, including attempting to change the Constitution by illegal means and inciting ethnic strife. It is reported that Riad Seif was arrested without a warrant, before his parliamentary immunity had been removed. Furthermore, several other prisoners, including **Habib 'Isa, Fawaz Tello, Habib Saleh** and **Kamal al-Labwani** who were also held at 'Adra Prison, on the outskirts of Damascus, began a hunger strike on 19 March. They are reportedly protesting against their continued detention without trial, the denial of access to their lawyers and the denial of appropriate medical care.

1739. On 22 April 2002, the Special Rapporteur on the right to freedom of opinion and expression and Special Representative on human rights defenders on behalf **Aref Dalilah**, a former dean of the faculty of economics of Aleppo University, who had been arrested in Damascus in September 2001 along with four other persons, on behalf of whom the Special Rapporteurs, in conjunction with the Special Representative on human rights defenders, had intervened on 14 September 2001. He was said to be an active member of the preparatory committee of the Civil Society Forum, which campaigns for human rights, political participation and freedom of expression in Syria. He was reportedly charged by the Supreme State Security Court, with inter alia attempting to change the Constitution by illegal means. He was reportedly taken from his cell in Sednaya Prison the first week of April 2002 to a hospital in the capital Damascus. He was allegedly suffering from deep vein thrombosis (DVT) which has potentially serious consequences such as a fatal pulmonary embolism or blood clot in the lung. It was feared that he had been returned to prison before receiving any medical treatment.

1740. On 10 May 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers on behalf of **Riad al-Turk**, who had reportedly been arrested on 1 September 2001 at a medical office whilst receiving treatment for a heart condition. He also suffers from diabetes and hypertension. It was believed that he was being denied access to adequate medical treatment and to his lawyer. He was brought before the Supreme State Military Court in Damascus on 28 April 2002 for the first hearing in his trial, allegedly without having been informed of the commencement of his trial nor had documents relating to the case been made available to him.

1741. On 24 June 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Musallam Shaykh Hasan**, a leading member of the Syrian Kurdish Democratic Unity Party, who had reportedly been arrested on 7 May 2002 by members of the political security forces. He was detained in Ayn al-Arab on charges of distributing Kurdish political literature. He was reportedly taken to the Aleppo Political Security

Department and later transferred to a detention centre in Damascus, where he was reportedly being held in incommunicado detention.

1742. On 10 December 2002, the Special Rapporteur sent an urgent appeal on behalf of **Muhammad Sa'id al-Sakhri, Maysun Lababidi**, his wife, as well as their children, **Ragda al-Sakhri, Muhammad al-Sakhri, Marwa al-Sakhri** and **Rudina al-Sakhri**. They were believed to be currently held incommunicado after having been forcibly returned by the Italian authorities on 28 November 2002. It was feared that they may be held at one of the Syrian intelligence interrogation centres in Damascus. Muhammad Sa'id al-Sakhri and his family had arrived in Milano airport in Italy on 23 November having travelled from Baghdad in Iraq via Amman in Jordan. The family had lived in exile in Baghdad for more than 11 years. Upon arrival in Italy the family was reportedly denied an asylum interview by the Italian authorities. The family was then deported to Syria on 28 November. Muhammad Sa'id al-Sakhri had reportedly been charged in 1982 by the Syrian authorities with membership of the unauthorized Muslim Brotherhood Organization.

Follow-up to previously transmitted communications

1743. By letter dated 14 March 2002, the Government responded to an urgent appeal sent by the Special Rapporteur jointly with the Special Representative on human rights defenders and the Special Rapporteur on freedom of opinion and expression on behalf of **Mamun al-Humsi** on 13 August 2001 (E/CN.4/2002/76/Add.1, para. 1566). The Government informed that he was permitted to engage ten lawyers and to be visited by them and his family and friends while in detention. He was also provided with medical care, medication and treatment free of charge. His trial was held in open court and attended by representatives of several embassies and representatives of international news agencies. The Government further indicated that the alleged victim appealed to the Court of Cassation, which was reviewing his case at the time this response was transmitted.

Observations

1744. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Human Rights Committee in its consideration of the second periodic report of the Syrian Arab Republic in April 2001 under the Covenant on Civil and Political Rights, in which the Committee expressed its deep concern about "constant and duly substantiated allegations of violations of article 7 of the Covenant, to which the delegation did not respond, which are attributed to law enforcement personnel. It notes with concern the many allegations that torture is practised in Syrian prisons, particularly Tadmur military prison. (...) The Committee takes note of the information provided by the delegation on the conditions of detention in Syrian prisons. It nonetheless remains concerned about the many allegations of inhumane prison conditions and inadequate medical care in a number of prisons, particularly military prisons, including Tadmur prison." (CCPR/CO/71/SYR, paras 12 and 13)

Thailand

Urgent appeals

1745. On 19 June 2002, the Special Rapporteur sent an urgent appeal on behalf of **Abdel Khader Thiga**, an Algerian national and former member of the Department of Research and Security who was reportedly currently detained in the Immigration Detention Centre in Bangkok and was said to be at risk of being forcibly sent back to Algeria before the end of June 2002 due to exclusion from refugee protection pursuant to Article 1F of the 1951 Convention relating to the Status of Refugees. In his capacity as former member of the Military Security, he was allegedly responsible for information gathering on alleged members or sympathisers of armed opposition groups in Algeria. He reportedly belongs to a small group of former members of the security forces who have made public accounts of human rights violations committed by the State in Algeria.

1746. By letter dated 28 June 2002, the Government responded that upon being informed of his pending criminal charges in Algeria, it requested the Algerian Government to transmit a number of documents related to Abdel Khader Thiga's case and the guarantee that the charges for which extradition was sought were not military or politically motivated. However, the Thai Government did not receive any reply from the Algerian Government providing it with the requested information. Since his passport was to be expired on 15 June 2002, his prosecution could not be carried out under Thailand's jurisdiction, he was not granted refugee status and he had already served his sentence under Thai immigration law, the authorities decided to deport him. Abdel Khader Thiga agreed to the deportation but requested that his flight route included a number of transit stopovers in Ethiopia, Ivory Coast and Morocco before reaching Algeria. The authorities accepted this request and scheduled the flight for 3 June 2002. However, in the meanwhile, the alien changed his mind and stated that he did not want to be repatriated to Algeria. He was brought back to the Immigration Detention Centre, where he was still held at the time the Government transmitted this response.

1747. On 23 August 2002, the Special Rapporteur, jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions sent an urgent appeal on behalf of **Aung Kyaw Soe**, **Thien Lwin** and **Wunna**, members of the Democratic Party for a New Society (DPNS), **Aung San Nyunt**, **Zaw Weik** and **Nan Nay Chi** (f), members of the National League for Democracy- Liberated Area (NDL LA), **Thien Lwin**, **Htet Khaing**, **Khin Moe Way** (f) and **Mem Thet San**, members of the All Burma Student's Democratic Front (ABSDF), **Mi Li Tanyar Mon** (f) and **Nai Mon Kyai Hlaing**, members of Mon Youth Progressive Organization (MYPO), **Aung Htoo**, member of the People's Democratic Front (PDF), **Naw Kha Yu**, member of the Karen National Union (KNU) and 20 adults and children attending a Baptist Church. They were said to be pro-democracy activists of Myanmar that took refuge from persecution by the military government of Myanmar. All of them were reportedly charged with illegal entry and arrested on 20 August 2002 by the police. At the time the Special Rapporteur sent this urgent appeal, they were reportedly held in Sankhlaburi town, Kanchanaburi province, on the border with Myanmar. The Government of Thailand had reportedly announced that they would be imminently and forcibly repatriated to Myanmar. Fears were expressed that they may be at risk of

execution, torture or other forms of ill-treatment if they are handed over to the State Peace and Development Council (SPDC) troops.

1748. By letter dated 28 November 2002, the Government responded that the arrest of the mentioned Myanmar nationals had been made as a rendition of law enforcement measures. The Government added that those who are entitled to the right to stay in Thailand are requested to observe Thai laws and regulations, including the prohibition that they refrain from conducting activities against the Government of neighboring countries. Any failure to observe such regulation shall result in nullification of such rights. The Government reassured the Special Rapporteur that no human rights violation was committed in the process of deportation. Indeed, it was witnessed by police officers from the Sangklaburi district and military officers in the area, as required by the rules of procedure in the matter. The destination of the deportation was also verified as a safe area. It was also subsequently reported that all the deportees were safe.

The former Yugoslav Republic of Macedonia

1749. By letter dated 13 September 2002 sent jointly with the Special Rapporteur on racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur advised the Government that he had received information on **Albert Ibraimov**, a Roma teenager, who was reportedly arrested on 4 June 2002 by two female police officers while he was washing car windows at an intersection in Skopje. It was reported that he had been forced to enter a police van, that his neck had been hit and that he had been taken to the Beko police station, where he was believed to have been beaten up with truncheons by the two female police officers. A male officer, alleged to belong to the reserve police forces, was also said to have slapped him on the face. It was believed that as a result of the treatment he had allegedly been subjected to, he lost consciousness. He was also believed to have been insulted on his Roma origin. He was eventually released on the same day. On 5 June 2002, he reportedly received medical treatment at the Skopje city hospital for his bruises in particular on the upper part of the back and head. He was said to have had blood in his urine for several days.

Trinidad and Tobago

Follow-up to previously transmitted communications

1750. By letter dated 20 December 2001, the Government responded to a letter sent by the Special Rapporteur on 3 October 2001 (E/CN.4/2002/76/Add.1, paras. 1575 to 1578).

1751. Concerning **Michael McKenna** (ibid., para. 1576), the Government confirmed that he was indeed removed from the Infirmary but subsequent to consultation with the Senior Infirmary Officer, he was brought back there. The Government also indicated that only trained paramedics and the Prison Medical Officer made recommendations as to whether an inmate was to be housed at the infirmary or at another location.

1752. Concerning **Narine Sooklal** (ibid., para. 1577), the Government responded that a medical report from the Prisons Medical Officer dated 14 August 2001

confirmed that the inmate sustained an old injury to his left leg as a result of which he needed crutches. The Government further indicated that his medical needs were being adequately looked after.

1753. Concerning **Anton Cooper** (ibid., para. 1578), the Government responded that the Commissioner of Prisons had instituted an investigation, which was conducted by a Superintendent of prisons. Based upon the results of the investigation, the case was referred to the Ministry of National Security with the recommendation that an independent inquiry should be undertaken. The matter was being investigated by the police at the time the Government transmitted this response.

Tunisia

1754. Par une lettre datée du 2 septembre 2002, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des renseignements sur le système d'isolement au sein des prisons d'après lesquels les prisonniers soumis à un tel régime n'auraient aucun contact avec le monde extérieur à la prison et, dans certains cas, ne seraient même pas autorisés à communiquer avec d'autres prisonniers. Ils n'auraient pas non plus la possibilité de lire des journaux ou d'utiliser la radio ou la télévision. Les murs des cellules d'isolement seraient peints en noir et une très faible lumière éclairerait ces cellules en permanence. Les toilettes consisteraient en un trou dans un coin de la cellule. Selon le règlement disciplinaire pénitentiaire 88/1876, un détenu ne peut être isolé que pour une période maximale de 10 jours. Selon les renseignements reçus, un détenu peut néanmoins être mis en cellule d'isolement sur simple décision d'un agent pénitentiaire jusqu'à ce que le conseil de discipline de la prison prononce la peine d'isolement, qui ne prend pas en compte le temps déjà passé par le détenu concerné en cellule d'isolement.

1755. Par cette même lettre, le Rapporteur spécial a informé le Gouvernement qu'il avait reçu des renseignements sur les cas individuels suivants.

1756. **Ali Larayedh** aurait été arrêté en décembre 1990 et condamné à 15 ans de prison fermes par un tribunal militaire. Depuis son arrestation, il aurait été détenu en isolement total à la prison civile 9-avril à Tunis. Il serait asthmatique et allergique à l'humidité et n'aurait jamais reçu de soins médicaux. Le 7 juin 2001, il aurait commencé une grève de la faim pour dénoncer les conditions dans lesquelles il est détenu.

1757. **Belgacem Jedidi Yâacoubi** aurait été frappé à mort le 24 avril 2001 par des gardiens de la prison 9-avril à Tunis où il était détenu. Il aurait été ainsi puni pour avoir soutenu une grève de la faim menée par des prisonniers qui seraient détenus pour des raisons politiques. Le 27 avril 2001, le Ministre de la justice aurait nié toute implication des autorités pénitentiaires.

1758. **Ryadh Bouslama** serait décédé des suites de mauvais traitements qu'il aurait subis à la prison de Monastir le 29 décembre 2000.

1759. **Hassène Azouzi**, âgé de 18 ans, serait décédé dans des circonstances non élucidées le 12 mai 2001 à la prison civile de Tunis. Lors de son arrestation, il aurait été pourtant bien portant.

1760. **Mohamed ben Janeb** serait décédé fin mai-début juin 2001 après avoir été agressé par le directeur de la prison d'el-Houareb (Kairouan) et trois de ses agents.

1761. **Mohamed Ben Abdelmaji Ayari** aurait perdu l'usage d'un œil après avoir été violenté par un agent de la «brigade de secours» de Bouchoucha-le Bardo le 21 juillet 2000.

1762. **Abdelatif Bouhajila** aurait été condamné à 17 ans de prison en novembre 2000. En mai 2001, il aurait entrepris une grève de la faim dans la prison de Borj Erroumien (Bizerte) pour protester contre les mauvaises conditions de détention. Bien que souffrant d'asthme, d'une maladie rénale et de problèmes de coagulation du sang, il aurait été placé dans une cellule surpeuplée où il aurait été forcé de dormir à même le sol et où il n'aurait pas reçu d'attention médicale. En juillet 2001, après avoir été soumis à des mauvais traitements de la part d'un des fonctionnaires carcéraux, il aurait été transféré à la prison civile de Tunis.

Appels urgents

1763. Le 4 février 2002, le Rapporteur spécial a envoyé un appel urgent conjoint avec le Rapporteur spécial pour la promotion et la protection du droit à la liberté d'opinion et d'expression et le Rapporteur spécial sur l'indépendance des juges et des avocats en faveur de **Hamma Hammami**, président du Parti communiste ouvrier tunisien (PCOT), et trois de ses camarades, **Abdeljabar Maddouri**, **Samir Taamallah** et **Ammar Hamroussia**, qui se sont présentés le 2 février 2002 à l'ouverture de leur procès après avoir passé plusieurs années dans la clandestinité. En août 1999, Hamma Hammami, Abdeljabar Maddouri et Samir Taamallah avaient été condamnés par la cour d'appel de Tunis pour appartenance au PCOT à neuf ans et trois de mois de prison. Ammar Hamroussia avait, lui, été condamné en 1997 à deux ans de prison et avait décidé de sortir de la clandestinité lors de l'ouverture du procès de ses trois camarades. La police aurait massivement investi la salle d'audience et aurait violemment molesté les quatre inculpés susnommés, en particulier dans les cellules du palais de justice lors des interruptions d'audience qui auraient eu lieu à trois reprises. Suite à ces débordements, les 200 avocats constitués auraient pris la décision de se retirer du procès pour dénoncer la gravité de l'intervention policière. Au terme de l'audience, le tribunal aurait confirmé les peines de prison ferme pour Hamma Hammami et Samir Taamallah et Abdeljabar Maddouri. À leur sortie du palais de justice, ils auraient été emmenés dans un fourgon de police pour une destination que les sources policières et judiciaires ont refusé de préciser. Des dizaines de personnes auraient été arrêtées et blessées, dont au moins trois journalistes étrangers. La fille cadette d'Hamma Hammami aurait été frappée et Ammar Hamroussia aurait été arrêté en pleine rue et aurait subi des violences malgré l'intervention des personnes présentes. De plus, Samir Taamallah serait dans un état préoccupant. Il aurait eu du mal à se tenir debout.

1764. Le 28 février 2002, le Rapporteur spécial a envoyé un appel urgent en faveur de **Hamma Hammami**, qui aurait entamé, le 27 février 2002, une grève de la faim illimitée pour protester contre ses conditions de détention à la prison du 9-avril à Tunis. Malgré la loi tunisienne qui interdit de mélanger les personnes définitivement condamnées aux autres détenus, Hamma Hammami serait incarcéré dans une cellule

disciplinaire en compagnie de deux détenus purgeant de lourdes peines. De plus, il souffrirait de tachycardie et de sinusite que risque d'aggraver son confinement dans une cellule enfumée de 6 mètres carrés dénuée de toute aération. Depuis son incarcération, il n'aurait pu recevoir la visite de ses avocats qu'à trois reprises, visites autorisées au terme de difficiles batailles administratives. Son épouse, l'avocate Radhia Nasraoui, refuserait les visites familiales tant qu'elles se dérouleront dans les conditions suivantes: le détenu serait séparé de ses visiteurs par deux grillages formant un couloir le long duquel circule un gardien. Samir Taamallah et Abdeljabar Maddouri, ses co-inculpés du 2 février, dormiraient à même le sol et devraient attendre une journée entière pour pouvoir uriner.

1765. Le 6 juin 2002, le Rapporteur spécial a envoyé un appel urgent conjointement avec le Rapporteur spécial pour la promotion et la protection du droit à la liberté d'opinion et d'expression, le Président-Rapporteur du Groupe de travail sur la détention arbitraire et la Représentante spéciale du Secrétaire général pour la question des défenseurs des droits de l'homme en faveur de **Zouhair Yahyaoui**, le fondateur et principal animateur du site Internet TUNeZINE, qui aurait été arrêté le 4 juin 2002. Son matériel informatique aurait été confisqué. Depuis son arrestation, sa famille n'aurait reçu aucune nouvelle et le lieu de sa détention reste inconnu. Le site Internet TUNeZINE serait un site de diffusion d'informations sur la situation des libertés fondamentales en Tunisie et dispose de deux forums de discussion libre. À la veille du référendum du 26 mai 2002 portant sur la réélection du président de la République, une conférence nationale virtuelle aurait en particulier été organisée. TUNeZINE aurait par ailleurs été l'un des premiers sites à diffuser la lettre ouverte du juge Mokhtar Yahyaoui, le 6 juillet 2001, dans laquelle ce dernier critiquait le manque d'indépendance du pouvoir judiciaire.

1766. Par une lettre datée du 22 août 2002, le Gouvernement a assuré que la famille du prévenu avait été aussitôt informée de son arrestation et de son lieu de détention. Ses avocats avaient également été autorisés à lui rendre visite. Le Gouvernement a indiqué que le détenu avait rejeté la proposition d'être examiné par un médecin et assuré qu'il ne souffrait de rien. Le Gouvernement a informé que le prévenu avait comparu le 8 juin 2002 devant le tribunal correctionnel de Tunis. Sur la base des aveux du prévenu et sur les documents saisis et reconnus par ce dernier comme émanant de lui, le tribunal a condamné l'inculpé le 20 juin 2002 à un total de deux ans et quatre mois d'emprisonnement. L'inculpé et le ministère public ayant interjeté appel, le 10 juillet 2002 la cour a réduit la peine prononcée. Le Gouvernement a ajouté que le condamné purgeait sa peine à la prison civile de Tunis dans les conditions normales spécifiées par la législation régissant les prisons et les normes internationales applicables en la matière. Le Gouvernement a également informé que le détenu recevait régulièrement la visite des membres de sa famille et qu'il s'était pourvu en cassation dans les deux affaires.

1767. Le 25 juin 2002, le Rapporteur spécial a envoyé un appel urgent conjointement avec le Rapporteur spécial pour la promotion et la protection du droit à la liberté d'opinion et d'expression en faveur de **Moncef Chaker**, un ancien professeur, qui avait été condamné à deux ans et neuf mois de prison en 1991 après avoir été accusé d'appartenir au mouvement islamiste non autorisé Ennahda, qui aurait été arrêté le 31 mai 2002 à Bakalta. Aucune nouvelle n'aurait été reçue à son sujet depuis et le lieu de sa détention ne serait pas connu. Il aurait récemment été un utilisateur régulier de

l'Internet, y compris des sites interactifs qui seraient sur la «liste noire» des autorités tunisiennes, qui exerceraient un contrôle strict et croissant sur l'accès et l'utilisation des technologies d'information et de communication.

1768. Le 30 août 2002, le Rapporteur spécial a envoyé un appel urgent conjointement avec la Rapporteuse spéciale sur les exécutions extrajudiciaires, sommaires ou arbitraires et la Représentante spéciale du Secrétaire général pour la question des défenseurs des droits de l'homme concernant **Lasad Juhri**, défenseur des droits de l'homme qui soutient notamment la grève de la faim commencée le 26 août 2002 par des détenus politiques afin de marquer le dixième anniversaire d'un procès militaire lors duquel 265 personnes supposées membres du mouvement islamiste non autorisé Al Nahda, auraient été condamnées à de lourdes peines de prison. Il aurait été roué de coups le 28 août 2002 par cinq hommes en civil qui lui auraient demandé de produire ses documents d'identité. Lors de cette attaque, un policier chargé de la circulation aurait essayé de s'interposer, mais les assaillants l'auraient sommé de s'en aller lui indiquant qu'ils étaient eux-mêmes des policiers. En outre, Lasad Juhri aurait été l'objet de constantes intimidations, de harcèlement et de menaces de mort qui laissaient présager des risques quant à sa sécurité.

1769. Le 2 septembre 2002, le Rapporteur spécial a envoyé un appel urgent concernant l'état de santé de **Hamma Hammami** au sujet duquel un appel urgent conjoint avait été transmis le 4 février 2002 (voir ci-dessus). Son état de santé général serait en effet très faible, car il souffrirait de violents maux de tête, de douleurs persistantes dans les reins, de coliques néphrétiques et de grandes variations de pression artérielle. Il ne recevrait pas les soins médicaux appropriés à son état.

1770. Le 9 septembre 2002, le Rapporteur spécial a envoyé un appel urgent conjointement avec le Président-Rapporteur du Groupe de travail sur la détention arbitraire en faveur de **Zouhayer Makhlouf** et **Chadli Turki**, qui auraient été arrêtés le 4 septembre 2002. Déjà condamnés à des peines de prison au début des années 1990 pour appartenance à des organisations politiques non autorisées, ils auraient été arrêtés par la Direction de la sécurité d'État sans que les raisons de leur arrestation leur soient communiquées ni que leurs familles soient informées de leur lieu de détention.

1771. Par lettre datée du 19 novembre 2002, le Gouvernement a informé qu'ils ont été interpellés le 4 septembre 2002 dans le cadre d'une enquête se rapportant à des affaires de droit commun puis libérés le 8 septembre 2002 conformément à la législation applicable. Le Gouvernement a précisé que les craintes exprimées quant au fait que ces deux personnes puissent avoir été l'objet de torture étaient dépourvues de fondement.

1772. Le 19 septembre 2002, le Rapporteur spécial a envoyé un appel urgent concernant la santé de **Hamzaoui**, ex-membre du comité central du Rassemblement constitutionnel démocratique et ex-maire de Kasserine, qui aurait été détenu à la prison civile de Tunis. Il aurait passé plus de 10 mois à l'hôpital Charles Nicole de Tunis. En effet, suite à un accident vasculaire cérébral, il souffrirait de troubles importants de la motricité, d'une forte baisse de l'acuité visuelle ainsi que d'un œdème à un membre supérieur. La police l'aurait transféré le 17 août 2002 à la prison civile de Tunis, où il ne bénéficierait pas de soins médicaux.

1773. Le 4 octobre 2002, le Rapporteur spécial a envoyé un appel urgent en faveur de **Othman Jhinaoui**, un détenu de droit commun de la prison civile de Tunis qui aurait commencé une grève de la faim depuis le 18 août 2002 pour s'opposer, selon lui, à «l'acharnement des autorités judiciaires et policières contre sa famille». Ses six frères seraient ainsi détenus pour des motifs similaires dans diverses prisons. En mars 2001, son frère **Abderrahmane** serait décédé à la prison de Borj El Amri des suites d'une grève de la faim et des mauvais traitements qu'il aurait subis durant celle-ci. Sa famille serait aussi victimes de pressions en vue de la dissuader de faire appel aux services de son avocate. Bien que munie d'un permis de visite délivré par la cour d'appel de Nabeul, cette dernière se serait vue refuser à deux reprises le droit de visiter Othman Jhinaoui.

Observations

1774. The Special Rapporteur notes with concern that no response has been provided to the majority of cases raised in urgent appeals. In view of the nature of the latter, he would appreciate receiving information on measures taken to ensure that the right to physical and mental integrity is properly respected.

1775. The Special Rapporteur also notes with concern that the Government did not extend to him an invitation to visit Tunisia. He would like to recall that a request for such a mission was initially made in 1998.

Turkey

1776. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1777. **Medeni Kavak** was reportedly detained in Diyarbakir on 10 December 2001. Four days later, a court allegedly ordered that he be remanded to Diyarbakir E-Type prison on charges of being a member of an illegal organization. However, it was reported that he was instead brought to gendarmerie detention in accordance with Legal Decree Number 430. While in detention he was reportedly continuously blindfolded and subjected to electric shocks, beatings and threats. He was also believed to have had his testicles squeezed. He was alleged to have been prevented from going to the toilet and to not have been given enough food. He was reportedly finally remanded to prison on 24 December 2001. An investigation was said to have been opened by the prosecutor into the allegations of torture.

1778. **Hatip Alay**, a board member of the People's Democratic Party (HADEP) in Diyarbakir, was reportedly detained on 11 November 2001 and remanded to prison on 14 November 2001 accused of aiding and abetting the PKK. However, it was alleged that he was returned to detention at Diyarbakir gendarmerie headquarters where he was believed to have been held until 24 November 2001. While in custody he was reportedly blindfolded, beaten, subjected to electric shocks, and had his testicles squeezed. He was also believed to have been sprayed with cold pressurized water and made to wait naked in front of an air conditioner for several hours. It was alleged that he was hung by the arms with his hands tied behind him.

1779. **Fehmi Ak** was reportedly detained on 13 November 2001 and remanded to prison by Diyarbakir State Security Court on 16 November 2001. However, he was allegedly brought from the entrance of Diyarbakir E-Type prison back to gendarmerie detention. His detention was reportedly extended for a further 10 days but he was believed to have not been returned to prison until 7 December 2001. It was reported that while in custody he was stripped naked, sprayed with pressurized water and left in front of an air conditioner, and had his testicles squeezed. It was believed that no investigations had been opened into these allegations.

1780. **Medeni Kavak** was reportedly detained in Diyarbakir on 10 December 2001 and on 14 December 2001 a court allegedly ordered that he be remanded to Diyarbakir E-Type prison on charges of being a member of an illegal organization. However, he was reported to have instead been brought to gendarmerie. It was reported that while in detention he was continuously blindfolded, he had his testicles squeezed and he was subjected to electric shocks, threats and beatings. It was also alleged that he was prevented from going to the toilet and that he was not given enough food. He was reportedly remanded to prison on 24 December 2001. An investigation was said to have been opened by the prosecutor into these allegations.

1781. **Mehmet Emin Toraman**, a resident of Izmir, was reportedly followed by police officers who suspected him of burglary on 18 March 2001. It was alleged that when he tried to hide in a construction site, police pointed a gun at him and he fell from the sixth floor. He was believed to have been subsequently brought to a police station where he was allegedly beaten and insulted as a "dirty Kurd". He was reported to have sustained several bones broken, but was not taken to a hospital until the following day. On 25 September 2000 his brother, **Mehmet Teomete**, who protested against his detention, was reportedly himself taken into a police car and broke his hand when he was thrown out of the car. It was alleged that the latter was subsequently taken to the police station in Gürçeöme in Izmir, where he was reportedly beaten.

1782. **H. Selim Acan** was reportedly held in the Bayrampasa prison on 19 December 2000, when the security forces allegedly conducted an operation in order to end a collective hunger strike. It was reported that law enforcement officials made an excessive use of force during this operation (see E/CN.4/2002/76/Add.1, paras 1594 et sq.). He was allegedly wounded by a bullet on his right shoulder and asphyxiated with gasses. He was reported to have been immediately transferred to Edirne F-type prison after the incident. It was alleged that he and other detainees were beaten, tightly handcuffed, not allowed to go to the toilet and denied medical treatment during the transfer, which was believed to have lasted for about 12 hours. It was reported that once in Edirne prison, he had been exposed to loud music and artificial light during 24 hours a day, beaten and kicked and forced to undergo a rectal search under the threat of further beatings. It was alleged that he had been taken to the infirmary but that he had not received a proper medical treatment. Relatives and lawyers who were allowed to visit those detained in Edirne prison were said to have been subjected to intimidations and humiliations, such as being subjected to strip searches.

1783. **Haci Inan** and **Kamuran Kabul**, along with a group of some 20 people, were reportedly arrested in Sirnak on 21 March 2000 and taken to the Sirnak Police Headquarters, where they were believed to have been subjected to electric shocks,

beaten on the hands with a truncheon and hosed with pressurized water. On the way to a medical examination police officers reportedly threatened the detainees saying that they would kill them if they mentioned torture and most of the doctors were allegedly afraid to record what they saw. It was reported that some doctors did not allow the police inside the examination room and one noted that Hacı Inan had a wound on his hand caused by beatings. Ten days later the group was reportedly brought to Mardin Prison but the prison director did allegedly not accept them because of the wounds on their bodies.

1784. **Mehmet Ali Çelik**, a 17-year-old man of Kurdish origin working for a legal pro-Kurdish daily newspaper, was reportedly beaten by plainclothes police officers when the latter allegedly searched his house in Nusaybin, province of Mardin, on 18 February 2001. It was reported that when he filed a formal complaint and tried to obtain a medical report the police commissioner reportedly intimidated doctors at the local hospital not to write such a report. It was reported that doctors in Mardin were afraid to write a report.

1785. **Engin Duruk**, a 17-year old school student in Diyarbakir, reportedly filed a formal complaint against his assistant school director for repeated beatings and insults and was called to a meeting at the director's office on 17 January 2001, where he was threatened by the assistant director and three police officers. He was also reportedly beaten and kicked by one of the police officers when he left school on 19 February 2001. Engin Duruk was allegedly dismissed from the school and had to leave the town temporarily. It was reported that a trial had been opened into the alleged beating by the assistant director, but that the prosecutor decided not to proceed against the police officer.

1786. **Özgür Baris Kiliç**, a young man living in a neighborhood mainly inhabited by displaced people of Kurdish origin in Menemen near Izmir, was reportedly arrested on 7 January 2001 on charges of aiding and abetting an illegal organization. It was alleged that during two days of custody at the Anti-Terror Branch of Menemen Police Headquarters he had been blindfolded, subjected to electric shocks and cold water, stripped naked, suspended by the arms and beaten and had his testicles squeezed. Although he reportedly pointed out lesions on his toe and penis caused by electric shocks at a forensic examination conducted on 8 January 2001, the doctor was alleged to have registered "no signs of beating or force". It was reported that after having been released, he was examined by doctors from the Human Right Foundation of Turkey (TIHV) and the Medical Chamber. The latter reportedly issued a detailed medical report on 29 January 2001, which was said to corroborate the torture allegations. A trial was reported to have been opened, but the three involved police officers were allegedly only charged with ill-treatment.

1787. **Sait Dönmüs** and **Mehmet Ali Kaplan** were reportedly arrested on 30 June 2000 in Diyarbakir on suspicion of supporting the PKK and taken to Silvan gendarmerie headquarters, where they were believed to have been held for six days without being brought before a prosecutor. It was alleged that they were stripped naked and blindfolded, and that they were subjected to electric shocks, beaten and had their testicles squeezed. They were believed to have been examined at Diyarbakir State Hospital, where doctors allegedly recorded that the injuries they sustained were consistent with their allegations. It was reported that pressure had been made to the

doctors by the deputy health director in order for them to change their statements. It was also reported that two soldiers accused of torture had been acquitted on 27 April 2001 and that the court ruled that the prosecution should reopen the case to identify the perpetrators.

1788. By letter dated 2 September 2002 sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information according to which hunger strikers on a "death fast" were reportedly attacked by approximately one thousand members of the special police force on 6 November 2001. It was reported that the hunger strikers were either on the verge of death or in an advanced state of mental and physical deterioration in the "death fast houses" in Kucukarmatlu, having been on prolonged hunger strikes in protest against Turkey's new isolation cells (F-type prisons). **Arzu Güler** (f), **Sultan Yıldız** (f), **Bülent Durgaç** and **Baris Tas** were allegedly killed during this operation and ten other people were believed to have been seriously injured. It was also reported that the police had attacked hunger strikers in the district, using armoured cars and bulldozers to break down barricades and houses, had thrown gas bombs and nerve and tear gas into the houses, had brandished automatic weapons and batons to enter private death-fast houses and had pulled out protesters already seriously weakened by months of hunger strike.

1789. By letter dated 4 December 2002, the Government responded that the individuals who undertook a hunger strike (death fast) in four different houses in the district of Küçükarmutlu to protest against the F-type prisons were members of the terrorist organization DHKP/C. Since they had disrupted public order by barricading the streets of the neighborhood, the security forces were compelled to move into the area to remove the barricades and restore the free movement. On 5 November 2001 at 15 p.m., the security forces were violently attacked with stones, sticks and Molotov-cocktails by a mob while removing the barricades. Meanwhile, a number of persons started a riot by deliberately setting the houses of death fasters on fire. The fire brigade and security forces intervened in order to extinguish the fire and rescue the persons in the houses. The death fasters were saved and taken to hospital. Three persons who resisted and tried to prevent the security forces from fulfilling their duties were detained. Two police officers and 16 civilians were wounded during the incident, four of whom died afterwards. The Government noted that there had been no other intervention by the security forces to other houses where the death fasters were residing. The Government further assured the Special Rapporteur that the security forces had acted with the sole purpose of protecting the safety of citizens and restoring public order, and this, under the utmost restraint to keep the number of casualties at a minimum.

1790. By the same letter, the Special Rapporteurs advised the Government that he had received information regarding **Gazal Berü**, an 11-year-old girl of Kurdish origin, who had reportedly been attacked by dogs on 19 March 2001 in front of the gendarmerie station in Yigitler village, in the southeaster province of Bingöl and beaten to death. It was alleged that the dogs, which were believed to belong to the gendarmerie, had been encouraged to attack her by a soldier.

1791. By letter dated 4 December 2002, the Government responded that after having investigated into the case, the Karlova Public Prosecutor's Office had decided on 12

June 2002 not to prosecute the accused Ishak Erdem and the other officials. As an objection was filed against this decision, the case was forwarded to the relevant court on 12 July 2002 which rejected it on 18 July 2002.

1792. By letter dated 11 September 2002 sent jointly with the Special Rapporteur on violence against, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1793. **Naif Demirci** was reportedly detained on 20 December 2001 and remanded to Diyarbakir E-Type prison on 24 December 2001. However, he was allegedly returned to gendarmerie custody for 10 days' interrogation before being brought back to prison. While in custody at the gendarmerie, he was believed to have been blindfolded, beaten and subjected to electric shocks, and to have had his testicles squeezed. His wife **Mekiye Demirci** was reportedly herself also detained on 21 December 2001 and similarly returned to gendarmerie custody on 26 January 2001 despite an order that she be remanded to prison. She was also reportedly blindfolded, beaten, sexually abused and subjected to electric shocks.

1794. **Fehime Ete**, a woman of Kurdish origin, was reportedly taken - together with her daughter - to gendarmerie headquarters in Diyarbakir for interrogation on 25 November 2001. She was allegedly blindfolded, beaten with truncheons, stripped naked and sprayed with pressurized water. She reportedly fainted several times and was believed to suffer from shortness of breath and difficulty moving her arms as a result of the treatment she was allegedly subjected to. A doctor reportedly diagnosed her daughter as suffering from shock. She and her family were believed to have been threatened with further torture if she complained about her treatment.

1795. By letter dated 15 October 2002, the Government responded that Fehime Ete had been released on 27 March 2002. In her testimony of 21 March 2002, Fehime Ete claimed that she had been subjected to torture and ill-treatment in detention in Diyarbakir. Upon her testimony, an investigation was initiated and following the investigation, a decision of non-prosecution was given due to lack of evidence. Finally, the Government stated that none of their medical reports indicate any trace of ill-treatment or torture.

1796. **Several young women** were reportedly taken to police headquarters in Izmir after a demonstration on 1 May 2001. It was alleged that at least two of them were taken to a separate room and blindfolded, beaten, stripped naked and raped. They were reportedly the following day without having seen a prosecutor or a judge.

1797. **F. D. F.**, 16-year-old girl who had been detained on 30 June 2001 in Van, was reportedly subjected to a forcible virginity test.

1798. **Gülistan Durç**, the head of the women's commission of HADEP in Mardin, was reportedly arrested for the first time in March 1996, when she was only 17 years old. It was alleged that since then she has been taken into custody numerous times for between two and seven days. She was believed to have been stripped naked and blindfolded, beaten, sprayed with cold pressurized water, suspended by her arms, threatened with death, burned with cigarettes and hot wires, and prevented from sleeping by officers from the Anti-Terror branch while in custody. It was reported that

she filed a formal complaint in 1999, but withdrew it when she was arrested again two days later. On 19 December 1999 she was allegedly arrested by police officers using such force that her arm was broken. She was believed to have filed another formal complaint upon her release but none of the police officers allegedly involved were reportedly prosecuted. She was allegedly again arrested in February 2000 and held for two days at Mardin Police Headquarters, where she was beaten on her broken arm which had only just been removed from plaster. It was alleged that the resulting damage and pain were so intense that she was released from prison on medical grounds pending a trial. Following medical and psychiatric examinations, specialists in Izmir reportedly concluded that she was suffering from post-traumatic stress disorder and had further medical problems which corroborate her reports of torture. None of the suspected perpetrators was reported to have been brought to justice.

1799. **Seher Durgaç** was reportedly beaten, raped, subjected to electric shocks and pressurized water and threatened when she was held at the Anti-Terror Branch of Diyarbakir Police Headquarters from 13 to 19 June 2001. She was believed to have been subsequently taken to an infirmary and taken to another doctor when the one who initially examined her confirmed torture allegations.

1800. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 2001 regarding which no reply had been received.

Urgent appeals

1801. On 15 January 2002, the Special Rapporteur sent an urgent appeal on behalf of two members of Özgür Halk, **Orhan Armutçu** and **Erkan Yildirim**, as well as **Mahmut Bugrahan**, his wife **Türkan Bugrahan** and **Ahmet Akbas** who were reportedly held at the Police Headquarters in Bingöl since 9 January 2002 on suspicion of being connected to the Kurdistan Workers' Party (PKK). They were said to have been arrested along with Sıraç Budancir, released on 11 January, who had allegedly been blindfolded, forced to lie in deep snow, given electric shocks and sprayed with pressurized water while in detention.

1802. By letter dated 19 March 2002, the Government indicated that Türkun Bugrahan was released on 10 January 2002 after interrogation. Sıraç Bulancir and Erkan Yildirim were also released by the Bingöl Public Prosecutor's Office. Orhan Armutçu and Ahmet Akbas were sent to prison by the relevant court. According to the Government, none of the medical reports of these persons indicated trace of ill-treatment or torture. The Government also clarified that Mahmut Bugrahan was not taken into custody and that he was being searched by the security forces at the time the Government transmitted its response. By a letter dated 2 May 2002, the Government further informed that in a statement given on 29 January 2002, Orhan Armutçu claimed that he had been subjected to torture while in custody but that he had been scared of mentioning that in previous testimonies. An investigation was initiated into these allegations. The Government clarified that the other persons did not file any complaint alleging torture or ill-treatment. By letter dated 25 July 2002, the Government indicated that in connection with the investigation into allegations of torture against Orhan Armutçu, a decision of non-prosecution was given due to lack of evidence.

1803. On 6 February 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression and the Chairman-Rapporteur on behalf **Medeni Alpkaya**, board member of the teachers' trade union Eitim-Sen, who had reportedly been arrested on 3 February 2002 after giving a talk at a meeting of Haber-Sen trade union in Diyarbakr. He has been allegedly held at the Anti-Terror Branch of Diyarbakir Police Headquarters. He was allegedly detained because he criticized the authority repression on students who request Kurdish language education.

1804. On 11 March 2002, the Special Rapporteur sent an urgent appeal on behalf of **Ferhat Yorulmaz**, who was reportedly arrested on 8 March 2002 by plainclothes police officers in Bismil, Diyarbakir province, together with several other individuals. The authorities are said to have confirmed that the others are held at the Anti-Terror Branch of Diyarbakir Police Headquarters, but deny that Ferhat Yorulmaz is detained there. His lawyers are believed to have applied to the Chief Prosecutor's office in Diyarbakir for information on his whereabouts, however without success.

1805. By letter dated 3 June 2002, the Government confirmed that he had been taken into custody in Bismil on 8 March 2002 on suspicion of his involvement in an illegal activity. He was released on 9 March 2002 upon it was established that he had been involved in any illegal activity. According to the Government, none of his medical reports indicated traces of ill-treatment or torture.

1806. On 25 March 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression concerning the **dozens of persons** who had reportedly been arrested on 21 March 2002 as they were attempting to celebrate Newroz, the Kurdish New Year. In Mersin, demonstrators attempted to participate in celebrations that had been banned by the local Governor. They were allegedly forcibly dispersed by police officers who used tanks, water cannons, tear gas and plastic bullets against them. Some of the demonstrators reportedly fought back with sticks and rocks. In the resulting clashes, **Mehmet Sen** died after a tank reportedly crushed him against a wall, and **Ömer Aydin** died as a result of being crushed by the crowd. More than 100 demonstrators and 41 police officers were reportedly injured. In and around the district of Topkapi in Istanbul, individuals were allegedly detained as they tried to gather in a public square to celebrate Newroz. Police officers were said to have used water cannons, tear gas and plastic bullets to disperse the crowds. Some people apparently responded by throwing rocks at the police officers. Most of the detainees have been released from Istanbul Police Headquarters, though 81 people reportedly remain in custody. Twenty four of those released have since lodged a complaint with the Human Rights Association (IHD) stating that they were beaten by police officers.

1807. By letter dated 22 July 2002, the Government responded that the security forces in Istanbul had intervened when several groups disrupting public order refused to disperse. The Government confirmed that 81 persons who forcibly resisted the security forces were taken into custody and released on the following day. Their reports did not indicate trace of ill-treatment or torture. Lawsuits have been filed against several demonstrators on the grounds of violating the law on meetings and demonstration marches, damaging property and disseminating propaganda of the PKK

during the incident. Concerning the events in Mersin, the Government indicated that the security forces intervened when a group of people refused to disperse and resisted by throwing stones and sticks. The Government confirmed the deaths of Mehmet Sen and Ömer Aydın, clarifying that the former died under the ruins of a wall which was hit by a police vehicle and the latter died of a heart attack. Investigations into these deaths were underway at the time the Government provided this response.

Investigations were also initiated against a number of demonstrators on the grounds of violating the law of meetings and demonstration marches, forcibly resisting the security forces, damaging police vehicles and wounding police officers.

1808. On 2 May 2002, the Special Rapporteur sent an urgent appeal on behalf of **Mehmet Salih Kölge**, who had reportedly been arrested on 16 April 2002 in Antep and detained at the Anti-Terror Branch of Diyarbakir Police Headquarters, allegedly in connection with the activities of the armed Islamic group Hizbullah. On 25 April, he was reportedly remanded to prison by the Diyarbakir State Security Court (DGM). It was believed that he was returned to the police detention for 10 days in accordance with Legal Decree 430, which was said to allow individuals to be returned to police detention for further questioning. On the 26 April, his family visited him at the Anti-Terror Branch of Diyarbakir Police but they were reportedly told that he had been transferred to the town of Batman.

1809. By letter dated 1 August 2002, the Government responded that it had been established that he was a high level member of a terrorist organization and that he was involved in a number of terrorist acts. He was arrested by the relevant court and sent to Diyarbakir E-type Prison. He was subsequently taken to Mardin/Nusaybin and Batman/Gercüs for pointing locations. A 10-day period of detention for questioning was extended three times by the relevant court. The Government further indicated that none of the medical reports indicated any trace of ill-treatment or torture and that the he was brought to hospital for examination and treatment whenever he requested so. Finally, the Government indicated that her mother was informed both in writing and orally of the reasons why she was not able to see her son on 25 and 26 April 2002. By letter dated 16 December 2002, the Government transmitted further information regarding Mehmet Salih Kölge. The Government informed the Special Rapporteur that a public case was filed against him on 6 June 2002 for attempting to destroy the constitutional system by armed activities and establish an Islamic state instead. Upon his lawyer's request, Mehmet Salih Kölge was examined at the Faculty of Medicine of the Dicle University. The Government indicated that his medical reports revealed no trace of ill-treatment or torture. The Government noted that Mehmet Salih Kölge had been visited 28 times by 13 visitors between 7 June 2002 and 30 August 2002 in Diyarbakir Prison.

1810. On 15 May 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Yusuf Basboga, Ahmet Ökten, A. Kerim Koçchan, Mikail Bülbül, Mahsun Ilen, Faruk Kiliç, Nurettin Demir, Zübeyir Avcı, Mahmut Kuzu, A. Aziz Yücedag, Lokman Koçchan** and **Sermin Erbas**, members of the Egitim-Sen teachers' trade union, who had reportedly been arrested by police in the town of Kiziltepe on 7 May 2002 for having been involved in a campaign for education in the Kurdish language.

They were reportedly detained at the Anti-Terror Branch of Mardin Police Headquarters.

1811. By letter dated 11 September the Government confirmed that they had been taken into custody on 7 May 2002 and arrested by the relevant court on 10 May 2002. Faruk Kiliç, Abdülaziz Yücedag, Nusrettin Demir, Sermin Erbas, Mahmut Kuzu and Ahmet Öktem were released on 13 May 2002 and Yakup Basboga, Lokman Koçhan, Zübeyir Avci, Mahsun Bilen, Mikail Bülbül and Abdülkerim Koçhan on 3 June 2002. the Government assured that the procedures regarding their detention and arrest were carried out in full compliance with the provisions of the relevant legislation.

1812. On 14 June 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Bayram Bozyel**, the Deputy Chairman of the pro-Kurdish Rights and Freedom Party (HAK-PAR), **Mehmet Eren**, a Board member of Diyarbakir branch of HAK-PAR, **Kemal Aras**, a Board member of Diyarbakir branch of HAK-PAR and **17 other individuals**, at least 12 of whom are HAK-PAR members. They were reportedly detained at the Anti-Terror Branch of Police Headquarters in Diyarbakir on 12 June 2002.

1813. By letter dated 26 August 2002, the Government responded that Mehmet Eren had been released on 21 June 2002 while the other mentioned persons had been released on 15 June 2002 pending trial. Their houses were searched by the police in accordance with an order issued by the Public Prosecutor's Office. The Government further assured the Special Rapporteur that none of the medical reports indicated any trace of ill-treatment or torture. Pasa Akdogan and Evin Sitki were brought to a hospital when they expressed they felt ill and Kemal Aras was provided with the necessary medicine.

1814. On 14 June 2002, the Special Rapporteur sent another urgent appeal on behalf of a family whose names were given to the Government. Police were said to have threatened to kill them, after they filed a complaint that three of them, including a five-year-old girl, had been tortured in custody. A group of police officers, including the Chief of the Department of Theft and Fraud in Izmir, had allegedly punched and kicked them, and beat them with truncheons. They were reportedly threatened not to complain. On 31 May the women filed a formal complaint with the state prosecutor against the police officers involved. The prosecutor reportedly said that he would initiate proceedings to identify the perpetrators, and sent the two women and the girl for forensic medical examinations which documented bruising on their bodies. Police officers from the Department of Theft and Fraud were believed to have seen the women lodging the complaint, and reportedly threatened and harassed them since then and to have threatened them with extrajudicial execution. It was reported that the prosecutor has taken no action yet about these threats.

1815. By letter dated 27 August 2002, the Government responded that upon complaints filed by the alleged victims, the Public Prosecutor's Office had launched an investigation, which was still underway at the time the Government transmitted this response.

1816. On 12 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of concerning **Necati Abay, Sonnur Salamer (f), Nadiye Gürbüz (f), Ali Ihsan Topçu, Remziye Turun (f), Gökçen Arabul, Mustafa Arabul, Altan Koman, Gökhan Özdemir, Seçil Gültekin (f), Nuran Doan (f), Özgür Çubuk, Burcu Gümü (f), Mülge Molval (f) and Murat Güner**, who had reportedly been arrested during a police raid in the offices of the weekly *Yeniden Atilim* (New Advance) on 10 July 2002. They were reportedly detained at the Anti-terror Branch of Police Headquarters in the borough of Aksaray in Istanbul.

1817. On 6 August 2002, the Special Rapporteur sent an urgent appeal on behalf of **Remzi Karaduman, Ugur Usar and Resat Usar** who had reportedly been detained by police officers from the Anti-Terror Branch of Ankara police headquarters on 26 July 2002. Two days later they were said to have been handed over to the Anti-Terror Branch of police headquarters in Diyarbakir. On 30 July, a court is reported to have ordered that they be remanded to Diyarbakir prison. They have allegedly been beaten and subjected to electric shocks while in police detention in Ankara. In Diyarbakir police headquarters, they were allegedly sprayed repeatedly with pressurized water, had their testicles squeezed, were blindfolded continuously, forced to stay standing by having their wrists handcuffed to an elevated point, not given anything to eat or drink, and two police officers would force the detainees' heads between their legs by sitting on their shoulders. A complaint about the alleged torture and ill-treatment was reportedly lodged with the Diyarbakir prosecutor. As a result, on 1 August the three men were examined by doctors at the local Institute of Forensic Medicine who determined that they should be examined instead at the Medical Faculty of Dicle University, where there was a greater level of expertise in documenting such injuries. However, on the same day Diyarbakir State Security Court (DGM) reportedly ordered that they be brought instead to the Anti-Terror Branch of Diyarbakir police headquarters for further interrogation.

1818. By letter dated 1 October 2002, the Government indicated that these persons had been taken into custody in Ankara on 26 July 2002 on grounds of membership of the terrorist organization Hizbullah. They were taken to Diyarbakir on 28 July 2002 for further interrogation. They were arrested by the relevant court and sent to the Diyarbakir E-type Prison on 30 July 2002. Their lawyer filed a complaint on 1 August 2002 alleging that Remzi Karaduman, Resat Usar and Ugur Usar had been subjected to ill-treatment and torture in detention and that the investigation which was subsequently initiated was underway.

1819. On 28 August 2002, the Special Rapporteur sent an urgent appeal on behalf of **Abdulkadir Yakut**, who was allegedly detained and brought on 21 August 2002 to the Anti-Terror Branch of Police Headquarters in Diyarbakir. According to lawyers from the local branch of the Human Rights Association (IHD) who were able to meet with him on 23 August 2002, he seemed exhausted and frightened and had an extensive bruising under his right eye and on both wrists, his fingernails were black, his denim trousers were torn and he was incapable of standing and walking at the end of their meeting. He was reportedly released on 26 August but immediately taken back to the gendarmerie in Diyarbakir prior to his compulsory military service. It was reported that lawyers from the IHD were reportedly not able to meet with him again.

1820. By letter dated 21 October 2002, the Government responded that he had been taken into custody on 21 August 2002 carrying a false identity card and revealing in his own testimony that he was a member of the terrorist organization PKK (KADEK). His detention period was extended by the relevant court for three days for the investigation to be completed and he was released on 26 August 2002 by the relevant court. The Government further stressed that none of his medical reports indicate any trace of ill-treatment or torture and that when he attempted to escape from the security forces he felt on the ground. The security forces took him to the hospital and he forcibly resisted them. He therefore had scrapes on his body as mentioned in the medical reports. Finally, the Government indicated that Abdulkadir Yakut was handed over to the relevant military authority and he was not taken into custody by the gendarmerie as was alleged.

1821. On 27 September 2002, the Special Rapporteur sent an urgent appeal on behalf of **Abdullah Kaya** who had reportedly been detained on 18 September 2002 held at the Anti-Terror Branch of Ankara Police Headquarters, allegedly in connection with the armed Islamist group, Hizbullah. On 21 September, it is believed that he was handed over to the custody of the Anti-Terror Branch of Diyarbakir Police Headquarters. He subsequently met his brother and mother at the police headquarters on 25 September. The latter reported that he did not speak, seemed exhausted and was continually staring into space.

1822. On 30 September 2002, the Special Rapporteur sent an urgent appeal on behalf of **Ahmet Ece**. On 24 September, the main police station in Findik village, near Güclükonak informed the local public registry office that Ahmet Ece had been taken into custody by gendarmerie in Lice in Diyarbakir province. Lawyers from the the Diyarbakir Human Rights Association (IHD) reportedly spoke to the Lice public prosecutor who stated that, according to gendarmerie units, no individual of that name had been taken into custody.

1823. On 30 September 2002, the Special Rapporteur sent another urgent appeal on behalf of **Yavuz Bingöl, Serdar Nalbant, Metin Atilla, Fuat Keskin, Hayrettin Gulen, Cetin Harmanci, Erdogan Kandemir and Habib Uzun**, who were believed to have been tortured during their custody from 25 to 27 September 2002 at Bingöl Police Anti-Terror Headquarters in the Solhan district of Bingöl. They were taken before a judge and remanded into custody at the Bingöl Özel Tip Prison on 27 September. Yavuz Bingöl was reportedly later taken for treatment at the Bingöl State hospital, as a result of the treatment he was subjected to in custody. The head of the Human Rights Association in Bingöl was reportedly denied permission to visit the detainees by the prosecutor.

1824. On 29 October 2002, the Special Rapporteur sent an urgent appeal on behalf of **Abdülkadir Aktas**, who had reportedly “disappeared” from Diyarbakir prison where he was being held. On 25 October, prison administrators reportedly told his brother that they were not authorized to inform him of his current whereabouts. On 23 October, he had been met by his lawyer who reported that he seemed exhausted, that his face was pale and that he was staggering as he was walking. Abdülkadir Aktas alleged that he had been subjected to electroshocks and was afraid to be detained by the police again for interrogation. He had allegedly been threatened that he would be taken from the prison for being re-interrogated by the police. He had been arrested on

6 October 2002 in connection with the assassination of the Diyarbakir Chief of Police and five other police officers by the illegal armed Islamist group Hizbullah in January 2001.

1825. By letter dated 13 December 2002, the Government informed the Special Rapporteur that Abdulkadir Aktas was arrested on grounds of membership of the terrorist organization Hizbullah and his activities on behalf of it. He was sent to the Diyarbakir E-type Prison and then taken to the Diyarbakir Directorate of Security upon the decision of the relevant court under Decree n° 430. He was returned to the prison on 21 October 2002. The Government added that his family visited him on 28 October 2002 and that he met with lawyers on 23 and 30 October 2002. The Government noted that none of his medical reports indicated any trace of ill-treatment or torture.

1826. On 29 October 2002, the Special Rapporteur sent another urgent appeal on behalf of **Muzaffer Abdukaya**, who had reportedly been arrested in connection with the illegal armed Islamist group Hizbullah on 18 October 2002. He was reportedly seen in a bad state at the Anti-Terror Branch of Diyarbakir Police Headquarters on the following day. On 22 October, he was reportedly remanded to prison by the Diyarbakir State Security Court but was immediately afterwards transferred back to the Anti-Terror Branch for further interrogation. This was reported to have been carried out under Legal Decree 430 which allows individuals to be returned from prison to police detention for an additional 10 days of questioning.

1827. On 31 October 2002, the Special Rapporteur sent an urgent appeal on behalf of **Ertekin Kaplan, Seyhmus Akat, Bayram Kiliç, Nurettin Gölcü and Mahmut Hocaoglu**, who had reportedly been arrested on 25 October 2002. They were reportedly held without charge in police detention in Diyarbakir. On 28 October, their lawyers were said to have seen them exhausted and stressed. They had allegedly been beaten and sexually assaulted and their testicles had been squeezed. Nurettin Gölcü and Ertekin Kaplan who suffer from chronic health problems have allegedly been prevented from getting the medicines they need.

Follow-up to previously transmitted communications

1828. By letter dated 12 December 2002, the Government transmitted further information concerning **Haci Bayancik**, on behalf of whom the Special Rapporteur sent an urgent appeal on 14 September 2001 (*ibid.*, para. 1661), to which the Government already responded by letter dated 16 November 2001 (*ibid.* para. 1662). The Government indicated that he did not file any complaint alleging that he had been subjected to torture or ill-treatment in custody at the Diyarbakir Directorate of Security.

1829. By letter 21 December 2001, the Government responded to a number of cases included in the letter sent by the Special Rapporteur on 28 August 2001 (E/CN.4/2002/76/Add.1, paras. 1592 to 1630).

1830. Concerning the reform of the penitentiary system and the situation in the so-called F-type prisons (*ibid.*, paras 1592 to 1598), the Government indicated that the new system was designed to avoid the problems of the traditional type of prisons, in

which, according to the Government, inmates had more facilities to take the power over the dormitories and other inmates and the authority of the prison administrations de facto vanished. The Government also informed that a number of facilities for communal activities, such as workshops and open or closed sports facilities, were included in the project to build the F-type prisons. Prisoners convicted on grounds of terrorism were also allowed to participate in all communal activities. Upon a psycho-social examination of the inmate, a commission formed by the Prison Director, the prison doctor, the psychologist, the social worker, the instructor and the Chief Prison Guard, determines his/her living unit and his/her communal activity programmes. The Government also informed that the recommendations as to the construction of the F-type prisons issued by the European Committee for the Prevention of Torture and Inhumane or Degrading Treatment or Punishment (CPT) after its visit in July 2000 were followed by the Turkish authorities in a view to improve the prison system. Regarding the allegations of hunger strikes in prisons, the Government indicated that all negotiations with the leaders of strikers failed. The Government also alleged that the CPT had to interrupt its visit to the country in December 2000 due to the attitude of the strikers. The Government confirmed that in this context, the security forces intervened in 20 prisons between 19 and 22 December 2000. Following these events and another visit of the CPT, two drafts laws were prepared to introduce monitoring boards and supervisory judges to secure management of the prisons, submitted to the Parliament on 23 April 2001 and subsequently adopted by the Grand National Assembly. The Government also indicated that a CPT delegation visited again Turkey in April 2001 and that a delegation from the European Parliament visited F-type prisons in June 2001. Finally, the Government indicated that due to deterioration of their health condition, 281 inmates were released between 8 May and 27 July 2001.

1831. Concerning **Nuri Akalin** (ibid., para. 1600), **Birol Pasa** and **Sadik Akyüz** (ibid., para. 1602), **Cemal Keser** (ibid., para. 1603), **Hüseyin Kisiltroprak** (ibid., para. 1604) and **Sinan Doian** (ibid., para. 1609), the Government indicated that a decision of non-prosecution was given following the investigation by the Kandira Public Prosecutor's Office regarding the allegations.

1832. Concerning **Taylan Süren** (ibid., para. 1602), the Government indicated that the Üsküdar Public Prosecutor's Office initiated an investigation regarding the allegations.

1833. Concerning **Bülent Özdemir** (ibid., para. 1602), the Government indicated that following the investigation by the Edirne Public Prosecutor's Office regarding the allegations, a decision of non-jurisdiction was given and the file was forwarded to the Edirne Governorship.

1834. Concerning **Cumali Diskaya** (ibid., para. 1605), the Government indicated that following the investigation of Kandira Public Prosecutor's Office regarding the allegations, a decision of non-jurisdiction was given and the file was forwarded to the Kocaeli Governorship.

1835. Concerning **Veysel Kiliç** (ibid., para. 1608), the Government indicated that a lawsuit was filed by the Kandira Public Prosecutor's Office against five officials.

1836. Concerning **Erkut Cebeci** (ibid., para. 1610), the Government indicated that no complaint was filed in connection to this case.

1837. Concerning **Hasan Demir** and **Aziz Yilmaz** (ibid., para. 1611), the Government indicated that they did not file any complaint regarding allegations of torture. The Government also informed that none of their medical reports indicated traces of ill-treatment or torture. They were released on 30 May 2001 and 22 October 2001 respectively.

1838. Concerning **Dursun Armutlu** (ibid., para. 1612), the Government indicated that no complaint was filed in connection to this case and that he was released on 6 January 2001.

1839. Concerning **Hüseyin Tiryaki** (ibid., para. 1613), the Government indicated that the Dincan Public Prosecutor's Office initiated an investigation regarding the allegations.

1840. Concerning **29 children** arrested on 8 January 2001 in Viransheir (ibid., para. 1617), the Government indicated that they were taken into custody as they had held an illegal demonstration to support the PKK. They were dispatched to the Viransheir Public Prosecutor's Office on 9 January 2001. One of them was released while the other 28 persons were arrested by the relevant court. 14 persons were released on 16 January 2001, eight on 17 January 2001 and six on 15 February 2001. 23 of those persons aged between 11 and 18 were not interrogated and their statements were not taken while in custody. The Government further informed that none of the medical reports indicated traces of ill-treatment or torture.

1841. Concerning **Erdal Bulut** (ibid., para. 1618), the Government indicated that when he went to the Istanbul Ümraniye Directorate of Security Traffic Office to get his driver's license on 20 October 2000, it was established that he had been a deserter. He was handed over to the Central Police Station and released on 20 October 2000.

1842. Concerning the case of **eleven shepherds** (ibid., para. 1619), the Government indicated that an investigation on the allegations of torture was initiated following a complaint filed to the Sivasli Public Prosecutor's Office. The Government further informed that a report of the Izmir Forensic Medicine Institute states that there were no traces of torture. However, upon objection of the lawyers, the file was forwarded to the Istanbul Forensic Medicine Institute. The investigation was still underway at the time the Government transmitted this response.

1843. Concerning **Abduselam Bayram** (ibid., para. 1620), the Government confirmed that he was taken into custody on 11 February 2001 in Diyarbakir and informed that he was later arrested by the relevant court. According to the Government, none of his medical reports indicate any trace of ill-treatment or torture.

1844. Concerning **Emrullah Karagöz** (ibid., para. 1622), the Government indicated that he was dispatched to the Diyarbakir State Security Court Public Prosecutor's Office on 30 March 2001 and arrested by the relevant court. The Government assured the Special Rapporteur that none of his medical reports indicated any trace of ill-treatment or torture.

1845. By letter dated 2 January 2002, the Government responded to a joint urgent appeal sent by the Special Rapporteur and the Special Representative on human rights defenders on 14 August 2002 on behalf of **Rasim Asan** (E/CN.4/2002/76/Add.1, para. 1653), to which the Government already responded on 19 September 2001 (*ibid.*, para. 1654). The Government indicated that he was released following the first hearing held on 19 September 2001 and that the case against him filed on grounds of insulting the armed forces is still pending.

1846. By letter dated 2 January 2002, the Government responded to a joint urgent appeal sent by the Special Rapporteur on 21 August 2002 on behalf of **Yasar Atalan** and **Adil Atay** (E/CN.4/2002/76/Add.1, para. 1655), to which the Government already responded on 29 September 2001 (*ibid.*, para. 1656). The Government indicated that a lawsuit was filed against **Yasar Atalan** on the grounds of being a member of the PKK and carrying out armed acts for the PKK, as well as against Adil Atay on the grounds of aiding and abetting the PKK. The Government also informed that they did not file a complaint alleging that they had been subjected to ill-treatment or torture.

1847. By letter dated 8 January 2002, the Government transmitted further information concerning **Mehmet Dilsiz**, on behalf of whom the Special Rapporteur sent an urgent appeal on 6 April 2001 (E/CN.4/2002/76/Add.1, para. 1637), to which the Government already responded by letters dated 6 July 2001 and 31 May 2001 respectively (*ibid.* para. 1638). The Government indicated that two cases against him on grounds of collectively trafficking narcotics were pending at the Diyarbakir State Security Court No. II and Court No. III, that a case on grounds of being a member of the PKK and aiding and abetting the PKK was pending at the Diyarbakir State Security Court No. II and that he was acquitted in relation with a second case on grounds of spreading propaganda of the terrorist organization PKK.

1848. By letter dated 8 January 2002, the Government responded to a joint urgent appeal sent by the Special Rapporteur jointly with the Special Rapporteur on the right to freedom of opinion and expression on 18 October 2001 on behalf of the **Kiliç family** (*ibid.*, para. 1670). The Government indicated that after it was established that a group of armed members of the PKK were hiding in a house in Silvan/Diyarbakir, security forces besieged this house on 17 October 2001. The security forces called three persons who went out of the house to surrender and fired on the air. These persons responded by opening fire and using grenades. The Government confirmed that two of them died on the spot and died at Silvan State Hospital as a result of the wounds. The Government also informed that three security officials were injured too. According to the Government, the deceased were Sait Reso, a Syrian national, Necdet Demirkardam and Selma Kiliç. The Government clarified that the 21 members of the Kiliç family were not taken into custody. 18 persons, among which 13 children, who were at the house during the mentioned clash were removed from the place for their security and taken to Silvan Security Directorate in order to establish their identity. They were subsequently brought to hospital where no trace of ill-treatment or torture was reported. The children, including Savas Kiliç, and two other persons were released later on the same day. Three persons, including Adil Kiliç were taken into custody on the grounds of aiding and abetting the PKK and were released on 24 October 2001 pending trial. However, upon a warrant of arrest issued following the

objection of the Diyarbakir State Security Court Public Prosecutor's Office. The three persons were arrested on 29 October 2001 and sent to prison. The Government indicated that they met their lawyers while in custody and that their medical reports do not indicate trace of ill-treatment or torture.

1849. By letter dated 8 January 2002, the Government responded to an urgent appeal sent by the Special Rapporteur on 8 November 2001 on behalf of **Sefik Yildirim** (ibid., para. 1672). The Government indicated that he was taken into custody on 6 November 2001 in Diyarbakir and released on 10 November 2001. A lawsuit was filed against him on the grounds of being member of a terrorist organization. Two medical reports issued by the Diyarbakir State Hospital on 6 and 10 November 2001 respectively do not indicate trace of ill-treatment or torture.

1850. By letter dated 11 January 2002, the Government responded to an urgent appeal sent by the Special Rapporteur on 8 November 2001 on behalf of **Emrullah Karagöz** and **Mustafa Yasar** (ibid., para. 1671). The Government indicated that they were sent to Diyarbakir E-Type Prison on 1 November 2001. In accordance with a decision of a court, they were removed from the prison for ten days on that same day as part of the investigation. This period was three times renewed by the court on 10 November, 22 November and 2 December 2001. At the time the Government transmitted its response, they were held in Sanliurfa Prison. An investigation into allegations of torture was initiated.

1851. By letter dated 16 January 2002, the Government transmitted further information concerning a **Haci Elhunisuni**, on behalf of whom the Special Rapporteur sent an urgent appeal on 28 September 2001 (ibid., para. 1665), to which the Government already responded by letter dated 26 November 2001 (ibid. para. 1666). The Government indicated that in his statement of 15 November 2001, he alleged that he had been subjected to torture in custody. An allegation on these allegations was underway at the time the Government transmitted this response. The Government also indicated that he met with his mother, father and uncle on 22 and 31 August 2001.

1852. By letter dated 28 January 2002, the Government transmitted further information concerning the arrest in Batman of at least 50 persons, on behalf of whom the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working-Group on Arbitrary Detention and the Special Rapporteur on freedom of opinion and expression on 17 April 2001 (ibid., para. 1659), to which the Government already responded by letter dated 29 November 2001 (ibid., para. 1660). The Government indicated that the security forces did not inflict any restrictions on those who wanted to travel to Ankara. The Government also informed that **Gubert Yalçin** was taken into custody in Mardin on 31 August 2001 due to his activities within the PKK. He was later arrested by the relevant court and sent to prison.

1853. By letter dated 4 February 2002, the Government transmitted information concerning **Metin Yurtsever**, a case included in a letter sent by the Special Rapporteur on 28 August 2001 (ibid., para. 1615). The Government indicated that an investigation into his death was conducted by the Kocaeli Public Prosecutor's Office. Following this investigation, a lawsuit was filed against 16 policemen. The next

hearing was scheduled to take place on 29 April 2002 at the Kocaeli Assize Court No. II.

1854. By letter dated 20 February 2002, the Government transmitted further information concerning a group of students, on behalf of whom the Special Rapporteur sent an urgent appeal on 17 April 2001 (*ibid.*, para. 1641), to which the Government already responded by letter dated 4 July 2001 (*ibid.* para. 1642). The Government indicated that the case was still pending and that the accused persons were not under arrest.

1855. By letter dated 22 March 2002, the Government responded to a joint urgent appeal sent by the Special Rapporteur with the Special Rapporteur on violence against women on 1 October 2001 on behalf of **Asiye Güzel Zeybek** (*ibid.*, para. 1669). The Government clarified that her trial commenced in 1997. It also informed that her medical reports of 27 February 1997 and 6 March 1997 did not indicate any trace of ill-treatment or torture and that the alleged victim did not file any complaint claiming torture. However, the Faith Public Prosecutor's Office initiated an investigation after she alleged during a hearing on 2 October 1998 that she had been subjected to torture and raped while in custody. According to the Government, the Second Specialized Committee of the Forensic Medicine Institute reported on 13 December 1999 that there were no medical data confirming physical trauma or rape. On the other hand, a report issued by the Psychiatric Department of the faculty of Medicine of the Istanbul University stated that she underwent "traumatic experience". But the Fourth Specialized Committee of the Forensic Medicine Institute said that the reason of the traumatic experience could not be medically established. The Government also informed that the testimony of a witness was in contradiction with her allegations. Under these circumstances, a decision of non-prosecution was given. The case against the alleged victim was still pending and she was in prison at the time the Government transmitted this response. The Government also clarified that she was neither subjected to ill-treatment nor wounded in December 2000.

Observations

1856. The Special Rapporteur remains concerned by the information he brought to the attention of the Government, in particular through the sending of urgent appeals. He appreciates the continuing disposition of the Government to respond to communications brought to its attention in the past. He nevertheless notes with concern that no information has been provided on measures taken to implement the recommendations made by his predecessor after his visit to Turkey in 1998 (E/CN.4/1999/61/Add.1).

Turkmenistan

Urgent appeals

1857. On 6 February 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on arbitrary detention on behalf of **Mukhametkuli Aymuradov** who was reportedly charged in 1995 together with **Khosali Garayev** with so-called anti-State crimes, including "attempted terrorism". It was believed that they had been sentenced solely because of their connection with

exiled political opponents. In 1998 the two men were apparently sentenced to an additional 18 years imprisonment, among which five years in a maximum security prison, in relation with an alleged escape attempt. In September 1999, Khosali Garayev reportedly died in the maximum security prison of Turkmenbashi. He allegedly hanged himself to death after having been put in solitary confinement following a fight in his cell. There have been allegations that he as a result of the treatment he was subjected to. Fears were expressed regarding Mikhametkuli Aymuradov's health given the conditions of detention and lack of appropriate medical attention for ailments including a gastric ulcer, cholecystitis, a heart attack and recurring problems with his kidneys and bladder.

1858. On 10 December 2002, the Special Rapporteur sent an urgent appeal on behalf of **Aili Yklymov, Esenaman Yklymov**, his brother, and **Davlatgeldi Annannyyazov**, as well as **scores of other detainees** who had reportedly been arrested after the attack on the Presidential motorcade on 25 November 2002. It was reported that the government has called the attack an attempted coup aimed at seizing power and overthrowing the constitutional order. Immediately after the attack, President Niyazov was said to have held an extraordinary cabinet meeting at which he allegedly blamed four exiled opposition figures for the attack: Saparmurad Yklymov, the former Deputy Minister of Agriculture; Boris Shikhmuradov, the former Foreign Minister; Khudayberdy Orazov, the former head of Turkmenistan's central bank; and Nurmukhamed Khanamov, ex-ambassador to Turkey. Many of those detained were reportedly targeted because of their family relations with the four exiled opposition figures named above. Saparmurad Yklymov's 75-year old mother was evicted from her house in the capital Ashgabat shortly before midnight on 27 November and the property confiscated. Aili Yklymov was allegedly beaten up so severely in the basement of the former secret services (KGS) building in Ashgabat that he is unable to walk. Esenaman Yklymov was reportedly ill-treated while in custody following his first arrest on 25 November. He was released the next day. He was rearrested on 28 November. Davlatgeldi Annannyyazov was reportedly detained on 30 November in Ashgabat. He was allegedly ill-treated by agents of the Security Service in order to extract a confession implicating one of his brothers, a political opponent currently living in Norway.

Uganda

1859. By letter dated 21 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 2000 regarding which no reply had been received.

Urgent appeals

1860. On 19 April 2002, the Special Rapporteur sent a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Yvan Kayitana Rukeshu**, a former Rwandese army officer, **Adolphe Dusabe**, a former Rwandese police officer, and four other former members of the Rwandese security forces, who are said to face forcible repatriation to Rwanda, where they are believed to be at risk of torture and other forms of ill-treatment. They were reportedly among 16 former members of the Rwandese security forces who were denied refugee status in Uganda. The Ugandan authorities returned **Michael Kanyamahanga**,

Joseph Akayezu, Habimana, to Rwanda on 5 April 2002, and a further seven on 10 April 2002. It is reported that the Ugandan authorities described these returns as "voluntary", but it is alleged that they may have gone under duress. A total of 53 former members of the Rwandese armed forces had been in military custody for several months. The Ugandan authorities have granted refugee status to the remaining 37. Furthermore, it is reported that the 43 men (the 37 granted refugee status and the six at risk of being forcibly returned) remain in prolonged military detention without charges.

1861. On 7 May 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women, its causes and consequences, and on the right to freedom of opinion and expression and the Chairman-Rapporteur of the Working Group on Arbitrary Detention on behalf of **Susan Nabukenya** and **Margie Kyeyune**, who were said to be detained in Kampala Central police station, on grounds of their alleged sexual orientation. On 26 April 2002, a broadsheet newspaper Red Pepper is said to have reported that on 25 April 2002, the two women had arranged a private "engagement" ceremony presided over by a pastor. They were said to have been arrested on 1 May, reportedly under Paragraph 140 of the Penal Code, which stipulates that "[a]ny person who has carnal knowledge of any person against the order of nature" is subject to 14 years' imprisonment. They are said to have been released on 3 May, but were reportedly re-arrested a couple of hours later during the night.

1862. On 23 September 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Stephen Otim, David Penytoo, Alex Otim, Pidu Lukwiya, Tony Kitara, Aida Lagulu, George Obita, Francis Onen, Martin Ojara, Alex Okwerowat, Charles Picha, Justo Ojwiya, Michael Lakony, Jekeph Odong, Paul Akuch Okot, Federiko Ocan, Bosco Oti, Moses Atuku Akena** and **George Abedo** who were said to be held by the Ugandan army, the Uganda People's Defence Forces (UPDF) in Gulu Municipality. On 16 September 2002, Peter Oloya was killed by the UPDF in a suspected extrajudicial execution within the prison grounds, as UPDF forces tried to illegally remove all 21 prisoners from Gulu Central Prison. The 21 men were reportedly arrested in March and charged with the murder of the Pabbo District Chairman whilst canvassing for the opposition during the local government elections in Gulu. They were both key campaigners for the opposition multipartyist candidate, and it seems that their arrest may be due to their political activities during the campaign. The rest of the men were arrested on murder and treason charges related to the ongoing conflict between the Ugandan government and the rebel Lord's Resistance Army (LRA). Following the raid by the UPDF all 21 prisoners, including the body of Peter Oloya, were illegally moved to military detention at the UPDF's 4th Barracks in Gulu, where they remain.

Ukraine

1863. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information on the following individual cases, to which the Government responded on 28 November 2002.

1864. **Ruslan Antonik** was reportedly arrested in Pechersky Park in Kyiv on 19 May 2000 by police officers from the Pechersky department of police in Kyiv, it was alleged that between 20 and 25 May he had been repeatedly interrogated. He was believed to have been severely beaten by other detainees sharing the same cell for several days and police officers did reportedly not appear to intervene in order to prevent the beatings. He was allegedly hospitalized on 25 May 2000 suffering from a fractured nose, severe concussion and multiple bruising, as well as hyper-tension requiring the attention of a neurologist. He was allegedly not given access to a lawyer until 25 May.

1865. The Government responded that Ruslan Antonik had been sentenced to 13 years imprisonment for premeditated murder on 28 December 2000. On 12 April 2001, the sentence was upheld by the Kiev City Court which noted that the claim that militia personnel had used unlawful methods of investigation against Ruslan Antonik was not corroborated. On 27 December 2001, the Supreme Court of Ukraine rejected an application for review by the convicted and his counsel.

1866. **Oleg Cherkashin and his girlfriend** were reportedly arrested on 19 February 2000 and taken to Khortitsa police station in Zaporizhzhya, where Oleg Cherkashin's girlfriend was allegedly handcuffed to metal bars, forced to strip and sexually assaulted. It was believed that both were threatened with further ill-treatment.

1867. The Government responded that upon a complaint lodged by Oleg Cherkashin and a subsequent investigation, the Khortitsa district procurator had concluded that the detainees had not been subjected to or threatened with physical violence. Accordingly, no criminal proceedings were instituted against the Khortitsa district militia. In 2002, after having confessed his crime and stated that what he had declared in his complaint did not correspond to the facts, Oleg Cherkashin was convicted of theft and sentenced to one year imprisonment. He was released under the Amnesty Act of 5 July 2001.

Urgent appeals

1868. On 2 July 2002, the Special Rapporteur sent an urgent appeal on behalf of **Timur Flores Lopez**. On 14 June 2002, a group of masked law enforcement officials reportedly entered the cell, which Timur Flores Lopez shared with about 30 other prisoners at Prison No.1 in Vinnytsa. They allegedly beat him in front of other prisoners. He was then placed in a small isolation cell or "cooler". He was reportedly only removed from the isolation cell after an official complaint was lodged by a relative with the prison authorities. The Ukrainian Human Rights Ombudsperson's Office was also said to have been informed and visited the prison on 18 June 2002, reportedly confirming the incident. It was believed that he was subjected to this treatment for having made allegation of torture and ill-treatment against local law enforcement officials.

Observations

1869. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Committee against Torture after its consideration of the fourth periodic report of Ukraine in November 2001 under the Convention against

Torture, in which the Committee expressed its concern about “[t]he numerous instances indicating that torture is still being regularly practiced in the State party and that, according to the Commissioner for Human Rights, 30% of prisoners are victims of torture. (...)The numerous cases of convictions based on confessions and the criterion for promotion of investigators said to include the number of solved crimes, which can lead to torture and ill-treatment of detainees or suspects to force them to “confess”. Failure on the part of the authorities to carry out prompt, impartial and thorough investigations into allegations of such acts and to prosecute and punish those responsible.” (CAT/C/XXVII/Concl.2, para. 4 (a) (d) and (e)) Similar concerns were also expressed by the Human Rights Committee after its consideration of the fifth periodic report of Ukraine under the Covenant on Civil and Political Rights in November 2001: “the persistence of widespread use of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials.” (CCPR/CO/73/UKR, par. 15)

United Arab Emirates

1870. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 2001 regarding which no reply had been received.

Urgent appeals

1871. On 1 May 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions, on violence against women, its causes and consequences, and on the human rights of migrants concerning the forcible return **Sabrina Imtiaz Syed** who was said to be at risk of forcible return to Pakistan. She had reportedly asked her father, a Shi'a Muslim cleric, for his permission to marry a Pakistani national, **Ashfaq Muhammad**. Her father reportedly refused because the latter is a Sunni Muslim. The couple flew to Pakistan where they secretly married in September 2000. In February 2002, the couple allegedly told Sabrina Imtiaz Syed's parents that they were already married, and moved into an apartment together. Her parents reportedly severely beat the couple. Ashfaq Muhammad reported what had happened to the local police, but they did not take any action. The couple then flew to Pakistan, but while they were there Sabrina's relatives reportedly threatened to kill her. It is alleged that her parents asked her to return to Dubai, saying that they were ready to accept her marriage. She returned on 18 April, but was reportedly arrested on arrival at the airport and taken to an “immigration jail”. Her father met her there and allegedly told her that he had asked the authorities to revoke her visa and send her back to Pakistan, where his relatives would kill her for dishonouring the family by marrying against his wishes.

1872. By letter dated 2 August 2002, the Government replied that Sabrina Imtiaz Syed had arrived in the country on 19 April 2002, when an enquiry in her case was conducted. Her legal guardian is said to have filed a report against her claiming that she had eloped. She was then referred to the Dubai Nationality and Immigration Service for investigation. She does not appear to have been held under arrest and left for Pakistan on 12 May 2002.

United Kingdom of Great Britain and Northern Ireland

1873. By letter dated 13 September 2002 sent jointly with the Special Rapporteur on racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur advised the Government that he had received information according to which **Zahid Mubarek** was beaten to death with a table leg by his cell mate in Feltham Young Offenders Institution and Remand Centre, Middlesex, in March 2000. An internal prison service investigation into this murder was believed to have identified a number of management failures and other major problems affecting Feltham. It was alleged that Zahid Mubarek had been placed in the same cell as his killer, even though prison officers were, or should have been, aware of the latter's racial prejudices and violent behaviour. On 5 October 2001 the High Court was said to have ruled that the Home Office should initiate a public and independent investigation into the failures which led to the death of Zahid Mubarek. In March 2002 the Court of Appeal ruled that a public inquiry was not necessary. The Court of Appeal judges said that it had already been established that the prison service was at fault, an inquiry into this had been held and the family invited to be involved; that the cause of death had been established by the inmate's conviction for murder; and that there was no basis for prosecuting any member of the prison service. They also added that there were no "factual unknowns" which would impede the family from bringing a claim in the civil courts for damages. The family of Zahid Mubarek was reportedly planning to appeal to the House of Lords.

1874. By letter dated 18 November 2002, the Government assured the Special Rapporteur that the death was the subject of a wide-ranging investigation by the Prison Service and that a specially trained senior Governor from outside Feltham was appointed as Senior Investigating Officer. In all 26 recommendations were made addressing such areas as screening on reception, the availability and scrutiny of medical records, protection from harassment procedures, policy and procedures for reading and stopping mail, the availability of security information files from previous establishments, security, reception and Duty Governor training and the searching strategy. In addition, an improved healthcare screening process is being introduced to better identify prisoners with serious physical and mental health problems. Procedures are also being developed to ensure a better exchange of information between Prison Service and external agencies when a prisoner comes into custody. The Government informed the Special Rapporteur that an offer of £20,000 as compensation had been made to the family of Zahid Mubarek in September 2001 but had not been answered yet. Finally, the Government confirmed that the aggressor had been sentenced to life imprisonment for murder and that no member of staff at Feltham had been charged with any criminal offences or disciplined internally in relation to the care of Zahid Mubarek.

Urgent appeals

1875. On 1st July 2002, the Special Rapporteur sent an urgent appeal on behalf of **Mahmoud Abu Rideh**, a Palestinian refugee, who was held at Belmarsh Prison in London. He was reportedly arrested in London on 19 December 2001 under the Anti-terrorism, Crime and Security Act (ATCSA) 2001. In 1997, he is said to have been granted refugee status as a torture victim and diagnosed as suffering from severe post-traumatic stress disorder. His mental and physical health has seriously deteriorated

since his detention. He reportedly complained of frequent flashbacks of his torture, which were said to be triggered by the fact that he was detained in Belmarsh Prison in very harsh conditions. He was reportedly confined to a wheelchair. On a daily basis, like the other ATCSA detainees, he is locked up in his cell for 22 hours a day. Despite evidence presented at the bail hearing that Mahmoud Abu Rideh could conceivably take his own life as a result of his current detention at Belmarsh Prison, bail to a medium to low level secure mental hospital as requested by his legal representatives has been refused.

1876. On 24 July 2002, the Special Rapporteur sent another urgent appeal on behalf of **Mahmoud Abu Rideh** on behalf of whom he had intervened on 1st July 2002 (see above). It was reported that on 19 July 2002, the Home Secretary had ordered his transfer from Belmarsh prison in London to Broadmoor Psychiatric Hospital in the South of England. Broadmoor hospital is one of three high security mental hospitals and holds some of the most dangerous and violent detainees. However, it was reported that psychiatrists from Broadmoor had examined him while in Belmarsh and had recommended that he be sent to a mental hospital which would have a less oppressive regime and which would be nearer to his family. According to expert medical evidence, he is not a threat to anyone except himself.

1877. By letter dated 13 August 2002, the Government confirmed that Mahmoud Abu Rideh had been transferred on 24 July 2002 from Belmarsh prison to Broadmoor high security hospital after approval of the Home Secretary. The Government stated that the transfer of Mahmoud Abu Rideh met the legal requirements of the Mental Health Act 1983 and that the Home Secretary may only transfer a person to hospital if there are reports from a least two registered medical practitioners that the said person is suffering from mental illness or severe mental impairment that requires urgent treatment. The Government added that the Home Secretary considered Broadmoor to be an appropriate setting for Mahmoud Abu Rideh, taking into account his clinical needs and the risk he presents to the public.

Observations

1878. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Human Rights Committee in its consideration of the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland in October 2001 under the Covenant on Civil and Political Rights regarding the general Terrorism Act 2000 under which “suspects may be detained for 48 hours without access to a lawyer if the police suspect that such access would lead, for example, to interference with evidence or alerting another suspect. Particularly in circumstances where these powers have not been used in England and Wales for several years, where their compatibility with articles 9 and 14 *inter alia* is suspect, and where other less intrusive means for achieving the same ends exist, the Committee considers that the State party has failed to justify these powers.” (CCPR/CO/73/UK, para. 19)

United Republic of Tanzania

1879. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 2000 and 2001 regarding which no reply had been received.

United States of America

1880. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information regarding acts of ill-treatment allegedly perpetrated by US soldiers during the conduct of military operations in Afghanistan. In particular, the Special Rapporteur transmitted information on the following individual cases.

1881. A compound near Kandahar was reportedly raided by US soldiers on 17 March 2002. It was reported that at least 31 people had been detained and later released after it had been established that they were members of neither the Taliban nor *al-Qa'ida*. It was reported that the detainees had their feet bound, their hands tied behind their backs and black hoods placed over their heads while US soldiers allegedly punched and kicked them. They were said to have been driven to the Kandahar base, where they were allegedly made to lie on their stomachs on rocky ground and kicked in the back. As a result, many of them are allegedly sustained variety of cuts and bruises. They were allegedly held in 10 by five metre cages, each holding between 10 and 18 people, with buckets as toilets for four days. It was also alleged that the detainees had their beards and heads shaved by the military.

1882. The Uruzgan province was reportedly raided by US Special Forces on 23 and 24 January 2002. It was alleged that in the course of the operation 27 villagers, among which **Akhtar Mohammed**, aged 17, **Allah Noor** and **Abdul Rauf**, aged between 60 and 65, had been taken into custody. All of them were reportedly released on 6 February 2002. It was alleged that at the scene of the raid they had their hands and feet tied, were blindfolded and hooded, and flown to the US base at Kandahar. Upon arrival at the base, the prisoners were reportedly beaten, kicked and punched by soldiers, made to lie on their stomachs with their hands tied behind their backs and their legs chained, whereupon soldiers walked across their backs. Two men were said to have lost consciousness during the beatings, and others to have suffered broken ribs and loosened teeth. Akhtar Mohammed was allegedly kept in solitary confinement in a shipping container for eight days. An investigation on the facts was reported to have been carried out.

1883. By letter dated 2 September 2002 sent jointly by the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1884. **Charles Agster**, a 33-year-old mentally-handicapped man reportedly died after being placed in a restraint chair on 6 August 2001, in Madison Street Jail, Maricopa County, Arizona. Four Phoenix police officers were reported to have forcibly removed him from a store, handcuffed him, thrown him to the ground and placed him in a "rip-restraint" - in which his arms were handcuffed behind his back, his legs bound together at the ankle with a leather strap, and a strap tied between the handcuffs and leg strap. It was alleged that he had been taken to Madison Street Jail where, despite still being hogtied, at least three police officers and a sheriff's deputy allegedly jumped on him, punched and kneed him in the side. An officer was reported to have placed his hand over Charles Agster's face and applied upward pressure under his chin. He was then allegedly dragged face-down into the Intake area and strapped

into a restraint chair with a spit hood over his head. The rip-restraint was believed not to have been removed until he was placed on the chair. It was reported that within minutes he had not been breathing and a nurse unsuccessfully attempted resuscitation. A subsequent autopsy report was alleged to have given cause of death as “positional asphyxia due to restraint”.

1885. **Kevin Coleman** reportedly died in the Wade Correctional Center, Louisiana, on 6 July 2001 allegedly after three days in a four-point restraint chair. It was reported that both pepper spray and an electro-shock shield were applied to him before he was allegedly strapped into the restrain chair.

1886. **Albert Cothran** was reportedly arrested on 25 June 2001 and taken to Columbia County Detention Center, Florida, where he was allegedly placed in a restraint chair due to sustained combative behaviour. He was alleged to have been found unresponsive in the restraint chair by detention officers approximately 45 minutes after having been placed there. It was alleged that according to a Medical Examiner's subsequent report, the detainee suffered a heart attack while restrained in the chair.

1887. **Hazel Virginia Beyer** (f) was reportedly arrested on 23 February 2000 and placed in a restraint chair in Johnson City Jail, Tennessee. She was believed to have been found unconscious one and a half hours later, by which time she had allegedly slipped down in the restraint chair so that the restraining straps had tightened around her throat, choking her. She was reportedly taken to hospital where she remained comatose until she died on 7 March 2000. The autopsy allegedly determined her cause of death to be brain damage resulting from a failure to get oxygen supply to the brain. Placement in the restraint chair was reportedly deemed a proximate cause of death.

1888. By letter dated 18 September 2002 sent jointly with the Special Rapporteur on the human rights of migrants and the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur advised the Government that he had received information regarding the detention of non-US nationals in custody of the Immigration and Naturalization Service (INS) since 11 September 2001. The conditions under which these individuals, many of whom are migrants, are held have worsened with the broadening of powers yielded to the INS since 11 September 2001.

1889. Despite being held in custody by the INS, many post 11 September detainees are reportedly being investigated by the Federal Bureau of Investigation (FBI) for the commission of criminal offences. However, INS detainees appear to have fewer guarantees in their proceedings than people detained in the context of criminal procedures. While according to the anti-terrorist legislation (namely, the Patriot Act passed by Congress in October 2001), the Attorney General is allowed to hold certified terrorist suspects for up to seven days without charge, the INS has now the authority to detain people without charge for up to 48 hours or for further undefined period in case of “emergency” or “other extraordinary circumstances”. However, many have reportedly been detained longer than the 48 hour period and several INS detainees have allegedly been held in detention for more than 50 days before being charged. It was also reported that a new regulation allows the INS to override Immigration Judges' decisions to grant bail in certain cases.

1890. The Special Rapporteur noted with concern the level of secrecy surrounding these detentions. After 11 September, the Department of Justice, through a Memorandum from Chief Immigration Judge Michael J. Creppy, reportedly implemented security procedures according to which hearings in immigration courts would be closed to the public in “special cases”.

1891. It was reported that before 27 November 2001 the Attorney General released no official data on post 11 September detainees. The government provided further information on them on 11 January 2002 pursuant a request submitted by human rights organizations under the Freedom of Information Act. However, the Justice Department allegedly stated it was unable to provide information on a number of cases, namely on persons detained under material witness warrants, since the US Districts Courts before which these detainees had appeared had issued sealing orders prohibiting release of any information about the proceedings. It is reported that in early August 2002, a US District Judge ordered the government to disclose the names of people detained in relation with the 11 September attacks. According to the information received, this order allegedly does not apply for detainees in material witness to a terror investigation and does not request to reveal the dates and locations of arrests and detentions.

1892. It was reported that many of those detained have not had access to legal counsel and have not been informed in a language that they understand about their rights, particularly their right to have the assistance of counsel and in some circumstances have been denied that assistance. It was also reported that many detainees had been kept without access to lawyers for prolonged periods while they were allegedly questioned by the FBI. Concerns had also been expressed that detainees being investigated for criminal offences had not been informed of their right to court appointed counsel. In circumstances where individuals have had legal representation, it was reported that families and lawyers had great difficulty in locating the whereabouts of the INS detainees. It was reported that lawyers and families have not been notified that the detainee has been transferred, and in some circumstances not been informed where the detainee has been transferred to. Further, lawyers were alleged to have had difficulties in obtaining information necessary for the performance of their professional duties, for example, information about the date of detention, location of the detainee, the basis of detention, whether and when the detainee has been charged with an offence and whether or not the detainee has been subject to interrogation for the commission of criminal offences. It was reported that detainees have had serious difficulties in contacting with individuals or organizations external to their place of detention. Requests from NGOs to visit detention facilities and assist those detained who might need legal assistance were said to have been refused in many cases.

1893. It was also reported that many post 11 September detainees have been kept in prolonged detention for minor immigration infractions, which would previously not result in deprivation of liberty. A number of them have reportedly been held in punitive conditions in jails, alongside charged or convicted criminals. Some INS detainees are believed to have been held in prolonged solitary confinement and to have been heavily shackled and tightly handcuffed, mainly during visits or court appearances.

1894. In particular, the Special Rapporteur had received information on the conditions of detention in the Security Housing Unit (SHU) of the federal Metropolitan Detention Centre (MDC) in New York City, where it was reported that detainees charged with minor visa violations and with no record of violence have been held in conditions designed for dangerous and disruptive captives. It was further reported that in the MDC SHU unit, the 24-hour lighting cells prevent the inmates from sleeping and the cells are too cold. Detainees were reported to be only allowed to maximum one hour a day outdoor exercise. It was alleged that some of the inmates have been denied any exercise. It was also thought that inmates have found difficulties in receiving treatment for the medical needs.

1895. Allegations of physical and verbal abuse committed against detainees during their initial period in police custody or when taken to jails were also reported. These allegations of abuses include insults, intimidations, excessive use of restraints and being handcuffed to a chair for several hours. Concerns were also expressed that those non-US citizens detained in relation to the post 11 September investigations have been threatened or attacked by other inmates.

1896. Regarding the deportation procedures, it was reported that it has become harder for asylum seekers from a number of countries to have their claims acted after 11 September. Some detainees were reportedly at risk of human rights violations if they were returned to their country in connection with the post 11 September investigations. It was reported that at least two detainees had been deported without their families being informed by the authorities about their immediate expulsion and that two others have been deported by plane without any of their belongings. Finally, it was reported that a number of migrants detained after 11 September and who had final orders of deportation were kept detained, pending checks by the Justice Department regarding their involvement in the terrorist attacks.

1897. By the same letter, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1898. **Hasnain Javed**, a Pakistani student who was allegedly held for three days in September 2001 for overstaying his visa, was reportedly beaten and had a tooth chipped by inmates while he was detained in jail in Wiggins, Mississippi. It was alleged that he had tried to call for assistance through an intercom but that guards failed to respond. It was reported that later on that night he had been stripped naked and beaten again by inmates. In both cases he allegedly tried to call for help but the guards are believed to have failed to respond to his cries.

1899. **Rabid Haddad**, a Lebanese Muslim pastor and community leader who had been living in Ann Arbor, Michigan, was allegedly charged with overstaying his tourist visa. He was reported to have been arrested on 14 December 2001 and to have been denied bail. He was reportedly held in solitary confinement for at least two and a half months in the Metropolitan Correctional Centre, Chicago. It was alleged that his cell windows were whited out so he had no view and that he was handcuffed each time he was taken to secure showers. It was also alleged that he was allowed only one 15-minute call to his family every 30 days and that all proceedings, including bail hearings, had been closed to the public.

1900. **Shakir Baloch**, a Canadian citizen of Pakistani origin, was reportedly arrested in New York on 22 September 2001. He was believed to have waited over 100 days for a deportation order to be processed. He reportedly admitted having illegally entered the US after being denied entry on a previous occasion. He was allegedly ordered deported, refused bail and placed in isolation in the High Security Unit of MDC. His lawyer reportedly filed a petition for *habeas corpus*, after the 90 day period had passed, to which the Government responded by filing a criminal charge against him, namely entering the US after being excluded.

1901. **Dr Mazen Al-Najjar**, a Muslim cleric and academic, was reportedly arrested in November 2001 after being issued with a final order of deportation. It was reported that despite having no violent or criminal record, he had been held in solitary confinement in a high security federal prison in Florida where he was believed to have been locked in a cell 23 hours a day. It was reported that he was denied any visits at all with his family for the first 30 days of his confinement. As a stateless Palestinian with no country to return to, fears were expressed that he could remain indefinitely in such conditions.

1902. **Ayub Ali Khan**, an Indian citizen, was reportedly arrested on 12 September 2001 in possession of box cutters, hair dye and \$5,500 cash. Reportedly, law enforcement agents informed the press at the time of his arrest that he was a suspect in the investigation into the events that occurred on 11 September 2001. It was alleged that despite this, he had been held in the Special Housing Unit of the Metropolitan Detention Center for overstaying his visa, and he had not been brought before an immigration judge until 8 November 2001. It was further alleged that during his detention he was subjected to interrogation without an attorney present, and a public defender was only assigned to him after he had been held in detention for 57 days.

1903. **Bah Isselou, Sidi Mohammed Ould Bah, Sidi mohammed Ould Abdou, Cheikh Melainine Ould Belal**, all Mauritanian citizens, were reportedly arrested on 12 September 2001, in Louisville, Kentucky, on immigration violations. It was reported that they had been held in custody for four days and interrogated by the FBI about the terrorist attacks on 11 September 2001, before they were informed of their right to legal representation.

1904. **Osama Awadallah**, a citizen of Jordan and permanent resident of the United States of America, was reportedly taken for questioning by FBI agents on 20 September 2001 from his home in San Diego. It was reported that he had been questioned for approximately six hours and informed by the FBI agents that they believed that he had information concerning the terrorist attacks on 11 September 2001. It was alleged that he had been denied access to a lawyer.

1905. **Tiffany Hughes** and **Ali Al-Maqtari** were reportedly arrested on 15 September 2001 at the Fort Campbell, Kentucky army base. It was also reported that they had subsequently been interrogated for several hours without being informed of their right to legal counsel. Ali Al-Maqtari was allegedly held in custody for 52 days, mostly in solitary confinement, charged with an immigration violation. It was also reported that he had testified about his interrogation before the Senate Judiciary Committee on 29 November 2001.

1906. By letter dated 21 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 2001 regarding which no reply had been received.

Urgent appeals

1907. On 16 January 2002, the Special Rapporteur sent an urgent appeal on behalf of **Al Qaeda suspects and Talebans** detained by the United States following military operations in Afghanistan who had been recently transferred to Guantanamo Bay military base. It was reported that they had been drugged, hooded and shackled during the 20 hour transportation flight. It was believed that they were detained in small cages with chain-link sides, concrete floors and metal roofs, despite the reported existence of temporary hard-walled holding facilities at the military base. Fears had been expressed regarding their restricted access to lawyers and medical doctors, as well as independent human rights monitoring mechanisms and regarding their conditions of detention and of interrogation.

1908. By letter dated 3 April 2002, the Government assured the Special Rapporteur that the detainees at Guantanamo Bay were being treated humanely. The detainees have been provided with new clothes and shoes, adequate shelter, sleeping pads and blankets, three meals a day that meet religious dietary considerations, washcloths and towels, showers, personal toiletries and the opportunity to worship. They are also receiving free medical care including dental care, medication, eye examinations and corrective eyewear, and if necessary, hospitalization and surgery. The Government noted that the detainees were not held incommunicado and that they were permitted to meet individually and privately with representatives of the International Committee of the Red Cross. Some have also been visited by government officials from their country and many are communicating by mail with their families. The Government noted that the detainees did not have access to lawyers since enemy combatants are generally not entitled to counsel while in detention in the course of ongoing hostilities. The Government also noted that certain security precautions were necessary in light of the serious threat of physical harm posed by the detainees to the military personnel transporting and guarding them.

1909. On 6 March 2002, the Special Rapporteur sent a joint urgent appeals with the Special Rapporteurs on the independence of judges and lawyers and on extrajudicial, summary or arbitrary executions on behalf of **Tracy Lee Housel**, a British national, who was scheduled to be executed in the State of Georgia on 12 March 2002 after having been sentenced in February 1996 for a murder committed in April 1985. His lawyer, who had never defended anyone facing capital charges before, reportedly failed to present evidence that his client was suffering from serious mental health problems and psychological impairment. Statements reportedly taken when he was being held in coercive conditions in pre-trial detention were used during his trial. He was allegedly held in solitary confinement and not allowed to take a shower in the first three months of his detention. On several occasions, he was allegedly given electric shocks from a stun-gun.

1910. On 30 May 2002, the Special Rapporteur sent a joint urgent appeal on behalf of **Paul Trummel**, a freelance journalist, who had reportedly been imprisoned for contempt of court by a Superior Court judge who claims that he is not a legitimate

investigative reporter because he edits and publishes his own work. It is reported that Paul Trummel was imprisoned in February 2002 for breaching an injunction forbidding him to write about a residence about which he has complained in his own newsletter and web-site. These writings have led to a long-running legal battle with the residents and management of the residence. He had allegedly been placed in solitary confinement on Thursday 23 May 2002 to deny him access to the prison telephone.

Observations

1911. The Special Rapporteur notes with concern that the Government has not yet replied to a number of cases brought to its attention in the current and previous years.

Uzbekistan

1912. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1913. **Dilshod Eshonkhonov**, a 15-year-old boy, was reportedly arrested without order at his home by a local police officer and two police investigators from Dzhizak police department during the night of 14 January 2002. While in custody at Dzhizak Police Department, he was reportedly beaten on the lower back, had a gas mask placed over his face and the oxygen supply turned off. One investigator reportedly tied his hand and leg to a chair and pricked him with needles. When he lost consciousness, the official allegedly poured cold water on him. They furthermore reportedly forced a large nail into his rectum. When he was released the following day, his body was reportedly covered with bruises, and he had to stay in bed for six days. His family was allegedly threatened not to denounce the case.

1914. **Nikolay Ganiyev** was reportedly sentenced to death by Tashkent City Court on 29 March 2000, after having allegedly been beaten while in custody. It was reported that his death sentence was commuted by the Board of the Supreme Court on 14 February 2002.

1915. **Shahzoda Ergasheva**, the wife of independent imam Tulkin Ergashev, was reportedly detained on 21 February 1999 and kept in the basement of the Ministry of Internal Affairs, the Yunusobod District Department of Internal Affairs, the Tashkent City Department of Internal Affairs, where she was reportedly held for three days allegedly without food, and finally taken to the detention centre where female administrative detainees are held and where she was reportedly beaten by other prisoners. It was reported that her physical condition deteriorated; she was no longer able to stand up, had spells of dizziness and fainted on several occasions. She was reportedly released on 8 March 2000. Several days later she was allegedly admitted to Tashkent City hospital where she was believed to have been under observation in the neurological ward for a month.

1916. In July 2000 the presiding judge at Tashkent Regional Court reportedly dismissed allegations of torture by **15 members of the Islamic banned organization *Hizb-ut-Tahrir*** (Party of Liberation) charged with distributing leaflets and calling for the overthrow of the constitutional order, even after one of the accused took off his

shirt to show the court the injuries and bruises he had suffered. It was also alleged that this accused had shown to the judge a hole in his foot, which he was believed to have received as a result of being beaten with a nail fixed to a plank of wood. Other co-accused reportedly claimed to have been raped, subjected to electric shocks, violently beaten and threatened with murder in order to force them to confess by officers of the Ministry of Internal Affairs. After their detention the 15 men were allegedly held incommunicado for periods of up to two months and were denied their constitutional right to have access to a lawyer of their own choice, their families and medical aid. In September Tashkent Regional Court reportedly sentenced the men to prison terms ranging from 12 to 16 years. It was feared that the convictions were based on their "confessions" made following torture.

1917. By the same letter, the Special Rapporteur advised the Government that he had received information according to which there had been a clampdown on banned Islamic opposition parties, and suspected sympathizers of such parties had been detained. Thousands of devout Muslims were said to have been convicted after unfair trials of membership of an illegal party, distribution of illegal religious literature and anti-state activities, and were said to be serving long prison sentences in strict regime prison camps throughout Uzbekistan. On 9 October 2001, the Uzbek President reportedly stated on television that "indifference to, and tolerance of, those with evil intentions who are spreading various fabrications, handing out leaflets, committing theft and sedition in some neighborhoods and who are spreading propaganda on behalf of religion should be recognized as being supportive of these evil-doers." It was feared that such statements, together with an allegedly persistent failure by the Uzbek authorities to initiate impartial and thorough investigations into allegations of torture and ill-treatment, gave the signal that torture and ill-treatment in general, and in particular of alleged supporters of banned secular political and Islamic opposition parties by law enforcement officials, were acceptable, and that such conduct can be engaged in with impunity.

1918. By letter dated 2 September 2002 sent jointly with the Special Rapporteur on extrajudicial, summary and arbitrary executions, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1919. **Maksim Strakhov** was reportedly beaten by law enforcement officers for more than three days after his arrest in October 2000. It was alleged that he had been sentenced to death by the Tashkent City Court on 18 April 2001 for premeditated aggravated murder. His execution was believed to have been put on hold for three months by the Supreme Court, pending psychiatric tests.

1920. **Valery Agabekov** and his brother-in-law, **Andrey Annenkov**, were reportedly arrested in February 2001 and taken to a police station in Akhangaran town, in Tashkent province, under the suspicion of murder and rubbery. It was reported that they both had been subjected to ill-treatment and forced to confess to the crimes. As a result of the treatment allegedly received in pre-trial detention, Andrey Annenkov allegedly sustained one broken rib and a tooth knocked out and had blood in his urine. Valery Agabekov was also believed to have been subjected to ill-treatment in pre-trial detention and to have had blood in his urine too. It was reported that in prison he was handcuffed to a radiator against which his head was hit, a plastic bag was put over his head, he was death threatened and threatened with rape. As a

result, he allegedly fell unconscious, sustained a lesion on his jaw and had difficulty to breathe and to eat. On 18 September 2001 both were reportedly sentenced to death by Tashkent Regional Court. The death sentences were alleged to have been upheld by the Board of the court on 12 November 2001.

1921. The bodies of **Muzafar Avazov** and **Husnidin Alimov**, both religious prisoners at Jaslyk Prison, were reportedly returned to family members for burial in Tashkent around 8 August 2002. In May 2002, Muzafar Avazov had reportedly been beaten and put him in a punishment cell for stating that nothing could stop him from performing his prayers. His body reportedly showed signs of burns on the legs, buttocks, lower back and arms, a large, bloody wound on the back of the head, heavy bruising on the forehead and side of the neck, and all his fingernails were missing. Sixty to seventy percent of the body was said to have been burnt. Doctors who saw the body reported that such burns could only have been caused by immersing Avazov in boiling waters. Police cars were said to have surrounded the area and checked visitors who approached the house, preventing some from entering. Husnidin Alimov had reportedly been placed in a punishment cell at in June and spent many weeks there before his death. Conditions of detention were reportedly severe and beatings common. A large number of police reportedly accompanied Alimov's body and were present during the funeral.

1922. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1996, 1998, 1999, 2000 and 2001 regarding which no reply had been received.

Urgent appeals

1923. On 7 January 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on freedom of opinion and expression and on violence against women and the Chairman-Rapporteur of the Working Group on arbitrary detention on behalf of **more than 20 Women** who on 26 December 2001 were protesting against the alleged ill-treatment of their relatives said to have been convicted for their participation in "Hizb ut-Tahrir" party, in Tashkent. After two hours of demonstrating, members of the militia are said to have forced the women into a bus and took them to an unknown destination. It was believed that they were taken to the Shaihantahur regional Department of Internal Affairs of Tashkent.

1924. On 30 January 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on extrajudicial, summary or arbitrary executions on behalf of **Aleksander Kornetov** who had been sentenced to death by Tashkent Regional Court on 7 August 2001 for the premeditated aggravated murder of a young woman and whose execution was said to be imminent. He had reportedly maintained his innocence during the investigation and at th trial, although he was allegedly beaten. Her mother is believed to have seen the investigator slapping her son in the face and hitting his head at the Chilanazarsky district police station on two occasions. It was also reported that Aleksander Kornetov was suffering from tuberculosis and was not receiving any medical treatment.

1925. On 15 March 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression and the Chairman-

Rapporteur of the Working Group on arbitrary detention on behalf of **Oleg Sarapulov**, freelance journalist and Deputy executive director of the Union of Independent Journalists of Uzbekistan (UIJU), who had reportedly been arrested on 6 March 2002 by Yakasaray district Internal Affairs Department (IAD) employees in Tashkent. He was then allegedly brought to the Yakasaray district IAD. It was believed that he had then probably been sent to the office of the Special Receiver for the Homeless (OSRH). His whereabouts were unknown.

1926. On 3 June 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression and the Special Representative on human rights defenders on **Yuldash Rasulov**, a member of the Kashkadarya regional department of the Human Rights Society of Uzbekistan (HRSU) who had reportedly been arrested by officers of the Ministry of Internal Affairs (MVD) and who had allegedly been transferred to basement of the MVD in Tashkent. In protest on 27 May 2002 **Talib Yakubov**, HRSU Chairman, joined by **Nakhtiyor Khamraev**, HRSU Chairman of the Jizzak regional department and **Yodgor Turlibekov**, member of HRSU Kashkadarya department, reportedly decided to hold a peaceful picket near the building of MVD. The two latter were reportedly arrested by the police and transferred to the Yakkasaray Regional Department, transfer during which Nakhtiyor Khamraev was allegedly hit in the abdomen. They were released later.

1927. By letter dated 10 October 2002, the Government informed the Special Representative that the Ministry of Internal Affairs had been informed in the course of a criminal investigation that Yuldash Rasulev was the head of the "Wahhabi" extremist religious organization operating in the Kashkadarya region. Beginning in 2001, Yuldash Rasulev, with the assistance of Makhmadzhon Khatamovich Khalilov, one of the leaders of the Islamic Movement of Uzbekistan (IMU), has been organizing a channel for transferring young people abroad to undergo a subversive/terrorist training. With the authorization of the Taskent City Procurator's Office, Yuldash Rasulev was arrested and is now being prosecuted on criminal charges.

1928. On 17 September 2002, the Special Rapporteur sent a joint urgent appeal with the Special Representative on human rights defenders and the Working Group on Arbitrary Detention on behalf **Elena Urlaeva**, a member of the non-governmental organization Human Rights Society of Uzbekistan, on behalf of whom a communication had been sent on 22 February and on 15 March 2001. She had reportedly been arrested by the police while she was protesting on 27 August 2002 outside the Ministry of Justice building in order to demand that the Taskent court overturn its decision of 5 June 2002 according to which she should be subjected to psychiatric treatment. She was reportedly held at the Tashkent psychiatric hospital for compulsory treatment.

1929. On 22 November 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the independence of judges and lawyers on behalf of **Iskandar Khudoberganov**, **Bekhzod Kasymbekov** and **Nosirkhom Khakimov** and three others whose trial had reportedly been suspended at the beginning of September 2002 and resumed on 19 November. They were said to have been forced to confess or incriminate other defendants and were accused of religious extremism. During court

hearings in September, the defendants reportedly claimed that they were not guilty and that they had been tortured to sign a confession. They were allegedly beaten, denied food, deprived of sleep and threatened with the rape of their female relatives. Their lawyers were reportedly denied access to them and it was reported that they were in need of medical treatment.

1930. On 6 December 2002, the Special Rapporteur transmitted an urgent appeal on behalf of **Iskander Khudoberganov** (Rasul and Ravshan Haitov's stepbrother – see case above), **Bekzod Kazymbekov**, **Nosirkhon Khakimov**, **Orifzhon Vasykovich Kadyrov**, **Asatulla Boltaevich Abdullaev**, and **Abdunabi Khikmatovich Sharipov** (see Appendix II of E/CN.4/2003/68/Add.2)

Observations

1931. The Special Rapporteur's conclusions and recommendations made after his November-December 2002 visit to the country may be found in document E/CN.4/2003/68/Add.2. He regrets that no response has been provided to the cases brought to the attention of the Government since 1996.

Venezuela

1932. Por carta de fecha 2 de septiembre de 2002, el Relator Especial notificó al Gobierno que recibió información sobre los casos individuales siguientes.

1933. **Wilfredo Barrios** habría sido agredido por agentes de la Policía Estatal de Sucre el 1.º de enero de 2000 en Altos de Sucre. Los agentes le habrían propinado golpes y puntapiés. Habría sido esposado, arrastrado y herido en la pierna con un disparo de arma de fuego. A continuación habría permanecido cuatro días detenido.

1934. **Juan Carlos Blanco** habría sido agredido por funcionarios de la Policía Municipal de Sucre el 21 de enero de 2000 en Petare, Caracas. Habría sido esposado y golpeado antes de ser conducido a la zona 7 de la Policía Metropolitana. Habría sido puesto en libertad el día siguiente. Habría presentado contusiones en brazos y piernas.

1935. **José Francisco Matheus** habría sido detenido y golpeado por efectivos de la Policía del Estado de Zulia el 1.º de marzo de 2000 en su casa en el barrio El Manzanillo. Habría sido conducido a un lugar cerca del aeropuerto de Maracaibo, donde habría sido golpeado de nuevo, quemado y sometido a descargas eléctricas. Habría sido suspendido por los brazos y su cabeza habría sido cubierta por bolsas de plástico que le habrían provocado asfixia. Los policías habrían disparado tiros a proximidad de su cara. Habría sido trasladado a otro lugar donde habría permanecido incomunicado durante 11 días. Tras estos supuestos tratos habría presentado contusiones, impotencia funcional en ambos brazos y una cicatriz y habría una otitis micótica externa. Una denuncia habría sido interpuesta ante la Fiscalía General de la República pero todavía no se habría formulado ninguna acusación.

1936. **Jesús Uribe** habría sido golpeado por agentes de la Policía Metropolitana el 30 de marzo de 2000 en Caracas y más tarde conducidos al Hospital Vargas.

1937. **Osbel Barrios**, de 17 años, habría sido agredido por varios funcionarios de la Guardia Civil el 6 de abril de 2000 en Guatire, Estado Miranda. Los agentes se habrían acercado a él y le habrían hecho preguntas acerca del paradero de un primo suyo que se habría escapado recientemente de la Cárcel de El Rodeo, ubicada en la misma población. El menor habría recibido golpes y puntapiés, habría sido tirado al suelo y arrastrado. A continuación habría sido conducido a la Cárcel de El Rodeo donde habría sido sometido a otros malos tratos y habría sido detenido aproximadamente siete horas durante las cuales no habría podido comunicarse con sus familiares.

1938. **Dorian Alfredo Rodríguez** y **Sandy Rodríguez** habrían sido detenidos por funcionarios de la PTJ el 6 de septiembre de 2000 en Caracas, tras ser sacados de su casa. Durante su traslado a la PTJ habrían sido golpeados.

1939. **Gabriel Verenzuela** y su hermano **Reinal Verenzuela** habrían sido interceptados y golpeados por funcionarios de la Policía Municipal de Chacao el 19 de septiembre de 2000 en un estacionamiento cerca de las instalaciones del centro comercial Sambil, en Caracas. Seguidamente habrían sido detenidos y conducidos a la sede de la Policía Municipal de Chacao donde habrían sido nuevamente golpeados. Ese mismo día el padre de los jóvenes, **Alí Verenzuela**, habría acudido a la sede policial para solicitar información sobre la detención de sus hijos. Tras un altercado con los funcionarios, habría sido golpeado y posteriormente detenido. Debido a dichos golpes, Alí Verenzuela habría perdido un diente.

1940. **Richard Duarte**, de 18 años, habría sido golpeado con puños y objetos contundentes en la cabeza y otras partes del cuerpo en repetidas oportunidades, mientras se encontraría prestando el servicio militar en Fuerte Tiuna. El 17 de enero de 2001 habría acudido a una ONG presentando cefaleas de fuerte intensidad, mareos, trastornos del sueño y ansiedad.

1941. **Victor Castellanos** habría sido golpeado por miembros de la brigada especial de la policía de Yaracuy el 7 de febrero de 2001, cuando regresaba a su casa con un amigo después del trabajo. Habría sido detenido y conducido a un coche patrulla. Habría sido trasladado el día siguiente al Hospital central de San Felipe. Habría orinado sangre debido a los golpes supuestamente recibidos.

1942. **Silvano Castro**, un indígena pemón activista en las campañas de protesta contra la construcción de un tendido eléctrico en la Gran Sabana y a favor de quien el Relator Especial envió un llamamiento urgente el 24 de enero de 2001 (E/CN.4/2002/76/Add.1, párr. 1759), habría sido golpeado por soldados en marzo de 2001 durante una protesta.

1943. **César David Mendoza**, de 18 años, habría sido detenido por efectivos de la Dirección de los Servicios de Inteligencia y Prevención (DISIP) el 17 de diciembre de 2001. Habría sido conducido cerca de un depósito de agua donde su cabeza habría sido forzosamente introducida. Habría sido amenazado de muerte con una pistola.

1944. Por carta de fecha 2 de septiembre de 2002 enviada juntamente con la Relatora Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias, el Relator Especial notificó al Gobierno que recibió información sobre **Donis Ramírez**, quien habría sido

detenido junto a otro transeúnte, **Gerard**, por cinco miembros de la Policía Municipal el 8 de abril de 2000. Los agentes les habrían ordenado de alzar las manos y a continuación habrían empezado a disparar tiros en el aire. Al tratar de huir Gerard habría recibido un disparo que lo habría matado en el acto. **Guillerma Comenares**, una vecina que habría presenciado los hechos también habría recibido un disparo del cual habría resultado muerta. Donis Ramírez habría sido amenazado y golpeado.

1945. Por carta de fecha 11 de septiembre de 2002 enviada juntamente con la Relatora Especial sobre la violencia contra la mujer, sus causas y consecuencias, el Relator Especial notificó al Gobierno que recibió información según la cual **José Luis Urbano** habría sido golpeado y amenazado por fuerzas policiales del Estado Anzoátegui poco después de que su hermano tuvo un accidente de tráfico en el que estaría involucrado un agente de dicho cuerpo policial. Seguidamente habría interpuesto una denuncia sobre estos hechos. El 8 de febrero de 2000 su esposa habría recibido una llamada telefónica de una mujer que le habría dicho que recibirían una sorpresa por haber denunciado el incidente y la habría amenazado con matar a su madre en el caso de que interpusieran otra denuncia. Otro familiar habría recibido otra llamada telefónica según la cual las dos hermanas menores de José Luis Urbano, **Luz Damaris** y **Luz Noemí Guaicara**, se hallarían en un sector montañoso denominado Los Potocos, a 20 kilómetros de la ciudad de Barcelona. Poco después José Luis Urbano habría encontrado a sus hermanas llorando y desangrándose en dicho lugar. Las dos menores habrían sido violadas y su vagina y vejiga habrían sido heridas con unas cuchillas de afeitar. Habrían sido inmediatamente trasladadas al hospital más cercano. Los implicados en este caso habrían sido los mismos agentes que habrían amenazado a José Luis Urbano.

1946. Por carta de 17 de octubre de 2002, el Relator Especial recordó al Gobierno varios casos que le había transmitido en 1997, 1998, 2000 y 2001 respecto a los cuales no había recibido respuesta.

Llamamientos urgentes

1947. El 25 de enero de 2002, el Relator Especial envió un llamamiento urgente juntamente con el Presidente Relator del Grupo de Trabajo sobre la Detención Arbitraria sobre **Vicky Martínez** y **Kevin Capote**, dos activistas transgénero, habrían sido arrestados y golpeados por miembros de la policía de Carabobo. Posteriormente habrían sido conducidos a la prisión La Isabélica, en donde permanecen detenidos en régimen de incomunicación.

1948. El 15 de febrero de 2002, el Relator Especial envió un llamamiento urgente juntamente con el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y la Representante Especial del Secretario General sobre la situación de los defensores de los derechos humanos sobre la intensificación del clima de inseguridad y la aparente tendencia de violencia en relación con miembros de minorías sexuales y defensores y organizaciones de derechos humanos que trabajan sobre este tema en el Estado de Carabobo, especialmente tras el asesinato de la activista transexual **Michelle Paz** en Valencia el 11 de enero, supuestamente a manos de funcionarios policiales. En particular, se alega que el 8 de febrero de 2002, la División de Inteligencia de la Comandancia General de Policía del Estado de Carabobo habría emitido una orden de detención contra **Maury Oviedo**, presidente de la organización

local de activistas transgénero Respecto a la Personalidad, a pesar de que habría ninguna acusación penal u orden de acusación judicial formal en su contra. El 5 de febrero de 2002, **Gabriela Ojeda** (nombre legal Ronny Ojeda) habría sido llevada al Comando de la Parroquia Catedral donde habría sido interrogada sobre el paradero de Maury Oviedo. El 13 de febrero de 2002, un funcionario policial habría disparado contra **Paula Sánchez**, una activista transgénero. Habría sido puesta en libertad tres días más tarde. La policía estaría utilizando el proceso llamado “detención administrativa”, un mecanismo del código penal que permite que los crímenes no tengan que ser probados.

Seguimiento de casos transmitidos previamente

1949. Por cartas de 22 de marzo y 13 de agosto de 2002, el Gobierno informó de que, en relación con el caso de **José Luis Nieves** (también conocido como Luis Fernando Nieves o Dayana) (E/CN. 4/2002/76/Add.1, párr. 1757), el 2 de febrero de 2000, la Fiscalía 5.^a del Ministerio Público de la Circunscripción Judicial del Estado Carabobo recibió este asunto dándose orden de inició al Cuerpo de Investigaciones Científicas, Penales y Criminalísticas y en el que aparecen como presuntos imputados dos funcionarios adscritos a la Comandancia General de Policía del Estado de Carabobo. Una vez recibidas por la Fiscalía las actuaciones correspondientes y una vez practicadas las diligencias necesarias, se solicitó ante el Juez de Control correspondiente, medidas que después serían decretadas en la Audiencia Especial celebrada el 8 de enero de 2001, es decir, medida cautelar sustitutiva para Mauricio Escamilla y, medida de privación judicial preventiva de libertad para Daniel Alfonso Guillén. El 27 de enero de 2001 y en relación con este último, se presentó ante el Juez de Control escrito de Acusación formal por la comisión del delito de homicidio calificado y se fijó por Juez, el 18 de diciembre de 2001, la exhumación del cadáver de José Luis Nieves. Dicha exhumación no pudo ser realizada por la incomparecencia de los patólogos forenses fijándose, para el 22 de enero de 2002, por el Juez y en vista del retardo procesal existente, la Audiencia Preliminar de uno de los imputados. Dicha audiencia fue nuevamente diferida por equivocación del Tribunal respecto al traslado del imputado, fijándose nuevamente la Audiencia Preliminar para el 5 de marzo de 2002, razón por la que la presente causa se encuentra en fase intermedia. El 6 de mayo de 2002, se realizó la audiencia preliminar en la causa seguida al imputado Daniel Alfonso Guillen, se admitió la acusación y las pruebas fiscales y se abrió audiencia oral y pública. Actualmente se está a la espera de la constitución del tribunal.

1950. Por carta de 14 de enero de 2002, el Gobierno informó sobre el caso de **Luis Francisco Buitriago González** (E/CN.4/2001/66 párr. 1270) indicando que éste fue detenido por una comisión del Ejército al mando de un subteniente, presuntamente por colaborar con los sujetos que secuestraron a dos ciudadanos. El arriba mencionado fue posteriormente trasladado para la sede del Teatro de Operaciones N°1 donde rindió declaración en presencia del Fiscal Tercero del Ministerio Público del Estado Apure el 25 de mayo de 1999, siendo puesto en libertad el día 21 de mayo de ese mismo año. El Fiscal Tercero del Ministerio Público de la circunscripción judicial del Estado Apure, indicó que la denuncia hecha por Luis Buitriago ante el organismo de derechos humanos carece de veracidad por cuanto no se evidencian aparentes de los reconocimientos médicos legales que se le practicaron, descartándose consecuentemente que fuese torturado. Asimismo, el Gobierno resaltó que el órgano policial que se encargó de la investigación fue G/D Pedro Zaraza dependiente del

Teatro de Operaciones N °1, donde fue declarado inicialmente y posteriormente en la Dirección General Sectorial de Inteligencia Militar, donde rindió información ante el Fiscal Tercero del Ministerio Público. Igualmente, el Gobierno indicó que tanto de los dos reconocimientos médicos legales que se le practicaron al arriba mencionado, como de propia declaración que éste hizo ante el Fiscal Tercero del Ministerio Público, se entiende, habiéndolo Francisco Buitrago González manifestado, que en ningún momento fue torturado mientras estuvo detenido.

1951. Por carta de 22 de marzo de 2002, el Gobierno informó en relación con los casos de **Janny Paz, Paola Sánchez, Vicky Martínez y Kevin Capote**. El Gobierno indicó que, el 14 de enero de 2002, la Fiscalía 5.^a del Ministerio Público de la Circunscripción Judicial del Estado Carabobo recibió la causa en la que aparece como víctima Jhonny José Paz, según averiguación penal seguida por el Cuerpo de Investigaciones Científicas, Penales y Criminalísticas, comisaría Las Acacias. El defensor de los derechos humanos, solicitó, el 17 de octubre de 2002, información sobre este caso y el 6 de marzo de 2002, los Fiscales 5.º y 6.º del Ministerio Público de la Circunscripción del Estado Carabobo se trasladaron hasta la sede del Cuerpo de Investigaciones Científicas, Penales y Criminalísticas, comisaría Las Acacias para revisar las actuaciones relativas a la averiguación penal antes mencionada. Asimismo, se ordenó al Comisario Jefe de la Comisaría que girara las instrucciones para que se practicaran diligencias, entre las que consta la realización de las pesquisas necesarias para esclarecer estos hechos. Igualmente, los fiscales comisionados en este caso fueron instruidos para que notificasen a la Dirección de Protección de Derechos Fundamentales sobre las actuaciones proseguidas. En relación con los casos de Paola Sánchez, Kevin Capote y Vicky Martínez, el Gobierno señaló que se comisionó a los Fiscales 5º y 6º del Ministerio Público de la circunscripción judicial del Estado Carabobo, de quienes se espera la debida información.

Observaciones

1952. The Special Rapporteur acknowledges the response of the Government (E/CN.4/2000/9/Add.1, paras 123 to 148) to the recommendations formulated in his predecessor's mission report (E/CN.4/1997/7/Add.3) and he would appreciate continuing to receive information on measures taken to implement the recommendations included in this report. However, the Special Rapporteur notes with concern that no response has been provided to a number of cases brought to the attention of the Government since 1997.

1953. The Special Rapporteur notes with concern the views of the Human Rights Committee expressed in April 2001 after its consideration of the third periodic report of Venezuela under the Covenant on Civil and Political Rights as follows: “[t]he Committee is deeply concerned at the reports of torture and excessive use of force by the police and other security forces in breach of article 7 of the Covenant; the State party's apparent delay in responding to such occurrences; and the absence of independent mechanisms to investigate the reports in question. (...) The Committee is concerned at conditions in Venezuelan prisons and places of detention, since the delegation itself acknowledged that most human rights violations in Venezuela occur in such places. The overcrowding and failure to segregate detainees awaiting judgement from convicts are incompatible with the Covenant. The recently established institutional mechanisms (supervising prosecutors and prison-supervising

judges) for supervising conditions in prisons and investigating the complaints of prisoners should be strengthened with a view to the implementation of articles 7 and 10 of the Covenant.” (CCPR/CO/71/VEN, paras 8 and 11)

Viet Nam

Urgent appeals

1954. On 18 March 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression on behalf of **Tran Khue**, a writer who had reportedly been detained incommunicado since 8 March 2002 in Ho Chi Minh City. It was believed that his arrest is part of a campaign against intellectuals who have been openly criticizing recent border agreements between China and Vietnam.

1955. By letter dated 5 April 2002, the Government qualified as falsified the information brought to its attention and informed the Special Rapporteur that Tran Khue had never been arrested or put in custody.

1956. On 24 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Nguyen Vu Binh**, a former journalist who worked for almost 10 years for Tap Chi Cong San (Journal of Communism) before joining in January 2001 an independent opposition party called the Liberal Democratic Party. He had reportedly been arrested in Hanoi on 20 July 2002 and was being held incommunicado at the local precinct. On the same evening, he was released. On 21 July, he was reportedly re-arrested. His current whereabouts were unknown. On 6 July 2002, Binh and 16 other writers, retired government officials, and relatives of detained journalists reportedly wrote an open letter addressed to the country's top leaders. The letter supported political reforms and called for the release of several prisoners held on alleged political charges.

1957. By letter dated 13 November 2002, the Government responded that he had been arrested in accordance with Article 80 of the Criminal Code and that he will be put to trial upon completion of the investigation procedures.

Observations

1958. The Special Rapporteur considers it appropriate to draw attention to the concern expressed by the Human Rights Committee in its consideration of the second periodic report of the Viet Nam in July 2002 under the Covenant on Civil and Political Rights, in which the Committee expressed its concern about the fact that “the legal right of detainees to access to counsel, medical advice and members of the family is not always respected in practice.” (CCPR/CO/75/VNM, para. 13)

Yemen

1959. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1996 regarding which no reply had been received.

Urgent appeals

1960. On 15 February 2002, the Special Rapporteur sent an urgent appeal on behalf of **‘Abdul ‘Aziz al-Sharif**, an Egyptian national, said to be at risk of being forcibly returned to his country of origin. He was reportedly working as a surgeon in the city of Ibb in Yemen when he was arrested at the hospital where he worked about three months ago by members of the Political Security Office (PSO). There were conflicting reports as to his current whereabouts. It was believed that he may have been arrested because of his connection to Afghanistan. Prior to his entry into the Yemen, he worked as a surgeon with the Mujahideen fighting the Soviet Union in Afghanistan during the early 1990's.

1961. On 10 June 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the right to freedom of opinion and expression on behalf of **Abdul-Rahim Mohsen**, a writer and journalist at the daily “Al-Thawri”, the opposition Socialist Party's newspaper, who was reportedly sentenced on 4 June 2002, together with **Khaled Salman** and **Ibrahim Hasan**, respectively editor-in-chief and journalists at “Al Thawri” to five-month suspended prison sentences, after having been charged by the Ministry of Information with incitement to “religious sedition” and “harming national unity” following the publication of a series of articles in February. It is reported that, while Khaled Salman and Ibrahim Hasan were released after the sentence, Abdul-Rahim Mohsen, who had been arrested on 23 May, remains in custody. The Ministry of the Interior refused to disclose details of his whereabouts. It was believed that he had been incarcerated in connection with articles in which he criticized government corruption, human rights violations and the wave of arrests that followed the 11 September 2001 terrorist attack in the United States.

Observations

1962. The Special Rapporteur notes with concern that no response has been provided to cases brought to the attention of the Government since 1996.

1963. The Special Rapporteur considers it appropriate to draw attention to the concerns expressed by the Human Rights Committee in its consideration of the third periodic report of Yemen in July 2002 under the Covenant on Civil and Political Rights, in which the Committee expressed its concern as follows: “[t]he Committee is extremely concerned to find that amputation and flagellation, and in general corporal punishment are still prescribed by law and practised, contrary to article 7 of the Covenant. (...)The Committee is disturbed to note the existence of cases of torture and cruel, inhuman or degrading treatment for which law enforcement officers are responsible. It is equally concerned at the absence, in general, of investigations into such reprehensible practices and of punishment of the perpetrators. It is also concerned at the absence of an independent body to investigate such complaints (arts. 6 and 7 of the Covenant).” (CCPR/CO/75/YEM, paras 16 and 17)

Yugoslavia

1964. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information according to which ill-treatment by law-

enforcement officers continued to be a major concern in the Federal Republic of Yugoslavia. In the Leskovac area alone, over 100 allegations of police ill-treatment had allegedly been reported from January to June 2002. Reports of ill-treatment of ethnic Albanians by police were said to have continued in Southern Serbia. In most cases, those who have complained about such ill-treatment have reportedly received a standard letter from the Ministry of Internal Affairs stating that the case had been investigated, that it had been confirmed that police officers (always unnamed) had acted illegally and that unspecified "disciplinary measures" had been taken against them. On 25 May 2002, two prison warders allegedly beat five inmates of Vranje prison because they were suspected of being in the possession of a mobile phone. Two of the inmates, **Shpetin Shabani** and **Murat Ze cirja**, were reportedly beaten so badly that they lost consciousness and sustained severe contusions.

1965. In the very few reported cases in which police officials were tried for torture and found guilty, the sentences imposed were said to have been below six months. It was reported that sentences of six months or above would lead to dismissal from the police force. On 13 June 2002, two officers were reportedly sentenced to two months' imprisonment suspended for one year for torturing **Georg Tani** on 23 November 2000, while on 8 July two other officers received three-month sentences for torturing a Rom in May 1998. The maximum sentence under current legislation is said to be three years. In March 2002, a new criminal procedure code was reportedly adopted. Article 13 of the new criminal procedure code is said to allow all detainees immediate access to defence counsel. While torture as a crime reportedly does not form part of specific domestic legislation, Article 12 of the new code is said to forbid and punish the use of any kind of violence on a detainee.

1966. In particular, the Special Rapporteur advised the Government that he had received information on the following individual cases. By letter dated 5 November 2002, the Government responded to some of them.

1967. **Kosta Stankovic**, **Nemanja Jovic**, and **Milan Milovanovic** were reportedly severely beaten by six policemen on 16 March 2002, whilst the police was breaking up a student birthday party in Belgrade after complaints had been made about loud music. Kosta Stankovic and Nemanja Jovic reportedly suffered a burst eardrum. When Milan Milovanovic took down the officers' numbers and said he would sue, he was allegedly bundled into a police car, repeatedly beaten and taken to the Zvezdara woods where he was kned in the head several times.

1968. **Nenad Miljkovic**, aged 18, was reportedly tortured by *falaka* (beatings on the soles of his feet) by three policemen at Vucje police station near Leskovac in June 2002 to make him confess to theft, which he denied.

1969. **Nenad Živkovic** was reportedly stopped in his car in Leskovac on 30 May 2002 by two policemen who allegedly punched him repeatedly. The policemen then took him to his home where they allegedly physically assaulted his mother, aged 65, **Stojanka Živkovic**, by pulling her ears. **Nenad Živkovic** was subsequently hospitalised for bruises to his head and body.

1970. **Stancic Dragan**, aged 13 and **Ristic Ljuvica** (f) aged 14, were allegedly washing the windscreens of cars that had come to a halt in a busy intersection in

Belgrade on 29 June 2002 when a police car approached them. A policeman reportedly shouted aggressively at the boy to go away and then allegedly smacked him across his face with the back of his hand, causing Stancic's lip to split open. The same policeman then reportedly swore at the girl, slapped and punched her left cheek.

1971. The Government indicated that a patrol of traffic police had been sent to the referred intersection, where unknown minors were disrupting the traffic, walking on the carriageway, begging and offering to wash the windshields. The head of the police patrol repeatedly instructed them to get away of the carriageway. However, no evidence had been found that this person insulted or ill-treated the minors.

1972. **Three children** were reportedly beaten and insulted by police officers on 9 July 2002 near the village of Americ, near Mladenovac. The police were said to have been looking for firearms allegedly hidden by their father said to be held in detention during a search of their house. One of the children, **Dragan Djuric**, aged 15, was said to be handicapped and to have been forced to dig a hole in the garden. The children were also believed to have been threatened with being subject to electric shocks if they did not answer the questions of the three police officers. It was reported that the Belgrade Police Department had later denied all allegations of ill-treatment of the children, but it was now known whether an investigation into their allegations took place.

1973. The Government responded that accusations relating to abuse and ill-treatment of children, and in particular those pertaining to Dalibor, were absolutely untrue. The Government stated that on the basis of complete investigation as well as on the basis of the interviews conducted with police officers of the Department, no evidence had been found that would confirm accusations for abuse and ill treatment.

Follow-up to previously transmitted communications

1974. By letter dated 12 December 2002, the Government responded to cases included in previous letters sent by the Special Rapporteur.

1975. Concerning **the murder of 24 Albanians in Drenica village** (E/CN.4/1999/61, para. 799), the Government informed that the police officers opened fire after they were caught in ambush by terrorists. The Government assured the Special Rapporteur that the use of arms by the police was in accordance with the law and that the police did not kill the persons who surrendered, nor did it massacre those who perished during the encounter. According to the Government, it cannot be excluded that the injuries sustained by the corpses were a result of the use of grenades and high caliber arms and that terrorists massacred bodies after they were handed over to the families by the police.

1976. Concerning **Rexhep Bislimi** (ibid., para. 800), the Government assured the Special Rapporteur that according to the Urosevac Secretariat for Internal Affairs, he was not physically ill-treated. Medical, police and pathology documentation remained at the Public Prosecutor's Office in Pristina.

Zambia

1977. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 2001 regarding which no reply had been received.

Zimbabwe

1978. By letter dated 2 September 2002, the Special Rapporteur advised the Government that he had received information according to which members and supporters of the Zimbabwe African National Union Patriotic Front (ZANU-PF) as well as war veterans, sometimes accompanied by members of the law enforcement agencies, had attacked and threatened by persons believed to be members or supporters of the Movement for Democratic Change (MDC). It was reported that such attacks were taking place with the apparent acquiescence of state officials and perpetrators of abuse had reportedly not been brought to account to date. In the run-up to the June 2000 elections, ZANU-PF supporters reportedly set up bases in secret locations where assaults and torture occurred, and it was believed that this pattern had continued since. Furthermore, it was reported that opposition supporters and others have been assaulted in police stations where they had been held after being arrested, and that many victims of human rights violations did not report incidents to the police out of fear of being arrested and assaulted in their custody.

1979. In particular, the Special Rapporteur advised the Government that he had received information on the following individual cases.

1980. **Mr Mahoso**, the headmaster of Muchakata High School, near Macheke, and a human rights activist, was reportedly assaulted on 30 March 2000 during a school function by armed men, who allegedly beat him with stones, sticks, boots and fists, and berated the staff, pupils, parents and guests present for neglecting their national duty by not invading farms. The school was said to have been closed, with staff and pupils fearing for their lives. The police was believed to have not carried out any investigation.

1981. **Justin Mutendadzamera**, a Member of Parliament from Mabvuku, **Hilda Mutendadzamera**, his wife, and **Joseph Kandi**, their stepson, were reportedly assaulted on 18 October 2000 by about 50 assailants, among which police officers, who were surrounding the house belonging to Justin Mutendadzamera in Mabvuku and who started throwing stones onto the roof. The group of men reportedly jumped over the wall and started banging on the door. Justin Mutendadzamera and his wife were allegedly pulled outside and beaten. They were reportedly forced to run about 100 metres down the road to a place where approx 12 youths were lying on the ground and being beaten by police. They allegedly received hospital treatment later that morning. Justin Mutendadzamera's request to identify the culprits was reportedly denied by the police.

1982. **Makundwei Motsi Muzavazi**, a man of the Musana communal lands area, was allegedly assaulted by ZANU-PF supporters armed with chains and sticks in mid-June 2001, because they believed he was an MDC supporter. It is reported that he required hospital treatment in Harare for injuries to his head.

1983. **Felix Mazava**, headmaster of a primary school, was said to have been abducted and beaten to death, allegedly by ZANU-PF supporters, on 14 September 2001.

1984. **Vusumuzi Mukweli**, a Democratic Change (MDC) activist, reportedly died in a Gokwe police station on 13 August 2001 after officers allegedly refused to provide him with anti-seizure medication he needed after a severe beating by the state-sponsored militia in 2000.

1985. **Zeke Chigagwe**, an activist for the opposition, was allegedly beaten to death by members of the ruling ZANU-PF party in June 2000.

1986. **Residents from** the town of **Ruwa**, east of Harare, and from the smaller town of **Mabvuku** outside of Harare, were allegedly beaten by more than a 100 members of the Border Gezi youth training centre in Mt Darwin on 28 December 2001. The latter are said to have rampaged again on 2 January 2002 in Ruwa, indiscriminately beating up residents for allegedly supporting the political opposition.

1987. **Abednico Bhebhe, Peter Nyoni, Joel Gabuza**, all MDC Members of Parliament, and **33 other MDC supporters**, including **Gertrud Ntombeni**, a member of the National Executive, were reportedly ambushed by military personnel and ZANU-PF militia on 6 February 2002. Those inside the cars were allegedly dragged out and beaten before being taken to the local police station. Thirty men were allegedly locked up in one cell and six women in another in very harsh conditions. It was reported that they had initially been denied food and drink, despite the hot weather conditions. They were reportedly also denied access to medical treatment despite reports that some were suffering from serious wounds.

1988. **Michael Shane Kidd** was reportedly arrested on 6 April 2002 and taken to the Central Intelligence Organisation (CIO) offices in Chimanimani, in the eastern province of Manicaland, which are in the same building as the Chimanimani police station. At the station he was allegedly beaten with clenched fists by the senior officer in overall command of the station. Although he later tried to report the assault, the desk officer at the station was said to have ignored him. Instead the senior officer who had allegedly beaten him lodged a report that Michael Shane Kidd had assaulted him, and the latter was taken into a cell. Shortly afterwards approximately seven people, including the senior police officer and the senior CIO agent in Chimanimani came into his cell and allegedly assaulted him again. He was reportedly denied access to his lawyer until the following day. On 8 April 2002, a court reportedly ordered that he be released. A subsequent medical examination allegedly confirmed that his eardrum was ruptured. Following a complaint lodged by his lawyer at a different police station, the senior officer in charge of Chimanimani police station was charged with assault, but he had not been suspended from duty.

1989. On 13 November 2001, statements by **Khethani Sibanda** and **Sazini Mpfu** were apparently broadcast on Zimbabwe state television in which they implicated themselves and others in the abduction and subsequent murder of Cain Nkala. They had reportedly since then retracted these confessions, stating that the statements were made under duress. On 27 November 2001, Khetani Sibanda and **Remember Moyo**

were said to have appeared before the High Court and to have testified that they had been tortured and forced to make their confessions. The High Court was believed to have ordered a medical examination to verify their injuries.

1990. **Khethani Sibanda** reportedly stated before a court of law that he had been kicked, slapped, punched and threatened at Gweru Police Station after his arrest on 11 November 2001. He reportedly further stated that at one stage on 12 November, the senior investigating officer pulled out a gun and threatened to shoot him.

1991. **Sazini Mpofo** was reportedly arrested late on 12 November 2001 and slapped, punched, kicked and assaulted with a gun butt by the arresting officers. A friend present at the time of the arrest was also said to have been assaulted. He was reportedly taken to his home, which was searched, and later to Nkulumane Police Station. He was believed to have been further assaulted during the transfer. It was reported that he had later stated that he had been stamped upon and trodden upon and told to make false confessions and implicate certain individuals. Medical evidence was said to corroborate his allegations.

1992. **Remember Moyo** was reportedly arrested in Gweru on 11 November 2001, together with Khethani Sibanda. It was alleged that the police stopped in a lay-by on the road to Bulawayo and that police officers assaulted him with kicks, punches and slaps. They reportedly struck him on the head and ribs, placed him in leg-irons, and suspended him in the air by the feet, for further ill-treatment. It was reported that he had been held by the head under the wheel of the vehicle, which caused injuries to his jaw. He was reportedly taken to Mbembesi Police Station where he was held for three nights handcuffed, chained to a ring in the cell, and denied blankets. On three successive nights, police officers allegedly assaulted him. The police officers are reported to have repeatedly told him to implicate certain individuals.

1993. **Gilbert Moyo** was reportedly arrested and assaulted on 12 November 2001. He was allegedly taken to Nkulumane Police Station, where his head was reportedly placed in the toilet bowl and the toilet was flushed a number of times. He was allegedly choked. He was also reportedly threatened by police officers and told to confess to crimes and to implicate certain other individuals.

1994. Furthermore, the Special Rapporteur had received information according to which thousands of farm workers have been assaulted, their homes razed and then forced to leave the area by ? war veterans, ruling party supporters and those who have taken over white-owned farms. It was estimated up to 70,000 farm workers had been forced to leave their homes since those farms were forcibly occupied. In particular, the Special Rapporteur has received information on the following individual cases.

1995. **Farai Sandikonda**, a game warden, was said to have had his arm broken and to have received a serious cut on his head, as he was trying to protect his farm manager's house, near Mvurwi, north of Harare, on 3 April 2000, by 20 alleged ZANU-PF supporters.

1996. **Zondiwa Dumukani**, a farm worker in Waterfalls, near Harare, was allegedly beaten to death on 12 June 2001 by ? war veterans. It appeared that nearby police

officers and journalists with the state-controlled Zimbabwe Broadcasting Corporation television crew ignored the killing at the time.

1997. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998, 1999 and 2001 regarding which no reply had been received.

Urgent appeals

1998. On 8 February 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression and the Chairman-Rapporteur of the Working Group arbitrary detention on behalf of **Gertrud Ntombemi** (f), a National Executive member of the Movement for Democratic Change(MDC), **Abednico Bhebhe** and **Peter Nyoni**, both MDC Members of Parliament and **33 MDC supporters** who were reportedly being held incommunicado without charge at a local police station in Nkayi district, Matabeleland North. They were reportedly ambushed by military personnel and ZANU-PF militia on 6 February 2002. At the time of arrest, they were allegedly dragged out and beaten before being taken to the local police station. They were allegedly initially denied food and drink, despite the hot weather conditions. It is said that they are being denied access to medical treatment despite reports that some are suffering from serious wounds, including Abednico Bhebhe who is reportedly in a critically condition as a result of a head wound.

1999. On 18 October 2002, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteurs on the right to freedom of opinion and expression and on the right to education on behalf of 627 teachers who had reportedly been dismissed on 14 October 2002 by the Public Service Commission. The teachers had reportedly been on strike asking for a long-awaited wage increase. **Raymond Majongwe**, the Secretary General of the Progressive Teachers' Union of Zimbabwe (PTUZ), was reportedly arrested for his picket action and was injured during his 48-hours in police custody. On 16 September, he was reportedly arrested for the second time along with PTUZ leaders, **Innocent Moyo** and **Enock Paradzayi**, on public order charges. They were believed to be held incommunicado.

Observations

2000. The Special Rapporteur notes with concern that no response has been provided to a number of cases brought to the attention of the Government since 1998.

Information transmitted to the Palestinian Authority

2001. By letter dated 11 September 2002 sent jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur advised the Government that he had received information regarding the following individual cases.

2002. **Khaled al-'Akheh** was reportedly arrested by the Preventive Security Service (PSS or al-Amn al-Wiqa'i) in Gaza on 14 February 2001 and convicted by the Gaza State Security Court on 12 August 2001 for helping Israeli forces to kill Mas'ud

Ayyad on 13 February 2001. It is reported that over a period of 18 days after his arrest he was subjected to *shabah*, i.e. being made to stand or sit up in painful positions for long periods, often hooded or blindfolded and often combined with sleep deprivation, and repeatedly punched in the face with his head hooded. He reportedly received visitors about 20 to 30 days after his arrest. He was reportedly shot by police on 9 September 2001, allegedly while trying to escape from custody during a prison transfer in Gaza City.

2003. **Suliman Qwaidh Mohammad Abu 'Amra** was reportedly arrested on 8 August 2001 by the Military Intelligence Service (MIS) and held incommunicado at the MIS' headquarters in Gaza City until mid-August 2001. On 15 August 2001 his family was informed that he died of a heart attack while being interrogated. An autopsy conducted at Shifa Hospital reportedly found that the death resulted from "several injuries in the body and sensitive parts, such as the abdomen and scrotum, caused by repeated blows by solid objects" and that "all the wounds were recent and took place one week prior to death". President Arafat is said to have ordered an official inquiry into this death.

2004. **'Ala' al-Din Hassan Muhammad Wabheh** was reportedly arrested for "security reasons" on 18 October 2001 by security forces. It is reported that he died during his transfer to hospital on 21 October 2001, after having been held in incommunicado detention for three days at the General Intelligence Apparatus in Khan Yunis. His brother, a medical doctor, managed to see his body and reported that the corpse presented bruises, swellings and marks indicating that his head had been hurt and his neck wore marks of a rope or a wire.

2005. By letter dated on 19 September 2002 sent jointly with the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur advised the Government that he had received information regarding **Yusra al-Ramlawi** who had reportedly been arrested in June 2001 by the General Intelligence Service (GIS or Mukhabarat). Although she informed her interrogators that she was two-months pregnant, she was reportedly beaten so severely that she allegedly had a miscarriage. Some days later she was reportedly threatened with rape by an interrogator. It is alleged that despite a complaint to other officers, the same interrogator was back at work three days later. She was transferred to the GIS section of al-Saraya prison in Gaza Strip at the end of June 2001. She was believed to have been beaten there as well. It is alleged that she was not accused of being a collaborator herself but that she nevertheless remained in detention without charge or trial at least up to September 2001.

2006. By letter dated 17 October 2002, the Special Rapporteur reminded the Government of a number of cases transmitted in 1998, 1999, 2000 and 2001 regarding which no reply had been received.

Urgent appeals

2007. On 16 January 2002, the Special Rapporteur sent an urgent appeal on behalf of **Jaweed Al-Ghussein**, aged 71, on whose behalf the Special Rapporteur sent an urgent appeal on 11 October 2001 (see E/CN.4/2002/76/Add.1, paras 1817-1818). Since the beginning of his detention in Gaza, declared to be arbitrary by the Working

Group on Arbitrary Detention in December 2001 (case No.31/2001), he has been suffering from diabetes and a serious heart condition. He reportedly developed swelling, flushing, cramps, abdominal pain and diarrhea. His doctors in Gaza and London indicated that he would have to be treated by means of advanced diagnostic facilities, such as MRI-guided biopsies and that the necessary facilities were not available in Gaza. At the end of November, Jaweed Al-Ghoussein was reportedly transferred to the Palestine Hospital in Cairo. An Egyptian physician reportedly concluded that Jaweed Al-Ghoussein needed “further investigation and expert management in a specialised centre such as the Royal Marsden hospital in London”. On 3 January 2002, Jaweed Al-Ghoussein was said to have been forcefully returned to Gaza, where he was reportedly placed under house arrest in a house without electricity. Since the transfer, he is said to have been suffering from heart palpitations, breathing problems, flushing, diarrhea, an excessively accelerated heart rate and blood pressure of 180/110.

2008. On 8 July 2002, the Special Rapporteur sent a joint urgent appeal with the Special Representative on human rights defenders on behalf of **Khaidar Ghanem**, a B'Tselem fieldworker, who was in the custody of the Palestinian Preventive Security Apparatus. He had reportedly been arrested on 3 July 2002 in Gaza. Fears were expressed that he may have been arrested in connection with his work at B'Tselem, in particular collecting testimonies from Palestinian residents on alleged human rights violations in the Rafah area of the Gaza strip.

Observations

2009. The Special Rapporteur regrets that no response has been provided to the cases brought to the attention of the Authority since 1998.

Information transmitted to the Rassemblement congolais pour la démocratie-Goma (RCD-Goma)

Appels urgents

2010. Le 19 juin 2002, le Rapporteur special a envoyé un appel urgent conjointement avec le Rapporteurs speciaux sur le droit à la liberté d'opinion et d'expression et sur la situation des droits de l'homme dans la République démocratique du Congo en faveur de **Djento Mahungu**, le chargé des relations publiques pour les organisations de la société civile à Goma. Il aurait été arrêté le 30 mai pour avoir donné une interview à des radios internationales sur la situation à Goma et les vagues d'arrestations qui auraient eu lieu dernièrement. Il serait détenu au G2, une section du quartier militaire du RCD-Goma.

2011. Le 19 juin 2002, le Rapporteur spécial a envoyé un autre appel urgent conjointement avec le Rapporteur spécial sur la situation des droits de l'homme en République démocratique du Congo en faveur de **Zélote Farini** qui aurait été détenu par des officiers de l'Armée patriotique rwandaise pour avoir pris part à une attaque à la grenade en mars 2002 à Goma. Le 31 mai, il aurait été présenté par le RCD – Goma lors d'une conférence de presse durant laquelle il aurait avoué sa participation à cette attaque.

2012. Par le même appel urgent, les Rapporteurs spéciaux sont intervenus en faveur de **Simon Salumu** qui aurait été arrêté le 29 mai 2002 par des soldats de l'Armée patriotique et serait accusé de participation au groupe armé d'opposition Mayi-Mayi. Il aurait été violemment frappé lors de son arrestation, en particulier avec les ceinturons des militaires. Il serait détenu à la Direction générale de la sécurité et n'aurait pas reçu de soins médicaux.

2013. Le 26 juillet 2002, le Rapporteur spécial a envoyé un appel urgent conjointement avec la Rapporteuse spéciale sur la situation des droits de l'homme dans la République démocratique du Congo en faveur de **Pasteur Mugaju Ruterera, Pasteur Muzero, Pasteur Rusingizwa Bitebetebe, Andrea Nyamarimbwe, Pasteur Ntwayingabo Bigabo, Bienvenu Rugagaza, Tito Kigwenu, Muvura Munyakazi, Muhizi Majerere, Budederi Bigabo André** (fils du Pasteur Bigabo), **Samuel Sebatutsi, Moïse Mudita, Pasteur Kihega Sadoge, Kisimbi Malianu, Mazeze Mayiku, Zachée Muhunguza, Sebanyana Rwanginandi, Harimurima Nabugeta, Munahano Sengiyunva, Sosthène Sebugorore, Shauri wa Mungu et Georges Natuzite**, qui auraient été accusés d'« atteinte à la sûreté de l'Etat et de collaboration avec l'ennemi », arrêtés entre le mois d'avril et le 15 juillet 2002 par des agents du RCD- Goma et tenus au secret. Selon les informations reçues, les raisons de leur détention seraient liées à leur appartenance à la minorité ethnique congolaise Tutsi des Banyamulenge et à leur manque de coopération avec les autorités du RCD – Goma et rwandaises pour mettre un terme à une rébellion armée des Banyamulenge dans le territoire de Minembwe, près de Uvira au Sud –Kivu. Certains d'entre eux seraient détenus à la prison centrale d'Uvira, d'autres à la Direction générale de la Sécurité et d'Intelligence, à Ndosho (un centre de détention près de Goma contrôlé par l'Armée patriotique rwandaise) ou à l'Agence Nationale de Renseignements (ANR) de Bukavu.

Information transmitted to the Special Representative of the Secretary-General in Kosovo

2014. By letter dated 22 September 2002, the Special Rapporteur advised the Special Representative of the Secretary-General in Kosovo that he had received information on the following individual cases.

2015. **Ahmad Sa'id** was reportedly arrested at the Global Relief Foundation offices in Djakovica on 14 December 2001. He was said to have been handcuffed by Italian Kosovo Force (KFOR) personnel and taken to the Djakovica "KFOR Centre". Derogatory remarks were made about Islam. At the center, he was allegedly hit from all sides by the Italian KFOR personnel. He was allegedly continuously beaten by Italian KFOR personnel, as he was taken into a very cold room where he was allegedly ordered to put his hands and forehead against a wall, and was then kicked on the ankles in order to make him stand with his legs apart. Bruising consistent with his allegations was still visible when representatives from the Organization for Security and Cooperation in Europe visited him two weeks later. He was then reportedly forced to undress to his underwear and kicked from behind in his genital area. Ahmad Sa'id was then reportedly pulled blindfolded into a helicopter to be transferred to the custody of US KFOR. In detention, he was reportedly regularly woken up for interrogation at night after he had taken sleeping tablets. He had reportedly been unable to sleep without medication as he was suffering from the stress of being held in

isolation, and of not knowing what was going to happen to him. Ahmad Sa'id reportedly made a statement to US KFOR personnel indicating that he had been ill-treated by members of Italian KFOR during his arrest.

2016. **Imtiaz Mir** and **Dr Abdul Raqiz** were reportedly also subjected to ill-treatment by Italian UNMIK personnel. Both men were said to have been blindfolded during the helicopter flight to the detention facility. Both were said to have suffered from anxiety and insecurity about their personal situation and concern for their families, heightened by their isolation. They were reportedly unable to eat and received medical treatment for anxiety.
