



**Economic and Social  
Council**

Distr.  
GENERAL

E/CN.4/2005/51/Add.1

2 February 2005

Original:  
ENGLISH/FRENCH/SPANISH

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COMMISSION ON HUMAN RIGHTS  
Sixty-first session  
Item 10 of the provisional agenda

**ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest  
attainable standard of physical and mental health, Paul Hunt**

**Addendum**

**Summary of cases transmitted to Governments and replies received<sup>\*</sup>**

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<sup>\*</sup> The report is being circulated in the languages of submission only.

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## **Introduction**

1. The present document is submitted by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Paul Hunt, to the Commission on Human Rights pursuant to Commission resolution 2002/31. This addendum contains, on a country-by-country basis, summaries of communications, including urgent appeals, government replies and observations thereon, relating to the Special Rapporteur's mandate. A communication from the Special Rapporteur usually requests that the Government concerned investigate one or more allegations and, in appropriate cases, take all necessary measures to remedy the situation.

2. To date, most of the Special Rapporteur's communications have been sent jointly with one or more special procedures of the Commission on Human Rights, or the Representative of the Secretary-General on internally displaced persons. In these joint communications, the Special Rapporteur's concern is the dimension of the case relating to his mandate, such as an allegation of forced abortion or the denial of medical treatment. Sometimes, a joint communication includes several cases, not all of which have a dimension relating to the Special Rapporteur's mandate. In these instances, the Special Rapporteur only reports, in the following paragraphs, on the case in the joint communication that has a dimension relating to his mandate. Fuller accounts of joint communications will be found in the reports of the other relevant special procedures.

3. In accordance with paragraph 6 of Commission resolution 2002/31, the Special Rapporteur strives to avoid "overlapping" with other special procedures of the Commission on Human Rights. For example, while many cases fall within the mandate of the Special Rapporteur on the question of torture, as well as the mandate of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the latter does not take up allegations of torture. He will, however, take up a case where there is both an allegation of torture plus an additional factor that concerns his mandate. For example, while the Special Rapporteur will not take up an allegation of torture, he is prepared to take up such an issue where it is also alleged that the victim was subsequently denied access to medical treatment.

4. The Special Rapporteur has received a number of complaints concerning hunger strikes and forced feeding. As the following paragraphs reveal, he has taken up some of these complaints with Governments. At present, the Special Rapporteur declines to take up complaints that are only about hunger strikes, but he is prepared to take up a hunger strike case that has an additional factor bearing upon his mandate. Hunger strikes and forced feeding raise complex legal, ethical and human rights issues that the Special Rapporteur will continue to research and keep under review.

5. The Special Rapporteur regrets that, because of extremely limited resources, he is unable to take up many of the complaints that are brought to his attention. Also, having taken up a case, follow-up is severely limited by the Special Rapporteur's lack of capacity. Sometimes, where the facts of a case do not clearly fall within his mandate, the Special Rapporteur has brought the matter to the attention of another special procedure of the Commission on Human Rights where there would appear to be a closer fit between the facts and the mandate.

6. The Special Rapporteur's communications are dependent upon, and shaped by, the information and complaints that he receives. He emphasizes that the range of issues that are brought to his attention by way of unsolicited information and complaints is very much narrower than the range of issues that he finds on his country missions. In other words, the issues reflected in this addendum are unrepresentative of the wide range of issues encompassed by the right to the highest attainable standard of physical and mental health.

7. During the period under review (1 December 2003 to 1 December 2004), the Special Rapporteur sent 36 communications concerning the right to the highest attainable standard of physical and mental health, to 21 countries. This report also refers to two communications that originated prior to 1 December 2003. In transmitting a communication to a Government, the Special Rapporteur makes no judgement concerning the merits of the case, nor the opinions and activities of the persons on behalf of whom he intervenes. The Special Rapporteur's communications have a humanitarian and preventive purpose; they do not require the exhaustion of domestic remedies.

8. Owing to restrictions on the length of documents, the Special Rapporteur regrets that he has been compelled to condense communications sent and received. The Special Rapporteur appreciates the replies received from some Governments to his communications. He regrets, however, that some Governments have failed to respond. These communications remain outstanding.

## China

### Communications sent

9. On 3 February 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, concerning **Tian Xianofei** and **Cao Jiguang**. Mr. Tian, 40 years old, was reportedly detained in Huazi Prison in Liaoyang City, and sentenced to 10 years' imprisonment by the Pingshan District Court, allegedly for being a Falun Gong practitioner. According to the information received, Mr. Tian began a hunger strike on 20 July 2003 and was forcibly fed and denied medical treatment. Cao Jiguang, 35 years old, was reportedly detained in Guangyuan Jail in Sichuan Province, serving a five-year sentence, allegedly for being a Falun Gong practitioner. It was reported that during a hunger strike, Cao Jiguang was force fed by the jail's doctor, who inserted a plastic tube into his trachea and pulled it out repeatedly with the apparent intention of hurting him, and that before force-feeding him guards opened his mouth with an instrument, which caused severe injuries inside his mouth.

10. On 30 April 2004, the Special Rapporteur transmitted a joint urgent appeal with the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture, concerning **Gong Sheng Liang**, aged 51. He was reportedly held in Hongshan Prison, Wuhan City. On 12 April 2004, his relatives visited him and reportedly found him unable to walk; he needed to be carried by four other inmates. It was also reported that he was in a coma for several days following a beating in June 2003 and that his medical condition had since deteriorated. It was

alleged that he has been refused medical treatment for his injuries. In view of his state of health, concern was expressed for the physical and mental integrity of Gong Sheng Liang if he did not receive prompt and adequate medical treatment.

11. On 30 April 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur on torture and the Special Rapporteur on violence against women, concerning **Liu Mei**, aged 36, a resident of Donggang City, Liaoning Province. It was reported that Liu Mei was arrested on 9 April 2002 and sentenced to 13 years in prison for producing and distributing materials about Falun Gong. She was reportedly held in Dabei Prison in Shenyang City. On 10 March 2004, a visiting relative reported that Liu Mei, extremely weak and thin, was carried to the visiting room. It was alleged that she had been denied adequate medical attention and her health has reportedly continued to deteriorate. In view of the reported state of her health, concern was expressed for the physical and mental integrity of Liu Mei if she did not receive prompt and adequate medical attention.

12. On 15 July 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur on torture and the Special Rapporteur on violence against women regarding **Geng Juying** and **Su Yanhua**. On 25 May 2002, Ms. Geng, a Falun Gong practitioner, was allegedly taken to the Mengzhou police station. She was pregnant at the time. It was alleged that the police officers forcibly gave her an injection to induce an abortion so she could be sent to the Shibalihe Labour Camp. On 15 April 2002 Ms. Su, a resident of Jiamusi City, Heilongjiang Province, was arrested by local police because she was a Falun Gong practitioner. She was sent to Lianjiangkou Detention Centre and two weeks later transferred to the Jiamusi Labour Camp. She began a hunger strike and it was alleged that she was force-fed milk and salt for seven days. The conditions in Jiamusi Labour Camp were allegedly very unsanitary. By February 2003, Ms. Su had developed scabies. It was alleged that at one point the guards sprayed her with a chemical that caused her severe chest pains and rendered her unable to move her head or hands. Ms. Su was reportedly not released from the labour camp after her term expired and her health remained in a critical condition.

13. On 15 July 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on freedom of opinion and expression, the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on torture, concerning **two individuals**, both HIV positive. According to the allegations received, they were arrested in Shangqiu City, Henan Province, on 12 July 2004, when they were about to travel to Beijing to petition the National Health Department. They had intended to protest about the lack of adequate health care and other services for those with HIV/AIDS and, in particular, the failure of the central authorities to fulfil their promise to provide them with medical treatment. Concern was expressed for their physical and mental integrity if they did not receive adequate medical treatment during their detention.

14. In a letter dated 15 October 2004 and sent jointly with the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on extrajudicial,

summary or arbitrary executions, the Special Rapporteur on torture and the Special Rapporteur on violence against women, the Special Rapporteur expressed his concern at reports about the treatment of members of the **Falun Gong and other “heretical organizations”** (“*xiejiao zuzhi*”). Over the past five years, hundreds of cases of alleged violations of the human rights of Falun Gong practitioners have been brought to the attention of the Special Rapporteurs. Many of these allegations have been reported to the Chinese authorities and are reflected in reports of the Special Rapporteurs to the Commission on Human Rights. The Special Rapporteur was concerned that reports of the denial of adequate medical treatment of detained members of “heretical organizations”, in particular Falun Gong practitioners, were increasing.

#### Communications received

15. By letter dated 21 May 2004, the Government of China replied to the communication sent regarding the situation of **Tian Xiaofei** and **Cao Jiguang**. The Government informed the Special Rapporteur that Tian Xiaofei, from Benqi, Liaoning Province, born in June 1959, was sentenced on 21 August 2002 to 10 years’ imprisonment for the crime of using a heretical organization to undermine law enforcement. The Government stated that, after he entered prison, Tian Xiaofei stopped eating normally, but that through patient education and counselling his condition had stabilized and he was now eating normally again. Hospital tests indicated that the health of Tian Xiaofei was excellent. Cao Jiguang, from Linshui County, Sichuan Province, born in December 1968, was sentenced on 19 July 2002 to five years’ imprisonment for the crime of using a heretical organization to undermine law enforcement. Through the patient education and treatment provided by the prison authorities, the health of Cao Jiguang—and Tian Xiaofei—had been restored and that their mental outlook was very good. There was no question of their right to health having been violated.

#### Responses received on cases sent by the Special Rapporteur in preceding years

16. By letter dated 18 March 2004, the Government replied to the communication sent regarding the situation of **Ma Shiwen** on 9 October 2003. The Government replied that Ma Shiwen was the former Deputy Director of the Office of Disease Control of the Henan Province Health Department. In August 2002, the Health Department prepared a special report on AIDS prevention efforts and a draft version of the report was sent to Ma Shiwen. Ma Shiwen anonymously sent this confidential draft on AIDS prevention, via the Internet, to other persons in and outside China, and he was therefore arrested in accordance with the law on suspicion of the crime of deliberately divulging State secrets. The Government attached importance to ensuring the right to health and had taken vigorous steps to constantly raise the level of the masses’ health. In the area of AIDS prevention, the Government’s intention was to establish a mechanism in which several different ministries would work together. The Government had also formulated the Chinese National Medium- and Long-Term Strategic Plan for HIV/AIDS Prevention and Control (1998-2010), and in areas where the epidemic is serious the Government had established comprehensive model prevention districts for the development of treatment, patient care and life-saving activities. Since 2002 in Henan Province alone, the Government had allocated some 22 million yuan renminbi for the treatment of AIDS

patients, had shut down the province's blood collection centers and had provided free testing and treatment for persons with AIDS and those infected with the virus, and the Ministry of Health regularly issued public bulletins on the AIDS situation. The allegation that the Government restricted access to information on health issues was not true.

#### Observations

17. The Special Rapporteur thanks the Government for its replies and regrets that at the time of the finalization of his report no replies had been received regarding some of his communications. The Special Rapporteur has received a news report that Ma Shiwen was released from detention in mid-October 2003.

### **Côte d'Ivoire**

#### Communications envoyées

18. Le 23 juin 2004, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur les formes contemporaines de racisme, de discrimination raciale, de xénophobie et de l'intolérance qui y est associée et le Rapporteur spécial sur la question de la torture, concernant la situation d'une trentaine de réfugiés, parmi lesquels **Alphonso Faroy**, réfugié originaire de la Sierra Leone, 32 ans, **Higgins Bernard Jr.**, réfugié originaire du Libéria, 21 ans, **Mensah Ainankra**, réfugié originaire du Togo, 38 ans, **Hortense Lotika**, réfugiée originaire de la République démocratique du Congo, 23 ans, qui auraient été attaqués le 9 juin 2004 par des membres des forces de sécurité ivoiriennes. D'après les renseignements reçus, ces réfugiés, parmi lesquels 12 femmes, dont une enceinte, et 11 enfants, se cacheraient toujours dans Abidjan et seraient contraints de se déplacer constamment en raison des fréquents contrôles policiers, et par peur de nouvelles menaces et agressions. Leur situation sanitaire, en particulier celle des enfants et de la femme enceinte, se serait aggravée. Les enfants auraient contracté la malaria et n'auraient pas reçu de soins médicaux. Des craintes ont été exprimées quant à la détérioration de l'état de santé des réfugiés.

#### Observations

19. Le Rapporteur spécial regrette qu'au moment de la finalisation du rapport aucune réponse à sa communication n'ait été reçue.

## Cuba

### Comunicaciones enviadas

20. Por carta de fecha 16 de septiembre de 2004, el Relator Especial, juntamente con el Relator Especial sobre la libertad de opinión y de expresión y el Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes, notificó al Gobierno que los Relatores Especiales habían recibido información sobre la situación de algunas de las personas detenidas en marzo de 2003, y acusadas de participar en actividades consideradas por el Gobierno como subversivas y perjudiciales para el orden interno de Cuba, o favorables al embargo y a otras medidas afines adoptadas por los Estados Unidos contra Cuba. Los Relatores Especiales habían recibido información reciente según la cual al menos 75 de estas personas encarceladas estarían padeciendo diversas enfermedades de distinta gravedad y que no todas estas personas estarían recibiendo el tratamiento adecuado para su estado de salud. En particular, los Relatores Especiales recibieron las alegaciones siguientes:

- a) **Víctor Rolando Arroyo Carmona**, de 52 años, vicepresidente del Foro por la Reforma. Estaría cumpliendo condena en la Prisión Provincial de Guantánamo. Víctor Rolando Arroyo Carmona padecería varias dolencias, como hipertensión, dolores de cabeza, pérdida de peso y diarrea. Sus familiares habrían denunciado que no recibía el tratamiento médico apropiado;
- b) **Margarito Broche Espinosa**, de 45 años, miembro del Comité Ciudadano local. Estaría cumpliendo condena en la Prisión de Guanajay, provincia de La Habana. Padecería bronquiectasia, uno de cuyos síntomas sería una tos constante. Sufriría también una úlcera en el intestino delgado e hipoglucemia crónica. Se alega que no recibiría un tratamiento médico adecuado para estas enfermedades;
- c) **Próspero Gaínza Agüero**, delegado del Movimiento Nacional de Resistencia Cívica Pedro Luis Boitel. Estaría cumpliendo condena en la Prisión Provincial de Boniato, provincia de Santiago de Cuba. Se alega que cuando sufría una fiebre muy alta debida a un fuerte ataque de gripe, fue encadenado de pies y manos y trasladado a la enfermería de la cárcel. El 31 de agosto de 2003 habría empezado una huelga de hambre para llamar la atención sobre sus condiciones de reclusión, en particular, higiene deficiente, alimentación escasa y asistencia médica limitada;
- d) **Juan Roberto de Miranda Hernández**, de 57 años, fundador y presidente del Colegio de Pedagogos Independientes de Cuba. Estaría cumpliendo condena en la Prisión Combinado del Este, La Habana. Su estado de salud sería delicado. En octubre de 2003, habría sido sometido a una serie de exámenes médicos en el hospital Hermanos Almejeiras de La Habana. Sin embargo, se alegó que no habría recibido tratamiento médico para un quiste de gran tamaño en la espalda;
- e) **Miguel Galván Gutiérrez**, 39 años, autor de varios artículos para la agencia de prensa no oficial Havana Press, antiguo presidente del Colegio de Ingenieros y Arquitectos de Cuba. Estaría cumpliendo condena en la Prisión de Agüica, municipio de Colón, provincia de Matanzas. Se encontraría físicamente discapacitado como consecuencia de un accidente de tráfico que sufrió en 1998. Su estado de salud se habría deteriorado durante su detención. Según funcionarios de la



prisión el deterioro de su estado de salud estaría relacionado con varias huelgas de hambre en las que habría participado desde su encarcelación;

f) **Juan Carlos Herrera Acosta**, de 37 años, miembro del Movimiento Cubano de Jóvenes por la Democracia y de la Asociación de Presos Políticos Pedro Luis Boitel. Estaría cumpliendo condena en la Prisión Kilo 7, Camagüey. Padecería varias afecciones, entre las cuales destacan úlceras en la piel y problemas cardiovasculares. En la cárcel no habrían podido administrarle el medicamento adecuado para su estado de salud. Cuando unos familiares habrían conseguido el medicamento, no se les habría permitido entregarlo al preso;

g) **Jorge Olivera Castillo**, de 41 años, director de la agencia de prensa. Estaría cumpliendo condena en la Prisión provincial de Guantánamo. Sus familiares se habrían mostrado preocupados por la posibilidad de que no esté recibiendo la atención médica adecuada para sus enfermedades en la prisión provincial de Guantánamo.

h) **Héctor Palacios Ruiz**, de 62 años, director del Centro de Estudios Sociales. Estaría cumpliendo condena en la Prisión Kilo 5 ½, provincia de Pinar del Río. En febrero de 2004, habría sido hospitalizado para ser operado de la vesícula biliar. Las autoridades penitenciarias habrían señalado que sería sometido a una intervención quirúrgica para paliar este problema, pero no se habría comunicado la fecha de la operación;

i) **Ariel Sigler Amaya**, de 39 años, miembro del grupo Movimiento Opción Alternativa. Estaría cumpliendo condena en la prisión provincial de Ciego de Ávila. Sus familiares estarían preocupados por su mal estado de salud. Habrían asegurado que no recibe la alimentación ni la atención médica adecuadas y acusado a las autoridades penitenciarias de no facilitarles información sobre su estado de salud.

#### Comunicaciones recibidas

21. Por carta fechada el 30 de septiembre de 2004, el Gobierno contestó a la comunicación transmitida por el Relator Especial sobre la situación de **Víctor Rolando Arroyo Carmona, Margarito Broche Espinosa, Próspero Gaínza Agüero de Cuba, Juan Roberto de Miranda Hernández, Miguel Galván Gutiérrez, Juan Carlos Herrera Acosta, Jorge Olivera Castillo, Héctor Palacios Ruiz y Ariel Sigler Amaya**. En la carta el Gobierno afirmó que todas las alegaciones recibidas, así como las denuncias de supuestas violaciones de derechos humanos, eran falsas. Se informó también de que las personas fueron sancionadas por tribunales competentes, tras haberse cumplido todas las garantías del debido proceso y que el derecho a la vida, a la salud y a la integridad física y moral de esas personas estaba asegurado. En la carta, se especificó que el Gobierno cubano asegura a todos los reclusos adecuados servicios de atención médica que garantizan no solo la gratuidad de la consulta médica y la intervención especializada, incluida la quirúrgica, sino también la entrega en forma gratuita de todos los medicamentos que necesiten los pacientes. El Gobierno informó de que las personas que han tenido cualquier dolencia o enfermedad en prisión han recibido toda la atención médica que se garantiza en el país a cada cubana y cubano. En fin el Gobierno aseguró que el estado de salud de Víctor Rolando Arroyo Carmona, Margarito Broche Espinosa, Próspero Gaínza Agüero de Cuba, Juan Roberto de Miranda Hernández, Miguel

Galván Gutiérrez, Juan Carlos Herrera Acosta, Jorge Olivera Castillo, Héctor Palacios Ruiz y Ariel Sigler Amaya, es estable.

#### Observaciones

22. El Relator Especial quisiera agradecer al Gobierno la respuesta recibida. Los medios de comunicación y organizaciones no gubernamentales de derechos humanos informaron de que Margarito Broche Espinosa, Juan Roberto de Miranda Hernández y Jorge Olivera Castillo fueron liberados por razones de salud durante el mes de diciembre de 2004.

### **Democratic People's Republic of Korea**

#### Communications sent

23. By letter dated 5 July 2004, sent jointly with the Special Rapporteur on torture, the Special Rapporteur notified the Government that he had received allegations concerning the existence of ***kyo-hwa-so* or “re-education through labour” camps**. It was alleged that the combination of hard labour and below-subsistence-level food provisions results in rapid weight loss, work accidents, malnutrition-related diseases and death; the prison clinics are too poorly equipped in terms of staff, equipment and medicines to deal with even basic complaints; and the number of deaths is high. The letter of 5 July 2004 also raised the issue of the **forcible repatriation of citizens of the Democratic People's Republic of Korea** from China. Women who were pregnant at the time of repatriation were allegedly compelled to have abortions, or their babies were killed immediately after birth, particularly in Sinuiju, Onsong, and Chongjin, to prevent them from giving birth to “half-Chinese” babies.

#### Communications received

24. By letter dated 15 July 2004, the Government responded to the joint allegation letter sent by the Special Rapporteur on 5 July 2004 regarding ***kyo-hwa-so*** and citizens of the **Democratic People's Republic of Korea forcibly repatriated from China**. The Government replied that the “phenomena” mentioned in the allegations do not exist.

#### Observations

25. The Special Rapporteur thanks the Government for its response.

## Egypt

### Communications sent

26. On 8 April 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on torture, regarding **Ahmed Hussein Mustafa Kamil Agiza**. He was reportedly sentenced in absentia by a military court to 25 years in prison and forcibly returned to Egypt by the Government of Sweden on 18 December 2001. Ahmed Agiza reportedly suffered from an ulcer and had severe back injuries, injuries that allegedly stemmed from (or had worsened since) his detention. He was reportedly in need of surgery and medication. It was alleged that medical treatment in prison had been withheld periodically as a form of ill-treatment. Although examined by doctors for his back ailment, it was alleged that they had not carried out examinations with respect to allegations of torture. In view of his reported ill-health, concern was expressed for his physical and mental integrity if he did not receive adequate and prompt medical attention.

27. On 16 July 2004, the Special Rapporteur sent a joint urgent appeal with the Special Representative on human rights defenders and the Special Rapporteur on torture, concerning **El Nadim Centre for the Psychological Rehabilitation of Victims of Violence**. Founded in 1993 by a collective of doctors and psychiatrists, the Centre provides treatment and rehabilitative services to victims of torture and domestic violence. According to the allegations received, agents of the Ministry of Health entered the Cairo offices of El Nadim Centre on 11 July 2004 and confiscated documents, including patient files and the Centre's publications. Later, the agents of the Ministry of Health filed a complaint accusing El Nadim Centre of using a clinic for prohibited purposes. It was alleged that this complaint led to the Centre's closure.

### Communications received

28. By letter dated 7 May 2004, the Government replied to the communication sent regarding the situation of **Ahmed Hussein Mustafa Kamil Agiza**. The Government informed the Special Rapporteurs that the sentence imposed on Ahmed Hussein Mustafa Kamil Agiza was being reviewed in the light of the decision of the President of the Republic to accept the petition filed by Mr. Agiza. The Government stated that Mr. Agiza was receiving continuous medical treatment and had been given 38 medical examinations at the Manil University Hospital. Mr. Agiza had undergone various medical tests: a magnetic resonance imaging scan of the spinal column, an ordinary X-ray of the urinary tract, a thyroid scan, and a sinus and a muscle scan, as well as 14 sessions of medical therapy.

29. By letter dated 20 September 2004, the Government responded to the joint urgent appeal sent by the Special Rapporteur on 16 July 2004 concerning **El Nadim Centre for the Psychological Rehabilitation of Victims of Violence**. The Government confirmed that in a letter dated 21 July 2004 it had informed the Procurator-General of the allegations made by the Special Rapporteurs. The authorities had carried out a lawful inspection of the Centre and discovered a number of

infractions such as: the premises not meeting the required standards of hygiene; the Centre employing an unregistered doctor and not having a technical director; and the Centre publishing unauthorized publications. The Government also explained that the inspectors had sent a report on the infractions to the Chief of the Cairo Health Sector, who had transmitted some documents to the Ministry of Health. Legal measures were taken and the party responsible for the infractions was instructed to take remedial action within one month and informed that failure to do so would result in the revocation of the Centre's operating licence. The Government confirmed that the Centre had been inspected on 24 August 2004 to verify whether the infractions had been remedied. The Centre was closed and inspected again on 31 August 2004, when it was found that most of the infractions had been remedied. The Government also confirmed that investigations were still continuing.

#### Observations

30. The Special Rapporteur thanks the Government for its replies. The Special Rapporteur confirms that his concern in relation to El Nadim Centre was that the Centre and its staff may have been subjected to pressure on account of their legitimate work as health professionals.

### **Equatorial Guinea**

#### Comunicaciones enviadas

31. El 5 de julio de 2004, el Relator Especial envió un llamamiento urgente juntamente con el Presidente-Relator del Grupo de Trabajo sobre la Detención Arbitraria, el Relator Especial sobre ejecuciones extrajudiciales, sumarias o arbitrarias y el Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes, con respecto a la situación de **Marcelino Nguema Esono**, antiguo dirigente del Partido del Progreso de Guinea Ecuatorial (PPGE), su cuñado **Jerónimo Mbá Obama**, miembro de Convergencia para la Democracia Social (CPDS), **José Antonio Nguema**, miembro del PPGE y **Leoncio** (apellido no conocido). Los cuatro hombres habrían sido detenidos el 27 de junio de 2004 en Bata y conducidos a la comisaría principal de la ciudad. En el momento de su detención, Marcelino Nguema Esono habría recibido un disparo de bala en el estómago. A pesar de su herida, no habría recibido ninguna asistencia médica. Se expresó preocupación por la integridad física y la vida de Marcelino Nguema Esono si no recibía pronto una atención médica adecuada.

#### Observaciones

32. El Relator Especial lamenta no haber recibido ninguna respuesta del Gobierno.

## Ethiopia

### Communications sent

33. On 23 June 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on freedom of opinion and expression, and the Special Rapporteur on torture, regarding **Imiru Gurmessa Birru**, who was arrested in March 2004. Mr. Birru was reportedly denied medical treatment, in particular for his diabetes and the injuries resulting from the ill-treatment he has allegedly been subjected to while in custody. The judges hearing his case were reported to have paid no attention to his health condition, which gradually deteriorated. As his condition became critical, he was eventually hospitalized at the Police Hospital in Addis Ababa around 11 June 2004. However, he reportedly received inadequate medical treatment. In view of these allegations, concern had been expressed for his physical and mental integrity if he did not receive prompt and adequate medical treatment.

### Observations

34. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication.

## India

### Communications sent

35. On 22 April 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and the Special Rapporteur on the situation of human rights and the fundamental freedoms of indigenous people, regarding information received that a decision was made on 16 March 2004 by the Narmad Control Authority, and supported by the Chief Ministers of Gujarat, Maharashtra and Madhya Pradesh, and other relevant authorities, to allow the **raising of the height of the Sarda Sarovar** dam from 100 metres to 110.64 metres. According to the information received, this was to lead to the flooding of several Adivasi communities and densely populated villages.

36. Approximately 500 families in Gujarat, 1,500 families in Maharashtra, and 10,000 families in Madhya Pradesh continue to live in the submergence zone, due to lack of proper resettlement and rehabilitation, and will therefore be in danger of having their homes submerged as a result of the heightened water level. The right of everyone to the enjoyment of the highest attainable standard of health includes an obligation to ensure that health facilities, goods and services are accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination. The right also extends to the underlying determinants of health, such as access to potable water and adequate sanitation. Displacement without appropriate rehabilitation, including

access to adequate housing, water, sanitation, medical and other services, would represent a serious health risk to those displaced and jeopardizes their right to the highest attainable standard of health.

Communications received

37. The Special Rapporteur regrets that at the time of the finalization of this report the Government had not transmitted any reply to his communication.

**Iran (Islamic Republic of)**

Communications sent

38. On 25 March 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression, the Special Representative of the Secretary-General on human rights defenders, and the Special Rapporteur on torture, regarding **Arzhang Davoodi**. Alleged torture had reportedly left him with a broken shoulder blade, bleeding in his left eye, deafness, a broken jaw and broken teeth, for which a doctor reportedly assessed that he required treatment of his eyes, ears and teeth, and physiotherapy for his shoulder. The authorities had allegedly provided him with no treatment. It was reported that prison officials refused to grant him leave to obtain the required medical treatment.

39. On 13 April 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression, and the Special Rapporteur on torture, regarding **Siamak Pourzand**, aged 74, head of the *Majmue-ye Farhangi-ye Honari-ye Tehran* (Tehran Artistic and Cultural Centre). He was reportedly allowed out of Ervin prison on leave in November 2002, but re-arrested in April 2003. He was allegedly not allowed to take with him the medicine he required. It was said that while he was in custody four of his ribs were broken. Siamak Pourzand was reportedly suffering from spinal stenosis. If left untreated, this could lead to organ failure, notably of the bowels and bladder, and paralysis. Doctors had allegedly concluded that he required immediate surgery. However, he had reportedly not received medical treatment for this condition. Around 31 March 2004, he reportedly fell into a coma. He was allegedly not treated until another prisoner went to the prison medical facility and insisted that someone examine him. In view of these allegations, concern was expressed for his mental and physical integrity if he did not receive prompt and adequate medical treatment.

40. On 23 April 2004, the Special Rapporteur sent a further joint urgent appeal with the Special Rapporteur on freedom of opinion and expression, and the Special Rapporteur on torture, regarding the situation of **Siamak Pourzand**. According to information received, on 18 April 2004, Mr. Pourzand—allegedly unable to walk and supported by two prison guards—was taken to the prison's visiting room to see his sister. It was reported that a few hours later he was transferred to the intensive care unit of Modares Hospital. It was alleged that while in hospital Mr. Pourzand was chained to his bed by his feet. Information received indicated that he was in need of an urgent

operation for his back problems, and the Special Rapporteur was concerned that adequate medical treatment was not being granted to him.

41. On 9 July 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression, the Special Representative of the Secretary-General on human rights defenders, and the Special Rapporteur on torture, regarding **Akbar Mohammadi**, a student who was arrested in July 1999 during a demonstration. He was being held at Ervin prison. Beatings allegedly resulted in the loss of 40 per cent of his hearing in his left ear. On one occasion, he was reportedly kicked down a flight of stairs, breaking his pelvis. He was allegedly denied medical treatment and had been unable to walk comfortably since. At the end of November 2003, Akbar Mohammadi was hospitalized due to stomach and kidney problems, including internal bleeding. It was alleged that although a hospital doctor recommended a hospital stay of one month, he was transferred back to Ervin prison after six days. His health was said to have deteriorated since then, as the operation he underwent at that time was reportedly unsuccessful. A medical report prepared in Ervin prison allegedly stated that Akbar Mohammadi required further medical intervention outside the confines of the hospital and a period of rehabilitation in a suitable environment. Concern was expressed for his physical and mental integrity if he did not receive prompt and adequate medical treatment. Attention was also drawn to the situation of Akbar Mohammadi's brother, **Manuchehr Mohammadi**, a member of the *Anjoman-e Daneshjuyan va Daneshamuktegan-e Melli* (National Association of Students and Graduates). According to reports, Manuchehr Mohammadi was suffering from gingivitis and severe bleeding of the gums, causing him pain when he spoke or ate. Doctors in Ervin prison were said to have recommended that he be treated outside the prison. Concern was also expressed for his physical and mental integrity if he did not receive prompt and adequate medical treatment.

42. On 23 August 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur on torture, and the Special Representative of the Secretary-General on human rights defenders, regarding the situation of **Arzhang Davoodi**. According to information received, a prison doctor made a formal request to the prison authorities that Mr. Davoodi's left ear be operated on as soon as possible, which was refused by the competent judge, allegedly on the grounds that in hospital the detainee would spread the story that he was being treated for injuries caused by torture in detention.

#### Communications received

43. By letter dated 10 June 2004, the Government replied to the communication of 25 March sent regarding the situation of **Arzhang Davoodi**. The Government explained that prison doctors had examined Mr. Davoodi as required. He was examined by an ophthalmologist for dizziness and headaches while reading and, in line with medical advice, he was provided with glasses. As a result of an examination by a specialist, Mr. Davoodi was diagnosed with impaired hearing that could arise from an earlier condition. The Government confirmed that according to the medical records, no urgent treatment was required for the impaired hearing, which would improve gradually.

44. By letter dated 12 August 2004, the Government replied to the communication sent regarding the situation of **Akbar Mohammadi** and **Manuchehr Mohammadi**. The Government confirmed that both were serving their prison terms, enjoying required medical care and other facilities, and that they were able to go on leave at regular intervals.

45. By letter dated 6 October 2004, the Government replied to the communication sent on 23 August 2004 concerning the situation of **Arzhang Davoodi**, but the reply did not refer to the state of Mr. Davoodi's health.

#### Observations

46. The Special Rapporteur thanks the Government for those replies he has received and regrets that he has not received replies to all his communications.

### **Libyan Arab Jamahiriya**

#### Communications sent

47. On 22 September 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on torture, regarding **Fathi al-Jahmi** who was allegedly taken from his home in Tripoli by the authorities on 26 March 2004. It was reported that Fathi al-Jahmi was in poor health and required medical treatment.

48. On 8 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture regarding the situation of **Fathi al-Jahmi**. It was reported that his health continued to be poor. He was said to suffer from diabetes, high blood pressure and a heart disease for which he had had surgery. It was reported that he had not received any medical treatment since the beginning of his detention. Concern was expressed for Fathi al-Jahmi's mental and physical integrity if he did not receive prompt and appropriate medical treatment.

#### Communications received

49. The Special Rapporteur regrets that at the time of the finalization of his report no reply had been received to his communications.



## Nepal

### Communications sent

50. On 12 August 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on freedom of opinion and expression, the Special Representative of the Secretary-General on human rights defenders, and the Special Rapporteur on torture, regarding information that had been received concerning the **Blue Diamond Society of Nepal**, a non-governmental organization working with sexual minorities and sexual health, including HIV/AIDS. The Society is a member of the Asia Pacific Council of AIDS Service Organizations. It was alleged that on 25 July 2004 the police seriously abused four male transvestites, **Jaya Bahadur Lama, Ramesh Lama, Binod and Madan**. The alleged abuse included anal rape. The Blue Diamond Society lodged a complaint against the police regarding this attack. It is alleged that on 9 August 2004, 39 members of the Society were arrested. There was concern that these arrests might be retaliation for the complaint against the police regarding the allegations of 25 July. Also, a private writ was recently filed in the Supreme Court of Nepal calling for the Society to be closed down on the grounds that the organization “promotes homosexuality”. The Special Rapporteur was concerned, inter alia, that closing down the Society would be detrimental to HIV prevention efforts in Nepal.

### Responses received on cases sent by the the Special Rapporteur in preceding years

51. By letter dated 6 May 2004, the Government replied to the communication sent regarding the situation of **Kumar Lama** on 9 September 2003. The Government reported that Mr. Lama had been released on bail.

### Observations

52. The Special Rapporteur regrets that at the time of the finalization of this report no reply had been received to the communication sent this year.

## Romania

### Communications envoyées

53. Le 2 mars 2004, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur le droit à l'alimentation et le Rapporteur spécial sur la question de la torture, concernant les conditions de vie à l'**hôpital psychiatrique de la ville de Poiana Mare**, qui accueillait 440 malades. Il était allégué que 17 patients y seraient décédés pour cause de malnutrition et hypothermie depuis le début de l'année 2004. En 2003, on aurait compté 84 décès, la plupart desquels seraient dus aux mêmes problèmes. Le personnel hospitalier aurait exprimé son inquiétude au sujet du manque de fonds pour assurer un traitement adéquat aux patients. Ces

derniers seraient faméliques, mal vêtus et infectés de poux. L'état des dortoirs et des lits serait médiocre. Le système de chauffage ne serait pas utilisé malgré le fait que l'hôpital se trouve dans une région où les températures hivernales descendent régulièrement en dessous de zéro degré. Le Comité européen pour la prévention de la torture et des peines ou traitements inhumains ou dégradants (CPT) a visité cet hôpital en 1995 et en 1999. Suite à la première visite du CPT, le Ministre de la santé aurait déclaré que l'hôpital psychiatrique de Poiana Mare serait graduellement éliminé en tant qu'hôpital.

#### Communication received

54. By letter dated 8 March 2004, the Government responded to the communication sent by the Special Rapporteur regarding the situation of the **Poiana Mare Psychiatric Hospital**. The Government confirmed that the Romanian authorities fully understood and shared the concerns about the hospital. Ensuring the protection of handicapped persons remained a governmental priority and the Ministry of Health would start inquiries into all similar medical institutions in order to make sure Poiana Mare was an isolated case. Regarding Poiana Mare, immediate measures had been taken to improve the living conditions of the patients and these steps would continue until the hospital was completely rehabilitated. On 25 February 2004, the Minister of Health conducted an enquiry into Poiana Mare. There were deficiencies with the heating and water systems, food preparation, waste disposal, living and sanitary conditions, and medical assistance. Most of the problems connected with medical assistance were caused by the insufficiency of resources and bad management. The Government confirmed that the following measures were required: clarification by forensic specialists of the cause of death of those patients whose death was unrelated to pre-existing disease or advanced age; implementing the hospital's plan of 2004; hiring supplementary specialized health professionals; reorganizing the working schedule of physicians to include night shifts; ensuring specialized medical assistance on a regular basis; and allocating supplementary funding to improve living conditions. The Government also confirmed that the Secretary of State of the Ministry of Health, as well as the Secretary of State of the National Authority for Handicapped Persons, had been discharged following the irregularities found at the Poiana Mare Psychiatric Hospital, and that the Director of the Hospital had been replaced by an interim director until a competitive selection for the vacant position was finalized. The Government confirmed that the hospital would be carefully monitored by representatives of the Ministry of Health throughout 2004 and that representatives of the local administration would be directly involved in improving the situation at the hospital. Finally, the Government confirmed that the Ministry of Health would start very soon an independent investigation of all other similar units, and would take all necessary measures to prevent any such unfortunate situations from ever happening again.

#### Observations

55. The Special Rapporteur thanks the Government for its prompt and substantive reply. During his mission to Romania in August 2004, the Special Rapporteur visited Poiana Mare Psychiatric Hospital. The report of his mission will be submitted to the Commission on Human Rights at its

sixty-first session. In brief, the Special Rapporteur proposes to monitor developments at the hospital to ensure that all the necessary improvements are both made and sustained.

### **Russian Federation**

#### Communications sent

56. On 8 December 2003, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture, regarding **Rafael Marsovich Fakhrutdinov**, who was reportedly detained in Pre-trial Detention Centre IZ 47/4. The information received indicates that on 9 October 2003 he was arrested and on 16 October charged with attempted abduction. According to reports, Mr. Fakhrutdinov was hospitalized on 31 October 2003 in the IK-12 (hospital of the Chief Department for Execution of Punishments of the Ministry of Justice) and diagnosed with myocardium cardio-sclerosis. On 17 November, Mr. Fakhrutdinov reportedly underwent surgery. He was discharged from the hospital on 20 November, reportedly by order of the Pre-trial Detention Centre's administration, and returned to the Centre, despite the hospital's recommendation that Mr. Fakhrutdinov needed more in-patient treatment. The head of the hospital reportedly requested that Mr. Fakhrutdinov be transferred to a hospital specializing in cardiology out of concern that his condition might otherwise lead to disability or death. According to the information received, the Centre's administration refused to provide any further medical assistance to Mr. Fakhrutdinov and did not transfer him to the Centre's medical unit. According to his lawyer, the administration forced Mr. Fakhrutdinov to sign a statement that he did not require any medical assistance. Serious fears were expressed concerning the life and health of Mr. Fakhrutdinov if he did not receive appropriate and prompt medical treatment.

#### Communications received

57. The Special Rapporteur regrets that at the time of the finalization of his report no reply had been received to his communication.

### **Rwanda**

#### Communications sent

58. By letter dated 22 June 2004, sent jointly with the Special Rapporteur on violence against women, the Special Rapporteur notified the Government that he had received information that **between 250,000 and 500,000 women were estimated to have been raped during the genocide and subsequent war in Rwanda**. Many of these women reportedly continue to be traumatized and are living with sexually transmitted diseases, including HIV/AIDS. While the Government, multilateral and bilateral donors, and non-governmental organizations have made efforts to expand

prevention, care and treatment services, a majority of victims reportedly still do not have access to relevant medical care. According to the information received, rape survivors who had contracted HIV/AIDS continue to experience further human rights violations. They and their families reportedly face severe social stigma which, in some cases, has led to further violence, including sexual violence; denial of access to medical care; and loss of employment.

Communications received

59. The Special Rapporteur regrets that at the time of the finalization of his report no reply had been received from the Government.

**Slovakia**

Communications sent

60. By letter dated 29 April 2004, sent jointly with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and the Special Rapporteur on violence against women, the Special Rapporteur notified the Government that according to information received, **Romani women** have been subjected to forced sterilization in Slovakia. It was alleged that Romani women's rights to informed consent to sterilization, accurate and comprehensive health information, and non-discriminatory health services had been violated. It is also alleged that the criminal investigation into the allegations concerning forced sterilization had not been conducted in an acceptable manner.

Communications received

61. By letter dated 29 July 2004, the Government replied to the communication sent regarding **Romani women** who had been allegedly subject to forced sterilization. The Government confirmed that in January 2003, non-governmental organizations such as the Centre for Reproductive Rights and *Poradna pre občianske a ľudské práva* (Centre for Civil and Human Rights) had published the "Body and Soul" report, containing serious allegations about forced sterilizations of Roma women in eastern Slovakia. The police had launched an investigation regarding the criminal offence of genocide. Also, the Government had ordered an examination of the allegations. Both investigations had been conducted in compliance with the legal system of the Slovak Republic. As early as February 2003, the Faculty of Medicine at Comenius University in Bratislava had been invited to draw up an expert opinion on these issues. The Minister of Health had complied with a request to waive the confidentiality requirement of certain employees at the Krompachy Hospital. The expert team had gradually examined all the hospitals mentioned in the "Body and Soul" report, including the Gynaecology and Obstetrics Department of Krompachy Hospital. Thus, the criminal investigation had been complemented by parallel inspections of health care establishments. Inspections, which extended to 67 gynaecology and obstetrics departments in the Republic, had not established that genocide, segregation or discriminatory practices had been committed in health care

establishments. The Government confirmed that under the legal provisions in force the investigators were not allowed access to data from the medical files of alleged victims without their consent. An appeal was made to women who believed they had been sterilized without consent to come forward and contact any police department in the Republic. A national Slovak daily newspaper, a private radio station and a public service television station had carried the appeal in March and April 2003. The appeal had also been published in a Roma newspaper. The Government confirmed that on 24 October 2003, the police investigator in this matter had decided not to proceed as it had been established that grounds for the prosecution of the criminal offence of genocide did not exist. The investigator's decision had relied, inter alia, on the opinion of the Faculty of Medicine at Comenius University. The examination had revealed certain shortcomings in the Slovak health legislation and administrative omissions on the part of doctors and/or health establishments in connection with obtaining informed consent of patients. However, the Government explained that "medical indications for sterilization were always respected". In April 2004, the Government had approved a draft law on health care and services, amending and supplementing other laws. The draft law was to be considered by Parliament in September 2004. The draft law was part of an extensive health care reform in the Slovak Republic. It eliminated, inter alia, legislative shortcomings revealed during the investigation in the case of alleged forced sterilizations. The Government also explained that, on 29 October 2003, the Slovak Government had discussed a document submitted by the Deputy Prime Minister of the Slovak Republic for European Integration, Human Rights and Minorities—*The Report on Developments Regarding Allegations of Forced Sterilization of Roma Women in the Slovak Republic and on Steps and Measures Adopted*.

#### Observations

62. The Special Representative thanks the Government for its reply.

### **Sri Lanka**

#### Communications sent

63. On 3 May 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on torture, regarding **Koraleliyanage Palitha Tissa Kumara**, who was reportedly held at the Remand Prison, Kalutrara, where he was allegedly not provided with adequate medical attention for injuries resulting from alleged torture in detention. In view of his reported medical condition, concern was expressed for the physical and mental integrity of Mr. Kumara if he did not receive prompt and adequate medical care.

#### Communications received

64. By letter dated 29 November 2004, the Government replied to the communication sent regarding the situation of **Koraleliyanage Palitha Tissa Kumara**. The Government responded that

the Special Investigations Unit of the Sri Lanka Police had commenced an investigation into this complaint under the orders received from the Inspector General of the Police, and that investigations were in progress.

#### Observations

65. The Special Rapporteur thanks the Government for its reply and looks forward to receiving information about the results of the investigation.

### **Sudan**

#### Communications sent

66. On 24 March 2004, the Special Rapporteur sent a joint urgent appeal with the Representative of the Secretary-General on internally displaced persons, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture, and the Special Rapporteur on violence against women, regarding allegations of **civilians killed, women raped and dozens of villages burnt** by Janjaweed militias, supported by Government-armed forces, in Darfur in the preceding few weeks. Given his mandate, the Special Rapporteur was especially concerned about reports of the dangerous living conditions of internally displaced persons, as well as refugees. According to reports, diarrhoea and fever were rife, leading to an increasing numbers of deaths each day. Many civilians affected by the conflict have no access to medical assistance.

#### Communications received

67. The Special Rapporteur regrets that at the time of the finalization of his report no reply has been received to his communication.

### **Thailand**

#### Communications sent

68. By letter dated 27 July 2004, the Special Rapporteur notified the Government that he had welcomed the significant pledges made by the Government of Thailand at the XV International AIDS Conference (July 2004) to pay increased attention to vulnerable populations, such as injecting drug users, and to change the approach in Thailand by treating injecting drug users as patients rather than criminals. Furthermore, he welcomed the Government's promise to support and collaborate with non-governmental organizations, including the Thai Drug User Network, and to implement a harm-reduction programme. These pledges, if fulfilled, would no doubt position Thailand once again as a world leader and model in the fight against HIV and AIDS. He remained concerned, however, at reports of the punitive implementation of the Government's policy aimed at eradicating

drug use. This had reportedly generated a climate of fear that had driven drug users deeper underground and forced them beyond the reach of both prevention and treatment efforts. Data showed that the number of injecting drug users seeking treatment had declined considerably in the period 2003-2004. HIV prevalence rates among injecting drug users remained unacceptably high at 50 per cent. Thus, the Special Rapporteur was concerned that the Anti-Narcotics Campaign, coupled with limited access to harm-reduction services, had inadvertently created the conditions for a more extensive spread of the virus in Thailand. He encouraged the Government to act swiftly on its recent policy initiatives in order to remedy this situation and welcomed the Government's recognition of injecting drug users in Thailand as a group who are extremely vulnerable to HIV/AIDS.

#### Communications received

69. The Special Rapporteur regrets that at the time of the finalization of this report no reply had been received to his communication.

### **Ukraine**

#### Communications sent

70. On 18 October 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on torture, concerning **Beslan Kutarba**, aged 33, and **Revaz Kishikashvili**, aged 54. On 30 and 31 August 2004, Beslan Kutarba and Revaz Kishikashvili, respectively, were allegedly detained on suspicion of committing criminal offences. It was alleged that no medical examinations was carried out on either of the men, and neither received any medical treatment. Concern was expressed for their physical and mental integrity if they did not receive prompt and adequate medical treatment.

#### Observations

71. The Special Rapporteur regrets that at the time of the finalization of his report no response had been received from the Government.

### **United States of America**

#### Communications sent

72. On 30 January 2004, the Special Rapporteur sent a joint letter, with the Special Rapporteur on torture, to the Government reporting that he continued to receive information in relation to the physical and mental integrity of **persons held in Guantánamo Bay military base, Cuba**, and requesting an opportunity to undertake a mission to the military base. The purpose of the visit would be to gather first-hand information relating to his mandate, in the spirit of cooperation and dialogue,

with a view to evaluating the situation and making appropriate recommendations, in the context of his mandate, regarding the detainees.

73. On 3 May 2004, the Special Rapporteur wrote to the Administrator of the Coalition Provisional Authority in Iraq recommending that it establish an independent and impartial inquiry into the health situation of **the civilian population of Falluja**, in the light of the military operations conducted by the Coalition Forces since the beginning of April 2004. The appalling murder and mutilation of four American security personnel on 31 March was followed by a variety of military operations carried out by the Coalition Forces in and around Falluja, some of which were continuing. In his letter, the Special Rapporteur listed a number of allegations that had been made against the Coalition Forces such as the use of indiscriminate force resulting in civilian deaths and casualties; blocking civilians from entering Falluja's main hospital; preventing medical staff from either working at the hospital or redeploying medical supplies to an improvised health facility; occupying the hospital; and firing upon ambulances. According to reports, Falluja was experiencing a severe shortage of medicines and other essential supplies. The Special Rapporteur recommended that the Coalition Forces establish, as soon as possible, an independent and impartial investigation into the health situation of the civilian population of Falluja since 31 March 2004. The investigation should consider the role of both State and non-State actors, including the allegations that some insurgents in Falluja abused the humanitarian protection afforded to ambulances and that it was for that reason that ambulances were fired upon by Coalition Forces. The Special Rapporteur explained that an inquiry of this sort would have a number of benefits, such as identifying the facts, dispelling misinformation and exposing false allegations; identifying practical recommendations that could help to ensure that any mistakes that were made were not repeated; and showing that the Coalition Forces were committed to the rule of law.

74. On 30 June 2004, the Special Rapporteur sent to the Government a joint statement by participants at the eleventh annual meeting of the special rapporteurs/representatives, independent experts and chairpersons of working groups of the special procedures of the Commission on Human Rights and of the advisory services programme, expressing their unanimous desire that the Special Rapporteur on the independence of judges and lawyers, the Chairperson-Rapporteur of the Working-Group on Arbitrary Detention, the Special Rapporteur on torture, and himself visit, together and at the earliest possible date, **those persons arrested, detained or tried on grounds of alleged terrorism or other violations, in Iraq, Afghanistan, the Guantánamo Bay military base and elsewhere**, with a view to ascertain, each within the confines of his or her mandate, that international human rights standards were properly upheld with regard to these persons, and also to make themselves available to the authorities for consultation and advice on all issues within their areas of competence.

75. By letter dated 2 July 2004, the Special Rapporteur notified the Government, jointly with the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on torture, that he had received information regarding **Feroz Ali Abbasi** a United Kingdom national, aged 23, **Moazzam Begg**, a United Kingdom/Pakistan national, aged 35, **David Hicks**, an Australian national, aged 28, **Salim Ahmed Hamdan**, a Yemeni national, aged 34, **Ali Hamza Ahmed Sulayman al Bahlul**, a Yemeni national, and **Ibrahim Ahmed Mahmoud al Qosi**, a



Sudanese national. It was announced on 3 July 2003 that the six were made subject to the Military Order on the Detention, Treatment and Trial of Certain Non-Citizens in the War against Terrorism (13 November 2001). One psychiatrist who had visited Guantánamo Bay military base in 2003 at the invitation of the Department of Defense was reported to have stated that their solitary confinement placed the detainees at significant risk of psychiatric deterioration, possibly including the development of irreversible psychiatric symptoms. The International Committee of the Red Cross was reported to have stated that it had observed worrying deterioration in the psychological health of a large number of detainees. The isolation and conditions of confinement might ultimately make these prisoners susceptible to mental coercion and making false confessions. According to a psychiatrist's declaration filed in federal court, Salim Ahmed Hamdan had said that he had considered confessing falsely to improve his situation.

#### Communications received

76. By letter dated 19 May 2004, the Government transmitted a response from the Administrator of the Coalition Provisional Authority in Iraq regarding the establishment of an independent and impartial inquiry into the **health situation of the civilian population of Falluja**. The Administrator replied that the Coalition took its commitment to safeguard the well-being of the Iraqi people seriously. In this regard, the Coalition had been mandated by the United Nations Security Council and had the responsibility under international law to enforce law and order in Iraq. The Administrator confirmed that Coalition Forces had moved to restore law and order in Falluja only after it had become clear that Iraq's security forces could no longer do so. Despite the ferocity of the attacks and even while they continued, Coalition Forces had made every effort to avoid civilian casualties and had provided emergency humanitarian assistance. The Administrator responded that within days the Coalition had made efforts to broker a ceasefire and met with community leaders several times to accomplish this aim. The Government confirmed that these and other efforts on behalf of the civilian population in Falluja would continue and that it remained fully committed to meeting its obligations under international law as an occupying power.

77. By letter dated 7 July 2004, the Government replied to the communication regarding **Feroz Ali Abbasi, Moazzam Begg, David Hicks, Salim Ahmed Hamdan, Ali Hamza Ahmed Sulayman al Bahlul and Ibrahim Ahmed Mahmoud al Qosi**. The Government confirmed that it was working to provide a response to the inquiries. In its efforts to respond as substantively as possible, and given the nature of the communication, it had to communicate with a number of other government agencies that had jurisdiction or additional information vital to its reply. This coordination had made it impossible to submit its reply by 2 September 2004, as requested. The Government expected to transmit its response shortly.

78. By letter dated 9 November 2004, the Government responded to the communication requesting that four Special Rapporteurs visit **detainees held in Iraq, Afghanistan, Guantánamo, and elsewhere**, with a view to ascertaining that international human rights standards were properly upheld and to consulting with relevant authorities. The Government confirmed that internal reviews had been taking place with respect to aspects of United States detention policy, and that several reports had already been completed and made public. The Government replied that it was not able to

make provisions for the visits as requested, but that it was willing to provide a briefing in Washington, DC to discuss the matters raised relating to detention practices.

#### Observations

79. The Special Rapporteur thanks the Government for its replies. On 22 November 2004, the Special Rapporteur sent a joint letter with the Special Rapporteur on the independence of judges and lawyers, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, and the Special Rapporteur on torture to thank the Government for its letter of 9 November 2004 in response to their letter of 30 June. The Special Rapporteur noted the offer to organize a briefing in Washington DC to discuss detention practices and welcomed the Government's willingness to begin a dialogue on this matter. The Special Rapporteur replied that owing to the gravity of the allegations, it was only by visiting the locations identified in the joint statement of the eleventh annual meeting of the special procedures, in addition to any briefing by officials in Washington DC, that he would be able to address concerns that had been raised as to whether the international human rights standards set out in his mandate were being properly upheld in relation to the detainees in the identified locations. Accordingly, while he regarded the invitation to a briefing as a very positive development, he viewed it as a preliminary step that would assist in the preparation of his requested visit.

### **Uzbekistan**

#### Communications sent

80. On 19 April 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur on torture, and the Special Rapporteur on violence against women regarding **Nilufar Khaidarova**, aged 26. On 5 April 2004, she was allegedly taken from her home by a group of 20 uniformed police officers to the Sabir Rakhimov district police station, Tashkent. It was reported that Ms. Khaidarova had not yet recovered from major surgery and chemotherapy. Concern was expressed for her physical and mental integrity if she did not receive prompt and adequate medical treatment.

#### Communications received

81. By letter dated 27 May 2004, the Government replied to the joint urgent appeal sent by the Special Rapporteur on 19 April 2004 regarding the situation of **Nilufar Khaidarova**. The Government replied that with regard to Ms. Khaidarova's state of health, medical staff of the remand centre, and also representatives of the local Red Crescent Society, had examined her several times and her state of health was considered to be normal, and that she had no complaints with respect to the medical staff at her current detention facility.

Observations

82. The Special Representative thanks the Government for its response.

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