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**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251  
OF 15 MARCH 2006 ENTITLED "HUMAN RIGHTS COUNCIL"**

**Report of the Special Rapporteur on the sale of children, child prostitution  
and child pornography, Juan Miguel Petit**

**Addendum**

**Communications to and from Governments \* \*\***

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\* 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.

\*\* The present document is submitted late to reflect the most up-to-date information possible.

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## 1. INTRODUCTION

1. This addendum to the report of the Special Rapporteur contains, on a country-by-country basis, summaries of general and individual allegations, as well as urgent appeals transmitted to Governments between 1 January and 31 December 2006, as well as replies received during the same period. Observations made by the Special Rapporteur have also been included where applicable. Government replies received after 15 February 2007 will be included in the Special Rapporteur's next communications report.

2. The Special Rapporteur recalls that in transmitting allegations and urgent appeals, he does not make any judgement concerning the merits of the cases, nor does he support the opinion of the persons on behalf of whom he intervenes.

3. Owing to restrictions to the length of documents, the Special Rapporteur reduced considerably details of communications sent and received.

4. During the period under review, the Special Rapporteur transmitted 30 communications to the Governments of 26 countries: Bangladesh, Benin, Bulgaria, Colombia, the Democratic Peoples' Republic of Korea, the Democratic Republic of the Congo, Ecuador, Greece, India, Israel, Kyrgyzstan, Liberia, the Libyan Arab Jamahiriya, Mauritania, Mexico, Morocco, Nepal, the Netherlands, Nigeria, Pakistan, the People's Republic of China, Romania, Sri Lanka, Thailand, United Arab Emirates and Vietnam.

5. Nineteen responses to these communications were received as well as seven replies to communications transmitted by the Special Rapporteur over the past years<sup>1</sup>. The Special Rapporteur regrets that some Governments failed to respond while thanks the ones which took the time and effort to provide replies, which are reflected and summarized in the present report.

6. This report contains individual cases and general situations related to the mandate of the Special Rapporteur. This includes allegations related to: sale of children, sexual violence and abuse of children, trafficking of children, child bonded labour and child sexual exploitation.

7. The names of the child victims whose cases are presented in this report have been replaced by initials, in order to respect their privacy and to prevent further victimization. The full names of all victims have been provided to the Government concerned.

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<sup>1</sup> General statistical information on communications sent by Special Procedures in 2006 is available on OHCHR website : [www.ohchr.org](http://www.ohchr.org)

## II. COMMUNICATIONS TO AND FROM GOVERNMENTS

### Bangladesh

#### Letter of allegation

8. On 21 March 2006, the Special Rapporteur, jointly with the Special Rapporteur on violence against women, its causes and consequences sent a letter of allegation concerning the gang-rape of 15-year old girl in Khidirpur Union-Basaudia-Lohajang within the Munshiganj District.

9. According to the information received, on 1 November 2005, the victim, K.R.S. was gang-raped when she was walking home from school in Khidirpur Union-Basaudia-Lohajang within the Munshiganj District. After reporting the incident and indicating the names of the perpetrators to the police, she was arrested and imprisoned until 11 November 2005 without being provided with the reasons of her detention. It is also alleged that after the rape, several members of the girl's community questioned one of the alleged perpetrators, who reportedly named all the other perpetrators, and recorded what was said. The recorded tape was then given to the police. It is reported that the police did not take the information on the tape into consideration in their investigations. One person was being prosecuted.

10. The Special Rapporteurs have expressed concerns at the arrest and detention of K.R.S. In addition, while welcoming the immediate action taken by the authorities to investigate the incident and bring charges against the above-mentioned alleged perpetrator, the Special Rapporteurs have called on the authorities to ensure that investigations and proceedings against the alleged perpetrators are thorough.

#### Urgent Appeal

11. On 20 January 2006, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on freedom of religion or belief concerning T.G., a 14 year old Hindu girl from the town of Thakurgaon.

12. According to allegation received, on 10 November 2005 at around 4 p.m., T.G. was abducted at gunpoint on her way home from Thakurgaon Government Girls School by two abductors allegedly neighbours of the victim. There were concerns that the purpose of the abduction was in order to force her to convert to Islam.

13. On 11 November 2005, the parents of the victim lodged a formal complaint at Thakurgaon Sadar Police Station and appealed to the Home Minister. However, the police reportedly did not act upon the complaint, arrest the abductors or attempt to recover the girl.

14. Twenty three days after the abduction, T.G. called her parents from a mobile phone and informed them that she was under the custody of a police officer from Dinajpur named G. R. This information was transmitted to Thakurgaon Sadar Police Station but no action was reportedly taken to apprehend the alleged perpetrators.

**Urgent appeal**

15. On 20 April 2006, the Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and the Special Rapporteur on violence against women, its causes and consequences sent an urgent appeal regarding information received that since mid 2005, there had been an ongoing conflict between the Bengali settlers and the Marma indigenous peoples in the Chittagong Hill Tracts, in the Southeastern part of Bangladesh.

16. According to the information received, Bengali settlers have, with the support of the army, illegally and forcibly occupied titled indigenous peoples land. On 5 March Bengali settlers, with the support of the military, occupied land belonging to the Shishughar Buddhist Orphanage. On 3 April 2006 Bengali settlers, attacked the Marma indigenous peoples in the villages of Sa Prue Para, Joy Sen Para, Sapru Karbabipara and Nuapara. The attacks left more than 30 casualties.

17. It is reported that when the Marma women opposed the incident, Bengali settlers ill-treated four Marma women. The incident was witnessed by a person who was consequently beaten to silence. It was reported that some Bengali settlers also raped two women and gang-raped a minor girl, T.M., aged 16, and A.K.M. aged 20, at Sa Prue Karbari. The four raped victims are hospitalized at the Khagrachari Sadar Hospital. Furthermore, it is also alleged that thirteen of the indigenous wounded in the said attacks were hospitalized in the Khagrachari Sadar Hospital, and three seriously wounded in the Chittagong Medical College Hospital.

**Government responses**

18. By letter dated 20 June 2006, the Government responded to the urgent appeal sent on 20 January 2006 and indicated that the abduction of the 14 year old girl named Ms T. G., by faith Hindu, by Mr. S. and Mr. U. has been investigated. It is revealed that Ms. G. had voluntarily left her father's place with Mr. H. I. U., her fiancé, on 10 November 2005. On that same day, by an affidavit before the learned Notary Public, it is said that Ms. G. converted to Islam and declared her marriage with Mr. U. As per affidavit, her adopted name is now Ms. F. Y. T., and her age was claimed to be 21 years. Even if the medical board certified that her age was about 18 years, she is yet not a minor. The Government also indicated that Ms. T.'s father had lodged a case accusing Mr. U. and others of abducting her daughter. The case is pending before the learned Court who will decide whether there was any abduction. For the time being, Ms. T. is currently staying at her husband's residence.

19. By letter dated 23 March 2006, the Government acknowledged the receipt of the letter of allegation sent by the Special Rapporteur on 21 March 2006, and indicated that the communication had been forwarded to the concerned authorities in Bangladesh for necessary inquiry and action.

20. By letter dated 21 April 2006, the Government of Bangladesh acknowledged the receipt of the letter of allegation sent by the Special Rapporteur on 20 April 2006 and indicated that the

communication had been forwarded to the concerned authorities in Bangladesh for necessary inquiry and action.

### **Observations**

21. The Special Rapporteur would like to thank the Government of Bangladesh for its continuing disposition to respond to allegations transmitted by him and looks forward in receiving a substantive reply to his communications sent on 21 March and 20 April 2006.

## **Benin**

### **Appel urgent**

22. Le 16 mars 2006, le rapporteur special, conjointement avec la Rapporteuse spéciale sur la traite des personnes, en particulier les femmes et les enfants a envoyé un appel urgent concernant la situation d'enfants béninois qui continueraient d'être trafiqués aux fins d'exploitation dans les carrières de gravier et dans les plantations du Nigéria malgré la signature d'un accord en juin 2005 entre le Bénin et le Nigéria. Selon les informations reçues, des centaines d'enfants béninois âgés de 6 ans pour les plus jeunes travailleraient toujours à l'heure actuelle dans les carrières de pierres d'Abeokuta et dans ses environs ainsi que dans de nombreuses plantations agricoles du Sud-ouest nigérian.

23. D'après les informations soumises aux Rapporteurs spéciaux, les carrières dans lesquelles travaillent ces enfants seraient essentiellement des carrières de gravier, c'est-à-dire de petits gisements prenant les apparences de « trous » dans lesquels des groupes de deux à trois enfants, appelés « gangs », travaillent durant plusieurs semaines avant de se déplacer vers un autre gisement. Les propriétaires des carrières, généralement des notables locaux, s'adresseraient à des intermédiaires, souvent des femmes Yoruba, pour gérer l'exploitation des carrières. Ces intermédiaires feraient appel à des trafiquants béninois pour leur fournir la main d'œuvre infantine. Il est aussi mentionné que les enfants travaillent entre cinq et sept jours par semaine sur les carrières. La durée de leur « contrat » est normalement de six ans (3 cycles de deux ans), années durant lesquelles ils ne perçoivent pas à proprement parler de salaire. En revanche, ils peuvent gagner en fin de cycle une bicyclette et/ou une radio. Une modique somme d'argent est remise à leurs parents à des dates précises et périodiques au cours de ces six années.

24. Cette activité physique est intense et dangereuse, particulièrement éprouvante pour les genoux et les mains, avec de nombreux risques d'accident. Les journées de travail sont de 8 à 10 heures. Les enfants sont sous-nourris et ne peuvent compter que sur eux-mêmes pour trouver de quoi se laver, se vêtir et se soigner. Ils passent les nuits sous des abris de fortune. La violence entre enfants est permanente, et il arrive aussi que les adultes les maltraitent et leur infligent coups, brimades et injures. D'après les informations reçues, ce serait une guerre entre les trafiquants en septembre 2003 qui aurait porté au grand jour la situation d'exploitation de ces enfants. La reconnaissance de ce trafic aurait été suivie d'une action d'urgence visant au retrait, au rapatriement, à la protection et à la réintégration des enfants sous le contrôle des pouvoirs publics béninois et nigériens, avec l'assistance d'organisations internationales et non gouvernementales spécialisées dans la protection de l'enfance.

25. Officiellement 261 enfants, dont la grande majorité provenaient de la commune de Zakpota dans le Département du Zou auraient pu être retirés des carrières et rapatriés. Ils avaient pour la plupart entre 10 et 15 ans. Plus de 50 % d'entre eux venaient de passer entre 1 et 2 ans dans les carrières, 35 % entre 3 et 4 ans et le reste entre 4 et 7 ans, ce qui atteste de l'ampleur et de l'ancienneté du trafic. En plus de ces 261 enfants rapatriés, un millier d'autres enfants (au moins) seraient revenus dans le Zou sans aucune aide ni protection institutionnelle (enfants dits de «retour non formel»). Des dizaines voire des centaines d'autres enfants béninois exploités à Abeokuta seraient restés cachés plusieurs semaines ou plusieurs mois dans la brousse avant d'être acheminés vers d'autres sites d'exploitation dans le Sud-ouest du Nigeria (Etats d'Ogun, d'Osun et d'Oyo) où ils auraient probablement rejoint d'autres enfants béninois déjà exploités dans des carrières ou des plantations agricoles.

26. Seuls sept trafiquants auraient été arrêtés, et ceux-ci auraient été libérés à la fin de l'année 2004, après une période de détention provisoire et des condamnations allant de quelques mois à un an de prison. Rien n'aurait été prévu pour faciliter leur réinsertion économique ni pour les encourager à ne pas reprendre leurs activités illicites. En conséquence, aujourd'hui encore les filières et les routes du trafic entre le Bénin et Abeokuta demeurent en place.

### **Réponse du Gouvernement**

27. Par lettre datant du 4 juillet 2006, le Gouvernement du Bénin répond qu'il a été le premier pays à reconnaître l'existence du phénomène de la traite d'enfants à Libreville, au Gabon et que de maintes actions ont depuis été entreprises par le Gouvernement dans le but de contrer le fléau. Parmi celles-ci, figurent les accords multilatéraux et bilatéraux de coopération, notamment celui passé avec le Nigéria.

28. Le Gouvernement du Bénin rappelle également qu'il est indispensable que le processus de rapatriement, les actions de réinsertion professionnelle soient clairement définies, et ce, dans l'intérêt supérieur des enfants. Les stratégies à mettre en place doivent être de nature multidimensionnelle et devront impliquer des ressources humaines et financières importantes.

29. Selon les informations recueillies par le Gouvernement, aucune plainte explicite n'a été déposée de façon spécifique par les victimes mais les trafiquants ont toutefois été identifiés, arrêtés et déférés. Le Gouvernement informe également le Rapporteur Spécial que dès le 1<sup>er</sup> mars 2006, une agence contre la traite au Nigéria (le NAPTIP) a procédé à Lagos à la remise de vingt enfants victime de traite d'enfants et dont les âges variaient entre 8 et 20 ans. Il mentionne toutefois qu'étant donné qu'un enfant est défini comme « tout être âgé de 0 à 18 ans », il se crée en l'espèce, une confusion entre le phénomène de traite et de migration. Qui plus est, et à la demande de la partie béninoise du comité conjoint (BENIN-NIGERIA), le NAPTIP effectue actuellement une étude dans la région d'Abeokuta pour voir d'une part si les enfants réinsérés en 2003 ne sont pas retournés sur d'autres sites et d'autre part, si de nouveaux sites de carrières de gravier n'ont pas été créés. Les résultats seront prochainement partagés par le comité conjoint. Enfin, depuis 2003, selon les statistiques de la Brigade de Protection des Mineurs, soixante dix huit trafiquants ont été présentés au Procureur de la République et déférés en prison.

30. Le Gouvernement du Bénin a tenu à réitérer les dispositions prises dans le cadre de la lutte contre la traite des enfants entre le Bénin et le Nigéria dont un accord bilatéral, l'adoption d'un

plan d'action commun aux deux pays, la création de structures de coordination des actions de protection, des formations, une cellule de suivi et de coordination des actions de protection des droits de l'enfant avec cette spécificité sur la traite des enfants et la mise en place de l'agence NAPTIP au Nigéria qui coordonne toutes les actions relatives à la traite d'enfants. Des dispositions ont aussi été prises au niveau législatif pour contrer le fléau de la traite des enfants dont une loi contre la traite des enfants et d'autres projets qui sont présentement en cours.

### **Observations**

31. Le Rapporteur spécial remercie le gouvernement béninois pour ses réponses promptes et détaillées quant aux dispositions entreprises pour contrer le fléau de la traite d'enfants, plus particulièrement entre le Bénin et le Nigéria. Le Gouvernement ayant indiqué qu'il était en train d'effectuer une étude dans la région d'Abeokuta, le Rapporteur spécial serait très intéressé à en être informé lorsque celle-ci sera rendue disponible.

## **Bulgaria**

### **Letter of allegation**

32. On 25 July 2006, the Special Rapporteur, together with the Special Rapporteur on trafficking in persons, especially women and children and the Special Rapporteur on violence against women, its causes and consequences sent a letter of allegation concerning the trafficking of newborn infants from Bulgaria to Greece.

33. According to the information received, it is alleged that pregnant women, most of them from the Roma community in the region of Burgas in eastern Bulgaria, and many of them unemployed and living in harsh conditions, are induced by members of organized crime to come to work to Greece, being promised employment and good salaries. It is reported that instead, these pregnant women end up in small cities throughout Greece, where they are held together in apartments for the remainder of their pregnancy, before delivering at local hospitals, where, with the complicity of doctors, midwives and other hospital staff, their newborn babies are taken away from them and sold by organised crime members with the assistance of lawyers for up to 30 000 euros. It is alleged that after having given birth in Greece, the women are sent back to their hometowns in Bulgaria and receive 1.000 euros per child.

34. Reports also alleged that little progress has been made by Greek and Bulgarian authorities in investigating the trafficking and sale of children taking place between the two countries.

### **Observations**

35. The Special Rapporteur regrets that no reply to his communication of 25 July 2006 was received. The issue relating to the trafficking of children, particularly when involving minority groups such as the Roma communities, had already been raised by the Committee on the Rights of the Child with regard to its January 1997 review of the initial report of Bulgaria under the International Convention on the Rights of the Child. The Committee was particularly concerned at) the insufficient policies, measures and programmes for the protection of the rights of the most vulnerable children, especially children living in poverty, children born out of wedlock,

abandoned children, disabled children, children who are victims of abuse, children belonging to minority groups, especially Roma, and children who, in order to survive, are living and/or working in the streets (CRC/C/15/Add.66, para. 11).

## Colombia

### Carta de alegaciones

36. El 24 de marzo de 2006, el Relator especial, junto con la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias y el Relator Especial sobre ejecuciones, extrajudiciales, sumarias o arbitrarias, envió una carta de alegaciones en relación al asesinato de la niña S.P.G.G. así como de la violación sexual de otra niña de 14 años cometidas en la zona rural del municipio de Argelia, oriente del Departamento de Antioquia, y presuntamente perpetradas por miembros del ejército regular.

37. De acuerdo con la información recibida, el 15 de febrero de 2006 un grupo de soldados del batallón “Juan del Corral”, adscrito a la Cuarta Brigada del ejército regular colombiano con sede en Medellín, se habrían presentado en la vereda “El Plan” del antemencionado municipio e iniciado la persecución contra un presunto miembro de la guerrilla. Posteriormente los soldados habrían entrado en la vivienda de la familia G.G., ubicada en la misma vereda donde se encontraban solas dos menores de edad: una de 14 años, cuyo nombre se desconoce hasta el momento, y S.P., de 17 años. Se alega que los soldados habrían procedido a disparar contra esta última causándole la muerte. Según las denuncias, los soldados habrían tratado de convencer a la familia que el disparo que acabó con la vida de S.P. lo había hecho el antemencionado supuesto miembro de la guerrilla y habrían exhortado a los familiares de la víctima a informar a las autoridades “que a la joven la había matado el guerrillero”.

38. Se informa también que los militares habrían presionado a diferentes integrantes de la familia, con el fin de evitar que estos denunciasen la verdad sobre la forma en que sucedieron los hechos. Se alega también que el cadáver de S.P. habría sido dejado en el potrero de la finca hasta el día siguiente cuando, otros miembros del ejército lo habrían trasladado hasta el municipio de Sonsón con el fin de efectuar las correspondientes diligencias judiciales, pese a que la jurisdicción de la vereda « El Plan » corresponde al municipio de Argelia, alegando que la fiscalía los habría autorizado a efectuar dicho traslado. Los Relatores Especiales expresaron su preocupación por los miembros de la familia de S.P. quienes, según la información recibida, se habían encontrado muy atemorizados y temían sufrir agresiones contra su vida e integridad personal por haber denunciado los citados hechos.

39. El 12 de febrero de 2006 en la vereda de nombre “Gitana”, un soldado habría llegado a la vivienda de una familia campesina, y habría exigido que le entregaran a su hija, una niña de 14 años ante lo cual los padres se negaron. El soldado habría procedido a llevarse a la menor procediendo a violarla. La niña regresó posteriormente al domicilio de sus padres. Se alega que los padres de la menor también habrían sido agredidos físicamente cuando intentaron evitar que el soldado agrediera a la niña.

## **Respuesta del Gobierno**

40. El Gobierno contesta por cartas de fechas del 28 de abril de 2006, 29 y 31 de mayo de 2006. Por carta del 28 de abril de 2006, el Gobierno informa que ante las discrepancias presentadas en la comunicación enviada, y la falta de información respecto de la menor objeto de la presunta violación (nombre completo, fecha y lugar de los hechos y ubicación geográfica de los mismos), se permite solicitar mayor claridad y precisión en los datos suministrados, con el fin de esclarecer los hechos y poder brindar una respuesta verídica y oportuna, ya que resulta imposible para el Gobierno solicitar información a las autoridades competentes, cuando no hay identificación plena de las presuntas víctimas de violaciones de derechos humanos.

41. Por carta del 29 de mayo de 2006, el Gobierno informa que el Programa Presidencial de DDHH y DIH, cuando tuvo conocimiento de los hechos ocurridos sobre la menor S.P.G.G., solicitó información, al inspector del Ejército Nacional acerca del conocimiento que tuviese sobre el particular y de las investigaciones adelantadas. El 24 de marzo de 2006, puso en conocimiento del caso a la Procuradora Delegada para las Fuerzas Militares con el objeto que se adoptasen las acciones pertinentes. En la misma fecha, ofició a la Dirección Seccional de Fiscalías de Antioquia solicitando información sobre las investigaciones adelantadas, resaltando que se dio traslado al Fiscal Delegado de la Unidad de Fiscalías de Sonson (Antioquia), quien es competente por jurisdicción para conocer de los hechos de competencia de los Fiscales Delegados ante los Jueces Penales del Circuito, presentados en sumuncipio. Esa Delegada tuvo conocimiento de los hechos en los cuales perdió la vida la menor S.P.G.G. Se solicitó un informe detallado de los medios de prueba allegados y el estado de la investigación. Igualmente, se libró el oficio 370 del 9 de marzo a la Personería de Argelia (Ant) para que envíe copia de la queja instaurada por la hermana de la víctima, así como de los demás medios probatorios que conduzcan a establecer las causas del deceso.

42. El Gobierno menciona que en lo referente al caso de la presunta violación de una menor de 14 años de edad en zona rural del municipio de Argelia, por parte de miembros del ejército pertenecientes al batallón "Juan del Corral" adscrito a la IV Brigada con sede en Medellín, la Dirección General de Fiscalías de Antioquia, mediante carta del 6 de abril de 2006, informó que por el presunto abuso sexual de que fuera víctima la menor J.A.T. se conoció que la personería de Argelia estaba adelantando la investigación de los hechos.

43. Por fecha de 31 de mayo de 2006, el Gobierno informa sobre el asesinato de la niña S.P.G.G. que la Fiscalía General de la Nación, Seccional de Sonson (Antioquia), ha iniciado la averiguación por el Juzgado 24 de Instrucción Penal Militar, con sede en el municipio de Bello (Antioquia). Dicho ente judicial fue requerido presentar un informe detallado sobre los medios de prueba allegados, y el estado de la investigación. La Fiscalía General se encuentra a la espera de dicha información. La Procuraduría General de la Nación manifestó que el Procurador Regional de Antioquia tiene conocimiento del caso y ha requerido al Ejército Nacional, a la Policía Nacional y al Departamento Administrativo de Seguridad (DAS) con el fin que proporcionen información sobre las operaciones llevadas para encontrar a los autores del asesinato, sobre las acciones penales correspondientes y respecto a la adopción de medidas pertinentes para proteger, entre otros, a la familia de la víctima. Por último, el Gobierno informa que el Programa Presidencial de Derechos Humanos y Derechos Humanos Internacional Humanitario de la Vicepresidencia ha solicitado información al inspector del Ejército Nacional,

acerca del conocimiento que tuviese sobre el particular, y especialmente acerca de las investigaciones adelantadas. De igual forma puso en conocimiento del caso a la Procuradora Delegada para las Fuerzas Militares, con el fin de que se adopten las acciones pertinentes.

### **Comentarios**

44. El Relator Especial quisiera agradecer al Gobierno de Colombia por su respuesta detallada. No obstante, el Relator Especial reitera su interés en recibir informaciones sobre el resultado de las investigaciones y de los procedimientos en contra de los presuntos responsables.

### **Democratic Peoples' Republic of Korea**

#### **Urgent Appeal**

45. On 24 March 2006, the Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, the Special Rapporteur on trafficking in persons, especially women and children, and the Special Rapporteur on violence against women, sent an urgent appeal concerning forced repatriation of a female national of the Democratic People's Republic of Korea (DPRK) by the People's Republic of China (PRC) on 28 February 2006.

46. According to the information received, six years before, the woman referred and her one-year-old daughter, were sold for 3,000 RMB to a Chinese man, whom she was forced to marry. The woman became pregnant soon thereafter and gave birth to a second daughter named K. Y.S. It is reported that the mother was arrested by a Chinese police raid squad at 11.30 p.m. on 25 February 2006 and handed over to the DPRK security police three days later. Concern was expressed that the woman may face harsh punishment since she had already been deported on two previous occasions, but managed each time to return to her children in the PRC.

47. It was further reported that this situation was not a singular incident. In cities near the border, including Yanji and Longjin, an intensified information exchange on defectors between DPRK and Chinese authorities had reportedly led to an increase in deportations of DPRK nationals. In this context, the Special Rapporteurs referred to their previous communication of 20 December 2005, in which they had expressed their concern about the cruel and inhuman punishment facing nationals of this country upon their forced return to the DPRK.

#### **Government response**

48. By letter dated 19 April 2006, the Government returned the letter sent on 24 March 2006 stating that it represented a product of conspiracy undertaken in pursuit of the ill-minded aim of spreading fabricated information while following the attempts of those hostile forces to defame, disintegrate and overthrow the state and social system of the DPRK on the pretext of human rights. Therefore, the Government rejected the joint letter. Furthermore, the Government neither recognizes the appointment of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, nor the mandates of the three other rapporteurs since it considers that they have been suspended with the conclusion of the work of the Commission on Human Rights.

## Democratic Republic of the Congo

### Lettre d'allégation

49. Le 6 avril 2006, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences a envoyé une lettre d'allégations concernant le viol de deux mineures, L.S.K. âgée de 13 ans, et de C.L.N. âgée de 17 ans.

50. D'après les informations reçues, le 15 janvier 2006 aux environs de 19 heures, de retour de chez le tailleur dans la commune de Makala, la victime L.S.K., domiciliée Avenue Jardin, N°1, Quartier Tchad, Commune de Lemba à Kinshasa, aurait été abordée par un jeune homme d'une vingtaine d'années qui avait déjà tenté de l'approcher sur le chemin de l'école. Au niveau du carrefour séparant la route de Kimwenza et By-pass (un endroit inhabité), ils auraient été rejoints par six amis du jeune homme. Après avoir bâillonné la jeune fille avec un foulard pour l'empêcher de crier, les sept hommes auraient violé la jeune fille, et ce, de 19 heures à 5 heures du matin. Ce n'est que le lendemain qu'elle aurait été retrouvée par des passants, baignant dans son sang. Après avoir retrouvé leur fille, les parents de la victime auraient alerté les officiers de police judiciaire du rond point de Ngaba du district de Mont Amba. D'après les informations reçues, les officiers de police connaîtraient l'identité des auteurs du viol mais auraient indiqué aux parents de la jeune fille ne pas disposer des moyens nécessaires pour mener des actions contre les auteurs de ces viols. Actuellement soignée dans un centre de santé, la victime souffrirait de dommages physiques et psychologiques graves, ne pourrait plus marcher correctement et risquerait, selon les médecins de ne plus pouvoir avoir d'enfants.

51. Les Rapporteurs spéciaux ont également été informés du fait que le 18 février 2006, une autre victime, C.L.N., domiciliée au 7 Avenue Kimuenza, Quartier Ngunza Elengesa, Commune de Ngiri Ngiri, aurait également été victime d'un viol collectif. Aux environs de 20 heures dans la Commune de Kalamu, elle aurait été abordée par cinq hommes, alors qu'elle se rendait à une veillée de prière avec une amie dont le nom n'a pas été communiqué aux Rapporteurs spéciaux. Alors qu'elle tentait de se défaire de l'emprise des hommes, un prénommé « Dunga », qui semblerait être le chef du groupe aurait ordonné à l'un de ses complices de la brûler avec une cigarette pendant que trois hommes du groupe emmenaient son amie. Malgré leurs appels au secours, personne ne serait venu en aide aux jeunes filles. Alors que deux des membres du groupe traînaient à terre leur victime, deux policiers en civil habitant le quartier auraient interpellé les deux hommes mais les auraient finalement laissés poursuivre leur méfait. Conduite de force dans une chambrette derrière un débit de boisson, la jeune fille aurait été immobilisée et violée par les deux hommes, et au moyen d'une bouteille de soda. Par la suite, pendant que les deux hommes se disputaient, la jeune fille aurait réussi à s'enfuir et à obtenir le secours d'un passant pour rejoindre son domicile. Un des présumés auteurs de ce viol aurait été appréhendé deux jours après les faits par la police suite à la plainte déposée par la victime à l'Etat major du District de la Funa. Pendant son interrogatoire, l'officier de police judiciaire instructeur se serait rendu compte qu'il s'agissait d'une bande organisée commettant régulièrement de telles actions. Cette personne aurait ensuite été transférée à l'Inspection Provinciale puis au Centre pénitentiaire et de rééducation de Kinshasa et l'instruction poursuivie afin de démanteler le réseau. La jeune fille, manifestant des tendances suicidaires, serait soignée dans un centre de santé et suivie par un

psychologue. Aucune information ne permettrait à ce jour de savoir ce qu'il est advenu de la jeune fille enlevée.

52. Les Rapporteurs spéciaux ont exprimé leurs vives préoccupations quant à ces faits, et plus généralement sur l'amplification des violences sexuelles dans la ville de Kinshasa, dont une importante proportion serait commise par des bandes organisées.

### **Observations**

53. Le Rapporteur Spécial s'est joint à cette communication dans la mesure où les questions de violence et d'abus sexuel constituent une des causes principales de l'exploitation sexuelle et du trafic d'êtres humains. Il regrette qu'aucune réponse n'ait été reçue suite à sa communication du 6 avril 2006. Le Rapporteur spécial tient à rappeler au Gouvernement de la République démocratique du Congo son obligation à prendre toutes les mesures appropriées pour protéger l'enfant contre toute forme de violence, d'atteinte ou de brutalités physiques ou mentales, d'abandon ou de négligence, de mauvais traitement, y compris la violence sexuelle et souhaiterait recevoir des informations plus détaillées sur les investigations menées quant aux agressions sexuelles des deux mineurs dans la ville de Kinshasa.

### **Dominican Republic**

#### **Seguimiento de comunicaciones transmitidas previamente**

54. Por carta con fecha del 9 de febrero de 2006, el Gobierno de la Republica Dominicana transmitio la siguiente informacion en respuesta a la comunicacion del 13 de diciembre de 2005 relativa a alegaciones según cuales 25 000 menores estarian explotados a través de la prostitucion, pornografia, pedofilia y turismo sexual asi como unos 45 000 menores estarian explotados en el servicio domestico, incluyendo menores dominicanos asi que menores de Haiti.

55. El Gobierno menciona que la legislación laboral dominicana prohíbe el trabajo a personas menores de 14 años de edad, concediendo dos excepciones: cuando se trata de una labor que sea beneficiosa para el arte, la cultura, la ciencia o la enseñanza y cuando el menor de edad utilizado en el campo en trabajos ligeros de recolección. En ambos casos el Secretario de Estado de Trabajo es el que tiene la competencia para autorizar a dichos menores siguiendo lo establecido en la legislación. En cuanto a la explotación sexual de menores, el Gobierno informa que en el Código para el Sistema de Protección y los Derechos Fundamentales de Niños, Niñas y Adolescentes, que constituye una normativa que crea garantías y derechos hacia los menores, considerándolos sujetos de pleno derecho y mediante otra ley relacionada, se resalta la penalización establecida contra el proxenetismo respecto de un menor de cualquier sexo.

56. Por medio del Consejo Nacional para la Niñez y la Adolescencia (CONANI), el Gobierno informe que se ha realizado un informe para responder a las alegaciones enviadas sobre explotación sexual, tráfico y trata de la niñez y adolescencia, así como detalles del proceso seguido para elaborar esa dicha respuesta. Sobre el proceso seguido para la formulación de la respuesta del país, el Gobierno informa que el 23 de enero de 2006 la Presidenta Ejecutiva del CONANI convocó a las instituciones Estatales involucradas en la lucha y prevención de esta problemática. El 26 de enero del 2006 se realizó una reunión entre la Secretaria de Estado de

relaciones Exteriores y el CONANI con fin de discutir de la comunicación enviada por el Relator Especial. El CONANI desarrollo las siguientes acciones: coordinación interinstitucional con las instituciones Estatales que directa, o indirectamente, por características de la situación denunciada en la referida comunicación, están involucradas en la lucha y prevención de esta problemática; análisis de documentación e información sobre este tema y reuniones de trabajo.

57. El Gobierno informa de las diferentes acciones desarrolladas para la prevención del abuso y la violencia contra los niños, niñas y adolescentes: campañas de sensibilización de los derechos de la niñez y prevención del abuso; jornadas de vigilancia y persecución de los delitos contra la dignidad de los niños, niñas y adolescentes y implementación de programas a favor de las víctimas de maltratos y abuso infantil, entre otras.

58. Por otra parte, la Procuraduría General de la República ha realizado diferentes operativos en prostíbulos de zonas vulnerables, algunas por sus características turísticas y otras por sus características urbanas. También la Procuraduría General de la República creó el Departamento contra el Tráfico Ilícito de Migrantes y la Trata de Personas para realizar actividades destinadas a la investigación, campañas de difusión e iniciativas económicas y sociales con miras de prevenir y combatir la trata de personas. Ese Departamento, a través de la Unidad de Educación y Prevención, ha continuado desarrollando acciones en distintas comunidades con el objetivo de sensibilizar a los agentes comunitarios sobre la problemática. Ese Departamento también cuenta con una Unidad de Explotación Sexual Comercial que se encarga de investigar, monitorear y rastrear todo tipo de recurso informático que sea utilizado para la exposición de un niño, niña o adolescente en el Internet.

59. El Gobierno informa de las acciones llevadas a cabo, entre otras, por la Secretaría de Estado de Trabajo y el Comité Directivo Nacional de Lucha contra el Trabajo Infantil para prevenir el trabajo infantil. La República Dominicana, como miembro de la OIT, aprobó y ratificó el Convenio 138 sobre la edad mínima para el empleo, conjuntamente con el Convenio 182 sobre la eliminación de las peores formas del trabajo infantil. La formulación de estas políticas ha creado un movimiento social de sensibilización y toma de conciencia que ha permitido hasta el momento que 25 200 niños, niñas y adolescentes trabajadores o en riesgo de explotación hayan sido beneficiados con los programas de acción, así como 2 850 familias a través de las medidas de protección social, educación, salud, formación técnica laboral y apoyo a la generación alternativas de ingresos.

60. El Gobierno menciona las acciones llevadas a cabo por la Secretaría de Relaciones Exteriores para prevenir la trata y tráfico de niño, niñas y adolescentes. En el año 2000 se creó la Sección de Asuntos de la Mujer, Niño, Niña, Adolescentes y Envejecientes, cuyo objetivo principal es la asesoría técnica a las instituciones del Estado y de las ONG en los temas relacionados con las áreas que les conciernen en los compromisos del Estado en la redacción de informes, capacitación y sensibilización a los funcionarios en funciones y nombrados en el exterior. Esa sección también está involucrada en capacitación de personal diplomático y consular en el exterior en los temas de tráfico y trata, explotación sexual comercial de niños, niñas y adolescentes, manutención y secuestro.

61. El Gobierno informa que la Comisión contra la Explotación Sexual y Comercial, integrando más de 20 instituciones gubernamentales, ONG y organismos internacionales reformuló en el 2002 el Plan de Acción para Enfrentar el Abuso y la Explotación Sexual

Comercial. Dicho Plan contempla los siguientes objetivos: fortalecimiento de la familia como núcleo fundamental para el desarrollo, fortalecimiento de la responsabilidad social y ciudadana, la denuncia y conocimiento general sobre el problema del abuso y la explotación sexual de menores, revisión y mejoramiento de las leyes, políticas, programas y servicios básicos y de protección, y fortalecimiento de las leyes y del sistema de administración de justicia para la efectiva persecución y procesamiento judicial de los perpetradores de abusos y explotación contra menores.

62. El Gobierno añade que también se realizó y implementó a nivel internacional el entrenamiento de los consules dominicanos y de las oficinas de turismo en Europa, a través de dos seminarios y a nivel nacional se desarrollaron acciones como una campaña de medios incluyendo un spot de televisión, con el apoyo del programa IPEC de la OIT financiada por el Departamento de Trabajo de los Estados Unidos. Finalmente, el Gobierno incluye en su respuesta todos los procedimientos y resoluciones judiciales procediendo, entre otros, de la Procuraduría General, de la Policía Nacional, de la Secretaría de Estado de las Fuerzas Armadas. También se anexa amplia documentación sobre estudios y procesos institucionales mostrando los avances de la República Dominicana en materia de lucha contra la explotación sexual comercial y el tráfico y trata de niños, niñas y adolescentes.

### **Comentarios**

63. El Relator Especial quisiera agradecer al Gobierno de la República Dominicana por su respuesta detallada y la información proporcionada.

## **Ecuador**

### **Carta de alegaciones**

64. El 10 de agosto de 2006, el Relator Especial junto con el Relator Especial sobre los derechos humanos de los migrantes, la Relatora Especial sobre la trata de personas, especialmente las mujeres y los niños y la Relatora Especial sobre la violencia contra la mujer, con inclusión de sus causas y consecuencias mandó una carta de alegaciones en relación con la situación de los colombianos en riesgo de ser objeto de la Trata de personas en Ecuador.

65. Según las informaciones recibidas, en el año 2004, el número de ciudadanos colombianos refugiados, solicitantes de asilo en Ecuador, ascendería aproximadamente a 44.800 personas. En años recientes, el gobierno ecuatoriano habría implementado nuevas restricciones para los colombianos que desean ingresar al país, así como para aquellos que desean permanecer en él.

66. Los retos que enfrentarían los refugiados colombianos, los solicitantes de asilo y los migrantes, les podrían poner en riesgo de ser objeto de tráfico hacia Ecuador. Los factores que aumentarían el peligro de ser objeto de trata incluyen un aumento en las medidas de control en las fronteras recientemente implementadas por el gobierno ecuatoriano, incluyendo la exigencia del *pasado judicial* para cruzar la frontera. El *pasado judicial* es un registro oficial de no tener historia criminal, emitido por las autoridades colombianas. Este documento sería muy difícil de obtener por las personas que viven en las zonas rurales de Colombia, ya que sólo se puede obtener en las grandes zonas urbanas, a donde les es difícil y peligroso llegar. Además, sería

excesivamente costoso para los campesinos colombianos sin recursos, lo cual lo volvería inaccesible para ellos.

67. En este sentido, el hecho de que los colombianos reaccionen ante este nuevo requerimiento cruzando la frontera en áreas remotas en lugar de hacerlo en los sitios oficiales de cruce, aumenta la preocupación de que se extienda la trata de personas. La presunta corrupción entre las autoridades ecuatorianas, incluyendo oficiales de frontera, también crearía un ambiente conducente a la trata de personas.

68. Se informa del hecho de que los colombianos que ingresan indocumentados a Ecuador, generalmente evitarían registrarse para solicitar asilo. De todas maneras, incluso si cruzan la frontera con los documentos requeridos, muchos escogerían permanecer no registrados por el temor de que al hacer notoria su presencia en Ecuador, ello atraería represalias por parte de la guerrilla colombiana o de ciertos elementos paramilitares.

69. Asimismo, si bien el permanecer indocumentados puede que les proteja de ser objeto de abusos por parte de los insurgentes, irónicamente ello podría volverles más vulnerables a la explotación, incluyendo la trata de personas. La falta de estatus legal les dificultaría el poder denunciar a las autoridades ecuatorianas explotaciones o abusos de los cuales hayan sido objeto. Ello también convertiría a los colombianos en un blanco para la trata de personas, ya que serían controlados más fácilmente por los traficantes. La reciente disminución del índice de concesiones de asilo podría exacerbar este problema, ya que los individuos a los que se les deniega el asilo pasan a vivir en la sombra de la sociedad ecuatoriana, con la esperanza de no ser detectados por las autoridades. Ellos también se tornarían presa fácil para los traficantes.

70. Según las informaciones recibidas, los colombianos, especialmente las mujeres, se enfrentarían a una significativa discriminación dentro de Ecuador. Ello les obligaría a ingresar en la economía informal, incluyendo el trabajo sexual. En muchas ocasiones, se verían obligadas a buscar protección de hombres ecuatorianos, quienes a su vez frecuentemente las explotarían. Pueblos fronterizos, como Lago Agrio, tienen ya de por sí un alto nivel de delincuencia y prostitución, por lo que las mujeres y niños colombianos frecuentemente terminarían como trabajadores sexuales.

71. Precisamente en Lago Agrio se constata un elevado número de niños no acompañados. Se informa de que existe un orfanato en ese lugar, pero solamente pueden ingresar los niños menores de 12 años. Los niños mayores serían entregados a familias de la zona y se volverían vulnerables a abusos. Se informa del hecho que los niños colombianos tendrían dificultades para recibir educación a causa de la discriminación o por los costos prohibitivos de la educación. Como resultado, frecuentemente dejarían de estudiar y se pondrían a trabajar para ayudar a mantener a sus familias. Ello también les tornaría vulnerables a la trata de personas.

### **Respuesta Del Gobierno**

72. Con carta por fecha del 10 de octubre de 2006, el Gobierno informa que quisiera hacer algunas precisiones a la comunicación enviada por los Relatores Especiales. El Gobierno considera que la parte preambular del cuestionario de la comunicación adolece de errores conceptuales de carácter jurídico, así como plantea una serie de hipótesis no verificables y

presunciones que llevan a una relacion de causa y efecto carente vinculacion real y objetiva entre la presencia de migración colombiana en el Ecuador y una especial incidencia en delitos de trata en contra de personas originarias de ese pais como resultado de politicas relativas al refugio y a omisiones en el combate a los delitos de trata de personas en el Ecuador. El Gobierno menciona que desde el año 2000 y hasta el mes de septiembre 2006, 41.820 personas han solicitado refugio en el Ecuador, de las cuales se ha reconocido como refugiados a 12. 346. En alrededor de un 98% de las personas tanto solicitantes como refugiados reconocidos, son de origen colombiano. Estas personas han solicitado refugio y no asilo como se afirma en la comunicación enviada.

73. El Gobierno tambien señala que no existe una tendencia declinante en los ultimos años para el reconocimiento de refugio en el Ecuador. Por lo tanto, el Gobierno rechaza esa afirmacion mencionada en la comunicación enviada y añada que no se ve una relacion entre una supuesta disminucion en la concesion de refugios, que no responde a la realidad, y la supuesta exacerbación del problema de la trata derivado de un inexistente incremento de personas colombianas no reconocidas como refugiados.

74. Por otra parte, el Gobierno quisiera hacer referencia al enorme flujo migratorio de personas de origen colombiano al Ecuador, que solamente desde el año 2000 y según estadísticas de la Direccion Nacional de Migración del Ecuador, han ingresado a ese pais 924 412 personas de nacionalidad colombiana, han salido 501 698 personas, y por lo tanto permanecen 432 213 colombianos, en un alto porcentaje en condicion migratoria irregular. La exigencia del pasado judicial fue la respuesta al insistente calmor en detener el ingreso de delincuentes de origen colombiano, que si bien representan una minoria entre la migración proveniente de ese pais, han ocasionado en los ultimos años graves secuelas sociales al liderar e integrar poderosas bandas delincuentes que han atentado contra derechos y bienes juridicos como la vida, integridad personal, libertad sexual y propiedad de numerosas personas en el Ecuador. Desde la puesta en vigencia del requisito del requisito del pasado judicial, no han disminuido las solicitudes de refugio de personas de nacionalidad colombiana.

75. El Gobierno precisa que Ecuador ha sido calificado por ACNUR como uno de los paises del mundo con mejores practicas de refugio. En los ultimos años, Ecuador es el pais de America del Sur que mayor inmigración extranjera ha recibido en proporcion a su población. El Gobierno esta en proceso de elaboracion de una estrategia nacional de insercion social de la población refugiada, liderada por la Cancillería, con la participacion de instituciones del gobierno central, de los gobiernos seccionales y locales y ONGs vinculadas a la tematica. Esta estrategia se combina con esfuerzos institucionales de integracion de la población migrante en general. Tambien el Ministerio de Trabajo se encuentra ejecutando una estrategia de regularizacion progresiva de trabajadores colombianos y peruanos en el Ecuador que pretende en un plazo prudencial posibilitar a trabajadores de estos dos paises laborar de manera legal en el Ecuador.

76. El Gobierno señala que Ecuador es victima de la accion de poderosas organizaciones delictivas que utilizan a personas con el proposito de explotarlas sexual y/o laboralmente. En el año 2004 fue creada por parte de la Presidencia de la Republica una Comision Interinstitucional integrada por varios Ministerios con el proposito de elaborar un Plan Nacional contra los delitos de Trata, Plagio de Menores, Explotación Laboral y delitos conexos. Este Plan, que ha comenzado su fase de ejecucion, contiene una serie de politicas públicas que de manera integral enfocan la problemática de la trata de personas desde tres ejes: prevencion, investigacion,

sancion y protección y restitucion de los derechos de las victimas. En el año 2005 entraron en vigencia las reformas al Codigo Penal que tipifican varias conductas de trata de personas, abuso sexual, utilización de personas para pornografía, turismo sexual, utilización de personas para pornografía, turismo sexual en territorio ecuatoriano, con la inclusión de penas muy severas en el contexto juridico ecuatoriano.

77. El Gobierno añade en su respuesta que se permite refutar las presunciones no fundamentadas en hechos reales contenidas en la comunicación enviada, de que el Ecuador estaria impidiendo o dificultando el acceso de refugiados colombianos y que no aplicaria politicas de proteccion de la población frente a la incidencia de delitos de trata de personas. El Gobierno concluye su respuesta y afirma en respuesta al cuestionario que no son exactos los hechos a que se refieren las alegaciones contenidas en la comunicación enviada. Esas alegaciones contienen una serie de hipótesis no comprobadas por ningun medio objetivo y verificable y apreciaciones inexactas que les lleva a efectuar presunciones con ninguna relacion entre las supuestas causas de responsabilidad del Gobierno con los supuestos efectos de colocar a la población colombiana en especial situación de vulnerabilidad frente a los delitos de trata de personas. El Gobierno precisa que no se realizaran investigaciones policiales ni indagatorias pre-procesales relativas a delitos de trata de personas específicamente en funcion de la población colombiana. La policia especializada (DINAPEN) realiza permanentes operativos de control a nivel nacional. En estos operativos no se verifican una especial incidencia de victimas de trata de personas de origen colombiano. El Gobierno añade que por la reciente tipificacion penal de las condutas de trata de personas, resulta que por el momento ninguna causa ha llegado al estado de sentencia, aun que ya existan algunas causas penales y procesamiento a responsables de esos delitos. De esas investigaciones policiales y procesales sobre delitos de trata no se encuentra implicada hasta el momento ninguna autoridad del Gobierno.

### **Comentarios**

78. El Relator Especial quisiera agradecer al Gobierno del Ecuador por su respuesta detallada y la informacion proporcionada. El Relator Especial exhorta al Gobierno de Ecuador a redoblar sus esfuerzos en pois de prevenir la trata de personas y las diversas formas de explotacion que se esconden detrás de ella, con nuevas politicas de prevencion social, apoyo educativo y de amparo a los sectores sociales mas carenciados y vulnerables.

## **Greece**

### **Letter of allegation**

79. On 25 July 2006, the Special Rapporteur, together with the Special Rapporteur on trafficking in persons, especially women and children and the Special Rapporteur on violence against women, its causes and consequences sent a setter of allegation concerning the trafficking of newborn infants from Bulgaria to Greece.

80. According to the information received, it is alleged that pregnant women, most of them from the Roma community in the region of Burgas in eastern Bulgaria, and many of them unemployed and living in harsh conditions, are induced by members of organised crime to come to work to Greece, being promised employment and good salaries. It is reported that instead, these pregnant women end up in small cities throughout Greece, where they are held together in

apartments for the remainder of their pregnancy, before delivering at local hospitals, where, with the complicity of doctors, midwives and other hospital staff, their newborn babies are taken away from them and sold by organised crime members with the assistance of lawyers for up to 30 000 euros. It is alleged that after having given birth in Greece, the women are sent back to their hometowns in Bulgaria and receive 1.000 euros per child.

81. Reports also alleged that little progress has been made by Greek and Bulgarian authorities in investigating the trafficking and sale of children taking place between the two countries.

### **Government response**

82. By letter dated 14 September 2006, the Government of Greece responded to the letter of allegation and provided informations pertaining to the legal provisions on adoption in Greece. Adoptions are actually governed by Law 2447/1990 as well as articles 1542 to 1588 of the Civil Code. Furthermore, the provisions of paragraphs. 2 and 3 of article 10 of Law 2447/96 carry a criminal consequence and therefore have a police interest. The said provisions stipulate imprisonment or incarceration penalties depending on the regularity of perpetration against the person who gives away his/her child for adoption, or any intermediate person who acts with the aim of gaining unfair benefits. By virtue of such provisions, police authorities have been assigned with the task of combating illegal adoptions and certifying the related crimes.

83. The Government also provided a brief overview of the different stages of legal adoption in Greece. It also noted, thanks to statistics on illegal adoptions kept by the Directorate of Public Safety, Hellenic Police Headquarters, all the cases of trafficking in new born infants involving Bulgarian nationals, both as offenders and victims, and that the police is aware of the places of Bulgarian pregnant women's recruitment, the *modus operandi*, the routes followed in order to enter Greece. In an effort to combat such criminal activities, the Hellenic Police Headquarters is cooperating with its Bulgarian counterpart and several significant results have therefore yielded during the last two years, such as mechanisms for the exchange of informations, the cooperation with the police authorities with liaison officers of the two sides and in cases of large-scale investigation, the meeting of operation officers of both sides in order to eradicate criminal groups.

### **Observations**

84. The Special Rapporteur would like to thank the Government of Greece for its informative reply and wishes to reiterate his conclusions and recommendations (E/CN.4/2006/67/Add.3) to his mission to Greece in November 2005, particularly that over the past 15 years, Greece has become a pole of attraction for immigrants due to its geographical position and its rapid economic growth, and that child exploitation reached unprecedented proportions. Although there have been several achievements in combating child trafficking and exploitation, some challenges still remain to make a child protection system functioning reality and the institutional capacity to respond to the needs should be further improved.

## India

### Letter of allegations

85. On 13 April 2006, the Special Rapporteur, together with the Special Rapporteur on trafficking in persons, especially women and children and the Special Rapporteur on violence against women, its causes and consequences sent a letter of allegation concerning the trafficking and sexual exploitation of Nepalese girls in brothels in Calcutta and Mumbai, India.

86. According to the information received, it is alleged that Nepalese girls, at an average age of 14 to 16 years, are trafficked from Nepal to brothels in Calcutta and Mumbai where they are required to work as prostitutes in slavery. The girls are trafficked against their will and without knowledge of their destination. The traffickers are reported to be Nepalese men and women, who sell the girls to (Nepalese) brothel owners in Calcutta and Mumbai, at a price of approximately 60,000 to 70,000 Indian rupees (\$US 1360 to 1590) in Calcutta and 100,000 to 120,000 Indian Rupees (\$US 2270 to 2720) in Mumbai. There is no evidence of extensive networks of traffickers of Nepalese women and girls and trafficking seems to take place through an informal network with the collaboration of community members, employers, local officials, border officials and others such as those who operate 'safe houses' where trafficked girls are kept prior to their sale.

87. It is reported that initially the girls are not taken to the brothels directly, but given some time to adjust to their new situation, in outside homes, sometimes owned by the brothel owner. After being told the work that is required of them, how to dress and behave and after being convinced that they themselves, or their families, have incurred a debt which they will have to pay off by working as a prostitute after which they are 'free' to leave, the girls are put to work as 'tsukri' (the Bengali word for child in slavery or debt bondage). When they start to work as *tsukris*, the girls are usually aged between 15 to 18 years. They often work in brothels that are referred to as 'bungalows': brothels that occupy a flat, usually on the first or higher floors of a building, often with a shop on the ground floor. The bungalow is distinguished by a channel gate (a sliding iron accordion gate) at the entrance to the brothel. When locked, the channel gate is virtually impenetrable; making escape from the brothel impossible for the *tsukris* kept inside. The area within Calcutta that contains most bungalow-type brothels with *tsukris* is Sonagachi; whereas in Mumbai brothels with *tsukris* can be found mainly in Kamathipura, although due to police raids these types of brothels are said to have moved to other cities in India or areas outside the known brothel areas.

88. It is further reported that while clients of the brothels do not have a specific preference for *tsukris*, they do have a preference for girls between 15 and 20, which in turn creates a demand for children. Under the *tsukri* system the brothel owner retains all of the fees paid by clients for the services provided to them by the *tsukris*. Considerable profits accrue from the use of *tsukri* system: brothel owners are said to earn four to twenty times the purchase price of the *tsukri* over the period of her servitude. The money that the trafficker earns is relatively insignificant compared to the large amount that the purchaser (brothel owner) earns. The initial purchase price is recovered by the brothel owner, on average, in little over five and a half months. A Nepalese *tsukri* is also said to cost less than an Indian *tsukri* and because of continued client demand for Nepalese girls, the returns are higher. On occasion the brothel owner may also

offer 'special services' such as a *tsukri's* virginity or oral or anal sex as well as sex without a condom, at a special price. The total period the girls spend in confinement as *tsukris* varies from two to ten years.

89. It is finally alleged that after being released from slavery, it is often very difficult for *tsukris* to go back to Nepal. They fear isolation and reprisals from family and community members. Many of them take up work as free-agent sex workers, earning their own fees by doing street prostitution or paying tenancy to brothel owners. Escape prior to being released is not only very difficult because the girls are kept in confinement; there is also fear of being brought back to the brothels, either by police or other community members followed by severe physical punishment, as well as a more general fear of 'India outside' since few *tsukris* had a clear idea of where they were and could not speak the language and were easily recognized as foreigners.

### **Letter of allegation**

90. On 15 May 2006, the Special Rapporteur, together with the Special Rapporteur on trafficking in persons, especially women and children sent a letter of allegation concerning the sale of children in Talwara migrant camp in Jammu and Kashmir.

91. According to the allegations received, children in the Talwara migrant camp in Jammu and Kashmir are sold to work as labourers and domestic workers by their parents who are living under circumstances of extreme poverty. Even if both parents work, there is not enough money within the family to feed all family members so that these children are sold, sometimes for a fixed period of time. Allegedly, over 200 children have already been sold or mortgaged in this manner for a few thousand Indian rupees. The reported asking price for children aged nine years old is 8,000 Indian rupees, 10,000 Indian rupees for a thirteen year old, and 15,000 Indian rupees for an older teenager.

92. It is also reported that one of the residents of the camp, Ms. K. D., has been forced to sell her three daughters for 20,000 Indian rupees, in order to feed her other two daughters. Another camp resident, Ms. T. D., agreed to sell her son for 8,000 Indian rupees but never received the money and a month and a week later her son's dead body was found. Mr. Pyar Singh claimed that he had mortgaged three daughters at the end of 2005 for 3,000 Indian rupees each and was forced to sell a fourth in March because of acute poverty.

93. It is further reported that the issue of children being sold was brought to the Jammu and Kashmir State Government attention after a demonstration by several hundred migrant workers. A four member Committee, headed by Lal Singh Congress Member of Parliament, was delegated on 29 March 2006 to investigate the allegations. Apparently, testifying before the panel, the children claimed to have been working as domestic help or in stores of their 'buyers' voluntarily. The 'buyers' claimed to pay the children's parents 1,500 to 2000 Indian rupees per month, apart from expenses incurred by them for education, food and clothes of these children.

94. It is finally mentioned that entry into the Talwara camp was allegedly obstructed for the duration of the committee investigation. Following the investigations Jammu and Kashmir Chief Minister Ghulam Nabi Azad denied that children were being sold. It is alleged that the

President of the Jammu and Kashmir National Panthers Party, Bhim Singh, had offered to buy back the sold children and to return them to their parents.

### **Observations**

95. The Special Rapporteur regrets that none of his communications have received a reply from the Government. The Special Rapporteur considers it appropriate to draw attention to the reports of trafficking and sexual exploitation of children, particularly pertaining to young girls, and urges the Government to address as a matter of priority.

He also considers it appropriate to reiterate the conclusions and recommendations of the Committee on the Rights of the Child with regard to its February 2004 review of the second periodic report of India under the International Convention on the Rights of the Child. The Committee expressed its concern at the increasing number of child victims of sexual exploitation, including prostitution and pornography. Concern was also expressed at the insufficient programmes for the physical and psychological recovery and social reintegration of child victims of such abuse and exploitation (CRC/C/15/Add.228, paras. 74-75).

### **Islamic Republic of Iran**

#### **Response to previously sent communications**

96. By letter dated 2 June 2006, the Government responded to the urgent appeal sent on 24 August 2005 and indicated that Ms. R. T. had been charged with “coordination and participation in illegal demonstrations”, “dissemination of false information to internet sites and other media” and “inciting separatist movements”. She was thus indicted and released on bail. Mr. U.G. was charged with “dissemination of false information to internet sites and other media” and “cooperation with terrorist group of Pezhvak” and was also indicted and released on bail. As for Mr. M.S., he was charged with “measures against security of the state” and sentenced to five years of imprisonment and three years of residence in Qorveh (a town in Western Iran). The said detainee has appealed and his case is currently under consideration in the Local Judiciary of Kurdistan Province. Mr. M. S. K. was charged with “incitement of Hatred among Iranian Ethnic groups” and sentenced to imprisonment and five years of respite in his media carrier. Finally, the Government added that pertaining to the case of Mr. A. Z., he has been the main instigator of the unrest in July 2005 in Kurdistan Province and that he was a fugitive.

### **Israel**

#### **Urgent appeal**

97. On 11 November 2006, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on trafficking in persons, especially women and children, regarding M.J., a minor of between 11 and 15 years of age, of Guinean nationality, who was reportedly trafficked to Israel and who has been detained in a detention facility run by the Immigration Police in Hadera since May 2006.

98. According to information received, M. J. is a victim of trafficking who, together with other Guinean citizens, was brought to Israel by Mr. B. B. The trafficked victims had paid Mr. B. a considerable amount of money to take them to Israel and to ensure their legal entry, as well

as a permit to stay and work in Israel. It is reported that some of the victims were arrested at the border while others, including M.J., managed to cross the border and enter Israel. Those who did manage to enter, however, were then forced into exploitative labour conditions and threatened to remain without food or money for their work if they did not do as they were told. Some were also threatened that they would be reported to the police who would then detain them for not having the necessary legal papers. M.J. was forced to work by Mr. B. and was not paid for his work.

99. Israeli authorities, upon receipt of information on Mr. B's activities in this regard, arrested him and had him prosecuted for several trafficking-related offences. Mr. B. was convicted on 11 July 2006 and sentenced to two years in prison by the Magistrate Court in Tel Aviv. No steps were, however, taken to assist the trafficking victims concerned.

100. M. J. was arrested by the Immigration Police on 11 May 2006, and detention and deportation orders were issued against him. However, since he is an unaccompanied minor and since Israel has no diplomatic relations with Guinea, it is alleged that he cannot be deported, as travelling documents cannot be arranged for him. Reportedly, neither the IOM nor the Red Cross managed to obtain documentation for him.

101. According to the source, M.J. is being held in a detention facility in Hadera run by the Immigration Police. In this facility minors are held separately from adult detainees. The only personnel in the detention center, however, are Immigration Police officers. There are no psychologists, welfare workers or other professionals who are trained to deal with the special needs of children. Many of the children are reportedly trafficking victims, and some of them are refugees or asylum seekers. M.J. is being held with other unaccompanied minors and is locked in his cell most hours of the day. He is only allowed four hours a day to go out. No education services are available at the detention centre. An English teacher gave the children lessons in English. However, after two months the teacher stopped working and lessons were terminated.

102. Sources further report that a non-governmental organization has sought to provide M.J. with an alternative arrangement and managed to find an adult who was willing to accommodate him. A request to release him in the care of this person was filed on 3 September 2006. The Detention Administrative Tribunal denied this request arguing that there was no reason to release M.J., since he was being detained in a facility intended for the detention for minors.

103. It was further alleged that on 23 October 2006, the Administrative Tribunal again denied an appeal to release him and confirmed that there was still no progress concerning the possibility to send him back to his country. The Tribunal decided to send M. J. for psychiatric evaluation after he started crying and threatened to hurt himself if he was sent again to the detention facility. The psychiatrist who examined him found that there was no reason to have him committed to a psychiatric facility. M.J. was then sent back to the detention facility in Hadera, where he remains in detention.

104. Whilst commending the Government for prosecuting Mr. B. for charges of trafficking related offences, concern is expressed for the welfare of M. J. as a victim of trafficking and especially since he is believed to be a minor. Concern is further expressed that the authorities have not provided M. J., and other trafficking victims, with the assistance required by

internationally accepted norms and standards for victims of trafficking which could include medical, psychological and legal assistance including the facilitation of safe repatriation or alternatively, proper reintegration into Israeli society.

### **Observations**

105. The Special Rapporteur looks forward to receiving a reply from the Government of Israel.

### **Italy**

#### **Lettre d'allégations**

106. Le 17 mars 2006, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur les droits de l'homme des migrants a adressé une lettre d'allégation concernant la situation d'enfants étrangers dans ce pays. Selon les informations reçues, les principales préoccupations exprimées quant à la situation de ces enfants concerneraient l'absence de statistiques sur le nombre d'enfants en détention, le manque d'accès par les organisations non gouvernementales aux lieux où ces enfants sont détenus, la détention de mineurs dans des conditions inappropriées, notamment quand ils ne sont pas séparés des adultes autres que les membres de leur famille et quand les conditions de leurs détention elles-mêmes ne sont pas satisfaisantes, la détention de mineurs non accompagnés en contravention avec la législation nationale et les standards internationaux, notamment ceux concernant la prise en compte de l'intérêt supérieur de l'enfant, la non-observation de l'obligation de ne considérer la détention des mineurs non accompagnés qu'en dernier recours et de prévoir des alternatives à la détention, l'insuffisance des mesures de protection, les traitements auxquels ces enfants peuvent être soumis durant leur transfert (ignorance quant à la destination, manque d'eau et de nourriture pendant des trajets pouvant durer jusqu'à 12 heures), la détention généralisée des familles, et les risques encourus par les mineurs dont l'âge n'a pas été correctement évalué et qui, de ce fait se retrouvent en détention avec des adultes.

107. Il est allégué que 588 enfants seraient entrés sur le territoire italien avec des membres de leur famille entre janvier 2002 et août 2005 et auraient été placés en détention. La décision du placement en détention n'aurait pas été prise suite à un examen au cas par cas des situations, et les familles n'auraient pas été informées des raisons de leur détention et de la possibilité d'en contester la légalité devant une cour. De plus, 28 mineurs non accompagnés, parmi lesquels de nombreux requérants d'asile venant de pays d'Afrique sub-saharienne dans lesquels la situation des droits de l'homme est souvent précaire, auraient également été détenus entre janvier 2002 et août 2005.

108. D'après les mineurs eux-mêmes et les professionnels notamment les travailleurs sociaux ayant été en contact avec eux, ces enfants auraient été confrontés à des fouilles corporelles et confiscations de leurs biens, des obstacles quant à l'accès aux procédures d'asile, l'insuffisance de l'aide juridictionnelle résultant en une méconnaissance de leurs droits en Italie, l'absence de nomination d'un représentant légal, la détention dans des locaux où ils n'auraient pas été séparés d'adultes autres que les membres de leur famille et des conditions de détention inhumaines, et notamment la détention dans des mobile homes où les enfants, âgés de cinq ans pour les plus

jeunes ainsi que des mères et leur nouveaux nés auraient eu à souffrir intensément du froid et de la chaleur et auraient été contraints de demeurer en plein soleil.

### **Lettre d'allégations**

109. Le 13 avril 2006, le Rapporteur spécial, conjointement avec le Rapporteur spécial sur les droits de l'homme des migrants et la Rapporteuse spéciale sur la traite des personnes, en particulier les femmes et les enfants, a envoyé une lettre d'allégations concernant le nombre croissant d'enfants roumains victimes d'exploitation sexuelle en Italie, et notamment dans la ville de Rome.

110. D'après les informations reçues, au cours des six premiers mois de l'année 2005, les services de la ville de Rome auraient enregistré 497 mineurs non accompagnés, soit autant que pour l'année 2004. La plupart d'entre eux seraient des adolescents victimes de trafic ou qui auraient migré de leur propre chef en Italie depuis Bucarest, Calarasi, Craiova, Galati et Iasi, Craiova étant le principal lieu de provenance de ces mineurs. S'ils certains d'entre eux sont impliqués dans des vols, des trafics de drogue ou sont contraints de mendier, la majorité se prostituent sur les principales avenues de la périphérie de Rome et notamment dans le quartier Cristoforo et Salaria aux côtés de mineurs non accompagnés issus d'autres pays.

111. Dans ce contexte, de vives préoccupations ont été exprimées s'agissant des moyens limités mis en œuvre jusqu'ici pour combattre l'exploitation sexuelle de ces mineurs. Il n'y aurait pas de contacts entre les deux pays en vue de résoudre ce problème. A ce jour, ni la Roumanie ni l'Italie n'aurait mis en place un système permettant d'évaluer le nombre d'enfants victimes de trafic, et une base de données au niveau national concernant les enfants victimes ayant été rapatriés vers leur pays d'origine. En outre, bien que la législation italienne comporte de nombreuses dispositions sur les droits et protections accordées aux enfants étrangers, faute de ressources financières suffisantes et de personnel spécialisé, les services sociaux n'auraient pas la capacité de fournir à ces adolescents le soutien et la protection auxquels ils ont pourtant droit.

### **Government responses**

112. By letter dated 18 May 2006, the Government of Italy responded to the letter of allegation dated 17 March 2006 relating to the legal provision adopted to overdraw the problem of unaccompanied immigrant children. A comprehensive policy on immigration with administrative procedures for the entry and stay of foreigners in Italy, the "Bossi-Fini" Law proposing a pattern of social integration for the foreigner, and ensuring the implementation of ad hoc measures for the protection and the support for children, while respecting their dignity and rights in both cases of foreign parents and children awarded to foreign adults have been developed.

113. The Government provided information on the Committee on Foreign Children, established by Legislative Decree No. 286/98. Composed of nine representatives from various relevant Ministries, it focuses on two specific categories of children, namely those involved in assistance programmes when temporarily authorized to stay in the Italian territory, and the unaccompanied Non-EU children. The latter are those children who have not applied for asylum, and are within the Italian borders for any reason without a parent or a legal representative.

114. The Government also noted that the Juvenile Justice Department issued the Memo No.1/2001, with the aim to drawing the attention of the Juvenile Justice Centres' Directorates to several provisions related to the above mentioned Committee, such as the obligation to swiftly inform the Committee on the entry and the stay of an unaccompanied foreign child in the Italian territory, the faculty for the juvenile assistance services to request the Committee to adopt urgent measures when facing cases of foreign children without parents, and the necessity to inform the juvenile courts on cases of foreign children leaving the Juvenile Prisons and who are under economic and moral abandonment, so that the juvenile courts may release a care order while an assisted repatriation measure is expected to be enforced. It additionally indicated that alternative measures ("stay in community" or "stay at home") to detention for foreign children were available as in the case of Italian children.

115. Relevant statistics from the Ministry of Justice were also provided. As to the statistics on foreign children hosted in the Italian Centres of Immigrants, Article 19, para. 2 of the Unified Text No.286/98 sets forth the general prohibition of the expulsion measures vis-à-vis foreign children, unless they have to follow their expelled parent or legal representative. The stay of the foreign children in any of the existing centres for illegal immigration is therefore prohibited. However, when massive disembarkations of illegal immigrants occur, particularly at Lampedusa Island, it could happen that some children stay for a few hours at the local reception centres. In this specific context, medical care services and food are supplied. The procedures to apply for asylum in Italy were also described. Foreign children are hosted in the "homely" centres, and may attend school, vocational courses, and carry out leisure activities. According to the statistics made of the Ministry of Justice, there is no data on foreign children at the Temporary Stay and Assistance Centres (CFTA). Finally, the Government indicated that pursuant to the Ministerial Directive dated 30 August 2000, it is permitted, at any time, for the representative of the UNHCR in Italy, by authority received, to access the CFTA. But due to a serious overcrowding of the Centres, the access can be exceptionally restricted for a few hours.

116. Within this framework, the Government added that the Ministry of Interior signed in March 2006 with IOM, Red Cross and UNHCR, a MoU, the terms of reference which include the activities to be carried out by each organization and to be supplied to the Non EU citizens landing to Lampedusa Island. The short term results of this initiative are positive, and the Government believes that it should be considered as a pilot-project for eventually similar initiatives because thanks to it, a meaningful cooperation has emerged with the migrants landed in Lampedusa Island.

117. By letter dated 26 June 2006, the Government of Italy responded to the letter of allegation dated 13 April 2006 and reiterated the relevant legal provisions. Responding to the second question relating to illegal foreign minors, victims of sexual exploitation, the Government indicated that about 1200 minors arrived in Italy in 2004, 900 of which were received in Reception Centres. In 2005, the number of minors received was about 1000 from different nationalities and from this data, the Government recorded an increase in unauthorized removals of these minors from the first assistance centres and an increase in episodes of abuse in the municipality of Rome.

118. One of the issues involving children is begging. According to the Italian Government, the vast majority of those children are from communities of Slav origin, to which to add the flow of illegal minor immigrants from Morocco, Romania, and Albania who are generally based in Northern Italy. Another issue of these illegal activities is sexual exploitation, for which the action to prevent the exploiters are, for the Government, ineffective, especially when adding other difficulties such as, the hostility of the families of the children, their lack of stability, of houses for the children in case of measure of “stay at home” and the great number of escape of the minors from the Centres. Several preventive and repressive measures have been elaborated in order to eradicate begging related activities such as the Memo on cooperation among police and social service providers and the adoption of the ad hoc Protocol between the Romania Government, the Local Council of Bucarest and the Prefecture of Turin in order to facilitate the repatriation of Romanian children victims of exploitation.

119. Information on the intervention carried out by the Rome crime squad was also provided. The operation “Flowers in the mud” was launched and since then several detention measures have been adopted, especially against paedophiles caught in the act. The investigation also showed that approx. 200 Roma children had been directed in the channel first of begging and then to prostitution. As a result, the responsible judicial authorities released on 31 January 2006 20 decrees for pre-trial detention and 18 measures for the search of persons and of premises. In May 2006, the pre-trial detention was in due course and the children victims of abuse are currently hosted in the Rome Centre against begging, the only centre that provides ad hoc psychological care services.

120. The third question dealt with the different initiatives devoted to foreign children, particularly Roma and Romanian children, victims of sexual exploitation. The Government of Italy noted that during the first semester of 2005, 497 non-accompagnied minors coming from Bucarest, Calarasi, Craiova, Galasi and Iasi were registered and related to the crimes of theft, drug trafficking, begging and prostitution. The Council Office for Social Policies, 5th Department and the Juvenile Department at the Municipality of Rome undertook several initiatives such as the establishment of a Working Group on the Issue of Foreign Non-accompanied Minors, the PALMS project focusing on the implementation of pre-reception and reception services, an educational project aiming at the integration into second-reception structures, an initiative targeting young girls victims of sexual exploitation and which has, to date, provided assistance to 1212 victims of both Romanian and Moldovian nationality and the main steps of the reception and assistance procedures for non accompanied minors who have been in Italy for two months on average at the First Aid Centres for Minors. The Local Authorities have also according to the Government engaged in several initiatives or proposals devoted to the integration of minors. In this context, the Government also mentioned the different relevant NGO’s operating in Rome.

121. Replying to the fourth question on the Roma children in Italy, the Government mentioned that it had taken legislative measures pursuant to Articles 2 and 3 of the Constitution which assert the equality of all citizens. Along these lines, several projects have been promoted, and a large amount of financial resources allocated, at the regional and local levels, to foster mutual understanding, tolerance and respect for diversities, but also to increase the quality of life of migrants and minority groups. Moreover, the National Program for the Immigration Politics for

2004-2006 approved by the Council of Ministers devoted an entire chapter to integration policies.

122. In a wider framework, the Government considered that it did not seem appropriate to define the nomadic peoples in Italy as a community detached from the rest of the population. Italian legislation envisages specific measures aimed at strengthening their protection. In this regard, the Italian authorities have recently started some initiatives in order to regularize from a legal point of view the situation of about 130,000 individuals, 50 per cent of which is considered by illegal foreigners. According to the Government's information, the local authorities in many regions have been, since 1984, issuing ad hoc provisions for the protection of Roma and Sinti populations and their culture. In this context, some interventions were also carried out to allow the Roma people in Italy to enjoy some fundamental rights such as the registration of births, free movement, working licences and education, and the creation of ad hoc camps equipped with basic facilities. Furthermore, several bills have been presented such as "the protection of the right to nomadism and the acknowledgment of the nomadic population as linguistic minorities". On 28 April 2006, a bill concerning "Dispositions to recognize and protect Roma and Sinti populations and to safeguard their cultural identity" which aims to promote political interventions to face major issues like education, housing, work and language protection, and to create a Permanent National Observatory for Roma and Sinti populations. As regards to minors, the bill envisages for example their integration in schools, providing their teaching of *romanesh* language, cultural traditions and history of Roma population in classes composed of at least 20 Roma pupils. Among the other propositions is an institution of a National Fund for Roma and Sinti children, within the Ministry of Labour and Social Policies. Finally, the Italian Government explained that to facilitate access to school for Roma children, the Ministry of Education allocates financial resources to schools so as to fund educational supplementary activities to promote a better integration. Furthermore, in cooperation with authorities and representative associations, NGO's and local bodies, the cited schools organize activities which are relevant to the increase in the attendance of Roma children. One of them is the project of compulsory education for Roma children promoted by the municipality of Rome from 2005 through 2008.

123. The fifth list of issues concerned the specific attention to foreign children with the juvenile justice system. The Law Decree No. 286/98 allows illegal minors to enjoy fundamental rights such as the right to education and access to health care services. There is therefore no discrimination in the juvenile justice system to the detriment of foreign and Roma minors. Foreign minors are under the supervision of the Department for Juvenile Justice and they take part in educational, training, sport and leisure activities. The Government indicated as well a Memorandum containing the guidelines on the activity of cultural mediation within juvenile facilities, issued by the Department for Juvenile Justice on 23 March 2002. This memorandum provides that the cultural mediator cooperated with juvenile justice services to carry out interventions to be aimed at raising awareness and promoting respect for different cultures, improving the dialogue between operators and foreign minors, supporting school and training teachers in the elaboration of educational proposals targeted to the specific requirements of foreign minors, and facilitating religious assistance and favouring the integration of these minors. Furthermore, the Department of Juvenile Justice gave detailed instructions to the juvenile justice centres regarding the protection of the children on their food schedule, menu, religious or cultural precepts. Statistics pertaining to the flows withing the First Aid Centres were also

provided by the Department of Juvenile Justice as well as Data on entries to First Aid Centres according to the age and countries of origin and on youngsters detained.

### **Observations**

124. The Special Rapporteur would like to thank the Government of Italy for its extensive and comprehensive replies.

## **Kyrgyzstan**

### **Urgent Appeal**

125. On 16 February 2006, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on trafficking in persons, especially women and children and the Special Rapporteur on violence against women concerning the alleged trafficking of over 60 women and girls from various Central Asian countries.

126. According to the information received, on 14 February 2006, Kyrgyz security forces reportedly removed more than 60 women and girls from a plane in the southern city of Osh, which was set to transport them to the United Arab Emirates (UAE), allegedly for the purpose of sexual exploitation. It is alleged that the women and girls, aged between 17 and 38 - including 58 Uzbek nationals, one Tajik, one Kyrgyz and one Turkmen - were smuggled into Osh in small groups in early February 2006 and had been kept at private apartments prior to the flight. They had passed through passport and customs control at Osh airport and were sitting on an aircraft preparing to leave for Sharjah in the UAE when they were intercepted and taken to a detention centre in the city. The basis for detaining the group was illegal crossing of the border and violation of Kyrgyz migration rules. However, the head of the regional office of the Kyrgyz National Security Service (NSS) declared that they had evidence that the girls were being trafficked, with gangs supposed to meet them in the Emirates.

127. It was reported that around 4,000 women and girls are trafficked annually from or through Kyrgyzstan for purposes of sexual exploitation. Traffickers recruit young women mainly from rural areas in Central Asia promising them jobs as waitresses, nannies, cooks, saleswomen and dancers in the UAE or other countries. Upon arrival in the destination country, the women are forced to prostitute themselves. Debt bondage is very often used to subdue the women and perpetuate their exploitation.

128. It was alleged that the city of Osh has become a regional transit hub for the trafficking of Central Asian women, especially Uzbek and Tajik women. Uzbek women are increasingly trafficked via Kyrgyzstan because of stricter exit controls at Uzbek airports, which aim to curb trafficking in persons but also the free movement of political and human rights activists. It was also alleged that some Kyrgyz law enforcement officials collaborate with the traffickers.

### **Government Response**

129. By letter dated 24 March 2006, the Government informed the Special Rapporteurs that the National Security Service (SNB) of the Kyrgyz Republic, as part of measures taken to block

transborder channels for trafficking in persons, stopped 60 citizens of the Republic of Uzbekistan, one Turkmenistan citizen and one Kyrgyzstan citizen from travelling on an Osh-Al-Fujairah (UAE) charter flight from Osh airport. The grounds for detaining the citizens of the Republic of Uzbekistan were violations of the regulations on staying in and crossing the State border.

130. It was established in the course of the investigation that the above individuals were being taken for subsequent sale into sexual slavery by organizers of people trafficking. The average age of most of the girls flying out to the UAE was in fact 15 to 30 years. It has to be pointed out that virtually all the Uzbekistan citizens heading to the Emirates were voluntarily going to engage in prostitution to solve their material and social problems. As of 15 February 2006, after filtering work, the decision was taken by the Kyrgyz SNB investigative group to gradually deport and hand over 52 of the detained citizens of the Republic of Uzbekistan and the one Turkmenistan citizen, who had entered the territory of Kyrgyzstan from Uzbekistan, to the Uzbekistan SNB Border Troops.

131. Note was taken of the use by three Uzbekistan citizens of forged passports, as well as the discovery on yet another three citizens of the Republic of Uzbekistan of forged passports and fragments of false passports of the Kyrgyz Republic. On 17 February 2006 the Kyrgyz SNB Investigative Department initiated a criminal case in their respect based on evidence of offences under articles of the Criminal Code of the Kyrgyz Republic. However, taking into account the fact that four of the above-mentioned citizens of the Republic of Uzbekistan are victims of labour trafficking, on 21 February 2006 they were transferred to the custody of the Osh representative office of the International Organization for Migration.

132. Furthermore, as it was established that one of the organizers and links of the transborder channel of people trafficking and illegal migration of citizens of the Republic of Uzbekistan are representatives of tourist firms, criminal proceedings were also brought against them pursuant to the Criminal Code of the Kyrgyz Republic. The Government reiterated that it is carrying out its work to prevent and reduce gender violence in society, prohibit trafficking in persons, and also to afford protection and support for victims of trafficking and to raise public awareness of the problem of violence. In particular, from 2004 up to the present the Government had initiated ten criminal cases in relation to such offences and is conducting preventive and educational work through the mass media, as well as cooperating closely with IOM to release from forced detention citizens of the Kyrgyz Republic in foreign countries.

## **Liberia**

### **Letter of allegation**

133. On 12 April 2006, the Special Rapporteur, together with the Special Rapporteur on violence against women, its causes and consequences and the Special Rapporteur on the independence of judges and lawyers sent a letter of allegation concerning the rapes of two girls aged 9 and 12.

134. According to information received, on 27 February 2006, a 9-year old girl was allegedly raped by a 19-year old man in Lofa County. When the family reported the matter to the

authorities, the Circuit Sheriff Court allegedly tried to extort a bribe of LD 350 from the victim's father to arrest the alleged perpetrator. It is furthermore alleged that the Magistrate of Voinjama also demanded a payment of LD 300 to issue an arrest warrant. The judge reportedly claimed that the money was needed to cover the cost of transporting the alleged perpetrator to jail. On 7 March 2006, after the victim's father had paid LD 100 to the Magistrate, the alleged perpetrator was arrested and sent to pre-trial detention. The next day, the prison authorities released the man pursuant to a written order by the Magistrate to the prison authorities stating that the man "is under bond in court with two sureties". Since then the authorities have reportedly not taken any further steps in the matter.

135. It was also reported that in March and April 2005, J.K., a 48-year old Pastor of the Living Word Pentecostal Church, allegedly raped A.K., a 12 year-old girl from Todee District (Montserrado County), on three separate occasions using physical force to overcome her resistance. J.K. allegedly threatened the victim to kill her, if she told her mother about the rapes. A.K. only told her mother about the alleged rapes, when the mother discovered that she was pregnant. When the mother confronted the alleged perpetrator about the issue, he allegedly gave her 250 Liberian Dollars that was meant to arrange an abortion.

136. The family reported the alleged incidents to the Careysburg Police Detachment. However, the police initially decided that there was no need to arrest J.K. or initiate criminal proceedings against him since he had taken steps to settle the issue amicably with the victim's family. Following an intervention by the United Nations Mission in Liberia (UNMIL), J.K. was arrested, taken to the Careysburg Magistrates' Court and later transferred to the City Court in Monrovia. On 16 May 2005, a pre-trial conference was held in the chambers of the Stipendiary Magistrate of the City Court, where the defendant's counsel attempted to settle the case by offering a promissory note signed by Joseph Katakoa to the victim's family. The document contained a pledge to provide support to the victim during her pregnancy and take financial responsibility for the care of the child. The family refused the settlement offer and requested the Assistant County Attorney to proceed with the prosecution of the case. The case was forwarded to the 1st Judicial Circuit Court Criminal Court "A" for trial. Reportedly, the grand jury hearing the case later attempted to exhort LD 1,500 to allow the victim to testify. When the family refused to pay the requested bribe, the grand jury refused to hear the case.

### **Observations**

137. The Special Rapporteur joined this case because rape, violence and sexual abuse are among the primary causes of child sexual exploitation and trafficking of children. The Special Rapporteur therefore looks forward to receiving a reply from the Government of Liberia.

### **Libyan Arab Jamahiriya**

#### **Letter of allegation**

138. On 10 March 2006, the Special Rapporteur, jointly with the Special Rapporteur on violence against women, its causes and consequences, sent a letter of allegation concerning information relating to arbitrary detention of women and girls in social rehabilitation facilities.

139. According to information received, the General Secretary of Social Affairs supervises and administers several so-called social rehabilitation facilities, including the Benghazi Home for Juvenile Girls and the Social Welfare Home for Women in Tajoura. According to an internal bylaw, the facilities are to provide housing for “women who are vulnerable to engaging in moral misconduct.” Women and girls detained in these facilities include women who are accused or have been convicted of having transgressed Law No. 70 (1973) criminalizing extramarital sexual relations. Others have already served their sentences but are transferred to the facilities because no male family member would take custody of them. In addition, there are women and girls, including victims of rape, who have never been charged or convicted of a crime, but have to fear ostracism or violence, because their families suspect them of having engaged in extramarital sexual relations.

140. It is alleged that the majority of women and girls are forced to undergo intrusive and degrading virginity tests before being committed to a facility. Women and girls, including those who were never charged or convicted, are reportedly detained in the social rehabilitation facilities for indeterminate periods of time and physically prevented from leaving. Even adult women are usually only allowed to leave if their father or another close male relative agrees to take custody of them. Alternatively, they can obtain their release through marriage, often to a stranger who specifically approaches the facility looking for a bride. The facility determines which women “qualify” for marriage based on their “moral character”. Over the past five years, nineteen women were reportedly married this way.

141. It is further alleged that the facility personnel are authorized to discipline detained women and girls with solitary confinement of up to seven days. Women and girls have reportedly been sent into solitary confinement on grounds such as “talking back” or smoking. Girls in the Benghazi Home also reported that they had been hand-cuffed while in solitary confinement. It is also reported that girls in the Benghazi Home are not given access to education, except for religious instruction and sewing lessons.

### **Government response**

142. By letter dated 23 March 2006, the Government mentioned that customs and traditions play an important role in the forging of relationships among the individuals in society and the shaping of their view of reality and by way of illustration, the custom of avenging honour by means of honour killings is found in some regions. Similarly, a woman suspected of immoral conduct tends to be regarded with abhorrence and rejected by her family. The Libyan Government noted that the competent authorities are currently endeavouring to eradicate them by changing the concepts associated with them through heightened awareness, outreach activities and education. Nor do the customs and traditions of Libyan society accept that women and girls should be left to their fate in the street, with unknown associates. Consequently, it considers it essential to develop methods of treatment and measures in order to minimize the repercussions of these matters.

143. Furthermore, the Government provided information on the different social institutions such as children’s homes, boys’ homes, girls’ homes, or correctional facilities for juveniles. With the exception of correctional facilities for juveniles, these are not penal or correctional institutions. All of them are run by the Social Solidarity Fund, which is responsible for the

welfare of incompetent persons and young persons who have no legal guardian and no means of leading a life of dignity. These provide integrated health and social care free of charge. The main function is to provide safe havens for women who have no means of support and nowhere to go, or women who are charged with a criminal offence and consequently must be detained pursuant to judicial procedures in one of these facilities, according to their circumstances and the offence with which they are charged. Their situation in the facility is quite different from what it would be in a correctional institution for women because the purpose of their detention is to avoid an adverse impact on their social situation, from the standpoint of the traditions and customs that prevail in Libyan society. According to the Government, these women enter the facility voluntarily, for various reasons. Some of them have no homes because they have quarrelled with their families, especially those who are suspected of having engaged in immoral behaviour, while others have no means of earning a decent living and caring for their families. Women in this category have the right to leave the facility whenever they consider it appropriate to do so. It should also be noted that the legislation governing these facilities requires the preparation of skills development programmes for women residents who have no particular skills in order to enable them to obtain jobs. Furthermore, educational programmes are provided for them as well, and those who wish to complete their schooling. Finally, the facility offers a job placement service and facilitates marriages for those who so desire, or by reconciling the women with their families. For the women in the second category - those who are being held as a judicial measure - they live in a separate wing of the facility. Such matters as how long they may be detained in the facility and means of supervision are regulated by the Code of Criminal Procedure. The rules governing precautionary detention set forth in the Code apply in these cases.

144. The Government also provided information on the residents of the Home for Juvenile Girls. They fall into two categories. The first one consists of girls held in precautionary detention by the Office of the Public Prosecutor for pending investigation or that are serving a sentence imposed by a juvenile court, or homeless girls assigned to residence in the Home by the juvenile court in accordance with the Homeless Juveniles Act. As for the second category, it comprises girls who have served a sentence or completed court-ordered administrative measures, and have subsequently been transferred to a separate wing of the Home because their families have refused to have them back. Some questions were raised by the Government pertaining to this situation and it has concluded that it was imperative for them to be placed in the Home, where they receive education, training and skills development that will enable them to become integrated safely into society or try to return to their families.

145. The Libyan Government finally mentioned the publication of the Great Green Document on Human Rights in the Age of the Masses, followed by the enactment of the Promotion of Freedom Act. Moreover, the Ghaddafi Strategic Project for African Youth, Women and Children, aiming to raise living standards and promote socio-economic activity for the benefit of African young people, women and children, is the confirmation of the Jamahiriya's humanitarian dimension and its permanent commitment to human freedom and happiness, without discrimination based on sex, religion, language or colour.

## **Observations**

146. The Special Rapporteur would like to thank the Government of Libya for its extensive and comprehensive reply.

## **Mauritania**

### **Appel urgent**

147. Le 7 août 2006, le Rapporteur special, conjointement avec la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences et la Rapporteuse spéciale sur la traite des personnes, en particulier les femmes et les enfants a envoyé un appel urgent concernant la situation de plusieurs personnes qui seraient maintenues en esclavage en Mauritanie.

148. Selon les informations reçues, six enfants et deux femmes seraient maintenus en esclavage et répartis dans les foyers respectifs d'Abidine Ould Saka et d'Ehl Hamady Ould Saka, deux frères, à Nwar, département de Tidkikja, dans la région du Tagant. Les personnes retenues dans le foyer de Ehl Abidine Ould Saka seraient S. une jeune fille de 20 ans; O. L. qui a environ 15 ans (et qui est orpheline de mère) ; S., 10 ans (orphelin de mère), inscrit à l'école mais qui, selon le témoignage de son maître d'école, serait fréquemment absent car il serait retenu par ses maître et enfin T. et F., respectivement 5 et 6 ans (deux fillettes orphelines de mère). Le foyer d'Ehl Hamady Ould Saka retiendrait O., une femme d'environ 70 ans ainsi que deux garçons, E.K.O.M. qui a 13 ans ainsi que B.O.M., âgé d'environ 16 ans.

149. Dans cette affaire, une organisation non-gouvernementale (ONG) qui lutte contre l'esclavage aurait été confrontée à l'opposition des autorités, dont le gouverneur adjoint de la région du Tagant qui l'aurait accusée de créer de faux problèmes et de politiser les faits. Le Procureur de la République a quant à lui déclaré que "l'esclavage n'existe pas et ceux qui prétendent le contraire peuvent être passibles de poursuites judiciaires" avant de se rendre dans les foyers où sont retenues les personnes susmentionnées. Après son intervention, seule une vieille femme aurait été libérée du foyer d'Ehl Hamady Ould Saka.

150. Selon les informations reçues, dans la région du Tagant où seraient retenues les personnes susmentionnées un sentiment d'impunité règne et l'esclavagisme demeure. En effet, les autorités chargées de l'application des lois refuseraient souvent de reconnaître des situations d'esclavage. Cette pratique serait apparemment tolérée alors que les droits à la liberté, à l'égalité et à la dignité de tous les citoyens sont proclamés dans le protocole de la Constitution de 1991. De plus, en 1981, suite à la publication d'une ordonnance, l'esclavage a été aboli en Mauritanie. Cependant, aucune loi d'application de ce texte n'aurait été votée afin de parvenir à une abolition effective. Cette ordonnance, qui proclame l'illégalité de l'esclavage, n'en donne pas de définition précise et ne l'érige pas non plus en infraction pénale.

### **Réponse du Gouvernement**

151. Par lettre du 30 octobre 2006, le Gouvernement de la Mauritanie a indiqué que le Département de la Justice a immédiatement diligenté une enquête menée sous la direction du

Procureur de la République territorialement compétent, assisté par la Gendarmerie. Celle-ci a révélé que les allégations avancées n'étaient pas fondées et qu'il ne s'agissait nullement d'esclavage. En effet, les personnes citées dans la communication sont des citoyens libres qui ne souffrent d'aucune forme de discrimination ni de contraintes. Qui plus est, elles ne se plaignent de rien et sont libres d'aller et venir là où elles le désirent.

152. Pour ce qui est de la question relative à la législation en vigueur, le Gouvernement mauritanien a tenu à faire les précisions suivantes. L'esclavage a été aboli par la Puissance coloniale, et ceci a été confirmé en 1961 par la première Constitution mauritanienne laquelle proclamait la liberté et l'égalité entre tous les citoyens sans distinction aucune. L'actuelle Constitution contient une disposition similaire et garantit le droit de propriété ainsi que son corollaire, le droit à l'héritage. Le Code pénal prévoit également de lourdes peines pour les personnes coupables d'arrestation, de détention ou de séquestration arbitraires.

153. Le Gouvernement mentionne que l'Ordonnance n° 81-234 du 9 novembre 1981 portant l'abolition de l'esclavage n'a pas été suivie de décrets d'application dans la mesure où elle visait essentiellement à marquer l'adhésion des juristes de droit musulman à l'abolition décrétée auparavant en vertu du droit positif. Quant aux textes juridiques de base, ceux-ci avaient été revus à l'époque pour s'assurer de leur compatibilité avec le droit musulman. Les lacunes ont été comblées par les dispositions de la loi n° 2003-025 du 17 juillet 2003 portant répression de la traite des personnes. Par ailleurs, le Code de travail, adopté en juin 2004, protège également à son article 5 contre le travail forcé ou obligatoire par lequel un travail ou un service est exigé d'une personne sous la menace d'une peine quelconque et pour lequel cette personne ne s'est pas offerte de son plein gré. Des sanctions à ces dites infractions sont prévues par la loi n° 2003-025 et les articles 434 et 435 du même code. Le Gouvernement mentionne finalement que la Mauritanie a ratifié les principaux instruments de droits de l'homme et les Conventions fondamentales de l'OIT, qui ont primauté sur le droit interne et peuvent être invoqués devant les tribunaux.

### **Observations**

154. Le Rapporteur spécial tient à remercier le Gouvernement mauritanien pour ses réponses détaillées et apprécie également les informations fournies par le Gouvernement quant aux différentes mesures entreprises par la Mauritanie et qui sont nécessaires à l'abolition complète de l'esclavage, de la traite des esclaves ainsi que pratiques analogues.

## **Mexico**

### **Carta de alegaciones**

155. El 28 de abril de 2006, el relator especial tramitió una comunicación sobre un joven de 13 años de edad, E.Z.M., quien fue encontrado muerto a golpes, con piedras y palos el 13 de marzo del 2006, en la localidad de Azoyú, Estado de Guerrero.

156. Según las informaciones recibidas, Emilio Zúñiga Mendoza era un niño que vivía en la calle y que presuntamente realizaba trabajo sexual comercial con hombres. Por la edad de la víctima, y por las condiciones de extrema vulnerabilidad económica y social en que vivió, se ha

expresado vives preocupaciones sobre la protección a la infancia y a la adolescencia - sin discriminación alguna por condición económica y social, ni por conducta sexual - y las garantías establecidas en los tratados internacionales como la Convención por los Derechos del Niño y el Pacto Internacional de Derechos Civiles y Políticos.

### **Observaciones**

157. El Relator Especial reitera su interés en recibir informaciones sobre el resultado de las investigaciones y de los procedimientos en contra de los presuntos responsables.

### **Morocco**

#### **Lettre d'allégation**

158. Le 13 juin 2006, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences et Rapporteuse spéciale sur la traite des personnes, en particulier les femmes et les enfants a envoyé une lettre d'allégation concernant des abus perpétrés contre les enfants travaillant comme domestiques.

159. Selon les informations reçues, il semblerait qu'un nombre élevé d'enfants domestiques dans des maisons privées commencent à travailler avant d'avoir atteint l'âge de 10 ans. Selon les statistiques officielles provenant d'une enquête sur la main d'œuvre datée de l'an 2000, il semblerait que 11 % des enfants âgés de 7 à 14 ans seraient actifs dans le marché du travail.

160. Cette situation concernerait surtout les filles, âgées de moins de 15 ans, appelées communément « petites bonnes ». La situation de leur exploitation économique avait déjà été signalée dans le rapport de la visite de la Rapporteuse spéciale de l'époque lors de sa visite au Maroc en 2000 (paragraphe 10 à 20 du Rapport de mission, réf. E/CN.4/2001/78/Add. 1).

161. Les informations reçues précisent que les « petites bonnes » employées comme domestiques ou servantes dans les maisons privées seraient originaires de régions rurales du Maroc où la pauvreté et le manque d'accès à l'enseignement seraient à l'origine de leur embauche comme domestiques. La majorité des enfants seraient recrutés à travers des intermédiaires, des agents recruteurs connus comme « samasra » qui, sur sollicitation des parents ou autres membres de la famille des enfants accepteraient de « placer » ceux-ci chez un employeur à travers leurs connaissances, amis, contacts ou voisins. Dans d'autres cas, les enfants seraient placés directement chez l'employeur par les parents eux-mêmes.

162. Les enfants travaillant comme domestiques recevraient un salaire très minime (l'équivalent de 0.04 \$ à 0.11 \$ par heure), ou, dans de nombreux cas, ne seraient pas payés du tout, l'employeur se chargeant seulement de les loger et les nourrir et de leur acheter parfois quelques biens nécessaires (vêtements). La majorité des enfants embauchés comme domestiques seraient astreints à des horaires de travail exténuants, pouvant aller de 14 à 18 heures par jour. Beaucoup de ces enfants seraient victimes d'abus physiques ou émotionnels de la part de leurs employeurs et se retrouveraient à leur merci. Certaines filles seraient aussi victimes d'abus sexuels de la part de leur employeur.

163. Bien que l'emploi des mineurs de moins de 15 ans soit interdit par le Code du travail, le travail des enfants travaillant comme domestiques se ferait de façon informelle et ceux-ci ne seraient pas protégés par les normes du Code du travail. De plus, les inspecteurs du travail ne seraient pas habilités à entrer dans des maisons privées et enquêter sur les violations aux normes du Code du travail qui interdit sous toute forme le travail des mineurs de moins de 15 ans, et les autres formes d'abus dont seraient victimes les enfants employés comme domestiques.

164. De plus, les pouvoirs publics, notamment la police, le parquet et les juges seraient réticents à appliquer les sanctions prévues dans le Code du travail pour l'emploi de mineurs en dessous de l'âge autorisé et de celles prévues dans le Code pénal interdisant les abus dont seraient victimes ces enfants. Les parents de ces enfants seraient aussi réticents à intenter des poursuites au nom de leurs enfants, étant donné que de telles procédures sont coûteuses, longues et ne garantissent aucun résultat ni bénéfice. De plus, dans beaucoup de cas ce sont ces mêmes parents qui ont placés leurs enfants à travailler comme domestiques.

165. Les informations reçues concluent qu'il serait difficile, voire impossible pour les enfants placés comme domestiques de pouvoir se soustraire à cette exploitation. Beaucoup craindraient des actes violents ou d'autres représailles de la part de leur employeur s'ils viendraient à être rattrapés après leur fugue. Les filles auraient aussi peur d'être attaquées ou abusées seules dans la rue. Certains d'entre eux profiteraient de fêtes publiques ou de jours fériés pour pouvoir sortir de la maison et rentrer dans leur famille.

## **Observations**

166. Le Rapporteur spécial regrette ne pas avoir reçu de réponse à sa communication du 13 juin 2006. Il souhaiterait à cet égard, réitérer les observations finales du Comité des droits de l'enfant du 17 mars 2006 au regard de l'examen du rapport initial du Maroc conformément au Protocole facultatif à la Convention relative aux droits de l'enfant, concernant la vente d'enfants, la prostitution des enfants et la pornographie mettant en scène des enfants (CRC/C/OPSC/MAR/CO/1 par. 32-33), qui s'est préoccupé de la situation difficile de certains groupes d'enfants, tels que les enfants des rues, les enfants qui travaillent, les domestiques, les «petites bonnes», les enfants migrants ou encore ceux qui sont victimes de la traite des êtres humains, tous particulièrement vulnérables à ces formes d'exploitation.

## **Nepal**

### **Response to previously transmitted communication**

167. By letter dated 22 March 2006, the Government responded to the urgent appeal sent on 28 November 2005 and provided information on each alleged victims. Ms. G.N. was arrested from her home town in Arghakhanchi on 10 May 2005 under the Terrorist and Disruptive Activities (Control and Punishment) Ordinance (TADO) and was transferred to District Jail, Kapilvastu on 12 May 2005. She was released by the order of Appellate Court in Butwal on 5 September 2005 but was on the same day arrested by security personnel from Taulihawa of Kapilvastu district. She was then released by the order of the Supreme Court in Butwal on 24 October 2005. During the custody, the alleged victim was allowed to meet up with her family

members and to consult with legal practitioner of her choice. According to the Government, she was treated humanly and no violence was inflicted against her during the custody.

168. Ms. R.B. was also arrested in Arghakhanchi on 30 April 2005 under TADO and was transferred to District Jail, Kapilvastu on 4 May 2005. She was released by order of Appellate Court in Butwal on 5 September 2005. On the same day, she was again arrested by security personnel from Taulihawa of Kapilvastu district but was released by the order of the Supreme Court in Butwal on 24 October 2005.

169. As for Ms. S.S., she is originally from Inruwa, Sunsari. On 17 May 2004, at around 11 PM, 8 to 10 undermined masked persons took control of the family members of Ms. S. and forcefully took her to a nearby pond belonging to Mr. D. B. S. She was found gang-raped, killed and later thrown into a pond. According to the Government's information, the police immediately arrested some local youths for their suspected involvement in the incident. But they released them for not having any connection with the said incident. As the case was under investigation, the police arrested on 29 November 2004 M.P., M.C., T.N.S.K., K.R.C., D.Y. and R.K.C, permanent residents of Bhawanipur, India and currently residing in Dumraha in Sunsari District. The Government indicated that they were produced before the competent authority for trial. On 28 December 2004, the accused were remanded to pre-trial detention in District Jail Morang by the order of the Sunsari District Court. M.C. and R.K.C. were released by the Court on the condition that they would report to the court on specified date. According to the information provided, the court has also issued a warrant order.

### **Letter of allegation**

170. On 13 April 2006, the Special Rapporteur, together with the Special Rapporteur on trafficking in persons, especially women and children and the Special Rapporteur on violence against women, its causes and consequences sent a letter of allegation concerning the trafficking and sexual exploitation of Nepalese girls in brothels in Calcutta and Mumbai, India.

171. According to the information received, Nepalese girls, at an average age of 14 to 16 years, are trafficked from Nepal to brothels in Calcutta and Mumbai where they are required to work as prostitutes in debt bondage. The girls are trafficked against their will and without knowledge of their destination. The traffickers are reported to be Nepalese men and women, who sell the girls to (Nepalese) brothel owners in Calcutta and Mumbai, at a price of approximately 60,000 to 70,000 Indian rupees (\$US 1360 to 1590) in Calcutta and 100,000 to 120,000 Indian Rupees (\$US 2270 to 2720) in Mumbai. There is no evidence of extensive networks of traffickers and trafficking seems to take place though an informal network with the collaboration of community members, employers, local officials, border officials and others such as those who operate 'safe houses' where trafficked girls are kept prior to their sale.

172. It is reported that initially the girls are not taken to the brothels directly, but given some time to adjust to their new situation, in outside homes, sometimes owned by the brothel owner. After being told the work that is required of them, how to dress and behave and after being convinced that they themselves, or their families, have incurred a debt which they will have to pay off by working as a prostitute after which they are 'free' to leave, the girls are put to work as 'tsukri' (the Bengali word for child in slavery or debt bondage). When they start to work as

tsukris, the girls are usually aged between 15 to 18 years. They often work in brothels that are referred to as 'bungalows': brothels that occupy a flat, usually on the first or higher floors of a building, often with a shop on the ground floor. The bungalow is distinguished by a channel gate (a sliding iron accordion gate) at the entrance to the brothel. When locked, the channel gate is virtually impenetrable; making escape from the brothel impossible for the tsukris kept inside. The area within Calcutta that contains most bungalow-type brothels with tsukris is Sonagachi; whereas in Mumbai brothels with tsukris can be found mainly in Kamathipura, although due to police raids these types of brothels are said to have moved to other cities in India or areas outside the known brothel areas.

173. It is also reported that while clients of the brothels do not have a specific preference for tsukris, they do prefer Nepalese prostitutes to other prostitutes. Under the tsukri system the brothel owner retains all of the fees paid by clients for the services provided to them by the tsukris. Considerable profits accrue from the use of tsukri system: brothel owners are said to earn four to twenty times the purchase price of the tsukri over the period of her servitude. The initial purchase price is recovered by the brothel owner, on average, in little over five and a half months. A Nepalese tsukri is also said to cost less than an Indian tsukri and because of continued client demand for Nepalese girls, the returns are higher. On occasion the brothel owner may also offer 'special services' such as a tsukri's virginity or oral or anal sex as well as sex without a condom, at a special price. The total period the girls spend in confinement as tsukris varies from two to ten years.

174. It is further alleged that after paying their 'debt' and being released from bondage, it is often very difficult for tsukris to go back to Nepal. They fear isolation and reprisals from family and community members. Many of them take up work as free-agent sex workers, earning their own fees by doing street prostitution or paying tenancy to brothel owners. Escape prior to being released is not only very difficult because the girls are kept in confinement; there is also fear of being brought back to the brothels, either by police or other community members followed by severe physical punishment, as well as a more general fear of 'India outside' since few tsukris had a clear idea of where they were and could not speak the language and were easily recognized as foreigners.

### **Government response**

175. By letter dated 23 January 2007, the Government indicated that Nepal had adopted a series of both policy and programs to control the crime of trafficking in persons. Broad based and multi-pronged strategies are put in place to address this problem in its entirety that involves prevention, strengthening of administrative and law enforcement measures and, rescue and rehabilitation. Towards the preventive front, the issue of poverty, especially among women, is being addressed within the framework of the Tenth five-year development plan (2002-2007). In addition, other sectoral plans and programs of the government ministries including micro-finance schemes are geared to reducing women's poverty. These efforts are supported by skills promotion programs and vocational training schemes. Particular emphasis is given to enhancing educational opportunities for girls at the formal and informal level such as programs of scholarships, enforcement of compulsory universal primary education. The Government noted that it was also working with civil society organizations, social workers, media persons, and girl students in promoting awareness among people, focusing on trafficking-prone areas.

176. As the Government's legal commitment and institutional arrangements, national laws have been formulated, amended and reformed, action plans devised to effectively deal with the problem. The Trafficking in Persons (Control) Act, 1987, as amended in 2003, which has incorporated harsher penalties to the culprits and elaborated provisions to address new complexities of trafficking, is a comprehensive legal framework that governs investigation, prosecution and punishment of the crimes related to human trafficking. Furthermore, a National Plan of Action against Trafficking in Children and their Commercial Sexual Exploitation (NPA) was formulated in 1998. The Ministry of Women, Children and Social Welfare (MWCSW) has outlined 13 priority areas to control trafficking of women and children such as public awareness campaign, non discriminatory laws, cooperation with NGOs and donor agencies, harsh penalties to the traffickers and exploiters or rehabilitation programs for the rescued women and children. In July 2001, a review of the National Program of Action was undertaken and the issue of trafficking of women was included with 8 broad strategic objectives.

177. Concerning the targeted activities, it added that the MWCSW is currently working as the national focal point for implementing the NPA and all other activities geared against the trafficking of women and children. A high level National Coordination Committee to Control Trafficking in Women and Children (NCC) headed by the Minister of MWCSW, is in place and includes representatives from various line ministries and NGOs. Under the NCC, there is a broad-based National Task Force, representing senior officials of the relevant government departments and NGOs and INGOs working in this area, which coordinates activities at the national level and provide guidelines. Moreover, there are District and Village/Municipality level task forces that are implementing preventive and curative activities against trafficking and Women Development Offices are entrusted to work as the Secretariat.

178. The Government indicated that the Nepal Police has created a Women's Cell at its headquarters, which has also launched awareness programs in various districts with regard to trafficking and related exploitation. It has set up 16 Women's Cell in its district level security units and has also implemented a five year long project to train and mobilize the police in awareness raising and prevention of trafficking. There are also several instances of apprehension of the traffickers and victims by the vigilant Nepal Police, often in collaboration and cooperation of civil society actors, before the traffickers sneak the girls from Nepal-India borders. Such girls are then either handed over to their parents or sent to rescue homes for education and income generating training. In addition, the Government of Nepal has established a rescue/emergency fund in certain districts which are considered as major transit points of trafficking victims. The Ministry of Labour also prepared in 1995, and a revised version in 2001, a National Master Plan on Child Labour that includes trafficking in children as an important component of the action programs. Other activities were mentioned such as a "women self-reliance and rehabilitation home" run by the MWCSW since 1998.

179. The Government noted that this issue is complex and involves many different actors and destinations. While poverty, ignorance, lack of education and awareness, urbanization, socio-cultural factors, consumerism, lack of job opportunities, and crisis in traditional forms of livelihood may function as the push factor of trafficking of women and children, it is accompanied by a more complex and vicious network of demand factor within and beyond the border. Therefore, the NPA aims at exerting more coordinated effort towards the prevention and

controlling of women and child trafficking and rescue and rehabilitation of the victims. This involves the mobilization of resources at all levels and the participation of not only the government but the civil society as well.

180. Regarding the accuracy of the facts summarized in the communication, it indicated that there are no specific empirical studies carried out by the Government of Nepal to ascertain them. However, the State has incorporated provisions of harsh penalty and imprisonment to the perpetrators of such crime. As per the provisions of the Trafficking in Person (Control) Act, 1987, a convicted criminal of trafficking is liable for a maximum of 20 years of imprisonment and up to Rs. 200,000.00 penalty. The Act also provides for an extra-territorial jurisdiction in such cases allowing indicted persons to be prosecuted in the court of Nepal wherever the crime may have been committed. Any of the police offices in Nepal can accept the complaint of such cases. The principle of strict liability is applied, under which the statement of the victim or the plaintiff is considered as strong evidence against the defendant who has to prove his/her innocence. Cases under this Act are investigated and prosecuted by the Government attorney as a party of the case. There are cases where the judiciary has shown encouraging sensitivity in the interpretation of the laws on trafficking from the victims' perspective.

181. Regarding the question whether complaints had been lodged, the Government indicated that they may be lodged at any police station verbally or in writing. The police office then proceeds with the investigation of the case and in close coordination with the concerned Office of the District Government Attorney files the case to the court. According to the record available with the Office of the Attorney General, the following figures on the cases filed by the prosecution officer to the court are reported: from July 2002 to June 2004, 133 cases were filed and 50 adjudicated by the court; and, from July 2003 to June 2004, 173 cases were filed and 88 adjudicated. Concerning investigation, medical examinations, rehabilitation offered to returned women and girls and judicial or other inquiries which may have been carried out, the Government specified that investigation and prosecution of every individual case takes place after the complaint is lodged. This may follow necessary physical examinations as per nature of the case and condition of the victim, which is determined by the investigating officer. The investigating officer, in coordination with the Office of the District Government Attorney, files the case to the competent court for the adjudication of the case. Furthermore, several NGOs in cooperation and coordination with the Government of Nepal have been providing shelter and training for the rehabilitation and provided means of livelihood to such victims in different parts of the country. The existing laws provide the establishment of a rehabilitation fund to run social rehabilitation centers for the victims of trafficking. A committee for the overall coordination of the activities with different stakeholders is also envisioned.

182. The Government further indicated, that as it had already mentioned, the relevant statistics show that perpetrators have been identified and penalized by the decision of the court. In cases where sufficient evidence proves that a person is involved in trafficking in persons, he/she is kept in judicial custody during the prosecution of the case. Even when the court of first instance acquits an accused, the Office of the Government Attorney files appeal to the higher court for the review of the verdict. Finally, the Government specified that there are instances of compensation to the victims. Half of the penalty amount accrued from the convicted criminal of trafficking is awarded to the victim or her/his minor children, in case the victim has already died.

## **Observations**

183. The Special Rapporteur thanks the Government of Nepal for its extensive and informative replies.

### **Netherlands**

#### **Letter of allegation**

184. On 16 March 2006, the Special Rapporteur sent a letter of allegation jointly with the Special Rapporteur on trafficking in persons, especially women and children concerning the trafficking of Somalian children in the Netherlands for the purpose of facilitating benefit fraud.

185. According to the information received, in the past few years, young Somalian children have been brought to the Netherlands by Somalian individuals living in the country and claiming that those children are theirs in order to receive social benefits from the Dutch State. Children are sometimes led to believe that the people who have brought them to the Netherlands are their parents. Some of the children are reported to suffer child abuse and maltreatment at the hands of their “guardians” in the Netherlands. After a certain time, when the risk of exposure becomes too great or the advantages are not outweighed anymore by the costs of raising the children, the children are brought back to Somalia where they are left on the street. Having attended school in the Netherlands for many years, the children only speak Dutch and often do not know of any other relatives than those people they thought were ‘family’ in the Netherlands.

186. It is alleged that in the past two years, an estimated 20 children of Somalian descent have approached the Dutch embassy in Addis Abbeba, Ethiopia. The reason the embassy in Addis Abbeba is sought out is because the Netherlands does not have an embassy in Somalia. The children speak fluent Dutch and are brought back from the Netherlands without knowing where they are going and dumped back in Somalia against their will. The children however do not possess documents, such as passports or school diploma’s, to prove that they resided in the Netherlands for many years. Therefore they are reported to be turned away often by the Dutch embassy.

187. The situation of these children was brought to the attention of the media by a Dutch national who lives and works in Addis Abbeba. After having encountered these Dutch-speaking minors, he reportedly devoted his time to helping these children gain entrance to embassy authorities and gather evidence to substantiate their stories. His estimations are that there are more than 100 children in Addis Abbeba who have lived in various European countries and have been trafficked back to Somalia or Ethiopia.

188. It is reported that on 14 February 2006, the TV Programme Network devoted part of its broadcast to the issue of trafficking of Somalian children for the purpose of benefit fraud. In the program, details were given on the cases of several children specifically, such as K., F. and A. who are currently residing in the Netherlands. K. was able to return to the Netherlands with the help of the Dutch national. She is reported to encounter difficulty in relation to her identity papers and status of residence in the Netherlands.

189. A. and J. are currently living in Ethiopia. J. was taken to the Netherlands in 1991 as a five-year old and taken back to Somalia in 2000 when he was 14 years old. He has been living in the streets in Addis Abbeba for six years now and the only evidence he had of his residence in the Netherlands, an expired identity -card, was reportedly taken from him by the embassy as they claimed the identity-card was State property. J. and A. have no address in Ethiopia so that they cannot receive information from the Netherlands to back up their stories. A. and S. are also still in Ethiopia although their cases are reported to be currently under review by the Dutch authorities. A. and S. are brothers of A. who with help from the above-mentioned Dutch national in Ethiopia was able to return to the Netherlands. The Dutch individual facilitated contact with A.'s old school in the Netherlands so that he was able to substantiate his claims.

190. Network also reported that an investigation into the matter was carried out by the District Attorney's Office (OM) in 2002. However it remains unclear what the outcome of this investigation was. In response to the Network broadcast, representatives of a political party, Christian Union, called for a hearing in the House of Representatives and submitted written questions to the Ministers of Foreign Affairs, Justice, Alien Affairs and Integration and the State Secretary of Social Affairs. In a joint letter dated 17 February 2006 (reference 28 638-18) the authorities reportedly illustrated the procedures followed by Immigration Services and the embassy in Addis Abeba with regard to the trafficked children. The above-mentioned estimation of 20 children is derived from this letter.

191. It is further reported that in a hearing on 23 February 2006 in the House of Representatives, representatives from all political parties allegedly demanded a more thorough investigation of the matter and accepted a motion which proposed to extend residence permits to all victims of this trafficking scheme. The Ministers are reported to have pledged to investigate the matter more thoroughly, among others by having the National Ombudsman investigate the matter, and to inform the House of Representatives of their findings in March 2006. Also, the Minister of Foreign Affairs allegedly declared that he will look into the possibility of a new directive for embassy handling of these cases.

192. The Special Rapporteurs have expressed concern at these practices and would appreciate being kept informed about further developments in this case, such as the outcome of the investigation by the national Ombudsman or an official letter and renewed directive for embassy personnel from the Department of Foreign Affairs.

### **Letter of allegation**

193. On 2 October 2006, the Special Rapporteur sent a letter of allegation concerning the decision by The Hague Court to legalize the PNVD Party ("Brotherly Love Freedom and Diversity Party").

194. According to the information received, on 17 July 2006, The Hague Court authorised the PNVD Party ("Brotherly Love Freedom and Diversity Party"), launched earlier in May 2006, preaching, amongst others, the lowering of age of consent for sexual relations from 16 to 12 years, the legalisation of child pornography and the legalisation of sexual relations with animals.

195. It is reported that The Hague Court, in authorising the PNVD Party, argued that the only limits to freedom of expression are those undermining public order, and that the PNVD does not challenge them, and that, in a democratic society, this party has the right to exist as any other political party.

196. Concern has been expressed that, in allowing a political party with an openly paedophile agenda, the application of the Convention of the Right of the Child, and in particular the Optional Protocol on the sale of children, child prostitution and child pornography, to which the Netherlands is a party, might be compromised.

### **Government responses**

197. By letter dated 22 June 2006, the Government informed that it has conducted a thorough investigation and attached a translation of the report which was sent to the Dutch Parliament on 18 April by the Minister of Foreign Affairs, the Minister of Justice, the Minister for Immigration and Integration, the Minister for Administrative Renewal and Kingdom Relations and the Minister for Social Security. The Dutch Parliament intends to have a debate with the Minister of Foreign Affairs and the Minister for Immigration and Integration on this report in the near future.

198. The Report addresses in four different chapters the following questions respectively: people smuggling and document fraud, child abandonment in Somalia, possible social security fraud, and consultation between the government and the Dutch-Somali community.

199. The report considers that people smuggling from Somalia is entirely a Somali affair since both the smugglers and the people smuggled are ethnic Somalis. The people smuggling networks are firmly embedded in the close-knit Somali Diaspora in Europe. The networks are very well organized. The Netherlands is an important base for the smuggling of Somalis to Europe, both as a transit and a destination country. Dutch passports are frequently used to smuggle Somali into Europe. The letter further describes the costs and methods used to smuggle people into Europe.

200. The document establishes a distinction between people smuggling and trafficking in persons. People smuggling is considered a cross-border crime where the interests of the state, in particular, are at issue, and is incriminated by the Dutch Criminal Code under article 197 (1). In human trafficking, however, exploitation is the key aspect and the crossing of national borders is not strictly necessary. These are situations where people are forced or induced to work or provide particular services or to part with their organs, which can be done by applying pressure or violence, or simply by taking advantage of a person's vulnerability. Intentionally profiting from such exploitation is also punishable (art. 273a, Criminal Code).

201. According to the report, the cases discussed in the Network programs broadcast on 14, 20, 21 and 23 of February 2006 involved children who were reportedly brought to the Netherlands illegally and under false pretences to be housed with someone wanting to profit from their stay by spending less on them than the child benefit received. If this were the case, the practice could not generally be referred to as "human trafficking" because the key aspect of "human trafficking" is exploitation. It is not clear whether or not this was indeed the case. If the children attend school and are fed and dressed, the aspect of exploitation is not immediately evident. If the children are made to work hard in the home, and do not attend school, however,

they could be said to be exploited. The practices portrayed in the media may well be punishable in other aspects, e.g. fraud or people smuggling.

202. In respect cases which may concern human trafficking, the report refers to the Human Trafficking Action Plan and supplementary measures as submitted to the House of Representatives on 17 February 2006. The report further examines several recent developments intended to improve and simplify the prevention of people smuggling, details the role of the Royal Military Constabulary, and addresses the issue of misuse of travel documents.

203. Regarding the question of children who are abandoned in Somalia, the Minister of Foreign Affairs sent a delegation immediately after the emergency debate that took place on 23 February 2006, to Addis Ababa to gather as much information as possible. The delegation spoke with the Dutch evangelist who raised the issue, with three of the young people interviewed in the Network programs, with all staff concerned at the Dutch embassy in Addis Ababa, with other embassies facing similar problems, and with the UNHCR, IOM, UNICEF and the refugee organization ZAO. The delegation also went through all the applications for a passport, emergency passport or authorization for temporary stay made by young Somalis in the period 2000-2006. The issue was discussed with the Dutch embassy there in Nairobi. The chapter on children who are abandoned in Somalia details : the situation of Somali children smuggled into the Netherlands, the reasons for abandonment in Somalia, the issue of Dutch Somali going to Somalia on holiday and lending their passports for substantial fees to members of their family or clan, or to people smugglers, the number of abandoned children, the children's background, the children's situation in Somalia, consular assistance from the Dutch embassy in Addis Ababa, parents who oppose return, practical assistance during the procedure, access to the embassy in Addis Ababa and immigration policy and Dutch nationality.

204. The third chapter explains that child benefit has always been a contribution towards the cost of maintenance, meaning that the cost of maintaining a child in the Netherlands is higher than the child benefit and that there is no evidence to suggest that obtaining child benefit is the main reason for (alleged) child smuggling. It further details issues related to the application for child benefit and social security fraud.

205. Finally, regarding consultation with the Somali community, the fourth chapter mentions consultation taking place between the Minister for Immigration and Integration and local Somali organizations, the National Ethnic Minorities Consultative Committee (LOM) and the VON Refugee Organization which also represents Somali refugees. Other Ministries also maintain contacts with Dutch-Somali NGOs.

206. By letter dated 6 February 2007, the Government responded to the letter of allegation sent on 2 October 2006 and indicated that given that it is a fundamental right to found a political party, the Government adopts a restrained attitude to the permissibility of political convictions. However, there are some avenues under the Dutch private law by which political parties may be banned or dissolved.

207. Before becoming a party, the PNVD was an association, which is a legal person under private law. Article 2:20 paragraph 1 of the Dutch civil Code stated that the district court may ban or dissolve a legal person at the request of the Public Prosecution Service (PPS) if its

activities are contrary to public policy. If the legal person's activities are contrary to public policy but its activities as such are not, the court may not ban the legal person, but it does have the option of dissolving it, at the request of the PPS on the basis of paragraph 2. The Government indicated that it has become clear that the words "contrary to public policy" should be interpreted as follows : the only acts that can justify banning a legal person are acts deemed to be in breach of the fundamental principles of the Dutch legal order, which breach – if occurring on a large scale – would disrupt society. Several examples were set forth such as the use, the threat of force against a public authority or racial and other prohibited discrimination or utterances inciting hatred or discrimination.

208. It was reported that the aim of the PNVD was to amend the Dutch Criminal Law so as to lower the age of consent for sexual relations from 16 to 12, allow children to participate in pornographic productions if they want to do so, lower the age of permitted prostitution to 16 and legalise the private possession of child pornography. According to the Government, these aims, no matter how reprehensible, cannot be regarded as contrary to the public policy in themselves. Therefore, the PPS did not request the court to ban the PNVD, nor did the manifesto in itself give grounds for requesting the court to dissolve the association. It added that the case court in this matter concerned a civil action brought by an organisation that works to combat child abuse. The court determined that a civil action can succeed only if the claimant has a very compelling and urgent direct interest in the court order being sought and it was not the case here.

### **Observations**

209. The Special Rapporteur thanks the Government for its extensive and informative replies concerning both communications. Concerning the reply to the communication sent on 2 October 2006, the Special Rapporteur would nonetheless like to point out that every state party to the Convention of the Rights of the Child and the Optional Protocol on the sale of children, child prostitution and child pornography should encourage the full and harmonious development of every child by undertaking all necessary legislative, administrative and other measures, for example by adopting a holistic approach, addressing the contributing factors and by raising public awareness to reduce consumer demand. In keeping with these standards, the Special Rapporteur would like to stress that by tolerating unacceptable behaviors invoked openly by the Brotherly Love Freedom and Diversity Party (PNVD), it will undoubtedly impede the full realization of the protection of children, particularly with regards to sexual abuse, child prostitution and child pornography.

### **Nigeria**

#### **Urgent Appeal**

210. On 21 March 2006, the Special Rapporteur sent an urgent appeal jointly with the Special Rapporteur on trafficking in persons, especially women and children regarding the situation of children from Benin who continue to be trafficked to Nigeria for the purposes of labour exploitation in gravel pits and plantations. It is alleged that despite a June 2005 agreement between Benin and Nigeria, hundreds of children from Benin, the youngest of which are six years old, continue to work in the gravel pits of Abeokuta and surrounding areas as well as in numerous agricultural plantations in South-West Nigeria.

211. According to the information received, the pits in which these children have to work consist of small layers which contain 'holes' in which groups of two to three children, called 'gangs', work during several weeks before moving on to another layer. The owners of the pits are, in general, local notables. The owners rely on intermediaries, often Yoruba women, to manage the exploitation of the pits. The intermediaries allegedly call on traffickers from Benin to supply them with child labourers. Reportedly the children work between five to seven days a week in the pit. The length of their 'contracts' is normally 6 years (consisting of 3 periods of two years each). During these six years it is not perceived as appropriate to speak of wages. As remuneration the children can earn a bicycle and/or a radio at the end of each period. The children's parents are paid a moderate amount of money on periodic and precise dates during the 6 year contract.

212. It is further alleged that the physical exertions required of the children are intensive and dangerous and especially trying on the knees and hands with a high risk of accidents. The children work 8 to 10 hours each day, they are malnourished and they have to rely on themselves to wash, dress and care for themselves. The children sleep in slum-like dwellings. There is permanent violence among the children who are also subjected to ill-treatment by adults who inflict blows, vexations and insults on them. A war between traffickers in September 2003 made the situation of these children publicly known. Knowledge of the trafficking was followed by urgent action aimed at the withdrawal, repatriation, protection and rehabilitation of the children under the control of the Beninese and Nigerian authorities, with the assistance of international and non governmental organizations that are specialized in child protection.

213. Officially 261 children, the great majority of which come from the community of Zakpota in the Department of Zou, have been withdrawn from the pits and repatriated. The majority of this group consisted of children aged between 10 to 15 years. More than 50 per cent of them spent one to two years working in the pits, 35 per cent spent three to four years in the pits and the remaining children spent between four and seven years in the pits. In addition to the 261 repatriated children, at least a thousand other children have reportedly returned to the Department of Zou without any help or institutional protection (these children are said to have 'returned informally'). However, tens or even hundreds of other children from Benin who were exploited at Abeokuta were reportedly hidden in the bush for several weeks or even months before being sent on to other sites of exploitation in the South-West of Nigeria (States of Ogun, Osun and Oyo) where they probably joined other children from Benin who have been exploited in gravel pits or plantations there.

214. It is finally reported that only seven traffickers were arrested in connection with the abovementioned allegations. They were released at the end of 2004 following a period of pre-trial detention or after serving several months to a year of their prison sentences. No measures have been taken to facilitate their economic reintegration or to discourage them from reverting to their illegal practices. As a consequence the trafficking network and the routes between Benin and Nigeria have remained in place.

## **Observations**

215. The Special Rapporteur regrets that no reply to his urgent appeal dated 21 March 2006 was received and would like to reiterate his concerns regarding the preoccupying allegation.

### **Pakistan**

#### **Response to previously transmitted communication**

216. By letter dated 20 December 2005, the Government of Pakistan responded to the communication sent on 2 September 2005 and indicated that during the course of the investigation, the allegations were found baseless. Ms. S.S. testified to a Magistrate in Bahawalpur that she had run away since her parents were forcing her to marry an old man. The magistrate ordered Ms. S. to be sent to Darul Aman, a sanctuary for women in distress and dismissed the case on 13 September 2005.

### **People's Republic of China**

#### **Letter of allegation**

217. On 24 March 2006, the Special Rapporteur, jointly with the Special Rapporteur on violence against women, its causes and consequences and the Special Rapporteur on trafficking in persons sent a letter of allegation concerning the forced repatriation of a female national of the Democratic People's Republic of Korea (DPRK) by the People's Republic of China (PRC) on 28 February 2006.

218. According to information received, six years before, the woman referred to above and her one-year-old daughter were sold for 3,000 RMB to a Chinese man, whom she was forced to marry. The woman became pregnant soon thereafter and gave birth to a second daughter named K.Y.S. It is reported that the mother was arrested by a Chinese police raid squad at 11:30 p.m. on 25 February 2006 and handed over to the DPRK security police three days later. Concern is expressed that the woman may face harsh punishment since she had already been deported on two previous occasions, but managed each time to return to her children in the PRC. In this context, reference was made to the communication of 19 December 2005, in which the Special Rapporteurs had expressed their concern about the trafficking and sexual exploitation of women from the DPRK and the cruel and inhuman punishment DPRK nationals face in the DPRK, if they are deported by the Chinese Government. Concern was also expressed about the situation of K.Y.S. and her older sister since they are now left alone with their father who reportedly often beats them in a drunken state.

219. It is also reported that the deportation case referred to above is not a singular incident and that in cities near the border, including Yanji and Longjin, an intensified information exchange between DPRK and Chinese authorities on DPRK defectors has reportedly lead to an increase in deportations of DPRK nationals. Chinese police reportedly receive a salary bonus of 2,000 RMB for every arrest of a suspected defector from the DPRK. The Special Rapporteurs appealed to the Chinese Government not to deport citizens of the DPRK and to protect them from all forms of trafficking, exploitation and abuse.

## **Government response**

220. By letter dated 14 June 2006, the Government of the Republic of China acknowledged receipt of the communication sent on 24 March 2006 and indicated that because the letter only referred to a child J.Y. born of a mother from the Democratic People's Republic of Korea and a Chinese father and to the time that the mother had been apprehended and repatriated without providing information on her full name, age, place of entry in China, place of residence, border-crossing point where she had been repatriated or details of the Chinese father, it is thus hard for the Chinese authorities to trace her. According to investigations conducted by the Jilin and Liaoning public security authorities, the Chinese authorities were not able, during the last ten days of February 2006, to apprehend or repatriate any illegal immigrants from the DPRK and whose description matched that of J.Y.'s mother.

221. Furthermore, referring to the communication concerning the number of illegal immigrations from DPRK (50,000), the Government considers the data to be an exaggeration. In fact, as a consequence of the improved economic situation in the DPRK and the strengthened controls exercised over the frontier region by China and the DPRK, the number of North Korean illegal immigrants entering China is decreasing. The Chinese Government added that in accordance with the law, it guarantees the lawful rights and interests of foreign citizens within its territory. Regardless whether these people have entered the country legally or have crossed the frontier illegally, their rights and interests are equally protected under Chinese law. In fact, in regard on the issue of illegal entry, the Chinese Government indicated that it proceeds in an appropriate manner, consistent with both domestic and international law and in observance of humanitarian principles. In this process, the Chinese police authorities enforce the law in an impartial manner and there are no cases of commissions being paid for the repatriation of citizens of the DPRK.

222. Finally, the Chinese Government also noted that it attached, together with the public security authorities, a great importance to safeguarding the lawful rights and interests of women and children and countering any kind of activities which infringe their rights and interests. It added that it is consistently working to crack down any illegal activities involving trafficking women and children. In fact, as from this year and as a consequence of the increase of contacts between China and foreign countries, offences involving trafficking in women and children are occurring in China as well. Therefore, the Government considers this issue very seriously and has increased its preventive measures, taken stronger action to combat these offenses, stepped up cooperation with police forces in all the other countries involved and cracked down with severity Chinese or foreign offenders involved in the trafficking of women and children. Those people are actually charged in accordance with the Chinese Criminal Code, with the offences of abducting and trafficking in women and children, rape, inflicting injury, unlawfully detaining others and other associated offences. And simultaneously, the authorities ensures that the victims receive personal care and consideration, and actively assists foreign women and children who have been rescued from such abusive practices, endeavouring to ensure the personal safety and physical and mental health of the victims.

## **Observations**

223. The Special Rapporteur would like to thank the Government of the People's Republic of China for its reply.

### **Romania**

#### **Lettre d'allégation**

224. Le 13 avril 2006, le Rapporteur spécial, conjointement avec la Rapporteuse spéciale sur la traite des personnes, en particulier les femmes et les enfants a envoyé une lettre d'allégations concernant le nombre croissant d'enfants roumains victimes d'exploitation sexuelle en Italie, et notamment dans la ville de Rome.

225. D'après les informations reçues, au cours des six premiers mois de l'année 2005, les services de la ville de Rome auraient enregistré 497 mineurs non accompagnés, soit autant que pour l'année 2004. La plupart d'entre eux seraient des adolescents victimes de trafic ou qui auraient migré de leur propre chef en Italie depuis Bucarest, Calarasi, Craiova, Galati et Iasi, Craiova étant le principal lieu de provenance de ces mineurs. S'ils certains d'entre eux sont impliqués dans des vols, des trafics de drogue ou sont contraints de mendier, la majorité se prostament sur les principales avenues de la périphérie de Rome et notamment dans le quartier Cristoforo et Salaria aux côtés de mineurs non accompagnés issus d'autres pays.

226. Dans ce contexte, de vives préoccupations ont été exprimées s'agissant des moyens limités mis en œuvre jusqu'ici pour combattre l'exploitation sexuelle de ces mineurs. Il n'y aurait pas de contacts entre les deux pays en vue de résoudre ce problème. A ce jour, ni la Roumanie ni l'Italie n'aurait mis en place un système permettant d'évaluer le nombre d'enfants victimes de trafic et une base de données au niveau national concernant les enfants victimes ayant été rapatriés vers leur pays d'origine. En outre, bien que la législation italienne comporte de nombreuses dispositions sur les droits et protections accordées aux enfants étrangers, faute de ressources financières suffisantes et de personnel spécialisé, les services sociaux n'auraient pas la capacité de fournir à ces adolescents le soutien et la protection auxquels ils ont pourtant droit.

#### **Government response**

227. By letter dated 20 June 2006, the Government indicated that it had adopted a "Program of prevention and countering the sexual abuse against minors" and a "National Action Plan for preventing and countering the children trafficking". Based on these documents, joint actions are currently performed with foreign partners in order to prevent and combat the cases of minors' exploitation. In fact, Law No. 248/2005 concerning the freedom of movement of Romanian citizens abroad entered into force on 29 January 2006 and specifies that minors under 18 are not allowed to travel abroad unaccompanied.

228. Information was provided on the case presented by the Special Rapporteur, which is similar to the information given within the study the "Extension of the prostitution phenomenon among the Romanian minors from Rome", drawn up by the Casa del Diritti Sociali Focus, the Romanian Foundation for Children, Community and Family. According to their data, during the

first six months of the year 2005, the public services have registered 487 Romanian unaccompanied minors.

229. The Romanian National Authority for the Protection of the Rights of the Child provided details to the Italian organization concerning the sources used for their study. It was drawn up based on data of the Department GIATMS Gruppo Accoglienza e Tutela Minori Stranieri within the City Hall of Rome who did not confirm the information with the Committee for Foreign Children in Rome. The Casa dei Diritti Sociali Focus only contacted three Romanian children and based their analysis on publications, reports and consultations with institutions, NGO's, local and public authorities and social workers. An Italian and Romanian social workers team was organized and whenever possible, the children were interviewed without being able to compare the information provided with other sources. As a consequence, the Romanian authorities were supported by the Office of the Romanian attachés of internal affairs in Italy, and the Romanian Consulate in Rome initiated investigations on the situation of the Romanian minors. They also cooperated with the Italian authorities in order to identify the persons who have exploited those children. In fact, specific activities were carried out through the countering organized crime structures with the view of identifying the minor victims and the traffickers' networks in order to punish them.

230. The Government added that after receiving the Special Rapporteur's communication, the Ministry of Administration of Interior requested the Romanian liaison officer in Italy, to carefully analyze the facts submitted and identify the solutions that would safeguard the fundamental rights of the affected children. It concluded that the judicial authorities of Rome did not register the 497 Romanian minors as victims, did not make any report in this respect to the Romanian authorities and not all the minors discovered by the Italian authorities were unaccompanied because some of them were making it up. Moreover, the identification and punishment of traffickers and panderers is generally the responsibility of the Italian authorities. In that sense, the Government confirmed that its embassy in Italy expressed the full availability to collaborate with the local authorities in order to identify and annihilate the networks of traffickers. In the case of arrested minors, the Italian legislation does not allow the local authorities to inform the diplomatic mission of the country concerned, if the minor does not give his/her consent in this respect; in fact, in most cases, the minors do not wish to notify the Romanian authorities that they are detained.

231. In preventing and combating trafficking in children, the Government added that it had developed a close cooperation and mutual exchange of operational data with the Italian counterparts. In fact, the existing cooperation is actually satisfactory as regards to the identification of un-documented children that accept the protection and social integration programs and contacts with the family of origin. Moreover, a project entitled "Illegal migration and exploitation of unaccompanied minors – Urgent measures in favor of extremely vulnerable minors" is currently being financed by the Italian Ministry of Foreign Affairs and is unfolding in present. This project covers the period of January 2006 to January 2007 and presents social issues determined by the psycho-social impact of migration on local communities and families, such as abandon and abuse on minors in Romania and the Republic of Moldova. It also aims to strengthen the cooperation between the central and local administrations and to involve the civil society in the protection and supporting activities for unaccompanied minors in Italy, Romania and the Republic of Moldova, through activities such as training activities, exchanges of

experience and expertise in the field of child protection. Finally, the Government added that the agreement with the Italian Government concerning the cooperation for protection of Romanian minors encountering difficulties on the territory of Italy and their return in the country of origin, as well as the field of combating the exploitation of minors is still under negotiation. This will set up the legal framework and the adequate procedures in order to identify and ensure assisted repatriation for the Romanian minors identified on the territory of Italy.

232. The Government concluded by mentioning that in 2005, the General Directorate for Countering Organized Crime of the Ministry of Administration and Interior in Romania registered different data on trafficking of Romanian children in Italy. 65 files sent to the Prosecutor's office, referring to cases involving 128 minor victims and in 80 per cent of these cases, requests for assistance were addressed to Italian authorities. Also during 2005, the Romanian National Authority for the Protection of the Rights of the Child (NAPRC) received 398 requests regarding Romanian unaccompanied children on Italian territory. The repatriation procedure was initiated for all the children and in 8 cases, it was completed. Finally, during the first semester of 2006, NAPRC received 60 requests regarding Romanian unaccompanied children of Italian territory and in only 11 cases were the procedures completed.

### **Observations**

233. The Special Rapporteur would like to thank the Government of Romania for its extensive and comprehensive reply.

## **Sri Lanka**

### **Response to previously transmitted communication**

234. By letter dated 6 October 2006, the Government responded to the communication sent on 28 November 2005 and indicated that the victim, aged 15, had been abducted on 19 September 2005 by three persons in a three wheeler taxi that took her to the town of Nagastenna in Thalawakele Police area where she was raped by all three of them in an abandoned building previously used as a printing press.

235. Upon receipt of this complaint, the Government mentioned that officers of Talawakelle Police produced the victim before the Judicial Medical Officer at Base Hospital, Nuwara Eliya under Judicial Medical form No. 20 A/000049 and she was warded after consultations for necessary examination. Moreover, acting on information given by the victim, the Police visited the scene and made necessary examinations. On 26 September 2006, Police arrested the under-mentioned two perpetrators who are alleged to have committed the said crime: P.M.S. of Devon Tea Estate, Talawakelle and S.S. of Pharmston Tea Estate, Talawakelle. The police also recovered three wheeler taxis and produced the same together with the suspects before Magistrate Court/Nuwara Eliya under Case No: B668/05 and the suspects were remanded. At the identification parade held on 11 October 2005, the victim identified the above two suspects, out of the three who raped her. The third suspect T.S. of Chandirigama Estate, Talawakelle who was said to be absconding was finally arrested on 21 June 2006 and remanded. At the investigation parade, held on 27 June 2006 at Magistrate Court, Nuwara Eliya, the victim identified him as the third person who raped her. The Government also noted that investigations in this case were

completed and the reports of the medical examinations together with the statements of witnesses and of the suspects were forwarded to the Attorney General to contemplate direct indictments in High Court of Nuwara Eliya. His advice is currently awaited. As for the suspects, they are presently on court bail and the Magistrate Court Case No B 668/05 is to be called on 21 November 2006. Finally, the Government indicated that the names of the perpetrators given in the summary of the case were incorrect. In fact, the correct names and addresses, who are actually all residents of Tea Estate Quarters, are the one in the reply provided. Finally, the victim had not made any request for special protection but the Police, however have taken adequate security measures to take care of the victim from reprisals.

## **Thailand**

### **Letter of allegation**

236. On 18 July 2006, the Special Rapporteur sent an allegation letter jointly with the Special Rapporteur on trafficking in persons, especially women and children and the Special Rapporteur on violence against women, its causes and consequences concerning women and children refugees from Myanmar at risk of trafficking.

237. It is reported that hundreds of thousands of people from Myanmar, many of them women and children, have fled into neighbouring Thailand in the course of the past two decades, escaping armed conflict and rampant human rights violations in their homeland. Concern has been expressed about their vulnerable situation, which reportedly puts them at risk of continued human rights abuses. It is also reported that these women and children are particularly at risk of trafficking, and the sexual and physical exploitation and forced labour associated with it.

238. It is further alleged that these persons seek assistance in crossing the border. Sometimes family or community members offer such help. At other times, people pay “carriers” to help them cross the border undetected. Such transportation can sometimes be accompanied by an offer of employment.

239. It is also reported that people from Myanmar who wish to enter Thailand and do not have enough money when they arrive at the border to pay a carrier have to wait at the border area anywhere from a few days to months before crossing it. It seems that trafficking often occurs during this vulnerable time. It is further reported that sometimes carriers themselves are in fact engaged in trafficking. The carriers tell relatives of women or children that life is better in Thailand. These persons are then forced to work without pay. It is alleged that some Thai officials could collaborate with the traffickers.

240. Concern has also been expressed about the fact that, after being trafficked, women and children may end up in a range of abusive situations, including forced prostitution, forced begging, abusive domestic work, or work in substandard labour conditions in textile factories, fishing or other industrial settings. According to the allegations received, sometimes, the victims are not paid at all or are paid a wage far below that promised or allowed under Thai law. Labour conditions for trafficked persons are reportedly characterized by long hours and physical and sexual abuse. Some women working as domestic servants reported that their inability to speak

Thai left them isolated, and the nature of their work, which often involves living in their employer's homes, left them vulnerable to abuse.

241. Moreover, the fear of deportation haunts people living without status, including victims of trafficking. Women and children may be especially susceptible to ill-treatment, and are reluctant to complain due to fear of persecution by the Myanmar military if returned as well as the fear of stranding their families without economic support if they lose their source of income, as abusive as their employment situation might be.

242. Sources also allege that the number of children who arrive alone in Thailand has significantly increased in the past four years. The families are often separated once in Thailand. In other cases, children may be left alone while their parents are at work. Children who are alone are reportedly more vulnerable to abuses such as trafficking.

243. It is further alleged that some children are trafficked from inside Myanmar across the border into Thailand. The traffickers then collect a large group of children in Mae Sot (Thailand), directly across the border and transport the children to Bangkok. The traffickers lie to the children's parents, telling them that the children will live "an easy, better life".

244. Once they arrive in Bangkok, the traffickers reportedly force the children to communicate to their parents that they are well cared for. Gradually, however, the traffickers tell the parents that the children are misbehaving, that they are not working hard enough, and that the children are forgetting them. Therefore, when a child does not send money back to the parents, the parents assume it is because the child is not working hard enough or is no longer gainfully employed. This is to drive a wedge between the children and their parents in order to sever the child's familial ties. If the parents continue to insist that they want to see their children, the trafficker may send the child back in order to avoid trouble and unwanted attention. In most cases, however, the parents are unable to investigate the whereabouts of their child and thus are forced to give up finding them, at which point the trafficker may sell the child to someone else.

245. It is alleged that a common strategy is to force the children to sell flowers or trinkets or to beg on the streets of Bangkok. If the child does not make the required amount of money each day, he is reportedly deprived of food, beaten or forced to stay on the street.

246. Concerning the sex industry in Thailand, in addition to the lack of legal residence and employment options, trafficked persons who are removed from the brothels are reportedly not screened for refugee status. Sources alleged that these trafficked victims are reluctant to share information because they typically do not want to return home in Myanmar. Besides, according to the information received, the witness protection in Thailand is insufficient and if the trafficked person presents testimony, the person would be at risk of retaliation.

247. Furthermore, prosecutions that are supposed to result from the brothel raids are often unsuccessful. The prosecution effort is primarily aimed at actors who are only minor figures in the trafficking networks, such as the pimps and brothel owners. In the meantime, the trafficking victims may be held at the shelters indefinitely, waiting to testify in the proceedings. After testifying, the victims are reportedly deported, including those under age 18.

## **Observations**

248. The Special Rapporteur regrets not having received a reply to his communication of 18 July 2006 from the Government of Thailand. He considers it appropriate to draw attention to the concerns and recommendations of the Committee of the rights of the child with regard to its March 2006 review of the second periodic report of Thailand under the Convention on the rights of the child (CRC/C/THA/CO/2, paras. 71-75). The Committee remained concerned at the widespread occurrence of economic exploitation, including child labour, in the State party. Concerns were also expressed that the Labour Protection Act does not cover children working in the informal sector such as agriculture, small-scale family enterprises and domestic service.

249. Furthermore, the Committee expressed concern, at the wide occurrence of sexual exploitation including child prostitution, sex tourism and child pornography in Thailand despite its intensified efforts to combat trafficking in children. It was preoccupied that Thailand was a source, transit and destination country for trafficking in children for the purposes of sexual exploitation and forced labour and noted the reported cases of internal trafficking, such as trafficking of girls belonging to indigenous and tribal peoples from north to south, as well as the increased risk of trafficking and exploitation faced by children of vulnerable groups.

## **United Arab Emirates**

### **Letter of allegation**

250. On 18 October 2006, the Special Rapporteur sent a letter of allegation jointly with the Special Rapporteur on violence against women, its causes and consequences, the Special Representative of the Secretary-General on the situation of human rights defenders, and the Special Rapporteur on trafficking in persons, especially women and children, concerning S. M., the founder of Villa N. 18 - City of Hope, a shelter for abused and/or exploited women, including abused migrant domestic workers, trafficked women and minor girls. In early August 2006, the competent authorities had reportedly accused S. M. of having assaulted a 15-year old girl who had sought refuge in the shelter. The authorities had reportedly also threatened to close the shelter, although no formal decision to that effect has yet been taken.

251. The sources alleged that the criminal charges against S. M. were fabricated. Concerns were expressed that these charges and the possible closure of the shelter may be in retaliation for her activities in defence of women's rights since the shelter's work is reportedly viewed as a threat to the traditional culture and family values of the country and its continued operation largely depends on S. M.'s work.

252. Concerns were also expressed that the charges against S. M. and the possible closure of the women and children shelter could lead to a protection gap for women and children at risk of violence, including migrant domestic workers and minor girls. An appeal was also made to investigate the allegations against Ms. S. M. in an objective, impartial, fair and speedy manner awarding her all procedural guarantees set out in international and national law.

## **Observations**

253. The Special Rapporteur looks forward to receiving a reply to the letter of allegation sent on 18 October 2006.

### **United Kingdom**

#### **Response to previously transmitted communication**

254. By letter dated 28 April 2006, the Government responded to the letter of allegation sent on 2 December 2005 and indicated that its strategy to combat human trafficking is multi-faceted and has thus been strengthened in order to cover trafficking for all purposes. The offence of trafficking for prostitution was introduced in the Nationality, Immigration and Asylum Act 2002 and carries a tough maximum penalty of 14 years imprisonment. Moreover, the Sexual Offence Act 2003 introduced new wide-ranging offences covering trafficking into, out of or within the United Kingdom for any form of sexual offence, which also carries a 14 year maximum penalty. The Act also introduced a range of new offences covering the commercial sexual exploitation of a child, protection children up to 18. These include buying the sexual services of a child and causing or inciting, arranging or facilitating and controlling the commercial sexual exploitation of a child in prostitution or pornography, for which the maximum penalty is 14 years imprisonment. Another new offence of “trafficking for exploitation”, which covers trafficking for forced labour and the removal of organs, was introduced in the Asylum and Immigration Act 2004. The Government added that there had been a number of arrests and convictions since the new legislation received Royal Assent. In April 2004, L. P. was sentenced to 23 years in prison for trafficking women for prostitution. In December 2004, two men were the first to be prosecuted under the specific offences of trafficking contained in the Sexual Offences Act 2003, together with associated charges such as rape and false imprisonment. This was quickly followed by three further successful prosecutions in March 2005 for human trafficking.

255. Moreover, a multi-agency task force was set up, REFLEX, which is overseen by the National Crime Squad. It aims to reduce the harm caused by crime of in people smuggling and human trafficking. Its establishment has enhanced coherence of the United Kingdom’s broad response to organized immigration crime and brings government departments and law enforcement agencies together to foster an intelligence-led operational response. Knowledge of child trafficking amongst appropriate professionals has also improved and a best practice toolkit on trafficking was published. In addition, the Immigration Service has reviewed and updated the Unaccompanied Minors Best practice guide to include a chapter on child trafficking. The guidance aims to equip officers with the tools they need to recognize children who may have been trafficked and contains also a section on trafficking, the aim of which is to enable Immigration Officers to refer any children who may have been trafficked to the appropriate practitioners. An Interviewing Minors training course has also been made available to border control staff since November 2003. Staff who have received this training have formed “Minors Teams” at ports, and deal with cases of unaccompanied minors arriving from the United Kingdom and work closely with Social Services, police and child protection officers.

256. It added that after the murder of V.C., the British Government formed in January 2001 a statutory inquiry, chaired by Lord Laming and in January 2003, the Laming report was published. In response to the report, the Government published a Green Paper, entitled “Every Child Matters” and following extensive public consultation on it, the Children Act 2004 was introduced. In conjunction with the legislation, a highly significant cross-government strategy known as the “Every Child Matters: Change for Children Programme” is also currently underway. Moreover, officers in the Department for Education and Skills will be publishing a revised and updated multi-agency guidance to all statutory bodies which have a role in safeguarding children and protect their welfare. Entitled “Working Together to Safeguard Children”, it will provide focused guidance to practitioners working with children particularly vulnerable to abuse or exploitation.

257. Regarding the identification of children missing from schooling, local authorities have now a named individual responsible for receiving details of children found missing, and for brokering support for them through the most appropriate agencies. This is supported by the good practice guide, “Identifying and Maintaining Contact with Children Missing or At Risk of Going Missing from Education” that has provided a practical model of process steps to help Local Education Authorities. The Department for Education and Skills, the Home Office, and the policing service are also continuing to work together. Furthermore, there have been circumstances where concerns about the safety and welfare of children missing from school were sufficient to warrant police involvement. Initial enquiries made by the Metropolitan Police officers investigating the “Adam” murder (the case of the torso of a boy found in the Thames) actually identified 300 cases where African or Caribbean children had not returned to school following the 2001 summer break. However, no evidence was uncovered to suggest that any of them had come to harm, and there were no allegations from any of their families or schools that the welfare of these children was significantly at risk and the type of crime of which Adam was the victim is extremely rare. This case did, nevertheless, increase concerns about a type of abuse which it was thought might emanate as a consequence of some belief systems in African communities. As a result, Operation Violet was launched by London’s Metropolitan Police to support the education of new community groups and representatives in acceptable and legal methods of child discipline.

258. On the question pertaining to children brought to the United Kingdom who contracted HIV through sexual intercourse, the Government indicated that it had no information to support this, although they were aware that it is a belief in some regions of Africa where HIV/AIDS has reached endemic proportions. About the claim mentioned in the communication on the shortcomings within the children’s services, police, and the immigration service resulting in children becoming victims of abuse, it indicated that they had been several operational projects dedicated to the investigation of children entering the United Kingdom who may be at risk from different forms of exploitation. For example, in order to improve the sharing of information between the Immigration Services and Local Authorities, joint Treasury and Home Office funding has been used to set up a National Register of Unaccompanied Children (NRUC) database.

259. Information on the work from Operation Paladin Child, an operation led by London’s Metropolitan Police Service between August and November 2004 to explore the nature of child migration from non-EU countries to the United Kingdom through London was also provided.

The 1,738 children at Heathrow actually refer to the results of Operation Paladin Child, where 1,738 non asylum-seeking unaccompanied minors were purposely identified by the United Kingdom Immigration Service during a three month study period. Of these, 551 (30 per cent) were identified as potentially vulnerable. Social Services departments were unable to trace 12 of the 551 unaccompanied minors, and police enquires continue into their whereabouts. Operation Paladin did not find conclusive evidence that children were being trafficked into the United Kingdom through Heathrow, although it was acknowledged that the study was too limited in scale to predict fully the level of illegal child migration to the United Kingdom. The Metropolitan Police Child Abuse Investigation Command, with funding from REFLEX, have continued a presence at Heathrow airport as part of a permanent multi-agency partnership to address the specific safeguarding needs of unaccompanied minors. They also have safeguarding responsibilities at Lunar house Asylum Screening Unit in some train stations and other airports. Police forces in other parts of the country are now working with immigration officers to use experience gained during Operation Paladin to work more effectively to safeguard children and other ports of entry.

260. The Government also described the Serious Organized Crime Agency (SOCA) and it was made clear that people smuggling and trafficking should be SOCA's second priority after tackling drugs trafficking. Furthermore, on 1 April 2005, the Home Secretary announced plans to create a new national centre to protect children from sexual exploitation and combat online child abuse. Called the Child Exploitation and Online Protection (CEOP) and affiliated to SOCA, it will provide a specific service to address internet-based child abuse, as well as developing a strategic role in using its international networks to raise awareness, collect intelligence and combat child trafficking. Finally, the Home Office recently published a draft United Kingdom Action Plan to combat Human Trafficking.

## **Observations**

261. The Special Rapporteur thanks the Government for its extensive and comprehensive reply.

## **Vietnam**

### **Letter of allegation**

262. On 30 November 2006, the Special Rapporteur sent a letter of allegation concerning reports of serious abuses of street children occurring since 2003 in Hanoi.

263. According to the information received, poor children from the countryside go to Hanoi to find work, and street children are routinely and arbitrarily rounded up by police in periodic sweeps. It is alleged that they are sent to two compulsory state "rehabilitation" centers on the outskirts of town, Dong Dau and Ba Vi social protection centers, where they may be detained for periods ranging from two weeks to as much as six months.

264. The Social Protection Centers (*Trung Tam Bao Tro Xa Hoi* in Vietnamese), also known as Social Charity Establishments, Social Support Centers, Social Relief Centers, or Transit Centers, are reportedly closed institutions for beggars, homeless adults and children, sex workers, drug addicts, orphans, disabled and elderly people without family support, and street children.

These centers are operated and administered by the Department of Labor, Invalids and Social Affairs (DOLISA) together with local People's Committees. It is alleged that in fact the Ministry of Public Security plays a significant role in their operation. These centers operate as part of the administrative - rather than criminal justice - system. According to Vietnamese law, court orders are not required in order for children and others to be rounded up and detained at the centers, and the normal criminal law safeguards do not apply.

265. Sources further report that the treatment of street children in detention, particularly at Dong Dau, is harsh. Children are allegedly locked up for 23 hours a day in dirty, overcrowded cells, sometimes together with adults, with only a bucket for excrement. The lights remain on night and day. They are released for two half-hour periods a day to wash and to eat. At Dong Dau they are reportedly offered no rehabilitation or educational and recreational activities, and no medical or psychological treatment.

266. It is also alleged that children detained at Dong Dau are subject to routine beatings, verbal abuse, and mistreatment by staff or other detainees, sometimes with staff acquiescence. It is reported that Dong Dau staff members slap, punch, and beat children with rubber truncheons for violations of rules, which sometimes have not been clarified with the children. It is further reported that children are beaten for benign behavior such as being slow to respond to questions or not knowing how to queue, as well as for attempting to escape. Afterwards, they allegedly rarely receive medical treatment for their injuries, nor are staff persons who carry out the beatings disciplined.

267. It is also reported that at the end of their detention period no efforts were made to take these children back home or reunite them with their families. Instead, these children were allegedly deposited at the gates of the centers - which are more than 20 miles from Hanoi - and expected to find their way. Most did not go back to their homes in the countryside, but returned to Hanoi with no new alternatives.

268. Concern has been expressed that roundup campaigns directed by government authorities are often launched in advance of national holidays, international meetings, and prominent state visits in order to remove street children, beggars, and vagrants from the street and out of view of international visitors. One such crackdown on homeless adults and children in Hanoi allegedly took place in 2003 before the South East Asian (SEA) Games and another in October 2004 before the meeting of the Asia-Europe Summit Meeting (ASEM). Concern has also been expressed that arrests of street children were intensifying in the lead up to the Asia Pacific Economic Cooperation (APEC) meeting of world leaders, scheduled in Hanoi on 17-19 November 2006, which was attended by the United States President, George W. Bush. These round-up campaigns in Hanoi have allegedly cleared some of the city's high-profile districts of street people, including children who make their living on the street.

269. Concern has also been expressed that this situation places the above-mentioned minors at high social risk and vulnerability towards becoming victims of trafficking and child prostitution.

## **Government response**

270. On 31 January 2007, the Government of Viet Nam responded to the letter of allegation and indicated that it had always prioritized the protection and ensured the implementation of the rights of the child, through provisions of laws, policies, programmes and projects for children.

271. With regard to the street children issue, the National Committee for Population, Family and Children (NCPFC) has since 2003, advocated “returning street children to families, helping them to reintegrate into community”. In 2004, the Prime Minister of Viet Nam also approved a programme to prevent and deal with the issue on street children, sexually harassed children and children who have to do heavy works in harmful and dangerous conditions for the period 2004 - 2010, emphasizing on the objective to return street children to their families and a five step process was therefore developed. The Government added that street, displaced and unsupported children are taken to social protection centres for health caring, educating, vocational training and preventing them from being exploited into social evils and illegal activities. After receiving them, the social protection centres usually collaborates with the families and local administrations to return them to their families and reintegrate them into the community. For children who are unable to do so or have not yet found their supported families, they may stay at the social protection centre for a longer period of time. Thus, these children are not arrested nor rounded up by police.

272. The Government indicated that state compulsory rehabilitation centres do not exist in Viet Nam. Social protection centres are operated within a framework of laws, notably articles 7, 26 and 55 of the Law on Protection, Care and Education for Children and budgets for the operation of these centres in ensured. Moreover, professionals agencies often inspect the operations of the centres to deal with shortcomings if any, and timely provide necessary supporting measures. It noted that two inspection teams had recently conducted examinations and directly contacted children in two Social Protection centres. Their comments were overall positive and noted that only a small number of children aged 16 to 18 years did not fully comply with the State’s reintegration process.

273. Information was provided on the Dong Dau Centre, which is a place for temporarily receiving street children. The above mentioned steps are strictly followed in this centre. For a few cases of older children who want to go back home on themselves, the Centre provides them with the financial assistance. Furthermore, street parentless, unsupported children and children who want to stay in the centre, after 15 days of temporary stay, are taken to the Ba Vi Centre for nursing, health caring, educating and vocational training. Regarding the living conditions in these centres, the Government mentioned that children are allocated in rooms with adequate equipments suitable for their age. The Dong Dau Centre has 16 rooms with an area of 18 m<sup>2</sup> each. Each room has 10 sleeping places with sufficient equipments and good hygiene conditions. Children have moreover free movement and contact. In that sense, the Government considered the allegation totally untrue. The equipments in the Dong Dau Centre are relatively poor but it is due to the fact that this centre is only a place for temporary nursing of street children. Children there are nevertheless ensured of normal living conditions and are provided with meals, pocket money and a good health care. They are organized to follow a daily timetable and in addition to the hours allocated for education, children can participate in cultural and recreational activities. Furthermore, the Government added that the staffs have an excellent behaviour, treat the

vulnerable children responsibly. There has never been any case of verbal abuse, slap, punching and beating of children with rubber truncheons at the Dong Dau Centre.

274. The Government concluded by noting that in order to deal with this issue, Viet Nam has and will pursue a number of policy measures such as continue to implement the Law on Protection, Care and Education for Children and other existing legal documents, conduct training courses on skill in caring and receiving children for the staff who are working in social protection centres, propagandise to raise awareness, create favourable conditions for children to have access to the Child Help Line and free phone number for direct consultation, provide direct assistance to children in social protection centres, such as health, examination, education fees, scholarships

### **Observations**

275. The Special Rapporteur thanks the Government of Vietnam for its extensive and informative reply.

### **Yemen**

#### **Response to previously transmitted communication**

276. By letter dated 20 March 2006, the Government responded to the letter of allegation sent on 6 December 2005 and indicated that the issue of children being trafficked from Yemen to Saudi Arabia was being treated as a social problem and that the Chamber of Deputies, the Higher Council for Motherhood and Childhood, the Ministry of Social Affairs and Labour, the Ministry of Justice and the Ministry of the Interior, a number of non-governmental organizations and international organizations were concerned with it. According to the Government, the issue of smuggling has a number of causes and a study was conducted in the Governorates of al-Mahwit and Hajjah in 2004 which identified several aspects contributing to the phenomenon, such as families' low standard of living and lack of employment opportunities, and a low level of social awareness.

277. The Government agreed that the problem of trafficking in children has increased after the 1990 Gulf War and the return of nearly 2 million Yemeni émigrés from Saudi Arabia to their native land. It added that the figure of 3,500 children being trafficked into Saudi Arabia every month appears however to be exaggerated. Furthermore, a child may be smuggled out or leave the country unlawfully as a member of a group consisting of the child's family or other persons whom the child knows and who are related to him, or the operation may be handled by a professional trafficker. The same study referred to above found that children outside the country did indeed contribute to their families' income and enabled them to enjoy a higher standard of living. It also noted that the members of Yemeni society are being made aware of the dangers to which these children are exposed, such as having to perform hard and dangerous labour, through a human rights information campaign conducted in the hardest-hit regions of the country. In fact, trafficked children will inevitably be at risk of violence and abuse as long as there are reports of children being subjected to sexual abuse and extortion at the hands of border guards or in places of detention.

278. The Government also expressed its appreciation from the Special Rapporteur's expression of welcome concerning the creation of a reception centre. This centre is a permanent facility, especially now that its operating budget has been included as a separate item within the overall State budget for 2006.

279. An information campaign on human rights and the hazards and adverse impacts of child trafficking and their future was furthermore recently conducted in some governorates with a view to heightening the awareness of children, families and opinion leaders in society. According to the same study, poverty is directly related to the trafficking of children in Yemen. Consequently, low-income family support programmes must take this factor into account in their future policies.

280. The Government further indicated that Yemen signed the Convention on the Rights of the Child in 1991 and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. These instruments were reflected in Yemen's Children's Rights Act. They are, actually, regarded as fundamental to the National Strategy on Childhood and Youth, 2006-2016. Bilateral cooperation measures with Saudi Arabia are also being implemented, in the form of action to coordinate the drafting of a bilateral agreement aimed at enhanced cooperation to combat child smuggling. The Government added that preparations were under way for a joint Yemeni-Saudi field study on the said issue.

281. Concerning young offenders in detention, the Government indicated that they are kept separate from adult. The issue was addressed in law No. 26 of 1997 concerning the custody of minors, particularly article 11 para b. It added that the recommendations made by the Special Rapporteur concerning the ratification of a number of instruments, such as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Recommended Principles and Guidelines on Human Rights and Trafficking, will be given due consideration.

282. The Government also provided information on the smuggling of children into Saudi Arabia available from numerous sources. The Ministry of Interior supplied data on cases of the smuggling of children intercepted at the Harad border crossing point. The total for 2004-2005 was 216 children, including 205 boys and 11 girls. These children originated from the several Governorates that border with Saudi Arabia. More came from the Governorate of Hajjah which accounted for 97 of the children. Moreover, the Ministry of Social Affairs and Labour noted that a total of 386 children were referred to the Temporary Protection Centre reception facility in Harad. These children originated from the Governorates of Hajjah, al-Hudaydah, Sa'dah, al-Mahwit, Dhamar, Tai'zz, 'Amran, al-Bayda, Raimah, San'a, Ibb, Aden and Lahij. Again, the Hajjah Governorate heads the list with 160 children. Finally, the Ministry of Justice indicated that in 2005, prosecutions for child smuggling resulted in a total of approximately 22 convictions in Hajjah Governorate alone.

283. The Government finally provided information on dealt measures which addressed the problem of child smuggling. Several have been elaborated up to date such as a field study on the problem of child smuggling in the Governorates of Hajjah and al-Mahwit, and a workshop for leaders and officials concerned with the issue, with a view to developing a plan of action to deal with child smuggling and the establishment of a temporary protection centre in the Harad border

region. A review of Yemeni law and the enactment of amendments to the Criminal Code to prescribe a penalty for a child smuggler or the father of a child smuggled with his knowledge and consent, a training for security officers, the establishment of an information desk ("hot line") on cases of child smuggling within the Ministry of Human Rights are also being set up. Furthermore, several campaigns in Governorates, the preparation of a documentary video on the subject, leaflets and other materials, strategies and workshops are being elaborated. The celebration of Arab Children's Day 2005 in Hajjah Governorate, with the participation of children from the reception centre, also highlights the problem of child smuggling.

### **Observations**

284. The Special Rapporteur would like to thank the Government of Yemen for its informative reply.

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