



**Economic and Social  
Council**

Distr.  
GENERAL

E/CN.4/2006/48/Add.1  
22 December 2005

Original: ENGLISH/FRENCH/  
SPANISH

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

**ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

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

**Addendum**

**Summary of communications sent to and replies received from Governments  
and other actors, December 2004-December 2005\***

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\* The report is being circulated in the languages of submission only.

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## Introduction

1. In the context of his mandate, the Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health (“the right to the highest attainable standard of health” or “the right to health”) receives a large number of communications alleging violations of the right to health and related rights from national, regional and international non-governmental organizations, as well as intergovernmental organizations. In accordance with Commission resolution 2005/24, the Special Rapporteur responds to information received and considered to be reliable on alleged violations of the right to health, by writing to the Government and others actors concerned, either together with other special procedure mandates or independently, inviting comment on the allegation, seeking clarification, reminding them of their obligations under international law in relation to the right to health and requesting information, where relevant, on steps being taken by the authorities to redress the situation in question. The Special Rapporteur urges all Governments and other actors to respond promptly to his communications and, in appropriate cases, to take all steps necessary to redress situations involving the violation of the right to health.

2. This addendum contains, on a country-by-country basis, summaries of communications sent by the Special Rapporteur, on the basis of information he has received, to Governments and other actors. These include urgent appeals and letters of allegation, as well as replies received by the Special Rapporteur, his observations and follow-up communications for the period 2 December 2004 to 1 December 2005. The report also reflects one communication that originated prior to 2 December 2004 but for which a government response was received after that date, as well as one government response that was not included in last year’s report on communications. The Special Rapporteur has sought to condense details of all communications sent and received. To the extent that his limited resources permit, the Special Rapporteur continues to follow up on communications sent and to monitor the situation where no reply has been received or where questions remain outstanding.

3. The Special Rapporteur notes that most of his communications have been sent jointly with one or more special procedures of the Commission on Human Rights. In addition, he draws attention to the fact that the issues reflected in this addendum are not representative of the wide range of issues encompassed by the right to the highest attainable standard of health. During the period under review, the Special Rapporteur sent a total of 38 communications to 25 Member States, as well as one communication to the United Nations Interim Administration Mission in Kosovo (UNMIK) and one to the Global Fund to Fight AIDS, Tuberculosis and Malaria. Twenty of the 38 communications involved allegations of torture plus an additional factor concerning the right to health, such as a denial of access to medical treatment in detention settings; five dealt with the potential impact of bilateral and multilateral trade agreements on access to essential medicines; five concerned sexual and reproductive health issues, including abortion legislation and sexual violence; a further five were sent on access to health-care services, including the suspension of health-care services, the closure of rural hospitals and the termination of grants to Myanmar by the Global Fund; two on environmental health issues; and one on access to health care and services in armed conflict. Of the 38 communications sent, six replies from Governments and one from UNMIK were received. The Special Rapporteur is

grateful to those who replied to his communications. However, he regrets that the majority of Governments have failed to respond at all, or have responded only partially to the questions arising from the communication. Full responses to these communications remain outstanding.

4. The Special Rapporteur continues to receive a number of allegations concerning hunger strikes and forced feeding of prisoners. He has taken up some of these communications as they have raised additional factors bearing upon his mandate. Hunger strikes and forced feeding raise complex legal, ethical and human rights issues that the Special Rapporteur continues to monitor.

5. The Special Rapporteur has undertaken a joint investigation, together with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, and the Special Rapporteur on freedom of religion or belief, on the situation of detainees in Guantánamo Bay. A separate, joint report of the investigation will be submitted to the Commission at its sixty-second session (E/CN.4/2006/120). In order to avoid duplication, the Special Rapporteur will not include communications sent in this regard in the present report.

## **Governments**

### **Bangladesh**

#### **Communications sent**

6. On 16 September 2005, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders regarding **Suresh Chandra Halder**, former General Secretary of the Association for Village Advancement, a non-governmental organization promoting socio-economic development and seeking to alleviate poverty in Faridpur District. Reportedly, Mr. Halder was arrested on 9 August 2005 and was being held in Faridpur jail while awaiting a bail hearing. According to the information received, he required regular medication and medical attention for diabetes and for treatment of an eye condition, and he was also suffering from severe back pain. It was alleged that his family attempted to bring medicine to the jail to ease his back pain, but were refused by the authorities. Reports indicated that Mr. Halder's health was deteriorating and he was losing weight. Concern was expressed that his physical integrity was at risk and that the charges against him and the denial of access to medical treatment might be linked to his activity within the Association for Village Advancement.

#### **Observations**

7. By letter dated 26 September 2005, the Government informed the Special Rapporteur that his letter of 16 September 2005 had been transmitted to the relevant authorities in Bangladesh for necessary inquiry and action. However, the Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication.

## Chile

### Comunicaciones enviadas

8. Por carta de fecha 7 de diciembre de 2004, el Relator Especial, juntamente con la Presidenta-Relatora del Grupo de Trabajo sobre la Detención Arbitraria y el Relator Especial sobre la cuestión de la tortura, notificó al Gobierno que habían recibido información sobre la situación de **Pedro Rosas Aravena**. De acuerdo con la información recibida, el Sr. Rosas Aravena se encuentra detenido en la Cárcel de Alta Seguridad de Santiago de Chile desde el año 1994 cumpliendo una condena de 28 años por infracciones a los Códigos Militar y Civil y a la Ley de Control de Armas. En el año 2000, habría sido absuelto del cargo de violación a la Ley de Seguridad Interior del Estado y de aquel que le sindicaba como responsable de asociación ilícita terrorista. En el año 2000, al Sr. Rosas Aravena se le diagnosticó cáncer en un testículo, del que fue operado y luego sometido a sesiones de quimioterapia. Se alega que el tratamiento médico fue realizado con injustificado retraso. La última vez que el Sr. Rosas Aravena fue al parecer llevado al oncólogo fue durante el primer trimestre del año 2002, a pesar que debía ser controlado cada seis meses por el especialista. Los informes médicos agregarían que el Sr. Rosas Aravena tiene un 90 % de posibilidades de morir antes del final del año 2006. Por lo demás, el Sr. Rosas Aravena, a pesar de su enfermedad, participó activamente en el movimiento interno de los prisioneros políticos por una plataforma de derechos mínimos, de acuerdo con la información recibida. En ese contexto, llegó a participar en largas huelgas de hambre, la última con 75 días de duración en 2004. Debido a su frágil estado de salud, se alega temer por la vida e integridad física de esta persona si no se toman unas medidas médicas rápidas y adecuadas.

### Observaciones

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

## China

### Communications sent

10. On 16 December 2004, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression concerning **Zhang Rongliang**, leader of the China for Christ Church and the Protestant Fangcheng Mother Church. Reportedly, Mr. Zhang was detained by police on 1 December 2004 in Xuzhai village in Zhengzhou city, Henan Province. According to information received, he had been imprisoned five times for his beliefs, for a total of 12 years. Concern was expressed for his health if he did not receive the necessary medical treatment for his diabetes.

11. On 29 September 2005, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression concerning **Zeng Yichun**, aged 48. It was reported that Mr. Zeng, a writer and poet, was convicted of “incitement to subversion” and sentenced to seven years in prison after a trial

on 22 September 2005 that lasted less than three hours. It was alleged that he suffers from diabetes and was not receiving the necessary medical treatment for it in prison. Reportedly, his health had seriously deteriorated since his imprisonment on 3 December 2004. Concern was expressed for his health if he did not receive the necessary medical treatment for his diabetes.

### **Communications received**

12. By letter dated 12 May 2005, the Government replied to the communication sent on 16 December 2004. The Government explained that Zhang Rongliang was convicted of falsifying identification documents and that since China had ratified international legal instruments prohibiting torture, there was no evidence to suggest that he would be subjected to torture.

### **Response received on cases sent by the Special Rapporteur in preceding years that were not included in last year's report**

13. By letter dated 16 August 2004, the Government replied to the communication sent on 30 April 2004 regarding **Gong Sheng Liang** (see E/CN.4/2005/51/Add.1, paragraph 10). The Government informed the Special Rapporteur that on 10 October 2002, he was sentenced to life imprisonment by the Jingmen Intermediate People's Court for the crimes of assault and rape. The Government further stated that it had carefully investigated the matter and that Mr. Gong's health was excellent.

### **Observations**

14. The Special Rapporteur thanks the Government for its responses. However, he regrets that at the time of the finalization of his report, the Government had not transmitted any reply to his communication sent on 29 September 2005.

## **Colombia**

### **Communications sent**

15. On 13 June 2005, the Special Rapporteur sent a joint letter with the Special Rapporteur on violence against women, its causes and consequences, concerning the implementation of legislation in Colombia which makes abortion punishable as an illegal act in all circumstances. At the time, the issue was under consideration by the Constitutional Court (case No. D5764). Concern was expressed that the criminalization of abortion that fails to admit any exceptions violates women's right to life and their right to health and would appear to be contrary to Colombia's obligations under international and regional human rights law.

### **Observations**

16. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication. The Special Rapporteur notes with regret that abortion remains a criminal act in all circumstances in Colombia, including in the case of risk to the life of the mother or in cases of rape or incest. According to figures

received, abortion-related causes appear to be the third leading cause of maternal mortality in Colombia. The Special Rapporteur is following with interest the constitutional challenge launched in April 2005 (case No. D5764).

### **Democratic Republic of the Congo**

#### **Communications envoyées**

17. Le 29 juillet 2005, le Rapporteur spécial a envoyé un appel urgent, conjointement avec le Rapporteur spécial sur la promotion et la protection du droit à la liberté d'opinion et d'expression, le Rapporteur spécial sur la question de la torture, le Rapporteur spécial sur la vente d'enfants, la prostitution d'enfants et la pornographie impliquant des enfants, la Rapporteuse spéciale chargée de la question de la violence contre les femmes, y compris ses causes et ses conséquences, l'expert indépendant sur la situation des droits de l'homme en République démocratique du Congo, la Rapporteuse spéciale sur la traite des personnes, en particulier les femmes et les enfants, et la Représentante spéciale du Secrétaire général concernant la situation des défenseurs des droits de l'homme, concernant **les victimes des cas très répandus de violence sexuelle indiscriminée et systématique** perpétrées sur le territoire du pays depuis 1996. D'après les renseignements reçus, des femmes et des filles, et parfois des hommes et des garçons, les plus jeunes âgés de trois ans, auraient été violés, mutilés, torturés, forcés à l'esclavage sexuel, contraints à l'inceste, au mariage, au travail forcé et au pillage. Des craintes ont été exprimées quant à l'impunité pour la violence contre les femmes et les filles au pays et quant à la violence sexuelle généralisée et systématique qui a comme conséquence le SIDA et d'autres maladies sexuellement transmissibles. Des préoccupations ont été signalées quant aux centres de santé, les cliniques et les hôpitaux, spécialement dans les régions rurales, qui ne peuvent pas fournir les soins aux personnes infectées et les victimes qui ne sont pas capables d'aller à ces centres de santé en raison de la situation d'insécurité dans le pays et du manque d'infrastructures de transport. Il a également été rapporté que ces centres de santé n'ont pas les ressources matérielles, financières et humaines nécessaires pour assister les personnes affectées.

#### **Observations**

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

### **Equatorial Guinea**

#### **Comunicaciones enviadas**

19. Por carta de fecha 18 de abril de 2005, el Relator Especial, juntamente con la el Relator Especial sobre la cuestión de la tortura y el Relator Especial sobre el derecho a la alimentación, notificó al Gobierno que habían recibido información sobre la situación de **70 reclusos del Centro Penitenciario Black Beach**, Malabo, Bioko. De acuerdo a las alegaciones recibidas, desde finales del pasado febrero de 2005 los reclusos han permanecido en régimen de incomunicación y no han sido autorizados a abandonar sus celdas. La ración de alimentos diaria, que ya fue reducida en diciembre del 2004 de un plato de arroz a una o dos piezas de pan, es

suministrada de manera esporádica y en ocasiones se priva a los reclusos de cualquier tipo de alimento durante días. A consecuencia de ello existe supuestamente un riesgo manifiesto y permanente para los reclusos de morir por inanición. Además se alega que a muchos de ellos que se encuentran debilitados a causa de las torturas o malos tratos padecidos y/o que sufren enfermedades crónicas se les ha negado el acceso al tratamiento médico correspondiente en cada caso. En atención al estado de incomunicación en el que permanecerían los detenidos, la negación de alimentos y tratamiento médico y el posible abuso en la imposición de restricciones, ajustadas o no a la legalidad vigente, se muestra preocupación por la integridad física y mental de los reclusos.

### **Observaciones**

20. El Relator Especial lamenta no haber recibido ninguna respuesta del Gobierno. El Relator Especial ha recibido información sugiriendo que la alimentación en el centro penitenciario ha mejorado ligeramente desde abril de 2005, aunque, al parecer, los reclusos aún no reciben alimentación adecuada. El Relator Especial lamenta la falta de información respecto al acceso de los reclusos al tratamiento médico necesario.

## **Finland**

### **Communications sent**

21. On 13 May 2005, the Special Rapporteur sent a letter concerning the situation of **Eugene Linder**. According to information received, Mr. Linder, a Finnish citizen, was taken by ambulance to hospital in Aachen, Germany, for emergency treatment on 11 November 2004 and was later discharged on 20 November 2004. Reportedly, the Social Insurance Institution of Finland (KELA) later declined to reimburse Mr. Linder for expenses in relation to his hospital treatment in Germany. Mr. Linder's medical condition allegedly prevented him from flying to Finland for treatment and he sought further medical treatment in Germany, but he had not received any since his discharge from hospital. Concern was expressed that he was apparently being denied urgent medical care in Germany.

### **Communications received**

22. By letter dated 10 June 2005, the Government replied to the communication sent on 13 May 2005. The Government confirmed that the Appeal Board under the Ministry of Social Affairs and Health made a decision on 31 May 2005 that Mr. Linder was not covered by the Finnish social security system since he did not live permanently in Finland. Since he was not covered by the Finnish system, KELA could not grant him a European Health Insurance Card and, as a result, the hospital bill sent by the German health insurance institution could not be remitted to KELA for payment since the Government had affirmed that his possible right to social security in Germany fell under German legislation.

### **Observations**

23. The Special Rapporteur thanks the Government for its response. Reportedly, Mr. Linder has appealed the decision of the Appeal Board to the Insurance Court in Finland, as provided by

the Administrative Judicial Procedures Act (586/1996). The Special Rapporteur notes that arrangements between States concerning social security and health-care services should ensure that citizens of one State resident in another State are not denied the services provided by their home and host States and that they have access to the same level of health care as all citizens residing within the respective States.

### **Iceland**

#### **Communications sent**

24. On 11 October 2005, the Special Rapporteur sent a letter to the Government of Thailand and to each of the member States of the European Free Trade Association, namely Iceland, Liechtenstein, Norway and Switzerland, in relation to Thai-EFTA trade negotiations. Concern was expressed that other bilateral free trade agreements had omitted important public health safeguards and that this could threaten the enjoyment of the right to health. The Special Rapporteur emphasized, at the outset of negotiations between the parties, the importance of ensuring that any future trade agreement would safeguard respect for the right to health and access to essential medicines, in particular.

#### **Observations**

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

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

#### **Communications sent**

26. On 4 May 2005, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture on the situation of **Yosef Azisi Banitrouf** and **Reza Alijani**, both journalists from Tehran. Reza Alijani was reportedly suffering from serious respiratory problems which worsened due to the harsh conditions of his detention in Evin Prison since 14 June 2003. It was alleged that despite repeated requests, officials have denied him access to medical treatment. Concern was expressed for his physical and mental integrity if he did not receive prompt and adequate medical attention. Mr. Banitrouf was the subject of concerns relevant to the other mandates.

27. On 16 June 2005, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture regarding **Akbar Ganji**, aged 45. According to information received, Mr. Ganji, a journalist and former professor at the University of Shiraz, was arrested in 2000 after returning from a conference in Berlin on human rights in Iran, where he reportedly expressed views critical of the Iranian authorities and the Supreme Leader. Reportedly, he had been on medical leave from Evin Prison in Tehran since 30 May 2005 but

was rearrested on 11 June 2005 and immediately placed in solitary confinement without having received medical treatment that was recommended by a specialist for his chronic asthma. It was alleged that he commenced a hunger strike to protest the denial of medical care. Concern was expressed for his physical and mental integrity if he did not receive prompt and adequate medical treatment. On 27 June 2005, the above mandate holders, along with the Special Representative of the Secretary-General on the situation of human rights defenders, sent a second joint urgent appeal concerning Akbar Ganji. It was alleged that he was still being denied medical treatment for his severe asthmatic condition and back pains and that his health had deteriorated. Reportedly, he lost 17 kg as a result of his hunger strike and was kept in solitary confinement until 18 June 2005. Concern was expressed that lack of access to appropriate medical treatment could threaten his life.

28. On 16 June 2005, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Representative of the Secretary-General on the situation of human rights defenders regarding **Nasser Zarafshan**, a lawyer and human rights defender. Mr. Zarafshan was sentenced to five years' imprisonment in March 2002 after a secret trial before a military court for his role in representing the families of two political activists murdered in November 1998. It was alleged that while detained in Evin Prison, he suffered from a chronic kidney condition which requires specialist treatment outside the prison. According to information received, his request for medical leave was denied and despite his health conditions, he was being held in a cell with violent offenders. Concern was expressed for his physical and mental integrity if he did not receive prompt and adequate medical treatment.

### **Observations**

29. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communications. According to news reports, Nasser Zarafshan was released temporarily in order to receive medical treatment for kidney stones on 4 July 2005 and Akbar Ganji was sent back from hospital to Evin Prison on 3 September 2005 to serve the remainder of his six-year sentence. Information received alleges that Mr. Ganji was tortured by security officers while in the quarantine wing of Milad hospital in Tehran and that he has been denied medical treatment for a dislocated shoulder that resulted from mistreatment.

## **Iraq**

### **Communications sent**

30. On 27 September 2005, the Special Rapporteur sent an urgent appeal regarding the bombing in late August 2005 of a field clinic in Al Karablaa village by the Iraqi and multinational forces in which at least **50 people were killed, including women and children, and two medical professionals injured**. The Special Rapporteur recommended that the Government establish, as soon as possible, an independent and impartial investigation into the incident. The Special Rapporteur suggested that this investigation should consider the role of

both State and non-State actors, including allegations that the attack had targeted civilians and medical personnel; it should also collect evidence of the alleged bombing and look into the health of civilians and medical staff involved, with a view to providing compensation and redress to civilian victims and survivors of the incident. Reports also indicated that there was an inadequate supply of medicines, water and other goods essential to the right to health. General concern was expressed over specific incidents of alleged targeting of hospitals and field clinics, which have resulted in civilian deaths and the destruction of medical supplies.

### **Observations**

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

### **Israel**

#### **Communications sent**

32. On 14 December 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the question of torture regarding **Hayel Hussein Jamad Abu-Zaid**, a 36-year-old Syrian national from the town of Majdel Shams, Golan Heights. According to the information received, he was transferred by the administration of Galbou' Prison to the Affoula Hospital and then to Rambam Hospital. It was alleged that he was seriously ill and suffering from an advanced case of leukaemia. Reportedly, he was being held, handcuffed and shackled to his bed, in a small hospital room guarded by three members of the military police. Concern was expressed for his physical and mental integrity if he did not receive prompt and appropriate medical care in the hospital. Concern was also expressed at the alleged use of restraints on someone in his condition.

33. On 30 May 2005, the Special Rapporteur sent a joint letter with the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment on human rights, the Special Rapporteur on the right to food and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living regarding the spread of toxic chemicals on fields located near the villages of Tuwani, Umm Faggara and Kharruba in the southern Hebron region. Reportedly, prior to the first field poisoning incident in Tuwani on 22 March 2005, a security guard from the nearby Israeli settlement Ma'on had told villagers that he wanted Palestinian farmers to stop grazing their flocks near the settlement and that if they did not agree, he and the settlers had "ways to make them stop". According to analyses carried out by the Centre for Environmental and Occupational Health Sciences at Bir Zeit University and by the Israeli Nature Protection Authority, two types of toxic chemicals were spread in the area: 2-Fluoracetamide, which is banned in several countries including Israel and severely restricted in international trade, and Brodifacoum, an anticoagulant used as rodenticide. Both chemicals endanger human health. Reportedly, on 12 April 2005, one of the toxins was found in a field in the northern West Bank village of Yasouf. It was alleged that toxic chemicals were found in areas under the full control of the Israeli authorities.

## **Observations**

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

### **Lebanon**

#### **Communications envoyées**

35. Le 29 avril 2005, le Rapporteur spécial a envoyé un appel urgent, conjointement avec la Présidente-Rapporteur du Groupe de Travail sur la détention arbitraire et le Rapporteur spécial sur la torture, concernant la situation de **Gergès Toufic Al Khoury**, 36 ans, informaticien. D'après les informations reçues, M. Al Khoury a été arrêté le 5 mars 1994 après s'être présenté à la suite d'une convocation comme témoin par les services de renseignements libanais. Il aurait été jugé et condamné à la réclusion à perpétuité par la Cour de Justice, un tribunal d'exception où les décisions ne seraient pas susceptibles d'appel. Il était allégué que depuis 1994, il serait détenu en isolement dans une cellule de 1,3 m sur 2,4 m au sous-sol dans le Centre de détention du Ministère de la Défense à Beirout, sans aération ni lumière naturelle, et ne bénéficierait que très courtes périodes de promenades, menotté à un gardien. Son état de santé serait très préoccupant et, il était allégué qu'en dépit de nombreuses demandes d'examen médical, il ne bénéficierait pas de soins médicaux appropriés. Des craintes ont été exprimées quant son intégrité physique et psychologique s'il ne recevait pas des soins médicaux appropriés.

#### **Communications received**

36. By letter dated 26 May 2005, the Government replied to the communication sent on 29 April 2005. The Government explained that Mr. Al Khoury had benefited from all the rights afforded under the law regarding visits, physical exercise and food and that he was free to consult a doctor or specialist as required. The Government confirmed that he had been examined by an osteopathy specialist who determined that he was in good health. In a second letter dated 23 June 2005, the Government explained that he had been sentenced to life imprisonment for his participation in a church bombing. The Government also stated that he has been regularly examined by a doctor and remains in constant contact with his family and legal representatives.

## **Observations**

37. The Special Rapporteur thanks the Government for its reply.

### **Liechtenstein**

#### **Communications sent**

38. This communication is summarized in paragraph 24.

## **Observations**

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

## Mongolia

### Communications sent

40. On 6 July 2005, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on the situation of human rights defenders concerning **Lodoisambuu Sanjaasuren**, aged 60, lawyer and member of the Mongolian Advocate Association, a non-governmental body of all defence attorneys. According to information received, Mr. Sanjaasuren was sentenced to 18 months' imprisonment in November 2004 by the Chingeltei District Court for "disclosure of a State secret" in connection with his work defending a client who had denounced the practice of torture by officers of the General Intelligence Agency. It was alleged that he was being held in a "restricted prison" in Bayanzurkh District, outside Ulaanbaatar, and was suffering from a serious heart condition which required urgent medical attention. Reportedly, he has only been permitted two visits to his doctor (November 2004 and March 2005) since his imprisonment and has since been denied access to his doctor. His health was reportedly "critical". Concern was expressed for his physical and mental integrity if he did not receive prompt and adequate medical treatment and that the denial of medical treatment could be a result of his human rights activities.

### Observations

41. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication. News reports indicate that Lodoisambuu Sanjaasuren was released on 9 August 2005 after serving half of his 18-month sentence.

## Myanmar

### Communications sent

42. On 4 April 2005, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the situation of human rights in Myanmar regarding the situation of **Ko Nyan Win**, a political prisoner detained in Tharawaddy Prison. He was allegedly sentenced to 10 years' imprisonment for his involvement in writing and publishing a book, *The History of Student Movements in Burma*, and for his contacts with opposition groups based along the border with Thailand. According to information received, he was suffering from kidney disease. It was alleged that due to inadequate medical care in the prison, his urinary organs and intestines had swollen and, as a result, he was unable to eat.

43. On 28 April 2005, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the situation of human rights

in Myanmar regarding four individuals. **Ye Kyaw Zwa**, aged 33, has reportedly been in Myingyan Prison, Mandalay, since 1996 following his arrest in connection with the student movement in Yangon and was reportedly suffering from severe depression. **Thet Naung Soe**, aged 34, has reportedly been in Insein Prison, Yangon, since 18 August 2002 following his arrest in connection with a peaceful solitary protest in front of Yangon City Hall concerning economic, social and social conditions in Myanmar. It was alleged that he was suffering from mental health problems and skin diseases. **Kyaw Linn Htun**, aged 28, has reportedly been in Insein Prison since 2004 following his arrest in connection with student union activism. It was alleged that he was suffering from severe depression. **Myo Min Zaw**, aged 30, has reportedly been in Mandalay Prison since 1998 following his arrest and 52-year sentence for “agitating unrest” after having staged a peaceful protest and distributing leaflets concerning the poor quality of education and the human rights situation in Myanmar. It was alleged that he was suffering from serious mental health problems and gastric pain. Reportedly, prison authorities have denied all four individuals adequate medical treatment. Concern was expressed for their physical and mental integrity if they did not receive prompt and adequate medical treatment.

44. On 12 May 2005, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the situation of human rights in Myanmar concerning **Ko Sein Win**, a resident of Nonechaung village, Magu village tract, Bogalay township. It was alleged that he was suffering from tuberculosis before being taken into custody at the ward office of the Magu Village Tract Peace and Development Council at Kyonesein No. 2 Ward on 1 December 2004. Reportedly, since his imprisonment in Pyapon jail on 3 December 2004, his health condition has worsened. In April 2005, he was reportedly given a blood transfusion.

45. On 21 October 2005, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the situation of human rights in Myanmar regarding prisoners who had died or required hospitalization as a result of an outbreak of diarrhoea in Tharawaddy Prison. It was alleged that 12 prisoners had died and another 40 were in the prison hospital as a result of the outbreak in September 2005, which was caused by rotten beans and rice served to prisoners at mealtime, as well as unclean drinking water. Reportedly, the sewage system in the prison may have facilitated the spread of disease. While the prison doctors reportedly brought in doctors from Tharawaddy General Hospital, it was alleged that the prisoners were still lacking adequate and nutritious food, as well as appropriate medical treatment.

46. On 2 November 2005, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the situation of human rights in Myanmar, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Rapporteur on the sale of children, child prostitution and child pornography, the Special Rapporteur on trafficking in persons, especially women and children, and the independent expert on minority issues concerning **widespread and systematic violence against women and girls** in Myanmar. According to information received, in all states in Myanmar, both in conflict areas and in ceasefire areas, government forces allegedly subject women and girls to multiple forms of violence including abduction, forced marriage, rape, including gang-rape, mutilation, suffocation, scalding, sexual slavery and other forms of sexual

violence. Reportedly, these acts are often committed by commanding officers or with their acquiescence. Concern was expressed that women and girls face serious health concerns in Myanmar and that sexual and reproductive health information is not provided, in particular information about birth spacing and safe sex. Abortion is illegal in all circumstances in Myanmar, including in cases of rape and incest, which reportedly leads to unsafe, illegal abortions. HIV/AIDS and other sexually transmitted diseases are serious threats to women's well-being and have allegedly increasingly become recognized as being closely related to the increasing sex trade in Myanmar. Concern was equally expressed that high rates of HIV among women and girls appear to be closely linked to widespread violence against them and that, despite efforts by the authorities to address these issues, cultural taboos apparently continue to contribute to the lack of knowledge about HIV/AIDS and other sexually transmitted diseases.

### **Communications received**

47. By letter dated 18 May 2005, the Government replied to the communications sent on 4 April 2005. The Government explained that Ko Nyan Win was admitted to the Thayawaddy Prison Hospital on 28 January 2005 and was treated for stomach pain and vomiting. On 29 January 2005, his X-ray, urine and blood test results were analysed by the doctor and he was hospitalized. The doctor gave him a prescription for further medication and he was discharged on 2 February 2005. On 4 March 2005, he was again admitted to the prison hospital suffering from stomach pain and was treated properly before recovering fully and being discharged on 7 March 2005. The Government stated he has been doing well since that time.

### **Observations**

48. The Special Rapporteur thanks the Government for its response. However, he regrets that at the time of the finalization of his report, the Government had not transmitted any reply to his communications sent on 28 April 2005, 12 May 2005, 21 October 2005 and 2 November 2005.

## **Nigeria**

### **Communications sent**

49. On 28 June 2005, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture regarding **Florencio Ela Bibang, Felipe Esono Ntumu** and **Antimo Edu**, nationals of Equatorial Guinea. According to information received, the three men were arrested by Nigerian authorities when they were intercepted at sea near the border with Cameroon in April 2005 while trying to reach Benin in order to seek asylum. They were reportedly detained by the Office of Military Intelligence of Nigeria in Lagos and were at risk of being forcibly returned to Equatorial Guinea where they allegedly risked being detained incommunicado without charges and tortured. It was alleged that Mr. Bibang was denied appropriate medical treatment for his diabetes.

## **Observations**

50. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication. News reports indicate that Florencio Ela Bibang and Felipe Esono Ntumu were tried in absentia by a military court in the city of Bata in Equatorial Guinea between 6 and 9 September 2005 and sentenced to 30 years in prison for their alleged involvement in an attempted coup on 8 October 2004. Another news report indicated that the three men were abducted from Nigeria and are being held incommunicado at Black Beach Prison in Malabo. Reports indicate that Florencio Ela Bibang is suffering from hepatitis A and may not be receiving medical care.

## **Norway**

### **Communications sent**

51. This communication is summarized in paragraph 24.

### **Observations**

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

## **Russian Federation**

### **Communications sent**

53. On 3 December 2004, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the question of torture regarding **Oleg Evgenyevich Khoroshunin**. It was alleged that he was being detained in cell No. 127 at the Pre-trial Detention Centre (SIZO 26/2), Goryachiyvorskaya 23, Pyatigorsk. Reportedly, on 15 November 2004, he requested medical treatment for a stomach complaint as well as dental treatment, both of which were denied. During the period from 26 to 29 November 2004, he was allegedly transferred to an unknown place and denied food and water for several days. It was alleged that his lawyer applied for habeas corpus, release on bail and an examination by a medical commission, all of which were denied. Concern was expressed for his life and health if he did not receive appropriate and prompt medical treatment.

### **Observations**

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

## **Sudan**

### **Communications sent**

55. On 15 April 2005, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention and the Special

Rapporteur on the question of torture on the situation of four individuals. According to information received, **Adam Musa Ahmed**, a 30-year-old farmer of the Zaghawa tribe, was arrested by military intelligence on 7 March 2005 and detained in a hole in the ground. It was alleged that while in detention he was beaten by officers. On 6 April 2005, he was reportedly transferred to the security police detention facility in Nyala but had not been officially charged. **Osman Ali Ahmed**, a 23-year-old farmer from Tur village, was reportedly taken to the military detention centre in Tur on 24 December 2004 where he was detained for two days. It was alleged that he was beaten by four army officers. On 26 December 2004, he was transferred to the military intelligence detention centre in Kass town and tortured. On 6 January 2005, he was allegedly taken to the military detention centre in Nyala, detained for six days and flogged. On 12 January 2005, he was reportedly transferred to Nyala Wasat police station and charged. **Mahmoud Abaker Osman**, a 38-year-old merchant, and **Diggo Abdel Jabbar**, a 45-year-old community leader and merchant, both of the Zaghawa tribe, were reportedly arrested on 22 February 2005 and taken by military personnel to a military camp in Sanya Afondu village where they were detained in a hole in the ground for 11 days. During this time, they were allegedly beaten, flogged and burned by eight soldiers who were under the control of a senior military official. On 4 March 2005, they were allegedly detained incommunicado and denied food for five days and on 13 March 2005 they were taken to Nyala West police station and charged. It was alleged that all four men were denied medical treatment.

56. On 30 September 2005, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the question of torture, the Special Rapporteur on the sale of children, child prostitution and child pornography, and the Special Rapporteur on violence against women, its causes and consequences concerning widespread sexual violence in Darfur, including **large numbers of women and girls who are raped**. According to information received, victims of sexual violence report that the perpetrators are most frequently members of law enforcement agencies or armed forces. It was alleged that women and girls who are internally displaced are particularly at risk. Reportedly, victims do not report sexual violence for fear of retaliation by the perpetrators or for lack of faith in the authorities' willingness and ability to hold the perpetrators accountable. Victims also face numerous obstacles when reporting the case to authorities and face barriers to access to justice because of evidentiary requirements for proving rape. Concern was expressed for the health consequences of sexual violence, including the physical injuries arising directly from the violence, sexually transmitted diseases, pregnancy and psychological trauma, and for their access to medical care. Concern was equally expressed that women's access to medical care is hindered by the lack of adequate medical facilities and the unavailability of free medicines.

### **Communications received**

57. By letter dated 28 November 2005, the Government replied to the communication sent on 30 September 2005. The Government transmitted a list, prepared by the Advisory Council for Human Rights, of seven reports of rape that occurred in South Darfur during September and October 2005 that were either under investigation or had been submitted to the court.

## **Observations**

58. The Special Rapporteur thanks the Government and the Advisory Council for Human Rights for their response. He remains concerned over reports of continuing sexual violence and continues to monitor the situation with serious concern. The Special Rapporteur regrets that at the time of the finalization of this report, the Government had not transmitted any reply to his communication sent on 15 April 2005.

## **Switzerland**

### **Communications sent**

59. This communication is summarized in paragraph 24.

### **Observations**

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

## **Syrian Arab Republic**

### **Communications sent**

61. On 30 September 2005, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the question of torture, the Special Rapporteur on the sale of children, child prostitution and child pornography, and the Special Rapporteur on violence against women, its causes and consequences concerning **Rolla Al-khaled**, born in 1985 and pregnant, **Nadia Al-Satour**, who had just given birth, and **Heba Al-khaled**, born in 1988 and pregnant. According to information received, Syrian forces arrested the three women on 3 September 2005 following a conflict in Hama Province between Syrian Anti-Terror Squad forces and militants of the Jund-al-Sham (Soldiers of the Levant) for their husbands' alleged involvement with Jund-al-Sham. Reportedly, the women and newborn were detained incommunicado in underground cells at the Military Intelligence Palestine Branch in Damascus. It was alleged that the premises were infested with cockroaches, insects and rats. Reportedly, other pregnant women and young children were also being detained in the cells and one woman allegedly suffered a miscarriage as a result of torture.

### **Observations**

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

## **Thailand**

### **Communications sent**

63. On 10 August 2005, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living

and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people regarding the situation of the Lao Hmong people. According to information received, an estimated 6,500-7,000 Lao Hmong, including 3,000 children under the age of 15, have been occupying land in Petchabun Province in north-eastern Thailand, bordering the Lao People's Democratic Republic. It was alleged that the Government suspended essential health services of approximately 1,400 of the Hmong, who have been in the area since 2004, with the goal of deporting them to Laos. It was further alleged that the Hmong were camping alongside the roads and had uncertain access to water, food and basic health care. An infant reportedly died due to the lack of health-care services.

64. Another communication is summarized in paragraph 24.

### **Observations**

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

## **Turkmenistan**

### **Communications sent**

66. On 15 March 2005, the Special Rapporteur sent a letter concerning reforms in the health-care sector in Turkmenistan. According to information received, widespread hospital closures outside of Ashgabat may threaten many individuals' access to health in the country. Reportedly, local authorities were informed of the decision to close hospitals outside the capital on 28 February 2005. It was alleged that thousands of health-care workers had lost their jobs in connection with reforms taking place in the health sector, and it was reportedly anticipated that the reforms would further reduce the already limited access to health care in rural regions.

### **Observations**

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

## **Ukraine**

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

68. By letter dated 18 November 2004 and received on 6 December 2004, the Government replied to the communication sent on 18 October 2004 regarding **Beslan Kutarba** and **Revaz Kishikashvili** (see E/CN.4/2005/51/Add.1, para. 70). The Government stated that both individuals had received necessary medical treatment upon request while being detained.

### **Observations**

69. The Special Rapporteur thanks the Government for its reply.

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

### **Communications sent**

70. On 30 June 2005, the Special Rapporteur sent a letter regarding recent changes and further proposed changes to the National Health Service (Changes to Overseas Visitors) Regulations 1989. According to information received, Statutory Instrument 2004 No. 614 (1 April 2004), which amended the 1989 Regulations, allegedly obliges NHS hospitals to withdraw free secondary-level care to failed asylum-seekers and undocumented migrants, except in cases deemed life threatening or needing immediate attention. Reportedly, the Statutory Instrument did not include an exemption for HIV/AIDS treatment. Information received also includes a Department of Health consultation document entitled "Proposals to Exclude Overseas Visitors from Eligibility to Free NHS Primary Medical Services" under which failed asylum-seekers and undocumented migrants would also be excluded from free primary health-care services, unless their condition requires treatment that was necessary immediately.

### **Communications received**

71. By letter dated 16 September 2005, the Government replied to the communication sent on 30 June 2005. The Government explained that neither the 1989 nor the 2004 Regulations give the NHS authority to refuse treatment to an overseas visitor in clinical need, only to charge them for it. The Government confirmed that although NHS hospital treatment is not free to all overseas visitors, it is nevertheless a humanitarian organization and everyone, irrespective of their status, will continue to receive emergency or immediately necessary or urgent treatment.

### **Observations**

72. The Special Rapporteur thanks the Government for its reply and he continues to monitor the situation with interest.

## **Viet Nam**

### **Communications sent**

73. On 10 January 2005, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women, its causes and consequences, and the Special Representative of the Secretary-General on the situation of human rights defenders regarding **Le Thi Hong Lien**, a 21-year-old teacher for the Vietnamese Mennonite Christian Church. According to information received, she was arrested in June 2004, along with other members of the Mennonite community, and was sentenced on 12 November 2004 to 12 months' imprisonment on charges of "resisting a person performing official duty". It was alleged that she was suffering from severe mental illness, and was not receiving medical treatment. Reportedly, prison guards tied her hands and feet to the bed since they did not have the means to care for

inmates with mental illness, and she was allegedly beaten by prison guards. Concern was expressed for her physical and mental integrity in view of the allegations of ill-treatment and denial of appropriate medical treatment.

### **Communications received**

74. By letter dated 24 January 2005, the Government replied to the communication sent on 10 January 2005. The Government stated that the information and allegations contained in the urgent appeal were untrue. Le Thi Hong Lien's right to health care and medical treatment was ensured and her right to physical and mental integrity was protected. By a second letter dated 27 April 2005, the Government informed the Special Rapporteur that on the occasion of the thirtieth anniversary of the end of the Viet Nam war, the President had signed a decision to grant special amnesty for 7,820 inmates, including Ms. Lien.

### **Observations**

75. The Special Rapporteur thanks the Government for its reply. A news report indicates that Le Thi Hong Lien was released from the prison wing of Bien Hoa Mental Hospital on 28 April 2005.

## **Other actors**

### **The Global Fund to Fight AIDS, Tuberculosis and Malaria**

#### **Communications sent**

76. On 15 November 2005, the Special Rapporteur sent a letter to the Global Fund to Fight AIDS, Tuberculosis and Malaria regarding the termination of the Global Fund's grants to Myanmar. Concern was expressed that the decision to terminate grants to Myanmar would have a serious impact on the enjoyment of the right to the highest attainable standard of health in Myanmar, especially for populations most vulnerable to HIV, tuberculosis and malaria.

#### **Observations**

77. Although requesting a reply by 25 November 2005, the Special Rapporteur regrets that at the time of the finalization of this report, the Global Fund had not transmitted any reply to his communication.

### **United Nations Interim Administration Mission in Kosovo**

#### **Communications sent**

78. On 13 October 2005, the Special Rapporteur sent a joint urgent appeal with the Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic waste and dangerous products and wastes on the enjoyment of human rights and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living regarding the relocation of **Roma, Ashkali and Egyptian internally displaced persons** affected by severe lead contamination in camps located near Mitrovica, northern Kosovo. According to

information received, IDPs continue to live in camps that were built on highly toxic land. Reportedly, the camps were built as an ad hoc, temporary response (expected to last 45-90 days) to the flow of refugees in 1999. It was alleged that these individuals have been and continue to be exposed to serious lead poisoning and other environmental health problems. Concern was expressed that IDPs and their children face serious health problems due to high levels of lead contamination in the soil. Concern was also expressed that the search for new campsites has not been exhaustive or speedy.

### **Communications received**

79. By letter dated 21 October 2005, UNMIK replied to the communication sent on 13 October 2005. UNMIK explained that there are ongoing measures to address the health issues, coordinated by the Ministry of Health through the Health Task Force, including medical teams that are working full time in the camps to provide regular and consistent health care. UNMIK confirmed that consensus has been reached between health professionals on how to treat children and the public health situation had improved after repairs and renovation of the water and sewage infrastructure. Furthermore, UNMIK emphasized that although some funding had been secured and a communication plan involving consultation had been developed to inform affected communities about the emergency relocation and to solicit their cooperation, funding and consultation remained a challenge and were critical to the eventual success of the relocation.

### **Observations**

80. The Special Rapporteur thanks UNMIK for its reply. However, he is profoundly concerned over reports indicating that several children have died in the camp due to lead poisoning. He is also concerned that the rates of abortion and of stillborn babies have allegedly increased. He continues to monitor this situation with serious concern and calls for a prompt solution. Furthermore, the Special Rapporteur calls on donor Governments to provide without delay the resources needed to address promptly this very serious situation.

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