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**CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION  
OF DISAPPEARANCES AND SUMMARY EXECUTIONS**

**Extrajudicial, summary or arbitrary executions**

**Report of the Special Rapporteur, Asma Jahangir**

## Summary

The present report, which is submitted pursuant to Commission on Human Rights resolution 2003/53, covers information received and communications sent by the Special Rapporteur on extrajudicial, summary or arbitrary executions in the period from 2 December 2002 to 1 December 2003, unless otherwise stated. The report is divided into five sections, focusing on different aspects of the problem of extrajudicial, summary or arbitrary executions, and contains the Special Rapporteur's observations on issues falling within the purview of her mandate.

Section I of the report provides a summary of the mandate entrusted to the Special Rapporteur. In section II the Special Rapporteur presents the main activities she has undertaken in the framework of her mandate during the period under review. Section III gives an overview of the various situations involving violations of the right to life relevant to the Special Rapporteur's mandate, including observations regarding violations of the right to life of special groups and issues of special focus. Section IV provides an overview of developments, in follow-up to the Special Rapporteur's country visits. Finally, section V is devoted to the Special Rapporteur's conclusions and recommendations.

This report should be read in conjunction with addendum 1 (E/CN.4/2004/7/Add.1), which presents a summary of all urgent appeals and letters of allegation sent during the reporting period, as well as summaries of replies from Governments.

The Special Rapporteur's report briefly describes action taken in regard to various forms of violations of the right to life, including deaths in custody, deaths due to excessive use of force by law enforcement agents, killings by security forces or paramilitary groups, and death threats. The report also discusses the issue of capital punishment and makes reference to death penalty cases in which the Special Rapporteur has intervened in reaction to reports that the sentences concerned had been passed in violation of international restrictions and human rights standards. In her report, the Special Rapporteur also discusses the situation of a number of specific categories of victims, who are particularly vulnerable or have been directly targeted for extrajudicial execution. These groups include human rights defenders, lawyers, journalists, demonstrators, members of national, ethnic, religious or linguistic minorities, internally displaced people, women, children, members of indigenous communities.

The report additionally includes a section devoted to follow-up in relation to missions undertaken by the Special Rapporteur.

The Special Rapporteur concludes her report by emphasizing that it will be her last report to the Commission on Human Rights. She expresses appreciation of Governments which cooperated with her while carrying out her mandate. She also highlights some disturbing trends identified during the reporting period, and presents recommendations, including the following (to be considered and read in conjunction with the recommendations previously issued in her report E/CN.4/2002/74):

- The United Nations is urged to strengthen early-warning mechanisms so that acts of genocide and crimes against humanity can be avoided;

- Governments must not resort to aerial bombing, use of snipers or pre-emptive strikes. The international community should take note of this growing tendency, and the use of excessive force;
- All orders to “shoot on sight” must only be given as a measure of very last resort to protect lives;
- Law enforcement personnel should receive in-depth training on human rights;
- Governments should respect the people’s right to freedom of association and expression. Force should not be used to silence those who raise their voices against the arbitrary use of power by Governments;
- Governments should maintain data banks with precise information on reports of extrajudicial killings;
- Governments must end systematic and institutional impunity for those who kill women in the name of honour and so-called morality; and
- Safeguards and restrictions contained in international guidelines and customary law must be respected in each and every case when imposing or executing the death penalty.

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## **Introduction**

1. This report is submitted pursuant to Commission on Human Rights resolution 2003/53. It is the sixth annual report submitted to the Commission by Asma Jahangir, and the twenty-first submitted since the mandate on summary and arbitrary executions was established by Economic and Social Council resolution 1982/35.

2. Unless otherwise stated, the present report covers information received and communications sent in the period from 2 December 2002 to 1 December 2003, and is divided into five sections. Section I provides a summary of the mandate entrusted to the Special Rapporteur. In section II, the Special Rapporteur presents the main activities she has undertaken in the framework of her mandate during the period under review. Section III gives an overview of the various situations involving violations of the right to life relevant to the Special Rapporteur's mandate, including brief observations regarding violations of the right to life of special groups and issues of special focus. Section IV provides an overview of developments in follow-up to the Special Rapporteur's country visits. Finally, section V is devoted to the Special Rapporteur's conclusions and recommendations.

3. As in previous years the Special Rapporteur has presented the Commission with an addendum summarizing the information transmitted and received by the Special Rapporteur, as well as her observations where required and considered appropriate (E/CN.4/2004/7/Add.1). The Special Rapporteur notes with regret that due to cuts in the resources of the secretariat it has not been possible to issue the addendum in all official languages, but only as a "mixed" unedited document in English, French and Spanish.

4. In addition, the Special Rapporteur has submitted two reports concerning country visits which were carried out during 2003. Addendum 2 to the present report relates to the mission to Jamaica while addendum 3 relates to her recent mission to Brazil.

## **I. THE MANDATE**

### **A. Terms of reference**

5. In resolution 2003/53, the Commission on Human Rights encouraged the Special Rapporteur to continue to collect information from all concerned, to respond effectively to reliable information and to follow-up on communications and country visits as well as to seek the views and comments of Governments and to reflect them as appropriate in her report she was to work according to the definition of her mandate given in the Commission resolution 2001/45.

6. Her terms of reference therefore include the following:

(a) To continue to examine situations of extrajudicial, summary or arbitrary executions and to submit her findings on an annual basis, together with conclusions and recommendations, to the Commission, as well as such other reports as the Special Rapporteur deems necessary in order to keep the Commission informed about serious situations of extrajudicial, summary or arbitrary executions that warrant its immediate attention;

(b) To respond effectively to information which comes before her, in particular when an extrajudicial, summary or arbitrary execution is imminent or seriously threatened or when such an execution has occurred;

(c) To enhance further her dialogue with Governments, as well as to follow-up recommendations made after visits to particular countries;

(d) To continue to pay special attention to extrajudicial, summary or arbitrary executions of children and to allegations concerning violations of the right to life in the context of violence against participants in demonstrations and other peaceful public manifestations or against persons belonging to minorities;

(e) To pay special attention to extrajudicial, summary or arbitrary executions where the victims are individuals carrying out peaceful activities in defence of human rights and fundamental freedoms;

(f) To continue monitoring the implementation of existing international standards on safeguards and restrictions relating to the imposition of capital punishment, bearing in mind the comments made by the Human Rights Committee in its interpretation of article 6 of the International Covenant on Civil and Political Rights, as well as the Second Optional Protocol thereto; and

(g) To apply a gender perspective in her work.

### **B. Violations of the right to life upon which the Special Rapporteur takes action**

7. The Special Rapporteur continues to follow the guidelines detailed in her general report (E/CN.4/2002/74, para. 8) issued on 9 January 2002.

### **C. Legal framework and methods of work**

8. The main source of law under which the Special Rapporteur works is the Universal Declaration of Human Rights and articles 6, 14 and 15 of the International Covenant on Civil and Political Rights. In addition the Special Rapporteur is guided by the Convention on the Rights of the Child and other treaties, resolutions, conventions and declarations adopted by competent United Nations bodies containing provisions relating to specific types of violations of the right to life.

9. The legal framework includes principles and guidelines specified in:

(a) Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council in its resolution 1989/65 of 24 May 1989;

(b) Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana, Cuba, 1990;

(c) The Rome Statute of the International Criminal Court adopted on 17 July 1998 and entered into force on 1 July 2002;

(d) Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in its resolution 40/43 of 29 November 1985.

10. The working methods of the Special Rapporteur are based on reliable information brought to her notice. She responds to individual complaints by communicating these to Governments. In cases of emergency "Urgent Appeals" are sent to Governments. Other allegations are communicated through letters giving a summary of the cases. The Special Rapporteur has prepared model forms for receiving precise information and only acts where there are sufficient details and the source is either well known or found to be credible. In extraordinary situations, she also issues press statements.

11. She continues to follow-up on replies received by Governments. These are particularly helpful in guiding the work of the mandate. The Special Rapporteur considers on-site visits to countries an essential component to her mandate. This allows her to work in a spirit of cooperation with Governments. She receives first-hand information and is able to capture the atmosphere of the situation.

## **II. ACTIVITIES**

### **A. General remarks**

12. During the reporting period, the Special Rapporteur held a number of consultations with OHCHR in Geneva. She met with the High Commissioner and staff, as well as with a number of other Special Rapporteurs, representatives and experts of the Commission on Human Rights. The Special Rapporteur presented her previous report (E/CN.4/2003/3) to the Commission at its fifty-ninth session. In June 2003, she participated in the tenth annual meeting of special rapporteurs/representatives, independent experts and chairpersons of the special mechanisms of the Commission on Human Rights, held in Geneva. In addition, the Special Rapporteur met on several occasions with diplomats and other government representatives who had comments on her reports and her work in general. The Special Rapporteur also attended a number of seminars and expert round tables throughout the reporting period.

### **B. Communications**

13. The information received by the Special Rapporteur is overwhelming. It has increased over the years. There appears to be more awareness of the United Nations special procedures system. During the visits, she noted that Governments and civil society paid more attention to the work of these procedures. At the same time, there is very little information from countries, where civil society is less organized and isolated. Thus lack of information on a country does not necessarily indicate that the situation of human rights is one of satisfaction.

14. A summary of all cases transmitted to Governments as well as summaries of replies received can be found in addendum 1 to this report.

15. During the period under review, the Special Rapporteur transmitted 97 urgent appeals on behalf of several hundred individuals to the following countries: Argentina (4), Azerbaijan (1),

Bangladesh (2), Bolivia (3), Brazil (2), Colombia (9), Democratic Republic of the Congo (1), Ecuador (2), El Salvador (2), Guinea-Bissau (1), Guatemala (2), Haiti (5), Honduras (5), India (5), Indonesia (1), Iran (Islamic Republic of) (4), Jamaica (1), Kyrgyzstan (1), Libyan Arab Jamahiriya (1), Mexico (5), Nepal (2), Pakistan (1), Saudi Arabia (2), Peru (1), Singapore (1), Sri Lanka (3), Sudan (6), Thailand (1), Turkey (1), Turkmenistan (2), United States of America (10), Uzbekistan (6), Venezuela (3), Yemen (2) and Zimbabwe (1). She also sent a joint urgent appeal to the Palestinian Authority.

16. Among those urgent appeals a total of 45 were transmitted jointly with other mechanisms of the Commission on Human Rights, such as the Special Rapporteur on the question of torture, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur on violence against women, the Special Rapporteur on the human rights of migrants, the Chairman-Rapporteur of the Working Group on Arbitrary Detention and the Special Representative of the Secretary-General on human rights defenders. As in previous years, the Special Rapporteur welcomes this development, which to a large extent is due to the enhanced coordination between the various mechanisms of the Commission as facilitated by the Quick Response Desk in OHCHR.

17. The Special Rapporteur further transmitted 61 letters of allegations, 35 of which were joint communications, regarding violations of the right to life of a large number of individuals and groups to the Governments of the following countries: Angola (2), Argentina (1), Azerbaijan (1), Belgium (1), Bolivia (3), Brazil (1), Bulgaria (1), Cambodia (2), Chad (1), China (2), Colombia (2), Côte d'Ivoire (2), Democratic Republic of the Congo (1), Egypt (1), Equatorial Guinea (1), Gambia (1), Guyana (1), Haiti (1), Honduras (1), India (3), Indonesia (2), Iran (Islamic Republic of) (2), Iraq (1), Israel (4), Jamaica (1), Kenya (1), Malaysia (1), Mexico (2), Myanmar (1), Nigeria (1), Pakistan (3), Russian Federation (1), Serbia and Montenegro (1), Sri Lanka (1), Sudan (1), Swaziland (1), Sweden (1), Uganda (1), Ukraine (1), United States of America (1), Viet Nam (2), Yemen (1) and Zimbabwe (3).

18. During the period under review, the following Governments sent replies to urgent appeals or communications addressed to them by the Special Rapporteur during or prior to the reporting period: Algeria, Argentina, Azerbaijan, Bangladesh, Belgium, Bolivia, Bulgaria, China, Colombia, Egypt, Ghana, Guinea, Guatemala, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Kyrgyzstan, Malaysia, Mexico, Myanmar, Pakistan, Peru, Saudi Arabia, Serbia and Montenegro, Sierra Leone, Singapore, Sri Lanka, Sudan, Sweden, Thailand, Turkey, Ukraine, United States of America, Uzbekistan, Venezuela, Viet Nam, Yemen and Zimbabwe. The Special Rapporteur wishes to express her appreciation to those Governments which have provided comprehensive replies to her communications for their cooperation. Regrettably, some Governments have replied only in part or on an irregular basis to her enquiries.

19. She is concerned that the Governments of Angola, Cambodia, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Ecuador, El Salvador, Equatorial Guinea, Guinea-Bissau, Guyana, Israel, Kenya, Libyan Arab Jamahiriya, Nepal, Nigeria, Russian Federation, Swaziland, Turkmenistan, Uganda, and Uruguay did not reply to any of her communications and requests for information during the reporting period. The Palestinian Authority did not reply to the communications sent.

### **C. Visits**

20. Since her appointment, the Special Rapporteur has written to a number of Governments expressing her interest in visiting their countries. At the time of writing, the Government of Sierra Leone had responded positively to her communication. She is planning to undertake a mission to this country in the near future. The Special Rapporteur has requests pending with the Governments of Algeria, Liberia, Nigeria, and Turkmenistan. As time passes, the requests for visits will need to be re-prioritized in the coming year. The Special Rapporteur will communicate with Governments with which requests for visits are pending.

21. From 17 to 27 February 2003, the Special Rapporteur conducted a mission to Jamaica (see E/CN.4/2004/7/Add.2). The visit was prompted by a number of reports over the years citing allegations of extrajudicial executions by Jamaican security and police forces as well as by information received regarding Jamaica and the international standards on safeguards and restrictions relating to the imposition of capital punishment.

22. At the invitation of the Government, the Special Rapporteur conducted a mission to Brazil from 16 September to 8 October 2003 (see E/CN.4/2004/7/Add.3). The visit was aimed at allowing the Special Rapporteur to investigate in situ allegations she had received over the last few years relating to violations of the right to life, including extrajudicial executions by the police and death in custody. The Special Rapporteur wishes to acknowledge the unprecedented cooperation given by the Government of Brazil during the mission.

23. Field missions to specific countries are of crucial importance when analysing patterns of human rights abuses and the root causes which give rise to and perpetuate violations of the right to life. It gives the Special Rapporteur an opportunity to exchange views with Governments and lends support to the work of civil society. The decision to seek an invitation to visit a particular country is based on a variety of considerations, inter alia a thorough analysis of the human rights situation in the country concerned, the likely or expected impact of a visit, and practical factors determining the feasibility of a field mission.

## **III. OVERVIEW OF SITUATIONS INVOLVING VIOLATIONS OF THE RIGHT TO LIFE**

### **A. Genocide and crimes against humanity**

24. The Special Rapporteur believes that the crime of genocide must be regarded as a threat to international peace and security, thereby placing greater responsibility on the international community to ensure that human rights violations of such scale are investigated and those responsible brought to justice, without exception.

25. In this regard, the Special Rapporteur wishes to stress that she is mandated to draw to the attention of the United Nations High Commissioner for Human Rights such situations of extrajudicial, summary or arbitrary execution as are of particular concern to her or where early action might prevent further deterioration. Ten years after the tragic genocide in Rwanda, where hundreds of thousands of innocent civilians lost their lives, she wishes to recall the role of her

predecessor in raising international awareness prior to that crisis. She further encourages the international community and the United Nations to strengthen global early warning mechanisms which would allow avoiding any further large scale indiscriminate massacre.

## **B. Violations of the right to life during armed conflict**

26. The Special Rapporteur has continued to receive alarming reports of civilians and persons *hors de combat* killed in situations of armed conflict and internal strife in various regions of the world. These violations of international humanitarian law are often due to attacks by security forces of the State, or by paramilitary groups, death squads or other private forces cooperating with or tolerated by the State. During the period under review, the Special Rapporteur transmitted allegations of violations of the right to life to the Governments of Angola, Burundi, Colombia, Côte d'Ivoire, Democratic Republic of the Congo, Ethiopia, Indonesia, Iraq, Israel, Liberia and Russia.

### **1. Violations of the right to life during armed conflict contrary to international humanitarian law**

27. The Special Rapporteur has continued to follow the situation in the occupied territories and Israel with deepening concern. The allegations transmitted to the Government of Israel describe indiscriminate killing of civilians, more specifically during the incursions by Israeli Defence Forces in Jenin in April and June 2002, as well as in the Nablus refugee camp from February to March 2002. According to the information received by the Special Rapporteur, civilians as well as clearly identified aid workers were allegedly targeted by Israeli Defence Forces either while taking shelter in their homes, or when trying to provide first medical aid to injured victims *hors de combat*. The Special Rapporteur also received reports of civilians, including children, shot in the streets by snipers or shot from helicopters although they were trying to replenish vital food and supplies, and despite the fact that the curfew was officially lifted. Another worrying practice is the demolition by bulldozers of family dwellings in so-called "pre-emptive" strikes by Israeli forces, regardless of warnings by residents to wait until they evacuate their habitation. In this regard, the Special Rapporteur sent several communications to the Government of Israel where invalids, mentally impaired and disabled persons were trapped at home and subsequently died in the rubble, despite the supplications by family members to stop destroying their house.

28. The situation in Iraq is also of great concern to the Special Rapporteur. The information received indicates reports of civilians, including children, allegedly shot inside their residence or in their vehicle by United States soldiers in the course of their daily operations. The Special Rapporteur was deeply disturbed by information received in May 2003 alleging that new rules were being established according to which United States military forces in Iraq would have the authority to shoot looters on sight.

29. In this context, the Special Rapporteur reminds all parties to an armed conflict that they must respect the rights of the civilian population in accordance with international humanitarian and human rights law. The Special Rapporteur also wishes to emphasize that the right to life of civilians and persons *hors de combat* allows for no derogation, even in time of public emergency or in the context of a fight against terrorism.

**2. Deaths due to attacks or killings by security forces of the State, or by paramilitary groups, death squads or other private forces cooperating with or tolerated by the State**

30. A cause for deepening concern for the Special Rapporteur is the increasing incidence of large-scale extrajudicial killings carried out by security forces and armed groups reported to be sponsored, supported or tolerated by Governments. Atrocities committed by such elements have become particularly common in the context of internal disturbances and conflicts but such incidents have also been reported in relation to conflicts with international dimensions. It is alarming that in some countries, the unofficial use of irregular forces appears to have become part of government policies and counter-insurgency campaigns.

31. With regard to the situation in Colombia, the Special Rapporteur has continued to intervene in cases in which paramilitary groups, reportedly tolerated or supported by the Government, continue to carry out large-scale extrajudicial killings of civilians. In most instances, the paramilitary group *Autodefensas Unidas de Colombia* is responsible for summarily executing ordinary citizens as well as political leaders, trade unionists or human rights defenders whom they accuse of collaborating with guerrilla movements. In general, these killings take place unabated and without any intervention, even in instances where army camps are reportedly located nearby. Consequently, entire communities live in a worrying state of apprehension, fearing an incursion of the *Autodefensas Unidas de Colombia*, as a result of which large portions of the local population are sometimes forcibly displaced. The Special Rapporteur wishes to reiterate her call to the Government of Colombia to take immediate steps to fulfil its international legal obligation to protect the population in the affected areas from more violence and suffering.

32. Although her mandate does not allow her to intervene in situations where atrocities are committed by non-State actors, the Special Rapporteur wishes to point out that she is receiving an increasing number of reports of violence and extrajudicial killings attributed to rebel groups, private security forces, militia elements or other non-State actors in various regions of the world. The issue finds mentioned in this report as it contributes to giving a broader picture of violations to the right to life contrary to international humanitarian law. The Special Rapporteur wishes to emphasize that there should not be any impunity for these crimes which constitute serious violations of basic humanitarian and human rights principles. The Special Rapporteur reiterates that it is the responsibility of the States to protect their citizens against the excesses of non-State actors and to prosecute and try, in accordance with international standards, such perpetrators.

**C. Deaths in custody**

33. During the period under review, a very large proportion of cases the Special Rapporteur has received relate to deaths in custody. In this regard the Special Rapporteur transmitted allegations to the Government of the following countries: Argentina, Azerbaijan, Belgium, China, Colombia, Egypt, Equatorial Guinea, Guinea-Bissau, Haiti, India, Iran, Iraq, Israel, Kenya, Malaysia, Pakistan, Serbia and Montenegro, Sudan, Sweden, Turkmenistan, Uganda, Uzbekistan, Viet Nam and Zimbabwe.

34. In most instances, reports indicate that these deaths occur as a result of severe ill-treatment or neglect. When investigations are initiated, they allegedly often fall short of minimum requirements or their results are reportedly suppressed. Alleged suspects held in

pre-trial detention are tortured to death by law enforcement agents who are seeking to obtain self-incriminating confessions. Of particular concern is a case sent to the Government of Azerbaijan on 4 June 2003 jointly with the Special Rapporteur on the question of torture relating to a resident of Baku who was reportedly subjected to ill-treatment by a prosecutor along with police officers from the 19th Nasimi district police station on 28 May 2003. The victim was allegedly tortured to death in order to make him confess a crime he claimed he had not committed.

35. Other cases indicate deaths within prison precincts either as a result of torture by wardens, or due to negligence by prison authorities. The Special Rapporteur also received many cases of death in custody alleging lack of medical attention. In this connection, the Special Rapporteur wishes to express her particular concern over the case of Boris Shikhmuradov, the former Minister for Foreign Affairs of Turkmenistan for whom she intervened by sending an urgent appeal to the Government of Turkmenistan in June 2003. According to the information received, serious fears were expressed for the safety and life of Mr. Shikhmuradov, who was reportedly arrested in December 2002 in relation with the attempted assassination of President Saparmurad Niazov, and held in incommunicado detention. It was alleged that since his arrest, Mr. Shikhmuradov's health had seriously deteriorated as he was allegedly administered psychoactive and paralytic drug injections.

36. The Special Rapporteur also sent several urgent appeals to the Government of Uzbekistan expressing concerns for the safety of persons in detention and requesting immediate medical attention. The Special Rapporteur notes with appreciation that the Government of Uzbekistan started responding to some of her communications and hopes to receive more information relating to earlier cases.

37. The Special Rapporteur continues to be alarmed by deaths in custody in China. Reports describe harrowing scenes in which detainees, many of whom are followers of the Falun Gong movement, die as a result of severe ill-treatment, neglect or medical attention. The cruelty and brutality of these alleged acts of torture defy description. In this connection, the Special Rapporteur wishes to reiterate her call to the Government of China, voiced in so many letters of allegations and urgent appeals, to take immediate steps to protect the lives and integrity of its detainees in accordance with the Standard Minimum Rules for the Treatment of Prisoners approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

**D. Deaths due to the use of force by law enforcement officials or persons acting in direct or indirect compliance with the State, when the use of force is inconsistent with the criteria of absolute necessity and proportionality**

38. During the period under review, the Special Rapporteur has received numerous accounts of excessive use of force by the police or by army soldiers, which has led to a number of deaths in connection with the repression of peaceful demonstrations or killings as a result of shoot-outs with law enforcement agents. In this connection, the Special Rapporteur transmitted communications to the Governments of the following countries: Angola, Bolivia, Brazil, Bulgaria, Cambodia, Colombia, Gambia, Guyana, Honduras, India, Indonesia, Jamaica, Mexico, Myanmar, Nigeria, Pakistan, Peru, Sri Lanka, Sudan, Swaziland, Thailand and Zimbabwe.

39. The Special Rapporteur is disturbed at reports received from at least five countries, namely Angola, Ethiopia, Israel, Yemen and Afghanistan, where aerial bombardment or firing has been used to kill civilians. In this connection, the Special Rapporteur sent on 15 December 2003 a communication to Afghanistan regarding the killing of nine children on 7 December 2003, in Ghazni, as a result of an air strike carried out by coalition forces allegedly targeting a Taliban leader.

40. The Special Rapporteur has also acted in a number of reported killings of villagers, including children, by Indonesian soldiers who accused them of being members of the Free Aceh Movement. In this connection, the Special Rapporteur drew the attention of the Government of Indonesia to the fact that, even if this was true, this assumption did not justify the execution of the villagers.

41. The Special Rapporteur also intervened in relation to the situation in Myanmar where ordinary peasants, including women and children, allegedly accused of supporting Shan soldiers are summarily executed by regular State Peace and Development Council troops in the course of regular patrols. Reports describe harrowing scenes in which government soldiers summarily execute or torture civilians, and gang-rape women before shooting them dead.

42. On 15 May 2003, the Special Rapporteur issued a statement expressing her deep concern about a potentially dangerous situation developing at military-controlled farms in Okara, Pakistan. According to the information received, a group of Rangers, a unit under the direct control of the Pakistani military, shot at a crowd, killing one person, which was demonstrating against the Rangers' excessive use of force on previous occasions. The Special Rapporteur urged the Government of Pakistan to stop resorting to further violence and to fully investigate the killing in order to bring its perpetrators to justice.

43. The Special Rapporteur issued a press release, jointly with the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the right to freedom of expression, the Special Rapporteur on the situation of human rights of indigenous people and the Special Representative of the Secretary-General on the situation of human rights defenders, expressing concern over allegations of excessive use of force by the Bolivian army and the police during law enforcement operations. The Special Rapporteur expressed concerns over the killing of at least 50 persons, many of them belonging to indigenous communities, during several protests in the area of the Alto in October 2003, where demonstrators urged the Government to abandon a project of gas selling and to approve a programme that would benefit the local inhabitants. In their statement, the Special Rapporteur stressed, inter alia, that it was imperative that these cases be promptly and thoroughly investigated, so that the norms of justice are observed. They also urged the Government of Bolivia to take immediate steps to ensure that the right to life of participants to demonstrations is protected and to ensure that law enforcement officials engaged in those operations carry out their duties in strict compliance with human rights standards.

44. The situation in Azerbaijan following the presidential elections of 15 October 2003, and in particular events in Baku on the night of the polls and the day that followed, also held the Special Rapporteur's attention. In a joint press statement with the Special Rapporteur on the question of torture, the Special Rapporteur on the promotion and protection of the right to freedom of expression and the Special Representative of the Secretary-General on the situation

of human rights defenders, the Special Rapporteur expressed concern at reports alleging that hundreds of demonstrators were harassed, attacked and arrested by security forces, who have apparently used excessive use of force to disperse demonstrations, leading to the death of at least one person and to many others being injured. In light of this serious situation, the Special Rapporteurs urged the Government of Azerbaijan, inter alia, to undertake transparent and independent investigations into each individual allegation of death in order to assess the accountability of law enforcement and security officials, in accordance with international human rights standards.

45. On 12 May 2003, the Special Rapporteur transmitted a communication to the Government of the United States of America expressing concern regarding incidents in the town of Fajullah, west of Baghdad, during which a number of civilians were allegedly shot dead by United States military forces during demonstrations. The Special Rapporteur also received reports of new rules according to which United States forces in Iraq were given the authority to shoot looters on sight. As reported later, similar orders to shoot on sight were given by the Government of Bangladesh during the operation "clean heart".

### **E. Capital punishment**

46. In its resolution 2003/53, the Commission on Human Rights requested the Special Rapporteur to continue monitoring the implementation of existing standards on safeguards and restrictions relating to the imposition of capital punishment, bearing in mind the comments made by the Human Rights Committee in its interpretation of article 6 of the International Covenant on Civil and Political Rights, as well as the Second Optional Protocol thereto.

47. The Special Rapporteur wishes to emphasize that the death penalty must under all circumstances be regarded as an extreme exception to the fundamental right to life, and must as such be interpreted in the most restrictive manner possible. It is also indispensable that all restrictions and fair trial standards pertaining to capital punishment contained in international human rights instruments are fully respected in proceedings relating to capital offences.

48. The Special Rapporteur takes action in cases where there is reason to believe that international restrictions are not respected. In such cases, the carrying out of a death sentence may constitute a form of summary or arbitrary execution. It is worth noting that it is difficult to obtain accurate statistics on the death penalty as the countries which continue to carry out executions do not make these figures official. In this context, the Special Rapporteur transmitted communications to the following Governments with regard to capital punishment: China, Democratic Republic of Congo, Iran (Islamic Republic of), Saudi Arabia, Singapore, Sudan, United States of America, Uzbekistan and Yemen. She also sent an urgent appeal to the Palestinian Authority.

49. During the period under review, the Special Rapporteur transmitted a number of communications alleging that there were reasons to believe that the restrictions on the use of the death penalty as well as safeguards guaranteeing the right to a fair trial were not being respected.

50. The Special Rapporteur is deeply concerned that in a number of countries the death penalty is imposed for crimes which do not fall within the category of the "most serious crimes" as stipulated in article 6, paragraph 2, of the International Covenant on Civil and Political Rights

and paragraph 1 of the Safeguards guaranteeing protection of the rights of those facing the death penalty. In this connection, the Special Rapporteur jointly with the Special Rapporteur on the question of torture sent an urgent appeal to the Government of the Islamic Republic of Iran regarding summary executions that allegedly occurred and at risk of occurring, after a riot started on 9 February in a prison in Esfahan. Reports indicated that since the riot, a number of prisoners, including Seyed Mahmoud Mirsafian and Seyed Atta Naser Mirsafian, were reportedly executed although they were originally imprisoned for drug-related offences.

51. Furthermore, on 19 September 2003, the Special Rapporteur sent an urgent appeal to the Government of Singapore concerning the situation of Vignes s/o Mourthi, a 23-year-old Malaysian national who was facing imminent execution. According to the information received, Vignes s/o Mourthi was sentenced to death for drug trafficking, but a number of irregularities during the trial proceedings were reported. In reply to the Special Rapporteur's urgent appeal in the case of Vignes s/o Mourthi, the Government of Singapore affirmed that the allegations of apparent irregularities were not true and that it would continue to use the death penalty for such crimes as serious as drug trafficking.

52. The Special Rapporteur intervened in two cases in Saudi Arabia in which the defendants were reported to have been sentenced to death in trials falling short of international fair trial standards. According to reports, the first person accused, a citizen from the Philippines condemned to death for bludgeoning to death the wife of her employer, did not have access to a lawyer nor to an interpreter during the proceedings. In the second case, the defendant was reportedly sentenced to death for murder without legal representation during a secret trial.

53. Another cause for concern is the manner in which death sentences are executed. Public hangings and other inhuman forms of execution continue to be practised in many countries. In this connection, on 20 October 2003, the Special Rapporteur sent an allegation to the Government of the Islamic Republic of Iran regarding the case of four Iranian prisoners who were allegedly hanged in public in different locations in the city of Arak on 30 January 2003. One of them was reportedly executed in front of the university's main entrance, allegedly to create a climate of fear after recent demonstrations staged by Arak University students. The Special Rapporteur wishes to recall that paragraph 9 of the Safeguards guaranteeing protection of the rights of those facing the death penalty stipulates that "where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering".

54. The Special Rapporteur is also concerned at the situation in Uzbekistan where she intervened on behalf of persons who had allegedly been sentenced to death after having been tortured during interrogation and deprived of their right to a fair trial. The Special Rapporteur is particularly disturbed by reports according to which several executions were carried out in secret by the Government of Uzbekistan despite the intervention of the United Nations Human Rights Committee requesting the Government to stay the executions while the case was being considered. While the Special Rapporteur welcomes the fact that the Government has started replying to some of her communications, she is still awaiting clarification on the above-mentioned allegations.

55. The Special Rapporteur sent urgent appeals to the United States on behalf of four persons who were facing execution after having been sentenced to death despite indications that they

were suffering from mental illness or disability. In this regard, the Special Rapporteur wishes to recall resolution 1989/64 of the Economic and Social Council recommending that States strengthen the protection of the rights of those facing the death penalty by eliminating the death penalty for persons suffering from mental retardation or extremely limited mental competence. Moreover the safeguards guaranteeing protection of the rights of those facing the death penalty stipulate that it should not be carried out on persons who have become insane. Lastly, the Special Rapporteur deplores the fact that the Government of the United States has only replied to 5 out of the 35 communications transmitted over the last two years.

56. Despite the prohibition under international law of capital punishment for juvenile offenders, the Special Rapporteur intervened with the Governments of Sudan and of the Democratic Republic of Congo on behalf of individuals who were sentenced to death for crimes committed when they were 16 years of age. In this regard, the Special Rapporteur is concerned that at least seven children offenders are currently under sentence of death in the Philippines although they were reportedly under the age of 18 at the time their alleged crimes were committed.

## **F. Death threats and violations of the right to life of persons carrying out peaceful activities in defence of human rights**

### **1. Death threats**

57. The Special Rapporteur transmitted urgent appeals aimed at preventing loss of life after having received reports of situations where the lives and physical integrity of persons were feared to be in danger. The Special Rapporteur only intervenes in cases where there are reasons to believe that Government-controlled actors are involved, or when it appears that the government authorities have failed to provide appropriate protection. The targets of such death threats are usually persons who are exercising their right to freedom of expression or who are acting in defence of human rights.

58. In this context, the Special Rapporteur sent urgent appeals to the Governments of the following countries, and requested the Government concerned to take necessary measures to protect these persons' right to life: Argentina, Azerbaijan, Brazil, Colombia, Ecuador, El Salvador, Guatemala, Haiti, Honduras, India, Jamaica, Kyrgyzstan, Mexico, Sri Lanka, Sudan, Turkey and Venezuela.

59. Of particular concern to the Special Rapporteur is the situation of two human rights defenders on behalf of whom she intervened on 2 May 2003, who were reportedly the victims of a series of attacks after a formal public official from Baku city publicly accused the two human rights activists of being enemies of the people during a television show on channel "ANS". Their phone number was allegedly broadcast on TV and the audience was asked to take action. It is reported that a wave of attacks against the premises of the human rights organizations where the two activists worked took place after this television show without any intervention from the police.

60. The Special Rapporteur is particularly concerned by the situation in Colombia where all sectors of the civil society are affected by similar death threats, including State officials working on human rights issues. The Special Rapporteur notes that certain groups are more targeted than

others, for example, trade unionists, human rights defenders or indigenous leaders. Furthermore, entire rural communities, composed of hundreds of individuals, are also reportedly at risk after death threats are issued against them by paramilitary groups which accuse them of collaborating with members of guerrilla groups.

**2. Violations of the right to life of persons carrying out peaceful activities in defence of human rights and freedoms, and persons who have cooperated with representatives of the United Nations human rights bodies**

61. The Special Rapporteur has continued to receive reports of extrajudicial killings directed against human rights activists, lawyers, community workers, teachers, journalists and other persons engaged in activities aimed at promoting human rights or publicizing human rights violations. During the period under review, the Special Rapporteur took action on behalf of human rights defenders in the following countries: Colombia, Côte d'Ivoire, Democratic Republic of Congo, Gambia, Haiti, India, Islamic Republic of Iran, Israel, Mexico, Myanmar, Nigeria and Sudan.

62. In this connection, the Special Rapporteur wishes to take note of an allegation sent to the Government of Israel relating to the case of Rachel Corrie, a 23-year-old member of the International Solidarity Movement who was reportedly killed in Jenin on 16 March 2003 while she participated in a peaceful demonstration with other activists against the demolition of a Palestinian building in the Rafah refugee camp. According to the information received, although she was wearing an orange fluorescent jacket clearly labelled "ISM" in order to alert the bulldozer drivers of her presence, she was allegedly hit by an armoured Israeli army bulldozer and reportedly died from the injuries she suffered.

63. The Special Rapporteur deeply deplores the killing of two of the witnesses she interviewed during her mission to Brazil from 16 September to 8 October 2003 and who provided her with valuable information pertaining to her mandate. The Special Rapporteur expresses serious concerns over what could be considered as acts of reprisals and encourages the Government of Brazil to take all necessary measures to protect victims and witnesses of human rights abuses, in conformity with agreed terms of reference for fact-finding missions by Special Rapporteurs.

**G. Expulsion, return of persons to a country or place where their lives are in danger (refoulement), and violations of the right to life concerning refugees and internally displaced persons**

64. The Special Rapporteur notes that extrajudicial killings in the context of migrations have become an increasing concern. The issue is increasingly highlighted as people find it necessary to move both inside and outside their countries, for political, economic, social or other reasons. The Special Rapporteur wishes to recall that the right to life applies to all human beings, and that Governments have a responsibility to protect this right in territories under their jurisdiction regardless of the citizenship of the persons concerned. In this connection, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, addressed urgent

appeals to the Governments of India and of the Libyan Arab Jamahiriya regarding individuals who were at risk of being forcibly returned to their countries of origin where they could face torture as well as possible extrajudicial execution.

65. The Special Rapporteur is deeply concerned at reports of deliberate attacks against refugees and internally displaced persons (IDPs). Such incidents are particularly common in situations of internal conflict and unrest, where the direct targeting of civilians has increasingly become part of the tactics employed by the parties involved. In this regard, the Special Rapporteur wishes to recall that the Guiding Principles on Internal Displacement is an important document that sets out the rights and guarantees relevant to the protection of IDPs in all phases of displacement.

#### **H. Violations of the right to life of women**

66. In the period under review, the Special Rapporteur has continued to receive reports of so-called “honour killings” of women. In this regard, the Special Rapporteur wishes to recall that she is monitoring incidents of “honour killings” where the State either approves of and supports these acts, or extends a form of impunity to the perpetrators by inaction. In this connection, she transmitted to the Government of Pakistan a communication relating to the murder of some 200 victims. It is worth mentioning that, although women and girls are the main targets of these brutal killings, men and boys - either relatives, alleged partners or considered as “accomplice” of the female victim - can sometimes be targeted by such killings. The perpetrators of these crimes are always male family members or persons acting at their behest. The rationale for killing is to preserve a misconceived notion of “family honour” allegedly put in jeopardy by the victim herself. In the great majority of cases sent by the Special Rapporteur to the Government of Pakistan, the information received indicates that the murderers remain unpunished either because no complaint was ever filed by relatives of the victims, or because the police investigation is allegedly ongoing without any concrete result. In some cases, it is reported that the police refused to file a complaint claiming that the victims’ relatives should forgive the perpetrator who is considered to have acted in all fairness. According to the information received, there are some cases where murderers reportedly surrender themselves to the police with the murder weapon. Nevertheless, no action was ever taken against them.

67. Information received indicates that “honour killings” can take many forms. The Special Rapporteur submitted to the Government of Pakistan horrifying cases where women and young girls are set ablaze, strangled, shot at, clubbed, stabbed, tortured, axed or stoned to death. Their bodies are found mutilated with their throat slit, or they are chopped into pieces and thrown in a ditch. The Special Rapporteur was particularly disturbed by the case of a 16-year-old girl who was reportedly electrocuted to death after being drugged with sleeping pills and being tied to a wooden bed with iron chains by members of the Rajput Toors, a powerful community in Duniyapur, allegedly for having married outside her community.

68. In November 2003, the President of Pakistan ordered an investigation into the murder of a young woman, Afsheen Musarat. Her body was exhumed after local human rights groups alleged that she was murdered for refusing to marry a cousin and eloped with another relative.

The post-mortem indicated that she was strangled and the perpetrators were arrested. While the Special Rapporteur welcomes this step, she urges the Government to amend the law and to take steps which will bring about institutional reforms. Action in 1 case out of over 200 remains at best symbolic.

69. In this regard, the Special Rapporteur wishes to remind that Governments are obliged to protect the right to every individual to life, liberty and security by law and to adopt all appropriate measures, including legislation, to modify and abolish existing law regulations, customs and practices that are in violation of the human rights of women. She further refers to article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, which makes it obligatory for State parties to “condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women” and, to this end, undertake to make legislative changes, including sanctions, prohibiting discrimination against women. State parties are obliged “to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation”. They are required “to take all appropriate measures [...] to modify or abolish [...] customs and practices which constitute discrimination against women”.

70. The Special Rapporteur welcomes the decision by the Shariah Court of Appeal of Katsina State, in northern Nigeria, to quash Amina Lawal’s sentence to death by stoning handed down on 22 March 2002. The Special Rapporteur, jointly with the Special Rapporteur on the question of torture, the Special Rapporteur on violence against women and the Special Rapporteur on the independence of judges and lawyers intervened twice in this case in 2002. According to the information received, under new Shariah penal legislations in force in several northern Nigerian States since 1999, Amina Lawal was found guilty of adultery after bearing a child outside marriage, a charge which carries the mandatory punishment of death by stoning. While Amina Lawal’s conviction was quashed, the Special Rapporteur regrets that another similar case is still pending in another Shariah court of appeal in Minna, Niger State. The Special Rapporteur will continue to follow the developments in this case.

71. Another issue of concern is the case of Afsnaneh Nozouri for whom the Special Rapporteur intervened by sending an urgent appeal to the Government of the Islamic Republic of Iran on 30 September 2003. According to the information received, Ms. Nozouri was sentenced to death for having stabbed to death the head of police intelligence in Kish, southern Iran. She allegedly acted in self-defence in order to prevent being raped, thereby meeting the conditions laid in article 61 of the Islamic Criminal Code, which stops prosecution and punishment if a person acts in self-defence to defend one’s life, honour or chastity. Under the existing Islamic statute, it is reported that had she not defended herself from being raped, she would have most likely been accused and tried for adultery and faced death by stoning. The Special Rapporteur welcomes the initial response from the Government of the Islamic Republic of Iran reporting that the head of the judiciary ordered that the implementation of the sentence be postponed for further consideration, and is awaiting more information regarding this case.

### **I. Violations of the right to life of children**

72. During the period under review, the Special Rapporteur transmitted communications on behalf of minors to the Governments of Indonesia, the Islamic Republic of Iran and Israel expressing concerns over deliberate attacks by armed forces against unarmed children.

73. The Special Rapporteur has continued to receive reports of extrajudicial killings of children dwelling in disadvantaged communities in Brazil, Guatemala, Honduras and Jamaica. While the problem is not exclusive to these countries, it appears that minors in some developing countries are becoming the targets of extrajudicial killings by vigilante groups of often off-duty law enforcement agents as they are usually stigmatized and considered as being socially undesirable.

### **J. Violations of the right to life of persons belonging to national, ethnic, religious or linguistic minorities**

74. The Special Rapporteur acted on behalf of a variety of persons belonging to national, ethnic, religious and/or linguistic minorities in their respective countries. Communications were sent to the Governments of Bolivia, Brazil, China, Colombia, Honduras, India, Ukraine and Viet Nam.

75. A cause for continuing concern is the situation of indigenous communities in various parts of Latin America. While on mission in Brazil, the Special Rapporteur also heard testimonies of killings and threats directed against indigenous leaders and members of their community. She will present her findings from this mission in a separate report to the Commission (E/CN.4/2004/7/Add.3).

76. The Special Rapporteur is increasingly concerned about the situation of the Falun Gong in China, who are allegedly detained solely for belonging to this movement and are victims of severe ill-treatment or extrajudicial executions while in custody.

### **K. Impunity, compensation and the rights of victims**

77. For a more detailed discussion regarding the issue of impunity, compensation and the right of victims, the Special Rapporteur refers to her earlier reports, in which she addressed these questions at length (e.g. E/CN.4/2000/3, sect. V.E, and E/CN.4/2001/9, sect. V.C).

78. It is a cause of great concern that in some countries impunity for serious human rights violations, including extrajudicial killings, has become systematic and institutionalized. This is particularly the case when impunity is the direct product of amnesty laws passed in the interest of national reconciliation, explicitly exempting public officials, parliamentarians, paramilitary groups tolerated by the State, or certain categories of State agents from accountability or prosecution for grave human rights abuses.

79. During the period under review, the Special Rapporteur, jointly with the Special Rapporteur on the question of torture, transmitted an urgent appeal to the Government of Bangladesh concerning a "Joint Drive Indemnity Ordinance 2003", which was to be approved by the Parliament in the form of a bill on 26 January 2003. This ordinance was reported to give immunity from prosecution to armed forces and government officials for their involvement in

“any casualty, damage to life and property, violation of rights, physical or mental damage” which reportedly took place during a crackdown on crime, known as “Operation Clean Heart” between 16 October 2001 and 9 January 2002. It was further reported that at least 40 people died as a result of alleged torture in army custody after arrest. Further information indicated that if the Parliament did not pass the bill within 30 days, the ordinance would be automatically repealed. The Special Rapporteur regrets that she did not receive a reply on this particular issue from the Government of Bangladesh.

80. On 29 July 2003, the Special Rapporteur, jointly with the Special Rapporteur on the promotion of the right to freedom of opinion and expression and the Special Rapporteur on the question of torture, transmitted a communication to the Government of Gambia in connection with information received according to which at least 14 people, including minors as well as a Gambia Red Cross volunteer wearing a Red Cross insignia, had been killed, and dozens injured, some severely, by security forces. They allegedly made excessive and indiscriminate use of force to break up demonstrations organized by the Gambian Students Union held on 10 and 11 April 2000 in Banjul, Brikama and other towns. These demonstrations were allegedly held in protest against the death of Ebrima Barry, a student allegedly tortured to death by members of the Brikama Fire Service and the rape of a 13-year-old schoolgirl by a police officer. Although reports of a Governmental Commission of Inquiry and of the coroner’s office allegedly confirmed that security forces officers were responsible for the casualties, the Special Rapporteur is concerned that Government officials reportedly stated on 6 January 2001 that in the spirit of reconciliation, no one would be prosecuted.

81. Another cause of concern is the situation in Colombia where a deeply entrenched culture of impunity reigns in the country. The Special Rapporteur is concerned about the presentation by the President of Colombia, Alvaro Uribe, on 21 August 2003, of an amnesty bill in congress. According to the information received, this bill comes after the signing of an agreement on 15 July signed in Santa Fe de Ralito with Colombia’s largest paramilitary group, the United Self-Defense Forces of Colombia (Autodefensas Unidas de Colombia, AUC) which agreed to demobilize a reported 13,000 paramilitary fighters as well as their leaders by 31 December 2005. Under this amnesty law, paramilitaries accused of serious human rights violations would reportedly stand trial. Nevertheless, it is alleged that the accused would not face prison sentences. The bill would empower the president to suspend the sentence of the paramilitaries even after conviction. In return, the convict would agree to some restrictions on personal liberty, including remaining in Colombia and not holding or running for public office. Most importantly however, individuals convicted of serious human rights crimes would be allowed to pay an amount of money or transfer other assets to victims of atrocities or into a Government fund for victims in return for spending no time in jail. It is further reported that there are no provisions in the bill to ensure impartial investigations or serious prosecutions. Reports also indicate that there are allegedly no mechanisms to allow victims of atrocities to appeal the president’s decision while designating those who qualify for release from any sentence.

82. In this connection, the Special Rapporteur believes that there should and can be no impunity for serious human rights abuses, particularly violations of the right to life, regardless of the past or present status or position of the alleged perpetrator. At the same time, in order to be effective and meaningful in fostering accountability among State officials and rulers, measures taken to prosecute human rights offenders cannot be selective, but must be part of broader policies aimed at promoting peace, social stability and respect for the law.

83. Furthermore, the Special Rapporteur wishes to recall that the Human Rights Committee has in its general comment 6 on article 6 of the International Covenant on Civil and Political Rights, as well as in numerous decisions, reaffirmed that States are obliged to investigate all human rights violations, particularly those affecting the physical integrity of the victim, to bring to justice those responsible for such abuses, to pay adequate compensation to the victims or their families, and to prevent the reoccurrence of such violations. This obligation is confirmed in other international human rights instruments, including the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and the Declaration on the Protection of All Persons from Enforced Disappearance.

#### **IV. FOLLOW-UP TO RECOMMENDATIONS**

84. In its resolution 2002/36, the Commission on Human Rights requested the Special Rapporteur to follow up on recommendations made in her reports after visits to particular countries. Consistent and adequate follow-up to recommendations is indeed a crucial element in the discharge of the Special Rapporteur's mandate. Some selected recommendations are followed and the Special Rapporteur keeps herself informed of the developments in the countries she visited.

85. From 13 to 23 October the Special Rapporteur visited Afghanistan. In her report the Special Rapporteur had recommended that a mapping exercise should be carried out to take stock of the grave human rights violations committed in the past (see report E/CN.4/2003/3/Add.4, paragraph 77). This recommendation was brought to the attention of the High Commissioner, who is taking some initial steps at stepping up a panel of experts to undertake this exercise.

86. The Special Rapporteur visited Nepal from 5 to 14 February 2000. She continues to be extremely concerned about the situation especially after the ceasefire declared by the Maoists has ended. This year she has sent a number of urgent appeals to the Government and notes that incidents of extrajudicial executions are increasing.

#### **V. CONCLUDING REMARKS AND RECOMMENDATIONS**

87. This report will be the last report of the Special Rapporteur to the Commission. She would like to express her deep appreciation to Governments who cooperated with her by replying to her communications and extending invitations for visits.

88. Her two terms in the discharge of her mandate have been rewarding but sometimes also trying. There were occasions when timely action by her saved lives and she finds that there is a growing awareness in civil society of the work of the Special Rapporteurs.

89. The Special Rapporteur had the opportunity to witness some remarkable acts of courage of ordinary people and saw the extraordinary work of a number of NGOs working for the protection and promotion of human rights. She nevertheless remains concerned as the overall situation relating to her mandate has by no means improved. In the last 11 months she has noticed a trend where excessive use of force is being used by Governments on the justification of defending the “security” of the country. There are a number of reports of the use of aerial bombardments or “target shooting” by security forces.

90. There are increasing reports of alleged extrajudicial killings of persons who form associations and are active in demanding economic rights.

91. The bulk of the reports received or information collected by the Special Rapporteur present a pattern. A number of reports of alleged extrajudicial or summary executions are received from countries where there is an ongoing armed conflict or is a recent post-conflict situation. Similar reports are received from countries with authoritarian regimes and during the transition from dictatorships to democracy.

92. The Special Rapporteur has also noticed that extrajudicial or summary executions are also carried out with impunity in countries where governance is weak combined with a high rate of crime or where corruption is rampant. There is also a direct link between impunity and the lack of independence of the judicial system of a country.

93. The information that the Special Rapporteur receives presents some patterns. Extrajudicial, summary or arbitrary executions are carried out mainly:

- in conflict and post-conflict situations;
- under authoritarian regimes;
- in transition from dictatorship to democracy;
- where there are serious lapses in governance, particularly in countries with a high crime rate;
- rampant corruption in government institutions; and
- in countries with weak and inefficient judicial systems that lack independence.

94. There are increasing reports of alleged extrajudicial killings of persons who form associations and are active in demanding their economic rights.

95. The Special Rapporteur was pleased that over the past six years there has been a virtual consensus that the death penalty should not be applied to children who were under the age of 18 years at the time of commission of the offence. This year she was pleased to report that the death penalty was not implemented on children. She hopes that the sentences awarded in the three countries mentioned in her report will not be implemented.

## Recommendations

96. The recommendations in the Special Rapporteur's previous report (E/CN.4/2003/3) should be considered and be read as part of the present report. In addition the Special Rapporteur wishes to present the following recommendations:

1. The United Nations is urged to strengthen early-warning mechanisms so that acts of genocide and crimes against humanity can be avoided;
2. Governments must not resort to aerial bombing, use of snipers or pre-emptive strikes. The international community should take note of this growing tendency to use excessive force;
3. All orders to "shoot on sight" must only be given as a measure of very last resort to protect lives. Governments should review their policies and withdraw all general orders to security forces to "shoot on sight";
4. All deaths in custody should be thoroughly investigated including carrying out of a post-mortem. Family members of the deceased must be immediately informed and they should be present to inspect the dead body before burial;
5. Law enforcement officials should receive in-depth training on human rights. They should be exposed to case studies and local human rights groups should be associated in preparing the training manuals and materials;
6. Governments should respect the people's right to freedom of association and expression. Force should not be used to silence those who raise their voices against the arbitrary use of power by Governments;
7. Governments should maintain a data bank with precise information on reports of extrajudicial killings. It should include the conclusion drawn in each case and the profile of the victim or deceased. These statistics should be made available to the public;
8. The main reason for the perpetuation of the practice of "honour" killings is the lack of political will by Governments to bring the perpetrators of these crimes to justice. Governments are urged to make legislative changes to ensure that such killings receive no discriminatory treatment under the law and to sensitize their judiciary to gender issues. Those threatening the life of a female victim should be brought to justice. Correctional and custody homes run by Governments should not be permitted to detain forcibly women whose lives are at risk. Prisons should never be used to detain potential victims of honour killings;

**9. The Special Rapporteur notes that the safeguards and guarantees for the protection of those facing capital punishment are not being followed in a large number of cases brought to her attention. She is also concerned at the lack of transparency and information on capital punishment and execution of death sentences. She, therefore, calls upon all retentionist Governments to impose a moratorium on executions and set up national commissions to report on the situation in the light of international standards and resolutions before executions are resumed. The execution of persons who were children, under the age of 18, at the time of the crime should be completely abolished.**

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