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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez**

Addendum

**Observations on communications transmitted to Governments and  
replies received\***

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

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## Abbreviations

AL Letter of allegation

JAL Joint letter of allegation

JUA Joint urgent appeal

UA Urgent appeal

## I. Introduction

1. The present document is submitted by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, to the Human Rights Council, pursuant to its resolution 16/23.
2. In the present addendum, the Special Rapporteur provides observations, where considered appropriate, on communications sent to States between 1 December 2010 and 30 November 2011, as well as on responses received from States in relation to these communications until 31 January 2012. Communications sent and responses received during the reporting period are accessible electronically through hyperlinks.
3. During the period under review, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, the Vice-Chair of the Working Group on Arbitrary Detention and Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, sent letters to 59 States related to the mandate holders' joint study on global practices in relation to secret detention in the context of countering terrorism (A/HRC/13/42).
4. The Special Rapporteur acknowledges the receipt of responses from nine States through to 31 January 2012. The current report does not comment on the substance of responses received so far to the joint study on secret detention. Subject to agreement with the other mandate-holders responsible for that joint report, and after more responses are received, a special report on those contributions will be issued.
5. The Special Rapporteur is grateful to all States which have transmitted responses to communications sent. He considers response to his communications an important part of cooperation by States with his mandate. In this context, the Special Rapporteur recalls paragraph 6(a) of the Human Rights Council resolution 16/23 which urges States to "cooperate with and assist the Special Rapporteur in the performance of his or her task, to supply all necessary information requested by him or her and to fully and expeditiously respond to his or her urgent appeals, and urges those Governments that have not yet responded to communications transmitted to them by the Special Rapporteur to answer without further delay."

## II. Observations by the Special Rapporteur

### Afghanistan

- (a) JUA 14/01/2011 Case No. AFG 1/2011 State reply: None to date **Alleged detention of Christian converts.**

6. The Special Rapporteur regrets that the Government of Afghanistan has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged detention and ill-treatment of two Christian converts, including the assertion that Mr. X was subjected to sleep deprivation, sexual abuse, and beatings by prison staff and three other detainees. The Special Rapporteur notes that paragraph 1 of Human Rights Council Resolution 16/23 of 12 April 2011 "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." Moreover, as previously

asserted by the Special Rapporteur, “countries should take effective measures to prevent prisoner-on-prisoner violence by investigating reports of such violence, prosecuting and punishing those responsible, and offering protective custody to vulnerable individuals, without marginalizing them from the prison population more than is required by the need for protection and without putting them at further risk of ill-treatment” (E/CN.4/2003/68, para. 26 (j)). Accordingly, based on the information received, the Special Rapporteur determines that Mr. X’s rights under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government to immediately release both Mr. X and Mr. Y from detention, ensure that they obtain redress, including fair and adequate compensation, and as full rehabilitation as possible.

(b) AL 17/10/2011 Case No. AFG 4/2011 State reply: None to date **Alleged torture in detention.**

7. The Special Rapporteur regrets that the Government of Afghanistan has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged torture of conflict-related detainees, including five children, by National Directorate of Security officials. The Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur finds that the rights of the individuals mentioned in the communication under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government to investigate, prosecute and punish those responsible and to provide full redress to the victims, especially children victims.

## **Angola**

JAL 03/03/2011 Case No. AGO 1/2011 State replies: 30/03/2011 12/04/2011 **Alleged mass deportations.**

8. The Special Rapporteur thanks the Government of Angola for its replies to this communication. In its first reply, dated 30 March 2011, the Government of Angola indicated that it had formed an inter-ministerial committee coordinated by the Ministry of Foreign Affairs to complete an investigation regarding alleged ill-treatment of DRC migrants by Angolan Security Forces. In its reply on 12 April 2011, the Government of Angola reported on the activities of this “Multidisciplinary Commission,” which the Government reported “determined that no facts exist to prove the allegations in [the Human Rights Council’s] letter, but rather the condition of constant violations of the Angolan border by DRC citizens.” The Government reported that this Commission confirmed only one case of sexual abuse against a DRC citizen. The Special Rapporteur notes the insufficiency of the Government’s response to the credible allegations of torture and cruel, inhuman and degrading treatment, particularly in light of allegations of more than 1357 reported cases of sexual violence and of the use of invasive anal and vaginal searches of detainees by Angolan authorities. Based on the information presented, the Special Rapporteur concludes that the rights of detainees under the UN Convention against Torture have been violated, and calls on the Government to undertake a prompt and independent investigation, leading to prosecution and punishment of the perpetrators, and to provide full redress to the victims.

## Argentina

- (a) AL 18/03/2011 Case No. ARG 1/2011 State reply: 07/07/2011 **Alegados actos de tortura en la Cárcel de Mendoza.**

9. El Relator Especial agradece al Gobierno de Argentina por su respuesta, de fecha 7 de julio de 2011, a esta comunicación. En su respuesta, el Gobierno confirmó que del informe elaborado por la autoridad provincial a raíz de la difusión de las grabaciones en referencia en la comunicación “es posible inferir la posible comisión de presuntos actos de tortura y/o tratos crueles, inhumanos o degradantes por parte de personal penitenciario contra personas privadas de la libertad”.

10. Asimismo, el Gobierno indicó que había adoptado medidas con el fin de “hacer efectiva la responsabilidad administrativa y penal” de los agentes penitenciarios responsables por los hechos. El Gobierno informó sobre la apertura de sumario administrativo a los efectivos involucrados, lo cual resultó en la expulsión de 3 de los 7 agentes nombrados en él; así como la imputación penal a 3 agentes por el delito de tortura, 1 por el delito de “severidades y vejaciones”, 1 por los delitos de tortura y severidades y vejaciones, y 2 por el delito de “omisiones funcionales que permitieron la tortura”. Se informó que las 7 personas se encuentran detenidas “ante el temor fundado de que por su condición de agentes penitenciarios pudieran obstaculizar la investigación judicial”. Asimismo, el Gobierno indicó que se habían realizado entrevistas psicológicas individuales con las presuntas víctimas y testigos, así como revisiones psiquiátrica, clínica y traumatológica con las presuntas víctimas para evaluar la necesidad de tratamiento médico. El Gobierno indicó que se estudiaron los expedientes judiciales de las presuntas víctimas, lo cual resultó en la libertad condicional del Sr. William Vargas García y el traslado del Sr. Walter F. Correa, entre otros. Como medida de no repetición, el Gobierno informó que había establecido delegaciones de la Dirección Provincial de Derechos Humanos de la Provincia de Mendoza en cada una de las penitencias provinciales con la presencia de abogados que reciben denuncias de las personas detenidas en ellas.

11. El Gobierno no informó sobre los resultados de los exámenes médicos llevados a cabo. Tampoco informó sobre el tipo de compensación o indemnización que habrían recibido las víctimas o sus familiares. El Relator Especial pide que el Gobierno remita información sobre las medidas adoptadas por el Estado orientadas hacia la compensación o indemnización a las víctimas o sus familiares como asimismo que mantenga informada a la Relatoría sobre el resultado de las investigaciones y procesos en curso.

- (b) UA 17/11/2011 Case No. ARG 3/2011 State reply: 09/01/2012 **En relación con las alegaciones de amenazas, hostigamiento y agresiones padecidas por el Sr. Luciano Martín José Truzzi.**

12. El Relator Especial agradece al Gobierno de Argentina por su atenta respuesta, de fecha 7 de julio de 2011, a la comunicación en referencia a varios videos que fueron divulgados en diversos medios de comunicación que pondrían en evidencia presuntos actos de tortura contra personas privadas de su libertad en un centro penitenciario en la Provincia de Mendoza. El Relator Especial celebra que el Gobierno de Argentina haya tomado acciones en relación con los hechos de la comunicación, en particular la iniciación de investigaciones y denuncias penales contra los supuestos perpetradores, las medidas dirigidas a asegurar la seguridad y la recuperación de las presuntas víctimas y las adoptadas para prevenir la repetición de los hechos denunciados. El Relator Especial agradece al Gobierno de Argentina por su respuesta a estos hechos y solicita al Gobierno que lo mantenga informado de los resultados de los procesos judiciales mencionados en su respuesta.

## **Australia**

UA 14/10/2011 Case No. AUS 6/2011 State reply: 06/01/2012 **Alleged detention and involuntary repatriation to Sri Lanka**

13. The Special Rapporteur thanks the Government of Australia for its response to allegations and questions mentioned in the communication dated 14 October 2011, in relation to the alleged involuntary repatriation of Mr. X to Sri Lanka in a detailed manner. He encourages the Government to continue its engagement with the mandate.

## **Bahrain**

(a) JUA 17/02/2011 Case No. BHR 1/2011 State reply: 05/04/2011 **Alleged excessive use of force in the context of peaceful protests.**

14. The Special Rapporteur thanks the Government of Bahrain for its response to this communication regarding the alleged excessive use of force in the context of peaceful protests, resulting in at least six deaths and numerous others injured. The Special Rapporteur notes that “[l]aw enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty” according to article 3 of the Code of Conduct for Law Enforcement Officials, adopted by General Assembly resolution 34/169 of 17 December 1979. In respect of the alleged deaths as a result of the excessive use of force by the riot police, the Special Rapporteur further notes that the “obligation of all States to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions, to identify and bring to justice those responsible, . . . to grant adequate compensation within reasonable time to the victims or their families and to adopt all necessary measures, including legal and judicial measures, in order to bring an end to impunity and to prevent the recurrence of such executions” (Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, para. 4). The Special Rapporteur thanks the Government for its explanation of the investigations undertaken to date into the allegations of torture and other ill-treatment. The Special Rapporteur nonetheless encourages the Government to ensure that all allegations of torture and other ill-treatment are investigated and punished, and reminds the Government of its obligation to provide full redress, including fair and adequate compensation, and as full rehabilitation as possible to all victims of torture or other ill-treatment.

(b) JUA 18/03/2011 Case No. BHR 3/2011 State reply: 20/04/2011 **Alleged excessive use of force by security forces against protesters.**

15. The Special Rapporteur thanks the Government of Bahrain for its reply, dated 20 April 2011, to this communication regarding excessive use of force and ill-treatment against protesters by security forces on 15, 16 and 17 March 2011. In its reply, the Government indicated that “[t]he Ministry of the Interior denies that the incidents mentioned in the [urgent appeal] took place.” The Government described the procedures in effect in its national laws governing the use of force by security forces in protests and detention settings, as well as the possibilities of compensating victims or their families under existing law. However, the Government provided no further information regarding the content of the communication. The Government did not report on the fate or whereabouts of Mr. Mohammed al-Buflasa, nor did it address specific allegations of torture. Based on the information received, the Special Rapporteur determines that the rights of the named individuals in the communication under the UN Convention against Torture may have been violated, and calls on the Government of Bahrain to undertake a prompt, impartial, and effective investigation of the alleged acts of torture, leading to



prosecution and punishment of the perpetrators, and to provide redress to the victims and their family members.

- (c) JUA 12/04/2011 Case No. BHR 5/2011 State reply: 07/06/2011 **Alleged incommunicado detention and possible enforced disappearance.**

16. The Special Rapporteur thanks the Government of Bahrain for its reply, dated 7 June 2011, in response to this communication in reference to the alleged incommunicado detention and possible enforced disappearance of Mr. Abdulhadi Alkawaja, as well as Messrs. Wafi Almajid and Hussein Ahmed. In its reply, the Government of Bahrain indicated that Mr. Alkawaja was arrested and questioned on charges of “knowingly becoming a member of a terrorist group; attempting with the help of others to overthrow the monarchy and change the State Constitution; promoting political change in Bahrain through the use of force; and spreading false information and malicious rumours with a view to disrupting public security and damaging public interests,” as well as “inciting individuals to break the law; facilitating the commission of crimes; insulting the Armed Forces; instigating sectarian hatred; and organizing, taking part in and inviting others to join unauthorized rallies.” The Government's report provided information regarding the charges brought, the circumstances of the arrest, the public prosecutor's assessment of the injuries, and the National Security Court Proceedings against Mr. Alkawaja. However, the Government of Bahrain did not respond to allegations that Mr. Alkawaja had been subjected to torture and ill-treatment during detention. Based on the information provided, the Special Rapporteur concludes that the rights of Mr. Abdulhadi Alkawaja under the UN Convention against Torture have been violated, and calls on the Government of Bahrain to undertake a prompt and impartial investigation of the alleged acts of torture, and to provide redress. If Mr. Alkawaja is to be tried, the Government must ensure that any evidence against him obtained under torture is declared inadmissible. Messrs. Yusuf Abdullah and Hussein Akbar, Mr. Abdulhadi Alkawaja, Mr. Mohamed Al-Maskati, and Ms. Zainab Al-Khawaja were the subject of earlier communications (see A/HRC/13/22/Add. 1, para 103; A/HRC/7/28/Add. 1, para 59; A/HRC/4/37/Add. 1 para 33; A/HRC/16/44/Add. 1 para 90; A/HRC/10/12/Add. 1, para 158).

- (d) JUA 20/05/2011 Case No. BHR 9/2011 State reply: 08/06/2011 **Alleged torture and mistreatment in detention.**

17. The Special Rapporteur thanks the Government of Bahrain for its reply, of 8 June 2011, in response to the urgent appeal of 20 May 2011 regarding alleged torture and mistreatment of Mr. Abdulhadi Alkawaja in detention. The Government's report provided information regarding the charges brought, the circumstances of the arrest, the public prosecutor's assessment of the injuries, and the National Security Court Proceedings against Mr. Alkawaja. However, the Government of Bahrain did not respond to allegations that Mr. Alkawaja had been subjected to torture and ill-treatment during detention. Based on the information provided, the Special Rapporteur concludes that the rights of Mr. Abdulhadi Alkawaja under the UN Convention against Torture have been violated, and calls on the Government of Bahrain to undertake a prompt and impartial investigation of the alleged acts of torture, and to provide redress. If Mr. Alkawaja is to be tried, the government must ensure that any evidence against him obtained under torture is declared inadmissible. Mr. Alkawaja was the subject of earlier communications (see case BHR 5/2011; A/HRB/13/22/Add.1, para. 103; A/HRC/7/28/Add.1, para 59; and A/HRC/4/37/Add. 1 para 33).

- (e) JUA 16/06/2011 Case No. BHR 12/2011 State reply: 29/08/2011 02/09/2011 **Allegations of acts of violence, intimidation, and the enactment of travel bans against, as well as the interrogation of, a number of human rights defenders.**

18. The Special Rapporteur thanks the Government for its responses to the communication regarding alleged acts of violence and intimidation of a number of human rights defenders. The Government's response does not address the alleged ill-treatment of Ms. Al-Gormezi. The Special Rapporteur calls on the Government to investigate all cases of ill-treatment and provide full redress to the victims.

- (f) JUA 04/07/2011 Case No. BHR 14/2011 State reply: 24/08/2011 **Alleged detention and ill-treatment of opposition politician**

19. The Special Rapporteur thanks the Government of the Kingdom of Bahrain for its response to the communication dated 4 July 2011, regarding the alleged detention, solitary confinement and ill-treatment of Mr. Matar Ebrahim Matar, an opposition politician and former Member of Parliament. The Special Rapporteur notes that the Government rejects the allegation of solitary confinement. However, the Special Rapporteur regrets that the Government's response failed to address the allegations of ill-treatment of Mr. Matar and calls on the Government of the Kingdom of Bahrain to provide the results of any investigation, medical examinations and judicial or other inquiries carried out in relation to this case and urges the Government to investigate, prosecute and punish all those responsible. The Special Rapporteur therefore recalls paragraph 1 of Human Rights Council Resolution 16/23 which "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." The Special Rapporteur encourages the Government of the Kingdom of Bahrain to continue its engagement with the Mandate.

- (g) JUA 08/07/2011 Case No. BHR 16/2011 State reply: 09/08/2011 **Alleged arbitrary detention and ill-treatment.**

20. The Special Rapporteur thanks the Government of the Kingdom of Bahrain for its response to the communication dated 8 July 2011, regarding the alleged ill-treatment of Mr. Mohammed al-Buflasa, a former military officer, after his lawyer's visit and the alleged denial of family visits. A previous joint communication dated 18 March 2011 regarding the case had been sent and a reply was provided on 20 April 2011, however without any reference with regard to the specific case of Mr. al-Buflasa. The Special Rapporteur thanks the Government for its explanation of the legal grounds and the administrative and judicial proceedings regarding this case. However, the Special Rapporteur regrets that the Government's response failed to substantively address the allegations of ill-treatment and the denial of family visits of Mr. al-Buflasa during his detention. The Special Rapporteur therefore would like to draw the attention of the Government to article 12 of the Convention against Torture, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the Convention against Torture, which requires State parties to prosecute suspected perpetrators of torture. He calls on the Government to investigate, prosecute and punish all cases of ill-treatment and to provide the result of any investigation, medical examination, and judicial or other inquiries which may have been carried out in relation to this case. The Special Rapporteur encourages the Government of the Kingdom of Bahrain to continue its engagement with the mandate.

- (h) JAL 05/08/2011 Case No. BHR 15/2011 State reply: 24/08/2011 **Allegation of torture and ill-treatment of Bahrain correspondent of France 24 and Radio Monte Carlo Doualiya.**

21. The Special Rapporteur thanks the Government of the Kingdom of Bahrain for its response to the communication dated 5 August 2011, regarding the allegation of torture and ill-treatment of Bahrain correspondent of France 24 and Radio Monte Carlo Doualiya, Ms. Nazeeha Saeed, who was summoned to a police station in the city of Rifa'a (Bahrain) where she was allegedly held for more than 12 hours of interrogation on 22 May. The Government indicated that the Minister of Interior himself ordered a swift investigation into the incident and emphasized that those found to have perpetrated the attack were to be brought to trial. Furthermore the Government reported that an investigation was conducted into Ms. Saeed's claims by the Office of the Military Prosecutor. The Government added that the female police officer in question has been identified and has been brought before the competent military tribunal; that the defendant was convicted on 21 July 2011 and that the Office of the Military Prosecutor has appealed against the decision. The Special Rapporteur thanks the Government of the Kingdom of Bahrain for its prompt investigation of this case and the conviction of the perpetrator. The Special Rapporteur encourages the Government of the Kingdom of Bahrain to continue its engagement with the mandate.

- (i) JUA 05/08/2011 Case No. BHR 17/2011 State reply: 23/09/2011 **Alleged life imprisonment of human rights defenders.**

22. The Special Rapporteur thanks the Government of the Kingdom of Bahrain for its response to the communication dated 5 August 2011, regarding the alleged life imprisonment of human rights defenders, the alleged incommunicado detention, the alleged torture and the allegation that confessions may have been extracted under duress. With regard to the Court proceedings the Government indicated that the Kingdom of Bahrain was under a state of national safety according to the Royal Decree No. 18 of 2011 and as provided for under its Constitution. In addition, the Government refers to article 4 of the International Covenant on Civil and Political Rights. In its response the Government explains in detail the national legislation and court proceedings. The Special Rapporteur thanks the Government for its explanation of the legal grounds and the administrative and judicial proceedings regarding this case. However, he regrets that the Government failed to address the specific allegations of the alleged incommunicado detention and torture of all defendants as well as the acquisition of confessions under duress. Moreover the Special Rapporteur regrets that the Government did not provide further information about the investigation of the alleged ill-treatment, torture and the denial of medical care of Mr. Abd al-Hadi Al-Khawajah although a forensic physician, assigned by the Bahraini Office of the Public Prosecutor, concluded that the defendant's injuries could have been sustained as described by the defendant. The Special Rapporteur therefore would like to reiterate that article 12 of the Convention against Torture, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and that article 7 requires State parties to prosecute suspected perpetrators of torture. The Special Rapporteur calls on the Government of the Kingdom of Bahrain to undertake prompt and impartial investigations into all cases of alleged torture and ill-treatment and to provide the results of these investigations. Finally he encourages the Government of the Kingdom of Bahrain to continue its engagement with the Mandate.

- (j) JUA 09/09/2011 Case No. BHR 18/2011 State reply: 15/12/2011 **Alleged arrests, detention, harassment and stigmatisation against human rights defenders and their relatives.**

23. The Special Rapporteur thanks the Government of the Kingdom of Bahrain for its response to the communication dated 9 September 2011, regarding the alleged ill-treatment

and torture of several human rights activists and their close relatives (in particular Mr. Mahdi Abu Deeb, Ms. Zahra Rashid Sawr, Mr. Hussein Abduljalil Al Singace, the son of Mr. Abduljalil Al Moqdad, Ms. Zahra Atiya, Mr. Wafi Al Majid, Mr. Ghazi Farhan, the son of Mr. Akeel Ahmed Al Mafoodh). The Special Rapporteur acknowledges that the Government provided extensive information concerning the legal grounds for the arrest and detention of the persons involved. He also thanks the Government for its explanation of the administrative and judicial proceedings regarding these cases. Nevertheless, the Special Rapporteur notes that with regard to the alleged torture, ill-treatment and incommunicado detention the Governments's response failed to substantively address these allegations. In the case of Mr. Ghazi Farhan the Government replied that an investigation into the alleged ill-treatment is ongoing but no reference was made to the alleged incommunicado detention. On the basis of a personal interview with Mr Farhan in February 2012 (he was paroled while his conviction is on appeal), the Special Rapporteur concludes that his rights under the Convention against Torture have in fact been violated. In the cases of Ms. Zahra Rashid Sawr and Mr. Hussein Abduljalil Al Singace the Government stated that the claims of ill-treatment and torture have no basis in truth but no details or results of any investigation and judicial or other inquiries carried out in relation to these cases have been provided. In the case of Messrs. Mahdi Abu Deep, Wafi Al Majid, Akeel Ahmed Al Mafoodh, the son of Mr. Abduljalil Al Moqdad and Ms. Zahra Atiya the Government did not address the allegation of torture or ill-treatment at all. The Special Rapporteur therefore would like to draw the attention of the Government again to article 12 of the Convention against Torture, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the Convention against Torture, which requires State parties to prosecute suspected perpetrators of torture. He calls on the Government to investigate, prosecute and punish all cases of ill-treatment and to provide the result of any investigation, medical examination, and judicial or other inquiries which may have been carried out in relation to this case. The Special Rapporteur encourages the Government of the Kingdom of Bahrain to continue its engagement with the mandate.

## **Bangladesh**

- (a) JUA 17/02/2011 Case No. BGD 1/2011 State reply: 09/03/2011 **Alleged arbitrary detention of political activist.**

24. The Special Rapporteur thanks the Government of Bangladesh for its response to this communication regarding the alleged arbitrary detention of Ms. Moshrefa Mishu, a political activist, on 14 December 2010. Regrettably, the Government's reply failed to substantively address any of the allegations contained within the joint communication. The Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23, adopted 12 April 2011, "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." Based on the information received, the Special Rapporteur determines that the rights of Ms. Mishu under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government to immediately conduct a full investigation and prosecution of those responsible for torture and other forms of ill-treatment, and ensure that Ms. Mishu obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (b) JUA 21/02/2011 Case No. BGD 2/2011 State reply: 09/03/2011 **Alleged detention and torture of opposition politician.**

25. The Special Rapporteur thanks the Government of Bangladesh for its response to this communication regarding the alleged detention and torture of Mr. Salauddin Quader Chowdhury, an opposition politician. Regrettably, the Government's reply failed to substantively address any of the allegations contained within the joint communication, which give the Special Rapporteur grave concern. According to the information received, following his arrest on 16 December 2010, Mr. Chowdhury was subjected to torture by the Bangladeshi security forces during interrogation at a private residence, with a physician accompanying them. Mr. Chowdhury was reportedly tortured for several hours, including by applying electrodes to his genitals, beating him, slitting his stomach with razors and twisting his toenails and fingernails with pliers. The Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 of 12 April 2011 "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." Moreover, article 12 of the UN Convention against Torture, requires competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 requires State parties to prosecute suspected perpetrators of torture. Based on the information received, the Special Rapporteur determines that the rights of Mr. Chowdhury under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government to immediately conduct a full investigation and prosecution of those responsible for torture and other ill-treatment, and ensure that Mr. Chowdhury obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

## **Belarus**

- (a) JUA 22/12/2010 Case No. BLR 1/2010 State reply: 10/01/2011 19/01/2011 **Alleged arbitrary detention and torture related to the presidential elections of 19 December 2010.**

26. The Special Rapporteur thanks the Government of Belarus for its responses to this communication regarding the alleged detention and torture of demonstrators protesting the results of the presidential elections of 19 December 2010. Of particular concern to the Special Rapporteur are allegations of beating of the opposition leader Mr. Neklyayev by unidentified men purported to be State Security Agents, and the allegations of mistreatment and violence against journalists by the police. The Special Rapporteur notes that paragraph 1 of Human Rights Council Resolution 16/23 of 12 April 2011 "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." Based on the information received, the Special Rapporteur determines that the rights of Mr. Neklyayev under the UN Convention against Torture may have been violated, and calls on the Government to conduct a complete and impartial investigation into the aforementioned allegations.

- (b) JUA 03/03/2011 Case No. BLR 3/2011 State reply: 12/04/2011 **Alleged lack of transparency in relation to executions.**

27. The Special Rapporteur thanks the Government of Belarus for its reply, dated 12 April 2011, to this communication regarding the sentencing and imminent execution of Mr.

Aleh Gryshkautstou and Mr. Andrei Burdyka. In its reply, the Government of Belarus indicated that Messrs. Burdyka and Gryshkautstou were sentenced to death in accordance with applicable law and that its Penal Enforcement Code establishes that “the corpse of an executed person is not handed over or the place of burial communicated.” The Special Rapporteur notes that the practice of informing prisoners of their impending execution only moments before they die, and families only later, is “inhuman and degrading and undermine[s] the procedural safeguards surrounding the right to life.” (E/CN.4/2006/53/Add.3, paras. 26 and 32) The Special Rapporteur calls on the Government to provide redress to the families of the named individuals and to abolish the practices of informing prisoners of their impending execution only moments before they die, only informing family members after the execution takes place, and burying the bodies in undisclosed locations.

- (c) JAL 05/04/2011 Case No. BLR 5/2011 State reply: 16/05/2011 **Alleged detention and ill-treatment of a lawyer and presidential candidate.**

28. The Special Rapporteur thanks the Government of Belarus for its reply, dated 16 May 2011, in response to this communication in reference to the alleged detention and ill-treatment of Mr. Ales Mikhalevich. The Government indicated that Mr. Mikhalevich was placed in pre-trial detention at a KGB detention center on suspicion of committing the crime of “organising and participating in mass riots” on 20 December 2010. The Government indicated that on 19 February 2011, Mr. Mikhalevich was released from custody and restricted not to leave Minsk, but was taken back into custody on 18 March 2011. The Government reported that an inquiry was conducted into Mr. Mikhalevich's claims that he was subjected to torture and ill-treatment while in detention and the complaint was dismissed. The Government noted that his defense lawyers were present during interrogations, clarified the scope of strip searches, and denied reports that he had been forced to remain in the cell after it was painted. The Government added that he did not register complaints about detention facility staff, and that he received medical attention upon request. The Government denied that Mr. Mikhalevich was tortured or mistreated while handcuffed. The Special Rapporteur believes that the information submitted by the Government is insufficient to rebut the credible allegations received about Mr. Mikhalevich's treatment. Based on information available, the Special Rapporteur believes that it is likely that Mr. Mikhalevich's right to physical and psychological integrity has been violated, and urges the Government to investigate further and to prosecute and punish whoever may be found responsible.

- (d) JAL 17/06/2011 Case No. BLR 8/2011 State reply: 04/08/2011 **Alleged arbitrary detention, restrictions on family visits and access to lawyers, and denial of medical treatment while in detention.**

29. The Special Rapporteur is grateful that on 4 August 2011 the Government of Belarus submitted a detailed reply to the communication dated 17 June 2011, regarding the alleged denial of medical treatment to Mr. Dzmitry Bandarenka while in detention. In its response, the Government stated that Mr. Bandarenka was examined 14 times by a doctor while in pre-trial detention. It was indicated that since Mr. Bandarenka was transferred to the Detention Facility No.1 of Minsk and Minsk Regional Department on 10 May 2011, he has received medical examinations on several occasions. The Government further stated that on 26 July 2011, Mr. Bandarenka underwent surgery in Minsk Clinical Hospital No. 5, where he had received medical treatment prior to his arrest. The Special Rapporteur is pleased to receive such information and encourages the Government to continue its engagement with the mandate. He calls on the Government of Belarus to ensure that all sick persons in detention are provided with proper medical care and treatment.

## Botswana

JAL 19/09/2011 Case No. BWA 1/2011 State reply: None to date **Alleged rape of young woman while in immigration detention.**

30. The Special Rapporteur regrets that the Government of Botswana has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged rape of a young woman in immigration detention centre. The Special Rapporteur recalls article 4 (c) and article 4 (d) of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of states to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. In the absence of other evidence, the Special Rapporteur is of the view that this young woman was indeed raped in detention, a most serious violation of the Convention against Torture. The Special Rapporteur calls on the Government to undertake a prompt and impartial investigation and to provide full redress, including fair and adequate compensation, to the victim.

## Brazil

(a) JUA 23/03/2011 Case No. BRA 1/2011 State reply: None to date **Alleged killing of human rights defender and death threats against his family.**

31. The Special Rapporteur regrets that the Government of Brazil has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged killing of Mr. Sebastião Bezerra de Silva, whose body reportedly showed signs of torture and death threats received by Mr. Bezerra de Silva's family. The Special Rapporteur recalls paragraph 1 of Human Rights Council Resolution 16/23 of 12 April 2011, which "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." The Special Rapporteur also reminds the Government that, per paragraph 8(a) of Human Rights Council Resolution 16/23 of 12 April 2011, "[i]ntimidation and coercion, as described in article 1 of the Convention including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture." Accordingly, and in the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Mr. Bezerra de Silva and his family members under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government of Brazil to undertake a prompt, independent and effective investigation of the facts, leading to the prosecution and punishment of the perpetrators, and to provide full redress to the victims.

(b) JUA 11/07/2011 Case No. BRA 4/2011 State reply: None to date **Alleged threats and attacks against judge.**

32. The Special Rapporteur regrets that the Government of Brazil has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged threats and attacks against Ms. Fabíola Michele Moura, a Brazilian judge, who was presiding over the trial of 19 military police officers for acts of torture allegedly committed in 1998 in Brazil. In this regard, the Special Rapporteur recalls paragraph 3 (b) of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading

Treatment or Punishment, which states that, “alleged victims of torture, witnesses, those conducting the investigation and their families shall be protected from violence, threats of violence or any form of intimidation that may arise pursuant to the investigation.” The Special Rapporteur calls on the Government to take effective measures to ensure the safety of Judge Moura and her family and to provide information about such measures taken.

## Chile

- (a) JAL 26/10/2011 Case No. CHL 1/2011 State reply: 20/12/2011 **Alegaciones de violaciones al derecho de debido proceso de presos mapuches, inicialmente imputados bajo la ley antiterrorista.**

33. El Relator Especial agradece al Gobierno de Chile por su respuesta detallada, de fecha 20 de diciembre de 2011, a esta comunicación. La misma se refería al presunto maltrato en detención del Sr. Huillical Méndez, en forma de golpes y amenazas, y la supuesta utilización de pruebas adquiridas a través de la tortura y los malos tratos de los Sres. Llatuil Carrillanca, Llanquileo Pilquiman, Heunucho Reiman y Huillical Méndez en el juicio contra los acusados. El Relator Especial reconoce las medidas adoptadas por el Gobierno de Chile para verificar la credibilidad de los alegatos acerca de la utilización de pruebas adquiridas a través de la tortura y los malos tratos en el juicio del Sr. Huillical Méndez. Sin embargo, el Relator Especial lamenta que el Gobierno no haya proporcionado información en cuanto al presunto uso de pruebas adquiridas a través de la tortura y los malos tratos en el juicio de los otros acusados mencionados. El Relator Especial desea hacer referencia al Gobierno de Chile con respecto al Principio 15 de los Principios Básicos sobre el Empleo de la Fuerza y de Armas de Fuego por los Funcionarios Encargados de Hacer Cumplir la Ley, que se refiere al uso de la fuerza contra personas bajo custodia o detenidas. El Relator Especial solicita al Gobierno que proporcione información detallada, así como los resultados si están disponibles, de cualquier investigación, examen médico y judicial u otro tipo de pesquisa que se haya llevado a cabo respecto de los malos tratos infligidos al Sr. Huillical Méndez durante su arresto, así como información en cuanto al presunto uso de pruebas adquiridas a través de la tortura y los malos tratos en el juicio de los Sres. Llatuil Carrillanca, Llanquileo Pilquiman y Heunucho Reiman. El Relator Especial entiende que el tribunal de alzada cambió la calificación y redujo las penas impuestas a los acusados pero no desestimó las pruebas obtenidas mediante coerción, en violación a la norma del Art. 15 de la Convención contra la Tortura.

- (b) JUA 23/08/2011 Case No. CHL 4/2011 State reply: 26/10/2011 15/11/2011 **Alegaciones de uso desproporcionado de la fuerza y detención de manifestantes.**

34. El Relator Especial agradece al Gobierno de Chile por su respuesta detallada, de fecha 26 de octubre de 2011, a la comunicación en referencia al presunto uso excesivo de la fuerza contra manifestantes y durante el arresto del Sr. Daniel Pantoja Quiroz, la supuesta negación de tratamiento médico y el maltrato del Sr. Pantoja en detención. El Relator Especial agradece al Gobierno la explicación proporcionada acerca de los hechos de la manifestación y del arresto del Sr. Pantoja y el aparente cumplimiento de ciertos de sus derechos mientras estaba detenido, incluso la provisión de tratamiento médico. Sin embargo, el Relator Especial lamenta que el Gobierno no haya proporcionado información en cuanto a las presuntas amenazas de muerte contra el Sr. Pantoja cuando se encontraba en detención ni de las condiciones de dicha detención. En el contexto del uso de la fuerza por agentes de la seguridad, el Relator Especial quisiera hacer referencia al Principio 5 de los Principios Básicos sobre el Empleo de la Fuerza y de Armas de Fuego por los Funcionarios



Encargados de Hacer Cumplir la Ley.<sup>1</sup> El Relator Especial solicita al Gobierno que proporcione información detallada, así como los resultados si están disponibles, de cualquier investigación, examen médico y judicial u otro tipo de pesquisa que se haya llevado a cabo respecto a la herida sufrida por el Sr. Pantoja durante su arresto.

## China

- (a) JUA 07/12/2010 Case No. CHN 29/2010 State reply: None to date **Alleged crackdown on human rights defenders in China following the awarding of the 2010 Nobel Peace Prize to Mr. Liu Xiaobo.**

35. The Special Rapporteur regrets that the Government of China has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to an alleged crackdown on human rights defenders in China following the award of the 2010 Nobel Peace Prize to Mr. Liu Xiaobo, including specific acts of physical and psychological mistreatment. The Special Rapporteur notes that paragraph 8(a) of Human Rights Council Resolution 16/23 of 12 April 2011, which reminds States that “[i]ntimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture.” Without any evidence to the contrary, the Special Rapporteur determines that it is likely that rights of the named human rights defenders under the UN Convention against Torture have been violated, and calls on the Government to ensure investigation and prosecution of perpetrators and the provision of redress to all victims.

- (b) JUA 08/02/2011 Case No. CHN 2/2011 State reply: None to date **Alleged arbitrary arrest, torture and harassment of a Christian human rights lawyer.**

36. The Special Rapporteur regrets that the Government of China has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to allegations of arbitrary arrest, torture and harassment of Dr. Fan Yafeng, a Christian human rights lawyer. The Special Rapporteur reiterates that paragraph 8(b) of Human Rights Council Resolution 16/23 of 12 April 2011 asserts that “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.” Moreover, with respect to the allegations that Mr. Yafeng was threatened by the police with disappearance, prosecution and punishment, the Special Rapporteur asserts that paragraph 8(a) of Human Rights Council Resolution 16/23, which reminds States that “[i]ntimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture.” Based on the information received, the Special Rapporteur determines that the rights of Mr. Fan under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government to immediately investigate all allegations of torture and other forms of ill-treatment, and ensure that perpetrators are prosecuted. Moreover, the Government must

<sup>1</sup> Por razón de la discrepancia que existe entre las versiones en inglés y en español de dicho Principio, el Relator Especial aclara que hace referencia a la versión inglesa.

ensure that Mr. Yafeng obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (c) JUA 03/03/2011 Case No. CHN 5/2011 State reply: None to date **Alleged pattern of arrests, detentions, enforced disappearances and intimidations of human rights defenders and lawyers.**

37. The Special Rapporteur regrets that the Government of China has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the reported interrogation, arrest, detention, and forced disappearance of human rights activists and lawyers following the 20 February 2011 call for protests inspired by the so-called “Jasmine Revolution.” In the absence of evidence to the contrary, the Special Rapporteur concludes that the rights of the named individuals under the UN Convention against Torture have been violated, and urgently calls on the Government of China to undertake a prompt and impartial investigation, leading to prosecution and punishment of the perpetrators, and to provide full redress to the victims, including restitution and measures of non-repetition. The Special Rapporteur also calls on the Government of China to abolish the practice of incommunicado and unacknowledged detention.

- (d) JUA 25/03/2011 Case No. CHN 7/2011 State reply: 16/05/2011 **Alleged isolation and inadequate medical care in prison.**

38. The Special Rapporteur thanks the Government of China for its response, dated 16 May 2011, to this communication in reference to the conditions of detention of Mr. Jigme Gyatso. In its reply, the Government confirmed that Mr. Gyatso was sentenced to 15 years imprisonment and 5 years deprivation of political rights by the Lhasa Municipal Intermediate People's Court on charges of “threat to national security,” and that while in prison in 2004 Mr. Gyatso was sentenced to 3 additional years of prison on charges of “seeking to divide the country and damage its unity” for his support of Tibetan independence. The Government confirmed that Mr. Jigme Gyatso “suffers from chronic gastritis, high blood pressure, neuritis and arthritis, and has been hospitalized many times for medical treatment,” and indicated that treatment continued when he left the hospital. The Government reported that in September 2010, Mr. Gyatso “was not granted the right to see relatives for breaking prison rules,” and indicated that visits “resumed to normal frequency in October.” Finally, the Government stated that “Mr. Jigme Gyatso did not lodge any complaint, nor did his [sic] request to a third party to lodge any complaint on his behalf.” In light of the information received, the Special Rapporteur determines that the rights of Mr. Jigme Gyatso under the UN Convention against Torture have been violated. The Special Rapporteur takes note of Mr. Gyatso's deteriorating health conditions. The Special Rapporteur also urges the Government of China to investigate the allegations of torture, leading to prosecution and punishment of the perpetrators, and to provide redress to Mr. Gyatso, including provision of appropriate and adequate medical care. He also reiterates the Rapporteurship's previous recommendation that since Mr. Gyatso had been convicted of a political crime, possibly on the basis of information extracted by torture, he should be released. Mr. Gyatso was the subject of earlier communications (see A/HRC/7/3/Add.1, para 35; and A/HRC/13/39/Add.1, para 30).

- (e) JUA 21/04/2011 Case No. CHN 9/2011 State reply: 30/05/2011 **Alleged harassment of monastic community.**

39. The Special Rapporteur thanks the Government of China for its response, dated 30 May 2011, to this communication in reference to the reported detention of at least 33 individuals, including monks and laymen, were detained by security forces while publicly protesting following a demonstration in which ten Tibetans were reportedly killed and one monk, Mr. Phuntsok Jarutsang, set himself on fire. In its reply, the Government of China

reported that monks in the Kirti Monastery had “engaged in acts aimed at disturbing social order,” including vandalism and self-immolation, and alleged that some monks “also frequented places of entertainment, prostitution, alcohol and gambling, and spread pornographic CD-ROMs” and indicated that the Government had engaged in legal education in the Kirti Monastery. The Government denied the presence of Mrs. Serkyi and Mr. Dhonko in Aba Prefecture, and indicated that “news of their death is pure fabrication.” The Government confirmed that Lobsang Tenzin, Lobsang Choephel and Lobsang Tsepak were arrested and detained on 27 March, 30 March, and an unspecified date in March, respectively. However, the Government of China provided no information regarding the location or duration of detention of the named parties, nor did it provide information regarding the alleged detentions of Mr. Dhonyoe Dorjee, Mr. Tenzin Gyamtso, an additional unidentified monk, Mr. Lobsang Ngodup, or Messrs. Palko, Dorjee, A-Dor, or Woesser Dorjee. The Special Rapporteur considers that the rights of the individuals named in the communication under the UN Convention against Torture may have been violated, and calls on the Government to ensure investigation and prosecution of perpetrators and the provision of redress to all victims. He urges the Government of China to end the practice of unacknowledged and incommunicado detention.

(f) JAL 28/04/2011 Case No. CHN 10/2011 State reply: 13/06/2011 **Alleged torture and death of Falun Gong detainees.**

40. The Special Rapporteur thanks the Government of China for its response to this communication regarding the alleged torture and death of Mr. Qin Yueming, Mr. Yu Yungang, and Mr. Liu Chuanjiang, all Falun Gong practitioners, while in detention. The Special Rapporteur reiterates that when the State detains an individual, it is held to a heightened level of diligence in protecting that individual’s rights. When an individual dies as a consequence of injuries sustained while in State custody, there is a presumption of State responsibility. In order to overcome the presumption of State responsibility for a death resulting from injuries sustained in custody, there must be a “thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances” (Principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions). These obligations to investigate, identify those responsible and bring them to justice arise also under articles 7 and 12 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Regrettably, the Government’s response failed to indicate whether investigations into the death of Mr. Qin, Mr. Yu, and Mr. Liu have been initiated. Accordingly, based on the information received, the Special Rapporteur determines that the rights of Mr. Qin, Mr. Yu, and Mr. Liu under the UN Convention against Torture have been violated, and calls on the Government to launch an impartial and independent investigation into their alleged torture and deaths, leading to prosecution and punishment of those responsible. The government must also ensure that the families of Mr. Qin, Mr. Yu, and Mr. Liu obtain redress, including fair and adequate compensation, and as full rehabilitation as possible.

(g) JUA 11/05/2011 Case No. CHN 13/2011 State reply: 14/07/2011 **Alleged new cases of enforced or involuntary disappearances.**

41. The Special Rapporteur thanks the Government of China for its communication dated 14 July 2011, in response to the joint urgent appeal letter dated 11 May 2011. The Government’s communication reported that Mr. Zhu Yufu was “detained according to law” on 5 March 2011 and the investigative organ approved the arrest of 11 April 2011 and the case is “currently under further investigation”; that Mr. Yuan Xinting is under home arrest and his case is “currently under further investigation”; and that both are charged with “subversion of state power.” The Government reported that public security forces have “not

undertaken any coercive measures” toward Messrs. Li Hai, Qi Zhiyong, Huan Yanming, Yao Lifa, Li Tiantian, Liu Dejun, Wei Shuishan, and Li Yu. However, the Government of China did not report on the status of the other individuals named in the urgent action letter, nor did it provide dates or places of detention except as noted above. In this respect, the Special Rapporteur reminds the Government that “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished,” per paragraph 8(b) of Human Rights Council Resolution 16/23 of 12 April 2011. The Special Rapporteur considers that the rights of the individuals named in the communication under the UN Convention against Torture may be violated, and calls on the Government to ensure investigation and prosecution of perpetrators and the provision of redress to all victims. He urges the Government of China to end the practice of unacknowledged and incommunicado detention.

- (h) JUA 25/11/2011 Case No. CHN 23/2011 State reply: None to date **Alleged imminent execution, torture and ill-treatment.**

42. The Special Rapporteur regrets that the Government of China has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged imminent execution, torture and ill-treatment of Mr. Chiou Ho-shun. The Special Rapporteur recalls that article 15 of the Convention against Torture provides that, “[e]ach State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur is concerned that the rights of Mr. Chiou Ho-shun under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government to investigate, prosecute and punish those responsible and provide the results of any investigation, medical examinations, judicial or other inquiries into the alleged torture. Should the investigations suggest the allegations mentioned in the communication to be correct, the Special Rapporteur requests the Government to undertake effective measures to prevent the recurrence of these acts.

## **Côte d’Ivoire**

- JUA 01/07/2011 Case No. CIV 2/2011 State reply: 05/07/2011 **Allégation d’arrestation d’un syndicaliste.**

43. Le Rapporteur spécial reconnaît la réponse du Gouvernement de la Côte d’Ivoire à la communication envoyée le 1 Juillet 2011 concernant l’allégation d’arrestation d’un syndicaliste, et l’allégation de la torture et de l’interdiction des visites pendant son emprisonnement. Selon les informations reçues, M. Basile Mahan Gahé, secrétaire général de la Confédération, a été allégué au sujet de possession d’armes et de munitions, ces soupçons constitueraient un prétexte pour justifier les arrestations et les raids contre les réels ou perçus partisans pro-Gbagbo. Par ailleurs, des rapports crédibles indiquent que M. Gahé aurait été soumis à la torture par les forces de sécurité pendant son emprisonnement et ses visites n’auraient pas été autorisées à le voir. Le Rapporteur spécial regrette que le Gouvernement n’ait pas fourni des réponses détaillées aux craintes exprimées dans la communication. En assurant la coopération entre le mandat et le Gouvernement, le Rapporteur spécial aimerait attirer l’attention du Gouvernement sur les dispositions contenues dans la résolution adoptée par le Conseil des Droits de l’Homme 16/23, en particulière le paragraphe 1, qui « [c]ondamne toutes les formes de torture et autres peines

ou traitements cruels, inhumains ou dégradants, y compris sous forme d'intimidation, qui sont et resteront interdits en tout temps et en tout lieu et ne sauraient donc jamais être justifiés, et demande à tous les États de donner pleinement effet à l'interdiction absolue de la torture et autres peines ou traitements cruels, inhumains ou dégradants. » Sur la base des informations reçues, le Rapporteur spécial craint que les droits de M. Gahé au titre de la Convention des Nations Unies contre la torture aient été violés. Il exhorte le Gouvernement à attirer son attention au plus vite aux craintes exprimées dans la communication, notamment en fournissant des informations précises sur les enquêtes menées afin de traduire en justice les auteurs des faits, et veiller à que les victimes obtiennent réparation, y compris une indemnisation équitable et adéquate, et une réhabilitation aussi complète que possible. Le Rapporteur spécial reste disponible pour fournir tout appui technique dont aurait besoin le Gouvernement.

## Cuba

JUA 24/11/2011 Case No. CUB 4/2011 State reply: 17/01/2012 **Arresto, detención y presuntos malos tratos contra la Sra. Yanes Contreras.**

44. El Relator Especial agradece al Gobierno de Cuba por su respuesta, de fecha 17 de enero de 2012, a la comunicación en referencia al presunto uso excesivo de la fuerza durante el arresto de la Sra. Yanes Contreras. El Relator Especial reconoce la explicación proporcionada por el Gobierno en cuanto al arresto de la Sra. Contreras y a la asistencia médica que habría recibido. Sin embargo, el Relator Especial lamenta que el Gobierno no haya proporcionado información sobre las medidas adoptadas para garantizar la seguridad y protección de la Sra. Contreras conforme a las medidas cautelares otorgadas por la Comisión Interamericana de Derechos Humanos el 8 de junio de 2011. En el espíritu de cooperación, con respecto al uso de la fuerza por agentes de la seguridad, el Relator Especial desea hacer referencia al Gobierno de Cuba al Principio 5 de los Principios Básicos sobre el Empleo de la Fuerza y de Armas de Fuego por los Funcionarios Encargados de Hacer Cumplir la Ley.<sup>2</sup> El Relator Especial urge al Gobierno de Cuba a tomar medidas para garantizar la integridad física y psicológica de la Sra. Contreras.

## Cyprus

JUA 29/08/2011 Case No. CYP 2/2011 State reply: None to date **Alleged ill-treatment of asylum seekers, lack of access to medical assistance and solitary confinement.**

45. The Special Rapporteur regrets that the Government of Cyprus has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged ill-treatment of six asylum seekers, including lack of access to medical assistance and solitary confinement. In this context, the Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” With respect to the allegation that Mr. Bagher Ebrahimzadeh had been held in solitary confinement after being beaten, the Special Rapporteur recalls that paragraph 6 of General Comment No. 20 of the Human

<sup>2</sup> Por razón de la discrepancia que existe entre las versiones en inglés y en español de dicho Principio, el Relator Especial aclara que hace referencia a la versión inglesa.

Rights Committee states that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7 of the International Covenant on Civil and Political Rights. In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur is of the view that the rights of the individuals under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government to ensure investigation and prosecution and to provide full redress to the victims.

## **Democratic Republic of the Congo**

JUA 29/12/2010 Case No. COD 16/2010 State reply: None to date **Allégation de détention arbitraire, d'agression et d'enlèvement liés à l'exercice des droits à liberté d'opinion et d'expression.**

46. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse de la part du Gouvernement de la République démocratique du Congo à la communication envoyée le 29 Décembre 2010 concernant l'allégation de détention arbitraire et d'agression. Selon les informations reçues, M. Robert Shemahamba, journaliste et animateur radio, aurait été arrêté par l'Agence nationale de renseignements et détenu dans des conditions déplorable. Il serait reproché à M. Shemahamba d'avoir animé le 12 décembre 2010 une émission au cours de laquelle M. Dominique Kalonzo aurait abordé des sujets d'actualité de manière critique. Suite à l'émission, M. Kalonzo, craignant pour sa vie, serait entré en clandestinité. Quelques jours plus tard, il aurait été arrêté par des agents de l'ANR à Uvira qui l'auraient menotté et trainé sur le sol, avant de le rouer de coups sur diverses parties de son corps. M. Kalonzo aurait été admis à l'hôpital inconscient, puis aurait été enlevé par deux individus. De sérieuses craintes sont exprimées quant au fait que l'arrestation et la détention de M. Shemahamba, ainsi que l'arrestation, l'agression et l'enlèvement de M. Kalonzo soient liées à l'exercice de leur droit à liberté d'opinion et d'expression, ainsi quant à leur intégrité physique et mentale. A cet égard, le Rapporteur spécial aimerait référer le Gouvernement aux dispositions pertinentes de la Déclaration sur la protection de toutes les personnes contre la torture et autres peines ou traitements cruels, inhumains ou dégradants, ainsi que celles-ci de la Convention contre la Torture et de l'Ensemble de règles minima pour le traitement des détenus, en particulier les règles 22, 25 et 26. Le Rapporteur spécial appelle le Gouvernement à enquêter tous le cas de torture, à poursuivre et punir les responsables, en fournissant une réparation intégrale pour les victimes, y compris une indemnisation équitable et adéquate, et d'empêcher la réitération de telles pratiques.

## **Egypt**

- (a) JUA 23/12/2010 Case No. EGY 15/2010 State reply: None to date **Alleged arbitrary detention/enforced disappearance of a human right activist.**

47. The Special Rapporteur regrets that the Government of Egypt has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. This communication detailed the alleged arbitrary detention and enforced disappearance of Mr. Ayman Ahmed Salem Mohamed, a human rights activist. Since his arrest on 9 December 2010 the fate and whereabouts of Mr. Salem remain unknown. In view of these allegations, the Special Rapporteur reiterates that paragraph 8(b) of Human Rights Council Resolution 16/23 of 12 April 2011, which reminds States that "[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards

concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.” Based on the information received, the Special Rapporteur determines that Mr. Salem’s rights under the UN Convention against Torture have been violated, and calls on the Government to investigate his disappearance, prosecute those responsible and ensure that Mr. Salem obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (b) JUA 12/01/2011 Case No. EGY 2/2011 State reply: 18/11/2011 **Alleged arbitrary detention and torture.**

48. The Special Rapporteur thanks the Government of Egypt for its response to this communication regarding allegations of arbitrary detention and torture of Mr. Adel Mahmoud Diab, but makes note that its untimely response did not fall within the requested period of time. Regrettably, the Government’s response failed to fully explain the justification for and the conditions of Mr. Diab’s detention between 12 December 2009 and February 2011. The Special Rapporteur notes that paragraph 1 of Human Rights Council Resolution 16/23 of 12 April 2011 “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” Moreover, paragraph 8(b) of Human Rights Council Resolution 16/23 reminds States that “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.” Accordingly, based on the information received, the Special Rapporteur determines that Mr. Diab’s rights under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government to ensure that Mr. Diab obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (c) JUA 28/01/2011 Case No. EGY 3/2011 State reply: 01/12/2011 **Alleged enforced disappearance.**

49. The Special Rapporteur thanks the Government of Egypt for its response to this communication regarding allegations of enforced disappearance of Mr. Mohamed Abdo, but makes note that its untimely response did not fall within the requested period of time. Regrettably, the Government’s response failed to fully explain the justification for and the conditions of Mr. Abdo’s detention between 5 January 2011 and 23 March 2011. The Special Rapporteur considers enforced disappearance a form of incommunicado detention and reiterates that paragraph 8(b) of Human Rights Council Resolution 16/23 reminds States that “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.” Based on the information received, the Special Rapporteur determines that Mr. Abdo’s rights under the UN Convention against Torture have been violated, and calls on the Government to ensure that Mr. Abdo obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (d) JUA 01/02/2011 Case No. EGY 4/2011 State reply: None to date **Alleged arrests, excessive use of force, killings, attacks against journalists, and disruptions in media coverage and access to the Internet in relation to demonstrations.**

50. The Special Rapporteur regrets that the Government of Egypt has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to allegations of arrests, enforced disappearance, excessive use of force, killings, and attacks against journalists in Egypt since 25 January 2011. According to the information received, the following demonstrators were killed between 25 and 29 January 2011: Mutapha Ragab, aged 21, Sulaiman Saber, aged 35, Ghareeb Abdulall, Fayez Fahim, Mohamed Ahmed Yosph, aged 23, Mahmoud Ahmed Mahmoud, aged 26, Alae Abdelmehsen, Mustapha Abdellah, Mohamed Sha‘ban Bashir, aged 30, Mutafa Jamal Wardani, Eraddi Mohamed ‘eraddi, Ahmed Ali Mohamed, Achraf Nour Al Din Mohamed, aged 40, Islam Metwali Mohamed, Sharif Al Sayed Redwan, Faraj Abdelfatah Awad, Mohamed Mahrous Anwar, Samir Abdellah, aged 55, Ali Ahmed Ali, Abdelmajeed Abdelalim Abdelmajeed, aged 41. Moreover, information received indicates that the following journalists suffered beatings and other ill-treatment by security forces while covering the demonstrations: Mr. Asadallah al-Sawi, Mr. Ahmad Mansour, Mr. Ben Wedemen and Ms. Mary Roger. Accordingly, the Special Rapporteur is gravely concerned about the fate and whereabouts of demonstrators identified in the communication. The Special Rapporteur affirms that repression of demonstrations with excessive use of force constitutes either torture or cruel, inhuman or degrading treatment, depending on the gravity of the pain and suffering inflicted on demonstrators. The Special Rapporteur considers enforced disappearance a form of incommunicado detention and notes that paragraph 8(b) of Human Rights Council Resolution 16/23 of 12 April 2011 asserts that “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.” Accordingly, based on the information received, the Special Rapporteur determines that the rights under the UN Convention against Torture of the identified journalists have been violated. The Special Rapporteur calls on the Government to immediately investigate the whereabouts and fate of the disappeared journalists, and ensure that perpetrators of torture and other ill-treatment are prosecuted, no matter their military rank or other affiliation. Moreover, the Government must ensure that all individuals whose rights have been violated obtain redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (e) JAL 01/04/2011 Case No. EGY 6/2011 State reply: None to date **Alleged torture inflicted by the army on peaceful demonstrators.**

51. The Special Rapporteur regrets that the Government of Egypt has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred, inter alia, to the alleged torture of 18 women detained by the Egyptian military during a peaceful protest in Tahrir Square. The women were reportedly handcuffed, beaten, given electric shocks, and called prostitutes. 17 were transferred to a military prison where prison guards subjected them to “virginity tests.” In the absence of evidence to the contrary, the Special Rapporteur determines that the rights of these individuals under the UN Convention against Torture have been violated, and calls on the Government of Egypt to undertake a prompt, impartial and effective investigation of the alleged acts of torture, leading to prosecution and punishment of the perpetrators, and to provide redress to the victims.



- (f) JUA 11/11/2011 Case No. EGY 11/2011 State reply: None to date **Alleged harassment of the Coptic Christian community, restricting religious freedom and right to assemble, worship and practice.**

52. The Special Rapporteur regrets that the Government of Egypt has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged ill-treatment of Mr. Ahmad Sayed Mohammad Sayed in detention. With regard to the allegation that the court did not address the reported ill-treatment of Mr. Sayed, the Special Rapporteur reiterates that article 12 of the Convention against Torture requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 requires State parties to prosecute suspected perpetrators of torture. In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur is concerned that the rights of Mr. Sayed under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government to undertake a prompt and impartial investigation and to provide full redress to the victim.

## **Ethiopia**

- JUA 05/10/2011 Case No. ETH 4/2011 State reply: None to date **Alleged arrests, detention and charges under antiterrorism legislation of journalists and opposition politicians.**

53. The Special Rapporteur regrets that the Government of Ethiopia has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged ill-treatment of Mr. Eskinder Nega, the alleged torture of Mr. Woubshet Taye, and the lack of access to doctors of Ms. Reeyot Alemu while in detention. In this context, the Special Rapporteur recalls that article 12 of the Convention against Torture requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 requires State parties to prosecute suspected perpetrators of torture. In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur is concerned that the rights of the aforementioned individuals under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government to investigate, prosecute and punish all cases of torture and ill-treatment and to ensure full redress to the victims.

## **Fiji**

- (a) JUA 03/03/2011 Case No. FJI 1/2011 State reply: None to date **Alleged arrests, arbitrary detentions, torture and ill-treatment in relation to a planned demonstration.**

54. The Special Rapporteur regrets that the Government of Fiji has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred, inter alia, to the torture and ill-treatment of Mr. Benjamin Padarath, Ms. Renee Lal, Mr. Felix Anthony, Mr. Maika Namudu, Mr. Anil Kumar, Mr. Mohammad Khalil, Mr. Anand Singh, and Mr. Samisoni Speight Tikoinasau, and others. In the absence of contrary evidence, the Special Rapporteur determines that the rights of the named individuals under international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment have been violated and calls on the Government of Fiji to undertake a prompt and impartial investigation, leading to prosecution and punishment of the perpetrators, and to provide redress to the victims. The

Special Rapporteur additionally notes that while Fiji has not ratified the Convention against Torture, the rights cited therein are reflective of customary international law and, indeed, peremptory norms binding on all States (*jus cogens*).

- (b) JAL 01/09/2011 Case No. FJI 2/2011 State reply: None to date **Alleged illegitimate restrictions on the exercise of workers' rights to freedom of association and of expression, right to collectively bargain and right to strike due to the promulgations of the "Essential National Industries (Employment) Decree"; arrest, detention, and physical assault of trade unionists; and arbitrary decision by the Ministry of Labour against a trade unionist.**

55. The Special Rapporteur regrets that the Government of Fiji has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged ill-treatment of Mr. Mohammed Khalil by army officers. In this context, the Special Rapporteur recalls that paragraph 7(b) of Human Rights Council Resolution 16/23 urges States "[t]o take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture." In the absence of contrary evidence, the Special Rapporteur finds that Mr. Khalil's rights under international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment have been violated and calls on the Government to undertake a prompt and impartial investigation and to submit the results of such investigation.

## Gabon

JUA 15/02/2011 Case No. GAB 1/2011 State reply: None to date **Allégation de risque de torture ou de mauvais traitement.**

56. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse de la part du Gouvernement du Gabon à la communication envoyée le 15 Février 2011 concernant les allégations de risque de torture ou de mauvais traitements. En cette communication, de sérieuses craintes sont exprimées au sujet de l'intégrité physique et mentale de MM. X et Y, notamment s'agissant des allégations de l'existence d'un risque crédible de torture ou de mauvais traitement en cas de renvoi dans leur pays d'origine. Selon les informations reçues, MM. X et Y, de nationalité congolaise, auraient été détenus au secret en République démocratique du Congo et auraient été victimes d'actes de tortures et de mauvais traitements. Sous la menace de poursuites et d'exécution, ils auraient fui vers le Gabon, où ils auraient effectué une demande d'asile. A cet égard, il aimerait renvoyer le Gouvernement aux principes énoncés dans la Convention des Nations Unies contre la torture, notamment l'article 3 (1) qui dit « [a]ucun Etat partie n'expulsera, ne refoulera, ni n'extradera une personne vers un autre Etat où il y a des motifs sérieux de croire qu'elle risque d'être soumise à la torture ». Le Rapporteur spécial souligne que l'histoire de la torture passée devrait être considérée comme hautement pertinente pour déterminer la probabilité du risque de torture en cas de refoulement. Le Rapporteur spécial exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans la

communication, notamment en fournissant des mesures de protection prises pour assurer la sécurité de MM. X et Y. Il considère la réponse à cette communication comme une partie intégrante de la coopération du gouvernement avec son mandat. Le Rapporteur spécial reste disponible pour fournir tout appui technique dont aurait besoin le Gouvernement.

## Georgia

JUA 07/12/2010 Case No. GEO 2/2010 State reply: None to date **Alleged arbitrary detention and mistreatment.**

57. The Special Rapporteur regrets that the Government of Georgia has failed to respond to this communication, thereby withholding cooperation with the mandate provided by the Human Rights Council. The communication referred to the alleged arbitrary detention and mistreatment of Mr. Suleyman Barbakadze. As it is the responsibility of the Special Rapporteur under the mandate provided by the Human Rights Council to seek to clarify all cases brought before him, the Special Rapporteur again calls on the Government to provide information concerning the legal grounds for the arrest and detention of Mr. Barbakadze and the results of any investigation into his alleged mistreatment. The government is respectfully urged to ensure that no confession or statement obtained under torture be used against Mr. Barbakadze.

## Germany

JAL 30/09/2011 Case No. DEU 1/2011 State reply: 24/11/2011 **Concern that German authorities might have directly or indirectly participated in the arrest, detention, conviction and imprisonment of a person without assessing whether there are substantial grounds for believing that he would be in danger of being subjected to torture or other forms of cruel, inhuman or degrading treatment or punishment.**

58. The Special Rapporteur is grateful that the Government replied to the communication regarding the alleged participation of German authorities in the arrest, detention, conviction and imprisonment of Mr. Hajib in Morocco without assessing whether there are substantial grounds for believing that he would be in danger of being subjected to torture or other forms of cruel, inhuman or degrading treatment or punishment in a detailed manner. The Special Rapporteur encourages the Government to continue its engagement with the mandate.

## Guatemala

JAL 19/08/2011 Case No. GTM 12/2011 State reply: None to date **Presunta participación de un general en actos de tortura cometidos durante el conflicto armado interno.**

59. El Relator Especial lamenta que, hasta la fecha, el Gobierno de Guatemala no haya respondido a esta comunicación de fecha 19 de agosto de 2011. La comunicación se refería al uso sistemático de la tortura por agentes estatales durante el conflicto armado interno de los 80 y contra prisioneros en 1992 y solicitó al Gobierno a proporcionar información acerca de las medidas tomadas para identificar y procesar penalmente a los responsables. En este contexto, el Relator Especial desea hacer referencia al Gobierno de Guatemala a los artículos 7 y 12 de la Convención contra la Tortura. Ante la ausencia de evidencia contradictoria, el Relator Especial considera que los derechos de las presuntas víctimas siguen siendo vulnerados. El Relator Especial reitera su llamamiento al Gobierno a asegurar la investigación, procesamiento y eventual condena de los responsables, y ruega de nuevo información en cuanto a las medidas que hayan sido tomadas.

## Honduras

- (a) JAL 06/05/2011 Case No. HND 4/2011 State reply: 08/08/2011 **Supuesto uso excesivo de la fuerza.**

60. El Relator Especial agradece al Gobierno de Honduras por su respuesta, de fecha 8 de agosto de 2011, a esta comunicación. En su respuesta, el Gobierno indicó que la Fiscalía Especial de Derechos Humanos emitió informe sobre las denuncias planteadas y adjuntó un cuadro de “denuncias abiertas de oficio sobre violación a los derechos humanos”. Asimismo, el Gobierno informó que en el caso de la muerte de la Sra. Ilse Ivania Velásquez, quien falleció en el incidente, “se determinó que las autoridades policiales no tuvieron participación en el incidente” e informó que la Fiscalía de Delitos Comunes “presentó requerimiento fiscal contra el conductor del vehículo que atropelló a la señora Velásquez”. El Relator Especial considera insuficiente esta respuesta en tanto la Sra. Velásquez fue alcanzada por una bomba de gases lacrimógenos disparada contra manifestantes, y el vehículo que la atropelló (que cubría los incidentes para los medios de comunicación) lo hizo como consecuencia del tumulto así causado. A base de la información presentada, el Relator Especial determina que los derechos de las personas nombradas en la comunicación, consagrados en la Convención contra la Tortura de Naciones Unidas, han sido vulnerados y exhorta al Gobierno a llevar a cabo las investigaciones de forma exhaustiva, oportuna e independiente, de manera que conduzcan al procesamiento y eventual condena de los responsables, así como la reparación integral a las víctimas.

- (b) JUA 09/06/2011 Case No. HND 5/2011 State reply: None to date **Fallecimiento de siete jóvenes en el contexto de hechos ocurridos alrededor de un operativo policial y el presunto asesinato de un Fiscal.**

61. El Relator Especial lamenta que, hasta la fecha, el Gobierno de Honduras no haya respondido a esta comunicación de fecha 9 de junio de 2011. La comunicación se refería al supuesto uso excesivo de la fuerza que habría resultado en el fallecimiento de siete jóvenes y el incumplimiento de las fuerzas de seguridad del Estado con su deber de colaborar con la Fiscalía. Al respecto, el Relator Especial desea hacer referencia de nuevo al Gobierno de Honduras a los artículos 7 y 10 de la Convención contra la Tortura y a los Principios 4 y 5 de los Principios Básicos sobre el Empleo de la Fuerza y de Armas de Fuego por los Funcionarios Encargados de Hacer Cumplir la Ley. Ante la ausencia de evidencia contradictoria, el Relator Especial considera que los derechos de las presuntas víctimas han sido vulnerados. El Relator Especial exhorta al Gobierno a asegurar la investigación de los hechos, y pide al Gobierno que proporcione información acerca de las medidas que hayan sido tomadas.

- (c) JUA 05/07/2011 Case No. HND 6/2011 State reply: 22/07/2011 **Presunta amenaza con arma de fuego.**

62. El Relator Especial reconoce la respuesta transmitida por el Gobierno de Honduras, de fecha 22 de julio de 2011, a la comunicación en referencia a las amenazas de muerte contra el Sr. Alex David Sánchez Álvarez, la última de las cuales supuestamente habría sido vinculada a una unidad especial de policía, pero lamenta que tal respuesta no haya proporcionado información sustantiva acerca de las cuestiones planteadas. El Relator Especial desea hacer referencia al Gobierno de Honduras al párrafo 8a de la Resolución 16/23 del Consejo de Derechos Humanos, así como al artículo 13 de la Convención contra la Tortura. Ante la ausencia de evidencia contradictoria, el Relator Especial concluye que los derechos del Sr. Sánchez Álvarez, consagrados en la Convención contra la Tortura, están en peligro de ser vulnerados. El Relator Especial exhorta al Gobierno de Honduras a asegurar la investigación de los hechos de este caso y a tomar medidas para garantizar la integridad física y psicológica del Sr. Sánchez Álvarez. El Relator Especial reitera su

solicitud al Gobierno que proporcione información detallada acerca de cualquier investigación que se haya llevado a cabo en relación con este caso, así como las medidas de protección adoptadas por parte de las autoridades para garantizar la seguridad de la presunta víctima.

- (d) JUA 27/09/2011 Case No. HND 8/2011 State reply: None to date **Presuntos malos tratos y posible desaparición forzada.**

63. El Relator Especial lamenta que, hasta la fecha, el Gobierno de Honduras no haya respondido a esta comunicación, fechada el 27 de septiembre de 2011, que se refería al presunto uso excesivo de la fuerza y desaparición forzada del Sr. Oscar Elías López Muñoz. Al respecto, el Relator Especial desea hacer referencia al Gobierno de Honduras al párrafo 8(b) de la Resolución 16/23 del Consejo de los Derechos Humanos. Ante la ausencia de evidencia contradictoria, el Relator Especial considera que los derechos de las presuntas víctimas han sido vulnerados. El Relator Especial exhorta al Gobierno de Honduras a asegurar la investigación, procesamiento y eventual condena de los responsables, e insta al Gobierno a que proporcione información acerca de las medidas que haya tomado.

- (e) JUA 25/10/2011 Case No. HND 9/2011 State reply: None to date **Presunto asesinato, atentado contra la vida, detención arbitraria y amenaza de muerte.**

64. El Relator Especial lamenta que, hasta la fecha, el Gobierno de Honduras no haya respondido a esta comunicación de fecha 9 de junio de 2011. La comunicación se refería a los supuestos actos de tortura y amenazas de muerte contra un individuo mientras estaba bajo la custodia de la Dirección General de Investigación Criminal. El Relator Especial desea llamar la atención del Gobierno de Honduras a los párrafos 1 y 8a de la Resolución 16/23 del Consejo de los Derechos Humanos. Ante la ausencia de evidencia contradictoria, el Relator Especial concluye que los derechos de la víctima han sido vulnerados. El Relator Especial reitera su solicitud al Gobierno a que proporcione información detallada acerca de cualquier investigación que se haya llevado a cabo en relación con este caso, así como las medidas de protección adoptadas por parte de las autoridades para garantizar la seguridad de la víctima.

## India

- (a) AL 25/05/2011 Case No. IND 8/2011 State reply: None to date **Alleged beatings by Border Security Guards.**

65. The Special Rapporteur regrets that the Government of India has not responded to this communication, thereby withholding cooperation with the mandate established by the Human Rights Council. The communication referred to the reported beatings of Messrs. Mofijur Rahman and Mainul Molla by Border Security Guards and the failure of authorities to undertake serious investigations of the reported acts. Without any evidence to the contrary, the Special Rapporteur determines that the rights of Messrs. Rahman and Molla under the UN Convention against Torture have been violated, and calls on the Government to ensure a prompt, independent and impartial investigation, leading to prosecution and punishment of perpetrators, and to provide redress to the victims, including fair and adequate compensation, and as full rehabilitation as possible.

- (b) JUA 10/06/2011 Case No. IND 9/2011 State reply: None to date **Alleged ill-treatment due to prolonged stay on death row, sentencing to death without fair trial and imminent execution.**

66. The Special Rapporteur regrets that the Government of India has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged prolonged stays on

death row of Mr. Devender Pal Singh and Mr. Mahendra Nath Das. In this regard, the Special Rapporteur reiterates that long periods of time spent awaiting execution, combined with other aggravating circumstances, may lead to severe deterioration of mental and physical health. With respect to the allegation that the statement made by Mr. Singh extorted under pressure was not excluded from judicial proceedings, the Special Rapporteur recalls that paragraph 7(c) of Human Rights Council Resolution 16/23 urges States “[t]o ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur is concerned that the rights of Mr. Singh and Mr. Das under international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment have been violated.

- (c) JAL 22/07/2011 Case No. IND 15/2011 State reply: 26/07/2011 **Alleged rape of 14 year-old girl by four members of the security forces.**

67. The Special Rapporteur is grateful that the Government of India acknowledged receipt of the communication dated 22 July 2011 regarding the alleged gang rape by four members of the security forces of a 14 year-old girl. The Special Rapporteur calls on the Government to undertake a prompt and impartial investigation and ensure that the child victim obtains full redress. The Special Rapporteur looks forward to receiving substantive information regarding the results of any investigation, medical examination or other queries which have been carried out in relation to the case.

- (d) JAL 15/09/2011 Case No. IND 17/2011 State reply: 19/09/2011 **Alleged abduction and gang rape of a woman by the military.**

68. The Special Rapporteur thanks the Government for its acknowledgment of receipt of the communication dated 15/09/2011 concerning the alleged gang rape of Ms. X by two army personnel. He would like to draw the attention of the Government of India to article 4 (c) and (d) of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of states to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. The Special Rapporteur encourages the Government to submit information about the results of any investigation carried out in relation to this case.

- (e) JAL 02/09/2011 Case No. IND 18/2011 State reply: 16/09/2011 **Alleged deaths in custody.**

69. The Special Rapporteur is grateful that the Government of India acknowledged receipt of the communication dated 2 September 2011 concerning the death of Messrs. Nazim Rashid Shalla, Saidul Mondal and Salam Sanjoy. He would like to emphasize that in order to overcome the presumption of State responsibility for a death resulting from injuries sustained in custody, there must be a “thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances” (Principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions). The Special Rapporteur looks forward to receiving substantive information about, in particular, the results of any investigations, judicial or other inquiries carried out in relation to these cases.

## Indonesia

JUA 17/02/2011 Case No. IDN 1/2011 State reply: None to date **Alleged harassment and attacks against the Ahmadiyyah community.**

70. The Special Rapporteur regrets that the Government of Indonesia has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to allegations of attacks against and other ill-treatment of members of the Ahmadiyya community on 6 February 2011. The Special Rapporteur reiterates that article 12 of the Convention against Torture requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the same Convention requires State parties to prosecute suspected perpetrators of torture. Based on the information received, the Special Rapporteur determines that the rights of the aforementioned Ahmadiyya community under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government to immediately conduct a full investigation and prosecution of those responsible, and ensure that members of the Ahmadiyya community obtain redress, including fair and adequate compensation, and as full rehabilitation as possible.

## Iran (Islamic Republic of)

(a) JUA 23/12/2010 Case No. IRN 35/2010 State reply: None to date **Alleged arrest and detention of lawyer and human rights activist.**

71. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has failed to reply to this communication regarding the alleged arrest and detention of Ms. Nasrin Sotoudeh, a lawyer and human rights activist. According to the information received, since her arrest and detention on 4 September 2010, Ms. Sotoudeh has been held in periods of solitary confinement. In paragraphs 79 and 80 of the Special Rapporteur's report A/66/268, it is stressed that "solitary confinement is a harsh measure which may cause serious psychological and physiological adverse effects on individuals regardless of their specific conditions". Moreover, "[d]epending on the specific reason for its application, conditions, length, effects and other circumstances, solitary confinement can amount to a breach of article 7 of the International Covenant on Civil and Political Rights, and to an act defined in article 1 or article 16 of the Convention against Torture. In addition, the use of solitary confinement increases the risk that acts of torture and other cruel, inhuman or degrading treatment or punishment will go undetected and unchallenged." Based on the information received, the Special Rapporteur determines that Ms. Sotoudeh's rights under international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment have likely been violated, and calls on the Government to cease the isolation of Ms. Sotoudeh and ensure that she obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

(b) JUA 30/12/2010 Case No. IRN 37/2010 State reply: 15/02/2011 **Alleged solitary confinement and imposition of the death penalty on the charge of moharebeh (enmity against God).**

72. The Special Rapporteur thanks the Government of the Islamic Republic of Iran for its response to this communication regarding the alleged solitary confinement and imposition of the death penalty on Mr. Habibollah Latifi on the charge of morarebeh (enmity against God) and other security-related crimes. Regrettably, the Government's response failed to address the allegation that Mr. Latifi has been held in solitary confinement since 16 January 2010. The Special Rapporteur's report A/66/268, stressed

that “solitary confinement is a harsh measure which may cause serious psychological and physiological adverse effects on individuals regardless of their specific conditions. [The Special Rapporteur] finds solitary confinement to be contrary to one of the essential aims of the penitentiary system, which is to rehabilitate offenders and facilitate their reintegration into society.” Moreover, “[d]epending on the specific reason for its application, conditions, length, effects and other circumstances, solitary confinement can amount to a breach of article 7 of the International Covenant on Civil and Political Rights, and to an act defined in article 1 or article 16 of the Convention against Torture. In addition, the use of solitary confinement increases the risk that acts of torture and other cruel, inhuman or degrading treatment or punishment will go undetected and unchallenged.” Furthermore, the Government’s response neglected to indicate whether there has been an investigation into the allegation that Mr. Latifi was subjected to corporal punishment. In this regard, the Special Rapporteur asserts that Human Rights Council Resolution 8/8 states that corporal punishment, including of children, can amount to cruel, inhuman or degrading punishment or even to torture. Both the Human Rights Committee and the Committee against Torture have called for the abolition of judicial corporal punishment. In paragraph 5 of General Comment No. 20 (1992), the Human Rights Committee stated that the prohibition of torture and ill-treatment must extend to corporal punishment, including excessive chastisement ordered as punishment for a crime of as an educative or disciplinary measure. Based on the information received, the Special Rapporteur determines that Mr. Latifi’s rights under international standards prohibiting torture and cruel, inhuman or degrading treatment or punishment have been violated, and calls on the Government to set aside any conviction based on evidence obtained under torture, and to ensure that Mr. Latifi obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (c) JUA 31/12/2010 Case No. IRN 38/2010 State reply: 27/06/2011 **Alleged solitary confinement, torture and death sentence.**

73. The Special Rapporteur thanks the Government of Iran for its response to this communication regarding the alleged solitary confinement, torture and death sentence of Mr. Saeed Malekpour, a web programmer and developer, in October 2008. Regrettably, the Government’s response failed to substantively address the allegations contained within the communication. Of particular concern to the Special Rapporteur are the allegations that Mr. Malekpour was placed in solitary confinement for more than one year and was subjected to severe acts of torture which has seriously impacted his physical and mental health. The Special Rapporteur notes that paragraph 1 of Human Rights Council Resolution 16/23 of 12 April 2011 “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” Moreover, in paragraphs 79 and 80 of the Special Rapporteur’s report A/66/268, it is stressed that “solitary confinement is a harsh measure which may cause serious psychological and physiological adverse effects on individuals regardless of their specific conditions. The report further asserts that “[d]epending on the specific reason for its application, conditions, length, effects and other circumstances, solitary confinement can amount to a breach of article 7 of the International Covenant on Civil and Political Rights, and to an act defined in article 1 or article 16 of the Convention against Torture. In addition, the use of solitary confinement increases the risk that acts of torture and other cruel, inhuman or degrading treatment or punishment will go undetected and unchallenged.” Based on the information received, the Special Rapporteur determines that Mr. Malekpour’s rights under international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment have likely been violated, and calls on the Government to cease the isolation of Mr. Malekpour and ensure that he



obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (d) JUA 11/01/2011 Case No. IRN 1/2011 State replies: 04/02/2011 21/06/2011 **Alleged pattern of unlawful executions, arrests and detentions.**

74. The Special Rapporteur thanks the Government of the Islamic Republic of Iran for its response to this communication regarding numerous alleged unlawful executions, arrests, detentions, torture and other forms of ill-treatment. Regrettably, the Government's response failed to substantively address the claims that Mr. Hossein Khezri was repeatedly subjected to torture between his arrest in July 2008 and execution in January 2011. Moreover, no explanation was provided for the denial of Mr. Khezri's March 2010 request for an investigation of the allegations of torture. The Government's response additionally failed to address the allegations that Mr. Jaafar Kazemi and Mr. Javad Lari were arrested for their political activism in September 2009 and August 2010 respectively, and subjected to torture during interrogation in order to obtain confessions to false charges. With regard to Mr. Khezri's allegations of torture and ill-treatment, the Special Rapporteur notes that paragraph 8(a) of Human Rights Council Resolution 16/23 of 12 April 2011, which reminds States that "[i]ntimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture." Lastly, with regard to the allegations of forced confessions of Mr. Kazemi and Mr. Lari, the Special Rapporteur reiterates that confessions obtained under torture or other forms of ill-treatment are strictly inadmissible in court proceedings, as established by article 14(3) of the International Covenant on Civil and Political Rights. The Special Rapporteur again requests information on the measures undertaken to ensure that any statement or confession obtained under torture is excluded from judicial proceedings. Based on the information received, the Special Rapporteur determines that the rights of Mr. Khezri, Mr. Kazemi, and Mr. Lari under international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment have been violated. Because Mr. Khezri is no longer alive, the Special Rapporteur calls on the Government to provide full redress, including compensation, to his dependents in accordance with international standards prohibiting torture and cruel, inhuman or degrading treatment or punishment. With regard to Mr. Kazemi and Mr. Lari, the Special Rapporteur calls on the Government to set aside any conviction based on evidence obtained under torture, and ensure that both individuals obtain redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (e) JUA 11/02/2011 Case No. IRN 3/2011 State Reply: None to date **Alleged imposition of the death penalty on minors.**

75. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to allegations of imposition of death penalty and the use of torture and other forms of ill-treatment in interrogation of Ms. Fatemeh Salbehi and Mr. Ehsan Rangraz Tabaatabaa'ie, both of whom are minors. The Special Rapporteur is particularly concerned about the allegations that Mr. Rangraz Tabaatabaa'ie was beaten, blackmailed and forced to confess. The Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 of 12 April 2011 "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." Moreover, the Special Rapporteur asserts that the use of confessions extracted under torture in judicial proceedings

is strictly prohibited under international law. Article 15 of the Convention against Torture which provides that, “[e]ach State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.” In addition to being a crucial fair trial guarantee, this principle is also an essential aspect of the non-derogable right to physical and mental integrity set forth, *inter alia*, in article 7 of the International Covenant on Civil and Political Rights. Based on the information received, the Special Rapporteur determines that the rights of Ms. Fatemeh Salbehi and Mr. Ehsan Rangraz Tabaatabaa’ie under international standards prohibiting torture and cruel, inhuman or degrading treatment or punishment have been violated. In addition, the Special Rapporteur believes that eventual imposition of the death penalty to these minors under the circumstances would constitute by itself cruel, inhuman or degrading punishment. The Special Rapporteur calls on the Government to immediately investigate all allegations of torture and other forms of ill-treatment, and ensure that perpetrators are prosecuted. Moreover, the Government must ensure that Ms. Fatemeh Salbehi and Mr. Ehsan Rangraz Tabaatabaa’ie obtain redress, including fair and adequate compensation, and as full rehabilitation as possible. In February 2012 the Government of Iran announced that death penalty was abolished for under-age defendants, a development that the Special Rapporteur commends.

- (f) JUA 22/02/2011 Case No. IRN 4/2011 State reply: None to date **Alleged arrests and detention of members of religious minorities.**

76. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to allegations of arrest, detention, and torture of members of religious minorities, in particular those belonging to the Christian and Baha’i faiths. In particular, the Special Rapporteur is concerned about allegations that Mr. Reza Estifan and Mr. Ehsan Behrouz were subjected to torture. The Special Rapporteur notes that paragraph 1 of Human Rights Council Resolution 16/23 “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” Moreover, paragraph 6 of General Comment No. 20 of the Human Rights Committee states that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7 [on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment] of the International Covenant on Civil and Political Rights (adopted at the 44th session of the Human Rights Committee, 1992). Based on the information received, the Special Rapporteur determines that the rights of Mr. Estifan and Mr. Behrouz under international standards prohibiting torture and cruel, inhuman or degrading treatment or punishment have been violated. The Special Rapporteur calls on the Government to immediately conduct a full investigation and prosecution of those responsible, and ensure that Mr. Estifan and Mr. Behrouz obtain redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (g) JUA 12/04/2011 Case No. IRN 6/2011 State reply: None to date **Alleged detention and torture of human rights lawyer.**

77. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the detention and ill-treatment of Mr. Mohammad Reza Houtan Kian, a human rights lawyer who reportedly was subject to harassment, incommunicado detention, and frequent and severe torture including

beating, kicking, burning, pressurized water, and deprivation of food, inter alia. Without any evidence to the contrary, the Special Rapporteur determines that the rights of Mr. Mohammad Reza Houtan Kian against Torture have been violated, and calls on the Government of Iran to ensure a prompt, independent and impartial investigation, leading to prosecution and punishment of the perpetrators of torture, and to provide full redress to the victim, including fair and adequate compensation, and as full rehabilitation as possible. The Special Rapporteur additionally notes that while Iran has not ratified the Convention against Torture, the rights cited therein are reflective of customary international law and, indeed peremptory norms binding on all States (*ius cogens*).

- (h) JUA 08/07/2011 Case No. [IRN 9/2011](#) State reply: None to date **Alleged arbitrary detention of human rights defenders and persons peacefully exercising their freedoms of expression and assembly.**

78. The Special Rapporteur regrets that the Government of Iran has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged denial of necessary medical treatment to Ms. Mahnaz Mohammadi and the alleged denial of family visits of Ms. Mahnaz Mohammadi and Mr. Ashkan Zahabian. In this context, the Special Rapporteur recalls rule 22(2) of the Standard Minimum Rules for the Treatment of Prisoners, which provides that, “[s]ick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.” With regard to the alleged denial of family visit, the Special Rapporteur calls on the Government to ensure that all detained or imprisoned individuals have the right to be visited by family members. The Special Rapporteur is of the view that denial of family visits and of medical attention to persons in custody constitutes, under the appropriate circumstances, cruel, inhuman or degrading treatment in violation of international standards. In the absence of evidence to the contrary, the Special Rapporteur believes that the rights of Ms. Mohammadi and Mr. Zahabian have been violated.

- (i) JUA 27/09/2011 Case No. [IRN 11/2011](#) State reply: None to date **Alleged arbitrary detention and solitary confinement of human rights lawyer and defender.**

79. The Special Rapporteur regrets that the Government of Iran has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged use of solitary confinement on Mr. Abdolfattah Soltani. In this context, the Special Rapporteur reiterates that prolonged solitary confinement, in excess of 15 days, should be subject to an absolute prohibition (paragraph 88, A/66/268). The Special Rapporteur calls on the Government to provide information regarding the legal grounds of the use of solitary confinement on Mr. Soltani and to ensure that solitary confinement is used only in very exceptional circumstances, as a last resort, for as short a time as possible, provided with adequate procedural safeguards.

- (j) JUA 10/10/2011 Case No. [IRN 13/2011](#) State reply: None to date **Alleged arrest and detention, ill-treatment, judicial harassment and sentencing of women human rights defenders.**

80. The Special Rapporteur regrets that the Government of Iran has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged ill-treatment and denial of medical treatment of Ms. Faranak Farid and the alleged incommunicado detention of Ms. Farid and Ms. Fereshteh Shirazi. The Special Rapporteur stresses that paragraph 8(b) of Human Rights Council Resolution 16/23 reminds States that “(p)rolonged incommunicado

detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur concludes that the rights of the aforementioned individuals under international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment have been violated. The Special Rapporteur calls on the Government to investigate, prosecute and punish all allegations of ill-treatment and to end the practice of incommunicado detention.

- (k) JUA 02/11/2011 Case No. IRN 16/2011 State reply: None to date **Alleged arrest of film makers.**

81. The Special Rapporteur regrets that the Government of Iran has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the allegation that Mr. Mojtaba Mir Tahmasb and Ms. Katayoun Shahabi were pressured to make a confession. In this context, the Special Rapporteur stresses that paragraph 7(c) of Human Rights Council Resolution 16/23 urges States “[t]o ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.” The Special Rapporteur calls on the Government to ensure that evidence obtained through recourse to unlawful methods are not used in any proceedings against the victims.

- (l) JUA 15/11/2011 Case No. IRN 18/2011 State reply: None to date **Alleged imminent execution of Mr. Lo Zaniar (or Zanyar) Moradi and Mr. Loghman (or Loqman) Moradi.**

82. The Special Rapporteur regrets that the Government of Iran has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the allegation that Mr. Lo Zaniar Moradi and Mr. Loghman Moradi were coerced into confessing to the offense of murder after being tortured for 25 days. In this context, the Special Rapporteur stresses that paragraph 7(c) of Human Rights Council Resolution 16/23 urges States “[t]o ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur affirms that these two persons were in fact brutally tortured to make them confess to crimes and that their rights under international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment may have been violated. Given the irremediable nature of capital punishment, the Special Rapporteur calls on the Government not to proceed with the executions and to set aside any criminal conviction based on evidence obtained under torture.

## Iraq

- (a) JAL 01/12/2010 Case No. IRQ 8/2010 State reply: 12/01/2011 **Alleged torture and ill-treatment by Iraqi security forces.**

83. The Special Rapporteur thanks the Government of Iraq for its response to this communication regarding alleged torture and ill-treatment of Iraqi citizens by Iraqi security forces originating from official files of the United States of America disclosed through Wikileaks. Regrettably, the Government's response fails to substantively address any of the specific allegations contained in the joint allegation letter. In particular, the response sheds no light on whether Iraqis arrested by American and Coalition forces and delivered to Iraqi custody were indeed tortured, or whether the numerous allegations to that effect were ever effectively investigated. The Special Rapporteur insists that the Government must investigate, prosecute and punish all cases of torture. He also calls on the government to create a credible system of prevention of torture or cruel, inhuman or degrading treatment.

- (b) JUA 15/04/2011 Case No. IRQ 1/2011 State reply: None to date **Alleged disproportionate use of force by security forces in Camp Ashraf.**

84. The Special Rapporteur regrets that the Government of Iraq has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to reported excessive use of force by Iraqi security forces on 28 and 29 July 2009 in Camp Ashraf, including the alleged killing of some 34 residents of the camp and injury to over 300, as well as the detention and ill-treatment of six residents of the camp, Messrs. Bahman Toloo, Mehdi Ghafouri, Hamid Makki, Hossein Eyni, Babak Karimi, and Asghar Mehdizadeh. In the absence of evidence to the contrary, the Special Rapporteur determines that the aforementioned acts constitute violations of international law as codified in the UN Convention against Torture, which Iraq ratified on 7 July 2011. He calls on the Government of Iraq to ensure a prompt and impartial investigation, leading to prosecution and punishment of the perpetrators, and the provision of redress to all victims, including measures of rehabilitation and non-repetition.

- (c) JUA 27/04/2011 Case No. IRQ 2/2011 State reply: None to date **Alleged excessive use of force against peaceful protesters.**

85. The Special Rapporteur regrets that the Government of Iraq has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the reported use of excessive force against protesters in peaceful demonstrations including, inter alia, six protesters who were allegedly arrested and subjected to torture and other ill-treatment before being released and one demonstrator, Mr. Haidar Shihab Ahmad Abdel Latif, whose fate and whereabouts remain unknown. In the absence of evidence to the contrary, the Special Rapporteur concludes that the rights of Messrs. Oday Alzaidy, Abdel-Jabbar Shaloub Hammadi, Hadi al-Medhi, Sharwan Azad Faqi 'Abdallah, 'Ala Nabil, and Firas'Ali under the UN Convention against Torture, which Iraq ratified on 7 July 2011, have been violated. The Special Rapporteur calls on the Government of Iraq to ensure a prompt and impartial investigation, leading to prosecution and punishment of the perpetrators, and the provision of redress to all victims, including measures of rehabilitation and non-repetition. With respect to Mr. Abdel Latif, the Special Rapporteur reminds the Government that under paragraph 8(b) of Human Rights Council Resolution 16/23 of 12 April 2011, "[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment," and calls on the Government of Iraq to ensure that secret places of detention and interrogation are abolished.

- (d) JUA 09/05/2011 Case No. [IRQ 3/2011](#) State reply: None to date **Alleged excessive use of force by Iraqi security forces in Camp Ashraf.**

86. The Special Rapporteur regrets that the Government of Iraq has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to an attack on hundreds of Camp Ashraf residents by Iraqi security forces resulting in grave injuries including gunshot wounds, to at least 73 named victims; additionally, 25 residents were reportedly killed, including from gunshot wounds, being hit or run over by bulldozers and Humvees and due to lack of timely medical intervention. In the absence of evidence to the contrary, the Special Rapporteur determines that the aforementioned acts against the named individuals constitute grave violations of international law as codified in the UN Convention against Torture which Iraq ratified on 7 July 2011. He calls on the Government of Iraq to ensure a prompt and impartial investigation, leading to prosecution and punishment of the perpetrators, and the provision of redress to all victims, including measures of rehabilitation and non-repetition.

- (e) JUA 21/06/2011 Case No. [IRQ 4/2011](#) State reply: [28/07/2011](#) **Allegations of attack against peaceful protestors in Baghdad's Tahrir Square.**

87. The Special Rapporteur thanks the Government of Iraq for its response regarding the communication dated 21 June 2011, which referred to the alleged attack on peaceful protestors in Baghdad's Tahrir Square; however, he regrets that the Government's response failed to provide substantive information pertaining to the allegations of ill-treatment and sexual assaults on female protestors. While the investigation conducted by the Government is appreciated, the Special Rapporteur would like to draw the attention of the Government to paragraph 2 of General Comment No. 20 of the Human Rights Committee, article 4(c) and article 4(d) of the United Nations Declaration on the Elimination of Violence against Women, and paragraph 18 of the General Comment No. 2 of the Committee against Torture. The Special Rapporteur expresses concern that the failure of the Government to intervene in the ill-treatment of peaceful demonstrators may have been a form of encouragement and/or de facto permission. The Special Rapporteur calls on the Government to protect both dignity and physical and mental integrity of the individuals inflicted by people acting in a private capacity in all contexts including demonstrations.

- (f) JUA 17/11/2011 Case No. [IRQ 7/2011](#) State reply: None to date **Alleged imminent execution of several individuals including Messrs Al Tariqi, Allah, Ali and Mojib.**

88. The Special Rapporteur regrets that the Government of Iraq has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the allegation that Messrs. Yousri Fakher Mohamed Al Tariqi, Mohamed Fraj Fraj Allah, Adel Omar Mohamed Ali and Nasser Mubarak Mojib were sentenced to death on the basis of evidence extracted under torture. In this context, the Special Rapporteur stresses that article 15 of the Convention against Torture provides that, "[e]ach State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made." In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur concludes that the aforementioned individuals were indeed brutally tortured to obtain confessions and that their rights under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government to investigate, prosecute and punish all cases of torture and to ensure that any evidence obtained under torture is declared inadmissible.

## Israel

JUA 31/03/2011 Case No. ISR 3/2011 State reply: 07/06/2011 **Alleged arbitrary detention and ill-treatment.**

89. The Special Rapporteur thanks the Government of Israel for its reply, dated 7 June 2011, to this communication regarding the alleged arbitrary detention and ill-treatment of Mr. Dirar Abu Sisi. In its reply, the Government reported that Mr. Abu Sisi was captured by government authorities, on suspicion of charges including “alleged activity in a terrorist organization.” The Government indicated that a “gag order” was in effect and provided a copy of the indictment against Mr. Abu Sisi. However, the Government did not provide information regarding the alleged extradition from Ukraine, solitary confinement and incommunicado detention, and torture and ill-treatment against Mr. Abu Sisi. In the context of reports that Mr. Abu Sisi was held incommunicado for ten days, the Special Rapporteur draws the Government's attention to paragraph 8(b) of Human Rights Council Resolution 16/23 of 12 April 2011, which reminds States that “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.” Regarding the reported solitary confinement of Mr. Abu Sisi, the Special Rapporteur recalls paragraph 6 of General Comment No. 20 of the Human Rights Committee. It states that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7 [on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment] of the International Covenant on Civil and Political Rights (Adopted at the 44th session of the Human Rights Committee, 1992), and article 7 of the Basic Principles for the Treatment of Prisoners, which provides that “efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.” (Adopted by the General Assembly by resolution 45/111 of 14 December 1990). Regarding reports that Mr. Abu Sisi was subjected to ill-treatment including by being left chained to a metal “bed” by both hands and legs spread apart for 14 hours, paragraph 1 of Human Rights Council Resolution 16/23 of 12 April 2011 which “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” Based on the information received, the Special Rapporteur determines that Mr. Abu Sisi's rights under the UN Convention against Torture were violated, and calls on the Government to undertake a prompt and impartial investigation of the alleged torture, leading to prosecution and punishment of the perpetrators, and to provide full redress to Mr. Abu Sisi.

## Kazakhstan

- (a) JUA 19/01/2011 Case No. KAZ 1/2011 State reply: 14/03/2011 **Alleged arrest and extradition request of refugees and asylum-seekers related to their affiliation with certain religious and political groups.**

90. The Special Rapporteur thanks the Government of the Kazakhstan for its response to this communication regarding the alleged arrest and extradition request of 28 refugees and religious or political asylum-seekers. According to the information received, all 28 asylum-seekers were deemed to be in danger of being subjected to torture if extradited to

Uzbekistan, on the basis that they had been tortured there before. Article 3 of the UN Convention against Torture holds that no State party shall expel, return (“refouler”), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. The Special Rapporteur thanks the Government for its explanation of the administrative and judicial proceedings undertaken to determine the fate of this group of refugees and appreciates that the office of the UN High Commissioner for Refugees was allowed to take part in the process. The Special Rapporteur believes, in any case, that prior history of persecution is highly relevant to the determination of risk and cautions that diplomatic assurances of favorable treatment from the receiving country does not mitigate the State’s obligation to refrain from *refoulement*.

- (b) JUA 24/08/2011 Case No. KAZ 3/2011 State reply: None to date **Alleged extradition and risk of torture.**

91. The Special Rapporteur regrets that the Government of Kazakhstan failed to respond to the communication dated 24 August 2011 concerning the then upcoming extradition of Mr. X, a national of the Republic of Uzbekistan. In accordance with article 3 of the UN Convention against Torture, the Special Rapporteur would like to draw the attention of the Government to paragraph 9 of General Comment No. 20 on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, in which the Human Rights Committee states that State parties “must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement”. In the absence of evidence to the contrary, the Special Rapporteur fears that the situation of Mr. X resulted in violation of rights protected by the UN Convention against Torture. Given the context and concerns of Mr. X being subjected to torture and harsh sentences, including life imprisonment, in case of extradition, the Special Rapporteur calls on the Government to ensure that rights and security of Mr. X are respected.

## **Kuwait**

JUA 04/07/2011 Case No. KWT 1/2011 State reply: None to date **Alleged arbitrary detention and ill-treatment for the peaceful exercise of the right to freedom of expression.**

92. The Special Rapporteur regrets that the Government of Kuwait has not responded to the communication dated 4 July 2011, thereby withholding cooperation with the mandate established by Human Rights Council. The communication referred to the alleged ill-treatment and incommunicado detention of Mr. Nasser Abul, an online activist, for four days following his arrest on 7 June 2011, for posting messages on his Twitter account. In the absence of any evidence to the contrary, the Special Rapporteur is of the view that there has been a violation of Mr. Nasser Abul under the UN Convention against Torture. The Special Rapporteur would like to draw the attention of the Government to paragraph 1 of Human Rights Council Resolution 16/23 and urges the Government to cease the practice of incommunicado detention. The Special Rapporteur calls on the Government to ensure the accountability of those responsible and to prevent the recurrence of these acts.



## Kyrgyzstan

JUA 16/03/2011 Case No. KGZ 1/2011 State reply: 31/05/2011 **Alleged violation of due process rights and guarantees in the conduct of criminal proceedings in relation to the June 2010 violence.**

93. The Special Rapporteur thanks the Government of Kyrgyz Republic for its reply, dated 31 May 2011, to this communication regarding, inter alia, alleged torture and ill-treatment of individuals detained in relation to the June 2010 violence. In its reply, the Government indicated that its penal enforcement system “does not allow any acts of racism, torture or anti-Semitism.” The Government indicated that it did not receive any “official complaints” regarding the allegations. The Government noted that the Ministry of Internal Affairs Internal Security Service found no proof of the alleged death from torture of Mr. Khairullo Amanbaev. It also indicated that authorities decided “not to bring criminal cases in respect of all the information submitted” due to lack of evidence. The Government reported that 20 inspections of detention conditions had been undertaken since May 2010, and that these did not confirm torture. The Government described the offenses of which Mr. Askarov was accused and denied that he had been subjected to torture, noting also that the provincial prosecutor's office did not bring charges regarding alleged acts of torture and ill-treatment against him. The Government reported that the municipal prosecutor's office decided not to bring criminal proceedings regarding allegations of torture against Mr. Gapirov, citing lack of evidence. It also reported that, of 122 applications for searching for missing individuals, 89 individuals have been found and 33 investigations remain ongoing. Nonetheless, the Government did not address allegations that a significant number of defendants, in trials relating to inter-ethnic violence since June 2010, were subjected to torture and ill-treatment to extract confessions or statements implicating co-defendants, which were admitted as evidence in court. It did not address reports that judges failed to order prompt and impartial investigations of allegations of torture. Similarly, the Government did not present evidence to refute reports that between 27 August 2010 and 31 December 2010, 46 cases of torture and ill-treatment by law enforcement officers have been documented, of which 43 involved ethnic Uzbeks. The Special Rapporteur interviewed Mr. Askarov in prison in December 2011 and is persuaded that he was indeed tortured at the time of his detention, the Government's response notwithstanding. In addition, Mr Askarov has been sentenced to a life term on the basis, at least in part, of evidence obtained under torture from the defendant and from others. In this sense, the Special Rapporteur recalls that under paragraph 7(a) of Human Rights Council Resolution 16/23 of 12 April 2011, States are urged “[t]o take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed.” The Special Rapporteur also reminds the Government that article 12 of the Convention against Torture requires competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the Convention against Torture requires State parties to prosecute suspected perpetrators of torture. Based on the information presented, the Special Rapporteur determines that the rights of the named individuals under the Convention against Torture have been violated. The Special Rapporteur urges the Government to immediately undertake prompt, impartial and effective investigations of all allegations of torture, leading to prosecution and punishment of the perpetrators, and to provide full redress to victims, including measures of non-repetition. In addition, the Government must undertake a review of all judicial verdicts to ensure compliance with the international standard that forbids the use against criminal defendants of any evidence obtained under coercion.

## Lebanon

- (a) JUA 25/03/2011 Case No. LBN 1/2011 State replies: 04/05/2011 24/05/2011 **Allegation that two terrorism suspects were subjected to torture while in detention.**

94. Le Rapporteur spécial reconnaît la réponse du Gouvernement du Liban à la communication envoyée le 27 Juin 2011 concernant l'allégation des actes de torture de MM. Tarek Mostafa Marei et Mohamed Deib Owaiza pendant leur emprisonnement et la possibilité d'une condamnation pénale sur la base de confessions obtenues sous la torture. Le Rapporteur spécial regrette que le Gouvernement n'ait pas fourni des réponses aux craintes exprimées dans la communication. Sur la base des informations reçues, et en absence de l'information opposée le Rapporteur spécial détermine que les droits de MM. Tarek Mostafa Marei et Mohamed Deib Owaiza au titre de la Convention des Nations Unies contre la torture ont été violés. Il exhorte le Gouvernement à attirer son attention au plus vite aux craintes exprimées dans celles-ci, notamment en fournissant des informations précises sur les enquêtes menées afin de traduire en justice les auteurs des faits, veiller à ce qu'ils obtiennent réparation, compris une indemnisation équitable et adéquate, et une réadaptation aussi complète que possible. En outre le Rapporteur spécial prie au gouvernement du Liban de fournir toute information sur les mesure prises afin d'assurer que toute déclaration ou confession obtenue sous la torture soit exclue de toute procédure judiciaire, à l'exception de celles visant toute personne s'étant rendue coupable d'un acte de torture, et de nature à prouver que l'aveu a été obtenu sous la torture. Le Rapporteur spécial reste disponible pour fournir tout appui technique dont aurait besoin le Gouvernement. Le Rapporteur spécial encourage le Gouvernement du Liban à poursuivre son engagement avec le Mandat.

- (b) JUA 27/06/2011 Case No. LBN 2/2011 State reply: 26/07/2011 **Allégation de détention arbitraire et de torture.**

95. Le Rapporteur spécial remercie le Gouvernement du Liban de sa réponse détaillée à la communication envoyée le 27 Juin 2011 concernant l'allégation des actes de torture de MM. Abbas Ahmed Jizzini, Ghassan Mahmoud Shehadeh, Ahmed Mahmoud Shehadeh et Mohamed Nour Al Monjed Faham et la possibilité d'une condamnation pénale sur la base de confessions obtenues sous la torture. Le Rapporteur spécial regrette que le Gouvernement n'ait pas fourni des réponses aux craintes exprimées dans la communication. Sur la base des informations reçues, et en absence de l'information opposée le Rapporteur spécial détermine que les droits des quatre détenus au titre de la Convention des Nations Unies contre la torture ont été violés. Il exhorte le Gouvernement à attirer son attention au plus vite aux craintes exprimées dans celles-ci, notamment en fournissant des informations précises sur les enquêtes menées afin de traduire en justice les auteurs des faits, veiller à ce qu'ils obtiennent réparation, compris une indemnisation équitable et adéquate, et une réadaptation aussi complète que possible. En outre le Rapporteur spécial prie au gouvernement du Liban de fournir toute information sur les mesure prises afin d'assurer que toute déclaration ou confession obtenue sous la torture soit exclue de toute procédure judiciaire, à l'exception de celles visant toute personne s'étant rendue coupable d'un acte de torture, et de nature à prouver que l'aveu a été obtenu sous la torture. Le Rapporteur spécial reste disponible pour fournir tout appui technique dont aurait besoin le Gouvernement. Le Rapporteur spécial encourage le Gouvernement du Liban à poursuivre son engagement avec le Mandat.

- (c) JUA 10/08/2011 Case No. LBN 3/2011 State reply: None to date **Allégations d'actes d'intimidation.**

96. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse de la part du Gouvernement du Liban à la communication envoyée le 10 Août 2011 concernant les allégations d'actes d'intimidation. Selon les informations

reçues, M. Saadeddine Shatila, représentant de l'organisation internationale Alkarama basée à Genève, aurait été victime de harcèlement intensif de la part des Services de renseignement militaire libanais et de la Police militaire en raison de son travail de documentation de cas de de torture allégués au Liban et dans d'autres pays de la région. M. Shatila aurait été interrogé pendant plusieurs heures par un préfet du gouvernement sans autorisation de l'assistance de son avocate à cet interrogatoire. De sérieuses craintes sont exprimées quant à l'intégrité physique et psychologique de M. Shatila en raison des actes d'intimidation dont il serait victime, ainsi que de sérieuses préoccupations sont également exprimées quant au fait que ces actes seraient liés aux activités de promotion et protection des droits de l'homme. A cet égard, le Rapporteur spécial aimerait attirer l'attention du Gouvernement libanais sur la résolution 12/2 du Conseil des Droits de l'Homme qui, inter alia, « condamne tous les actes d'intimidation ou de représailles de la part de gouvernements et d'acteurs non étatiques contre des particuliers et des groupes qui cherchent à coopérer ou ont coopéré avec l'Organisation des Nations Unies, ses représentants et ses mécanismes dans le domaine des droits de l'homme », ainsi que au article 13 de la Convention contre la torture. En encourageant le Gouvernement libanais à poursuivre son engagement avec le mandat, le Rapporteur spécial exhorte le Gouvernement à répondre au plus vite aux craintes exprimées dans la communication, notamment en fournissant des mesures de protection prises pour assurer des droits et des libertés de M. Shatila, tant que traduire en justice les auteurs des faits et poursuivre les mesures nécessaires pour prévenir la répétition des faits mentionnés.

## Libya

- (a) JUA 23/02/2011 Case No. LBY 1/2011 State reply: None to date **Alleged excessive use of force against protesters.**

97. The Special Rapporteur regrets that the Government of Libyan Arab Jamahiriya has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to allegations of excessive use of force against protestors by security forces resulting in the deaths of at least 233 people. The Special Rapporteur reiterates that Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, “[l]aw enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms.” Moreover, article 12 of the Convention against Torture requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the Convention against Torture, requires State parties to prosecute suspected perpetrators of torture.

98. Similarly, paragraph 7(b) of Human Rights Council Resolution 16/23 of 12 April 2011 urges States “[t]o take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture.” Based on the information received, the Special Rapporteur determines that the rights of many of the aforementioned protesters under the UN

Convention against Torture have been violated. The Special Rapporteur calls on the new Government of Libya to immediately conduct a full investigation and prosecution of those responsible, in appropriate cases to surrender suspects to the International Criminal Court in accordance with the Security Council resolution that referred the Libyan situation to that judicial body, and to ensure that all victims of torture obtain redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (b) JUA 14/03/2011 Case No. LBY 2/2011 State reply: None to date **Alleged abductions of journalists.**

99. The Special Rapporteur regrets that the Government of Libyan Arab Jamahiriya has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the use of excessive force by security forces resulting in death and injury, as well as the arrest and incommunicado detention of human rights defenders. In the absence of evidence to the contrary, the Special Rapporteur determines that the rights of the individuals named in the communication under the UN Convention against Torture have been violated. He calls on the new Government of Libya to undertake an investigation, leading to the prosecution and punishment of the perpetrators, or to their surrender to the jurisdiction of the International Criminal Court in accordance with the Security Council resolution referring the Libyan situation to that Court, and to provide full redress to the victims, including measures of rehabilitation and non-repetition.

- (c) JUA 18/03/2011 Case No. LBY 3/2011 State reply: None to date **Alleged cases of enforced disappearances.**

100. The Special Rapporteur regrets that the Government of Libyan Arab Jamahiriya has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged incommunicado detention, ill-treatment, and possible enforced disappearance of Mr. Mohamed Al Shareef, Mr. Adel Abdallah Almadaa Salah, Mr. Abdalsalem Alqanashi, Mr. Ali Mubarak Omran, Mr. Alsadek Almabrouk Hamada Bridan, Mr. Abdalkarin Mohamed Abdalkarim, Mr. Salah Almabrouk Saad, Mr. Abdallah Abdalsilam Khalifa, Mr. Nasser Amar Ali, Mr. Farj Amar Ali, Mr. Assam Mohamed Abdalrazak Shahat, Mr. Ali Mohamed Salah, Mr. Souad Ali Boumbrika, Mr. Abdessalam Youness, and Mr. Adam Masaoud Mohamed Idriss, as well of hundreds of other persons allegedly detained in unknown locations. The Special Rapporteur recalls paragraph 8(b) of Human Rights Council Resolution 16/23 of 12 April 2011, which states: “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment.” In the absence of evidence to the contrary, the Special Rapporteur determines that the rights of the aforementioned individuals under the UN Convention against Torture have been violated, and calls on the new Government of Libya to undertake prompt, impartial and effective investigations of these acts, leading to prosecution and punishment of the perpetrators of torture, and in appropriate cases to their surrender to the jurisdiction of the International Criminal Court in accordance with the Security Council resolution that referred the Libyan situation to that judicial body, and to provide full redress to all victims. The Special Rapporteur calls on the new Government to abolish the practice of incommunicado detention and secret places of detention and interrogation.

- (d) JAL 07/04/2011 Case No. LBY 5/2011 State reply: none to date **Alleged abduction and rape by security forces.**

101. The Special Rapporteur regrets that the Government of Libya has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred, inter alia, to the reported torture, rape and

sexual assault of Ms. Eman al-Obaidi by members of Gaddafi security forces. In the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Ms. al-Obaidi under the UN Convention against Torture were violated. The Special Rapporteur draws the Government's attention to article 12 of the Convention against Torture, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the Convention against Torture, which requires State parties to prosecute suspected perpetrators of torture. The Special Rapporteur also recalls a recent report to the Human Rights Council, which stresses that "rape and other serious acts of sexual violence by officials in contexts of detention or control not only amount to torture or ill-treatment, but also constitute a particularly egregious form of it, due to the stigmatization they carry" (A/HRC/7/3, para. 69). The Special Rapporteur calls on the Government to immediately undertake a prompt, impartial and effective investigation of these facts, leading to prosecution and punishment of the perpetrators, and to provide full redress to the victim.

## Malawi

JUA 19/10/2011 Case No. MWI 6/2011 State reply: None to date **Alleged arbitrary detention of human rights defenders for their peaceful exercise of the freedoms of expression and assembly.**

102. The Special Rapporteur regrets that the Government of Malawi has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged denial of medical treatment to Mr. Brian Nyasulu while in detention. The Special Rapporteur recalls rule 22(2) of the Standard Minimum Rules for the Treatment of Prisoners, which provides that, "[s]ick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers." In the absence of evidence to the contrary, the Special Rapporteur concludes that medical treatment in detention was indeed denied to Mr. Nyasulu, constituting cruel, inhuman and degrading treatment. He encourages the Government to provide the results of any investigation into the mistreatment of Mr. Nyasulu.

## Malaysia

JUA 16/02/2011 Case No. MYS 2/2011 State reply: 18/04/11 **Alleged Risk of ill-treatment and discrimination in relation to deportation.**

103. The Special Rapporteur thanks the Government of Malaysia for its response to this communication regarding allegations of risk of ill-treatment and discrimination in the deportation proceedings of Mr. X, an Ahmadiyyah man from Karachi, Pakistan. The Special Rapporteur notes that paragraph 9 of General Comment No. 20 of the Human Rights Committee states that State parties "must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement." The Special Rapporteur thanks the Government for its explanation of the administrative proceedings undertaken to determine the fate of Mr. X and appreciates that the office of the UN High Commissioner for Refugees is taking part in the process. The Special Rapporteur believes, in any case, that prior history of persecution is highly relevant to the determination of risk and cautions that

diplomatic assurances of favorable treatment from the receiving country does not mitigate the State's obligation to refrain from *refoulement*.

## **Mauritania**

JUA 29/12/2010 Case No. MRT 3/2010 State reply: 10/02/2011 **Allégation de détention arbitraire et de mauvais traitements.**

104. Le Rapporteur spécial remercie le Gouvernement de la République Islamique de Mauritanie de sa réponse à la communication envoyée le 27 Juin 2011 concernant l'usage de la force et l'allégation selon laquelle six membres de l'Initiative pour la Résurgence du Mouvement Abolitionniste en Mauritanie (IRA Mauritanie), ont été maltraité et puissent être l'objet de torture ou de cruels et mauvais traitements. D'après le Gouvernement il n'y a pas eu usage de la force ni du mauvais traitement pendant l'arrestation. Le Rapporteur spécial regrette que le Gouvernement n'ait pas fourni des réponses détaillées concernant l'usage excessif de la force durant l'arrestation et aux autres craintes exprimées dans la communication. Le Rapporteur spécial demeure préoccupé et demande à nouveau au Gouvernement de lui fournir des informations quant à la situation des détenus. Le Rapporteur spécial reste disponible pour fournir tout appui technique dont aurait besoin le Gouvernement. Le Rapporteur spécial encourage le Gouvernement de la République Islamique de Mauritanie à poursuivre son engagement avec le Mandat.

## **Mexico**

(a) JUA 19/01/2011 Case No. MEX 1/2011 State reply: 07/02/2011 **Supuesta desaparición de migrantes, amenazas y actos de hostigamiento.**

105. El Relator Especial agradece al Gobierno de México por su atenta respuesta, de fecha 7 de febrero de 2011, a la comunicación en referencia a la supuesta desaparición de migrantes, amenazas y actos de hostigamiento, los cuales pueden constituir trato inhumano, cruel o degradante o tortura, ocurridos en diciembre de 2010 en el estado de Oaxaca. En atención a las preguntas formuladas en la comunicación conjunta, el Gobierno de México indicó que el tren en cuestión habría sido detenido durante un operativo realizado por el Instituto Nacional de Migración (INM) junto con la Policía Federal y el Ejército mexicano y, según lo informado, aproximadamente una hora después el conductor escuchó disparos en los vagones del tren sin verificar lo sucedido. Informó, asimismo, que la Procuraduría General de la República (PGR) había iniciado distintas averiguaciones previas con motivo de los presuntos secuestros, en coordinación con la Delegación del Ministerio Público de la Federación en el Estado de Oaxaca; las indagatorias y testimonios estudiados habrían determinado que unos 30 extranjeros indocumentados fueron capturados el 16 de diciembre de 2010 por un grupo armado en el tren que se dirigía a Ixtepec, a la altura de Chahuities, Estado de Oaxaca. En referencia a la situación de los migrantes detenidos, el Gobierno indicó que el INM, a pedido del Padre Alejandro Solalinde, procedió a trasladar a 13 migrantes a una estación migratoria en Oaxaca y luego a la Ciudad de México, con el fin de "facilitar su comparecencia y resolver su situación migratoria", brindarles atención médica, permitirles comunicarse con sus familias y realizar una reunión con el Comisionado del INM y la Comisión Nacional de Derechos Humanos (CNDH). El Gobierno informó que tuvo conocimiento de los hechos del 16 de diciembre de 2011 por una nota periodística y que personal de la CNDH se entrevistó con 12 migrantes en las instalaciones del INM que habrían sido testigos de los acontecimientos y solicitó un informe a la PGR y al INM; el INM habría otorgado alojamiento, asistencia médica y alimentos a los 12 migrantes y la PGR inició oficios para dar inicio a las investigaciones y averiguación previa correspondientes. En cuanto a las medidas para garantizar la seguridad física y psicológica

del Padre Alejandro Solalinde y sus colaboradores en el “Albergue del Migrante Hermanos del Camino de la Esperanza”, el Gobierno informó que el 23 de abril de 2010 la Comisión Interamericana de Derechos Humanos solicitó la adopción de medidas cautelares a favor de ellos y el 14 de mayo de 2010 se celebró la primera reunión de trabajo en la ciudad de Oaxaca con la participación de los beneficiarios, sus representantes y las autoridades involucradas; a raíz de los hechos reportados, se han colocado dos elementos policiales permanentemente en el albergue y seis elementos policiales que realizan recorridos de vigilancia en la periferia del albergue. El Relator Especial agradece al Gobierno de México por su respuesta a estos hechos y solicita al Gobierno de México que lo tenga informado de los resultados de las investigaciones sobre el destino y paradero de las otras personas presuntamente detenidas o secuestradas en el episodio.

- (b) JUA 14/02/2011 Case No. MEX 2/2011 State reply: None to date **Supuesta detención de activista de los derechos del colectivo de LGBT.**

106. El Relator Especial lamenta que el Gobierno de México no haya respondido a esta comunicación, de fecha 14 de febrero de 2011, lo cual implica falta de cooperación con el mandato emitido del Consejo de Derechos Humanos. La comunicación se refería a la supuesta detención arbitraria y tortura, incluyendo golpes, insultos y amenazas, del señor José Ricardo Maldonado Arroyo, Director de la Red de Personas Afectadas por VIH (REPAVIH). Ante la ausencia de evidencia al contrario, el Relator Especial determina que los derechos del Sr. Maldonado Arroyo, consagrados en la Convención contra la Tortura de Naciones Unidas, fueron vulnerados. El Relator Especial insta al Gobierno a que realice una investigación oportuna e imparcial de los hechos, que conduzca al procesamiento y eventual castigo de los perpetradores, y brinde una reparación integral al Sr. Maldonado Arroyo, incluyendo inter alia medidas de no repetición destinadas a salvaguardar la integridad física y mental del Sr. Maldonado Arroyo. El Relator Especial llama la atención del Gobierno al artículo 12 de la Convención contra la Tortura, el cual señala que todo Estado Parte velará por que las autoridades competentes procedan a una investigación pronta e imparcial siempre que haya motivos razonables para creer que se ha cometido un acto de tortura; así como el artículo 7 de la misma, el cual estipula que el Estado Parte deberá someter a los supuestos perpetradores de tortura a sus autoridades competentes a efectos de enjuiciamiento.

- (c) JAL 25/03/2011 Case No. MEX 6/2011 State reply: None to date **Supuesta falta de seguimiento a los hechos violentos ocurridos en San Salvador Atenco.**

107. El Relator Especial lamenta que el Gobierno de México no haya respondido a esta comunicación de fecha 25 de marzo de 2011, lo que implica falta de cooperación con el mandato emitido por el Consejo de Derechos Humanos. La comunicación se refería, inter alia, a la tortura incluyendo diversas modalidades de violencia sexual y física por parte de las autoridades estatales contra al menos 23 mujeres detenidas. De la comunicación se desprende que a la fecha sólo un policía estatal habría sido condenado por el delito de “actos libidinosos”, sin que un solo elemento de seguridad del Estado haya sido considerado responsable por las violaciones alegadas en contra de las mujeres detenidas durante el operativo ejecutado en San Salvador Atenco. Ante la ausencia de evidencia al contrario, el Relator Especial determina que los derechos de las personas nombradas, consagrados en la Convención contra la Tortura de Naciones Unidas, han sido vulnerados y exhorta al Gobierno a realizar una investigación, sin dilación y de forma imparcial, que conduzca al procesamiento y castigo de los perpetradores, y provea reparaciones integrales a todas las víctimas, incluyendo compensación adecuada, medidas de restitución y medidas de no repetición. El Relator Especial subraya que “la violación y otros actos graves de violencia sexual por funcionarios en contextos de detención o control no sólo constituye tortura o malos tratos, sino que son un caso especialmente grave de éstos, debido al estigma que entrañan”. (A/HRC/7/3 para. 69). Asimismo, recuerda al Gobierno el artículo 12 de la

Convención contra la Tortura, el cual señala que todo Estado Parte velará por que las autoridades competentes procedan a una investigación pronta e imparcial siempre que haya motivos razonables para creer que se ha cometido un acto de tortura; así como el artículo 7 de la misma, el cual estipula que el Estado Parte deberá someter a los supuestos perpetradores de tortura a sus autoridades competentes a efectos de enjuiciamiento. Los hechos ocurridos los días 3 y 4 de mayo de 2006 en San Salvador Atenco fueron objeto de comunicaciones anteriores (ver A/HRC/7/3/Add.1, para 144 y A/HRC/11/6/Add.1, para 398).

- (d) JAL 29/06/11 Case No. MEX 11/2011 State reply: None to date **Supuesta detención arbitraria y tortura.**

108. El Relator Especial lamenta que, hasta la fecha, el Gobierno de México no haya respondido a esta comunicación de fecha 29 de junio de 2011. La comunicación se refería a los supuestos actos de tortura y amenazas contra cinco personas mientras habrían estado detenidos arbitrariamente por agentes de la seguridad pública. Al respecto, el Relator Especial desea hacer referencia de nuevo al Gobierno de México a los artículos 7 y 12 de la Convención contra la Tortura, así como al párrafo 7(b) de la Resolución 16/23 del Consejo de Derechos Humanos. Ante la ausencia de evidencia contradictoria, el Relator Especial considera que los derechos de las presuntas víctimas han sido vulnerados. El Relator Especial exhorta al Gobierno a asegurar la investigación, procesamiento y eventual condena de los responsables, e insta al Gobierno a que proporcione información detallada acerca de las medidas que hayan sido tomadas.

- (e) JUA 04/07/2011 Case No. MEX 12/2011 State reply: None to date **Presuntas amenazas contra activistas indígenas.**

109. El Relator Especial lamenta que, hasta la fecha, el Gobierno de México no haya respondido a esta comunicación de fecha 4 de julio de 2011. La comunicación se refería a las presuntas amenazas recibidas por la Sra. Obtilia Eugenio Manuel, el Sr. Cuauhtémoc Ramírez y el Centro de Derechos Humanos Tlachinollan. El Relator Especial quisiera hacer referencia al Gobierno de México al párrafo 8a de la Resolución 16/23 del Consejo de Derechos Humanos, así como al artículo 13 de la Convención contra la Tortura. Ante la ausencia de evidencia contradictoria, el Relator Especial teme que los derechos de los individuos ya mencionados y de los integrantes del Centro de Derechos Humanos Tlachinollan, consagrados en la Convención contra la Tortura, estén en peligro de ser vulnerados. El Relator Especial exhorta al Gobierno de México a asegurar la investigación de los hechos de este caso y a tomar medidas para garantizar la integridad física y psicológica de las personas afectadas. El Relator Especial reitera su solicitud al Gobierno para que proporcione información detallada acerca de cualquier investigación que se haya llevado a cabo en relación con este caso, así como las medidas de protección adoptadas por las autoridades para garantizar la seguridad de las personas afectadas.

- (f) JUA 18/07/2011 Case No. MEX 15/2011 State reply: None to date **Supuestos asesinatos y amenazas de muerte.**

110. El Relator Especial lamenta que, hasta la fecha, el Gobierno de México no haya respondido a esta comunicación de fecha 18 de julio de 2011, que se refería al asesinato de cuatro hermanos, así como a las amenazas de muerte recibidas por la hija de una de las víctimas. El Relator Especial desea hacer referencia al Gobierno de México al párrafo 1 de la Resolución 16/23 del Consejo de Derechos Humanos, así como a los artículos 7 y 12 de la Convención contra la Tortura en relación al deber del Gobierno de investigar los asesinatos. Además, el Relator Especial desea llamar la atención del Gobierno al párrafo 8a de la Resolución 16/23 del Consejo de Derechos Humanos en relación a las amenazas recibidas por la Sra. Micaela Cabañas Ayala. Ante la ausencia de evidencia contradictoria, el Relator Especial considera que los derechos de las víctimas, consagrados en la



Convención contra la Tortura, han sido vulnerados. El Relator Especial exhorta al Gobierno de México a asegurar la investigación, procesamiento y eventual condena de los responsables, e insta al Gobierno que proporcione información en cuanto a las medidas que hayan sido tomadas, así como a las medidas de protección adoptadas por parte de las autoridades para garantizar la seguridad de la Sra. Cabañas Ayala.

- (g) JUA 02/09/2011 Case No. MEX 18/2011 State reply: None to date **Presunta tortura, malos tratos y riesgo de desaparición forzada de un menor.**

111. El Relator Especial lamenta que, hasta la fecha, el Gobierno de México no haya respondido a esta comunicación de fecha 2 de septiembre de 2011, que se refería a los presuntos actos de tortura, amenazas de muerte y otros malos tratos contra menores por agentes de la Secretaría de la Defensa Nacional. En este contexto, en el espíritu de cooperación, el Relator Especial reitera al Gobierno la importancia del párrafo 1 de la Resolución 16/23 del Consejo de Derechos Humanos. Además, el Relator Especial desea hacer referencia al Gobierno a los artículos 7 y 12 de la Convención contra la Tortura en relación al deber del Gobierno de investigar los asesinatos, así como al párrafo 7(b) de la Resolución 16/23 del Consejo de Derechos Humanos. Ante la ausencia de evidencia contradictoria, el Relator Especial estima que los derechos de las víctimas, consagrados en la Convención contra la Tortura, han sido vulnerados. El Relator Especial exhorta al Gobierno de México a asegurar la investigación, procesamiento y eventual condena de los responsables de los hechos de este caso, y reitera su solicitud al Gobierno para que proporcione información detallada acerca de cualquier investigación que haya llevado a cabo al respecto.

- (h) JUA 23/09/2011 Case No. MEX 19/2011 State reply: 18/01/2012 **Alegaciones de detención arbitraria y tortura.**

112. El Relator Especial agradece al Gobierno de México por su atenta respuesta, de fecha 18 de enero de 2012, a esta comunicación. Dicha comunicación se refería a la presunta tortura del Sr. Israel Arzate Meléndez mientras habría estado detenido bajo la custodia de elementos militares y la supuesta negativa del poder judicial a investigar las denuncias de tortura. El Relator Especial expresa su complacencia al Gobierno de México por las acciones tomadas en relación con los hechos de la comunicación, en particular la integración de una averiguación en contra los supuestos perpetradores; los servicios médicos, psicológicos y de rehabilitación proporcionados al Sr. Arzate Meléndez; y las medidas tomadas para prevenir la repetición de los hechos denunciados. Sin embargo, el Relator Especial lamenta la demora en el lanzamiento de una investigación sobre las denuncias. El Relator Especial agradece al Gobierno de México por su respuesta a estos hechos y solicita al Gobierno que lo mantenga informado de los resultados de la averiguación mencionada en su respuesta, incluso los resultados de cualquier proceso judicial que se lleve a cabo al respecto.

## Morocco

- (a) JAL 03/02/2011 Case No. MAR 1/2011 State reply: None to date **Allégation de torture et de mauvais traitements par les forces de sécurité.**

113. Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse de la part du Gouvernement du Maroc à la communication envoyée le 3 Février 2011 concernant l'allégation de torture et de mauvais traitements par les forces de sécurité. Selon les informations reçues, des forces de sécurité marocaines seraient entrées dans le camp Gdeim Izik situé au Sahara occidental, auraient démantelé le camp, ce qui aurait conduit à un affrontement violent entre les résidents du camp et les forces de sécurité. On est indiqué que des personnes sahraouies auraient fait l'objet d'actes de torture et de

mauvais traitements aux mains des forces de sécurité marocaines lors du démantèlement du camp, durant leur arrestation et leur détention. A cet égard, le Rapporteur spécial aimerait attirer l'attention du Gouvernement marocain aux principes 4, 5 et 9 des Principes fondamentaux des Nations Unies sur l'utilisation de la force et des armes à feu par les responsables de la loi, ainsi que à l'Ensemble des règles minima pour le traitement des détenus, en particulier les règles 22, 25 et 26. En encourageant le Gouvernement marocain à poursuivre son engagement avec le mandat, le Rapporteur spécial appelle le Gouvernement à enquêter tous les cas de torture, à poursuivre et punir les auteurs des faits, en fournissant une réparation intégrale pour les victimes, y compris une indemnisation équitable et adéquate, et d'empêcher la réitération de telles pratiques.

(b) JUA 31/05/2011 Case No. MAR 2/2011 State reply: 29/07/2011 **Allégation de mauvais traitements et d'arrestations dans le cadre des protestations.**

114. Le Rapporteur spécial remercie le Gouvernement du Maroc de sa réponse à la communication envoyée le 31 Mai 2011 concernant l'allégation de mauvais traitements et d'arrestations dans le cadre des protestations. Selon les informations reçues, les forces de l'ordre auraient dispersé violemment les manifestations, plusieurs manifestants auraient également été arrêtés et transférés aux postes de police. Dans sa réponse, le Gouvernement a seulement indiqué que la décision de l'usage de la force a été prise en application de la loi. Le Rapporteur spécial regrette que le Gouvernement n'ait pas fourni des réponses aux autres craintes exprimées dans la communication concernant l'usage excessif de la force durant les manifestations et la maltraitance des individuels, ainsi le fait que certains manifestants, qui avaient été soignés dans des hôpitaux publics, se seraient vus refuser des copies de leurs dossiers médicaux dans lesquels étaient détaillées leurs blessures. En assurant la coopération entre le mandat et le Gouvernement, le Rapporteur spécial souhaiterait attirer l'attention du Gouvernement sur les dispositions contenues dans les Principes de base sur le recours à la force et l'utilisation des armes à feu par les responsables de l'application des lois, en particulier les articles 4 et 5, ainsi que le règle 22 (2) dans l'Ensemble de règles minima pour le traitement des détenus. Le Rapporteur spécial appelle le Gouvernement à enquêter tous les cas de torture, à poursuivre et punir les responsables de cette violation, en fournissant une réparation intégrale pour les victimes, y compris une indemnisation équitable et adéquate, et d'empêcher la réitération de telles pratiques. Il reste disponible pour fournir tout appui technique dont aurait besoin le Gouvernement.

(c) JUA 21/06/2011 Case No. MAR 4/2011 State reply: None to date **Allégations de mauvais traitements à la prison.**

115. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse de la part du Gouvernement du Maroc à la communication envoyée le 21 Juin 2011 concernant l'allégation de mauvais traitements à la prison et l'interdiction d'un exam médical. Selon les informations reçues, Mme X aurait été arrêtée en accusée d'avoir « financé le terrorisme » et transférée à la prison de Zaki à Salé. Elle aurait subi d'importantes pressions psychologiques ainsi que des violences. Par ailleurs, selon les informations rapportées, l'administration de la prison ne lui aurait fait subir aucun examen médical. A cet égard, le Rapporteur spécial aimerait attirer l'attention du Gouvernement le paragraphe 1 de la résolution 16/23 du Conseil des Droits de l'Homme, qui « [c]ondamne toutes les formes de torture et autres peines ou traitements cruels, inhumains ou dégradants, y compris sous forme d'intimidation, qui sont et resteront interdits en tout temps et en tout lieu et ne sauraient donc jamais être justifiés, et demande à tous les États de donner pleinement effet à l'interdiction absolue de la torture et autres peines ou traitements cruels, inhumains ou dégradants. » En engageant la coopération entre le mandat et le Gouvernement, le Rapporteur spécial souhaiterait attirer l'attention du Gouvernement sur les dispositions contenues dans les Principes fondamentaux relatifs au traitement des

détenus, ainsi que à l'Ensemble de règles minima pour le traitement des détenus. Le Rapporteur spécial appelle le Gouvernement à enquêter sur ce cas et à poursuivre et punir les responsables de cette violation, en fournissant une réparation intégrale pour la victime, y compris une indemnisation équitable et adéquate, et d'empêcher la réitération de telles pratiques.

- (d) JUA 30/08/2011 Case No. MAR 5/2011 State reply: 03/10/2011 **Allégation de détention arbitraire et torture.**

116. Le Rapporteur spécial remercie le Gouvernement du Maroc de sa réponse détaillée à la communication envoyée le 30 Août 2011 concernant l'allégation de détention arbitraire et torture de M. Mohamed Hajib. Des sérieuses craintes ont été exprimées dans la communication au fait que la détention arbitraire de M. Hajib pendant laquelle les actes de torture avait été commise. Concernant les allégations selon lesquelles M. Hajib a été maltraité, le Gouvernement marocains dans sa réponse a indiqué que ses droits n'ont pas été limités dans toutes occasions, et que toutes les allégations s'étant avérées fallacieuses. A cet égard, le Rapporteur spécial aimerait renvoyer le Gouvernement du Maroc au paragraphe 1 dans la résolution adoptée par le Conseil des Droits de l'Homme 16/23, qui dit « [c]ondamne toutes les formes de torture et autres peines ou traitements cruels, inhumains ou dégradants, y compris sous forme d'intimidation, qui sont et resteront interdits en tout temps et en tout lieu et ne sauraient donc jamais être justifiés, et demande à tous les États de donner pleinement effet à l'interdiction absolue de la torture et autres peines ou traitements cruels, inhumains ou dégradants. » Le Rapporteur spécial exhorte le Gouvernement à attirer son attention au plus vite aux craintes exprimées dans la communication, notamment en fournissant des informations précises sur les enquêtes menées afin de traduire en justice les auteurs des faits, veiller à que les victimes obtiennent réparation, y compris une indemnisation équitable et adéquate, et une réhabilitation aussi complète que possible. Le Rapporteur spécial demeure préoccupé par la maltraitance de M. Hajib et demande à nouveau au Gouvernement de lui fournir des informations quant à sa situation.

## Myanmar

- (a) JUA 01/06/11 Case No. MMR 1/2011 State reply: None to date **Alleged hunger strike by political prisoners.**

117. The Special Rapporteur regrets that the Government of Myanmar has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged use of solitary confinement and limiting family visits on political prisoners in response to their hunger strike. In this context, the Special Rapporteur recalls principle 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, which states that, “[a] detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world [...]”. With regard to the use of solitary confinement as punishment, the Special Rapporteur stresses that solitary confinement should be used only in very exceptional circumstances, as a last resort, for as short a time as possible (paragraph 89, A/66/268). He urges the Government to prohibit the imposition of solitary confinement as punishment - either as a part of a judicially imposed sentence or a disciplinary measure.

- (b) JUA 26/07/2011 Case No. MMR 2/2011 State reply: 19/09/2011 **Alleged incommunicado detention of political prisoner.**

118. The Special Rapporteur thanks the response transmitted by the Government of Myanmar regarding the communication dated 26 July 2011. The communication referred to

the alleged solitary confinement, incommunicado detention and ban on family visits of Ms. Hnin May Aung, a student activist. Regrettably, the Government's response failed to address the allegation of ban on family visits since 7 July 2011. In this regard, the Special Rapporteur would like to draw the attention of the Government to principle 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and rule 37 of the Standard Minimum Rules for the Treatment of Prisoners. In the absence of contradictory evidence, the Special Rapporteur concludes that Ms. Hnin May Aung has been subjected to cruel, inhuman and degrading treatment in violation of international standards. He calls on the Government of Myanmar to provide the result of any investigation into allegations of bans on family visits after 29 June 2011 and to prevent recurrence of these acts.

- (c) JUA 28/11/2011 Case No. MMR 4/2011 State reply: None to date **Alleged assault of a prisoner by prison guards.**

119. The Special Rapporteur regrets that the Government of Myanmar has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged ill-treatment and the use of prolonged solitary confinement on Mr. Shin Gambira. The Special Rapporteur recalls article 7 of the Basic Principles for the Treatment of Prisoners, which provides that "efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged". In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur concludes that the rights of Mr. Gambira under the international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment have been violated. With respect to the use of prolonged solitary confinement, the Special Rapporteur reiterates that prolonged solitary confinement, in excess of 15 days, constitutes either cruel, inhuman or degrading treatment or torture, and should be subject to an absolute prohibition.

## Nigeria

- (a) JAL 20/12/2010 Case No. NGA 7/2010 State reply: None to date **Allegations of torture and killing of children suspected of witchcraft.**

120. The Special Rapporteur regrets that the Government of Nigeria has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to allegations of torture and killing of children suspected of witchcraft in Akwa Ibom State, and death threats against Mr. Sam Itauma, the coordinator of a local NGO that cares for children accused of witchcraft. The Special Rapporteur notes that paragraph 1 of Human Rights Council Resolution 16/23 of 12 April 2011 "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." Based on the information received, the Special Rapporteur determines that the rights of these children under the UN Convention against Torture have been violated, and calls on the Government to ensure that all children are specially protected against abuse and, if subjected to torture and other forms of ill-treatment, they obtain redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (b) JUA 30/05/2011 Case No. NGA 2/2011 State reply: None to date **Alleged arbitrary detention.**

121. The Special Rapporteur regrets that the Government of Nigeria has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred, inter alia, to the alleged ill-treatment of Mr. Mallam Aliyu Tasheku while in detention, including denial of access to health care. The Special Rapporteur again calls on the Government to provide information regarding the legal grounds for the re-arrest and detention of Mr. Tasheku and the results of any investigation into his alleged mistreatment.

## Oman

- JUA 28/04/2011 Case No. OMN 1/2011 State reply: 06/06/2011 **Alleged killings and detention of protesters in the context of peaceful demonstrations.**

122. The Special Rapporteur thanks the Government of Oman for its reply, dated 6 June 2011, to this communication in reference to the alleged killings of Mr. Abdullah al-Ghamalasi and one other, the detention and torture of Messrs. Ahmed al-Shezawi and Abdul Gufar al-Shewazi, and the incommunicado detention of nine protesters including Messrs. Ali al-Badi and Hilal al-Alawi during the demonstrations of 29 March 2011. In its response, the Government of Oman indicated that one person was killed during the protests and confirmed that detainees have been placed in solitary confinement, including Mr. al-Alawi, who the Government indicates was charged with forcibly preventing the public authorities from doing their work, resisting arrest, possession of an unlicensed firearm, and disrupting public traffic. The Government reported that “a few people have been placed in solitary confinement [...] as they had to be separated from the others to stop them from colluding with each other in order to come up with a common version of the events.” The Government indicated that “solitary confinement” is governed by the Code of Criminal Procedure, and allows isolation of an accused from other detainees without prejudice to the right to remain in contact with the accused's defense lawyer. The Government also indicated that two cases have gone to criminal courts, and that a judge decided to release Hilal al-Alawi and Ali al-Badi on 18 May 2011, along with others who were “charged with the lesser offense.” However, the Government responded that the remaining defendants are still in pretrial detention, and indicated that compensation has not been provided to the victims as the case is “still under investigation.” The Special Rapporteur notes that the practice of solitary confinement can amount to cruel, inhuman or degrading treatment or torture, particularly when used during pre-trial detention, due to the punitive nature of solitary confinement and the pain and suffering it may inflict on the accused. In this context, the Special Rapporteur draws the Government's attention to article 7 of the Basic Principles for the Treatment of Prisoners, which provides that “efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.” (Adopted by the General Assembly by Resolution 45/111 of 14 December 1990.) The Special Rapporteur reminds the Government that, per paragraph 8(b) of Human Rights Council Resolution 16/23 of 12 April 2011, “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.” The Special Rapporteur calls on the Government of Oman to ensure a prompt and independent investigation of all possible cases of torture, leading to prosecution of perpetrators, and to provide redress to all victims of ill-treatment or torture. In order to ensure non-repetition of these acts, the Special

Rapporteur urges the Government of Oman to end the practice of incommunicado detention.

## **Pakistan**

- (a) JUA 23/12/2010 Case No. PAK 16/2010 State reply: 30/12/2010, 08/04/2011 **Alleged arbitrary detention, torture and imposition of death sentence.**

123. The Special Rapporteur thanks the Government of Pakistan for its two responses to this communication regarding the alleged arbitrary detention, torture, and imposition of death sentence on Mr. Sarabjit Singh. Regrettably, the Government's response failed to address the allegation that Mr. Singh's whereabouts remained unknown for the first 9 months after his arrest on 30 August 1990. In view of these allegations, the Special Rapporteur notes that paragraph 8(b) of Human Rights Council Resolution 16/23 of 12 April 2011 asserts that "[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished." Furthermore, the Government's response neglected to indicate whether an investigation has been conducted into the allegation that Mr. Singh was in fact held in solitary confinement from 1991 until 2003. Based on the information received, the Special Rapporteur determines that Mr. Singh's rights under the UN Convention against Torture have been violated, and calls on the Government to set aside any criminal conviction based on evidence obtained under coercion and ensure that Mr. Singh obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (b) JUA 24/03/2011 Case No. PAK 2/2011 State reply: 28/03/2011 **Allegations of increased and continued killings in Balochistan.**

124. The Special Rapporteur thanks the Government of Pakistan for its reply, dated 28 March 2011, to this communication in reference to the alleged extrajudicial executions and torture in Balochistan. In the absence of evidence to the contrary, the Special Rapporteur determines that the rights of at least 56 persons killed in Balochistan since July 2010 have been violated under the UN Convention against Torture. The Special Rapporteur calls on the Government to undertake a prompt, impartial and effective investigation of the torture and extrajudicial killing of these individuals, leading to prosecution and punishment of the perpetrators, and to provide full redress to all victims and family members, including measures of non-repetition. The killings in Balochistan were the subject of two earlier communications (A/HRC/17/28/Add.1, pages 316 and 320).

- (c) JUA 05/05/2011 Case No. PAK 3/2011 State reply: None to date **Possible enforced disappearances.**

125. The Special Rapporteur regrets that the Government of Pakistan has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred, inter alia, to the alleged enforced disappearance of Mr. Riaz Kakepoto, Mr. Shah Nawaz Bhutto, Mr. Ali Nawab Mehar, and Mr. Jam Bhutto, whose fate and whereabouts remain unknown. The Special Rapporteur draws the Government's attention to paragraph 8(b) of Human Rights Council Resolution 16/23 of 12 April 2011, which reminds States that "[...] detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished." In the absence of

evidence to the contrary, the Special Rapporteur determines that the rights of the named individuals have been violated. The Special Rapporteur calls on the Government of Pakistan to report without delay on the whereabouts and fate of the named individuals and to ensure their physical and mental integrity. The Special Rapporteur also calls on the Government to undertake a prompt, impartial and effective investigation of any acts of torture or ill-treatment, leading to prosecution and punishment of the perpetrators, and to provide full redress to the victims.

- (d) JUA 24/05/2011 Case No. PAK 4/2011 State reply: None to date **Alleged abduction and subsequent killing.**

126. The Special Rapporteur regrets that the Government of Pakistan has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the abduction and subsequent killing of Mr. Siddique Eido and Mr. Yousaf Nazar, whose bodies were found dead with visible signs of torture. The victims were the subject of an earlier communication (PAK 17/2010). In the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Mr. Eido and Mr. Nazar under the UN Convention against Torture were violated, and calls on the Government of Yemen to undertake a prompt and impartial investigation of the acts, leading to prosecution and punishment of the perpetrators, and to provide redress to the family members of the victims.

### **Papua New Guinea**

- (a) JAL 15/09/2011 Case No. PNG 2/2011 State reply: None to date **Alleged acts of violence on the basis of allegations of witchcraft.**

127. The Special Rapporteur regrets that the Government of Papua New Guinea has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged sorcery related violence against Ms. X and Ms. Y. The Special Rapporteur reiterates paragraph 2 of General Comment No. 20 of the Human Rights Committee, which provides that, “[t]he aim of the provisions of article 7 of the International Covenant on Civil and Political Rights is to protect both the dignity and the physical and mental integrity of the individual. It is the duty of the State party to afford everyone protection through legislative and other measures as may be necessary against the acts prohibited by article 7, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity.”

- (b) JUA 27/09/2011 Case No. PNG 3/2011 State reply: None to date **Alleged violence on the basis of witchcraft accusations and reported lack of response by authorities.**

128. The Special Rapporteur regrets that the Government of Papua New Guinea has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged sorcery related acts of violence and intimidation against Mr. Mondo Gere, Mrs. Rose Nil Gere, Ms. X and her four daughters, Ms. Mary Kini and Ms. Monica Paulus. In this context, the Special Rapporteur recalls paragraph 2 of General Comment No. 20 of the Human Rights Committee, which provides that, “[t]he aim of the provisions of article 7 of the International Covenant on Civil and Political Rights is to protect both the dignity and the physical and mental integrity of the individual. It is the duty of the State party to afford everyone protection through legislative and other measures as may be necessary against the acts prohibited by article 7, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity.” The Special Rapporteur calls on the Government to investigate, prosecute and punish all cases of torture and to provide full

redress to the victims, including fair and adequate compensation, and as full rehabilitation as possible.

## **Qatar**

JUA 11/03/2011 Case No. QAT 1/2011 State reply: 30/03/2011 **Alleged detention of human rights defender.**

129. The Special Rapporteur thanks the Government of Qatar for its reply, dated 30 March 2011, to this communication regarding the alleged detention conditions of Mr. Sultan al-Khalaifi. In its reply dated 30 March 2011, the Government of Qatar failed to report on the fate or whereabouts of Mr. Sultan al-Khalaifi. The Special Rapporteur reminds the Government that paragraph 8(b) of Human Rights Council Resolution 16/23 of 12 April 2011 states that, “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment.” In the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Mr. Sultan al-Khalaifi under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government of Qatar to ensure the physical and mental integrity of Mr. Sultan al-Khalaifi, to undertake a prompt and impartial investigation leading to prosecution and punishment of the perpetrators, and to provide full redress to the victim.

## **Republic of Korea**

JUA 12/05/2011 Case No. KOR 2/2011 State reply: 27/06/2011 **Alleged risk of deportation to Uzbekistan.**

130. The Special Rapporteur thanks the Government of the Republic of Korea for its reply dated 27 June 2011 in response to the communication of 12 May 2011 regarding the alleged risk of deportation of Mr. Abdoolla Raviev. The Government of the Republic of Korea informed that Mr. Raviev's case was rejected because his claim of future torture if deported was not found credible by the Ministry of Justice on 17 June 2009, and was subsequently rejected on appeal on 10 August 2009, and again rejected under an administrative lawsuit on 24 June 2010, the decision of the Seoul High Court of 19 January 2011, and the Supreme Court of Korea on 28 April 2011. The Government indicated that Mr. Raviev was repatriated to Uzbekistan on 18 May 2011, and that Mr. Raviev's deportation had been suspended for 3 years to give time for a thorough investigation of Mr. Raviev's claim after he had overstayed his visa in 2009. In its reply, the Government of the Republic of Korea did not address the allegation that some of Mr. Raviev's family members were arrested.

## **Russian Federation**

(a) JUA 20/12/2010 Case No. RUS 10/2010 State reply: None to date **Alleged raid on the premises of, and subsequent attack against human rights activist.**

131. The Special Rapporteur regrets that the Government of the Russian Federation has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged raid on the premises of and subsequent attack against human rights activists. With regard to the allegations that Mr. Khamroev was beaten by security officials until he lost consciousness, the Special Rapporteur notes that paragraph 1 of Human Rights Council Resolution 16/23



of 12 April 2011 “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” Based on the information received, the Special Rapporteur determines that the rights of Mr. Khamroev under the UN Convention against Torture have been violated, and calls on the Government to launch an impartial and independent investigation into the episode, leading to prosecution and punishment of those responsible. The government must also ensure that Mr. Khamroev obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (b) JAL 14/01/2011 Case No. RUS 1/2011 State reply: 28/03/2011 **Alleged pattern of impunity regarding the deaths of lawyers and human rights activists.**

132. The Special Rapporteur thanks the Government of the Russian Federation for its response to this communication concerning allegations of a pattern of impunity for the deaths of lawyers and human rights activists including Mr. Sergei Magnitsky, a lawyer who died in custody on 16 November 2009. The Special Rapporteur would like to reiterate that when the State detains an individual, it is held to a heightened level of diligence in protecting that individual’s rights, especially his or her right to physical integrity. When an individual dies as a consequence of injuries sustained while in State custody, there is a presumption of State responsibility, particularly when the person was in good health at the time of his arrest (see ECHR, *Selmouni v France* and *Aksoy v Turkey*). In the Magnitsky case, attempts to present the cause of death as arising from natural causes is particularly unpersuasive given the medical records available and the fact that urgent medical attention was denied to him as his condition deteriorated. To overcome the presumption of State responsibility for a death resulting from injuries sustained in custody, there must be a “thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances” (principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions). This obligation to investigate and punish all acts of torture and other forms of ill-treatment also arises under articles 7 and 12 of the UN Convention against Torture. The Special Rapporteur is especially concerned that, although officials presumably involved in Magnitsky’s arrest and treatment in detention have been identified, their conduct has not been properly investigated. Instead, Magnitsky’s relatives are being asked to contribute evidence or be portrayed as not being interested in the investigation. The Special Rapporteur insists that torture is such a serious crime that it requires investigation and prosecution ex officio under all circumstances.

- (c) JUA 23/03/2011 Case No. RUS 2/2011 State reply: 11/05/2011 **Alleged torture of a detainee.**

133. The Special Rapporteur thanks the Government of the Russian Federation for its reply, dated 11 May 2011, to this communication regarding the alleged torture of Mr. Rasul Kudaev. Mr. Kudaev had also been the subject of an urgent appeal sent by the Chair-Rapporteur of the Working Group on Arbitrary Detention on 27 May 2004. In its reply, the Government indicated that Mr. Kudaev had been arrested on 23 October 2005 and on 21 March 2011 his remand in custody was extended until 26 June 2011. The Government reported that Mr. Kudaev underwent medical examinations, the results of which showed him to be suffering from “chronic gastritis, cholecystitis and osteochondrosis of the lumbar vertebrae.” The Government indicated that “[w]hen examined on 15 April 2011, Mr. Kudaev’s condition was found to be satisfactory, and he was considered to be in reasonable health.” The Government noted that “[i]ndependent inspections have not been instituted by

the Office of the Procurator, or any judicial or monitoring bodies.” The Government additionally indicated that “[n]o evidence has been found to substantiate the claims that physical force and special measures were used against Mr. Kudaev” during a transfer on 4 March 2010. The Government reported that on 10 March 2011, during a full personal search and inspection of Mr. Kudaev's belongings, nine complaints and petitions were confiscated from him by authorities, and noted that the Office of the Procurator found this confiscation to be illegal and that “disciplinary action was taken against four members of staff of the remand center” for this confiscation. The Government reports that Mr. Kudaev's transfer to a “punishment cell” for 15 days on 10 March 2011 was punishment for “breaking the internal rules of the remand centre” and “was not connected with the search and confiscation of documents,” and notes that the Office of the Procurator “deemed the decision legal and well founded.” The Government notes that the Kabardino-Balkaria division of the National Investigation Committee has registered nine complaints from Mr. Kudaev since 2005, has not initiated a criminal case for any of them, and on 18 April 2011 overturned the decisions on five of the complaints “on grounds of incomplete verifications.” The Government indicated that on 11 February 2008, Mr. Kudaev's complaint regarding detention regulations was rejected, and that the criminal division of the Supreme Court of Kabardino-Balkaria upheld this decision on an appeal of cassation. The Government states that “[n]o information is available on whether torture was used during the preliminary investigation.” The Government also indicated that “[i]nformation on interference in Mr. Kudaev's hearing with his lawyers is unfounded.” Based on the information received, the Special Rapporteur determines that Mr. Kudaev's rights under the UN Convention against Torture have been violated. The Special Rapporteur draws the Government's attention to article 15 of the Convention against Torture, which provides that “[e]ach State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings except against a person accused of torture as evidence the statement was made.” He also takes note that Mr. Kudaev was not provided with adequate and independent medical care while in detention. The Special Rapporteur reminds the Government that article 12 of the Convention against Torture requires competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the Convention against Torture requires State parties to prosecute suspected perpetrators of torture. The Special Rapporteur calls on the Government to undertake prompt, impartial and effective investigations into the alleged incidents of torture against Mr. Kudaev, leading to prosecution and punishment of the perpetrators, and to provide full and effective redress to Mr. Kudaev, including adequate and independent medical care and measures of non-repetition to guarantee his physical and mental integrity. He calls on the Government to promptly report on measures undertaken.

**(d) JAL 25/03/2011 Case No. RUS 3/2011 State reply: 20/05/2011 **Alleged death of detainees in correctional facility.****

134. The Special Rapporteur thanks the Government of the Russian Federation for its reply, dated 20 May 2011, to this communication in reference to the alleged torture and death of detainees in the correctional facility IK-1 in Kopejsk, Chelyabinks. In its reply, the Government confirmed that Mr. Sergei Samujlenkov was “found hung in the cell of the correctional facility” on 3 January 2011 and stated that Mr. Samujlenkov “repeatedly committed acts of self-mutilation and on many occasions attempted to commit suicide.” The Government indicated that Mr. Samujlenkov “did not lodge any official or formal complaints or petitions regarding confinement conditions.” The Government noted that an investigation of his death concluded the cause of death was “self-hanging.” It reported that on 14 April 2011, in the framework of a second investigation, the body was disinterred and it was determined that “wounds on his forearms, an abrasion on his forehead and a bruise on his left ear auricle” were all self-inflicted. The Government denied that videos allegedly

showing Mr. Samujlenkov hanged from his cell were staged by authorities. The Government reported that on 22 April 2011 the Investigation Committee of the Russian Federation decided “not to initiate a criminal case due to the absence of criminal intent.” The Government acknowledged that “officers used physical force and special means” against Messrs. Mamukov, Aivaseda, and Sakhabaev, which “resulted in [their] death.” The Government reported that “[a]ll together, 18 officials of the criminal correctional system in Chelyabinsk Region of the Russian Federation were charged with criminal offense[s] and put on trial,” and indicated that sentencing had been set for 24 May 2011. The Government reported that the Investigation Commission of the Russian Federation opened a criminal case for the offenses of “exceeding official powers” and “intentional infliction of a grave injury [involving] death of the victim by negligence.” The Government reported that the head of the Main Directorate of the Federal Service for the Execution of Sentences (MDFSES) was “severely reprimanded,” nine agents of the MDFSES were given a “strong incompetence note,” and three others were “reprimanded.” The Government indicated that in criminal court seven officers of IK-1 were charged with the offenses of murder, exceeding official powers, preparations for a crime and attempted crimes, and official forgery; the heads of IK-1 and MDFSES were charged with abuse of official powers, “concealment of crimes,” “knowingly false denunciation,” and official forgery. The Government reported that all of the named officials were dismissed from their positions, including the Head of the MDFSES and the Head of the Security Directorate of MDFSES. However, the Government did not address the reported death of Mr. Sergei Polyaev, nor did it provide information regarding the alleged ill-treatment of eight other detainees during the same incident. Based on the information received, the Special Rapporteur determines that Mr. Sergei Samujlenkov's death in custody was likely the result of torture and ill-treatment, and calls on the Government to seriously undertake a prompt, independent, impartial and effective investigation of the death of Mr. Samujlenkov, leading to the prosecution and punishment of the perpetrators, and to provide redress to his family members. He also determines, based on the information provided, that the rights of Messrs. Aivaseda, Mamukov, Sakhabaev, Polyaev, and the other named individuals under the UN Convention against Torture have been violated, and calls on the Government promptly and impartially to investigate the remaining allegations of torture, prosecute and punish the perpetrators, and provide full redress. The Special Rapporteur is pleased to acknowledge that 18 officials have been investigated and sanctioned for grave acts of torture as required by international law. He also calls on the Government of Russia to provide updated information on the outcome of the sentencing of the 18 security officials placed on trial and any measures of redress or compensation awarded to victims.

- (e) JUA 08/04/2011 Case No. RUS 6/2011 State reply: 01/06/2011 **Alleged excessive use of force by the police.**

135. The Special Rapporteur thanks the Government of the Russian Federation for its reply, dated 1 June 2011, in response to this communication in reference to the alleged excessive use of force and ill-treatment used by security forces against Mr. Magomed Khazbiev, member of the Expert Council under the Human Rights Ombudsperson of the Russian Federation, and his brothers Berd and Murad. The Government indicated that Mr. Khazbiev and his brothers organized a demonstration that illegally blocked traffic and began throwing stones at law enforcement officers, confirmed that they were detained by military officers, and reported that they were allowed to contact defense counsel and relatives but that Mr. Khazbiev “refused the help of (defense) counsel.” The Government reported that Magomed, Berd and Murad Khazbiev were found guilty of an administrative offense (“failure to comply with the lawful demands of militia officers”) and sentenced to 10 days, 5 days, and 1 day administrative detention respectively, and the decisions were upheld on appeal. The Government did not report on the alleged acts of ill-treatment, including beatings and denial of medicine. The Special Rapporteur draws the Government's

attention to paragraph 1 of Human Rights Council Resolution 16/23 of 12 April 2011, which “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” Based on the information provided, the Special Rapporteur concludes that the rights of Mr. Khazbiev and his brothers under the UN Convention against Torture have been violated, and calls on the Government to undertake a prompt and impartial investigation of the alleged acts of torture, to provide full redress, and to ensure that any evidence against the victims obtained under torture is inadmissible.

**(f) JUA 15/04/2011 Case No. RUS 4/2011 State reply: 01/06/2011 **Alleged detention of asylum-seeker at risk of extradition.****

136. The Special Rapporteur thanks the Government of the Russian Federation for its reply, dated 1 June 2011, to this communication in reference to the alleged detention of Mr. Nizomnho Juraev, an asylum seeker at risk of extradition to Tajikistan, where it is alleged that he will be tortured. In its reply, the Government indicated that at the time of submission the case of Mr. Juraev was on a cassation appeal before “the highest court of the Russian Federation” following a ruling by the Moscow municipal court of 12 April 2011 to extradite him. The Government additionally stated that the present communication does not fall within the mandate of the Special Rapporteur as the named party “has not been subjected to torture during his detention (in Russia).” In this respect, the Special Rapporteur reminds the Government of the Russian Federation of article 3 of the Convention against Torture, which provides that no State party shall expel, return (refouler), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. This obligation is reaffirmed in paragraph 9 of General Comment 20 of the Human Rights Committee and paragraph 9 of the Resolution A/RES/61/253 of the UN General Assembly. The Special Rapporteur also draws the attention of the Government to article 3 of the Convention against Torture, which provides that no State party shall expel, return (refouler), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. The Special Rapporteur draws the attention of the Government to paragraph 16 of the Resolution A/RES/65/205 of the UN General Assembly which urges States “not to expel, return (“refouler”), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, and recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement.” The Special Rapporteur also recalls that paragraph 7(d) of Human Rights Council Resolution 16/23 of 12 April 2011 urges States “[n]ot to expel, return (refouler), extradite or in any way transfer a person to another state where there are substantial grounds for believing that the person would be in danger of being subjected to torture.” The Special Rapporteur urges the Government of the Russian Federation to take all necessary measures to guarantee that the rights and freedoms of Mr. Juraev are respected and, if investigations support or suggest the allegations to be correct, to adopt effective measures to prevent Mr. Juraev's extradition.

## Saudi Arabia

- (a) JUA 22/03/2011 Case No. SAU 2/2011 State reply: None to date **Alleged detention of protesters.**

137. The Special Rapporteur regrets that the Government of Saudi Arabia has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the incommunicado detention and alleged ill-treatment of Mr. Muhammad al-Wad'ani, as well as the arbitrary detention of 24 other individuals. The Special Rapporteur recalls paragraph 8(a) of Human Rights Council Resolution 16/23 of 12 April 2011, according to which “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment.” In the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Mr. al-Wad'ani under the UN Convention against Torture have been violated, and urges the Government to ensure the physical and mental integrity of Mr. al-Wad'ani, to undertake an investigation, leading to the prosecution and punishment of the perpetrators, and to afford him full redress. The Special Rapporteur also calls on the Government of Saudi Arabia to abolish the practice of incommunicado detention.

- (b) JUA 12/05/2011 Case No. SAU 5/2011 State reply: None to date **Alleged arrest and incommunicado detention.**

138. The Special Rapporteur regrets that the Government of Saudi Arabia has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the reported incommunicado detention and ill-treatment of Mr. Fadhel Al Manasif. The Special Rapporteur reminds the Government of Saudi Arabia that paragraph 8(b) of Human Rights Council Resolution 16/23 of 12 April 2011, which reminds States that “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.” In the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Mr. Al Manasif under the UN Convention against Torture have been violated, and calls on the Government to ensure investigation and prosecution of the perpetrators and the provision of redress to the victim. The government should also end the practice of incommunicado detention.

## Senegal

- (a) JUA 28/01/2011 Case No. SEN 1/2011 State reply: None to date **Allégation de délai injustifié pour engager des poursuites pour les allégations de torture.**

139. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse de la part du Gouvernement du Sénégal à la communication envoyée le 28 Janvier 2011 concernant l'allégation de délai injustifié pour engager des poursuites pour les allégations de torture. Selon les informations reçues, M. Hissène Habré, ancien Chef d'Etat de la République du Tchad, est accusé d'avoir systématiquement pratiqué la torture durant ses huit années passées à la tête de l'Etat de la République du Tchad. Par ailleurs, le cas de M. Habré a été examiné par le Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants dans son rapport de 2007 (voir A/HRC/4/33, paras. 43-47) ainsi que par le Comité des Nations Unies contre la Torture

dans sa communication No. 181/2001-CAT/C/36/D/181/2001, Suleymane Guengueng et autres c/ Sénégal, du 17 mai 2006. Dans ladite communication, le Comité contre la torture a considéré que le Sénégal n'avait pas rempli ses obligations en vertu de l'article 5 paragraphe 2, et de l'article 7 de la Convention contre la Torture et autres peines ou traitements cruels, inhumains ou dégradants. Des craintes sont exprimées quant au délai injustifié pour engager des poursuites contre M. Habré pour les allégations de torture systématique pendant ses huit ans à la tête du Tchad et l'impact négatif sur l'impunité. Lorsque la torture est pratiquée de manière répandue ou systématique, il s'agit d'un crime contre l'humanité, ce que déclenche l'obligation de l'État à poursuivre ou extraditer l'auteur présumé en vertu du principe «aut dedere aut judicare». En encourageant le Gouvernement sénégalien à poursuivre son engagement avec le Mandat, le Rapporteur spécial appelle le Gouvernement à enquêter tous les cas de torture, à poursuivre et punir les responsables. Le Rapporteur spécial reste disponible pour fournir tout appui technique dont aurait besoin le Gouvernement.

- (b) JUA 28/07/2011 Case No. SEN 2/2011 State reply: None to date **Allégations d'actes de violence, ainsi que des propos diffamatoires à l'encontre de la société civile.**

140. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse de la part du Gouvernement du Sénégal à la communication envoyée le 28 Juillet 2011 concernant l'allégation d'actes de violence. Selon les informations reçues, MM. Alioune Tine et Oumar Diallo, qui participaient à le rassemblement du 23 juin 2011 des organisations de la société civile pour protester contre le projet de loi connu comme le "ticket présidentiel", auraient été blessés par des membres du Parti démocratique sénégalais (PDS) et comme conséquence de cette agression, MM. Tine et Diallo auraient perdu conscience et auraient été conduits à l'hôpital principal de Dakar. De sérieuses craintes sont exprimées pour l'intégrité physique et mentale de MM. Tine et Diallo étant donné l'agression, ainsi que les menaces dont ils ont fait l'objet. Par ailleurs, des préoccupations sont exprimées au sujet des menaces, actes d'intimidation et propos diffamatoires de la part des autorités publiques à l'encontre de la société civile sénégalaise, qui sembleraient avoir pour but de les empêcher à mener des actions pacifiques de défense des droits de l'homme. A cet égard, le Rapporteur spécial aimerait attirer l'attention du Gouvernement sénégalien sur le paragraphe 8a de la résolution 16/23 du Conseil des Droits de l'Homme qui rappelle aux Etats que « les mesures d'intimidation et pressions visées à l'article premier de la Convention contre la torture, y compris les menaces sérieuses et crédibles à l'intégrité physique de la victime ou d'une tierce personne, notamment les menaces de mort, peuvent constituer des traitements cruels, inhumains ou dégradants ou des actes de torture. » Le Rapporteur spécial appelle le Gouvernement à enquêter tous les cas de torture, à poursuivre et punir les auteurs des faits, en fournissant une réparation intégrale pour les victimes, y compris une indemnisation équitable et adéquate, et d'empêcher la réitération de telles pratiques.

## South Africa

- (a) JAL 14/01/2011 Case No. ZAF 1/2011 State reply: None to date **Alleged "corrective" rape of a lesbian woman.**

141. The Special Rapporteur regrets that the Government of South Africa has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to allegations of "corrective" rape of Ms. X, a lesbian woman. According to the information received, since this incident took place, the court-case addressing it had reportedly been postponed numerous times, and the alleged perpetrator was released on bail. The Special Rapporteur reiterates that paragraph 2 of General Comment 20 of the Human Rights Committee asserts that "[t]he aim of the

provisions of article 7 [on the prohibition of torture and other cruel, inhuman and degrading treatment or punishment] of the International Covenant on Civil and Political Rights is to protect both the dignity and the physical and mental integrity of the individual. It is the duty of the State party to afford everyone protection through legislative and other measures as may be necessary against the acts prohibited by article 7, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity” (Adopted at the 44th session of the Human Rights Committee, 1992). Moreover, article 12 of the UN Convention against Torture asserts that “[e]ach State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.” Accordingly, the Special Rapporteur urges the Government to act expediently to ensure the full investigation and prosecution of relevant perpetrators. Based on the information received, the Special Rapporteur determines that Ms. X’s rights under the UN Convention against Torture have been violated, and calls on the Government to ensure Ms. X obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (b) JAL 16/09/2011 Case No. ZAF 2/2011 State reply: 19/10/2011 31/01/2012 **Alleged rape of sex worker by police while in detention.**

142. The Special Rapporteur acknowledges the replies transmitted by the South African Government on 19 October 2011 and 31 January 2012; however, he notes that the Government has yet to provide substantive information pertaining to the issues raised. The communication referred to the alleged arbitrary detention and rape of a sex worker, and the allegation that this represents part of a wider pattern of abuse against sex workers in South Africa. In this regard, the Special Rapporteur would like to draw the attention of the Government to article 4 (c) and 4(d) of the United Nations Declaration on the Elimination of Violence against Women. The Special Rapporteur encourages the South African Government to provide information on any investigations carried out at the earliest opportunity.

## **Sri Lanka**

- (a) JUA 17/08/2011 Case No. LKA 5/2011 State reply: None to date **Alleged arbitrary detention and ill-treatment.**

143. The Special Rapporteur regrets that the Government of Sri Lanka has not yet responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred, inter alia, to the alleged torture of Mr. Wickramasinghe Arachchige Ranjith Chandrasiri Perera while in detention. In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur concludes that the rights of Mr. Wickramasinghe under the UN Convention against Torture have been violated. In this connection, the Special Rapporteur would like to draw the attention of the Sri Lankan Government to principle 15 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, and calls on the Government to investigate, prosecute, and punish all cases of torture, providing full redress to the victims, including fair and adequate compensation, and as full rehabilitation as possible. The Special Rapporteur urges the Government of Sri Lanka to provide information concerning the issues raised in the communication at the earliest opportunity.

- (b) JUA 30/08/2011 Case No. LKA 6/2011 State reply: None to date **Alleged arbitrary detention, torture and violations of rights to fair trial, health, water and sanitation.**

144. The Special Rapporteur regrets that the Government of Sri Lanka has failed to cooperate with the Mandate established by the Human Rights Council through its lack of

response to the communication dated 30 August 2011. The communication referred to the alleged torture and ill-treatment of Mr. Gunasundaram Jayasundaram which has resulted in serious deterioration of his health condition. In accordance with article 7 and article 12 of the UN Convention against Torture, the Special Rapporteur would like to draw the attention of the Government to paragraph 1 of Human Rights Council Resolution 16/23 which “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” Furthermore, the Special Rapporteur reminds the Government of rules 22(2) and 25(1) of the Standard Minimum Rules for the Treatment of Prisoners. In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur determines that the rights of Mr. Gunasundaram Jayasundaram have been violated under the UN Convention against Torture. The Special Rapporteur calls on the Government to undertake prompt and impartial investigation of all allegations of torture and to ensure the accountability of those responsible.

## Sudan

- (a) JUA 04/02/2011 Case No. SDN 2/2011 State reply: None to date **Alleged arrests during peaceful demonstrations.**

145. The Special Rapporteur regrets that the Government of Sudan has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to allegations of detention and torture or ill-treatment of Mr. Louis Ewell, also known as Louis Awil Weriak, Mr. Tharwat Swaraldahab, Mr. Hamza Baloul, Ms. Sarah Tag, Mr. Ali Haj Al-amin, Mr. Hussein Khogali, Mr. Mohamed Amir Musa. The Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 of 12 April 2011 “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” Moreover, paragraph 8(b) of Human Rights Council Resolution 16/23 asserts that “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.” Accordingly, based on the information received, the Special Rapporteur determines that the rights of the identified individuals under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government to immediately investigate all allegations of torture and other forms of ill-treatment, and ensure that perpetrators are prosecuted. Moreover, the Government must ensure that all individuals whose rights have been violated obtain redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (b) JUA 28/03/2011 Case No. SDN 3/2011 State reply: None to date **Alleged detention and torture of journalists.**

146. The Special Rapporteur regrets that the Government of Sudan has not responded to this communication in reference to the alleged detention and torture of journalists. In the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Messrs. Abu Zara al-Amin, Ashraf Abdelaziz, and Dahab Ibrahim under the UN Convention against Torture were violated. Additionally, the Special Rapporteur determines



that under the UN Convention against Torture the rights of Mr. Suleiman Wida'a, Ms. Fatima Bashir, Ms. Fathia Tinga, and Mr. Jaafar Alsabki Ibrahim, whose whereabouts remain unknown, were likely violated. The Special Rapporteur urgently calls on the Government of Sudan to guarantee the physical and mental integrity of Messrs. al-Amin, Wida'a, Bashir, Tinga, and Ibrahim. He also calls on the new Government to undertake a prompt, independent and effective investigation of alleged acts of torture against all named individuals, leading to prosecution and punishment of the perpetrators, and to provide full redress. The Special Rapporteur recalls paragraph 8(b) of Human Rights Council Resolution 16/23 of 12 April 2011, which states that “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished.” The Special Rapporteur urges the Government of Sudan to abolish the practice of incommunicado and unacknowledged detention.

## Sweden

UA 10/12/2010 Case No. SWE 2/2010 State reply: 14/01/2011 18/04/2011 **Alleged deportation of HIV-positive rape victim.**

147. The Special Rapporteur thanks the Government of Sweden for its two responses to the communication dated 10 December 2010 regarding the threatened deportation to the Democratic Republic of Congo of Ms. X, a HIV-positive victim of rape and torture. The Special Rapporteur notes that article 3 of the UN Convention against Torture holds that no State party shall expel, return (“refouler”), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. Accordingly, the Special Rapporteur is satisfied that on re-examination of her application for asylum, Ms. X has been granted a permanent residence permit to remain in Sweden.

## Syrian Arab Republic

(a) JUA 30/03/2011 Case No. SYR 4/2011 State reply: 06/07/2011 **Alleged assault and arrest in relation to peaceful demonstration.**

148. The Special Rapporteur thanks the Government of Syria for its reply, dated 6 July 2011, to this communication. In its reply, the Government of Syria provided information on recent legislative reforms and reported that of the detainees named in the communication, “all those who were detained for perpetrating unlawful acts have been transferred to judicial authorities,” and that the state of emergency had been lifted. The Government reported that “[i]n most of the cases referred to the courts, the suspects have been released immediately,” but that suspects of “sabotage, arson, or murder” are being prosecuted and punished. However, the Government did not provide specific information on the fate or whereabouts of any of the detainees by name. The Special Rapporteur recalls paragraph 8(b) of Human Rights Council Resolution 16/23 of 12 April 2011, which reminds States that “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished.” In the absence of evidence to the contrary, the Special Rapporteur determines that the rights under the UN Convention against Torture of the detained individuals named in the communication have been violated, and calls on the

Government to ensure the physical and mental integrity of all detainees and undertake a prompt and impartial investigation of alleged acts of torture, including prosecution and punishment of the perpetrators, and to provide appropriate and adequate redress. Additionally, he urges the Government to abolish the practice of incommunicado detention.

- (b) JUA 26/05/2011 Case No. SYR 5/2011 State reply: None to date **Alleged detentions and possible enforced disappearances in connection with demonstrations.**

149. The Special Rapporteur regrets that the Government of the Syrian Arab Republic has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the reported torture and forced disappearance of Mr. Mohammed Hasan al-Labwani, as well as possible torture during the detention of Mr. Najati Tayara and Mr. Mazen Adi; incommunicado detention of Mr. Mohamed Yassin Al-Hamwi and Mr. Amjad Baiazy; and alleged enforced disappearance of Mr. Wael Al-Hamada, Mr. Abdel Rahman Al-Hamada, Mr. Hassan Abd al-Adhim, Mr. Omar Qashaash, and Mr. Yasser Al-Khayyat in connection with demonstrations. Without any evidence to the contrary, the Special Rapporteur determines that the rights of Mr. Mohammed Hasan al-Labwani and the other Syrian nationals under the UN Convention against Torture have been violated, and calls on the Government to investigate, prosecute, and punish all cases of torture, providing full redress to the victims, including fair and adequate compensation, and as full rehabilitation as possible.

- (c) JUA 17/06/2011 Case No. SYR 7/2011 State reply: None to date **Alleged killings of protesters, excessive use of force and denial of life-saving medical treatment.**

150. The Special Rapporteur regrets that the Government of Syrian Arab Republic has failed to cooperate with the mandate established by the Human Rights Council through its lack of reply to the communication dated 17 June 2011. The communication, among other allegations, referred to the excessive use of force by Syrian security forces against peaceful protesters resulting in several hundred deaths; the alleged denial of access to life-saving medical assistance to wounded protesters, namely Mr. Moataz Bellah Shaar and Mr. Gassan Khalifa; the alleged abduction and secret detention of a large number of injured protesters; the alleged torture of a large number of detainees including children; and at least the alleged rape of one male detainee. The Special Rapporteur reiterates paragraph 1 of Human Rights Council Resolution 16/23 which “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” The Special Rapporteur would like to draw the attention of the Government to paragraph 7(a) of Resolution 8/8 of the Human Rights Council which reminds the Governments that corporal punishment, including of children, can amount to cruel, inhuman or degrading punishment or even to torture. The Special Rapporteur refers to the mandate’s report to the Human Rights Council (A/HRC/7/3, para. 69), in which he stressed that “rape and other serious acts of sexual violence by officials in contexts of detention or control not only amount to torture or ill-treatment, but also constitute a particular egregious form of it, due to the stigmatization they carry”. The Special Rapporteur urges the Government to recall article 12 of the UN Convention against Torture, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the UN Convention against Torture, which requires State parties to prosecute suspected perpetrators of torture. In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur determines that there have been various and extremely serious violations of rights of victims and urges the Government to undertake prompt and impartial investigation of all cases of alleged torture, secret detention, and denial of access to medicine. The Special

Rapporteur calls on the Government to ensure the accountability of those responsible and to provide full redress to the victims, including fair and adequate compensation, and as full rehabilitation as possible.

- (d) JAL 29/06/2011 Case No. SYR 6/2011 State reply: 25/10/2011 **Alleged arrest and detention of human rights activists following peaceful protests.**

151. The Special Rapporteur thanks the Government of the Syrian Arab Republic for its response to the communication dated 29 June 2011 regarding the arrest, the alleged incommunicado detention and ill-treatment of 13 human rights activists from the Assyrian Democratic Organization (ADO). According to the information received, all 13 persons were detained for a total of six days incommunicado at the Political Security branch of Al-Hasakah and some of them were allegedly brutally beaten and insulted by State security's agents. The Special Rapporteur thanks the Government for its explanation of the legal grounds and the administrative and judicial proceedings regarding this case. However, the Special Rapporteur would like to reiterate paragraph 8(b) of Human Rights Council Resolution 16/23, which states that "[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment." The Special Rapporteur would also like to draw the attention of the Government to article 12 of the Convention against Torture, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and to article 7, which requires State parties to prosecute suspected perpetrators of torture. The Special Rapporteur acknowledges that on 31 May 2011 a Legislative Decree No. 61 was issued, granting a general amnesty for a number of offences including those allegedly committed by the persons concerned. He also notes that according to the Government none of the persons concerned were beaten or abused in any way and not detained in solitary confinement. However, The Special Rapporteur regrets that the Government's response neglected to indicate whether an investigation has been conducted into the allegation of ill-treatment or not. The Special Rapporteur therefore calls on the Government of the Syrian Arab Republic to investigate, prosecute and punish all cases of ill-treatment and to provide the result of any investigation, medical examination, and judicial or other inquiries which may have been carried out in relation to this case. The Special Rapporteur encourages the Government to continue its engagement with the Mandate.

- (e) JUA 03/08/2011 Case No. SYR 8/2011 State reply: None to date **Alleged arrests and possible enforced disappearances in the context of the demonstrations that have been taking place in the Syrian Arab Republic since 15 March 2011.**

152. The Special Rapporteur regrets that the Government of Syrian Arab Republic has not responded to the communication dated 3 August 2011, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged arrest and secret detention of three brothers: Mr. Bashar Al Sahyoni, Mr. Mohamed Al Sahyoni, and Mr. Ghassan Al Sahyoni, following their active participation in demonstrations in the area of Banias. In this regard, the Special Rapporteur would like to draw the attention of the Government to paragraph 7(b) and paragraph 8(b) of Human Rights Council Resolution 16/23; to article 12 of the Convention against Torture, which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed; and to article 7, which requires State parties to prosecute suspected perpetrators of torture. In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur expresses his conviction that the rights of Messrs. Al Shahyoni under the UN Convention against Torture have been violated. The Special Rapporteur urges the Government to cease the practice of secret detention; calls on the Government to undertake a prompt and

impartial investigation of the whereabouts of Messrs. Al Shahyoni; to provide information regarding the legal grounds for their arrests and secret detention and to ensure the accountability of those responsible.

- (f) JUA 04/08/2011 Case No. SYR 9/2011 State reply: None to date **Alleged continued use of excessive force and arbitrary detention in relation to the continued violent crackdown against demonstrations.**

153. The Special Rapporteur regrets that the Government of Syrian Arab Republic has failed to cooperate with the mandate established by the Human Rights Council through its lack of response to the communication dated 4 August 2011. The communication referred to the alleged incommunicado detention of Mr. Moutaz Mourad; the alleged secret detention and solitary confinement of Mr. Anas Al-Shughri; the alleged denial of food and medication during detention of Mr. Sabri Mirza; and the alleged secret and incommunicado detention of Mr. Rami Mohamed Dalati, Mr. Osama Nasser, and Mr. Mohammad Alammar. The Special Rapporteur would like to draw the attention of the Government to paragraph 6 of General Comment No. 20 of the Human Rights Committee; article 7 of the Basic Principles for the Treatment of Prisoners; rules 22(2) and 25(1) of the Standard Minimum Rules for the Treatment of Prisoners, and paragraph 8(b) of Human Rights Council Resolution 16/23. In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur is persuaded that there has been a violation of rights of the above mentioned persons under the UN Convention against Torture. The Special Rapporteur urges the Government to cease the practice of incommunicado and secret detention; calls on the Government to undertake a prompt and impartial investigation of the allegations of torture or other cruel, inhuman or degrading treatment or punishment; to ensure the accountability of those responsible; and to prevent recurrence of these acts.

- (g) JUA 10/08/2011 Case No. SYR 10/2011 State reply: None to date **Alleged arrest and possible enforced disappearance.**

154. The Special Rapporteur regrets that the Government of Syrian Arab Republic failed to respond to the communication dated 10 August 2011, thereby withholding cooperation with the mandate established by the Human Rights Council. The communication referred to the alleged secret detention of, and denial of medication for Mr. Mohamed Jamal Al Tahhan, a political activist. The Special Rapporteur would like to draw the attention of the Government to paragraph 8(b) of Human Rights Council Resolution 16/23 and principle 24 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur concludes that there has been a violation of the rights of Mr. Al Tahhan under the UN Convention against Torture. The Special Rapporteur urges the Government to cease the practice of secret detention and calls on the Government to undertake a prompt and impartial investigation of the allegation of denial of medication; to ensure the accountability of those responsible; and to prevent the recurrence of these acts.

- (h) JUA 30/08/2011 Case No. SYR 13/2011 State reply: None to date **Alleged arrests, physical assault, ill-treatment, charges, and incommunicado detention.**

155. The Special Rapporteur regrets that the Government of Syrian Arab Republic failed to respond to the communication dated 30 August 2011, thereby withholding cooperation with the mandate established by the Human Rights Council. The communication referred to the alleged secret detention of Mr. Walid Al-Bunni and his son, the alleged ill-treatment of Ms. Handai Zahlout to obtain confession, the alleged physical assault on Mr. Mohamed Najati Tayara in prison, and the alleged incommunicado detention of Ahmad Tomeh before being released. In this regard, the Special Rapporteur would like to draw the attention of the Government to articles 7 and 12 of the UN Convention against Torture, to paragraph 1 and paragraph 8(b) of Human Rights Council Resolution 16/23, and to principle 15 of the UN

Basic Principles on the Use of Force and Firearms by Law Officials. In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur is convinced that there have been several violations of rights of the victims under the UN Convention against Torture. The Special Rapporteur urges the Government to cease the practice of secret detention and calls on the Government to undertake a prompt and impartial investigation of the allegations of torture and ill-treatment; to ensure the accountability of those responsible; and to prevent the recurrence of these acts.

## Tajikistan

JUA 17/02/2011 Case No. TJK 1/2011 State reply: None to date **Alleged torture and lack of medical attention.**

156. The Special Rapporteur regrets that the Government of Tajikistan has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to allegations of torture and lack of medical attention against Mr. Ilhom Ismanov. As stated in the communication, Mr. Ismanov had been the subject of a joint urgent appeal sent by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on 19 November 2010. In view of the allegations of torture and lack of medical attention, concern was expressed about the physical and psychological integrity of Mr. Ismanov. Further concern was expressed about the lack of investigation into the allegations of torture. The Special Rapporteur reiterates that article 12 of the Convention against Torture requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 requires State parties to prosecute suspected perpetrators of torture. Based on the information received, the Special Rapporteur determines that the rights of Mr. Ismanov under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government to immediately conduct a full investigation and prosecution of those responsible, and ensure that Mr. Ismanov obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

## Thailand

(a) JUA 08/02/2011 Case No. THA 1/2011 State reply: 14/03/2011 **Alleged arrest and detention of 60 Ahmadis of Pakistani origin.**

157. The Special Rapporteur thanks the Government of Thailand for its response to this communication regarding the alleged arrest and detention of 60 Ahmadis of Pakistani origin seeking asylum in Thailand. According to the information received, there are substantial grounds to believe that if forcibly returned to Pakistan, these individuals would face ill-treatment. Article 3 of the UN Convention against Torture holds that no State party shall expel, return (“refouler”), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. The Special Rapporteur thanks the Government for its explanation of the administrative proceedings undertaken to determine the grant or denial of asylum for each individual in this group of refugees, and appreciates that the Government does not endorse a policy of forced return. The Special Rapporteur believes, in any case, that prior history of persecution is highly relevant to the determination of risk and cautions that diplomatic assurances of favorable treatment from the receiving country does not mitigate the State’s obligation to refrain from *refoulement*.

- (b) JUA 15/02/2011 Case No. THA 2/2011 State reply: 28/06/2011 **Alleged detention of migrant worker with valid work permit.**

158. The Special Rapporteur thanks the Government of Thailand for its response to this communication regarding the alleged detention and ill-treatment of Mr. Charlie Diyu, a migrant worker from Myanmar. While acknowledging the Government's request for its reply to remain confidential, the Special Rapporteur nonetheless encourages the Government to ensure that all allegations of torture and other ill-treatment are investigated and punished, and reminds the Government of its obligation to provide full redress, including fair and adequate compensation, and as full rehabilitation as possible to all victims.

## Tunisia

- JUA 14/01/2011 Case No. TUN 1/2011 State reply: None to date **Allégation d'exécutions et d'arrestations dans le cadre des protestations.**

159. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse de la part du Gouvernement de la Tunisie à la communication envoyée le 14 Janvier 2011 concernant l'allégation de la violence et de l'usage excessif de la force par les forces de l'ordre. La communication reporte d'exécution d'au moins 21 personnes et l'arrestation massive de nombreux manifestants, journalistes, blogueurs et défenseurs des droits de l'homme, dans le cadre des protestations des mois de décembre 2010 et janvier 2011. Des sérieuses craintes ont été exprimées au sujet de l'escalade de la violence et de l'usage excessif de la force par les forces de l'ordre au cours de ces manifestations. A cet égard, le Rapporteur spécial aimerait attirer l'attention du Gouvernement sur le paragraphe 8a de la résolution 16/23 du Conseil des Droits de l'Homme qui rappelle aux Etats que « les mesures d'intimidation et pressions visées à l'article premier de la Convention contre la torture, y compris les menaces sérieuses et crédibles à l'intégrité physique de la victime ou d'une tierce personne, notamment les menaces de mort, peuvent constituer des traitements cruels, inhumains ou dégradants ou des actes de torture. » Par ailleurs, le Rapporteur spécial aimerait référer le Gouvernement aux principes énoncés dans les Principes fondamentaux des Nations Unies sur l'utilisation de la force et des armes à feu par les responsables de la loi, particulièrement aux principes 4, 5 et 9. Sur la base des informations reçues, le Rapporteur spécial craint que les droits des manifestants au titre de la Convention des Nations Unies contre la torture aient été violés. Il appelle le Gouvernement à enquêter tous les cas de torture, à poursuivre et punir les responsables, en fournissant une réparation intégrale pour les victimes, y compris une indemnisation équitable et adéquate, et d'empêcher la répétition de telles pratiques. Le Rapporteur spécial prie instamment le Gouvernement de fournir des informations concernant les questions soulevées dans la communication à la première occasion.

## Uganda

- JAL 25/05/2011 Case No. UGA 5/2011 State reply: 27/05/2011 **Alleged abuses by the police and the military forces.**

160. The Special Rapporteur thanks the Ugandan Government for its reply to the communication of 25 May 2011 in reference to the alleged ill-treatment of journalists Messrs. Stephen Otage, Sulaiman Mutebi, Ivan Mukasa and Umar Kyeyune by the police and the military forces, who allegedly beat and undressed them as they documented an eviction. Regrettably, the Government's response failed to address the substance of any of the specific allegations contained in the aforementioned joint communication. In the

absence of evidence to the contrary, the Special Rapporteur determines that the rights of the named journalists under the UN Convention against Torture have been violated, and calls on the Government to ensure investigation and prosecution of the perpetrators and the provision of redress to the victims.

## Ukraine

- (a) JUA 18/03/2011 Case No. UKR 2/2011 State reply: None to date **Alleged detention and possible refoulement of asylum-seekers.**

161. The Special Rapporteur regrets that the Government of Ukraine has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication concerned the alleged detention and ill-treatment of fourteen Afghan individuals, including an unaccompanied minor, by Ukrainian authorities. Six of them were reportedly deported to Afghanistan and the remaining eight were held at Boryspil airport in Kyiv. The individuals had claimed they would be in danger upon return to Afghanistan. Additionally, they were allegedly ill-treated and beaten by border guards during their transportation to Kyiv. In the absence of evidence to the contrary, the Special Rapporteur concludes that the rights of the aforementioned individuals under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government to investigate, prosecute and punish the perpetrators of torture or other ill-treatment as well as the responsibilities of the author or authors of the decision to violate the customary international law provision of non-refoulement and to provide full redress to the victims, including measures of non-repetition.

- (b) AL 31/03/2011 Case No. UKR 3/2011 State reply: None to date **Alleged arbitrary detention and ill-treatment.**

162. The Special Rapporteur regrets that the Government of Ukraine has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged incommunicado detention and secret transfer of Mr. Dirar Abu Sisi to Israel, where he was detained and allegedly tortured. (See JUA Communication ISR 3/2011 of 31 March 2011). Based on the information received and in the absence of evidence to the contrary, the Special Rapporteur determines that Mr. Abu Sisi was extradited to Israel in violation of the UN Convention against Torture. The Special Rapporteur draws the Government's attention to article 3 of the Convention against Torture, which provides that no State party shall expel, return ("refouler"), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. In this regard, paragraph 9 of General Comment No. 20 on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, in which the Human Rights Committee states that State parties "must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement." Furthermore, paragraph 7(d) of Human Rights Council Resolution 16/23 of 12 April 2011 urges States "[n]ot to expel, return (refouler), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture [...]."

## United Arab Emirates

- (a) JUA 14/01/2011 Case No. ARE 1/2011 State reply: None to date **Alleged risk of torture and harsh sentence related to extradition to Uzbekistan.**

163. The Special Rapporteur regrets that the Government of United Arab Emirates has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to allegations of substantial grounds to believe that Mr. Gairatjon Zoidov would be in danger of being subjected to torture if extradited to Uzbekistan. The Special Rapporteur reiterates that international standards prohibiting torture and cruel, inhuman or degrading treatment or punishment assert that no State party shall expel, return (“refouler”), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. Moreover, paragraph 9 of General Comment 20 of the Human Rights Committee declares that State parties “must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement.” Based on the information received, the Special Rapporteur determines that the Government will be in violation of international standards prohibiting torture and cruel, inhuman or degrading treatment or punishment if it proceeds with the extradition of Mr. Zoidov.

- (b) JUA 16/02/2011 Case No. ARE 2/2011 State reply: None to date **Alleged arbitrary detention of a human rights defender.**

164. The Special Rapporteur regrets that the Government of United Arab Emirates has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to allegations of incommunicado detention of Mr. Hassan Mohamed Al Hamadi, a human rights defender, following his arrest on 4 February 2011. The Special Rapporteur notes that paragraph 8(b) of Human Rights Council Resolution 16/23 of 12 April 2011 asserts that “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.” Based on the information received, the Special Rapporteur determines that Mr. Hamadi’s rights under international standards prohibiting torture and cruel, inhuman or degrading treatment or punishment have been violated. The Special Rapporteur calls on the Government to immediately release Mr. Hamadi from detention, ensure that he obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (c) JUA 01/04/2011 Case No. ARE 3/2011 State reply: None to date **Alleged secret detention, forthcoming extradition and risk of torture.**

165. The Special Rapporteur regrets that the Government of the United Arab Emirates has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged secret detention, risk of torture, and forthcoming extradition to Uzbekistan of Mr. Jamshid Abdurasulov. According to the information received, Mr. Abdurasulov was arrested by Dubai police officers on 24 February 2011 following an extradition request from Uzbekistan, on 15 March he received a call from Dubai police asking him to appear at headquarters for further questioning, and on 16 March he reportedly met with Interpol representatives who informed him that he had to travel to Abu Dhabi for further questioning. The whereabouts of Mr. Abdurasulov remain unknown. In this respect, the Special Rapporteur recalls paragraph 8(b) of Human Rights Council Resolution 16/23 of 12 April 2011, which reminds States that “[p]rolonged incommunicado detention or detention



in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.” The Special Rapporteur also calls attention to the Government's obligation under article 3 of the Convention of Torture, which provides that no State party shall expel, return (“refouler”), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. The Special Rapporteur additionally notes that while the United Arab Emirates has not ratified the Convention against Torture or the International Covenant on Civil and Political Rights, the rights cited therein are reflective of customary international law and, indeed peremptory norms binding on all states (*jus cogens*). He calls on the Government of the United Arab Emirates to take all necessary measures to guarantee the rights and freedoms of Mr. Abdurasulov, to undertake a prompt and independent investigation regarding the circumstances of his detention and to provide redress. He also urges the Government of the United Arab Emirates to abolish the practice of incommunicado detention.

- (d) JUA 05/05/2011 Case No. ARE 5/2011 State reply: None to date **Alleged arbitrary detention.**

166. The Special Rapporteur regrets that the Government of the United Arab Emirates has not responded to this communication, thus failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged arbitrary detention of Mr. Abdullah Khowar, without notification of the charges against him. Mr. Khowar reportedly was able to contact his wife to inform her that he was in the Damman prison and allegedly noted that he feared for his safety. The Special Rapporteur reiterates the call for the Government to provide information concerning the arrest and detention of Mr. Khowar, provide results of any investigation, medical examinations, and judicial or other inquiries carried out, and report on the measures taken to ensure the safety and physical integrity of Mr. Khowar. The Special Rapporteur additionally notes that while the United Arab Emirates has not ratified the Convention against Torture or the International Covenant on Civil and Political Rights, the rights cited therein are reflective of customary international law and, indeed, peremptory norms binding on all states (*jus cogens*).

- (e) JUA 27/09/2011 Case No. ARE 6/2011 State reply: None to date **Alleged arrests and detentions.**

167. The Special Rapporteur regrets that the Government of United Arab Emirates failed to respond to the communication dated 27 September 2011, thereby withholding cooperation with the Mandate established by the Human Rights Council. The communication referred to the alleged arrest, solitary confinement, secret detention and ill-treatment of Messrs. Ahmed Mansoor, Nasser bin Ghaith, Fahad Salim Dalk, Hassan Ali Khamis, and Ahmed Abdul Khaleq, human rights activists. In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur expresses his conviction that the practice of the Government has been in breach of the international standards prohibiting torture and cruel, inhuman or degrading treatment or punishment. The Special Rapporteur urges the Government to cease the practice of solitary confinement and incommunicado detention and calls on the Government to ensure the accountability of those responsible and to prevent the recurrence of these acts.

## United Kingdom of Great Britain and Northern Ireland

- (a) UA 23/02/2011 Case No. GBR 1/2011 State reply: None to date **Alleged risk of torture for asylum seeker facing deportation.**

168. The Special Rapporteur regrets that the Government of the United Kingdom of Great Britain and Northern Ireland has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to allegations of risk of torture for Mr. X, a homosexual man, if returned to Burundi. The Special Rapporteur reiterates that article 3 of the UN Convention against Torture holds that no State party shall expel, return (“refouler”), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. Based on the information received, the Special Rapporteur determines that the rights of Mr. X under the UN Convention against Torture are at risk of being violated. The Special Rapporteur calls on the Government not to extradite Mr. X until a fair assessment of his risk of torture is conducted. In this context, diplomatic assurances do not mitigate the Government’s obligation to refrain from violating the non-refoulement provision.

- (b) JAL 11/11/2011 Case No. GBR 6/2011 State reply: 13/01/2012 26/01/2012 **Concerns regarding the remit and conduct of the forthcoming United Kingdom of Great Britain and Northern Ireland (UK) Detainee Inquiry.**

169. The Special Rapporteur is grateful to the Government for its responses to this communication. Given the on-going dialogue between the mandate and the Government on this case, the Special Rapporteur decides not to make observations on this case in the present report.

## United States of America

- (a) UA 30/12/2010 Case No. USA 20/2010 State reply: 27/01/2011 19/05/2011 **Allegations of prolonged solitary confinement of a soldier charged with the unauthorized disclosure of classified information.**

170. The Special Rapporteur thanks the Government of the United States of America for its response to this communication regarding the alleged prolonged solitary confinement of Mr. Bradley E. Manning, a US soldier charged with the unauthorized disclosure of classified information. According to the information received, Mr. Manning was held in solitary confinement for twenty-three hours a day following his arrest in May 2010 in Iraq, and continuing through his transfer to the brig at Marine Corps Base Quantico. His solitary confinement - lasting about eleven months - was terminated upon his transfer from Quantico to the Joint Regional Correctional Facility at Fort Leavenworth on 20 April 2011. In his report, the Special Rapporteur stressed that “solitary confinement is a harsh measure which may cause serious psychological and physiological adverse effects on individuals regardless of their specific conditions.” Moreover, “[d]epending on the specific reason for its application, conditions, length, effects and other circumstances, solitary confinement can amount to a breach of article 7 of the International Covenant on Civil and Political Rights, and to an act defined in article 1 or article 16 of the Convention against Torture.” (A/66/268 paras. 79 and 80) Before the transfer of Pfc Manning to Fort Leavenworth, the Special Rapporteur requested an opportunity to interview him in order to ascertain the precise conditions of his detention. The US Government authorized the visit but ascertained that it could not ensure that the conversation would not be monitored. Since a non-private conversation with an inmate would violate the terms of reference applied universally in fact-finding by Special Procedures, the Special Rapporteur had to decline the invitation. In

response to the Special Rapporteur's request for the reason to hold an unindicted detainee in solitary confinement, the government responded that his regimen was not "solitary confinement" but "prevention of harm watch" but did not offer details about what harm was being prevented. To the Special Rapporteur's request for information on the authority to impose and the purpose of the isolation regime, the government responded that the prison rules authorized the brig commander to impose it on account of the seriousness of the offense for which he would eventually be charged. The Special Rapporteur concludes that imposing seriously punitive conditions of detention on someone who has not been found guilty of any crime is a violation of his right to physical and psychological integrity as well as of his presumption of innocence. The Special Rapporteur again renews his request for a private and unmonitored meeting with Mr. Manning to assess his conditions of detention.

- (b) AL 15/06/2011 Case No. USA 8/2011 State reply: None to date **Follow-up to a letter sent 13 May 2011 requesting a private unmonitored meeting with Private (Pfc.) Bradley Manning.**

171. The Special Rapporteur thanks the Government of the United States of America for its response to the communication dated 13 May 2011 requesting a private unmonitored meeting with Private Bradley Manning. Regrettably, to date the Government continues to refuse to allow the Special Rapporteur to conduct private, unmonitored, and privileged communications with Private Manning, in accordance with the working methods of his mandate (E/CN.4/2006/6 paras. 20-27).

- (c) JUA 19/08/2011 Case No. USA 15/2011 State reply: None to date **Alleged torture and ill-treatment in immigration facilities.**

172. The Special Rapporteur regrets that the Government of the United States of America to date has not responded to the communication dated 19 August 2011, regarding the allegations of torture and ill-treatment in immigration facilities. According to the information received, 16 gay and transgender individuals have allegedly been subjected to solitary confinement, torture and ill-treatment while in detention in U.S. immigration facilities. Furthermore, there was reportedly a lack of protection from persecution and respect for the principle of non-refoulement for those who risk torture if returned to their home countries on account of their sexual orientation, gender identity or HIV status. In this regard, the Special Rapporteur would like to draw the attention of the Government to paragraph 6 of General Comment No. 20 of the Human Rights Committee, to article 7 of the Basic Principles for the Treatment of Prisoners, to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Standard Minimum Rules for the Treatment of Prisoners, particularly rule 22 (2). Given the lack of any evidences to the contrary, the Special rapporteur believes that the fact reveal that there have been various violations of the provisions under the Convention against Torture, in particular breach of articles 7 and 12. The Special Rapporteur calls on the Government to undertake a prompt and impartial investigation on the conditions of detention, solitary confinement and ill-treatment of the immigrants, prosecute and punish those responsible, and ensure that the victims obtain redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (d) AL 16/09/2011 Case No. USA 16/2011 State reply: 30/11/2011 **Alleged widespread use of solitary confinement, including its prolonged and indefinite use and the imposition of solitary confinement on individuals with mental disabilities.**

173. The Special Rapporteur is grateful that the Government of the United States of America replied to the allegation letter of 16 September 2011. Considering the on-going dialogue on the issues raised between the mandate and the Government, the Special Rapporteur decides not to make observations on this case in the present report. He encourages the Government to continue its engagement with the mandate.

- (e) UA 29/11/2011 Case No. USA 21/2011 State reply: None to date **Alleged prolonged solitary confinement used on individuals suspected or convicted of terrorism-related offences.**

174. The Special Rapporteur is grateful to the Government of the United States of America for its engagement on the issues raised in the communication of 29 November 2011. Given the on-going dialogue between the mandate and the Government, the Special Rapporteur decides not to make observations on this case in the present report. He encourages the Government to continue its engagement with the mandate.

## Uzbekistan

- (a) JUA 15/12/2010 Case No. UZB 8/2010 State reply: 14/01/2011 **Alleged arrest and detention of human rights defenders.**

175. The Special Rapporteur thanks the Government of Uzbekistan for its response to the communication dated 15 December 2010, regarding the alleged arrest and detention of Ms. Gulshan Karaeva and Mr. Nodir Akhatov, two human rights defenders. In particular, the Special Rapporteur is concerned about allegations indicating that police officers attempted to force Ms. Karaeva and Mr. Akhatov to admit involvement in organizing the protest. The Special Rapporteur would like to reiterate that article 15 of the Convention against Torture provides that, “[e]ach State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.” Based on the information received, the Special Rapporteur determines that the rights of Ms. Karaeva and Mr. Akhatov under the UN Convention against Torture may have been violated, and calls on the Government to conduct a complete and impartial investigation into the aforementioned allegations.

- (b) JUA 20/12/2011 Case No. UZB 7/2010 State reply: 15/03/2011 **Alleged detention and torture of an advocate of freedom of religion.**

176. The Special Rapporteur thanks the Government of Uzbekistan for the response to this communication regarding the alleged detention and torture of Mr. Djalilov, an advocate of freedom of religion. Regrettably, the Government’s response failed to address the allegation that Mr. Djalilov’s whereabouts remained unknown between his arrest on 5 September 2009 and 22 October 2010 when his detention was finally acknowledged. In this regard, the Special Rapporteur notes that paragraph 8(b) of Human Rights Council Resolution 16/23 asserts that “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.” Furthermore, the Government’s response neglected to indicate whether an investigation into the allegation that Mr. Djalilov’s hearing impairment was a result of being subjected to a heavy blow to the ear while in prison. Based on the information received, the Special Rapporteur determines that Mr. Djalilov’s rights under the UN Convention against Torture have been violated, and calls on the Government to investigate, prosecute and punish those responsible and ensure that Mr. Djalilov obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (c) JUA 21/03/2011 Case No. UZB 1/2011 State reply: 12/05/2011 **Alleged arbitrary detention of a former UNDP employee.**

177. The Special Rapporteur thanks the Government of Uzbekistan for its reply, dated 12 May 2011, to this communication in relation to the alleged detention and ill-treatment of

Mr. Erkin Musaev. In its reply, the Government provided information regarding medical treatment given to Mr. Musaev and denied that he was subjected to torture or ill-treatment. However, the Government's reply did not address reports that Mr. Musaev was placed in solitary confinement in an isolation cell where he was allegedly beaten, nor did it mention any measures undertaken in observance of Opinion No. 14/2008 of the Working Group on Arbitrary Detention. The Special Rapporteur notes that the practice of solitary confinement can amount to cruel, inhuman or degrading treatment or torture, due to the punitive nature of solitary confinement and the pain and suffering it may inflict on the accused. The Special Rapporteur draws the Government's attention to article 7 of the Basic Principles for the Treatment of Prisoners, which provides that "efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged." (Adopted by the General Assembly by Resolution 45/111 of 14 December 1990.) In the absence of contrary evidence, the Special Rapporteur determines that Mr. Musaev's rights under the UN Convention against Torture have been violated, and calls on the Government of Uzbekistan to undertake a prompt, independent and effective investigation of these facts, leading to prosecution and punishment of the responsible parties, and to provide redress to the victim.

- (d) JAL 30/08/2011 Case No. UZB 2/2011 State reply: 15/11/2011 **Alleged torture and death in custody.**

178. The Special Rapporteur thanks the Government of Uzbekistan for its response to the communication dated 30 August 2011. The communication raised serious concerns about the allegation of torture and the subsequent death in custody of Mr. Artikov Abdumannon. Regrettably, the Government's response failed to substantively address these allegations and also neglected to indicate whether an investigation has been conducted in Mr. Abdumannon's case. The Special Rapporteur determines that Mr. Abdumannon's rights as protected by the UN Convention against Torture have been violated, and calls on the Government to investigate, prosecute and punish those responsible, and to provide redress to the victim's family members. The Special Rapporteur also encourages the Government to continue its engagement with the Mandate.

### **Venezuela (Bolivarian Republic of)**

- (a) JUA 11/07/2011 Case No. VEN 2/2011 State reply: None to date **Presunta existencia de una campaña de descalificación contra varios defensores y organizaciones.**

179. El Relator Especial lamenta que, hasta la fecha, el Gobierno de Venezuela no haya respondido a esta comunicación de fecha 11 de julio de 2011, que se refería a los presuntos actos de hostigamiento contra individuos y organizaciones trabajando en la defensa de los derechos humanos, actos que según se alega incluyeron amenazas de malos tratos en violación de la prohibición de la tortura y de los tratos o penas crueles, inhumanos o degradantes. El Relator Especial desea hacer referencia al Gobierno de Venezuela al párrafo 7(b) de la Resolución 16/23 del Consejo de Derechos Humanos. En el contexto del deber del Gobierno de ofrecer protección a las presuntas víctimas en este caso, el Relator Especial quisiera llamar la atención del Gobierno al párrafo 3(b) de los Principios relativos a la investigación y documentación eficaces de la tortura y otros tratos o penas crueles, inhumanos o degradantes. Ante la ausencia de evidencia en contrario, el Relator Especial sostiene que los derechos de las presuntas víctimas, consagrados en la Convención contra la Tortura, estén en peligro de ser vulnerados. El Relator Especial exhorta al Gobierno de Venezuela a disponer la investigación de los hechos de este caso y a tomar medidas para garantizar la integridad física y psicológica de las presuntas víctimas. El Relator Especial reitera su solicitud al Gobierno que proporcione información detallada acerca de cualquier investigación que se haya llevado a cabo en relación con este caso, así como las medidas de

protección adoptadas por las autoridades para garantizar la seguridad de las presuntas víctimas.

- (b) JUA 20/07/2011 Case No. VEN 1/2011 State reply: None to date **Presunta violencia en las cárceles.**

180. El Relator Especial lamenta que, hasta la fecha, el Gobierno de Venezuela no haya respondido a esta comunicación de fecha 20 de julio de 2011. La comunicación se refería a las presuntas muertes y desapariciones forzosas de presos en la cárcel de El Rodeo en Guatire a raíz del intento de un contingente de efectivos de la Guardia Nacional y soldados de desarmar a los presos después de la ocurrencia de enfrentamientos violentos entre bandas rivales. En el contexto del uso de la fuerza contra personas en detención, el Relator Especial desea llamar la atención del Gobierno de Venezuela a los Principios Básicos sobre el Empleo de la Fuerza y de Armas de Fuego por los Funcionarios Encargados de Hacer Cumplir la Ley, en particular a los Principios 4, 5, 15 y 16. En relación a la obligación del Gobierno de investigar los hechos denunciados, el Relator Especial desea hacer referencia al Gobierno de Venezuela a los artículos 7 y 12 de la Convención contra la Tortura así como al párrafo 7(b) de la Resolución 16/23 del Consejo de Derechos Humanos. Ante la ausencia de evidencia en contrario, el Relator Especial está persuadido de que los derechos de las presuntas víctimas, consagrados en la Convención contra la Tortura, hayan sido vulnerados. El Relator Especial exhorta al Gobierno de Venezuela a disponer la investigación, procesamiento y eventual condena de los responsables de los hechos de este caso, y reitera su solicitud al Gobierno que proporcione información detallada acerca de cualquier investigación que ya se haya llevado a cabo al respecto.

## **Viet Nam**

- (a) JUA 29/07/2011 Case No. VNM 3/2011 State reply: 06/09/2011 **Alleged sentencing of human rights defenders.**

181. The Special Rapporteur thanks the Government of Viet Nam for its reply of 6 September 2011, in response to the communication dated 29 July 2011. The communication expressed the allegation that human rights defenders have been sentenced. According to the information received, Messrs. Duong Kim Khai, Nguyen Thanh Tam, Pham Van Thong, Nguyen Chi Thanh, Pham Ngoc Hoa and Cao Van Tin, Ms. Tran Thi Thuy and Ms. Pham Ngoc Hoa had reportedly been held in incommunicado detention and denied access to their families. The Government's report provided information regarding the charges brought, the circumstances of the arrest and the work of the Viet Tan organization. However, the Government of Viet Nam did not respond to the specific allegations contained in the joint communication. The Special Rapporteur would like to draw the attention of the Government to paragraph 8(b) of Human Rights Council Resolution 16/23, which reminds States that "[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished." He also wishes to draw the Government's attention to rule 37 of the Standard Minimum Rules for the Treatment of Prisoners, which provides that "[p]risoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits." The Special Rapporteur urges the Government to end the practice of incommunicado detention.

- (b) JUA 15/08/2011 Case No. VNM 6/2011 State reply: None to date **Alleged torture, hard labour and incommunicado detention as a consequence of the exercise of freedom of opinion and expression.**

182. The Special Rapporteur regrets that the Government of Viet Nam failed to respond to the communication dated 15 August 2011, thereby withholding cooperation with the mandate established by the Human Rights Council. The communication referred to the alleged torture, incommunicado detention and hard labour of Mr. Nguyen Van Hai, an independent journalist and blogger. In this connection, the Special Rapporteur would like to draw the attention of the Government to paragraph 8(b) of Human Rights Council Resolution 16/23 and rule 22(2) of the Standard Minimum Rules for the Treatment of Prisoners. In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur concludes that there has been a violation of rights of Mr. Nguyen Van Hai under the UN Convention against Torture. The Special Rapporteur urges the Government to cease the practice of incommunicado detention, and calls on the Government to undertake a prompt and impartial investigation of allegations of torture; to prosecute and punish those responsible, and to ensure that Mr. Nguyen Van Hai obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

## Yemen

- (a) JUA 03/03/2011 Case No. YEM 1/2011 State reply: None to date **Alleged violence and attacks against journalists in connection with demonstrations.**

183. The Special Rapporteur regrets that the Government of Yemen has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred, inter alia, to the alleged ill-treatment of detainees including physical beatings and mistreatment, withholding of medical services in detention, and incommunicado detention. In the absence of contrary evidence, the Special Rapporteur determines that the rights of the named individuals under the UN Convention against Torture were violated. The Special Rapporteur calls on the Government to undertake a prompt and impartial investigation of the facts, leading to prosecution and punishment of perpetrators, and to provide redress to the victims. The Special Rapporteur additionally calls on the Government of Yemen to abolish the practice of incommunicado detention.

- (b) JUA 24/05/2011 Case No. YEM 2/2011 State reply: None to date **Alleged incommunicado detention and torture.**

184. The Special Rapporteur regrets that the Government of Yemen has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the incommunicado detention and torture of Mr. Hicham Gherras. In the absence of evidence to the contrary, the Special Rapporteur determines that Mr. Gherras' rights under the UN Convention against Torture have been violated, and calls on the Government of Yemen to undertake a prompt and impartial investigation, leading to prosecution and punishment of perpetrators, and to provide redress to Mr. Gherras, including fair and adequate compensation, and as full rehabilitation as possible. To ensure non-repetition of these acts, the Special Rapporteur urges the Government of Yemen to end the practice of incommunicado detention.

- (c) JUA 19/10/2011 Case No. YEM 4/2011 State reply: None to date **Alleged incommunicado detention, torture and denial of medical treatment.**

185. The Special Rapporteur regrets that the Government of Yemen failed to respond to the communication dated 19 October 2011, thereby withholding cooperation with the mandate established by the Human Rights Council. The communication referred to the

alleged incommunicado detention and deterioration of health condition of Mr. Al-Sharafy, a human rights activist. In this connection, the Special Rapporteur would like to draw the attention of the Government to paragraph 8(b) of Human Rights Council Resolution 16/23 and rule 22(2) of the Standard Minimum Rules for the Treatment of Prisoners. In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur concludes that there has been a violation of the rights of Mr. Al-Sharafy under the UN Convention against Torture. He urges the Government of Yemen to cease the practice of incommunicado detention, calls on the Government to ensure the accountability of those responsible, and that Mr. Al-Sharafy obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

## Zimbabwe

- (a) JUA 28/02/2011 Case No. ZWE 1/2011 State reply: None to date **Alleged incommunicado detention, torture and denial of medical treatment.**

186. The Special Rapporteur regrets that the Government of Zimbabwe has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to allegations of arrest, torture, and ill-treatment of 45 human rights activists attending a meeting on 19 February 2011. The Special Rapporteur notes that paragraph 1 of Human Rights Council Resolution 16/23 “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” Moreover, article 15 of the Convention against Torture provides that “[e]ach State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.” Although Zimbabwe is not a party to the Convention, the standard in article 15 articulates a customary international law norm binding on all States. Based on the information received, the Special Rapporteur determines that the rights of the 45 arrested human rights activists under international standards prohibiting torture and cruel, inhuman or degrading treatment or punishment have been violated. The Special Rapporteur calls on the Government to immediately release all aforementioned activists from detention, ensure that they obtain redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (b) JUA 01/06/2011 Case No. ZWE 3/2011 State reply: None to date **Alleged arrest and detention of human rights defenders.**

187. The Special Rapporteur regrets that the Government of Zimbabwe has failed to cooperate with the mandate established by the Human Rights Council through its lack of reply to the communication dated 1 June 2011. The communication referred to the alleged incommunicado detention of Ms. Florence Ndlovu and Mr. Walter Dube, human rights defenders, for 48 hours from 24 May 2011 until 26 May 2011. In this connection, the Special Rapporteur would like to draw the attention of the Government to paragraph 8 b of Human Rights Council Resolution 16/23 and urges the Government to cease the practice of incommunicado detention, and to prevent recurrence of these acts.

- (c) JUA 26/10/2011 Case No. ZWE 5/2011 State reply: None to date **Alleged arrest and detention of human rights defenders.**

188. The Special Rapporteur regrets that the Government of Zimbabwe has failed to cooperate with the mandate established by the Human Rights Council through its lack of



reply to the communication dated 26 October 2011. The communication referred to violence and excessive use of force against peaceful female marchers to commemorate the International Day of Peace, which led to arrest and beating of and verbal insult to a group of 10 women activists along with Ms. Jenni Williams and Ms. Magodonga Mahlangu. In the absence of any contradictory evidence, the Special Rapporteur concludes that the rights of Ms Williams and Ms Mahlangu under international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment have been violated. In this connection, the Special Rapporteur would like to call on the Government to undertake prompt investigation of allegations of violence and ill-treatment and to prevent recurrence of these acts.

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