



# General Assembly

Distr.: General  
11 March 2013

English/French/Spanish only

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## Human Rights Council

Twenty-fifth session

Agenda item 3

**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 2011 and 30 November 2012, as well as on responses received from States in relation to these communications until 31 January 2013. Communications sent and responses received during the reporting period are accessible electronically through hyperlinks.
3. The Special Rapporteur acknowledges the receipt of additional responses from States through to 31 January 2013 in relation to the joint study on global practices in relation to secret detention in the context of countering terrorism (A/HRC/13/42). 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.
4. 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.”
5. The communications and the relevant replies can also be accessed via the incorporated links or in the communications reports of Special Procedures A/HRC/23/51 (communications sent, 1 December 2012 to 28 February 2013; replies received, 1 February 2012 to 30 April 2012); A/HRC/24/21 (communications sent, 1 March to 31 May 2013; replies received, 1 May to 31 July 2013) and A/HRC/25/74 (communications sent, 1 June to 30 November 2013; replies received, 1 August 2013 to 31 January 2014).

## II. Observations by the Special Rapporteur

### Afghanistan

- (a) JAL 29/11/2013 Case No. [AFG 1/2013](#) State Reply: None to Date **Alleged unlawful killings and abuse by US military in Nerkh District, Wardak Province, Afghanistan.**
  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. According to allegations, at least 19 Afghan men were unlawfully killed by the US Army, 1<sup>st</sup> Battalion, 3<sup>rd</sup> Special Forces Group, known as Operation Detachment Alpha (ODA) 3124, in the Nerkh District of Wardak Province, Afghanistan in late 2012 and early 2013. Many of those killed were allegedly taken into custody by ODA 3124 and were later found dead. It is also alleged that several detainees held by ODA 3124 were mistreated, harassed and beaten while in custody. Investigations

conducted by US and Afghan authorities had reportedly made little progress. The Special Rapporteur reminds the Government that article 3 of the 1949 Geneva Conventions provides that in non-international armed conflicts, all persons not taking an active part in hostilities, including persons in custody, shall be treated humanely. Article 3 of the UDHR and article 6(1) of the ICCPR guarantee the right of every individual to life and security, while paragraph 1 of Human Rights Council Resolution 16/23 “condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment.” Furthermore, the Customary Rules compiled by the ICRC and the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law require states to investigate grave breaches of international human rights and humanitarian law. Similarly, articles 7 and 12 of the Convention against Torture require States to conduct prompt and impartial investigations where there are reasonable grounds to believe that torture has been committed, and to prosecute suspected perpetrators. In the absence of evidence to the contrary, the Special Rapporteur concludes that the victims’ rights under international standards relating to the prohibition of torture and ill-treatment, as well as other standards of international human rights and humanitarian law, have been violated. The Special Rapporteur calls on the Afghan Government to clarify the facts of the alleged incidents, undertake a prompt, independent, and effective investigation leading to the prosecution and punishment of the perpetrators, provide full redress to the victims and their family members, and undertake effective measures to prevent the recurrence of these acts.

## Algeria

- (a) JAL 20/08/2013 Case No. [DZA 4/2013](#) State reply: [16/12/2013](#) **Allégations d’usage excessif de la force et d’arrestations subséquentes lors d’une manifestation pacifique de familles de disparus.**

7. Le Rapporteur spécial confirme la réception d’une réponse du gouvernement de l’Algérie à la communication envoyée le 20 août 2013 concernant des allégations de l’usage excessif de la force de la police et des arrestations subséquentes de MM. Tarek Mammeri, Abdallah Benaoum, Yacine Khaldi, Slimane Hamitouche et Islam Tabbouche, qui prenaient part à une manifestation pacifique organisée par la Coordination nationale des familles de disparu(e)s (CNFD) à l’occasion de la journée internationale contre la torture. Selon les informations reçues, ceux-ci auraient été conduits au commissariat du 11<sup>ème</sup> arrondissement de Constantine suite à leur arrestation, puis au commissariat central de Constantine, où ils auraient été insultés et violemment battus avant d’être libérés en fin de soirée. Selon des allégations, , à leur sortie du commissariat, MM. Mammeri, Benaoum, Khaldi, Hamitouche et Tabbouche se seraient rendus au service des urgences médico-chirurgicales du Centre Hospitalier Universitaire de Constantine où des policiers se seraient alors interposés pour enjoindre aux médecins de ne pas soumettre les victimes à ces examens. Par ailleurs, d’autres allégations soutiennent que seul M. Mammeri aurait pu bénéficier d’une radiographie qui a permis de diagnostiquer une fracture de l’humérus et la pose d’un plâtre thoraco brachial. Bien que le Rapporteur spécial confirme réception de la réponse du gouvernement, il regrette que le gouvernement n’ait pas fourni des réponses plus détaillées aux craintes exprimées dans la communication. Dans ce contexte, le Rapporteur spécial aimerait également souligner que tout gouvernement a l’obligation de protéger le droit à l’intégrité physique et mentale de toutes personnes, tel que stipulé dans la Déclaration Universelle de droits de l’homme, dans le Pacte international relatif aux droits civils et politiques, dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants. Nous voudrions aussi attirer l’attention du gouvernement de son Excellence sur le principe 4 des Principes de base sur le recours à la force et l’utilisation des armes à feu par les responsables de l’application des lois : « les responsables

de l'application des lois, dans l'accomplissement de leurs fonctions, auront recours autant que possible à des moyens non violents avant de faire usage de la force ou d'armes à feu. Ils ne peuvent faire usage de la force ou d'armes à feu que si les autres moyens restent sans effet ou ne permettent pas d'escompter le résultat désiré. » Le Rapporteur spécial souhaiterait également attirer l'attention du gouvernement sur le fait qu'en vertu de l'article 12 de la CAT les autorités compétentes doivent assurer qu'une enquête impartiale aura lieu chaque fois qu'il y a des motifs raisonnables de croire qu'un acte de torture a été commis. Le Rapporteur spécial souhaiterait également rappeler au gouvernement que l'Article 7 de la Convention demande aux Etats d'assurer que ceux qui sont suspects de commettre des actes de torture soient traduits en justice. Le Rapporteur spécial exhorte le Gouvernement à répondre 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 ce que les victimes obtiennent réparation, y compris une indemnisation équitable et adéquate, et une réhabilitation aussi complète que possible.

## Angola

- (a) UA 10/06/2013 Case No. [AGO 3/2013](#) State reply: [08/07/2013](#), [30/09/2013](#) **Alleged incommunicado detention of Mr. Emiliano Catumbela “Ticreme”, and alleged arbitrary arrests of and excessive police actions against eight other human rights defenders during their participation in a vigil in Luanda on 27 May 2013.**

8. The Special Rapporteur thanks the Government of the Republic of Angola for its replies, dated 8 July 2013 and 30 September 2013, to this communication in reference to the alleged detention and arrest of nine human rights defenders during their participation in a vigil in Luanda on 27 May 2013 and excessive police actions against them. All nine persons, namely Emiliano Catumbela “Ticreme”, Manuel Nito Alves, Albano Bingo, Nicola, Domingos Cipriano “Aristocrata”, Adolfo Miguel Campos André, Graciano, Ferbern, and Raul Lindo “Mandela”, are members of the Movimento Revolucionário (Revolutionary Movement), which peacefully defends human rights, democracy and accountability in Angola. On 27 May 2013 the aforementioned persons took part in a protest in Luanda on Largo da Independência, reportedly to commemorate the one-year anniversary of the disappearance of Messrs. Silva Alves Kamulingui (also known as António Alves Kamulingue) and Isaiás Sebastião Cassule. It is reported that the protesters encountered a heavy police presence and that several protesters were arrested by National Police officers and detained for several hours without charges. It was further reported that Mr. Lindo, also known as “Mandela”, was arrested by police officers at approximately 2100 hours and found unconscious by the side of the road some 5 kilometers outside Luanda between 2200 hours and 2300 hours. Sources additionally informed that Mr. Catumbela was arrested during the vigil and is being detained in the Provincial Directorate for Criminal Investigation in Luanda. Sources inform that Mr. Catumbela has been refused access to his lawyer while in detention and has been interrogated nonetheless. It has been reported that Mr. Catumbela was seen in a cell at a police station and his face allegedly displayed serious injuries. In this context, the Special Rapporteur recalled paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns 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 its replies, the Government of the Republic of Angola stated that the alleged report that Mr. Catumbela’s face displayed serious injury at the police station was not accurate, and that the Government could not verify the allegations of arbitrary arrest or excessive police action against the eight other human rights defenders or protesters. The

Government stated that Mr. Catumbela was detained and charged with assault and attempted murder of a police Commander of the Municipality during the vigil and was released on 25 June 2013 by the Attorney General of the Republic at the National Directorate of Criminal Investigation (DNIC) pending his future trial. Although the Special Rapporteur appreciates the reply, he would like to remind the Republic of Angola that each Government has the obligation to protect the right to physical and mental integrity of all persons. He notes with regret that the Government did not address the allegations concerning Mr. Lindo, also known as “Mandela”. The Special Rapporteur reminds the Government of its obligation to 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.

## Argentina

- (a) AL 17/01/2013 Case No. [ARG 1/2013](#) State reply: None to date **Posible adopción del “Proyecto E219-12-13” por el cual se transfiere la competencia del registro de casos de tortura de la Defensoría de Casación Penal de la Provincia a una nueva instancia.**

9. El Relator Especial lamenta que, hasta la fecha, el Gobierno de Argentina no haya respondido a la comunicación de fecha 17 de enero de 2013. La comunicación expresaba preocupación por la posible adopción de una nueva legislación a estudio de la Honorable Legislatura de la Provincia de Buenos Aires, que buscaría trasladar la competencia del registro de casos de tortura de la Defensoría de Casación Penal de la Provincia a la nueva Defensoría General Multifueros, afectando así, la continuidad y especialidad en el manejo de datos sensibles. Se alegaba también que la transferencia del manejo de este registro no cumple con las garantías mínimas de independencia. En este contexto, el Relator Especial hace referencia al Gobierno de Argentina al avance significativo que dicho mecanismo de registro ha tenido en la prevención y eliminación de actos de tortura en la Provincia de Buenos Aires. Asimismo, recalca que su creación respondió principalmente a las recomendaciones del Comité de Derechos Humanos de las Naciones Unidas (CCPR/C/ARG/CO/4) ante el considerable número de casos de torturas y malos tratos. Las recomendaciones tendrían como objetivo asegurar el registro de información fidedigna, observar su evolución y así habilitar las medidas adecuadas. El Relator Especial insta al Gobierno a proporcionar información detallada acerca de las medidas que serían adoptadas para salvaguardar la independencia y especialidad del registro de casos de tortura y exhorta al Gobierno a asegurar que ambas garantías se respeten. AL 01/03/2013 Case No. ARG 2/2013 State reply:

- (b) AL 01/03/2013 Case No. [ARG 2/2013](#) State reply: [29/05/2013](#), [29/05/2013](#), [29/05/2013](#), [29/05/2013](#), [10/06/2013](#), [10/06/2013](#), [26/06/2013](#), [26/06/2013](#) and [26/06/2013](#) **Alegación de actos de tortura cometidos por agentes oficiales de una comisaría de General Madariaga, en la Provincia de Buenos Aires**

10. Alegación de actos de tortura cometidos por agentes oficiales de una comisaría de General Madariaga, en la Provincia de Buenos Aires. Según la información recibida, el Señor Damián Alejandro Sepúlveda habría sido hallado muerto en su celda en una comisaría de General Madariaga, en la Provincia de Buenos Aires. Los funcionarios de la comisaría habrían informado de que la causa de muerte fue un suicidio, lo que fue constatado por el informe pericial de la primera autopsia ordenada. Sin embargo, se informa que tras la insistencia de los familiares, se autorizó la realización de una segunda autopsia por una institución distinta. Esta segunda autopsia habría encontrado evidencias de



múltiples lesiones en el cuerpo de Sepúlveda, incluyendo fracturas en sus costillas, golpes en brazos y tórax, y severa lesión en el cuero cabelludo y cráneo. El Relator agradece al Gobierno de Argentina por la amplia información recibida sobre el caso. El Relator estará cursando al Gobierno comunicaciones de seguimiento para conocer detalles adicionales sobre el progreso de las investigaciones y reparaciones y espera poder continuar trabajando con el Gobierno para asegurar la justicia en esta causa.

- (c) AL 29/07/2013 Case No. [ARG 5/2013](#) State Reply: [09/10/2013](#) **Alegaciones de actos inhumanos e incluso tortura como resultado a la falta de control penitenciario y mecanismos de determinación de cupo máximo.**

11. El Relator Especial agradece al Gobierno de Argentina por su respuesta, de fecha 29 de octubre del 2013, a la comunicación conjunta con otros procedimientos especiales. La comunicación hizo referencia a la solicitud de medidas correctivas a la Excm. Cámara de Apelación y Garantías en lo Penal de Mar de Plata en relación a la falta de control sanitario, higiénico y nutricional en la Unidad Penitenciaria XV de Batán. Asimismo, se refirió a la falta de límites en el número de detenidos en dicha Unidad, ocasionando tratos inhumanos y degradantes en contra de los prisioneros. El Relator aprecia las medidas implementadas por la Subsecretaría de Derechos Humanos de las Personas Privadas de la Libertad con el objetivo de intensificar los mecanismos de monitoreo judicial de condiciones de detención. En relación al cumplimiento de reglas sanitarias y de higiene, el Relator agradece la información detallada enviada por el Gobierno y celebra la disposición del Director Provincial de Salud Penitenciaria de realizar visitas mensuales con el fin de dictaminar acciones puntuales, así como la información en relación al guardia médico y unidad móvil funcional las 24 horas al día. Sin embargo, expresa su preocupación por la falta de medidas pertinentes por parte de la Dirección Provincial de Salud Penitenciaria para asegurar el abastecimiento alimentario requerido. En el contexto de los mecanismos de control y detención, el Relator expresa gran preocupación sobre las medidas precarias adoptadas para acomodar el creciente flujo poblacional en la Unidad a pesar de las continuas solicitudes para mejorar la infraestructura del centro mencionado. Asimismo, expresa consternación por la falta de acciones para reducir el número de detenidos a pesar de los límites de cupo máximo señalados por la Excm. Cámara de Apelación y Garantías Departamental Sala II (c. 14355). Finalmente, el Relator Especial aprecia los criterios establecidos por el Señor Ministro de Justicia y Seguridad Provincial (Resolución No. 1938) para asegurar el trato diferenciado y prevenir la violencia inter-carcelaria en el marco de las Reglas Mínimas de las Naciones Unidas para el Tratamiento de Reclusos. Sin embargo, expresa su preocupación por los resultados precarios que dichas medidas han brindado. El Relator Especial insta al Gobierno de Argentina a cumplir de inmediato con las órdenes judiciales impartidas a los establecimientos carcelarios y a implementar mecanismos de control penitenciario que garanticen condiciones óptimas y necesarias para el respeto de la integridad física y psicológica de los detenidos.

## Azerbaijan

- (a) JAL 18/01/2013 Case No. [AZE 1/2013](#) State reply: [20/03/2013](#) Alleged torture and ill-treatment of Mr. Hilal Mammadov while in detention, and concern regarding his physical and psychological integrity.

12. The Special Rapporteur thanks the Government of Azerbaijan for its reply, dated 20 March 2013, to this communication in reference to the alleged torture and ill-treatment of Mr. Hilal Mammadov. It is alleged that during his arrest he was subjected to torture and ill treatment, as well as while he was in pre-trial detention. Mr. Mammadov's cell mate who reportedly suffers from a serious mental disease, has reportedly been beating Mr.

Mammadov. Mr. Mammadov is reportedly charged with high treason for incitement to national, racial or religious hostility, and there is concern these charges are directly related to his human rights activities. In its reply, the Government of Azerbaijan explains the medical procedures that are meant to guarantee Mr. Mammadov is not suffering from any medical conditions and maintained that a thorough investigation has been conducted to affirm no torture was committed. The Government also asserts that all necessary actions were performed to properly investigate Mr. Mammadov's claims that his cellmate was beating him. Although the Special Rapporteur appreciates the reply, the Government of Azerbaijan has not answered what protections for human rights defenders are in place to allow them to work without fear of threats or acts of intimidation, harassment, or criminalization. In this context, the Special Rapporteur reiterates 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 would also like to reiterate paragraph 6b of Human Rights Council Resolution 8/8, which urges States "To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the competent national authority, to hold those who encourage, order, tolerate or perpetrate acts of torture responsible, to have them brought to justice and severely punished, 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 (the Istanbul Principles) as a useful tool in efforts to combat torture;". Additionally, the Special Rapporteur would like to remind the Government of Azerbaijan of paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns 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 encourages the Government to continue its engagement with the mandate.

## **Bahrain**

- (a) JUA 10/05/2013 Case No. [BHR 2/2013](#) State Reply: [05/06/2013](#) Alleged arrest, detention, and torture of Mr. Najj Fateel, an active blogger who publishes daily messages on human rights issues and encourages the creation of monitoring committees to document human rights violations.

13. The Special Rapporteur thanks the government of Bahrain for its reply, dated 5 June 2013, to this communication in reference to the alleged arrest, detention and torture of Mr. Najj Fateel. Mr. Najj Fateel is a board member of the Bahrain Youth Society for Human Rights (BYSHR) and an active blogger and social media user who publishes daily messages on human rights issues. It is reported that in recent times he has given daily speeches during marches in which he stresses the importance of documenting human rights violations and encourages people to form monitoring committees. It is reported that he was the subject of electrocution to the back, left leg and genitalia; simulated drowning; beatings to the head, back and left leg, which reportedly was operated previously in relation to a work injury; suspension from the ceiling by hanging him from his hands without his feet touching the floor; sexual harassment and threats of rape; being refused permission to sleep, sit or lay down; and being made to stand up for prolonged periods of time. Allegedly after requesting counsel during his interrogation, he was subjected to more severe beating. It is reported that

the Public Prosecutor charged Mr. Fateel with alleged "establishment of a group in order to disable the provisions of the Constitution" and order his imprisonment for a period of sixty days pending investigation under the terrorism law. The Special Rapporteur thanks the Government for the response dated 5 June 2013 where it was stated that Mr. Fateel was inciting suspension of the Constitution and violating citizens' personal freedoms through terrorism. Allegedly Mr. Fateel was interrogated only once and a forensic physician was charged with investigating any injuries and concluded no ill-treatment was committed. The Special Rapporteur would like to remind the government of Bahrain of paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns 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 also like to remind the Government of article 12 of the CAT and paragraph 6b of Human Rights Council Resolution 8/8, which require 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 CAT, which requires State parties to prosecute suspected perpetrators of torture. The government's response does not offer satisfactory evidence that the forensic doctor's examination was conducted with the appropriate guarantees of independence and impartiality. In addition, and in regards to any criminal prosecution of Mr. Fateel, article 15 of the CAT and paragraph 7c of Human Rights Council Resolution 16/23, provide that "Each 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." The Special Rapporteur also encourages the government of Bahrain to continue its engagement with the mandate.

14. On 29 September 2013 Mr. Fateel was sentenced to 15 years imprisonment by Branch 4 of the High Criminal Court. The Special Rapporteur notes that the allegations of torture have not been investigated and were not considered by the court.

- (b) **JUA 23/05/2013 Case No. [BHR 3/2013](#) State Reply: [24/06/2013](#)** Alleged punishment of Mr. Nabeel Rajab in Jaw Prison after revealing alleged acts of torture of young detainees by police officers.

15. The Special Rapporteur thanks the government of Bahrain for its reply, dated 24 June 2013, to this communication in reference to the alleged temporary isolation of Mr. Nabeel Rajab from his cell in Jaw prison after having witnessed acts of torture of young detainees by police officers. Mr. Rajab is the Director of the Bahrain Centre for Human Rights (BCHR) and is currently serving a two-year prison sentence in Jaw prison after having been convicted on charges of calling for and participating in peaceful demonstrations. Mr Rajab has been the subject of several previous communications, most recently a joint urgent appeal sent on 24 July 2012 sent by the Working Group on Arbitrary Detention, the Special Rapporteurs on the protection and promotion of the right to freedom of opinion and expression; on the rights to freedom of peaceful assembly and of association; on human rights defenders; and on the independence of judges and lawyers concerning Mr Rajab's health and allegations of denial of access to adequate medical treatment. No response was provided to these allegations. According to the information received, Mr. Rajab made a phone call on 14 May 2013, describing how he had witnessed young political prisoners being tortured at the hands of police officers in Jaw prison. Allegedly, on the same evening, relatives of Mr. Rajab received a telephone call stating that Mr. Rajab would not be allowed to call his family for two weeks, and that he had been removed from his prison cell by guards and not returned. Reportedly, his health remains

uncertain. The Special Rapporteur thanks the Government for the response dated 5 June 2013 where it was stated that Mr. Rajab's complaint regarding the torture of other inmates was investigated and it was not found that he had been punished for making the incidents known. Regarding Mr. Rajab's health, the government of Bahrain asserts that he is in good health, and provided him with doctors on 17 June 2013 for his back pain, a broken denture and pain in the gallbladder. In relation to the allegations that Mr. Rajab may have witnessed the torture and ill-treatment of detainees in Jaw prison and his subsequent temporary isolation, including the denial to contact his family, the Special Rapporteur wishes to draw attention to the right to physical and mental integrity of the above-mentioned person. In this regard, article 7 of the Basic Principles for the Treatment of Prisoners, 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 addition, the interim report to the General Assembly of 5 August 2011 (A/66/268) of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, stated that where the physical conditions and the prison regime of solitary confinement cause severe mental and physical pain or suffering, when used as a punishment, during pre-trial detention, indefinitely, prolonged, on juveniles or persons with mental disabilities, can amount to cruel, inhuman or degrading treatment or punishment and even torture. The Special Rapporteur would also like to remind the Government of the Standard Minimum Rules for the Treatment of Prisoners (Adopted by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977). Rule 22 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. Furthermore, Rule 25(1) provides that, "(t)he medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed" (approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977). The Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment. The Special Rapporteur also encourages the government of Bahrain to continue its engagement with the mandate.

16. On Friday 29 November 2013, Mr. Rajab has served three quarters of his two year sentence and became legally eligible for release. On 2 December 2013, the Bahraini court of Appeals has rejected his request for early release (see BHR 7/3013).

- (c) JUA 30/07/2013 Case No. [BHR 4/2013](#) State reply: [29/08/2013](#) **Alleged irregularities in the trials of human rights defenders and mistreatment while in detention.**

17. The Special Rapporteur appreciates the reply of the Government of the Kingdom of Bahrain, dated 29 August 2013, to this communication in reference to the alleged irregularities in the trials of human rights defenders, including possible acts of reprisals for co-operation with the United Nations against one of them, and alleged torture or other forms of cruel, inhuman or degrading treatment of another while in detention. According to the information received, on 25 June 2013, Ms Zainab Alkhawaja was sentenced to two further months of imprisonment on the basis of charges of having assaulted two police officers while in detention. It is also reported that on 1 July 2013, the Court of Cassation rejected the application of Mr Mahdi Abu Deeb to suspend previous convictions against him until the completion of investigations of allegations of torture or other forms of cruel, inhuman or degrading treatment against him. It is further reported that Mr Mahdi Abu Deeb does not receive adequate medical attention in detention, and has possibly been subjected to

torture. Moreover, Mr Mohamed Al-Maskati reportedly faces trial on charges of “participation in illegal protests,” after his co-operation with the United Nations during the Universal Periodic Review of the Kingdom of Bahrain. In this context, the Special Rapporteur reiterates that each government shall guarantee that no persons are deprived arbitrarily of their liberty and granted a fair proceeding before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR), and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR). Further, the Special Rapporteur stresses that each Government has the obligation to protect the right to physical and mental integrity of all persons as set forth inter alia in the UDHR, the ICCPR, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Additionally, the Government of Bahrain is reminded that paragraph 1 of Human Rights Council Resolution 16/23 condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment and calls upon governments to implement an absolute and non-derogable prohibition of it. The Special Rapporteur reiterates 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 States Parties to prosecute suspected perpetrators of torture. The Special Rapporteur requests an additional response from the Government of Bahrain regarding the aforementioned mistreatments and detentions and reminds the government that individual freedoms shall be protected. The Special Rapporteur further request that should the Government’s investigation find the allegations to be correct that any person responsible be held accountable.

- (d) JUA 14/08/2013 Case No. [BHR 5/2013](#) State reply: [04/09/2013](#) 2013 **Alleged restrictions of freedom of expression and freedom of assembly following 22 recommendations to amend the anti-terrorism Law no. 58 of 2006.**

18. The Special Rapporteur thanks the Government for its reply dated 4 September 2013 to allegations regarding harsh new anti-terrorism laws recently passed by the Government. According to the information received, the National Assembly endorsed 22 recommendations on 28 July 2013 and his Majesty King Hamad bin Isa Al-Khalifa agreed to their implementation on 29 July 2013. It is alleged that some of these recommendations have already been adopted, while adoption of the others is imminent. The recommendations include provisions for revoking citizenship of those who carry out terrorist crimes; the imposition of harsher sentences on anyone involved in acts of terrorism; banning sit-ins, public gatherings in the capital; the extension of security forces powers to protect society from terrorist acts; the imposition of harsher sentences for anyone propagating illegal information in social media networks; the ability for the authorities to take legal action against political associations which incite and support acts of violence and terrorism, and the ability to take all possible measures to impose peace and security, amongst others. The Law no. 58 of 2006 has been the subject of two earlier communications sent on 29 March (AL BHR 3/2006) and 30 June 2006 (UA BHR 5/2006), see A/HRC/4/26/Add.1, paras. 14-15. The government responded to these allegations by stressing the need to respond to growing instances of terrorist activities as well as to ensure that not all measures within the allegation have been adopted due to reservations about lack of human rights protections. The Government further reports that measures that have been adopted provide adequate limitations and definitions to criminal sanctions so as to prevent abuse; the Government emphasized further its commitment to promote and implement human rights protections moving forward. The Special Rapporteur thanks the Government for its reply to the concerns expressed, but would also like to stress further that the prohibition of torture is absolute and non-derogable. Thus no grounds of national security concerns can justify policies which promote or encourage the use of torture. Such is expressed in article 2(2) of the Convention Against Torture, which provides that no exceptional circumstances

whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture. In this regard the Special Rapporteur notes paragraph 2 of Resolution 16/23 of the Human Rights Council, which “Condemns in particular any action or attempt by States or public officials to legalize, authorize or acquiesce to torture and other cruel, inhuman or degrading treatment or punishment under any circumstances, including on grounds of national security or through judicial decisions, and urges States to ensure accountability for all such acts.” The Special Rapporteur encourages the Government to maintain its engagement with the mandate and urges the implementation of legal provisions which do not serve to encourage or promote the use of torture or other ill treatment in the name of national security.

- (e) JUA 28/08/2013 Case No. [BHR\\_6/2013](#) State reply: [01/10/2013](#) **Alleged arbitrary detention, torture, and ill-treatment of two female and one male human rights activists.**

19. The Special Rapporteur thanks the Government of Bahrain for its reply, dated 3 December 2013, to this communication in reference to allegations concerning the arbitrary detention, torture, and ill-treatment of Ms. Rihanna Al-Musawi and Ms. Nafeesa Al-Asfoor, and of the arbitrary and incommunicado detention of Mr. Abas Al-Asfoor. According to the information received, Ms. Al-Musawi and Ms. Al-Asfoor, who were protesting the imprisonment of two other activists at the time of their arrest and were charged under the 2006 terrorism law, have been subjected to torture in detention. They were also reportedly denied access to counsel and family visits and not extended proper judicial safeguards during their trial, which was ongoing at the time of the communication. The Special Rapporteur expressed grave concern about these allegations and the possibility that they could be related to their activities in defense of human rights and reveal a recent consistent pattern of targeting women protesters. In its reply, the Government stated that Ms. Al-Musawi and Ms. Al-Asfoor were arrested on the premises of the Bahrain International Circuit (Formula One) after their suspicious behavior led to a police search, which found that Ms. Al-Asfoor had placed a cotton pillow inside her clothes in order to appear pregnant. The Government further stated that on the same day, the women confessed to having considered detonating a homemade bomb at a Formula One event. The Government submits that two days after their arrest, both women were questioned by the public prosecutor in the presence of lawyers, admitted to some of the charges brought against them, and were examined by forensic physicians who determined that they showed no signs of injury contemporaneous with the time of their arrest. The Government explained that they were subsequently detained for a period of 60 days, which was renewed in September 2013. With regards to Mr. Al-Asfoor, the Government submits that he was also detained and charged under the terrorism law after Ms. Al-Musawi and Ms. Al-Asfoor mentioned his name during questioning. While the Special Rapporteur appreciates the State’s reply, he notes that it does not address the allegations of torture and mistreatment or Ms. Al-Musawi’s allegations that her testimony to this effect was not properly recorded in the trial record, nor does it explain what investigation, if any, was conducted into them. In this context, the Special Rapporteur reminds the Government of its obligation to protect the right to physical and mental integrity of all persons, which is set forth *inter alia* in the Universal Declaration of Human Rights (UDHR), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). In this context, the Special Rapporteur draws attention 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.” The Special Rapporteur further reiterates 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 calls on the Government to undertake a thorough, impartial and independent investigation into the allegations of torture and ill-treatment and to take all necessary measures to protect the right of Ms. Al-Musawi and Ms. Al-Asfoor to physical and mental integrity. If the investigation leads to the identification of responsible parties, to hold them accountable and to provide full redress to the victims, including fair and adequate compensation and as full rehabilitation as possible. The Special also encourages the Government of Bahrain to continue its engagement with the mandate.

- (f) JUA 04/10/2013 Case No. [BHR 7/2013](#) State reply: [05/11/2013](#) **Alleged torture in detention and sentencing of blogger and human rights activist.**

20. The Special Rapporteur thanks the Government of Bahrain for its reply, dated 5 November 2013, to this communication in reference to allegations concerning the sentencing of Mr. Najji Fateel, a blogger and board member of the Bahrain Youth Society for Human Rights (BYSHR), to 15 years imprisonment, reportedly in connection with his human rights activism. Mr. Fateel was the subject of a previous communication dealing with serious allegations of torture against Mr. Fateel while in detention. The Special Rapporteur appreciates the reply received to this communication from the Government on 5 June 2013 but expresses concern that the allegations of torture were not adequately addressed. According to the new information received, Mr. Fateel has been sentenced to 15 years imprisonment under the Anti-Terrorism law on charges that had been previously dropped, and allegations of torture during interrogation in the Criminal Investigations Directorate (CDI) have continued, along with reports that photographic evidence of torture exists. In its reply, the Government reiterates the charges brought against Mr. Fateel and makes reference to evidence, including confessions, in support of his sentence. The Government also provides that an appeal in Mr. Fateel's case was scheduled to be heard on 18 November 2013. With regard to the complaint of torture and ill-treatment, the Government submits that Mr. Fateel was visited and interviewed in prison after lodging a complaint in May 2013, and that the interview revealed that he had previously been referred to a forensic physician during his questioning by the public prosecutor, who found no signs indicating ill-treatment. Although the Special Rapporteur appreciates the reply of the Government, he reiterates article 12 of the Convention Against Torture (CAT), 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 CAT, which requires State parties to prosecute suspected perpetrators of torture. In this context, the Special Rapporteur expresses concern that the allegations of torture and ill-treatment were not adequately addressed and would appreciate more complete information concerning the investigation into the allegations and their results. The Special Rapporteur encourages the Government to continue its engagement with the mandate. He also wishes to remind 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.

- (g) JAL 26/11/2013 Case No. [BHR 8/2013](#) State Reply: [23/01/2014](#) **Allegations of arbitrary detention, torture and ill-treatment.**

21. The Special Rapporteur thanks the government of Bahrain for its reply, dated 23 January 2014, to this communication in reference to allegations of arbitrary detention, torture and ill-treatment. The communication detailed allegations of arrest, detention, ill treatment, and intimidation of Ms. X and her sister. It is alleged that law enforcement officers arrested Ms. X and her sister at their home following Ms. X's participation in a

peaceful demonstration at the University of Bahrain. They were charged with “participation in illegal assembly”, “illegal possession of weapons”, and “destruction of university property”. Ms. X and her sister were taken to an unknown location where Ms. X was separated from her sister and was reportedly beaten during interrogations and threatened with rape for the purposes of extracting confessions. Ms. X and her sister were subsequently released the following morning. Ms. X was later tried by the Criminal Court of Bahrain and was sentenced to 40 days in prison and a fine of 200 Bahraini dinar. It is also reported that Ms. X was prohibited from presenting evidence of her innocence, including eye witness testimony, at her trial. On at least two occasions, she was reportedly expelled from the University of Bahrain, arrested and released shortly afterwards. Serious concern is expressed for the physical and psychological integrity of Ms. X and her sister. Grave concern is expressed at the fact that Ms. X’s detention may be linked to her recent participation in a peaceful assembly. In this context, the Special Rapporteur would like to recall paragraph 7.c of Human Rights Council Resolution 16/23, which reminds States that “[...] detention in secret places may 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.” Also relevant is paragraph 7b of Human Rights Council Resolution 16/23, which 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 [...]” Furthermore, the Special Rapporteur recalls article 21 of the ICCPR, which provides that “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.” With regards to the subsequent trial of Ms. X, the Special Rapporteur notes article 15 of the CAT, which provides that, “Each 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.” The Special Rapporteur urges the Government to conduct a prompt and independent investigation of the allegations of arrest, torture, and continuing intimidation of Ms. X and her sister and hold those responsible for these abuses accountable. Furthermore, the Special Rapporteur calls on the Government to ensure the identified persons obtain redress, including fair and adequate compensation, and as full rehabilitation as possible.

## Bangladesh

- (a) JAL 20/2/2013 Case No. [BGD 4/2013](#) State reply: [25/2/2013](#) Allegations of dispersal by law enforcement of a series of peaceful demonstrations organized by teachers and employees of nongovernmental schools, and the alleged related excessive use of force against demonstrators.

22. The Special Rapporteur thanks the Government of Bangladesh for its reply, dated 25 February 2013, to this communication in reference to the alleged excessive use of force against peaceful demonstrators in January 2013, organized by teachers, employees of nongovernmental schools, colleges and technical education institutions, who were protesting the transfer of all non-governmental primary schools to government control and



funding to the exclusion of secondary schools. Allegedly, the police forces used pepper spray, batons, and water cannons to disperse the protestors. It is reported that at least 20 teachers were injured, 10 were taken to the Dhaka Medical Hospital, and one died.. In its reply, the Government of Bangladesh simply acknowledged receipt of the joint allegation letter but did not address any of the concerns contained in the letter, nor did the Government confirm or deny the facts surrounding the excessive use of force against these peaceful demonstrators, or the fact that police repression resulted in serious injury to demonstrators. The Special Rapporteur calls on the Government of Bangladesh to address the concerns surrounding the January 2013 peaceful protests, and encourages the Government to continue its engagement with the mandate.

- (b) **JUA 30/04/2013 Case No. [BGD 6/2013](#) State Reply: [07/05/2013](#)** Alleged torture of Mr. Mahmudur Rahman while in police custody under charges of sedition and destruction of property.

23. The Special Rapporteur thanks the government of Bangladesh for its reply, dated 7 May 2013, to this communication in reference to the alleged arrest of Mr. Mahmudur Rahman, the interim Editor of the Bangladeshi newspaper Amar Desh (Daily Amardesh), charged with sedition because of reportedly reproducing a Skype conversation between a and a person living abroad concerning an ongoing trial, charged with destruction of property, and facing charges relating to having published a letter along with a photograph. Mr. Rahman was held in police custody for six days, before the police handed him over to judicial remand. It is alleged that on the second day, Mr. Rahman was subjected to torture and ill-treatment, including severe beatings, the hammering of iron nails into his body, and electric shock. It is further reported that on 18 April 2013, at his court hearing, Mr. Rahman, who also suffers from a heart condition that requires ongoing medical attention, appeared to have fresh wounds on his legs and bloodstains and had difficulty sitting. It is further reported that Mr. Rahman went on a hunger strike to protest the alleged unlawful closure of the Daily Amar Desh and the detention of 19 persons who have allegedly been arrested for supporting the newspaper. Furthermore, Mr. Rahman's arrest appears to be the continuation of large-scale indiscriminate arrests and other forms of state-sponsored threats and intimidation against dissenting voices in Bangladesh. This pattern has allegedly increased in the past 70 days. The Special Rapporteur would like to remind the government of Bangladesh of paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns 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 also like to remind the Government of article 12 of the CAT, that the government of Bangladesh acceded to on 5 October 1998, 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 CAT, which requires State parties to prosecute suspected perpetrators of torture. Also paragraph 6b of Human Rights Council Resolution 8/8 urges States "To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the competent national authority, to hold those who encourage, order, tolerate or perpetrate acts of torture responsible, to have them brought to justice and severely punished, 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 (the Istanbul Principles) as a useful tool in efforts to combat torture." Furthermore, the Special Rapporteur would like to reiterate article 14 of the CAT, which provides that victims of torture should have the right

to redress and adequate compensation. In this regard, paragraph 6 (e) of Resolution 8/8 of the Human Rights Council urges States “To ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress and are awarded fair and adequate compensation and receive appropriate socio-medical rehabilitation, and in this regard encourages the development of rehabilitation centers for victims of torture.” The Special Rapporteur encourages the Government of Bangladesh to continue its engagement with the mandate. In the meantime, and on the basis of the information available to him, the Special Rapporteur finds that the government of Bangladesh has violated the rights of Mr. Rahman under the international law concerning torture.

- (c) JUA 14/06/2013 Case No. [BGD 7/2013](#) State Reply: [20/06/2013](#) **Alleged enforced disappearance and risk of torture of Mr. Nazrul Islam, an opposition party member.**

24. The Special Rapporteur thanks the Government of Bangladesh for its reply dated 20 June 2013, to an urgent appeal regarding the alleged abduction and possible torture of political opposition leader Nazrul Islam. According to the information received, during the night of 11 April 2013, Mr Nazrul Islam, the Joypurhat District Secretary of Jamaat-e-Islami, a political party belonging to a multi-party opposition alliance, was allegedly abducted from his home in Saheb Parha, Joypurhat District, Bangladesh. It is reported that, the alleged perpetrators identified themselves as being “from the administration” and took Mr Islam on a minibus to an unknown location. At the time of the appeal, the fate and whereabouts of Mr Islam remained unknown. While the Government of Bangladesh acknowledged receipt of the communication and ensured cooperation, the Special Rapporteur regrets that no substantive reply regarding the allegations or the whereabouts of Mr Islam has been received. The Special Rapporteur stresses the Government’s obligations to ensure the physical and mental integrity of Mr Islam and all people. In this regard, the Special Rapporteur recalls 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.” Furthermore, the Special Rapporteur expresses concern regarding the appearance that Mr Islam was allegedly abducted as a result of his participation in the political opposition. Accordingly, it is reiterated that article 22 of the ICCPR, as well as in Human Rights Council resolution 21/16, “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.” The Government is encouraged to engage with the mandate and to provide information regarding the whereabouts of Mr. Islam or any investigations conducted on this matter.

- (d) JUA 25/06/2013 Case No. [BGD 8/2013](#) State Reply: [27/06/2013](#) **Alleged enforced disappearance of Mr. Anwarul Islam Masum.**

25. The Special Rapporteur thanks the Government of Bangladesh for its reply dated 27 June 2013, to an urgent appeal regarding the alleged abduction of university student and political activist Mr. Anwarul Islam by government forces to an unknown location where he allegedly faces continued risk of torture and extra-judicial execution. Particularly concerning is that these allegations arise in light of reports of recent clashes between Mr. Anwarul’s opposition political group and local police forces. While the Government of

Bangladesh acknowledged the receipt of the communication and ensured cooperation, the Special Rapporteur regrets that no substantive reply regarding the allegations or the whereabouts of Mr. Anwarul has been received. 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.” The Special Rapporteur would also like to reiterate the right to freedom of association, as recognized in article 22 of the ICCPR, as well as in Human Rights Council resolution 21/16, which, “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.” The Special Rapporteur urges the government to take prompt action to investigate the whereabouts and ensure the safety of Mr. Anwarul Islam. It is also urged that the Government engage meaningfully with the Special Rapporteur and other human rights institutions as well as civil society in this regard. In the absence of other evidence, the Special Rapporteur concludes that Mr. Anwarul Islam has been the victim of very severe human rights violations.

- (e) UA 14/08/2013 Case No. [BGD\\_9/2013](#) State Reply: None to date **Alleged arrest, detention and acute risk of torture of Mr. Adilur Rahman Khan, Secretary of Odhikar.**

26. The Special Rapporteur regrets that the Government of Bangladesh has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to Mr. Adilur Rahman Khan, Secretary of Odhikar, a non-governmental organization that disseminates information relating to human rights and human rights abuses through monitoring and training projects. It is reported that on 10 August 2013, Mr. Khan was allegedly arrested at his home in Dhaka by a group of men in plain clothes who identified themselves as officers from the Detective Branch of Dhaka Metropolitan Police. It is reported that Mr. Khan was taken into custody without an arrest warrant and was refused access to a lawyer. According to information received, arrests such as Mr. Khan’s are often accompanied by brutal forms of torture and death in custody. It was further alleged that Mr. Khan was at very acute risk of torture. Serious concerns were expressed about Mr. Khan’s physical and psychological integrity while in detention and that his charges, arrest and detention may have been linked to his legitimate human rights activities.

27. In this context, the Special Rapporteur would like to reiterate that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the UDHR, the ICCPR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which the Government of Bangladesh acceded to on 5 October 1998. The Special Rapporteur would also like to draw attention to paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns 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 urges the

Government to 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 according to paragraph 7b of the Human Rights Council Resolution 16/23.

## **Belarus**

- (a) JUA 01/10/2013 Case No. [BLR 3/2013](#) State reply: [18/12/2013](#) **Alleged risk of executions.**

28. The Special Rapporteur thanks the Government of Belarus for its detailed response, dated 18 December 2013, concerning the criminal cases against Messrs. Pavel Selyun, Rygor Yuzepchuk and Alyaksandr Haryunou, who were sentenced to death in 2013 under charges of murder. In relation to Messrs. Pavel Selyun and Rygor Yuzepchuk, the Government stated that the court's verdict was based on the fact that the above-mentioned individuals committed particularly severe crimes and that they posed serious danger to society. The Government has further stated that the proceedings in the case of Mr. Selyun were held behind closed doors in order to prevent the disclosure of information about intimate details of the defendant's life and the circumstances of the crime, in accordance with the requirements of Article 23, part 2 of the Criminal Procedural Code of Belarus. The Government stated that on 17 September 2013 and on 12 July 2013, the Supreme Court upheld the regional court's sentence to death by firing squad against Mr. Selyun and Mr. Yuzepchuk, respectively. According to the Government, both Mr. Selyun and Mr. Yuzepchuk have submitted petition for pardon. In relation to Mr. Yuzepchuk, the Government stated that on 23 April 2013, the Mogilevskiy regional court has sentenced Mr. Yuzepchuk to death penalty by firing squad in a publicly held court hearing. In relation to Mr. Haryunou, the Government stated that on 22 October 2013, the Supreme Court of the Republic of Belarus has repealed the verdict of the Gomelskiy regional court from 14 June 2013, in view of incomplete and one-sided judicial investigation, as well as due to inconsistency of the court's conclusion with the factual circumstances of the case. The court ordered the Gomelskiy regional court to reconsider the case with a new composition of judges. The Special Rapporteur welcomes the decision of the Supreme Court repealing the regional court's decision in relation to Mr. Haryunou. However, he regrets that the Government did not provide information on the legal grounds for the imposition of the death penalty against Mr. Haryunou, who was alleged to have been diagnosed with a psycho-social disability.

29. With respect to the Supreme Court's decision to uphold the death sentences against Messrs. Selyun and Yuzepchuk, the Special Rapporteur urges the Government of Belarus to take all steps to prevent their execution, which if carried out, would be inconsistent with acceptable standards of international human rights law. The Special Rapporteur draws the attention of the Government of Belarus to the Rapporteur's report submitted to the UN General Assembly (A/67/279), in which he called upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, or instead causes severe mental and physical pain or suffering and thus constitutes a violation of the prohibitions of torture and of cruel, inhuman or degrading treatment (para. 79). Moreover, the Special Rapporteur called upon all retentionist States to observe rigorously the restrictions and conditions imposed by article 7 of the International Covenant on Civil and Political Rights (ICCPR) and articles 1 and 16 of the Convention against Torture (para. 80).

That report also called on States to abolish the use of the death penalty for persons with mental disabilities; to end the practice of secret executions; and to end the practice of executions with little or no prior warning given to condemned prisoners and their families. The Special Rapporteur encourages the Government to continue its engagement with the mandate.

## Bolivia

- (a) AL 18/09/2013 Case No. [BOL 2/2013](#) State Reply: [20/09/2013](#) **Revisión del Código Penal concerniente a la penalización del aborto.**

30. El Relator Especial agradece al Gobierno de Bolivia por su respuesta, de fecha 20 de septiembre del 2013, a la comunicación conjunta con otros procedimientos especiales. En particular la comunicación hacía referencia a la revisión de los artículos 263 a 269 del Código Penal por parte del Tribunal Plurinacional Constitucional de Bolivia, concerniente a la penalización del aborto. El Relator Especial expresa gran preocupación sobre las consecuencias que conlleva la penalización de dicho servicio de salud sexual y reproductiva. En este contexto, hace referencia a su informe temático (A/HRC/22/53), en el que concluye que práctica de negar servicios reproductivos cuando el aborto está legalmente disponible incrementa de facto el número de abortos inseguros, exponiendo a las mujeres a consecuencias graves y duraderas para su salud física y mental, incluyendo el riesgo de muerte y discapacidad. El Relator celebra el proyecto de ley No. 348 y los nuevos mecanismos de prevención, protección y reparación a las víctimas de violencia sexual; violencia contra los derechos reproductivos; violencia contra los derechos y libertad sexual, así como, la violencia en servicios de salud. En el caso particular de los mecanismos en contra de la violencia en servicios de salud, el Relator Especial quisiera destacar que el Estado define la falta de acceso a la atención eficaz e inmediata y la información oportuna como, “un acto discriminante, humillante y deshumanizado”. En este contexto, reitera que en los casos en que el aborto es el único medio disponible para evitar un peligro contra la vida o la salud de la mujer, el requisito de autorización judicial establecido por el Código Penal constituye un impedimento real y considerable al acceso de la mujer al aborto. El Relator Especial insta al Gobierno de Bolivia a asegurar mayor coherencia legislativa entre los mecanismos antes mencionados, facilitando el acceso a servicios de aborto y la atención posaborto con el fin de poner fin a la violencia en servicios de salud. El Relator Especial expresa complacencia por las conclusiones de la cumbre “Encuentro Plurinacional para Profundizar el Proceso de Cambio”, en las que se plantea la necesidad de elaborar un proyecto de ley sobre los derechos sexuales y reproductivos, y exhorta al Gobierno a implementar dicho proyecto con el objetivo de velar por la integridad física y emocional de la mujer.

## Cambodia

- (a) JUA 01/10/2013 Case No. [KHM 1/2013](#) State reply: None to date **Alleged indiscriminate and excessive use of force against individuals in the margins of peaceful protests that led to the death of one person, several injured, and the arrests of at least six individuals.**

31. The Special Rapporteur regrets that the Government of Cambodia has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to events that occurred during a demonstration held by the Cambodian National Rescue Party (CNRP) in Phnom Penh on 15 September 2013. During the course of the demonstration, a group of rioters allegedly became frustrated by police roadblocks and spontaneously began to violently attack police forces

and property in the vicinity of the roadblocks. It is reported that this situation led to the firing of smoke grenades and live ammunition by security forces against the crowd, including peaceful demonstrators, and that a by-standing construction worker who was returning home from work, Mr. Mao Sok Chan, was shot in the head and died at the scene. It is further reported that nine other persons, eight of whom sustained bullet wounds, were seriously injured and that several others, including juveniles, were severely beaten by security forces using truncheons. Six persons who allegedly did not participate in the rioting or the aforementioned incident, namely Mr. Ngeang Thy Doek, Mr. Ek Chanu, Mr. Taing Chong, Mr. Song Nisay, Mr. Lanh Samoeun, and Mr. Vann Noeun, were reported beaten and arrested by police forces, and placed in pre-trial detention, where they remained at the time of the communication. In this context, the Special Rapporteur reminds the Government that the use of lethal force by law enforcement officials is strictly regulated under international human rights law, and reiterates Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, "Law 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," and Basic Principle 9, which further specifies that "Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives." The Special Rapporteur concludes that Cambodia is responsible for the cruel, inhuman and degrading treatment of several of its citizens and calls on the Government to undertake a prompt and independent investigation into excessive and indiscriminate use of force, including lethal force, by law enforcement officials and to provide full redress to the victims.

- (b) JUA 27/09/2013 Case No. [KHM 2/2013](#) State reply: None to date **Alleged dispersal of two peaceful protests against alleged election irregularities, one brutally, by law enforcement officials.**

32. The Special Rapporteur regrets that the Government of the Kingdom of Cambodia has not responded to this communication dated 27 July 2013, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the dispersal of two peaceful protests against alleged election irregularities, one brutally, by law enforcement officials. It is reported that on 20 September 2013 a peaceful protest of about 30 individuals at Wat Phnom in Phnom Penh was ended by hundreds of military police. It is further reported that on 22 September 2013 a group of 25 individuals from the Boeung Kak Lake community, including women and children, gathered peacefully at Wat Phnom to begin a hunger strike against election irregularities. According to the information received, a large group of Daun Penh district police, military police, and civilian clothed young people headed by Daun Penh district Deputy Governor Sok Penh Vuth arrived at Wat Phnom armed with batons slingshots, teasers and electric prods. It is alleged that the security forces and youth broke the torch light of the protesters to prevent people from taking photos and proceeded to beat and fire marbles with slingshots at the demonstrators. It is reported that at least ten people suffered injuries from light to serious, some were admitted to the hospital, and two cars belonging to human rights activists were damaged. It is further alleged that upon arrival, human rights monitors and journalists were similarly assaulted and had their material destroyed. Two civil society human rights monitors, one wearing a clearly visible jacket inscribed with "Human Rights Observer" and five journalists were allegedly among the people attacked. Based on the information available, injuries included: gun shots in the chest and face with marbles, open wounds to the leg and chin, and a broken arm. In this context, the Special Rapporteur express concern for the physical and psychological integrity of those seeking to exercise the right to peacefully

assemble. Specifically the Special Rapporteur reminds the Government of Cambodia that Article 12 paragraphs 2 and 3 of Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms provides that the State shall take all necessary measures to ensure that everyone, individually and collectively, is protected against violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action. Furthermore, the Special Rapporteur references Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials to draw the governments attention to the requirement that law enforcement officials employ non-violent means, as far as possible, before resorting to the use of force and firearms. Additionally Principle 5 is reiterated to emphasize that law enforcement officials shall exercise restraint and act proportionally to the seriousness of the offense, minimize damage and injury, respect and preserve life, ensure assistance and medical aid are rendered to any injured or affected persons as early as possible, and relatives or close friends of the injured or affected person are notified at the earliest possible moment. The Government is further reminded that Article 4 of the UN Declaration on the Elimination of Violence against Women creates a State responsibility to prevent investigate, and punish acts of violence against women and ensure that women who are subjected to violence are provided access to mechanism of justice and remedies for harm suffered. Lastly, the Special Rapporteur draws the Government's attention to general recommendation No. 19 (1992) of the Committee on the Elimination of Discrimination against Women which asserts that "States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or the investigate and punish acts of violence." The Special Rapporteur concludes with a request for a response from the Government of Cambodia. The Special Rapporteur further requests that that rights of involved persons be respected and if the allegations are correct, the person(s) responsible be held accountable.

### **Central African Republic**

- (a) JAL 16/07/2013 Case No. [CAF 1/2013](#) State reply: None to date **Allégations de violations flagrantes et systématiques des droits de l'homme en République centrafricaine.**

33. Le Rapporteur spécial regrette qu'au moment de la finalisation du présent rapport, l'absence de réponse de la part du gouvernement libanais quant à la communication envoyée le 16 juillet 2013 concernant des allégations de violations flagrantes et systématiques des droits de l'homme en République centrafricaine. Selon les informations reçues, il y aurait, depuis les événements du 24 mars 2013 qui ont conduit la coalition Séléka au pouvoir, une aggravation de la situation des droits de l'homme. Il est ainsi allégué que des exactions auraient été commises sur les populations civiles sur l'ensemble du territoire. Le Rapporteur spécial a exprimé des graves préoccupations quant aux informations reçues faisant état de cas présumés d'assassinats, de torture, de détentions arbitraires, de violences basées sur le genre, de disparitions forcées, de « justice populaire » ainsi que du climat généralisé d'insécurité et d'absence d'état de droit qui régnerait en République centrafricaine pendant et depuis les événements du 24 mars 2013 dont la coalition Séléka serait à l'origine. Dans ce contexte, le Rapporteur spécial souhaite également souligner que tout Gouvernement a l'obligation de protéger le droit à l'intégrité physique et mentale de toutes personnes ainsi que stipulé dans la Déclaration Universelle de droits de l'homme, dans le Pacte international relatif aux droits civils et politiques, dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants. Quant aux allégations spécifiques concernant les actes de torture et de mauvais traitements, le Rapporteur spécial aimerait attirer l'attention du gouvernement sur les dispositions contenues au paragraphe 1 de la résolution 16/23 du Conseil des droits de l'homme qui « condamne toutes les formes de torture et autres traitements cruels, inhumains

ou dégradants, y compris l'intimidation, qui sont et demeurent prohibés, en tout temps et en tout lieu, et ne peuvent jamais être justifiés, et invite tous les États à mettre pleinement en œuvre l'interdiction absolue et intangible de la torture et autres traitements cruels, inhumains ou dégradants » et aussi au paragraphe 8 (b) de la Résolution 16/23 du Conseil des Droits de l'Homme dans laquelle le Conseil « rappelle à tous les États qu'une période prolongée de mise au secret ou de détention dans des lieux secrets peut faciliter la pratique de la torture et d'autres peines ou traitements cruels, inhumains ou dégradants et peut en soi constituer un tel traitement, et demande instamment à tous les États de respecter les garanties concernant la liberté, la sécurité et la dignité de la personne ». Le Rapporteur spécial souhaiterait également attirer l'attention du gouvernement de son Excellence sur le paragraphe 3 de la Résolution 8/8 du Conseil de droits de l'homme qui exhorte les États «[à] prendre des mesures durables, décisives et efficaces pour que toutes les allégations de torture ou autres peines ou traitements cruels, inhumains ou dégradants soient examinées promptement et en toute impartialité par l'autorité nationale compétente, et que ceux qui encouragent, ordonnent, tolèrent ou commettent des actes de torture, notamment les responsables du lieu de détention où il est avéré que l'acte interdit a été commis, en soient tenus responsables, traduits en justice et sévèrement punis, et à prendre note à cet égard des Principes relatifs aux moyens d'enquêter efficacement sur la torture et autres peines ou traitements cruels, inhumains ou dégradants et d'établir la réalité de ces faits (Protocole d'Istanbul), qui peuvent contribuer utilement à lutter contre la torture » (6b). Le Rapporteur spécial appelle le gouvernement à enquêter sur tous les cas de torture et autres peines ou traitements cruels, inhumains ou dégradants, et à poursuivre et punir les responsables de ces violations. Le Rapporteur spécial exhorte aussi le gouvernement à répondre 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 ce que les victimes obtiennent réparation, y compris une indemnisation équitable et adéquate, et une réhabilitation aussi complète que possible.

## China

- (a) **JUA 10/12/2012 Case No. [CHN 10/2012](#) State reply: [07/02/2013](#)** Allegations of arrest and detention of, and alleged excessive use of force against, peaceful demonstrators in the Tibet Autonomous Region.

34. The Special Rapporteur thanks the Government of the People's Republic of China for its reply, dated 7 February 2013, to this communication in reference to the alleged arrest and excessive use of force against peaceful student demonstrators from Tsolho Technical School in Gonghe (Chabcha in Tibetan) for the release of an official Chinese booklet mocking the Tibetan language and that labeled the self-immolations by Tibetans as "stupidity." It is reported that security forces fired warning gunshots and tear gas to disperse the demonstrators, 20 students were reportedly injured, five of whom were hospitalized in critical condition, and four students were arrested in the course of the operation. In its reply, the Government of the People's Republic of China explained that the students were arrested and dispersed because they did not comply with the proper procedure to organize a demonstration. The Government did not however, address the current status of the student's administrative detention, nor did they answer how the measures – particularly the excessive use of force against peaceful demonstrators -- are compatible with the mentioned international human rights norms and standards. Although the Special Rapporteur appreciates the reply, he would like to remind the People's Republic of China that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the UDHR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). On the basis of the information available to him, the Special Rapporteur finds that China



has violated its obligations under international law applicable to torture and cruel, inhuman or degrading treatment or punishment. He also encourages the Government to continue its engagement with the mandate.

- (b) JUA 08/02/2013 Case No. [CHN 2/2013](#) State reply: [21/03/2013](#) **Alleged risk of imminent execution without a fair trial and due process guarantees that are granted by international human rights laws.**

35. The Special Rapporteur thanks the Government of the People's Republic of China for its reply, dated 21 March 2013, to this communication in reference to the alleged risk of imminent execution after proceedings that did not comply with international human rights laws regarding fair trial and due process guarantees. According to the information received, on 24 August 2011, Ms. Li Yan, aged 41, was sentenced to death by the Ziyang City Intermediate People's Court for the murder of her husband on 3 November 2010. The Supreme People's Court in Beijing rejected her appeal and she is reportedly at risk of imminent execution. Allegedly, Ms. Li Yan committed the murder after being subjected to prolonged domestic violence and the repeated failure of the police authorities to protect her and investigate the abuses against her. During the legal proceedings conducted against her, Ms. Li Yan reportedly did not receive adequate legal assistance. The evidence of the defense was allegedly not given adequate consideration, and the defense witnesses were reportedly not invited to testify. In this context, the Special Rapporteur reiterates to the Government of China that in countries that have not abolished the death penalty, capital punishment may be imposed only following a trial that complied with fair trial and due process safeguards, as provided in articles 6(2) and 14 of the International Covenant on Civil and Political Rights (ICCPR). Further, Article 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty provides that "Capital punishment may only be carried out pursuant to a final judgment rendered by a competent court after a legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the ICCPR, including the right . . . to adequate legal assistance." The Special Rapporteur further recalls that Safeguard 4 stipulates that "capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence . . ." It is reiterated that only full respect for stringent due process guarantees distinguishes capital punishment as possibly permitted under international law from a summary execution. The Special Rapporteur additionally points to paragraph 18 of the General Comment No. 2 of the Committee against Torture which requires State authorities to diligently prevent, investigate, prosecute, and punish acts of torture or ill-treatment committed by non-State officials or private actors or bear responsibility for consenting to or acquiescing in such impermissible acts. The Special Rapporteur urged the Government to take all necessary measures to guarantee that the rights and freedoms of Ms. Li Yan are respected and, in the event that your investigations support or suggest the stated allegations are correct, the accountability of any person responsible is ensured. It is further requested, that in the future effective measures are adopted to prevent the recurrence of these acts.

- (c) JUA 26/03/2013 Case No. [CHN 3/2013](#) State Reply: [28/05/2013](#) **Alleged detention and torture of peaceful protesters in the Tibetan Autonomous Region.**

36. The Special Rapporteur thanks the Government of the People's Republic of China for its reply, dated 28 May 2013, to this communication in reference to the alleged arrest of six Tibetan peaceful demonstrators in Zuogang (Tibetan: Dzogang) county in the Tibet Autonomous Region (TAR); the detention of six monks from the Drakdeb monastery in Mangkang (Tibetan: Markham) county, Qamdo (Tibetan: Chamdo) Prefecture, TAR; the detention and sentencing of a Tibetan student in the city of Lhasa, capital of the TAR; the arrest of five monks, and conviction of three of them, in Chenduo (Tibetan: Tridu) county

in Yushu (Tibetan: Kyegudo) Tibetan Autonomous Prefecture, Qinghai province; as well as the detention of three Tibetan monks and two lay Tibetan men in Dzachuka area, Serxu (Tibetan: Sershul) County, in Sichuan province. According to the information received arrests in the Zuogang county, Qamdo Prefecture involved six Tibetans who were arrested for allegedly participating in a protest and were reportedly beaten by the security officials after their arrest, and their current whereabouts are unknown. Similarly in Mangkang County, Qamdo Prefecture monks were arrested for participating in a protest, and currently the conditions and whereabouts of six of these detained monks are unknown. Ngawang Topden was arrested and convicted in the city of Lhasa, capital of the TAR for storing in his mobile phone images of Tibetans self-immolations, the Tibetan flag and other photos showing Chinese abuse of Tibetans. He was sentenced to two years imprisonment accusing him of being "reactionary, inciting the public and threatening social stability". Mr. Ngawang Topden is reportedly serving his sentence in a prison or "re-education through labour" facility, near Duiling Deqing (Tibetan: Toelung) in Lhasa. Mr. Lobsang Jinpa, Mr. Sonam Sherab, Mr. Sonam Yignyen, Mr. Ngawang Monlam, and Mr. Kalsang Tsultrim was were arrested and convicted in Chenduo County, Yushu Tibetan Autonomous Prefecture on unknown charges after a raid where their personal possessions were confiscated. It was reported that Mr. Jinpa and Mr. Tsultrim were beaten and tortured in prison by Chinese police; they were severely injured and were hospitalized. Mr. Tsultrim allegedly remains in hospital. Mr. Lobsang Samten, Mr. Sonam Namgyal, Mr. Thupten Gelek, Mr. Ngawang Gyatso, and Mr. Lobsang Kelsang were arrested in Dzachuka area, Serxu county, Sichuan province and their current whereabouts are unknown. An urgent appeal was sent on 9 August 2012 regarding systematic undermining of the autonomous functions and the rights to freedom of religion, culture and expression of the Tibetan Buddhist community, and signed by the Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur in the field of cultural rights; Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the right to education; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on rights to freedom of peaceful assembly and association; Special Rapporteur on freedom of religion and belief; and the Independent Expert on minority issues. The Special Rapporteur thanks the Government for the detailed response dated 28 May 2013 where it is stated there were no "peaceful protest by monks" taking place in Zuogang and Mangkang counties of Qamdo Prefecture, TAR in February, 2013. It is also stated that Mr. Sonam Sherab, Mr. Sonam Yignyen were detained, in accordance with law, on a charge of suspected crime to disturb public order by the Public Security organ of Chenduo county, Qing Hai Province. Mr. Lobsang Jinpa was detained on a charge of a suspected crime to instigate the split of the state and sentenced to 5 years imprisonment with 2 years deprivation of political rights. Mr. Ngawang Monlam and Mr. Kalsang Tsultrim were detained on a charge of suspected homicide of an intentional nature. The beating that led to his hospitalization, according to the Government, does not comport with the facts. Mr. Sonam Namgyal, Mr. Lobsang Samten and Mr. Thupten Gelek were detained on charges of suspected gathering to disturb public order and traffic order and their detention is, according to the State, in the process of being reviewed. The Special Rapporteur would like to remind the government of the People's Republic of China that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights (UDHR), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). In this context, the Special Rapporteur would also like to draw attention to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns 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 State’s response does not address most of the allegations of mistreatment, nor does it explain what investigation, if any, was conducted about them. The Special Rapporteur concludes that the State has failed to live up to its obligations under the international law governing torture and cruel, inhuman or degrading treatment or punishment. He also encourages the Government of the People’s Republic of China to continue its engagement with the mandate.

- (d) JUA 17/07/2013 Case No. [CHN 6/2013](#) State reply: [23/09/2013](#)

37. The Special Rapporteur thanks the Government of the People’s Republic of China for its reply, dated 23 September 2013, to this communication and is awaiting translation of the respective reply.

- (e) JAL 22/07/2013 Case No. [CHN 7/2013](#) State reply: [10/09/2013](#)

38. The Special Rapporteur thanks the Government of the People’s Republic of China for its reply, dated 10 September 2013, to this communication and is awaiting translation of the respective reply.

- (f) JUA 09/08/2013 Case No. [CHN 8/2013](#) State reply: [11/11/2013](#)

39. The Special Rapporteur thanks the Government of the People’s Republic of China for its reply, dated 11 November 2013, to this communication and is awaiting translation of the respective reply.

- (g) JUA 14/11/2013 Case No. [CHN 13/2013](#) State reply: [24/01/2014](#) **Alleged on-going arbitrary detention and failure to provide medical care to a detained human rights defender.**

40. 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 alleged harassment, interrogation and detention on numerous occasions of Ms. Cao Shunli, a high-profile human rights defender, who at the time of writing this observation, remained detained on charges of “unlawful assembly” and “picking quarrels and provoking trouble.” The Special Rapporteur expresses grave concern for the physical and psychological integrity of Ms. Cao Shunli while in detention, particularly as it would appear she is being held with only intermittent access to legal advice and is at risk of ill-treatment due to the alleged deprivation of medical care. In this context, the Special Rapporteur draws the attention of the Government to the Standard Minimum Rules for the Treatment of Prisoners. Rule 22(2) provides that, “Sick 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.” Rule 25(1) provides that, “The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.” (Approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.) Furthermore, the Special Rapporteur refers to the Basic Principles for the Treatment of Prisoners, adopted and proclaimed by General Assembly resolution 45/111, according to which “Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation” (Principle 9). In the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Ms. Cao Shunli under the relevant standards have been violated, and calls on the Government to undertake all necessary measures to protect the right to physical and mental integrity of Ms.

Cao Shunli, to hold those responsible accountable and to provide full redress to the victims, including fair and adequate compensation and as full rehabilitation as possible.

## Cuba

- (a) JUA 04/11/2013 Case No. [CUB 5/2013](#) State reply: [06/01/2013](#) **Presunto incremento de actos de acoso, conocidos como “actos de repudio”, llevados a cabo por agentes del Estado y grupos de vigilantes, que tienen como objetivo intimidar a defensores y defensoras de derechos humanos en sus propias casas.**

41. El Relator lamenta que, hasta la fecha, el Gobierno de Cuba no haya respondido a esta comunicación de fecha 4 de noviembre de 2013. La comunicación se refería a actos de intimidación y acoso a defensores y defensoras de derechos humanos en sus propias casas, los cuales se conocen como “actos de repudio.” En este contexto, el Relator Especial desea hacer referencia al Gobierno de Cuba al párrafo 1 de la Resolución del Consejo de Derechos Humanos 16/23, la cual “[c]ondena todas las formas de tortura y otros tratos o penas crueles, inhumanos o degradantes, que están y seguirán estando prohibidos en todo momento y en todo lugar y que, por lo tanto, no pueden justificarse nunca, y exhorta a todos los gobiernos a que respeten plenamente la prohibición de la tortura y otros tratos o penas crueles, inhumanos o degradantes.” Adicionalmente, el párrafo 7 (b) de la Resolución 8/8 del Consejo de Derechos Humanos señala que “[l]a intimidación y la coacción, que se describen en el artículo 1 de la Convención contra la Tortura, incluidas las amenazas graves y creíbles a la integridad física de la víctima o de un tercero, así como las amenazas de muerte, pueden equivaler a tratos crueles, inhumanos o degradantes o a tortura.” Ante la ausencia de evidencia contradictoria, el Relator Especial considera que los derechos de las presuntas víctimas han sido vulnerados.

- (b) UA 28/03/2013 Case No. [CUB 1/2013](#) State Reply: [21/05/2013](#) **Alegaciones del uso desproporcionado de la fuerza en contra de defensora de derechos humanos y la negación de atención médica.**

42. El Relator Especial agradece al Gobierno de Cuba por su respuesta, de fecha 21 de mayo del 2013, a la comunicación conjunta con otros procedimientos especiales, enviada en referencia al arresto y uso excesivo de la fuerza y agresión física en contra de la Sra. Yris Pérez Aguilera, defensora de derechos humanos y presidenta del Movimiento Femenino por los Derechos Civiles Rosa Parks. La comunicación también hacía referencia a la negación de atención médica por parte de miembros de las fuerzas de seguridad del Estado. En este contexto, el Relator mencionaba el principio 4 de los Principios Básicos sobre el Empleo de la Fuerza y de Armas de Fuego por los Funcionarios Encargados de Hacer Cumplir la Ley, el cual se refiere al uso proporcional de la fuerza, así como, al uso de medios no violentos antes de recurrir al empleo de la fuerza. Asimismo reiteraba el principio 5 del mismo instrumento internacional que establece la obligación de los funcionarios de asegurar la asistencia y servicios médicos a las personas heridas o afectadas. El relator agradece al Gobierno por su completa respuesta en la que se presenta información que establece que las funciones de los cuerpos policiales se encuentran regidos por el marco de la ley constitucional. El Gobierno también informa que la Sra. Pérez Aguilera se presentó en el Policlínico “XX aniversario” de la Ciudad de Santa Clara, donde confirmó que el golpe en la cabeza era producto de un accidente y no como consecuencia de una agresión física. Asimismo, el Gobierno indica que se le hicieron los estudios médicos necesarios y se le proporcionó el tratamiento requerido. Sin embargo, El Relator lamenta que no se hace referencia a la iniciación de acciones judiciales o investigaciones correspondientes a los hechos alegados. El Relator Especial urge al

Gobierno a comenzar una investigación y tomar medidas para garantizar la integridad física y psicológica de la Sra. Yris Pérez Aguilera.

- (c) AL 07/06/2013 Case No. [CUB 3/2013](#) State Reply: None to date **Alegaciones de actos de tortura así como de procesos de investigación y enjuiciamiento injustos.**

43. El Relator Especial lamenta que, hasta la fecha, el Gobierno de Cuba no haya respondido a la comunicación conjunta con otros procedimientos especiales, de fecha 7 de junio de 2013. La comunicación hacía referencia a actos de tortura en contra del Sr. Alberto Lairó Castro después de ser arrestado por miembros de la Policía Nacional Revolucionaria (PNR) de Holguín, dejando al individuo paralizado. Además se mencionaba la falta de oportunidad de la víctima y su madre de participar en el juicio, la ausencia de la interrogación del Sr. Lairó Castro como evidencia, la falta de implementación de la sanción a los culpables y la falta de compensación a las víctimas. El Relator expresa su complacencia con la Fiscalía Militar de Holguín por reconocer la desproporcionalidad del uso de la fuerza por parte de los miembros policiales; sin embargo, expresa grave preocupación por la imposición de procesos de investigación y enjuiciamiento injustos. En este contexto, el Relator Especial recuerda al Gobierno de Cuba el párrafo 7 (b) de la Resolución 16/23 del Consejo de Derechos Humanos, el cual insta a los Estados a que “adopten medidas constantes, decididas y eficaces para que toda denuncia de torturas o de otros tratos o penas crueles inhumanos o degradantes sea examinada rápida e imparcialmente por la autoridad nacional competente, para que las personas que fomenten, ordenen, toleren o cometan actos de tortura sean declaradas responsables y sancionadas severamente, incluidos los funcionarios a cargo del lugar de detención en que haya tenido lugar el acto prohibido [...], y que “velen por que las víctimas de la tortura o de otros tratos o penas crueles, inhumanos o degradantes obtengan reparación y reciban una indemnización justa y adecuada [...]” El Relator Especial exhorta al Gobierno de Cuba, como Estado miembro de la Convención contra la Tortura, a que lleve a cabo la investigación, procesamiento y eventual condena de los responsables así como la compensación de las víctimas anteriormente mencionadas.

## Czech Republic

- (a) JOL 18/03/2013 Case No. [CZE 2/2013](#) State Reply: [24/05/2013](#) Alleged lack of compensation for victims of non-consensual sterilization.

44. The Special Rapporteur thanks the Government of the Czech Republic for its reply, dated 24 May 2013, to this communication in reference to the alleged denial of compensation for victims of non-consensual sterilizations. According to the information received, on 9 September 2004 a group of Romani women alleged they were victims of non-consensual sterilization. That fact was admitted by the authorities of the Czech Republic when they stated publicly on 23 November 2009 that they regretted there were sterilizations performed in contravention of domestic and international law. The Council for Human Rights recommended a compensation mechanism, but the Government has not accepted the Council’s recommendations. In its reply, the Government of the Czech Republic first explains the different domestic laws and protections awarded to women who are considering surgical sterilization and how to prevent non-consensual sterilizations through education and awareness campaigns. The Government also claims that the Ombudsman investigated all the claims of non-consensual sterilization and found that 58 of the 88 complaints were legitimate, but after further police investigation it was found there were no crimes committed. The Government suggests that the victims of non-consensual sterilization seek compensation through the civil court system and names a series of cases where claimants of sterilization were able to successfully receive compensation. However,

the Government also identifies several issues with this approach, including statutes of limitation that leave hospitals largely immune to liability and that the victims were only able to receive compensation through negotiations with the Government. Nevertheless, the Government stated that the idea of an extra judicial ex gratia compensation mechanism is not foreclosed, and is considering possible ways to grant compensation to victims of non-consensual sterilization. The Government also is considering the issue of the statute of limitations at the Justice Ministry, and its effects of immunizing hospitals. The Special Rapporteur thanks the Government of the Czech Republic for its reply and its efforts to investigate the claims of non-consensual sterilizations. Nevertheless, the Special Rapporteur reminds the Government of article 14 of the Convention Against Torture, which provides that victims of torture should have the right to redress and adequate compensation. In this regard, the Special Rapporteur would also like to remind the Government that paragraph 7e of Human Rights Council Resolution 16/23 urges States “(t)o ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social, psychological, medical and other relevant specialized rehabilitation, and urges States to establish, maintain, facilitate or support rehabilitation centres or facilities where victims of torture can receive such treatment and where effective measures for ensuring the safety of their staff and patients are taken.” The Special Rapporteur also encourages the Government of the Czech Republic to continue its engagement with the mandate.

## Denmark

- (a) UA 17/07/2013 Case No. [DNK 1/2013](#) State Reply: None to date **Alleged imminent risk of deportation of Mr. X, an asylum seeker, who would be at risk of being tortured and killed, if forcibly returned from Denmark to Sri Lanka.**

45. The Special Rapporteur regrets that the Government of Denmark has not responded to this communication dated 17 July 2013, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication concerned the possible return of asylum seeker Mr. X to Sri Lanka where he may be at risk of torture and execution. Mr. X has received a deportation order following the Government’s denial of his asylum application as well as his subsequent appeal, and while at the date of the communication Mr. X had not been deported, there is substantial risk he could be at any moment. The Special Rapporteur has received evidence suggesting that Mr. X would be at risk of torture or other cruel, inhuman, and degrading treatment at the hands of the Eelam People’s Democratic Party (EPDP) or the Sri Lankan military if he is returned, due to his past involvement with the Liberation Tigers of Tamil Eelam. In this regard, the Special Rapporteur would like to draw the Government’s attention to Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, acceded to by Denmark on 27 May 1987, 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 context, at paragraph 9 of General Comment No. 20 on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, 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.” Additionally, the Special Rapporteur would like to draw the Government’s attention to Human Rights Council’s Resolution 22/1, supported by Denmark, which states with concern the ongoing human rights violations present in Sri Lanka, including inter alia enforced disappearances, extrajudicial killings, and torture. The Special Rapporteur urges the Government not to deport Mr. X and ensure that his rights as

an asylum seeker are respected in compliance with international law, in particular the international principle of non-refoulement as expressed above.

## Ecuador

- (a) AL 04/11/2013 Case No. [ECU 3/2013](#) State Reply: [06/01/2014](#) **Posible adopción de un nuevo Código Penal, el cual ampliaría la penalización del aborto.**

46. El Relator Especial agradece al Gobierno de Ecuador por su respuesta, de fecha 6 de enero del 2014, a la comunicación conjunta con otros procedimientos especiales, de fecha 4 de noviembre de 2013. En particular la comunicación expresaba preocupación por la posible adopción de un nuevo Código Penal a estudio de la Asamblea Nacional, que buscaría ampliar las penalizaciones del aborto y tipificar nuevos delitos, como el de homicidio por mala práctica profesional. Asimismo se refería al actual Código Penal que penaliza con pena privativa de libertad a la mujer y a la persona que practique el aborto (Artículo 149). Asimismo, permite el aborto si se practica para evitar un peligro para la vida o salud en el caso que no pueda ser evitado por otros medios, o si el embarazo es consecuencia de una violación, siempre y cuando la mujer padezca de discapacidad mental (Artículo 150). En este contexto, el Relator hace referencia a su reporte temático (A/HRC/22/53), en el que concluye que la denegación de facto al acceso a servicios autorizados de salud como el aborto pueden causar enormes y duraderos sufrimientos físicos y emocionales, incluyendo el riesgo de muerte y discapacidad. Asimismo, reitera las conclusiones del Comité contra la Tortura, que establecen que las restricciones en el acceso al aborto y prohibiciones absolutas del mismo conculcan la prohibición de la tortura y los malos tratos. El Relator Especial expresa gran preocupación por las alegaciones que establecen que cuatro de diez mujeres sufren de violencia sexual en Ecuador y sin embargo solamente el 0.95% tienen la posibilidad de acceder al aborto no punible. En base a información recibida, el Relator Especial recuerda al Gobierno de Ecuador que las violaciones al artículo 7 del Pacto Internacional de Derechos Civiles y Políticos también incluyen la denegación del acceso a un aborto en condiciones seguras a las mujeres que han quedado embarazadas a raíz de una violación. El Relator Especial exhorta al Gobierno de Ecuador a velar por la integridad física y emocional de las mujeres, permitiendo el acceso a servicios de salud reproductiva y sexual legalmente disponibles sin temor a sanciones penales o represalias.

## Egypt

- (a) JUA 11/01/2013 Case No. [EGY 1/2013](#) State reply: **None to date** Alleged violence that unfolded in the context of protests in Cairo on 5 and 6 December 2012, including several killings, injuries and acts of torture and sexual harassment inflicted on demonstrators and human rights defenders.

47. The Special Rapporteur regrets that the Government of the Arab Republic 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 the alleged attacks committed by pro-President Morsi protesters against anti-Morsi protesters and women activists on 5 December 2012. It was reported that two groups of President Morsi supporters were armed with electric and wooden batons, rocks, and chains. The groups allegedly used the Presidential Palace premises to hold the sit-in protesters hostage, and severely beat them until their release the following day. Reportedly, these attacks were not prevented by the police until more than five hours after the incident began. The Special Rapporteur reminds the Government of Article 12 of the Convention Against Torture (“CAT”), which requires the competent authorities to undertake a prompt and impartial

investigation whenever there are reasonable grounds to believe that torture has been committed, and Article 7 of the CAT, which requires State parties to prosecute suspected perpetrators of torture. The SRT draws attention to paragraph 6b of Human Rights Council Resolution 8/8, which requires the competent national authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and require State parties to hold those who perpetrate acts of torture responsible. The Arab Republic of Egypt should 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 (the Istanbul Principles) as a useful tool in efforts to combat torture. In addition the Special Rapporteur reiterates paragraph 18 of the General Comment No. 2 of the Committee against Torture (CAT/C/GC/2, 24 January 2008), where the Committee has made clear that where State authorities or others acting in official capacity or under colour of law, know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors and they fail to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors consistently with the Convention, the State bears responsibility and its officials should be considered as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in such impermissible acts. The State's indifference or inaction provides encouragement or de facto permission. The Special Rapporteur reminds the Arab Republic of Egypt of paragraph 1 of Human Rights Council Resolution 16/23, which "Condemns 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 calls on the Government to undertake a prompt and independent investigation into the anti-Morsi protesters' alleged torture while held hostage in the premises of the Presidential Palace, and the delayed response by police, leading to prosecution and punishment of all those responsible, and to provide full redress to the victims.

- (b) JUA 17/04/2013 Case No. [EGY 6/2013](#) State Reply: None to date Alleged torture of Mr. Ahmad Allam Mohamed Hefny, and a confession extracted and used in trial derived from that torture.

48. 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 the alleged torture and ill-treatment of Mr. Ahmad Allam Mohamed Hefny, who was tried in absentia and sentenced to life imprisonment by the Egyptian Supreme State Security Court for his alleged involvement in an attack on the Al-Arish II police station that took place on 29 July 2011. Mr. Hefny was allegedly subjected to torture and ill-treatment at the National Security headquarters in Al-Arish for three consecutive days, through beatings, kicking, punching, raping with a wooden stick, and electrocution. Allegedly he was tortured until a confession was extracted. It is reported that the court did not open an investigation into these allegations because they were raised by the victim but not officially by his lawyer. It is reported that these forced confessions constituted the primary evidence against Mr. Hefny during the hearing on 22 April 2013. It is further reported that Mr. Hefny began a hunger strike in objection to the torture and ill-treatment he has received in prison, which has severely affected Mr. Hefny's health. In retaliation, the prison restricted Mr. Hefny's access to bedding and moved him to a two-by-one meters cell without ventilation nor access to electricity, water, or toilets for at least one week. Mr. Hefny has not been examined by doctors nor sent to the prison hospital since his arrest. He reportedly remained without access to medication or medical treatment as of the date of the communication, despite being unable to walk due to the torture. On 11 September 2012, the Special Rapporteur on the independence of judges and lawyers, the



Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment had sent a joint urgent letter to the Egyptian Government concerning three other individuals addressing the ongoing use of the Supreme State Security Courts in Egypt despite the end of the state of emergency and the use of evidence obtained through torture, in particular in cases related to terrorism charges. No answer has yet been received. In this context, the Special Rapporteur draws attention to paragraph 1 of Human Rights Council Resolution 16/23, which “condemns 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 addition, article 2(2) of the CAT and paragraph 2 of Resolution 16/23 of the Human Rights Council provide that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture. With regard to the alleged use of evidence obtained under torture before the courts, article 15 of the CAT and paragraph 7c of Human Rights Council Resolution 16/23 provide that any statement made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture. Article 12 of the CAT 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. With regard to the deteriorating health condition of Mr. Hefny, the Standard Minimum Rules for the Treatment of Prisoners. Rule 22(2) provides that “(s)ick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals.” Furthermore, Rule 25(1) provides that “(t)he medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.” The Special Rapporteur reminds the government of article 14 of the CAT, which provides that victims of torture should have the right to redress and adequate compensation. The Special Rapporteur calls on the Government to review any judicial decision rendered against Mr. Hefny that may have been based on torture-tainted evidence; to undertake a prompt and independent investigation of the torture of Mr. Ahmad Allam Mohamed Hefny, leading to prosecution and punishment of the perpetrators; and to provide full redress to the victim.

- (c) **UA 24/05/2013 Case No. [EGY 7/2013](#) State Reply: None to date** Alleged torture and ill-treatment and the subsequent denial of medical treatment of Mr. Alaa Ahmed Mohamed Hussein at the Naga Hammadi Police Station.

49. 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 the alleged torture and ill-treatment and the subsequent denial of medical treatment of Mr. Alaa Ahmed Mohamed Hussein at the Naga Hammadi Police Station, Qena, Egypt. According to the information received, during a visit to the Naga Hammadi Police Station where his brother was being detained, an argument ensued between Mr. Hussein and two uniformed police officers at the station about their disrespect of visitors to the station. Two officers allegedly started hitting and beating Mr. Hussein with a baton on different parts of his body, kicking and punching him and dragging him on the floor, resulting in severe injuries. It is reported that immediately following the incident, Mr. Hussein was detained overnight at the Naga Hammadi Police Station, and that he did not receive any medical attention for the injuries he sustained. Mr. Hussein reportedly appeared before the Naga Hammadi Prosecution, and was immediately released without any charges. A complaint has been filed for the alleged torture, and an investigation is supposedly ongoing. In this context, the Special Rapporteur reminds the

government of Egypt of paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns 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 addition, article 12 of the CAT and paragraph 7b of Human Rights Council Resolution 16/23, require 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 CAT, which requires State parties to prosecute suspected perpetrators of torture. With regard to the allegations concerning the denial of medical treatment, the Standard Minimum Rules for the Treatment of Prisoners Rule 22(2) 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. Furthermore, Rule 25(1) provides that, “(t)he medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.” The Special Rapporteur calls on the Government to undertake a prompt and independent investigation of the alleged torture and ill-treatment of Mr. Alaa Mohamed Hussein, leading to prosecution and punishment of the perpetrators and to provide full redress to the victim.

- (d) JUA 06/08/2013 Case No. [EGY 11/2013](#) State Reply: None to date **Alleged excessive use of force and killings of demonstrators by police forces.**

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. According to allegations, at least 81 protesters and police officers were killed and thousands more injured in clashes between pro-Mohammed Morsi/Muslim Brotherhood protesters and Egyptian police forces in Cairo in July 2013. While the Government reported that police officers were only armed with tear gas, it is alleged that most of the protesters killed were shot with live ammunition targeting their head or chest. Following the incident, interim Government officials allegedly stated that Muslim Brotherhood demonstrations were a “threat to national security” and ordered that all necessary measures be taken to “confront these risks and put an end to them.” Allegedly, this statement has led to serious fears that future peaceful protests might be met with excessive use of force by police. The Special Rapporteur stresses that each government has the obligation to protect the right to physical and mental integrity of all persons, as set forth inter alia in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention against Torture. Articles 3 and 20 of the UDHR provide that “everyone has the right to life, liberty and security of person,” and “the right to freedom of peaceful assembly and association.” Additionally, the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials establish that officials shall “apply non-violent means before resorting to the use of force and firearms,” and that force and firearms may only be used as a last resort when unavoidable, and requires exercising the utmost restraint, minimizing injury and damage, and respecting and preserving human life. In the absence of evidence to the contrary, the Special Rapporteur concludes that the victims’ rights under international standards relating to the prohibition of torture and cruel, inhuman or degrading treatment or punishment have been violated. The Special Rapporteur calls on the Egyptian Government to clarify the circumstances regarding the aforementioned incident, to conduct a prompt, independent and effective investigation into the allegations, to prosecute and punish all perpetrators, and to provide full redress to the victims and their family members. The Special Rapporteur also

calls on the Government to undertake effective measures to protect the rights and freedoms of all persons, including the right to freedom of peaceful assembly, and to prevent the recurrence of such acts.

- (e) JUA 25/11/2013 Case No. [EGY 15/2013](#) State reply: None to date **Alleged arbitrary detention, torture and denial of medical treatment for Mr. Ahmed Hassan Al-Din.**

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 refers to the alleged arbitrary detention, solitary confinement, torture and denial of medical care of Mr. Ahmed Hassan Al-Din who, at the time the communication was sent, remained detained in unhygienic conditions in Tora prison in Aqrab. The Special Rapporteur expresses serious concern about the mental and physical integrity of Mr. Al-Din in view of allegations that he continues to remain held in an unhygienic condition and has been threatened with more beatings as a consequence of his hunger strike and refusal to take liquids. In this context, and with respect to the allegations according to which Mr. Al-Din was subjected to beating and humiliation while in detention, the Special Rapporteur draws the attention of Government to paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns 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 view of the allegations according to which Mr. Al-Din was placed in an isolated cell, the Special Rapporteur draws attention to paragraph 6 of General Comment 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). In this regard, he recalls that article 7 of the Basic Principles for the Treatment of Prisoners 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 reiterates that the Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment. Furthermore, the Special Rapporteur reminds the Government that Rule 22(2) of the Standard Minimum Rules for the Treatment of Prisoners provides that “Sick 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.” Furthermore, Rule 25(1) provides that “The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.” (Approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977) No evidence having been provided to the contrary, the Special Rapporteur is of the view that the rights of Mr. Ahmed Hassan Al-Din have been violated. The Special Rapporteur calls on the Government to undertake a prompt, impartial, and effective investigation of the alleged acts of torture and cruel, inhuman or degrading treatment or punishment, leading to prosecution and punishment of the perpetrators, and to provide redress to Mr. Ahmed Hassan Al-Din.

## El Salvador

- (a) UA 18/04/13 Case No. [SLV 1/2013](#) State reply: [20/05/2013](#) **Alegación de la restricción de acceso al aborto aún cuando la persona se presenta en peligro de muerte.**

52. El Relator Especial agradece al Gobierno de El Salvador por su respuesta, de fecha 21 de mayo del 2013, a la comunicación conjunta con otros procedimientos especiales, enviada en referencia a la denegación a la Sra. Beatriz Adriana García de la posibilidad de recurrir al aborto aún cuando presentaba anencefalia fetal, que además de poner en peligro su vida no permitiría la viabilidad de sobrevivencia extrauterina. El Relator Especial aprecia la información detallada sobre las medidas adoptadas por el Ministerio de Salud Pública y el Hospital Especializado de Maternidad para garantizar el derecho de la Sra. García al más alto nivel de salud. Asimismo, agradece a las autoridades Salvadoreñas por remitir reportes periódicos sobre la situación de salud de la persona mencionada a la Comisión Interamericana de Derechos Humanos (CIDH) y expresa su complacencia por la intervención judicial que en definitiva salvó la vida de la Sra. García. El Relator Especial reconoce la disposición de la Ley Penal y la Suprema Corte del país en relación al aborto; sin embargo, desea referirse a su informe temático A/HRC/22/53 en el que concluye que la denegación de facto al aborto puede causar enormes y duraderos sufrimientos físicos y emocionales, incluyendo el riesgo de muerte y discapacidad. Asimismo, hace hincapié en los repetidos llamados del Comité contra la Tortura en los cuales ese órgano expresó la preocupación por el hecho de que las restricciones en el acceso al aborto y las prohibiciones con respecto al mismo conculcan la prohibición de la tortura y malos tratos. En este contexto, el Relator Especial exhorta al Gobierno de El Salvador a que asegure la integridad física y emocional de la Sra. Beatriz Adriana García y que a su vez vele por que las mujeres tengan acceso a la atención médica de emergencia, incluidos los abortos y cuidados posteriores al mismo, sin temor a sanciones penales o represalias.

## Equatorial Guinea

- (a) UA 24/05/2013 Case No. [GNQ 1/2013](#) State Reply: None to date **Alegación de detención bajo régimen de incomunicación.**

53. El Relator Especial lamenta que, hasta la fecha, el Gobierno de Guinea Ecuatorial no haya respondido a la comunicación conjunta con otros procedimientos especiales, de fecha 17 de enero de 2013. La comunicación hacía referencia al presunto arresto del Sr. Jerónimo Ndong, Secretario General del partido político de oposición Unión Popular (UP), por su participación en la organización de una manifestación que tuvo lugar el 15 de mayo de 2013. Además se refería a la presunta detención de la esposa y el hermano del antes mencionado, la Sra. Medianera y el Sr. Ubaldo Mesi Ndong, por parte de las fuerzas militares con el fin de presionar al Sr. Ndong a entregarse a las fuerzas policiales. Asimismo, se hace referencia a otros diez individuos detenidos entre el 13 y el 15 de mayo de 2013 bajo el supuesto de su participación en la manifestación mencionada. En todos los casos se indicaba que los individuos fueron mantenidos en un régimen de incomunicación. En este contexto, el Relator hace referencia al párrafo 8 (b) de la Resolución 16/23 del Consejo de Derechos Humanos en el que se recuerda a los Estados que "...una detención prolongada en régimen de incomunicación puede facilitar la comisión de actos de tortura y otros tratos o penas crueles, inhumanos o degradantes y pueden ser en sí considerados como un acto de tortura [...]". Ante la ausencia de evidencia contradictoria, el Relator Especial concluye que los derechos de estas personas a la integridad física y psíquica fueron efectivamente violados; 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 para proteger los derechos y libertades de los mencionados.

## Fiji

- (a) **AL 15/03/2013 Case No. [FJI 1/2013](#) State Reply: None to date** Alleged torture of escapees from the Naboro Corrections Facility, including a possible related video recording of torture of prisoners in a separate prison.

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 to the alleged torture of escapees of the Naboro Corrections Facility outside Suva, Fiji. According to the information received, the men complied with the directions of armed military officers and did not resist arrest when they were recaptured. It is alleged that armed military officers tortured the men following arrest. The men were handcuffed and severely beaten. On the way back to the mainland by boat, security officers threw a handcuffed and injured escapee into the sea several times, each time hauling him back into the boat. In the Babua military barracks the men were forced to take off all their clothes and were left naked in dark cells, kicked, hit with the butt of guns, sworn at, spat on and had hot water poured on them. Another suffered rectal injuries after military officers pushed the barrel of a gun into his anus. It is further reported that one of the prisoner's legs was amputated shortly after the recapture. It is alleged that soon thereafter, it was announced that the police would not open an investigation into the allegations. It is further reported that it remains unclear whether the prisoners have been granted access to legal representation. Reportedly there was also a leaked nine-minute video that shows a handcuffed man being physically and sexually assaulted, beaten and humiliated by a group of men while lying helpless in the back of a pick-up truck. The man is repeatedly struck on his feet, legs, body and head with a number of different implements including a length of rubber pipe, a metal rod, a stick and a hammer. Subsequently some of his abusers force him to expose his genitals, while others film and photograph him. A second handcuffed man is shown sitting on the ground nearby and is also struck on his body including legs and head with a stick and a rod. A dog is encouraged by its handler to seize him by the shirt and drag him several meters across the ground. The police statement also alleges that neither of the men in the video is thought to be any of the five prisoners who had escaped on 17 September 2012. It is still unclear whether the videotape shows the torture of two of the five prisoners or a separate case of police violence and torture where the victims remain unknown. The Special Rapporteur would like to emphasize that torture and other cruel, inhuman or degrading treatment or punishment is prohibited in all circumstances without exception. This absolute prohibition is a rule of customary international law, which binds all nations, irrespective of whether or not they are party to relevant treaties. Furthermore, the Special Rapporteur would like to remind the government of paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns 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." Under international law and standards, and paragraph 7b of Human Rights Council Resolution 16/23, states must also ensure that all reasonable allegations of torture are properly investigated, including through medical documentation as elaborated in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol, 1999). This obligation reflects both the duty of states to ensure reparations to victims of this serious human rights violation, including the disclosure of the truth. In this context, paragraph 7e of Human

Rights Council Resolution 16/23 urges States “(t)o ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social, psychological, medical and other relevant specialized rehabilitation, and urges States to establish, maintain, facilitate or support rehabilitation centers or facilities where victims of torture can receive such treatment and where effective measures for ensuring the safety of their staff and patients are taken.” The Special Rapporteur calls on the Government to undertake a prompt and independent investigation of the allegations of torture of these prison escapees, leading to prosecution and punishment of the perpetrators, and to provide full redress to the victims.

## Greece

- (a) JAL 15/08/2013 Case No. [GRC 2/2013](#) State reply: [25/10/2013](#) **Alleged death of a migrant detainee, suicides in detention, insufficient access to health care in detention, and lack of compensation to migrant victims of shooting.**

55. The Special Rapporteur thanks the Government for its reply dated 25 October 2013 to allegations of mistreatment of irregular migrants as well as migrant workers. According to the information received, on 27 July 2013, Mr. Mohammad Hasan, a 28 year-old Afghan migrant who had been detained for almost 11 months, died in a hospital in Athens. Allegedly, the police authorities at Korinthos detention centre had repeatedly rejected his requests to see a doctor. Furthermore, in two recent incidents, in police facilities in Grevena and Kozani, two migrants allegedly committed suicide while in detention. It is further reported that a 33 year-old Congolese man was awaiting amputation of both legs following seven months of detention in Komotini without appropriate access to medical care, and a 28-year-old Afghan national, suffering from a serious disease, was hospitalized. Additionally, a group of Bangladeshi strawberry pickers who were shot at on 17 April of this year in Nea Manolada have allegedly received no support from the Greek government despite promises of compensation and protective immigration status. The Special Rapporteur expressed concerns in the communication that such accounts further illustrate the poor conditions of detention within police stations, border guard stations, and migrant detention facilities observed by the previous Special Rapporteur during his visit to Greece in 2010. It was noted that prolonged detention of migrants under the conditions of detention described amounts to inhuman and degrading treatment, in violation of articles 7 and 10 of the ICCPR (Para. 47) and furthermore that reported deaths of persons in state custody such as those described could amount to a breach of those individuals’ right to life and security as enshrined in article 6 of the ICCPR. Additionally, in regard to the alleged shooting of the Bangladeshi strawberry pickers in Nea Manolada, the Special Rapporteur expressed concern that the Government’s treatment of the victims following the attack, including failure to provide adequate compensation and continued detention in poor conditions, could amount to a violation of paragraph 18 of the General Comment No. 2 of the Committee against Torture (CAT/C/GC/2, 24 January 2008). In this provision, the Committee has made clear that where State authorities or others acting in official capacity or under colour of law, know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors and they fail to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors consistently with the Convention, the State bears responsibility and its officials should be considered as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in such impermissible acts. The Special Rapporteur acknowledges and thanks the Government for its reply to these allegations in which they stated that ongoing investigations were underway into the circumstances of the reported deaths in custody as well as into the treatment of the Bangladeshi migrant workers following the attack at Nea Mnlada. The Government reported further to document the

various efforts undertaken to improve the conditions of detention for those held in immigration facilities. Additionally, efforts to ensure that police forces were upholding human rights in the face of recent conflicts with foreign workers were relayed by the Government. While the Special Rapporteur is encouraged by reports of investigations into these alleged violations, it is noted with concern that there is a lack of compensation and support for the victims of the Nea Manolada shooting as well as to the families of those reported to have died while under police custody. The Special Rapporteur encourages the Government to continue its engagement with the mandate as it moves forward with the investigations and reforms detailed above.

## India

- (a) **JAL 11/02/2013 Case No. [IND 1/2013](#) State reply: [12/02/2013](#) and [08/06/2013](#)** Alleged execution of Mr. Ajmal Kasab after proceedings that did not comply fully with fair trial and due process guarantees and whose family was not informed of his execution.

56. The Special Rapporteur thanks the Government of India for its reply, dated 12 February 2013, to this communication in reference to the alleged execution of Mr. Ajmal Kasab for his alleged involvement in the 2008 Mumbai attack. Reportedly, Mr. Kasab's defense counsel was denied several procedural guarantees that resulted in an unfair conviction. Mr. Kasab was then allegedly executed in secret without notifying his family or attorney. The Indian authorities allegedly announced it to the public after the executions had occurred, and justified their actions as necessary to avoid intervention from human rights defenders. In its reply, the Government of India simply acknowledged receipt of the joint allegation letter but did not address any of the concerns contained in the letter, nor did the Government confirm or deny the facts surrounding the secret execution of Mr. Ajmal Kasab. Although the Special Rapporteur appreciates a confirmation of receipt, he reminds the Government of India of his thematic (A/67/279 Paragraph 52) which emphasizes that in relation to the enforcement of the death penalty, the Human Rights Committee has recommended that families of death row inmates be given reasonable advanced notice of the scheduled date and time of execution, with a view to reducing the psychological suffering caused by the lack of opportunity to prepare themselves for that event (CCPR/C/JPN/CO/5, para. 16). Secrecy is an especially cruel feature of capital punishment, highlighting the need for total transparency and avoidance of harm to innocents in the whole process. The Special Rapporteur calls on the Government of India to address the concerns surrounding the secret execution of Mr. Ajmal Kasab and to offer appropriate remedies to the next of kin. He also encourages the Government to continue its engagement with the mandate.

- (b) **JAL 12/03/2013 Case No. [IND 3/2013](#) State Reply: [06/08/2013](#)** Execution of Mr. Muhammad Afzal Guru after proceedings that allegedly resulted from a conviction based on a confession extracted through torture.

57. The Special Rapporteur thanks the Government of India for its reply, dated 6 August 2013, to this communication in reference to the alleged execution of Mr. Muhammad Afzal Guru based on a conviction reportedly extracted through torture. The communication referred to the allegedly then imminent execution of Mr. Muhammad Afzal Guru after proceedings that did not comply with international standards of fair trial and due process guarantees. According to the information received, Mr. Guru was convicted on charges of conspiring in an attack and waging war due to his involvement in the attacks at the Indian Parliament in New Delhi on 13 December 2001. Mr. Guru allegedly provided logistical support to those involved in the attack, during which nine people were killed. It is reported that Mr. Guru did not have legal representation from the time of his arrest until after he

confessed to the offences. The confession, which he subsequently retracted, was allegedly obtained through torture. It is alleged that the conviction against Mr. Guru was based largely on his initial confession. Furthermore, Mr. Guru's legal representative was appointed by the Government and his performance was inadequate; he failed to conduct a thorough cross-examination of witnesses. The execution allegedly took place in secrecy and his family was informed three days after the execution by mail. Mr. Guru's wife was allegedly denied return of his body and denied the right to perform religious rites. In this context, the Special Rapporteur reiterates article 15 of the Convention against Torture, which provides that "Each 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." Paragraph 6c of Human Rights Council resolution 8/8 of 2008 contains a similar provision. 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 ICCPR. In countries that have not abolished the death penalty, capital punishment may be imposed only following a trial that complied with fair trial and due process safeguards, as provided in articles 6(2) and 14 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by India on 10 April 1979 and article 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty. The Special Rapporteur calls on the Government to undertake a prompt and independent investigation of Mr. Muhammad Afzal Guru's alleged confession that was extracted through torture and a death penalty conviction that rested on that confession, resulting in his execution. The Special Rapporteur calls on the Government to prosecute and punish the perpetrators, and to provide full redress to the victim's family.

- (c) **JUA 05/06/2013 Case No. [IND 6/2013](#) State reply: [29/08/2013](#)** Alleged risk of imminent execution after proceedings that did not comply with a number of international human rights standards.

58. The Special Rapporteur thanks the Government of India for its reply, dated 29 August 2013, to this communication in reference to the arrests, detention, allegations of the use of torture and cruel, inhuman and degrading treatment including solitary confinement, and the sentencing to death of nine individuals, namely Messrs. Devender Pal Sing Bhullar, Meesekar Madaiah, Gnanprakasham, Simon, Bilavendran, V. Sriharan alias Murugan, T. Suthendraraja alias Santhan, A. G. Perarivalan alias Arivu and Saibanna Ningappa Natikar. Concern is expressed that the judicial proceedings of the aforementioned individuals did not comply with international human rights law standards of fair trial and due process guarantees. It was reported that Mr. Devender Pal Sing Bhullar was arrested in 1995 and charged with an attempt to assassinate a Punjab Police Officer and the then President of the Indian Youth Congress. On 25 August 2001 Mr. Bhullar was tried and sentenced to death by a special court designated to hear his case under the Terrorist and Disruptive Activities (Prevention) Act (TADA). Reportedly, during Mr. Bhullar's detention from 19 to 23 January 1995, the Police of the Special Cell, Lodhi Colony, New Delhi, tortured and forced Mr. Bhullar to sign a confession, which Mr. Bhullar later retracted. It was alleged that Mr. Bhullar's prolonged stay on death row in solitary confinement had seriously affected his health, and that he could be executed at any moment. With regard to Messrs. Meesekar Madaiah, Gnanprakasham, Simon, and Bilavendran, it was reported that all four were being held in Hindalga Prison, Belgaum, Karnataka state, India, after being sentenced to death by the Supreme Court of India in 2004 for their alleged role in the Veerappan's militant formation. Reportedly, all four individuals have been suffering from serious mental and psychological illness due to the prolonged stay on death row in solitary confinement since 2004. With regard to V. Sriharan alias Murugan, T. Suthendraraja alias Santhan, and A. G. Perarivalan alias Arivu, it was reported that these three individuals were arrested along with 23 individuals in July 1991 in connection with the assassination of former Prime Minister



of India, Rajiv Gandhi. On 28 January 1998, all 26 individuals were found guilty and sentenced to death by a special court in the state of Tamil Nadu, India. Allegedly the trial was held behind closed doors, in camera, and non-disclosure of the identity of witnesses was maintained throughout the proceedings. Reportedly, confessions by the defendants formed a major part of the evidence in the trial court judgment against them, which they later claimed were taken under duress. Currently, the three aforementioned individuals are being held in Vellore Prison, State of Tamil Nadu, India where they might be suffering from serious mental and psychological illness due to the prolonged stay on death row in solitary confinement since 1998. With regard to Saibanna Ningappa Natikar, it was reported that he was sentenced to death in 2005 for the 1994 murder of his second wife and daughter. Reportedly, fourteen former Indian judges petitioned the President of India asking that Mr. Natikar's sentence be commuted because it was imposed in error. Allegedly Mr. Natikar has been suffering from serious mental and psychological illness due to the prolonged stay on death row in solitary confinement since 2005. The Special Rapporteur appreciates the reply of the Government of India, but regrets that the Government did not provide sufficient documentation of the investigation into the allegations of torture and ill-treatment in connection with this case, including the alleged detention and death sentence of Mr. Devender Pal Sing Bhullar. The Government's reply neither explains the Court's finding nor the measures taken to impartially and independently investigate the allegations of torture and ill-treatment. The Government's reply does not address the allegations and concerns raised regarding Meesekar Madaiah, Gnanprakasham, Simon, Bilavendran, V. Sriharan alias Murugan, T. Suthendraraja alias Santhan, A. G. Perarivalan alias Arivu and Saibanna Ningappa Natikar. The Special Rapporteur would like to stress that each Government has the obligation to protect the right to life and the physical and mental integrity of all persons. These rights are set forth inter alia in the UDHR, the United Nations Safeguards Guaranteeing Protection of the Rights of those Facing Execution of 1984 (ECOSOC Resolution 1984/50) and the ICCPR, acceded to the Government of India on 10 April 1979. As stated in his report to the General Assembly (A/67/279; 9 August 2012), the Special Rapporteur finds that even if the emergence of a customary norm that considers the death penalty as per se running afoul of the prohibition of torture and cruel, inhuman or degrading treatment is still under way, most conditions under which capital punishment is actually applied renders the punishment tantamount to torture. Under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment. He therefore recalls the absolute nature of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. The Special Rapporteur would like to reiterate paragraph 7c of Human Rights Council Resolution 16/23, which urges States "To 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." Due to the lack of information provided by the Government about the allegation that Messrs. Bhullar, Madaiah, Gnanprakasham, Simon, Bilavendran, Murugan, Santhan, Arivu and Natikar have spent many years on death row in solitary confinement, the Special Rapporteur considers such facts to have been proven. He concludes that the aforementioned individuals have been suffering from serious mental and psychological illness due to the prolonged stay on death row in solitary confinement and that the Government has not lived up to its obligation to investigate the allegations of torture and ill-treatment. The Special Rapporteur also reiterates that no exceptional circumstances can be invoked to justify torture by the Government and that therefore the rights of these individuals have been violated.

- (d) UA 21/08/2013 Case no. IND 10/2013 State reply: 29/08/2013 Allegations regarding the **risk of imminent execution of Devender Pal Singh Bhullar.**

59. The Special Rapporteur thanks the government of India for its reply, dated 29 August 2013, to this communication in reference to the alleged risk of imminent execution of Devender Pal Singh Bhullar.. The communication referred to Mr. Devender Pal Singh Bhullar. Mr. Bhullar is the subject of two previous communications sent to the Government of India on 10 June 2011 and 5 June 2013, to which the Government responded on [date]. It was reported that on 14 August 2013 the Supreme Court of India dismissed the review petition on the case of Mr. Bhullar, which included a request to commute his death sentence. Mr. Bhullar was reportedly at risk of imminent execution. The Special Rapporteur reminds the Government that the execution of Mr. Bhullar would constitute a violation of international human rights law. The Special Rapporteur also reminds the Government of the international duties of the Government as mentioned in previous communications, with particular regard to the international human rights law provisions on stringent respect of due process and fair trial guarantees in cases of the death penalty, prohibition to impose the capital punishment against individuals with psycho-social disabilities, and prohibition of torture and ill-treatment.

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

- (a) JUA 09/01/2013 Case No. [IRN 1/2013](#) State reply: [12/08/2013](#) Alleged imminent execution of members of the Kurdish community. Death penalty was upheld by both the Supreme Court and the court of appeal in 2011 through forced confessions and torture.

60. The Special Rapporteur thanks the government of Iran for its reply, dated 12 August 2013, to this communication in reference to the alleged imminent execution of members of the Kurdish community following affirmation by the Supreme Court despite reports of forced confessions and torture. The communication referred to alleged risk of imminent execution of Mr. Zaneyar Moradee and Mr. Loghmun Moradee, both members of the Kurdish community. They were reportedly charged with enmity against God (Moharebeh) and corruption on earth (Fisad-fil-arz) for allegedly murdering the son of Marivan Friday Imam in Kurdistan province in July 2009. Mr Zaneyar and Mr Loghmun were also convicted of participating in armed activities of Komala, a Kurdish opposition group, and their death sentence was upheld by both the Supreme Court and the Court of Appeal in 2011. Allegedly, the two individuals were subjected to torture and physical assault including lashing, beating, vulgar insults and threat with sexual violence aimed to extracting confession. This case has been the subject of previous communications by the Special Procedures of the Human Rights Council and the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran also publicly raised serious concerns about the death penalty following unfair trial, torture and other allegations of physical violence. In this context, the Special Rapporteur reiterates paragraph 7c of Human Rights Council Resolution 16/23, which urges States “To 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 which 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 undertake a prompt and independent investigation into the alleged imminent execution of Mr. Zaneyar Moradee and Mr. Loghmun Moradee, whose guilt was reportedly based on

evidence obtained through torture and ill-treatment, and leading to prosecution and punishment of the perpetrators of the torture, and provide full redress to the victims.

- (b) **JUA 25/01/2013 Case No. [IRN 5/2013](#) State reply: None to date** Alleged imminent execution and alleged torture of five representatives of the Ahwazi Arab minority for charges of terrorism.

61. 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 alleged imminent execution of five members of the Ahwazi Arab minority in the Islamic Republic of Iran – Messrs. Mohammad Ali Amouri, Sayed Jaber Alboshoka, Sayed Mokhtar Alboshoka, Hashem Sha'bani Amouri, and Hadi Rashidi (or Rashedi). Reportedly the five men were convicted of “enmity against God and corruption on earth”, “gathering and colluding against State security” and “spreading propaganda against the system” and were sentenced to death on 9 January 2012. The men were allegedly denied access to a lawyer and their families for the first nine months of their detention and they have subsequently been transferred to an unknown location in an undisclosed detention facility. It is furthermore alleged that all five men have been tortured or otherwise ill-treated in detention. Mr. Mohammad Ali Amouri was reportedly tortured during his first seven months of detention. Mr. Hadi Rashidi was hospitalized after his arrest, allegedly as a result of torture or other ill-treatment, and is said to be in poor health. Sayed Jaber Alboshoka’s jaw and teeth were allegedly broken during his detention and Sayed Mokhtar Alboshoka has allegedly experienced depression and memory loss as a result of torture or other ill-treatment. It is further alleged that boiling water was poured on Mr. Hashem Sha'bani Amouri. In this context, the Special Rapporteur reiterates paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns 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 reminds the Islamic Republic of Iran of paragraph 6b of Human Rights Council Resolution 8/8, which urges States “To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the competent national authority, to hold those who encourage, order, tolerate or perpetrate acts of torture responsible, to have them brought to justice and severely punished, 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 (the Istanbul Principles) as a useful tool in efforts to combat torture;”. In addition, the Special Rapporteur reiterates that paragraph 6c of Human Rights Council resolution 8/8 of 2008 urges States “to 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”. The Special Rapporteur calls on the Government to undertake a prompt and independent investigation into the alleged imminent execution and alleged torture of five representatives of the Ahwazi Arab minority, leading to prosecution and punishment of the perpetrators of the torture, and provide full redress to the victims.

- (c) **JUA 28/01/2013 Case No. [IRN 4/2013](#) State reply: None to date** Alleged detention and attacks against Saeed Abedinialangashi, a converted Christian pastor on allegations of committing actions against the national security of Iran.

62. 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 Mr. Saeed Abedinialangashi's alleged four week solitary confinement and subjugation to three months of a constantly lit cell with a brief glimpse of sunlight once a week. It is also alleged that Mr. Abedinialangashi has been beaten while in detention. The detention is in response to alleged charges of national security related issues, despite a past arrest for alleged organizing of house churches in Iran, verbally accused of converting to Christianity, converting and baptizing other Muslim converts, and conducting conferences and leadership training. He was reportedly informed in 2009 that he could continue his Christian activities outside of Iran, but nevertheless was arrested in 2012 for what is concerned to be related to his past leadership in the "house church" movement. In this context, the Special Rapporteur reiterates paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns 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 nonderogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." The Special Rapporteur also reminds the Government with regard to the alleged use of solitary confinement during the initial phase of the detention that paragraph 6 of General Comment 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. In this regard, the Special Rapporteur would like to reiterate 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". The Special Rapporteur calls on the Government to undertake a prompt and independent investigation into the alleged beating and solitary confinement of Mr. Saeed Abedinialangashi on alleged national security charges, leading to prosecution and punishment of the perpetrators of the torture, and provide full redress to the victim.

- (d) JAL 28/06/2013 Case No. [IRN 9/2013](#) State reply: None to date **Allegations concerning the revised Islamic Penal Code which provides for the use of the death penalty for some non-violent acts and discriminates against women and religious minorities.**

63. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not responded to this communication dated 28 June 2013, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication regarded the revised Islamic Penal Code (IPC), which was approved by the Parliament and subsequently signed by the President on 1 June 2013, it allegedly provides for the use of the death penalty for some non-violent acts and also discriminates against women and religious minorities. Additionally, it allegedly retains stoning as punishment and provides for the death penalty for sodomy; for the non-Muslim party in same-sex relations, insulting the Prophet Mohammad; possessing or selling illicit drugs, theft for the fourth time, Moharebeh (enmity against God) and Fisad-fil-arz (corruption on earth). The Code also incorporates diverse corporal punishments inter alia, amputation, flogging and crucifixion. The Special Rapporteur recalls his interim report (A/67/279) in which he makes clear that stoning, hanging, and all forms of corporal punishment constitutes cruel, inhuman and degrading forms of treatment and punishment and are thereby contrary to paragraph 1 of its Resolution 16/23, the Human Rights Council which "condemns 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, these sorts of punishments are contrary to resolution 1996/15, paragraph 7, in which the Economic and Social Council urged States to effectively apply the Standard Minimum Rules for the Treatment of Prisoners in order to keep to a minimum the suffering of prisoners under sentence of death and to avoid any exacerbation of such suffering. The Special Rapporteur also expressed concern over provisions allowing for the death penalty in cases not qualifying as “the most serious offenses” as required under international norms; this is also specifically contrary to Article 6(2) of the International Covenant on Civil and Political Rights (ICCPR), ratified by the Islamic Republic of Iran on 24 June 1975. With regard to the penal code, it is stressed that States cannot invoke provisions of domestic law to justify violations of their human rights obligations under international law. The Special Rapporteur urges the Government to respond seriously to these allegations and relay any attempts made to rectify the inconsistencies of the Islamic Penal Code with established international law.

- (e) AL 05/07/2013 Case No. [IRN 10/2013](#) State reply: [18/12/2013](#) **Allegations regarding the arrest and detention, which occurred close to the recent presidential election, of Messrs. Khosro Kordpour and Massoud Kordpour, journalists; Ms. Jamileh Karimi and Messrs. Ashkan Zahabian, and Afshin Keshtkari, political and student activists; and Mr. Mahmoud Beheshti Langroudi, trade unionist.**

64. The Special Rapporteur appreciates the reply of the Government of the Islamic Republic of Iran, dated 18 December 2013, to this communication in reference to the arrests and detention of six individuals, namely Messrs. Khosro Kordpour and Massoud Kordpour, journalists; Ms. Jamileh Karimi and Messrs. Ashkan Zahabian, and Afshin Keshtkari, political and student activists; and Mr. Mahmoud Beheshti Langroudi, trade unionist. It was reported that Mr. Khosro Kordpour, editor-in-chief of the Mukrian New Agency, was arrested by intelligence officers in March 2013 under an arrest warrant issued by Branch 2 of the Revolutionary Court of Mahabad. Mr. Khosro Kordpour’s brother, Mr. Massoud Kordpour, who is a freelance journalist, allegedly went to the Boukan Intelligence Office to inquire about his brother’s imprisonment, where he was reportedly subsequently arrested, held in solitary confinement, and transferred to Mahabad Prison in the province of Azerbaijan. A few weeks after their arrests in March 2013, both journalists were allegedly transferred to a Revolutionary Guards detention center in Orumiyeh and held in solitary confinement. Authorities have reportedly not disclosed the charges against them, their family was allegedly prohibited from visiting them until 2 May 2013, and neither of the journalists was initially allowed access to a lawyer. Allegedly, the journalists’ mental health was poor. Ms. Jamileh Karimi, a political activist and member of Central Council of the Reformists Coalition in Fars Province, worked for the Fars provincial Governor as an advisor on women’s and youth affairs during Mohammad Khatami’s presidency and was a signatory to a letter urging Mr. Khatami to run for the presidency in 2013. It was reported that she was arrested by security forces on 10 April 2013 and held in solitary confinement at the Ministry of Intelligence detention center in Shiraz. Her charges had reportedly not been disclosed. Mr. Ashkan Zahabian, a student activist, was reportedly arrested by Intelligence Ministry officials on 27 May 2013. In 2011, he had reportedly been sentenced to an eight-month prison term for “acting against national security” and “spreading propaganda against the system”. He allegedly had not received a written summons requiring him to commence serving his sentence but was taken to Babol Prison in Mazandaran province to serve the 2011 sentence. Mr. Afshin Keshtkari, a student activist and founder of the University of Technology Islamic Student Association in Shiraz, was reportedly summoned to appear before the Revolutionary Court of Shiraz on 18 May 2013 and then committed to Adel Abad Prison to begin serving six months of a pending three-year prison sentence. Mr. Keshtkari had reportedly been arrested following a student protest at the University of Technology in Shiraz on 7 December 2010 and subsequently reportedly

convicted of “forming an illegal group with intent to harm national security.” He was allegedly held at the detention center in Shiraz known as “No. 100” until 1 January 2011, when he was released on bail. The majority of his sentence was reportedly suspended upon appeal. Mr. Mahmoud Beheshti Langroudi, a trade unionist and former speaker of the Iran Teachers’ Trade Associations, was reportedly arrested in April 2010 and convicted on 28 May 2013 by Branch 15 of the Revolutionary Court in Tehran of “gathering and colluding against the national security,” for which he was sentenced to four years in prison, and of “spreading propaganda against the system,” for which he was sentenced to an additional year in prison. In its reply, the Government of the Islamic Republic of Iran stated that Messrs. Khosro Kordpour and Massoud Kordpour had contacted Western Azerbaijan attorneys to collect information regarding ongoing cases involving members of counter revolutionary terrorist groups. The Government claims that the Kordpours posed as Kurdish human rights activists and were working with terrorist networks. The Government stated that the Kordpours will be prosecuted by the city of Mahabad’s Islamic Revolution court and that the dossier containing their charges has been queued for processing. The Government further stated that Mr. Afshin Keshtkari has been tried on charges “of engaging in activities that were against the system of the Islamic Republic of Iran and in favor of counter revolutionary groups,” as well as establishing “membership in illegal groups with the aim of disturbing national security”. The Government additionally stated that on 18 May 2013, the appeals court dismissed Mr. Keshtkari’s appeal of his original three-year sentence, but that the court suspended two and a half years of the original sentence, confirming the remaining six months. Lastly, the Government stated that Ms. Jamile Karimi (Jamileh Karimi) was arrested on charges of “establishing an illegal group acting against domestic security” and “working against the Islamic Republic of Iran and in favor of counter revolutionary groups”. The Government stated that Ms. Karimi was released on 1 July 2013 following the completion of preliminary investigations and modification of her temporary arrest order. The Government did not address any of the allegations or concerns regarding Mr. Ashkan Zahabian or Mr. Mahmoud Beheshti Langroudi. The Special Rapporteur appreciates the reply of the Government of the Islamic Republic of Iran, but regrets that the Government did not provide sufficient documentation of the investigation into the allegations of solitary confinement and ill-treatment in connection to these cases. The Special Rapporteur would like to remind the Government of paragraph 6 of General Comment 20 of the Human Rights Committee, which 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). In this regard, he would also like to draw 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).

- (f) JUA 10/07/2013 Case No. [IRN 11/2013](#) State reply: None to date **Alleged death in custody of Mr. Afshin Osanlou and the ongoing detention of several others.**

65. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not responded to this communication dated 10 July 2013, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged death of Mr. Afshin Osanlou while in prison and the ongoing detention of numerous other individuals. According to the information received, Mr. Osanlou, a trade union activist, died from a heart attack while serving a five year sentence on 20 June 2013. It is reported that the facts surrounding Mr. Osanlou’s death remain unclear, particularly relative to his medical care. The information received also indicated that Christian Pastors

Behnam Irani and Saeed Abedini have been held in solitary confinement, beaten by other inmates, suffered internal bleeding and ulcers, and been denied necessary medical treatment while imprisoned for “national security” crimes. It is reported that Mr. Ghazi Heidari, an industrial engineer in prison for “national security” charges, and Mr. Mohammad Reza Pourhajari, a blogger charged with propagating against the system and insulting the Supreme leader, have been held incommunicado and in solitary confinement respectively, beaten and injured while in prison, subjected to torture and ill treatment, and denied medical care. It is further reported that Mr. Javid Kian, a lawyer charged with “defamation of the Iranian judiciary” and other “national security” crimes for representing an alleged adulterer and others arrested on sodomy charges, has been beaten, injured, denied medical treatment, held in solitary confinement, and lost 12 of his teeth and 50 kilograms of weight. The communication also refers to Ayatollah Hossein Kazemeyni Boroujerdi who was sentenced to jail for acting against national security and not based on his beliefs in June 2007. Ayatollah Boroujerdi suffers from Parkinson’s disease, diabetes, high blood pressure, a heart issue, kidney stones, and breathing and walking problems. It is reported that Ayatollah Boroujerdi’s declining health is due to poor prison conditions, physical abuse, solitary confinement, and repeated torture and ill-treatment, and a lack of access to medical care.

66. In this context, the Special Rapporteur reiterates that each Government that principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, which underlines that “there shall be 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 . . . .” Further, the Special Rapporteur wishes to draw attention to paragraph 7b of the Human Rights Council Resolution 16/23 urges States to take effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined and to hold those responsible accountable, brought to justice, punished. The Special Rapporteur additionally wishes to recall the absolute prohibition of torture and ill-treatment, as reiterated in paragraph 1 of Human Rights Council Resolution 16/23, which “Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited . . . 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 further reminds the Government that paragraph 6 of General Comment 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. The Special Rapporteur reiterates 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 States Parties to prosecute suspected perpetrators of torture. Lastly, the Special Rapporteur points out that Rule 22(2) of Standard Minimum Rules for the Treatment of Prisoners provides that sick prisoners shall be transferred to the appropriate health facilities and that internal facilities be equipped and staffed proper for effective treatment. The Special Rapporteur requests a response from the Government of Iran regarding the prevalence of custodial deaths and mistreatment. The Special Rapporteur further request that should the Government’s investigation find the allegations to be correct that any person responsible be held accountable.

- (g) UA 31/07/2013 Case No. [IRN 12/2013](#) State reply: None to date **Alleged risk of imminent execution of Messrs. Ghazi Abbasi, Abdul-Reza Amir-Khanafereh, Abdul-Amir Mojaddami, and Jasim Moghaddam Payam, as well as the cases of Messrs. Shahab Abbasi, Sami Jadmavinejad, and Hadi Albokhanfarnejad.**

67. 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 alleged risk of imminent execution of Messrs. Ghazi Abbasi, Abdul-Reza Amir-Khanafereh, Abdul-Amir Mojaddami, and Jasim Moghaddam Payam, members of the Ahwazi Arab minority, following proceedings in violation of their right to fair trial, due process guarantees and not to be subject to torture or cruel, inhuman or degrading treatment or punishment. Additionally, Messrs. Shahab Abbasi, Sami Jadmavinejad, and Hadi Albokhanfarnejad, also members of the Ahwazi Arab minority, are allegedly imprisoned in violation of their right to fair trial, due process guarantees, and not to be subject to torture or cruel, inhuman or degrading treatment or punishment. It is reported that on 15 August 2012, Branch 1 of the Revolutionary Court of Ahwaz, the capital of Khuzestan province, found the seven men guilty of charges of moharebeh (“enmity against God”) and ifsad fil-arz (“corruption on earth”). The seven individuals were allegedly accused of the murders of a police officer and a conscripted soldier. The Revolutionary Court reportedly found that the defendants had established a “separatist ethnic” group that “used weapons and engaged in shooting in order to create fear and panic and disrupt public security”. Messrs. Abbasi, Amir-Khanafereh, Mojaddami, and Payam were sentenced to death, and Messrs. Shahab Abbasi, Sami Jadmavinejad, and Hadi Albokhanfarnejad, were sentenced to three years in prison. In February 2013, Branch 32 of Iran’s Supreme Court reportedly upheld the sentences pronounced in each case. According to the information received, the proceedings against the seven men were conducted in violation of their rights to a fair trial and due process. The accused were reportedly held in incommunicado pre-trial detention for months, subjected to torture and ill-treatment for the purpose of extracting confessions, and denied full access to a defense lawyer. Both the Revolutionary Court and Supreme Court judgments reportedly acknowledge that some of the defendants retracted their confessions during the trial, claiming that they had been extracted under physical and psychological torture; however, the judgments do not acknowledge the validity of those retractions. There is allegedly no record of any investigation into the allegations of torture or ill-treatment. In this context, the Special Rapporteur recalls that, as stated in his report to the General Assembly (A/67/279; 9 August 2012), the Special Rapporteur finds that even if the emergence of a customary norm that considers the death penalty as per se running afoul of the prohibition of torture and cruel, inhuman or degrading treatment is still under way, most conditions under which capital punishment is actually applied render the punishment tantamount to torture. Under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment. Due to the lack of information provided by the Government, the Special Rapporteur concludes that Messrs. Ghazi Abbasi, Abdul-Reza Amir-Khanafereh, Abdul-Amir Mojaddami, and Jasim Moghaddam Payam, Shahab Abbasi, Sami Jadmavinejad, and Hadi Albokhanfarnejad have been imprisoned in violation of their right to fair trial, due process guarantees, and not to be subject to torture or cruel, inhuman or degrading treatment or punishment and that the Government did not live up to its obligation to investigate the allegations of torture or ill-treatment. The Special Rapporteur also reiterates that no exceptional circumstances whatsoever can be invoked to justify torture by the Government and that therefore the rights of Messrs. Ghazi Abbasi, Abdul-Reza Amir-Khanafereh, Abdul-Amir Mojaddami, and Jasim Moghaddam Payam, Shahab Abbasi, Sami Jadmavinejad, and Hadi Albokhanfarnejad have been violated.

- (h) UA 22/08/2013 Case No. [IRN 13/2013](#) State reply: None to date **Alleged risk of imminent execution, torture, ill-treatment, forced confession, and denial of medical care.**

68. The Special Rapporteur regrets that the Government 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 alleged risk of imminent execution and grave threats to the health of Dr. Mohammad Ali Taheri, an honorary doctor and author of



alternative medicine theories. It was alleged that Dr. Taheri was arrested by the Revolutionary Guard in May 2011 after fourteen Shia religious authorities declared that he was to be considered an apostate and heretic due to his professional activities, issued a fatwa, and requested a death sentence. He was allegedly tried and sentenced to a prison term, fine and lashes. Authorities from the Evin Prison, where Mr. Taheri reportedly continued to be held at the time of this communication, allegedly informed close members of his family in August 2013 that he would soon be executed. The Special Rapporteur expressed grave concern over allegations that Dr. Taheri had been subjected to torture during his detention, denied access to a doctor despite suffering from serious physical and mental conditions, and had attempted to commit suicide multiple times. In this context, the Special Rapporteur would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons, as set forth *inter alia* in the UDHR and the ICCPR. The Special Rapporteur reiterates the absolute prohibition of torture and ill-treatment, as reiterated in paragraph 1 of Human Rights Council Resolution 16/23, which “Condemns 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 draws attention to paragraph 7c of Human Rights Council resolution 16/23, that 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. . . .” Additionally, as stated in his report to the General Assembly (A/67/279; 9 August 2012), the Special Rapporteur finds that even if the emergence of a customary norm that considers the death penalty as per se running afoul of the prohibition of torture and cruel, inhuman or degrading treatment is still under way, most conditions under which capital punishment is actually applied renders the punishment tantamount to torture. Under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment. He therefore recalls the absolute nature of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment and urges the Government to commute Mr. Taheri’s death sentence. He also calls on the government to undertake a prompt, impartial, and effective investigation of the alleged acts of torture and imposition of corporal punishment, leading to prosecution and punishment of the perpetrators and to ensure that Dr. Taheri obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (i) UA 26/08/2013 Case No. [IRN 14/2013](#) State reply: None to date **Alleged risk of imminent execution, torture, ill-treatment, and forced confession in violation of international human rights law.**

69. The Special Rapporteur regrets that the Government 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 alleged risk of imminent execution of Messrs. Mohammad Ali Amouri, Sayed Jaber Alboshoka and Sayed Mokhtar Alboshoka, pursuant to their sentences on charges of “enmity against God” (Moharebeh), corruption on earth (ifsad fil-arz) and acting against national security. It is alleged that Messrs. Sha’bani Amouri and Rashidi have been subject to torture, forced confessions, and denied access to counsel and their families during the first nine months of their detention starting February 2011. The Special Rapporteur expressed concern that the executions of the named individuals, who were also the subject of two prior communications, would constitute a violation of international human rights law, which only permits the death penalty to be imposed for the most serious crimes and pursuant to full compliance with fair trial and due

process guarantees. In this context, the Special Rapporteur would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons, which is set forth *inter alia* in the UDHR and the ICCPR. The Special Rapporteur reiterates the absolute prohibition of torture and ill-treatment, as reiterated in 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 recalls that paragraph 7c 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 a result of cruel, inhuman or degrading treatment or punishment. . . .” The Special Rapporteur also asserts that a death sentence should only be imposed for the most serious crimes. Additionally, as stated in his report to the General Assembly (A/67/279; 9 August 2012), the Special Rapporteur finds that even if the emergence of a customary norm that considers the death penalty as per se running afoul of the prohibition of torture and cruel, inhuman or degrading treatment is still under way, most conditions under which capital punishment is actually applied renders the punishment tantamount to torture. Under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment. He therefore recalls the absolute nature of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment and urges the Government to commute the sentences to death. In view of the irreversibility of the punishment of the death penalty, the Special Rapporteur urges the Government to take all steps necessary to prevent the execution of Messrs. Amouri, Alboshoka, Alboshoka, Sha’bani Amouri, and Rashidi, which, if carried out, would be inconsistent with acceptable standards of international human rights law; to undertake a prompt, impartial, and effective investigation of the alleged acts of torture, leading to prosecution and punishment of the perpetrators; and to ensure that the aforementioned individuals obtain redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (j) UA 26/09/2013 Case No. [IRN 16/2013](#) State reply: None to date **Alleged risk of imminent execution, torture, ill-treatment, and forced confession of four men belonging to Kurdish Sunni minority population.**

70. The Special Rapporteur regrets that the Government 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 alleged risk of imminent execution of Messrs. Kamal Malaie, Jahangir Dehghani, Jamshed Dehghani and Hamed Ahmadi, who are members of the Kurdish minority of Sunni Muslim faith. It is reported that the named individuals were arrested in 2009 after being accused of involvement in the assassination of a senior Sunni cleric and subsequently sentenced to death on charges of “enmity against God” (Moharebeh) and corruption on earth (ifsad fil-arz). At least two of the detainees were also allegedly transferred to solitary confinement cells around the time of this communication, and all four men were reportedly subject to torture and ill-treatment while in detention, forced to confess and sign papers that they were not allowed to read, and were denied access to counsel and their families before and during their trials. In this context, the Special Rapporteur expresses grave concern that the executions, if carried out, would be inconsistent with acceptable standards of international human rights law, and reiterates that the Government has the obligation to protect the right to physical and mental integrity of all persons, which is set forth, *inter alia*, in the UDHR and ICCPR. The Special Rapporteur reiterates the absolute prohibition of torture and ill-treatment, as reiterated in paragraph 1 of Human Rights Council Resolution 16/23, which “Condemns 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 wishes to recall that paragraph 7c 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 a result of cruel, inhuman or degrading treatment or punishment. . . .” The Special Rapporteur also asserts that a death sentence should only be imposed for the most serious crimes. Additionally, as stated in his report to the General Assembly (A/67/279; 9 August 2012), the Special Rapporteur finds that even if the emergence of a customary norm that considers the death penalty as per se running afoul of the prohibition of torture and cruel, inhuman or degrading treatment is still under way, most conditions under which capital punishment is actually applied renders the punishment tantamount to torture. Under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment. He therefore recalls the absolute nature of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment and urges the Government to commute the death sentences imposed on these men. In view of the irreversibility of the punishment of the death penalty, the Special Rapporteur urges the Government to take all steps necessary to prevent the execution of Messrs. Malaie, Jahangir Dehghani, Jamshed Dehghani, and Ahmadi, which, if carried out, would be inconsistent with acceptable standards of international human rights law, to undertake a prompt, impartial, and effective investigation of the alleged acts of torture, leading to prosecution and punishment of the perpetrators and to ensure that the aforementioned individuals obtain redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (k) JUA 11/10/2013 Case No. [IRN\\_18/2013](#) State reply: None to date **Alleged risk of imminent execution of an Ahwazi Arab.**

71. The Special Rapporteur regrets that the Government of Iran has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication refers to the alleged imminent risk of execution of Mr. Ghazi Abbasi, member of the Ahwazi Arab minority. It was alleged that Mr. Ghazi Abbasi’s execution might be imminent given the reported practice in the Islamic Republic of Iran to transfer defendants to solitary confinement before the immediate implementation in secret of their death sentences. Mr. Ghazi Abbasi was subject of a previous communication sent to the Government of the Islamic Republic of Iran on 31 July 2013, where the Special Rapporteur had expressed serious concerns regarding his alleged torture. In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur affirms that Mr. Ghazi Abbasi was in fact tortured to make him confess to crimes and that his rights 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 set aside any criminal conviction based on evidence obtained under torture. The Special Rapporteur reiterates his concern and urges the Government to take all steps to prevent the execution of Mr. Ghazi Abbasi which, if carried out, would be inconsistent with acceptable standards of international human rights law. In case that Mr. Ghazi Abbasi has already been executed, the Special Rapporteur urges the Government of Iran to provide full redress to his next of kin.

- (l) AL 28/11/2013 Case No. [IRN\\_21/2013](#) State reply: [24/01/2014](#) **Alleged ongoing execution of individuals belonging to minority groups in contravention of international human rights law.**

72. The Special Rapporteur appreciates the reply of the Government of the Islamic Republic of Iran, dated 24 January 2014, to this communication in reference to the alleged executions of individuals belonging to minority groups in violation of international human rights law. According to the information received, on 26 October 2013, 16 individuals of Baloch origin were executed in the Islamic Republic of Iran “in response” to the killing of 14 border guards the day before. It was publicly announced that those executed were Messrs Nazar Mullazahi, Mehrollah Raigi Maherniya, Abdul Wahab Rigi, Habibollah Raiginezad Shoraki, Saeed Naroyi, Hamid Wakalat, Soleiman Miayi, Ahmad Behrami Zahi, Azam Gorgaij, Dawood Mir Baloch Zahi, Hasan Rezai, Habib Totazahi, Nasser Shabakhsh, Ahmad Dehmorda, Hossein Barahowi and Najibullah Bahadori. It is reported that there is no proof linking any of those executed on 26 October 2013, to the killings of the border guards on 25 October 2013. Furthermore, Messrs Reza Esmaili and Habibollah Golparipour (or Gholpari-poor), as well as Mr Shirkoo (or Sherko) Moarefi, who were members of the Kurdish minority, were also reportedly executed on 26 October 2013 and 4 November 2013, respectively, after proceedings that did not comply with fair trial and due process standards. All individuals executed were allegedly sentenced to death for crimes which do not constitute “most serious crime” under international law. In this context, the Special Rapporteur reminds the Government of Iran that article 6(2) of ICCPR provides that “in countries which have not abolished the death penalty”, the “sentence of death may be imposed only for the most serious crimes.” Further, the Special Rapporteur reiterates the due process stipulations of ICCPR article 14 and article 5 of the United Nations Safeguards Protecting the Rights of those Facing the Death Penalty which provide safeguards for those subject to the death penalty. Further, it is noted that paragraphs 1 and 6 of Human Rights Council Resolution 8/8 respectively require the prohibition of torture and other cruel, inhumane, or degrading treatment or punishment, and that any instances of the former be effectively investigated and those responsible held accountable. The Special Rapporteur requests a response from the Government of Iran regarding the other individuals listed and that the Government take all necessary steps to respect the freedoms of individuals. The Special Rapporteur further request that should the Government’s investigation find the allegations to be correct that any person responsible be held accountable.

- (m) JUA 15/11/2013 Case No. [IRN 23/2013](#) State reply: None to date **Alleged risk of imminent execution of two men belonging to the Kurdish minority.**

73. The Special Rapporteur regrets that the Government of Iran has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication refers to the alleged imminent risk of execution of Messrs. Zaniar Moradi (or Zanyar Moradee) and Loghman Moradi (or Loqman Moradee), both members of Kurdish community. Messrs. Zaniar Moradi and Loghman Moradi were the subject of three previous communications where it was alleged that the defendants had been subjected to torture and were forced to confess. The Government’s replies on their cases confirmed the sentences to death against Messrs. Zaniar Moradi and Loghman Moradi, without however providing details on how the imposition of the death penalty in these cases complied with international human rights law standards. The new information offered in the current follow-up communication contained details of the allegations of torture against the defendants, as well as new allegations of violation of fair trial standards. The Special Rapporteur reiterates his concern about the continuous reports that the defendants were subjected to torture and ill-treatment, including with the aim of forcing them to confess. 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. Furthermore, he calls on the Government of the Islamic Republic of Iran to undertake a prompt, independent and effective investigation of the facts, leading to the prosecution and punishment of the

perpetrators. In case that Messrs. Zaniar Moradi (or Zanyar Moradee) and Loghman Moradi (or Loqman Moradee) or one of the others have already been executed, the Special Rapporteur urges the Government of Iran to provide full redress to their next of kin.

## Iraq

- (a) **JUA 29/05/2013 Case No. [IRQ 2/2013](#) State Reply: None to date** Alleged torture of Mr. Shawki Ahmad Sharif Omar, alleged use of evidence obtained through torture, and incommunicado detention after the completion of his sentence.

74. 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 alleged torture and ill-treatment of Mr. Shawki Ahmad Sharif Omar by Iraqi officials in the Karkh Prison, Iraq, and the alleged use of evidence obtained through torture, incommunicado detention at an unknown location and arbitrary detention after the completion of his sentence. According to the information received, Mr. Omar and his pregnant wife were arrested as the result of an anonymous complaint and held incommunicado for two weeks. During the interrogation sessions, Mr. Omar was reportedly questioned about his alleged links to members of the Iraqi insurgent movement. He was repeatedly tortured by means such as electric shocks and simulations of drowning. Reportedly, he was also beaten in front of his wife and US security personnel further threatened to rape his wife in front of him. It is reported that while still being held in US-controlled facilities, he was sentenced to 15 years imprisonment for illegal entry to Iraq following an unfair trial before the Central Criminal Court on 24 June 2010. The sentence allegedly relied on statements extracted under torture from him and third persons that later withdrew their statements made in court. The unfair trial allegations stem from sporadic communications with Mr. Omar's attorney and the sentencing hearing was scheduled three weeks early without an explanation. This change was not communicated to the attorney, preventing the attorney's presence at this hearing. On appeal, his 15 year sentence was reduced to 7 years, and he is now being held arbitrarily beyond the 7 year sentence that has already been fulfilled. At the end of November and the beginning of December 2012, Mr. Omar was reportedly taken in for new interrogations, again about his alleged implication in terrorist networks. He was allegedly subjected to severe beatings and was threatened by security personnel that he would be transferred to a secret detention facility for even harsher treatment. On 21 May 2013, Mr. Omar was reportedly removed from his cell and taken to an unknown location. Family members contacted the prison authorities right after the transfer but were reportedly denied further information. Given the alleged previous torture, ill-treatment and threats voiced against Mr. Omar, the communication raised concerns that he was at high risk of torture and ill-treatment. In this context, the Special Rapporteur reminds the government of Iraq of paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns 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, article 2(2) of the CAT provides that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for torture. In this context, article 12 of the CAT and paragraph 7b of Human Rights Council Resolution 16/23, require 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 CAT requires State parties to prosecute suspected perpetrators of torture. In addition, paragraph 8b of Human Rights Council Resolution 16/23 reminds States that "Prolonged 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 themselves 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 reminds the government of Iraq of article 15 of the CAT and paragraph 7c of Human Rights Council Resolution 16/23, which provide that any statement extracted through torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made. The Special Rapporteur calls on the Government to undertake a prompt and independent investigation of the alleged torture and ill-treatment of Mr Shawki Ahmad Sharif Omar, leading to prosecution and punishment of the perpetrators and to provide full redress to the victim.

- (b) UA 11/09/2013 Case No. [IRQ 4/2013](#) State Reply: [11/11/2013](#) **Alleged violent attack against the residents of Camp Ashraf.**

75. The Special Rapporteur thanks the Government of Iraq for its reply dated 11 November 2013, to an urgent appeal regarding reports of an attack on the residents of Camp Ashraf. According to the information received, on 1 September 2013, the residents of the Camp Ashraf were subjected to a violent attack. While the facts were still being established, there were allegations that the attack might have been perpetrated by the Iraqi security forces. Reportedly, 52 individuals were killed during the attack and others were injured. It is alleged that the persons killed did not manifest any signs of aggression. In addition, seven residents of the camp, namely Ms. Mahnaz Azizi, Ms. Vajihe Karbalaey, Ms. Fatehma Sakhie, Ms. Fatemeh Tahoori, Ms. Lila Nabahat, Ms. Zahra Ramezany, and Mr. Mohammad Ratebi, were reportedly abducted during the attack. It is alleged that they were held by the Iraqi security forces and at the time of the allegation, were at risk of imminent extradition to the Islamic Republic of Iran. Forty-two residents who remained in Camp Ashraf were allegedly threatened with a new attack. In light of these allegations, the Special Rapporteur stressed the Government’s obligation under Article 3 and 6(1) of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) ratified by Iraq on 25 January 1971. These provisions guarantee the right of every individual to life and security and provide that these rights shall be protected by law and that no one shall be arbitrarily deprived of his life. Additionally, the Special Rapporteur noted principle 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, (resolution 1989/65 Economic and Social Council) which underlines that “there shall be 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 (...)” Lastly, the allegation that those abducted were at risk of return to the Islamic Republic of Iran elicits concern that the Government could be at risk of violating its obligations of non-refoulement as expressed in paragraph 16 of 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 acknowledges the Government’s substantive response to these allegations in which they detailed the temporary nature of Camp Ashraf and the need to move the residents to another camp. The Government alleged that camp residents were uncooperative and hostile to security forces ostensibly sent there to protect them. While there is evidence of violent conflict, the Special Rapporteur welcomes ongoing investigations conducted by UNAMI, the judiciary, and the Iraqi Interior Ministry to determine what transpired. It is urged that

the Government take the results of these investigations seriously and, should the above allegations be substantiated, that all necessary measures are taken to hold those responsible accountable for their actions while ensuring full redress and compensation to the victims and their families. The Special Rapporteur also urges the Government to continue to ensure the safety of those individuals transferred from Camp Ashraf to Camp Liberty. The Government is also encouraged to continue its cooperation with the mandate and release the results of investigations which are still ongoing.

- (c) JUA 25/11/2013 Case No. [IRQ 7/2013](#) State reply: None to date **Allegations of torture and ill-treatment and imposition of death penalty in view of imminent extradition from Iraq to Saudi Arabia.**

76. The Special Rapporteur thanks the Government of Iraq for its reply, dated 2 December 2013, by which it acknowledged the receipt of this communication in reference to the alleged imminent risk of extradition of Mr. Ayesh Al Harby. However, the Special Rapporteur regrets that to date the Government of Iraq has not yet responded to the substance of this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. According to the communication, in 2005, Mr. Ayesh Al Harby, a political asylum seeker from Saudi Arabia, was reportedly arrested by the United States Armed Forces in Baghdad and held in detention for three years without trial or charges brought against him. Mr. Al Harby was reportedly subjected to torture and ill-treatment while in detention. Shortly after his release in September 2008, he was reportedly arrested by the Iraqi Ministry of Interior forces and subjected to severe acts of torture. He was subsequently tried before Al Rusafa Court in Baghdad and sentenced to 15 years in prison on charges of alleged “terrorism-related activities” and membership in armed groups. In July 2013, Mr. Al Harby was transferred to the section of Al Rusafa Prison in Baghdad where he remained detained at the time the communication was sent. The Special Rapporteur expresses concern that if extradited to Saudi Arabia, Mr. Al Harby will be subjected to torture and ill-treatment and imposition of the death penalty. The Special Rapporteur stresses the Government’s obligation to protect the right to physical and mental integrity of all persons, set forth inter alia in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). In this context, the Special Rapporteur reiterates that article 3 of the 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. Furthermore, with respect to the allegations of torture and ill-treatment, the Special Rapporteur draws the Government’s attention to paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns 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 calls on the Government to ensure a thorough and fair assessment to ascertain whether Mr. Al Harby is at risk of being subjected to torture or other cruel, inhuman or degrading treatment or punishment, and urges the Government to take all necessary measures to guarantee that his rights and freedoms are respected. Finally, the Special Rapporteur reiterates that diplomatic assurances of favorable treatment from the receiving country do not mitigate the state’s obligation to refrain from *refoulement*.

- (d) UA 28/11/2013 Case No. [IRQ 8/2013](#) State reply: None to date **Alleged imminent execution on the basis of coerced confession obtained under torture during incommunicado detention**

77. 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 alleged risk of imminent execution of Mr. Ahmad ‘Amr ‘Abd al-Qadir Muhammad, a Palestinian born in the Republic of Iraq who was sentenced to death in 2011 under the Anti-Terror Law No. 3005. Mr. Muhammad was the subject of a prior joint communication dated October 11, 2012, and the Special Rapporteur thanked the Government for its reply to it, which provided information on a temporary stay of execution. Serious concern was however expressed over new allegations that Mr. Muhammad was reportedly being held at the Maximum Security Prison (al-Himaya al-Quswa) at Camp Justice, Baghdad, where executions are carried out. It was also alleged that Mr. Muhammad was held incommunicado, tortured, and coerced to confess during his detention. The Court of Cassation reportedly rejected the defendant’s appeal in November 2013, although he never appeared before the court in person, and the Court did not address his torture and coerced confession allegations. Given the irreversibility of the punishment of the death penalty, the Special Rapporteur expressed grave concern regarding the aforementioned individuals, especially in light of allegations that torture was used to obtain false confessions and statements. In this context, the Special Rapporteur reminds the Government of Article 15 of the CAT, 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.” The Special Rapporteur calls on the Government of Iraq to undertake a prompt, impartial, and effective investigation of the alleged acts of torture, leading to prosecution and punishment of the perpetrators. Moreover, the Special Rapporteur urges the Government to set aside any conviction based on evidence obtained under torture, and ensure that Mr. Muhammad obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (e) UA 28/11/2013 Case No. [IRQ 5/2013](#) State reply: None to date **Alleged imminent risk of execution after conviction based on confession extracted under torture during incommunicado detention.**

78. 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 alleged risk of imminent execution of Ahmad Nuri Badawi ‘Abbas who was on death row at the Maximum Security Prison (al-Himaya al-Quswa) at Camp Justice in Baghdad. It is reported that Mr. ‘Abbas was convicted in 2010 under the Anti-Terrorism Law (Law 13 of 2005) for the alleged murder of security officers in a February 2009 attack on a checkpoint in Baghdad, and that the conviction was upheld by the Court of Cassation in July 2011. The Special Rapporteur expressed concern about reports that the proceedings against Mr. ‘Abbas were conducted in violation of international law fair trial and due process standards. In particular, Mr. ‘Abbas has alleged he was held incommunicado in a facility of the Counter-Terrorism Union in the Green Zone in 2009, and that he was subjected to torture, including beatings and electroshock, and forced to confess during this time. Although Mr. ‘Abbas reportedly later retracted his confession, affirming that it was obtained under torture, it was claimed that the Court of Cassation accepted the confession, and that the defendant’s two applications for retrial were denied. In this context, the Special Rapporteur reminds the Government of Article 15 of the CAT, 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,” and to paragraph 7c 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 view of the irreversibility of the punishment of the death penalty, the Special Rapporteur urges the Government to take all steps necessary to prevent the execution of Mr. 'Abbas which, if carried out, would be inconsistent with acceptable standards of international human rights law. The Special Rapporteur also calls on the Government to undertake a prompt, impartial, and effective investigation of the alleged acts of torture, leading to prosecution and punishment of the perpetrators. Moreover, the Special Rapporteur urges the Government to set aside any conviction based on evidence obtained under torture, and ensure that Mr. 'Abbas obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (f) **JUA 21/12/2012 Case No. [IRO 7/2012](#) State reply: None to date** Alleged religious intolerance, arbitrary detention, summary execution, torture, and unfair trial proceedings of the Followers of Imam Ahmed El Hassan El Yamani (al-Mahdi) group in the cities of Najaf, Basra, and Nassiriya, Iraq.

79. The Special Rapporteur regrets that the Government of the Republic 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 alleged attack in January 2008 when police forces raided Basra and Nassiriya to destroy a Shi'a sanctuary for the Followers of Imam Ahmed El Hassan El Yamani, as well as other mosques and residencies. It was reported that 18 unarmed individuals were executed, and 378 individuals were detained. Allegedly, the detainees were subjected to burning, electric shocks, suffocation, and other kinds of physical and psychological abuse. In this context, the Special Rapporteur reminds the Government of its obligation to protect the right to physical and mental integrity of all persons, which is set forth inter alia in the UDHR, the ICCPR, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Special Rapporteur reiterates paragraph 1 of Human Rights Council Resolution 16/23, which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which 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 of Article 15 of the CAT, 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." The Special Rapporteur additionally draws the Government's attention to articles 12 and 7 of the CAT, as well as paragraph 6b of Human Rights Council Resolution 8/8, which require the competent national authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and require State parties to hold those who perpetrate acts of torture responsible. The Special Rapporteur calls on the Government to undertake a prompt and independent investigation into the alleged torture and religious intolerance perpetrated against the Followers of Imam Ahmed El Hassan el Yamani group, leading to prosecution and punishment of the perpetrators, and to provide full redress to the victims.

## Israel

- (a) **UA 20/02/2013 Case No. [ISR 1/2013](#) State reply: None to date** Alleged extradition of Yitzchak Shuchat from Israel to the United States of America and the imminent risk of prolonged solitary confinement amounting to torture and cruel, inhuman and degrading treatment.

80. The Special Rapporteur regrets that the Government of Israel 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 imminent extradition of Yitzchak Shuchat from Israel to the United States of America for allegedly committing a hate crime in New York City, New York. Reportedly, upon extradition he would be placed in prolonged solitary confinement on grounds that his safety would be at risk in the general population. In this context, the Special Rapporteur would like to remind Israel that it has the obligation to protect the right to physical and mental integrity of all persons, set forth *inter alia* in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Special Rapporteur would like to reiterate paragraph 6 of General Comment No. 20 of the Human Rights Committee 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). The Special Rapporteur additionally reiterates the absolute nature 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. The Special Rapporteur requests the Government to reconsider extraditing Yitzchak Shuchat to the United States of America for his alleged hate crime committed in New York City or seek from the United States assurances that measures to protect him in custody will not amount to prolonged or indefinite solitary confinement.

- (b) **JUA 27/03/2013 Case No. [ISR 4/2013](#) State Reply: None to date** Alleged interrogation for excessively long sessions of human rights defender Mr. Hassan Karajah for support of the Popular Front for the Liberation of Palestine.

81. The Special Rapporteur regrets that the government of Israel 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 arrest and detention of human rights defender Mr. Hassan Karajah, the Youth Coordinator at the Palestinian Grassroots Anti-Apartheid Wall Campaign (Stop The Wall). According to the information received, Mr. Karajah was arrested in the early hours of 23 January 2013 during a raid at his family home in Saffa, on the West Bank, by around 20 Israeli soldiers. Mr. Karajah was then led outside and interrogated, after which he was blindfolded, handcuffed and taken to Moskobiyeh interrogation facility in Jerusalem. It is alleged that Mr. Karajah's family was not informed of any formal charges against him, provided with an explanation, or informed where he was being taken. Allegedly, he was moved to Jalameh prison on 24 January, where his detention was extended by 12 days. While in detention Mr. Karajah was interrogated in excessively long sessions, lasting up to 14 hours at a time, while tied to a chair. Furthermore, it is alleged that after his lawyer lodged an appeal, Mr. Karajah was interrogated at very early hours of the morning on several occasions and informed by an interrogator that this was a punishment for filing the appeal. Mr. Karajah was reportedly denied access to a lawyer during the first twenty days of his detention. At the time of his arrest, Mr. Karajah was not permitted to take his medication for an inflammation and a back injury as the result of an accident that requires continuous medical attention. The Israeli

Prison Service is reportedly providing weaker and less effective medication than was originally prescribed. It was reported that Mr. Karajah remained in detention at the time of the communication, as the Ofer military court had adjourned hearings until 4 April 2013. He is being charged with membership of an illegal organization, apparently on the basis of his membership in student organizations that supplied technical equipment to the Popular Front for the Liberation of Palestine. He is also charged with contacting an illegal organization, which refers to allegations that he had e-mail contact with a member of Hizbullah. With regard to the treatment of Mr. Karajah while in detention and during interrogation, the Special Rapporteur reminds the Government of paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns 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 calls on the Government to undertake a prompt and independent investigation of the allegations of prolonged excessive interrogation practices, leading to prosecution and punishment of the perpetrators and to provide full redress to the victim.

- (c) **JAL 10/04/2013 Case No. [ISR 3/2013](#) State Reply: None to date** Alleged torture and death of Mr. Arafat Jaradat and reported claim the cause of death was a heart attack, despite contrary autopsy reports.

82. The Special Rapporteur regrets that the government of Israel 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 torture and death of Mr. Arafat Jaradat during his interrogation in Megiddo prison in Israel, by Israeli Security Agency (ISA) officers. According to the information received, Mr. Jaradat was arrested on suspicion of throwing rocks and Molotov cocktails at settler cars. During interrogation he confessed to throwing stones but denied any involvement with firebombs. According to Mr. Jaradat’s lawyer, he was suffering from severe pain in his back and appeared to be psychologically and physically weak. He was forced to sit for long hours in stress positions with his hands shackled behind his back and the judge ordered his detention extended for an additional 12 days without any medical examination of his psychological and physical conditions. It is reported that on 23 February 2013, Mr. Jaradat died in a special section of the ISA Megiddo prison, the Israeli authorities claiming that he died due to a heart attack. According to a Palestinian autopsy report, there were multiple injuries on his body and clear signs of torture of the previously healthy man, and no sign of a heart attack. The cause of death was determined in that report to be nervous shock resulting from severe pain, which was caused by multiple injuries inflicted through direct and extreme torture. Mr. Jaradat displayed severe bruising on his upper back, deep bruising along the spine, and significant bruising on both sides of the chest. The postmortem also discovered bruising on both arms and inside the mouth, blood around the nose and three fractured ribs. It is reported that, as of the date of the communication, no further investigation into the death of Mr. Jaradat and the surrounding circumstances had been launched by the government of Israel. Furthermore it is reported that over 700 Palestinian detainees have filed complaints against agents of the ISA for mistreatment during interrogation since 2003, however, no criminal investigations have been opened. In this context, the Special Rapporteur reminds the government of Israel of paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns 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 addition, the Special Rapporteur reminds the government of article 2(2) of the Convention Against Torture, which provides

that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture. In this regard, paragraph 2 of Resolution 16/23 of the Human Rights Council condemns any action that authorizes or acquiesces to torture and other cruel, inhuman or degrading treatment or punishment under any circumstances, and urges States to ensure accountability for all such acts. With regards to the obligation to investigate all allegations of torture and ill-treatment, the Special Rapporteur draws 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, which requires State parties to prosecute suspected perpetrators of torture. In addition, Human Rights Council Resolution 16/23 urges States to take persistent, determined and effective measures to investigate promptly, effectively and impartially by an independent, any torture allegations. Furthermore Resolution 16/23 urges States to hold responsible not only those who perpetrate torture, but also those “who encourage, order, tolerate or perpetrate such acts [...], 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.” The Special Rapporteur also reminds the government of Israel that the Standard Minimum Rules for the Treatment of Prisoners, Rule 22(2) provides that “(s)ick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals.” With respect to the subsequent death in custody of Mr. Jaradat, article 6 of the ICCPR provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life. The Special Rapporteur calls on the Government to undertake a prompt and independent investigation of the torture and death of Mr. Arafat Jaradat, leading to prosecution and punishment of the perpetrators and to provide full redress to the victim’s family.

- (d) **JUA 05/06/2013 Case No. [ISR 5/2013](#) State Reply: None to date** Alleged severe torture and ill-treatment upon arrest and during interrogation.

83. The Special Rapporteur regrets that the Government of Israel 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 severe torture and ill-treatment of Mr. X upon arrest, during transport to ISF quarters and during interrogation by members of the Israeli Security Forces (ISF). The allegations included: beatings, threats, incommunicado detention, solitary confinement, humiliating conditions of detention, denial of access to a lawyer upon arrest, and denial of family visits since 17 March 2013. It was reported that Mr. X is a 16-year-old minor resident of Hares, Salfit, Palestine; that he was arrested by ISF on 17 March 2013 and that his family was neither informed about the location he was taken to nor for how long he would remain in custody. Reportedly, in May 2013, Mr. Xi and four other minors were charged with attempted murder for throwing stones and causing an accident on Route 5, a settler road near Hares. According to information received, eyewitness accounts indicate that the accident occurred for other unrelated reasons and in the absence of any involvement of Mr. X. Mr. X was reportedly denied access to a lawyer until 21 March 2013, up until which point neither the lawyer nor the family had received any information regarding his fate or whereabouts. It was reported that Mr. X remains in detention at the Megiddo Prison in Israel. The Special Rapporteur regrets that the Government has not responded to this communication and concerns expressed regarding the allegations of torture and ill-treatment of Mr. X. In this context, the Special Rapporteur reminds the Government that it has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights (ICCPR), and the Convention against Torture and Other Cruel, Inhuman or Degrading

Treatment or Punishment, both ratified by the Government of Israel on 3 October 1991. The treatment alleged in the communication also constitutes a violation of the Convention on the Rights of the Child, which Israel is a party. Due to the lack of information provided by the Government, the Special Rapporteur finds the allegations received credible and concludes that Mr. X has been tortured and suffered ill-treatment during transport and while undergoing interrogation in Israeli custody, including threats of further abuse, incommunicado detention during the first three days of detention, solitary confinement during the period of his interrogation, demeaning conditions of custody and denial of access to family visits as well as a lawyer.

- (e) JUA 02/08/2013 Case No. [IRS 7/2013](#) State reply: None to date **Alleged campaign of judicial harassment, defamation, and torture or other cruel, inhumane or degrading treatment or punishment against a human rights defender.**

84. The Special Rapporteur regrets that the government of State of Israel has not responded to this communication dated 2 August 2013, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged arrest, harassment, defamation and use of force employed against Mr. Issa Amro, a peaceful demonstrator and prominent Palestinian human rights defender on 20 March 2013. According to the information received, Mr. Amro was peacefully protesting when Israeli Security Forces (ISF) arrested him and other activists. It is reported that the other activist were released without bail and Mr. Amro was arrested on suspicion of inciting others to demonstrate and assaulting Israeli soldiers and an Israeli settler; Mr. Amro was released on bail the following day. The alleged facts detail multiple occasions when Mr. Amro was threatened with death and branded a terrorist, and summoned to court proceedings or for police interrogation. According to the information received, on 23 April 2013 Mr. Amro's face was spat on by an Israeli settler in the presence of an Israeli soldier that testified that Mr. Amro provoked the settler. It is further alleged that Mr. Amro's identity documents and those of a French television crew he was guiding around the Old City of Hebron were confiscated by Israeli soldiers; everyone's documents were returned except Mr. Amro's. Based on the information received, Mr. Amro complained about the non-return of his identity documents, was arrested for obstructing police work and transferred to the police station where he was beaten, including blows to the spine, until he collapsed. The information received notes that despite needing urgent medical attention, Mr. Amro was handcuffed to a stretcher and left for five and half hours before being taken to the hospital. During this time it is alleged that the ISF took pictures of and laughed at Mr. Amro while threatening that next time he would be shot. Additional allegations indicate that Mr. Amro and others were shot at with two live bullets which intentionally missed high and Mr. Amro was interrogated despite a request for postponement due to his weak condition following the police station beating.

85. In this context, the Special Rapporteur reiterates that each Government has the obligation to protect the right to physical and mental integrity of all persons as set forth inter alia in the UDHR, ICCPR, and CAT. The Special Rapporteur would like to call the Government of Israel's attention to paragraph 1 of Human Rights Council Resolution 16/23 (Resolution 16/23) condemns all forms of torture 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 that Resolution 16/23 paragraph 8 states that "Intimidation 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." Regarding the fact that several of the allegations relate to Israeli settlers, the Special Rapporteur refers the Government to paragraph 18 of General Comment No. 2 of the Committee against Torture

which asserts State responsibility when the Government fails to intervene in acts of torture or ill-treatment committed by non-State officials. Additionally, the Special Rapporteur calls the Government's attention to Articles 7 and 12 of the CAT and paragraph 6b of Resolution 16/23 which requires competent authorities to undertake a prompt and impartial investigation of alleged torture and prosecute perpetrators. The Special Rapporteur also reminds the Government that everyone has the inherent right to life and effective protection through judicial or other means who are in danger of execution or the subject of death threats under ICCPR Article 6(1) and principle 4 of the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. Lastly, The Special Rapporteur requests a response from the Government of Israel regarding the harassment and torture of Mr. Amro and calls on the Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Amro are respected. The Special Rapporteur further request that should the Government's investigation find the allegations to be correct that any person responsible be held accountable.

## Italy

- (a) JUA 07/06/2013 Case No. [ITA 1/2013](#) State Reply: [12/07/2013](#), [30/07/2013](#) and [12/08/2013](#) **Alleged deportation to the Republic of Kazakhstan and alleged risks of torture or other forms of ill-treatment** (refer to related case no. KAZ 3/2013).

86. The Special Rapporteur thanks the Government of Italy for its several replies in response to the joint urgent appeal of 7 June 2013, regarding the deportation of the Kazakh national, Ms. Alma Shalabayeva, who is the wife of Mr. Mukhtar Ablyazov a political opponent of the current President of Kazakhstan, and their 6-year old daughter on 31 May 2013. Ms. Shalabayeva was formally charged for her alleged involvement in a case of illegal issuance of passports. The communication referred to the violation of the principle of non-refoulement and due process guarantees, based on serious concerns that the aforementioned individuals would be at risk of acts of torture or other forms of ill treatment upon their return to Kazakhstan. In its response, the Government of Italy provided factual information of the administrative investigation issued by the Italian Ministry of Interior on 16 July 2013 and a detailed description of the "information flows" among different levels of Italian administrators, aiming to identify the responsibilities of the officers involved. The Special Rapporteur appreciates the efforts made by the Italian Ministry of Foreign Affairs, inter alia in Astana, Brussels and Vilnius, in order to protect Ms. Shalabayeva's and her daughter's rights. He welcomes the Government's actions to rescind the deportation order on 12 July 2013, and assist in the return of the aforementioned individuals to Italy, which eventually took place on 27 December 2013. The Special Rapporteur acknowledges the investigation opened by the Office of Prosecution to inquire into possible illegal behaviour and recalls article 7 of the Convention Against Torture, which requires State parties to prosecute suspected perpetrators of torture. The Special Rapporteur encourages the Government to continue its engagement with the mandate and urges the competent authorities to conclude the independent investigation, leading to prosecute and punish those responsible for the illegal deportation of Ms. Shalabayeva and her child.

## Kazakhstan

- (a) JUA 15/01/2013 Case No. [KAZ 1/2013](#) State reply: [11/02/2013](#) Alleged ill-treatment while in detention and violations of fair trial standards of Mr. Vadim Kuramshim, a human rights defender.

87. The Special Rapporteur thanks the Government of Kazakhstan for its reply, dated 11 February 2013, to this communication in reference to the alleged beatings and threats of

sexual violence while in pre-trial detention on extortion charges and denial of judicial protections such as the right to appeal and the trial proceeding without his attorney present. Concern is expressed that the conviction may relate to Mr. Kuramshim's activities as a prisoner rights defender. In its reply, the Government of Kazakhstan addressed the allegations of a denial of a fair trial, and explained that Mr. Kuramshim waived his right to an attorney and the date for any appeals had not been set. The government further stated that the physical manifestations of the beatings were a result of his own self-mutilation with a shaving razor in the shower. The reply does not address what steps are being taken to guarantee the safety and physical and psychological integrity of Mr. Kuramshim while he is in detention. The reply also does not address what evidence was used to incriminate Mr. Kuramshim and whether it was obtained apart from the police findings. Although the Special Rapporteur appreciates the reply, he reiterates paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns 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 observes that the reply does not establish conclusively that the origin of the victim's wounds was determined in an independent, impartial and scientific inquiry. He reiterates article 12 of the CAT, 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 CAT, which requires State parties to prosecute suspected perpetrators of torture. The Special Rapporteur also reminds the Government of paragraph 6b of Human Rights Council Resolution 8/8, which urges States "To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the competent national authority, to hold those who encourage, order, tolerate or perpetrate acts of torture responsible, to have them brought to justice and severely punished, 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 (the Istanbul Principles) as a useful tool in efforts to combat torture". The Special Rapporteur also encourages the Government to continue its engagement with the mandate.

- (b) **JUA 22/03/2013 Case No. [KAZ 2/2013](#) State Reply: [27/05/2013](#)** Alleged denial of fair trial protections to human rights defender Mr. Vadim Kuramshin by suspending Ms. Raziya Nurmasheva's license to practice law, and disciplining Mr. Kuramshin's other defense counsel, Mr. Iskander Alimbayev.

88. The Special Rapporteur thanks the Government of Kazakhstan for its reply, dated 26 March 2013, to this communication in reference to developments in Mr. Vadim Kuramshin's trial and allegations of legal barriers that prevent Mr. Kuramshim and his attorneys, Ms. Raziya Nurmasheva and Mr. Iskander Alimbayev, from receiving a fair trial. Mr. Kuramshin had been the subject of three previous urgent appeals, the most recent of which also included Ms. Nurmasheva. On 8 October 2010, an urgent appeal (no. KAZ 2/2010) was sent to the Government of Kazakhstan in which concerns were raised regarding the arrest of Mr. Kuramshin while he tried to arrange a visit with a prisoner in his capacity as a defender of prisoners' rights, on the basis of an anonymous accusation that he was involved in drug trafficking. The Special Rapporteur thanks the Government for its response dated 21 January 2011 laying out details of the investigation, although concerns remained as to the trustworthiness of the accusation. The second urgent appeal (no. KAZ 4/2011) was sent to the Government of Kazakhstan on 3 October 2011 concerning the arrest of Mr. Kuramshin on two occasions, and the alleged failure of the Prosecutor's

Office to investigate his accusations that the proper procedures were breached during these arrests. The Special Rapporteur thanks the Government for the response dated 21 February 2012 but regrets that little information was provided therein responding to these specific allegations. The most recent urgent appeal (no. KAZ 1/2013) was sent on 15 January 2013, on behalf of the Special Rapporteurs on the right to freedom of opinion and expression; the situation of human rights defenders; the independence of judges and lawyers; and torture and other cruel, inhuman and degrading punishment. The appeal detailed grave concerns regarding allegations of a spate of procedural violations that had taken place during the trial, concerns that Mr. Kuramshin may have been beaten repeatedly by police and threatened with, among other things, sexual violence while in detention, and concerns that the ruling to deprive Ms. Nurmasheva of her licence to practice law may have been arbitrary. The Special Rapporteur thanks the Government for the detailed response dated 11 February 2013 where it is stated that “due to their professional activity this particular category of citizens [human rights defenders] is at higher risk of potential violation of their rights, threats against their personal life and health and that of their families and relatives, the law-enforcement authorities of Kazakhstan attach top priority to all these cases and investigation thereof is carried out within the shortest time possible and with thorough examination of all the circumstances of a case.” In recent developments, it is reported that Mr. Kuramshin petitioned to be transferred to another prison where he would not be subjected to severe risk to his physical and psychological integrity, but was denied after the judge failed to even consider facts on procedural violations submitted by Mr. Kuramshin’s attorneys. Ms. Nurmasheva was reportedly prohibited from mentioning alleged misconduct and human rights violations by law enforcement officials against Mr. Kuramshin, on the grounds that this would “cause prejudice among the jury.” Mr. Kuramshin’s attorneys were also allegedly accused of protracting the court proceedings by bringing in motions and requesting to examine certain pieces of evidence, despite this being common practice for attorneys and essential for due process and a fair trial. The attorneys were also allegedly denied access to several documents that constituted evidence as they were reportedly classified as “secret”, which may have amounted to a violation of minimum standards for a fair trial. It is also reported that the decision to strip Ms. Nurmasheva of her license was upheld and disciplinary action against Mr. Alimbayev was recommended. In its reply, the Government of Kazakhstan denied any allegations of torture, that the mild bruises and scratches he received were from the time Mr. Kuramshin was resisting arrest. The Government also alleged that he mutilated himself and a gash on his left arm was inflicted in protest of his detention conditions. However, according to the Government’s response, Mr. Kuramshin did not complain to a procurator overseeing compliance with the law in correctional institutions regarding his prison conditions. The Government claims that all these incidents resulted in proper medical treatment. The court found him guilty because there was overwhelming incriminating evidence. Ms. Nurmasheva had her practicing license suspended because of apparent misconduct, an inappropriate attitude, and delaying the trial unnecessarily. Mr. Kuramshin also allegedly did not want Mr. Alimbayev to represent him, so the court assigned its own defense counsel. The Government did not address any disciplinary action against Mr. Alimbayev. Although the Special Rapporteur appreciates the reply, he notes that it fails to show that the physical evidence of mistreatment was independently and impartially investigated. He reminds the Government of Kazakhstan of paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns 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 of article 12 of the Convention against Torture, and other Cruel, Inhuman and Degrading Treatment and Punishment (CAT), 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 CAT, which requires State parties to prosecute suspected perpetrators of torture. In this context, paragraph 7b of the Human Rights Council Resolution 16/23 urges States “To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the competent national authority, to hold those who encourage, order, tolerate or perpetrate acts of torture responsible, to have them brought to justice and severely punished, 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 (the Istanbul Principles) as a useful tool in efforts to combat torture”. The Special Rapporteur also encourages the Government of Kazakhstan to continue its engagement with the mandate.

- (c) JUA 17/07/2013 Case No. [KAZ\\_3/2013](#) State reply: [06/08/2013](#) and [31/07/2013](#) **Deportation by the Italian authorities to Kazakhstan and alleged risks of torture and/or other forms of ill treatment** (refer to related Case No. ITA 1/2013).

89. The Special Rapporteur thanks the Government of Kazakhstan for its reply, dated 6 August 2013, regarding the deportation of Ms. Alma Shalabayeva and her 6-year old daughter on 31 May 2013 to Kazakhstan, in contravention with the principle of non-refoulement and due process guarantees. The communication made reference to the charges under which the individuals were deported, which are allegedly imposed as reprisals against Ms. Shalabayeva for the actions of her husband, Mr. Mukhtar Ablyazov, a political opponent of Kazakhstan’s President. It was reported that Mr. Ablyazov was granted asylum in the United Kingdom in 2011 on the grounds that he was deemed to be at risk of persecution in Kazakhstan. In this context, the return of the aforementioned individuals to Kazakhstan also placed them at risk of being subjected to torture or other forms of ill treatment. The communication also referred to the official invitation to Ms. Shalabayeva and her daughter to return to Italy, issued by the Italian Government on 12 July 2013, in light of the cancelled deportation order. In its reply, the Government states that Ms. Shalabayeva and her child were protected by the State in accordance to the Article 17 of the Constitution, which condemns all forms of torture. While the Special Rapporteur acknowledges that the Kazakh Constitution reflects the State’s adherence to the Convention against Torture (CAT), he finds that the Government did not provide sufficient information about the measures taken to ensure the physical and mental integrity of the aforementioned individuals. The Special Rapporteur welcomes the Government actions to enable the return of Ms. Shalabayeva and her child to Italy on 27 December 2013.

- (d) UA 22/08/2013 Case No. [KAZ\\_4/2013](#) State reply: None to date **Alleged psychiatric detention, forced psychiatric confinement, and ill-treatment of two human rights defenders.**

90. The Special Rapporteur regrets that the Government of the Republic of Kazakhstan 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 forced psychiatric confinement of two human rights defenders, Ms. Zinaida Moukhortova, a human rights lawyer, and Mr. Aleksandr Kharlamov, an investigative journalist and member of the of the human rights organization “Secret Service.” Serious concern was expressed at the possibility that Ms. Moukhortova’s current forced psychiatric confinement and Mr. Kharlamov’s continued detention was related to their work in defence of human rights. In the case of Ms. Moukhortova, it is reported that in the year 2010, she was arrested and criminally charged with the “deliberate filing of a false complaint” after

she submitted a complaint to the Government alleging interference in the administration of justice by a member of Parliament. Shortly after her arrest, Ms. Moukhortova underwent a psychiatric examination, was diagnosed with a “delusional disorder,” and found guilty of the aforementioned charges. From August 2010 to September 2011, Ms. Moukhortova continued to be detained in prison facilities and in the Aktas regional psychiatric hospital, and was only released in September 2011. In September 2012, Ms. Moukhortova was forcibly taken to the Blakhash psychiatric clinic on August 9, 2013. As of the time of this communication, Ms. Moukhortova remained hospitalized against her will and it was alleged that her lawyer was refused permission to visit her. In the case of Mr. Aleksandr Kharlamov, it is reported that in March 2013 he was arrested and detained on charges of “incitement of social, national, ethnic, racial or religious hatred,” after a determination by the Forensic Science Institute of East Kazakhstan that his writings aimed at inciting religious hatred. After a psychiatric examination at the Republican Scientific/Practical Center of Psychiatry, Psychotherapy and Narcology in Almaty found Mr. Kharlamov sane, he was moved to a pre-trial detention center (SIZO) and his case was referred for further investigations on the basis of article 202 of the Criminal Procedure Code on changing the charges/indictment. Concern was expressed that given the lack of a criminal case against Mr. Kharlamov, authorities may have shifted their focus to detaining him on grounds of insanity. Mr. Kharlamov reportedly remained in detention at the time of this communication. In this context, the Special Rapporteur reiterates that each Government has the obligation to protect the right to physical and mental integrity of all persons, set forth *inter alia* in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Special Rapporteur additionally wishes to recall the absolute prohibition of torture and ill-treatment, as reiterated in paragraph 1 of Human Rights Council Resolution 16/23, adopted in April 2011, which “Condemns 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.” Regarding the alleged temporary psychiatric confinement of Mr. Kharlamov and forced psychiatric hospitalization of Ms. Moukhortova, the Special Rapporteur would also like to draw the Government’s attention to his 2013 report (A/HRC/22/53) to the Human Rights Council, which states in paragraph 64 that both the mandate and United Nations treaty bodies have established that involuntary treatment and other psychiatric interventions in health-care facilities can constitute forms of torture and ill-treatment (A/63/175, paras. 44, 47, 61, 63; Human Rights Committee, communication No. 110/1981) and that to the extent that they inflict severe pain and suffering, they violate the absolute prohibition of torture and cruel, inhuman and degrading treatment (A/63/175, paras. 38, 40, 41). The Special Rapporteur urges the Government to take all necessary measures to safeguard the physical and psychological integrity and fundamental rights of all persons.

## Lebanon

- (a) UA 08/07/2013 Case No. [LBN 1/2013](#) State reply: None to date **Allégations portant sur des actes de torture et de mauvais traitements ayant été commis par les forces armées libanaises à l’encontre de MM. Adnan Al Awaja et Abdel Basset Barakat.**

91. Le Rapporteur spécial regrette qu’ au moment de la finalisation du présent rapport il n’y ait eu encore aucune réponse du gouvernement libanais quant à la communication envoyée le 8 juillet 2013 et concernant des actes de torture et de mauvais traitements ayant été commis par les forces armées libanaises à l’encontre de MM. Adnan Al Awaja et Abdel Basset Barakatdeux, détenus avec une trentaine d’autres personnes, à la suite des

affrontements armés qui ont secoué la ville de Saïda, le 23 et 24 juin 2013. Selon les informations reçues, MM Al Awaja et Barakat ont été détenus à la suite d'affrontements armés qui ont secoué la ville de Saïda après que des affrontements armés aient éclaté entre les forces armées libanaises et les partisans armés de Sheikh Ahmed Al Assir, une personnalité religieuse locale. Selon des allégations, les proches de MM. Al Awja et Barakat restent sans nouvelle du sort des deux détenus depuis leur arrestation tandis que des témoignages d'autres détenus remis en liberté, laissent craindre qu'ils ne soient actuellement soumis à des tortures ou à d'autres traitements cruels, inhumains et dégradants. Il est aussi allégué que ces craintes sont d'autant plus fondées qu'au moins une famille des personnes arrêtées a reçu le corps de leur proche, portant des traces de graves actes de torture qui seraient à l'origine de son décès. Dans ce contexte, le Rapporteur spécial souhaite attirer l'attention du gouvernement sur sa responsabilité de protéger et de respecter l'intégrité physique et mentale de MM Al Awaja et Barakat, un droit qui est consacré notamment dans la Déclaration universelle des droits de l'homme, le PIDCP, la Déclaration sur la protection de toutes les personnes contre la torture et autres peines ou traitements cruels, inhumains ou dégradants et la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants. A cet égard, le Rapporteur spécial aimerait également attirer l'attention du gouvernement sur les dispositions contenues au paragraphe 1 de la résolution 16/23 du Conseil des droits de l'homme qui "condamne toutes les formes de torture et autres traitements cruels, inhumains ou dégradants, y compris l'intimidation, qui sont et demeurent prohibés, en tout temps et en tout lieu, et ne peuvent jamais être justifiés, et invite tous les États à mettre pleinement en œuvre l'interdiction absolue et intangible de la torture et autres traitements cruels, inhumains ou dégradants," et paragraphe 8b de la résolution 16/23 du Conseil des droits de l'homme qui « rappelle à tous les États qu'une période prolongée de mise au secret ou de détention dans des lieux secrets peut faciliter la pratique de la torture et d'autres peines ou traitements cruels, inhumains ou dégradants et peut en soi constituer un tel traitement, et demande instamment à tous les États de respecter les garanties concernant la liberté, la sécurité et la dignité de la personne». Le Rapporteur spécial a aussi exprimé des graves préoccupations quant au fait que les personnes susmentionnées pourraient faire l'objet d'une condamnation pénale sur la base de preuves obtenues sous l'usage de la torture. A cet égard, le Rapporteur spécial aimerait attirer l'attention du gouvernement sur l'article 15 de ladite Convention qui stipule que «tout Etat partie veille à ce que toute déclaration dont il est établi qu'elle a été obtenue par la torture ne puisse être invoquée comme un élément de preuve dans une procédure, si ce n'est contre la personne accusée de torture pour établir qu'une déclaration a été faite. Le Rapporteur spécial appelle le gouvernement à enquêter sur tous les cas de torture et autres peines ou traitements cruels, inhumains ou dégradants, et à poursuivre et punir les responsables de ces violations. Le Rapporteur spécial exhorte également le gouvernement à répondre 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 ce que les victimes obtiennent réparation, y compris une indemnisation équitable et adéquate, et une réhabilitation aussi complète que possible.

## Libya

- (a) JAL 12/07/2013 Case No. [LBY 1/2013](#) State reply: None to date **Alleged mistreatment of foreign nationals, mainly from sub-Saharan Africa, present in Libya.**

92. The Special Rapporteur regrets that the Government of Libya has not responded to this communication dated 12 July 2013, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication alleged militias, and in some cases ordinary citizens, motivated by xenophobia and misguided fears about diseases, detained foreign nationals on an almost daily basis in holding centers. It was further alleged

that the conditions observed in most of these holding centers fall short of international standards, and at times amount to cruel, inhuman and degrading treatment. It is further reported that migrants are being forcibly tested for diseases and then deported, and are otherwise particularly vulnerable to abuse and exploitation. The Special Rapporteur expressed concern that these alleged detentions are arbitrary and thus prohibited by ICCPR article 9(1). Furthermore the Special Rapporteur is concerned that the conditions of detention reported, alleged forced medical treatment/testing, and allegations of corporal punishment all rise to the level of cruel, inhuman, and degrading treatment, and are violations of the basic human rights of those detained. In turn the Government is reminded of paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns 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 regard to the reported lack of an immigration system capable of adjudicating asylum claims or granting refugee status to migrants fleeing crisis in areas such as Syria, the Special Rapporteur expressed concern that such practices constitute a violation of article 3 of the CAT. This article 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.” The Special Rapporteur urges the Government to respond to these allegations and take meaningful action to ensure the basic human rights of migrants fleeing to Libya are recognized.

## Malaysia

- (a) **AL 19/02/2013 Case No. [MYS 3/2013](#) State reply: None to date** Alleged forcible return of six ethnic Uighurs to the People’s Republic of China.

93. The Special Rapporteur regrets that the Government of Malaysia 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 repatriation of six ethnic Uighurs to the People’s Republic of China, where Uighurs are frequently accused of terrorism without substantiating evidence and subjected to torture and other human rights violations. Allegedly the Malaysian police secretly transferred the asylum seekers into Chinese custody, and they were brought back to the People’s Republic of China on a chartered flight. In this context, the Special Rapporteur reiterates that article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 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 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 9 of the Resolution A/RES/61/253 of the UN General Assembly 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”. The Special Rapporteur also

insists that, although Malaysia is not a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), it is bound by the international customary law rule codified in article 3 CAT that prohibits a State from expelling or extraditing a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture, which is an integral part of international human rights protection. Furthermore, paragraph 6d of Human Rights Council Resolution 8/8 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; the Council recognizes in this respect 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 nonrefoulement. The Special Rapporteur calls on the Government to undertake a prompt and independent investigation into the alleged secret repatriation of the six ethnic Uighurs to the People's Republic of China, leading to prosecution and punishment of those responsible, and to provide full redress to the victims.

- (b) JAL 18/09/2013 Case No. [MYS 9/2013](#) State reply: None to date **Alleged torture and ill-treatment of civilians in Sabah by Malaysian security forces.**

94. The Special Rapporteur regrets that the Government of Malaysia has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication refers to the alleged torture and ill-treatment of civilians, including Filipino migrants, by the Malaysian military in Sabah. Security forces allegedly carried out an attack in Sabah, known as "Operation Daulat" against the militant group, "Royal Security Forces of the Sultanate of Sulu and North Borneo." It has been reported that civilians were among the casualties. Additionally, it is alleged that security forces systematically tortured and abused civilians in the area, particularly Filipino migrants, before, during and after the operation. Civilians were allegedly arbitrarily arrested and detained, subjected to beatings, denied adequate food, water and medical care. Additionally, Malaysian forces have allegedly forcibly evicted Filipino in the area and have detained them in crowded evacuation camps with lack of access to adequate food and supplies. It is also alleged that the Malaysian Government has denied access to human rights groups, UN officials and the media from the Sabha region. The Special Rapporteur reminds the Government that the common article 3 of the 1949 Geneva Conventions provides that in non-international armed conflicts, all persons not taking an active part in hostilities, including persons in custody, shall be treated humanely. Article 3 of the Universal Declaration of Human Rights guarantee the right of every individual to life and security, while paragraph 1 of Human Rights Council Resolution 16/23 "condemns 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." Additionally, paragraph 7b of Human Rights Council Resolution 16/23 urges States to take prompt and effective measures to investigate, prosecute and punish all acts of torture and ill-treatment. Furthermore, General Assembly resolution 67/172 declares "the duty of States to effectively promote and protect the human rights and fundamental freedoms of all migrants, especially those of women and children, regardless of their migration status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party." Without any evidence to the contrary, the Special Rapporteur concludes that the victims' rights under international standards relating to the prohibition of torture and ill-treatment, as well as other standards of international human rights and humanitarian law, have been violated. The Special Rapporteur urges the Malaysian Government to clarify the alleged abuses, to conduct thorough and independent investigations, leading to the prosecution and punishment of all

perpetrators, to provide compensation for the victim and ensure the future non-repetition of such acts.

## **Maldives**

- (a) **JAL 26/02/2013 Case No. [MDV 1/2013](#) State reply: None to date** Allegations concerning legal provisions that allow sentencing of sexually abused minors on charges of fornication.

95. The Special Rapporteur regrets that the Government of the Republic of the Maldives has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to alleged legal provisions in the Maldives that allow sexually abused minors to be charged with provisions and punished under penalties such as flogging. This discourages reporting of rape and child sex abuse and perpetuates the negative social stigma of revealing past experiences of sexual abuse. In this context, the Special Rapporteur reminds the Government of the Republic of the Maldives of paragraph 7 (a) of resolution 8/8 of the Human Rights Council which reminded Governments that corporal punishment, including of children, can amount to cruel, inhuman or degrading punishment or even to torture. The Special Rapporteur would also like to reiterate that any form of corporal punishment is contrary to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment as stipulated in the annual report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to the 60th session of the General Assembly. The Special Rapporteur also notes that States cannot invoke provisions of domestic law to justify violations of their human rights obligations under international law, including the prohibition of corporal punishment and calls upon States to abolish all forms of judicial and administrative corporal punishment without delay (para.28 A/60/316). 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 or as an educative or disciplinary measure. The Special Rapporteur calls on the Government to undertake a prompt and independent investigation into the alleged use of laws that incriminate victims of sexual abuse, effectively silencing reports of rape and other sexual perpetrations, which does not allow for adequate judicial redress for victims of sexual abuse.

## **Malta**

- (a) **JAL 12/08/2013 Case No. [MLT 1/2013](#) State reply: [14/10/2013](#) Alleged denial of entry to migrants stranded off the coast of Malta.**

96. The Special Rapporteur thanks the Government of Malta for its reply, dated 14 October 2013, to this communication in reference to the alleged denial of entry to migrants stranded in a boat off the coast of Malta. According to allegations, the Maltese military refused to allow a tanker to disembark on Maltese territory after it had rescued 102 migrants at sea, including four pregnant women, one injured woman and a five month-old baby. The Maltese military provided medical assistance, water and food to the stranded migrants, but such assistance was not adequate, according to the allegations. The Maltese Government alleges that the tanker was originally ordered by Italian maritime authorities to disembark at Libya, the nearest port of call, and was duly notified by Maltese authorities that it would be denied entrance to Malta's territorial waters. Malta also alleges that it provided adequate medical aid, water and other provisions, but that it was not at any time legally responsible for the rescued persons. The Special Rapporteur expresses concern at

the recommendation of the Maltese Government that the migrants be returned to Libya, given the alleged risk of exploitation, indefinite detention, torture and ill-treatment that migrants face in Libya, and notes that Libya has not adopted adequate legislation and administrative structures dealing with asylum and human rights protections. The Special Rapporteur reiterates that article 3 of the Convention against Torture, paragraph 16 of the Resolution 65/205 of the UN General Assembly, and General Comment No. 20 of the Human Rights Committee provide 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. Furthermore Human Rights Council resolution 9/5 “requests States to effectively promote and protect the human rights and fundamental freedoms of all migrants, especially those of women and children, regardless of their immigration status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party”. The Special Rapporteur calls on the Government to ensure that the rights of all migrants are protected in accordance with the international prohibition against torture and ill-treatment and other international human rights standards, and to continue to openly engage with the Special Rapporteur and other international mechanisms.

## México

- (a) AL 19/08/13 Case No. [MEX 8/2013](#) State Reply: [27/01/2014](#) **Alegación de detención bajo régimen de incomunicación y actos de tortura y otros tratos o penas crueles, inhumanos o degradantes por fuerzas de seguridad del Estado.**

97. El Relator Especial agradece al Gobierno de México por su respuesta, de fecha 27 de enero del 2014, a la comunicación conjunta con otros procedimientos especiales, enviada en referencia al arresto y actos de tortura en contra del ciudadano hondureño, Sr. Ángel Amílcar Colón Quevedo, por agentes policiales, militares y miembros del Ministerio Público. La comunicación también hacía referencia al uso de evidencia supuestamente manipulada y extraída a través de actos de tortura por los agentes mencionados, así como, a la denegación del acceso a atención médica. El Relator Especial aprecia la investigación (AP/PGR/DGCAP/ZCO-VI/84/20) que se dio a inicio el 11 de diciembre de 2013, y como respuesta a la comunicación enviada. Sin embargo, expresa grave preocupación por la ausencia de un perito especializado en psiquiatría y psicología que corrobore la existencia de tortura o tratos crueles en contra del individuo mencionado. En este contexto, el Relator Especial hace referencia al artículo 7 de la Convention sobre la Tortura, el cual señala que todo Estado velara pro 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 o trato o pena cruel. Inhumano o degradante. El Relator Especial reitera que la denegación al servicio de un perito especializado contradice lo determinado por el artículo 82 de las Reglas Mínimas para el Tratamiento de Reclusos, Protocolo de Estambul, que establece la obligación del Estado de hacerse cargo de este tipo de gastos a través de las autoridades correspondientes. El Relator agradece al Gobierno de México por la información detallada sobre las medidas para garantizar la integridad física y psicológica del detenido, las cuales incluyen el acceso a exámenes y tratamientos médicos. Sin embargo, el Relator Especial expresa gran preocupación por la insuficiencia de dichos mecanismos e insta al Gobierno a asegurar la continuidad y eficiencia de las medidas que aseguren su integridad. El Relator Especial exhorta al Gobierno de México a dar a conocer los resultados de la investigación que se encuentra en trámite y en el caso que se requiera, confirmar la sanción que ésta corresponda.

- (b) JUA 06/11/2013 Case No. [MEX 9/2013](#) State reply: [04/12/2013](#) **Presuntos arrestos, actos de violencia por parte de las fuerzas del orden, denegación de tratamiento médico en detención así como amenazas contra defensoras de derechos humanos y sus familiares.**

98. El Relator agradece al Gobierno de México por su respuesta de fecha 6 de noviembre del 2013, a la comunicación en referencia a los presuntos arrestos, actos de violencia por parte de las fuerzas del orden, denegación de tratamiento médico en detención, así como amenazas contra defensores. El Relator llama atención a las Reglas Mínimas para el Tratamiento de los Reclusos, cuya disposición 22(2) provee que “[s]e dispondrá el traslado de los enfermos cuyo estado requiera cuidados especiales, a establecimientos penitenciarios especializados o a hospitales civiles. Cuando el establecimiento disponga de servicios internos de hospital, éstos estarán provistos del material, del instrumental y de los productos farmacéuticos necesarios para proporcionar a los reclusos enfermos los cuidados y el tratamiento adecuados.” El Relator Especial llama atención al artículo 4 (4) y (d) de la Declaración de las Naciones Unidas sobre la Eliminación de la Violencia contra las mujeres, la cual afirma la responsabilidad de los Estados de proceder con la debida diligencia a fin de prevenir, investigar y, conforme a la legislación nacional, castigar todo acto de violencia contra las mujeres, ya se trate de actos perpetrados por agentes del Estado o por particulares. El Relator solicita al Gobierno que proporcione información detallada, así como los resultados si están disponibles, de cualquier examen médico que se haya llevado a cabo. Además, el Relator Especial reitera su llamamiento al Gobierno a asegurar la investigación, procesamiento y eventual condena de los responsables, y pide al Gobierno que proporcione más información acerca de las medidas que hayan sido tomadas.

- (c) JUA 21/11/2013 Case No. [MEX 11/2013](#) State reply: None to date **Presuntos repetidos allanamientos del domicilio de un defensor de derechos humanos, así como detención arbitraria, uso excesivo de la fuerza y actos de tortura y malos tratos contra él y otras cuatro personas**

99. El Relator lamenta que, hasta la fecha, el Gobierno de México no haya respondido a esta comunicación de fecha 21 de noviembre de 2013. La comunicación se refería a la presunta detención, tortura, malos tratos y allanamiento por parte de las fuerzas del orden. El Relator Especial hace referencia 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. El principio dice que “[l]os funcionarios encargados de hacer cumplir la ley, en el desempeño de sus funciones, utilizarán en la medida de lo posible medios no violentos antes de recurrir al empleo de la fuerza y de armas de fuego.” Ante la ausencia de evidencia contradictoria, el Relator Especial considera que los derechos de las presuntas víctimas han sido vulnerados.

## Moldova

- (a) JUA 23/09/2013 Case No. [MDA 5/2013](#) State reply: None to date **Allegations of gang-rape of a pregnant woman by seven men; and of threats and acts of violence, harassment and intimidation by the alleged perpetrators.**

100. The Special Rapporteur regrets that the Government of Moldova has not responded to this communication dated 23 September 2013, thereby failing to cooperate with the mandate established by the Human Rights Council. The allegation regarded the alleged gang-rape of a pregnant woman and subsequent acquiescence of police officials in failing to punish those responsible. According to the information received, on 17 August 2013, while returning home, Ms. X was approached by a young individual who offered to accompany her to the village of Y, her hometown. Soon after she accepted, Ms. X was forced to get in a



mini-bus and was taken to a field outside the village. Ms. X was brutally gang-raped by 7 men for the entire night. On 22 August 2013, five persons allegedly broke into MS. X's house and threatened to kill her. It is reported that the alleged perpetrators were only apprehended by the police after a relative of Ms. X had filed a formal complaint, and that they were released within 72 hours. It is further reported that the parents of the alleged perpetrators and a police officer visited Ms. X and her relative at their home and forced her to sign a written declaration affirming that she had no complaint of rape against the alleged perpetrators. It is further alleged that the police failed to respond quickly and effectively after the above incidents were reported and that those officers investigating this case colluded with the alleged perpetrators. The Special Rapporteur reiterates that the alleged behavior of government officials in acquiescing to or possibly cooperating with perpetrators of crimes and intimidation, such as those reported, may constitute violations of paragraph 18 of the General Comment No. 2 of the Committee against Torture (CAT/C/GC/2, 24 January 2008). In this provision, the Committee has made clear that where State authorities or others acting in official capacity or under colour of law, know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors and they fail to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors consistently with the Convention, the State bears responsibility and its officials should be considered as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in such impermissible acts. The Special Rapporteur calls on the Government to engage with the mandate and respond to the allegations as well as provide information regarding the steps taken to protect victims of violence and intimidation such as Ms. X.

## Morocco

- (a) JUA 24/05/2013 Case No. [MAR 1/2013](#) State reply: 17/10/2013 **Allégations concernant des actes de torture et mauvais traitements, y compris aux fins d'obtention de preuves lors de garde à vue; et concernant l'incarcération d'un individu pour avoir porté plainte contre des actes de torture et de mauvais traitements.**

101. Le Rapporteur spécial regrette qu' au moment de la finalisation du présent rapport il n'y ait eu encore aucune réponse du gouvernement de la part du le gouvernement du marocain à la communication envoyée le 24 mai 2013 et concernant des allégations portant sur des actes de torture et de mauvais traitements ayant été commis à l'encontre de M. X, M. Yassine Sidati, M. Mohamed Garmit, M. Mohamed Ali Saidi, M. Abdelaziz Hramech et M. Youssef Bouzid. Selon les informations recues, ces personnes auraient été interpellées après avoir participé à une manifestation en faveur de l'autodétermination le 4 mai 2013 à Laayoune. Des sérieuses préoccupations nous ont été rapportées quant à des allégations de torture ou de traitements cruels, inhumains ou dégradants sur les personnes susmentionnés durant leur garde à vue. Dans ce contexte, le Rapporteur spécial souhaite attirer l'attention du gouvernement sur sa responsabilité de protéger et de respecter l'intégrité physique et mentale de M. X, M. Yassine Sidati, M. Mohamed Garmit, M. Mohamed Ali Saidi, M. Abdelaziz Hramech et M. Youssef Bouzid, conformément aux dispositions pertinentes de la DUDH, du PIDCP, de la Déclaration sur la protection de toutes les personnes contre la torture et autres peines ou traitements cruels, inhumains ou dégradants. A cet égard, le Rapporteur spécial aimerait également attirer l'attention du gouvernement sur les dispositions contenues au paragraphe 1 de la résolution 16/23 du Conseil des droits de l'homme qui "condamne toutes les formes de torture et autres traitements cruels, inhumains ou dégradants, y compris l'intimidation, qui sont et demeurent prohibés, en tout temps et en tout lieu, et ne peuvent jamais être justifiés, et invite tous les États à mettre pleinement en oeuvre l'interdiction absolue et intangible de la torture et autres traitements cruels, inhumains ou dégradants." Le Rapporteur spécial souhaite également rappeler l'article 12

de la Convention contre la torture qui stipule que «tout Etat partie veille à ce que les autorités compétentes procèdent immédiatement à une enquête impartiale chaque fois qu'il y a des motifs raisonnables de croire qu'un acte de torture a été commis sur tout territoire sous sa juridiction.» ainsi que l'article 7 qui veut que des cas de torture soient soumis aux autorités compétentes pour l'exercice de l'action pénale. De plus, le Rapporteur spécial aimerait attirer l'attention du gouvernement sur l'article 15 de ladite Convention qui stipule que «tout Etat partie veille à ce que toute déclaration dont il est établi qu'elle a été obtenue sous l'usage de la torture ne puisse être invoquée comme un élément de preuve dans un procédure, si ce n'est contre la personne accusée de torture pour établir qu'une déclaration a été faite.» Le Rapporteur spécial appelle le gouvernement à enquêter sur tous les cas de torture et autres peines ou traitements cruels, inhumains ou dégradants, et à poursuivre et punir les responsables de ces violations. Le Rapporteur spécial reste disponible pour fournir tout appui technique dont aurait besoin le gouvernement.

- (b) JUA 14/08/2013 Case No. [MAR\\_2/2013](#) State reply: [04/09/2013](#) **Allégations de harcèlement constant, d'actes d'intimidations, de mauvais traitements, de mesures de représailles, et de menaces de la part de l'administration pénitentiaire envers M. Ali Aarrass après la visite du Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants.**

102. Le Rapporteur spécial reconnaît la réponse du Gouvernement du Maroc à la communication envoyée le 14 août 2013 concernant des allégations portant sur des actes de torture et de mauvais traitements ayant été commis à l'encontre M. Ali Aarrass, un citoyen belgo-marocain qui se trouvant actuellement en détention à la prison de Salé II. M. Aarrass a fait l'objet d'une communication en date du 4 décembre 2012 (MAR 11/2012). Selon les informations recues, M. Aarrass a été arrêté en Espagne le 1er avril 2008, conformément à une demande d'extradition du Maroc pour des accusations liées au terrorisme. Il était rapporté que à son arrivée au Maroc, M. Aarrass aurait été sauvagement torturé pendant 10 jours et soumis à d'autres formes de traitement cruel, inhumain et dégradant, y compris le viol, les coups et les humiliations, ainsi que le refus d'un traitement médical approprié, au cours de sa détention provisoire. Il était également allégué que le tribunal de première instance aurait omis de mener une enquête adéquate sur les allégations portant sur les actes de torture commis envers M. Aarrass, et que l'accusation reposerait uniquement sur les aveux obtenus de M. Aarrass sous la torture. Il était en outre allégué que M. Aarrass a subi des menaces envers après la visite du Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants au Maroc du 15 au 22 septembre 2012. Le médecin légiste indépendant qui accompagnait le Rapporteur spécial a effectué un examen physique externe et trouvé des traces de torture sur le corps de M. Aarrass. Bien que le Rapporteur spécial reconnaît la réponse du le Gouvernement, selon laquelle le Gouvernement a entrepris différentes mesures et actions entreprises pour investiguer les différentes allégations soulevées, et ce, tout en veillant à ce que M. Aarrass poursuive l'exécution de sa peine dans les meilleurs conditions possibles, le Rapporteur spécial regrette que le Gouvernement n'ait pas fourni des réponses plus détaillées aux craintes exprimées dans la communication. Quant les allégations soulevées dans la communication, le gouvernement a également déclaré qu'elles sont essentiellement le résultat de la contrariété ressentie par M. Aarrass en raison de différentes mesures courantes prises par l'administration pénitentiaire. En outre, suite à une rencontre avec le Groupe de travail sur la détention arbitraire, le 27 décembre dernier, M. Aarrass a été placé dans une cellule d'isolement sans motif apparent, et le Rapporteur a des raisons de craindre que cette punition entraînant une dégradation de ses conditions de détention déjà difficiles ne constitue une mesure de représailles consécutive au rencontre avec le Groupe de travail lors de la visite en décembre 2013.

103. Dans ce contexte, le Rapporteur spécial souhaite attirer l'attention du Gouvernement sur sa responsabilité de protéger et de respecter l'intégrité physique et mentale de M. Aarrass, conformément aux dispositions pertinentes de la DUDH, du PIDCP, de la Déclaration sur la protection de toutes les personnes contre la torture et autres peines ou traitements cruels, inhumains ou dégradants. A cet égard, le Rapporteur spécial aimerait référer le Gouvernement sur les dispositions contenues au paragraphe 1 de la résolution 16/23 du Conseil des droits de l'homme qui "condamne toutes les formes de torture et autres traitements cruels, inhumains ou dégradants, y compris l'intimidation, qui sont et demeurent prohibés, en tout temps et en tout lieu, et ne peuvent jamais être justifiés, et invite tous les États à mettre pleinement en oeuvre l'interdiction absolue et intangible de la torture et autres traitements cruels, inhumains ou dégradants." Le Rapporteur spécial souhaiterait également rappeler l'article 12 de la Convention contre la torture qui stipule que «Tout Etat partie veille à ce que les autorités compétentes procèdent immédiatement à une enquête impartiale chaque fois qu'il y a des motifs raisonnables de croire qu'un acte de torture a été commis sur tout territoire sous sa juridiction.» ainsi que l'article 7 qui veut que des cas de torture soient soumis aux autorités compétentes pour l'exercice de l'action pénale. De plus, le Rapporteur spécial aimerait attirer l'attention du Gouvernement sur l'article 15 de ladite Convention qui stipule que «Tout Etat partie veille à ce que toute déclaration dont il est établi qu'elle a été obtenue par la torture ne puisse être invoquée comme un élément de preuve dans une procédure, si ce n'est contre la personne accusée de torture pour établir qu'une déclaration a été faite.» Quant aux allégations portant sur les actes de harcèlement et d'intimidation envers M. Aarrass suite à la réunion qui s'est tenue avec le Rapporteur spécial, le Rapporteur spécial rappelle que pendant sa visite au Maroc, il a demandé et reçu l'assurance des autorités que des instructions claires seraient communiquées à tous les niveaux de pouvoir et que ni l'intimidation, ni aucune sorte de représailles ne sauraient être tolérées. A cet égard, je souhaiterais aussi attirer l'attention du Gouvernement sur le paragraphe 7b de la Résolution 8/8 du Conseil des droits de l'homme de juin 2008 laquelle rappelle aux Etats que «Les mesures d'intimidation ou les pressions visées à l'article premier de la Convention contre la torture, notamment les menaces graves et crédibles contre l'intégrité physique de la victime ou d'une tierce personne, ainsi que les menaces de mort, peuvent être assimilées à un traitement cruel, inhumain ou dégradant ou à la torture» ainsi que sur les dispositions de la résolution 12/2 du Conseil des droits de l'homme (A/HRC/RES/12/2), qui, entre autres, «condamne tous les actes d'intimidation sur les représailles de la part des gouvernements et des acteurs non étatiques contre des individus et des groupes qui cherchent à coopérer ou ont coopéré avec l'Organisation des Nations Unies, ses représentants et mécanismes dans le domaine des droits de l'homme» (OP 2) et «invite tous les États à assurer une protection adéquate contre les actes d'intimidation ou de représailles pour les individus et les groupes qui cherchent à coopérer ou ont coopéré avec l'Organisation des Nations Unies, ses représentants et mécanismes dans le domaine des droits de l'homme (...)» (OP 3). 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, et veiller à que les victimes obtiennent réparation, y compris une indemnisation équitable et adéquate, et une réhabilitation aussi complète que possible.

- (c) UA 04/12/2012 Case No. [MAR 11/2012](#) State reply: None to date

104. Le Rapporteur spécial regrette qu'au moment de la finalisation du présent rapport il n'y ait eu encore aucune réponse du gouvernement marocain à la communication envoyée le 4 décembre 2013 quant à des allégations portant sur des actes de torture et de mauvais traitements ayant été commis à l'encontre M. Ali Aarrass, un citoyen belgo-marocain qui se trouvant actuellement en détention à la prison de Salé II. Selon les informations recues, M. Aarrass a été arrêté en Espagne le 1er avril 2008 conformément à une demande

d'extradition du Maroc pour des accusations liées au terrorisme. Selon des allégations, lors de son arrivée au Maroc, M. Aarrass aurait été sauvagement torturé pendant 10 jours et soumis à d'autres formes de traitement cruel, inhumain et dégradant, y compris le viol, les coups et les humiliations, ainsi que le refus d'un traitement médical approprié au cours de sa détention provisoire. Il est également allégué que le tribunal de première instance aurait omis de mener une enquête adéquate sur les allégations portant sur les actes de torture commis envers M. Aarrass, et que l'accusation reposerait uniquement sur les aveux obtenus de M. Aarrass sous la torture. Il est en outre allégué que M. Aarrass a subi des menaces suite à la visite au Maroc du Rapporteur spécial sur la torture et autres peines ou traitements cruels, inhumains ou dégradants qui s'est tenue du 15 au 22 septembre 2012. Le médecin légiste indépendant qui accompagnait le Rapporteur spécial a effectué un examen physique externe et trouvé des traces de torture sur le corps de M. Aarrass. Dans ce contexte, le Rapporteur spécial souhaite attirer l'attention du gouvernement sur sa responsabilité de protéger et de respecter l'intégrité physique et mentale de M. Aarrass, conformément aux dispositions pertinentes de la DUDH, du PIDCP, de la Déclaration sur la protection de toutes les personnes contre la torture et autres peines ou traitements cruels, inhumains ou dégradants. A cet égard, le Rapporteur spécial aimerait également rappeler au gouvernement les dispositions contenues au paragraphe 1 de la résolution 16/23 du Conseil des droits de l'homme qui "condamne toutes les formes de torture et autres traitements cruels, inhumains ou dégradants, y compris l'intimidation, qui sont et demeurent prohibés, en tout temps et en tout lieu, et ne peuvent jamais être justifiés, et invite tous les États à mettre pleinement en oeuvre l'interdiction absolue et intangible de la torture et autres traitements cruels, inhumains ou dégradants." Le Rapporteur spécial souhaite également rappeler l'article 12 de la Convention contre la torture qui stipule que «tout Etat partie veille à ce que les autorités compétentes procèdent immédiatement à une enquête impartiale chaque fois qu'il y a des motifs raisonnables de croire qu'un acte de torture a été commis sur tout territoire sous sa juridiction» ainsi que l'article 7 qui veut que des cas de torture soient soumis aux autorités compétentes pour l'exercice de l'action pénale. De plus, le Rapporteur spécial aimerait attirer l'attention du gouvernement sur l'article 15 de ladite Convention qui stipule que «tout Etat partie veille à ce que toute déclaration dont il est établi qu'elle a été obtenue sous l'usage de la torture ne puisse être invoquée comme un élément de preuve dans une procédure, si ce n'est contre la personne accusée de torture pour établir qu'une déclaration a été faite.» Quant aux allégations portant sur les actes de harcèlement et d'intimidation envers M. Aarrass suite à la réunion qui s'est tenue avec le Rapporteur spécial, le Rapporteur spécial souhaite rappeler que pendant sa visite au Maroc, il a demandé et reçu l'assurance des autorités que des instructions claires seraient communiquées à tous les niveaux de pouvoir et que ni l'intimidation, ni aucune sorte de représailles ne sauraient être tolérées. A cet égard, le Rapporteur spécial souhaite également attirer l'attention du gouvernement sur le paragraphe 7b de la Résolution 8/8 du Conseil des droits de l'homme de juin 2008 laquelle rappelle aux Etats que «les mesures d'intimidation ou les pressions visées à l'article premier de la Convention contre la torture, notamment les menaces graves et crédibles contre l'intégrité physique de la victime ou d'une tierce personne, ainsi que les menaces de mort, peuvent être assimilées à un traitement cruel, inhumain ou dégradant ou à la torture» ainsi que sur les dispositions de la résolution 12/2 du Conseil des droits de l'homme (A/HRC/RES/12/2), qui, entre autres, «condamne tous les actes d'intimidation sur les représailles de la part des gouvernements et des acteurs non étatiques contre des individus et des groupes qui cherchent à coopérer ou ont coopéré avec l'Organisation des Nations Unies, ses représentants et mécanismes dans le domaine des droits de l'homme» (OP 2) et «invite tous les États à assurer une protection adéquate contre les actes d'intimidation ou de représailles pour les individus et les groupes qui cherchent à coopérer ou ont coopéré avec l'Organisation des Nations Unies, ses représentants et mécanismes dans le domaine des droits de l'homme (...)» (OP 3). Le Rapporteur spécial exhorte le gouvernement à répondre 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 ce que les victimes obtiennent réparation, y compris une indemnisation équitable et adéquate, et une réhabilitation aussi complète que possible.

## Myanmar

- (a) **JUA 03/04/2013 Case No. [MMR 2/2013](#) State Reply: [24/05/2013](#)** Alleged detention and mistreatment of four Bengali men in the Rakhine State by denying medical treatment and legal assistance.

105. The Special Rapporteur thanks the Government of Myanmar for its reply, dated 24 May 2013, to this communication in reference to the alleged poor holding conditions of Messrs. Zafawr Ahmed, Nawbi Hussein, Mohammed Shawrif and Rahametullah. According to the information received, Mr. Zafawr Ahmed, Mr. Nawbi Hussein, and Mr. Mohammed Shawrif were reportedly shot by the border security forces (Nasaka) in Ohn Daw Gyi village, Sittwe, on 28 February 2013. They were, at the time of the communication, in police custody in no. 1 police station in Sittwe, having been discharged from Sittwe General Hospital on 2 March 2013. It is reported that the three men had wounds that were infected and in need of urgent medical treatment. The men were involved in the construction of a camp for internally displaced persons (IDPs) in Ohn Daw Gyi village. On 28 February 2013, at 1 pm, around 10-12 Nasaka personnel, based near the construction site, arrived at the site. Mr. Ahmed resisted and tried to free himself from the grip of a Nasaka commander, who took out his pistol and fired, with the bullet scraping Mr. Ahmed's head and wounding him. Another Nasaka officer allegedly dragged Mohammed Shawrif along the ground. The officer then allegedly fired an automatic gun directly at Mr. Sharif's back. Meanwhile, another Nasaka officer reportedly tried to drag Nawbi Hussein along the ground. When the three victims escaped and reached their homes, they were taken to Sittwe General Hospital. Rahametullah was also arrested and taken to No. 1 police station in Sittwe for allegedly destroying a latrine, which had been constructed despite the landowner's objections. Rahametullah, Zafawr Ahmed, Nawbi Hussein and Mohammed Shawrif have reportedly been charged with attacking Nasaka under article 333 of the Myanmar penal code "Whoever voluntarily causes grievous harm to any person being a public servant in the discharge of this duty as public servant or with intent to prevent or deter that person or any other public servant from discharging his duty as public servant or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as public servant shall be punished with imprisonment... for a term which may extend to ten years and shall also be liable to fine." The four men had reportedly been verbally abused, denied medication, and not given enough food in detention. Moreover, none of the men had access to legal counsel. The Special Rapporteur thanks the Government for the response dated 24 May 2013 which stated that all the allegations of withholding medical treatment and denial of access to a lawyer were rejected. Additionally, the response described the factual circumstances of the arrests, describing the hostile attacks that forced the arrests of the named individuals. The Special Rapporteur would like to remind the Government of Myanmar of the Standard Minimum Rules for the Treatment of Prisoners. Rule 22(2) provides that, "Sick 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. Furthermore, Rule 25(1) provides that, "The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed." (Approved by the Economic and Social Council by

resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.). To the extent that the Government's response does not address the allegations of mistreatment or conditions of detention, the Special Rapporteur finds that the Government has violated the rights of these inmates under international law regarding torture and cruel, inhuman or degrading treatment. He also encourages the Government of Myanmar to continue its engagement with the mandate.

- (b) **JUA 02/05/2013 Case No. [MMR 6/2013](#) State Reply: [01/07/2013](#)** Alleged beating and shooting of rubber bullets by the police and military of protesting farmers outside the Letpadaung copper mine.

106. The Special Rapporteur thanks the government of Myanmar for its reply, dated 1 July 2013, to this communication in reference to the alleged beating and shooting of rubber bullets by the police and military against protesting farmers outside the Letpadaung copper mine. On 25 April 2013 in the Letpadaung copper mine area, at Sal Tal village, Sagaing Region, around 100 riot police and 50 soldiers arrived to remove dozens of farmers who had refused compensation from the owners of the Letpadaung copper mine, a Chinese state-owned company, Wan-Bao, and the military-owned Union of Myanmar Economic Holdings Ltd. The farmers reportedly started plowing their fields three days previously and the police and military arrived to remove the farmers. The farmers were reportedly beaten with batons and had rubber bullets fired at them by the police and military, resulting in injuries to ten of the farmers, including one who was allegedly shot in his arm and rib. Three activists involved in the protest were reportedly arrested and sent to the Wan-Bao company building. Stones were reportedly thrown at police lines by protestors and 15 police officers were reportedly injured. Subsequently, the commander of the Sagaing Region Police Force reportedly announced that the police would lodge charges against eight persons for allegedly provoking demonstrations and other alleged illegal actions. The Special Rapporteur thanks the Government for the response dated 1 July 2013 that stated that the arrest was not because of a refusal of compensation, but because they were trespassing an area that was designated as only for authorized persons. The trespassers were equipped with sticks, knives, slingshots, and stones. The Government reported that none of the protesters were injured. The Special Rapporteur reminds the government of Myanmar of article 20 of the UDHR which provides that “[e]veryone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association.” Furthermore, the Special Rapporteur would like to remind the Government of article 12 paras. 2 and 3 of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. They provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms. The Special Rapporteur also draws attention to Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, “Law 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.” Furthermore, Principle 5 provides that, “Whenever the use of force and firearms is unavoidable law enforcement officials shall, (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate object to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c)

Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment and (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.” (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990). The Special Rapporteur also encourages the Government of Myanmar to continue its engagement with the mandate.

- (c) UA 07/06/2013 Case No. [MMR 8/2013](#) State reply: [26/07/2013](#) **Alleged arrest and detention of seven Muslim community leaders in Sittwe, Rakhine State, between 26 and 29 April 2013.**

107. The Special Rapporteur thanks the government of Myanmar for its reply, dated 26 July 2013, to this communication in reference to the reported arrest and detention of seven Muslim community leaders. The communication referred to the alleged arrest of seven Muslim community leaders in Sittwe, Rakhine State, following “population verification exercises” conducted on 26 April 2013. It is reported that U Kyaw Myint, U Ba Thar, Sawlima (female), Mohammed Hashim, U Kyaw Khin, U San Lin, and U Hla Myint, were arrested between 26 and 29 April and have subsequently been charged with offences relating to a protest against the verification exercise within the Muslim village and IDP areas which took place on 26 April. It is reported that on 26 April, the local government of Rakhine State began implementation of a “verification exercise” among Muslim IDPs and villagers with the objective of providing the Government with accurate household population data. Reportedly, documentation used in the course of the exercise required Muslims to be registered as “Bengali” rather than being able to register under their preferred identification as “Rohingya”. Allegedly some individuals objected to this and went into the street where they shouted that they were Rohingya. Observers report that the incident was small and involved many children and youth. Reportedly some stones were thrown and some members of the verification teams were lightly injured during the incidents. It is reported that following these incidents the exercise was suspended and that a police operation was initiated, leading to the arrest between 26 and 29 April, of U Kyaw Myint, U Ba Thar, Sawlima, Mohammed Hashim, U Kyaw Khin, U San Lin, and U Hla Myint in the Thet Kae Pyin area. Unverified reports indicated that those arrested might have been subjected to ill-treatment in detention in Sittwe Police Station Number 1 where they were reportedly held until 23 May. It was reported that Mohammed Hashim is a juvenile, allegedly aged 15 or 16, and that U Ba Thar is in poor health and suffering from a serious medical condition, including heart disease for which he requires daily medical treatment, to which he reportedly had not received access. U San Lin was also reported to have suffered serious injury to his legs as a result of his treatment while in detention. According to information received, the arrests are arbitrary and are reportedly based on their refusal to register as “Bengali”, their presence in the locality in which a demonstration took place, or their status as community leaders. In this context, the Special Rapporteur would like to recall that failure to provide proper medical treatment and permit family visits contravenes international law. Additionally, he would like to reiterate that paragraph 1 of Human Rights Council Resolution 16/23 “Condemns 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 addition, States are under the obligation to investigate all suspicions of torture or ill-treatment independently and impartially, with the purpose of establishing the possible use of prohibited forms of treatment and bringing those responsible to justice.

- (d) JAL 11/06/2013 Case No. [MMR 9/2013](#) State Reply: [22/07/2013](#) **Alleged excessive use of force against Rohingya protesters in Rakhine State.**

108. The Special Rapporteur thanks the Government of Myanmar for its reply, dated 22 July 2013, to this communication in reference to the alleged excessive use of force by police officers against ethnic Rohingya villagers who were protesting the construction of new housing units in Pa Rein village in Rakhine State. According to the allegations, police forces fired into an unarmed crowd of protesters, killing three persons and injuring five. Investigative authorities allegedly did not arrive at the scene until the following day and failed to adequately investigate the incident. In its reply, the Government alleges that 400 people tried to attack police and construction workers with knives, stones and other weapons, and that the police used force in self-defense after firing several warning shots. The Government replied that Rakhine State police investigated the case and determined that force was properly used for self-defense purposes. The Special Rapporteur stresses that article 3 of the Universal Declaration of Human Rights provides that “everyone has the right to life, liberty and security of person,” and article 20 of the UDHR provides that “everyone has the right to freedom of peaceful assembly and association.” Additionally, the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials establishes that officials shall “apply non-violent means before resorting to the use of force and firearms,” and that force and firearms may only be used as a last resort when unavoidable, and requires exercising the utmost restraint, minimizing injury and damage, and respecting and preserving human life. Additionally, the Basic Principles require the state to provide assistance and medical aid to any injured an affected person at the earliest possible moment. The Special Rapporteur notes that the Government’s reply did not offer details as to the thoroughness, impartiality or independence of the investigation that has been carried out, or the reasons for its conclusions. He calls on the Government of Myanmar to continue to investigate and eventually to prosecute and punish those found responsible for excessive use of force, and to provide the results of these processes to the Special Rapporteur; to provide full redress to the victims and their family members; and to undertake effective measures to prevent the recurrence of these acts. The Special Rapporteur encourages the Government to continue its engagement with the mandate.

- (e) UA 10/10/2013 Case No. [MMR 15/2013](#) State reply: [18/12/2013](#) **Alleged arbitrary arrest, torture, and ill-treatment of man of Kachin ethnicity**

109. The Special Rapporteur thanks the Government of Myanmar for its reply, dated 18 December 2013, to this communication in reference to the alleged deprivation of liberty, torture, and ill-treatment of Mr. Brang Yung, a Myanmar national of Kachin ethnicity who was arrested in June 2012 in connection with his reported association with the Kachin Independence Army. It was reported that Mr. Yung was being held incommunicado in the Myitkyina prison, where he had been subjected to torture and inhuman and degrading treatment, including sexual abuses. The Special Rapporteur expressed grave concern about reported patterns of arbitrary arrest of Kachin men from Internally Displaced Persons camps and subsequent torture in detention to extract confessions. In its reply, the Government confirmed Mr. Yung’s arrest and his detention in Myitkyina, and stated that an investigation revealed that Mr. Yung was a lance corporal in the Kachin Independence Army and responsible for a car bomb explosion that took place in Myitkyina in December 2011. The Government further submitted that his trial on charges brought under the Explosive Substances Act is ongoing, and that Mr. Yung is allowed to receive family visits, is in good health, and has unrestricted access to three lawyers. Although the Special Rapporteur appreciates the State’s response, he notes that it does not address the allegations of torture and mistreatment against Mr. Yung. In this context, the Special Rapporteur reiterates that each Government has the obligation to protect the right to physical and mental integrity of all persons, which is set forth *inter alia* in the Universal Declaration on Human Rights. The Special Rapporteur draws attention to paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns 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,” and to paragraph 6 b and e of Human Rights Council Resolution 8/8 adopted in June 2008, which urges States “to take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the competent national authority, to hold persons who encourage, order, tolerate or perpetrate acts of torture responsible, to have them brought to justice and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed [...]” In the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Mr. Yung have been violated, and calls on the Government to undertake all necessary measures to protect the right to physical and mental integrity of Mr. Yung, to exclude any evidence obtained under torture from the judicial proceedings against him, to hold those responsible for his ill-treatment accountable and to provide full redress to the victim, including fair and adequate compensation and as full rehabilitation as possible. The Special also encourages the Government of Myanmar to continue its engagement with the mandate.

- (f) **JUA 22/07/2013 Case No. [MMR 12/2013](#) State reply: [29/10/2013](#)** Alleged torture and death of detainee in custody by police officers.

110. The Special Rapporteur thanks the Government of Myanmar for its reply, dated 29 October 2013, to this communication in reference to the alleged torture and subsequent death of Mr. U Than Htun by police officers of the Pandaung Township Police Station, Pyay District, Bago Region, Myanmar. According to the allegations, Mr. U Than Htun’s body showed clear signs of beating and torture by police officers. It is also alleged that the police refused to hand over Mr. Than Htun’s body and clothes to his family. The Government alleges that Mr. Than Htun died as a result of self-inflicted injuries suffered while in custody. According to the Government, a regional court is currently reviewing the complaint lodged by Mr. Than Htun’s family. The Government also claims that the police conducted an investigation of the incident and determined that Mr. Than Htun’s self-inflicted injuries were exacerbated by the fact that police officers waited to take him to the hospital. The police have taken internal disciplinary measures against the implicated officers. The Special Rapporteur draws attention to paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation... 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.” Additionally paragraph 7(b) of Human Rights Council Resolution 16/23, urges States to hold responsible not only those who perpetrate torture, but also those “who encourage, order, tolerate or perpetrate such acts [...], 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.” The Special Rapporteur also reiterates that article 3 of the Universal Declaration of Human Rights stipulates that “everyone has the right to life, liberty and security of person,” and that Article 6 of the Code of Conduct for Law Enforcement Officials, provides that “Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required”. The Special Rapporteur calls on the Government to undertake thorough and independent criminal investigations into the alleged incident, leading to the prosecution and punishment of all perpetrators, provide full redress to the victim’s family and undertake effective measures to prevent the recurrences of these acts. The Special Rapporteur calls on the Government to provide an update on the results of the investigations and proceedings.

## Nepal

- (a) **JUA 22/3/2013 Case No. [NPL 1/2013](#) State Reply: None to date** Alleged threats made in the media against members of the Accountability Watch Committee (AWC) and an alleged physical attack against human rights defenders.

111. The Special Rapporteur regrets that the government of Nepal 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 threats made in the media against members of the Accountability Watch Committee (AWC) and an alleged physical attack against human rights defenders. The weekly magazine Lal Rakshak published an article containing various allegations against Ms. Sharma, Mr. Subodh Pyakhurel and Mr. Dixit, naming them as opponents of the Maoist political agenda and the peace process, as well as accusing them of crimes including corruption, labour exploitation and sexual violence. The article reportedly also mentioned Messrs. Sushil Pyakhurel, Charan Prasai and Kapil Shrestha and stated that “people’s action” should be taken against them. “People’s action” is meant to refer to punishment through violent attacks. It is also alleged that calls for “people’s action” were repeatedly made on FM radio stations across Nepal against the above-mentioned members of AWC. It is alleged that Ms. Sharma received a warning implying that the army might hinder Advocacy Forum’s work. In addition, Advocacy Forum reportedly received a letter from the District Administration Office soon after the arrest of Colonel Kumar Lama, stating that an investigation would be undertaken against the organization. Reportedly, a physical attack against Mr. Yadav Prasad Bastola took place as he was walking back from Birendranagar to Vidhyapur Village Development Committee (VDC)-04, in Surkhet district, where he resides. In addition, Mr. Bastola was stopped by four unidentified persons with covered faces and asked whether he had written an article for the local newspaper “Pahichen Daily,” accusing him of “trying to send the Maoists to jail.” They grabbed Mr. Bastola’s hand and neck and beat his back with iron rods multiple times. It is reported the police is still conducting an investigation. The Special Rapporteur reminds the government of Nepal of paragraph 7b of Human Rights Council Resolution 16/23, which urges States “To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the competent national authority, to hold those who encourage, order, tolerate or perpetrate acts of torture responsible, to have them brought to justice and severely punished.” In addition, paragraph 8 (a) of Resolution 16/23 of the Human Rights Council states that “Intimidation 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.” The Special Rapporteur finds that the Government of Nepal has failed to protect these citizens against acts that amount to cruel, inhuman and degrading treatment. He calls on the Government to undertake a prompt and independent investigation of the allegations of silencing human rights defenders through threats and intimidation, leading to prosecution and punishment of the perpetrators and to provide full redress to the victims.

- (b) **JUA 13/06/2013 Case No. [NPL 3/2013](#) State reply: None to date** **Alleged violent dispersal by law enforcement of peaceful demonstrators seeking accountability for the death of a young girl.**

112. The Special Rapporteur regrets that the Government of the Federal Democratic Republic of Nepal has not responded to this communication dated 13 June 2013, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged violent dispersal by law enforcement authorities of peaceful demonstrations organized by Kamlari activists in Nepal. According to the

information received, from 31 May to 4 June, the police violently dispersed a series of peaceful protests held in Kathmandu, Dang, Kailai and Kanchanpur. The reported protests were organized by freed Kamlari activists to ensure accountability for the killing of a 12-year old Kamlari girl in Dang in March 2013. Moreover, Kamlari activists were protesting more generally against the Kamaiya traditional system of bonded labour in place in several parts of Nepal. In the course of the police operations, police officers injured many and sexually assaulted some protestors. The police also detained groups of protestors for several hours. In this context, the Special Rapporteur reminds the Government of Nepal that each Government has the obligation to protect the right to physical and mental integrity of all persons as set forth inter alia in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Further, the Special Rapporteur reiterates that principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, provides that, “Law 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.” Furthermore, Principle 5 provides that, “Whenever the use of force and firearms is unavoidable law enforcement officials shall . . . exercise restraint, . . . act proportion[ally] . . . to the seriousness of the offence, . . . minimize damage and injury, and respect and preserve human life . . .” Additionally, the Special Rapporteur draws attention to the Agreed Conclusions of the Commission on the Status of Women adopted in March 2013, whose paragraph 23, expresses deep concern about violence against women and girls in public spaces, including sexual harassment, especially when it is being used to intimidate women and girls who are exercising any of their human rights and fundamental freedoms. The Commission urges governments to, inter alia: (x) Prevent, investigate and punish acts of violence against women and girls. Similarly, the Government of Nepal is reminded that articles 1 and 8 of the Convention on the Elimination of all forms of Discrimination Against Women and article 22(2) of the UN Declaration on the Rights of Indigenous Peoples stipulate that women and indigenous peoples shall not be inflicted with physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty by public authorities or otherwise. The Special Rapporteur requests a response from the Government of Nepal regarding the aforementioned actions by law enforcement against peaceful demonstrators. The Special Rapporteur further request that should the Government’s investigation find the allegations to be correct that any person responsible be held accountable.

## Nicaragua

- (a) JAL 26/11/2013 Case No. [NIC 2/2013](#) State reply: [20/01/2014](#) **Alegaciones en relación con la reforma de la Ley contra la violencia hacia las mujeres y de reformas del Código Penal de Nicaragua**

113. El Relator agradece al Gobierno de Nicaragua pro su repuesta a la comunicación de fecha 26 de noviembre del 2013. La comunicación se refería a la reforma de la ley en contra de la violencia hacia las mujeres, y la declaración por la Corte Suprema para que la mediación fuera permitida en ciertos casos. El Relator hace referencia al párrafo 18 del Comentario General No. 2 del Comité contra la Tortura que dice claramente que cuando las autoridades estatales, u otras personas actuando en capacidad oficial, conocen o cuentan con elementos razonables para entender que actos de malos tratos o tortura han ocurrido, sea por parte de agentes estatales o no estatales, deben iniciarse inmediatamente y de oficio las acciones para investigar, enjuiciar y castigar a los culpables. La falta de cumplimiento de esta obligación de actuar diligentemente respecto de la prevención, investigación o enjuiciamiento de actos de tortura y malos tratos deriva en la responsabilidad internacional del Estado y sus agentes deben considerarse como autores, cómplices o de otro modo

responsables bajo la Convención contra la Tortura por consentir o evitar prevenir dichos actos. El Relator Especial reitera su llamamiento al Gobierno a asegurar la investigación, procesamiento y eventual condena de personas culpables de violencia hacia las mujeres, y a legislar en la materia de conformidad con los estándares internacionales mencionados.

## Netherlands

- (a) JAL 08/10/2013 Case No. [NLD 2/2013](#) State Reply: [05/12/2013](#) **Alleged forced psychiatric interventions, including seclusion for various periods of time and forced medication without informed consent.**

114. The Special Rapporteur thanks the Government of the Netherlands for its response dated 13 May 2013 to the Joint Allegation Letter concerning alleged forced psychiatric interventions of Ms. Johanna Christina Santegoeds, including seclusion for various periods of time, forced medication without informed consent, and frequent forced body cavity searches during the period of October 1994 and May 1997. The Special Rapporteur had expressed concern that such forced intervention constituted a violation of Ms. Santegoeds' right to the enjoyment of the highest attainable standard of physical and mental health as embodied in article 12 of the International Covenant on Economic, Social and Cultural Rights (ratified by the Netherlands on 11 December 1978). The Special Rapporteur acknowledges the response of the Government that allegations "in general terms" were investigated and found without merit. However, it is regretful that no information from the investigations regarding allegations of physical injury resulting from forced medication and cavity searches was provided by the Government. If such facts are substantiated, the Special Rapporteur 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. Additionally, the Special Rapporteur expressed concern over the alleged use of solitary confinement and other measures which isolated those with mental disabilities further from the community. The Special Rapporteur echoed concerns expressed in his 2013 report to the Human Rights Council that prolonged seclusion and restraint may constitute torture or ill-treatment (A/63/175, paras. 55-56), excepted in the limited circumstances of risk of immediate harm to self or others. In this regard, the Special Rapporteur is encouraged by the response of the Government, detailing efforts in the Compulsory Mental Health Care Act and through programs such as Assertive Community Treatment, which encourage community access as a component of treatment and aim to eliminate the use of solitary confinement. The Special Rapporteur encourages the Government to continue in its engagement with the mandate.

## New Zealand

- (a) JAL 21/10/2013 Case No. [NZL 1/2013](#) State Reply: [20/12/2013](#) **Allegations concerning the medical treatment that Mr. X has received from the Mental Health Services.**

115. The Special Rapporteur acknowledges the reply transmitted by the Government of New Zealand on 2 December 2013; however, he notes that the Government has yet to provide substantive information pertaining to the issues raised. The referenced communication concerned information received alleging that, over the course of his continued medical treatment of 14 years, Mr. X was allegedly diagnosed with psychosis, schizophrenia and bipolar disorder. He was put on various neuroleptic medications in an ad-hoc manner, which allegedly affected his health and quality of life. For the past 10 years, he allegedly endured compulsory treatment that was not backed by evidence and provided for under the 1992 Mental Health Act. Furthermore, despite requests by Mr. X and his family, mental health services allegedly refused to supervise a phased

discontinuation of the medication. In this context, the Special Rapporteur would like to draw the Government's attention to article 12 of the International Covenant on Economic, Social and Cultural Rights, ratified by New Zealand on 28 December 1978, which provides *inter alia* for the right of everyone to the enjoyment of the highest attainable standard of mental and physical health. This includes the right to be free from non-consensual medical treatment. Additionally, the Special Rapporteur reiterates the Government's obligation under paragraph 19 of the International Covenant on Economic, Social and Cultural Rights to safeguard the individual's ability to exercise informed consent in health, and protect the individual against abuses as a fundamental aspect of protecting the right to health. Furthermore, the Special Rapporteur reiterates his 2013 report to the Human Rights Council, which states in paragraph 64 that both the mandate and United Nations treaty bodies have established that involuntary treatment and other psychiatric interventions in health-care facilities -except under limited circumstances of immediate risk of harm to self or others- are forms of torture and ill-treatment (A/63/175, paras. 44, 47, 61, 63; Human Rights Committee, communication No. 110/1981, *Viana Acosta v. Uruguay*, paras. 2.7, 14, 15.) and that to the extent that they inflict severe pain and suffering, they violate the absolute prohibition of torture and cruel, inhuman and degrading treatment (A/63/175, paras. 38, 40, 41). In turn, the Special Rapporteur notes that paragraph 1 of Human Rights Council Resolution 16/23, adopted in April 2011, "Condemns 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 urges the Government to assess its compliance with the above obligations and principles with regards to the medical treatment of Mr.X. Also, where appropriate, the Special Rapporteur urges the Government to adopt community integration as a method of treatment to further support the dignity, autonomy, equality and participation of persons with mental disabilities.

## Norway

- (a) **JUA 04/04/2013 Case No. [NOR 1/2013](#) State Reply: None to date** Alleged imminent risk of deportation of Mr. Mohammad Anwar Baloch to Pakistan, where he risks torture for criticizing the Government of Pakistan.

116. The Special Rapporteur regrets that the government of Norway 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 imminent risk of deportation of Mr. Mohammad Anwar Baloch, an asylum seeker and human rights defender from Pakistan. According to the information received, Mr. Anwar was appointed as a member of Baloch/Qaum Dost Committee, which was established for the purpose of negotiating the release of a UN official, Mr. John Solecki, who was kidnapped in Balochistan province. After the release of Mr. Solecki, the Committee discontinued its existence. Reportedly, five of its members were abducted by Pakistani security agents, three allegedly died in custody, two are missing, and another four members are in hiding. For fear of being abducted or killed, Mr. Anwar fled to Norway. While in Norway, Mr. Anwar continued his political and human rights activities including organizing protests and meetings in relation to the alleged human rights abuses in Balochistan by Pakistani army and security forces. According to the source, if returned to Pakistan, Mr. Anwar would be at risk of enforced disappearance, torture and being killed by the Pakistani Security Forces for his journalist, political and human rights activities. In this context, the Special Rapporteur reminds the government of Norway that article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, acceded to by Norway on 9 July 1986, 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, in paragraph 9 of General Comment No. 20 on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, 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 9 of Resolution A/RES/61/253 of the UN General Assembly, paragraph 16 of the Resolution A/RES/65/205 of the UN General Assembly, and paragraph 7(d) of Human Rights Council Resolution 16/23 urge 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. Those resolutions stress the importance of effective legal and procedural safeguards in this regard, and recognize 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 calls on the Government to undertake a prompt and independent investigation of the imminent risk of deportation of Mr. Anwar to Pakistan.

### **Palestine (State of)**

- (a) **UA 20/08/2013 Case No. [OTH 7/2013](#) Reply: None to date** Alleged risk of execution in the Gaza Strip of Mr. Hani Mohammed Abu Aliyan, the case of Mr. Faraj Abed Rabu, and the execution in June 2013 of Messrs. Emad Mahmoud Abu Ghalyoun and Husein Youssef Mohammad El Khatib.

117. The Special Rapporteur regrets that the de facto authorities in the Gaza Strip have not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged risk of execution of Mr. Hani Mohammed Abu Aliyan, the case of Mr. Faraj Abed Rabu, and the execution of Messrs. Emad Mahmoud Abu Ghalyoun and Husein Youssef Mohammad El Khatib in June 2013. It was reported that Mr. Abu Aliyan was convicted in May 2010 in two separate cases of homicide and is at particular risk of execution. Reportedly, the first case involved a charge of unintentional homicide, for which Mr. Abu Aliyan is alleged to have self-reported at the Khan Younis police station. The second case reportedly involves the rape and killing of a six-year-old in 2000; it was reported that Mr. Abu Aliyan was a minor at the time of the alleged offence. Mr. Abu Aliyan was reportedly subjected to torture and ill-treatment during interrogation, which resulted in a confession to the crimes involved in the second case. Mr. Faraj Abed Rabu, sentenced to death for charges of collaboration with an enemy entity, was allegedly forced to sign his confession after having been tortured during the interrogation process. It was also reported that Mr. Emad Mahmoud Abu Ghalyoun and Mr. Husein Youssef Mohammad El Khatib were executed on 22 June 2013 following charges of “collaborating with the enemy”. Both men were allegedly subjected to torture and ill-treatment with the aim of forcing a confession. It was reported that at least 35 individuals are currently at risk of execution in the Gaza Strip and that the de facto authorities in the Gaza Strip have executed at least 16 individuals since 2009. It is further alleged that death sentences in the Gaza Strip are frequently imposed by military courts, including the trying of civilians, the procedures of which do not comply with international human rights standards of fair trial and due process. The Special Rapporteur expresses concern that the death penalty is imposed and carried out by the de facto authorities of Gaza in contravention of international human rights standards. The death penalty is imposed after proceedings that do not comply with fair trial and due process safeguards and after subjecting the defendants to torture or ill-treatment. As stated in his report to the General

Assembly (A/67/279; 9 August 2012), the Special Rapporteur finds that even if the emergence of a customary norm that considers the death penalty as per se running afoul of the prohibition of torture and cruel, inhuman or degrading treatment is still under way, most conditions under which capital punishment is actually applied renders the punishment tantamount to torture. Under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment. Both of those serious violations are involved in capital punishment as applied in the Gaza strip. The Special Rapporteur calls on the de facto authorities in the Gaza Strip to undertake a prompt and independent investigation into the alleged torture and execution of Mr. Emad Mahmoud Abu Ghalyoun and Mr. Husein Youssef Mohammad El Khatib, leading to prosecution and punishment of the perpetrators, and to provide full redress to the victim's family. The Special Rapporteur also calls on the de facto authorities in the Gaza Strip to 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 according to paragraph 7b of the Human Rights Council Resolution 16/23.

## Pakistan

- (a) **JAL 07/05/2013 [PAK 3/2013](#) State Reply: None to date** Alleged detention and torture of Mr. Hamid Hussain, and extracted confession through torture of guilt pertaining to blasphemy charges.

118. 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 alleged detention on blasphemy charges and alleged torture of Mr. Hamid Hussain in Pakistan. After his arrest, Mr. Hussain was allegedly locked up in a police station 20 kilometers away from his house, where he was tortured the entire night and forced to confess that he was involved in publishing a booklet depicting unfavorable "holy personages and companions (Sahaba) of the Holy Prophet." Mr. Hussain was subsequently kept in police custody for 10 days, in which one night he was reportedly kept in an unknown place and tortured by persons other than the police. It is believed that he was subsequently sent back to the police jail due to his father, a lawyer, pursuing a case against the police. In response, Mr. Hussain was sent to the Karachi Central Prison and kept in a five-by-five feet isolation ward, where he was not allowed to receive any visitors. Members of Mr. Hussain's family have reportedly accused a Judge of the ATC of allegedly demanding that they pay Rs 1 million to obtain his exoneration from the charges of blasphemy. The Special Rapporteur reminds the government of Pakistan that paragraph 7 (b) of Resolution 8/8 of the Human Rights Council states that "Intimidation 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." In addition, with regard to the confession extracted through torture, article 15 of the CAT and paragraph 7c of Human Rights Council Resolution 16/23 urge that statements 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. The Special Rapporteur calls on the Government to undertake a prompt and independent investigation of the torture of Mr. Hamid Hussain, leading to prosecution and punishment of the perpetrators and to provide full redress to the victim.

- (b) UA 12/07/2013 Case No. [PAK 4/2013](#) State Reply: [18/07/2013](#) (Only acknowledging receipt of communication) **Reported death of Ms. Shamim Akhter and her sister, Ms. Tasleem Akhter, and the attacks and death threats to their family members, including Mr. Ehtesham and Mr. Shafiq Arain.**

119. The Special Rapporteur appreciates the acknowledgement of receipt by the Government of Pakistan, received 18 July 2013, but regrets no further response has been received regarding this communication in reference to the reported death of Ms. X and her sister, Ms. Y and the attacks and death threats to their family members, including Mr. XX and Mr. XY. Ms. X was a human rights defender working for women's rights with a local non-government organization named Social Welfare Organization. On 4 June 2013, Ms. Y was brutally attacked in her residence in Hyderabad. It was reported that the alleged perpetrators cut off her hands, ears and fingers, gouged both of her eyes and robbed valuable jewelry. She was later found in her apartment by a family member, Mr. XX, who brought her to a civil hospital where she soon died as a result of her injuries. It was alleged that those accused of killing Ms. Y were exonerated based on fabricated grounds and as a result the Hyderabad police refrained from launching an investigation. Reportedly, Ms. X and Mr. XX received death threats for pursuing the case of Ms. Y. On 29 June 2013, Ms. X was fatally killed by three armed men, at least one of whom was allegedly involved in the murder of her sister, Y. It was reported that Mr. X, another family member, was also receiving death threats for pursuing the case of Ms. X. In this context, the Special Rapporteur reiterates paragraph 8a of Human Rights Council Resolution 16/23, which reminds States that "Intimidation 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." In the absence of other evidence, the Special Rapporteur concludes that Pakistan is responsible for the violation of the rights to life and physical and psychic integrity of these persons. The Special Rapporteur calls on the Government to undertake a prompt and independent investigation into the reported death of Ms. Shamim Akhter and Ms. Tasleem Akhter, leading to prosecution and punishment of the perpetrators.

- (c) UA 04/09/2013 Case No. [PAK 5/2013](#) State Reply: [04/09/2013](#) (Only acknowledging receipt of communication) **Allegations of violence and ill-treatment, including an attempt to kill, Ms. Ghulam Fatima, and threats to journalists and human rights defenders working in Sahiwal, Punjab.**

120. The Special Rapporteur appreciates the acknowledgement of receipt by the Government of Pakistan, received 4 September 2013, but regrets no further response has been received regarding this communication in reference to allegations of violence and ill-treatment, including an attempt to kill Ms. X, and threats to journalists and human rights defenders working in Sahiwal, Punjab. Allegations of acts of violence, harassment and intimidation of women and human rights defenders were the subject of a previous communication sent on 12 July 2013. An acknowledgement of receipt for it was sent on 18 July 2013; however, further response to this previous communication is still awaited from the Government of Pakistan. In the present communication it was reported that, on 13 August 2013, Ms. X was abducted by a group of around six people, beaten, dragged by her hair, forced to parade through a busy local market, taken to the group's gang leader and tied to a tree inside a compound, where she was further subjected to serious acts of violence. Reportedly, people in the vicinity heard her cries and contacted the police station. Just as she was about to be hanged and killed, Ms. X was rescued by a police officer from the Kamir Police Station. Reportedly, X was threatened and harassed a number of times by the same group of persons after being asked to sell her home at a price dictated by this group. It was also alleged that activists and human rights defenders who provide legal aid to individuals victimized by this group are often threatened by the group. It was reported that



the police did not arrest or detain any suspect, although her attackers were allegedly found in the compound attempting to kill her. Allegations suggest that the police accepted a plea from the alleged perpetrators that Ms. X went to the compound with the intention to kill them. According to reports, on 14 August 2013, journalists and human rights defenders visited the police station to inquire about the status of the case. A police officer allegedly threatened them indicating that a “fake encounter” could be conducted against them for interfering in the official work of police. Furthermore, Mr. Y, President of the Press Club, and Mr. Z, Director of the International Human Rights Commission, were reportedly informed that should they continue reporting the case, they would be “booked in the open FIR.” In this context, the Special Rapporteur reiterates that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the UDHR and the ICCPR. On the basis of the information available, the Special Rapporteur concludes that Pakistan, by the inaction of its institutions, is responsible for the severe violation of the physical and mental integrity of Ms. X and the threatened journalists. The Special Rapporteur calls on the Government to undertake a prompt and independent investigation into the alleged violence and ill-treatment of Ms. X, leading to prosecution and punishment of the perpetrators, and to provide full redress to the victim.

## **Panama**

- (a) AL 04/01/2013 Case No. PAN 7/2012 State reply: None to date **Alegaciones de malos tratos y uso excesivo de la fuerza por parte de los cuerpos de seguridad nacional en contra de manifestantes.**

121. El Relator Especial lamenta que, hasta la fecha, el Gobierno de Panamá no haya respondido a la comunicación conjunta con otros procedimientos especiales, enviada el 4 de enero de 2013. La comunicación se refería a las alegaciones sobre el uso excesivo de la fuerza por parte del Servicio Nacional de Fronteras (SENAFRONT) y el Servicio Nacional Aeronaval (SENAN) contra manifestantes durante diversas movilizaciones celebradas entre el 19 y 26 de octubre de 2012, principalmente en los barrios de Santa Teresita, Casa Lara y Casa Wilko. A consecuencia de dichos actos se reportaron tres muertos (dos de los cuales menores de edad), y al menos 50 heridos, 40 de los cuales por impacto de bala o perdigones. Además se alegaba que en general los centros de detención ofrecían condiciones inhumanas para los detenidos, y que cuatro detenidos fueron sometidos a actos de tortura. En este contexto, el Relator Especial reitera la obligación del Gobierno de implementar la prohibición absoluta y no derogable a todo acto de tortura y otros tratos o penas crueles, inhumanas o degradantes. Asimismo, hace referencia al Gobierno de Panamá al principio 4 de los Principios Básicos sobre el Empleo de la Fuerza y de Armas de Fuego por los Funcionarios Encargados de Hacer Cumplir la Ley, el cual señala que, “los funcionarios encargados de hacer cumplir la ley, en el desempeño de sus funciones, utilizarán en la medida de lo posible medios no violentos antes de recurrir al empleo de la fuerza y de armas de fuego”. Asimismo, hace referencia al principio 5 del mismo instrumento en el que se señala que dichos funcionarios deberán de actuar en proporción a la gravedad del delito y del riesgo que las circunstancias presenten. En ausencia de pruebas en contrario, el Relator concluye que Panamá es responsable de graves violaciones a la integridad física y psíquica de estas personas, exhorta al Gobierno a asegurar la investigación judicial de los hechos, y le pide que proporcione información acerca de las medidas que hayan sido tomadas.

## Papua New Guinea

- (a) **JUA 18/2/2013 Case No. [PNG 1/2013](#) State reply: None to date** Alleged torture and murder of Kepari Leniata, a 20-year-old woman accused of sorcery.

122. The Special Rapporteur regrets that the Government of the Independent State of Papua New Guinea 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 torture and execution of Kepari Leniata on 6 February 2013, for using sorcery to kill a six-year-old boy. It is reported that she was publicly stripped naked, tied up, and burned alive, while the crowd prevented the police from intervening. In this context, the findings of the Special Rapporteur on violence against women regarding reports of disproportionate numbers of executions of women accused of witchcraft and sorcery mirror those of the former Special Rapporteur on Torture, who conducted an official visit to Papua New Guinea in May 2010, and noted his concern regarding the lack of capacity to prevent and investigate crimes relating to domestic violence, tribal fighting and accusations of sorcery in his country mission report (A/HRC/15/52/Add.5 at para. 36). In the context of the prohibition of torture, the Special Rapporteur reminds the Government of Papua New Guinea of paragraph 2 of General Comment No. 20 of the Human Rights Committee, which provides that, “The 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 (accession of Papua New Guinea on 21 July 2008) 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). The Special Rapporteur finds that the Government of Papua New Guinea is responsible for the torture and execution of Ms. Kepari Leniata. He calls on the Government to undertake a prompt and independent investigation into her torture and execution, leading to prosecution and punishment of the perpetrators, and to provide full redress to the victim’s family.

## Qatar

- (a) **JUA 16/01/2013 Case No. [QAT 1/2013](#) State Reply: [12/02/2013](#)** Alleged immediate risk of extradition of Mishal Al Mutiry, a former diplomat to Saudi Arabia, he may be in danger of being subjected to torture and harsh sentences.

123. The Special Rapporteur thanks the Government of Qatar for its reply, dated 12 February 2013, to this communication in reference to the alleged risk of extradition of Mishal Al Mutiry, a former diplomat to Saudi Arabia. It is reported that during his tenure at the Saudi Arabian Embassy in the Netherlands, Mr. Mutiry was outspoken against the activities of Embassy officials financing and supporting extremist groups in the Netherlands. In 2004, it is alleged that he obtained political refugee status in the Netherlands, but was subsequently kidnapped in Brussels in 2006, and sent back to Saudi Arabia where he was tortured in prison. In 2011, it is reported that Mr. Mutiry escaped and fled to Qatar where he was seeking asylum, but has since been threatened to be handed back over to Saudi officials. In its reply, the Government of Qatar explained that Mr. Mutiry was not extradited and that he was sent to Casablanca, Morocco. The Special Rapporteur appreciates the reply and its commitment not to extradite Mr. Mutiry to Saudi Arabia. He finds that Qatar has complied with its obligations under Art. 3 of the Convention Against Torture (CAT) not to 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 also encourages the Government to continue its engagement with the mandate.

## Romania

- (a) UA 16/08/2013 Case No. ROU 1/2013 State Reply: None to date **Alleged ill-treatment and denial of medical and psychological treatment of persons with disabilities.**

124. The Special Rapporteur regrets that the Government of Romania has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication refers to the alleged ill-treatment and denial of medical and psychological treatment of persons with disabilities, including mental disabilities, at the “Gheorghe Serban” Centre for Recuperation and Rehabilitation of Neuropsychiatry in Bucharest, Romania. According to the allegations, disabled persons at this center are sedated and kept in dark rooms, are occasionally beaten, provided inadequate food, and are denied adequate medical and psychological care. The Special Rapporteur reminds the Government of Romania that paragraph 1 of Human Rights Council Resolution 16/23 “Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation... 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.” Additionally each Government has the obligation to protect the right to physical and mental integrity of all persons, as set forth inter alia in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention against Torture. The Special Rapporteur also reiterates that article 25 of the Convention on the Rights of Persons with Disabilities provides that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. Additionally, the Special Rapporteur reiterates that there can be no therapeutic justification for the use of solitary confinement and prolonged restraint of persons with disabilities in psychiatric institutions. Without any evidence to the contrary, the Special Rapporteur concludes that the victims’ rights under international standards relating to the prohibition of torture and ill-treatment, as well as other standards of international human rights and humanitarian law, have been violated. The Special Rapporteur urges the Romanian Government to clarify the alleged facts, to conduct thorough and independent investigations, leading to the prosecution and punishment of all perpetrators, to provide compensation for the victims and ensure the non-repetition of such acts.

## Russian Federation

- (a) JUA 08/10/2013 Case No. [RUS 8/2013](#) State reply: [14/11/2013](#) **Alleged conditions of forced labor, threats and solitary confinement during detention in contravention of international standards.**

125. The Special Rapporteur appreciates the reply of the Government of the Russian Federation, dated 14 November 2013, to this communication in reference to the alleged forced labour in prison which does not comply with international standards, threats as a consequence of complaint, hunger strike and hospitalization. According to the information received, Ms Nadezhda A. Tolokonnikova, a woman held in correctional colony no. 14 (Mordoviya Republic), and other prisoners in the same facility, were forced to work for up to 16 hours per day. It is reported that they were only permitted to sleep 4 hours per night, and were not provided their entitled days of rest. It is further reported, the sewing equipment used to perform the prison labour, making police uniforms, was reportedly

outdated, leading to injuries and the remuneration for the work did not comply with standards. It is alleged that complaints by Ms Tolokonnikova led to retaliation and threats against her by the deputy governor of the colony. In protest against the conditions of work, Ms Tolokonnikova subsequently went on a hunger strike. Her health reportedly deteriorated and on 29 September 2013, she was transferred from solitary confinement to a hospital, where for some time, she was reportedly denied access to visitors, including her husband, except for doctors. In this context, the Special Rapporteur reiterates that each Government has the obligation to protect the right to physical and mental integrity of all persons as set forth inter alia in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Further, the Special Rapporteur draws the attention of the Government of Russia to the Standard Minimum Rules for the Treatment of Prisoners and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment. In this context, the Special Rapporteur also recalls article 12 of the International Covenant on Economic, Social and Cultural Rights, ratified on 16 October 1973, which provides for the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; including an obligation on the part of all State parties to ensure that health facilities, goods and services are accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination. Lastly, the Russian Government is referred to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, which provides that, “States are under the obligation to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers and illegal immigrants, to preventive, curative and palliative health services...” (para.34). In the General Comment, the Committee interprets article 12.2(b) of the Covenant to include safe and hygienic working conditions, preventive measures in respect of occupational accidents and diseases and the minimization, so far as is reasonably practicable, of the causes of health hazards inherent in the working environment (para.15). The Special Rapporteur requested that the Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person are respected and, in the event that the investigation supported the allegation, the accountability of any person responsible of the alleged violations be ensured and preventative measure be put in place.

126. On 23 December 2013, Ms. Nadezhda A. Tolokonnikova was early released under a newly passed amnesty bill.

- (b) UA 05/11/2103 Case No. [RUS\\_10/2013](#) State reply: [03/12/2013](#) **Allegations of forced labor in prison camp, mistreatment, denial of access to counsel, and secret transfer of prisoner.**

127. The Special Rapporteur thanks the Government of the Russian Federation for its reply, dated 3 December 2013, to this communication in reference to allegations concerning the treatment in detention of Ms. Nadezhda Tolokonnikova from September to October 2013. This communication was a follow-up and update on an urgent appeal submitted on 8 October 2013 related to allegations of forced labour in prison amounting to slavery, which reportedly resulted in retaliation by prison authorities, a hunger strike by Ms. Tolokonnikova, and her hospitalization. According to the additional information received, after Ms. Tolokonnikova’s lawyers were denied the right to see her in prison camp hospital LPU-21, she was transferred by means of physical force to her former prison camp IK-14 on 17 October 2013. Three days later, Ms. Tolokonnikova was reportedly taken to the transit section of prison camp IK-18, where her lawyers were again denied access, and

placed on a convict transit train headed to the Eastern part of Russia. At the time of the communication, Ms. Tolokonnikova's whereabouts, which remained unconfirmed by officials, were unknown to her lawyers and her family and serious concern was expressed about her health and safety. In its reply, the Government verified the information contained in the communication, and stated that on 23 September 2013, Ms. Tolokonnikova was transferred from her prison camp, IK-14, to a secure location for a period of 30 days, after she submitted a letter stating her intention to begin a hunger strike and containing a request to ensure her safety because of threats and physical intimidation on the part of officials and prisons in prison IK-14. The Government explained that Ms. Tolokonnikova's complaint was dismissed on 26 September in a decision not to investigate the allegations or institute a criminal case under the Criminal Procedure Code, and safety and security measures were discontinued. It is further provided that on 29 October 2013, the dismissal of Ms. Tolokonnikova's complaint was revoked by regional authorities in the Republic of Mordovia, who requested an examination of the reasons behind the decision not to investigate or sanction prison IK-14 officials. The Government denied allegations that any of Ms. Tolokonnikova's visitation requests were refused, and affirmed that she was allowed to communicate with her lawyers and a human rights expert from the State Duma on eight occasions. The Government holds that Ms. Tolokonnikova was legitimately denied a visit with her lawyer on 22 October 2013 under Article 89 of the Criminal and Executive Code, which only permits meetings with lawyers on the territory of correctional facilities, because at the time she was in transit between correctional facilities. The Government further submits that Ms. Tolokonnikova was provided adequate medical care and regular examinations whilst in detention, including hospital treatment between 29 September and 17 October 2013. The Government lastly provides that due to a possible threat to Ms. Tolokonnikova's life and health in prison IK-14, she was ultimately transferred to the KTB-1 correctional facility in the Krasnoyarsk Region, that authorities notified her relatives of her arrival in accordance with regular procedures, and that her health condition was considered satisfactory whilst she continued to undergo appropriate medical treatment and examinations. The Special Rapporteur thanks the Government for its detailed response clarifying Ms. Tolokonnikova's whereabouts at the times referred to in the communication. The Special Rapporteur notes that, in late 2013, Ms. Tolokonnikova was pardoned and released from prison, for which he commends the Russian Government. Nevertheless, the State's response did not address the allegations of forced labour in prison amounting to slavery, or the mistreatment of Ms. Tolokonnikova by prison authorities in the IK-14 colony as retaliation for her complaints, nor does it explain the outcome of the investigation conducted into these allegations. In this context, the Special Rapporteur expresses continued concern for the welfare and rights of persons who may continue to be subjected to forced labour in this prison. The Special Rapporteur draws attention to article 4 of the Universal Declaration of Human Rights and article 8(1), (3)(a) of the ICCPR, which prohibit slavery, and to articles 71-76 concerning prison labour in the Standard Minimum Rules for the Treatment of Prisoners, adopted in resolutions 663 C and 2076 of the United Nations Economic and Social Council, which provide minimum standards related to conditions for work and state, *inter alia*, that "prison labour must not be of an afflictive nature" The Special Rapporteur calls on the Government to undertake a prompt and independent investigation into all such allegations, leading to prosecution and punishment of perpetrators, and to provide full redress to the victims' families. The Special Rapporteur also encourages the Government of the Russian Federation to continue its engagement with the mandate.

## Saudi Arabia

- (a) **JUA 11/01/2013 Case No. [SAU 2/2013](#) State Reply: [19/01/2013](#)** Alleged execution of Rizana Nafeek, a 17 year old Sri Lankan domestic worker, who was charged with murder for killing a baby in her care in 2005.

128. The Special Rapporteur thanks the Government of Saudi Arabia for its reply, dated 19 January 2013, to this communication in reference to the alleged execution of Rizana Nafeek, who allegedly committed murder when she was 17 years old. She was convicted and sentenced to capital punishment. During the trial, it is reported that she did not have access to a translator to enable her to explain the circumstances that led to the child's death, and signed a confession under duress. In its reply, the Government of Saudi Arabia explained the legal protections guaranteed to Ms. Nafeek, but did not address whether she received translations or signed a confession under duress. The reply also contained facts surrounding the murder and used her passport as confirmation that she was 21 years old when she committed the crime. Although the Special Rapporteur appreciates the reply, he reminds the Government of Saudi Arabia that article 15 of the Convention against Torture, which Saudi Arabia acceded on 23 September 1997, provides that, "Each 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." The Special Rapporteur also reiterates that paragraph 7c of Human Rights Council Resolution 16/23 urges States "To 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 urges that all rights to a fair trial are granted to the accused, and torture is not used as a means of obtaining incriminating evidence in trial. The Special Rapporteur finds that the passport of an immigrant is not persuasive on the evidence of having reached adulthood and the judicial authorities had a duty to establish Ms. Nafeek's age beyond a reasonable doubt, in order to comply with Art. 6 of the Convention on the Rights of the Child and with the prohibition of applying the death penalty to minors, a rule of customary international law. Under the circumstances, the Special Rapporteur finds that Saudi Arabia has violated the right to life and physical integrity to Ms. Rizana Nafeek.

- (b) **JUA 04/03/2013 Case No. [SAU 3/2013](#) State Reply: [30/04/2013](#) Alleged imminent risk of execution of seven individuals who were forced to confess to their crimes through torture.**

129. The Special Rapporteur thanks the Government of Saudi Arabia for its reply, dated 30 April 2013, to this communication in reference to the alleged death sentence being applied against Messrs. Sarhan b Ahmad b Abdullah Al Mashaikh, Saeed b Hassan b. Ahmad Al Omari Al Zahrani, Ali b. Mohamed b. Hazzam Al Shahri, Nasser b Saeed b Saad Al Qahtani, Saeed b. Nasser b Mohamed Al Yaala Al Shahrani, Abdulaziz b Saleh b Mohamed Al Amri, and Ali b Hadi b Saeed Al Qahtan for an unsubstantiated claim that they conspired to organize a criminal group to commit armed robbery and raiding jewelry stores. It is reported that the seven individuals did not know each other before being arrested so it was not possible for them to have conspired. Allegedly, the seven individuals were tortured under various methods. They were reportedly forced to stand for long hours in pre-trial detention and told that if they did not confess to the crime their families would be harmed. They were denied sleep and warm clothing in their cell and allegedly given

hallucinogens in their food. In court, it is reported that they were denied an effective defense and received a non-appealable guilty verdict. In addition to the death sentences, it was reported that Mr. Al Mashaikh was sentenced to crucifixion and put on public display for three days for being the mastermind of the robberies. In its reply, the Government of Saudi Arabia denies that there was any torture conducted during their detention, and the confessions were given by the defendants on their own freewill. Reportedly other evidence like DNA was present at the scene of the crimes, and each defendant was awarded procedural protections to guarantee fair trials. The response also denied that any of the defendants were sentenced to crucifixion. Although the Special Rapporteur appreciates the reply, he reminds the Government of the Special Rapporteur's report to the United Nations General Assembly A/67/279 of 9 August 2012. In his report the Special Rapporteur observes that the possible safeguards given during legal process to ensure a fair trial in cases in which the death penalty might be imposed should be at least equal to those contained in article 14 of the ICCPR and that the imposition and enforcement of the death penalty following an unfair trial must be considered as particularly cruel, inhuman and degrading and in violation of article 7 of the ICCPR and articles 1 and 16 of the Convention Against Torture (CAT) (paras. 58, 60 and 61). The Special Rapporteur reiterates article 15 of the CAT, providing that, "Each 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." The Special Rapporteur would also like to remind the Government of paragraph 6c of Human Rights Council resolution 8/8 of 2008, which urges States "to 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". The Special Rapporteur finds that the Government's reply fails to show that a serious, impartial and independent investigation was made about the allegations of torture-tainted confessions. He also encourages the Government to continue its engagement with the mandate.

- (c) JAL 15/08/2013 Case No. [SAU 7/2013](#) State Reply: [14/01/2014](#) **Alleged torture during interrogation process to coerce a confession used to incriminate and substantiate a conviction for participating in terrorist activities in Saudi Arabia.**

130. The Special Rapporteur regrets that the Government of Saudi Arabia has not responded to this communication dated 25 August 2013, thereby failing to cooperate with the mandate established by the Human Rights Council. This communication expressed concerns over allegations that, on 11 June 2003, Mr. Ahmed Abu Ali was arrested in Medina, Saudi Arabia, tortured in prison until he confessed to being a member of an Al-Qaeda cell. It is alleged that he was then transferred to Riyadh where he was subjected to further torture, practices of solitary confinement, and sleep deprivation. Finally, it is reported that Mr. Ali was transferred to the United States where the confessions he made during the interrogation processes in Saudi Arabia were used against him in a conviction for material support to the Al Qaeda network. In this context, the Special Rapporteur would like to reiterate paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns 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." Additionally, General Assembly Resolution 66/171 and Human Rights Council Resolution 19/19, affirms in paragraph 1 "that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law." The Special Rapporteur would also like to reiterate paragraph 7b of Human Rights Council Resolution 16/23, which 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 [...]” The Special Rapporteur urges the Government to conduct a prompt and independent investigation of the alleged detention and torture of Mr. Ahmed Abu Ali with an aim to hold those responsible accountable. It is also requested that the Government assess the conditions and alleged interrogation practices of the Mabahith, or the Saudi security forces. The Special Rapporteur also calls on the Government to ensure the identified person obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (d) UA 12/09/2013 Case No. [SAU 8/2013](#) State reply: None to date **Alleged pattern of judicial harassment, detention, ill-treatment, and sentencing by secret trials of human rights defenders.**

131. 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 an alleged pattern of judicial harassment, detention, ill-treatment, and sentencing of human rights defenders Mr. Miklif bin Daham al-Shammari (Muklif Shammari), Mr. Abdullah bin Hamid bin Ali al-Hamid, Mr. Mohamed bin Fahad bin Muflih al-Qatani, Mr. Omar al-Saeed, Mr. Fowzan al-Harbi, Mr. Abdulkareem Yousef al-Khoder, Mr. Saleh al-Aswan, Ms. Wajeha al-Huwaider and Ms. Fawzia al-Oyouni. Serious concern was expressed about the detention, torture, solitary confinement, secret trials, sentences and travel bans reportedly imposed upon the named individuals on charges including, *inter alia*, *takhib*, or incitement of a wife to defy the authority of her husband; harming public order and the image of the State and questioning the integrity of State officials; calling the governing system repressive, oppressive and racial, and belonging to an unlicensed group, namely the Saudi Civil and Political Rights Association (ACPRA). Serious concern was expressed about the possibility that the mistreatment of the aforementioned individuals was the direct result of their human rights activities, and about the restrictive effect these allegations have on the environment in which human rights defenders in Saudi Arabia must carry out their peaceful and legitimate work. In this context, the Special Rapporteur stresses that the Government has the obligation to protect the right to physical and mental integrity of all persons, a right that is set forth *inter alia* in the UDHR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The Special Rapporteur also wishes 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.” With regard to the allegations of solitary confinement, the Special Rapporteur reminds the Government of 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 calls on the Government to conduct prompt and independent investigation into the alleged arrests, detention, acts of torture and ill-treatment and provide full redress to the victims, to clarify the circumstances surrounding the alleged secret trials and sentences imposed upon the named individuals,



and to take all necessary measures to guarantee that the rights and freedoms of the abovementioned persons are respected.

- (e) UA 07/10/2013 Case No. [SAU 9/2013](#) State reply: None to date **Alleged imminent execution in violation of international human rights law standards including due process and the right to counsel.**

132. 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 alleged risk of imminent execution of Mr. Mabrook Ali Saleh Al Sai'ari. Reportedly, Mr. Sai'ari was convicted of murder in 2000 and served his four and a half year sentence in full, before being released and re-arrested for the same alleged crime shortly thereafter, in 2005. It is alleged that in 2012, Mr. Sai'ari was sentenced to death and that his execution, which was scheduled for 8 September 2013, was postponed for approximately 70 days. Concern was expressed that the proceedings against the defendant did not meet due process standards under international human rights law, as he was allegedly unable to appeal his death sentence and could not afford and was not provided any legal assistance. In this context, the Special Rapporteur would like to remind the Government of Sudan of his report to the United Nations General Assembly A/67/279 of 9 August 2012. The Special Rapporteur reiterates Safeguard 5 of the UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, which provides that "[c]apital punishment may only be carried out pursuant to a final judgment rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings," and that the imposition and enforcement of the death penalty following an unfair trial must be considered as particularly cruel, inhuman and degrading and in violation of article 7 of the ICCPR and articles 1 and 16 of the Convention Against Torture (CAT) (paras. 58, 60 and 61). The Special Rapporteur calls on the Government to commute Mr. Sai'ari's death sentence, to undertake a prompt and independent investigation into the irregularities in the trial, and to provide full redress to the victim.

## Spain

- (a) UA 24/07/2013 Case No. [ESP 2/2013](#) State reply: [25/09/2013](#) **Alegación sobre el riesgo de persecución, tortura y/o malos tratos en el caso de aprobarse la extradición del Sr. Alexandr Pavlov a Kazajistán** (referirse al caso no. ESP 6/2013 y KAZ 3/2013).

133. El Relator Especial agradece al Gobierno de España por su respuesta, de fecha 25 de septiembre del 2013, a la comunicación conjunta con otros procedimientos especiales. La comunicación se refiere a la posible extradición a Kazajistán del Sr. Alexandr Pavlov, ex guardaespaldas del Sr. Mukhtar Ablyazov, en forma incompatible con el principio de non-refoulement (no devolución), ya que existen motivos fundados para creer que el individuo estaría en peligro de persecución, tortura y malos tratos. De acuerdo a informes, el Sr. Ablyazov, quien es el ex Ministro de Energía, Industria y Comercio de Kazajistán y opositor político del presidente, Sr. Nazarbayev, fue objeto de tortura mientras se encontraba en prisión en Kazajistán y posteriormente fue admitido en el Reino Unido como asilado político en el año 2011. La comunicación se refería también a numerosas violaciones de procedimiento durante la solicitud de asilo del Sr. Pavlov, presentada el 24 de enero 2013, incluyendo la supuesta falta de protección por parte de las autoridades españolas ante amenazas hechas por empleados consulares kazajos durante su estancia en

prisión. El Relator Especial lamenta que la comunicación enviada por el Gobierno de España no hace referencia a la iniciación de acciones judiciales respecto a las alegaciones sobre amenazas en contra del Sr. Pavlov, ni a las razones por las cuales se haya determinado que las mismas no tuvieron lugar. En este contexto, el Relator hace referencia al párrafo 8 (b) de la Resolución 16/23 del Consejo de Derechos Humanos, el cual señala que “La intimidación y la coacción, que se describen en el artículo 1 de la Convención contra la Tortura, incluidas las amenazas graves y creíbles a la integridad física de la víctima o de un tercero, así como las amenazas de muerte, pueden equivaler a tratos crueles, inhumanos o degradantes o a tortura.” El Relator Especial exhorta al Gobierno a asegurar la investigación judicial de los hechos, y pide al Gobierno que proporcione información acerca de las medidas que hayan sido tomadas.

134. El Relator Especial aprecia la detallada información recibida sobre el estatus del procedimiento judicial, en el cual la Audiencia Nacional se encontraría resolviendo el caso de extradición, como también, la confirmación de que dicha instancia considerará los peligros a los que se sometería el individuo de ser extraditado. De igual manera, el Relator reitera el artículo 3 de la Convención contra la Tortura, según el cual “Ningún Estado Parte procederá a la expulsión, devolución o extradición de una persona a otro Estado cuando haya razones fundadas para creer que estaría en peligro de ser sometida a tortura”. De igual manera, subraya que los Estados miembros del Pacto Internacional de Derechos Civiles y Políticos tienen la obligación general de respetar los derechos establecidos en el Pacto y asegurar su aplicación a todos los individuos, sin excepción alguna, que estén en su territorio y sometidos a su jurisdicción. El Relator Especial agradece al Gobierno por expresar su compromiso de remitir eventualmente la decisión de la Audiencia Nacional y la información en la cual se base dicha decisión.

- (b) UA 22/11/2013 Case No. [ESP 6/2013](#) State reply: [13/12/13](#) and [24/01/2014](#) **Alegación sobre la autorización de la Audiencia Nacional a la solicitud de extradición del Sr. Alexander Pavlov a Kazajistán en el caso de aprobarse la extradición por el Consejo de Ministros de España** (referirse al caso no. ESP 2/2013).

135. El Relator Especial agradece al Gobierno de España por su respuesta, de fecha 13 de diciembre del 2013, a la comunicación conjunta con otros procedimientos especiales, en referencia a la nueva información recibida sobre la autorización de la solicitud de extradición del Sr. Alexander Pavlov emitida por la Audiencia Nacional el 8 de noviembre del 2013. Se informa también que la extradición del antes mencionado deberá ahora ser confirmada por el Consejo de Ministros de España, que tendría atribuciones como para no seguir con la postura de la Audiencia Nacional. La comunicación reiteraba la preocupación del Relator Especial sobre los riesgos de tortura y malos tratos en el caso de aprobarse la extradición del Sr. Pavlov a Kazajistán. El Relator Especial agradece al Gobierno de España por la detallada información recibida en relación a los procedimientos y razonamientos jurídicos considerados por la Audiencia Nacional al autorizar la solicitud de extradición. En este contexto, desea hacer referencia al voto particular de siete de los diez jueces que conforman la Sala de lo Penal Sección 003 de la Audiencia Nacional establecido en la Suplica No. 51/13, el cual reitera la obligación constitucional del Estado de prevenir o impedir un peligro de tortura o tratos inhumanos, y para ello de ser necesario denegar la extradición del individuo como parte de un mecanismo de tutela y garantía de los derechos humanos. Asimismo, se refiere al artículo 5.1 de la ley de extradición española que establece como causa potestativa de denegación de la extradición a la existencia de razones fundadas para creer que la solicitud de extradición se ha presentado con el fin de perseguir o castigar a una persona. En base a lo anterior, el Relator hace referencia a las continuas denuncias que se han recibido sobre torturas y/o malos tratos de detenidos y presos en Kazajistán, así como también, a sus conclusiones luego de la visita de su predecesor al país en 2009, en las que se establece que “el uso de tortura y los malos tratos en Kazajistán

excede situaciones aisladas”. Además, recuerda los dos casos resueltos por la Corte Europea de Derechos Humanos en el año 2010 relativos a la cancelación de procesos de extradición a Kazajistán debido a riesgos justificados de tortura y/o malos tratos. El Relator Especial insta al Gobierno de España a adoptar todas las medidas necesarias para asegurar los derechos del Sr. Alexandr Pavlov y a que no se le extradite.

## Sri Lanka

- (a) **JAL 07/03/2013 Case No. [LKA 2/2013](#) State Reply: [19/06/2013](#)** Alleged deaths in custody of Mr. Koggala Marakkalage Thushara Samanthilake, Mr. M.D. Kalum Priyanath, and Mr. Chandrasiri Dasanayaka by police beatings.

136. The Special Rapporteur thanks the Government of Sri Lanka for its reply, dated 19 June 2013, to this communication in reference to the alleged deaths in custody of Mr. Koggala Marakkalage Thushara Samanthilake, Mr. M.D. Kalum Priyanath, and Mr. Chandrasiri Dasanayaka. It is reported that Mr. Samanthilake jumped out of a moving police vehicle after being arrested for drug possession. However, it is alleged that the injuries he sustained to his head were not caused by jumping out of the police vehicle, but by police beatings while in custody. It is alleged that witnesses fear testifying because of reprisals by the police. Mr. Priyanath was arrested for possessing marijuana and the police alleged that he hit his head, causing his death. However, the only corroborating evidence provided was allegedly a falsified statement by Mr. Priyanath’s sister, while a Judicial Medical officer report asserted Mr. Priyanath received lethal injuries from police beatings. Mr. Dasanayaka was allegedly arrested for possessing two marijuana cigars, but was a key witness in a case against the Officer-in-Charge at the Wadduwa Police Station. Reportedly, Mr. Dasanayaka’s son visited his father while he was in detention, and saw his father had sustained injuries to his face. The next day it was reported that he was taken to the hospital and was declared dead on arrival. In its reply, the Government of Sri Lanka explains that Mr. Samanthilake died from injuries to the head, and that an internal investigation was conducted by a senior police officer. Disciplinary measures are being issued against the responsible officers for “neglect of duty.” The Government does not address whether these officers beat the detainee, or if the death was caused by the officers. The Government alleges that Mr. Priyanath died of cardiac arrest, and after collapsing in his cell he was immediately brought to the hospital but could not be saved. The Government accepts that Mr. Dasanayaka’s death was caused by blunt trauma to the chest, and the case has been forwarded to the Magistrate’s Court Panadura, Case b/ 04561/12. The Special Rapporteur thanks the Government for the reply, but notes that it does not show that these investigations of deaths in custody were made under conditions of impartiality and independence. In addition, disciplinary proceedings for “neglect of duty” do not satisfy the State’s obligation to investigate, prosecute and punish allegations of torture and of deaths in custody under alleged mistreatment. He reminds the Government of Sri Lanka that the obligations to investigate, identify those responsible and bring them to justice arise under articles 7 and 12 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which the Government of Sri Lanka acceded to on 3 January 1994. The Special Rapporteur urges the Government to carry out an expeditious, independent and transparent inquiry into the circumstances surrounding the deaths Mr. Koggala Marakkalage Thushara Samanthilake, Mr. M.D. Kalum Priyanath, and Mr. Chandrasiri Dasanayaka, with a view to taking all appropriate disciplinary and prosecutorial action and ensuring accountability of any person guilty of the alleged violations, as well as to compensate the victims’ families. In this respect the Special Rapporteur notes that Human Rights Council Resolution 16/23, paragraph 7(b), urges States to hold responsible not only those who perpetrate torture, but also those “who encourage, order, tolerate or perpetrate such acts [...], 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.” The Special Rapporteur also encourages the Government of Sri Lanka to continue its engagement with the mandate.

- (b) JAL 02/09/2013 Case No. [LKA 4/2013](#) State reply: [19/09/2013](#) **Allegations of excessive use of force, including lethal force, during a peaceful assembly, resulting in deaths and injured protesters.**

137. The Special Rapporteur thanks the Government for its reply dated 19 September 2013 to information received alleging that on 1 August 2013, in Weliveriya, the Gampaha District of the Western Province in Sri Lanka, more than 4,000 protesters assembled peacefully to demand the Government to take action against a company whose factory had polluted the water - the only drinking water resource in about 15 local villages. The police reportedly used tear gas to break up the protest, and the military, who were offering assistance to the police to disperse the crowd, shot at the protesters. Reportedly, at least three people have been killed and many more have been injured and hospitalized, including media professionals. The Special Rapporteur expressed concern that allegations of excessive use of force by security officials in response to the protest are contrary to article 6(1) of the ICCPR, under which the Government of Sri Lanka has the obligation to protect every individual’s right to life and to ensure that no individual on its territory or subject to its jurisdiction is arbitrarily deprived of his or her life. The Special Rapporteur thanks the Government for its response in which it details the steps taken to investigate the use of force, and it is encouraging that officials under investigation have been relieved of their position while inquiries are made. The Special Rapporteur further encourages the Government to continue its investigation, and prosecute and punish all violations of the right to life, in line with the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (adopted by the Economic and Social Council resolution 1989/65). The Government is also encouraged to recall that the families and dependents of victims of extra-legal, arbitrary or summary executions shall be entitled to fair and adequate compensation within a reasonable period of time pursuant to principle 20. The Special Rapporteur requests that the Government continue in its engagement with the mandate.

## Sudan

- (a) **JUA 22/02/2013 Case No. [SDN 2/2013](#) State reply: [15/03/2013](#) Alleged imposition of the death penalty on Mr. Bakri Moussa Mohammed, a community activist in the Kalma camp for displaced persons in South Darfur.**

138. The Special Rapporteur thanks the government of Sudan for its reply, dated 15 March 2013, to this communication in reference to the alleged imposition of the death penalty on Mr. Bakri Moussa Mohammed. The communication inquired about the imposition of the death penalty on Mr. Bakri Moussa Mohammed, a community activist in the Kalma camp for displaced persons in South Darfur. It is alleged that Mr. Moussa Mohammed was convicted of murder in spite of his protestation of innocence. He was first sentenced to ten years in prison and later resentenced to capital punishment. Reportedly, the day he was resentenced, Mr. Moussa Mohammed was brought to the gallows three times before he was informed his execution was postponed for 35 days. In this context, the Special Rapporteur reminds the Government of Sudan of his report to the United Nations General Assembly A/67/279 of 9 August 2012. The Special Rapporteur observes that the procedural safeguards to ensure a fair trial in cases in which the death penalty might be imposed should be at least equal to those contained in article 14 of the ICCPR and that the

imposition and enforcement of the death penalty following an unfair trial must be considered as particularly cruel, inhuman and degrading and in violation of article 7 of the ICCPR and articles 1 and 16 of the Convention Against Torture (CAT) (paras. 58, 60 and 61). In addition, taking a prisoner to the gallows three times before issuing a postponement of execution qualifies as cruel, inhuman and degrading treatment or punishment. The Special Rapporteur reminds the Government that Sudan is a signatory of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which it signed on 4 June 1986. The Special Rapporteur calls on the Government to clarify the resentencing of Mr. Bakri Moussa Mohammed, and explain how it is compatible with the Convention Against Torture.

- (b) **JUA 16/04/2013 Case No. [SDN 4/2013](#) State Reply: [22/08/2013](#)** Alleged torture and incommunicado detention of Mr. Hatim Ali Mohammed, as well as the incommunicado detention of Mr. Sharf Eldein Tia.

139. The Special Rapporteur thanks the government of Sudan for its reply, dated 22 August 2013, to this communication in reference to the reported torture and detention of Mr. Hatim Ali Mohammed and the incommunicado detention of Mr. Sharf Eldein Tia. The communication referred to the alleged torture of Mr. Hatim Ali Mohammed, his incommunicado detention and subsequent risk of further torture and ill-treatment as well as the incommunicado detention of Mr. Sharf Eldein Tia. Mr. Sharf Eldein Tia is the nephew of Ms. Jalila Khamis Koko, a Nuba women's rights activist who was detained for 10 months before she was released last January 2013. Ms. Khamis Koko had been the subject of a joint urgent appeal sent on 12 October 2012 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the promotion and protection of human rights while countering terrorism and the Special Rapporteur on violence against women, its causes and consequences. No response was received from the government of Sudan to that communication. According to the information received, Mr. Hatim Ali Mohammed was arrested during a peaceful protest, detained for several hours, tortured by beating, and then subsequently held in incommunicado detention. The same risk applies to Mr. Sharf Eldein Tia, who is also held incommunicado. As highlighted in communications sent to the Government on 6 July 2012 and 3 August 2012, it is reported that over the months of June to August of 2012, hundreds of peaceful protesters and civil society activists were arrested in response to a wave of demonstrations that affected many of Sudan's largest cities. The police allegedly tortured and otherwise ill-treated the detainees by kicking them; beating them with sticks, rubber hoses and fists; making them stand in scorching heat for days at a time; depriving them of food, water and sleep; and forcing them to adopt stress positions. In this context, the Special Rapporteur would like to remind the government of Sudan with regard to the alleged torture of Mr. Hatim Ali Mohammed, paragraph 1 of Human Rights Council Resolution 16/23 "condemns 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 this regard, we note that paragraph 2 of Resolution 16/23 of the Human Rights Council, which "Condemns in particular any action or attempt by States or public officials to legalize, authorize or acquiesce to torture and other cruel, inhuman or degrading treatment or punishment under any circumstances, including on grounds of national security or through judicial decisions, and urges States to ensure accountability for all such acts." In addition, paragraph 8b of Human Rights Council Resolution 16/23 states that "Prolonged 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 to undertake a prompt and independent investigation of the torture and incommunicado detention of Mr. Hatim Ali Mohammed as well as the incommunicado detention of Mr. Sharf Eldein Tia, leading to prosecution and punishment of the perpetrators and to provide full redress to the victims.

- (c) JAL 15/08/2013 Case No. [SDN 6/2013](#) State Reply: None to date **Amendment of Sudan’s Armed Forces Law of 2007, adopted on 2 July 2013 by parliament, and its possible incompatibility with the right to a fair trial and due process, freedom of expression, the rights to liberty and security, the right to be free from torture and ill-treatment, and the right to life, particularly where defendants face the death penalty.**

140. 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 the amendment of Sudan’s Armed Forces Law of 2007, the extension of the jurisdiction of military courts over civilians and the amendment’s possible incompatibility with the fundamental rights recognized in Sudan’s Interim National Constitution, as well as international human rights standards. The amendment reportedly stipulates that every person – irrespective of their military status or connection with Sudan’s armed forces – who commits or is suspected of committing any act undermining the security of the State is subject to the jurisdiction of Sudan’s military courts, thereby subjecting civilians to the jurisdiction of military courts in relation to a large number of broad and vaguely worded offences. It has been reported that under this amendment journalists, political opponents, human rights defenders and others have been prosecuted for their peaceful activities, particularly for exercising their freedom of expression. It is further alleged that a number of those individuals were tried before special courts in proceedings that did not meet fair trial standards, including by accepting evidence alleged to have been extracted under torture. These courts have reportedly imposed the death penalty in several cases. Regarding the allegation that military courts have accepted evidence extracted under torture and the allegation that military courts are unlikely to investigate torture committed by State agents, the Special Rapporteur reiterates that article 15 of the Convention against Torture and other cruel, inhuman and degrading treatment or punishment (CAT), which the Government of Sudan signed on 4 June 1986, provides that, “Each 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.” The Special Rapporteur would also like to reiterate that paragraph 7c of Human Rights Council Resolution 16/23 urges States “To 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 requests that the Government reconsider the amendment of Sudan’s Armed Forces Law of 2007, which extends jurisdiction of the military court over civilians.

- (d) UA 17/10/2013 Case No. [SDN 7/2013](#) State reply: None to date: **Allegations of beatings, arrests, incommunicado detention and excessive use of force, including lethal force, against demonstrators resulting 200 deaths**

141. 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 alleged excessive use of force by security forces against demonstrators in different parts of the country from 26 September to 6 October 2013 that resulted in over 200 deaths by gunshot wounds, as well as the subsequent arrests of at least 800 people, including human rights defenders, political activists and opposition members, and journalists. The Special Rapporteur expressed grave concern about the excessive and disproportionate use of force, notably the use of live ammunition and the intentional use of lethal force, against the demonstrators. Among those who died as a result of the gunshots were 14-year-old Ayman Salah Ibrahim in Khartoum Bahri, who died after police prevented other demonstrators from rendering assistance to him; Mr. Musab Mustafa, an artist filming the demonstrations in Omdurman; Mr. Tariq Sediek, Mr. Abdulagadir Rabeia, and Mr. Baldr Eldein Ahmed in Hajyousif; and a bystanding Ethiopian food-vendor in Khartoum. According to reports, among the more than 800 persons who were allegedly arbitrarily arrested by police and the National Intelligence and Security Services (NISS) were at least 13 known political activists and human rights defenders, lawyers, minors, and journalists. It was also alleged that security forces raided the homes of and beat and arrested persons not linked to the demonstrators, at least one of whom, Mr. Majid Mohamed Ali, was found dead in hospital after his arrest. The Special Rapporteur also expressed grave concern about reports that most of the 800 NISS detainees remained in custody and were being held incommunicado, denied access to medical care and legal assistance, and had not been charged with any criminal offense. In this context, the Special Rapporteur reminds the Government of Sudan that each Government has the obligation to protect the right to physical and mental integrity of all persons, a right which is set forth *inter alia* in the UDHR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The Special Rapporteur also reiterates the principles set forth in the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights (ICCPR), and particularly Articles 3 and 6 (1) that respectively guarantee the right of every individual to life and security and provide that these rights shall be protected by law. With regards to reports of incommunicado detention, the Special Rapporteur also draws the Government's attention to paragraph 7c of Human Rights Council Resolution 8/8 of 18 June 2008, which reminds all States that "[p]rolonged incommunicado detention may 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." In the absence of evidence to the contrary, the Special Rapporteur determines that the rights of the aforementioned persons under the relevant standards have been violated, and calls on the Government to undertake all necessary measures to protect the right to physical and mental integrity of all remaining victims, to hold those responsible accountable and to provide full redress to the victims, including fair and adequate compensation and as full rehabilitation as possible.

- (e) UA 06/11/2013 Case No. [SDN 8/2013](#) State reply: None to date **Allegations regarding Ms. Amira Osman Hamed's possible sentence of corporal punishment for "indecent or immoral dress."**

142. 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 the arrest of 35-year-old civil engineer and women's rights activist, Ms. Amira Osman Hamed, and the charge of "indecent or immoral dress." If found guilty, Ms. Osman Hamed might face corporal punishment of up to forty lashes. On 27 August 2013, Ms. Osman Hamed was arrested by Public Order Police for refusing to wear a headscarf, and charged under section 152 of Sudan's 1991 Criminal Code with "indecent or immoral dress." It was reported that current public order laws in

Sudan do not specify what is covered by immoral or indecent dress, giving the Public Order Police broad discretion to judge whether a person has acted in “an indecent manner, or a manner contrary to public morality” or “wears an indecent, or immoral dress, which causes annoyance to public feelings.” Reportedly Ms. Osman Hamed’s court case was postponed in order to give the Attorney General time to consider a request made by her defense to drop all charges. At the time of the communication, the prosecution was reportedly still evaluating how to proceed. It was further reported that this is not an isolated event, and that public flogging of women is a continuing practice in the country. In this context, the Special Rapporteur reiterates that each Government has the obligation to ensure equality between men and women in the enjoyment of all civil and political rights, including the right not to be subjected to torture or to cruel, inhuman or degrading punishment. This right is set forth inter alia in the International Covenant on Civil and Political Rights, to which the Government of Sudan is a party. Furthermore, both the Human Rights Committee and the Committee against Torture have called for the abolition of judicial corporal punishment, and 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 (see paragraph 5 of General Comment No. 20 (1992)).

- (f) **UA 29/11/2013 Case No. [SDN 9/2013](#) State reply: None to date** Alleged arrest and risk of corporal punishment of human rights activists in Port Sudan.

143. The Special Rapporteur regrets that the Government of the Republic 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 the arrest and prosecution of lawyer and human rights activist Ms. Najlaa Mohammed Ali, and human rights activist Mr. Amin Senada, allegedly accused of violating Article 152 of Sudan’s Criminal Code while riding together in a vehicle in Port Sudan. If convicted, Ms. Ali and Mr. Senada could be subjected to flogging with up to 40 lashes. The Special Rapporteur stresses the Government’s obligation to protect the right to physical and mental integrity of all persons, set forth inter alia in the UDHR, the ICCPR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Additionally, the Special Rapporteur reiterates that paragraph 7(a) of resolution 8/8 of the Human Rights Council and paragraph 5 of General Comment No. 20 (1992) of the Human Rights Committee declare that corporal punishment can amount to cruel, inhuman or degrading punishment or even to torture. The Special Rapporteur concluded in his report to the 60<sup>th</sup> session of the General Assembly, as well as his report to the seventh session of the Human Rights Council, that corporal punishment violates the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and therefore cannot be invoked by states even under the most exceptional circumstances. The Special Rapporteur further reminds the Government that paragraph 1 of the Human Rights Council Resolution 16/23 “Condemns 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 calls on the Government to take all necessary measures to protect the right to physical and mental integrity of Ms. Ali and Mr. Senada, and to ensure that they are not subjected to corporal punishment.

## Sweden

- (a) **JUA 01/02/2013 Case No. [SWE 1/2013](#) State reply: [08/02/2013](#), [12/04/2013](#)** Alleged imminent deportation of Abdullah Barahouei, a human rights defender and blogger, to the Islamic Republic of Iran.



144. The Special Rapporteur thanks the Government of Sweden for its replies, dated 8 February 2013 and 12 April 2013, to this communication in reference to the alleged imminent deportation of Abdullah Barahouei to the Islamic Republic of Iran. Reportedly, Mr. Barahouei contributed to the Balochistan Sarafaz blog and feared for his life after the editor and several blog contributors were arrested and sentenced to 20 years in prison in Iran. Allegedly, there are reports of various cases of human rights defenders being subjected to arrest, torture, and sentenced to death for speaking out against the Islamic Republic of Iran. It was reported that the Swedish Migration Board would make a decision regarding Mr. Barahouei's immigration status on 1 February 2013. In its first reply, the Government of Sweden explained that Mr. Barahouei's application for asylum was denied, but is being appealed because of new circumstances that were not considered. In the second reply, the Government of Sweden informed the Special Rapporteur that asylum was granted to Mr. Barahouei, and that he would not be deported. The Special Rapporteur thanks the Government of Sweden for its commitment to article 3 of the CAT, 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 encourages the Government to continue its engagement with the mandate.

- (b) **JUA 02/05/2013 Case No. [SWE 2/2013](#) State Reply: [14/06/2013](#)** Alleged imminent deportation of an Afghan journalist.

145. The Special Rapporteur thanks the government of Sweden for its reply, dated 14 June 2013, to this communication in reference to the alleged imminent deportation of an Afghan journalist who received death threats from the Taliban. While based in Jalalabad in eastern Afghanistan, the journalist reported on the border area between Afghanistan and Pakistan for the Daily Wahdat and Khyber TV before fleeing the country with his family to Peshawar, in northern Pakistan in August 2008, allegedly due to death threats, including life-threatening calls and text messages by the Taliban in retaliation for his journalistic activities. In early 2011, he had been reportedly kidnapped by the Taliban and tortured and ill-treated while detained for 20 days in Miranshah, Pakistan near the Afghan border. Reportedly his family received protection and was relocated to the United States of America by the UNHCR in 2009. Also, his brother has been already granted asylum in Sweden. It was reported that the Migration Board would meet on 2 May 2013 to make a decision whether to deport him to Afghanistan or not. In the response dated 14 June 2013, the Government of Sweden stated that since this is a pending asylum case, the identity of the applicant should not be disclosed in the Special Rapporteur's official report to the Human Rights Council. In summary, the Migration Board found that the Joint Urgent Appeal contained no new information or evidence in support of the applicant's need for protection in Sweden. The Migration Court had previously found that the applicant was not in need of protection in Sweden and therefore decided not to grant him a residence permit in Sweden. However, the Government stated that it is incorrect to say that enforcement of an expulsion order is imminent. The reply adds that the applicant was awarded sufficient due process in his asylum hearings, including an interpreter, public counsel, several interviews and hearings by the Migration Court. The Special Rapporteur reminds the government of Sweden of article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, acceded to by Sweden on 8 January 1986, 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 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". Under similar provisions, paragraph 16 of

the Resolution 65/205 of the UN General Assembly and paragraph 7(d) of Human Rights Council Resolution 16/23 urge 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, stressing the importance of effective legal and procedural safeguards in this regard, and recognizing 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 prohibition of refoulement under these rules of international law is absolute, and it applies even if the risk of torture is attributable to non-State actors like the Taliban. The Special Rapporteur encourages the government of Sweden to continue its engagement with the mandate.

## Switzerland

- (a) JUA 24/04/2013 Case No. [CHE 1/2013](#) State reply: [08/05/2013](#), [08/05/2013](#) and [08/05/2013](#) **Allégations de risque de déportation imminent de plusieurs demandeurs d'asile. Selon les informations reçues, M. X, M. Y ainsi que les membres de sa famille ont effectué une demande d'asile en Suisse en 2009.**

146. Le Rapporteur spécial apprécie la réponse détaillée du gouvernement de la Suisse à la communication envoyée le 24 avril 2013 concernant des allégations de risque d'expulsion de Suisse vers le Sri Lanka des demandeurs d'asile sri-lankais. Selon les informations reçues, M. X, un fonctionnaire de Kachchai, dans la Province de Jaffna, Sri Lanka, a effectué une demande d'asile en Suisse en avril 2009. Cependant, sa demande d'asile a été rejetée par l'Office fédéral des migrations le 8 janvier 2013. Le 26 février 2013, les autorités suisses en charge de l'immigration ont enjoint M. X de quitter la Suisse avant le 5 mars 2013. Les services de renseignement sri-lankais visiteraient fréquemment son domicile et questionneraient son frère et son père afin de savoir où il se trouve. M. X pourrait être torturé et tué, s'il était forcé de rentrer au Sri Lanka. En ce qui concerne M. Y et sa famille (sa femme et ses trois enfants), originaires du nord du Sri Lanka, ils auraient effectué une demande d'asile en Suisse en juin 2009, selon certaines sources. En juin 2011, leur demande a été rejetée par les autorités suisses en charge de l'immigration après que la demande ait été considérée inconsistante et peu plausible. Le 18 juin 2011, M. Y et sa famille ont fait appel de cette décision mais leur appel a été rejeté par le Tribunal Administratif Fédéral suisse le 21 mars 2013. Dans son jugement final, le Tribunal considère qu'il n'y a pas violation du principe de non-refoulement, si M. Y et sa famille retournent dans une autre zone sri-lankaise que la zone Vanni. En conséquence de ce jugement, les autorités suisses en charge de l'immigration ont enjoint M. Y et sa famille de quitter la Suisse avant le 23 avril 2013. M. Y et sa famille pourraient être torturés et tués, s'ils étaient forcés de retourner au Sri Lanka. Le Rapporteur spécial a demandé le gouvernement de ne pas les extraditer et de s'assurer que leurs droits, en tant que demandeurs d'asile, soient respectés, conformément au droit international, et en particulier au principe international de non-refoulement. Le gouvernement de la Suisse, dans sa réponse du 10 mai 2013, explique qu'après un examen minutieux, les requêtes en question ont été rejetées par l'Office fédéral des migrations (ODM) parce que les motifs allégués dans les requêtes ne remplissaient pas les conditions de pertinence au regard de la loi suisse sur l'asile ainsi que les conditions de vraisemblance n'étaient pas remplies, énoncées à l'article 7 de la loi fédérale sur l'asile du 26 juin 1998. Dans ce contexte, le Rapporteur spécial aimerait souligner que tout gouvernement a l'obligation de protéger le droit à l'intégrité physique et mentale de toutes personnes, tel que stipulé dans la Déclaration Universelle de droits de l'homme, dans le Pacte international relatif aux droits civils et politiques, dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants. Ce ci inclue l'obligation de tout Etat de prendre des mesures

législatives, administratives, judiciaires et autres mesures efficaces pour empêcher que des actes de torture soient commis. En outre, l'article 3 de la Convention contre la Torture et autres peines ou traitements cruels, inhumains ou dégradants ratifiée par la Suisse le 2 décembre 1986, prévoit qu'aucun Etat partie n'expulsera, ne refoulera, ni n'extradecera une personne vers un autre Etat où il y a des motifs sérieux de croire qu'elle risque d'être soumise à la torture. A cet égard, le Rapporteur souhaite rappeler le paragraphe 9 de son observation générale No 20 concernant l'interdiction de la torture et autres peines ou traitements cruels, inhumains ou dégradants dans lequel le Comité pour les droits de l'Homme recommande que les Etats parties «ne doivent pas exposer des individus à un risque de torture ou de peines ou traitements cruels, inhumains ou dégradants en les renvoyant dans un autre pays en vertu d'une mesure d'extradition, d'expulsion ou de refoulement». En ce qui concerne le risque pour un demandeur d'asile d'être sujet à des actes de torture et à assassinat, s'il était forcé de retourner au Sri Lanka, le Rapporteur souhaite porter l'attention du Gouvernement sur la résolution 22/1 du Conseil des droits de l'Homme relative à la promotion de la réconciliation et l'établissement des responsabilités au Sri Lanka, que le Gouvernement de la Suisse a sponsorisé et en faveur de laquelle il a voté. Dans cette résolution, le Conseil des droits de l'Homme a exprimé sa préoccupation suite aux «informations persistantes faisant état de violations des droits de l'homme à Sri Lanka, notamment des cas de disparition forcée, d'exécution extrajudiciaire, de torture et de violation des droits à la liberté d'expression, d'association et de réunion pacifique, ainsi que des actes d'intimidation et de représailles visant des défenseurs des droits de l'homme, des membres de la société civile et des journalistes, et de menaces pesant sur l'indépendance de la magistrature et sur la primauté du droit, de discrimination sur la base de la religion ou de croyances. Le Rapporteur spécial encourage le Gouvernement de la Suisse à poursuivre son engagement avec le Mandat.

### Syrian Arab Republic

- (a) **JAL 21/02/2013 Case No. [SYR 1/2013](#) State reply: None to date** Alleged torture and death of Ayham Ghazzoul, a human rights activist by Air Force Intelligence in Mezze, Syrian Arab Republic.

147. 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 Mr. Ayham Ghazzoul's alleged torture and death in custody while being detained by the Air Force Intelligence. It is reported that Mr. Ghazzoul was a defender of human rights in Syria, and was kidnapped by the National Students Union and severely beaten. He was allegedly handed over to the Air Force Intelligence, where he was subjected to torture and other severe forms of cruel, inhuman and degrading treatment. According to the information received, Mr. Ghazzoul suffered internal bleeding as a direct result of the torture and died on 9 November 2012, four days after his arrest. Mr. Ayham Ghazzoul was the subject of a previous communication, dated 8 May 2012, by the Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur the situation of human rights defenders, 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 in relation to concerns, inter alia, as to why he would be prosecuted by a military court and had been brought before a military prosecutor (JUA SYR 5/2012, 8 May 2012). A reply to this communication is still awaited from the Syrian Arab Republic. In this context, the Special Rapporteur would like to reiterate that each Government has the obligation to protect the right to physical and mental integrity of all persons as set forth, inter alia, in the Universal Declaration of Human Rights (UDHR), the International

Covenant on Civil and Political Rights (ICCPR), that the Syrian Arab Republic acceded to on 21 April 1969, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), acceded to on 19 August 2004. The Special Rapporteur draws attention to paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns 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 reiterates 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 States Parties to prosecute suspected perpetrators of torture. He takes note in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a useful tool in efforts to combat torture. In the absence of other evidence, the Special Rapporteur finds that the Syrian Arab Republic is responsible for the torture and death in custody of Mr. Ghazzoul. He calls on the Government to undertake a prompt and independent investigation into these events, leading to prosecution and punishment of the perpetrators, and to provide full redress to the victim’s family.

- (b) **JUA 13/05/2013 Case No. [SYR 2/2013](#) State Reply: None to date** Alleged disappearance and torture of Mr. Omar Mohamed Mamoun Arnous and the incommunicado detention and denial of medical treatment of Mr. Khalil Matouk.

148. The Special Rapporteur regrets that the government of Syria 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 disappearance and torture of Mr. Omar Mohamed Mamoun Arnous and the incommunicado detention and denial of medical treatment of Mr. Khalil Matouk. According to the information received, Mr. Omar Mohamed Mamoun Arnous, a member of the Syrian Network for Human Rights (SNHR), was arrested at his home on 7 October, 2012. He was reportedly last seen in February 2013 in a military hospital of the Syrian capital bearing serious signs of torture, and would have then been transferred to another unknown military hospital. It is reported that so far the Syrian authorities have failed to disclose his whereabouts or information regarding his health condition. Mr. Khalil Matouk is a human rights lawyer and executive director of the Syrian Centre for Legal Studies and Research and has been in detention for over the allowed maximum of sixty days of detention for investigative purposes according to Syrian law. It is also reported that Mr. Matouk suffers from a serious lung disease, which diminishes his lung capacity by 60% and has severe breathing difficulties due to reduced lung function. He is reportedly being denied medication, which he took regularly prior to his detention to help his condition. With regard to the unknown whereabouts and incommunicado detention of Mr. Arnous and Mr. Matouk, the Special Rapporteur reminds the Government of paragraph 8b of Human Rights Council Resolution 16/23, which reminds States that “Prolonged 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.” With regard to the alleged torture of Mr. Arnous, the Special Rapporteur reiterates paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns 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 addition, paragraph 7b of Human Rights Council Resolution 16/23 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 (CAT) requires State parties to prosecute suspected perpetrators of torture. With regard to the alleged denial of medical care to Mr. Arnous and Mr. Matouk, Rule 22(2) of the Standard Minimum Rules for the Treatment of Prisoners 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. Furthermore, Rule 25(1) provides that, “(t)he medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.” The Special Rapporteur calls on the Government to end the incommunicado or unacknowledged detention of these persons and undertake a prompt and independent investigation of the circumstances, as well as of the denial of medical treatment of Mr. Khalil Matouk, leading to prosecution and punishment of the perpetrators; and to provide full redress to the victims.

- (c) UA 28/06/2013 Case No. [SYR 3/2013](#) State Reply: None to **dateAlleged incommunicado detention, torture and ill- treatment of Messrs. Mazen Darwish, Hussayn Gharir, Hani Zitani, Abdelrahman Alhamade and Mansour Al-Omari, as well as acts of reprisal against, and the alleged continued incommunicado detention and deteriorating health of Mr. Khalil Matouk and Mr. Mohammed Thatha.**

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 alleged incommunicado detention, torture and ill-treatment of Messrs. Mazen Darwish, Hussayn Gharir, Hani Zitani, Abdelrahman Alhamade and Mansour Al-Omari, as well as acts of reprisal against, and the alleged continued incommunicado detention and deteriorating health of, Mr. Khalil Matouk and Mr. Mohammed Thatha. Mr. Mazen Darwish was the subject of a previous communication (SYR 5/2012, 8 May 2012), regarding his alleged prolonged incommunicado detention, torture and ill-treatment. A reply to this communication is still awaited from the Syrian Arab Republic. Mr. Khalil Matouk was the subject of several previous communications (the most recent being SYR 2/2013, 12 May 2013) regarding his alleged incommunicado detention and being denied adequate medical treatment despite reportedly suffering from a serious lung condition. A reply to this communication is still awaited from the Syrian Arab Republic. In the case of both Mr. Mazen Darwish and Mr. Khalil Matouk, new information was received that indicated that the concerns raised in previous communications have not been duly addressed. It was reported that Messrs. Darwish, Gharir, Zitani, Alhamade and Al-Omari spent over nine months in incommunicado detention, during which time the individuals were allegedly subjected to practices amounting to torture or cruel, inhuman or degrading treatment. It was further reported that detention conditions were squalid and that the detainees were denied access to medication, leading them to contract several diseases. Sources informed that on 27 February 2013, charges of “promoting terrorist acts” were issued against the five human rights defenders for work conducted under the Syrian Centre for Media and Freedom of Expression’s work in defense of human rights. It was reported that Mr. Matouk continues to be held in incommunicado detention and that Mr. Mohammad Thatha, a colleague of Mr. Matouk who was arrested at the same time as Mr. Matouk, allegedly remains detained as well. In the absence of information from the Government, the Special Rapporteur concludes that the aforementioned individuals have been subjected to prolonged incommunicado detention, torture and ill-treatment, and suffer physical and psychological injury. In this

context, the Special Rapporteur reiterates that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the UDHR, the ICCPR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The Special Rapporteur also reiterates that no exceptional circumstances whatsoever can be invoked to justify torture by the Government and that therefore the rights of Messrs. Mazen Darwish, Hussayn Gharir, Hani Zitani, Abdelrahman Alhamade, Mansour Al-Omari, Mr. Khalil Matouk and Mr. Mohammed Thatha have been violated.

- (d) UA 16/08/2013 Case No. [SYR 4/2013](#) State reply: None to date **Alleged enforced disappearances of Messrs. Bassam Bahrah and Sameeh Bahrah.**

150. 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 alleged enforced disappearances of Messrs. Bassam Bahrah and Sameeh Bahrah. Mr. Bassam Bahrah is 52 years old and works at the al-Mezzeh Military Hospital in Damascus. Mr. Sameeh Bahrah, son of Mr. Bassam Bahrah, is a 26-year-old medical student and peaceful political activist. On 30 April 2013, Mr. Bassam Bahrah was allegedly seen for the last time when he left his place of work. It was reported that the authorities may have arrested Mr. Bassam Bahrah in order to use him to locate Mr. Sameeh Bahrah. That evening, unidentified Government security service officials allegedly arrested Mr. Sameeh Bahrah at his family home in the al-Mezzeh district of Damascus in relation to his peaceful political activities. Since then, he has reportedly been held incommunicado at an unknown location. Mr. Sameeh Bahrah has reportedly been detained twice before in relation to his political activities. He was first arrested in July 2012, and was kept incommunicado for twenty-two days in the Palestine Branch in Damascus, a Military Intelligence run detention centre reportedly known for torture. Due to the lack of information provided by the Government, the Special Rapporteur expresses concern that Messrs. Bassam Bahrah and Sameeh Bahrah may have been subjected to enforced disappearance and may be at risk of torture. The Special Rapporteur reiterates that prolonged incommunicado detention can itself constitute a form of torture and other cruel, inhuman or degrading treatment or punishment and that paragraph 1 of Human Rights Council Resolution 16/23 “Condemns 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.”

## Tanzania

- (a) **JAL 18/3/2013 Case No. [TZA 1/2013](#) State Reply: [26/3/2013](#)** Alleged lack of meaningful prosecutions for perpetrators of killings and mutilations of People of Albinism.

151. The Special Rapporteur thanks the Government of the United Republic of Tanzania for its reply, dated 26 March 2013, to this communication in reference to the alleged killings and attacks on People with Albinism (PWA) in various provinces of Tanzania. It is alleged a seven year old boy was killed on 31 January 2013, sustaining lacerations to his forehead, right arm, and left shoulder, and his left arm was severed above the elbow. It is reported that PWAs body parts are superstitiously thought to bring wealth, as well as provide a cure to HIV/AIDS. Allegedly, another seven year old and his mother were attacked on 5 February 2013, attempting to kill the boy because of his albinism. Ms. Maria Chambanenge, aged thirty nine was also allegedly attacked because of her albinism, and had her arm severed. Another victim, a ten year old boy, also had his arm severed at the

elbow because of his albinism. It is alleged that due to police corruption, there are low rates of success in prosecuting the perpetrators, and there is concern for the safety of women and girls. In its reply, the Government of the United Republic of Tanzania admitted to its knowledge of the incidents against PWAs and asserted its commitment to protecting and prosecuting the perpetrators. The Government explained that it put the investigations of these cases on fast track, and five murder cases have been heard regarding attacks on PWAs. There are also public awareness campaigns as well as specific efforts to protect PWAs with shelters and other protections. However, the Government explains that few successful prosecutions have been made because they do not want to diminish due process rights guaranteed to defendants in their criminal justice system. Several of the convictions were overturned on appeal. The Government also explains that the prosecution is not willing to bring a case unless they are certain it will result in a conviction, and maintains that it has a 100% successful conviction rate. Although the Special Rapporteur thanks the Government of the United Republic of Tanzania for its reply, he reminds the Government that it has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). In this context, the Special Rapporteur reminds the Government of paragraph 1 of Human Rights Council Resolution 16/23 which “Condemns 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 paragraph 2 of General Comment No. 20 of the Human Rights Committee, which provides that, “The 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). The Special Rapporteur recognizes the clear position of the Government of the United Republic of Tanzania condemning violent practices against PWA and encourages it to continue its engagement with the mandate with a view to both punishing and preventing such acts.

## Thailand

- (a) **JAL 06/12/2012 Case No. [THA 11/2012](#) State Reply: [04/02/2013](#)** Alleged torture and death of Private Wichean Phuaksom by ten military officers in the Krom Luang Naradhiwas Rajanagarindra Military camp as punishment for missing military exercises.

152. The Special Rapporteur thanks the Government of Thailand for its reply, dated 3 April 2013, to this communication in reference to the alleged physical abuse, torture, and murder of Private Wichean Puaksom by ten military officers for missing military exercises. Reportedly Mr. Puaksom’s mother brought a suit for damages against the ten military officers, but no verdict identifying and bringing to justice the officers has been pronounced by the authorities. In its reply, the Government of Thailand denied that any such severe disciplinary practices were regularly performed, and disputed the allegation that Private Puaksom died from his injuries; instead it affirmed that his poor health was from a lack of food and water during a two-day escape. The Government of Thailand also described the criminal and civil suits, both with pending verdicts. The military officers have been disciplined with measures ranging from a week under house arrest to a month in prison.

The Government of Thailand is also making an effort toward remedial action by providing Private Puksom's mother with the names of the military officials who are being prosecuted. The Special Rapporteur appreciates the reply and takes note of the pending nature of judicial actions. He recalls article 12 of the CAT, 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 CAT, which requires State parties to prosecute suspected perpetrators of torture. The Special Rapporteur reiterates that paragraph 6b of Human Rights Council Resolution 8/8, which urges States "To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the competent national authority, to hold those who encourage, order, tolerate or perpetrate acts of torture responsible, to have them brought to justice and severely punished, 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 (the Istanbul Principles) as a useful tool in efforts to combat torture." In this regard, he expresses his concern that the disciplinary sanctions imposed on perpetrators are not consistent with the seriousness of abuses that resulted in death. The Special Rapporteur transmitted a follow up letter to the Government of Thailand on 1 August requesting information on the updated status of the criminal and civil trials, and whether any verdict had been reached. He encourages the Government to continue its engagement with the mandate.

- (b) AL 30/07/2013 Case No. [THA 6/2013](#) State reply: [05/08/2013](#), [30/10/2013](#) **Conditions of detention of more than 1800 ethnic Rohingya migrants and refugees in immigration and detention centers in Thailand.**

153. The Special Rapporteur appreciates the replies of the Government of Thailand, dated 5 August 2013 and 30 October 2013, to this communication in reference to the conditions of detention of more than 1800 ethnic Rohingya migrants and refugees from Myanmar in immigration detention centers in Thailand for over five months, under conditions that may amount to cruel, inhuman or degrading treatment or even torture. The communication included information received concerning the death of seven Rohingya men and one boy between 19 March 2013 and 22 July 2013 allegedly as a result of poor conditions and lack of medical care in the centers. Reportedly, in the Phang Nga detention center near Phuket, there are 276 Rohingya men detained in cells meant only for 5-15 persons. The lack of exercise is emaciating their leg muscles. The communication also referred to the rape of one Rohingya woman living in a government shelter in Phang Nga province and the alleged related involvement of a Thai police officer, and the possible refoulement of refugees to Myanmar despite substantial grounds for believing that there is a high risk of torture in case of repatriation. It was reported that Thai authorities know of the overcrowded detention centers and that no progress had been made for a more lasting solution. It was alleged that the detention and the conditions in the immigration detention centers were used as a punitive measure and as a means to discourage the Rohingya from taking legal measures.

154. The Special Rapporteur appreciates the reply of the Government of Thailand and its details regarding its work with the Ministry of Public Health and the International Organization for Migration to address issues of overcrowding in the detention centers, the death of seven Rohingya men and one boy, and the rape of one Rohingya woman. The Special Rapporteur nonetheless 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. The Special Rapporteur would like to remind the Government of paragraph 7d of Human Rights Council Resolution 16/23, which 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, [...]” The Special Rapporteur also encourages the Government to continue its engagement with the mandate.

## Tunisia

- (a) JAL 09/08/2013 Case No. [TUN 1/2013](#) State reply: None to date **Allégations d’assassinat d’un responsable politique. Selon les informations reçues, le 25 juillet 2013, M. Mohamed Brahmi, membre de l’Assemblée nationale constituante, aurait été tué par balle devant son domicile à Tunis.**

155. Le Rapporteur spécial regrette qu’au moment de la finalisation du présent rapport il n’y ait eu encore aucune réponse du gouvernement tunisien à la communication envoyée le 9 août 2013 quant à allégations d’assassinat d’un responsable politique. Selon les informations reçues le 25 juillet 2013, M. Mohamed Brahmi, membre de l’Assemblée nationale constituante, a été tué par balle devant son domicile situé dans le secteur d’Ariana dans la banlieue de Tunis. Il a aussi été allégué que le 27 juillet 2013, des manifestations se sont tenues dans tout le pays pour protester contre cet assassinat et que, à l’occasion d’un sit-in pacifique tenu devant le siège de l’Assemblée nationale constituante, la police aurait fait usage de gaz lacrymogènes et d’un usage excessif de la force pour disperser des manifestants pacifiques, sans justification apparente, ni sommation. Le Rapporteur spécial a exprimé de graves préoccupations quant à l’assassinat de M. Brahmi qui serait lié à son militantisme politique et à son exercice légitime et pacifique de son droit à la liberté d’association. De sérieuses préoccupations ont également été exprimées quant aux conditions de sécurité dans lesquelles les activistes politiques, en particulier de l’opposition, exercent leur droit à la liberté d’association en Tunisie, et quant à l’usage de la force contre des manifestants pacifiques. Dans ce contexte, le Rapporteur spécial souhaite attirer l’attention du gouvernement sur l’obligation de protéger le droit à l’intégrité physique et mentale de toutes personnes tel que stipulé dans la Déclaration Universelle de droits de l’homme, dans le PIDCP, dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants. Le Rapporteur spécial souhaite également rappeler au gouvernement les principes fondamentaux énoncés à l’Article 6, para 1, du Pacte International relatif aux Droits Civils et Politiques (PIDCP), ratifié par la Tunisie le 18 Mars 1969, stipulant que ‘le droit à la vie est inhérent à la personne humaine. Ce droit doit être protégé par la loi. Nul ne peut être arbitrairement privé de la vie.’ Le Rapporteur spécial souhaite également attirer l’attention du gouvernement sur le principe 4 des Principes de base sur le recours à la force et l’utilisation des armes à feu par les responsables de l’application des lois : «les responsables de l’application des lois, dans l’accomplissement de leurs fonctions, auront recours autant que possible à des moyens non violents avant de faire usage de la force ou d’armes à feu. Ils ne peuvent faire usage de la force ou d’armes à feu que si les autres moyens restent sans effet ou ne permettent pas d’escompter le résultat désiré. Le Rapporteur spécial exhorte le Gouvernement à enquêter et à poursuivre et punir les responsables de ces violations, et veiller à ce que les victimes et leurs familles 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.

## Turkey

- (a) JUA 27/03/2013 Case No. [TUR 2/2013](#) State Reply: [9/04/2013](#) Alleged imminent deportation of Ms. Khadijeh Mohibati to the Islamic Republic of Iran despite her awaiting death penalty for converting to Christianity.

156. The Special Rapporteur thanks the Government of Turkey for its reply, dated 9 April 2013, to this communication in reference to the alleged risk of deportation of Ms. Khadijeh Mohibati to the Islamic Republic of Iran. According to the information received, if forcibly returned to the Islamic Republic of Iran, Ms. Mohibati is at high risk of being tortured and executed, due to the pending death penalty sentence imposed against her in that country. Upon her arrival in 2007 at the international airport in Tehran, Islamic Republic of Iran, Ms. Mohibati was allegedly arrested by the Iranian State Security officers for converting to Christianity, as well as engaging in non-coercive persuasion of others to change their religion. Ms. Mohibati was allegedly subjected to physical and mental torture while in detention. It is further reported that later in 2007, Ms. Mohibati was prosecuted and tried for these crimes, which are allegedly considered criminal offences in the Islamic Republic of Iran. Reportedly, the applicable law in the Islamic Republic of Iran provides for the death penalty as a punishment for those who convert to Christianity. After the first hearing, the court in Tehran reportedly released Ms. Mohibati on bail. Ms. Mohibati fled from the Islamic Republic of Iran to Turkey in 2008. Shortly after Ms. Mohibati fled to Turkey, she was reportedly sentenced to death *in absentia* in the Islamic Republic of Iran. The Special Rapporteur thanks the Government of Turkey for the response dated 9 April 2013 where it acknowledged receipt of the joint urgent appeal but did not address the allegations in the communication. The Special Rapporteur reminds the Government of Turkey that article 3 of the Convention against Torture and other cruel, inhuman or degrading treatment or punishment, acceded to by Turkey on 2 August 1988, 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, in paragraph 9 of General Comment No. 20 on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, the Human Rights Committee stated 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 also reminds the Government of paragraph 16 of 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 encourages the Government of Turkey to continue its engagement with the mandate.

- (b) UA 14/06/2013 Case No. [TUR 3/2013](#) State Reply: [06/09/2013](#) **Alleged excessive use of force during peaceful demonstrations resulting in injuries of thousands of protesters.**

157. The Special Rapporteur appreciates the reply of the Government of the Republic of Turkey, received 6 September 2013, to this communication in reference to the alleged excessive use of force during peaceful demonstrations resulting in the injuries of thousands of protesters and the death of at least four individuals, namely Mr. Mehmet Ayvaltaş, Mr. İrfan Tuna, Mr. Abdullah Cömert and Mr. Mustafa Sarı. It was reported that on 28 May 2013 a few hundred protesters gathered in Gezi Park in Taksim, Istanbul, to peacefully demonstrate against the municipal urban redevelopment plan for the area. Police reportedly dispersed protesters through the widespread and indiscriminate use of tear gas. Since 31 May 2013, following the reaction of the police in Istanbul, hundreds of thousands of people have gathered across the country in support of the protesters. These demonstrations have reportedly been met with excessive use of force by law enforcement officials, resulting in thousands of people being injured and arrested and the death of Mr. Mehmet Ayvaltaş, Mr. İrfan Tuna, Mr. Abdullah Cömert and Mr. Mustafa Sarı. It was also reported that many of the protesters arrested were subjected to acts of torture and ill-treatment in detention, and

were denied prompt access to medical care. In its reply, the Government stated that the information in the communication was in part based on inaccurate and incomplete information, stating that the protests relevant to Gezi Park exhibit qualities that show that terrorist organizations have been involved in the activities and that the incidents have been manipulated. The Government stated that proper and proportionate force was used by the police to disperse the protesters. The Government stated that allegations of torture and ill-treatment do not reflect the truth, and that in “cases where the boundaries of the law were exceeded during the Gezi Park demonstrations, judicial investigations have been immediately initiated by the judicial authorities,” including charges of torture against police officers. The Special Rapporteur appreciates the reply of the Government of the Republic of Turkey and its explanation regarding the investigation into allegations of torture and ill-treatment, although he would appreciate more complete information about such investigations, its conditions regarding independence and impartiality, and its results. The Special Rapporteur encourages the Government to continue its engagement with the mandate. He wishes to remind 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.

### United Arab Emirates

- (a) JUA 16/04/2013 Case No. [ARE 1/2013](#) State Reply: [10/06/2013](#) Alleged use of a confession extracted through torture as a key piece of evidence in Mr. Al-Hadidi’s trial, as well as alleged lack of due process and unfair trial practices.

158. The Special Rapporteur thanks the Government of the United Arab Emirates for its reply, dated 24 May 2013, to this communication in reference to the alleged trial of 94 individuals on charges of state security offences in the Federal Supreme Court in Abu Dhabi, case number 17/2013, as well as the alleged sentencing of Mr. Abdullah Al-Hadidi for his reports on the trial. According to the information received, the 94 individuals were arrested at various moments over the year leading up to the start of trial proceedings which took place in two hearings on 4 and 11 March 2013. The charges against the defendants reportedly included charges of founding and administering an institution aimed at overthrowing the government. The prosecution considers Al-Islah to have a subversive agenda and links to the Egyptian Muslim Brotherhood, an organization banned in the United Arab Emirates. Sources have informed that no timeframe or schedule has been set out for the trial, leading to periods of up to one year spent in pre-trial detention. A confession by Mr. Ahmad Ghaith Al-Suwaidi allegedly constitutes a central piece of evidence supporting the charges, though it was allegedly extracted through torture. It is further alleged that several of the detainees were kept in conditions that, if found to be accurate, may amount to torture or cruel, inhuman or degrading treatment. Reports allege that some detainees were kept in small cells of 2.5 x 3 meters with lights kept on during the night, deprived of virtually any clothing despite powerful air-conditioning being on, had access to insufficient toilet facilities, were kept in lengthy interrogation sessions while blindfolded and in some cases subject to physical abuse including beatings and the extraction of fingernails. It is alleged that during court hearings, detainees including Messrs. Mohammed Abdulrazzaq Alsidiq, Ahmed Al-Zaabi and Essa Al-Sari reported having been targeted for such practices. It is further reported that a number of detainees displayed physical signs of torture during hearings, and that at the hearing on 11 March, relatives of Mr. Essa Al-Sari were alarmed at the deterioration of his mental health since being detained. There are also allegations of irregularities which violated international minimum standards for the conduct of a fair trial. The judges are appointed by the ruling royal families of the United Arab Emirates, who have reportedly delivered numerous statements to national news media condemning the defendants in case 17/2013. There are

also reports of the imprisonment of Mr Al-Hadidi for commenting on the trial on Twitter and that international observers were denied access to at least two hearings. The Special Rapporteur thanks the Government for the response dated 10 June 2013 affirming that the case involved a serious threat to the United Arab Emirates national security by a large group of individuals tied to foreign groups who advocate the violent overthrow of the regime. The response states that the trial was open to the public and rejects any claims of an unfair trial. It asserts that Mr. Al-Hadidi was arrested and charged for assaulting a public officer and publishing in bad faith false accounts of the trial. The Special Rapporteur calls attention to article 12 of the CAT, 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 CAT, which requires State parties to prosecute suspected perpetrators of torture. The Special Rapporteur also reminds the Government of paragraph 6b of Human Rights Council Resolution 8/8, which urges States “To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the competent national authority, to hold those who encourage, order, tolerate or perpetrate acts of torture responsible, to have them brought to justice and severely punished, 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 (the Istanbul Principles) as a useful tool in efforts to combat torture.” Regarding allegations that confessions and statements incriminating others were obtained under torture, the Special Rapporteur further draws attention to article 15 of the CAT, which provides that, “Each 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.” The Special Rapporteur encourages the Government of the United Arab Emirates to continue its engagement with the mandate.

- (b) **JUA 13/05/2013 Case No. [ARE 2/2013](#) State Reply: None to date** Alleged torture and ill-treatment and the denial of access to a lawyer of three British nationals, Mr. Grant Cameron, Mr. Suneet Jerrh, and Mr. Karl Williams, by Dubai police officers.

159. 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 torture and ill-treatment and denial of access to a lawyer of three British nationals, Mr. Grant Cameron, Mr. Suneet Jerrh, and Mr. Karl Williams, by police officers of the Dubai Criminal Investigation Department (CID). According to the information received, the three individuals were arrested on the suspicion of being in possession of illegal drugs. Once arrested, the officers beat them, repeatedly kneed them in the testicles and used a taser to electrocute them. It is reported that each of the men were beaten by officers upon arriving to a deserted location, and that this continued for about 30 to 45 minutes. Upon returning to their hotel, it is reported that Mr. Cameron was taken to the front room where he was tasered with an electric baton, while another officer pulled out a gun and threatened to kill him. It is also reported that Mr. Williams was shown what appeared to be a battery with wires on it by the officers, and was told that if he did not give them information, they would ensure that “he could never have kids.” It is also reported that Mr. Williams was blindfolded with a towel, severely kicked, and threatened with death. Furthermore, it is reported that Mr. Jeer was taken to the bathroom where he was subjected to beatings and shocks with an electric baton. It is reported that following the events at the hotel, the three men were brought to the CID headquarters and forced to sign documents in Arabic, which none of them understood, and under the threat of further torture. While in police custody, they were intimidated by guards and denied food, water, or adequate sleeping space. It is

alleged that the authorities informed that they had conducted an independent investigation finding no evidence of torture, but the report has not been made public. It is reported that the authorities provided information indicating that the Human Rights Section of the Dubai Police had conducted an investigation into the allegations of torture, but suggest that members of the police force engaged in the investigation, and that no statements by the victims themselves were considered. During their trial, the “intent to supply” charges against them were reportedly dropped, but they were sentenced to four years for possession and consumption of “Spice.” It is alleged that the documents signed by the three men under duress have been used as evidence during the trial. In this context, the Special Rapporteur reminds the government of the United Arab Emirates that paragraph 1 of Human Rights Council Resolution 16/23 and paragraph 8a of Human Rights Council Resolution 16/23 condemn and prohibit at all times all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, and can never be justified, calling upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment. In addition, article 12 of the CAT and paragraph 7b of Human Rights Council Resolution 16/23 require 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 CAT requires State parties to prosecute suspected perpetrators of torture. Regarding allegations that confessions were obtained under torture, the Special Rapporteur recalls that article 15 of the CAT and paragraph 7c of Human Rights Council Resolution 16/23 prohibit the use of torture as evidence in any proceeding except against a person accused of torture as evidence that the statement was made. In this context, the Guidelines on the Role of Prosecutors, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990 require prosecutors to refuse use of evidence obtained through torture and to take all necessary steps to ensure that those responsible for using such methods are brought to justice. Prosecutors must perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights. On the basis of the evidence before him, the Special Rapporteur finds that the UAE have violated the rights of Messrs. Cameron, Jerrh and Williams and he calls on the Government to undertake a prompt and independent investigation of the alleged torture and ill-treatment and denial of access to a lawyer of the three British nationals, by Dubai police officers, leading to prosecution and punishment of the perpetrators and to provide full redress to the victims.

- (c) UA 06/08/2013 Case No. [ARE 4/2013](#) State reply: [20/11/2013](#) (State reply refers also to communication of 9 September 2013) **Alleged unfair trial and torture of 69 individuals, including human rights lawyers, judges, academics and students on 2 July 2013.**

160. The Special Rapporteur thanks the Government of the United Arab Emirates for its reply, dated 20 November 2013, to this communication in reference to the arrests, detention, allegations of the use of torture and cruel, inhuman and degrading treatment, reported lack of due process guarantees and the reported lack of independence of the judiciary. It is reported that many of the individuals referenced are members of al-Islah (Society for Reform and Social Guidance), a long-standing civil society organization in the UAE, operating in sectors such as education and charity and which calls for the democratic reform and greater adherence to Islamic principles in the UAE. The 69 individuals who were sentenced on 2 July 2013 allegedly supported a petition that inter alia called for reform on social, broadcast and print media. One group was allegedly sentenced in absentia to 15 years in prison; a second group was sentenced to ten years imprisonment with three years’ probation; a third group was sentenced to seven years imprisonment; and the remaining 25 were acquitted. Sources reported that the defense team for the detained had been harassed, had members deported, had been unable to meet freely and privately with their clients, or bring materials, including case files, into court. Additionally, international

observers who had intended to observe the trial on 4 March 2013 were reportedly prevented from entering the UAE and other trial observers who had completed procedural requests were allegedly denied access to the trial on 11 March 2013. Furthermore, there have been allegations of torture, or other forms of cruel, inhuman or degrading treatment or punishment, as far back as the defendants' court appearance in 2012. Medical examinations have been ordered by the judge, but it is reported that no investigation has taken place with regard to these allegations. In its reply, the Government of the United Arab Emirates stated that the case of the 94 detainees, which includes the 69 individuals in this communication, is one single case and has been decided by the Federal Supreme Court on 2 July 2013. The Government claimed that the communication sets out a version of events related to this case that is far removed from the truth and unfounded in many respects, and categorically denied the allegations in the strongest terms. The Government stated that the 69 individuals were not part of a peaceful association calling for political debate, but were members of an organization aligned with the Muslim Brotherhood. The Government further stated that the charges against the individuals are compatible with international human rights principles, which restrict freedoms of expression and association when such activities threaten national security, public safety or public order. The Government stated that arrest warrants were issued for all the accused and that charges were immediately communicated to them. Additionally the Government stated that the accused were entitled to telephone contact with their families three times per week and allowed regular family visits. The Government claimed that the trial was executed in accordance with due process guarantees and that a special chamber was set up by the court to accommodate 500 observers. The Government denies allegations of abuse of the individuals mentioned in this communication, and that the conditions of the accused were reportedly satisfactory and observed by the Emirates Human Rights Association. Additionally, the Government explained that no evidence of any mistreatment could be found and that these allegations have been addressed by the Court and found to be without merit.

161. The Special Rapporteur regrets that the Government did not provide sufficient documentation of the investigation into the allegations of torture and ill-treatment in connection to this case, including the alleged incommunicado detention of Mr. Ahmed Ghaith al-Suweidi. The Government's reply does not explain the Court's findings nor the measures taken to impartially and independently investigate the allegations of torture and ill-treatment. He urges the Government to 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 according to paragraph 7b of the Human Rights Council Resolution 16/23.

- (d) UA 07/11/2013 Case no. [ARE 5/2013](#) State reply: None to date **Alleged torture, ill-treatment, and deteriorating health conditions of several detainees belonging to the UAE 94 group and their legal counsel.**

162. 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 torture of detainees belonging to the "UAE 94" group, whose members were the subject of a previous urgent appeal on 5 August 2013. The communication specifically referred to Mr. Waleed al Shehhi, a member of the UAE 94 legal team during their 2013 trial; UAE 94 members Dr. Mohammed al-Mansoori, Mr. Ali al-Kindi, Mr. Ahmed al-Qobaisi and Mr. Jumaa al-Felasi,

who are currently serving sentences at Al-Razeen prison; and Mr. Mohamed al-Zumer, who was arrested on 5 December 2012, reportedly held incommunicado and in solitary confinement for approximately six months each, and charged but not sentenced under the 2006 Cyber Crime Law (amended by Federal Legal Decree No. 5/2012). It was reported that Mr. al-Zumer was subjected to torture and ill-treatment in detention. Mr. Waleed al Shehhi was reportedly arrested in August 2013 and, like Mr. Zumer, faces charges under the Cyber Crime Law for making comments on social media that allegedly insult state authorities. It was also reported that 18 of the convicted 69 members of the UAE 94 were subjected to beatings and other forms of mistreatment as a result of which they went on hunger strike from July or August to 25 October 2013; that the detainees' health rapidly deteriorated due to the hunger strike; that Dr. al-Mansoori, whose shoulder had been dislocated by a beating that occurred before his hunger strike, was administered glucose in the prison clinic despite refusing medical attention; that Mr. Ali al-Kindi and Mr. Ahmed al-Qobaisi were hospitalized; and that Mr. Jumaa al-Felasi, who required medical attention after collapsing, was administered glucose but not brought to a hospital. Serious concern was expressed at allegations of shortcomings in the judicial system and procedural guarantees and poor prison conditions leading to the detainees' protest in the form of a hunger strike, and the possibility that charges were brought against the named individuals in connection with their legitimate work defending human rights. In this context, the Special Rapporteur reiterates that the Government has the obligation to protect the right to physical and mental integrity of all persons, a right that is set forth *inter alia* in the UDHR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The Special Rapporteur also draws the Government's attention 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," and article 4 of the CAT which requires States Parties to ensure that all acts of torture are offences under its criminal law and to make the offences punishable by appropriate penalties. In this regard, the Special Rapporteur draws attention to article 12 of the CAT, 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 CAT, which requires States Parties to prosecute suspected perpetrators of torture. The Special Rapporteur further reiterates article 15 of the CAT, 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." The Special Rapporteur calls on the Government to undertake all necessary measures to protect the aforementioned persons' right to physical and mental integrity, to hold those responsible accountable and to provide full redress to the victims, including fair and adequate compensation and as full rehabilitation as possible.

## Ukraine

- (a) **JUA 28/03/2013 Case No. [UKR 1/2013](#) State Reply: [30/04/2013](#)** Alleged extradition of the former Prime Minister of Tajikistan, Mr. Adulmalik Abdullodzhonov, to Tajikistan where he faces the risk of torture.

163. The Special Rapporteur thanks the Government of Ukraine for its reply, dated 30 April 2013, to this communication in reference to the alleged risk of extradition of the former Prime Minister of Tajikistan, Mr. Adulmalik Abdullodzhonov, to Tajikistan. According to the information received, Mr. Abdullodzhonov, while travelling to Ukraine on

a valid travel document issued by the United States of America with a Ukrainian visa, was allegedly detained upon arrival at Kyiv's Boryspil International Airport on 5 February 2013, and has remained in detention, pending an extradition request to Tajikistan. On 15 March 2013, Kyiv's Shevchenko District Court decided to continue the detention of Mr. Abdullodzhonov for up to twelve months, while the General Prosecutor's Office continues its examination of the extradition request by Tajikistan. While ordering Abdullodzhonov's continued detention, the Court allegedly acknowledged that the materials provided as evidence confirm the existence of his refugee status. It is further alleged that if Mr. Abdullodzhonov is extradited to Tajikistan, he will be at risk of being tortured. Mr. Abdullodzhonov served as Prime Minister of Tajikistan in 1992-1993 during the civil war, and is a prominent opposition leader. He also ran for the Presidency of Tajikistan in 1994, and lost to Emomali Rahmon, Tajikistan's current president. He started to receive death threats and had three attempts on his life in 1995. After fleeing Tajikistan, several of his political associates were reportedly killed. Mr. Abdullodzhonov was accused of being involved in an assassination attempt against Emomali Rahmon, as well as in organized crime and terrorism, though he was no longer living in Tajikistan. Reportedly, Mr. Abdullodzhonov denies these charges and was granted political asylum in the United States in June 1999. The Special Rapporteur thanks the Government for the response dated 30 April 2013 where it is stated that the Prosecutor General denied the request of extradition of Mr. Abdullodzhonov to the Republic of Tajikistan and released him from custody the same day. The Special Rapporteur commends the Government of Ukraine for honoring article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and, should there be any further legal developments in the case, encourages the Government of Ukraine to continue its engagement with the mandate.

- (b) JUA 22/07/2013 Case No. [UKR\\_2/2013](#) State reply: [05/09/2013](#) **Alleged forced psychiatric treatment and confinement of human rights defender.**

164. The Special Rapporteur thanks the Government of Ukraine for its response, dated 5 September 2013, in reference to the alleged forced psychiatric treatment and confinement of a human rights defender. In its reply, the Government stated that on 27 June 2013, the Leninskiy district court of Zaporozhyya satisfied the petition for forced psychiatric examination of Ms. Radchenko, issued by the chief psychiatrist of the Department of Health of Zaporozhyya Regional Administration. The Government stated that following the decision of the Kammunarskiy district court of Zaporozhyya from 15 July 2013, to satisfy the petition of the chief physician of the Regional Psychiatric Hospital, it was decided to hospitalize Ms. Radchenko for forced psychiatric treatment. It is further stated that in response to the appeal submitted by the representative of Ms. Radchenko, the Zaporozhyya region Court of Appeal decided to repeal the above-mentioned decisions of district courts, as well as the petitions submitted by the chief psychiatrists. The Government further stated that from 24 to 27 July 2013, a commission of clinical experts established under the Ministry of Health has conducted a clinical assessment into the legality and quality of the medical assistance provided to Ms. Radchenko. The Commission established that in deciding on the need for involuntary psychiatric examination, doctors and hospital administration violated the requirements of Article 11 of the Law "On psychiatric care." At the same time, the Government reported that no violation of law was found in deciding on the need for involuntary hospitalization. The Government explained that during the examination of Ms. Radchenko on 27 July 2013, the commission found no grounds for continuing her forced treatment and she was subsequently discharged from the hospital. It is also reported that the Ministry of Health of Ukraine has instructed the Department of Health of Zaporozhyya Regional Administration to take measures to comply with the Law on "Psychiatric care". With respect to the ongoing investigation, the Government responded that in relation to Ms. Radchenko, the Leninskiy district court of Zaporozhyya has initiated criminal investigation into the facts of her alleged involvement in disturbing the public



order on 17 June 2013. No measures of restraint were imposed on Ms. Radchenko. The Government also stated that in relation to the information submitted by Ms. Radchenko's lawyer, in accordance with article 365, part 2 of the Criminal Code of Ukraine, a criminal case has been launched concerning the use of force against her, her daughter and grandson by the law enforcement officers during the implementation of the court's decision. The investigation is currently ongoing.

165. The Special Rapporteur thanks the Government for detailed information on the steps taken into the circumstances of this case. He commends the Government for the correction of some of the violations alleged. Nevertheless, the Special Rapporteur notes that the Government states that there was no violation of law in subjecting her to involuntary psychiatric treatment and confinement. The response does not address the fact that she was forcibly admitted without a document confirming the court decision. The Special Rapporteur regrets that the Government did not provide further information with respect to the above-mentioned instructions issued by the Ministry of Health concerning measures to be taken to comply with the Law on "Psychiatric care." He would like to be able to comment on the substance of those instructions from the perspective of their consistency with international standards. The Special Rapporteur welcomes the ongoing investigation into physical restraint of Ms. Radchenko's daughter and grandson and urges the Government to provide the full details of any prosecutions in the event that the alleged perpetrators are identified. The Special Rapporteur urges the Government to take measures to ensure that Ms. Radchenko's family is protected from violence, threats of violence or any form of intimidation and take steps to provide Ms. Radchenko with compensation. The Special Rapporteur also encourages the Government to bring the alleged perpetrators to account and impose penal, disciplinary or administrative sanctions on the alleged perpetrators implicated in authorising and executing the forced psychiatric treatment and confinement of Ms. Radchenko. The Special Rapporteur regrets that the Government did not provide the full details of the court decision which made possible the alleged forced psychiatric treatment and confinement of Ms. Radchenko. Given the information received, the Special Rapporteur determines that the rights under the UN Convention against Torture of Ms. Radchenko have been violated, and calls on the Government to undertake a prompt and impartial investigation of the alleged acts, including prosecution and punishment of the perpetrators, and to provide appropriate and adequate redress.

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

- (a) AL 06/07/2013 Case No. [GBR 2/2012](#) State Reply: [23/07/2013](#), [23/07/2013](#), [23/07/2013](#), [14/10/2013](#), [14/10/2013](#) and [14/10/2013](#) **Allegations of torture and ill-treatment of Congolese nationals after their forcible refoulement from the United Kingdom (UK) to the Democratic Republic of Congo (DRC) committed by Congolese officials.**

166. The Special Rapporteur thanks the Government for its several extensive replies to the Allegation Letter dated 7 June 2013 regarding reports of eight Congolese nationals facing continuous and pervasive intimidation, harassment, torture and re-arrest upon return to the DRC after failed asylum attempts in the UK. Concern was expressed that the conditions they face are allegedly contrary to the Country of Origin Information Report (March 2012), the Country Policy Bulletin (November 2012) and the Operational Guidance Note (May 2012) developed by the UK Border Agency (UKBA) to assess the appropriateness of returning failed asylum seekers to their home countries. According to the allegations, these documents inaccurately designate the DRC as a safe place to return asylees and, on the basis of this designation, many Congolese are returned to unsafe conditions. It was further alleged that DRC officials use immigration information passed to them by Government officials to facilitate the arrest, detention, and in some instances

torture, of those returned from the UK. In light of these allegations, the Special Rapporteur requested that the Government provide information regarding the steps taken in verifying the Country of Origin reports, whether those returned are monitored to ensure they are not subject to torture, whether investigations are conducted once torture is alleged, and any other steps taken by the Government to ensure the fulfillment of their obligations under Article 3 of CAT. The Special Rapporteur acknowledges the Government's extensive reply to these allegations in which they cited several investigations into mistreatment of asylum seekers returned to the DRC. The Government claims the result of the investigation shows little credibility in reports of the DRC targeting asylum seekers, and they use this conclusion, along with no substantive reports of abuse made to their embassy in Kinshasa, to dismiss these allegations as unfounded. The Government further provides that country conditions are not singularly determined through use of the Country of Information Report, but instead are determined through multiple sources of information including civil society, past asylum seekers, and local media. While the Special Rapporteur is encouraged by investigations conducted into these allegations and others, he stresses the Government's obligation under Article 3 of CAT, in particular 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." Should the Government encounter credible information indicating that asylum seekers returned to the DRC are subjected to mistreatment, the Special Rapporteur calls on the Government to take corrective action in their return procedures. Additionally, the Special Rapporteur encourages the Government to take the utmost care in the dissemination of information to immigration officials in DRC, specifically information that could allow DRC officials to target returning asylees who may have been politically active while abroad. In this regard, the Special Rapporteur encourages the Government to continue its ongoing engagement with the mandate.

### **United States of America**

- (a) **AL 18/03/2013 Case No. [USA 3/2013 State Reply: 05/08/2013](#)** Alleged prolonged solitary confinement in New York state prisons, compromising prisoner mental and physical health.

167. The Special Rapporteur thanks the government of the United States for its reply, dated 5 May 2013, to this communication in reference to alleged use of solitary confinement in New York State prisons. The communication referred to the alleged practices throughout New York state prisons that subject thousands of incarcerated persons to prolonged solitary confinement, other extreme isolation practices, and inhuman or degrading conditions in detention, including the denial of adequate medical treatment. In particular, Mr. William Blake, Mr. Stephan Poole and Mr. Kenneth Wright have been subjected to prolonged solitary confinement. According to the information received, in 39 prisons across New York State, nearly 4,500 prisoners are held in isolation cells, or Special Housing Units (SHUs). Reportedly, prisoners in SHUs are deprived of all meaningful human contact, including telephone calls, recreational activities, or rehabilitation programs. It is also reported that inmates in SHUs are frequently deprived of basic necessities such as food, exercise, and basic hygiene and that they experience difficulties in obtaining adequate medical treatment. Mr. William Blake has been incarcerated in a SHU, held in a barren concrete cell with no furnishings other than a steel bed frame for 25 consecutive years. Mr. Stephan Poole received a sentence of 36 months in the SHU for allegedly planning an escape. In the eight years and nine months prior, he had allegedly received no reports of misbehavior. Mr. Poole has reportedly accumulated additional lengthy SHU sentences for non-violent prison infractions, including refusing to return a food tray. He has allegedly

developed insomnia and paranoia and has become increasingly anti-social as a result of his confinement. Mr. Kenneth Wright has been repeatedly confined to SHU as punishment for using marijuana, despite proactively seeking treatment from the Department of Corrections health service. Allegedly, after Mr. Wright's latest infraction, authorities subjected him to six additional months in SHU and failed to take steps to assess his medical condition and provide necessary treatment. It is reported that Mr. Wright has struggled with depression, hopelessness and thoughts of suicide during his time in SHU. In addition, isolation in the SHU changed his behavior: he became more aggressive and started talking to himself. On the basis of the information available to him, the Special Rapporteur concludes that the rights of Messrs. Blake, Poole and Wright to be free from torture have been violated, and that the practice of solitary confinement in New York State violates the international obligations of the United States of America. He reminds the US Government that 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 of the International Covenant on Civil and Political Rights. In addition, the Special Rapporteur draws attention to his interim report to the General Assembly of 5 August 2011 (A/66/268) stating that where the physical conditions and the prison regime of solitary confinement cause severe mental and physical pain or suffering amount to torture or cruel inhuman or degrading treatment if the resulting social isolation is prolonged or indefinite, whether used as punishment or during pre-trial detention. Solitary confinement of any length of time is similarly a violation of international law when used on juveniles, pregnant women or persons with mental disabilities. On the basis of scientific evidence, his report established 15 days as the limit between "solitary confinement" and "prolonged solitary confinement" because at that point, according to the literature surveyed, some of the harmful psychological effects of isolation can become irreversible. Furthermore, the Special Rapporteur reminds the US Government that Rule 22 of the Standard Minimum Rules for the Treatment of Prisoners provides that, "(s)ick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Furthermore, Rule 25(1) provides that, "(t)he medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed." The Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment. The Special Rapporteur welcomes the recent positive developments regarding disciplinary segregation in New York State prisons. However, he urges the authorities (State and Federal) to similarly look into the regime of administrative segregation. Further, while acknowledging recent developments in New York State, the Special Rapporteur urges the United States Government and individual State Governments to take all measures necessary to ban the use of prolonged solitary confinement for juveniles, pregnant women and persons with mental disabilities. The Special Rapporteur calls on the US Government to undertake a prompt and independent investigation of the allegations of prolonged solitary confinement, leading to its immediate termination, and to provide full redress to the victims.

- (b) **AL 08/05/2013 Case No. [USA 4/2013](#) State Reply: [13/08/2013](#)** Alleged prolonged solitary confinement policies at the United States Penitentiary Administrative Maximum Facility (ADX) in Florence, Colorado.

168. The Special Rapporteur thanks the government of the United States for its reply, dated 5 May 2013, to this communication in reference to alleged use of prolonged solitary confinement in policies in the Florence, Colorado penitentiary. The communication referred to the alleged practices at the United States Penitentiary Administrative Maximum Facility (ADX) in Florence, Colorado, that subject between 400 and 500 inmates to prolonged solitary confinement and inhuman or degrading conditions in detention, including the denial of adequate medical treatment. According to the information received, inmates at

ADX are held in prolonged solitary confinement, sometimes for several years, which causes severe physical and mental pain and suffering rising to the level of torture or other cruel, inhuman or degrading treatment. Inmates spend 20 to 24 hours per day in individual cells measuring 12 by 7 feet (3.6 by 2.1 meters) with virtually no meaningful human interaction or intellectual stimulation. It is reported that many ADX inmates suffer from severe mental illness due to their isolation and are denied access to adequate psychiatric care and treatment. In a similar case involving the ADX and the use of prolonged solitary confinement, the Special Rapporteur on torture had sent a communication on 29 November 2011 (ref. UA G/SO 214 (53-24) USA 21/2011). In its reply, the government of the United States explained that under the Code of Federal Regulations (CFR), solitary confinement under so called Special Administrative Measures (SAMs) may only be imposed where necessary to protect national security, and may not exceed one year at a time. In this context the Government explained that SAMs can only be implemented in two well-defined and limited circumstances: if the measures are reasonably necessary to prevent disclosure of classified information, e.g., that the unauthorized disclosure of such information would pose a threat to national security, and when a danger that the inmate will disclose such information exists. The Special Rapporteur reminds the government of the United States that each Government has the obligation to protect the right to physical and mental integrity of all persons under its jurisdiction, as set forth under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (CAT). In the Special Rapporteur's interim report to the General Assembly of 5 August 2011 (A/66/268), he stated that where the physical conditions and the prison regime of solitary confinement cause severe mental and physical pain or suffering, when used as a punishment, during pre-trial detention, indefinitely, prolonged, on juveniles or persons with mental disabilities, it can amount to cruel, inhuman or degrading treatment or punishment and even torture. Paragraph 26 of the report states that, "of particular concern to the Special Rapporteur is prolonged solitary confinement, which he defines as any period of solitary confinement in excess of 15 days... He concludes that 15 days is the limit between "solitary confinement" and "prolonged solitary confinement" because at that point, according to the literature surveyed, some of the harmful psychological effects of isolation can become irreversible." Furthermore, the Standard Minimum Rules for the Treatment of Prisoners 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" and that "(t)he medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed." The Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment. The Special Rapporteur has asked the US Government to invite him to conduct a visit to ADX prison (and other facilities) in accordance to his mandate; that request, formally made in writing in May 2013 and repeated several times since, has gone unanswered until now. He insists that the prohibition on torture and on cruel, inhuman or degrading treatment is absolute, and that it recognizes no exception based on any grounds, including national security or states of emergency. On the basis of the information available, the Special Rapporteur finds that the solitary confinement regime applied in ADX prison violates the obligations of the United States under international law. He calls on the Government to undertake a prompt and independent investigation of the prolonged solitary confinement policy at ADX, leading to the program's termination and to provide full redress to the victims.

- (c) **JAL 31/05/2013 Case No. [USA 6/2013](#) State Reply: None to date** Alleged refusal to allow plaintiffs to travel to the United States of America (U.S.) to participate in their lawsuit.

169. The Special Rapporteur regrets that the government of the United States of America 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 refusal to allow the plaintiffs in *Al Shimari v. CACI Premier Technology, Mr. Taha Yaseen Arraq Rashid, Mr. Asa'ad Hamza Hanfoosh Al-Zuba'e and Mr. Suhail Najim Abdullah Al Shimari*, to travel to the United States of America (U.S.) to participate in their lawsuit against a private military contractor at Abu Ghraib in Iraq. According to the information received, Mr. Rashid, Mr. Al-Zuba'e and Mr. Al Shimari filed a lawsuit against a private military contractor, CACI Premier Technology, Inc., alleging torture and ill-treatment at Abu Ghraib prison in Iraq. Mr. Rashid, Mr. Al-Zuba'e and Mr. Al Shimari were all granted visas to travel to the U.S. during winter 2012/2013 and were able to secure boarding passes for their flight from Baghdad, Iraq to the U.S., scheduled for 15 March 2013, but were denied boarding onto the flight. All three men have applied for expedited visas to travel to the U.S. and no explanation has been given for their initial denial to board the aircraft. Mr. Rashid, Mr. Al-Zuba'e and Mr. Al Shimari risk dismissal of their case if they are unable to appear for deposition in the U.S. In this context, the Special Rapporteur would like to remind the government of the United States of America of paragraph 7e of Human Rights Council Resolution 16/23, which urges States "(t)o ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social, psychological, medical and other relevant specialized rehabilitation." In addition, one of the foundational principles of the Guiding Principles on Business and Human Rights, adopted by the Human Rights Council provides that "[a]s part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy." In accordance with the United States of America's obligation and commitment to provide redress to persons who suffer human rights violations, such as torture and war crimes, the Special Rapporteur requests that the government allow the plaintiffs to travel to the U.S., so that their claims are not prematurely dismissed, or at the very least, inform the plaintiffs' attorneys why their clients have been denied entry so that they may contest the decision.

- (d) **AL 03/06/2013 Case No. [USA 5/2013](#) State reply: None to date** **Allegations of torture and ill-treatment of Mr. Shawki Ahmad Sharif Omar by US officials in Iraq.**

170. The Special Rapporteur regrets that the Government of the United States of America 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 torture and ill-treatment of Mr. Omar by US officials in Iraq while being detained in US-controlled facilities at an unknown place two weeks after arrest, and later in Camp Cropper, the US army base Camp Bucca close to Umm Qasr in the south of Iraq, and Abu Ghraib Prison between October 2004 and July 2011. Mr. Omar was born in Kuwait and has dual Jordanian and US citizenship. Reportedly, Mr. Omar was arrested with his then pregnant wife by US soldiers in Baghdad in Al Zayouna district. Mr. Omar was reportedly handed over to Iraqi authorities in July 2011. Upon arrest, Mr. Omar was allegedly held incommunicado for two weeks and during interrogation sessions repeatedly tortured by means, inter alia, of electric shocks and simulations of drowning. He was beaten in front of his wife and the US security personnel threatened to rape his wife in front of him. According to information received, Mr. Omar's wife was released after two weeks. Reportedly, while still in US-controlled facilities, Mr. Omar was sentenced to 15 years imprisonment for illegal entry to Iraq

following an unfair trial before the Central Criminal Court in Iraq on 24 June 2010. The sentence allegedly relied on statements extracted under torture from Mr. Omar and third persons, some of whom reportedly later withdrew their statements made in court.

171. Mr. Omar was the subject of a previous communication, dated 30 November 2012; a reply to this communication is still awaited from the Government of the United States of America. The Special Rapporteur reiterates that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth *inter alia* in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), which the Government of the United States of America ratified on 8 June 1992, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (CAT), which the Government of the United States of America ratified on 21 October 1994. The Special Rapporteur reiterates that no exceptional circumstances can be invoked to justify torture by the Government. Due to the lack of further information, the Special Rapporteur finds that the Government of the United States is responsible for the torture and ill-treatment to which Mr. Omar was subjected while under the control of US military forces, in violation of international law.

- (e) **UA 29/07/2013 Case No. [USA 10/2013](#) State reply: None to date:** Alleged prolonged solitary confinement of Herman Wallace, Albert Woodfox, and Robert Kig Wilkerson at the Louisiana State Penitentiary and the David Wade Correctional Centre, Louisiana. And alleged insufficient medical care of Mr. Wallace regarding a diagnosis of liver cancer (**Update-Mr. Wallace was granted immediate release on 1 October 2013, and died four days later**).

172. The Special Rapporteur regrets that the Government of the United States of America 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 prolonged solitary confinement of Herman Wallace, Albert Woodfox, and Robert King Wilkerson at Louisiana State Penitentiary and David Wade Correctional Centre, Louisiana, amounting to cruel, inhuman or degrading treatment or torture and insufficient medical care received by Mr. Wallace before his death. In 1972, Mr. Woodfox and Mr. Wallace were charged and found guilty of murdering a prison guard and spent over forty years in solitary confinement, reportedly the longest period of solitary confinement of any prisoner in the United States. Mr. Wilkerson was convicted of conspiracy to murder a fellow inmate and spent twenty-nine years in solitary confinement. Mr. Wilkerson was released in February 2001. Mr. Woodfox's conviction has been overturned and reaffirmed several times, and he remains in custody pending a ruling from the Fifth Circuit Court. Temperatures in Mr. Woodfox's cell are reportedly very high, reaching up to 100 degrees Fahrenheit. It was also alleged that prison review boards have not made efforts in good faith to have fair and meaningful hearings to assess the necessity of solitary confinement, setting aside consideration of the prisoner's behavior in the assessment. Reportedly, evidence used against Mr. Woodfox and Mr. Wallace has been questioned, including allegations of bribery. The conditions of confinement reported include 23-hour daily confinement, cells measuring 2 to 3 meters or smaller, and severely limited social interaction with no access to work, education, or rehabilitation programs. The conditions had reportedly had negative psychological and physical consequences on the inmates, as acknowledged by a federal judge in 2007. Additionally, Congressmen John Conyers, Cedric Richmond, Jerrold Nadler, and Bobby Scott had expressed their concern for these constitutional violations and alleged that the Attorney General in Louisiana was colluding with the Department of Corrections to fabricate violations of prison rules to justify the inmates' placement in solitary confinement. The Special Rapporteur regrets that the Government has not responded to this communication but notes that after forty-one years in solitary confinement, Mr. Wallace was granted immediate release by US District Chief Judge Brian Jackson on 1 October

2013 after overturning his conviction. Mr. Wallace died on 4 October 2013. The Special Rapporteur reminds the Government of the United States of America that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), which the Government of the United States of America ratified on 8 June 1992, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which the Government of the United States of America ratified on 21 October 1994. In this context, he draws attention to paragraph 6 of General Comment No. 20 of the Human Rights Committee, which 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 ICCPR (adopted at the 44th session of the Human Rights Committee, 1992). In this regard, he also points 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). Under the circumstances, the Special Rapporteur finds that the United States has violated the rights of Messrs. Wallace, Woodfox and Wilkerson to physical and mental integrity.

- (f) AL 15/08/2013 Case No. [USA 12/2013](#) State reply: None to date **Alleged torture of Mr. Ahmed Abu Ali during interrogation to coerce a confession used to incriminate and substantiate a conviction for participating in terrorist activities in Saudi Arabia and alleged prolonged solitary confinement.**

173. The Special Rapporteur regrets that the Government of the United States of America has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to alleged practices conducted in collusion with the Saudi Arabian Government regarding the detention and interrogation of Mr. Ahmed Abu Ali, the alleged prolonged solitary confinement at the United States Penitentiary, Administrative Maximum Facility (“ADX”) in Florence, Colorado, and the alleged detention without respect for his right to a fair trial and other minimum due process guarantees. On 11 June 2003, Mr. Ali, an American citizen born in Texas in 1981, was allegedly arrested at Medina University in Medina, Saudi Arabia at the behest of the United States. He was beaten and whipped in prison until he admitted he was part of an Al-Qaeda cell connected to the May 12 Riyadh bombings. Reportedly, Mr. Ali was transferred to Riyadh where he was placed in solitary confinement for 40 days, deprived of sleep, and coerced through torture to sign a 40-page statement created by Saudi Arabian secret police (Mabahith). It was reported that Mr. Ali has permanently disabled hands after being subjected to torture for nearly a month. Mr. Ali was also reportedly visited by FBI agents in the detention facility in Riyadh, who threatened to transfer him to Guantanamo Bay and label him an “enemy combatant” if he did not give testimony that incriminated the defendants at the Royer trial. Mr. Ali had reportedly been placed in solitary confinement months at a time. It was reported that Mr. Ali’s trial was not conducted fairly and that a motion to vacate his sentence was pending. During the trial, it was reported that the defense brought expert witnesses who testified that the marks on Mr. Ali’s back, the unbearable pain in his hands impeding his ability to hold a pen, and that the psychological stress he now experiences are consistent with his claims of being tortured. Mr. Ali is being detained in the United States Penitentiary Administrative Maximum Facility (“ADX”) in Florence, Colorado. He is allegedly being subjected to prolonged solitary confinement, including 23-hour a day lock down in a 7 by 12 foot cell. In 2009, Mr. Ali reportedly was involved in a hunger strike protesting poor prison conditions. The Special Rapporteur reiterates that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration

of Human Rights, the International Covenant on Civil and Political Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (CAT). The Special Rapporteur reiterates that no exceptional circumstances can be invoked to justify torture by the Government and as stated in article 15 of the CAT, evidence obtained through torture “shall not be invoked in any proceedings, except against a person accused of torture as evidence that the statement was made.” Due to the lack of information provided by the Government regarding allegations of torture and ill-treatment of Mr. Ali, the Special Rapporteur finds that the Government has violated the rights of Mr. Ali under international law regarding torture and cruel, inhuman or degrading treatment.

- (g) UA 20/08/2013 Case No. [USA 13/2013](#) State reply: None to date **Alleged excessive use of prolonged solitary confinement in the California Department of Corrections and Rehabilitation, poor conditions of detention, and retaliatory measures against prisoners protesting through a hunger strike** (Update, the hunger strike ended after 60 days, but many of the prisoners’ demands were not met).

174. The Special Rapporteur regrets that the Government of the United States of America 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 excessive use of prolonged solitary confinement in the California Department of Corrections and Rehabilitation (CDCR), poor detention conditions, and retaliatory measures taken against prisoners protesting through a hunger strike. It is estimated that California holds nearly 12,000 prisoners in isolation, including approximately 4,000 “Security Housing Units” (SHU) prisoners. Conditions reportedly include cells that are 8 by 12 feet and lack minimum ventilation or natural light. Prisoners remain in their cells for 22 to 23 hours a day, and do not generally have any contact with other inmates. Allegedly, prisoners are held in isolation, often for decades, based on alleged gang membership or threats of wrongdoing. It is reported that prisoners remain in solitary confinement until they can prove they have been “gang free” for six years, or agree to become an “informant.” Reportedly, current informants in SHU give incriminating “evidence” of other prisoners’ insubordination and that dubious evidence is used to justify solitary confinement as a legitimate disciplinary measure. Allegedly, a high percentage of inmates held in solitary confinement have mental disabilities and the practice of prolonged solitary confinement has caused irreparable physical and mental harm to prisoners without initial mental conditions. It is reported that on 8 July 2013, 561 prisoners in nine separate prisons started a hunger strike, beginning in the solitary confinement unit of Pelican Bay State Prison in California. Thousands of prisoners joined the peaceful hunger strike to protest the use of solitary confinement. The demands made by prisoners reportedly included similar demands made during a 2011 hunger strike, which lasted twenty days. Demands included: authorities’ compliance with the recommendations of the US Commission on Safety and Abuse in America’s Prisons and an end to long-term solitary confinement; abolition of the debriefing (informant) policy and modification of active/inactive gang status criteria; elimination of group punishment and administrative abuse; adequate food and nutrition; and creation and expansion of constructive programming. The Special Rapporteur regrets that the Government of the United States has not responded to this communication and notes that although the hunger strike ended after 60 days, many of the prisoners’ demands have not been met. The Special Rapporteur reiterates that each Government has the obligation to protect the right to physical and mental integrity of all persons under its jurisdiction. This right is set forth inter alia in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (CAT). In this context, he reiterates that no exceptional circumstances can be invoked to justify torture by the Government. Further, the Special Rapporteur reminds the Government of paragraph 6 of General Comment No. 20 of the Human Rights Committee, which 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 ICCPR (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).

- (h) UA 23/08/2013 Case No. [USA 14/2013](#) State reply: None to date **Alleged denial of medical treatment of Ms. Lynne Stewart for 18 months, resulting in her cancer developing to terminal stage 4 and the use of shackles during eventual medical treatment** (Update-granted compassionate release on 31 December 2013).

175. The Special Rapporteur regrets that the Government of the United States of America 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 denial of medical treatment of Ms. Lynne Stewart for 18 months, resulting in her tumor metastasizing and developing into terminal stage 4 cancer and the use of shackles during eventual medical treatment for no justifiable reason. In 2005, Ms. Stewart, a former United States attorney, was convicted of providing material support to terrorists while representing a client and was sentenced to 28 months in prison. Reportedly on appeal in 2010, Ms. Stewart was resented to 10 years in prison for an alleged perjury charge during the first trial. Ms. Stewart was held at the Federal Medical Center, Carswell, in Forth Worth, Texas. Reportedly, Ms. Stewart had been diagnosed with cancer and was in remission at the time she was sentenced. Ms. Stewart was scheduled for surgery a week after her incarceration to remove the remaining cancer and prevent it from metastasizing. It was reported that she was subsequently forced to wait 18 months for the surgery, denying her the opportunity to eliminate her cancer. Medication was also allegedly withheld and repeatedly delivered late. The cancer has since developed to stage 4, has become terminal, and has spread to her lymph nodes, shoulder, bones, and lungs. It was reported that while receiving chemotherapy Ms. Stewart was shackled to her bed with leg irons, handcuffs, and belly chains, contrary to medical advice, without sufficient security justification. It was reported that she could not walk without help and had to walk to the physician shackled with 20 lbs. of chains and recuperate in an uncomfortable prison bed with her arms and legs shackled to the bed. The Special Rapporteur regrets that the Government of the United States of America has not responded to this communication and reiterates that each Government has the obligation to protect the right to life and physical and mental integrity of all persons under its jurisdiction. This right is set forth inter alia in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (CAT). Despite the lack of any official response from the Government, the Special Rapporteur notes that on 31 December 2013 Ms. Stewart was granted a compassionate release because of her diagnosis of terminal cancer.

- (i) JAL 29/11/2013 Case No. [USA 17/2013](#) State Reply: None to date **Alleged unlawful killings and abuse by US military in Nerkh District, Wardak Province, Afghanistan.**

176. The Special Rapporteur regrets that the Government of the United States has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. According to allegations, at least 19 Afghan men were unlawfully killed by the US Army, 1<sup>st</sup> Battalion, 3<sup>rd</sup> Special Forces Group, known as Operation Detachment Alpha (ODA) 3124, in the Nerkh District of Wardak Province, Afghanistan in late 2012 and early 2013. Many of those killed were allegedly taken into custody by ODA 3124 and were later found dead. Additionally, it is alleged that several

detainees held by ODA 3124 were mistreated, harassed and beaten while in custody. The US military reportedly opened a criminal investigation into these allegations, but numerous key witnesses had not yet been questioned by investigators. The Special Rapporteur reminds the Government that article 3 of the 1949 Geneva Conventions provides that in non-international armed conflicts, all persons not taking an active part in hostilities, including persons in custody, shall be treated humanely. Additionally, article 3 of the UDHR and article 6(1) of the ICCPR guarantee the right of every individual to life and security and provide that these rights shall be protected by law and that no one shall be arbitrarily deprived of his or her life. The Special Rapporteur also reiterates that paragraph 1 of Human Rights Council Resolution 16/23 “condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment... 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 Customary Rules compiled by the ICRC and the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law require states to investigate and respond to grave breaches of international human rights and humanitarian law. Similarly, articles 7 and 12 of the Convention against Torture require States to conduct prompt and impartial investigations where there are reasonable grounds to believe that torture has been committed and to prosecute suspected perpetrators. In the absence of evidence to the contrary, the Special Rapporteur concludes that the victims’ rights under international standards relating to the prohibition of torture and ill-treatment, as well as other standards of international human rights and humanitarian law, have been violated. The Special Rapporteur calls on the US Government to undertake a prompt, independent, and effective investigation of the facts, leading to the prosecution and punishment of the perpetrators, to provide full redress to the victims and their family members, and to undertake effective measures to prevent the recurrence of these acts.

- (j) AL 29/11/2013 Case No. [USA 18/2013](#) State Reply: None to date **Alleged prolonged solitary confinement of detainee in New York state prisons.**

177. The Special Rapporteur regrets that the Government of the United States has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to detainee Mr. William Blake, who has been held in indefinite isolation under “administrative segregation” for 26 years in a New York state prison. Mr. Blake is allegedly allowed only one hour of recreation per day in an empty space surrounded by concrete walls on three sides. New York State allegedly places no upper limit on the length of administrative segregation terms. The US Federal Government reportedly has oversight of state and local detention practices, and seeks to enforce federal safeguards against solitary confinement abuses. The Special Rapporteur stresses that under the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention against Torture, each government has the obligation to protect the right to physical and mental integrity of all persons. Paragraph 6 of General Comment No. 20 of the Human Rights Committee provides that solitary confinement may amount to torture or ill treatment under article of the ICCPR. The Special Rapporteur stressed in his 2011 thematic report to the UN General Assembly that where the physical conditions and the prison regime of solitary confinement cause severe mental and physical pain or suffering, when used as a punishment, during pre-trial detention, indefinitely, prolonged on juveniles or persons with mental disabilities, it can amount to cruel, inhuman or degrading treatment or punishment and even torture under CAT, ICCPR and other international standards. According to the Special Rapporteur’s report, prolonged solitary confinement in excess of 15 days can cause irreversible psychological damage on the detainee. Without any evidence to the contrary, the Special Rapporteur determines that the rights of the detainee mentioned above have been violated

under international standards relating to the prohibition of torture and ill treatment. The Special Rapporteur welcomes New York State's recent willingness to look into the use of solitary confinement and hopes that other State governments will follow suit. Further, the Special Rapporteur urges the United States Government to take all measures necessary to ban the use of prolonged solitary confinement for juveniles, pregnant women and persons with mental disabilities. The Special Rapporteur calls on the Government to cease the prolonged isolation of Mr. Blake and to abolish or restrict the use of solitary confinement in all detention facilities throughout the United States, including New York State.

(k) JUA 30/11/2012 Case No. USA 32/2012 State Reply: 25/06/2013 **Alleged torture of detainee by US security forces at Bagram, Kandahar and Guantanamo Bay.**

178. The Special Rapporteur thanks the Government of the United States for its reply, dated 25 June 2013, to this communication in reference to the alleged torture of Mr. Shaker Aamer by U.S. security forces at Bagram, Kandahar and Guantanamo Bay. Since 2001, it is alleged that US forces have subjected Mr. Aamer to beatings, have forced him to sit or stand in stress positions, have poured cold water on him, have provided inadequate food and clothing, have subjected him to sexual abuse, have subjected him to forced feeding, have placed him in solitary confinement, have denied him independent medical examinations, and have forced him to make false statements and confessions under duress. Mr. Aamer has allegedly never been charged with a crime, and has been cleared for release from Guantanamo Bay since 2007. The US Government alleges in its reply that Mr. Aamer's continued detention at Guantanamo is in accordance with domestic US law, as well as international human rights and humanitarian law. The US alleges that prison officials have used proportionate levels of force against Mr. Aamer for order and disciplinary purposes, and that Mr. Aamer has never been placed in solitary confinement. The US also reports that all claims of torture and ill treatment raised by Mr. Aamer have been found to be not credible. The US further claims that Mr. Aamer has been provided with adequate medical care and the opportunity to challenge his detention in federal court. The Special Rapporteur reiterates that each Government has the obligation to protect the right to physical and mental integrity of all persons, as set forth inter alia in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Convention against Torture. The Special Rapporteur further reiterates that according to articles 2 and 15 of CAT, no exceptional circumstances can be invoked to justify torture, and evidence obtained through torture "shall not be invoked in any proceedings, except against a person accused of torture as evidence that the statement was made." Additionally, articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR) guarantee the right of all persons not to be deprived arbitrarily of their liberty and to fair proceedings before an independent and impartial tribunal. Due to the lack of further information, the Special Rapporteur concludes that the victim's rights under international standards relating to the prohibition of torture and ill-treatment, as well as other standards of international human rights and humanitarian law, have been violated. The Special Rapporteur urges the US Government to provide further information regarding the alleged abuses, to conduct thorough and independent investigations, leading to the prosecution and punishment of all perpetrators, and to provide compensation for the victim.

## Uruguay

- (a) JAL 14/05/2013 Case No. [URY 1/2013](#) State reply: [25/05/2013](#), [25/07/2013](#), [16/07/2013](#), [25/07/2013](#), [25/07/2013](#), [25/07/2013](#) and [25/07/2013](#) **Clausura y Potencial clausura de ciertos casos judiciales relativos a desapariciones forzadas, tortura, y ejecuciones**

### **ocurridos durante el período dictatorial uruguayo, como consecuencia de decisiones de la Suprema Corte de Justicia.**

179. El Relator Especial agradece al Gobierno de Uruguay por su respuesta de fecha 16 de julio del 2013 a la comunicación conjunta con otros procedimientos especiales. La comunicación hace referencia a la clausura y potencial clausura de ciertos casos judiciales relativos a desapariciones forzadas, tortura, y ejecuciones ocurridos durante el período dictatorial uruguayo, como consecuencia de decisiones de la Suprema Corte de Justicia de fechas 22 de febrero de 2012, 13 de marzo de 2013, y 8 de abril de 2013, que consideraron inconstitucionales los artículos 2 y 3 de la ley 18.831 de 2011 que habilitaba la investigación y enjuiciamiento de los delitos cometidos durante la dictadura. El Relator felicita al Gobierno por haber invitado al Relator Especial sobre la promoción de la verdad, la justicia, la reparación y las garantías de no repetición, el Sr. Pablo de Greiff, a realizar una visita al país con posterioridad de esta comunicación, durante la cual pudo monitorear temas relacionados a la comunicación. Asimismo, el Relator agradece al Gobierno por haber contestado a sus preguntas y por informar sobre las diversas iniciativas conducidas para asegurar la efectiva continuación de las investigaciones en los casos relacionados a alegaciones de crímenes cometidos durante la dictadura, incluyendo la asignación de recursos económicos para investigaciones forenses y excavaciones, así como por la facilitación de información a los jueces y fiscales. El Relator comprende las exigencias impuestas por la independencia del poder judicial y agradece al gobierno por haber transmitido las preguntas a la Suprema Corte de Justicia. Sin perjuicio de lo anterior, el Relator insiste en la importancia de asegurar la continuación de las investigaciones judiciales relacionadas a estos casos y asegurar que las víctimas y sus familiares cuenten con acceso a la justicia y con las reparaciones adecuadas. Resulta preocupante que algunas de estas causas hayan sido clausuradas y que la respuesta a las mismas no sea uniforme, sino que dependa de los diversos mecanismos y normas legales que los jueces y fiscales de algunas causas hayan resuelto emplear para sortear los obstáculos impuestos por las decisiones de la Suprema Corte. El Relator es consciente de los múltiples esfuerzos del Estado Uruguayo por asegurar el acceso a la justicia en estos casos y reconoce que ha habido, como lo expresa el Gobierno, muchas “dificultades en el camino”. Sin perjuicio de esto, el Relator recuerda al Estado que es su obligación remover todos los obstáculos para asegurar que todas las alegaciones de tortura, presentes o pasadas, sean investigadas y procesadas.

### **Uzbekistan**

- (a) JAL 22/08/2013 Case No. [UZB 3/2013](#) State reply: [11/11/2013](#) **Alleged arbitrary arrest, torture and ill-treatment of detainee by police**

180. The Special Rapporteur thanks the Government of Uzbekistan for its reply, dated 11 November 2013, to this communication in reference to the alleged arbitrary arrest, torture and ill-treatment of Mr. Sardorbek Nurmetov by police forces in Urgench, Uzbekistan. According to allegations, Mr. Nurmetov was detained at the Urgench City Politce Station, where he was beaten and kicked by the chief of the station, was refused medical assistance and water, and was not allowed to go to the bathroom. It is alleged that police forces pressured Mr. Nurmetov not to file a complaint against the chief of police and brought administrative charges against him for possessing illegal religious materials. Mr. Nurmetov eventually filed a complaint. According to the Uzbekistan Government, Mr. Nurmetov was lawfully detained for carrying illegal religious extremist materials. The Government also claims that he suffered no bodily harm at the police station, nor was he subjected to any other ill-treatment. Additionally the Government claims that police officers did not pressure him into withdrawing his complaint, and that the Urgench Prosecutor’s Office suspended its

investigation into the alleged abuse after it found there was a lack of evidence. Additionally, the Government explains that the Urgench City Court imposed a fine and other lawful measures against Mr. Nurmetov for unlawful possession and importation of banned religious materials. The Special Rapporteur reminds the Government that paragraph 1 of Human Rights Council Resolution 16/23 “Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation... 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 reiterates that Article 6 of the Code of Conduct for Law Enforcement Officials, provides that “Law enforcement officials shall ensure the full protection of the health of persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required”. The Special Rapporteur also draws the Government’s attention to article 12 of the CAT, 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 CAT, which requires State parties to prosecute suspected perpetrators of torture. The Special Rapporteur calls on the Government to continue to investigate the alleged acts, to prosecute and punish all perpetrators, and to provide adequate compensation for the victim and his family. The Special Rapporteur also encourages the Government to continue to engage with his mandate and with other UN human rights mechanisms.

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

- (a) JUA 25/01/2013 Case No. [VEN 1/2013](#) State Reply: None to date **Alegaciones de violación sexual y hostigamiento de María Lourdes Afiuni Mora en prisión preventiva**

181. El Relator Especial lamenta que, hasta la fecha, el Gobierno de Venezuela no haya respondido a la comunicación de fecha 25 de enero de 2013 que se refería a actos de abuso sexual, hostigamiento y violencia contra la jueza María Lourdes Afiuni Mora en el Instituto de Orientación Femenina (INOF) por otras detenidas y funcionarios del estado. Según las alegaciones, funcionarios de la Guardia Nacional y INOF habrían intentado presionar a las autoridades y médicos del Hospital Oncológico de Caracas para falsificar los reportes médicos y otra evidencia de abuso cometido contra Jueza Afiuni Mora. Adicionalmente se alega que las autoridades de INOF no han investigado estas denuncias de abuso. En este contexto, el Relator Especial desea hacer referencia al Gobierno de Venezuela al párrafo 1 de la Resolución del Consejo de Derechos Humanos 16/23, la cual “[c]ondena todas las formas de tortura y otros tratos o penas crueles, inhumanos o degradantes, que están y seguirán estando prohibidos en todo momento y en todo lugar y que, por lo tanto, no pueden justificarse nunca, y exhorta a todos los gobiernos a que respeten plenamente la prohibición de la tortura y otros tratos o penas crueles, inhumanos o degradantes.” El Relator también hace referencia al párrafo 18 del Comentario General No. 2 del Comité contra la Tortura que dice claramente que cuando las autoridades estatales, u otras personas actuando en capacidad oficial, conocen o cuentan con elementos razonables para entender que actos de malos tratos o tortura han ocurrido, sea por parte de agentes estatales o no estatales, deben iniciarse inmediatamente y de oficio las acciones para investigar, enjuiciar y castigar a los culpables. La falta de cumplimiento de esta obligación de actuar diligentemente respecto de la prevención, investigación o enjuiciamiento de actos de tortura y malos tratos deriva en la responsabilidad internacional del Estado y sus agentes deben considerarse como autores, cómplices o de otro modo responsables bajo la Convención contra la Tortura por consentir o evitar prevenir dichos actos. Ante la ausencia de evidencia contradictoria, el Relator Especial considera que los derechos de la presunta víctima han sido vulnerados. El Relator Especial reitera su llamamiento al Gobierno a asegurar la investigación, procesamiento y eventual condena de personas culpables.

- (b) JAL 08/02/2013 Case No. [VEN 2/2013](#) State Reply: [22/02/2013](#) and [25/03/2013](#) **Alegación sobre las condiciones de detención inhumanas y el uso excesivo de la fuerza por parte de autoridades del Centro Penitenciario de la Región Centro Occidental.**

182. El Relator Especial agradece al Gobierno de la República Bolivariana de Venezuela por sus atentas respuestas, de fecha 22 de febrero y 25 de marzo del 2013, a la comunicación conjunta con otros procedimientos especiales. La comunicación hacía referencia a la confrontación violenta entre la Guardia Nacional e internos del Centro Penitenciario de la Región Centro Occidental en el contexto de una requisa, que resultó en la muerte de al menos 60 individuos y alrededor de 100 internos heridos. Asimismo, se refería a las condiciones precarias de detención del centro mencionado, en donde se alega la falta de acceso a servicios básicos y hacinamiento crónico. El Relator Especial reconoce los avances y logros en materia penitenciaria a través de la creación del “Plan de Humanización Penitenciaria” (2004), el “Consejo Superior Penitenciario” (2008) y el “Ministerio del Poder Popular para el Servicio Penitenciario” (2011), y expresa su complacencia por la elaboración de informes de “Avances y Actuaciones” presentados ante la Corte Interamericana de Derechos Humanos. Sin embargo, expresa su preocupación por la falta de implementación de mecanismos específicos necesarios para asegurar condiciones humanas y servicios básicos a los internos. En el contexto de las alegaciones de uso excesivo de la fuerza en contra de internos, agradece al Gobierno por la información detallada sobre las investigaciones que se han desarrollado y sobre las medidas tomadas para apoyar a los familiares de las víctimas y asegurar la seguridad de los demás internos. Asimismo, el Relator reitera los artículos 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, los cuales hacen referencia al uso proporcional de la fuerza, el uso de medios no violentos antes de recurrir al empleo de la fuerza, así como la obligación del Gobierno de proporcionar protección en cualquier contexto. El Relator Especial exhorta al Gobierno de la República Bolivariana de Venezuela a dar a conocer los resultados de la investigación que se encuentra en trámite y a conducirla de manera de identificar a los responsables de este masivo atentado contra la vida y la integridad física de los reclusos, y de aplicar las sanciones condignas con su gravedad a quienes resulten responsables.

- (c) JAL 11/07/2013 Case No. [VEN 5/2013](#) State reply: None to date **Supuesto uso excesivo de la fuerza y criminalización de las protestas ocurridas durante el mes de abril 2013**

183. El Relator lamenta que el Gobierno de Venezuela no haya respondido a la comunicación de fecha 11 de julio del 2013. La comunicación se refería al supuesto uso excesivo de la fuerza y la criminalización de las protestas ocurridas en Venezuela durante el mes de abril 2013 tras darse a conocer el resultado de la elección presidencial que tuvo lugar el 14 de abril de 2013. El Relator hace referencia a los Principios Básicos sobre el Empleo de la Fuerza y de Armas de Fuego por los Funcionarios Encargados de Hacer Cumplir la Ley. El principio 4 dice que “[l]os funcionarios encargados de hacer cumplir la ley, en el desempeño de sus funciones, utilizarán en la medida de lo posible medios no violentos antes de recurrir al empleo de la fuerza y de armas de fuego.” El Relator Especial reitera su llamamiento al Gobierno a asegurar la investigación, procesamiento y eventual condena de los responsables del uso excesivo de la fuerza, y pide al Gobierno que proporcione información acerca de las medidas que hayan sido tomadas.

## Vietnam

- (a) UA 07/08/2013 Case No. [VNM 5/2013](#) State Reply: [11/10/2013](#) **Alleged arbitrary detention and torture of Mr. Nguyen Van Hai and Mr. Cu Huy Ha Vu and alleged ill-treatment of Mr. Nguyen Xuan Nghia.**

184. The Special Rapporteur appreciates the reply of the Government of Viet Nam, dated 11 October 2013, to this communication in reference to the alleged arbitrary detention and torture of Mr. Nguyen Van Hai, also known as Dieu Cay, and Mr. Cu Huy Ha Vu and the alleged ill-treatment of Mr. Nguyen Xuan Nghia. Mr. Nguyen Van Hai was the subject of previous communications; on 15 August 2011, a communication was sent to the Government of Viet Nam regarding Mr. Nguyen Van Hai's poor prison conditions, alleged hard labour and torture. The previous communication alleged that Mr. Nguyen Van Hai lost an arm in prison, was being tortured, and arbitrarily detained for exercising his right of freedom of expression. The Government of Viet Nam replied in a letter dated 12 January 2012 that the proceedings against Mr. Nguyen Van Hai were carried out in compliance with Vietnamese laws and international standards and that allegations regarding torture were not true. On 18 October 2010, upon completion of a previous sentence, Mr. Nguyen Van Hai was charged with conducting propaganda against the Socialist Republic of Viet Nam and held incommunicado for several months. Reportedly, in September 2012, Mr. Nguyen Van Hai was sentenced to 12 years imprisonment and five years probation. In June 2013, Mr. Nguyen Van Hai was placed in solitary confinement. Reportedly Mr. Nguyen Van Hai had conducted multiple hunger-strikes in response to the conditions of his confinement. It was reported that Mr. Nguyen Van Hai's health suffers as a result of a prolonged hunger strike, and the location of his detention is so remote that he would not have access to urgent medical treatment if necessary. It was further alleged that Mr. Nguyen Xuan Nghia is in poor health and is suffering from a number of ailments that may be exacerbated by prison conditions; also that Mr. Nguyen Van Hai's family learned of his hunger strike, solitary confinement, and inadequate medical care because Mr. Nguyen Xuan Nghia yelled out to his wife, who then informed the family of Mr. Nguyen Van Hai. It was reported that prison guards subsequently beat Mr. Nguyen Xuan Nghia brutally to make him stop speaking. Additionally, Mr. Cu Huy Ha Vu was reported to be in deteriorating health due to his hunger strike and the poor conditions of detention and that Mr. Cu Huy Ha Vu feels seriously threatened by one prison guard who is allegedly trying to kill him without the prison authorities granting him protection. In its reply, the Government of Viet Nam stated that Mr. Hai, Mr. Vu and Mr. Nghia have not been tortured and enjoy "meal portions, relatives' visits and medical cares, as stipulated by current laws of Viet Nam," as well as a health check every three months. The reply further stated that the report that Mr. Nguyen Van Hai went on a hunger strike was incorrect, and that information regarding Mr. Nguyen Van Hai being placed in solitary confinement was untrue. The reply further stated that Mr. Nguyen Xuan Nghia's health is normal. The Government stated that Mr. Cu Huy Ha Vu's health has not suffered as a result of his hunger strike and that the clinic sees Mr. Vu daily for his blood pressure. Additionally, the Government claimed that the arrest and trial of all three individuals was in strict compliance with Vietnamese laws and international norms and human rights practices. The Special Rapporteur regrets that the Government did not provide sufficient documentation of the investigation into the allegations of torture and ill-treatment in connection to Mr. Nguyen Van Hai, Mr. Cu Huy Ha Vu, and Mr. Nguyen Xuan Nghia. The Government's reply does not explain the Court's findings nor the measures taken to impartially and independently investigate the allegations of torture and ill-treatment. The Special Rapporteur urges the Government to 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 according to paragraph 7b of the Human Rights Council Resolution 16/23.

- (b) UA 20/09/2013 Case No. [VNM 6/2013](#) State reply: None to date **Alleged arrest, ill-treatment, and sentencing of a female labour rights activist.**

185. The Special Rapporteur regrets that the Government of Vietnam 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 arrest and ill-treatment of Ms. X, a labour rights defender. Ms. X was the subject of a November 2012 Opinion of the Working Group on Arbitrary Detention, which requested her release. Ms. X was arrested in February 2010 due to her involvement in a strike at the My Phong Leather Shoes factory in Tra Vinh province, and was allegedly beaten, subjected to intimidation, pressured to admit her guilt, and denied access to counsel during her eight months in pre-trial detention. Ms. X was reportedly convicted and sentenced to seven years in prison after a one-day trial in October 2010. During subsequent detention in three separate prisons, Ms. X allegedly continued to suffer beatings, was subjected to inadequate living conditions, placed in solitary confinement, denied access to medical care, and forced to perform hard labor. Concern was expressed that her detention and ill-treatment was a result of her work in claiming and defending labour rights, and Ms. X remained in detention at the time of this communication. In this context, the Special Rapporteur reminds the Government of Vietnam of its obligation under 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 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 regard to the alleged solitary confinement of Ms. X, the Special Rapporteur would also recall paragraph 6 of General Comment 20 of the Human Rights Committee, which 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, and 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." The Special Rapporteur reiterates paragraph 7b of Human Rights Council Resolution 16/23, which 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" and "to hold persons who encourage, order, tolerate or perpetrate such acts responsible [and] have them brought to justice and punished in a manner commensurate with the gravity of the offence." 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." (Approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.) The treatment to which Ms. X was subjected defeats the object and purpose of the Convention Against Torture, which Vietnam has signed but not yet ratified. The Special Rapporteur calls on the Government to undertake a prompt and independent investigation into the alleged arbitrary detention and ill-treatment of Ms. X, leading to prosecution and punishment of the perpetrators, and to provide full redress to the victim.



## Yemen

- (a) UA 13/08/2012 Case No. [YEM 3/2013](#) State Reply: None to date **Alleged torture, incommunicado and secret detention of Mr. Muhammad Ahmad Naji Obayd Al Haribi.**

186. 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 alleged torture and incommunicado and secret detention of Mr. Muhammad Ahmad Naji Obayd Al Haribi in a secret prison in Sana'a and in the Yemeni Intelligence Service's National Security headquarters' Al Qala'a prison. It was reported that on 9 November 2012, Mr. Al Haribi was arrested without judicial warrant and that his family was informed of the arrest by a civilian. According to the information received, Mr. Al Haribi was never brought before a judge and he was subjected to torture and ill-treatment during the 33 weeks he spent in detention. It was reported that Mr. Al Haribi is an activist with the Southern Yemeni secessionist movement. Reportedly, Mr. Al Haribi suffered physically and psychologically while being detained incommunicado for 33 weeks in a secret prison in Sana'a and the Yemeni Intelligence Service's National Security headquarters' Al Qala'a prison. It has also been reported that most of those detained in the Al Qala'a prison leave with serious and permanent injuries; some have allegedly even lost their mind as a result of long periods of detention, torture and other cruel and inhuman or degrading treatment. Additionally, it was reported that Mr. Haribi's detention was arbitrary. In this context, the Special Rapporteur reiterates that each Government has the obligation to protect the right to physical and mental integrity of all persons. Due to the lack of information provided by the Government, the Special Rapporteur concludes that Mr. Al Haribi has been subjected to torture, ill-treatment and incommunicado detention and that his rights have therefore been violated.

- (b) **JUA 14/12/2012 Case No. [YEM 1/2012](#) State reply: None to date** Alleged risk of 23 executions and two executions carried out in 2012 against individuals who were minors at the time of the alleged offence.

187. The Special Rapporteur regrets that the Government of the Republic of the Yemen has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to alleged execution of two minors, and the imminent execution of twenty three individuals reported to be minors at the time of the offense. Ms. Hind al-Barti was reported to be 16 years old at the time of her offense, and Mr. Fuad Ahmad Ali al-Sayyid was reportedly a minor as well, yet both individuals were executed. Mr. al-Sayyid was the subject of a past communication made by the Special Rapporteur on extrajudicial, summary or arbitrary executions on 23 December 2010, where concern was expressed that he was awaiting execution despite being a minor at the time of his offense. A reply regarding this communication is still awaited. In addition to these executions, 23 other individuals who were allegedly minors at the time they committed their offense are at risk of execution. Three of them, namely Messrs. Muhammad Taher Samoum in Ibb, Waleed Hussein Haikal in Sana'a and Muhammad Abduh Qasem al-Taweel in Ibb, are believed to risk imminent execution, due to the fact that their death sentences have been ratified by the President. In this context, the Special Rapporteur reminds the Government of Yemen that sentencing a person to death for having committed a crime when under eighteen years old amounts to cruel, inhuman and degrading punishment, which is prohibited inter alia in the Convention on the Rights of the Child (CRC), the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The Special Rapporteur reiterates in his recent report to the General Assembly that "not only is the enforcement of the death penalty in these cases [juveniles]

considered a violation per se of the prohibition of torture and cruel, inhuman and degrading treatment and punishment but the related State practice has led to the emergence of a jus cogens provision regarding the execution of juveniles". (A/67/279, para 64). The Special Rapporteur calls on the Government to undertake a prompt and independent investigation into the alleged execution and imminent executions of minors, and to provide full redress to the victims.

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