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## Human Rights Council

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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 be accessed via the communications reports of Special Procedures A/HRC/20/30 (communications sent, 1 December 2011 to 15 March 2012; replies received, 1 February 2012 to 15 May 2012); A/HRC/21/49 (communications sent, 16 March to 31 May 2012; replies received, 16 May to 31 July 2012) and A/HRC/22/67 (communications sent, 1 June to 30 November 2012; replies received, 1 August 2012 to 31 January 2013).

## II. Observations by the Special Rapporteur

### Angola

- (a) JAL 21/12/2011 Case No. AGO 3/2011 State reply: None to date **Alleged excessive use of force by authorities during peaceful protests**

6. The Special Rapporteur regrets that the Government of Angola 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 force against peaceful protestors. 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.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur finds that the rights under the UN Convention against Torture of the individuals mentioned in the communication have been violated. The Special

Rapporteur calls on the Government to investigate, prosecute and punish those responsible and to provide full redress to the victims.

## **Argentina**

- (a) **AL 11/07/2012 Case No. ARG 1/2012 State reply: 05/09/2012 Allegacion de actos de tortura cometidos por agentes oficiales de la localidad de Florencia en la Provincia de Santa Fe**

7. El Relator lamenta que, hasta la fecha, el Gobierno de Argentina no haya respondido a esta comunicación de fecha 11 de julio de 2012. La comunicación se refería a las alegaciones de actos de tortura cometidos por agentes oficiales en contra de personas detenidas. Los actos alegados incluyen el uso de picanas eléctricas sobre varias partes del cuerpo, y el uso de bolsas sobre la cabeza para asfixiar a la persona. Además, se alega que este caso ejemplifica una práctica reiterada por algunos funcionarios policiales en la localidad de Florencia en la Provincia de Santa Fe. En este contexto, el Relator Especial desea hacer referencia al Gobierno de Argentina al párrafo 1 de la Resolución del Consejo de Derechos Humanos 16/23, la cual “Condena 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, 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.” También hace referencia al artículo 15 de la Convención contra la Tortura, la cual señala que “[t]odo Estado Parte se asegurará de que ninguna declaración que se demuestre que ha sido hecha como resultado de tortura pueda ser invocada como prueba en ningún procedimiento, salvo en contra de una persona acusada de tortura como prueba de que se ha formulado la declaración.” Ante la ausencia de evidencia contradictoria, el Relator Especial considera que los derechos de las presuntas víctimas han sido vulnerados. El Relator Especial exhorta al Gobierno a asegurar la investigación, procesamiento y eventual condena de los responsables, e insta al Gobierno a que proporcione información detallada acerca de las medidas que hayan sido tomadas.

## **Azerbaijan**

- (a) **JUA 22/03/2012 Case No. AZE 2/2012 State reply: 08/05/2012 Alleged acts of ill-treatment and violence against peaceful protesters in the context of peaceful demonstrations held in the centre and the proximities of the city of Baku.**

8. The Special Rapporteur regrets that the Government of the Republic of Azerbaijan 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 on three journalists --which included torture and cruel, inhuman and degrading treatment by guards of the State Oil Company of the Azerbaijan Republic (SOCAR). One of the journalists, Mr. Idrak Abbasov, was the subject of a prior communication sent to the Republic of Azerbaijan on October 17, 2005 by the Special Rapporteur, which also had gone unanswered by the Republic of Azerbaijan. The Special Rapporteur reiterates that paragraph 1 of the Human Rights Council Resolution 16/23 “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment.” In addition, the Special Rapporteur also reminds the Government that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms [...]” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur finds that the rights of Mr. Idrak Abbasov, Ms. Gunay Musayeva, and Mr. Adalat Abbasov have been violated under the UN Convention against Torture. The Special Rapporteur calls on the Government

to investigate, prosecute and punish those responsible, and to provide full redress to the victims.

**(b) JUA 04/05/2012 Case No. AZE 3/2012 State reply: None to date Alleged violent attack on journalists.**

9. The Special Rapporteur regrets that the Government of the Republic of Azerbaijan 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 on three journalists --which included torture and cruel, inhuman and degrading treatment by guards of the State Oil Company of the Azerbaijan Republic (SOCAR). One of the journalists, Mr. Idrak Abbasov, was the subject of a prior communication sent to the Republic of Azerbaijan on October 17, 2005 by the Special Rapporteur, which also had gone unanswered by the Republic of Azerbaijan. The Special Rapporteur reiterates that paragraph 1 of the Human Rights Council Resolution 16/23 “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment.” In addition, the Special Rapporteur also reminds the Government that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms [...]” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur finds that the rights of Mr. Idrak Abbasov, Ms. Gunay Musayeva, and Mr. Adalat Abbasov have been violated under the UN Convention against Torture. The Special Rapporteur calls on the Government to investigate, prosecute and punish those responsible, and to provide full redress to the victims.

## **Bahrain**

**(a) JUA 20/01/2012 Case No. BHR 1/2012 State reply: 21/03/2012 Alleged excessive use of force against protestors for human rights**

10. The Special Rapporteur thanks the Government of Bahrain for its reply, dated 21 March 2012, to this communication in reference to the alleged excessive use of force, including beatings, tear gas, and stun grenades, during and following arrest for peaceful human rights demonstrations. The Special Rapporteur emphasizes that paragraph 7b of Human Rights Council Resolution 16/23 urges States “(t)o take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed [...]” The Special Rapporteur thanks the Government for its explanation of the complaint system available to victims of human rights abuses, but nonetheless urges an investigation ex officio into the allegations, and reminds the Government of its obligation to provide full redress, including fair and adequate compensation, and as full rehabilitation as possible to all victims of torture or other ill-treatment.

**(b) JUA 09/02/2012 Case No. BHR 2/2012 State reply: 19/03/2012 Alleged beating in detention and denial of access to specialist medical treatment.**

11. The Special Rapporteur thanks the Government of Bahrain for its reply, of 19 March 2012, in response to the urgent appeal of 9 February 2012 regarding the alleged beating in detention of Mr. Mahdi ‘Issa Abu Dheeb and his denial of access to specialist medical treatment. The Special Rapporteur expresses grave concern about Mr. Mahdi Issa Abu Dheeb’s deteriorating health condition in prison. In its reply, the Government of Bahrain described the health service procedures provided for all detainees, including Mr. Abu

Dheeb's access to specialist medical treatment. The Government also declared the allegation of the beating to be "entirely false." Although the Special Rapporteur appreciates the Government's reply, he 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." With respect to Mr. Abu Dheeb's deteriorating health condition, the Special Rapporteur reiterates 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, furnishing and pharmaceutical supplies shall be proper for the medical care and the treatment of sick prisoners, and there shall be a staff of suitable trained officers." The Special Rapporteur encourages the Government to ensure that all allegations of torture and other ill-treatment are investigated and punished, and reminds the Government of its obligation to provide full redress, including fair and adequate compensation, and as full rehabilitation as possible to all victims of torture or other ill-treatment. In addition, the State is obliged to exclude any confession or statement made under torture from evidence in criminal proceedings against the victim. The SRT also encourages the Government to continue its engagement with the mandate.

- (c) JUA 12/03/2012 Case No. BHR 3/2012 State reply: 13/04/2012, 27/04/2012, 11/06/2012  
**Alleged declining health of detained human rights defender on hunger strike.**

12. The Special Rapporteur thanks the Government of Bahrain for its several replies in response to the urgent appeal of 12 March 2012 regarding the deteriorating health condition of Mr. Abdulhadi Alkhawaja who began a hunger strike more than a month earlier in response to his life sentence. In its reply, the Government of Bahrain detailed the various health services provided for prisoners as well as the specific services provided for Mr. Alkhawaja during his hunger strike, which included 24-hour a day health care monitoring on an ongoing basis. Further, the Special Rapporteur notes the provision of two medical specialists, one an expert on hunger strikes and the other an expert of the protection of the rights of torture victims. Moreover, the Government claimed that Mr. Alkhawaja's condition is now stable and he no longer is in danger as a result of his hunger strike. Mr. Alkhawaja ended his hunger strike on 28 May 2012. However, the Special Rapporteur expresses great concern about the condition of detention of Mr. Alkhawaja and reminds Government 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." 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." He encourages the Government to continue its engagement with the mandate.

- (d) JAU 16/03/2012 Case No. BHR 4/2012 State reply: 18/04/2012 **Alleged denial of medical treatment of an opposition leader.**

13. The Special Rapporteur thanks the Government for its reply, dated 18 April 2012, to this communication in reference to the situation of Mr. Hassan Mushaima, Secretary-General of the Haq Democracy Movement, who is detained in the Bahrain State Prison and has allegedly been denied access to medical treatment and an independent medical doctor in detention. According to the information received, Mr. Mushaima was diagnosed with advanced follicular lymphoma, a malignant cancer prior to his detention. In its reply, the Government



confirmed Mr. Mushaima's diagnosis and stated that since the detention, he underwent several rounds of chemotherapy at the Bahrain Royal Medical Services Hospital in accordance to a medical treatment plan. The Government further reported that it plans to contact and consult Medical Services about permitting Mr. Mushaima to be examined by two doctors of his choice, and to undergo a scan to obtain a conclusive current diagnosis. While acknowledging the Government's reply, the Special Rapporteur would like to remind the Government of its obligation to protect the right to physical and mental integrity of all persons, set forth inter alia in the UDHR, the ICCPR, and the CAT. The Special Rapporteur also reiterates 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, furnishing and pharmaceutical supplies shall be proper for the medical care and the treatment of sick prisoners, and there shall be a staff of suitable trained officers." The Special Rapporteur encourages the Government to ensure that all sick persons in detention are provided with proper medical care and treatment, and urges the Government to grant, and to provide the results of Mr. Mushaima's requested medical examinations.

(e) JUA 29/06/2012 Case No. BHR 5/2012 State reply: 02/08/2012 **Alleged arbitrary detention and excessive use of force during demonstrations**

14. The Special Rapporteur thanks the Government of Bahrain for its reply, dated 2 August 2012, to this communication in reference to the alleged excessive use of force by law enforcement against peaceful assemblies in Manama, as well as during the detention of some of the demonstrators. However, the Government did not provide specific information regarding any investigations into the allegations made against the law enforcement officers involved. The Special Rapporteur recalls Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, "[l]aw enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms." Given the information received, the Special Rapporteur determines that the rights under the UN Convention against Torture of the individuals named in the communication 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.

## **Bangladesh**

(a) JUA 04/07/2012 Case No. BGD 4/2012 State reply: 12/07/2012 **Alleged ongoing attacks against journalists**

15. The Special Rapporteur thanks the Government of Bangladesh for its reply, dated 12 July 2012, to this communication in reference to the alleged extreme violence against journalists by law enforcement, as well as cases of violence against journalists in which law enforcement did not respond to threats in association with the violence. The Special Rapporteur thanks the Government for acknowledging the communication, but the promised response that would address the allegations has not been received. He recalls article 12 paragraphs, 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 which 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. The Special Rapporteur calls on the Government to investigate, prosecute and punish all cases of ill-treatment and to provide the

result of any investigation, medical examination, and judicial or other inquiries which may have been carried out in relation to these cases.

## **Barbados**

- (a) JUA 01/11/2012 Case No. BRB 1/2012 State reply: None to date **Allegation that a stateless person of Cuban origin is being held in detention without any legal basis**

16. The Special Rapporteur regrets that the Government of Barbados has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to allegations that Mr. Raul Garcia, a Cuban native, who has been deprived of his liberty in excess of his prison sentence for over two years, and is being held in solitary confinement at the maximum security Dodd Prison. In this context, the Special Rapporteur would like to remind the Government of 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 also recalls 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 ICCPR. The Special Rapporteur would also like to refer to article 7 of the Basic Principles for the Treatment of Prisoners, which provides that “efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.” (Adopted by the General Assembly by resolution 45/111 of 14 December 1990). In the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Mr. Garcia have been violated. The Special Rapporteur calls on the Government to provide information regarding the legal grounds for Mr. Garcia’s detention in excess of his prison sentence, and to undertake a prompt and independent investigation into his alleged mistreatment, leading to prosecution and punishment of the perpetrators, and to provide full redress to the victim. The Special Rapporteur further calls upon the Government to abolish or restrict the use of solitary confinement as a punishment and adopt measures that promote rehabilitation of those held in detention.

## **Brazil**

- (b) JAL 16/05/2012 Case No. BRA 5/2012 State reply: None to date **The National Truth Commission of Brazil was formally constituted with the appointment of the Commission members on 16 May.**

17. The Special Rapporteur welcomes the announcement of a National Truth Commission tasked with investigating human rights violations including killings, torture and forced disappearances committed under military rule between 1964 and 1985. The Special Rapporteur stresses that his thematic report to the Human Rights Council (A/ARC/19/61) outlines how commissions of inquiry can be an effective tool in uncovering and bringing an end to patterns of violations of violence and ill-treatment; taking the first steps towards justice; addressing the victims’ right to know the truth; and ensuring accountability of State institutions and compliance with international human rights law.

## Chile

- (a) JAL 20/03/2012 Case No. CHL 2/2012 State reply: 22/08/2012 **Alegaciones de actos de violencia, malos tratos y uso excesivo de la fuerza contra manifestantes en el contexto de unas movilizaciones a partir de 14 de febrero en la región de Aysén.**

18. El Relator Especial agradece al Gobierno de Chile por su respuesta, de fecha 22 de agosto del 2012, a la comunicación en referencia al presunto uso de la violencia en contra de manifestantes por parte de carabineros, que ocurrió entre el 14 y el 21 de febrero del 2012. El relator agradece al Gobierno por su completa respuesta en la que se presenta información respecto del informe interno desarrollado por Carabineros de Chile y se establece que éstos respondieron a las manifestaciones con uso apropiado y proporcional de la fuerza para contener las manifestaciones que, según se reporta, tenían un carácter generalmente violento. También se establece que se proporcionó a los lesionados con la asistencia médica necesaria. Asimismo, se establece que en los casos individuales alegados y en aquellos que resultaron en acciones judiciales iniciadas por los particulares, el Gobierno inició las investigaciones administrativas internas pertinentes, incluso mencionando la expulsión de un funcionario debido a su mala conducta en el caso del Sr. Teófilo Haro. Sin embargo, respecto de este caso y de los restantes procedimientos disciplinarios administrativos llevados a cabo, no se hace referencia a la iniciación de acciones judiciales o a las razones por las cuales las mismas no correspondieron. El Relator Especial exhorta al Gobierno a asegurar la investigación judicial de los hechos en los casos que correspondiere.

## Central African Republic

- (a) JUA 03/02/2012 Case No. CAF 1/2012 State reply: 02/03/2012 **Allégations de l'arrestation et la détention depuis le 6 janvier 2012 des homes politiques en République Centrafricaine.**

19. Le Rapporteur spécial reconnaît la réponse du Gouvernement de la République Centrafricaine à la communication envoyée le 27 Juin 2011 concernant l'allégation que MM. Contran Herbert Njono Naba, Mahamat Abrass et le Colonel Abdel Kader Kalil risquent de subir des peines ou traitements cruels, inhumains ou dégradants en détention à la prison de Bossembele. Selon les informations reçues, M. Naba souffrait d'une maladie exigeant un traitement médical permanent et risque d'être privé d'un examen médical et de soins médicaux. Le Rapporteur spécial regrette que le Gouvernement n'ait pas fourni des réponses détaillées aux craintes exprimées dans la communication. Le Rapporteur souhaite attirer l'attention du Gouvernement sur sa responsabilité de protéger et de respecter l'intégrité physique et mentale de M. Naba 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. Il souhaite aussi attirer l'attention du Gouvernement sur l'Ensemble de règles minima pour les traitements des détenus, approuvé par le Conseil économique et social dans ses résolutions 663 C (XXIV) du 31 juillet 1957 et 2076 (LXII) du 13 mai 1977, en particulier les règles 22, 25 et 26. Le Rapporteur Spécial exhorte le Gouvernement à attirer son attention au plus vite aux craintes exprimées dans celles-ci, notamment en fournissant des informations précises sur les enquêtes menées afin de traduire en justice les auteurs des faits, veiller à ce qu'ils obtiennent réparation, compris une indemnisation équitable et adéquate, et une réadaptation aussi complète que possible.

## China (People's Republic of)

- (a) JUA 06/02/2012 Case No. CHN 1/2012 State reply: 02/04/2012 **Alleged sentencing of two human rights to defenders to nine and ten years' imprisonment respectively.**

20. The Special Rapporteur thanks the Government of China for its response, dated 4 February 2012, in response to the joint urgent appeal letter regarding the pre-trial detention and lengthy prison sentences of Mr. Chen Wei and Mr. Chen Xi. Mr. Chen Wei and Mr. Chen Xi were allegedly denied family visits while held in pre-trial detention. The Special Rapporteur acknowledges recent family visits of both aforementioned individuals, however, expresses grave concern regarding the denial of family visits during pre-trial detention. The Special Rapporteur reiterates Principle 19 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly on 9 December 1988 which states that, "A detained or imprisoned person shall have the right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world." Furthermore, the Special Rapporteur expresses concern regarding the physical and psychological security of both aforementioned individuals with respect to their lengthy sentences. The Special Rapporteur concludes that the rights of the aforementioned individuals have been violated in that the denial of family visits of persons in custody constitutes, under these circumstances, cruel, inhuman or degrading treatment in violation of international standards. He urges the Government to ensure continued family visits of both Mr. Chen Wei and Mr. Chen Xi and calls on the Government to protect the right to physical and mental integrity of persons held in detention. The Special Rapporteur encourages the Government of China to continue its engagement with the mandate.

- (b) JUA 06/02/2012 Case No. CHN 2/2012 State reply: 12/04/2012 **Alleged excessive use of force against peaceful protestors in Luhuo, Seda and Tangtang Counties, Sichuan Province, resulting in injuries and deaths.**

21. The Special Rapporteur thanks the Government of China for its response, dated 12 April 2012, to the joint urgent appeal regarding the alleged excessive use of force against peaceful protestors in Luhuo, Seda and Rangtang Counties, Sichuan Province, resulting in the death of at least seven persons and severe injuries of over 60 persons. In its reply the Government claims some of the demonstrators in Luhuo "engaged in wanton beating and smashing," causing damage to buildings. Further, the Government alleges that the demonstrators did not respond to officers' attempts to curtail the protest and therefore when the "warning shots proved ineffective, the people's police were forced to open fire." The government acknowledges the casualties and injured persons as a result of the police opening fire. In Seda, the Government claims that Tibetan monks attacked the police station, assaulting people's police, soldiers, and firemen on duty, therefore, purportedly mandating the use of force to "uphold public order." Despite the Government's account of the protests as not peaceful, the Special Rapporteur would like to remind the Government that, under international law, excessive use of force and firearms is not permitted when policing peaceful assemblies. Furthermore, the Special Rapporteur reiterates Principle 13 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990), which states that "[i]n the dispersal of assemblies that are unlawful but non-violent, law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict such force to the minimum extent

necessary”, and Principle 14 states that “[i]n the dispersal of violent assemblies, law enforcement officials may use firearms only when less dangerous means are not practicable and only to the minimum extent necessary.” The Special Rapporteur notes the insufficiency of the Government’s response to the allegations that wounded persons, some of whom were wounded critically, were not taken to the hospital. In this context, the Special Rapporteur reminds the Government of Principle 5, which provides that “[w]henver 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.” The Special Rapporteur concludes that the rights of those injured or killed during the course of participating in peaceful protests have been violated under international law. The Special Rapporteur calls on the Government to investigate, prosecute and punish those responsible and to provide full redress to the victims and their family members. The Special Rapporteur encourages the Government of China to continue its engagement with the mandate.

(c) JUA 24/02/2012 Case No. CHN 3/2012 State reply: None to date or 29/3/2012 **Allegations of forced repatriation of a group of citizens from the Democratic People’s Republic of Korea (DPRK)**

22. The Special Rapporteur thanks the Government of China for its reply, dated 29 March 2012, to this communication in reference to the alleged imminent repatriation of 31 Korean citizens to the Democratic People’s Republic of Korea (DPRK), where they face a risk of detention, torture, and execution. In its reply, the Government described its discovery of and investigations into the detained persons’ illegal attempts to reach the territory of the Republic of Korea. The Government also notes that because “the DPRK nationals illegally immigrating into China are not “refugees” ... the principle of non-refoulement is not applicable here.” The Special Rapporteur regrets that the Government failed to address the concern that the 31 individuals facing imminent repatriation are at a significant risk of detention, torture, and execution in the DPRK. In this context, the Special Rapporteur reminds the Government of its obligation to protect the right to physical and mental integrity of all persons, regardless of immigration status, under the UDHR and the Convention against Torture. The Special Rapporteur would like to draw the Government’s attention to article 3 of the Convention against Torture, which provides that no State party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. The Special Rapporteur further notes that paragraph 9 of General Comment No. 20 of the Human Rights Committee states that State parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement. The Special Rapporteur also draws the attention of the Government to paragraph 16 of the Resolution A/RES/65/206 of the UN General Assembly which urges States “not to expel, return (“refouler”), extradite or in another way transfer a person to another States where there are substantial grounds for believing that the person would be danger of being subjected to torture, and recognizes that diplomatic assurances, where used, do not release States from their obligation under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement.” The Special Rapporteur urges the Government to take all necessary measures to guarantee that the rights and freedoms of the Korean nationals are respected and, if investigations support or suggest the allegations to be correct, to adopt effective measures to prevent repatriation.

- (d) JUA 15/05/2012 Case No. CHN 4/2012 State reply: 27/08/2012 **Alleged threats and harassment against a human rights defender and his family and the alleged arbitrary detention or enforced disappearance of a number of his relatives and supporters.**

23. The Special Rapporteur thanks the Government of China for its reply dated 27 August 2012, to this communication referring to the alleged threats and harassment against a human rights defender and his family, and the alleged arbitrary detention or enforced disappearance of several of his relatives and supporters. According to the information we received, Mr. Chen Guangcheng, a human rights attorney, was subjected to extralegal house arrest, and that various members of his family were threatened, arrested and or victims of enforced disappearances. The communication also referred to Mr. Jiang Tianyong, a supporter of Mr. Chen Guangcheng, who was allegedly detained and beaten by police; Mr. Chen's son, Chen Kegui, who is allegedly in custody in the Yinan County Detention Center; and Mr. Chen's cousins, Messers. Chen Guangcun and Chen Hua, who were reportedly arrested and whose whereabouts are allegedly unknown. In its reply, the Government reported that Mr. Chen previously served a prison sentence for committing deliberate destruction of property and organizing a mob to disrupt traffic, from which he was released in September 2010. The Government further reported that no law enforcement actions were taken against Mr. Chen since that time, and that he has since relocated to the United States, where he is a student at New York University. The Government also reported that Mr. Chen's son was arrested on 16 April 2012 on charges of wielding a knife against local officials and works, and that an investigation into his case is pending. Additionally, the Government explained that Mr. Chen's cousins and Mr. Tianyong have not been subjected to any law enforcement measures or ill-treatment by public service authorities. While the Special Rapporteur appreciates the Government's reply, he would like to remind the Government of 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. In this context, the Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." The Special Rapporteur urges the Government to take all necessary measures to guarantee that rights and freedoms of the abovementioned persons are respected, and in the event that its investigations support or suggest the allegations to be true, to ensure the accountability of any person responsible for committing the alleged violations.

- (e) JUA 11/07/2012 Case No. CHN 6/2012 State reply: 30/10/2012 **Alleged torture in prison and investigation deficiencies**

24. The Special Rapporteur thanks the Government of China for its reply dated 30 October 2012, to this communication referring to the alleged torture and assassination of Mr. Li Wangyang, a human and labor rights activist who was imprisoned for a total of 23 years. He allegedly endured the forcible pulling of his teeth, living in a cell measuring 2.5m in height and width for several months. He was reportedly subjected as well to severe beatings that left him completely blind and almost deaf. Soon after his release, Mr. Wangyang was found hanging from his hospital room's window, which was allegedly under 24-hour police surveillance. In its reply the Government informed that immediately after the event, Shaoyang City and Daxiang District's public security authorities as well as other relevant parties have, according to the law, carried out on site and post event investigations. The authorities have also requested third party post mortem examination by the independent Forensic Identification Center at the Guang Zhou Zhongshan University. Based on reviews and verification of the evidence and investigation procedures, a second joint investigation team has concluded that in line with the conclusion of the Zhongshan University Forensic

Identification Center, Li Wangyang committed suicide by hanging himself. Furthermore the Government explains that Li Wangyang has not received inhuman treatment during his incarceration but suffered from multiple serious illnesses prior to his arrest. According to the Government, the hospital diagnosed hyperthyroidism, thyroid heart disease, and secondary blindness in both eyes and deafness. After various treatments, his situation has shown slight improvement. Finally, the Government informed that Li Wangyang's relatives enjoy freedom of movement and have not been arrested or incarcerated. After the Li Wangyang incident, Li's relatives issued a written statement to the public stating that they do not wish to interact with the outside world and that they do not wish to be disturbed and give any interviews. The Special Rapporteur reiterates paragraph 1 of Human Rights Council Resolution 16/23, which "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." Based on the information received, the Special Rapporteur determines that the cause of death of Mr. Wangyang has been investigated by the Government. However, no substantive explanation with regard to the allegations of torture and ill-treatment during the 23 years of incarceration has been provided by the Government. The Special Rapporteur determines that in absence of evidence of the contrary international standards prohibiting torture and cruel, inhuman or degrading treatment or punishment have been violated. The Special Rapporteur calls on the Government to immediately conduct a full investigation and prosecution of those responsible.

(f) JUA 13/07/2012 Case No. CHN 7/2012 State reply: 28/09/2012 **Alleged arbitrary deprivation of liberty and ill-treatment of 17 year old girl**

25. The Special Rapporteur thanks the Government of China for its reply, dated September 28, 2012, to this communication in reference to the alleged arrest and beating of Ms. X by security personnel during a peaceful protest. However, the Government's reply did not address Ms. X's case, claiming that another young woman of Tibetan origin and of similar name but 19 years of age was indeed arrested in Szechuan for calling for the independence of Tibet. The government acknowledged that this other woman sustained a light injury in the course of the arrest. In the absence of other information, the Special Rapporteur finds that Ms. Dolma, an under-age young woman, was indeed detained and mistreated in the circumstances mentioned. The Special Rapporteur recalls article 37(b) of the Convention on the Rights of the Child (CRC) "[n]o child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time". In addition, 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." Based on the information received, the Special Rapporteur determines that Ms. X's rights under the UN Convention against Torture and under the Convention on the Rights of the Child were violated, and calls on the Government to release Ms. X immediately, undertake a prompt and impartial investigation of the alleged torture leading to prosecution and punishment of perpetrators, and to provide full redress to Ms. X.

(g) JAL 16/08/2012 Case No. CHN 9/2012 State reply: 28/09/2012 **Alleged torture by detention personnel**

26. The Special Rapporteur thanks the Government of China for its reply, dated 28 September 2012, to this communication in reference to the alleged torture and arbitrary

detention of Mr. Kim Young-Hwan, a South Korean human rights defender, and three other South Korean nationals who were in China assisting North Korean refugees. After four months of detention on espionage charges they were expelled and allowed to return to South Korea. In its response, the Government of China disputes the factual allegations in their entirety and purports to show that several medical examinations and consular visits granted to South Korean consular officials disprove such allegations. The Special Rapporteur notes that the medical examinations performed were conducted by officials and not by independent practitioners. In addition, depending on the dates of those examinations and of the consular visits, they would be far from conclusive in disproving acts of torture. The Special Rapporteur recalls paragraph 7(b) 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.” The Special Rapporteur determines that the rights of Mr. Kim Young-Hwan may have been violated, and calls on the Government to conduct an impartial investigation and to submit the results of such investigation.

## Colombia

- (a) JAL 02/10/2012 Case No. COL 12/2012 State reply: 30/10/2012 **Posible adopción por el Congreso de la República del “Proyecto de acto legislativo por el cual se reforman los artículos 116, 152 y 221 de la Constitución Política de Colombia” (Fuero Penal Militar), el cual podría afectar seriamente el Estado de Derecho y la lucha contra la impunidad en Colombia.**

27. El Relator Especial agradece al Gobierno de Colombia por su respuesta, de fecha 30 de octubre del 2012, a la comunicación conjunta con otros procedimientos especiales, enviada en referencia a la propuesta de reforma constitucional para regular el fuero penal militar en Colombia. En particular, la comunicación expresaba preocupación por la creación de un tribunal de garantías exclusivamente dedicado al personal militar, ya que tal tribunal tendría facultades de controlar la fase de investigación preliminar fundamental para el posterior esclarecimiento de los hechos y las responsabilidades. El Relator Especial aprecia la detallada información recibida sobre el trámite parlamentario de la reforma constitucional y sobre su contenido, como así también que la reforma no tiene aún sanción definitiva. Asimismo, expresa su satisfacción por la exclusión explícita de la competencia del fuero militar para entender de crímenes de lesa humanidad y crímenes de guerra. Abriga también la esperanza de que en el debate parlamentario se elimine todo trato preferencial para el personal militar en la investigación de delitos, especialmente en la fase de instrucción, que es la que determinará si los hechos constituyen delitos militares, crímenes de guerra o crímenes de lesa humanidad y por ende a qué fuero se someten. El Relator Especial reitera que el artículo 12 de la Convención contra la Tortura señala que todo Estado Parte velará por que las autoridades competentes procedan a una investigación pronta e imparcial siempre que haya motivos razonables para creer que se ha cometido un acto de tortura. El derecho internacional de los derechos humanos y el derecho internacional humanitario establecen con claridad qué condiciones se requieren para que una investigación sea pronta e imparcial, incluyendo la composición y competencia de los órganos llamados a efectuarla. El Relator Especial solicita al Gobierno que lo mantenga informado acerca del trámite de la reforma constitucional.



## Cuba

- (a) JUA 09/02/2012 Case No. CUB 2/2012 State reply: 29/02/2012 **Alegaciones de detencion arbitraria y actos intimidatorios.**

28. El Relator Especial agradece al Gobierno de Cuba por su respuesta, de fecha 29 de febrero del 2012, a la comunicación en referencia al arresto y condena del Sr. Wilman Villar Mendoza, y el uso de intimidación en contra de su viuda, la Sra. Maritza Pelegrino Cabrales. Además, se refiere al uso desproporcionado de la fuerza en contra de manifestantes y defensores de derechos humanos. El Relator Especial reconoce la explicación proporcionada por el Gobierno en cuanto al arresto del Sr. Villar Mendoza, la asistencia médica que habría recibido, y el trato de la Sra. Pelegrino Cabrales. Sin embargo, el Relator Especial lamenta la falta de una investigación sobre las denuncias. El Relator Especial agradece al Gobierno de Cuba por su respuesta a estos hechos y urge al Gobierno a empezar una investigación, y a tomar medidas para garantizar la integridad física y psicológica de la Sra. Maritza Pelegrino Cabrales.

- (b) UA 15/11/2012 Case No. CUB 7/2012 State reply: 16/01/2013 **Alegaciones de negacion de evaluacion y tratamiento medico adecuado durante su encarcelamiento en Cuba**

29. El Relator Especial agradece al Gobierno de Cuba por su respuesta, de fecha 16 de enero del 2013, a la comunicación en referencia a al Sr. Alan Phillip Gross, de quien se alega que se la ha negado la evaluación y tratamiento médico adecuado durante su detención en Cuba. El Relator Especial reconoce la explicación proporcionada por el Gobierno en cuanto al tratamiento médico que ha recibido el Sr. Gross. El Relator Especial desea hacer referencia a la regla 25(1) de las Reglas Mínimas para el tratamiento de los reclusos, la cual dice que “[e]l médico será responsable de velar por la salud física y mental de los reclusos. Deberá visitar diariamente a todos los reclusos enfermos, a todos los que se quejen de estar enfermos y a todos aquellos sobre los cuales se llame su atención.” El Relator Especial agradece al Gobierno de Cuba por su respuesta a estos hechos y solicita que lo tenga informado acerca del caso.

## Cyprus

- (a) JUA 30/05/2012 Case No. CYP 2/2012 State reply: None to date **Alleged imminent deportation from Cyprus to the Islamic Republic of Iran.**

30. The Special Rapporteur regrets that the Government of Cyprus has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged imminent deportation of Mr. Morteza Kazemian and his family to Iran, the country where Mr. Kazemian and his family fled from. The Special Rapporteur draws the attention of the Government 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. 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”. In the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Mr. Kazemian and his family under the UN Convention against Torture will be violated if the Government deports them to Iran.

- (b) UA 19/06/2012 Case No. CYP 3/2012 State reply: None to date **Alleged imminent deportation to the Islamic Republic of Iran**

31. The Special Rapporteur regrets that the Government of Cyprus has not responded to the communication dated 19 June 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged deportation to Iran of Ms. Sadeghdost and imminent deportation to Iran of Ms. Marjan Kazemian. The Special Rapporteur reiterates article 3 of the Convention against Torture, which provides that “no State party shall expel, return (“refouler”), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture.” In the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Ms. Sadeghdost under the UN Convention against Torture have been violated, and that the rights of Ms. Kazemian under the UN Convention against Torture will be violated if she is deported to Iran. The Special Rapporteur calls on the Government not to deport Ms. Kazemian, and to undertake a prompt and independent investigation, leading to prosecution and punishment of the perpetrators of Ms. Sadedghdost’s deportation, as well as providing full redress to the victims.

### **Democratic People’s Republic of Korea**

- (a) JAL 03/10/2012 Case No. PRK 1/2012 State reply: None to date **Alleged use of labor camps for political prisoners and pattern of human rights violations committed therein.**

32. The Special Rapporteur regrets that the Government of Democratic People's Republic of Korea has not responded to this communication dated 3 October 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged use of labour camps for thousands of prisoners where a pattern of human rights violations is committed. The Special Rapporteur expresses grave concern regarding all of the persons allegedly detained arbitrarily and subsequently subjected to torture in order to obtain false confessions. Moreover, the Special Rapporteur expresses further concern regarding the fact that detainees are not given a trial and are held incommunicado. Actual conditions at the labour camps, which include extrajudicial executions, torture, forced labour, lack of adequate food, and severe health conditions, also cause great concern. In view of these allegations, the Special Rapporteur reiterates that paragraph 8(b) of Human Rights Council Resolution 16/23 of 12 April 2011, which reminds States that “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur concludes that these practices violate the rights of the persons held in labour camps under international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment. The Special Rapporteur calls on the Government of Democratic People's Republic of Korea to undertake a prompt, impartial, and effective investigation of the alleged acts of torture, leading to prosecution and punishment of the perpetrators, and to provide redress to the victims. Further, the Special Rapporteur urges the Government to end the practice of incommunicado detention and to end the practice of sending political prisoners not yet convicted of a crime to labour camps, especially given the dire conditions alleged.

## Democratic Republic of the Congo

- (a) JUA 20/09/2012 Case No. COD 4/2012 State reply: None to date **Allegations de detention d'un militant associatif et de disparition forcee d'un militant politique**

33. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse de la part du Gouvernement de la République démocratique du Congo à la communication envoyée le 20 Septembre 2012 concernant l'allégation de détention arbitraire et des actes de tortures et de mauvais traitements contre M. Rene Kahukula et M. Diomi Ndongala. Le Rapporteur spécial rappelle que le Gouvernement a une obligation de protégée et respectée l'intégrité physique et mentale des personnel précitées et ce, conformément aux dispositions pertinents de la Déclaration universelle des droits de l'homme, du PIDCP, de la Déclaration sur la protection de toutes les personne contre la torture et autre peines ou traitement cruels, inhumains ou dégradants et de la Convention contre la Torture. A cet égard, le Rapporteur spécial aussi aimerait référer le Gouvernement sur les disposition contenues au paragraph 7c de la Resolution 8/8 du Conseil des Dorits de L'Homme dans laquelle le Conseil « Rappelle a tous les Etats qu'un periode prolongee de mise au secret ou de detention dans des lieux secrets peut faciliter la pratique de la torture et d'autre peines ou traitements cruels, inhumains ou dégradants et peut en soi constituer un tel traitement, et demande instamment a tous les Etats de respecter les garanties concernant la liberte, la securite et la dignite de la personne. Sur la base des informations reçues, le Rapporteur spécial craint que les droits de M. Kahukula et M. Ndongala au titre de la Convention des Nations Unies contre la torture aient été violés. Il exhorte le Gouvernement à attirer son attention au plus vite aux craintes exprimées dans la communication, notamment en fournissant des informations précises sur les enquêtes menées afin de traduire en justice les auteurs des faits, et veiller à que les victimes obtiennent réparation, y compris une indemnisation équitable et adéquate, et une réhabilitation aussi complète que possible. Le Rapporteur spécial reste disponible pour fournir tout appui technique dont aurait besoin le Gouvernement.

## Egypt

- (a) JAL 25/05/2012 Case No. EGY 6/2012 State reply: 17/07/2012 **Alleged death in custody due to torture by prison guards.**

34. The Special Rapporteur thanks the Government of Egypt for its response, dated 17 July 2012, to the joint letter of allegation regarding the alleged arbitrary arrest of Mr. Ahmed Ramzy Ali Amar who was reportedly beaten by prison guards, placed in solitary confinement, and tortured causing his death in custody. In its reply, the Government denies that Mr. Amar was tortured and further claims that his death was the result of suicide. However, the Special Rapporteur finds that the Government does not provide sufficient evidence of the contrary and that in addition the Government's response failed to address the allegations of solitary confinement. In this context, The Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." Further, with respect to the allegation that Mr. Amar was held in solitary confinement after being beaten, the Special Rapporteur recalls 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. Accordingly, in the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Mr. Ahmed Ramzy Ali Ama under the UN

Convention against Torture have been violated. The Special Rapporteur urges the Government to undertake a prompt and independent investigation, leading to prosecution and punishment of the perpetrators of Mr. Ahmed Ramzy Ali Ama, as well as providing full redress to the his next of kin.

- (b) JUA 11/09/2012 Case No. EGY 12/2012 State reply: none to date **Alleged torture and imminent threat of evidence obtained under duress being admitted before Egyptian state security courts**

35. The Special Rapporteur regrets that the Government of Egypt has not responded to this communication dated 11 September 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged extensive mistreatment and torture of Mr. Mohamed Gayez Sabbah, Mr. Ossama Mohed Abdel-Ghani Al-Nakhlawi, and Mr. Younis Mohamed Abu-Gareer, who were previously held in incommunicado detention and face charges on the basis of evidence obtained under torture. The Special Rapporteur expresses grave concern regarding the likely admission of statements that were made as a result of torture in the aforementioned persons' criminal proceedings. In this context, the Special Rapporteur reiterates 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. Furthermore, the Special Rapporteur reminds the Government of Article 12 of the CAT, which requires that "[e]ach State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given." In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur concludes that the rights of the aforementioned persons under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government of Egypt to undertake a prompt, impartial, and effective investigation of the alleged acts of torture, leading to prosecution and punishment of the perpetrators, and to provide redress to the victims. Further, the Special Rapporteur urges the Government to ensure that no evidence obtained by torture is used in criminal proceedings and to end the practice of incommunicado detention.

- (c) JUA 03/10/2012 Case No. EGY 13/2012 State reply: 01/11/2012 **Alleged detention and attacks against an atheist on allegations of 'Defamation of Religion'**

36. The Special Rapporteur thanks the Government of Egypt for its response, dated 1 November 2012, to the joint urgent appeal regarding the alleged arbitrary detention of Mr. Albert Saber Ayyad and the ill-treatment and abuse he faced, partly as a result of provocations of an arresting officer. In its reply, the Government states that a Prosecutor conducted an investigation regarding allegations that Mr. Saber was assaulted while in detention, and concluded that the allegations are untrue. In this context, the Special Rapporteur reminds the Government of the General Assembly's resolution 64/164, urging States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end "(b) To ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights." The government's response does not explain the guarantees of independence and impartiality that should have surrounded the purported investigation into the assault suffered by Mr. Saber. Consequently, the Special Rapporteur finds that the

violence by a law enforcement officer against a detainee is highly credible. The Special Rapporteur urges the Government to ensure its police officers and other security officials do not commit violence based on an individual's personal religious beliefs, which is conduct that violates international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment. He encourages the Government to continue its engagement with the mandate.

(d) AL 07/11/2012 Case No. EGY 14/2012 State reply: 29/11/2012, 11/12/2012 **Alleged severe physical and psychological torture at Al-Darb Al-Ahmar Police Station in Cairo**

37. The Special Rapporteur thanks the Government of Egypt for its response, dated 1 November 2012, to this communication regarding the alleged severe torture of Mr. Mostafa Kamal Abul Magd for four days while detained and forced false confessions as a result of torture. In its reply, the Government states that it undertook an investigation regarding allegations that Mr. Abul Magd was subjected to psychological and physical torture, concluding that no information has been obtained relating the veracity of the allegations. The Special Rapporteur notes the insufficiency of the Government's reply since it does not explain how the independence and impartiality of the inquiry was ensured. He urges the Government to conduct a thorough and impartial investigation. In this context, the Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." Accordingly, the Special Rapporteur concludes that the rights of Mr. Abul Magd under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government to investigate, prosecute and punish those responsible and to provide full redress to the Mr. Abul Magd. The Special Rapporteur encourages the Government to continue its engagement with the mandate.

(e) JUA 12/11/2012 Case No. EGY 15/2012 State reply: None to date **Alleged risk of death sentences, use of torture to obtain confessions, and use of incommunicado detention.**

38. The Special Rapporteur regrets that the Government of Egypt has not responded to this communication dated 9 November 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged imminent death sentences of Mr. Ahmed Mohamed Salem Ali, Mr. Mohamed Gomaa Hassan Nassar, Mr. Yasser Jeremy Attiya Al-Torbini, Mr. Amr Mohamed Mahmoud El-Malah, Mr. Hossam Abdo Abdelrady Hassan, and Mr. Ahmed Selmy Hammad Alyan. Further, the communication referred to the alleged torture while in detention, in some instances to forcibly obtain confessions, and the use of incommunicado detention. Given the irreversibility of the punishment of the death penalty, the Special Rapporteur expresses 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 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." In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur concludes that the rights of the aforementioned persons under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government of Egypt to undertake a prompt, impartial, and effective investigation of the alleged acts of torture, leading to prosecution and punishment of the

perpetrators, and to provide redress to the victims. Further, the Special Rapporteur urges the Government to ensure that no evidence obtained by torture is used in criminal proceedings and to end the practice of incommunicado detention.

## **Ethiopia**

- (a) JUA 16/03/2012 Case No. ETH 1/2012 State reply: None to date **Alleged ill-treatment of opposition leader by prison inmates allegedly at the instigation of prison authorities.**

39. The Special Rapporteur regrets that the Government of Ethiopia has not responded to this communication, thereby withholding cooperation with the mandate established by the Human Rights Council. The communication referred to reported beatings against Mr. Andualem Aragie, an opposition leader from the UDJ party, committed by fellow prisoners at the instigation of prison authorities. The Special Rapporteur reiterates that article 12 of the Convention against Torture requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the same Convention requires State parties to prosecute suspected perpetrators of torture, their accomplices and instigators. Without any evidence to the contrary, the Special Rapporteur determines that the rights of Mr. Andualem Aragie under the UN Convention against Torture have been violated, and calls on the Government to ensure a prompt, independent and impartial investigation, leading to prosecution and punishment of all those responsible, and to provide redress to the victims, including fair and adequate compensation, and as full rehabilitation as possible.

- (b) JUA 19/12/2011 Case No. ETH 7/2011 State reply: None to date **Terrorism-related charges, alleged detention and torture**

40. The Special Rapporteur regrets that the Government of Ethiopia 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 Mr. Nathnael Mekonnen Gebrekidan, and the risk of torture other persons detained under similar circumstances may face. The Special Rapporteur reiterates paragraph 1 of the 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.” Without any evidence to the contrary, the Special Rapporteur determines that the rights under the UN Convention against Torture of Mr. Nathnael Mekonnen and other detainees have been violated, and calls on the Government to investigate, prosecute, and punish all cases of torture, providing full redress to the victims, including fair and adequate compensation, and as full rehabilitation as possible.

## **France**

- (a) JUA 10/02/2012 Case No. FRA 1/2012 State reply: 08/05/2012 **Allégation d’un risqué crédible d’extradition et de risqué de torture ou de mauvais traitement.**

41. Le Rapporteur spécial remercie le Gouvernement de la France de sa réponse à la communication envoyée le 8 mai 2012 concernant l’allégation de à la communication envoyée le 10 février 2012 concernant la situation de M. Mourad Dhina, ressortissant

algérien, membre du mouvement d'opposition algérien Rachad dont il est l'un des membres fondateurs et directeur exécutif de l'organisation non gouvernementale Alkarama pour les droits de l'homme basée à Genève. Selon les informations reçues, le 16 janvier 2012, M. Mourad Dhina a été arrêté à l'aéroport de Paris-Orly. Cette arrestation serait une mise à exécution d'un mandat d'arrêt international émis par les autorités algériennes en 2003. Le Rapporteur Spécial exprimait de sérieuses craintes pour l'intégrité physique et mentale de M. Dhina si celui-ci venait à être extradé vers son pays d'origine. Le 8 mai 2012 le Gouvernement informait que à ce stade, la procédure d'extradition se trouvait dans sa phase judiciaire. Le principe constitutionnel de l'indépendance de l'autorité judiciaire empêche d'intervenir dans le cours de la procédure. Le 4 juillet 2012 la Présidente de la Chambre d'instruction, dans un bref délibéré, a rejeté la demande d'extradition, conformément à la Convention algéro-française de 1964 et des dispositions du Code de procédure pénale la considérant comme n'étant pas fondée. Le Rapporteur spécial encourage le Gouvernement de la France à poursuivre son engagement avec le Mandat.

## Georgia

- (a) JUA 02/08/2012 Case No. GEO 1/2012 State reply : 26/09/2012 **Alleged detention and torture at the Police Temporary Detention Isolator in the Kvareli District**

42. The Special Rapporteur thanks the Government of Georgia for its reply, dated September 26, 2012, to this communication in reference to the alleged torture of Mr. Irakli Beraia, a human rights defender who was arrested during a peaceful protest. In its reply, The Government provided information denying having had knowledge of Mr. Beraia's allegations of torture on June 29, 2012, but did not explain how this could have occurred given that the allegations were made at a public press conference. The Special Rapporteur recalls paragraph 1 of Human Rights Council Resolution 16/23, which "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully ' the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.'" According to the jurisprudence of the European Court of Human Rights and other organs of implementation of human rights, prosecutors are under an obligation to investigate torture ex officio whenever there are indicia that it might have happened, even if no formal complaint is filed. Based on the information received, the Special Rapporteur determines that the rights of Mr. Irakli Beraia under the UN Convention against Torture have been violated, and calls on the Government to provide the results of any investigation, medical examinations and judicial or other inquiries carried out in relation to this case. He urges the Government to investigate, prosecute and punish all those responsible, and provide full redress, including fair and adequate compensation and rehabilitation, to Mr. Beraia.

## India

- (a) JUA 28/09/2012 Case No. IND 24/2012 State reply : None to date **Alleged acts of harassment against human rights defenders**

43. The Special Rapporteur regrets that the Government of India 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 acts of harassment against members of the Peoples Movement Against Nuclear Energy and other human rights defenders. The Special Rapporteur recalls principle 4 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials which provides that, "[l]aw enforcement officials, in

carrying out their duty, shall, as far as possible, apply non-Violent means before resorting to the use of force and firearms.” In addition, principle 5 provides that, “[w]henver 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.” Without any evidence to the contrary, the Special Rapporteur determines that the rights of the victims under the UN Convention against Torture have been violated, and calls on the Government to investigate, prosecute, and punish all cases of torture, providing full redress to the victims, including fair and adequate compensation, and as full rehabilitation as possible.

## **Indonesia**

- (a) JAL 19/01/2012 Case No. IDN 2/2012 State reply: None to date **Alleged killings and attacks against farmers and villagers.**

44. The Special Rapporteur regrets that the Government of Indonesia has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged indiscriminate killings of farmers and villagers in relation to land disputes, including an alleged massacre caught on video that showed what appeared to be mutilated bodies, in addition to showing two men being beheaded. The Special Rapporteur recalls article 6 of the International Covenant on Civil and Political Rights (ICCPR), which the Government of Indonesia acceded to on 23 February 2006, and that no one shall be arbitrarily deprived of his or her life. In addition, paragraph 18 of the General Comment No. 2 of the Committee against Torture, where the Committee has made clear that “where State authorities or others acting in official capacity or under color 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.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur concludes that the rights of the victims involved under international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment have been violated. The Special Rapporteur calls on the Government to investigate, prosecute, and punish all perpetrators, in addition to providing redress to all victims, including measures of rehabilitation and non-repetition.

- (b) JAL 24/07/2012 Case No. IDN 6/2012 State reply: 25/09/2012 **Alleged harassment of members of the West Papua National Committee (KNPB)**

45. The Special Rapporteur thanks the Government of Indonesia for its reply, dated 25 September 2012, to this communication in reference to allegations that Messrs. Theorelli Karoba, Yesa Mirin and Panuel Tablo, members of the West Papua National Committee (KNPB), were shot dead by security forces while attending peaceful demonstrations. According to the information we received, another 45 protesters were arrested and detained during a peaceful demonstration, several of whom were also physically assaulted by security forces. In its reply, the Government stated that investigations into the alleged events, and that legal proceeding have been initiated against several responsible members of the Brimbo, the state’s riot police forces. The Government reported that investigations into the deaths of Messrs. Karoba, Mirin and Tablo are ongoing. The Government also reported that



compensation has been provided to the family of victim Teyus Tabuni. The Special Rapporteur appreciates that the Government has opened investigations into the allegations and is undertaking legal proceedings against some members of the police forces. The Special Rapporteur insists that excessive use of force in repressing riots and demonstrations violates a State's obligations under international law on the use of firearms by law enforcement personnel and, under appropriate circumstances, may constitute cruel, inhuman or degrading treatment or torture. He recalls paragraph 1 of Human Rights Council Resolution 16/23 which "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." The Special Rapporteur calls on the Government to investigate, prosecute and punish all those responsible in all of the cases mentioned in the communication, and provide the results of them. The Special Rapporteur also requests the Government to undertake effective measures to prevent the recurrences of these acts.

(c) JUA 27/07/2012 Case No. IDN 7/2012 State reply: 25/09/2012 **Alleged increasing use of violence, including unlawful killings and the excessive use of force**

46. The Special Rapporteur thanks the Government of Indonesia for its reply, dated September 25, 2012, to this communication in reference to the allegedly increasing climate of violence in Papua and West Papua by police, military forces, and non-state forces, as well as the allegedly frequent use of excessive force against demonstrators. The Special Rapporteur commends the Government for the investigations and prosecutions of many of the named aggressors. Unfortunately, the Government did not mention an investigation in relation to the situation at the Abepura Correctional Facility. The Special Rapporteur insists that excessive use of force in repressing riots and demonstrations violates a State's obligations under international law on the use of firearms by law enforcement personnel and, under appropriate circumstances, may constitute cruel, inhuman or degrading treatment or torture. He recalls paragraph 1 of Human Rights Council Resolution 16/23 which "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." The Special Rapporteur calls on the Government to investigate, prosecute and punish all those responsible in all of the cases mentioned in the communication, and provide the results of them. The Special Rapporteur requests the Government to undertake effective measures to prevent the recurrences of these acts.

(d) JAL 09/11/2012 Case No. IDN 12/2012 State reply: 21/01/2013 **Allegations in relation to a regulation on female genital mutilation passed on November 2010.**

47. The Special Rapporteur thanks the Government of Indonesia for its reply, dated 21 January 2013, to this communication in reference to the alleged medicalization of female circumcision via legislation authorizing certain doctors, nurses, and midwives to perform the procedure. In its reply the Government explained that the sole purpose of the Ministry of Health regulation is to protect women and girls from unsafe and harmful procedures of female circumcision, with a goal to mitigate the harmful effects of such practices throughout the country. The regulation shall not be construed as encouraging or promoting the practice of female circumcision. Furthermore the Government informs that in line with its commitment toward international human rights norms and a standard, including those concerning female genital mutilation (FGM), the Government is establishing a cross-sectorial team at the national level on the issue of FGM in Indonesia. The team will continue working

under the coordination of the Ministry of Women's Empowerment and Child Protection and will also involve civil society, religious community and international organizations in the process. However, the Special Rapporteur would like to draw the attention of the Government to article 5(a) of the Convention on the Elimination of All Forms of Discrimination against Women which calls for States to take "all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on stereotyped roles for men and women." The Special Rapporteur believes that female circumcision amounts to torture or cruel, inhuman and degrading treatment and that regulating it – even for purposes of ensuring safe and professional procedures -- serves only to provide cover for a practice that violates the State's obligations under international law. He insists that the Government of Indonesia repeal the abovementioned legislation.

- (e) JUA 28/09/2012 Case No. IDN 24/2012 State reply: None to date **Harassment against members of the Peoples Movement Against Nuclear Energy (PMANE) and other human rights defenders.**

48. The Special Rapporteur regrets that the Government of India 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 acts of harassment against members of the Peoples Movement Against Nuclear Energy and other human rights defenders. The Special Rapporteur recalls principle 4 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials which provides that, "[l]aw enforcement officials, in carrying out their duty, shall, as far as possible, apply non-Violent means before resorting to the use of force and firearms." In addition, principle 5 provides that, "[w]henver 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." Without any evidence to the contrary, the Special Rapporteur determines that the rights of the victims under the UN Convention against Torture have been violated, and calls on the Government to investigate, prosecute, and punish all cases of torture, providing full redress to the victims, including fair and adequate compensation, and as full rehabilitation as possible.

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

- (a) JUA 16/02/2012 Case No. IRN 2/2012 State reply: None to date **Alleged torture, prolonger solitary confinement and imminent execution.**

49. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not responded to this communication dated 16 February 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the imminent execution of Messrs. Saeed Malekpour, Ahmadreza Hashempour, Vahid Ashghari and Mehdi Alizadeh Fakhrrabad. Mr. Malekpour was the subject of a previous communication sent on 31 December 2010, yet no reply has been received. The Special Rapporteur expresses serious concerns of the physical and mental integrity of Mr. Malekpour and Mr. Vahid Ashghari in light of allegations of acts of torture while in detention. Further concern is expressed over Mr. Malekpour being held in solitary confinement for more than a year. In this context, the Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 "[c]ondemns all forms of torture and other cruel, inhuman or degrading

treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” With respect to the allegation that Mr. Saeed Malekpour was held in solitary confinement for over a year, the Special Rapporteur recalls that, in accordance with paragraph 6 of General Comment No. 20 of the Human Rights Committee, the prolonged solitary confinement of Mr. Malekpour amounted to acts prohibited by article 7 of the International Covenant on Civil and Political Rights. In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur is of the view that the rights of the individuals under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government of the Islamic Republic of Iran to undertake a prompt, impartial, and effective investigation of the alleged acts of torture, leading to prosecution and punishment of the perpetrators, and to provide redress to the victims.

(b) JAL 28/02/2012 Case No. IRN 3/2012 State reply: None to date **Alleged torture and subsequent death in detention of two members of ethnic Arab minority**

50. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not responded to this communication dated 28 February 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged torture and subsequent death in detention of Mr. Nasser Derafshan Alboshokeh and Mr. Mohammad al-Kaabi. In this context, the Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” The Special Rapporteur also reiterates the Government’s obligations under the International Covenant on Civil and Political Rights (ratified on 24 June 1975), which 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 (article 6). In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur concludes that the rights of both Mr. Nasser Derafshan Alboshokeh and Mr. Mohammad al-Kaabi under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government of the Islamic Republic of Iran to undertake a prompt, impartial, and effective investigation of the alleged acts of torture, leading to prosecution and punishment of the perpetrators, and to provide redress to the family members of the victims.

(c) JUA 29/02/2012 Case No. IRN 4/2012 State reply: None to date **Alleged torture to extract confessional and imminent execution of two men belonging to the Kurdish minority.**

51. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not responded to this communication dated 29 February 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the imminent execution of Messrs. Zaniar (or Zanyar) Moradi and Loghman (or Loqman) Moradi, both of whom were the subject of a previous joint urgent appeal sent on 15 November 2011 (see A/HRC/19/44, case no IRN 18/2011). However, no response has been received. The Special Rapporteur is particularly concerned about the allegations that the aforementioned individuals were subjected to torture and coercion in order to extract confessions. In this context, the Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified,

and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” Moreover, the Special Rapporteur asserts that the use of confessions extracted under torture in judicial proceedings is strictly prohibited under international law. Article 15 of the Convention against Torture which provides that, “[e]ach State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur concludes that the rights of the aforementioned individuals under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government of the Islamic Republic of Iran to undertake a prompt, impartial, and effective investigation of the alleged acts of torture, leading to prosecution and punishment of the perpetrators, and to provide redress to the victims. Furthermore, given the irremediable nature of capital punishment, the Special Rapporteur calls on the Government of the Islamic Republic of Iran not to proceed with the executions and to set aside any criminal conviction based on evidence obtained under torture.

- (d) JUA 26/03/2012 Case No. IRN 6/2012 State reply: None to date **Alleged imminent execution for non-serious crime and following a trial in violation of procedural safeguards.**

52. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not responded to this communication, thereby withholding cooperation with the mandate established by the Human Rights Council. The communication referred to the alleged torture and imminent execution of Mr. Habibollah Golparpour. Mr. Golparpour was allegedly arrested for cooperating with the Party for Free Life of Kurdistan, and was charged with Enmity against God after a five minute trial in which he was sentenced to death. In addition, Mr. Golparpour was allegedly tortured while he was imprisoned at the Iranian Revolutionary Guard Corps detention facility in Mahabad and at a Ministry of Intelligence detention facility in Sanandaj, Kordestan province. The Special Rapporteur recalls paragraph 1 of Human Rights Council Resolution 16/23 which “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” The Special Rapporteur also reminds the Government that, per paragraph 6b of Human Rights Council Resolution 8/8, 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 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;”. Accordingly, and in the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Mr. Habibollah Golparpour under the UN Convention against Torture have been violated. In addition, the Special Rapporteur calls on the Government to undertake a prompt, independent, and effective investigation of the facts, leading to the prosecution and punishment of the perpetrators, and to provide full redress to the victim.

- (e) JUA 18/04/2012 Case No. IRN 8/2012 State reply: None to date **Alleged imminent execution for not most serious crime and following a trial in violation of procedural safeguards.**

53. The Special Rapporteur regrets that the Government of Iran has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the allegation that Mr. Aref Hamidian was coerced into confessing to the offense of drug trafficking after being tortured. In this context, the Special Rapporteur stress that paragraph 7(c) of Human Rights Council Resolution 16/23 urges States “[t]o ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur affirms that Mr. Aref Hamidian was in fact brutally 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.

- (f) JUA 04/05/2012 Case No. IRN 9/2012 State reply: None to date **Alleged death sentence and imminent execution on charges of moharebeh (enmity against God).**

54. The Special Rapporteur regrets that the Government of Iran has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the allegation that Mr. Hamid Ghassemi-Shall was convicted and sentenced to death based on a confession made under duress. In addition, he was placed in solitary confinement for a period of 18 months without any legal representation. In this context, the Special Rapporteur stresses the obligation of all States to ensure that the individuals’ right to a fair trial and the guarantees thereof are respected in accordance with article 14 of the ICCPR and Safeguard 4 of the Safeguards guaranteeing protection of the rights of those facing the death penalty. The latter provision provides that “[c]apital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts.” In addition, under article 14(g) of the ICCPR, no one shall be compelled to testify against himself or to confess guilt. The Special Rapporteur would also like to stress 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 the absence of evidence to the contrary, the Special Rapporteur determines that Mr. Ghassemi-Shall’s rights under international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment have been violated, and calls on the Government to ensure that Mr. Ghassemi-Shall or his next of kin obtain redress, including fair and adequate compensation, and as full rehabilitation as possible.

- (g) JUA 14/05/2012 Case No. IRN 10/2012 State reply: 19/06/2012, 12/07/2012, 12/07/2012  
**Alleged new arrests and continued detention of the members of Bahá'í faith community in the Islamic Republic of Iran.**

55. The Special Rapporteur thanks the Government of the Islamic Republic of Iran for its response to the communication dated 14 May 2012, regarding the alleged arrests and continued detention of members of the Bahá'í faith community. The Special Rapporteur thanks the Government for addressing the cases involving the people in Sanandaj, but insists that the Government further investigate in order to determine the circumstances surrounding those arrested in relation to the issuance of an order to confiscate the Bahá'í cemetery in Sanandaj. The Special Rapporteur thanks the Government for its explanation of the cases from Shiraz that occurred on 3, 4, 5, 6, and 23 February 2012, and the case from Yazd that occurred on 26 February 2012. The Special Rapporteur regrets that the Government did not address allegations of violence perpetuated against those arrested in Shiraz. In addition, the Government did not clarify how Ms. Mehregani's beliefs are not the reason for her arrest since she is charged with being a member of a Bahá'í organization. In addition, the Special Rapporteur regrets that the Government failed to address additional cases which took place in Tehran, Rasht, Semnan, Shiraz and Kerman, which included allegations of lack of medical care for a severely ill detainee and solitary confinement for another. Given the common origin of all of the persons involved in the communications, the Special Rapporteur would like to remind the Government of Article 27 of the ICCPR which establishes that "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language." The Special Rapporteur would also like to draw the Government's attention to 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." He would also like to remind the Government 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). The Special Rapporteur calls on the Government to end all arbitrary arrests of Bahá'í members, and insists that the Government investigate, prosecute and punish all cases of ill-treatment, in addition to providing the result of any investigation, medical examination, and judicial or other inquiries which may have been carried out in relation to these cases.

- (h) JUA 16/05/2012 Case No. IRN 11/2012 State reply: 03/09/2012 **Alleged incommunicado detention, torture, unfair trial and sentence to death for moharebeh.**

56. The Special Rapporteur thanks the Government of Iran for its reply dated 7 September 2012, to this communication referring to the alleged solitary confinement, torture and death sentence of Mr. Behrouz Alkhani, a Kurdish citizen. The Special Rapporteur expressed serious concern about allegations that Mr. Behrouz Alkhani was found guilty in the absence of a adequate judicial proceedings, was held in solitary confinement for 19 months, and was submitted to severe physical and psychological torture. In its reply, the Government reported that Mr. Alkhani's capital punishment sentence was upheld by branch number four of the high court. While the Special Rapporteur acknowledges the Government's response, he regrets the Government's failure to address allegations that Mr. Alkhani was subjected to physical and psychological torture and ill-treatment and held in prolonged solitary confinement. In this context, the Special Rapporteur would like to reiterate the Government's 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 additionally 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.” Regarding the allegations of a trial without safeguards, the Special Rapporteur would like to draw the attention of the Government to the United Nations Safeguards 4 and 5 Guaranteeing Protection of the Rights of those Facing the Death Penalty, which stipulates that “capital punishment may be imposed only [...] 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 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.” In regards to the alleged solitary confinement and torture Mr. Alkhani experienced, the Special Rapporteur would like to place emphasis on 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.” In the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Mr. Behrouz Alkhani under international law prohibiting torture have been violated, and calls on the Government of Iran to vacate his death sentence and to undertake prompt, impartial and effective investigations of these acts, leading to prosecution and punishment of the perpetrators of torture. In addition, the Government must ensure that he obtains redress, including fair and adequate compensation, and as full a rehabilitation as possible.

(i) UA Iran 19/06/2012 Case No. IRN 13/2012 State reply: None to date **Alleged imminent execution of five members of a family**

57. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not responded to this communication dated 19 June 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the imminent execution of five persons of Ahwazi Arab origin and members of the same family: Mr. Abd Al-Rahman Heidari, Mr. Taha Heidari, Mr. Jamshid Heidari, Mr. Mansour Heidari, and Mr. Amir Muawi. The Special Rapporteur had expressed grave concern that the five individuals were subjected to torture and other forms of inhuman treatment and coerced to confess to the charges brought against them. In this context, the Special Rapporteur reminds the Government of the Islamic Republic of Article 7 of the ICCPR, which requires States to protect the dignity and physical and mental integrity of every individual, and to afford everyone protection against acts of torture and other cruel, inhuman and degrading treatment or punishment, whether inflicted by people acting in their official capacity, outside their official capacity, or in a private capacity. The Special Rapporteur further expressed serious concern over allegations that the persons had been transferred to an undisclosed location and that their executions could be carried out at any moment. In this context, the Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” In response to the transfer to the detainees to an undisclosed location, the Special Rapporteur reiterates paragraph 8b of Human Rights Council Resolution 16/23, which reminds States that “detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur is of the view that the

rights of the given persons have been violated. Accordingly, the Special Rapporteur calls on the Government of the Islamic Republic of Iran to undertake a prompt, impartial, and effective investigation of the alleged acts of torture, leading to prosecution and punishment of the perpetrators, and to provide redress to the victims. Given the irremediable nature of capital punishment, the Special Rapporteur further calls on the Government to take all necessary measures to prevent the execution of the five individuals and to set aside any criminal conviction based on evidence obtained under torture.

- (j) UA Iran 26/06/12 Case No. IRN 15/2012 State reply: 10/10/2012 (14/2011 – 15/2012)  
**Alleged acts of torture and imminent execution**

58. The Special Rapporteur thanks the Government of the Islamic Republic of Iran for its reply, dated 10 October 2012, regarding the alleged imminent execution of Mr. Saeed Sedeghi and Ms. Safieh Ghafouri. The Special Rapporteur expresses serious concern over reports that Mr. Sedeghi has been subjected to acts of torture and ill-treatment which resulted in bodily injury during custody. Mr. Sedeghi was the subject of a separate urgent action (UA Iran 07/08/12 Case No. IRN 21/2012) which has gone unanswered. The Special Rapporteur further expresses concern about the potential imminent execution of Ms. Ghafouri, whose case has been accepted on appeal by the Supreme Court. In its reply, the Government of the Islamic Republic of Iran is silent about the case of Mr. Sedeghi and only refers to the case of Ms. Ghafouri. The government declared that all legal protocols were observed in the case, and that a high court dismissed Ms. Ghafouri's request for a retrial on 2 July 2012. The Government also declared that Ms. Ghafouri's sentence was carried out on 12 July 2012 on the grounds of Shiraz' Adel-Abad prison. With regard to the alleged acts of torture and ill-treatment and the subsequent sentence to death 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 concludes that the rights of Ms. Safieh Ghafouri under international law were severely violated by her torture and by her execution following a trial that used evidence obtained under torture. The Special Rapporteur calls on the Government of the Islamic Republic of Iran to undertake a prompt, impartial, and effective investigation of the alleged acts of torture leading to prosecution and punishment of the perpetrators, and to provide redress to the victim's family.

- (k) UA Iran 06/07/2012 Case No. IRN 16/2012 State reply: None to date **Alleged imminent execution**

59. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not responded to this communication dated 6 July 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged imminent execution of Mr. Hamid Ghassemi-Shall, who was the subject of a joint urgent appeal dated 4 May 2012. In its response to the joint urgent appeal, the Government of the Islamic Republic of Iran declared that Mr. Shall was charged with collaborating with a terrorist group. The communication referred to allegations that Mr. Shall's sentence was issued on the basis of evidence obtained under duress, and in the absence of legal counsel during pre-trial detention. In this context, the Special Rapporteur reiterates that Article 7 of the ICCPR requires States to protect the dignity and physical and mental integrity of every individual, and to afford everyone protection against acts of torture and other cruel, inhuman and degrading treatment or punishment, whether inflicted by people acting in their official capacity, outside their official capacity, or in a private capacity. Accordingly, and in the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Mr.



Shall have been violated. Given the irremediable nature of capital punishment, the Special Rapporteur calls on the Government not to proceed with the execution and to set aside any criminal conviction based on evidence obtained under torture. Further, 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, and to provide full redress to Mr. Shall's next of kin.

(l) UA 31/07/2012 Case No. IRN 19-2012 State reply: None to date **Alleged imminent execution of five persons of Ahwazi Arab minority**

60. 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 established by the Human Rights Council. The communication referred to the imminent execution of five persons of Ahwazi Arab minority, Messers. Mohammad Ali Amouri, Sayed Jaber Alboshoka, Sayed Mokhtar Alboshoka, Hashem Sha'bani Amouri, and Hadi Rashidi. The Special Rapporteur had expressed grave concern that the five individuals were subjected to torture and other forms of inhuman treatment. In this context, the Special Rapporteur reminds the Government of the Islamic Republic of Article 7 of the ICCPR, which requires States to protect the dignity and physical and mental integrity of every individual, and to afford everyone protection against acts of torture and other cruel, inhuman and degrading treatment or punishment. The Special Rapporteur further 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." Additionally, the Special Rapporteur would like to recall 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." In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur is of the view that the rights of the given persons have been violated. Accordingly, the Special Rapporteur calls on the Government of the Islamic Republic of Iran to undertake a prompt, impartial, and effective investigation of the alleged acts of torture, leading to prosecution and punishment of the perpetrators, and to provide redress to the victims. Given the irremediable nature of capital punishment, the Special Rapporteur calls on the Government to prevent executions based on evidence obtained under torture. The Special Rapporteur also calls on the Government to offer appropriate remedies to the next of kin of the persons executed.

(m) UA Iran 03/08/2012 Case No. IRN 20/2012 State reply: None to date **Alleged detention and denial of medical treatment**

61. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not responded to this communication dated 3 August 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged detention and denial of access to medical treatment to Pastor Behnam Irani in the Ghezal Hesar Prison. The Special Rapporteur expresses grave concern about Pastor Irani's deteriorating condition in prison. Further, the Special Rapporteur expressed concern over allegations of maltreatment and assaults suffered by Pastor Irani in prison. In this context, the Special Rapporteur reminds the Government of the Islamic Republic of Article 7 of the ICCPR, which requires States to protect the dignity and physical and mental integrity of every individual, and to afford everyone protection against acts of torture and other cruel, inhuman and degrading treatment or punishment, whether inflicted by people acting in their official capacity, outside their official capacity, or in a private capacity. The Special

Rapporteur further reiterates 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, furnishing and pharmaceutical supplies shall be proper for the medical care and the treatment of sick prisoners, and there shall be a staff of suitable trained officers.” In the absence of evidence to the contrary, the Special Rapporteur concludes that the rights of Pastor Irani under international law have been violated. The Special Rapporteur calls on the Government of the Islamic Republic of Iran to ensure that all sick persons in detention are provided with proper medical care and treatment. Further, he calls on the Government to undertake a prompt, independent and effective investigation of the facts, leading to the prosecution and punishment of the perpetrators, and to provide full redress to Pastor Irani.

(n) UA Iran 07/08/2012 Case No. IRN 21/2012 State reply: None to date **Alleged acts of torture and imminent execution**

62. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not responded to this communication dated 7 August 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the imminent execution of Mr. Saeed Sedeghi, who was sentenced to death on drug-related charges. Mr. Sedeghi was the subject of a previous communication sent on 26 June 2012. The Special Rapporteur expresses grave concerns about the physical and mental integrity of Mr. Sedeghi in light of allegations of acts of torture and ill-treatment while in detention. In this context, the Special Rapporteur reminds the Government of the Islamic Republic of Iran of Article 7 of the ICCPR, which requires States to protect the dignity and physical and mental integrity of every individual, and to afford everyone protection against acts of torture and other cruel, inhuman and degrading treatment or punishment, whether inflicted by people acting in their official capacity, outside their official capacity, or in a private capacity. Furthermore he reiterates that paragraph 1 of Human Rights Council Resolution 16/23 “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur is of the view that the rights of Mr. Sedeghi have been violated. The Special Rapporteur calls on the Government of the Islamic Republic of Iran to undertake a prompt, impartial, and effective investigation of the alleged acts of torture, leading to prosecution and punishment of the perpetrators, and to provide redress to the victim. Given the irremediable nature of capital punishment, the Special Rapporteur further calls on the Government to take all necessary measures to prevent the execution of Mr. Sedeghi and to set aside any criminal conviction based on evidence obtained under torture. In case that Mr. Sedeghi has already been executed, the Special Rapporteur urges the Government of Iran to provide full redress to Mr. Sedeghi’s next of kin.

(o) JUA Iran 27/08/2012 Case No. IRN 22/2012 State reply: None to date **Alleged risk of execution under charges which are not considered as most serious crimes**

63. 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 established by the Human Rights Council. The communication referred to imminent execution of Mr. Gholamreza Khosravi Savadjani. The Special Rapporteur expressed grave concern regarding allegations that Mr. Savadjani was subjected to torture and ill-treatment and held in solitary confinement for over 40 months while in detention. The Special Rapporteur would like to remind the Government of 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. In this context, the Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” The Special Rapporteur also reiterates 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.” With regards to the allegations that Mr. Savadjani was held in prolonged solitary confinement, the Special Rapporteur additionally recalls 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 ICCPR. In this regard, the Special Rapporteur additionally recalls article 7 of the Basic Principles for the Treatment of Prisoners, which provides that “efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur is of the view that the rights of Mr. Savadjani have been violated. Accordingly, the Special Rapporteur calls on the Government of the Islamic Republic of Iran to undertake a prompt, impartial, and effective investigation of the alleged acts of torture, leading to prosecution and punishment of the perpetrator. Furthermore, and given the irremediable nature of capital punishment, the Special Rapporteur calls on the Government to prevent executions based on evidence obtained under torture. The Special Rapporteur also calls on the Government to offer appropriate remedies to the next of kin of Mr. Savadjani.

- (p) UA Iran 08/10/2012 Case No. IRN 23/2012 State reply: None to date **Alleged incommunicado detention and possible torture and ill-treatment of a person of Kurdish descent.**

64. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not responded to this communication dated 8 October 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the incommunicado detention of Mr. Maziar Ebrahimi, a person of Kurdish descent. The Special Rapporteur expresses concern about the possibility that Mr. Ebrahimi has been subjected to torture or ill-treatment while in detention due to a televised confession made by Mr. Ebrahimi on 6 August 2012. The Special Rapporteur stresses the Government’s obligation to protect the right to physical and mental integrity of all persons. In response to Mr. Ebrahimi’s unknown whereabouts, the Special Rapporteur reiterates paragraph 8b of Human Rights Council Resolution 16/23, which reminds States that “detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.” Furthermore, the Special Rapporteur reminds the Government of the Islamic Republic of Article 7 of the ICCPR, which requires States to protect the dignity and physical and mental integrity of every individual, and to afford everyone protection against acts of torture and other cruel, inhuman and degrading treatment or punishment, whether inflicted by people acting in their official capacity, outside their official capacity, or in a private capacity. Accordingly, and in the absence of evidence to the contrary, the Special Rapporteur concludes that the rights of Mr. Ebrahimi, whose whereabouts remain unknown, have been violated. The Special Rapporteur urges the Government to end the practice of incommunicado and unacknowledged detention.

He also calls on the Government to undertake a prompt and impartial investigation of possible acts of torture, leading to the prosecution and punishment of the perpetrators, and to ensure Mr. Ebrahimi obtains redress, including fair and adequate compensation, and as full rehabilitation as possible. Further, if Mr. Ebrahimi is to be tried, the Government must ensure that any evidence against him obtained under torture is declared inadmissible.

(q) UA Iran 08/10/2012 Case No. IRN 24/2012 State reply: None to date **Alleged detention and flogging of human rights defender**

65. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not responded to this communication dated 8 October 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the imprisonment of Mr. Mohammad Ali Dadkhah, a lawyer and co-founder of the Centre for Human Rights Defenders (CHRD). The Special Rapporteur expresses grave concern about the physical and mental integrity of Mr. Dadkhah in view of allegations that he has been subjected to flogging. In this context, the Special Rapporteur stresses the Government's obligation to protect the right to physical and mental integrity of all persons as stated in article 7 of the ICCPR. The Special Rapporteur reminds the Government of paragraph 7a of Resolution 8/8 of the Human Rights Council, which states that corporal punishment, can amount to cruel, inhuman, or degrading treatment or even torture. Also, in report A/HRC/10/44 the office of the Special Rapporteur held that corporal punishment can no longer be justified under present international law, not even under the most exceptional situations. Finally, Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur is of the view that the rights of Mr. Dadkhah have been violated. The Special Rapporteur calls on the Government of the Islamic Republic of Iran 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. Dadkhah.

(r) UA Iran 11/10/2012 Case No. IRN 25/2012 State reply: None to date **Alleged torture, solitary confinement, and imminent execution.**

66. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not responded to this communication dated 11 October 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the imminent execution of Mr. Saeed Sedeghi and ten other individuals, including Mr. Hamid Rahi'i, Mr. Mohammad Ali Rabi'i, Mr. Ali Darvish, and Mr. Abbas Namaki, who are reportedly at risk of imminent execution. Mr. Sedeghi was the subject of a previous communication dated 26 June 2012 and 7 August 2012, all of them also unanswered. The Special Rapporteur expresses grave concerns about the physical and mental integrity of Mr. Sedeghi in light of allegations of acts of torture and ill-treatment while in detention, and of reports that Mr. Sedeghi was transferred to Evin Prison and placed in solitary confinement. In this context, the Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." With respect to the allegation

that Mr. Sedeghi was held in solitary confinement, the Special Rapporteur recalls 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 light of the fact that no evidence has been provided to the contrary, the Special Rapporteur is of the view that the rights of Mr. Sedeghi have been violated. The Special Rapporteur also concludes, in the absence of other information, that the government of Iran has violated the rights under international law of Mr. Hamid Rahi'i, Mr. Mohammad Ali Rabi'i, Mr. Ali Darvish, Mr. Abbas Namaki and the six other individuals named in the urgent appeal. The Special Rapporteur calls on the Government of the Islamic Republic of Iran to undertake a prompt, impartial, and effective investigation of the alleged acts of torture, leading to prosecution and punishment of the perpetrators, and to provide redress to the victim. Given the irremediable nature of capital punishment, the Special Rapporteur further calls on the Government to take all necessary measures to prevent the execution of Mr. Sedeghi and the others and to set aside any criminal conviction based on evidence obtained under torture. In case that Mr. Sedeghi 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.

(s) AL Iran 16/11/2012 Case No. IRN 27/2012 State reply: 04/12/2012 **Alleged acts of torture, ill-treatment and death in custody**

67. The Special Rapporteur thanks the Government of the Islamic Republic of Iran for its reply, dated 4 December 2012, regarding the alleged torture, ill-treatment and death in custody of Mr. Sattar Beheshti, an Iranian blogger, who was allegedly arrested on cybercrime related charges. The Special Rapporteur expresses serious concern over the death of Mr. Beheshti in custody, in light of allegations of multiple acts of torture and ill-treatment and the related complaint of Mr. Beheshti prior to his death. In its reply, the Government of the Islamic Republic of Iran declared that it has established an interagency committee to investigate the circumstances surrounding Mr. Beheshti's death and his alleged torture and ill-treatment in custody. The Government also declared that the official in charge of the police cyber security department has been dismissed for omissions in the supervision of personnel and improper investigation into Mr. Beheshti's file. Although the Special Rapporteur appreciates the Government's 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 welcomes the Government's willingness to investigate the death in custody of Mr. Beheshti and the allegations of torture and ill-treatment. He calls on the Government of the Islamic Republic of Iran to provide any results of these investigations and the punishment of the perpetrators. He also calls on the Government to provide redress to the victim's family.

## **Iraq**

(a) JUA 28/08/2012 Case No. IRQ 3/2012 State reply: 02/11/2012 **Alleged risk of imminent executions carried out under terrorism-related charges**

68. The Special Rapporteur thanks the Government of Iraq for its response, dated 2 November 2012, to this communication in reference to the alleged imminent risk of execution faced by Mr. Saleh Musa Ahmed Mohammed Al Baydani, a Yemeni citizen, and then executions of 21 individuals, including three women, for terrorism related charges on 27 August 2012. According to the information we received, Mr. Al Baydani was a minor at the

time of his arrest and detained incommunicado for a period of ten months. In its reply, the Government sent the Special Rapporteur a copy of the verdict that was issued in Mr. Al Baydani's case on 27 December 2011. The court documents show that Mr. Al Baydani was 22 years old at the time of his arrest; that he was charged with being a member of Al Qaeda, to which he confessed; and that he was captured in flagrante delicto while attempting to bury weapons and ammunition. They also show that, as of April 2012, he had not been executed, pending a request from the defense to stay the execution and order a retrial. While the Special Rapporteur appreciates the Government's response with regards to Mr. Al Baydani's case, he regrets that the Government did not clarify the circumstances surrounding the 21 executions of 17 August 2012. 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 (CAT). The Special Rapporteur also draws attention to paragraph 7c of Human Rights Council Resolution 8/8 of 18 June 2008, which reminds all States that "Prolonged 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." The Special Rapporteur reiterates article 15 of the CAT and paragraph 6c of Human Rights Council resolution 8/8 of 2008, which provide that a State must 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." In the absence of evidence to the contrary, the Special Rapporteur finds that the executions of 27 August 2012 violated Iraq's obligations under international law. In connection with the case of Mr. Al Baydani, the Special Rapporteur appreciates that his case is under review; he also finds that his execution would violate international law because his crime, if proven, did not involve loss of life with intent to deprive of life, which are the only crimes for which capital punishment would not violate an international standard. The Special Rapporteur calls on the Government to set aside any criminal conviction based on evidence obtained under torture or for a crime that is not of the maximum gravity, and to promptly and impartially investigate all allegations of torture and ill-treatment.

(b) JUA 14/09/2012 Case No. IRQ 4/2012 State reply: 09/11/2012 **Alleged risk of execution of six individuals after proceedings that did not comply with fair trial and due process standards**

69. The Special Rapporteur thanks the Government of Iraq for its response, dated 9 November 2012, to this communication in reference to the alleged risk of execution faced by Messrs. Abdullah Azzam Saleh Musfer al-Qahtani, Manaf Abdulrahim Abdulhamid Issa al-Rawi, Mohammad Nouri Matar Yassin, Ibrahim Abdulqader Ali Antik, Safa Ahmad Abdul'aziz Abdullah, and Mohammad Jaber Taqfiq Obaid. In its reply, the Government provided a list of the articles under which the named persons were sentenced. While the Special Rapporteur appreciates the Government's reply, he regrets that the Government failed to address the allegations that the convictions were based on confessions obtained pursuant to torture and ill-treatment. 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 (CAT). The Special Rapporteur also draws attention to 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.” The Special Rapporteur reiterates article 15 of the CAT, which provide “each State Party shall ensure that any statement which is 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.” In the absence of evidence to the contrary, the Special Rapporteur finds that the rights of the named persons under international law have been violated. Given the irreversible nature of capital punishment, the Special Rapporteur calls on the Government not to proceed with the execution and to set aside any criminal conviction based on evidence obtained under torture.

(c) JUA 11/10/2012 Case No. IRQ 5/2012 State reply: 12/12/2012 **Alleged risk of imminent execution**

70. The Special Rapporteur thanks the Government of Iraq for its response, dated 9 November 2012, to this communication in reference to the case of Mr. Ahmad Amr Abd al-Qadir Muhammad, who is at risk of imminent execution in Iraq. He was allegedly held incommunicado for more than a year after his arrest and subjected to torture. His injuries were allegedly still visible months after his arrest in 2006. Also a forensic medical examination in 2008 found that he had scarring. His testimony has been included as part of evidence during the trial before the court although Mr. Muhammad withdrew his statement, claiming that his confession had been extracted under coercion and torture. In its response, the Government explained that the communication sent by the Special Rapporteur led to a prompt investigation by the Ministry of Interior (MoI) into all allegations raised. The MoI came to the conclusion, that no violations of Mr. Muhammad’s rights under domestic and international law could be detected, that he was never subjected to torture and subsequently, that the death sentence was pronounced in accordance with the law. The Government informed that Mr. Muhammad’s execution is now subject to administrative procedures and will be carried out. While the Special Rapporteur appreciates the Government’s reply, he finds that the Government did not provide evidence against the allegations of torture, solitary confinement and the use of confession made under duress in the case of Mr. Mohammad. He 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 (CAT). The Special Rapporteur also draws attention to 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.” The Special Rapporteur reiterates article 15 of the CAT, which provide “each State Party shall ensure that any statement which is 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.” In the absence of evidence to the contrary, the Special Rapporteur finds that the rights of Mr. Mohammad under international law have been violated. Given the irreversible nature of capital punishment, the Special Rapporteur calls on the Government not to proceed with the execution and to set aside any criminal conviction based on evidence obtained under torture.

## Israel

- (a) JUA 23/01/2012 Case No. ISR 1/2012 State reply: None to date **Alleged failure to provide adequate medical care to a detainee**

71. 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 failure to provide access to an ophthalmologist to a detainee with an eye inflammation, to examine his ailment. The Special Rapporteur would like to draw the attention of the government to Rule 25(1) of the Standard Minimum Rules for the Treatment of Prisoners, which 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.” Without any evidence to the contrary, the Special Rapporteur determines that the rights of the detainee mentioned above have been violated, and calls on the Government to ensure accountability of those responsible and to provide full redress to the victims, including fair and adequate compensation, and as full rehabilitation as possible.

- (b) JUA 28/03/2012 Case No. ISR 4/2012 State reply: None to date **Alleged arbitrary arrest and detention with sexual assault and torture by the Israeli military forces.**

72. The Special Rapporteur regrets that the Government of Israel has not responded to this communication dated 28 March 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged sexual assault and torture of a 30-year-old Palestinian woman held in administrative detention and subsequent use of solitary confinement as a reprisal to her hunger strike in response to the use of administrative detention. The victim was the subject of an earlier urgent appeal to the Government of Israel regarding the administrative detention, however, regrettably no reply has been received. In response to the alleged abuse and sexual assault perpetrated by a soldier in the Salem detention center and the subsequent use of solitary confinement, the Special Rapporteur urges the Government 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 (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). He would like to refer 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.” With regard to the use of solitary confinement as a reprisal for the hunger strike, the Special Rapporteur stresses that solitary confinement should be used only in very exceptional circumstances, as a last resort, for as short a time as possible, as detailed in the Istanbul Statement on the Use and Effects of Solitary Confinement (paragraph 89, A/66/268). Circumstances or purposes for which solitary confinement may be legitimate do not include reprisals. The use of solitary confinement may cause serious psychological and physiological adverse effects on individuals deprived of liberty, negating a primary aim of the penitentiary system, rehabilitation and reintegration. Further, the Special Rapporteur draws attention to paragraph 6 of General Comment 20 of the Human Rights Committee, stating that prolonged solitary confinement of detained or imprisoned persons 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 context, the Special Rapporteur would also like to refer to article 7 of the Basic Principles for the Treatment of Prisoners,



which provides that “efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.” (Adopted by the General Assembly by resolution 45/111 of 14 December 1990). In absence of evidence to the contrary, the Special Rapporteur determines that the rights of the identified woman have been violated. The Special Rapporteur calls on the Government to provide information regarding the legal grounds for the aforementioned person’s arrest and detention and to undertake a prompt and independent investigation of the alleged mistreatment while held in detention, leading to prosecution and punishment of the perpetrators, and to provide full redress to the victim. Furthermore, the Special Rapporteur calls upon the Government to abolish or restrict the use of solitary confinement as a punishment and adopt measures that promote rehabilitation of those held in detention.

- (c) JUA 14/05/2012 Case No. ISR 5/2012 State reply: None to date **Allegation concerning more than 1,500 Palestinian prisoners in Israeli prisons who are currently engaged in an open-ended hunger strike; solitary confinement and inadequate medical care in prison.**

73. The Special Rapporteur regrets that the Government of Israel has not responded to this communication dated 14 May 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the dire and critical health condition of Mr. Thaer Halahleh and Mr. Bilal Diab and other Palestinian prisoners and detainees who underwent a prolonged hunger strike in response to the Government’s alleged excessive use of administrative detentions, solitary confinement, and limitations on family visits. Further, the communication referred to the alleged denial of adequate medical attention to those in critical health condition. The Special Rapporteur expresses serious concern regarding the physical and psychological integrity of the Palestinian prisoners and detainees. In this context, the Special Rapporteur reiterates 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 a staff be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.” Regarding the use of solitary confinement, the Special Rapporteur draws attention to 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 Human Rights Committee, 1992). In this regard, he further draws attention to article 7 of the Basic Principles for the Treatment of Prisoners, which provides that “efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged” (adopted by the General Assembly by resolution 45/111 of 14 December 1990). In the absence of contradictory evidence, the Special Rapporteur concludes that the Government’s use of punitive measures in response to hunger strikes violates the rights of prisoners and detainees. The Special Rapporteur also concludes that the denial of medical attention to persons in custody constitutes cruel, inhuman, or degrading treatment in violation of international standards. The Special Rapporteur urges the Government to prohibit the imposition of solitary confinement as a disciplinary measure and ensure the physical and mental health of the prisoners. Furthermore, the Special Rapporteur calls on the Government of Israel to ensure that all sick persons in detention are provided with proper medical care and treatment.

(d) JUA 16/11/2012 Case No. ISR 12/2012 State reply: None to date **Alleged detention, ill-treatment and violations of due process rights of human rights defender**

74. The Special Rapporteur regrets that the Government of Israel has not responded to this communication dated 26 November 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to alleged arbitrary detention and ill-treatment of Palestinian human rights defender Mr. Ayman Nasser. The Special Rapporteur expressed grave concern for the physical and psychological integrity of Mr. Nasser in view of allegations that he has been subjected to ill-treatment during lengthy interrogations, denied proper medical attention, and held in an isolation cell under inadequate conditions. 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 under the UDHR, ICCPR and the CAT. The Special Rapporteur would like to refer to 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 paragraph 7c of Human Rights Council Resolution 8/8 of 18 June 2008, which reminds all states that “Prolonged incommunicado detention or detention in secret places may facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can 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.” Furthermore, he would like to remind the Government of Rule 22(2) of the Standard Minimum Rules for the Treatment of Prisoners, which provides that “[s]ick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.” In the absence of evidence to the contrary, the Special Rapporteur determines that Mr. Nasser’s rights under the relevant standards have been violated, and calls on the Government to undertake a prompt, independent and effective investigation of the facts, leading to the prosecution and punishment of the perpetrators, and to provide full redress to the victim.

## **Jordan**

(a) JUA 17/10/2012 Case No. JOR 2/2012 State reply: 18/01/2013 **Alleged forcible return to Jordan and imminent threat of torture**

75. The Special Rapporteur regrets that the Government of Jordan has not responded to this communication dated 17 October 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged incommunicado detention of Mr. Mohammad Yousef Abdulsalam and use of torture during previous incommunicado detention. The Special Rapporteur expresses grave concern regarding Mr. Abdulsalam’s unknown whereabouts and alleged great risk of torture at the hands of Jordanian authorities. In this context, the Special Rapporteur stresses that paragraph 8(b) of Human Rights Council Resolution 16/23 reminds States that “(p)rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur concludes that the rights of Mr. Abdulsalam under international standards

prohibiting torture and other cruel, inhuman or degrading treatment or punishment have been violated. The Special Rapporteur calls on the Government to investigate, prosecute and punish all allegations of ill-treatment and to end the practice of incommunicado detention.

## **Kazakhstan**

- (a) JUA 12/10/2012 Case No. KAZ 6/2012 State reply: none to date **Alleged arrest and risk of extradition of Uzbek citizen facing religious persecution in Uzbekistan**

76. The Special Rapporteur regrets that the Government of Kazakhstan has not responded to this communication dated 12 October 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged imminent extradition of Mr. Makhset Abdullayevich Djabbarbergenov to Uzbekistan by Kazakh authorities. The Special Rapporteur expresses concern over allegations that Mr. Djabbarbergenov, a practicing Protestant Christian, may face serious charges for exercising his freedom of religion and a risk of torture upon extradition to Uzbekistan. 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). 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. The Special Rapporteur also draws the attention of the Government to paragraph 9 of General Comment No. 20 of the Human Rights Committee states that State parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement. The Special Rapporteur additionally reminds the Government of paragraph 7d of Human Rights Council Resolution 16/23, which urges States not to expel, return, or extradite or in any other way transfer a person to another State where there are substantial grounds for believing that ht 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 Special Rapporteur calls on the Government to ensure a thorough and fair assessment to ascertain whether Mr. Djabbarbergenov is at risk of being tortured 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.

- (b) JUA 13/01/2012 Case No. KAZ 5/2011 State reply: None to date **Allegations of widespread acts of violence and excessive use of force against protesters in Zhanaozen, Mangistau region.**

77. The Special Rapporteur regrets that the Government 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 excessive use of force by law enforcement officials against protestors, including the deaths of many protestors. The Special Rapporteur reiterates principle 4 of the Basic Principles on the Use of Force and Firearms by Law Enforcement, which states 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. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result, in accordance with the principles of necessity and proportionality. In addition, if the use of force is unavoidable, principle 5 requires law

enforcement officials to: “(a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective 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; (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.” Without any evidence to the contrary, the Special Rapporteur determines that the rights of the victims under the Convention against Torture have been violated, and calls on the Government of Kazakhstan to ensure a prompt, independent and impartial investigation, leading to prosecution and punishment of the perpetrators of torture, and to provide full redress to the victims, including fair and adequate compensation, and as full rehabilitation as possible.

### **Korea (Republic of)**

- (a) JAL 17/04/2012 Case No. KOR 1/2012 State reply: 21/06/2012 **Alleged deportation and secret detention in Uzbekistan.**

78. The Special Rapporteur thanks the Government of the Republic of Korea for its response, dated 21 June 2012, to this communication in reference to the entry of Mr. X to the Republic of Korea reportedly to avoid the risk of persecution and torture in Uzbekistan for his religious beliefs. In its reply, the Government indicated that Mr. X illegally entered the Republic and did not initially disclose that the purpose of his entry to Korea was to escape any potential persecution. Upon consideration of his refugee status application, the Government found Mr. X did not sufficiently substantiate the allegations of persecution and torture if deported, thereby rejecting his refugee status application and deporting him to Uzbekistan. The whereabouts of above-mentioned person remain unknown. In this context, the Special Rapporteur would like to reiterate 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 concludes that prior history of persecution is highly relevant to the determination of risk. The non-refoulement obligation is reaffirmed in paragraph 9 of General Comment 20 of the Human Rights Committee and paragraph 9 of the Resolution A/RES/61/253 of the UN General Assembly. The Special Rapporteur draws attention to paragraph 16 of the Resolution A/RES/65/205 of the UN General Assembly which urges States “not to expel, return (“refouler”), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, and recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement.” The Special Rapporteur also recalls that paragraph 7(d) of Human Rights Council Resolution 16/23 of 12 April 2011 urges States “[n]ot to expel, return (refouler), extradite or in any way transfer a person to another state where there are substantial grounds for believing that the person would be in danger of being subjected to torture.” The Special Rapporteur thanks the Government for its explanation of Mr. X’s arrest and of the subsequent administrative proceedings undertaken to determine refugee status. However, the Special Rapporteur calls on the Government to ensure a thorough risk assessment to ascertain whether anyone deported may be subjected to torture or other cruel, inhuman or degrading treatment or punishment in the receiving country. The Special Rapporteur urges the Government of Korea to take all necessary measures to guarantee that the rights and freedoms of Mr. X are respected and to refrain from any future acts of refoulement.

- (b) JAL 30/05/2012 Case No. KOR 2/2012 State reply: None to date **Alleged acts of harassment, intimidation, ill-treatment, and excessive use of force against peaceful protesters in Gangjeong village.**

79. The Special Rapporteur regrets that the Government of the Republic of Korea has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged harassment, intimidation, ill-treatment, and excessive use of force by police against peaceful protesters. The Special Rapporteur recalls article 3 of the UN Code of Conduct for Law Enforcement Officials which states that, "(l)aw enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty". In addition, provisions 4 and 7 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states that law enforcement officials shall make use of non-violent means, as far as possible; and that States should ensure that "arbitrary or abusive use of force... by law enforcement officials is punished as a criminal offence under their law." The Special Rapporteur reminds the Government that Human Rights Council resolution 15/21, and in particular paragraph 1, "calls upon States to respect and fully protect the rights of all individuals to assemble peacefully [...] including persons espousing minority or dissenting views or beliefs, human rights defenders, [...] and others, [...], 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 [...] are in accordance with their obligations under international human rights law." In the absence of evidence to the contrary, the Special Rapporteur determines that the rights of those mentioned in the communication under the UN Convention against Torture have been violated, and calls on the Government to ensure investigation and prosecution of the perpetrators and the provision of redress to all the victims.

### **Kyrgyzstan**

- (a) AL 11/06/2012 Case No. KGZ 3/2012 State reply: 14/08/2012 **Alleged beating and extraction of confession under torture**

80. The Special Rapporteur thanks the Government of Kyrgyzstan for its reply, dated August 14, 2012, to this communication in reference to the alleged torture of Ms. X to induce her confession while in the presence of her seven-year-old son. Unfortunately, the Government's reply notes that no investigation has been opened in the matter of Ms. X's allegations of torture under interrogation. Given the information received, the Special Rapporteur determines that the rights to physical and psychological integrity of Ms. X and of her child have been violated, and calls on the Government to investigate, prosecute and punish all cases of torture and to ensure that any evidence obtained under torture is declared inadmissible in trial against the victim.

- (b) JUA 15/06/2012 Case No. KGZ 2/2012 State reply: 14/08/2012 **Alleged arbitrary detention and torture**

81. The Special Rapporteur thanks the Government of Kyrgyzstan for its reply, dated August 14, 2012, to this communication in reference to the alleged torture of Mr. Dilshad Nabijanov. The Government's response acknowledges that Mr Nabijanov sustained injuries in the course of his detention in late March and early April of 2012. Several medical examinations confirmed injuries of a light nature. The case concerning his mistreatment was separated from the file on criminal charges faced by Mr. Nabijanov, but it was twice dismissed and reopened. At the time of the government's response, the case was pending further inquiries

and nominally still open, but no charges had been filed against any perpetrator. The Special Rapporteur recalls 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 [...]” Given the information received, the Special Rapporteur determines that Mr. Nabijanov was indeed mistreated during his arrest or early days of detention, and that the Government has yet to comply with its obligation to investigate, prosecute and punish those who are ultimately found responsible. The Special Rapporteur encourages the Government to remain engaged with the Rapporteurship and to provide information on developments in the case. In addition, since the criminal case for which Mr. Nabijanov was arrested is still pending, the Special Rapporteur reminds the Government of its obligation to exclude any confession or statement obtained under torture from the charges against the defendant.

(c) JUA 13/08/2012 Case No. KGZ 5/2011 State reply: 04/10/2012 **Alleged upholding of sentence of life imprisonment of human rights defender**

82. The Special Rapporteur thanks the Government of Kyrgyzstan for its reply, dated October 4, 2012, to this communication in reference to the Supreme Court’s upholding of a life sentence for Mr. Azimjan Askarov, a human rights defender who was allegedly tortured during interrogations. The Government’s response stated that inquiries into the allegations of torture against Mr. Askarov were conducted, and that these inquiries concluded that Ms. ASkarov was not subjected to any torture. The Government also stated that Mr. Askarov did not undergo any examinations in connection to the allegations of torture. The Special Rapporteur expresses concern in regards to the outcomes of the inquiries given that even a medical examination of Mr. Askarov was never conducted. In addition, the reply does not address what the inquiries consisted of and how the result was reached. The Special Rapporteur recalls guideline 16 of the Guidelines on the Role of Prosecutors, which states that “[w]hen prosecutors come into possession of evidence against suspects that they know or believe on reasonable grounds was obtained through recourse to unlawful methods, which constitute a grave violation of the suspect’s human rights, especially involving torture or cruel, inhuman or degrading treatment or punishment, or other abuses of human rights, they shall refuse to use such evidence against anyone other than those who used such methods, or inform the Court accordingly, and shall take all necessary steps to ensure that those responsible for using such methods are brought to justice.” Based on the information received, the Special Rapporteur determines that the rights of Mr. Askarov may have been violated, and calls on the Government to conduct a complete and impartial investigation into the aforementioned allegations and to prosecute and punish all those responsible. He also urges the Government to conduct a review of Mr. Askarov’s conviction and sentence, especially ensuring that no evidence obtained under torture or as a result of such treatment is admitted into evidence.

### **Lao (Republique Democratique Populaire)**

(a) JUA 13/08/2012 Case No. LAO 1/2012 State reply: 10/10/2012 **Alleged torture by detention personnel**

83. The Special Rapporteur thanks the Government of the Lao People’s Democratic Republic for its response, dated 10 October 2012, to this communication in reference to Mr. Souvanh, a human rights defender, who was allegedly bound by his arms and legs and regularly beaten

during a fourteen-day detention. Furthermore, he was denied regular meals, providing only eight meals during the entire detention. The Special Rapporteur expresses concern regarding Mr. Souvanh's current hospitalization due to the injuries sustained during his detention. In its reply, the Government denies the allegations regarding Mr. Souvanh's arrest, detention, and torture. The Government supports this claim citing an investigation taken on the allegations and further suggests that such allegations are aimed at discrediting the image of the Government. The Special Rapporteur notes the insufficiency of the information provided relating to the specific investigation, and further asserts that all investigations must be conducted in an impartial and independent manner. In this context, the Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." If, at the conclusion of a thorough investigation, the Government finds that the rights of Mr. Souvanh have been violated, the Special Rapporteur calls on the Government of the Lao People's Democratic Republic to ensure that he obtains redress, including fair and adequate compensation, and as full rehabilitation as possible. The Special Rapporteur encourages the Government to continue its engagement with the mandate.

## Lebanon

- (a) JAL 02/04/2012 Case No. LBN 2/2012 State reply: 30/05/2012, 06/06/2012 **Allegations of repeated physical and sexual abuse of an Ethiopian domestic worker, leading to suicide.**

84. The Special Rapporteur thanks the Government of Lebanon for its reply to this communication dated 2 April 2012 regarding the alleged beating of a domestic worker, who was reportedly trafficked to the country, abused by her employer, and subsequently detained, ultimately leading to a transfer to a psychiatric hospital. The Special Rapporteur expresses grave concern regarding the alleged beating and suicide in the psychiatric hospital in light of the circumstances prior to her arrival in the hospital. In its reply, the Government reported that the illegal recruitment office had been closed and the Government was conducting an investigation regarding the allegations, subsequently charging one person for his role in allegedly beating of the domestic worker and in trafficking her to the country. In this context, the Special Rapporteur reiterates paragraph 18 of the General Comment No. 2 of the Committee against Torture, where the Committee has made clear that "where State authorities or others acting in official capacity or under color 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 this 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. Since the failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of torture facilitates and enables non-State actors to commit acts impermissible under the Convention with impunity, the State's indifference or inaction provides a form of encouragement and/or defacto permission. The Committee has applied this principle to States parties' failure to prevent and protect victims from gender-based violence, such as rape, domestic violence, female genital mutilation and trafficking." The Special Rapporteur calls on the Government of Lebanon to ensure that any alleged acts of torture are prosecuted and the punishment of the perpetrators. The Special Rapporteur encourages the Government to continue its engagement with the mandate.

- (b) UA 09/10/2012 Case No. LBN 3/2012 State reply: None to date **Alleged forcible return to the Syrian Arab Republic and imminent risk of torture and ill-treatment**

85. The Special Rapporteur regrets that the Government of Lebanon has not responded to this communication dated 9 October 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged immediate risk of extradition and torture faced by Mr. Maher Shawki Ahmed, a Syrian national residing in Lebanon. 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). 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." 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. The Special Rapporteur also draws the attention of the Government to paragraph 9 of General Comment No. 20 of the Human Rights Committee states that State parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement. The Special Rapporteur additionally reminds the Government of paragraph 7d of Human Rights Council Resolution 16/23 and to paragraph 16 of the Resolution A/RES/65/205 of the UN General Assembly, which urge States "not to expel, return, or 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 calls on the Government to ensure a thorough and fair assessment to ascertain whether Mr. Ahmed is at risk of being tortured or other cruel, inhuman or degrading treatment or punishment, and urges the Government to take all necessary measures to safeguard his rights and freedoms in compliance with the relevant international instruments.

## **Libya**

- (a) JUA 05/09/2012 Case No. LBY 2/2012 State reply: 07/09/2012 **Alleged intimidation and excessive use of force against protesters**

86. The Special Rapporteur thanks the Government of Libya for its response, dated 7 September 2012, to the joint urgent appeal regarding the excessive use of force against peaceful protesters in the context of acts of desecration of graves and other monuments of the Sufi cultural heritage. The appeal also inquired about the subsequent ill-treatment and beatings imposed on protesters against the desecration, who were arbitrarily detained, including an Imam, Mr. Ashraf Jerbi. The Special Rapporteur appreciates the determination of the Libyan government, as expressed in its response, not to tolerate expression of religious hatred and to preserve the cultural heritage of Libya in all its manifestations. At the same time, the Special Rapporteur notes the insufficiency of the Government's reply in that it did not address any of the allegations of excessive force against protesters or beatings and torture of those detained. In this context, the Special Rapporteur reiterates paragraph 1 of Human Rights Council Resolution 16/23, which "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be



justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” Accordingly, based on the information received, the Special Rapporteur concludes that the rights of Ashraf Jerbi and others subjected to ill-treatment as a result of peaceful protests have been violated under the UN Convention against Torture. The Special Rapporteur calls on the Government to investigate, prosecute and punish those responsible and to provide full redress to the victims. The Special Rapporteur encourages the Government to continue its engagement with the mandate.

## Madagascar

- (a) JAL 26/12/2011 Case No. MDG 2/2011 State reply: 29/05/2012 **Emploi illicite de la force par les forces de l’ordre et meurtre allégués d’un substitut du procureur.**

87. Le Rapporteur spécial remercie le Gouvernement du Madagascar de sa réponse à la communication envoyée le 29 mai 2012 concernant l’allégation de à la communication envoyée le 26 décembre 2011 concernant la l’emploi illicite de la force par des forces de l’ordre, le meurtre de M. Michel Rahavana, premier substitut du Procureur, a Toliara, ainsi que l’attaque contre un journaliste. En assurant la coopération entre le mandat et le Gouvernement, le Rapporteur spécial souhaiterait attirer l’attention du Gouvernement sur les dispositions contenues dans les Principes de base sur le recours à la force et l’utilisation des armes à feu par les responsables de l’application des lois. En vertu du principe 9 dudit instrument « les responsables de l’application des lois ne doivent pas faire usage d’armes à feu contre des personnes, sauf en cas de légitime défense ou pour prévenir une infraction particulièrement grave mettant sérieusement en danger des vies humaines, ou pour procéder à l’arrestation d’une personne présentant un tel risque et seulement lorsque des mesures moins extrêmes sont insuffisantes pour atteindre ces objectifs. Concernant l’agression de M. Rahavana entraînant son décès, ainsi que l’agression du journaliste par des officiers de police, le Rapporteur aimerait renvoyer le Gouvernement au paragraphe 1 dans la résolution adoptée par le Conseil des Droits de l’Homme 16/23, qui dit « [c]ondamne toutes les formes de torture et autres peines ou traitements cruels, inhumains ou dégradants, y compris sous forme d’intimidation, qui sont et resteront interdits en tout temps et en tout lieu et ne sauraient donc jamais être justifiés, et demande à tous les États de donner pleinement effet à l’interdiction absolue de la torture et autres peines ou traitements cruels, inhumains ou dégradants. » Le Rapporteur spécial appelle le Gouvernement à enquêter tous les cas de torture et le décès du victime, à poursuivre et punir les auteurs des faits, en fournissant une réparation intégrale pour les victimes et leur famille, y compris une indemnisation équitable et adéquate, et d’empêcher la réitération de telles pratiques.

## Malaysia

- (a) JAL 16/05/2012 Case No. MYS 3/2012 State reply: 26/09/2012 **Alleged excessive use of force by law enforcement authorities against peaceful protestors, and acts of harassment against media personnel and human rights defenders.**

88. The Special Rapporteur thanks the Government of Malaysia for its reply dated 27 September 2012, to this communication in reference to the alleged excessive use of force by law enforcement authorities against peaceful protestors, and acts of harassment and police brutality against Ms. Ambiga Sreenevasan, media personnel and human rights defenders, in the context of a peaceful demonstration organized to take place in Kuala Lumpur on 28 April 2012. In its reply, the Government reiterated statements made by its officials reaffirming its commitment to the freedom of peaceful assembly and association during an interactive

dialogue with the Special Rapporteur on the right to freedom of peaceful assembly and association in June 2012. The Government also states that Ms. Sreenevasan and other protesters did not request protection by the authorities in response to alleged acts of harassment and intimidation. The Government further reported that Ms. Sreenevasan has lodged only one police complaint with authorities, which alleged that a group of men gathered outside her home some time after the demonstration to cook and discuss a set of demands they intended to present to Ms. Sreenevasan. While the Special Rapporteur appreciates the Government's reply, he regrets that the Government did not clarify allegations that authorities in Kuala Lumpur used excessive force, including beatings, tear gas, water canons, to disperse a crowd of peaceful protesters. In this context, the Special Rapporteur reminds the Government that law enforcement officials should apply non-violent means before resorting to the use of force and firearms, as provided in principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials. Furthermore, principle 5 provides that, "[w]henver 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). Accordingly, the Special Rapporteur determines that the rights of Ms. Ambiga Sreenevasan and the media and human rights defenders who were targeted have been violated. The Special Rapporteur calls on the Government to ensure that persons are protected against any violence, threats, or retaliation as a consequence of exercising their rights to freedom of peaceful assembly and expression. The Special Rapporteur urges the Government to undertake investigation of the alleged threats and intimidation, leading to prosecution and punishment of the perpetrators, and to provide full redress to the victims.

## Maldives

- (a) JUA 29/02/2012 Case No. MDV 2/2012 State reply: 21/06/2012, 27/07/2012 **Alleged excessive use of force by law enforcement authorities and the detention of protestors belonging to the Maldivian Democratic Party (MDP).**

89. The Special Rapporteur thanks the Government of the Republic of the Maldives for its response, dated 21 June 2012, to the urgent appeal regarding reported excessive use of force by law enforcement authorities seriously injuring at least 37 people, including the alleged stabbing of Maldivian Democratic Party (MDP) member, Ms. Maria Mohamed Didi; the beating of a member of Parliament, Mr. Bondey; and the serious injuries to another member of Parliament, Mr. Moosa Manik. The Special Rapporteur expresses serious concern in light of allegations that immigration officers did not allow MP Moosa Manik to board a flight in order to receive necessary treatment due to the seriousness of his injuries. In its reply, the Government does not dispute the alleged force used by the police during the demonstrations, nor that MP Moosa Manik was injured as well as other civilians. However, the Government attributes this to a fairly uncertain and chaotic climate and describes demonstrators as inciting violent disorder and breaching the peace. The Special Rapporteur notes that the Government has initiated an "independent Commission of National Inquiry to investigate the nature of the alleged events, the findings of which will be forwarded to the Attorney-General and Prosecutor General for appropriate legal proceedings. In this context, the Special Rapporteur reiterates Principle 5 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which states that "[w]henver 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.” The Special Rapporteur urges the Government to continue to investigate any allegations of excessive use of force by law enforcement officials and to take appropriate action against the responsible officials. The Special Rapporteur encourages the Government of the Republic of the Maldives to continue its engagement with the Mandate.

- (b) JUA 22/03/2012 Case No. MDV 3/2012 State reply: None to date **Allegations of continuous excessive use of force by law enforcement authorities against, and the arrest and detention of protesters belonging to the Maldivian Democratic Party (MDP).**

90. The Special Rapporteur regrets that the Government of Maldives has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged continuous, excessive use of force by law enforcement authorities against, and arrest and detention of, protesters belonging to the Maldivian Democratic Party (MDP). These allegations were the subject of a previous communication dated 29 February 2012 however, we regret that to date no reply has been transmitted. We would like to refer to 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 alleged excessive use of force, the Special Rapporteur reiterates Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, “[l]aw enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms.” Based on the information received and in the absence of evidence to the contrary, the Special Rapporteur determines that the incommunicado detention and use of excessive force by the Maldives Security Forces violated the rights of protesters, some of whose whereabouts remain unknown. The Special Rapporteur urgently calls on the Government to guarantee the physical and mental integrity of all protesters. The Special Rapporteur urges the Government to ensure a prompt and independent investigation of mistreatment and, should the allegations be correct, hold any persons responsible for the violations accountable and provide redress to all victims of ill treatment or torture. Additionally, he requests the Government to adopt effective measures to prevent the recurrence of these acts by Maldives Security Forces and calls on the Government to abolish the practice of incommunicado detention.

## Mali

- (a) JAL 31/08/2012 Case No. MLI 2/2012 State reply: None to date **Allegation d’exécution par lapidation d’un couple non marié au Nord du Mali**

91. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l’absence de réponse de la part du Gouvernement du Mali à la communication envoyée le 31 Août 2012 concernant l’exécution par lapidation d’un couple non-marié au Nord du Mali. Selon les informations reçues, le 29 juillet le couple de Aguelhok, auraient été tués par lapidation dans cette même ville par un groupe islamiste armé. A cet égard, le Rapporteur spécial aimerait renvoyer le Gouvernement du Mali au paragraphe 1 dans la résolution adoptée par le Conseil des Droits de l’Homme 16/23, qui dit « [c]ondamne toutes les formes

de torture et autres peines ou traitements cruels, inhumains ou dégradants, y compris sous forme d'intimidation, qui sont et resteront interdits en tout temps et en tout lieu et ne sauraient donc jamais être justifiés, et demande à tous les États de donner pleinement effet à l'interdiction absolue de la torture et autres peines ou traitements cruels, inhumains ou dégradants. » Le Rapporteur spécial appelle le Gouvernement à enquêter tous les cas de torture et autres peines ou traitements cruels, inhumains ou dégradants, et à poursuivre et punir les responsables de cette violation. Le Rapporteur spécial reste disponible pour fournir tout appui technique dont aurait besoin le Gouvernement.

- (b) JUA 27/09/2012 Case No. MLI 3/2012 State reply: None to date **Allegations d'executions extrajudiciaires, de disparitions forcees, tortures, detentions arbitraires et violences contre les femmes commises dans le contexte du conflit arme au nord du Mali**

92. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse de la part du Gouvernement du Mali à la communication envoyée le 27 septembre 2012 concernant des exécutions extrajudiciaires, disparitions forcées, actes de torture, détentions arbitraires et des violences contre les femmes commises dans le contexte du conflit arme au nord du Mali. Le Rapporteur souhaitera souligner que le Gouvernement malien ne saurait s'affranchir de ses obligations de protéger la vie et l'intégrité physique et mentale de la population civile et de prévenir toute autre violation des droits de l'homme et du droit international humanitaire, qu'elles aient été ou soient commises par des groupes armes ou des soldats maliens. Le Rapporteur 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. En outre, le Rapporteur souhaitera recevoir des informations détaillées sur les mesures prises par le Gouvernement pour protéger la vie et l'intégrité physique et mentale de la population civile et prévenir toute autre violation des droits de l'homme et du droit international humanitaire, et la répétition de tels faits. Le Rapporteur spécial reste disponible pour fournir tout appui technique dont aurait besoin le Gouvernement.

## México

- (a) JUA 02/02/2012 Case No. MEX 5/2012 State reply: None to date **Supuestos actos de hostigamiento por parte de militares**

93. El Relator Especial agradece al Gobierno de México por su respuesta, de fecha 9 de noviembre del 2012, a la comunicación en referencia al presunto uso de intimidación hacia familiares de tres presuntas víctimas de tortura. En atención a las preguntas formuladas en la comunicación conjunta, el Gobierno de México indicó que, como respuesta a la queja hechas por las víctimas en relación al hostigamiento, la Comisión Nacional de los Derechos Humanos (CNDH) implementó medidas cautelares a la SEDENA (Secretaría de la Defensa Nacional). El Gobierno también indica que hubo investigaciones sobre el presunto delito de abuso de autoridad, y que las víctimas pudieron participar, pero que aún no se ha identificado a persona alguna como el posible autor del abuso. El Relator Especial expresa su preocupación sobre la decisión de la CNDH de elegir que militares actúen como protectores de las víctimas, cuando las quejas se referían a militares. Reitera el párrafo 3(b) de los Principios relativos a la investigación y documentación eficaces de la tortura y otros tratos o penas crueles, inhumanos o degradantes, el cual señala que "las presuntas víctimas de torturas o malos tratos, los testigos y quienes realicen la investigación, así como sus familias, serán protegidos de actos o amenazas de violencia o de cualquier otra forma de intimidación que pueda surgir de resultados de la investigación." El Relator Especial expresa su complacencia al

Gobierno de México por las investigaciones de abuso de autoridad, y exhorta al Gobierno a asegurar la investigación, procesamiento y eventual condena de los responsables.

(b) JUA 08/12/2011 Case No. MEX 27/2011 State reply: None to date **Presunto asesinato, asalto físico, detención arbitraria, y uso de tortura por parte de agentes estatales**

94. El Relator lamenta que, hasta la fecha, el Gobierno de México no haya respondido a esta comunicación de fecha 8 de diciembre de 2011. La comunicación se refería al asesinato, asalto físico, detención arbitraria, y uso de tortura por parte de agentes estatales actuando en supuesta represalia y solicitaba al Gobierno información acerca de las medidas tomadas para identificar y procesar penalmente a los responsables. En este contexto, el Relator Especial desea llamar la atención del Gobierno de México al párrafo 9 de los Principios Relativos a una Eficaz Prevención e Investigación de las Ejecuciones Extrajudiciales, Arbitrarias o Sumarias (resolución 1989/65 del Consejo Económico y Social), que dice que “en todos los casos en que haya sospecha de ejecuciones extrajudiciales, arbitrarias o sumarias, los Gobiernos tienen la obligación de efectuar una investigación exhaustiva, inmediata e imparcial.” Adicionalmente, el artículo 12 de la Convención sobre la Tortura señala que “...todo Estado Parte velará por que las autoridades competentes procedan a una investigación pronta e imparcial siempre que haya motivos razonables para creer que se ha cometido un acto de tortura”; así como el artículo 7 de la misma, el cual estipula que el Estado Parte deberá someter a los supuestos perpetradores de tortura a sus autoridades competentes a efectos de enjuiciamiento. Ante la ausencia de evidencia contradictoria, el Relator Especial considera que los derechos de las presuntas víctimas y de sus familiares siguen siendo vulnerados. El Relator Especial reitera su llamamiento al Gobierno a asegurar la investigación, procesamiento y eventual condena de los responsables, y ruega de nuevo información en cuanto a las medidas que hayan sido tomadas.

(c) JUA 08/12/2011 Case No. MEX 28/2011 State reply: State reply: None to date **Presuntos actos de violencia cometidos por parte de un agente estatal**

95. El Relator lamenta que, hasta la fecha, el Gobierno de México no haya respondido a esta comunicación de fecha 8 de diciembre de 2011. La comunicación se refería a las presuntas amenazas y actos de violencia en contra de una mujer por parte de un agente estatal. En este contexto, el Relator Especial desea hacer referencia al Gobierno de México a la Convención sobre la Eliminación de todas las formas de Discriminación contra la Mujer, cuyo artículo 1 junto con el Comentario General número 19, en su artículo 1, del Comité sobre la Eliminación de la Discriminación contra la Mujer establecen que la discriminación “incluye la violencia basada en el sexo, es decir, la violencia dirigida contra la mujer porque es mujer o que la afecta en forma desproporcionada. Incluye actos que infligen daños o sufrimientos de índole física, mental o sexual, amenazas de cometer esos actos, coacción y otras formas de privación de la libertad.” En conformidad con el artículo 2 de la Convención y el inciso 9 del Comentario General número 19, los Estados están obligados a adoptar todas las medidas apropiadas para eliminar la discriminación contra la mujer practicada por cualesquiera personas, organizaciones o empresas, pudiendo ser incluso responsables por actos privados si no adoptan medidas con la diligencia debida para impedir la violación de los derechos o para investigar y castigar los actos de violencia e indemnizar a las víctimas. Asimismo, el Relator llama la atención del Gobierno a la Declaración de las Naciones Unidas sobre la Eliminación de la Violencia contra la Mujer, cuyo artículo 4 (b) confirma que los Estados deben aplicar por todos los medios apropiados y sin demora una política encaminada a eliminar la violencia contra la mujer. Asimismo, el Artículo 4 (c y d) de la Declaración, 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 la mujer, ya se trate de actos perpetrados por el Estado o por particulares. Ante la ausencia de evidencia contradictoria, el Relator Especial considera que los derechos de la víctima siguen siendo vulnerados. El

Relator Especial exhorta al Gobierno a asegurar la investigación de los hechos, y pide al Gobierno que proporcione información acerca de las medidas que hayan sido tomadas.

(d) UA 27/09/2012 Case No. MEX 32/2012 State Reply: 22/11/2012 **Presunta detención y tortura de seis estudiantes**

96. El Relator Especial agradece al Gobierno de México por su atenta respuesta, de fecha 22 de noviembre de 2012, a esta comunicación. Dicha comunicación se refería a la presunta detención, mal trato y tortura de seis estudiantes de universidad. En su respuesta, el Gobierno de México explica que los estudiantes fueron detenidos por posesión de armas y de dos kilogramos de marihuana, lo que llevó a ser sospechados de relación con el crimen organizado. A raíz de ellos fueron consignados a detención provisional sin procesamiento bajo la institución que en México se denomina “arraigo” y que puede durar varias semanas en lugares clandestinos. En el caso de estos estudiantes, las autoridades determinaron que no tenían vinculación con el crimen organizado y por ello se les levantó el arraigo antes de su vencimiento y fueron liberados. En cuanto a las presuntas torturas y malos tratos, la respuesta del Gobierno consigna que la Procuraduría General de la República (PGR, el ministerio público federal) no recibió denuncia alguna al respecto, no obstante lo cual – presumiblemente porque la alegación había tomado estado público -- los sometió a exámenes médicos que comprobaron la ausencia de señales de maltrato físico. Cabe consignar que tales exámenes fueron hechos por médicos de la propia PGR. Entre tanto, los estudiantes sí formularon denuncia ante la Comisión de Derechos Humanos del Estado de Guerrero, que fue canalizada eventualmente a la Comisión Nacional de Derechos Humanos (CNDH), organismo que es el ombudsman para los derechos humanos del gobierno federal. A estar a la respuesta del gobierno de México, la investigación iniciada por la CNDH se encuentra en trámite. El Relator Especial agradece al Estado de México su detallada respuesta y expresa su complacencia por las acciones tomadas en relación con los hechos de la comunicación. Solicita, además, que el Estado de México oportunamente informe a esta Relatoría sobre los resultados de la investigación en curso ante la CNDH.

### **Moldova (Republic of)**

(a) UA 18/01/2012 Case No. MDA 1/2012 State reply: 06/03/2012 **Alleged physical abuse and detention in solitary confinement in retaliation to previous complaints submitted to the Special Rapporteur on torture.**

97. The Special Rapporteur thanks the Government of Moldova for its reply, dated 6 March 2012, to this communication in reference to the alleged torture and solitary confinement of Mr. Iurie Matcenco. The Special Rapporteur acknowledges the situation in regards to the Transnistrian region of Moldova but recalls that violations committed by non-State agents in that region can still invoke Moldova’s international responsibility. The Special Rapporteur reiterates that article 13 of the Convention against Torture requires that “[e]ach State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities.” In addition, paragraph 6 of General Comment No. 20 of the Human Rights Committee states that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7 [on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment] of the International Covenant on Civil and Political Rights. Based on the information received, the Special Rapporteur determines that Mr. Matcenco’s rights under international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment have been violated, and calls on the Government to cease the isolation of Ms. Matcenco while ensuring his safety, as well as ensuring he obtains redress and as full rehabilitation as possible.

(b) JUA 09/02/2012 Case No. MDA 2/2012 State reply: 12/04/2012 **Allegations of torture and other ill-treatment in pre-trial detention.**

98. The Special Rapporteur thanks the Government of Moldova for its reply, dated 12 April 2012, to this communication regarding the alleged torture and ill-treatment of Mr. X while in detention. In its reply, the Government of Moldova denied any torture of Mr. X while in police custody, citing a medical examination conducted upon Mr. X's entry in the penitentiary. According to the Government, the report indicated no bodily injuries of Mr. X, alleging this fact revealed that Mr. X was not subjected to acts of torture or cruel, inhuman, degrading treatment or punishment while in police custody. The Special Rapporteur also thanks the Government for its response regarding investigations of alleged ill-treatment while in police custody. According to the Government's investigation, Mr. X did not experience ill-treatment in police custody. Nonetheless, the Special Rapporteur reiterates Article 12 of the CAT, which requires competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and Article 7 of the CAT, which requires State parties to prosecute suspected perpetrators of torture. The government's response relies exclusively in the medical examination done upon Mr. X's admission of the penitentiary, but provides no information by which to assess the quality of that examination. The State also affirms that the allegations of torture were examined by a prosecutor, who concluded that there was no basis for them; yet the government's reply fails to explain what investigatory steps were taken to ascertain the facts. Since the State has not shown that it attempted to establish whether or not torture had occurred by objective, impartial and independent investigation, the Special Rapporteur concludes that the rights of Mr. X have been violated under the UN Convention Against Torture. He calls on the Government to undertake a prompt and independent investigation, leading to prosecution and punishment of the perpetrators, and to provide full redress to Mr. X. He encourages the Government to continue its engagement with the mandate.

## Morocco

(a) UA 11/10/2012 Case No. MAR 2/2012 State reply : 13/12/2012 **Allegations d'expulsion imminente vers la Libye et risque eleve de torture et de mauvais traitements.**

99. Le Rapporteur spécial remercie le Gouvernement du Maroc de sa réponse à la communication envoyée le 13 décembre 2012 concernant l'allégation de à la communication envoyée le 11 octobre 2011 concernant la situation de M. Aymane Souleymane Abdulhamid Sayeh, menace d'expulsion imminente vers la Libye. En cette communication, de sérieuses craintes sont exprimées au sujet de l'intégrité physique et mentale de M Sayeh, notamment s'agissant des allégations de l'existence d'un risque crédible de torture ou de mauvais traitement en cas de renvoi vers la Libye. Dans sa réponse le Gouvernement explique que M Sayeh fait l'objet d'un mandat d'arrêt international émis le 19 janvier 2012 par les autorités judiciaires libyennes contenant plusieurs chefs d'inculpation. Selon le Gouvernement la cour de Cassation n'a pas retenu le moyen selon lequel cette extradition revêtait un caractère politique et rendu un avis favorable conformément aux conditions légales et conventionnelles de l'extradition. En outre, le Gouvernement explique que le fait qu'il risquait d'être exposé à la torture en cas de renvoi n'ont pas été soulevé devant la Cour de cassation. Le Rapporteur, tout en prenant en considération les explications du Gouvernement regrette que le Gouvernement n'ait pas fourni des réponses aux craintes exprimées dans la communication concernant le risque crédible de torture en cas de renvoi vers la Libye. Il souligne que des telles allégations peuvent être soulevées à tout moment. Il aimerait renvoyer le Gouvernement à l'article 3 (1) de la Convention des Nations Unies contre la torture qui dit « [a]ucun Etat partie n'expulsera, ne refoulera, ni n'extradera une personne vers un autre Etat où il y a des motifs sérieux de croire qu'elle risque d'être soumise à la torture ». Le

Rapporteur spécial souligne que l'histoire de la torture passée devrait être considérée comme hautement pertinente pour déterminer la probabilité du risque de torture en cas de refoulement et que les assurances diplomatiques ne libèrent pas le Gouvernement de cette obligation. Le Rapporteur spécial reste disponible pour fournir tout appui technique dont aurait besoin le Gouvernement.

## Myanmar

- (a) JUA 29/11/2012 Case No. MMR 10/2012 State reply : 26/12/2012 **Alleged violation of the fair trial and due process rights**

100. The Special Rapporteur thanks the Government of Myanmar for its reply, dated 26 December 2012, to this communication in reference to the incommunicado detention, denial of medical treatment and inadequate conditions in detention in the case of Dr. Tun Aung, a 65-year old man suffering from a tumor of the pituitary gland. In its reply, the Government states that Mr. Aung has access to medications “under an arrangement made by the prison authorities,” and that he has received medical examinations on two occasions in December 2012. The Special Rapporteur acknowledges the Government’s response, but regrets the Government’s failure to address allegations that Mr. Aung was detained incommunicado for a period of three months. In this context, the Special Rapporteur reiterates the Standard Minimum Rules for the Treatment of Prisoners, Rule 22(2) of 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, furnishing and pharmaceutical supplies shall be proper for the medical care and the treatment of sick prisoners, and there shall be a staff of suitable trained officers.” With regards to allegations of incommunicado detention, the Special Rapporteur recalls paragraph 7c of Human Rights Council Resolution 8/8 of June 2008, which reminds all States that “Prolonged incommunicado detention or 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 treatments, 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 finds that the rights of Dr. Aung under international law have been violated. The Special Rapporteur calls on the Government to ensure that all sick persons in detention are provided with proper medical care and treatment. Further, the Special Rapporteur urges the Government to undertake a prompt, independent and effective investigation of the facts surrounding Mr. Aung’s alleged incommunicado detention, leading to the prosecution and punishment of the perpetrators, and to provide full redress to aforementioned persons. The Special Rapporteur also calls on the Government to abolish the practice of incommunicado and unacknowledged detention.

## Netherlands

- (a) UA 13/03/2012 Case No. NLD 1/2012 State reply: 20/08/2012 **Alleged risk of torture and ill-treatment for asylum seeker facing deportation.**

101. The Special Rapporteur thanks the Government of the Netherlands for its response, dated 20 August 2012, to the urgent appeal regarding an asylum seeker, Mr. Y, who was facing deportation to the Republic of Uganda, where he is reportedly at risk of torture and ill-treatment. The Special Rapporteur acknowledges the Government’s issuance of temporary asylum residence permit for Mr. Y, yet encourages the Government to address a long-term solution for Mr. Y as an individual facing persecution in his home country. In this context,



the Special Rapporteur reiterates Article 3 of the Convention against Torture, which provides that no State party shall expel, return (refouler), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. In this regard, the Human Rights Committee has 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” (paragraph 9 of the Human Rights Committee’s General Comment No. 20 on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment). The Special Rapporteur urges the Government of the Netherlands to continue to protect Mr. Y’s right to physical and mental integrity. The Special Rapporteur encourages the Government of the Netherlands to continue its engagement with the mandate.

(b) AL 07/06/2012 Case No. NLD 2/2012 State reply: 20/08/2012 **Alleged death in custody**

102. The Special Rapporteur thanks the Government of the Netherlands for its response, dated 20 August 2012, to the letter of allegation regarding Mr. Ihsan Gurz who was allegedly arrested by police using excessive violence, and died later that day while in custody. The Special Rapporteur had expressed concern in light of allegations of the Government’s failure to conduct an exhaustive and impartial investigation. The Government’s reply responded to such allegations calling them mostly false and incomplete, yet failed to respond substantively to them. The Special Rapporteur reiterates the Government’s obligations under the International Covenant on Civil and Political Rights, which include in Article 6 that no one shall be arbitrarily deprived of his or her life. When the State detains an individual, it is held to a heightened level of diligence in protecting that individual’s rights. In this context, the Special Rapporteur reminds the Government that when an individual dies as a consequence of injuries sustained while in State custody, there is a presumption of State responsibility. Due to the Government’s insufficient response and based on the allegations presented, the Special Rapporteur concludes that the rights of Mr. Gurz under international law have been violated. The Special Rapporteur urges the Government of the Netherlands to undertake a prompt and independent investigation of Mr. Gurz’s death, leading to the prosecution and punishment of the perpetrators, and to provide full redress to the victim’s family. The Special Rapporteur encourages the Government of the Netherlands to continue its engagement with the mandate.

(c) JUA 04/07/2012 Case No. NLD 3/2012 State reply: 20/08/2012 **Alleged imminent deportation to People’s Republic of China**

103. The Special Rapporteur thanks the Government of the Netherlands for its response, dated 20 August 2012, to the urgent appeal regarding an asylum seeker, Mr. Kurbanjan Mutalip, who was facing deportation to the People’s Republic of China, where he is reportedly at risk of torture and ill-treatment. The Special Rapporteur acknowledges the Government’s issuance of a residence permit for Mr. Mutalip. In this context, the Special Rapporteur reiterates 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 urges the Government of the Netherlands to continue to protect Mr. Mutalip from the risk of torture or cruel, inhuman or degrading treatment or punishment. The Special Rapporteur encourages the Government of the Netherlands to continue its engagement with the mandate.

## Occupied Palestinian Territory

- (a) JAL 19/03/2012 Case No. PSE 2/2011 State reply: None to date **Alleged beating and subsequent death in custody.**

104. The Special Rapporteur regrets that the Government of the Occupied Palestinian Territories have not responded to this communication dated 19 March 2012. The communication referred to the severe beating and subsequent death in custody of Mr. Hassan Mahammad El Hmidi. In this respect, the Special Rapporteur would like to reiterate that Human Rights Council Resolution 17/5 stating that all States have “to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions.” Furthermore, the 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.” Accordingly, based on the information received and in the absence of evidence to the contrary, the Special Rapporteur concludes that Mr. Hassan Mahammad El Hmidi’s rights under the UN Convention against Torture have been violated, and calls on the Government of the Occupied Palestinian Territories to undertake a prompt and independent investigation, leading to prosecution and punishment of the perpetrators. Furthermore, because Mr. Hassan Mahammad El Hmidi is no longer alive, the Special Rapporteur calls on the Government of the Occupied Palestinian Territories to provide full redress, including compensation, to his dependents in accordance with international standards.

- (b) JUA 26/06/2012 PSE 4/2012 State reply: None to date **Alleged imminent execution and forced confession obtained under torture**

105. The Special Rapporteur regrets that the Government of the Occupied Palestinian Territories has not responded to this communication dated 26 June 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to imminent execution of Mr. Na’el Jamal Qandil Doghmosh, who was sentenced to death by hanging after allegedly being subjected to torture in order to force his confession to a murder. The Special Rapporteur expresses grave concern regarding the physical and mental integrity of Mr. Na’el Doghmosh in light of the irremediable nature of capital punishment. In this context, the Special Rapporteur asserts that capital punishment should not be imposed on the basis of a confession obtained under torture. The Special Rapporteur reiterates that paragraph 7(c) of Human Rights Council Resolution 16/23 urges States “[t]o ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur affirms that Mr. Na’el Doghmosh was 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 may have been violated. Given the irremediable nature of capital punishment, the Special Rapporteur calls on the Government not to proceed with the executions and to set aside any criminal conviction based on evidence obtained under torture.

## Other

- (a) **JAL 19/03/2012 Case No. OTH 6/2011 State reply: None to date Alleged beating and subsequent death in custody.**

106. The Special Rapporteur regrets that the authorities in Gaza have not responded to this communication dated 19 March 2012. The communication referred to the severe beating and subsequent death in custody of Mr. Hassan Mahammad El Hmidi. In this respect, the Special Rapporteur would like to reiterate that Human Rights Council Resolution 17/5 stating that all States have “to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions.” Furthermore, the 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.” Accordingly, based on the information received and in the absence of evidence to the contrary, the Special Rapporteur concludes that Mr. Hassan Mahammad El Hmidi’s rights under the UN Convention against Torture have been violated, and calls on the authorities in Gaza to undertake a prompt and independent investigation, leading to prosecution and punishment of the perpetrators. Furthermore, because Mr. Hassan Mahammad El Hmidi is no longer alive, the Special Rapporteur calls on the authorities in Gaza to provide full redress, including compensation, to his dependents in accordance with international standards.

- (b) **JUA 26/06/2012 Case No. OTH 3/2012 State reply: None to date Alleged imminent execution and forced confession obtained under torture**

107. The Special Rapporteur regrets that the authorities in Gaza have not responded to this communication dated 26 June 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to imminent execution of Mr. Na’el Jamal Qandil Doghmosh, who was sentenced to death by hanging after allegedly being subjected to torture in order to force his confession to a murder. The Special Rapporteur expresses grave concern regarding the physical and mental integrity of Mr. Na’el Doghmosh in light of the irremediable nature of capital punishment. In this context, the Special Rapporteur asserts that capital punishment should not be imposed on the basis of a confession obtained under torture. The Special Rapporteur reiterates that paragraph 7(c) of Human Rights Council Resolution 16/23 urges States “[t]o ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur affirms that Mr. Na’el Doghmosh was 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 may have been violated. Given the irremediable nature of capital punishment, the Special Rapporteur calls on the authorities in Gaza not to proceed with the executions and to set aside any criminal conviction based on evidence obtained under torture.

## Pakistan

- (a) JUA 07/02/2012 Case No. PAK 1/2012 State reply: None to date **Alleged arrest and prolonged pre-trial detention of two minor girls, aged twelve and fourteen.**

108. The Special Rapporteur regrets that the Government of Pakistan has not responded to this communication dated 7 February 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged prolonged pre-trial detention of X. and Y., girls of 14 and 12 years of age respectively. In response to their reportedly prolonged pre-trial detention in a jail and alleged detention inappropriate for their age and sex, the Special Rapporteur expresses grave concerns about the minors' mental and physical integrity. The Special Rapporteur urges the Government 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 (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). In absence of evidence to the contrary, the Special Rapporteur determines that the rights of the identified minors have been violated. The Special Rapporteur urges the Government to conduct medical examinations of persons held in detention to determine their age and therefore the appropriate venue and settings for detention. In the absence of legal grounds for the arrest and detention of minor girls, the Special Rapporteur urges the immediate release of the aforementioned juveniles and the conduct of an investigation to hold accountable any person responsible for the alleged violations. He also urges the Government to ensure the physical and mental safety of the minors while held in detention and after their release.

- (b) JUA 29/03/2012 Case No. PAK 5/2012 State reply: 29/03/2012 **Alleged acts of intimidation and threats against human rights defender by security forces.**

109. The Special Rapporteur acknowledges the reply transmitted by the Government of Pakistan on 29 March 2012; however, he notes that the Government has yet to provide substantive information pertaining to the issues raised. The communication referred to alleged acts of intimidation and threats against Mr. Muhammad Ali Shah by security forces as well as alleged excessive use of force against peaceful protestors. With respect to the allegations that Mr. Muhammad Ali Shah was threatened by a Rangers' Lieutenant Colonel with kidnapping and death, the Special Rapporteur would like to reiterate paragraph 8(a) of Human Rights Council Resolution 16/23, which reminds States that "[i]ntimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture." With regard to the allegations of excessive use of force against peaceful protestors, the Special Rapporteur refers to article 12, paragraph 2 and 3, set forth in 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, which provides 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." Based on the information received and in the absence of evidence to the contrary, the Special Rapporteur determines that Mr. Muhammad Ali Shah's rights under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government to ensure that persons are protected against any violence, threats, or retaliation as a consequence of exercising his or her right to freedom of peaceful assembly and expression. The Special Rapporteur urges the

Government to undertake investigation of the alleged threats and intimidation, leading to prosecution and punishment of the perpetrators, and to provide full redress to the victim.

- (c) **JAL 02/05/2012 Case No. PAK 6/2012 State reply: None to date Alleged rape of an 18-year-old girl by her stepfather, a police officer, for more than five years.**

110. The Special Rapporteur regrets that the Government of Pakistan has not responded to this communication dated 2 May 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to an alleged rape of an 18-year-old girl by her step-father, a police officer, for more than five years and subsequent failure of the State to investigate when reported. In this context, the Special Rapporteur would like to reiterate paragraph 7 (b) of Resolution 8/8 of the Human Rights Council, which states that “[i]ntimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person, can amount to cruel, inhuman or degrading treatment or to torture. Rape and other serious acts of sexual violence by officials in contexts of detention or control may not only amount to torture or ill-treatment, but also constitute a particular egregious form of it, due to the stigmatization they carry” (A/HRC/7/3, para. 69). Further, the Committee on the Elimination of Discrimination against Women (CEDAW) in its general recommendation No. 19, paragraph 9, provides that “States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.” Based on the information received and in the absence of evidence to the contrary, the Special Rapporteur concludes that the identified individual’s rights under the UN Convention against Torture were violated and the Government was obligated to act with due diligence to investigate and punish acts of violence. The Special Rapporteur urges the Government to conduct a prompt and independent investigation of the alleged rape and hold those responsible for the acts and those who failed to respond to reported rape accountable. Furthermore, the Special Rapporteur calls on the Government to ensure the identified person obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

### **Papua New Guinea**

- (a) **AL 05/11/2012 Case No. PNG 3/2012 State reply: 07/11/2012 Alleged shooting, physical mistreatment, and intimidation by agents of the Royal Papua New Guinea Police.**

111. The Special Rapporteur thanks the Government of Papua New Guinea for its reply, dated 7 November 2012, to this communication in reference to the alleged shooting, ill-treatment and intimidation of Mr. Raymond Kakaponi, and further ill-treatment of Mr. Kakaponi’s two-year old son and two other members of his family. In its reply, the Government requested additional information regarding the allegations from the Special Rapporteur. The mandate will endeavor to provide more information, but wishes to remind the government that the sources of allegations contained in communications from Special Procedures are reserved. In this context, the Special Rapporteur reminds the Government of 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 also reminds the Government that paragraph 6b of Human Rights Council Resolution 8/8 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 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 calls on the Government to undertake a prompt, independent, and effective investigation of the facts, leading to the prosecution and punishment of the perpetrators, and to provide full redress to the victim. In that connection, the Special Rapporteur urges the government to maintain engagement on this case.

## Paraguay

- (a) AL 10/10/2012 Case No. PRY 1/2012 State reply: 10/12/12 **Alegaciones de ejecución sumaria**

112. El Relator Especial agradece al Gobierno de Paraguay por su atenta respuesta, de fecha 10 de diciembre de 2012, a esta comunicación. Dicha comunicación se refería a las presuntas ejecuciones sumarias que ocurrieron en la localidad de Curuguaty, durante un procedimiento policial judicial en un caso de invasión de inmueble ajeno. El Relator Especial expresa su complacencia al Gobierno de Paraguay por las acciones tomadas en relación con los hechos de la comunicación, en particular la creación de una investigación penal, la compensación monetaria para viudas de campesinos fallecidos, la facilitación de representación de campesinos imputados, y la consideración especial para adolescentes imputados. Sin embargo, el Relator Especial exhorta al Gobierno de Paraguay a garantizar la investigación, procesamiento y eventual condena de los responsables, e insta al Gobierno a que proporcione información en cuanto a la investigación de mala conducta policial. El Relator Especial desea hacer referencia al principio 9 de resolución 1989/65 del Consejo Económico y social, relativo a la prevención e investigación de las ejecuciones extralegales, arbitrarias o sumarias, que dice que los Gobiernos tienen la obligación de garantizar “una investigación exhaustiva, inmediata e imparcial de todos los casos en que haya sospecha de ejecuciones extralegales, arbitrarias o sumarias, incluidos aquéllos en los que las quejas de parientes u otros informes fiables hagan pensar que se produjo una muerte no debida a causas naturales en las circunstancias referidas (. . .).” Asimismo, el principio 18 de este mismo instrumento afirma que “los gobiernos velarán por que sean juzgadas las personas que la investigación haya identificado como participantes en ejecuciones extralegales, arbitrarias o sumarias, en cualquier territorio bajo su jurisdicción. Los gobiernos harán comparecer a esas personas ante la justicia o colaborarán para extraditarlas a otros países que se propongan someterlas a juicio. Este principio se aplicará con independencia de quiénes sean los perpetradores o las víctimas, del lugar en que se encuentren, de su nacionalidad, y del lugar en el que se cometió el delito.” El Relator Especial exhorta al Gobierno de Paraguay a asegurar la investigación, procesamiento y eventual condena de los responsables.

- (b) JUA 29/11/2012 Case No. PRY 3/2012 State reply: 25/01/2013 **Presunta detención preventiva de un grupo de campesinos**

113. El Relator Especial agradece al Gobierno de Paraguay por su respuesta, de fecha 25 de enero del 2013, a la comunicación en referencia a la tortura, detención, y detención arbitraria de campesinos, incluyendo menores de edad, en el contexto de una situación de desalojo y allanamiento ocurrida en el Distrito de Curuguaty. El Relator Especial expresa su complacencia al Gobierno de Paraguay por la solicitud de una investigación de las

alegaciones de hechos de tortura cometidos por el personal policial. Sin embargo, el Relator Especial lamenta que el Gobierno se haya demorado en abrir investigaciones en contra de los presuntos agresores, y que además no haya proporcionado información acerca de las investigaciones mismas. El Relator Especial desea hacer referencia 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 Especial solicita al Gobierno que proporcione información detallada de cualquier investigación que se lleve a cabo respecto a las personas mencionadas en la comunicación.

## Philippines

- (a) JAL 25/07/2013 Case No. PHL 4/2012 State reply: None to date **Alleged torture by forces associated with the Armed Forces of the Philippines and failure to investigate**

114. The Special Rapporteur regrets that the Government of the Republic of Philippines has not responded to this communication dated 25 July 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged abduction, detainment, and torture of Ms. Melissa Roxas and the failure to prosecute suspected perpetrators once the judiciary confirmed the use of torture during Ms. Roxas’ detention. 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.” Moreover, the Special Rapporteur reminds the Government that paragraph 7(b) of Human Rights Council Resolution 16/23 urges States “[t]o take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment investigated promptly, effectively and impartially by an independent, competent domestic authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the updated set of principles for the protection of human rights through action to combat impunity as a useful tool in efforts to prevent and combat torture.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur finds that the rights of Ms. Roxas under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government to undertake an impartial and prompt investigation, and prosecute and punish those responsible. Furthermore, the Special Rapporteur calls on the Government of the Republic of the Philippines to provide Ms. Roxas redress, award her fair and adequate compensation, and provide her appropriate social, psychological, medical and other relevant treatment.

## Russian Federation

- (a) AL 11/06/2012 Case No. RUS 3/2012 State reply: None to date **Alleged ill-treatment while in detention and use of prolonged solitary confinement as punishment.**

115. The Special Rapporteur regrets that the Government of the Russian Federation has not responded to this communication dated 11 June 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged systematic beating and intimidation of Mr. X while held in a minimum security prison, and reported solitary confinement of Mr. X that may have amounted to one year. Furthermore, the communication referred to the forced feeding of Mr. X while tied up for 19 hours in response to his hunger strike. The Special Rapporteur expresses serious concern of the physical and mental integrity of Mr. X in light of allegations of the use of prolonged solitary confinement and systematic beatings. In this context, the Special Rapporteur reiterates paragraph b of the 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 offense, including the officials in charge of the place of where the prohibited act is found to have been committed.” With respect to the use of prolonged solitary confinement, the Special Rapporteur reiterates that paragraph 6 of General Comment No. 20 of the Human Rights Committee, which provides 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 light of the fact that no evidence has been provided to the contrary, the Special Rapporteur is of the view that the rights of Mr. X under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government of the Russian Federation to undertake a prompt, impartial, and effective investigation of the alleged acts of torture, leading to prosecution and punishment of the perpetrators, and to provide redress to the victims. Moreover, the Special Rapporteur urges the Government to abolish the practice of solitary confinement as a punishment.

## Saudi Arabia

- (a) JUA 06/01/2012 Case No. SAU 1/2012 State reply: None to date **Alleged torture and sentence of amputation**

116. 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 torture and sentence of amputation of Mr. Iyada, as well as the sentence of amputation of five other people. The Special Rapporteur 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, 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 notes that the Committee against Torture on Saudi Arabia expresses concern about “(t)he sentencing to, and imposition of, corporal punishments by judicial and administrative authorities, including, in particular, flogging and amputation of limbs, that are not in



conformity with the Convention.” Article 15 of the Convention against Torture also provides that, “[e]ach State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.” In the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Mr. Iyada and the five other victims have been violated under the UN Convention against Torture. The Special Rapporteur calls on the Government to undertake prompt and impartial investigation of all allegations of torture to ensure the accountability of those responsible and to repeal from its domestic laws the imposition of amputation as execution of a criminal sentence.

**(b) JUA 14/02/2012 Case No. SAU 2/2012 State reply: None to date Alleged arrest and ill-treatment of women detainees and beating of male detainee.**

117. The Special Rapporteur regrets that the Government of Saudi Arabia has not responded to this communication dated 14 February 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged arbitrary arrest and detention of 35 Ethiopian Christians as a result of their peaceful exercise of freedom of religion. The Special Rapporteur expresses grave concern regarding the alleged ill-treatment of 29 women and Mr. Z while in detention and the detainees’ impending deportation. Further, grave concern is also expressed regarding the physical and mental integrity of the aforementioned individuals and the lack of adequate medication provided to detainees. In response to ill-treatment of the women detainees and the beating of Mr. Z, 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.” Furthermore, the Special Rapporteur reminds the Government that as a State Party of the United Nations Declaration on the Elimination of Violence against Women, Article 4(c)-(d) requires States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. Accordingly, and in the absence of evidence to the contrary, the Special Rapporteur determines that the rights of the aforementioned detainees under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government of Saudi Arabia to undertake a prompt, independent and effective investigation of the facts, leading to the prosecution and punishment of the perpetrators, and to provide full redress to the victims.

**(c) JUA 09/02/2012 Case No. SAU 3/2012 State reply: None to date Alleged imminent execution of detainee subjected to torture methods in order to obtain confessions to a drug related offense.**

118. The Special Rapporteur regrets that the Government of Saudi Arabia has not responded to this communication dated 9 February 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged imminent execution of Mr. Mohamed Fahd Al Wajaan Al Shamari, who was reportedly subjected to torture in order to obtain confessions, which were subsequently used as evidence in proceedings. The communication also referred to alleged use of force against witnesses to make false testimonies against Mr. Al Shamari. The Special Rapporteur expresses grave concern regarding the death sentence against Mr. Al Shamari, especially in light of the use of torture methods to obtain impermissible evidence. In this context, the Special Rapporteur 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 also asserts that a death sentence should only be imposed for the most serious crimes. Accordingly, and in the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Mr. Al Shamari under the UN Convention against Torture have been violated. Given the irremediable nature of capital punishment, the Special Rapporteur calls on the Government not to proceed with the execution and to set aside any criminal conviction based on evidence obtained under torture. Further, he calls on the Government of Saudi Arabia to undertake a prompt, independent and effective investigation of the facts, leading to the prosecution and punishment of the perpetrators, and to provide full redress to Mr. Al Shamari. He also calls on the Government to impose death sentences, if it must at all, only in cases where it can be shown that there was an intention to kill which resulted in the loss of life.

(d) JUA 01/03/2012 Case No. SAU 6/2012 State reply: None to date **Alleged ill-treatment and torture while in detention and incommunicado detention.**

119.120. The Special Rapporteur regrets that the Government of Saudi Arabia has not responded to this communication dated 1 March 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged prolonged pre-trial detention, heavy sentencing, and torture while in detention of human rights defenders, including Dr. Saud Mokhtar Al-Hashimi, Mr. Walid Ali Ahmad Lamri, and Mr. Sulaiman Ibrahim Saleh Al-Rashoudi. Furthermore, the communication referred to the alleged 20-month incommunicado detention of Mr. Mokhlif Al Shammari, who reportedly was tortured while in detention. In addition, the communication referred to Dr. Mubarak Bin Said Bin Zair, who reportedly continues to be held in detention despite an order for his provisional release, and Dr. Said Bin Zair, who allegedly was held in pre-trial detention since 2007 and allegedly held incommunicado during this period. The Special Rapporteur expresses grave concern regarding the physical and psychological integrity of all aforementioned individuals in light of the lengthy nature of the sentences reportedly handed down, the allegations of ill-treatment while in detention, and the reports of prolonged incommunicado detention. He expresses further concern regarding recent allegations of Mr. Al-Hashimi being held in solitary confinement and being beaten in response to his family’s public statements about the authorities. The Special Rapporteur stresses the Government’s obligation to protect the right to physical and mental integrity of all persons, as provided in the UN Convention Against Torture. In this context, the Special Rapporteur reiterates paragraph 1 of Human Rights Council Resolution 16/23 which “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” Further, in response to the Government’s use of incommunicado detention, the Special Rapporteur reiterates paragraph 8b of Human Rights Council Resolution 16/23, which reminds States that “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.” Accordingly, and in the absence of evidence to the contrary, the Special Rapporteur determines that the rights of the aforementioned persons under the UN Convention against Torture have been violated. Therefore, he calls on the Government of Saudi Arabia to undertake a prompt, independent and effective investigation of the facts, leading to the prosecution and punishment of the perpetrators, and to provide full redress to aforementioned persons. The Special Rapporteur also calls on the Government of Saudi Arabia to abolish the practice of incommunicado and unacknowledged detention.

- (c) JUA 25/05/2012 Case No. SAU 8/2012 State reply: None to date **Alleged arbitrary arrest and torture in detention of a human rights lawyer.**

120. The Special Rapporteur regrets that the Government of Saudi Arabia has not responded to this communication dated 25 May 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged arbitrary arrest and false charges brought against Mr. Ahmed El-Sayed likely as a result of his legitimate work as a human rights lawyer, as well as the use of physical and mental torture in detention. The Special Rapporteur expresses grave concern regarding the physical and psychological integrity of Mr. Ahmed El-Sayed, particularly in light of the possible imposition of the death penalty based on confessions obtained under torture. The Special Rapporteur asserts that the use of confessions extracted under torture in judicial proceedings is strictly prohibited under international law, reiterating article 15 of the Convention against Torture, which provides that, “[e]ach State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.” With respect to Mr. El-Sayed’s legitimate work as a human rights lawyer, we would like to refer to Principle 16 of the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Havana, Cuba, from 27 August to 7 September 1990, which provides that “Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.” With respect to the allegation of possible imposition of the death penalty, 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.” Based on the information provided, the Special Rapporteur concludes that the rights of Mr. El-Sayed under the UN Convention against Torture have been violated, and calls on the Government of Saudi Arabia to set aside any conviction based on evidence obtained under torture, and ensure that Mr. El-Sayed obtains redress, including fair and adequate compensation, and as full rehabilitation as possible. The Special Rapporteur urges the Government to undertake a prompt and impartial investigation of the alleged acts of torture, leading to prosecution and punishment of the perpetrators. Furthermore, the Special Rapporteur urges the Government if it will not abolish the death penalty, to impose it only for the most serious crimes where it can be shown that there was an intention to kill, which results in the loss of life, a crime that Mr. El-Sayed is not alleged to have committed.

- (b) JUA 15/08/2012 Case No. SAU 10/2012 State reply: None to date **Alleged torture and ill-treatment while in detention, deteriorating health condition, and possible imposition of the death penalty.**

121. The Special Rapporteur regrets that the Government of Saudi Arabia has not responded to this communication dated 15 August 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged torture in detention of Mr. Ahmed El-Sayed, a human rights lawyer, and his deteriorating condition since his imprisonment. Mr. El-Sayed was the subject of an earlier urgent appeal; regrettably, no reply has yet been received. The Special Rapporteur expresses grave concern regarding

the demonstrated evidence of torture on Mr. El-Sayed's body, deteriorating health, and possible imposition of the death penalty. In this context, 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. Moreover, the Special Rapporteur asserts that the use of confessions extracted under torture in judicial proceedings is strictly prohibited under international law, reiterating 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." In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur is of the view that the rights of Mr. El-Sayed under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government of Saudi Arabia 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 of Saudi Arabia to set aside any conviction based on evidence obtained under torture, and ensure that Mr. El-Sayed obtains redress, including fair and adequate compensation, and as full rehabilitation as possible.

## Spain

- (a) AL 09/11/2012 Case No. ESP 3/2012 State reply: 26/12/2012, 09/01/2013 **Alegaciones sobre la privación de libertad cautelar por razón del origen nacional y étnico, tortura y malos tratos durante la detención.**

122. El Relator Especial agradece al Gobierno de España por sus atentas respuestas, de fecha 26 de diciembre del 2012 y 7 de enero del 2013, a la comunicación en referencia a la tortura y malos tratos bajo detención que sufrió el Sr. Adnam El Hadj, un inmigrante solicitante de asilo en España. El Relator Especial reconoce las medidas adoptadas por el Gobierno de España para verificar la credibilidad de los alegatos de tortura en contra del Sr. El Hadj. Sin embargo, el Relator Especial lamenta la falta de información acerca de cualquier tipo de servicio médico recibido por el Sr. El Hadj. El Relator Especial desea hacer referencia al artículo 13 de la Convención sobre la Tortura, el cual señala que "todo Estado Parte velará por que toda persona que alegue haber sido sometida a tortura en cualquier territorio bajo su jurisdicción tenga derecho a presentar una queja y a que su caso sea pronto e imparcialmente examinado por sus autoridades competentes. Se tomarán medidas para asegurar que quien presente la queja y los testigos estén protegidos contra malos tratos o intimidación como consecuencia de la queja o del testimonio prestado." El Relator Especial solicita al Gobierno que proporcione información detallada, así como los resultados si están disponibles, de cualquier examen médico que se haya llevado a cabo respecto a las heridas sufridas por el Sr. El Hadj durante su tiempo como interno.

## Sri Lanka

- (a) JAL 14/12/2011 Case No. LKA 10/2011 State Reply: None to date **Alleged assault and rape of internally displaced Tamil woman**

123. The Special Rapporteur regrets that the Government of Sri Lanka 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 assault and rape of an internally displaced Tamil woman by military officers. The Special Rapporteur recalls article 4 (c & d)

of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. In addition, General Assembly resolution 48/104 on the Declaration on the Elimination of Violence against Women, which provides in its article 4(b) that States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should refrain from engaging in violence against women. In the absence of other evidence, the Special Rapporteur is of the view that this woman was indeed raped, which is a serious violation of the Convention against Torture. The Special Rapporteur calls on the Government to undertake a prompt and impartial investigation and to provide full redress, including fair and adequate compensation, to the victim.

## Sudan

- (a) JUA 15/02/2012 Case No. SDN 1/2012 State reply: 23/05/2012 **Alleged arbitrary arrests and excessive use of force against peaceful protestors**

124. The Special Rapporteur thanks the Government of the Republic of Sudan for its response to this communication regarding allegations of the police and internal security forces violently dispersing peaceful protests at universities in various cities, resulting in injuries and arbitrary arrests of many protestors. In its reply, the Government attributed the use of force to the aim of safeguarding the lives of students and citizens, claiming the gatherings were unlawful. The Special Rapporteur acknowledges the Government's reply regarding student Taj Alsir Jaafar, who reportedly is no longer in detention and was permitted to receive family visits while in detention. The Special Rapporteur also notes the Government's establishment of a fact-finding committee to investigate the claim that police entered the university campus and assaulted students. The Special Rapporteur nonetheless encourages the Government to ensure that all allegations of torture and other ill-treatment are investigated and punished, and reminds the Government of its obligation to provide full redress, including fair and adequate compensation, and as full rehabilitation as possible to all victims. The Special Rapporteur reminds the Government of Article 2 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, which provides that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice." The Special Rapporteur urges that all allegations of indiscriminate and/or excessive use of force by law enforcement officials be properly investigated and appropriate action taken against the responsible officials. He also looks forward to continued engagement with the Government, in particular with regard to the findings of the fact-finding committee.

- (b) JUA 05/06/2012 Case No. SDN 2/2012 State reply: None to date **Alleged death sentence by stoning of a 20-year-old woman for charges of adultery.**

125. The Special Rapporteur regrets that the Government of the Republic of Sudan has not responded to this communication dated 5 May 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged sentencing to death by stoning of Ms. Intisar Sharif Abdallah for the crime of adultery, charges which she admitted after reportedly being beaten by her brother. With respect to the imposition of the death penalty, the Special Rapporteur reiterates the Government's

obligations to Article 6(2) of the International Covenant on Civil and Political Rights, which states that “in countries which have not abolished the death penalty,” the “sentence of death may be imposed only for the most serious crimes.” The Special Rapporteur reminds the Government that corporal punishment can amount to cruel, inhuman or degrading punishment or even torture, which is provided in the Resolution 2005/39 of the Commission on Human Rights and that the State is obliged to exclude evidence obtained under torture from criminal proceedings against the defendant. Moreover, the Special Rapporteur expresses concern regarding the allegation that the man co-accused of the same charges was released after denying them. In this context, the Special Rapporteur reminds the Government of its legal obligations to ensure equality between men and women in the enjoyment of all civil and political rights, including the right to life and the right not to be subjected to torture or to cruel, inhuman or degrading punishment. Accordingly, and in the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Ms. Intisar Sharif Abdallah under the international law have been violated. The Special Rapporteur calls on the Government of the Republic of Sudan to eliminate the imposition of the death penalty, and if the Government must impose the death penalty, to do so only in cases where it can be shown that there was an intention to kill which resulted in loss of life.

(c) JUA 08/06/2012 Case No. SDN 3/2012 State reply: 26/06/2012 & 03/07/2012 **Alleged incommunicado detention and reported beating until detainee went into a coma.**

126. The Special Rapporteur thanks the Government of the Republic of Sudan for its response to this communication regarding alleged incommunicado detention of Mr. Bushra Gamar Hussein, where he was reportedly beaten until he went into a coma. The Special Rapporteur expresses grave concern in light of Mr. Hussein’s deteriorating health, which has been worsened by stress and trauma allegedly caused by the physical and racial abuse suffered during his incommunicado detention. In its latest reply, the Government disclosed that Mr. Hussein was released because of the insufficiency of the evidence, and the case is now closed. Regrettably, the Government’s response fails to substantively address any of the specific allegations of ill-treatment and torture contained in the joint urgent appeal. In this context, the Special Rapporteur asserts that the Government has an obligation to protect the right to physical and mental integrity of all persons. The Special Rapporteur therefore recalls paragraph 1 of Human Rights Council Resolution 16/23 which “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” Moreover, the Special Rapporteur reiterates General Comment No. 14 of the Committee on Economic, Social, and Cultural Rights, which holds 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.” Accordingly, and in the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Mr. Bushra Gamar Hussein under international law have been violated. The Special Rapporteur calls on the Government to undertake a prompt and independent investigation, leading to prosecution and punishment of the perpetrators, and to provide full redress to Mr. Hussein. The Special Rapporteur urges the Government of the Republic of Sudan to eliminate the practice of incommunicado detention. He encourages the Government to continue its engagement with the mandate.

- (d) JUA 06/07/2012 Case No. SDN 4/2012 State reply: None to date **Alleged use of force during peaceful demonstrations and the alleged torture and ill-treatment of detainees.**

127. The Special Rapporteur regrets that the Government of the Republic of Sudan has not responded to this communication dated 6 July 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged use of excessive force in response to protests, including towards student protestors, and the alleged torture and ill-treatment of detained protestors, who were allegedly threatened with rape and subjected to violence. The Special Rapporteur expresses grave concern regarding protestors still in detention who are at risk of torture and ill-treatment, including Ms. Rashida Shams al-Din, who allegedly has been held incommunicado in an undisclosed location. In this context, the Special Rapporteur reiterates that Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, “[l]aw enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms.” Moreover, Principle 5 provides that, “[w]henver 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 objective 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. In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur concludes that there have been several violations of rights of Ms. Shams al-Din and of the other victims under international law. The Special Rapporteur urges the Government of the Republic of Sudan to cease the practice of secret detention and calls on the Government to undertake a prompt and impartial investigation of the allegations of torture and ill-treatment, to ensure the accountability of those responsible, and to prevent the recurrence of these acts.

- (e) JUA 03/08/2012 Case No. SDN 5/2012 State reply: None to date **Alleged excessive use of force against protestors, resulting in killings, injuries, and torture and ill-treatment, as well as mass arrests.**

128. The Special Rapporteur regrets that the Government of the Republic of Sudan has not responded to this communication dated 3 August 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged use of excessive force in response to protests, resulting in at least 12 deaths and many injuries; the alleged torture and ill-treatment of detained protestors; and the incommunicado detention and severe ill-treatment of Mr. Mohammad Salah Mohammed. The Special Rapporteur expresses grave concern regarding protestors still in detention who are at risk of torture and ill-treatment, including Mr. Salah. In this context, the Special Rapporteur reiterates Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, “[l]aw enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms.” Moreover, Principle 5 provides that, “[w]henver 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 objective 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. In addition, the Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable

prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur concludes that there have been several violations of rights of Mr. Salah Mohammed and other victims under international law. The Special Rapporteur urges the Government to cease the practice of secret detention and calls on the Government to undertake a prompt and impartial investigation of the allegations of torture and ill-treatment, to ensure the accountability of those responsible, to offer redress, reparations and rehabilitation to the victims and to prevent the recurrence of these acts.

- (f) JUA 05/09/2012 Case No. SDN 6/2012 State reply: None to date **Alleged death sentence by stoning of a 23-year-old woman for charges of adultery.**

129. The Special Rapporteur regrets that the Government of the Republic of Sudan has not responded to this communication dated 5 September 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged sentencing to death by stoning of Ms. Layla Ibrahim Issa for the crime of adultery, charges which were brought by her husband. The Special Rapporteur expressed grave concern regarding the allegation that Ms. Ibrahim Issa was shackled together with her 6-month old baby. With respect to the imposition of the death penalty, the Special Rapporteur reiterates the Government’s obligations to Article 6(2) of the International Covenant on Civil and Political Rights, which states that “in countries which have not abolished the death penalty,” the “sentence of death may be imposed only for the most serious crimes.” The Special Rapporteur reminds the Government that corporal punishment can amount to cruel, inhuman or degrading punishment or even torture, which is provided in the Resolution 2005/39 of the Commission on Human Rights. Stoning as a means of executing a death sentence has universally been condemned as cruel, inhuman and degrading punishment. Accordingly, and in the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Ms. Layla Ibrahim Issa under the international law have been violated. The Special Rapporteur calls on the Government of the Republic of Sudan to eliminate the imposition of the death penalty, and if the Government must impose the death penalty, to do so only in cases where it can be shown that there was an intention to kill which resulted in the loss of life. The Special Rapporteur therefore calls on the Government for commutation of the sentence.

### **Syrian Arab Republic**

- (a) JUA 20/02/2012 Case No. SYR 2/2012 State reply: None to date **Alleged arbitrary detention of at least 16 persons, including human rights defenders in Damascus, and alleged torture in detention.**

130. The Special Rapporteur regrets that the Government of the Syrian Arab Republic has not responded to this communication dated 20 February 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged arbitrary detention of at least 16 persons, including prominent human rights defenders, and the reported ill-treatment and torture of the male detainees. The Special Rapporteur expresses serious concern about the allegations that several of the aforementioned individuals remain in detention and have been subjected to torture while in detention. In this context, the Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 “[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment.” In light of the fact that no evidence has been



provided to the contrary, the Special Rapporteur concludes that the rights of the aforementioned individuals who have been subjected to torture while in detention have been violated under the UN Convention against Torture. The Special Rapporteur calls on the Government of the Syrian Arab Republic to undertake a prompt, impartial, and effective investigation of the alleged acts of torture, leading to prosecution and punishment of the perpetrators, and to provide redress to the victims.

- (b) JUA 27/03/2012 Case No. SYR 4/2012 State reply: None to date **Alleged arbitrary arrest, incommunicado detention and possible enforced disappearances.**

131. The Special Rapporteur regrets that the Government of Syria has not responded to this communication dated 27 March 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged arrest, incommunicado detention, and possible enforced disappearance of Mr. Rudy Uthman, a journalist and human rights defender, and Mr. Saleh Shameya, a well-known lawyer, as a result of the peaceful exercise of their right to freedom of expression and assembly. In this context, the Special Rapporteur reiterates paragraph 7(c) of Human Rights Council Resolution 8/8 of 18 June 2008, which reminds all States that “[p]rolonged incommunicado detention or 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 the dignity of the person.” Accordingly, based on the information received and in the absence of the contrary, the Special Rapporteur determines that the rights of the identified persons under the UN Convention against Torture, whose whereabouts remain unknown, have been violated. The Special Rapporteur urgently calls on the Government to guarantee the physical and mental integrity of Mr. Rudy Uthman and Mr. Saleh Shameya. The Special Rapporteur urges the Government to undertake a prompt and independent investigation on the allegations, leading to the prosecution and punishment of the perpetrators. Moreover, the Government must ensure that all individuals whose rights have been violated obtain redress, including fair and adequate compensation, and as full rehabilitation as possible. The Special Rapporteur calls on the Government of Syria to abolish the practice of incommunicado and unacknowledged detention.

- (c) JUA 08/05/2012 Case No. SYR 5/2012 State reply: None to date **Allegations of prolonger incommunicado detention, ill-treatment and upcoming military court trials of human rights defenders.**

132. 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 allegations of prolonged incommunicado detention and torture and ill-treatment of the members of the Syrian Centre for Media and Freedom of Expression (SCM) as a result of their legitimate activities as human rights defenders. These allegations were the subject of a previous communication dated 20 February 2012, however, we regret that to date no reply has been transmitted. The Special Rapporteur expresses grave concern for the physical and psychological integrity of the detainees, particularly that of Mr. Mazen Darwich and the other individuals who are being held incommunicado and who have been subjected to torture and ill-treatment. In this context, the Special Rapporteur reiterates paragraph 7(c) of Human Rights Council Resolution 8/8 of 18 June 2008, which reminds all States that “[p]rolonged incommunicado detention or 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 the dignity of the person.” Furthermore, he would like to remind the Government of 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.” 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.) Based on the absence of evidence to the contrary, the Special Rapporteur determines that under the UN Convention against Torture the rights of Messrs. Mazen Darwich, Hussayn Gharir, Hani Zitani, Abdelrahman Alhamade, and Mansour al-Omari, whose whereabouts remain unknown, were violated. Furthermore, the Special Rapporteur believes that, in the absence of contrary evidence, the criminal charges against these individuals are likely part of a wider pattern of Government harassment against human rights defenders. Accordingly, the Special Rapporteur determines that under the UN Convention against Torture the rights of Mr. Bassam al-Ahmed, Mr. Jawan Farso, Mr. Ayham Ghazzoul, Ms. Yara Badr, Ms. Razan Ghazawi, Ms. Mayada Khalil, Ms. Sana’ Zitani, and Ms. Hanadeh Zahlout have been violated. The Special Rapporteur urgently calls on the Government of Syria to guarantee the physical and mental integrity of all identified individuals. Furthermore, the Special Rapporteur urgently calls on the Government to undertake a prompt and impartial investigation of alleged acts of torture, including prosecution and punishment of the perpetrators, and to provide appropriate and adequate redress. Additionally, the Special Rapporteur urges the Government of Syria to abolish the practice of incommunicado and unacknowledged detention.

**(d) JAL 28/06/2012 Case No. SYR 6/2012 State reply: None to date Alleged excessive use of force, torture, and extrajudicial killing by military personnel.**

133. The Special Rapporteur regrets that the Government of Syria has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the death of Syrian opposition activist Mr. Aladdin Al Doori, who was allegedly shot and tortured by Syrian military personnel. 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.” Furthermore, under the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, use of force and firearms may only be used as a last resort and in proportion to a credible threat. In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur finds that the rights of Mr. Aladdin Al Doori under the Convention against Torture have been violated. The Special Rapporteur calls on the Government of Syria to ensure a prompt and impartial investigation of the alleged violations, leading to prosecution and punishment of the perpetrators, and the provision of redress and compensation to the victim’s family.

**(e) JUA 21/09/2012 Case No. SYR 8/2012 State reply: None to date Alleged arrest, incommunicado detention and enforced disappearance by Syrian security forces.**

134. The Special Rapporteur regrets that the Government of Syria has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged arbitrary arrest, incommunicado detention, and enforced disappearance of Mr. Bassel Khartabil, a Palestinian who was born

and raised in the Syrian Arab Republic. Mr. Khartabil was allegedly arrested by Syrian security forces of the Kafr Sousseh Military Intelligence Branch in Damascus, detained incommunicado in an unknown location without access to a lawyer, and was reportedly tortured and ill-treated. The Special Rapporteur 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, including through intimidation, 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 reiterates that under paragraph 7.c of Human Rights Council Resolution 8/8 of 18 June 2008, “Prolonged incommunicado detention or 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 the dignity of the person.” Based on the allegations, the Special Rapporteur finds that the rights of Mr. Khartabil have been violated. The Special Rapporteur calls on the Government of Syria to promptly and impartially investigate the alleged violations, leading to prosecution and punishment of the perpetrators, and the provision of redress, compensation and rehabilitation to the victim.

**(f) JUA 2/11/2012 Case No. SYR 9/2012 State reply: None to date Alleged arrest, incommunicado detention, torture, and killing of Syrian citizens.**

135. The Special Rapporteur regrets that the Government of Syria has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged arrest, incommunicado detention, torture, and killing of Syrian citizens by the Syrian government. The alleged victims, including those currently being held incommunicado and those who are deceased, are Mr. Shepal Ibrahim, Mr. Maher Fawzi al-Hamoud, Ms. Fatma Saad, Mr. Osama al-Habaliy, Mr. Salah al-Shogre, Ms. Zilal Ibrahim al-Salhani, Mr. Badr Ka’ake, Mr. Yahia Ka’ake, Mr. Ahmad Ka’ake, Mr. Abd al-Ghani Ka’ake, Mr. Khalil Matouk, Mr. Mohammed Thatha, Mr. Omar Mohammed Mamoun Arnous, Ms. Maya Aljokhdar, and Abdulrahman Omar Arnous. 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.” Furthermore, paragraph 8(b) of Human Rights Council Resolution 16/23 of 12 April 2011 asserts that “[p]rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished.” Based on the fact that no evidence has been provided to the contrary, the Special Rapporteur finds that the rights of the victims named above under the Convention against Torture have been violated. The Special Rapporteur calls on the Government of Syria to ensure a prompt and impartial investigation of the violations, leading to prosecution and punishment of the perpetrators, and the provision of redress, compensation and rehabilitation to all victims and their families.

**(g) JUA 23/11/2012 Case No. SYR 11/2012 State reply: None to date: Alleged arbitrary detention and torture of a Syrian humanitarian volunteer.**

136. The Special Rapporteur regrets that the Government of Syria has not responded to this communication, thereby failing to cooperate with the mandate established by the Human

Rights Council. The communication referred to the alleged arbitrary detention and torture of Mr. Muhammad Raed Al-Tawil, a volunteer with the Damascus-based humanitarian organization, the Syrian Arab Red Crescent. Mr. Al-Tawil was allegedly arrested without cause by Syrian security forces at Red Crescent headquarters, and was detained at the Al Khatib state security prison in Damascus. It is also alleged that Mr. Al-Tawil has suffered and continues to be subjected to torture and other forms ill-treatment during his detention. The Special Rapporteur reiterates that under 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, each government has the obligation to protect the right to physical and mental integrity of all persons. 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, article 12 of the Convention against Torture requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed. And article 7 of the Convention against Torture requires State parties to prosecute suspected perpetrators of torture. Since no evidence has been provided to the contrary, the Special Rapporteur finds that the rights of Mr. Al-Tawil under the Convention against Torture have been violated. The Special Rapporteur calls on the Government of Syria to promptly and impartially investigate, prosecute and punish these violations and their perpetrators, and to provide full redress, compensation and rehabilitation to the victim.

## Tajikistan

- (a) UA 08/06/2012 Case No. TJK 1/2012 State reply: 24/07/2012 **Alleged torture and ongoing harrasments and threats**

137. The Special Rapporteur thanks the Government of Tajikistan for its response to this communication in reference to the alleged arrest, torture, and harassment of Mr. Tagoibek Sharifbekov, a Tajik citizen, by police officers in the town of Vakhdat, Tajikistan. According to the allegation, Mr. Sharifbekov was detained by police officers and subjected to torture in an attempt to make him confess to committing a theft. Following his release, Mr. Sharifbekov filed several complaints with the Police Complaints Department. Since then, Mr. Sharifbekov has allegedly been subjected to harassment and was at one point attacked by members of the police force in an attempt to pressure him to withdraw the complaint. In its reply, the Government of Tajikistan stated that after a thorough investigation of the matter, they have determined that the allegations of torture and harassment are factually unfounded, and that disciplinary measures have not been taken against those allegedly responsible for these actions. The Government stated that forensic evaluations did not reveal any substantial physical evidence of the alleged torture, and that Mr. Sharifbekov had in fact been detained by police officers in Vakhdat several days earlier than he claimed in his allegation. Furthermore, the Government claims that no harassment took place, as alleged by Mr. Sharifbekov, given the fact that under Tajik law, a police complaint cannot be withdrawn once it has been submitted, thereby extinguishing any incentive to pressure Mr. Sharifbekov to withdraw the complaint. The Government claims to have taken disciplinary measures against certain police officers who were found to have arrested and detained Mr. Sharifbekov for over three hours without registering an official record of arrest, and who confiscated Mr. Sharifbekov’s passports without filling out the required documents. The Government did not explain, however, what specific disciplinary measures were taken. The Special Rapporteur believes that forensic examinations that are not made by an impartial and independent expert cannot be conclusive on the issue of whether torture or mistreatment has occurred. Even if

done independently, the absence of physical evidence is also not dispositive of the issue, as it depends on the type of mistreatment and the time elapsed, among other factors. The Special Rapporteur reiterates that 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, paragraph 8(a) of Human Rights Council Resolution 16/23 states that “[i]ntimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture.” The Special Rapporteur concludes that the government has not sufficiently dispelled the credible allegations received and urges it to investigate further.

(b) AL 14/06/2012 Case No. TJK 2/2012 State reply: None to date **Alleged intimidation, mistreatment and threats to a group of detainees**

138. The Special Rapporteur regrets that the Government of Tajikistan has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged intimidation, mistreatment, and threats towards inmates being held at the Ministry of Justice minimum security prison known as a ‘settlement colony’ YaT 9/7 located in the city of Kurgan-Tube, Tajikistan. It is also alleged that the inmates’ complaints against their mistreatment have been ignored by prison officials, and in one case prison officials retaliated against a complaint by placing the complaining inmate in solitary confinement. The Special Rapporteur reiterates 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, article 13 of the CAT, requires that “Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.” Based on the fact that no evidence has been provided to the contrary, the Special Rapporteur determines that the rights of the victims under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government of Tajikistan to ensure a prompt and impartial investigation of the alleged violations, leading to prosecution and punishment of the perpetrators, and the provision of redress, compensation and rehabilitation to the victims and their families.

(c) JUA 20/11/2012 Case No. TJK 4/2012 State reply: None to date **Alleged closing of Association of Young Lawyers of Tajikistan following decision of the Khujand City Court**

139. The Special Rapporteur regrets that the Government of Tajikistan has not responded to this communication, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged closing of the Association of Young Lawyers of Tajikistan “Amparo”, following the decision of the Khujand City Court at the request of the Ministry of Justice. Amparo is a leading organization which provides free legal aid, human rights education, and training, and is a member of the Coalition against Torture. An Urgent Appeal was previously sent to the Government of Tajikistan in August

2012 regarding the legal proceedings against the organization. While the Government responded to the earlier communication, new information regarding the legal proceedings has given rise to concern. In particular, it is alleged that there was a lack of transparency and clear procedural guidelines in the initial audit of the organization and later legal proceedings, and that the organization was subjected to harassment and legal action as a result of its human rights work, including its active engagement with U.N. human rights mechanisms, particularly on issues relating to torture. The Special Rapporteur calls on the Government of Tajikistan to ensure a prompt and impartial investigation of the allegations.

## **Thailand**

- (a) JUA 06/01/2012 Case No. THA 10/2011 State reply: 25/05/2012 **Alleged long sentence on charges of lèse majesté and denial of medical treatment while in detention.**

140. The Special Rapporteur thanks the Government of Thailand for its reply, dated 25 June 2012, to this communication in reference to the alleged denial of medical treatment while in detention for Mr. Ampon Tangnoppakul and Ms. Daranee Charnchoengskilpakul. The Special Rapporteur reiterates that article 10 of the ICCPR provides that “all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person”, as well as article 12 of the International Covenant on Economic, Social and Cultural Rights, which provides for the “right of everyone to the enjoyment of the highest attainable standard of mental and physical health. The right to medical care in prisons should be engaged under the prohibition of cruel, inhuman or degrading treatment.” The Special Rapporteur thanks the Government for its explanation of the medical treatment given to both detainees. However, the Government provided no specific information regarding the hospital records mentioned in regards to Ms. Charnchoengskilpakul’s case to demonstrate the lack of the necessary operation. The Special Rapporteur encourages the Government of Thailand to ensure that all sick persons in detention are provided with proper medical care and treatment, and urges the Government to provide the results of the toxicology testing in Mr. Tangnoppakul’s case, as well as the records in Ms. Charnchoengskilpakul’s case.

## **Tunisia**

- (a) JAL 15/10/2012 Case No. TUN 4/2012 State reply: None to date **Allegations de viol commis par des policiers**

141. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l’absence de réponse de la part du Gouvernement du Mali à la communication envoyée le 15 octobre 2012 sur les informations concernant une femme connue sous le pseudonyme de « Meriem, qui aurait été appréhendée avec son compagnon par trois policiers et violée par la suite. Le Rapporteur souhaitera attirer l’attention du Gouvernement sur son rapport au Conseil des Droits de l’Homme (A/HRC/7/3 para.89) dans lequel le Rapporteur a souligné « que le viol et d’autres actes graves de violences sexuelles commis par des fonctionnaires dans des contextes de détention ou de contrôle constituent non seulement des actes de torture ou des mauvais traitements, mais une forme particulièrement frappante de tels actes, en raison de la stigmatisation qu’ils entraînent ». Le Rapporteur 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.

## Uganda

- (a) JAL 09/03/2012 Case No. UGA 1/2012 State reply: 08/05/2012 **Alleged dangerously unhealthy conditions of detention and lack of medical care in Ugandan prisons.**

142. The Special Rapporteur thanks the Government of Uganda for its response, dated 8 May 2012, to the joint letter of allegation regarding the alleged dangerously unhealthy conditions of detention in Ugandan prisons, including the lack of medical care, overcrowding, spread of communicable diseases, poor hygiene and provision of food with low nutritional value. In its reply, the Government of Uganda acknowledged that detention conditions in Ugandan prisons still fall short of both internationally and nationally prescribed standards, however, notes the progress being taken to address these conditions. The Government predicts that they are likely to contain congestion levels to acceptable and tolerable limits within the next five years, and attributes the inadequate prison conditions to a general lack of financial resources. Despite the Government's constraints on resources, 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. Moreover, the Special Rapporteur reminds the Government of 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." Further, Rule 20(1) provides that "[e]very prisoner shall be provided by the administration at the usual hours with food and nutritional value adequate for health and strength, of wholesome quality and well prepared and served." The Special Rapporteur encourages the Government of Uganda to continue its engagement with the mandate and to submit information relating to future progress made to ensure that all prisoners or detainees' right to the enjoyment of the highest attainable standard of physical and mental health is realized.

## United Arab Emirates

- (a) UA 15/08/2012 Case No. ARE 6/2012 State reply: None to date **Alleged arbitrary detention, solitary confinement, and torture of Syrian national residing in the U.A.E.**

143. 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 established by the Human Rights Council. The communication referred to the alleged arbitrary detention, solitary confinement, and torture of Mr. Musab Al-Abood, a Syrian national residing in the United Arab Emirates, for his alleged links with the Syrian rebellion. In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur expresses his conviction that the practice of the Government has been in breach of the international standards prohibiting torture and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which the United Arab Emirates acceded on 19 July 2012. The Special Rapporteur reiterates the call for the Government to provide information concerning the arrest and detention of Mr. Al-Abood, provide results of any investigation, medical examinations, and judicial or other inquiries carried out, and report on the measures taken to ensure the safety and physical integrity of Mr. Al-Abood.

## Ukraine

- (a) UA 17/08/2012 Case No. UKR 2/2012 State reply: None to date **Alleged refoulement of a Russian national to the Russian Federation**

144. The Special Rapporteur regrets that the Government of the Ukraine has not responded to this communication dated 17 August 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged imminent deportation of Mr. X, a member of the Ingush Muslim community, to the Russian Federation. The Special Rapporteur expressed concern over allegations that Mr. X faces a serious risk of being subject to torture and inhuman treatment by Russian authorities due to charges with offenses associated with participation in armed groups and armed violence in Ingushetia. 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). 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. The Special Rapporteur also draws the attention of the Government to paragraph 9 of General Comment No. 20 of the Human Rights Committee states that State parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement. The Special Rapporteur additionally reminds the Government of paragraph 6d of Human Rights Council Resolution 8/8 and paragraph 7d of Human Rights Council Resolution 16/23, which urge States not to expel, return, or 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 stresses 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 Special Rapporteur calls on the Government to ensure a thorough and fair assessment to ascertain whether Mr. X is at risk of being tortured 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.

## United Kingdom of Great Britain and Northern Ireland

- (a) AL 05/07/2012 Case No. GBR 2/2012 State reply: 28/August/2012 **Alleged widespread and systematic torture committed by British authorities in Kenya prior to its independence**

145. The Special Rapporteur thanks the Government of the United Kingdom of Great Britain and Northern Ireland for its reply, dated 28 August 2012, to this communication in reference to the situation of Mr. Wambugu Wa Nyingi, Mr. Paulo Muoka Nzili, Ms. Jane Muthoni Mara, Ms. Naomi Nziula Kimweli, and Mr. Samuel Kimweli Mbithuka Kilatya, who are seeking redress from the British Government for acts of torture to which they were allegedly subjected by British authorities prior to Kenyan independence. In its reply, the Government states that the interim ruling issued in the case allows the case to proceed against the Government's preliminary objections, and does not constitute a definitive finding of liability against the Government. The Government expressed the opinion that international law does not establish rules concerning limitation periods for civil actions in national courts for wrongs that may amount to torture, and that a fair trial in a civil case relating to matters



which occurred more than 50 years ago is not possible. The Government further expressed the view that it is not bound under international human rights obligations to take measures in relation to events that took place prior to the ratification or entry into force of the relevant instruments. However, the Government also states that different considerations may apply to criminal cases and article 29 of the Rome Statute of the International Criminal Court which relates to prosecutions for crimes within the jurisdiction of the International Criminal court. In this context, the Special Rapporteur expressed concern over the Government's alleged claim that the complaint is time barred by virtue of the Limitation Act of 1980. The Special Rapporteur reiterates that taking into account the grave nature of acts of torture, they cannot be subject to any statute of limitations. He reiterates that in accordance with Article 7 and Article 29 of the Rome Statute of the International Criminal Court, adopted by the Government of the United Kingdom on 4 October 2001, widespread and systematic torture constitutes a crime against humanity and shall not be subject to any statute of limitations. The Special Rapporteur calls on the Government to undertake a prompt and impartial investigation into the above mentioned allegations of torture of Kenyan nationals by the British authorities prior to Kenyan independence, and to provide full redress to the victims, including fair and adequate compensation, and as full rehabilitation as possible in accordance with international law.

(b) UA 18/09/2012 Case No. GBR 4/2012 State reply: 09/10/2012 **Alleged risk of torture for Sri Lankan nationals of Tamil ethnicity facing involuntary repatriation**

146. The Special Rapporteur thanks the Government of the United Kingdom of Great Britain and Northern Ireland for its response to this communication regarding the alleged imminent involuntary repatriation to Sri Lanka of Mr. X, Mr. Y and Mr. Z, as well as a potential large number of other Sri Lankan nationals of Tamil ethnicity, who allegedly face a serious risk of torture in Sri Lanka. The Special Rapporteur notes that paragraph 9 of General Comment No. 20 of the Human Rights Committee states that State parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement. The Special Rapporteur also draws the attention of the Government to paragraph 16 of the Resolution A/RES/65/206 of the UN General Assembly which urges States "not to expel, return ("refouler"), extradite or in another way transfer a person to another States where there are substantial grounds for believing that the person would be danger of being subjected to torture, and recognizes that diplomatic assurances, where used, do not release States from their obligation under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement." The Government indicated that it carefully considers all asylum and human rights applications from Sri Lanka nationals, including those of Tamil ethnicity, and that applicants at risk of persecution and ill treatment upon repatriation are granted protection. The Special Rapporteur thanks the Government for its confirmation that some injunctions stopping removal from the United Kingdom were granted. Nevertheless, the Special Rapporteur notes that the Government did not address allegations that the aforementioned individuals are at a significant risk of torture at the hands, consent, or acquiescence of Sri Lankan authorities. The Special Rapporteur urges the Government to take all necessary measures to guarantee that the rights and freedoms of Sri Lankan nationals are respected and, if investigations support or suggest the allegations to be correct, to adopt effective measures to prevent repatriation.

(c) UA 02/10/2012 Case No. GBR 5/2012 State reply: None to date **Alleged risk of torture and proloner solitary confinement for persons facing extradition**

147. The Special Rapporteur regrets that the Government of the United Kingdom of Great Britain and Northern Ireland has not responded to this communication, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication

referred to allegations of imminent extradition of Mr. Babar Ahmad, Mr. Syed Talha Ahsan, Mr. Del Abdul Bary, and Mr. Khaled Al-Fawwaz from the United Kingdom of Great Britain and Northern Ireland to the United States of America for offenses related to terrorism. The Special Rapporteur expressed concern over reports that upon extradition the aforementioned persons will allegedly be placed in detention under conditions of solitary confinement for an indefinite period of time and be accordingly placed at a risk of being subjected to torture or cruel, inhuman and degrading treatment. In this context, the Special Rapporteur reminds 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. 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. The Special Rapporteur also draws the attention of the Government to paragraph 9 of General Comment No. 20 of the Human Rights Committee states that State parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement. The Special Rapporteur calls on the Government not to extradite persons at risk of prolonged solitary confinement and to conduct a fair assessment of the risk of being tortured in each case of imminent extradition from the United Kingdom. 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) JUA 30/11/2012 Case No. GBR 6/2012 State reply: None to date **Allegations of complicity in torture**

148. The Special Rapporteur regrets that the Government of the United Kingdom of Great Britain and Northern Ireland has not responded to this communication dated 30 November 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged continued torture of a British resident, Mr. Shaker Aamer, and the Government’s complicity and actual involvement in these acts of torture. The Special Rapporteur expresses grave concern regarding Mr. Aamer’s right to physical and mental integrity in light of the consistent use of severe torture and, furthermore, his current status as a detainee at Guantanamo Bay, where he is held based on forced false allegations and has been cleared for release since 2007. In this context, the Special Rapporteur reiterates that Article 1 of the Convention against Torture includes complicity or explicit or tacit consent on the part of law enforcement or security personnel or any other person acting in an official capacity. The Special Rapporteur also 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.” Moreover, the Special Rapporteur reminds the Government of Article 2(2) of the CAT, 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. Accordingly, based on the information received and in light of the fact that no evidence has been provided to the contrary, the Special Rapporteur concludes that the rights of the Mr. Shaker Aamer under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government of the United Kingdom of Great Britain and Northern Ireland to uphold its obligations to protect the right to physical and mental integrity of all persons and to undertake a prompt, impartial, and effective investigation of the alleged acts of excessive, leading to prosecution and punishment of the perpetrators, and to provide redress to the victims. Furthermore, the Special Rapporteur urges the Government to ensure

the immediate return of Mr. Aamer to the country, invoking the waiver for his release under the modified National Defense Authorization Act.

## **United States of America**

- (a) JAL 11/06/2012 Case No. USA 6/2012 State reply: 02/01/2013 **Alleged mistreatment with electric shock of children and young adults enrolled in the residential programme of the Judge Rotenberg Center in Canton, Massachusetts**

149. The Special Rapporteur thanks the Government of the United States of America for its response, dated 2 January 2013 to this communication concerning the treatment suffered by children and young adults enrolled in the residential programme of the Judge Rotenberg Center (JRC), including the use of aversive therapy by means of electric shock and physical means of restraints. In its reply, the Government reports that the JRC uses Graduated Electronic Decelerators (GED) to deliver contingent skin shocks as a form of aversive behavior control, including two versions of the GED, namely the GED3A and GED4, that are modified beyond what was approved for use by the United States Food and Drug Administration (FDA). The Government explained that the FDA has sent a warning letter to the JRC on 6 December 2012, demanding prompt corrective action as regards the use of modified GEDs and requesting a meeting to discuss discontinuing their use. The Government also reported that “the use of aversive therapy by JRC has been challenged through a variety of state and federal legislative and judicial actions,” including the Department of Justice’s (DOJ) investigation into possible violations of civil rights laws, which remains open and ongoing. In this context the Government reiterates that it would gladly provide additional information once that investigation is complete. In Massachusetts a variety of measures that would regulate or ban the use of aversive treatment have been introduced in recent years but failed to pass into law. However, the Commonwealth of Massachusetts’ Department of Developmental Services (DDS) amended its behavior modification regulations in October 2011 in order to ban all schools in Massachusetts from using certain aversive interventions unless a child had a court-approved treatment plan that allowed for their use prior to 1 September 2011. The Government additionally stated that in New York State, regulations have been enacted prohibiting all day or residential schools from using aversive interventions, which also provide for annually renewable exemptions in cases of children whose state-mandated “individualized education plans” approved the use of aversive therapy prior to 30 June 2009. Furthermore, New York authorities expect that by June of 2014, all (New York) residents at JRC, including those who remain subject to court-approved aversive interventions, will be offered placements in New York State where such interventions are not authorized. The Special Rapporteur welcomes new information received indicating that in February 2013 the State of Massachusetts announced it was seeking a reversal of the court order that had approved treatment plans using aversive therapy. Although the Special Rapporteur appreciates the Government’s response, he expresses serious concern about the physical and mental integrity of the students residing at JRC, in view of the continued use of electric shock therapy and physical means of restraint as part of the JRC educational programme. He notes that although in 2011 the Commonwealth of Massachusetts’ Department of Developmental Services (DDS) approved regulation changes that limited the use of Level III Aversive Interventions (including skin shock), this new regulation does still allow the use of electric shocks for those students who had an existing court-approved treatment plan as of September 1, 2011 (115 CMR 5.14). Under the revised regulations, only new students in Massachusetts are protected from Level III aversives, including electric shock or prolonged restraints. The Special Rapporteur notes with great concern that many students at the JRC are still eligible for the Level III Aversive Interventions, including electro-shock treatment. The Special Rapporteur is also concerned that Massachusetts regulations would not apply in other states. JRC, previously called the Behavioral Research Institute, was previously located in California and Rhode Island. There is nothing to stop

JRC from simply relocating again to another state. Protections are needed at the federal level to ensure that Level III aversives are brought to an end in the United States of America. The Special Rapporteur understands that, under individualized court orders now in place for JRC patients, the use of Level III aversives have been justified as form of treatment, rehabilitation, habilitation, or education for persons with disabilities. The Special Rapporteur would like to draw attention to mandates' recent report on the applicability of the torture and ill-treatment framework in health-care settings (A/HRC/22/53, 1 February 2103). As the report states in paragraph 18, authoritative interpretations of international human rights law by international bodies have established that a violation of the Convention against Torture may occur "where the purpose or intention of the State's action or inaction was not to degrade, humiliate or punish the victim, but where this nevertheless was the result." The report calls into question the concept that medical necessity may ever be used to justify a treatment practice that induces severe emotional or physical pain (see paras. 31-35), "This is particularly the case when intrusive and irreversible, non-consensual treatments are performed on patients from marginalized groups, such as persons with disabilities, notwithstanding claims of good intentions or medical necessity" (para. 32). The Special Rapporteur reminds the Government of paragraph 7a of Resolution 8/8 of the Human Rights Council, according to which corporal punishment, including that of children, can amount to cruel, inhuman or degrading punishment or even torture. The Special Rapporteur further reminds of his report to the 60th session of the General Assembly, in which he determined that any form of corporal punishment is contrary to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and 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. The Special Rapporteur also reiterates that in paragraph 5 of General Comment No. 20, 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. Therefore and in the absence of evidence to the contrary, the Special Rapporteur determines that the rights of the students of the JRC subjected to Level III Aversive Interventions by means of electric shock and physical means of restraints have been violated under the UN Convention against Torture and other international standards. The Special Rapporteur calls on the Government to ensure a prompt and impartial investigation into these continued practices. He calls on the Government to provide information on the Department of Justice's (DOJ) investigation into possible violations of civil rights laws and to take measures to prohibit the use of Level III Aversive Interventions for all students on a national level, including those students who had an existing court-approved treatment plan as of 1 September 2011 in Massachusetts.

(b) JUA 22/06/2012 Case No. USA 7/2012 State reply: None to date **Alleged prolonged solitary confinement and ill-treatment in solitary confinement**

150. 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 established by the Human Rights Council. The communication referred to the alleged prolonged solitary confinement and ill-treatment of Mr. Robert Cuff, a member of the United States Navy, who suffers from brain damage and severe Post-Traumatic Stress Disorder (PTSD). According to the information received, Mr. Cuff is incarcerated and held in solitary confinement at the Bossier Parish Medium Correctional Facility in Shreveport, Louisiana, under unsanitary conditions and without access to adequate medical care. In this context, the Special Rapporteur recalls 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 of the International Covenant on Civil and Political Rights, 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." The Special Rapporteur

would also like to draw 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 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 draws the Government's attention to 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." Based on the information received, the Special Rapporteur determines that Mr. Cuff's rights under international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment have likely been violated, and calls on the Government to cease the prolonged isolation of Mr. Cuff, and ensure that he obtains adequate medical care and redress, including fair and adequate compensation and as full rehabilitation as possible.

(c) AL 21/06/2012 Case No. USA 8/2012 State reply: 21/06/2012 **Alleged prolonged solitary confinement**

151. The Special Rapporteur thanks the Government of the United States for its reply dated 28 September 2012 to the communication dated 21 June 2012. The communication referred to the alleged prolonged solitary confinement of Mr. Russel Maroon Shoats, an inmate of Pennsylvania's State Correctional Institution (SCI). According to the information we received, Mr. Shoats has spent the last 21 years in solitary confinement, being held in lockdown for 23 to 24 hours each day. The government's response mentions the serious nature of the crimes for which Mr Shoats was convicted and the fact that he twice escaped and was recaptured, one time after holding hostages. According to prison authorities, Mr. Shoats has repeatedly been involved in fights with other inmates. On the other hand, the response does not dispute the facts about the conditions of confinement to which Mr. Shoats is subjected or the long term nature of such conditions. A lawsuit brought by Mr. Shoats before United States courts resulted in a finding that the procedures followed to place them in solitary confinement did not breach his rights under the US Constitution. The Special Rapporteur recalls 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 of the International Covenant on Civil and Political Rights, 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." In his report a/66/268, the Special Rapporteur states that "solitary confinement is a harsh measure which may cause serious psychological and physiological adverse effects on individuals regardless of their specific conditions." Moreover, "[d]epending on the specific reason for its application, conditions, length, effects and other circumstances, solitary confinement can amount to . . . an act defined in article 1 or article 16 of the Convention against Torture." ( paras. 79 and 80). The Special Rapporteur urges that solitary confinement should be used only in very exceptional circumstances, as a last resort, for as short a time as possible (para. 89). Additionally, the Special Rapporteur also 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." Based on the information

received, the Special Rapporteur determines that Mr. Shoat's rights under international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment have likely been violated, and calls on the Government to cease the prolonged isolation of Mr. Shoats.

(d) AL 31/07/2012 Case No. USA 13/2012 State reply: 01/10/2012 **Alleged mistreatment by the US Drug Enforcement Administration**

152. The Special Rapporteur thanks the Government of the United States for its reply dated 31 July 2012, to this communication concerning the detention of Mr. Daniel Chong on 21 April 2012 by the Drug Enforcement Administration (DEA), and his subsequent isolation for a period of five days without access to food, water, or hygienic facilities. In its reply, the Government stated that the Office of the Inspector General within the United States Department of Justice is currently conducting an independent investigation into Mr. Chong's allegations, inclusive of consideration of penal, disciplinary, or administrative sanctions against alleged perpetrators. The Government also reported that the DEA is reviewing its internal procedures, and that Mr. Chong has exercised his rights under relevant municipal law for monetary compensation. The Special Rapporteur thanks the Government for its explanation of the investigations undertaken to date into Mr. Chong's allegations, and invites to provide the mandate with more information as the proceedings develop. He encourages the Government to ensure that all allegations of torture and other ill-treatment are investigated and punished, and to provide full redress, including fair and adequate compensation, and as full rehabilitation as possible to the victim.

(e) JUA 21/12/2011 Case No. USA 24/2011 State reply: None to date **Alleged judicial and other harassment and alleged excessive use of force against activist**

153. The Special Rapporteur regrets that the Government of the United States has not responded to this communication dated 23 February 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged judicial and other forms of harassment against Mr. Steve Richardson and police officers' alleged excessive use of force. In this context, the Special Rapporteur reiterates that paragraph 1 of Human Rights Council Resolution 16/23 "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur concludes that the rights of the Mr. Steve Richardson under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government of the United States to uphold its obligations to protect the right to physical and mental integrity of all persons and to undertake a prompt, impartial, and effective investigation of the alleged acts of excessive use of force, leading to prosecution and punishment of the perpetrators, and to provide redress to the victims.

(f) JUA 30/11/2012 Case No. USA 31/2012 State reply: None to date **Alleged indefinite detention, lack of access to lawyers and impunity for torture of five non-US citizens detained at Guantanamo Bay**

154.155. 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 established by the Human Rights Council. The communication referred to the

alleged detention of five non-US citizens currently detained at the military detention facility at Guantanamo Bay, Mr. Khalid Sheikh Mohammad, Mr. Walid Muhammad Salih Mybarack Bin Attash, Mr. Ramzi Binalshibh, Mr. Ali Abdul Aziz Ali, and Mr. Mustafa Ahmed Adam Al Hawasawi. According to the information received, the United States Military Commission brought charges against the five named individuals on 31 May 2011 and 26 January 2012. The Special Rapporteur expressed concern that the Government failed to properly investigate and acknowledge that some of the interrogation techniques used in its detention facilities including Guantanamo Bay might constitute a violation of the Convention against Torture. In this context, the Special Rapporteur reminds the Government that the Committee Against Torture called on the United States in 2006 to “rescind any interrogation technique, including methods involving sexual humiliation, ‘waterboarding,’ ‘short shackling’ and using dogs to induce fear, that constitutes torture or cruel inhuman or degrading treatment or punishment, in all places of detention under its de facto effective control, in order to comply with its obligations under the Convention.” The Special Rapporteur further draws attention to article 12 of the Convention against torture and cruel, inhuman and degrading treatment or punishment (CAT), which requires competent authorities to undertake a prompt and impartial investigation wherever there is reasonable ground to believe that an act of torture has been committed in any territory under the jurisdiction of the State party. The Special Rapporteur additionally reiterates article 15 of the Convention, 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,” and article 14(3)(g) of the International Covenant on Civil and Political Rights, which states that the accused “should not be compelled to testify against himself or to confess guilt.” In the absence of evidence to the contrary, the Special Rapporteur concludes that the named individuals were in fact subjected to the methods of torture and cruel, inhuman and degrading treatment mentioned in his communication. The Special Rapporteur calls on the Government to initiate prompt and impartial investigations into all allegations of torture and ill-treatment and to ensure that evidence obtained under torture will not be invoked in any proceedings against the defendants.

- (g) JUA 30/11/2012 Case No. USA 32/2012 State reply: None to date **Alleged arbitrary and indefinite detention, inhuman treatment, and denial of access to an independent doctor**

155. 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 established by the Human Rights Council. The communication referred to the alleged detention of Mr. Shaker Aamer, a non-United States citizen, at the military detention facility at Guantanamo Bay. The Special Rapporteur expresses grave concern over allegations that Mr. Aamer was subjected to torture, inhuman, and degrading treatment at the Bagram and Kandahar Air Force bases in Afghanistan, and at Guantanamo Bay. According to the information received, Mr. Aamer was captured in October 2001 and not brought before a court or tribunal until November 2004. 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 “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,” and of paragraph 7c of Human Rights Council Resolution 16/23, which urges States “To consider extending the 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 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. Accordingly, and in the absence of evidence to the contrary, the Special Rapporteur determines that the rights of Mr. Aamer under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government to undertake a prompt, independent and effective investigation of the facts, leading to the prosecution and punishment of the perpetrators, and to provide full redress to the victim.

## Uzbekistan

- (a) JUA 13/04/2012 Case No. UZB 3/2012 State reply: None to date **Alleged arbitrary detention, acts of intimidation, ill-treatment, and inadequate medical treatment in prison.**

156. The Special Rapporteur regrets that the Government of Uzbekistan has not responded to this communication dated 13 April 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the arbitrary detention of Mr. X, failure to provide any evidence substantiating charges brought against him, and the closed trial before a military court that found Mr. X guilty of espionage and sentenced him to a twelve-year imprisonment. Further, the communication referred to the alleged denial of a specialist for Mr. X’s deteriorating health since in detention. Additionally, at least three persons were reportedly subjected to threats of torture and punishment in order to force them to testify against Mr. X and at least one person was reportedly beaten to extract testimony. The Special Rapporteur expresses serious concern regarding the physical and psychological integrity of Mr. X and those subjected to acts of intimidation and ill-treatment for the purpose of extracting testimony. In response to Mr. X’s deteriorating health, the Special Rapporteur reiterates Rule 22(2) of the Standard Minimum Rules for the Treatment of Prisoners, which provides that “[s]ick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.” With respect to allegations indicating at least three persons were forced to testify against Mr. X and at least one person was physically beaten, the Special Rapporteur reiterates article 15 of the Convention against Torture, which provides that, “[e]ach State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.” Accordingly, in the absence of contradictory evidence, the Special Rapporteur concludes that the denial of adequate medical attention to persons in custody constitutes, under the appropriate circumstances, cruel, inhuman, or degrading treatment in violation of international standards. The Special Rapporteur calls on the Government to provide information regarding the legal grounds for the aforementioned person’s arrest and detention and to set aside any conviction based on evidence obtained under torture. Further, he calls on the Government of Uzbekistan to ensure that all sick persons in detention are provided with proper medical care and treatment. Additionally, the Special Rapporteur urges the Government to undertake a prompt and independent investigation of the alleged mistreatment of those questioned with the



purpose of extracting testimony, leading to prosecution and punishment of the perpetrators, and to provide full redress to the victims.

- (b) JUA 17/04/2012 Case No. UZB 4/2012 State reply: None to date **Alleged incommunicado detention and possible torture of person targeted for religious beliefs.**

157. The Special Rapporteur regrets that the Government of Uzbekistan has not responded to this communication dated 17 April 2012, thereby failing to cooperate with the mandate issued by the Human Rights Council. The communication referred to the alleged religious persecution and subsequent incommunicado detention of Mr. X and possible enforced disappearance. The Special Rapporteur stresses the Government's obligation to protect the right to physical and mental integrity of all persons. In response to Mr. X's unknown whereabouts, the Special Rapporteur reiterates paragraph 8b of Human Rights Council Resolution 16/23, which reminds States that "detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that secret places of detention and interrogation are abolished." Furthermore, the Special Rapporteur reminds the Government of 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. Accordingly, and in the absence of evidence to the contrary, the Special Rapporteur concludes that the rights of Mr. X, whose whereabouts remain unknown, have been violated under the UN Convention against Torture. The Special Rapporteur urges the Government to end the practice of incommunicado detention and unacknowledged detention. He also calls on the Government to undertake a prompt and impartial investigation of possible acts of torture, leading to the prosecution and punishment of the perpetrators, and to ensure Mr. X obtains redress, including fair and adequate compensation, and as full rehabilitation as possible. Further, if Mr. X is to be tried, the Government must ensure that any evidence against him obtained under torture is declared inadmissible.

- (c) JUA 03/05/2012 Case No. UZB 5/2012 State reply: 19/06/2012 **Allegation of mistreatment and continued arbitrary detention.**

158. The Special Rapporteur thanks the Government of Uzbekistan for its reply, dated 19 June 2012, to this communication in reference to the alleged arbitrary detention, solitary confinement, and physical ill-treatment of Mr. Erkin Musaev, an Uzbek national and former UNDP employee. In its reply, the Government stated that Mr. Musaev received a medical examination upon entering prison and has received medical care on several occasions. The Government further stated that was sentenced to three periods of "confinement in a punishment cell" for violating prison rules. The Government also reported that Mr. Musaev has not been subjected to torture or ill-treatment by prison staff. While the Special Rapporteur acknowledges the Government's reply, he regrets the Government's conclusion that there is "no need to carry out any investigations or medical examinations" with regards the aforementioned allegations. In this context, the Special Rapporteur reminds the Government of its obligation 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 (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). 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 calls on the Government to take all necessary measures to guarantee that Mr. Musaev’s rights and freedoms are respected in compliance with the aforementioned international instruments. The Special Rapporteur further urges the Government to undertake a prompt, impartial, and effective investigation of the alleged acts of ill-treatment leading to the prosecution and punishment of perpetrators and, if necessary, to provide redress to the victim.

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

- (a) **JUA 25/07/2012 Case No. VEN 5/2012 State reply: None to date Alegaciones de muerte violenta de 18 internas, además al menos 17 internos y cinco los funcionarios de ca Guardia nacional habrían sido heridos**

159.El Relator lamenta que, hasta la fecha, el Gobierno de Venezuela no haya respondido a esta comunicación de fecha 25 de julio de 2012. La comunicación se refería a las alegaciones de violencia extrema dentro de un establecimiento penitenciario, en particular las muertes de 17 internos, además de referirse a las malas condiciones de la misma prisión. El Relator Especial desea hacer referencia a los artículos 3 y 6 de la Declaración Universal de Derechos Humanos y el Pacto Internacional de Derechos Civiles y Políticos, que garantizan a todo individuo el derecho a la Vida y a la seguridad de su persona y disponen que este derecho sea protegido por la ley y que nade sea arbitrariamente privado de su vida. Además, el principio 9 de los Principios relativos a una eficaz prevención e investigación de las ejecuciones extralegales, arbitrarias o sumarias dice que los Gobiernos tienen la obligación de garantizar “una investigación exhaustiva, inmediata e imparcial de todos los casos en que haya sospecha de ejecuciones extralegales, arbitrarias o sumarias, incluidos aquéllos en los que las quejas de parientes u otros informes fiables hagan pensar que se produjo una muerte no debida a causas naturales en las circunstancias referidas (...)”. Ante la ausencia de evidencia contradictoria, el Relator Especial considera probado que en los hechos referidos se violaron los derechos de los internos a la vida y a la integridad física y psicológica. 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 información acerca de las medidas que hayan sido tomadas.

### **Vietnam**

- (a) **JUA 29/08/2012 Case No. VNM 4/2012 State reply: 31/10/2012 Alleged ill-treatment of human rights defender**

160.The Special Rapporteur thanks the Government of Vietnam for its response, dated 31 October 2012, to the joint urgent appeal regarding the alleged ill-treatment and deteriorating health of Ms. Tran Thi Thuy, a human rights defender, while she is held in detention. In its reply, the Government claims that “most of the accusations . . . appear to be incorrect and misleading.” The Special Rapporteur notes the insufficiency of the Government’s reply regarding the specific allegations pertaining to Ms. Tran Thi Thuy’s detention. Moreover, the Special Rapporteur expresses grave concern regarding Ms. Tran Thi Thuy’s deteriorating health, and reminds the Government of its obligation to provide adequate medical services to all prisoners and detainees. In this context, the Special Rapporteur reiterates 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.” Thus, the Special Rapporteur concludes that the rights of Ms. Tran Thi Thuy under international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment may have been violated and calls on the Government of Vietnam to undertake a prompt and impartial investigation, leading to prosecution and punishment of the perpetrators, and to provide redress to Ms. Tran Thi Thuy. The Special Rapporteur encourages the Government to continue its engagement with the mandate.

## **Zimbabwe**

- (a) JAL 29/03/2012 Case No. ZWE 5/2012 State reply: None to date **Alleged ill-treatment and torture of persons arbitrarily arrested and denial of medical treatment while in detention.**

161. The Special Rapporteur regrets that the Government of Zimbabwe has not responded to this communication dated 29 March 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged arbitrary detention of six activists and to the alleged use of torture for the purpose of extracting confessions. The Special Rapporteur expresses serious concern that the activists were subjected to torture and ill-treatment and denied adequate medical treatment for their injuries while in detention. In this context, the Special Rapporteur reiterates that Paragraph 7b of Human Rights Council Resolution 16/23 that 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 promptly and impartially examined by the competent national authority, as well as whenever there is reasonable ground to believe that such an act has been committed; to hold persons who encourage, order, tolerate or perpetrate such acts responsible, to have them brought to justice and punished in a manner commensurate with the gravity of the offence, including the officials in charge of the place of detention where the prohibited act is found to have been committed; and to take note, in this respect, of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a useful tool in efforts to combat torture.” In the absence of evidence to the contrary, the Special Rapporteur concludes that the six activists’ rights under international law related to torture have been violated. The Special Rapporteur stresses that any evidence obtained through means of torture shall not be used in judicial proceedings. He calls on the Government to undertake a prompt and impartial investigation of those responsible for using such methods, leading to prosecution and punishment of the perpetrators, and to provide full redress to the victims. The Special Rapporteur calls on the Government of Zimbabwe to ensure that all sick persons in detention are provided with proper medical care and treatment.

- (b) JUA 17/08/2012 Case No. ZWE 6/2012 State reply: none to date **Alleged arrest, detention and ill-treatment of 44 members of Gays and Lesbians Zimbabwe**

162. The Special Rapporteur regrets that the Government of Zimbabwe has not responded to this communication dated 17 August 2012, thereby failing to cooperate with the mandate established by the Human Rights Council. The communication referred to the alleged arrest, detention, ill-treatment, and beating of 44 members of Gays and Lesbian Zimbabwe (GALZ) by the police. The Special Rapporteur expresses serious concerns over the physical and mental integrity of the individuals in question. In this context, the Special Rapporteur stresses 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 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 also reminds the Government of Principle 5, which provides that “[w]henver 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.” The Special Rapporteur calls on the Government to uphold its obligations to protect the right to physical and mental integrity of all persons and to undertake a prompt, impartial, and effective investigation of the alleged acts of excessive use of force, leading to prosecution and punishment of the perpetrators, and to provide redress to the victims.

### **III. Replies received after the observations to communications report A/HRC/19/61 Add. 4 of 29 February 2012**

163. With regard to the observations made in the frame of the previous observations to communications report A/HRC/19/61 Add.4 of 29 February 2012 covering communications sent to States between 1 December 2010 and 30 November 2011, as well as on responses received from States in relation to these communications until 31 January 2012, the Special Rapporteur acknowledges receipt of the late replies in relation to those communications, which have subsequently not been reflected in the previous report. However, he calls on Governments to reply to communications within the 60 days time frame.

#### **Bangladesh**

- (a) JUA 21/02/2011 Case No. BGD 2/2011 State reply: 09/03/2011, 14/05/2012 **Alleged detention and torture of opposition politician.**

164. The Special Rapporteur thanks the Government of Bangladesh for its response to this communication regarding the alleged detention and torture of Mr. Salauddin Quader Chowdhury, an opposition politician. According to the information received, following his arrest on 16 December 2010, Mr. Chowdhury was subjected to torture by the Bangladeshi security forces during interrogation at a private residence, with a physician accompanying them. Mr. Chowdhury was reportedly tortured for several hours, including by applying electrodes to his genitals, beating him, slitting his stomach with razors and twisting his toenails and fingernails with pliers. In its reply, the Government of Bangladesh states that it formed an Inspection Committee responsible for investigating the alleged violations. The Government notes that the Inspection Committee interviewed multiple witnesses and determined that no such acts of torture or ill treatment occurred. The Government further notes that Mr. Chowdhury has been provided with adequate and independent medical treatment, has been allowed to meet regularly with his family and his lawyer, and has been afforded all other legal and due process rights in his case. The government’s reply does not explain what measures were taken to ensure that the investigation by the Inspection Committee was surrounded by guarantees of independence and impartiality, as required by international standards. The Special Rapporteur reiterates his concern about the impartiality and independence of a committee formed by three members of the corrections agency of Bangladesh who are presumably in a hierarchical chain of command amongst themselves. In

addition, no information is provided as to whether the investigation also included a timely, professional and independent medical examination of Mr. Chowdhury to determine the possible existence of physical signs corroborating the acts of torture alleged. The Special Rapporteur urges the Government of Bangladesh to continue investigating the matter and to remain engaged with the mandate.

## Cyprus

- (a) JUA 29/08/2012 Case No. CYP 2/2011 State reply: 31/08/2012 **Alleged ill-treatment of asylum seekers, lack of access to medical assistance and solitary confinement.**

165. The Special Rapporteur thanks the Government of Cyprus for its reply, dated 31 August 2012, to this communication in reference to the alleged attack, ill-treatment, and denial of medical assistance to Iranian asylum seekers, Messrs. Mohammad Khosh Sorour, Mohsen Khosravani, Bagher Ebrahimzadeh, Mostafa Hajilou, Mohammad Malek Madar, and Zakariah Ebrahim Moj. The Special Rapporteur expressed serious concern over the alleged severe beating and subsequent placement in solitary confinement of 72-year old Mr. Ebrahimzadeh. According to the information we received, Mr. Ebrahimzadeh suffers from a heart condition and sustained a broken leg during the beating, for which he was denied adequate medical assistance. In its reply, the Government noted that an investigation into the allegations by the Independent Authority for the Investigation of Allegations and Complaints against the Police is underway. While the Special Rapporteur thanks the Government for its reply, he regrets that the Government failed to address the allegations concerning Mr. Ebrahimzadeh's beating, ill-treatment, and the denial of medical care. Mr. Ebrahimzadeh was deported on 18 July 2011. The government of Cyprus has not explained what measures were taken to ensure compliance with its obligation not to return (*refouler*) any person to a place where he or she would be at risk of being tortured. In this context, the Special Rapporteur reminds the Government of its obligation to protect the 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 (CAT). The Special Rapporteur would like to refer 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-derivable prohibition of torture and other cruel, inhuman or degrading treatment or punishment." The Special Rapporteur also reiterates Article 12 of the CAT, which requires competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and Article 7 of the CAT, which requires State parties to prosecute suspected perpetrators of torture. With respect to allegations that the detainees were subjected to beating, the Special Rapporteur would like to draw attention to Principle 15 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, "(l)aw enforcement officials, in their relations with persons in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal safety is threatened." With regards to the allegations that Mr. Ebrahimzadeh was held in isolation, the Special Rapporteur reiterates 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 ICCPR. In this regard, the Special Rapporteur additionally recalls article 7 of the Basic Principles for the Treatment of Prisoners, which provides that "efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged." Additionally, in view of allegations of the denial of medical care, the Special Rapporteur reminds the Government of

its obligations under the Body of Principles for the Protection of All Persons under Any form of Detention or Imprisonment, and in particular of Principle 24, which provides that “[a] proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided wherever necessary,” free of charge. In the absence of evidence to the contrary, the Special Rapporteur concludes that the rights of the detainees have been violated under international human rights law. The Special Rapporteur calls on the Government to continue its investigation into the facts in a prompt, independent and effective manner leading to the prosecution and punishment of the perpetrators, and to provide full redress to the victims.

## **Ethiopia**

- (a) JUA 05/10/2011 Case No. ETH 4/2011 State reply: 17/02/2012 **Alleged arrests, detention and charges under anti-terrorism legislation of journalists and opposition politicians.**

166. The Special Rapporteur thanks the Government of Ethiopia for its response to this communication in reference to the alleged arrest and prosecution of journalists and opposition politicians, including the ill-treatment of Mr. Eskinder Nega, the alleged torture of Mr. Woubshet Taye, and the lack of access to doctors of Ms. Reeyot Alemu while in detention. The Government states that domestic anti-terrorism legislation is in conformity with international human rights law as well as the Ethiopian constitution, and that it incorporates legal and practical safeguards to prevent ill-treatment of persons suspected of engaging in terrorist activities. The Government further states that all procedural due process and legal rights were afforded to the aforementioned individuals at all times during their arrest, detention, prosecution, and conviction, including access to family, lawyers, and medical personnel. Regrettably, however, the Government did not respond to allegations of ill-treatment and torture of the alleged victims. In this context, the Special Rapporteur reiterates that article 12 of the Convention against Torture requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 requires State parties to prosecute suspected perpetrators of torture. In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur determines that the rights of the aforementioned individuals under the UN Convention against Torture have been violated. The Special Rapporteur calls on the Government of Ethiopia to investigate, prosecute and punish all cases of torture and ill-treatment and to ensure full redress to the victims.

## **India**

- (a) JUA 15/09/2011 Case No. IND 17/2011 State reply: 19/09/2011, 08/08/2012 **Alleged abduction and gang rape of a woman by the military**

167. The Special Rapporteur thanks the Government of India for its reply dated 8 August 2012, to this communication in reference to the alleged armed abduction and gang rape of a 32-year old woman, Ms. X, in the Kulgam district of Kashmir. In its reply, the Government reported that “the matter has been investigated by competent authorities and found that the allegation was baseless and instigated.” While he appreciates the Government’s reply, the Special Rapporteur would like to reiterate paragraph 7 (b) of Resolution 8/8 of the Human Rights Council, which states that “[i]ntimidation and coercion, as described in article 1 of the Convention against Torture, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person, can amount to cruel, inhuman or degrading treatment or to torture. Rape and other serious acts of sexual violence by officials

in contexts of detention or control may not only amount to torture or ill-treatment, but also constitute a particular egregious form of it, due to the stigmatization they carry” (A/HRC/7/3, para. 69). Further, the Committee on the Elimination of Discrimination against Women (CEDAW) in its general recommendation No. 19, paragraph 9, provides that “States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.” The Special Rapporteur regrets that no details have been provided regarding the investigation conducted, particularly if it was prompt, impartial and independent, as international standards require. Similarly, no grounds were offered for the Government’s conclusions that the allegations were baseless and instigated. The Special Rapporteur calls on the Government to provide further information on the investigation conducted into the allegations of sexual violence, which amount to torture and ill-treatment in this case.

**(b) JUA 02/09/2011 Case No. IND 18/2011 State reply: 16/09/2011, 07/08/2012 Alleged deaths in custody.**

168. The Special Rapporteur thanks the Government of India for its replies dated 7 August 2011 and 16 September 2012, to this communication in reference to the deaths in police custody of Messrs. Nazim Rashid Shalla, Saidul Mondal, and Salam Sanjoy in or from injuries sustained while in police custody. In its replies, the Government states that pursuant to investigations into the facts, three officials have been arrested in connection with the death of Mr. Shalla, while the involvement of Border Security Forces personnel in the death of Mr. Mondal could not be established by an official inquiry. The Government also reported that Mr Sanjoy’s exact cause of death could not be established, and the results of an expert examination are pending. The Special Rapporteur acknowledges the results of the Government’s investigation into the death of Mr. Shalla. The Special Rapporteur would also like to further reiterate the Government’s obligations under the International Covenant on Civil and Political Rights, and that when an individual dies as a consequence of injuries sustained while in State custody, there is a presumption of State responsibility. The Special Rapporteur urges the Government to continue its investigations into Mr. Sanjoy’s and Mr. Shalla’s deaths in a prompt and independent manner, leading to the prosecution and punishment of the perpetrators, and to provide full redress to the victims’ families. The Special Rapporteur encourages the Government of India to continue its engagement with the mandate.

## **Iran**

**(a) JUA 23/12/2010 Case No. IRN 35/2010 State reply: 28/11/2012 Alleged arrest and detention of lawyer and human rights activist.**

169. The Special Rapporteur thanks the Government of the Islamic Republic of Iran for its response to this communication dated 28 November 2012, regarding the alleged arrest, detention, and prolonged solitary confinement of Ms. Nasrin Sotoudeh, a lawyer and prominent human rights activist. In its reply, the Government stated that Ms. Sotoudeh is in “satisfactory physical condition” and was visited by her family on two occasions in October and November 2012. While the Special Rapporteur appreciates the Government’s reply, he regrets that the Government did not explain if the determination that the inmate’s “physical condition” was “satisfactory” was done under guarantees of impartiality and independence of medical examiners nor whether it included an analysis of her emotional or psychological conditions. In addition, the government’s response failed to address allegations that Ms. Sotoudeh was held in prolonged solitary confinement pursuant to her arrest. In this context, the Special Rapporteur would like to remind the Government of 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. With regards to the allegations that Ms. Sotoudeh was held in prolonged solitary confinement, the Special Rapporteur reiterates 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 ICCPR. In this regard, the Special Rapporteur additionally recalls article 7 of the Basic Principles for the Treatment of Prisoners, which provides that “efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.” The Special Rapporteur would also like to remind the Government of 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.” 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 urges the Government to take all necessary measures to guarantee that the rights and freedoms of Ms. Sotoudeh are respected in compliance with the applicable international conventions.

- (b) JUA 08/07/2011 Case No. IRN 9/2011 State reply: 03/09/2012 **Alleged arbitrary detention of human rights defenders and persons peacefully exercising their freedoms of expression and assembly.**

170. The Special Rapporteur thanks the Government of the Islamic Republic of Iran for its response to this communication dated 3 September 2012, regarding the alleged arbitrary detention of human rights defenders and persons peacefully exercising their freedoms of expression and assembly, including Ms. Massumeh Dehghan, Ms. Mahnaz Mohammadi, Ms. Mansoureh Behkish, Mr. Farzad Haghshenas, Ms. Maryam Bahreman, Mr. Ashkan Zahabian, and Mr. Mohammed Reza Fakhravar. The Special Rapporteur expressed serious concerns about the physical and mental integrity of Ms. Mohammadi, who suffers from a serious spine condition that requires regular medical attention, the denial of which could cause such severe pain as to constitute cruel, inhuman or degrading treatment or even torture. In its reply, the Government described the proceedings and sentence issued against Ms. Bahreman by a branch of the Shiraz court of revolution. The Special Rapporteur regrets that the Government failed to address and clarify allegations concerning the alleged denial of medical treatment for Ms. Mohammadi. In this context, the Special Rapporteur stresses that the Government has an 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 would like to reiterate 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.” 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.” In the absence of evidence to the contrary, the Special Rapporteur concludes that the rights of Ms. Mohammadi under international law have been violated. The Special Rapporteur calls on the Government of the Islamic Republic of Iran to ensure that all sick persons in detention are provided with proper medical care and treatment. The Special Rapporteur additionally calls on the Government to undertake a prompt, independent and effective investigation of the



facts, leading to the prosecution and punishment of the perpetrators, and to provide full redress to Ms. Mohammadi.

(c) JUA 27/09/2011 Case No. IRN 11/2011 State reply: 26/09/2012 **Alleged arbitrary detention and solitary confinement of human rights lawyer and defender.**

171. The Special Rapporteur thanks the Government of the Islamic Republic of Iran for its response to this communication dated 26 September 2012, regarding the alleged arbitrary detention and solitary confinement of Mr. Abdolfattah Soltani, a human rights lawyer and defender. In its reply, the Government reported that Mr. Soltani's appeal was heard by branch 54 of Tehran's court of appeals. The government described that part of Mr. Soltani's original verdict, which condemned him to five years' imprisonment, was dismissed, and that his prohibition from practicing law after his release from prison was reduced to a period of ten years. The Government explained that the remainder of the lower court's verdict was upheld. While the Special Rapporteur appreciates the Government's response, he regrets that the Government did not address allegations that Mr. Soltani was placed in solitary confinement in Section 209 of the Evin prison. In this context, the Special Rapporteur stresses that the Government has an 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 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 ICCPR. The Special Rapporteur also reminds the Government of article 7 of the Basic Principles for the Treatment of Prisoners, which provides "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 urges the Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Soltani are respected and, if investigations support or suggest the allegations to be correct, to adopt effective measures to ensure accountability.

(d) JUA 11/10/2011 Case No. IRN 13/2011 State reply: 31/05/2012, 28/11/2012 **Alleged arrest and detention, ill-treatment, judicial harassment and sentencing of women human rights defenders.**

172. The Special Rapporteur thanks the Government of the Islamic Republic of Iran for its response to this communication in reference to the alleged ill-treatment and denial of medical treatment of Ms. Faranak Farid, the alleged incommunicado detention of Ms. Farid and Ms. Fereshteh Shirazi, and the alleged judicial harassment, sentencing, and arbitrary detention of Ms. Nasrin Sotoudeh, Ms. Narges Mohammadi and Ms. Shiva Nazar-Ahai. In its reply, the Government of Iran states that Ms. Shirazi was charged and convicted of disseminating propaganda and falsely alarming the public by insulting and making false allegations about government officials. She was sentenced to two years imprisonment, and was barred from exiting the country for five years. The Government, however, did not comment on the cases of Ms. Farid, Ms. Sotoudeh, Ms. Mohammadi, or Ms. Nazar-Ahai, nor did not explain if it had taken any measures to ensure the physical and psychological safety of any of the aforementioned victims. The Special Rapporteur notes that Article 7 of the International Covenant on Civil and Political Rights expressly prohibits all forms of torture, or cruel, inhuman or degrading treatment or punishment. The Special Rapporteur also reiterates that under paragraph 8(b) of Human Rights Council Resolution 16/23, "(p)rolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment, and can in itself constitute a form of such treatment." The Resolution further urges all states "to respect the safeguards concerning the liberty, security and the dignity of the person and to ensure that

secret places of detention and interrogation are abolished.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur concludes that the rights of the aforementioned individuals have been violated. The Special Rapporteur calls on the Government to investigate, prosecute and punish all allegations of ill-treatment and to end the practice of incommunicado detention.

- (e) JUA 15/11/2011 Case No. IRN 18/2011 State reply: 11/06/2012 **Alleged imminent execution of Mr. Lo Zaniar (or Zanyar) Moradi and Mr. Loghman (or Loqman) Moradi.**

173. The Special Rapporteur thanks the Government of the Islamic Republic of Iran for its response to this communication in reference to the allegation that Mr. Lo Zaniar Moradi and Mr. Loghman Moradi, Iranian Kurdish nationals, were arrested for their suspected involvement in three murders and membership in the Komole terrorist organization. It is alleged that the individuals were coerced into confessing to these offenses after being subjected to ill-treatment and torture for 25 days. The victims were subsequently convicted and sentenced to death. In this context, the Special Rapporteur stresses that paragraph 7(c) of Human Rights Council Resolution 16/23 urges States “[t]o ensure that no statement established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, and calls upon States to consider extending that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, recognizing that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.” In light of the fact that no evidence has been provided to the contrary, the Special Rapporteur affirms that the aforementioned victims were tortured in order to make them confess to crimes, and that their rights under international standards prohibiting torture and other cruel, inhuman or degrading treatment or punishment may have been violated. Given the irremediable nature of capital punishment, the Special Rapporteur calls on the Government not to proceed with the executions and to set aside any criminal conviction based on evidence obtained under torture.

## **Iraq**

- (a) JUA 27/04/2011 Case No. IRQ 2/2011 State reply: 09/07/2012 **Alleged excessive use of force against peaceful protesters.**

174. The Special Rapporteur thanks the Government of Iraq for its response, dated 20 August 2012, to the communication on the excessive use of force by Iraqi security forces, the arbitrary detention of peaceful protesters who were allegedly subjected to severe torture, and the incommunicado detention of Mr. Haidar Shihab Ahmad Abdel Latif. The Special Rapporteur notes the insufficiency of the Government’s response, as it failed to substantively address any of the allegations. The Special Rapporteur expresses grave concern regarding the physical and psychological integrity of Mr. Haidar Shihab Ahmad Abdel Latif, whose fate and whereabouts remain unknown. Furthermore, the Special Rapporteur also expresses concern regarding the torture and arbitrary detention of Messrs. Oday Alzaidy, Abdel-Jabbar Shaloub Hammadi, Hadi al-Mehdi, Sharwan Azad Faqi ‘Abdallah, and ‘Ala Nabil, and Firas’ Ali. With regard to the Iraqi security forces’ excessive use of force, the Special Rapporteur reiterates Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, “[l]aw enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms.” Moreover, with respect to allegations of torture, the Special Rapporteur reminds the Government of paragraph 1 of Human Rights Council Resolution 16/23 that “[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.” Accordingly, based on the information received, the Special Rapporteur concludes that the rights of the aforementioned persons have been violated under international standards. He calls on the Government to undertake a prompt and independent investigation, leading to prosecution and punishment of the perpetrators, and to provide full redress to the victims and the victims’ families. The Special Rapporteur urges the Government of Iraq to end the practice of incommunicado detention.

## Morocco

- (a) JAL 03/02/2011 Case No. MAR 1/2011 State reply: 10/03/2012 **Allégation de torture et de mauvais traitements par les forces de sécurité.**

175. Le Rapporteur spécial remercie le Gouvernement du Maroc de sa réponse à la communication envoyée le 10 mars 2012 concernant l’allégation de à la communication envoyée le 3 février 2011 concernant l’allégation de torture et de mauvais traitements par les forces de sécurité. Selon les informations reçues, des forces de sécurité marocaines seraient entrées dans le camp Gdeim Izik situé au Sahara occidental, auraient démantelé le camp, ce qui aurait conduit à un affrontement violent entre les résidents du camp et les forces de sécurité. On est indiqué que des personnes sahraouies auraient fait l’objet d’actes de torture et de mauvais traitements aux mains des forces de sécurité marocaines lors du démantèlement du camp, durant leur arrestation et leur détention. Dans sa réponse, le Gouvernement a indiqué que le Rapporteur n’a pas évoqué la réponse des autorités marocaines adressée au HCDH le 22 mars 2011. Entre temps, le 17 février 2013 le Tribunal Militaire de Rabat a prononcé des condamnations contre 25 résidents du camp. Selon les informations le président du Tribunal a rejeté toutes les demandes de la défense tendant à ce que des enquêtes soient menées quant à ces dénonciations, et a rejeté les demandes d’expertise médicales formulées par la Défense notamment sur les dénonciations de viols dont certains des accusés faisaient état. En encourageant le Gouvernement marocain à poursuivre son engagement avec le mandat, le Rapporteur spécial appelle le Gouvernement à enquêter tous les cas de torture, à poursuivre et punir les auteurs des faits, en fournissant une réparation intégrale pour les victimes, y compris une indemnisation équitable et adéquate, et d’empêcher la réitération de telles pratiques.

## Saudi Arabia

- (g) JUA 22/03/2011 Case No. SAU 2/2011 State reply: 24/07/2012 **Alleged detention of protesters.**

176. The Special Rapporteur thanks the Government of Saudi Arabia for its response to this communication in reference to the alleged incommunicado detention and ill-treatment of Mr. Muhammad al-Wad’ani, as well as the arbitrary detention of 24 other individuals. In its reply, the Government of Saudi Arabia states that Mr. Wad’ani was arrested pursuant to a warrant, was informed of his charges, was allowed to communicate with others and receive visitors, and was accorded all due process rights under Saudi law. The Government also notes that Mr. Wad’ani has not lodged any complaint against his arrest or detention, and that he is free to appoint his own lawyer at any time. Furthermore, the Government notes that it has not received any negative reports or complaints regarding Mr. Wad’ani’s health or safety. The Government states that no disciplinary or administrative sanctions have been imposed on

those involved in the arrest and interrogation, nor has compensation been paid to Mr. Wad'ani and his family. Regrettably, however, the Government did not mention the cases of the 24 other individuals who, according to the allegations, were arbitrarily arrested for their involvement in anti-government protests. In connection with the alleged mistreatment of Mr. Wad'ami, the Special Rapporteur wishes to remind the government international standards require the State to investigate *ex officio* and without relying on the victim's initiative to complain, whenever there is reason to believe that torture has occurred. For that reason, he urges the government to conduct a prompt, independent and impartial inquiry into the matter and to remain engaged with the mandate.

## South Africa

- (a) JAL 16/09/2011 Case No. ZAF 2/2011 State reply: 19/10/2011, 31/01/2012, 29/02/2012  
**Alleged rape of sex worker by police while in detention.**

177. The Special Rapporteur thanks the Government of South Africa for its response to this communication in reference to the alleged arbitrary arrest and rape of a sex worker by police officers. In its reply, the Government of South Africa states that there is no evidence that the alleged rape took place, and further notes that many past allegations of sex worker abuse have been vague and unfounded. The Government also notes that in some instances, courts have taken legal action against members of the police force and that statutes dealing with domestic violence, abuse, and torture are currently in place, or are being discussed. The Special Rapporteur, however, regrets that no further information has been provided by the Government in relation to the allegations of sexual abuse. The Special Rapporteur refers to his report to the Human Rights Council (A/HRC/7/3, para. 69), in which he stressed that "rape and other serious acts of sexual violence by officials in contexts of detention or control not only amount to torture or ill-treatment, but also constitute a particular egregious form of it, due to the stigmatization they carry." The Special Rapporteur also would like to draw the attention of the Government to article 4 (c) and 4(d) of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of states to exercise due diligence to prevent, investigate and punish acts of violence against women, as well as articles 7 and 12 of the UN Convention against Torture, which require states to conduct prompt and impartial investigations wherever there are reasonable grounds to believe that torture has been committed, and to prosecute suspected perpetrators of torture. The Special Rapporteur determines that insufficient evidence has been provided in order to determine whether the State has acted in conformity with its obligations under international law. The Special Rapporteur urges the Government to provide more detailed information on the investigations that have been carried out, and to prosecute and punish the perpetrators of the alleged torture, and to provide redress to all victims.

## United States of America

- (h) JUA 19/08/2011 Case No. USA 15/2011 State reply: 02/04/2012 **Alleged torture and ill-treatment in immigration facilities.**

178. The Special Rapporteur thanks the Government of the United States of America for its response to this communication in reference to allegations of torture and ill-treatment in immigration facilities. According to the information received, 16 gay and transgender individuals have allegedly been subjected to solitary confinement, torture and ill-treatment, including sexual assault, while in detention in U.S. immigration facilities. Furthermore, there was reportedly a lack of protection from persecution and respect for the principle of non-

refoulement for those who risk torture if returned to their home countries on account of their sexual orientation, gender identity or HIV status. In its reply, the Government of the United States indicated that it is currently investigating these allegations, but has not provided any further details. The Government also refused to comment on whether the standards under the Prison Rape Elimination Act (PREA) would be extended to include immigration detention facilities. The Government stated that a wide variety of complaint, investigation, and medical assistance mechanisms have been established in immigration facilities, and that it is currently revising its prisoner risk assessment procedures and general detention standards, so as to provide enhanced protection to LGBT detainees. The Government, however, did not specify the exact measures that will be adopted under these initiatives. The Special Rapporteur would like to draw the attention of the Government to paragraph 6 of General Comment No. 20 of the Human Rights Committee, to article 7 of the Basic Principles for the Treatment of Prisoners, to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the Standard Minimum Rules for the Treatment of Prisoners, particularly rule 22 (2). Given the lack of evidence to the contrary, the Special Rapporteur determines that the rights of the aforementioned victims have been violated under the Convention against Torture. The Special Rapporteur calls on the Government to ensure the continued investigation of the allegations, and to prosecute and punish those responsible, and to provide the victims with fair and adequate compensation and rehabilitation.

- (i) UA 29/11/2011 Case No. USA 21/2011 State reply: 17/02/2012 **Alleged prolonged solitary confinement used on individuals suspected or convicted of terrorism-related charges.**

179. The Special Rapporteur thanks the Government of the United States of America for its response to this communication regarding the alleged prolonged solitary confinement of individuals suspected or convicted of terrorism-related offences. According to the information received, Mr. Syed Fahad Hashmi, Mr. Zaid Safarini, and other individuals have allegedly been held in prolonged solitary confinement, including during pre-trial detention. Furthermore, these prisoners have allegedly not been provided with adequate mechanisms through which they can challenge the conditions of their confinement. In its reply, the Government of the United States explained that 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. The Government further states that inmates under SAMs and other forms of solitary confinement are afforded adequate due process, and are given reasonably prompt notification of the conditions of their confinement. In regards to Mr. Sarafini, the Government states that he was not subjected to SAMs, but does not state whether or not he was subjected to other forms of solitary confinement. The Government does not address the case of Mr. Hashmi. The Special Rapporteur reiterates that the practice of solitary confinement can amount to cruel, inhuman or degrading treatment or torture, due to the punitive nature of the punishment and the pain and suffering it may inflict on the accused. The Special Rapporteur further draws the Government's attention to article 7 of the Basic Principles for the Treatment of Prisoners, which provides that "efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged." In the absence of contrary evidence, the Special Rapporteur determines that the victims' rights under the UN Convention against Torture have been violated, and calls on the Government of the United States to undertake a prompt, independent and effective investigation of these facts, leading to prosecution and punishment of the responsible parties, and to provide redress to the victims.

## Uzbekistan

- (d) JUA 09/12/2011 Case No. UZB 4/2011 State reply: 05/06/2012 **Alleged ill-treatment and on-going detention of members of the Human Rights Society of Uzbekistan (HRSU).**

180. The Special Rapporteur thanks the Government of Uzbekistan for its reply, dated 5 June 2012, to this communication in reference to the alleged torture and mistreatment of Mr. Nasim Isakov, Mr. Zafar Rahimov, Mr. Khabibilla Okpulatov, Mr. Alisher Karamatov, and Mr. Gaybullo Jalilov while in detention. The Special Rapporteur would like to reiterate 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.” Based on the information received, the Special Rapporteur determines that the rights of the victims under the UN Convention against Torture have been violated, and calls on the Government to conduct a complete and impartial investigation into the aforementioned allegations. The Government must also offer reparations and rehabilitation services to the named victims. The Special Rapporteur encourages the Government to remain engaged on this matter and to provide the Rapporteurship with the results of all investigations.

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