

(more3)

Haiti

314. The Special Rapporteur continued to receive a large number of allegations of extrajudicial executions, disappearances, death threats or acts of harassment or intimidation in Haiti. Violations of the right to life were reported to have been carried out by members of the army or of the police, as well as by attachés, armed civilians said to operate as auxiliaries to the security forces, and groups constituted by soldiers in civilian clothes known as "Zenglanders".

315. During the spring of 1993 and again in the month of August, an upsurge of such violations was reported, particularly in the capital, Port-au-Prince. Increased acts of violence directed at supporters of President Jean-Bertrand Aristide were said to reflect the security forces' unease at the agreement signed on 3 July 1993 by President Aristide and Commander-in-Chief of the Armed Forces, General Raoul Cédras, which provided for the return of the former on 30 October 1993. Since this agreement was signed, at least 100 people were reported to have been killed. Many of the victims were said to have been journalists attempting to report incidents of human rights violations or others who had sought to exercise their right to freedom of expression by putting up posters, selling papers or handing out leaflets in support of President Aristide.

316. The Special Rapporteur was further informed that impunity continued to be the general rule in cases of violations of human rights. It was reported that, almost without exception, members of the security forces and other forces collaborating with them or acting with their acquiescence were not asked to account for their actions.

317. In this context, the Special Rapporteur also wishes to refer to considerations regarding the right to life contained in the report submitted by the Special Rapporteur on the situation of human rights in Haiti, Mr. Marco Tulio Bruni Celli, to the General Assembly in November 1993 (A/48/561).

Communications sent

318. The Special Rapporteur transmitted to the de facto authorities in Haiti allegations he had received concerning violations of the right to life of 115 persons, including at least two minors and six women. At least 15 cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

319. The Special Rapporteur sent four urgent appeals to the de facto authorities of Haiti by which he expressed concern for the life and physical integrity of: Jean Emile, journalist, and Gisèle Saint-Firmin, mother of a supporter of President Aristide, allegedly subjected to severe torture in detention and denial of medical care; Dilya Elyasen, Franki Mas, Selo Mas and Jenò Mas, reportedly tortured while in detention (2 February 1993); 17-year-old Francilien Julien and other children and staff members of an orphanage created by President Aristide, after death threats from a group of attachés (3 June 1993); Evans Paul, former mayor of the capital, reportedly under death threats from a group of some 200 attachés, after two of his supporters, including Bayard Edrice, had been killed by the same group (20 September 1993); Jean-Claude Bajoux, human rights activist and Vice-President of KONAKOM, an organization supporting President Aristide, and his wife, Sylvie Bajoux, after being attacked at their home by armed men said to act in cooperation with the security forces (18 October 1993).

320. In his urgent appeal of 20 September 1993, the Special Rapporteur also expressed concern at the wave of political violence initiated on 8 September 1993 and reports about the existence of a "hit-list" of 21 supporters of President Aristide to be executed by the attachés. In this context, the Special Rapporteur also

asked the de facto authorities to open an investigation in the alleged killing during a mass of Antoine Izméry and Fritz Jocelyn.

321. The Special Rapporteur also transmitted to the de facto authorities of Haiti more than 100 cases of alleged extrajudicial, summary or arbitrary executions, which were said to have taken place in 1992, including the following:

(a) The following persons, most of them supporters of President Aristide, were said to have been killed by armed men suspected of acting with the acquiescence of the security forces: Marcel Almonaty, Ernest Rosembert, "Ti Bateau", Gabriel Joseph, Jean-Claude Michel, and three unidentified women. Two members of KONAKOM were also said to have been killed in the same circumstances: Jacques Démoncourt and Marcel Fleurzile;

(b) The following persons had reportedly been killed by the so-called "Zenglenderos": André Jean Joseph and his wife, and 10 unidentified persons;

(c) The following persons were reportedly killed by members of the armed forces, either because they were supporters of President Aristide, or for personal reasons: Amos Mervil, Jean Time, Jean-Charles Misidor, Jean Dadi ("Ti Dadi"), "Ti Blau", Antoine, Gary Jeanty, Lachenais St. Vilus, Paul Vilfranc, Jean Sony Philogane, and five unidentified persons.

322. The Special Rapporteur also transmitted the case of 40 persons who were reportedly killed when members of the armed forces opened fire on a small boat. The victims included: Coreus Peterson, Emile Wilberhard, Ghislaine, Irma, Josue, Pierre Wilfrid, Jean Potin, and Tilous Taylor.

Communications received

323. The de facto authorities of Haiti replied to the Special Rapporteur's urgent appeal dated 10 September 1992 concerning the case of Jude Damus (E/CN.4/1993/46, para. 314), who had been ill-treated while in custody. They reported that he had been released shortly after his arrest, on the intervention of the Commissioner of Jérémie (11 December 1992). A reply was also provided concerning the urgent appeal sent by the Special Rapporteur on 2 February 1993: the case had been transmitted to the competent authorities for investigation (18 February 1993).

Observations

324. The Special Rapporteur expresses deep concern at the reported upsurge of political violence in Haiti. Reports of killings of those attempting to exercise their right to freedom of opinion and expression were particularly disturbing. The Special Rapporteur regrets that the United Nations human rights mechanism which had started to operate in Haiti was forced to interrupt its activities; he wishes to establish cooperation with this operation when it resumes its work. The Special Rapporteur emphasizes that the long-lasting cycle of violence and impunity in Haiti must be terminated. The perpetrators of human rights violations must be brought to justice and measures must be designed to prevent the recurrence of such acts of violence.

Honduras

Communications sent

325. The Special Rapporteur transmitted to the Government of Honduras allegations he had received concerning the extrajudicial, summary or arbitrary execution of Juan Humberto Sánchez, Abraham Vasquez Lazo, 16-year-old Karla Patricia Galindo, and Luis Alfonso Alcántara, allegedly killed by members of the

military; as well as Francisco Andres Alvarenga Mena, reportedly shot by police in excessive use of force. All of these killings were said to have taken place in 1992.

Communications received

326. At the time of the preparation of the present report, no replies had been received from the Government of Honduras.

India

327. The Special Rapporteur received a number of reports concerning human rights violations in India. In particular, the Special Rapporteur was informed about the persistence of numerous violations of the right to life in Jammu and Kashmir. While armed separatists were said to be responsible for kidnapping and killing government officials as well as members of paramilitary forces and civilians, serious concerns have been expressed over a large number of killings by the Indian security forces. Very often, these killings were said to be the result of torture and ill-treatment in custody. Since the middle of 1992, the numbers of deaths in police and military custody have reportedly risen sharply. In many cases, the detainees were reported to have died after torture, shortly after their arrest. As in past years, torture was said to be widespread throughout India to extract confessions or information. Allegedly, the victims even included policemen. The Special Rapporteur was informed that, in March 1993, the occurrence of killings of detainees had been admitted by a senior Kashmiri official.

328. According to the information received, the Minister of State for Home Affairs and the Governor of Jammu and Kashmir have both stated that every death in custody would have to be accounted for and that the sternest possible action would be taken against those responsible for those killings. It was alleged, however, that this was rarely done. Inquiries were said to be carried out by police or army officials rather than by an independent and impartial body. Allegedly, their findings were almost never published. The Governor of Jammu and Kashmir was said to have ordered several investigations into human rights abuses. In one case, this reportedly led to charges of murder being brought against the Director of the Border Security Forces (BSF). According to information forwarded to the Special Rapporteur by the Indian authorities, action was taken against 171 members of the security forces in Jammu and Kashmir for human rights abuses. Such action consisted of imprisonment for several months and, in some cases, years, of security forces personnel, as well as dismissals from service, reductions in rank, suspensions or other departmental penalties. The authorities also informed the Special Rapporteur that during 1992, action was taken against 37 security forces personnel in Punjab.

329. Human rights violations perpetrated by members of the security forces were also reported in Punjab. A large number of suspected members or sympathizers of armed opposition groups or their relatives were said to have been killed in police custody, often after torture. The authorities reportedly attribute most of these deaths to armed encounters between militants and security forces. Deaths in custody and disappearances are said to be encouraged by the fact that existing legal safeguards against unacknowledged detention are often not adhered to.

330. According to information provided by the Government of India, between 1988 and 1992, armed separatists were responsible for the killing of 4,602 persons, including 508 members of the security forces, in Jammu and Kashmir and more than 10,000 persons, including over 1,400 policemen, in Punjab.

Communications sent

331. The Special Rapporteur transmitted to the Government of India allegations he had received concerning

violations of the right to life of 215 persons, including one identified minor. More than 190 persons were reportedly killed in violation of their right to freedom of opinion and expression, peaceful assembly and association.

332. The Special Rapporteur sent four urgent appeals to the Government of India in which he expressed concern for the lives and physical integrity of Satnam Singh (22 December 1992) after reports about his alleged abduction by police; Mohinder Singh Grewal and D.S. Gill, Secretary-General and Chairman, respectively, of the International Human Rights Organization (IHRO), after allegations of death threats during police interrogations (5 April 1993); Umrao Singh (27 April 1993) and Nazir Ahmed Nisri (29 June 1993), both reportedly held in unacknowledged police detention.

333. The Special Rapporteur also transmitted to the Government of India the following cases that had been brought to his attention:

(a) The alleged extrajudicial killing of at least 53 civilians during an operation by the BSF in the village of Sopore; and of at least 137 people by members of the security forces who were carrying out official orders to suppress violent mobs but who allegedly fired on peaceful demonstrators and other people in Bombay, during the week following the destruction of the Babri Masjid in Ayodhya;

(b) The alleged extrajudicial execution by Indian security forces of Abdul Ahad Magrey and Imtiaz Ahmed; Hamida Mattoo; 10-year-old Ahmed Bilal and his parents; and three unidentified persons when security forces opened fire against demonstrators protesting the killing of Ahmed Bilal and his family;

(c) The killing, by gunmen allegedly linked to the security forces, of human rights activist H.N. Wanchoo; Dr. Farooq Ahmed and Dr. Abdul Ahad Guru, two surgeons who had documented numerous cases of torture; and the latter's brother, Ashiq Hussain, during Dr. Guru's funeral;

(d) The deaths, allegedly as a result of torture while in police or military custody, of: Satyavan; Vidyadhran; Manzoor Ahmed Ganai; police constable Riaz Ahmed; Nandagopal; Vikal Kumar; and Rajinder Prasad.

334. In the light of these allegations and, in particular, of the fact that similar reports had come before the Special Rapporteur over a number of years, the Special Rapporteur conveyed to the Government of India his interest in carrying out a visit to that country with a view to being in a better position to evaluate the situation and, consequently, proposing constructive recommendations that may help prevent the recurrence of such violations. With reference to the particular problem of deaths in custody due to ill-treatment, it was suggested that such a visit could be carried out jointly with the Special Rapporteur on the question of torture.

Communications received

335. The Government of India provided the Special Rapporteur with information about investigations carried out into the killings of Dr. Guru and his brother A. Hussain, as well as human rights activist H.N. Wanchoo, which were said to have been committed by armed militants (17 November 1993).

Follow-up

336. The Special Rapporteur sent a letter to the Government of India in which he expressed his appreciation for a number of replies forwarded to him during 1992 and in early 1993, in response to allegations transmitted to the Indian authorities in 1992. In several cases of alleged death in custody due to torture, the Government of India had reported that inquiries had been initiated and, as a result, charges filed against members of the security forces. The Special Rapporteur asked the authorities to provide him with general information about the procedures followed to investigate such cases and about the current status of decisions, if any, concluding the inquiries into the specific incidents transmitted by him, as well as details about the organs carrying out those inquiries.

337. Where the Government of India had informed the Special Rapporteur that investigations had been initiated but had failed to determine that security forces personnel were responsible for having committed any offence, he asked for details concerning the investigations, in particular whether autopsies had been carried out. Specific information was also requested in a number of cases where the Indian authorities had informed the Special Rapporteur, for example, that a person had died due to head injuries after a scuffle with security forces personnel during his arrest, or where it was not clear whether an autopsy had been performed to determine the cause of death.

338. During his visit to Geneva in November 1993, the Special Rapporteur met with representatives of the Government of India who informed him about efforts made by the Indian authorities to ensure full respect for human rights. In particular, a Human Rights Commission Bill had been prepared by the Government and introduced in Parliament on 14 May 1993. On 28 September 1993, the Government of India issued the Protection of Human Rights Ordinance 1993 providing for the establishment of a National Human Rights Commission, State human rights commissions and human rights courts. The Special Rapporteur was also provided with details on a number of killings committed by armed separatists in Jammu and Kashmir.

339. With regard to a possible visit to India, the Special Rapporteur was informed by the Government of India that it was preferable to let the newly established human rights mechanisms deal with allegations of violations of the right to life.

Observations

340. The Special Rapporteur highly appreciates the willingness to cooperate shown by the Government of India in forwarding to him details concerning a number of cases of alleged extrajudicial, summary or arbitrary executions as well as information about measures to increase protection of the right to life. The Special Rapporteur welcomes the recent legislation providing for human rights commissions and human rights courts in India and hopes that these organs will become operational soon and contribute to full and impartial investigation of human rights violations with a view to identifying and punishing those responsible and compensating the victims, as well as to preventing similar abuses in the future.

341. The Government of India informed the Special Rapporteur on repeated occasions that most human rights violations occur in the context of fighting terrorist movements in the States of Jammu and Kashmir and Punjab. The Government also stated that even in such circumstances, no extrajudicial executions should occur. The Special Rapporteur entirely agrees with the Government of India that respect for the right to life must be fully ensured, even where the security forces are faced with the difficult task of fighting an armed opposition which often does not show respect for the right to life.

342. The Special Rapporteur remains concerned at allegations of violations of the right to life that continue to come before him. He will continue to monitor the situation closely. As concerns the possibility of a visit to India, the Special Rapporteur informed the representatives of the Government of India that he did not intend to carry out tasks which fall within the competence and responsibility of national institutions charged with the investigation of human rights violations but to seek first-hand information which would provide him with a better understanding of the situation and the problems faced by the authorities with respect to the right to life. This, in turn, would enable him to better evaluate the information that comes before him and offer his assistance in the efforts directed at providing better protection for the right to life.

Indonesia

343. The Special Rapporteur received a number of reports suggesting that serious violations of the right to life continue to be a common occurrence in Indonesia and East Timor. The Government's counter-insurgency

operations reportedly entailed a large number of extrajudicial executions and disappearances at the hands of security forces personnel. Executions and disappearances were also said to be used by the authorities as an instrument to deal with other perceived threats to national security such as ordinary criminal activity and peaceful political opposition.

344. According to the information received, East Timor continued to be particularly affected by violations of the right to life perpetrated by the Indonesian security forces. At least 40 persons were said to have been extrajudicially executed by members of the security forces in 1992. The whereabouts of more than 200 persons who allegedly disappeared after the killing of more than 50 persons on 12 November 1991 at Santa Cruz were reportedly not known at the end of 1992. Many of them were feared to have been killed and buried in anonymous graves outside Dili or thrown into the sea.

345. A similar pattern of extrajudicial executions and disappearances was reported in Aceh. Although the scale of violations of the right to life in this region was said to have diminished since the peak of the Government's counter-insurgency campaign between 1989 and 1991, politically motivated executions and disappearances allegedly continued to occur in 1992, and there had reportedly been no fundamental change in the conditions which allowed them to occur. Fears were therefore expressed that there was a real danger of the emergence of a similar pattern of violations in the context of future counter-insurgency operations in Aceh or in other parts of the country.

346. Extrajudicial executions, in particular killings of detainees while in custody and of suspected criminals, were also reported in Jakarta and other major cities. Police authorities were said to have defended the use of lethal force in what was described as a "shoot-to-kill" policy, stating that this was necessary to counter criminality in the city. Military and police were also reported to employ excessive use of force to disperse peaceful demonstrations and strikes.

347. According to several reports, the perpetrators of human rights violations enjoyed virtual impunity. With very few exceptions, those responsible for unlawful killings or disappearances are not prosecuted or convicted. None of the 10 members of the security forces tried before a military tribunal in connection with the November 1991 killings at Santa Cruz was charged with murder; all reportedly received only light sentences for disciplinary offences.

348. The establishment, in August 1992, of a human rights committee by some members of the Dewan Perwakilan Rakyat and the announcement, in January 1993, by President Suharto of plans to establish an independent national human rights commission in the near future were reported as positive steps towards increased protection of human rights. However, at the time of the preparation of the present report, the Special Rapporteur had not received any detailed information about the working of these institutions.

Communications sent

349. The Special Rapporteur transmitted to the Government of Indonesia allegations he had received concerning violations of the right to life of 32 persons, including one minor and one woman.

350. The Special Rapporteur sent three urgent appeals to the Government of Indonesia in response to reports he had received concerning:

(a) The imminent execution of Khong Thavorn Kamjal, a Thai seaman sentenced to death in 1988 for drug smuggling, allegedly in breach of fair trial guarantees (31 December 1992);

(b) Military operations carried out by the Indonesian security forces to counter movements advocating independence in the province of Irian Jaya, which were alleged to entail human rights violations, including the extrajudicial, summary or arbitrary execution of civilians. The killing of Hans Soaf was cited as an example of

such violations. The members of the security forces were said to act with impunity (29 September 1993);

(c) Alleged death threats by members of the police, or with their complicity, against Ahmad Jauhari, a lawyer working in a legal aid institute, for his involvement in a land dispute (18 October 1993).

351. The Special Rapporteur also transmitted to the Government of Indonesia a number of specific cases which were said to have occurred in Aceh and which concerned the following civilians, allegedly killed by members of the Indonesian Army:

(a) Nurdin Usman Murni, Nurdint Patang, Ibrahim Keumala, Jamaluddin Usman, Sulaiman Tjot Hurong, Ahmad Rusil, Hasan Geusjik, Ihum Hamzah Teungku, Seuman Geusjik, Umar T. Tangse, Iljsa Ali, Utoih Yusuf, Rusii Atjeh, Adnan Ahmad, T. Husan and N. Ismail, who were reportedly killed by soldiers with no apparent reason;

(b) Zulfikli, who was reportedly arrested and forced to join the army's counter-insurgency operation. He was then allegedly shot dead for "trying to escape";

(c) Geusjik Umar Mahmud, a leader of the Free Aceh Movement, allegedly shot dead by the army;

(d) Bang Lah Meuleuweuek, who was reportedly arrested by soldiers looking for her husband. Her dead body was later found bearing marks of torture and of several bullet wounds;

(e) A. Djaill Kasem, reportedly arrested by the army to identify members of an opposition movement, and later killed for refusing to cooperate.

Communications received

352. The Government of Indonesia provided the Special Rapporteur with a reply to his urgent appeal of 31 December 1992 and informed him that Khong Thavorn Kamjai had been found guilty and sentenced to death by the State Court of Samarinda of illegal possession of narcotics, according to article 36 of Narcotics Law No. 9. The verdict was upheld by the Higher Court of Samarinda. There was no proof whatsoever that force had been used to compel him to sign a statement of guilt. Since there was no new element which could be used as proof of his innocence, his appeal to the Supreme Court, a plea for clemency to the President of Indonesia and a request for review of the case by the Supreme Court were all rejected. A second request for pardon from the President was filed, but no decision had been taken at the time of the reply (22 June 1993).

353. The Government of Indonesia also replied to the urgent appeal sent on 29 September 1993 concerning military operations in Irian Jaya: Hans Soaf was alive and his whereabouts were given (22 November 1993).

Observations

354. The Special Rapporteur wishes to express his appreciation for the two replies received from the Government of Indonesia, which are detailed and complete. The Special Rapporteur welcomes the plans to set up an independent national human rights commission. He hopes that this institution will be able to investigate effectively allegations of violations of the right to life in Indonesia and East Timor. The Special Rapporteur wishes to receive all relevant information concerning this commission, such as its composition, tasks, status, powers, etc. He also hopes to be able to establish a relationship of cooperation with the commission as soon as it has begun its work.

355. The Special Rapporteur remains deeply concerned at persistent and grave allegations of violations of the right to life in Indonesia and East Timor. The reports outlined above concerning abuse of force by the security forces in Irian Jaya and by the security forces in Jakarta and other cities are particularly disturbing. The Special Rapporteur is also concerned that perpetrators of human rights violations continue to enjoy impunity.

The Special Rapporteur calls on the authorities to adopt effective measures to prevent the recurrence of violations of the right to life, in particular instances of abuse of force by the security forces.

356. The Special Rapporteur hopes to have the opportunity to participate in the implementation of Commission on Human Rights resolution 1993/97 on the situation in East Timor, in which the Commission urged the Government of Indonesia, *inter alia*, to invite him to visit East Timor. In a communication addressed to the Government of Indonesia, the Special Rapporteur has expressed his interest in carrying out such a visit. The Government of Indonesia replied that the content of this letter had been forwarded to the authority concerned in Jakarta for further careful consideration. The authorities drew the Special Rapporteur's attention to the fact that resolution 1993/97 of the Commission was adopted by a vote which Indonesia and many other member countries rejected. Therefore, Indonesia did not feel compelled to abide by its provisions. It was further stated that the Government of Indonesia would give due consideration to a request for a visit to Indonesia, including East Timor, of any thematic rapporteur, as long as it was based on United Nations consensus resolutions.

Iran (Islamic Republic of)

357. The reports and allegations that have come before the Special Rapporteur indicate that extrajudicial, summary or arbitrary executions continue to occur on a large scale in the Islamic Republic of Iran.

358. As in former years, it was reported to the Special Rapporteur that trial procedures before Islamic Revolutionary Courts which lead to the imposition of the death penalty in an alarmingly high number of cases do not conform to internationally recognized fair trial standards. This was said to affect, in particular, the right to an adequate defence and the right to appeal. In political cases, trials were often said to last only a few minutes. Reportedly, the accused have no access to legal counsel at any stage of the proceedings, and they are denied the right to appeal against conviction and sentence as well as any opportunity to seek commutation of the sentence. Furthermore, hearings are said to be held *in camera*. The use of televised confessions is feared to further undermine the possibilities of a fair trial. It is particularly preoccupying that similar allegations have now been received for several years, without there being any indication of steps taken by the competent authorities towards a change in procedures.

359. The Special Rapporteur also received numerous reports concerning attacks against members of the political opposition to the Government outside the Islamic Republic of Iran. It has been alleged that those responsible are agents with links to the Iranian security forces.

Communications sent

360. The Special Rapporteur transmitted to the Government of the Islamic Republic of Iran allegations he had received concerning violations of the right to life of more than 100 persons, including one identified minor and two women. More than 50 cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

361. The Special Rapporteur sent six urgent appeals in which he expressed concern at the reported imminent execution of death sentences imposed by Islamic Revolutionary Courts on: 51 students of the University of Isfahan (31 December 1992); Abdollah Bagheri (19 March 1993); Salim Saberniah and Mustafa Ghaderi (27 April 1993 and 13 September 1993); 77-year-old Feizollah Mekhoubad (30 June 1993); and Seyed Roh Allah Hashemizadeh (16 July 1993).

362. The Special Rapporteur also transmitted to the Government of the Islamic Republic of Iran the following cases of alleged executions:

(a) Roja Boheilian, allegedly killed by members of a vice-squad; and Bahareh Vejdani (17), allegedly shot dead by a policeman for violating the Islamic dress code;

(b) After having been sentenced to death: Ali Reza Hamidabad, Hamid Kord and Gholam Reza Sagvand in Dezful prison; Mohsen Mohammadi Sabet in Rasht prison; Abbas Sialipour and Gharib Faramarz in Karaj; four unidentified people in Torbat-e-Heidarieh; one unidentified person in Mashad prison; Mohammad Zaef Dorrani in Shiraz; four unidentified persons in Sirjan; Kaliman Narou'i and 11 others (names available at the Secretariat) in eastern border areas of the Islamic Republic of Iran; Hossein Panahi in Karaj; Abdol-Latif Ghabishavi in Ahwaz;

(c) Killings of Iranian nationals abroad, allegedly by agents linked with the Iranian security services: Mohammad Hussein Nagdi, representative of the National Council of Resistance in Rome; Mojahed Mohammad Hassan Arbab, also known as Mohamad Khan Baluch, in Karachi; Ali Akbar Ghorbani, also known as Mansour Amini, in Istanbul; Behran Azadfer in Ankara; Delarvir Narou'i and Heybatollah Narou'i in Karachi. These allegations were also transmitted to the Governments of Italy, Pakistan and Turkey.

Communications received

363. The Government of the Islamic Republic of Iran provided the Special Rapporteur with replies to three of the cases transmitted in 1993. With regard to Abdollah Bagheri, the authorities reported that Mr. Bagheri was one of the ringleaders of the "Komala" terrorist group who had confessed to the murder of four persons, and that his case was under investigation by the competent tribunal (13 May 1993). As concerns the case of Feizollah Meikhoubad, it was stated that he had been arrested on charges of espionage for Israel and was now waiting for the final sentence to be issued by the competent court. The Iranian Government requested to be provided with the father's name, date and place of arrest of Salim Saberian and Mostafa Gnaderi, in order to be able to carry out investigations (22 September 1993).

Follow-up

364. The Special Rapporteur received communications from the Governments of Italy and Turkey concerning the investigations carried out by the competent authorities into the killings of Mohammad Hussein Nagdi and Ali Akbar Ghorbani (11 November and 12 November 1993, respectively).

Observations

365. The Special Rapporteur appreciates the information provided by the Government of the Islamic Republic of Iran in reply to some of the cases transmitted in 1993. He would like to note, however, that these replies do not refer to any of the concerns with regard to shortcomings in the guarantees for a fair trial in proceedings leading to the imposition of capital punishment. The Special Rapporteur calls upon the authorities of the Islamic Republic of Iran to fully respect the rights of those facing the death penalty.

366. The Special Rapporteur is also deeply concerned at the reports of extrajudicial killings abroad of persons known to be in opponents of the Iranian Government. In this context, he wishes to express his appreciation for the information forwarded by the Governments of Italy and Turkey, whose authorities are charged with the investigation of the killings that occurred on their national territory.

367. In addition, the Special Rapporteur notes that, should the allegations concerning the killings of two women for having violated the Islamic dress code be substantiated, these are the only cases that have come to his attention during the past year in which the victims have been specifically targeted for being women.

368. The Special Rapporteur would like to refer also to concerns about the right to life expressed by the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, Mr. Reynaldo Galindo Pohl, in the recent report to the General Assembly (A/48/526).

Iraq

369. The reports and allegations that have come before the Special Rapporteur indicate that human rights violations, including extrajudicial, summary or arbitrary executions, continue to occur in Iraq on a large scale, in particular, attacks by the military on villages. In this context, the Special Rapporteur wishes to refer to reports of indiscriminate bombardment of civilian settlements and arbitrary killings in the Southern Marsh areas, allegedly resulting in the death of large numbers of civilians, including women, children and the elderly. These are contained in the report recently presented to the General Assembly by the Special Rapporteur on the situation of human rights in Iraq, Mr. Max van der Stoep (A/48/600).

370. The Special Rapporteur also received reports expressing concern at the practice of capital punishment in Iraq. Under legislation passed by the Revolutionary Command Council, offences like car theft or smuggling of cars were made punishable by death.

Communications sent

371. The Special Rapporteur transmitted to the Government of Iraq allegations he had received concerning violations of the right to life of at least 24 persons, 11 of them minors.

372. The Special Rapporteur sent an urgent appeal to the Government of Iraq after being informed about an attack on the Kurdish village of Arwina, where members of the Arab Lahib tribe were said to have shot indiscriminately at civilians. The Iraqi military allegedly supported the attack by shelling from military bases. Thirty people were said to have been killed, 17 of whom had been identified (names available at the Secretariat) (6 April 1993).

373. The Special Rapporteur sent a second urgent appeal to the Government of Iraq after being informed that the following persons had been sentenced to death for stealing and smuggling cars and faced imminent execution: Salah Mahdi Mezahim, Ali Salih Abood, Ali Mohammed Abdullah, Fouad Jwad Kadhim, Ali Murad Ali and Qasim Mohammed (15 April 1993).

374. The Special Rapporteur also transmitted to the Government of Iraq the case of the killing, allegedly by armed men linked with Iraqi security forces, of Vincent Robert Ghislain Tollet, a Belgian national and humanitarian aid worker, near Sulaymania.

Communications received

375. The Government of Iraq provided replies to all cases transmitted by the Special Rapporteur in 1993.

(a) With regard to the attack on Awina village, the Government reported that an exchange of fire took place between peasant families after an argument had broken out over the use of farm land belonging to one of them. Casualties resulted from the gunfight which lasted until nightfall. Subversives later exploited this situation by claiming that they had been wounded in an alleged attack. There were no military units in the area in which the incident occurred, and military personnel did not participate in the attack (27 April 1993);

(b) With regard to the death sentence against six persons convicted for stealing and smuggling cars, the Government of Iraq informed the Special Rapporteur that the death penalty was prescribed by Iraqi law for anyone who commits the offence of vehicle theft, in accordance with Revolution Command Council Decision No. 13 of 1992, which was promulgated with a view to curbing vehicle thefts in wartime. The six persons referred to in the Special Rapporteur's urgent appeal had stolen cars; four had also committed the offence of vehicle smuggling. They were tried before the competent court and benefited from all the standard safeguards for their defence (5 July 1993);

(c) As concerns the case of Vincent Tollet, the Government of Iraq stated that the Iraqi authorities were not responsible for any event in the northern zone. The central Iraqi authorities had not been present in the area for more than two years, due to the flagrant interference of the coalition forces in the region (19 October 1993).

376. Furthermore, the Government of Iraq provided information concerning an urgent appeal sent by the Special Rapporteur in 1992, concerning the execution of death sentences against 67 merchants for economic offences such as profiteering (see E/CN.4/1993/46, para. 375). The Iraqi authorities informed the Special Rapporteur that, as a consequence of the economic embargo imposed on Iraq, the civilian population suffered under extremely difficult conditions. In such circumstances, those exploiting the situation to realize immense profits deserved the death penalty, as prescribed by Iraqi law. Accordingly, 44 merchants, who had monopolized large quantities of food items with the aim of later releasing them onto the market when their prices had risen in order to realize an exorbitant profit, were brought to trial where they benefited from fair trial guarantees. Four were released due to insufficient evidence. The others were convicted of the crime of monopoly and sentenced to death, in accordance with Revolution Command Council Decision No. 315 of 1990. As regards 25 merchants allegedly executed on 17 September 1992, the Government of Iraq denied this information and affirmed that it was untrue (3 June 1993).

Follow-up

377. The Special Rapporteur addressed a letter to the Government of Iraq in which he referred to the replies concerning Awina village and the death sentence against the 40 merchants. With regard to the killings in Awina, the Special Rapporteur requested the Government of Iraq to provide him with additional details, in particular, what investigations had been carried out into the incident, and by which authority; whether the conclusions of such an investigation were available; whether those killed or wounded during the exchange of fire had been identified. As regards the death sentences, the Special Rapporteur asked the Iraqi authorities to inform him in detail about the rules of procedure that apply in trials which may lead to the imposition of capital punishment and which other offences were punishable by death under Iraqi law. He also requested to be provided with the names of the four merchants released for lack of evidence against them.

378. The Special Rapporteur also transmitted the contents of the replies to the sources of the allegations for their comments and observations. The source of the information concerning the Awina attack has already replied, providing additional details which reinforce the earlier allegations.

Observations

379. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Iraq in providing him with the above-mentioned replies. He remains concerned, however, at the reports about violations of the right to life which he continues to receive. With particular reference to capital punishment, the Special Rapporteur calls upon the Iraqi authorities to revise its legislation so as to make it better conform to the standards and safeguards contained in the pertinent international instruments.

Israel

380. According to the information that has come before the Special Rapporteur, human rights violations, including extrajudicial, summary or arbitrary executions, continued to occur in the Occupied Territories.

381. Military attacks by Israeli security forces in the Occupied Territories reportedly continued throughout 1992 and the first half of 1993. Large-calibre machine guns, anti-tank missiles, dynamite and shells were said to be employed to destroy houses in which Palestinians suspected of having committed serious crimes, such

as killings of Israelis or other Palestinians, were alleged to be hiding. Concerns were expressed that the massive firepower used in such attacks is excessive and that the destruction of a large number of houses amounts to collective punishment resulting in the deaths of people who were not engaged in any violent activity. A number of reports received by the Special Rapporteur indicate that Palestinians were killed by members of the Israeli military after they had come out of the attacked houses and at a time when they did not pose any threat to the lives of the soldiers, some of them even after they had surrendered without showing any resistance.

382. An upsurge in alleged extrajudicial killings of Palestinian civilians by Israeli forces, including special undercover units, has been reported since the deportation to southern Lebanon of more than 400 alleged supporters of the Islamic Resistance Movement (Hamas) and Islamic Jihad in December 1992. Since then, more than 100 Palestinians were allegedly killed by Israeli security forces. At least 70 of these killings were said to have taken place in the Gaza Strip. More than 30 of the victims were minors. During the month of May, 24 Palestinians were reportedly killed. This is said to be the highest death toll since the beginning of the year. It has been alleged that the Israeli security forces persistently resort to excessive use of force.

383. According to the information received, no steps have been taken by the Israeli authorities to prevent the excessive use of force by members of the security forces.

Communications sent

384. The Special Rapporteur transmitted to the Government of Israel allegations he had received concerning violations of the right to life of 40 persons, including 10 minors and one woman. Ten cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

385. The Special Rapporteur sent three urgent appeals to the Government of Israel in which he expressed concern at the killing of 33 persons (names available at the Secretariat), allegedly by members of the Israeli security forces who resorted to excessive use of force, in the Occupied Territories between December 1992 and February 1993. The Special Rapporteur urged the Israeli authorities to take all necessary steps to prevent such incidents (7 January, 11 February and 5 April 1993).

386. The Special Rapporteur also transmitted to the Government of Israel the following cases of:

(a) Deaths in custody, allegedly as a result of ill-treatment: Mustafa Akkawi, in Hebron central prison; 17-year-old Samir Omar, after having been tortured in Gaza central prison; Muhammad 'Id Hazem, in Hebron central prison; Mustafa Mahmud Mustafa 'Abd-Jadi Barakat, in Tulkarem detention centre; Ayman Sa'id Hasan Nassar, after having been tortured on the way to and in Ashkelon prison;

(b) Killings by members of the Israeli security forces, allegedly in excessive use of force: Ahmad Mustafa As'ad Daqqah Al-Kikh and Amin Mohammad Qasem Rahhal.

Communications received

387. The Government of Israel provided the Special Rapporteur with replies to two of the cases transmitted in 1993 (30 June 1993):

(a) With regard to the death in custody of Mustafa Akkawi, the authorities reported that, according to the investigation carried out, his death was not attributable to an offence but due to natural causes. However, the prison doctor had not acted in accordance with professional norms of behaviour and the General Security Service officer on duty did not act in accordance with what was expected of him under the circumstances. The State attorney had recommended disciplinary measures against them;

(b) With regard to the death in custody of Hazem Eid, the Government of Israel stated that the police

investigation had established that he had hung himself with a noose, without the involvement of any other person.

388. The Government of Israel also provided information with regard to an urgent appeal sent by the Special Rapporteur in 1992 on behalf of Ahmed Salman Musa Qatamesh (see E/CN.4/1993/46, para. 382), informing him that neither the detainee nor his wife had been subjected to torture or ill-treatment, and that he was provided due medical attention (30 June 1993).

Follow-up

389. The Special Rapporteur addressed a follow-up letter to the Government of Israel in which he requested additional information on the investigations carried out to clarify the deaths in custody of Mustafa Akkawi and Hazem Eid, in particular, in what manner the prison doctor and security personnel had failed to fulfil their duties and how the noose had got into Hazem Eid's cell.

Observations

390. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Israel in providing him with the above-mentioned replies. However, he remains concerned at persistent reports of deaths as a result of excessive force, particularly in the Occupied Territories. The Special Rapporteur urges the Israeli authorities to take all necessary measures to prevent such incidents from happening in the future and to ensure full respect for the restrictions on the use of force as set forth in a number of international instruments governing the use of force and firearms by law enforcement officials. He hopes that progress in peace negotiations between the Government of Israel and the Palestine Liberation Organization will create a climate more favourable to the protection of the right to life and encourages both parties to adopt measures aiming at the prevention of further acts of violence leading to loss of lives. Such issues should be addressed in the framework of the negotiations.

Jamaica

Communications sent

391. The Special Rapporteur sent an urgent appeal to the Government of Jamaica after being informed of death threats by prison personnel against Randolph Barette and 25 other inmates of St. Catherine's district prison, Spanish Town, after 4 prisoners were killed during disturbances in the jail on 31 October 1993 (11 November 1993).

Communications received

392. The Government of Jamaica provided the Special Rapporteur with information concerning the cases of Earl Pratt and Ivan Morgan, transmitted to the authorities in 1991 by the then Special Rapporteur, Mr. Wako. The Government reported that, at the time of the reply (15 February 1993), a petition filed with the Judicial Committee of the Privy Council had not yet been considered.

Observations

393. The Special Rapporteur has recently been informed about the judgement passed by the Lords of the Judicial Committee of the Privy Council, the highest court for the member States of the Commonwealth, in the cases of Earl Pratt and Ivan Morgan on 2 November 1993. In this judgement, the Lords concluded that in any case in which execution is to take place more than five years after sentence there will be strong grounds for believing the delay is such as to constitute "inhuman or degrading punishment or other treatment" and

advised Her Majesty that the death sentences against Earl Pratt and Ivan Morgan be commuted to life imprisonment. Observers have stressed the bearing of this decision on a large number of cases in various Commonwealth countries where prisoners have been on death row for more than five years.

Kenya

394. The Special Rapporteur received information according to which two investigations - one sponsored by the National Council of Churches of Kenya and another by a parliamentary committee - had concluded that a considerable portion of those killed during inter-ethnic clashes in western and central Kenya during the first months of 1992 had been victims of extrajudicial executions. A group called "Kalenjin warriors", allegedly closely linked to senior officials of the Government and the Kenya African National Union (KANU), was indicated as one of those responsible for the killings. The committee recommended that allegations against certain named government and KANU officials, including the Vice-President, be investigated.

395. According to the information received, in October 1992, the full Parliament, composed solely of KANU members, rejected the report by the committee. To date, no action is said to have been taken to bring to justice any of the officials allegedly responsible.

Communications sent

396. The Special Rapporteur transmitted to the Government of Kenya information he had received concerning the alleged failure of the authorities to carry out exhaustive and impartial investigations into the killing, in February 1990, of former Minister Robert Ouko, and into the extrajudicial executions, allegedly by anti-riot police, of Omar Khalid Alimedi, Said Qalatin and "Kidochi".

397. The Special Rapporteur also communicated to the Government of Kenya the concerns summarized above and asked to be provided with comments and information regarding these allegations.

Communications received

398. The Government of Kenya forwarded replies to the cases brought to its attention and informed the Special Rapporteur that the case of Robert Ouko was before the courts (28 July 1993). As regards the alleged extrajudicial killings by anti-riot police during a demonstration in Mombasa, the Government stated that the police were forced to use firearms after the demonstration had become unruly and riotous and the demonstrators had attacked them with stones, sticks, petrol bombs and other crude weapons. Inquests were opened into the death of three persons (6 August 1993).

Follow-up

399. The Special Rapporteur sent a follow-up letter to the Government of Kenya in which he expressed appreciation at the willingness to cooperate shown by the authorities and asked to be provided with further details concerning the inquest into the deaths of three persons during demonstrations in Mombasa and any steps taken to prevent similar incidents from happening again. In the same letter, the Special Rapporteur referred to information provided by the Government of Kenya in October 1992 concerning three cases transmitted in 1992 (see E/CN.4/1993/46, para. 389). The Special Rapporteur inquired about the current status of those investigations.

Kuwait

400. The Special Rapporteur received reports indicating that proceedings before the Kuwaiti State Security Court leading to the imposition and subsequent execution of death sentences did not conform to internationally recognized fair trial standards.

401. Concern was expressed at alleged violations of the right to an adequate defence. In particular, during pre-trial detention, defendants before the State Security Court were said to have been denied the right to prompt access to their lawyer, the right to challenge the lawfulness of their detention before a court and to obtain their release if the detention was unlawful. In some cases, it was reported that confessions were extracted under duress. It was alleged that convictions were based on such confessions, on written evidence not made available to defendants or their lawyers, or on hearsay testimony of secret witnesses. In addition, the Special Rapporteur was informed that those tried before the State Security Court were denied the full right to appeal. While defendants in ordinary criminal cases are entitled to a review by the Court of Appeal on issues of fact and law followed by a further review of possible legal errors by the Court of Cassation, those tried by the State Security Court were said to be limited to a review of their convictions by the Court of Cassation.

Communications sent

402. The Special Rapporteur transmitted to the Government of Kuwait two urgent appeals upon receiving information that the following 16 persons were at imminent risk of execution after having been sentenced to death by the State Security Court: Ghaleb Abd al-Majid al-Turki, Muhsin Shawkat Taher Hussain, Huda Mustafa Imam, Khalifa and Siham Ibrahim Hussain Ali (28 May 1993); 'Imam al-Din Mahmud Nimr and 9 others (names available at the Secretariat) (20 June 1993); Walid Jassem Mahdi (29 June 1993).

Communications received

403. The Government of Kuwait provided a reply concerning the above-mentioned cases and informed the Special Rapporteur that, with the exception of Huda Mustafa Imam, who was tried in absentia, all were arrested, detained and remanded in custody pending trial after their statements in their own defence had been heard and checked. They had an opportunity to lodge a protest against the order for their remand in custody before the President of the State Security Court or one of its members. They were given the opportunity to secure legal counsel. The death sentences were based on clear and incontrovertible evidence, none of which was extracted under any form of coercion. Sentences passed in absentia are subject to appeal through the objection procedure and the cases must then be retried by the State Security Court in the presence of the accused. Sentences passed in the presence of the accused are also subject to appeal in cassation. Review of death sentences by the Court of Cassation is mandatory. At its hearing on 10 August 1992, the Court of Cassation commuted the sentence of Muhsin Shawkat Tahir Hussein to life imprisonment. On 1 March 1993, the Court decided that it could not consider a review of the sentence passed on Huda Mustafa Imam in absentia until she had been notified of that sentence and given an opportunity to lodge an appeal through the objection procedure. At the time of the reply, all other cases were still being considered by the Court of Cassation (30 September 1993).

Observations

404. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Kuwait. However, he remains concerned that in proceedings before the State Security Court, defendants do not benefit fully from the right to appeal as set forth in the pertinent international instruments, since they are deprived of a stage of appeal which fully reviews the case, both with regard to facts and legal aspects. This full appeal procedure is, however, provided for in ordinary criminal proceedings. In this context, the Special Rapporteur wishes to stress that in trials leading to the imposition of capital punishment all safeguards and guarantees for a fair trial must be fully respected. Accordingly, the Special Rapporteur calls upon the Government of Kuwait to provide for full appeal procedures in trials before the State Security Court and to

ensure that those facing the death penalty also benefit fully from all other safeguards and guarantees as contained in the pertinent international instruments.

Kyrgyzstan

Communications sent

405. The Special Rapporteur sent an urgent appeal to the Government of Kyrgyzstan after being informed about the imminent execution of the death sentence imposed upon Grigory Abramov (15 April 1993).

Communications received

406. At the time of the preparation of the present report, no communications had been received from the Government of Kyrgyzstan.

Lebanon

Communications sent

407. The Special Rapporteur transmitted to the Government of Lebanon allegations he had received according to which eight unidentified civilians had been killed when security forces opened fire on participants in a demonstration in what was described as an act of excessive use of force (29 July 1993).

Communications received

408. At the time of the preparation of the present report, no communication had been received from the Government of Lebanon.

Lesotho

Communications received

409. The Government of Lesotho provided the Special Rapporteur with a reply concerning four cases transmitted in 1992 (see E/CN.4/1993/46, paras. 394-396) and informed him that investigations had been opened into all of them and, at the time of the reply, were still under way (5 February 1993).

Follow-up

410. In response to this reply, the Special Rapporteur sent a letter to the Government of Lesotho in which he expressed his appreciation of the willingness to cooperate shown by the authorities, and requested to be provided with updated information on the progress of the investigations.

Liberia

411. The Special Rapporteur has received alarming reports about violations of the right to life in the context

of the armed conflict opposing the Armed Forces of Liberia (AFL), the United Liberation Movement for Democracy in Liberia (ULIMO) and the National Patriotic Front of Liberia (NPFL). Since the outbreak of the conflict, tens of thousands of civilians are said to have lost their lives. All parties to the conflict were reported to be responsible for extrajudicial, summary or arbitrary executions of persons whom they suspected to be active fighters or sympathizers of either the Monrovia-based Government or the NPFL. Concern was also expressed at the possible involvement of soldiers of the peace-keeping force in Liberia of the Economic Commission of West African States (ECOWAS).

412. The Special Rapporteur received reports of particular gravity concerning the massacre of up to 600 people at a camp for displaced people at Harbel, near Monrovia, on 6 June 1993. A panel of inquiry was sent by the Secretary-General to establish the facts, to examine allegations of responsibility and to make recommendations.

Communications sent

413. The Special Rapporteur sent a letter to the Government of Liberia after he had been informed about the outcome of the investigations carried out by the panel of inquiry into the Harbel massacre. The panel concluded that the killing of nearly 600 displaced persons at Carter Camp was planned and carried out by soldiers of the Armed Forces of Liberia. Fourteen others were murdered by AFL soldiers at another location called Camp A, in walking distance of Carter Camp. The panel had also collected evidence indicating individual responsibility of three members of the military. The Special Rapporteur appealed to the Government to carry out full, independent and impartial investigations into the Harbel massacre with a view to identifying all those responsible and bringing them to justice, regardless of their rank, office or position. He also urged the authorities to take adequate steps to prevent such incidents from happening again in the future, and to compensate the families of the victims.

Communications received

414. At the time of the preparation of the present report, no communications had been received from the Government of Liberia.

Observations

415. The Special Rapporteur would like to express deep concern at massive violations of the right to life in Liberia. However, with regard to this country, he finds himself in the position where reports of such violations can be found almost daily in the mass media, but where very little information has come before him which would enable him to act according to his mandate's procedures. The Special Rapporteur wishes to note, however, that he has recently been informed of an initiative taken by the Special Representative of the Secretary-General to Liberia with the view to establishing a human rights component within the United Nations Observer Mission in Liberia (UNOMIL). The Special Rapporteur would like to indicate his readiness to cooperate in such an effort in any manner that may be considered appropriate, including through a visit to Liberia with the objective of obtaining first-hand information on the situation in the country and making recommendations for better protection of the right to life.

Malawi

416. The Special Rapporteur received a number of reports and allegations concerning violations of the right to life in the context of the campaign preceding the referendum of 14 June 1993 which has led to the end of the one-party system in Malawi. Various supporters of the institution of multi-party democracy had reportedly been victims of death threats and acts of harassment, and in some cases even extrajudicial execution. Those

responsible for violations of the right to life were said to have been the police and security forces, the para-military Malawi Youth League and supporters of the Malawi Congress Party (MCP), which had held the monopoly of political power for 29 years. On several occasions, the security forces were said to have opened fire indiscriminately against participants in peaceful demonstrations. The outcome of the referendum, however, and the fact that on 29 June 1993 the Malawi Parliament, though restricted to the ruling MCP, changed the Constitution to allow opposition parties, have been noted by several observers as positive steps towards increased protection of human rights.

417. The Special Rapporteur also received a number of reports concerning procedural shortcomings that were said to affect trials leading to the imposition of the death penalty. Such trials were reportedly held before "Traditional Courts", which had originally been established by the British colonial authorities for minor offences and later extended to rape, murder and treason. According to the information received, it is incumbent on the prosecution to decide whether a case is heard before the High Court system or the "Traditional Courts". The bench of the latter is said to consist of four chiefs, i.e. local administrative officers, appointed by the President and removable by him, as well as one qualified lawyer who writes the judgement.

418. Allegedly, defendants before "Traditional Courts" have no right to legal representation and do not receive an advance summary of the prosecution evidence in order to prepare their defence. The Traditional Courts (Procedure) Rule reportedly allows the defendant to call witnesses in his or her defence. However, in the trial of Orton and Vera Chirwa in 1983, this right was said to have been denied. In another case, it has been alleged that three anonymous letters were accepted as evidence. Discretion as to the right to appeal reportedly lies entirely with the Minister of Justice, and appeals may be lodged only within the "Traditional Court" system. Concern has been expressed that these procedural shortcomings may seriously affect the safeguards of those facing the death penalty, as provided for in several international human rights instruments.

Communications sent

419. The Special Rapporteur transmitted to the Government of Malawi allegations he had received concerning violations of the right to life of more than 42 persons. Over 40 of them were said to have been extrajudicially executed while exercising their right to freedom of opinion and expression, peaceful assembly and association.

420. The Special Rapporteur sent an urgent appeal to the Government of Malawi after being informed of the imminent execution of the death sentence, imposed by the Central Region Traditional Court, upon Foster Azele Mlombwa, former MCP chairman for Dedza (27 August 1993).

421. The Special Rapporteur also transmitted to the Government of Malawi allegations he had received concerning alleged death threats and attempts on the life of Reverend Emmanuel Chinkwita Phiri and the killing of at least 40 unidentified participants in a demonstration for multi-party democracy, when police were said to have opened fire against them.

Communications received

422. At the time of preparation of the present report, no communications had been received from the Government of Malawi.

Follow-up

423. The Special Rapporteur sent a follow-up letter to the Government of Malawi in which he requested to be informed about the progress of the investigations into the alleged extrajudicial execution of Mkwapatira Mhango (see E/CN.4/1993/46, para. 406). In September 1992, the Government of Malawi informed the

Special Rapporteur that the case had been referred to the appropriate authorities.

Observations

424. The Special Rapporteur is concerned at the reports about grave limitations on safeguards and guarantees to protect those facing capital punishment in Malawi. Without wishing to interfere with the manner in which a State may decide to organize its judicial system, the Special Rapporteur wishes to stress once again that trials leading to the imposition of death sentences must conform to the highest standards of independence, competence, objectivity and impartiality of the judges and all safeguards and guarantees for a fair trial must be fully respected, in particular as regards the right to defence and the right to appeal and to seek pardon or commutation of the sentence. He calls upon the authorities to take appropriate steps so as to ensure that legislation and practice in Malawi conform to the international standards relating to capital punishment and protecting those who may face death sentences.

Malaysia

425. The Special Rapporteur received reports expressing concerns at the presumption of guilt contained in the Dangerous Drugs Act, 1952. Under this law, suspected drug traffickers are presumed guilty until they can prove their innocence. When drugs are found concealed in a bag, box, home, office, shop or car belonging to or being used by the accused, he is presumed to have prior knowledge of the presence of the drugs. It is reportedly a common practice for the police to give cash rewards to informers and agents provocateurs who are able to entrap suspected drug traffickers. Evidence provided by such informers or agents provocateurs is allegedly readily admissible in court for the prosecution of the accused. The death penalty is mandatory for those convicted of drug trafficking.

Communications sent

426. The Special Rapporteur transmitted to the Government of Malaysia allegations he had received concerning the execution by hanging of Hasim Escandar, sentenced to death after having been tried and convicted under the Dangerous Drugs Act, 1952.

Communications received

427. At the time of the preparation of the present report, no communications had been received from the Government of Malaysia.

Observations

428. The Special Rapporteur wishes to express concern at the presumption of guilt contained in the Dangerous Drugs Act, 1952, which constitutes a clear breach of the fundamental right of every defendant to be presumed innocent until guilt is proven through a fair trial, providing for full respect for the right to defence and appeal. Furthermore, the mandatory character of capital punishment for those convicted of drug-trafficking is most disturbing, since it precludes the consideration of any mitigating circumstances. The Special Rapporteur calls upon the Government of Malaysia to review its anti-drug legislation so as to make it conform to the international instruments governing the application of capital punishment and providing for safeguards and guarantees for those who may face death sentences.

Mauritania

429. On 29 May 1993, the Mauritanian Parliament passed a law which grants total amnesty to all members of the security forces who committed offences during a three-year period between 1989 and 1992. During this time, at least 400 black Mauritians were said to have been extrajudicially executed and thousands of others detained for lengthy periods. Many others allegedly disappeared.

430. According to the information that has come before the Special Rapporteur, the majority of these deaths was due to torture and other cruel and inhuman treatment, including extremely harsh conditions of detention. Most victims were said to have been army officers or civil servants belonging to the Pular, Soninké and Wolof ethnic groups from the southern parts of the country. They had allegedly been rounded up after mass arrests in the cities of Nouakchott and Nouadhibou. The families of the victims were said to have repeatedly requested the authorities to provide them with explanations as to the fate of these persons. However, despite political reforms which included the first multi-party elections in 1992, no official investigation was reported to have been opened into human rights violations.

431. Concerns were expressed that the recent amnesty, announced by the Mauritanian authorities as a sign of national harmony, constitutes a serious breach of the Government's obligation under international law to carry out investigations into all human rights violations and to grant compensation to the families of the victims.

Communications sent

432. The Special Rapporteur transmitted these concerns in a letter to the Government of Mauritania, in which he invited the authorities to provide him with comments and observations.

Communications received

433. At the time of the preparation of the present report, the Government of Mauritania had not provided a reply to the aforementioned letter.

434. A reply was received on 30 December 1992 concerning alleged extrajudicial executions brought to the attention of the Government of Mauritania in 1991 by the then Special Rapporteur. The Government explained that investigations into the allegations had shown that incidents involving certain army units had taken place in late 1990, but nobody had been killed by soldiers in cold blood; the military commanders involved had been punished. Since July 1991, the new Constitution protected all citizens against abuses.

Observations

435. The Special Rapporteur wishes to express his appreciation of the willingness to cooperate shown by the authorities of Mauritania. However, he stresses that a State cannot be considered to have carried out its obligation to investigate allegations of human rights violations simply by passing an amnesty law. While it may be politically opportune, under certain circumstances, to exempt from punishment those responsible for certain acts, this must be a very exceptional measure and does not mitigate the Government's obligation to conduct exhaustive and independent inquiries to establish the facts and responsibilities, and to grant compensation to the victims or their families. In the case of Mauritania, it is particularly disturbing that the amnesty law was passed at a moment when such inquiries had been initiated and that, according to the information at the Special Rapporteur's disposal, the authorities have not indicated their willingness to reveal the facts nor any disposition to compensate the victims' families. The Special Rapporteur calls upon the Government of Mauritania to comply with its obligation under international law to do so.

Mexico

436. The information that has come before the Special Rapporteur indicates that extrajudicial, summary or

arbitrary executions continue to occur and that, in many cases, their perpetrators continue to enjoy impunity. The National Commission on Human Rights has reportedly investigated a number of such violations and confirmed that human rights abuses had indeed taken place. However, its recommendations, particularly concerning the arrest of those identified as responsible, were very often said to have not been followed.

Communications sent

437. The Special Rapporteur transmitted to the Government of Mexico allegations he had received concerning violations of the right to life of seven persons:

(a) One case concerned the alleged death in police custody, as a result of torture and ill-treatment, of Pedro Lenin Vilchis Domínguez;

(b) The following persons were reportedly killed in the context of land conflicts: Mateo Vargas Nava, Isidro Vargas Nava and Bulmaro Vargas Najera; Sabino Díaz Osorio and Rodrigo Gómez Zamorano. In these cases, as in the case of the reported murder of José Ramos Núñez, an indigenous peasant, those responsible for the killings are said to be closely linked with representatives of the local authorities. Arrest warrants against them were reportedly issued but not carried out. In addition, an eye-witness to the killing of Mateo Vargas Nava was said to have been threatened with death by judicial police if he presented his testimony to the authorities.

Communications received

438. The Government of Mexico provided the Special Rapporteur with a reply concerning the case of Pedro Lenin Vilchis Domínguez, informing him that the National Human Rights Commission had opened an inquiry into the case and, at the time of the reply, was studying information brought to its attention by judicial authorities of the Federal District (15 June 1993).

439. In the same letter, the Government of Mexico forwarded information concerning four cases transmitted by the Special Rapporteur in 1992. The National Commission on Human Rights had initiated investigations into all of the cases and had issued a number of recommendations to the effect that the conduct of members of the police as well as other State representatives should be examined to establish their responsibility for the killing of Víctor Manuel Oropeza Contreras (see E/CN.4/1993/46, para. 423) and of Tomás Diego García during a police operation in the Indian community of La Trinidad Yaveo (see E/CN.4/1993/46, para. 422). Recommendations concerning the arrest of certain officers had not yet been carried out. With regard to the alleged death threats against Misael García Santiago during this operation, the Government of Mexico informed the Special Rapporteur that the National Human Rights Commission could not find any information in its database. As concerns the killing of Francisco Quijano García (see E/CN.4/1993/46, para. 424), the National Human Rights Commission had recommended that criminal proceedings be opened against the police officers responsible for the extrajudicial killing of his sons Erick Dante, Jaime Mauro and Héctor Ignacio Quijano Santoyo, but did not make any pronouncement concerning his own disappearance and subsequent killing.

Follow-up

440. The Special Rapporteur sent a follow-up letter to the Government of Mexico in which he expressed his appreciation for the willingness to cooperate shown by the Mexican authorities. With reference to the above-mentioned replies, the Special Rapporteur requested to be informed about the functioning of the National Human Rights Commission and, in particular, whether its recommendations were binding. He also inquired specifically about the measures, judicial or disciplinary, adopted with regard to those police agents identified by the National Human Rights Commission as responsible for extrajudicial killings, and whether any compensation had been granted to the families of the victims. Furthermore, the Special Rapporteur asked to be informed about the database referred to in the reply, and about the reasons why recommendations to arrest

certain persons had not been put into practice.

441. In the same letter, the Special Rapporteur also referred to a reply received from the Government of Mexico in 1992 concerning alleged death threats against lawyer María Teresa Jardí (see E/CN.4/1993/46, paras. 420 and 425) and requested to be provided with updated information about the progress of the investigations carried out as well as the measures adopted to ensure her protection.

Observations

442. The Special Rapporteur notes with concern that in a number of cases, recommendations made by the National Human Rights Commission appear not to be followed by the authorities. In particular, this seems to apply quite often with regard to recommendations to detain persons identified by the Commission as responsible for human rights violations. The Special Rapporteur calls upon the competent authorities to ensure that such recommendations are followed and to ensure that all perpetrators of human rights violations are brought to justice.

Morocco

443. The Special Rapporteur received information according to which, one year after the dismantling of the secret prison at Tazmamert and the release of most of the remaining 30 surviving inmates, no investigations had been initiated into the deaths of 33 persons detained at Tazmamert. It was reported that the victims had been held in total isolation and had died of diseases caused by inadequate food and hygiene, as well as neglect and lack of medical attention. Furthermore, the Special Rapporteur was informed that the families of the victims had not been informed of the causes of the deaths of their relatives, and that they had not been granted any compensation.

Communications sent

444. The Special Rapporteur sent a letter to the Government of Morocco in which he transmitted the case of Abdesslam Belkaïd, who allegedly died in Kenitra central prison due to lack of medical attention.

Communications received

445. The Government of Morocco provided the Special Rapporteur with a reply to this letter and stated that the competent authorities had carried out investigations into the case and had established that the prison registry number contained in the communication by the Special Rapporteur did not correspond to the name of Abdesslam Belkaïd. The authorities requested the Special Rapporteur to provide them with the exact name of the person who allegedly died in Kenitra central prison on 27 January 1993 (14 September 1993).

Observations

446. The Special Rapporteur expresses his appreciation of the willingness to cooperate shown by the Moroccan authorities. While contacting the source, in accordance with the follow-up procedures recently initiated, the Special Rapporteur notes that the fact that the registry number does not correspond to the name of the prisoner indicated should not impede the authorities from finding out whether any prisoner by that name had died on or around 27 January 1993 at Kenitra central prison, or whether the prisoner identified through the registry number, although bearing a different name, died due to lack of medical attention.

Myanmar

447. The reports that have come before the Special Rapporteur indicate that human rights violations, including extrajudicial, summary or arbitrary executions, continue to occur in Myanmar.

448. As in former years, such reports contained allegations of gross human rights violations committed by the Myanmar security forces against Muslims in Rakhine (Arakan) State, also referred to as Rohingyas, in what was described as a general pattern of repression against religious or ethnic minority groups. Numerous extrajudicial, summary or arbitrary executions were said to take place in the context of forced labour. Members of minority groups are reportedly taken for porter duty by the military, either as punishment for suspected involvement with armed insurgents or simply at random. While on duty, they are said to be subjected to severe ill-treatment including deprivation of food, water and sleep, beating with bamboo sticks and rifle butts, kicking with heavy boots, burning with cigarettes or slashing with bayonets. When, as a consequence of the hard work under such conditions, they fall ill or become too weak to work, they are reportedly killed by the military or simply left to die. The Special Rapporteur also received reports about deaths in military custody due to torture and ill-treatment.

Communications sent

449. The Special Rapporteur transmitted to the Government of Myanmar allegations he had received concerning violations of the right to life of more than 55 persons, including two minors and two women.

450. The specific cases brought to the attention of the Government of Myanmar concerned:

(a) The extrajudicial execution, by members of the military, of the following persons forced to serve as porters: Abdul Mozid, allegedly beaten to death; Islam Nur, reportedly shot because he could not carry his load of ammunition; Zuri Ahmed, reportedly shot because he could no longer carry his load on a steep hill; Nai Aung Nyein, reportedly beaten to death;

(b) The extrajudicial execution by members of the military of: 17-year-old Zahida, allegedly after having been abducted and raped by soldiers; Abdul Rahman, allegedly shot dead by military intelligence agents who suspected him of being a supporter of the Rohingya Solidarity Organization; Sein U Than, village headman of La Kaing, allegedly accused by soldiers of cooperating with the insurgents; at least 20 unidentified Muslims, allegedly shot dead by Myanmar security forces when they attempted to cross the Naaf river into Bangladesh; at least 17 unidentified persons, when soldiers threw a bomb into a group of people; Nai Aung Hla; two unidentified villagers, allegedly for having refused to perform military service; 82-year-old Mi Shwe U, allegedly when soldiers opened fire indiscriminately on her village; Nai Thein and Nai Aung, allegedly by drunken soldiers who opened fire indiscriminately; 11-year-old Min Aung Soe, reportedly abducted and shot dead by an army firing squad; and Nai Nyunt Maung.

Communications received

451. At the time of the present report, no replies to the cases transmitted in 1993 had been received from the Government of Myanmar.

452. The Government of Myanmar provided the Special Rapporteur with replies concerning cases transmitted in 1992 as well as in 1991, by the then Special Rapporteur. The Government reported that the allegations according to which several persons had been tortured and shot to death (see E/CN.4/1993/46, para. 436 (a)-(c)), were not true and could only be fabricated. Upon his arrest, Mohamed Ilyas (see E/CN.4/1993/46, para. 436 (e)) had received treatment for severe stomach pains but had succumbed to disease.

Follow up

453. The Special Rapporteur addressed a follow-up letter to the Government of Myanmar in which he referred to the aforementioned replies to the cases transmitted in 1992. In particular, he requested to be

informed in detail about the investigations carried out to show that the allegations were fabrications. In the case of Mohamed Ilyas, the Special Rapporteur asked for further details about his death and, in particular, whether an autopsy had been carried out (22 February 1993).

454. In reply to this letter, the Government of Myanmar provided the Special Rapporteur with additional information, stating that Mohamed Ilyas, who had been caught while setting mines and explosives at the public golf course in Maungdaw, had died of a stomach ulcer from which he had been suffering for a long time. This was established by the post-mortem examination carried out by the Township Medical Doctor. With regard to Saing Shwe, the authorities reported that extensive inquiries within the military commands in Shan State had established that no person of that name was killed or wounded in the area and during the period indicated (15 November 1993).

Observations

455. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Myanmar with regard to follow up on cases transmitted in 1992. However, he notes with concern that grave allegations of violations of the right to life continue to come before him. In this context, he wishes to make reference to the recent report of the Special Rapporteur on Myanmar to the General Assembly (A/48/578), which contained details, in particular on the phenomenon of extrajudicial killings of Muslims forced to serve as porters. The Special Rapporteur calls upon the Government of Myanmar to adopt measures to effectively protect the civilian population from abuses by the security forces and, in particular, the Muslim population of Rakhine State.

Nepal

Communications sent

456. The Special Rapporteur transmitted to the Government of Nepal allegations he had received concerning violations of the right to life of 25 persons, including two minors and two women; 22 cases reportedly involved violations of the right to freedom of opinion and expression, peaceful assembly and association.

457. The cases brought to the attention of the Government of Nepal concerned the alleged extrajudicial killings of: Raja Ram Shakya and at least 18 others (names available at the Secretariat), when the police opened fire on demonstrators in Kathmandu and neighbouring towns. One woman, Rita Silpakar, was reportedly killed while watching the demonstrations from her nearby window; Rigzin Tsering, a monk, reportedly by Nepalese Border Guards; Jamyang Kelsand, reportedly shot in the head and killed when police opened fire on a crowd of Tibetans who had crossed the border into Nepal; Kapildev Singh and Bijaya Mahato, killed when police opened fire on a group of people who had gathered at Barahathawa police station, where three students were being tortured. One of them, Kiran Shrestha, reportedly died of the injuries sustained during the beatings.

Communications received

458. The Government informed the Special Rapporteur that Jamyang Kelsand, Kapildev Singh and Bijaya Mahato had died after police were compelled to use force for their own safety. Inquiries were carried out. Those responsible for the killings were identified, but it was not necessary to have penal or disciplinary sanctions imposed on them. The families of Kapildev Singh and Bijaya Mahato received compensation. Kiran Skrestha died of a chronic disease, and from a beating (22 November 1993).

459. The Government of Nepal provided the Special Rapporteur with information concerning nine cases

transmitted in 1992 and informed him that in three of these cases, security forces had to fire in self-defence, killing Om Prakash Yadav, Nathuni Mahato and Sotilal Mukhiya. Immediate investigations had confirmed that the situation required the action taken by police. Financial relief had been provided to the families of the deceased. The deaths of Tularaj Acharya, Poshan Lal Kunwar Danuwar, Ram Saran Yadav, Ram Prasad Singh, Abdul Miya and Dilliram Chouhan were the result of clashes between opposing party workers or local residents. Judicial investigations into these cases were under way (13 August 1993).

Observations

460. The Special Rapporteur appreciates the willingness to cooperate shown by the Government of Nepal in providing him with the above-mentioned replies. He remains, however, concerned at the use of lethal force by security forces and calls upon the authorities to take all necessary steps to prevent similar incidents from happening again in the future.

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