

(more)

Guatemala

Information received and communications sent

141. 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 Guatemala on an alarming scale, despite the peace process initiated between the Government and the Unidad Revolucionaria Nacional de Guatemala (National Revolutionary Unit of Guatemala, URNG). Negotiations had led to the signing, on 29 March 1994, of a human rights accord, and an agreement, in June 1994, on the formation of a Commission for the Clarification of Violations of Human Rights and Acts of Violence which Caused Suffering to the Guatemalan People during the Armed Conflict.

142. The Special Rapporteur continued to receive numerous reports of violations of the right to life. According to a report published by the Archbishop's Human Rights Office of Guatemala in July 1994, more than 160 people had been victims of extrajudicial, summary or arbitrary executions during the first six months of the year. In addition, an increasing number of acts of harassment and death threats were reported. Concern was expressed that those responsible for human rights violations enjoyed, as in former years, virtually complete impunity. Trade unionists, human rights activists, members of popular organizations, journalists, persons linked with the church engaged in activities in favour of marginalized sectors, as well as Guatemalan refugees who had returned from Mexico and people working with them, continued to be particularly targeted. The Special Rapporteur is also concerned at persistent allegations of violence against street children and individuals and organizations trying to improve their situation. As in the past, members of the security forces and of Patrullas de Autodefensa Civil (Civilian Self-Defence Patrols, PAC), were said to be responsible for extrajudicial killings and death threats. With regard to the PAC, the Special Rapporteur continued to receive reports of acts of violence against persons opposing forced recruitment into the ostensibly voluntary PAC. For a comprehensive analysis of the human rights situation in Guatemala, the Special Rapporteur refers to the report presented to the Commission on Human Rights by the Independent Expert on Guatemala, Ms. Mónica Pinto (E/CN.4/1995/15).

143. The Special Rapporteur sent 30 urgent appeals to the Government. In most of them, he urged the authorities to adopt all necessary measures to protect the lives and physical integrity of the following persons whose lives were said to be at risk:

(a) Graciela Esther Barrios Marroquín, a Caritas worker in El Quiché (14 January 1994); Francisco León Guarcas and Manuela Nas, as well as Josefa Macaria Calel, after the killing of their son and husband, respectively, Felipe León Nas, allegedly for his involvement in various development projects in the community of Chiché, El Quiché (7 February 1994); Father Axel Mencos and Father Felipe Neri Quintanilla, priests of Chichicastenango, El Quiché (2 March 1994); Bishop Rodolfo Quezada Toruño, President of the Asamblea de Sociedad Civil (ASC), who had acted as a mediator between the Government and the URNG (6 July 1994);

(b) Estela Nimajuan and her four children between 4 and 12 years of age, after the assassination of her husband Juan Colo Pichol, collaborator of the Auxiliar de Derechos Humanos of Chimaltenango, and human rights activists Mario Colo Martínez and Manuel Chávez Zunún (2 February 1994); Axel Mejía, Coralía Pérez and other collaborators of "Casa Alianza" (2 March 1994); human rights activist Nineth de Montenegro of GAM (Grupode Apoyo Mutuo por el Aparecimiento con Vida de Nuestros Familiares - Mutual Support Group for the Appearance of our Relatives Alive) and trade unionists Byron Morales, Nery Barrios, Armando Sánchez, Perci Méndez, Ernesto Bol and Carlos Enrique Lobos, as well as journalist Adolfo Héctor Ortiz

Barrera (21 March 1994); human rights activists Nineth de Montenegro and her husband Mario Polanco (24 March 1994) as well as the latter's brother Carlos Polanco and Geovany Monroy (31 March 1994); Gustavo Eduardo Lapola and Víctor Hugo Gudiel, members of the Executive Committee of the Students' Association (24 March 1994); trade unionists Nery Barrios, Armádo Sánchez, Dick Fletcher, Humberto Sánchez, Dante Monterroso, José Pinzón, Conrado Alberto Solís, Tránsito de Jesús López, Carlos Enrique Solís Ramos and Félix Hernández, after the killing of trade unionist Germán Alfredo de León Parajón (13 June 1994); trade unionists Diego Lux Tun, Blanca Santos, Luis Arturo Yantuche Morales, Manuel Cortez Pérez, Florencia de Jesús Telmán García, Noé Figueroa, Francisco Roberto Peña, Ricardo Wilson, Noé Peña and Juana Peña, after the killing of Adler Giovanni Wilson, son of Sonia Victoria Wilson, the Secretary-General of the Sindicato de Trabajadores de Mantenimiento y demás Dependencias del Ministerio de Finanzas Públicas (6 July 1994); trade unionist René Cabrera Estrada, after the killing of Efraín Recinos Gómez, Basilio Guzmán and Diego Orozco (15 September 1994); members of the AEU, after the killing of Mario López Sánchez during a demonstration on university premises (17 November 1994);

(c) Juan Enrique Quiñones Schwank, Technical Director of the Asociación para el Desarrollo para América Central (Association for the Development of Central America, ADEPAC) (2 February 1994 and again on 29 April 1994); Pedro Asturias Ruíz, technical counsellor of the Comisiones Permanentes de Representantes para el Retorno de los Refugiados Guatemaltecos en México (Permanent Commissions of Representatives for the Return of Guatemalan Refugees in Mexico) (19 April 1994); former refugees and persons working with them, after the killing of returnee Manuel López (14 November 1994);

(d) Otto Morán, director of the journal "Tinamit", journalist Marco Vinicio Mejía, and other staff of "Tinamit", after the assassination of journalist Víctor Cruz and his daughter María Mejía (14) (5 February 1994)

(e) Judge Yolanda Pérez Ruíz, allegedly for her investigations into alleged human rights violations by members of the military (16 March 1994); Mario Salvador Jiménez, Héctor Raúl Orellana and María Eugenia Villaseñor, judges at the Appeals Court of Guatemala, allegedly in relation with their work on several cases involving members of the security forces (6 September 1994) as well as their bodyguard Miguel Manuel Pacheco Cárdenas (20 October 1994); witnesses in the judicial proceedings concerning the killing of Jorge Carpio Nicolle (31 October 1994);

(f) Street children Luis Antonio Roldán Izeppi (17), Myriam Eugenia Fuentes (14) and Francisco Tziac, as well as Luis Aroldo Vázquez (18 March 1994); Víctor Manuel Alex (16), after having witnessed the killing, allegedly by police, of fellow street child Sergio Manuel Chávez, alias "El Chupado" (14 September 1994); Rigoberto Solórzano, Julio César Chávez Orozco, Víctor Manuel García and other street children, after the killing of fellow street children Rubén García González, Daniel Rosales, Fidel Solórzano, Juan Humberto Ramos Cifuentes and Cecilio Jax (4 October 1994);

(g) Pedro de León Corio, collaborator of the Human Rights Commission of Guatemala, Pedro Bop del Barrio (17), Camilo Bernal Morales and Pedro Bop Caba, by members of the PAC of Chel, El Quiché (21 April 1994); the inhabitants of Panabajal, Chimaltenango, after the assassination of Pascual Serech, member of the Cakchikel indigenous group, reportedly for having opposed forced recruitment into the local PAC (16 August 1994).

144. In addition, the Special Rapporteur urged the Government to carry out exhaustive and independent investigations into human remains found in a clandestine cemetery at Cuarto Pueblo Ixcán which may belong to victims of extrajudicial, summary or arbitrary executions. The Special Rapporteur recommended that internationally renowned forensic specialists be invited to participate in the excavations and analysis of the remains (20 October 1994).

145. The Special Rapporteur also transmitted to the Government the cases of trade unionist Santiago Ramón

Morales Escobar, reportedly killed in November 1993 by gunmen linked to the security forces; Juan Carlos Ruíz Ramírez (15), allegedly shot by a policeman for no apparent reason; Mariano Pérez, reportedly shot by soldiers who accused him of being a guerrilla collaborator; trade unionist Germán Alfredo de León Parejón, allegedly killed by security forces after being tortured. In addition, the Special Rapporteur transmitted to the Government his concern at alleged irregularities in the investigation into the killing of Jorge Carpio Nicolle.

Communications received

146. The Government provided the Special Rapporteur with replies concerning a number of the cases transmitted in 1994, informing him that judicial investigations had been opened into the killing of Felipe León Nas (27 April 1994); the killing of María Eugenia Muñoz Talomé de Mejía and her daughter María Alejandra Palomo Muñoz (14), wife and step-daughter, respectively, of journalist Marco Vinicio Mejía (1 June 1994); the killing of Efraín Recinos Gómez (29 September 1994); and the killing of several persons in the village of Chel (7 October 1994). At the time of the replies, the proceedings were at different stages. In some of the cases, charges had been brought against those presumed to be responsible for the killings or threats. In the case of death threats against the judges Salvador Jiménez Barillas, María Eugenia Villaseñor and Raúl Orellana, the Government also informed the Special Rapporteur that judicial investigations had been initiated. In October 1994, upon return from a trip abroad, María Eugenia Villaseñor had stated that she no longer needed the protection provided by the State security forces, as the threats against her had ceased (29 September and 16 November 1994).

147. In the case of Graciela Esther Barrios Marroquín, the Government pointed out that she had not filed a complaint before any court, as required by law for an investigation to be carried out (18 April 1994). In a later communication, the Government informed the Special Rapporteur that, after a request made by the Human Rights Procurator's Office, police protection was granted to Esther Barrios Marroquín. The Government further reported that, in accordance with the penal law in force, no information could be provided from the files of proceedings that were under investigation (24 August and 22 November 1994). In the case of the killing of trade unionist Germán Alfredo de León Parajón, the Government informed the Special Rapporteur that investigations had been initiated and that a private dispute might be at the root of the killing (19 October 1994). The Government also provided a reply to the Special Rapporteur's urgent appeal of 6 July 1994, informing him that an arrest warrant had been issued as a result of investigations into the killing of Adler Geovani Wilson but the wanted person could not be detained, as his whereabouts had not yet been established (25 November 1994).

Follow-up

148. The Government provided the Special Rapporteur with a number of replies to allegations transmitted in 1993, informing him that judicial proceedings had been opened and were under way at the time of the replies in the cases of the killing of Henry Yubani Alvarez Benítez (see E/CN.4/1994/7, para. 310) (24 March 1994). In the case of Andrés Godínez Díaz and María Pérez Sánchez (see E/CN.4/1994/7, para. 309 (b)), no evidence for the involvement of the PAC could be found. As the investigations were continuing, no further details could be provided (27 April and 25 November 1994). The Government also informed the Special Rapporteur that no torture or ill-treatment had occurred during the detention of Marco Choco Damas, as the latter confirmed himself in a statement signed by him (see E/CN.4/1994/7, para. 308 (c)) (24 March and 25 November 1994). In the case of Pablo Itzep Hernández, Cruz Luz Hernández and Manuel Batén Hernández (see E/CN.4/1994/7, para. 308 (c)), the Government told the Special Rapporteur that a captain of the Guatemalan army had been sentenced to four years' imprisonment and payment of an indemnity to the victims (24 August 1994). As concerns allegations of death threats against Jerónimo Morales Tiriquiz and Tomás Suy Canil, investigations had been opened. After their return to the family home, they no longer complained of any acts of intimidation against them (see E/CN.4/1994/7, para. 308 (c)) (18 March and 25 November 1994). Finally, medical doctor Brenda Mérida (see E/CN.4/1994/7, para. 308 (c)), had not responded to repeated invitations to collaborate in the investigations initiated by the competent tribunal (25

November 1994).

149. On 23 September 1994, the Special Rapporteur addressed a letter to the Government in which he thanked the authorities for the information provided in the aforementioned communications and asked for additional details as to the progress of the investigations and, where appropriate, their results. He also reiterated his request for additional details contained in his follow-up letter of 22 September 1993 (see E/CN.4/1994/7, para. 312), for which no reply had been received from the Government.

Observations

150. In his report to the Commission on Human Rights at its last session, the Special Rapporteur expressed deep concern at the persistent and grave allegations of violations of the right to life that had come before him during 1993 (see E/CN.4/1994/7, para. 313). The reports and allegations brought to his attention during 1994 continue to be most disturbing. The Special Rapporteur calls on the Government to take firm action with a view to putting an end to impunity by conducting exhaustive and impartial investigations into all allegations of violations of the right to life, to identify those responsible and bring them to justice, whatever their occupation, rank or position, grant adequate compensation to the victims or their families and take all necessary steps to prevent further human rights violations. The Special Rapporteur also calls on the authorities to adopt measures to eradicate violations of the right to life in the context of the PAC system. In addition, those lawfully engaged in trade unions and activities aiming at the defence of human rights should benefit from adequate protection measures as a matter of priority. The Special Rapporteur hopes that the implementation of the human rights agreement and the accord on the Clarification Commission may lead to an improvement in the respect for human rights, and calls on the Government and the URNG to make every effort to comply with the agreements and continue the process towards peace and reconciliation in Guatemala.

Haiti

151. According to the reports and allegations received during 1994, the human rights situation in Haiti continued to be precarious. Violations of the right to life, attributed to members of the army or the police, paramilitary groups and armed civilians cooperating with them (attachés), included extrajudicial, summary or arbitrary executions and death threats, directed principally against supporters of President Jean-Bertrand Aristide. Hopes have been expressed that, with the return of President Aristide to Haiti, respect for human rights may improve. With regard to an in-depth analysis of the human rights situation in Haiti, the Special Rapporteur wishes to refer to the report of the Special Rapporteur on the human rights situation there, Mr. Marco Tulio Bruni Celli (E/CN.4/1995/59).

152. During 1994, the Special Rapporteur addressed six urgent appeals to the de facto authorities in Haiti, expressing concern at the alarming scale of violations of the right to life in the country and urging them to take steps to prosecute those responsible for such violations and prevent further acts of violence. In particular, the Special Rapporteur acted upon allegations of the killing of Saurel Guerrier (17) (9 February 1994); the killing of Ronald Pierre, Jance Pierre and Henri Eliassin, as well as fear for the lives of Saintil Alcidor, Jean-Pierre Josué and Fernand Hachette, all members of the Projet Association d'Education des Pasteurs pour le Développement (PAEPD) (15 February 1994); the torture and killing of Harold Fontaine and fears for the life of Dumez Schneider, allegedly abducted together with Harold Fontaine (29 April 1994); fears for the lives of Reynolds Georges, his wife Marie Hélène Georges and Gesnère Hubert, employee at their household (16 August 1994); the killing of 20 to 50 persons, including "Ti Claude" (29 April 1994); and the killing of Father Jean-Marie Vincent (1 September 1994).

Observations

153. The reports and allegations received during 1994 warrant deep concern. The Special Rapporteur hopes that the return of President Aristide may mark the beginning of a new era in Haiti, in which the human rights situation improves. He also hopes that the United Nations mission to Haiti may resume its activities in the near future and contribute to respect for human rights. However, the Special Rapporteur notes with regret that General Cédras and other military leaders responsible for the numerous extrajudicial, summary or arbitrary executions and other human rights violations in Haiti imputed to them enjoy impunity. To the Special Rapporteur's knowledge, there are no attempts to hold the former de facto authorities responsible for human rights violations committed under their responsibility.

Honduras

154. The Special Rapporteur received reports according to which, in late December 1993, Leo Valladares Lanza, the National Commissioner for the Protection of Human Rights, published a preliminary report on disappearances in Honduras between 1980 and 1993, recommending that former and current military and civilian officials responsible for these disappearances be brought to justice. The National Commissioner also recommended reforms of the judicial system and the military. The new Government of President Carlos Roberto Reina, which took office in January 1994, reportedly pledged to implement these recommendations.

155. However, the Special Rapporteur received with concern reports of death threats and intimidation against Leo Valladares Lanza as well as Berta Oliva de Nativí, General Coordinator of the Comité Nacional de Familiares de los Desaparecidos en Honduras (National Committee of Relatives of Disappeared in Honduras, COFADEH) and COFADEH collaborator Dina Meetabel Meza Elvir (urgent appeal sent on 24 March 1994) and of further threats against COFADEH and Jorge Valladares Valladares, assistant to the National Commissioner (urgent appeal sent on 6 July 1994). The Special Rapporteur also sent urgent appeals to the Government on behalf of Carlos Roberto Ventura, allegedly under death threats by members of the security forces after having witnessed the extrajudicial execution of Juan Pablo Laguna Cruz (5 February 1994); and after receiving reports of an attempt against the life of Jorge Alberto Sierra Moncada, member of the Comité para la Defensa de los Derechos Humanos en Honduras (Committee for the Defence of Human Rights in Honduras, CODEH) (16 March 1994). In addition, the Special Rapporteur transmitted to the authorities the case of Rutilio Matute, member of the Xicaque indigenous community, reportedly abducted and later found dead in May 1994. Members of the security forces were said to have been involved in his killing. To date, no reply has been received from the Government to any of these communications.

Observations

156. The Special Rapporteur noted with satisfaction the announcement by the Government of its intention to clarify cases of disappearances and bring to justice those responsible. Reports of threats and attacks against the National Commissioner for Human Rights and his assistant as well as members of human rights organizations, some of which have cooperated with United Nations mechanisms for the protection of human rights for many years, are most disturbing. The Special Rapporteur encourages the authorities to make every effort to implement the recommendations made by the National Commissioner.

India

Information received and communications sent

157. During 1994, the Special Rapporteur received a number of reports and allegations of human rights violations, including extrajudicial, summary or arbitrary executions, in India. Most of these reports referred to

deaths in the custody of the security forces as a result of torture. Concern was expressed that legal safeguards currently in force in India were not sufficient to protect detainees, and those that exist are often disregarded. The Special Rapporteur was informed that legislative proposals were brought before Parliament by the Government in May 1994 with a view to strengthening legal safeguards to protect police detainees from torture. The National Human Rights Commission, established in September 1993, reportedly started investigations into deaths in custody. However, several sources informed the Special Rapporteur that the vast majority of those responsible for deaths in custody, whether police or army personnel, have not yet been brought to justice.

158. The Special Rapporteur sent three urgent appeals to the Government after being informed of fears for the lives and physical integrity of Kanwar Singh Dhama, his wife Kuldip Kaur and their six-year-old son (8 April 1994); detainees in Rajasthan, after the deaths in police custody, allegedly as a result of torture, of Shankarlal Soni, Mahiman Kaushik, Rajendra Singh, Mahesh Jain and Chhitarlal between April and July 1994 (22 August 1994). The Special Rapporteur sent another urgent appeal calling on the authorities to ensure protection of the right to life and physical integrity of detainees after receiving reports of the deaths in police custody, allegedly after torture, of Rajesh Singhal and Tejaram Bill (1 September 1994).

159. The Special Rapporteur also transmitted to the Government allegations he had received concerning the deaths in police custody in the State of Andhra Pradesh during the month of September 1993 of P. Ashalu, Khader Babu, Pochamma and a five-month-old child; the killing, allegedly after torture, by army personnel, of Sara Begum; and the deaths of Udayan, Madan Lal, Gyuani Ram, Babu alias "Iqbal", Dilbagh Singh, Raju Bhujel, Sarabit Singh, Wilson, Ram Singh and Ganesh Bauri, allegedly due to torture while in custody in police premises in various parts of the country.

Communications received

160. In a letter dated 25 November 1994, the Government provided replies to most of the allegations transmitted in 1994. Thus, the Special Rapporteur was informed that a police constable and the cook at the police station at Narwana faced trial for poisoning Ram Gyani (not Guyani); the arrest and suspension, pending preparation of their criminal prosecution, of police personnel who had killed Wilson by beating him with sticks and iron pipes had been requested. In the case of Ram Singh, investigations showed that he had been tortured during police detention, but it could not be determined whether he had died or not. Proceedings against six police officers had been initiated. Proceedings were also under way to inquire into the circumstances of the deaths of P. Ashalu, Khader Baba and S. Pochamma, who had died during detention due to health problems. Furthermore, as regards the killing of Iqbal Babu, the matter was sub judice. Dilbagh Singh died accidentally when he fell off the railway compartment while accompanying police to apprehend a terrorist known to him. Inquiries were still under way.

161. In the same letter, the Government informed the Special Rapporteur that the five-month-old baby Rama had died from a respiratory tract infection, owing to lack of proper medical treatment, and not as a result of ill-treatment. Sara Begum had been found dead, and it was not possible to determine the cause or circumstances of her death. No information could be obtained as to the killing of a person called Sarbjit (not Sarabit) Singh.

162. With regard to the Special Rapporteur's urgent appeal of 8 April 1994, the Government reported that Kanwar Singh Dhama and his wife Kaur Kuldip had been arrested for their involvement in terrorism and violence. Both are currently being tried and remained in Chandigarh jail at their own request, as they felt threatened by another terrorist group. Their son Kanbar Ranbir Singh was with his parents at the time of their arrest, but was released immediately (25 November 1994).

Follow-up

163. The Government also provided the Special Rapporteur with information in reply to numerous cases transmitted in 1993, informing him that investigations had been carried out which established that Hamida Mattoo (see E/CN.4/1994/7, para. 333 (b)) was caught in a cross-fire between government forces and armed militants; criminal procedures were under way against security forces personnel suspected of being involved in the death of Manzoor Ahmed Ganai (*ibid.*, para. 333 (d)), who died of renal failure one week after being released from custody; a joint investigation by military and police personnel was under way into the killing of Riyaz Ahmed (*ibid.*, para. 333 (d)), a police agent who was killed wearing plain clothes during a military operation in Srinagar; investigations were also under way into the killing of Abdul Ahad Guru (*ibid.*, para. 333 (c)), who was killed by unidentified kidnappers; and Bilal Ahmed and his parents (*ibid.*, para. 333 (b)), who were caught in a cross-fire between security forces and militants. During the days following their death, security forces were compelled to open fire against unruly mobs, causing the deaths of Mohammed Shadi, Aijaz Ahmed Khan and Noor Mohammed Sofi (29 November 1993). In a number of these cases, families of the victims were granted relief payments.

164. In a further communication the Government informed the Special Rapporteur about investigations which established that H.N. Wanchoo (see E/CN.4/1994/7, para. 333 (c)), had been killed by members of a particular militant group, some of whom had been arrested, without any involvement by security forces personnel; criminal investigations were under way in the case of Nandgopal (*ibid.*, para. 333 (d)), who died of asphyxia due to hanging while in police custody; Vidyadharan (*ibid.*), who had banged his head against the grills of the lock-room while in detention and died as a result of the injuries sustained; Abdul Ahad Magrey and Imtiaz Ahmed (*ibid.*, para. 333 (b)), who were killed when they were in an exchange of fire between security forces and militants; Farooq Ahmed Ashai (*ibid.*, para. 333 (c)), who died of cardio-respiratory arrest due to a bullet wound, after being caught in an exchange of fire between security forces and militants; three police officers were brought to trial in connection with the death in custody of Satyavan (*ibid.*, para. 333 (d)); two police officers were held liable for negligence while on duty after Vikal Kumar Adhana (*ibid.*) committed suicide while in their custody; Hussain Ashiq (*ibid.*, para. 333 (c)), caught by a bullet fired by security forces to disperse an unruly crowd during the funeral of his brother-in-law Abdul Ahad Guru (28 February 1994). In the same reply, the Government informed the Special Rapporteur of investigations into the incidents in Sopore and Ayodhya (*ibid.*, para. 333 (a)). With regard to the killing of 42 persons in Sopore, 10 border security force personnel and their commanding officer were suspended pending inquiries by a special commission of inquiry. After communal riots in Ayodhya security forces restored order and special relief and rehabilitation measures were taken by the Maharashtra government. A judicial inquiry was ordered which was to submit its report by 24 July 1994. In a number of these cases, families of the victims were granted relief payments.

165. The Government also informed the Special Rapporteur that the lives of Mohinder Singh Grewal and Nazir Ahmed Misri (see E/CN.4/1994/7, para. 332) were not in danger and that they had not been ill-treated while being detained (18 January 1994). Umrao Singh (*ibid.*) escaped from detention, and a magisterial inquiry had been ordered to determine the circumstances under which he managed to escape (7 July 1994).

166. In a letter on 25 November 1994, the Government reported that two magistrates had concluded that Satyavan (see E/CN.4/1994/7, para. 333 (d)) had died as a result of torture while in police detention. A request by the police department to accord sanction or launch prosecution against seven officers was under way. In the same letter, the Government stated that investigations were under way to determine if police officers had been negligent in the death due to self-inflicted injuries of Vidyadharan and the suicide of Vikal Kumar Adhana while in detention (see E/CN.4/1994/7, para. 333 (d)).

167. With regard to allegations transmitted by the Special Rapporteur in 1992, the Government reported that investigations were carried out with regard to the following cases: Khursheed Ahmed Bhat, who could not be traced and therefore could not be confirmed as having died; Afjal Mohd, whose whereabouts were unknown since he was arrested by border security force personnel in December 1990; Purna Rabha, who committed suicide by hanging while in police detention and whose body bore no traces of atrocities or injuries; Susil Bag,

allegedly beaten to death while in police detention, whose case police authorities had been asked to investigate expeditiously (28 February 1994). In the case of Satnam Singh, the Government informed the Special Rapporteur that he had never been arrested or picked up by the police in any district of Punjab (7 July 1994).

168. In a letter dated 23 September 1994, the Special Rapporteur thanked the Government for the information provided and asked for additional details with regard to, *inter alia*, the progress of the investigations, the nature of the disciplinary sanctions imposed, the amount of the compensation payments ordered and whether these payments had actually been made, as well as the nature, legal basis and attributions of the special commissions of inquiry. Furthermore, the Special Rapporteur reiterated his request for additional details concerning a large number of other allegations of 1992 and 1993, for which the Government had provided information (see E/CN.4/1994/7, paras. 336-337), made in a follow-up letter dated 22 September 1994, to which no reply had been received. The Government replied to this letter and provided additional information concerning the nature of investigation commissions such as those established in the cases of Nandgopal or the killings at Sopore and Ayodhya. The investigations into the latter two had not yet been concluded, while the report of the inquiry into Nandgopal's death had been submitted to the Government and would be made public after being tabled in the Tamil Nadu Legislative Assembly (25 November 1994).

169. Also on 25 November 1994, the Government provided the Special Rapporteur with comments on some of the observations contained in his report to the Commission on Human Rights at its fiftieth session (E/CN.4/1994/7, paras. 340-342). The Government stressed the disregard for human rights and the rule of law shown by terrorists and armed groups in the States of Jammu and Kashmir and Punjab. The Government pointed out, *inter alia*, that attacks by these armed groups were directed mainly against the civilian population, and that the authorities were determined to protect the human rights of Indian citizens. Rigorous measures were taken to punish security forces personnel for excesses committed.

Observations

170. The Special Rapporteur wishes to thank the Government for the information provided concerning a large number of the cases transmitted since 1992. The efforts and willingness of the authorities to cooperate with his mandate thus expressed are highly appreciated. Nevertheless, the Special Rapporteur remains concerned about persistent allegations of violations of the right to life, particularly of deaths in custody as a consequence of torture or killings which, according to the authorities, occur in armed encounters. Such reports, which have been received consistently over the past three years, suggest the existence of patterns of violations of the right to life in certain areas of the country, without, however, there being any indication of systematic investigations into these patterns with a view to identifying their causes and adopting the necessary steps to bring them to a halt. The Special Rapporteur notes with concern that, while in most cases investigations are said to be initiated, reports brought to his attention suggest that such proceedings virtually never appear to conclude with a judgement convicting the security forces personnel involved. The length of the investigative procedures is also worrying: in a number of cases, inquiries opened more than two years ago are still said to be in progress.

171. Reports of legislative initiatives to strengthen the legal safeguards for detainees in police custody are most welcome and the Special Rapporteur encourages the Government to continue efforts in this regard. However, he wishes to insist on the importance of holding the authors of violations of the right to life accountable and complying with the obligation to conduct exhaustive and impartial investigations into all alleged extrajudicial, summary or arbitrary executions, to identify and bring to justice those responsible, to grant adequate compensation to the victims or their families, and to adopt all necessary measures to prevent the recurrence of such executions.

172. In this respect, the Special Rapporteur would like to express concern at the apparent contradiction between the information received from the Government regarding allegations transmitted to the authorities in

1992 and 1993, and comments and observations provided by the sources of these allegations with regard to this information. As he pointed out in his 22 September 1994 letter to the Government, the Special Rapporteur finds himself in a position where it is virtually impossible for him to determine which of the contradicting versions corresponds to reality. In 1993, the Special Rapporteur had inquired whether the Government would consider inviting him to visit India. In November 1993, and again in February 1994, he met with representatives of the Government to discuss the possibility of such a visit. He was informed then that the authorities preferred to await the first results of the work of the newly established National Human Rights Commission before considering a visit by the Special Rapporteur. However, in view of the dilemma outlined above, the Special Rapporteur reiterated his interest in visiting India so as to be in a position to assess the situation on the basis of first-hand information. The Special Rapporteur also feels that a visit could provide a welcome opportunity to meet the members of the Human Rights Commission for a mutually beneficial exchange of views on issues of common concern: the Special Rapporteur may be in a position to formulate recommendations which could benefit the work of the Commission and to obtain a better understanding of its functioning in practice as well as of the problems and difficulties it encounters.

Indonesia

173. From 3 to 13 July 1994, the Special Rapporteur visited Indonesia and East Timor, on the basis of an invitation extended to him by the Government pursuant to resolution 1993/97 of the Commission on Human Rights. The findings, conclusions and recommendations that resulted from this visit can be found in the first addendum to the present report, published in November 1994 (E/CN.4/1995/61/Add.1). The following paragraphs contain an account of the cases transmitted to the Government in 1994 as well as follow-up activities.

174. Most of the reports and allegations received during 1994 concerned violations of the right to life in East Timor. However, the Special Rapporteur was also informed of extrajudicial, summary or arbitrary executions by members of the security forces in other parts of the country. Thus, the Special Rapporteur transmitted to the Government allegations he had received concerning the killing of four persons called Mutirah, Nindin (14), Simoki and Muhammad, when security forces opened fire, allegedly without any warning or provocation, on a crowd of demonstrators; Jery Manafe, reportedly beaten to death by police officers in West Timor; Shukri T. Nun, allegedly shot by soldiers in Aceh; Tilaro Rodríguez (15), Tito Teles, Domingo dos Santos, Abilio Sarmiento, Jong Kim Jong, all of them reportedly killed by military personnel in East Timor during the first half of 1994; Joana Soares, Antonio Amaral, Thomas Gomes, Manuel Amaral, Joao Soares and José Soares, reportedly tortured and killed by military personnel in Onu Laran, Burcoli. At the time the present report was finalized, no replies had been received from the Government.

Information received

175. On 26 October 1994, the Government provided the Special Rapporteur with information concerning the decision taken by the Military Court of East Timor on 17 October 1994, in which two privates of the Indonesian armed forces were sentenced to 2 and 2½ years of imprisonment, respectively, for having desecrated Remexio Church, made public disturbances and disobeyed orders. They were also discharged from the armed forces.

Observations

176. For a detailed analysis of the situation with regard to violations of the right to life in East Timor and, particularly, as concerns the killings in Dili and subsequent developments, the Special Rapporteur refers to the above-mentioned report on his mission to Indonesia and East Timor.

Iran (Islamic Republic of)

Information received and communications sent

177. The reports and allegations received by the Special Rapporteur indicate that violations of the right to life continue to occur in the Islamic Republic of Iran. As in former years, it was alleged that death sentences were imposed, and carried out, after trials before Islamic Revolutionary Courts which were alleged to fall far short of internationally recognized fair trial guarantees. The Special Rapporteur also received disturbing reports of persecution of leaders of different Christian churches in the Islamic Republic of Iran, including the imposition of the death sentence for apostasy on Reverend Mehdi Dibaj, a church leader who had converted from Islam to Christianity 45 years ago. The Reverend was released on 16 January 1994, and his dead body was found in July 1994. For an in-depth analysis of the human rights situation in the Islamic Republic of Iran, the Special Rapporteur refers to the report presented to the Commission by the Special Rapporteur on the human rights situation in the Islamic Republic of Iran, Mr. Reynaldo Galindo Pohl (E/CN.4/1995/55).

178. The Special Rapporteur sent six urgent appeals to the Government. Concern was expressed after the Special Rapporteur received reports of death sentences handed down by Islamic Revolutionary Courts against Ahmed Bakhtari (7 December 1994); 15-year-old Mitra Zahraei (11 January 1994); Reverend Mehdi Dibaj (11 January 1994); Ali Akbar Saidi-Sirjani, essayist and novel writer, and Said Niazi-Kermani, publisher and poet (29 April 1994); and Parviz Sason-Yashar (26 May 1994). In another urgent appeal, the Special Rapporteur urged the authorities to take all necessary steps to protect the lives and physical integrity of Hassan Shahjamali, reportedly abducted together with two other church leaders, including Beni Paul, after the dead bodies of Reverend Mehdi Dibaj and Reverend Mikhailian, Chairman of the Council of Protestant Churches in Iran, had been found (11 July 1994). The Special Rapporteur also transmitted to the Government the cases of Bishop Haik Hovsepian-Mehr, General Superintendent of the Assemblies of God Church in the Islamic Republic of Iran, reportedly abducted and later found dead after leading a campaign for the release of Reverend Mehdi Dibaj; and of 75-year-old Feizollah Meikhoubad, reportedly tortured to death while on death row in Evin prison.

Communications received

179. On 15 August 1994, the Government provided the Special Rapporteur with a reply informing him that on the basis of documents and the declarations of a captured member of the Mojaheddin Khalgh Organization of Iran (MKO), it was established that Reverend Mehdi Dibaj and Reverend Mikhailian had been killed by agents of that organization. The Government further reported that Hassan Shahjamali and Beni Paul had been freed by their abductors.

Follow-up

180. In a follow-up letter to the Government on 23 September 1994, the Special Rapporteur thanked the authorities for the information provided and asked for additional details concerning the investigations carried out in the cases of the religious leaders. He also requested further information with regard to several cases transmitted in 1993, for which the Government had provided replies (see E/CN.4/1994/7, para. 363), in particular with regard to the specific questions of procedural guarantees, such as the right to an adequate defence and the right to appeal.

Observations

181. The Special Rapporteur notes with deep concern the persistent allegations of violations of the right to life in the Islamic Republic of Iran. The Special Rapporteur appreciates the information provided to him by the

Government in 1993 and 1994 in reply to some of the cases transmitted by him. However, none of these replies addresses the specific issues of fair trial guarantees in proceedings before the Islamic Revolutionary Courts. The Special Rapporteur reiterates his call, expressed in numerous urgent appeals, to respect the rights of those facing the death penalty, as contained in the pertinent international instruments.

182. Furthermore, the Special Rapporteur would like to express profound dismay at the reports he received concerning the case of Feizoullah Meikhoubad. It may be recalled that he first sent an urgent appeal to the authorities in June 1993, after being informed that Mr. Meikhoubad had been sentenced to death and might face imminent execution. On 22 September 1993, the Government had informed the Special Rapporteur that Mr. Meikhoubad was waiting for the final sentence to be issued and that he was in normal condition, regularly visited by his family. In March 1994, the Special Rapporteur was informed that Mr. Meikhoubad had died on 25 February 1994 in Evin prison after severe torture. Requests to the Government to provide clarifying information have not been answered to date. The Special Rapporteur is deeply concerned at the persistence of reports of deaths in custody under suspicious circumstances. To his knowledge, no efforts have been made to investigate these deaths with a view to identifying those responsible and bringing them to justice.

Iraq

Information received and communications sent

183. Reports and allegations brought to the attention of the Special Rapporteur in 1994 indicate that during trials leading to the imposition of capital punishment in Iraq, defendants do not fully benefit from internationally recognized fair trial guarantees. Grave shortcomings were reported, in particular with regard to an adequate defence, as access to Government-appointed lawyers was said to be severely restricted and in some instances limited to the day before the trial, and with regard to the right to appeal if the death sentence has been handed down by a "special court". Furthermore, defendants charged with capital offences were allegedly often denied the right to call witnesses on their behalf or to submit evidence refuting the charges. Concerns were also expressed that the majority of trials before "special courts" as well as permanent military courts which hand down death sentences were held in camera. Moreover, confessions used as a basis for the death sentences are frequently said to be extracted under torture. The Special Rapporteur also continued to receive reports of indiscriminate attacks against civilian settlements in the southern Marshes, by the Iraqi military, allegedly using artillery and mortars as well as napalm and fire bombs. For an in-depth analysis of the human rights situation in Iraq, the Special Rapporteur refers to the report presented to the Commission on Human Rights by the Special Rapporteur on the human rights situation in Iraq, Mr. Max van der Stoep (E/CN.4/1995/56).

184. The Special Rapporteur transmitted two urgent appeals to the Government of Iraq. He expressed concern at death sentences reportedly imposed on 'Ali 'Issa and three other persons in December 1993, on Jordanian national Kabeed Sabri Sa'id Shahada on 5 February 1994, reportedly for drug-related offences, and on Dhafer Zuhair Nahi and seven other persons said to be known as opponents of the Government, reportedly for being "members of a gang" (15 March 1994). In a second urgent appeal, sent in response to reports of indiscriminate attacks in the southern Marshes on several occasions in March 1994, causing the death of at least 13 villagers, the Special Rapporteur called on the authorities to prevent the recurrence of such attacks and to ensure respect for the provisions contained in international instruments regarding the use of force by law enforcement agencies (2 June 1994).

Communications received

185. On 19 April 1994, the Government provided the Special Rapporteur with a reply concerning his urgent appeal of 15 March 1994, informing him that the death sentences against 'Ali 'Issa et al. had been handed

down by a competent court, in accordance with Iraqi anti-narcotics legislation, after they had been found guilty of having committed the most serious drug-related offences. The Government expressed its view that article 6 of the International Covenant on Civil and Political Rights was fully applicable to the perpetrators of this crime. The authorities further informed the Special Rapporteur that they had no information on Kated Sabri Sa'id Shahada, and that the eight persons mentioned in the urgent appeal had confessed to having carried out a number of crimes in various governorates, including the murder of a policeman, several armed attacks and thefts. With regard to the allegations of shortcomings in fair trial guarantees, the Government pointed out that Iraqi legislation provided for the right to appeal, for an automatic review of judgements involving the death penalty by the Court of Cassation in plenary session, and the possibility for the President to grant special pardons except in cases of sodomy, adultery and drug trafficking.

186. On 19 September 1994, the Government replied to the Special Rapporteur's urgent appeal of 2 June 1994, stating that no houses had been destroyed or burnt in any military operation carried out by Iraqi military units. The allegation concerning the use of artillery and napalm bombs was totally unfounded. The Government further pointed out that two of the persons mentioned in the Special Rapporteur's appeal had been killed in inter-tribal clashes. Following these clashes, two others were detained but released after it was established that they had not been involved in the killing. A third person was also released after investigations owing to a lack of evidence against him. With regard to six other persons, the Government did not have any information.

Follow-up

187. On 7 January 1994, the Government provided the Special Rapporteur with a reply to his follow-up letter of 22 September 1993, in which he had requested additional information concerning the alleged killing of civilians during an armed attack on the village of Uweina (see E/CN.4/1994/7, paras. 372, 375 (a) and 377-378) and the death sentences imposed on a group of 40 merchants (see E/CN.4/1993/46, para. 375 and E/CN.4/1994/7, paras. 376-377). In a letter to the Government on 23 September 1994, the Special Rapporteur thanked the authorities for the information provided but pointed out that the very specific follow-up questions regarding, *inter alia*, the investigations carried out into the case of Uweina and the names of those killed and wounded in the attack, as well as the names of four merchants who were said to have been released after the court had found the evidence against them insufficient. It should also be noted that the source of the alleged violations of the right to life in Uweina replied to the Special Rapporteur's request for further information, reiterating the concerns expressed earlier.

188. In the same letter, the Special Rapporteur asked the Government to provide him with details additional to the information provided in its reply of 19 April 1994, concerning the legal basis and attributions of the courts before which the defendants had been tried, as well as details concerning the offences committed and the trial proceedings.

Observations

189. The Special Rapporteur appreciates the willingness to cooperate with his mandate shown by the Government in its replies. However, he remains concerned at the persistent reports of military force against civilians in the southern Marshes and reiterates his call on the authorities to prevent the recurrence of acts causing the death of civilians and the destruction of their villages. With regard to capital punishment, the Special Rapporteur notes that, while Iraqi legislation provides for procedural safeguards, the replies received from the Government do not contain any information about how defendants benefit from their rights in practice. Specific questions to that effect have remained unanswered.

Israel

190. The Special Rapporteur received numerous reports of violations of the right to life by members of the Israeli Defence Force (IDF) against Palestinian civilians, including numerous minors, in the occupied Gaza Strip throughout 1993. Concern was expressed that extrajudicial, summary or arbitrary executions continued despite the peace process initiated by the signing of an accord between the Government and the Palestine Liberation Organization (PLO) in 1993. The Special Rapporteur also received disturbing reports of killings of members of the Israeli security forces and civilians carried out by members of the Islamic Resistance Movement (Hamas), including bomb attacks in Afalu in April 1994, and in Tel Aviv in October 1994. Reference is made to the report presented to the Commission on Human Rights by the Special Rapporteur on the situation of human rights in the occupied Arab territories including Palestine, Mr. René Felber (E/CN.4/1995/19).

191. The Special Rapporteur sent an urgent appeal to the Government after being informed of the killing of Nidal Said Ameid Bayoud Al-Tamimi, allegedly while lying on the floor surrounded by soldiers at a check-point. The Special Rapporteur called on the authorities to ensure that IDF personnel respect the restrictions on the use of force and firearms, as contained in pertinent international instruments (17 November 1994).

192. The Special Rapporteur transmitted to the Government 55 cases of alleged extrajudicial, summary or arbitrary executions, reported to have occurred between April 1993 and March 1994 in the occupied territories. In most cases, the victims were said to have been shot dead by snipers of the IDF, often stationed on roof-tops and firing from close range. The following 18 cases concerned minors, reportedly shot dead by members of the security forces:

(a) Raeda Omar Abed Rabbah Qarrah (13); Mohammad Mahmoud Mohammad Abu Shawish (12); Ahead Nathmi Suboh Hamdan (12); Khaled Ibrahim Ali Hilayel (17); Rami Hamed Mohammad Abu (13); Ibrahim Khaled Ibrahim Deek (14); Ramzi Najib Diab Mansour (15); Ala' Saleh Salman Abu Hindi (10); Mohammad Salem Isma'il Abu T'eimeh (12); Ra'fat Zaki Abdul Hadi Aqal (16); Fares Mohammad Rasmi Ramadan Kurdi (1); Mohammad Mohammad Hussein Ghoul (13) and Ahead Hassan Ali Kurdi (10); Muayyad Faleh Saleh Mahmoud (17); Isma'il Hamdan Barka Obeid (16); Amin Mohammad Abdul Karim Ammar (12); Ahmed Abdullah Ahmed El Zalameh (17); and Hazim Mohammed Mohammed Migdad (15);

(b) Further cases transmitted by the Special Rapporteur concerned the following persons: Bilal Mohammad Suleiman Khuzamymiyeh; Najah Abu Dallal; Hani Mohammad Hasan Mu'ammam, Ahead Hamad Salameh Abu Aa'alik, Mohammad Mahmud Mohammad Bahader and Ayed Salim Deeb Habet; Jum'a Farhan Obeid Abu Muheisen and Yusef Farhan Obeid Abu Muheisen; Fuad Isma'il Yusef Timraz; Awni Nayef Mohammad Mqous; Kamal Yusef Darwish Aslan; Ya'qub Yusef Mohammad Hussein Mutawe; Hatem Yaqin Yacoub Othman Muhtaseb and Raed Yuesf Abdul Qader Zu'rob; Ragheb Ziad Ragheb; Yusef Ibrahim Mohammad Abu Rahmeh; Mahmoud Abdul Raouf Mahmoud Ghandour; Ibrahim Mohammad Abdul Razzaq; Raed Yahya Deeb Qosa; Hassan Mohammed Jmi'an El Soufi; Mo'mar Saleh Hussain Al Mubayed; Ali Mohammed Ahmed El Farra; Nidal Ramadan Mohammed Awaad; Ahmed Khalid Serhan Abu El Reesh and Fared Yousef Ibrahim Imtear; Ashraf Mohammed Ahmed Khaleel; Fadil Abedalla Mahomud Rihan; Abass Khader Said El-Saedi; Fareed Mohamed Mohamed El-Chair; and Iyad Abed El-Karem Abed El-Fattah El-Hinwi;

(c) Six Fatah members, Ahmed Abu Ibteihan, Jamal Abdel Nabi, Nahedh Uda, Anwar Maqoussi, Majdi Ubeid and Abdel Hakim Shamali, were allegedly killed by Israeli undercover units in an operation allegedly aimed at their elimination. According to the reports received, no attempts were made to arrest the men. One case referred to the death of Ayman Nassar, reportedly due to the consequences of a smoke bomb used by military personnel to force him out of a hide-out, for which he had not received adequate treatment while in custody.

193. At the time the present report was finalized, no replies had been received from the Government.

Observations

194. The Special Rapporteur wishes to express deep concern at the persistent reports of violence in Israel and the occupied territories. Information regarding excessive and arbitrary use of force, which has been received by the Special Rapporteur on a continuous basis during the past three years, suggests the existence of a pattern of abuse of force. Despite moves towards a peace settlement, this shoot-to-kill policy appears to continue unabated. To the Special Rapporteur's knowledge, there have been no attempts at systematic investigations or prevention of violations of the right to life on the part of the security forces. The Special Rapporteur urges the Government to conduct exhaustive and impartial investigations into all alleged violations of the right to life, with a view to identifying those responsible and punishing them, and to grant adequate compensation to the victims.

195. Reports of killings of members of the Israeli security forces and indiscriminate attacks causing the deaths of numerous civilians by members of Palestinian organizations, particularly Hamas, are also most disturbing. The Special Rapporteur appeals to the Palestinian authorities to do their utmost to prevent such killings. Finally, the Special Rapporteur calls on both sides to continue their efforts towards peace and protection of human rights, and to take decisive action against all those responsible for actions which can only be detrimental to the peace process.

Italy

196. The Special Rapporteur transmitted to the Government the case of Antonio Morabito, who was reported to have died in the custody of Turin police on 18 December 1993, allegedly as a consequence of torture. On 14 November 1994, the Government informed the Special Rapporteur that Antonio Morabito, who was HIV-positive and in a poor state of health, had died while being transferred to hospital one hour after his arrest by the police on suspicion of theft. After due investigation of the case, the Public Prosecutor requested the committal for trial of two police officers belonging to the squad that arrested Antonio Morabito on charges of manslaughter. The Government also stated its view that whenever the death of a person in custody could be attributed to public officials, police officers, penitentiary guards or the like, and the State takes appropriate action to submit to trial any such official, the death cannot be qualified as extrajudicial, summary or arbitrary execution.

Observations

197. The Special Rapporteur thanks the Government for the information provided in reply to his communication. With regard to the Government's concern about the qualification of a case as extrajudicial, summary or arbitrary execution, he wishes to point out the following: the mandate entrusted to him by the Commission on Human Rights includes all violations of the right to life. When he receives allegations from credible sources that such violations are imminent, the role of the Special Rapporteur is to alert the authorities and call on them to provide the necessary protection. Where such violations have already taken place, it is incumbent on the Special Rapporteur to monitor how Governments comply with their obligation under international law to conduct exhaustive and impartial investigations with a view to clarifying the facts and identifying those responsible, to bring them to justice and punish them, to provide adequate compensation to the victims or their families and to prevent the recurrence of such violations. If a Government fulfils this obligation in a satisfactory way, the Special Rapporteur will report thereon to the Commission on Human Rights and consider the case as closed.

Japan

198. The Special Rapporteur transmitted to the authorities the case of Kawanaka Tetsuo, reportedly executed

in Osaka in March 1993 after spending 13 years on death row. According to the information received, he was mentally ill and his condition had deteriorated in the months preceding his execution. On 16 November 1994, the Government provided a general explanation of Japanese law and practice in reply to these allegations, while pointing out that no information on specific cases was disclosed, *inter alia* in order to protect the rights, honour and privacy of the persons concerned. The Government informed the Special Rapporteur that the death sentence, like all sentences, is the result of a judicial decision reached in accordance with the procedures of Japan's adversarial three-tiered legal system. For death penalty cases, an additional review of the final court decision by the Minister of Justice was provided for under the Japanese Code of Criminal Procedure, which also stipulates that the execution of a person in state of insanity shall be stayed by order of the Minister of Justice. The Government concluded that, as a consequence, there was no possibility whatsoever that an extrajudicial, summary or arbitrary execution could take place in Japan.

Observations

199. The Special Rapporteur wishes to thank the Government for the information provided. He would like to point out, however, that the existence of legislation providing for full fair trial guarantees and safeguards, while certainly to be welcomed, does not in itself exclude the possibility of the occurrence of extrajudicial, summary or arbitrary executions in any given country. Rather, it is the compliance with the rights and guarantees of due process, as contained in the pertinent international instruments, which is to be verified in each case where a breach of these standards is alleged.

Kazakhstan

200. The Special Rapporteur sent an urgent appeal to the Government expressing concern at death sentences reportedly imposed on Mr. Shtyrkhunov and Mr. Puchkov. Both men were said to have appealed to the President for clemency. However, as the carrying out of death sentences was allegedly not automatically suspended for the duration of the clemency procedures, it was feared that their execution was imminent (24 March 1994). On 11 April 1994, the Government replied to the urgent appeal, informing the Special Rapporteur that the death sentences would be carried out only after the adoption of a decision by the President of the Republic. The Government further pointed out that, in accordance with the Decision of the President of the Republic of Kazakhstan of 25 January 1992 "On clemency procedure in the Republic of Kazakhstan", the granting of clemency was considered by the President irrespective of whether the individual sentenced to death had or had not petitioned for clemency.

Follow-up

201. In a letter dated 23 September 1994, the Special Rapporteur thanked the Government for the information provided and asked about the further evolution of the two cases.

Kuwait

Information received and communications sent

202. As in the past, the Special Rapporteur received a number of reports expressing concern at violations of internationally recognized fair trial standards in proceedings leading to the imposition of capital punishment. Such allegations referred to restrictions in access to lawyers and limited appeal procedures. It was also reported that complaints of torture, allegedly used in order to extract confessions, were not properly investigated. In an urgent appeal sent on 7 July 1994, the Special Rapporteur expressed concern at reports of

a death sentence imposed on Ra'ad 'Abd al-Amir 'Abbud al-Asadi and five others, convicted by the State Security Court of participating in an alleged assassination attempt against the former President of the United States of America, George Bush. According to the information received, during their trial, the defendants were denied the right to be represented by a lawyer at all stages of the proceedings, and that their right to be presumed innocent had been jeopardized by public statements allegedly made by the Public Prosecutor during a press conference.

Communications received

203. On 14 October 1994, the Government replied to the Special Rapporteur's urgent appeal of 7 July 1994, providing him with information on the procedural guarantees and safeguards for defendants in criminal proceedings contained in the Kuwaiti Constitution and Code of Criminal and Trial Procedure, as well as special safeguards contained in Kuwaiti legislation in cases of death sentences and their enforcement, including an automatic appeal procedure, in case no appeal has been lodged by the convicted persons. In cases of death sentences, the Court of Cassation must consider all aspects of the form and content of the judgement. Death sentences cannot be carried out before ratification by the Amir, who is empowered to grant pardons or declare amnesty. In the case in question, the Government informed the Special Rapporteur that five barristers were appointed by court, while one person chose a defence counsel. All six defendants were thus able to avail themselves of the services of defence counsels. At the time of the reply, the judgement was being considered by the Court of Cassation. Fears that they might face summary execution were therefore unfounded.

Follow-up

204. On 3 December 1993, the Government provided the Special Rapporteur with information complementing an earlier reply and giving additional details concerning the acquittal of Ghaleb Abd al-Majid al-Turki, who had been reported to be at risk of execution (see E/CN.4/1994/7, paras. 402-403).

Observations

205. The Special Rapporteur thanks the Government for the detailed information provided. He encourages the authorities to ensure full implementation of the safeguards and guarantees contained in the law. He also calls on them to carry out investigations into all cases where a breach of fair trial standards, as contained in the pertinent international instruments, is alleged. In accordance with the procedure established for his mandate, the contents of the reply were transmitted to the source of the allegations for comments and observations.

Kyrgyzstan

206. The Special Rapporteur sent two urgent appeals to the Government. In the first such appeal, he expressed concern in response to allegations according to which Bakir Tanikulov was sentenced to death after trial proceedings in which he may not have been granted adequate time to prepare his appeal. In the cases of Andrei Arazov and Sultan Kaibzhanov, it was alleged that the only evidence used against them for convicting them of murder and sentencing them to death were confessions made by them to law enforcement officials during interrogations. During the trial hearings, both reportedly retracted these confessions, claiming that their interrogators had forced them to confess by means of threats and physical violence (29 April 1994). Further to these allegations, the Special Rapporteur addressed the authorities after being informed that the Clemency Commission had upheld Andrei Arazov's petition for clemency and that his death sentence had been commuted by the President of the Republic to 20 years' imprisonment. The Clemency Commission, however, was believed not to have granted clemency to Sultan Karibzhanov, and it was unclear whether the President

had signed the execution order (28 September 1994). By the time the present report was finalized, no replies had been received from the Government.

Lebanon

207. The Special Rapporteur sent an urgent appeal to the Government after being informed of death sentences handed down by the Court of Justice on 'Abd al-Karim Hujayj, Mohammad Za'tar and Nehmeh Hammadi, in the case of the latter allegedly in absentia. According to the information received, the Court of Justice tries certain cases referred to its jurisdiction by presidential decree, usually if matters affecting the security of the State are involved. Allegedly, defendants before this court do not have a right to appeal against its verdicts (19 April 1994). The Special Rapporteur also transmitted the case of Fawzi al-Rasi, a member of the Lebanese armed forces, reportedly tortured and killed during interrogations on the premises of the Ministry for Defence in Yarzeh. To date, no reply has been received from the authorities.

Observations

208. The Special Rapporteur is concerned at the apparent restrictions on the right to appeal of defendants before the Court of Justice. Even though, according to the information received, no death sentence can be carried out before the Commission des grâces has been consulted and approval given by the President, the right to appeal before a higher tribunal against conviction and sentence must be safeguarded. The Special Rapporteur calls on the Government to review the procedures for trials before the Court of Justice accordingly.

Liberia

209. As in former years, the case of Liberia may serve as an example for a situation where it is known that numerous violations of the right to life take place without there being any mechanisms in place for victims or their families to seek redress and protection, but where the Special Rapporteur does not receive reports or allegations that would permit him to act within the framework of his mandate. Furthermore, the Special Rapporteur is not aware of any follow-up to the investigation carried out by a panel of experts mandated by the Secretary-General to investigate one particularly serious case of violations of the right to life in Liberia, the massacre of nearly 600 displaced persons at a camp at Harbel. Similarly, he has not received any information as to the evolution of attempts to create a human rights component within the United Nations Observer Mission in Liberia (UNOMIL). In early 1994, the Special Rapporteur had expressed his interest in conducting a visit to Liberia and assisting in evaluating the possibilities for human rights monitoring. There has been no reaction to date.

Malaysia

Communications received

210. On 27 January 1994, the Government replied to concerns transmitted by the Special Rapporteur in 1993 regarding the alleged presumption of guilt contained in Malaysia's Dangerous Drugs Act, 1952 (see E/CN.4/1994/7, paras. 425-426 and 428). The Government refuted these allegations and pointed out that, like under any other law in Malaysia, persons accused under the Dangerous Drugs Act were presumed innocent until proven otherwise. The Government also informed the Special Rapporteur that cash rewards to informers and

agents provocateurs were provided for in article 42A of the Act, their payment being decided upon by the Director General of the Department of Customs and Excise, as deemed necessary, for the cooperation and assistance given in the detection or investigation of cases under the Act or in relation to any raid carried out under the Act. The Government further stated that the death penalty, too, was provided for by the Act. It was confined to traffickers in dangerous drugs and was applied uniformly in all cases.

Follow-up

211. In a letter dated 23 September 1994, the Special Rapporteur thanked the Government for the information provided. In the same letter, however, he expressed concern at provisions contained in the Dangerous Drugs Act, 1952, which clearly lay the burden of proof upon the defendants. Thus, article 37 (a) stipulates that any person who is found to be in possession of a certain amount of different types of dangerous drugs, as defined in the First Schedule of the Act, otherwise than in accordance with the authority of the Act or any other written law, "shall be presumed, until the contrary is proved, to be trafficking in the said drug". According to article 39B, persons who, on their own behalf or on behalf of any other person, traffic in a dangerous drug; offer to traffic in a dangerous drug; or do or offer to do an act preparatory to or for the purpose of trafficking in a dangerous drug, "shall be guilty of an offence against this Act and shall be punished on conviction with death". The fact that under the Act evidence provided by agents provocateurs, who are often police or customs officers, is admissible (art. 40A (2)), and that rewards are authorized to be paid for such evidence (art. 42A), increased the Special Rapporteur's preoccupation. He asked the authorities to provide him with additional information, particularly about the safeguards in place to guarantee that, as stated by the Government in its letter, persons charged under the Act were presumed innocent until proven otherwise.

Observations

212. As stated in his letter to the Government, the Special Rapporteur remains concerned that defendants accused under the Dangerous Drugs Act, 1952 (revised in 1980), and particularly those who, upon conviction, face the death penalty, do not fully benefit from fair trial guarantees as contained in the pertinent international instruments. The articles cited above are of particular relevance in this regard. The Special Rapporteur therefore reiterates his call on the Government to review its anti-drug-trafficking legislation so as to avoid any doubts as to the presumption of innocence for those tried under the Act. He would also recommend the revision of the provisions regarding cash rewards for agents provocateurs, and the exclusion of the testimony of any person who has received, or is eligible to receive, a reward for having provided information in relation to the proceedings in which he or she testifies.

Mali

213. The Special Rapporteur transmitted to the Government allegations he had received according to which Hamma Ag Mohammed, Erless Ag Koti, Al Hassan Ag Taghalit and nine unidentified persons, all civilians and members of the Tuareg ethnic group, were killed in April 1994 by members of the Malian armed forces, reportedly in reprisal for the killing on the previous day of two soldiers by former Tuareg fighters who had joined the army.

214. On 4 August 1994, the Government informed the Special Rapporteur that despite a number of steps taken to pacify the northern regions of the country, where armed confrontations between government forces and the coalition of Tuareg forces Mouvements et Fronts Unifiés de l'Azawad (Unified Fronts and Movements of Azawad, MFUA), had taken place for the past three years, the security situation continued to suffer under attacks from Tuareg rebels. As a consequence, the Government was obliged to reinforce the presence of the armed forces in the area. Some of the former MFUA combatants, who had been integrated into the army in

1991, reportedly deserted and committed acts of violence against their former colleagues and civilians.

Observations

215. The Special Rapporteur calls on the Government to continue efforts towards better protection of the right to life. In this regard, he underlines the importance of ensuring that security forces personnel act within the restrictions and constraints imposed upon the use of force and firearms by the pertinent international instruments. The Special Rapporteur urges the authorities to conduct exhaustive and impartial investigations into all allegations of excessive or arbitrary use of force and punish those responsible. The Special Rapporteur also recommends that the distribution of arms among the civilian population be restricted and kept under tight control. Finally, the Special Rapporteur appeals to the Government and the MFUA to continue efforts towards peace and reconciliation and to do their utmost to prevent any acts that might be detrimental to this endeavour.

Mexico

Information received and communications sent

216. Most of the reports and allegations received in 1994 referred to violence in the context of the armed uprising of the Ejército Zapatista de Liberación Nacional (Zapatista National Liberation Army, EZLN) and its repression by security forces in the State of Chiapas at the beginning of the year. Some 2,500 members of the EZLN reportedly took up arms on 31 December 1993 in protest against extreme poverty, underdevelopment and discrimination against the indigenous population of the area. The EZLN gained control of several towns in the State of Chiapas. After several days of heavy fighting between the EZLN and government troops, a cease-fire was declared on 12 January 1994. However, attacks were said to continue during the days following the cease-fire. During the period of armed confrontations and in its aftermath, civilians suspected of being members or supporters of the EZLN were said to be extrajudicially executed by the security forces. Medical personnel and persons linked with the Church were said to have been targets of harassment and death threats for treating people injured during armed confrontations. Death threats were also reported against representatives of indigenous organizations and human rights associations, as well as trade unionists, apparently for their role in the negotiations between the EZLN and the Government.

217. The Special Rapporteur also received reports of violations of the right to life in the context of the general elections of 21 August 1994, as well as allegations of violence directed against members of indigenous communities. Several sources expressed concern that members of the security forces responsible for human rights violations continue to enjoy virtually total impunity.

218. The Special Rapporteur sent six urgent appeals to the Government. Three urgent appeals concerned allegations relating to the events in Chiapas:

(a) The Special Rapporteur expressed concern at reports of a large number of extrajudicial executions, according to some sources more than one hundred. Fears had also been expressed for the lives of persons detained by the security forces for their membership, or suspected membership, in the EZLN (17 January 1994). The Special Rapporteur sent another urgent appeal after receiving reports of the killing of Mariano Pérez Díaz, leading member of the Consejo Estatal de Organizaciones Indígenas y Campesinas de Chiapas (State Council of Indigenous and Peasant Organizations of Chiapas, CEOIC), and allegations of death threats against other indigenous leaders and members of human rights organizations, including Antonio Hernández, Margarito Ruiz and the bishop of San Cristóbal de las Casas, Samuel Ruíz, as well as death threats against nuns working at the hospital of Altamirano (16 March 1994). A third urgent appeal concerned alleged death threats against André Aubry, coordinator of the Instituto de Asesoría Antropológica para la Región Maya

(Institute for Anthropological Advice in the Maya Region, INAREMAC) based in San Cristóbal de las Casas, his wife Angélica Sara Inda and two secretaries of the institute, Rafaela López Morales and Matilde Moreno (13 June 1994);

(b) The Special Rapporteur sent another urgent appeal after being informed of fears for the lives and physical integrity of members of the Jesuit order in Mexico, after death threats had appeared on posters in Mexico City. Jesuits were also said to have received threatening phone calls after they had been accused in newspapers of being involved in guerrilla activities (16 August 1994). Fears had been expressed for the lives of members of the political party Partido de la Revolución Democrática (Democratic Revolution Party, PRD), after the killing of Roberto Hernández Paniagua and the detention of Enrique Murias, both municipal party officials (14 September 1994);

(c) Finally, the Special Rapporteur urged the authorities to take all necessary measures to protect the lives and physical integrity of members of the Nahua and Otomí indigenous communities, after two of their leaders, Rolando Hernández Hernández (17) and Atonio Hernández Hernández, were abducted by members of the security forces and later found dead (26 September 1994).

219. The Special Rapporteur also transmitted to the Government allegations related to the violent events in Chiapas in early January: the killing of George Solis and Eduardo Gómez, reportedly found dead after having been detained by police in Las Margaritas; Severiano, Sebastián and Hermelindo Santiz Gómez, reportedly detained and abducted in a military ambulance in early January in Morelia, Altamirano, and feared to have been executed. A further case transmitted by the Special Rapporteur concerned the alleged extrajudicial execution of Luis Martínez Rivera in Morelos, in August 1994.

Communications received

220. On 26 January 1994, the Government replied to the Special Rapporteur's urgent appeal of 17 January 1994, informing him that the National Human Rights Commission had established offices in different cities in Chiapas. More than 170 complaints had been received and were being investigated. Some of these complaints concerned alleged extrajudicial, summary or arbitrary executions at the hands of security forces personnel. On 24 March 1994, the Government forwarded a copy of the report presented by the Chairman of the NHRC in February 1994, containing an account of the investigations carried out. According to this report, 218 complaints had been received, 76 of which were directed against the Mexican army and 20 against the EZLN; 56 complaints concerned homicides, 80 torture and 427 requests to find the whereabouts of persons thought to have disappeared. The NHRC had established that air attacks had been carried out in areas inhabited by civilians. It had also established that the army had been responsible for the killing of 11 civilians at hospital facilities in Ocosingo. On 5 May 1994, the Government provided a reply to the Special Rapporteur's urgent appeal of 16 March 1994 and informed him that the NHRC had initiated investigations into the killing of Mariano Pérez Díaz, although no complaint had been received concerning the case.

221. On 24 August 1994, the Government replied to the Special Rapporteur's urgent appeal of 13 June 1994, informing him that the NHRC had opened inquiries into the death threats against André Aubry, his wife and two secretaries of INAMERAC. The Public Ministry was also investigating the death threats, the authors of which had not yet been identified. With regard to reports of death threats against members of the Jesuit order in Mexico, the Government informed the Special Rapporteur that, during a meeting with Jesuit representatives, President Carlos Salinas de Gortari had announced thorough investigations into acts of harassment reported by the Jesuits and condemned the campaign of calumny against the order. He also assured them that no official institution was behind this campaign, and that no official document linked them in any way with the guerrillas. On 6 September 1994, the Government informed the Special Rapporteur that George Mariano Solis López and Eduardo Gómez Hernández were arrested by police on 16 January 1994 and then detained by members of the military. Investigations had been opened. The Government pointed out that the NHRC did not have enough evidence to prove human rights violations in this case, as both police and

military commanders denied having arrested or detained any civilians, and residents of the area refused to give testimony for fear of reprisals. In the same reply, the Government informed the Special Rapporteur that forensic examinations could not determine whether the human remains found in February 1994 belonged to Severiano, Sebastián and Hermelindo Santis Gómez, despite the participation in such examinations of experts from the NGO Physicians for Human Rights. The NHRC had received a complaint concerning the case and was continuing its investigations. In both cases, the families of the victims were granted indemnification by the Fondo de Apoyo para Viudas y Huérfanos en Areas de Conflicto (Support Fund for Widows and Orphans in Conflict Areas, FAPIAC).

222. In reply to the allegations concerning the killing of Luis Rivera Martínez, the Government informed the Special Rapporteur in a letter of 25 November 1994 that the NHRC had not received any complaint about the case. The Government also pointed out that the military officer under whose command the killing was said to have been committed, had been imprisoned in a high security prison in another part of Mexico since 1993, after having been convicted of murder and other crimes.

Follow-up

223. On 24 November 1993, the Government provided the Special Rapporteur with information in reply to the latter's follow-up letter of 22 September 1993, in which he had asked for specific additional details concerning investigations into cases transmitted in 1992 (see E/CN.4/1994/7, para. 439). On 1 December 1993, the Government provided the Special Rapporteur with information on a number of cases transmitted in 1993 (see E/CN.4/1994/7, para. 436 (b)). Investigations into these cases had been opened by the NHRC. At the time of the reply, the authors of the killings of Mateo Vargas Nava, Isidro Vargas Nava and Bulmaro Vargas Najera had not yet been identified. Penal proceedings were opened in the case of Sabino Díaz Osorio and Rodrigo Javier Gómez Zamorano, and the arrest of two persons presumed responsible for their killings was requested. The NHRC had not found any information concerning the killing of José Ramos Muñoz.

224. On 23 September 1994, the Special Rapporteur thanked the Government for the information provided. He requested additional details with regard to the planned legislative reform concerning reparation payments in cases of human rights violations. According to the information received, this reform was to have been debated in Parliament in December 1993. The Special Rapporteur also asked to be informed of the progress of the investigations initiated by the NHRC. With regard to the violent events in Chiapas and the investigations conducted in their aftermath, the Special Rapporteur inquired whether any judicial or disciplinary proceedings had been opened with regard to the members of the security forces found to be responsible for human rights violations by the NHRC. He also asked to be informed of steps taken to prevent the recurrence of similar outbreaks of violence.

Observations

225. The Special Rapporteur wishes to thank the Government for its willingness to cooperate with his mandate, expressed in numerous replies. However, he remains concerned at persistent reports of violations of the right to life in the country, particularly in connection with excessive and arbitrary use of force by law enforcement officials during military operations or directed against persons in detention, and at the fact that recommendations by the NHRC often appear not to be followed. The Special Rapporteur calls on the authorities to ensure that such recommendations are implemented. The fact that possible witnesses continue to refuse to collaborate with the NHRC out of fear for their safety is most worrying. The Special Rapporteur urges the Government to take all necessary measures for the protection of witnesses. He also encourages the Government to ensure that those responsible for human rights violations be brought to justice and to pursue the necessary legislative reforms so that victims of such violations or their families may receive adequate compensation.

Morocco

226. The Special Rapporteur transmitted to the Government the case of Mounir Azaage, who died while in police custody in Tangier on 11 October 1993. Allegedly, injuries on his forehead suggested that his death may have been caused by violent treatment. At the time the present report was finalized, no reply had been received from the Government.

Myanmar

227. The Special Rapporteur received reports and allegations of violations of the right to life in Myanmar. Most of these reports referred to extrajudicial executions of civilians by members of the Myanmar army. Thus, the Special Rapporteur also transmitted to the Government allegations he had received concerning the extrajudicial, summary or arbitrary execution by personnel of the Myanmar army, of the following persons: Na Chit Khin and Nai Gyo, reportedly killed in July 1993; an unidentified villager, reportedly killed by an identified army major in Aleywa in August 1993; Saw Doh Raw and his daughter Naw Pu Pu, reportedly shot dead near Ler Hbaw Kler Ber in August 1993; Khun Thi Ha and an unidentified person, reportedly shot dead at Lu Paw market in February 1994. The Special Rapporteur also addressed an urgent appeal to the Government after being informed of a death sentence imposed on Kin Maung Oo, alias "Let Kut", allegedly after a trial in which the defendants did not fully benefit from the guarantees and safeguards provided for in pertinent international instruments (27 January 1994). With regard to an in-depth analysis of the human rights situation in Myanmar, reference is made to the report presented to the Commission on Human Rights by the Special Rapporteur on the human rights situation in Myanmar, Mr. Yozo Yokota (E/CN.4/1995/65).

228. On 23 February 1994, the Government replied to the Special Rapporteur's urgent appeal of 27 January 1994, informing him that Kin Maung Oo was part of a group of four pickpockets who stole a wallet from a passenger on a bus trip and killed the passenger when he protested and asked for the wallet to be returned. The four pickpockets were caught in the act and tried for murder by the Yangon Division Law Court. They were provided defence counsel and were given a fair trial. They also exercised their right to appeal.

Follow-up

229. In a letter dated 23 September 1994, the Special Rapporteur thanked the Government for the information provided in the above-mentioned letter and asked for some further clarifications, *inter alia*, with regard to the nature and composition of the court before which the defendants had been tried; the court before which they had filed appeals; whether they had the possibility to seek pardon, clemency or commutation of sentence; and whether the death sentence had actually been carried out. With regard to information provided by the Government in reply to allegations transmitted earlier (see E/CN.4/1994/7, para. 452), the Special Rapporteur asked to be informed of the steps and procedures to investigate into deaths of detainees and prisoners while in detention, as prescribed by the law.

Observations

230. The Special Rapporteur wishes to thank the Government of Myanmar for the information provided and the willingness to cooperate with his mandate thus shown. He remains, nevertheless, concerned at persistent reports of arbitrary and excessive use of force by members of the security forces, who seem to enjoy virtual impunity. As concerns the death penalty, the Special Rapporteur would like to emphasize once again the importance of full fair trial guarantees in proceedings leading to the imposition of capital punishment and the need to verify the respect for these guarantees in each case where a breach of internationally recognized fair trial standards is alleged. The Special Rapporteur also calls on the Government to carry out exhaustive and

impartial investigations into all allegations of extrajudicial, summary or arbitrary executions, identify those responsible and bring them to justice, grant adequate compensation to the victims or their families and take the necessary steps to prevent the recurrence of violations of the right to life.

Nepal

231. The Special Rapporteur sent an urgent appeal to the Government after receiving reports of death threats against Gopal Siwakoti and Gopal Krishna Siwakoti, both officers of the International Institute for Human Rights, Environment and Development (INHURED International), reportedly after having filed a petition with the Supreme Court against a controversial hydroelectric project (25 January 1994). The Special Rapporteur also transmitted to the Government the case of journalist Lokendra Kumar Burathoki, reportedly killed by police for having written articles critical of certain politicians.

232. On 21 February 1994, the Government replied to the Special Rapporteur's urgent appeal of 25 January 1994 and informed him that the concerned authorities had been instructed to arrange for the necessary protection and that the necessary protective measures had been taken.

Follow-up

233. In a letter dated 23 September 1994, the Special Rapporteur thanked the Government for the information provided and asked for some additional details concerning the type of measures adopted to provide security to Gopal Siwakoti and Gopal Krishna Siwakoti.

Nicaragua

Follow-up

234. On 23 March 1994, the Government provided the Special Rapporteur with information concerning allegations transmitted in 1993 (see E/CN.4/1994/7, paras. 461-462). The events at the Ingenio San Antonio sugar company were described as an illegal strike, in which some of the strikers resorted to the use of force against members of the national police who were trying to restore order. The strikers also set fire to some sugar cane plantations. The calcinated body of one of them was found after the fire. The exact cause of his death could not be determined. In a letter dated 23 September 1994, the Special Rapporteur thanked the Government for the information provided and asked about the progress of the investigations.

Niger

235. The Special Rapporteur transmitted to the Government allegations he had received concerning the killing, by members of the security forces, of two Tuareg civilians, Warghiss Founta and Karbey Moussa, in December 1993 near Agades. At the time the present report was finalized, no reply had been received from the Government.

Nigeria

Information received and communications sent

236. The reports and allegations brought to the attention of the Special Rapporteur indicate that human rights violations, including extrajudicial, summary or arbitrary executions, continue to occur in Nigeria. Most of these reports referred to acts of violence directed against members of the Ogoni ethnic community in the context of land conflicts between different ethnic groups and protests by the Ogoni people against environmental damage and inadequate compensation for destruction of land and crops by international oil companies operating in Ogoniland. In April 1994, the River State authorities reportedly called hundreds of police and military personnel into Ogoniland to restore law and order. The Special Rapporteur was also informed that in April 1994 a special court, the Civil Disturbances Tribunal, was set up pursuant to the Special Tribunal Edict of 1994 (Offences Relating to Civil Disturbances). This special court was said to have been empowered to hand down death sentences, not only for offences related to the unrest in Ogoniland but also for crimes previously not punishable by death such as attempted murder.

237. The Special Rapporteur sent two urgent appeals to the Government. He expressed concern at reports of the killing of about 20 persons in clashes between members of the Ogoni and Ndoki ethnic groups, the latter allegedly being supported by the security forces, in early April 1994. In the same urgent appeal, the Special Rapporteur referred to information he had received concerning the above-mentioned special court, and, in particular, fears that the broad powers given to this court might be used to impose the death penalty on Ogoni detainees after hasty and unfair trials (17 May 1994). Renewed military attacks against Ogoni villages were reported to have occurred during the first two weeks of June 1994, leading to the killing of at least 40 civilians. Fears were expressed for the lives of a large number of others who were reported to have been detained, among them Ameh Ebute, Polycarp Nwite and O.A. Okoroafor, former members of the Senate and House of Representatives, who were said to have been charged with conspiring to remove the Government and treason, offences punishable by death (16 June 1994).

238. The Special Rapporteur also transmitted to the Government allegations he had received concerning the killing of Legbosi Afugbara, Legbara Setok, Lebari, Soko Gbinue and 52 other persons whose identities are not known, all of them said to belong to the Ogoni ethnic community, by soldiers of the "internal security unit" set up by the military authorities of River State during an operation in a number of Ogoni villages in June 1994.

Communications received

239. On 18 July 1994, the Government replied to the Special Rapporteur's urgent appeal of 16 June 1994, informing him that those detained had been arrested on the basis of warrants and had since appeared before the competent jurisdictions. Efforts were being made to hold those detained in the best available detention conditions and that there was no arbitrariness in their treatment. With regard to the Ogoni issue, the Government pointed out that Ogoniland had been the scene of intense violence and destruction of lives and property during the past months. In view of the seriousness of the situation, the Government had embarked on a thorough investigation of the developments in the area. On 4 October 1994, the Government acknowledged receipt of the Special Rapporteur's letter containing the allegations mentioned in paragraph 238 above.

Follow-up

240. In a letter dated 23 September 1994, the Special Rapporteur thanked the Government for information provided and requested some additional details with regard to the investigations into violence in Ogoniland. In reply to his request for additional details about the investigations and other measures implemented by the authorities to improve the situation in Ogoniland and prevent further acts of violence, the Government informed the Special Rapporteur in a letter dated 18 November 1994 that the investigations were being carried out by the Federal Intelligence and Investigation Bureau (FIIB), whose report would be referred to the Director of Public Prosecution for vetting prior to prosecution in public trials. Other measures to improve the situation in Ogoniland included the deployment of adequate law enforcement agencies; the presence of the Federal Environmental Protection Agency and an Oil Mineral Producing Areas Development Commission; a

visit to the area by a ministerial fact-finding team; and the convening of a National Constitutional Conference to address all grievances held by the different ethnic and social groups in the country.

241. In addition, in a letter of 10 November 1994, the Government informed the Special Rapporteur that fears for the life of Ken Saro Wiwa (see E/CN.4/1994/7, para. 468) were unfounded as he was given the necessary medical attention and free access to his family and attorney during detention for his involvement in the killing of four Ogoni leaders.

Observations

242. The Special Rapporteur appreciates the willingness to cooperate shown by the Government. However, the persistent reports and allegations of violations of the right to life of members of the Ogoni ethnic group are most worrying. The Special Rapporteur is particularly concerned at the establishment of a special court to curb unrest and insecurity in the area. The extending of the scope of the death penalty to offences previously not punishable by death is clearly contrary to the tendency, expressed by the General Assembly and the Human Rights Committee on repeated occasions, towards a gradual reduction and eventual abolition of capital punishment. In addition, special jurisdictions, especially when set up to deal speedily with situations of unrest, very often entail serious restrictions of the safeguards and guarantees for defendants, particularly when they face the death penalty. The Special Rapporteur therefore calls upon the authorities of Nigeria to ensure that proceedings before the special tribunal conform to the standards for fair trial procedures as contained in pertinent international instruments. He also urges the authorities to take the necessary steps to assure that security forces, in operations aimed at restoring peace and order, fully abide by the norms and regulations governing the use of force by law enforcement officials, and that those employing excessive use of force be brought to justice, in conformity with international law.

Pakistan

Information received and communications sent

243. The reports and allegations brought to the attention of the Special Rapporteur indicate that violations of the right to life continue to occur in Pakistan. Most of these reports refer to deaths of detainees while in the custody of the police, particularly in the provinces of Sindh and Punjab. In many cases, the victims of such killings were reported by the police to have died during "armed encounters" between the security forces and dangerous criminals. According to the information received, however, most of those killed showed signs of torture. Concern was expressed that the authors of the killings had not been brought to justice.

244. The Special Rapporteur transmitted three urgent appeals to the Government. Fears were expressed for the life and physical integrity of Bashir Qureshi, reportedly in a precarious state of health after being arrested, and allegedly tortured, by members of the military in January 1994 (4 February 1994). The Special Rapporteur also expressed concern at reports of armed attacks against the Ahmadiyya community in Lahore in early February 1994, during which two persons, Rana Riaz Ahmad and Ahmad Nasrullah, were said to have been shot by members of an armed Islamic group. The police reportedly failed to provide protection to the members of the community or adequately investigate the attacks and, allegedly, refused to register complaints by the victim's families and witnesses to the attacks (15 March 1994). The Special Rapporteur also urged the authorities to take adequate steps to protect the lives and physical integrity of inmates at Karachi Central Jail, where prisoners were said to be held in life-threatening conditions due to overcrowding, lack of medical facilities and unhygienic conditions (29 September 1994).

245. The Special Rapporteur also transmitted to the Government allegations he had received concerning the killing of Manzoor Masih, a Christian, who was reportedly shot by members of an Islamist party as he left

Lahore High Court in April 1994. The following cases concern deaths of detainees while in custody at different police stations: Mujib Aijaz Jatoi; Noor Muhammad Qureshi; Gulioo Machhi; Mohammad Irshad; Niaz Hussain Pathan; Yusuf Jakhrani; Qamruddin, Khadim and Subho Indhar; Nazir Masih; Mazhar Iqbal Bhatti, alias "Safdar Jamil Bhatti", and six other young men. In addition, Bebal Khatton Shirazi was reportedly killed during a joint operation by police and army personnel in December 1992.

Communications received

246. On 4 October 1994, the Government acknowledged receipt of the Special Rapporteur's urgent appeal of 29 September 1994.

Follow-up

247. On 4 February 1994, the Government provided information in reply to an urgent appeal transmitted by the Special Rapporteur in September 1993 (see E/CN.4/1994/7, para. 472), concerning three persons sentenced to death for blasphemy. The Government pointed out that blasphemy laws were not directed against any religious minority. The three accused had been seen writing blasphemous inscriptions on the wall of a mosque. They were arrested and their case referred to the Additional District and Session Judge of Gujranwala for trial. One of the accused, a 13-year-old boy, was granted bail and released from jail in November 1993.

Observations

248. The Special Rapporteur thanks the Government for the information provided as mentioned above. However, he wishes to express his deep concern at the reports received concerning the killing of one of the three accused, Manzoor Masih. In his urgent appeal of 7 September 1993, the Special Rapporteur had called upon the authorities to ensure the protection of the right to life and physical integrity of the three persons accused of blasphemy. He continues to be concerned, too, at the fact that under the blasphemy legislation in force in Pakistan a 13-year-old could face the death sentence. The Special Rapporteur reiterates his call upon the authorities to revise this legislation so as to make it conform to the international instruments prohibiting the imposition of capital punishment on minors.

249. Moreover, the reports and allegations received concerning deaths in police custody are most disturbing. The Special Rapporteur urges the Government to conduct exhaustive and impartial investigations into all allegations of violations of the right to life and bring those responsible to justice. He also calls on the authorities to see to it that the conditions of detention conform to the standards contained in the pertinent international instruments and do not, in themselves, constitute a threat to the lives and physical integrity of the inmates.

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