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

### **Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt**

**Addendum**

**Summary of cases transmitted to Governments and replies received\***

#### *Summary*

In the present report, the Special Rapporteur on freedom of religion or belief gives an account of communications transmitted to Governments between 1 December 2009 and 30 November 2010. The report also contains summaries of the replies received from Governments by 2 February 2011 and observations of the Special Rapporteur where considered appropriate.

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\* The present document is circulated as received.

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## I. Introduction

1. This report gives an account of communications transmitted by the Special Rapporteur on freedom of religion or belief between 1 December 2009 and 30 November 2010. It also contains summaries of the replies received from Governments by 2 February 2011 and observations of the Special Rapporteur where considered appropriate. Some of these observations refer to the Special Rapporteur's framework for communications (see E/CN.4/2006/5, annex and A/HRC/6/5). The various categories are as follows:

- A. Freedom of religion or belief
  - 1. Freedom to adopt, change or renounce a religion or belief.
  - 2. Freedom from coercion.
  - 3. The right to manifest one's religion or belief:
    - (a) Freedom to worship;
    - (b) Places of worship;
    - (c) Religious symbols;
    - (d) Observance of holidays and days of rest;
    - (e) Appointing clergy;
    - (f) Teaching and disseminating materials (including missionary activity);
    - (g) The right of parents to ensure the religious and moral education of their children;
    - (h) Registration;
    - (i) Communicate with individuals and communities on religious matters at the national and international level;
    - (j) Establish and maintain charitable and humanitarian institutions/solicit and receive funding;
    - (k) Conscientious objection.
- B. Discrimination
  - 1. Discrimination on the basis of religion or belief/inter-religious discrimination/tolerance.
  - 2. State religion.
- C. Vulnerable groups
  - 1. Women.
  - 2. Persons deprived of their liberty.
  - 3. Refugees.
  - 4. Children.
  - 5. Minorities.
  - 6. Migrant workers.

- D. Intersection of freedom of religion or belief with other human rights
  - 1. Freedom of expression including questions related to religious conflicts, religious intolerance and extremism.
  - 2. Right to life, right to liberty.
  - 3. Prohibition on torture and other cruel, inhuman or degrading treatment or punishment.
- E. Cross-cutting issues
  - 1. Derogation.
  - 2. Limitation.
  - 3. Legislative issues.
  - 4. Defenders of freedom of religion or belief and non-governmental organizations.

2. The Special Rapporteur has developed this framework for communications into an online digest, which illustrates the international standards with pertinent excerpts of the mandate holders' findings since 1986 according to the categories of the framework for communications. The online digest is available on the website of the Office of the High Commissioner for Human Rights.<sup>1</sup>

3. Owing to restrictions on the length of documents, the Special Rapporteur has been obliged to summarize in this report the communications sent and received. As a result, replies from Governments could not be published in their entirety. The names of alleged victims are reflected in this report, although exceptions may be made in relation to children and other victims of human rights violations to whom publication would be problematic or raise security concerns.

## II. Summary of cases transmitted and replies received

### A. Azerbaijan

#### 1. Communication sent on 20 November 2009 as a follow-up to the Special Rapporteur's country visit to Azerbaijan in February/March 2006

4. In a follow-up letter of 20 November 2009, the Special Rapporteur transmitted a table containing the conclusions and recommendations in the mission report on Azerbaijan (A/HRC/4/21/Add.2) as well as information from relevant United Nations documents, including from the Human Rights Council's Universal Periodic Review, Special Procedures and Treaty Bodies. The Special Rapporteur asked the Government to provide updated information on the consideration given to these recommendations, the steps taken to implement them, and any constraints which may prevent their implementation.

5. The Special Rapporteur is grateful that the Government of Azerbaijan replied by letter of 5 April 2010. The follow-up table, including any information provided by the Government, is available online on the Special Rapporteur's website ([www2.ohchr.org/english/issues/religion/visits.htm](http://www2.ohchr.org/english/issues/religion/visits.htm)).

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<sup>1</sup> [www2.ohchr.org/english/issues/religion/standards.htm](http://www2.ohchr.org/english/issues/religion/standards.htm).

## 2. Communication sent on 6 July 2010

### (a) Allegations transmitted to the Government

6. The Special Rapporteur brought to the attention of the Government information regarding Jehovah's Witnesses living in Nagorno-Karabakh, including Mr. **Boris Begladyan**, Ms. **Gohar Nikolay Sargsyan**, Ms. **Victoria Avetisyan** and Mr. **Grisha Khoren Nersesyan**.

7. According to the information received, local police disrupted religious meetings of Jehovah's Witnesses in the cities of Martakert (on 19 and 31 March 2010), Askeran (on 28 March 2010) and Stepanakert (on 30 March and 25 April 2010). In addition, two Jehovah's Witnesses were arrested on 27 April 2010 in Shushi although they were only visiting a friend. Furthermore, on 2 May 2010, three Jehovah's Witnesses in Stepanakert were arrested as they happened to be in the same car together.

8. The Jehovah's Witnesses concerned were arrested, interrogated, fingerprinted and charged under Article 206(2) of the "Code of Administrative Violations of Nagorno-Karabakh". Subsequently, they were released and some of them have been fined. Mr. Grisha Khoren, for example, was fined 300 drams by the "Administrative Panel of the Askeran's Mayor's Office". In addition, the organizers of the religious meeting of 30 March 2010 in Stepanakert were fined 1,000 drams by decision of the "Administrative Panel of the Mayor's Office of Stepanakert" on 4 May 2010.

9. Local officials reportedly confirmed that the local police in Nagorno-Karabakh had been instructed to arrest Jehovah's Witnesses whenever two or more of them are gathered, regardless of the reason for their gathering. The local officials also argued that article 206(2) of the "Code of Administrative Violations of Nagorno-Karabakh" prohibited Jehovah's Witnesses from meeting in public or in private because they had no registered religious organization.

10. More than 100 Jehovah's Witnesses already applied for registration as a religious organization in 2009. However, on 3 August 2009 the "State Registry Department of Nagorno-Karabakh" denied registration based on the opinion of the Chief of the "Department for National Minorities and Religious Affairs of Nagorno-Karabakh". He stated that Jehovah's Witnesses should not be registered because they publicly share their religious beliefs with others and that only the Armenian Apostolic Church was permitted to do so.

11. On 28 October 2009, the "Administrative Court of Nagorno-Karabakh" dismissed the appeal by Jehovah's Witnesses with regard to the denial of registration. However, the decision also affirmed that non-registered religious organizations have the legal right to hold peaceful religious meetings and discuss religious convictions with others.

12. The Special Rapporteur referred to Human Rights Council resolution 6/37, in which the Council urges "(f) To review, whenever relevant, existing registration practices in order to ensure the right of all persons to manifest their religion or belief, alone or in community with others and in public or in private; (g) To ensure, in particular, the right of all persons to worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes and the right of all persons to write, issue and disseminate relevant publications in these areas; (h) To ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom of all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected".

13. Furthermore, the Special Rapporteur requested the Government of Azerbaijan to transmit the allegation letter to the relevant authorities and to take all necessary measures to

guarantee that the rights and freedoms of the members of Jehovah's Witnesses are respected.

(b) *Response from the Government dated 20 October 2010*

14. In its letter dated 20 October 2010, the Government of Azerbaijan indicated that events mentioned in the Special Rapporteur's communication have occurred in the occupied territories of the Republic of Azerbaijan by Armenian armed forces, currently under the control of the Republic of Armenia.

15. The Government of Azerbaijan stated that the Republic of Azerbaijan was unfortunately unable to fulfill its obligations in respect to human rights in the occupied territories. In this regard the Republic of Azerbaijan made declaration on its inability to guarantee the application of the provisions of the international instruments it has joined in the territories occupied by the Republic of Armenia until these territories are liberated from that occupation (the schematic map of the occupied territories of the Republic of Azerbaijan was enclosed). The Government of Azerbaijan has constantly emphasized this fact in its report under the Universal Periodic Review and in its periodic reports to the United Nations Treaty Bodies. According to the Government, the Republic of Azerbaijan does not bear the responsibility for human rights violations committed in the occupied territories of the Republic of Azerbaijan.

16. Furthermore, the Government of Azerbaijan stated in its response that taking into account that the occupied territories of the Republic of Azerbaijan are under control of the Republic of Armenia and the illegal separatist regime, the Republic of Armenia, being an occupying power, was fully responsible for the protection of human rights and freedoms as well as norms and principles of international humanitarian law in these territories. In this regard, the Republic of Azerbaijan drew attention to the grave violations of human rights and freedoms and norms of international humanitarian law committed by the Republic of Armenia in the occupied territories of the Republic of Azerbaijan and expressed its deep concern for the vacuum existing in the protection of human rights and freedom in those territories.

17. The Government of Azerbaijan stated that for the effective protection of norms and principles of international law and human rights, including the right to freedom of religion and belief in the occupied territories of the Republic of Azerbaijan, firstly the occupation had to be eliminated and Armenian armed forces had to be withdrawn from the territories of the Republic of Azerbaijan. The Republic of Azerbaijan indicated that it supported a peaceful solution of the Armenian-Azerbaijan Nagorno-Karabakh conflict, based on norms and principles of international law, including territorial integrity, sovereignty and inviolability of internationally recognized border of states. Only after this, due conditions to ensure human rights and freedoms in the occupied territories of the Republic of Azerbaijan would appear.

18. In this respect, the Government of Azerbaijan believed it was essential that the Special Rapporteur emphasized in his report to be submitted to the Human Rights Council that the mentioned territories are under occupation and that restoration of sovereignty of the Republic of Azerbaijan and application of its legislation in these territories is a necessary precondition for protection of human rights and fundamental freedoms.

19. Furthermore, the Government of Azerbaijan considered that it would be correct to indicate "Nagorno-Karabakh" as "occupied Nagorno-Karabakh region of the Republic of Azerbaijan" as well as the correct names of "Shusha", "Agdara" and "Khankendi" cities of the Republic of Azerbaijan in the report of the Special Rapporteur.

20. The Government of Azerbaijan stressed once again that all bodies and documents referred in the letter – so called "Republic of Nagorno-Karabakh", "Codes of administrative

violations of Nagorno-Karabakh”, “Administrative court”, “State Registration department” were illegitimate and function illegally. The Government of Azerbaijan stated that it would be suitable to have a note on this in the report of the Special Rapporteur.

21. The Government of Azerbaijan indicated it was noteworthy to mention that the religious community of “Jehovah’s Witness” was registered in the Republic of Azerbaijan on 7 February 2002 and functions at present.

22. The Government of Azerbaijan highly appreciated the information provided by the Special Rapporteur and the Government of Azerbaijan would be grateful for further information on human rights violations in these territories in the future.

(c) *Observations by the Special Rapporteur*

23. The Special Rapporteur is grateful that the Government of Azerbaijan replied to the communication of 6 July 2010 and he took note of the comments. He would like to refer to General Assembly resolution 62/243, in which the General Assembly “[r]ecognizes the necessity of providing normal, secure and equal conditions of life for Armenian and Azerbaijani communities in the Nagorno-Karabakh region of the Republic of Azerbaijan, which will allow an effective democratic system of self-governance to be built up in this region within the Republic of Azerbaijan”.

24. The international community, Member States and all relevant de facto entities exercising government like functions should direct all their efforts to ensure that there are no human rights protection gaps and that all persons can effectively enjoy their fundamental rights wherever they live. In this spirit, the Special Rapporteur wishes to take this opportunity to refer to his framework for communications, more specifically to the international human rights norms and to the mandate practice concerning freedom to worship (see para. 1 above, category A. 3. (a)) and registration issues (category A. 3. (h)).

## **B. Bahrain**

### **Communication sent on 6 July 2010**

(a) *Allegations transmitted to the Government*

25. The Special Rapporteur brought to the attention of the Government information regarding Ms. **Dekrayat Sanad**, a Bahraini citizen aged 36 years. According to the information received, after 11 years of marriage, Ms. Dekrayat Sanad on 18 December 2008, filed a divorce case at the religious court of the Kingdom of Bahrain. Her husband, however, refused to divorce her and stated in the religious court that Ms. Dekrayat Sanad was not a Shia Muslim but rather had the belief of “Safara”. Based on this allegation, the judge from the religious court of the Kingdom of Bahrain on 25 May 2010 denied Ms. Dekrayat Sanad the right to custody of her children, Mo’amal (aged 10 years) and Yaqeen (aged 6 years). Reportedly, Shia religious leaders in the Kingdom of Bahrain have issued fatwas in recent years to the effect that “Safara” believers were not Muslims as such they should not be treated equally.

26. The Special Rapporteur asked the Government whether a complaint against the verdict of 25 May 2010, of the Shia religious court of the Kingdom of Bahrain concerning the case of Ms. Dekrayat Sanad had been lodged and what the outcome of this complaint was. The Special Rapporteur also requested the Government to clarify how the system of religious courts adjudicating on issues of personal status matters, such as divorce and custody issues, was compatible with international human rights standards regarding non-discrimination and the right to freedom of religion or belief.

(b) *Response from the Government dated 4 January 2011*

27. In its letter dated 4 January 2011, the Government of the Kingdom of Bahrain replied that Ms. Sanad claims that, on 25 May 2010, a sharia court issued a decision denying her right to custody of her children upon her divorce on religious grounds.

28. The Government of the Kingdom of Bahrain indicated that the subject of the complaint is a decision taken in an urgent applications case that does not have binding force. It is a first-instance decision, which may be appealed before a competent court. Hence, the complainant has not exhausted all domestic legal remedies.

29. Article 18 of the Constitution of the Kingdom of Bahrain provides: "All persons are equal in terms of human dignity. Citizens have the same rights, freedoms and general obligations under the law, without any discrimination between them on grounds of sex, origin, language, religion or belief." According to the Government of the Kingdom of Bahrain, it is inconceivable for anyone to infringe the Constitution, and even laws must be consistent with, and may not, infringe the Constitution.

30. The Government of the Kingdom of Bahrain indicated that it will provide the Special Rapporteur with a detailed report, once the complainant has exhausted all the remedies available under the law of Bahrain and a decision on the case has been taken.

(c) *Observations by the Special Rapporteur*

31. The Special Rapporteur is grateful that the Government of the Kingdom of Bahrain replied to the communication of 6 July 2010. He would like to recall that the Human Rights Council, in its resolution 6/37, urges States "(1) To take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to religious minorities, and devoting particular attention to practices that violate the human rights of women and discriminate against women, including in the exercise of their right to freedom of thought, conscience, religion or belief".

32. Furthermore, the Special Rapporteur wishes to take this opportunity to refer to his framework for communications, more specifically to the international human rights norms and to the mandate practice concerning discrimination on the basis of religion or belief (see para. 1 above, category B. 1.).

## C. Bangladesh

### **Communication sent on 30 November 2010 jointly with the Special Rapporteur on violence against women, its causes and consequences**

(a) *Allegations transmitted to the Government*

33. The Special Procedures mandate holders brought to the attention of the Government information regarding Ms. **Moni Mala Biswas**, a Hindu woman from Tala Upazila, Satkhira District. According to the information received, Ms. Moni Mala Biswas was the wife of Mr. Prakash Biswas and belonged to the Lower Caste of the Hindu minority in Tala Upazila of Satkhira District. On 20 April 2010, at about 9:00 a.m., Ms. Biswas went to fetch water from a well near the Tala police station. Allegedly, Ms. Biswas was then kidnapped by Mr. M. Z. G. with the help of Mr. K. G., Mr. A. Z. and Mr. S. G. (their full names are known to the Special Rapporteurs). On 21 April 2010, a criminal case under section 7/30 of the 2003 Women and Children Repression Act was opened against Mr. M. Z. G. and three unidentified perpetrators.

34. It is reported that Mr. M. Z. G. forcefully converted Ms. Biswas to Islam on 9 June 2010, renamed her as Ms. Fatema Begum and married her in contravention of section 494 of Bangladesh Penal Code. Subsequently, Mr. M. Z. G. reportedly put mental and physical pressure on Ms. Biswas to withdraw the abduction case dated 21 April 2010, and also to get money from her parents as dowry. When Ms. Biswas expressed her inability to procure dowry money from her destitute parents, Mr. M. Z. G. started beating her. As a result, Ms. Biswas died at the house of Mr. M. Z. G. on 28 October 2010. He tried to portray this as a suicide, hanging her dead body in his room and then fled away.

35. On 28 October 2010, the police recovered the dead body and filed another case against four perpetrators responsible for abatement of murder, including Mr. M. Z. G., under section 11(ka)/30 of the 2003 Women and Children Repression Act. However, the police has yet been unable to arrest the perpetrators. The body of Ms. Biswas was subsequently buried as per Muslim custom.

36. The Special Rapporteurs recalled that the right to marry only with one's free and full consent is recognized in article 16 of the Universal Declaration of Human Rights. Furthermore, they drew the attention of the Government of Bangladesh to article 16 of the Convention on the Elimination of All Forms of Discrimination Against Women, on the right of women and men to freely choose a spouse, to enter into marriage only with their free and full consent and to have the same rights and responsibilities during the marriage and at its dissolution. They also referred to article 1 of the United Nations Declaration on the Elimination of Violence against Women which provides that the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. Article 2 (a) of the Declaration provides that violence against women shall be understood to encompass dowry-related violence, among other forms of violence occurring in the family.

(b) *Response from the Government dated 30 November 2010*

37. In its letter dated 30 November 2010, the Government of Bangladesh acknowledged receipt of the Special Rapporteurs' communication concerning the case of Ms. Moni Mala Biswas of Tala Upazila Satkhira District, her forceful marriage and subsequent death. Reiterating the full support and cooperation of the Government of Bangladesh to the mandate and work of the esteemed Special Rapporteur and to other human rights special procedures and complaints mechanisms, the Permanent Mission of Bangladesh assured that the contents of the communication had been duly noted and forwarded to the concerned authorities in Bangladesh for necessary inquiry and actions.

(c) *Observations by the Special Rapporteur*

38. The Special Rapporteur is grateful that the Government of Bangladesh acknowledged receipt of the communication of 30 November 2010. He would like to reiterate the Special Rapporteurs' appeal to be provided with information relating to the case of Ms. Biswas described above and her subsequent death and to ensure the right to freedom of religion of all individuals in accordance with article 18 of the Universal Declaration of Human Rights. Furthermore, article 18, paragraph 2, of the International Covenant on Civil and Political Rights provides that "No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice".

39. In this context, he would also like to refer to Human Rights Council resolution 6/37, in which the Council urges States "to take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or

belief, as well as incitement to hostility and violence, with particular regard to religious minorities”. The General Assembly, in its resolution 64/164, urges States “to ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief [...] and to bring to justice all perpetrators of violations of these rights”.

## D. China

### 1. Urgent appeal sent on 18 September 2009 jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

#### (a) Allegations transmitted to the Government

40. The Special Rapporteurs brought to the attention of the Government information they had received regarding Mr. **Li Feng** and Mr. **Yu Ming**. A summary of this joint urgent appeal is already reproduced in the Special Rapporteur’s previous communications report (see A/HRC/13/40/Add.1, paras. 71-73).

#### (b) Response from the Government dated 12 February 2010

41. On 9 December 2010, the Government of China replied to the joint urgent appeal of 18 September 2009. The Government indicated that Mr. Li Feng was born on 10 October 1963, is of Han nationality, has junior middle-school educational level and is a peasant from Quti Village, Qizhou Town, Anguo City, Baoding Municipality, Hebei Province. He was sentenced on 12 October 2003 by the Baoding Municipal Intermediate People’s Court in Hebei Province to a term of 15 years’ imprisonment (4 October 2002 to 3 October 2017) for having committed the crime of employing a cult to organize the sabotage of law enforcement.

42. On 15 October 2003, Li was sent to Baoding prison to serve his sentence, and was transferred on 22 October 2003 to a prison on the northern outskirts of Shijiazhuang. Because Li suffered from hypertension and coronary heart disease, the prison authorities were seriously concerned regarding his continuing poor health, and had him promptly hospitalized for treatment. According to the Government, the major incidents are as follows:

- Hospitalization: Li Feng was hospitalized in the prison infirmary for four days from 12 to 16 January 2006 and released after his hypertension and coronary heart disease conditions improved; he was again hospitalized in the prison infirmary for 46 days from 3 February to 13 March 2008 and again released after his hypertension and coronary heart disease condition improved. Li has again been hospitalized for treatment in the prison infirmary since 23 September 2009, with a preliminary diagnosis of hypertension, gastritis and reflux oesophagitis, and is being treated with intravenous fluids and medications.
- Outpatient treatments: When Li suddenly fainted in January 2005, the prison promptly arranged to have him treated at the provincial people’s hospital; because he was frequently vomiting, the prison arranged outpatient treatment for him on 10 November and 19 December 2008, during which his gastritis and reflux oesophagitis were revealed by a CT scan.
- On 3 March 2009, Li was admitted to the prison infirmary for dizziness, shortness of breath and coughing; he was diagnosed with hypertension, myocardial ischemia and an upper-respiratory infection, and was treated with oral medications.

- On 6 May 2009, he was admitted to the prison infirmary for intermittent pain in the left thorax. He was diagnosed with an obsolescent myocardial infarction and treated with oral medications.
- On 16 September 2009, he was admitted to the prison infirmary for recurrent chest constriction and shortness of breath; the diagnosis was hypertension and he was treated with oral medication.

43. After his incarceration, Li has been visited by family members 30 times in the period from 29 October 2004 to date. From 2006 to the present, there have been six or seven visits per year. Currently, Li Feng's speech and thought processes are clear, he walks normally, and his health condition has stabilized. According to the Government, the assertions that Li Feng has been tortured and denied visits from family members are contrary to the facts.

44. Furthermore, the Government indicated that Mr. Yu Ming, aged 37, is of Han nationality, has senior middle-school educational level and was a worker in the Yinfu Company of Shenhe District, Shenyang. On 31 March 2006, Yu was approved for a two-year, six-month term of re-education through labour by the Beijing Municipal Re-education Through Labour Administrative Committee. On 26 June 2006, Yu applied to the Beijing Municipal People's Government for an administrative review of that decision; the Beijing Municipal People's Government accepted the case for investigation, and upheld the original decision with regard to the applicant's re-education through labour. Because his domicile of origin was Hebei Province, Yu was transferred into the re-education through labour camp at Masanjia in Hebei Province on 21 May 2007. Yu had engaged in a hunger strike for a time at the Tuanhe labour camp in Beijing, and continued to refuse to eat after being transferred to the Masanjia labour camp.

45. On 28 May 2007, he was sent to the hospital at the re-education through labour centre in Liaoning Province for treatment; after a full physical examination, he was diagnosed with malnutrition, level-III dehydration and acute coronary syndrome. The hospital provided him with enhanced nutrition, fluid replacement and treatment of his symptoms. In 2008, having fully recovered and been released from the hospital, Yu was returned to the Masanjia camp after a hospital stay of a year and three months.

46. According to the Government, on numerous occasions while in the hospital, Yu clandestinely contacted W. Y. (a drug addict who had also been sentenced to re-education through labour and who had also been treated in the hospital) and others, and, through a recently admitted fellow-cultist, provided W. Y. with three saw blades after W. Y. had been released from the hospital. On 11 August 2008, W. Y. and Z. D. (sentenced to re-education through labour for employing cults, secret societies and superstitious activities to endanger society) escaped after sawing through the steel bars on a labour camp dormitory window. Yu also contacted his wife, who provided W. Y. and Z. D. with a hiding-place. In accordance with the provisions of article 24, paragraph 1 (1) (the re-education through labour terms of persons who escape or organize, incite or assist others to escape are to be extended by three months or more) and paragraph 2 (5) (the re-education through labour sentences of persons who conceal cash, weapons, ropes and other prohibited articles, and who refuse to surrender them, are to be extended by two to three months) of the Detailed Rules for Implementation of the Three Types of Administrative Model and of the Review and Reward System for Persons Undergoing Re-education Through Labour in Liaoning Province, their re-education through labour terms were extended by one year. Yu was released from re-education through labour on 2 September 2009.

47. The Government furthermore indicated the following:

- With regard to the allegation that Yu was sent to a brainwashing centre at Luotaishanzhuang in Fushun City, investigation indicates that apart from a period of treatment in the Shenyang Masanjia labour camp infirmary for the adverse health

effects of his hunger strike, Yu remained in that camp from the time he was transferred there from the Beijing Tuanhe labour camp on 21 May 2007 until his release from re-education through labour on 2 September 2009; during that time he was mainly receiving training on compliance with the legal system, and there is no evidence that he was ever sent to a brainwashing centre at Luotaishanzhuang in Fushun City.

- With regard to the issue of his family members allegedly being refused permission to visit him, investigation indicates that from May 2007 to his release from hospital and return to the labour camp in August 2008, he received visits from members of his family as normal; such visits were subsequently terminated, however, because members of his family had facilitated his escape.
- With regard to the issue of an alleged “suicide note”, the labour camp had arranged for more than a year of hospitalization and treatment for the effects of his refusal of food and water as well as for his acute coronary syndrome, and he was not returned to the camp until he had recovered. Yu wrote a statement of repentance on 1 October 2008. The allegation that he had been forced to write a “suicide note” while in the labour camp has no basis in fact.
- With regard to the issue of the alleged solitary confinement, investigation indicates that for structural reasons, even now there are no solitary-confinement facilities at the Masanjia labour camp, so the accusation that Yu was held in solitary confinement has no basis in fact. There is also no evidence of his ever having been subjected to corporal punishment or maltreatment.

(c) *Observations by the Special Rapporteur*

48. The Special Rapporteur is grateful that the Government of China replied to the joint urgent appeal of 18 September 2009. The Special Rapporteur would also like to refer to his predecessor’s observations in her last communications report (A/HRC/13/40/Add.1, para. 74).

**2. Urgent appeal sent on 8 March 2010 jointly with the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances**

(a) *Allegations transmitted to the Government*

49. The Special Procedures mandate holders brought to the attention of the Government information regarding the case of the Falun Gong practitioner Mr. **Feng Jiang**. According to the information received, on 18 February 2010, Mr. Feng Jiang was allegedly abducted by Chinese authorities at the Shanghai Pudong Airport. Reportedly, Mr. Jiang went together with a friend to the airport to board flight Continental Airlines CO86 to Newark, United States of America, to reunite with his family. He allegedly arrived at Shanghai Pudong airport two hours prior to the departure, checked-in two pieces of luggage and went to the security check point. It was reported that Mr. Jiang’s friend saw him passing through the security check point. Mr. Jiang’s family was waiting for him at Newark Liberty International Airport, but Mr. Jiang was not among the passengers of Continental Airlines flight CO86. His family requested information at the Continental Airlines customer service desk, where they were informed that Mr. Jiang did not board the plane in Shanghai.

50. Allegedly, Chinese authorities are responsible for the disappearance and that the abduction is related to the activities of Mr. Feng Jiang and his wife as Falun Gong practitioners, for which they were arrested by Chinese authorities in the past. In this regard, it was reported that Mr. Jiang was arrested on 20 July 1999 for his practice of Falun Gong and for teaching others this practice and that he was sentenced to three years in prison in

November 1999. It was also reported that, while in prison, he was subjected to torture. A few days before his release in November 2002, his wife was detained and sentenced to four years in prison for her practice of Falun Gong. After she was released in 2006, Mr. Jiang's wife moved to the United States of America. Mr. Feng Jiang's fate and whereabouts remain unknown.

51. The Special Procedures mandate holders appealed to the Government of China to ensure Mr. Jiang's right to freedom of religion or belief in accordance with the principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief and article 18 of the Universal Declaration on Human Rights. Furthermore, they referred to General Assembly resolution 63/181, in which the Assembly urges States "to step up their efforts to protect and promote freedom of thought, conscience, religion or belief, and to this end: [...] To ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights".

(b) *Response from the Government dated 22 April 2010*

52. On 22 April 2010, the Government of China replied to the joint urgent appeal of 8 March 2010. Since the Special Rapporteur had not received the response's translation from the relevant services at the time this report was finalized, he is unfortunately not in a position to summarize in English the content of the Government's response in the present report. However, a copy of the original response letter is available online at the following address: [www2.ohchr.org/english/issues/religion/docs/response220410china.pdf](http://www2.ohchr.org/english/issues/religion/docs/response220410china.pdf).

(c) *Observations by the Special Rapporteur*

53. The Special Rapporteur is grateful that the Government of China replied to the joint urgent appeal of 8 March 2010 and hopes to be able to make observations on the response in the next report.

**3. Communication sent on 26 August 2010 jointly with the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

(a) *Allegations transmitted to the Government*

54. The Special Procedures mandate holders brought to the attention of the Government information regarding Mr. Guo Xiaojun, a Falun Gong practitioner from Shanghai. According to information received, Mr. Guo Xiaojun started practicing Falun Gong in 1997. Guo Xiaojun worked formerly as a lecturer in the Computer Science Department of Shanghai Jiaotong University, however, he was dismissed in 2001 after his arrest and conviction for having distributed literature about Falun Gong. On 16 December 2004, Guo Xiaojun was released from a labor camp.

55. On 7 January 2010, Guo Xiaojun was re-arrested by the police of the Domestic Security Division, Baoshan District Public Security Bureau. Several policemen searched his home and confiscated his laptop computer, mobile phone, books and other personal belongings. Guo Xiaojun has since been detained in the Shanghai Baoshan District Detention Center.

56. On 18 January 2010, the director of the Domestic Security Division and another policeman took Guo Xiaojun into a special interrogation room in the Baoshan District Detention Center and interrogated him from 2:15 p.m. to 5:00 p.m. Subsequently, Guo

Xiaojun was taken into another special interrogation room in the Detention Center and was interrogated non-stop by a team of policemen from 5:45 p.m. on 18 January 2010 to 2:30 p.m. the following day without being allowed to sleep. The police allegedly forced him to confess through sleep deprivation and by refusing to provide him with food. When Guo Xiaojun tried to support his head with his hands, the police officer violently pushed away his hands. Furthermore, the police reportedly threatened to arrest his wife Xu Wenxin, who is also a Falun Gong practitioner, and to send their young child back to his hometown if Guo Xiaojun did not confess.

57. In February 2010, his defense attorney terminated the contract with Guo Xiaojun allegedly under the threats of the Beijing Judicial Bureau. One official of the Beijing Judicial Bureau had reportedly warned the defense attorney that he could no longer practice as a lawyer if he continued to represent Guo Xiaojun.

58. On 6 July 2010, the Shanghai Baoshan District Court tried Guo Xiaojun and sentenced him to four years' imprisonment. The basis of the conviction was Guo Xiaojun's confession obtained through threats and ill-treatment. Guo Xiaojun declared he would retract his confession and said that this confession was obtained through threats and torture, however, his speech was cut short by the judge. Guo Xiaojun has appealed against the court verdict. His wife also filed complaints with the police, the court and prosecutors, however, the authorities have reportedly not responded to those complaints.

(b) *No response received from the Government*

(c) *Observations by the Special Rapporteur*

59. The Special Rapporteur regrets that he has so far not received a reply from the Government of China concerning the above mentioned allegations. The Special Rapporteur shares the concerns of his predecessor with regard to the continued violations of freedom of religion or belief suffered by Falun Gong practitioners in China (see E/CN.4/2005/61, paras. 37-38; E/CN.4/2006/5/Add.1, para. 109; A/HRC/4/21/Add.1, para. 88; A/HRC/7/10/Add.1, para. 32; A/HRC/10/8/Add.1, para. 22; A/HRC/13/40/Add.1, paras. 71-74).

60. Furthermore, the Special Rapporteur would like to take this opportunity to refer to the chapter on "Religious minorities and new religious movements" in the report to the fourth session of the Human Rights Council (see A/HRC/4/21, paras. 43-47) and to his framework for communications, more specifically to the international human rights norms and to the mandate practice concerning discrimination on the basis of religion or belief (see para. 1 above, category B. 1.).

#### **4. Communication sent on 20 September 2010 jointly with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

(a) *Allegations transmitted to the Government*

61. The Special Procedures mandate holders brought to the attention of the Government information regarding the torture and ill-treatment in detention of Ms. **Geng Li**, Ms. **Sun Jianqin** and Ms. **Liu Shuli**, all Falun Gong practitioners. According to the information received, on 15 July 2009, Ms. Geng Li, Ms. Sun Jianqin and Ms. Liu Shuli were arrested at a market in Xiheyang Town and taken to the local police station.

62. Ms. Geng Li was handcuffed in the "carrying a sword in the back" position, paper was stuffed in her mouth and smoke blown in her face. The officers present took turns beating her, slapping her face and whipping her arms. Ms. Geng Li was also subjected to shocks with electric batons. She was kicked on her legs until she fell down. She was then

whipped on the knees with a rubber baton, and on her buttocks with a spiked baton. Afterwards, she was shackled to a chair and beaten on her legs, feet, shoulders and arms. She was later shackled to a special chair to confine detainees.

63. Ms. Sun Jianqin was handcuffed to a radiator while the police slapped and punched her face, kicked her legs and subjected her to electric shocks. The following day, she was sent to a detention center in Zhanhjiakou City, Hebei Province. She was released three days later after her family paid 700 Yuan to the police.

64. Ms. Liu Shuli was also beaten on her face. She was forced to kneel while she was beaten with a rubber baton, and subjected to electric shocks. The following day, she was examined at the hospital and later taken to the detention center in Zhangjiakou City. Five days later, she was transferred to the Nanyangzhuang Town Police Station where she was held until her family paid 1.000 Yuan to the police.

65. The Special Rapporteurs appealed to the Government to take all necessary steps to ensure the right to freedom of religion or belief of Ms. Geng Li, Ms. Sun Jianqin and Ms. Liu Shuli in accordance with the principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief and article 18 of the Universal Declaration on Human Rights. They also referred to General Assembly resolution 64/164, in which the Assembly urges States “to step up their efforts to protect and promote freedom of thought, conscience, religion or belief, and to this end: [...] (b) To ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights”.

66. The Special Rapporteurs urged the Government to take all necessary measures to guarantee that the rights and freedoms of Ms. Geng Li, Ms. Sun Jianqin and Ms. Liu Shuli are respected and that accountability of any person guilty of the alleged violations is ensured. The Special Rapporteurs also requested that the Government adopts effective measures to prevent the recurrence of these acts.

*(b) Response from the Government dated 9 December 2010*

67. On 9 December 2010, the Government of China replied to the joint communication of 20 September 2010. Since the Special Rapporteur had not received the response’s translation from the relevant services at the time this report was finalized, he is unfortunately not in a position to summarize in English the content of the Government’s response in the present report. However, a copy of the original response letter is available online at the following address: [www2.ohchr.org/english/issues/religion/docs/response091210china.pdf](http://www2.ohchr.org/english/issues/religion/docs/response091210china.pdf).

*(c) Observations by the Special Rapporteur*

68. The Special Rapporteur is grateful that the Government of China replied to the joint communication of 20 September 2010 and hopes to be able to make observations on the response in the next report.

**5. Urgent appeal sent on 4 November 2010 jointly with the Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

*(a) Allegations transmitted to the Government*

69. The Special Procedures mandate holders brought to the attention of the Government information regarding the situation of Mr. **Qiao Yongfang**, a practitioner of Falun Gong, who is currently detained in the Hohhot No 1 Men's Prison in the People's Republic of China. According to the information received, on 6 August 2010, Mr. Yongfang, aged 60, was sentenced by the Huimin District People's Court to three years' imprisonment on charges of "using a heretical organization to subvert the law". Mr. Yongfang was reportedly held in the Hohhot ("Huhehaote" in Chinese) No 1 Men's Prison. In September 2010, Mr. Yongfang was reported to have been transferred to a separate special unit within the prison referred to as a "prison training team". It is alleged that Falun Gong practitioners are often held in separate prison facilities where they are reportedly being tortured and ill-treated and forced to renounce their belief.

70. It is reported that Mr. Yongfang is currently in poor health conditions. He suffers from diabetes, for which he is allegedly not receiving adequate medical treatment. It is reported that Mr. Yongfang had previously been tortured while in detention, and sustained injuries on his head, for which he allegedly did not receive adequate medical treatment. In view of allegation that Mr. Yongfang was transferred to a special unit within the prison, serious concern is expressed about his physical and mental integrity. The Special Procedures mandate holders asked the Government to provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case.

*(b) Response from the Government dated 2 December 2010*

71. On 2 December 2010, the Government of China replied to the joint urgent appeal of 4 November 2010. Since the Special Rapporteur had not received the response's translation from the relevant services at the time this report was finalized, he is unfortunately not in a position to summarize in English the content of the Government's response in the present report. However, a copy of the original response letter is available online at the following address: [www2.ohchr.org/english/issues/religion/docs/response021210china.pdf](http://www2.ohchr.org/english/issues/religion/docs/response021210china.pdf).

*(c) Observations by the Special Rapporteur*

72. The Special Rapporteur is grateful that the Government of China replied to the joint urgent appeal of 4 November 2010 and hopes to be able to make observations on the response in the next report.

## **E. Egypt**

**1. Communication sent on 26 November 2009**

*(a) Allegations transmitted to the Government*

73. The Special Rapporteur brought to the attention of the Government information they had received regarding **attacks against members of the community of Coptic Christians in Farshout district**. A summary of this allegation letter is already reproduced in the

Special Rapporteur's previous communications report (see A/HRC/13/40/Add.1, paras. 80-83) and he has in the meantime received the response's translation.

(b) *Response from the Government dated 4 January 2010*

74. On 4 January 2010, the Government of Egypt replied to the communication of 26 November 2009. The information provided below by the Government concerns the background to the rioting and disorder that occurred in Farshout in the governorate of Qana and is based on the investigations carried out by the Office of the Public Prosecutor.

75. The Government indicated that in the second half of November 2009, the people of Farshout learned that a citizen called G. had sexually assaulted a little girl. The matter was recorded in Farshout administrative report No. 3257 of 2009. More than 600 persons from the city of Farshout gathered outside the police station, demanding that the assailant be brought outside, as they wanted to take revenge on him for what he had done to the girl. The people in the crowd became incensed when they discovered that the accused would be referred to Qana court, thereby precluding any possibility of him being subjected to direct retaliation but rather to whatever verdict the court would subsequently deliver. The police intervened to disperse the crowd. The people then headed off to the city, where they set off fires and destroyed public property and private property owned by Copts who live in the city and suburbs – the purpose being to put pressure on the police and force them into surrendering the accused so that revenge could be taken.

76. Two police reports, Farshout administrative report No. 3257 of 2009 and Farshout administrative report No. 3278 of 2009, were written about the sexual assault and the attack on public property and premises owned by Copts in Farshout (as mentioned in the letter of the Special Rapporteur). The Office of the Public Prosecutor immediately launched an investigation. Sixty-nine persons were arrested and questioned and 54 were detained until they had been interviewed about the attacks. The case is still being investigated. The remaining victims are being questioned and 13 persons suspected of being involved in carrying out and instigating the attacks were summoned to appear. The forensic reports will be examined by the Office of the Public Prosecutor as soon as they arrive, together with the report of the committee established at the local unit level.

77. The Office of the Public Prosecutor instructed the forensic laboratory to examine the premises and property that had been set on fire and to prepare a detailed report on the weapons and ammunition seized at the scene of the crime. A local unit committee was set up to inspect the damage to commercial premises and estimate the costs.

78. In addition to the above, the Government drew the Special Rapporteur's attention to a number of points about the measures taken to protect the Copts and their property, to bring those involved in these attacks and the instigators to account and to provide the Copts who suffered damage with access to legal remedies and compensation, in the framework of a comprehensive approach aimed at preventing the recurrence of sectarian violence in Farshout.

- The security forces intervened, as soon as the rioting and attacks began, in order to protect the Copts of the city. No clashes between the two sides were recorded and there were no injuries or deaths. The police took action to stop the arbitrary attacks and arrested dozens of persons suspected of participating in or instigating the attacks. These persons are being examined by the Office of the Public Prosecutor in preparation for trial. This disproves any claim that the security services failed to control the situation or to protect the Copts. Indeed, the direct cause of the public unrest was the determination of the police to do their duty by protecting the accused, a Copt, who was implicated in a sexual attack upon a Muslim girl, and by protecting the members of his family, until such time as the accused was brought before the

courts in order to allow the law to take its course and justice to be done in the ordinary way;

- The Egyptian courts will conduct an entirely independent examination of the cases of G. and of the attacks committed in Farshout and will render their verdict in accordance with the Egyptian Criminal Code, if the charges are proven;
- To date, there is no official record of the damage done to the property owned by Copts in Farshout, as the report of the local unit tasked by the Office of the Public Prosecutor with assessing the scale of the damage and the value of compensation owed to the aggrieved parties has yet to be issued;
- The Farshout city local council held an emergency session at the beginning of the crisis to discuss all possible ways of defusing the tension. The members of the people's assembly and the elders' council and with the chiefs and sheikhs of Farshout took steps to mediate between the family of the girl and the Copts of the city.

79. The Government commented that it was clear from the above that the Egyptian authorities did everything necessary to deal with this incident in accordance with the Egyptian law, both by arresting and detaining the person accused of attacking the girl and by arresting the agitators who attacked the property of others. These are the measures acknowledged in the complaint. Therefore, the Government argued that it did not seem clear on what basis the complaint was brought. However, the Government decided to detail all these measures out of a desire to continue the constructive dialogue and communication with the Special Rapporteur.

(c) *Observations by the Special Rapporteur*

80. The Special Rapporteur is grateful that the Government of Egypt replied to the communication of 26 November 2009. The Special Rapporteur would like to refer to a similar case which he took up in a joint communication of 30 November 2010 (see below, A/HRC/16/53, paras. 107-120).

**2. Communication sent on 2 February 2010**

(a) *Allegations transmitted to the Government*

81. The Special Procedures mandate holders brought to the attention of the Government information regarding the situation of the family of Mr. Hegazy, who is currently in hiding due to death threats made against them.

82. According to the information received, Mr. **Mohammed Hegazy** was born in 1982 in Port Said and converted to Christianity in 1998 after a period of intensive study of religion. His Christian name is Bishoy, however, Egyptian authorities have not recognized his name change. In early 2007, Mr. Hegazy attempted to register his change of religion with the Egyptian Interior Ministry, but Ministry officials rejected his request.

83. On 4 August 2007, Mr. Hegazy filed a lawsuit (no. 35647) requesting official recognition of his conversion and to have the details on his identity card changed to reflect his new religious beliefs. Article 47(2) of the Civil Status Law allows a citizen to change his religious affiliation on the ID card "without requiring the approval of the Ministry of Interior's Civil Status Department" if it is authorized by a "competent body" (jihat al-ikhtisas)". However, the Civil Status Department, which issues the ID cards, reportedly obstructs and discriminates against persons who have converted from Islam to Christianity by refusing to make the change in official records or to provide vital documents reflecting the requested change.

84. When Mr. Hegazy filed his case, two academics from Al-Azhar University demanded his execution, and the minister for religious endowments publicly affirmed the legality of executing Muslims who convert to Christianity. However, the Grand Mufti of Egypt stated that conversion from Islam, while sinful, was a permissible act that should not be subject to temporal punishment.

85. At a hearing on 15 January 2008, lawyers filed a complaint against the government, arguing on constitutional grounds against criminalizing apostasy. On 29 January 2008, the Supreme Administrative Court declined the validity of the case, basing its decision on article 2 of the Egyptian Constitution (“the principle source of legislation is Islamic jurisprudence (Sharia)”) and arguing that “monotheistic religions were sent by God in chronological order” and therefore one could not convert to “an older religion”. The court also reasoned that, according to Sharia law, Islam was the final and most complete religion and that Muslims already practiced full freedom of religion and could not convert to older religions such as Christianity or Judaism.

86. Mr. Hegazy was able to initiate another court case on 30 May 2009, which reportedly was pending. This case was scheduled for a hearing on 16 February 2010.

87. Mr. Hegazy’s wife, Ms. **Katarina Hegazy-Kamel**, was also born a Muslim and converted to Christianity several years before she met her husband. Like Mr. Hegazy, her status as a Christian convert is not legally acknowledged by the Egyptian authorities, effectively denying her freedom to change, manifest and register her religion, and denying her parental right to have her daughter receive a Christian education. Ms. Hegazy-Kamel had also planned to apply to have her religious status amended on her identification card, but the family was forced into hiding before she could apply.

88. Ms. Hegazy-Kamel and Mr. Hegazy have a two-year old daughter. In Egypt, the ID cards are required to enroll a child in school and children have to be educated in the Islamic faith as long as their father is officially registered as a Muslim. Reportedly, the family of Mr. Hegazy is currently in hiding and unable to leave the country, having been denied the necessary passports.

89. The Special Rapporteur appealed to the Government to ensure the right to freedom of religion or belief of the family of Mr. Hegazy in accordance with articles 18 of the International Covenant on Civil and Political Rights and of the Universal Declaration of Human Rights. The latter provides that the right to freedom of thought, conscience and religion “includes freedom to change his religion or belief”. In addition, the States Parties to the International Covenant on Civil and Political Rights are required to respect “the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions”.

90. The Special Rapporteur also referred to Human Rights Council resolution 6/37, in which the Council urges States “to ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practise freely one’s religion, including the right to change one’s religion or belief, is violated”. The Special Rapporteur also recalled that the General Assembly, in its resolution 63/181, urges States “to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end: [...] (c) To ensure that no one is discriminated against on the basis of his or her religion or belief when accessing, inter alia, education, medical care, employment, humanitarian assistance or social benefits; [...] (e) To ensure that no official documents are withheld from the individual on the grounds of religion or belief [...]; (j) To ensure that all public officials and civil servants, including members of law enforcement bodies, the military and educators, in the course of fulfilling their official duties, respect all

religions or beliefs and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate education or training is provided”.

91. The Special Rapporteur asked the Government to please clarify how the Egyptian legislation and jurisprudence on issues pertaining to the change of individuals’ religious affiliation, including the reflection of their conversion in identification documents, are compatible with international human rights standards regarding the right to freedom of religion or belief.

(b) *Response from the Government dated 27 April 2010*

92. In its response of 27 April 2010, the Government of Egypt indicated that the Egyptian national Mohammed Ahmed Abduh Hegazy declared his conversion to Christianity in 2007 and submitted a request to the authorities asking for the details of his name and religion to be changed in his national identity card. In that connection, Mr. Hegazy filed a lawsuit (No. 35647, judicial year 61) on 4 August 2007 challenging a decision of the Civil Status Department to reject his request.

93. On 29 January 2008, the Cairo Administrative Court delivered a ruling declaring the case inadmissible, as the Civil Status Department of the Ministry of the Interior had not issued an administrative decision rejecting Mr. Hegazy’s request. It follows that the court ruling was not directed against Mr. Hegazy, but simply provided for the case to be dismissed on formal and procedural grounds. It was this ruling that was appealed in proceedings filed in March 2008 with the Supreme Administrative Court (No. 13040, year 54, Supreme Administrative Court). The appeal is still being considered.

94. In the opinion accompanying its ruling, the Administrative Court made a number of comments, to which the Government of Egypt drew attention:

- The safeguards and firmly established principles enshrined in the Egyptian Constitution guarantee citizens freedom of religion, belief and worship and grant every citizen the right to adhere to any religion or belief or to convert to another religion. However, formal procedures are not a private matter but rather a separate issue. Procedures are regulated by law in order to prevent any threats or risks being posed to public order (*ordre public*). This is not inconsistent with article 18, paragraph 3, of the International Covenant on Civil and Political Rights;
- In connection with the above, there is no doubt that persons who change their religion on bogus grounds or for the sake of personal gain can stir up unrest, which threatens security, social peace and public order. It is also a fact that Mohammed Ahmed Abduh Hegazy has been a defendant in four court cases, the most recent being Port Said Administrative Court Case No. 1064/2006, in which Mr. Hegazy was indicted for assault and vandalism. In addition, Mr. Hegazy’s former lawyer, who filed the case, held a press conference at the Kalimah Centre for Human Rights in August 2009. On that occasion, he announced that he was withdrawing from the case, because Mr. Hegazy’s conversion to Christianity was not credible and, indeed, Mr. Hegazy had not provided any church authority with documentary evidence attesting to his desire to convert. This is consistent with Mr. Hegazy’s reputation for seeking attention and trying to make personal gain by all possible means;
- On 30 May 2009, Mohammed Hegazy filed another court case with the State Council (Case No. 41935, judicial year 63) against the President of the Republic and others, challenging the decision not to change the details in his identity card and demanding that the Civil Status Department be compelled to register his name as Bishoy Aramea Paulus and his religion as Christianity. In the event of a refusal, he asked for his name to be changed and the details of his religious affiliation to be

deleted and replaced with the symbol (-). The case began before the Council on 12 July 2009;

- The court bench, presided over by the Deputy President of the State Council, decided on 17 February to set a date of 27 April 2010 for the delivery of a verdict;
- The allegation in the letter that fatwas were issued threatening Mr. Hegazy's life is belied by the statement made in June 2007 by the Grand Mufti of Egypt, Mr. Ali Gomaa, to the effect that conversion from Islam is a grave sin but should not be subject to temporal punishment. In addition, Mr. Abd al-Mu'ti Bayumi, a member of the Islamic Research Academy at Al-Azhar al-Sharif, together with other imams and academics at Al-Azhar, have confirmed that Islam respects freedom of belief and freedom of choice. Others have clarified particular aspects of the penalty for apostasy, stating that it is not applicable in all circumstances but rather when the act of apostasy is compounded by hostility and threats to Islam and society. Furthermore, the courts have dismissed several cases in which lawyers asked for the State to impose the penalty for apostasy on Muslims who had converted to another religion;
- As an Egyptian national, Mohammed Hegazy enjoys a full range of rights and constitutional guarantees that enable him to use all available legal and judicial remedies. This may offer him some reassurance, should he feel that his life is in danger. Moreover, criminal proceedings may be brought against anyone who ill-treats him or threatens his life, the lives of his family members or his home. Hegazy has not filed any reports indicating that he has gone into hiding because of threats that he has received. Moreover, he can leave the country at any time, using his current passport without having to wait for his personal details to be changed.

95. Furthermore, the Government of Egypt indicated that Article 46 of the Egyptian Constitution guarantees freedom of belief and freedom of worship. The Egyptian legal system does not prevent anyone from converting to any other religion, and the laws do not criminalize either the act of declaring oneself to be a non-believer or apostasy. Should any problem arise in connection with any aspect of this issue, the Egyptian courts will serve as an effective mechanism, offering remedies and protecting the rights and fundamental freedoms of citizens. In this connection, the Government of Egypt noted that, on more than one occasion, the administrative courts have played an important role in upholding human rights in general and religious freedoms in particular. A famous example was the judgement rendered by the Supreme Administrative Court on 9 February 2008 in favour of plaintiffs who had converted to Christianity. The judgement was upheld by the State Council and required the executive authorities to issue new identity papers to the plaintiffs. Another example is a judgement issued in favour of a person who converted to the Baha'i faith. Further to that judgement, an implementing regulation of the Ministry of the Interior was amended to allow for the inclusion of the symbol (-) in the space marked "religion" in identity papers.

96. The Government of Egypt noted that the case of Mohammed Hegazy was pending before the Egyptian courts, which will consider the matter in the light of the Constitution, Egyptian laws, established norms, existing case law and a number of humanitarian and practical considerations, and also in keeping with Egypt's international legal obligations.

(c) *Observations by the Special Rapporteur*

97. The Special Rapporteur is grateful that the Government of Egypt replied to the communication of 2 February 2010. He would like to refer to the Human Rights Committee's general comment no. 22, in which the Committee states: "Article 18 distinguishes the freedom of thought, conscience, religion or belief from the freedom to

manifest religion or belief. It does not permit any limitations whatsoever on the freedom of thought and conscience or on the freedom to have or adopt a religion or belief of one's choice. These freedoms are protected unconditionally, as is the right of everyone to hold opinions without interference in article 19.1. In accordance with articles 18.2 and 17, no one can be compelled to reveal his thoughts or adherence to a religion or belief. [...] The Committee observes that the freedom to 'have or to adopt' a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views, as well as the right to retain one's religion or belief."

98. With regard to the religious education of Ms. Hegazy-Kamel's and Mr. Hegazy's daughter, for which the Government has not provided information, the Special Rapporteur wishes to take this opportunity to refer to his framework for communications, more specifically to the international human rights norms and to the mandate practice concerning the right of parents to ensure the religious and moral education of their children (see para. 1 above, category A. 3. (g)) as well as to his latest thematic report on freedom of religion or belief and school education (A/HRC/16/53, paras. 20-62).

### **3. Urgent appeal sent on 19 May 2010 jointly with the Chair-Rapporteur of the Working Group on Arbitrary Detention**

#### *(a) Allegations transmitted to the Government*

99. The Special Procedures mandate holders brought to the attention of the Government information regarding Dr. Mohamed Hatem Mohamed Halmy Al-Shafi'y, Mr. Khaled Ezzat Abdel-Samea Mohamed Gaber, Mr. Ibrahim Mostafa Mohamed Al-Gabry Atallah, Mr. Ibrahim Mahmoud Ahmed Sa'eed, Mr. Mostafa Hassan Ahmed Abul-Leaf, Mr. Ma'rouf Saber Al-Sayed Abdallah, Mr. Ashraf Abdel-Fadel Ibrahim Al-Khayyal, Mr. Mahmoud Wafdi Mohamed Hassan, and Mr. Nasr Abdel-Mon'iem Mohamed Nassr, who are all Ahmadis living in Egypt.

100. According to the information received, in the morning of 15 March 2010, officers of the Egyptian State Security Investigations officers carried out arrests of the above-mentioned members of the Ahmadiyyah community in the five governorates of Cairo, Qalyoubiya, Monufiya, Minya and Sohag. Reportedly, the arrests appear to have been conducted based on an interrogation memorandum by State Security Investigations officers which charged the group of holding and promoting religious "extremist ideas".

101. The nine Ahmadi men were detained in State Security Investigations headquarters in various governorates for up to six weeks without appearing before any judicial body or being charged with a crime. Since early May 2010 the nine Ahmadis have been detained in Istiqbaal Tora Prison in Cairo.

102. In early May 2010, Mr. Mohamed Hatem Al-Shafi'y and Mr. Khaled Ezzat were brought before the Supreme State Security Prosecutor's office, which began investigating them on charges of showing contempt for the Islamic religion, a crime under Article 98(f) of the Egyptian Penal Code. The article provides fines or up to five years of imprisonment for any person who "exploits religion in order to promote or advocate extremist ideologies by word of mouth, in writing or in any other manner with a view to stirring up sedition, disparaging or contempt of any heavenly-revealed religion or its adherents, or prejudicing national unity or social harmony." Their case is registered as no. 357/2010 (Supreme State Security).

103. On 12 May 2010, State Security Investigations officers arrested Ms. Ni'maat Sayed Ahmed, the wife of one of the Ahmadi detainees. On 13 May 2010, the Supreme State Security Prosecutor's office charged her with showing contempt for religion after asking

her several specific questions about her religious beliefs and her affiliation with the Ahmadi confession. Her lawyer argued that the clause on showing contempt for religion was unconstitutional, pointing out that the suspect could not be asked about her religious beliefs as this violated constitutional protections for freedom of belief and personal freedom, upheld by Articles 41 and 46 of the Constitution. Subsequently, the prosecutor ordered the release of Ms. Ni'maat Sayed Ahmed.

104. The Special Procedures mandate holders urged the Government to take all necessary measures to guarantee that the rights and freedoms of Dr. Mohamed Hatem Mohamed Halmy Al-Shafi'y, Mr. Khaled Ezzat Abdel-Samea Mohamed Gaber, Mr. Ibrahim Mostafa Mohamed Al-Gabry Atallah, Mr. Ibrahim Mahmoud Ahmed Sa'eed, Mr. Mostafa Hassan Ahmed Abul-Leef, Mr. Ma'rouf Saber Al-Sayed Abdallah, Mr. Ashraf Abdel-Fadel Ibrahim Al-Khayyal, Mr. Mahmoud Wafdi Mohamed Hassan, and Mr. Nasr Abdel-Mon'iem Mohamed Nassr are respected and, in the event that the investigations support or suggest the above allegations to be correct, the accountability of any person guilty of the alleged acts should be ensured.

(b) *No response received from the Government*

(c) *Observations by the Special Rapporteur*

105. The Special Rapporteur regrets that he has so far not received a reply from the Government of Egypt concerning the allegations in the urgent appeal of 19 May 2010. He would like to appeal to the Government to ensure the right to freedom of religion or belief of the above mentioned members of the Ahmadiyyah community in accordance with articles 18 of the International Covenant on Civil and Political Rights and of the Universal Declaration of Human Rights.

106. The Special Rapporteur would also like to refer to General Assembly resolution 64/164, in which the Assembly urges States "(a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practise freely one's religion, including the right to change one's religion or belief, is violated; (b) To ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights [...]".

#### **4. Communication sent on 30 November 2010 jointly with the Independent Expert on minority issues**

(a) *Allegations transmitted to the Government*

107. The Special Procedures mandate holders brought to the attention of the Government information regarding **Mr. Fouad Tawadros, Mr. Roumany Sedrak, Mr. Wasfi Tadros, Mr. Bedeir Metri, Mr. Noel Atalla, Mr. Fekry Abdalla, Mr. Antar Gerges, Mr. Mahrous Gerges, Mr. Roumany Wanis, Mr. Masoud Nagi, Mr. Nabil Saber, Mr. Metry Moussa, Mr. Nabil Atalla, Mr. Naeem Hakim, Mr. Abdelmalak Youhanna, Mr. Philip Salib, Mr. Fekry Abdalla, Mr. Boshra A. Gendy, Mr. Fakhry Metri, Mr. Shohdy Metri, Mr. Kamal Aziz, Mr. Fokeih Aziz, Mr. Metri M. Faltaos, Mr. Ghayeth F. Sefein, Mr. Wadid A. Boshra, Mr. Shawki Helmi, Mr. Farid A. Moussa, Mr. Wasef Rashed, Mr. Roumany Sedrak and Mr. Wasfi Tadros**, who are all Coptic Christians living in the village of Elnawahed, Abou Tisht district, Qina governorate, Egypt.

108. According to the information received, on 15 November 2010, some Muslim inhabitants of the village of Elnawahed launched a rumour that a 19-year-old Coptic Christian had raped a 17-year-old Muslim girl. In the wake of that rumour, Muslim villagers, allegedly instigated by the village mayor, arranged an attack on the houses of the Coptic Christians and subsequently set twenty-two of their houses on fire. Before detonating propane cylinders and burning them, the Muslim inhabitants reportedly looted most of the properties of the houses belonging to the Christians, such as furniture, livestock and farm animals. The local police only arrived after the twenty-two houses were completely looted and set on fire. In addition, the chief prosecutor refused to listen to any of the Coptic victims or to register the names of the accused Muslims. State Security officers reportedly forced thirteen Coptic families to sign papers stating that the fires came about haphazardly as an “act of fate”. The local authorities also claimed that the Christians had caused the fire themselves and that the Muslims had cooperated in putting the fire out.

109. Subsequently, the Muslim girl was examined clinically and it was confirmed that she had never been raped. The Coptic Bishop of Nag Hammadi decried that once there is the rumour of a relationship between a Coptic man and a Muslim girl, the whole Coptic community has to pay the price, referring to a similar case in Farshout district in November 2009 (see A/HRC/13/40/Add.1, paras. 80-85).

110. The Special Procedures mandate holders recalled the rights of the above mentioned members of the Coptic Christian community to all their human rights, including freedom of religion or belief, in accordance with articles 18 of the Universal Declaration of Human Rights and of the International Covenant on Civil and Political Rights. The Special Procedures mandate holders requested the Government to provide the details and where available, the results, of any judicial investigation, or any criminal charges and other inquiries carried out in relation to this case. Furthermore, the Government was asked to provide information regarding any measures put in place to protect the security and human rights of members of the Coptic Christian community living in Abu Tisht district and in Egypt in general.

*(b) Response from the Government dated 20 December 2010*

111. In its preliminary response of 20 December 2010, the Government of Egypt indicated that the Office of the Public Prosecutor is currently conducting investigations into the attacks against the homes of a number of Christians in the Abu Tisht district of Qina governorate in November 2010.

112. On 16 November 2010, the Office of the Public Prosecutor received a report from the District Commissioner of Abu Tisht that a number of Muslim youths had gathered in Al-Nawahid, a village in the Abu Tisht district, and gone to the homes of a number of Christians. They had thrown stones and bundles of burning rags at the Christian homes, setting them on fire. These incidents had occurred in response to rumours of a romantic relationship between a Christian youth and a Muslim girl.

113. The Office of the Public Prosecutor launched the investigations by questioning those whose homes had been attacked. In their statements, they said that they had not seen the perpetrators.

114. The Office of the Public Prosecutor inspected 15 properties and found fire damage to the internal and external walls, in addition to damage to some moveable property inside the properties, with the exception of one property that had sustained damage but showed no evidence of fire damage. The Office of the Public Prosecutor also found the charred remains of two animals in one of the homes that it inspected, in addition to damage and fire damage.

115. The Office of the Public Prosecutor decided to assign the Criminal Investigation Department to inspect the site, in order to establish the cause, source, centre and outcome of the fire and whether any flammable materials had been used. In addition, it decided to assign the Engineering Department of Abu Tisht police station to inspect the properties where fire had occurred, in order to evaluate the damage to each individual property. Moreover, it decided to assign a veterinarian from the veterinary unit in Abu Tisht to establish the cause of death of the two animals. Furthermore, it requested the investigating authorities to make inquiries into the incident, in order to find out who was responsible. The investigating authorities reported that villagers had been angered by a rumoured relationship between a Christian youth and a Muslim girl and that a number of them had set fire to the homes and belongings of some Christians in the village.

116. Although those whose homes had been attacked said in their statements to the Office of the Public Prosecutor that they had not seen the perpetrators, the investigation report submitted to the Office of the Public Prosecutor contained the names of a number of persons suspected of having perpetrated these incidents.

117. On another note, the Governor of Qina announced that compensation would be paid to families that had sustained damages as a result of these incidents. The security agencies continue to work to maintain the security and stability of the population in the area.

118. The Government indicated that the investigation by the Office of the Public Prosecutor remained ongoing, pending receipt of the technical reports that it had requested and the arrest and summoning of the suspects indicated in the investigations, who are fugitives.

(c) *Observations by the Special Rapporteur*

119. The Special Rapporteur is grateful that the Government of Egypt replied to the joint communication of 30 November 2010. The Special Rapporteur would like to refer to a similar case which his predecessor had taken up in a communication of 26 November 2009 (see above, A/HRC/16/53/Add.1, paras. 73-80) and he is very concerned about attacks and incitement to violence against members of the Coptic community in Egypt.

120. Furthermore, the Special Rapporteur would like to reiterate that the General Assembly, in its resolution 64/164, urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end “(k) To take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, discrimination, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to members of religious minorities in all parts of the world”.

## F. Fiji

### Communication sent on 24 February 2010

(a) *Allegations transmitted to the Government*

121. The Special Rapporteur brought to the attention of the Government information regarding the situation of the **members of the Methodist Church** of Fiji. According to the information received, the Fiji Military Forces are currently monitoring the movement of the executives of the Methodist Church of Fiji. All members of its Standing Committee have been questioned and charged with attending an unauthorized meeting. Reportedly, the authorities have shut down the leadership and policy making mechanism of the Methodist Church of Fiji by banning the annual church meetings until 2014 as well as the quarterly

divisional (district) church meetings that were essential for the smooth running and operation of the work of the church. The ban was announced in January 2010 by Commodore Frank Bainimamara shortly after the public emergency regulations were extended. Under the public emergency regulations, no church minister is allowed to do fundraising and those charged under public emergency regulations are not allowed to preach.

122. The Special Rapporteur urged the Government to take all necessary measures to guarantee that the rights and freedoms of the members of the Methodist Church of Fiji are respected and, in the event that the investigations support or suggest the above allegations to be correct, the accountability of any person guilty of the alleged violations should be ensured. The Special Rapporteur also requested the Government to clarify how the ban on the annual meetings of the Methodist Church of Fiji until 2014 was compatible with international human rights standards regarding the right to freedom of religion or belief.

(b) *No response received from the Government*

(c) *Observations by the Special Rapporteur*

123. The Special Rapporteur regrets that he has so far not received a reply from the Government of Fiji regarding the above mentioned allegations concerning the situation of members of the Methodist Church of Fiji. He would like to refer to Human Rights Council resolution 6/37, in which the Council urges States “(g) To ensure, in particular, the right of all persons to worship or assemble in connection with a religion or belief and to establish and maintain places for these purposes and the right of all persons to write, issue and disseminate relevant publications in these areas; (h) To ensure that, in accordance with appropriate national legislation and in conformity with international human rights law, the freedom of all persons and members of groups to establish and maintain religious, charitable or humanitarian institutions is fully respected and protected”. Furthermore, he would like to recall that the General Assembly, in its resolution 63/181, urges States “to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end: [...] (j) To ensure that all public officials and civil servants, including members of law enforcement bodies, the military and educators, in the course of fulfilling their official duties, respect all religions or beliefs and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate education or training is provided”.

## **G. France**

### **Communication envoyée le 20 novembre 2009 en tant que lettre de suivi après la visite de la Rapporteuse spéciale en France en septembre 2005**

124. Dans une lettre de suivi envoyée le 20 novembre 2009, la Rapporteuse spéciale a envoyé un tableau contenant les conclusions et recommandations contenues dans le rapport de sa visite (E/CN.4/2006/5/Add.4) ainsi que des informations supplémentaires contenues dans les documents pertinents des Nations Unies en provenance notamment de l'Examen périodique universel du Conseil des droits de l'homme, des Procédures spéciales et des Organes de Traités. La Rapporteuse spéciale a demandé au Gouvernement de bien vouloir lui faire parvenir des informations actualisées sur l'attention accordée à ces recommandations, les mesures prises pour les mettre en œuvre et les obstacles éventuels qui pourraient empêcher leur mise en œuvre.

125. Le Rapporteur spécial est reconnaissant au Gouvernement de la France d'avoir répondu par lettre le 25 février 2010. Le tableau, y compris toute information fournie par le

Gouvernement, est placé sur le site web de la Rapporteuse spéciale ([www2.ohchr.org/english/issues/religion/visits.htm](http://www2.ohchr.org/english/issues/religion/visits.htm)).

## H. Hungary

### **Communication sent on 18 January 2011 jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

#### *(a) Allegations transmitted to the Government*

126. The Special Rapporteurs drew the attention of the Government to information they had received regarding two acts relating to the regulation of the media, namely the Press and Media Act (Act CIV of 2010) and the Media Services and Mass Media Act (Act CLXXXV of 2010), which have been adopted by the parliament of Hungary on 20 December 2010, and came into effect on 1 January 2011.

127. The Special Rapporteurs expressed their concern that the introduction of a new regime of media regulation through the adoption of these Acts constitutes a regressive step for press freedom and all individuals' right to freedom of opinion and expression in the Republic of Hungary. The Special Rapporteurs' main concerns include the fact that the types of media content deemed illegal in the two Acts are overly broad and vague, and the Acts are enforced by a non-independent entity. These factors will increase the likelihood of creating a chilling effect on the exercise of the rights to freedom of opinion and expression as well as freedom of thought, conscience and religion.

128. At the outset, the Special Rapporteurs reminded the Government that while the right to freedom of expression can be limited under certain circumstances, three clear-cut conditions must be respected for any limitation on the right to freedom of expression: (a) restrictions must be established in law, which is accessible, unambiguous, drawn narrowly and with precision so as to enable individuals to foresee whether a particular action is unlawful; (b) they should pursue one of the aims listed in article 19 (3) of the International Covenant on Civil and Political Rights, and (c) they must be proportionate to the accomplishment of that aim, in a sense that the benefit to the protected interest must outweigh the harm to freedom of expression, including in respect to the sanctions imposed, and constitute the least intrusive means to achieve the aim without jeopardizing the respect for the right to freedom of expression (see for example the latest report to the Human Rights Council by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/HRC/14/23). In addition, any laws restricting the right to freedom of expression must be applied by a body which is independent of any political, commercial, or other unwarranted influences in a manner that is neither arbitrary nor discriminatory, and with adequate safeguards against abuse.

129. The Special Rapporteurs are concerned that the provisions in the Press and Media Act and the Media Services and Mass Media Act do not meet the criteria outlined above. In particular, the Special Rapporteurs expressed their concerns regarding the following provisions, which they deem to be particularly problematic.

130. Section VI of the Press and Media Act outlines several obligations of the press, including provisions which stipulate that "all media content providers shall provide authentic, rapid and accurate information on local, national and European Union affairs and on any event that bears relevance to the citizens of the Republic of Hungary and members of the Hungarian nation" (article 13 (1), Press and Media Act), and that "linear and on-demand media content providers engaged in news coverage operations shall provide comprehensive, factual, up-to-date, objective and balanced coverage on local, national and European issues that may be of interest for the general public and on any event bearing

relevance to the citizens of the Republic of Hungary and members of the Hungarian nation” (article 13 (2), Press and Media Act).

131. While the Special Rapporteurs acknowledged the importance of the media to uphold the highest standards of ethics and professionalism, such standards should be adhered to voluntarily, rather than as obligations with legal sanctions (see for example the latest report to the General Assembly by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/65/284, para. 22). It is unclear how the legal requirements for the media to provide “authentic, rapid and accurate information” or “comprehensive, factual, up-to-date, objective, and balanced coverage” is necessary for achieving one of the aims set out in article 19 (3) of the International Covenant on Civil and Political Rights, and the Special Rapporteurs are concerned that the plurality and diversity of views and information transmitted by the media may be undermined.

132. Article 14 (1) of the Press and Media Act provides that “the media content provider shall – in the media content that it publishes and while preparing such media content – respect human dignity”, and article 14 (2) stipulates that “no self-gratifying and detrimental coverage of persons in humiliating or defenceless situations is allowed in the media content.” In relation to these provisions, the Special Rapporteurs reminded the Government that limitations to the right to freedom of expression can only be imposed to protect the purposes enunciated in articles 19 (3) or 20 of the International Covenant on Civil and Political Rights. In this regard, they noted with concern that “respect for human dignity”, and the prohibition of content that is “self-gratifying and detrimental coverage of persons in humiliating or defenceless situations”, constitute overly broad grounds for limiting the right to freedom of expression. The Special Rapporteurs also underscored that public officials and authorities should not take part in the initiation of defamation cases and tolerate more criticism because of the nature of their mandate, since public office entails public scrutiny as part of checks and balances in any democratic society (see for example E/CN.4/2006/55, para. 55).

133. Although article 6 (1) of the Press and Media Act guarantees the right of media content providers to keep the identity of its informant confidential, article 6 (3) stipulates that “in exceptionally justified cases, courts or authorities may – in the interest of protecting national security and public order or uncovering or preventing criminal acts – require the media service provider and any person employed by or engaged, in any other legal relationship intended for the performance of work, with the media content provider to reveal the identity of the informant.” The Special Rapporteurs emphasized that protection of national security may not be used as a reason to compel journalists to reveal confidential sources, as enunciated in Principle 18 of the Johannesburg Principles on National Security, Freedom of Expression and Access to Information (as endorsed in the 1996 report by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, E/CN.4/1996/39). Moreover, the Special Rapporteurs expressed their concern over the provision which authorizes forced disclosure of identity for the too broadly defined purposes of “uncovering or preventing criminal acts”, which may thus be subject to abuse. Furthermore, the Special Rapporteurs noted that “authorities”, which is not defined further, in addition to courts, may request for the disclosure of identity of the source, and are concerned that there are insufficient guarantees to ensure that such disclosure is not done in a manner that is arbitrary or free of political influence.

134. The Special Rapporteurs are also concerned about several provisions in the Press and Media Act which refer to religious groups and communities, including article 11, which states that “the public service media operates in order to preserve and strengthen integrity both on a national and European level, foster national, family, ethnic and religious communities”; article 17 (1), which states that “media content may not incite hatred against persons, nations, communities, national, ethnic, linguistic and other minorities or any

majority as well as any church or religious groups”; article 17 (2) which stipulates that “the media content may not offend or discriminate against – whether expressly or by implication – persons, nations, communities, national, ethnic, linguistic and other minorities or any majority as well as any church or religious groups”; and article 20 (5), which stipulates that “[n]o media content with a commercial announcement that may offend religious or ideological convictions may be published”.

135. With regard to article 17 of the Press and Media Act, the Special Rapporteurs recognized the importance of prohibiting any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence and of protecting individuals from all forms of discrimination. However, the Special Rapporteurs are concerned that the wording of article 17 of the Press and Media Act is overly broad, since it prohibits content that would merely “offend”, and even “by implication” – without necessarily inciting discrimination or hatred – “persons, nations, communities, national, ethnic, linguistic and other minorities or any majority” as well as “any church or religious groups”. Similarly, the Special Rapporteurs are concerned at the formulation in article 11 of the Press and Media Act (“the public service media operates in order to [...] foster national, family, ethnic and religious communities [...]”) and its article 20 (5) concerning the non-publication of “media content with a commercial announcement that may offend religious or ideological convictions”. As the Special Rapporteurs have stated on many occasions, abstract or subjective notions or concepts, such as the State, national symbols, national identity, cultures, schools of thought, religions, ideologies or political doctrines should not be protected as such. Otherwise, the rigorous protection of religions as such may create an atmosphere of intolerance and can give rise to fear and may even provoke the chances of a backlash (see A/HRC/2/3, para. 42). The Special Rapporteurs also reiterated that international human rights law protects individuals and groups of people, but not abstract notions or institutions that are subject to scrutiny, comment, criticism or ridicule (see A/HRC/14/23, para. 84 and A/HRC/2/3, paras. 27, 36 and 38).

136. Compliance with these provisions is overseen by a National Media and Infocommunications Authority (hereinafter the “Authority”), consisting of three entities as set out in article 109 of the Media Services and Mass Media Act: the President of the Authority, who is appointed by the Prime Minister of Hungary for a period of nine years; a Media Council of the Authority (hereinafter the “Media Council”), whose members are appointed by two thirds of the members of the Parliament for a period of nine years; and a Bureau of the Authority (hereinafter the “Bureau”), headed by a Director-General who is appointed by the President of the Authority. The Media Council in particular is mandated to prohibit unlawful conduct (article 186, Media Services and Mass Media Act), and “apply legal consequences” for breaches of the Press and Media Act (article 3 (4), Press and Media Act). Such “legal consequences” include suspension of a media service provider for up to one week in cases of repeated and grave infringements (article 187(3), Media Services and Mass Media Act), as well as imposition of fines of up to HUF 50,000,000 for a media service provider, HUF 25,000,000 for a newspaper with nationwide distribution, HUF 10,000,000 for a weekly periodical with nationwide distribution, HUF 5,000,000 for other newspapers or periodicals, HUF 25,000,000 for an online media product, HUF 5,000,000 for a broadcaster, and HUF 3,000,000 for an intermediary service provider (article 187 (3), Media Services and Mass Media Act).

137. As mentioned previously, any limitations to the right to freedom of expression should be applied by a body that is independent of any political, commercial, or other unwarranted influences. The Special Rapporteurs are concerned that the appointment process for the members of the Authority, which includes the President, Media Council and the Bureau, does not guarantee the independence of the Authority, given that the President is appointed by the Prime Minister, who is also empowered to appoint the Director-General of the Bureau, and the members of the Media Council are appointed by two thirds of the

members of Parliament, or the dominant political party. In this regard, the Special Rapporteurs noted that 263 out of 386 Members of Parliament (or 68 percent) are from the ruling FIDESZ-KDNP list. Additionally, the Special Rapporteurs are concerned that the financial sanctions to be imposed for a violation of legislation related to the media are determined by the Authority, rather than an independent judiciary.

138. The Special Rapporteurs indicated that they stand ready to provide the Government with support and assistance regarding the concerns outlined in this communication, in accordance with the mandates given to them by the Human Rights Council that the Special Rapporteurs provide advisory services or technical assistance when requested by the State concerned. The Special Rapporteurs also requested information from the Government clarifying how it intends to address the concerns raised in this communication.

(b) *Responses from the Government dated 2 February 2011*

139. In its letter of 2 February 2011, the Government of Hungary thanked the Special Rapporteurs for their letter of 18 January 2011, in which they had drawn the Government's attention to certain aspects of the new Hungarian legislation relating to media services. The Government communicated the official view as regards the concerns expressed in the Special Rapporteurs' letter.

140. The Government emphasized that it was firmly committed to freedom of the press and freedom of expression. Hungary had expressed this commitment not only by taking part in the framework of the International Covenant on Civil and Political Rights, but also by acceding to other important international legal instruments, such as the European Convention on Human Rights. Based on the Government's international commitments, freedom of expression had also been recognised as one of the most important fundamental values of the country's legal system by a series of landmark decisions in the Hungarian Constitutional Court.

141. According to the Government, the purpose of the recent legislation relating to media services (Act CIV of 2010 on the Freedom of the Press and the Fundamental Rules Governing Media Content [the Press and Media Act] and Act CLXXXV of 2010 on Media Services and Mass Communication [Media Services and Mass Media Act]) was to safeguard freedom of the press and freedom of expression, while at the same time achieving a corresponding balance with other fundamental rights – such as the right to human dignity, the rights of minors, and consumers' rights. The Government believed that by recently adopting a set of new acts related to the media it had secured this balance in accord with its international commitments, most notably with Article 19 of the International Covenant on Civil and Political Rights.

142. With the above in mind, the Government reacted to the comments in the Special Rapporteurs' letter related to particular aspects of the recent Hungarian media legislation:

*Obligations related to information and news services*

143. The Special Rapporteurs had quoted in their letter Article 13 (1) of the Press and Media Act. The Government noted that the quoted English translation of the text was incorrect at this point. The provision, in effect, was a declarative one. It established that the totality of the whole Hungarian media system shall provide adequate information to citizens. Contrary to the interpretation in the Special Rapporteurs' letter, it did not provide for any legally enforceable obligation for each and every media content provider.

144. As regards other provisions related to balanced presentation of news, the Government emphasized that this was not a legal requirement for the print media or internet news providers under the present Hungarian legislation. According to Article 13 (2) of the Press and Media Act, it was applicable only to radio, television and television-like media

content (i.e. non-linear audiovisual media services, within the meaning of the corresponding European Union directive). In the event of a violation of this obligation, the only “sanction” applicable by the authorities was the obligation to make viewers/listeners aware that they had received biased or inaccurate information, or the obligation to remedy biases and/or inaccuracies in the presentation. It was apparent from Article 181 (5) of the Media Services and Mass Media Act that there was no possibility of applying any other sanction in this regard. The obligation to provide balanced coverage could be found in many legal systems throughout the world. In this context, Recital 102 of Directive 2010/31/EU of the European Parliament and of the Council explicitly referred to the common practice of imposing the obligation on television broadcasters to present facts and events fairly.

145. The Government also pointed out that the requirement of balanced presentation had been in existence in the Hungarian legislation since 1996. The requirement was supported by the decisions of the Hungarian Constitutional Court; its precise content had been developed over the 15-year lifespan of the former media authority, and in the Hungarian courts. The Government stressed that courts performing judicial review concerning the related activities of the media authority were bound by this substantial body of constitutional jurisprudence – just as the authority itself. Given the fact that the precise content of the said requirement was well defined in case law, the Government stated that media content providers were not facing a new, “overly broad” or “vague” concept in this respect, the application of which may produce a “chilling effect” on them.

*The notion of human dignity*

146. The application of the provisions of Article 14 (1) and 14 (2) of the Press and Media Act raised, in the Special Rapporteurs’ judgment, unjustified limitations on the right of freedom of expression, given the “overly broad grounds of limitation”, such as respect for human dignity. However, the Government indicated that the notion of human dignity was another well-defined notion in the Hungarian legal system, with numerous interpretative decisions by the Hungarian Constitutional Court, the former media authority and the Hungarian courts. Moreover, human dignity was explicitly referred to in the European audiovisual media legislation, particularly in the Directive on Audiovisual Media Services and in related recommendations by the European Parliament and the Council. The concept was also present in the jurisprudence of the European Court of Human Rights. As a consequence, the legal concept of “human dignity” had become instrumental in combating racism, xenophobia and hate speech in Europe. Therefore the Government was convinced that its use in the Hungarian legislation was an important safeguard of democratic values, and in no way constituted an unjustified restriction on freedom of the press or freedom of expression.

147. As regards the Special Rapporteurs’ comment concerning defamation cases related to public officials and authorities, the Government noted that well-established case law from the Hungarian courts – based on a decision by the Hungarian Constitutional Court – clearly defined the limits and the scope of criticism that holders of public office must tolerate. The approach taken by the Constitutional Court and by the courts of Hungary was consistent with the Council of Europe declaration adopted by the Committee of Ministers on 12 February 2004 at the 872nd meeting of the Ministers’ Deputies on “freedom of political debate in the media”. In line with this declaration, the Hungarian legislation continued to fulfil the requirement that “political figures and public officials should only have access to those legal remedies against the media which private individuals have in case of violations of their rights by the media”. Against this background, the Government also noted that the exclusion of those holding public office from any form of legal remedy in the event of the violation of their dignity – as expressed in the Special Rapporteurs’ letter

– seemed to be a requirement going beyond what was necessary to ensure the possibility of public scrutiny.

*The protection of journalistic sources*

148. As regards the protection of journalists' sources, the Government drew the Special Rapporteurs' attention to Article 6 (1) of the Press and Media Act, which explicitly stated that media outlets and journalists "are entitled to keep the identity of their sources confidential." This general right of confidentiality also extended to court and authority proceedings: in other words, it granted those in the media exemption from the obligation to testify. According to these rules, journalists could only be required to disclose their sources of information in court or authority proceedings when there was exceptional justification. The definition of these exceptions corresponded to Article 10 of the European Convention on Human Rights.

149. Furthermore, the Government Please noted that although Article 6 (3) of the Press and Media Act stated that courts and authorities may, in exceptional cases, request the disclosure of the identity of the source, this did not in itself mean that *any* court or *any* authority was vested to implement this power, regardless of the procedure or investigation it pursued. In fact, this provision may only be applied in the context of criminal investigation, as identification of sources may only be requested "in the interest of protecting national security and public order or uncovering or preventing criminal acts" – this limited the scope of the provision to authorities with criminal investigative powers defined in other statutory provisions, such as the Code on Penal Procedure. It should also be noted that such decisions were always subject to judicial review by the courts. The Government was convinced that this set of guarantees excluded the possibility of any arbitrary rulings.

150. The Government also emphasized that prior to the adoption of the Press and Media Act the scope for protection of journalistic sources was much narrower under Hungarian law. Under the legal regime of Act 11 of 1986 on the Press (the relevant act in force prior to the adoption of the Press and Media Act and Media Services and the Mass Media Act), journalistic sources did not enjoy any special protection in the context of criminal proceedings. In the light of this, the Government was convinced that the provisions of the Press and Media Act regarding the right of journalists to protect their sources of information could not be described as a "regressive step" in any way.

*Actions against incitement to hatred and discrimination*

151. In the context of actions against incitement to hatred and discrimination, the Government noted that the Special Rapporteurs' letter referred to various provisions, differing in both nature and context. The first of these provisions was Article 11 of the Press and Media Act, defining the basic role of public service media. Among other international documents, the Council of Europe Recommendation CM/Rec(2007)3 of the Committee of Ministers on the remit of public service media in the information society stated that "member states have the competence to define and assign a public service remit to one or more specific media organisations". This competence was also recognised by European Union law and by several other documents of international law.

152. Another quoted provision was Article 20 (5) of the Press and Media Act, protecting religious and ideological convictions with regard to advertising. In this context the Government referred to the practice of the European Court of Human Rights, which granted a greater margin of interpretation to states when determining advertising regulation, given that such forms of communication – although also protected by the European Convention on Human Right – were less linked to democratic and social values than to economic ones.

153. According to the Government, the purpose of Article 17 of the Press and Media Act was to provide the opportunity for effective legal remedies when addressing problems related to racism, xenophobia or anti-Semitism – thereby helping to prevent the development of a climate of intolerance. Based on this aim, the article sought to combat all ideologies, policies and practices characterized by incitement to racial hatred, violence and discrimination, as well as any action or language likely to strengthen fears and tensions between groups from different racial, ethnic, national, religious or social backgrounds.

154. The Government was aware that the balance between securing freedom of expression and promoting a culture of tolerance was an extremely delicate one, and finding it posed a substantial challenge to all legal systems. However, the Government was confident that its legislation drew appropriate boundaries to freedom of expression also in this respect. At this instance the Government referred again to the importance of the judicial review over the activities of the media authority as granted by the Press and Media Act that ensured this balance at the level of the practice.

*The independence and sanctioning powers of the regulatory authority*

155. Finally, as regards the Special Rapporteurs' concerns over the independence of the National Media and Infocommunications Authority – and the Media Council therein – the Government noted that the Media Council was comprised of specialists elected by a two-thirds majority in the Hungarian National Assembly. The Government believed that the fact that they are elected by Parliament was itself proof enough that they could not be regarded as political appointees. The Hungarian legislation provided substantial guarantees to ensure their independent conduct in their office: in performing their duties, members of the Media Council could not take orders from anyone; they could not be recalled; and they had to comply with strict rules on conflict of interest. The elected members of the Media Council were expected to have no ties – either formal or informal – to any political party, or to the Government. Media authorities with a much smaller degree of independence from their respective governments were not uncommon across Europe: in several countries it was the Government, the Head of State or a minister that appointed the members of such authorities.

156. With regard to the imposition of fines and other sanctions by the Authority, the Government referred to Article 185 (2) of the Media Services and Mass Media Act, which stated that “in applying the legal consequence, the Media Council and the Office – under the principle of equal treatment – shall act in line with the principles of progressivity and proportionality; shall apply the legal consequence proportionately in line with the gravity and rate of re-occurrence of the infringement, taking into account all circumstances of the case and the purpose of the legal consequence”. This provision was complemented by 187 (2) of the same act, stating: “The Media Council and the Office shall impose the legal consequence – depending on the nature of the infringement – taking into account the gravity of the infringement, whether it was committed on one or more occasions or on an ad-hoc or continuous basis, its duration, the pecuniary benefits earned as a result of the infringement, the damage to interests caused by the infringement, the number of persons aggrieved or jeopardized by the damage to interests, the damage caused by the infringement and the impact of the infringement on the market and other considerations that may be taken into account in the particular case.” According to the Government, these provisions effectively excluded the possibility of disproportionate sanctioning by the Authority.

157. The Government also noted that the Media Services and Mass Media Act granted the possibility of judicial review for all of the Authority's decisions. The media service provider concerned could challenge the decision of the Media Council by launching an appeal at the competent court. The court may dismiss the decision of the Authority or

amend it. Therefore the entire conduct of the National Media and Telecommunications Authority was under the supervision of the courts.

158. The Government was confident that the above explanations relating to the Hungarian legislation on media services provided the Special Rapporteurs with the further insight necessary to assess the conformity of the legislation with fundamental rights, and in particular with the International Covenant on Civil and Political Rights. Should the Special Rapporteurs consider it necessary, the Government was willing to provide further clarifications necessary for the finalisation of the Special Rapporteurs' report. The Government also informed that it was currently in negotiations with the European Commission relating to possible amendments to the Hungarian legislation.

(c) *Observations by the Special Rapporteur*

159. The Special Rapporteur is grateful that the Government of Hungary replied by letter of 2 February 2011 to the joint communication of 18 January 2011. He wishes to take this opportunity to refer to his framework for communications, more specifically to the international human rights norms and to the mandate practice concerning the intersection of freedom of religion or belief with other human rights, including freedom of expression (see para. 1 above, category D. 1.).

160. In this context, the Special Rapporteur would also like to refer to OHCHR's expert workshops on the prohibition of incitement to national, racial or religious hatred.<sup>2</sup> The objective of these expert workshops in 2011 is to gain a better understanding of legislative patterns, judicial practices and policies in the different regions of the world with regard to the concept of incitement to national, racial, or religious hatred, while ensuring full respect for freedom of expression as outlined in articles 19 and 20 of the International Covenant on Civil and Political Rights; to arrive at a comprehensive assessment of the state of implementation of this prohibition of incitement in conformity with international human rights law; and to identify possible actions at all levels.

## **I. India**

### **1. Communication sent on 20 January 2005**

(a) *Allegations transmitted to the Government*

161. The Special Rapporteur brought to the attention of the Government information she had received according to which, following the tsunami disaster, in Tamil Nadu, a number of Dalits had been denied aid supplies and expelled from relief camps by higher caste groups who refused to eat with them or live under the same roof (see E/CN.4/2006/5/Add.1, para. 140). In the relief camps of the port town of Nagapattinam, Dalits were allegedly not being allowed to drink water from tanks placed by UNICEF. In the tsunami-hit areas, food and cash distributions normally took place in Hindu temples, often the only structures still standing because they were built from solid granite. Reports indicated that Dalits were left out in these distributions due to the fact that as "untouchables" they were not allowed to enter the halls of worship. Dalits had allegedly carried out much of the initial work in the immediate aftermath of the disaster such as carrying away dead bodies and disposing animal carcasses because upper caste people consider such work taboo and socially degrading.

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<sup>2</sup> [www2.ohchr.org/english/issues/opinion/articles1920\\_iccpr/index.htm](http://www2.ohchr.org/english/issues/opinion/articles1920_iccpr/index.htm).

*(b) Responses from the Government dated 8 April 2010*

162. In its letter of 8 April 2010, the Government of India informed that it regards the communication of 20 January 2005 outside the purview of the Special Rapporteur on freedom of religion or belief. Nevertheless, the Government of India has examined the communication and conveyed that, in the wake of the tsunami disaster, relief and rehabilitation measures were carried out in a transparent, equitable, unbiased and non-discriminatory manner. According to the Government of India, special response teams were constituted, headed by senior officials of the Government who personally visited the habitations of the affected communities, to ensure that all individuals, regardless of the section of society to which they belonged, were included in the list of those entitled to immediate relief and rehabilitation.

*(c) Observations by the Special Rapporteur*

163. The Special Rapporteur is grateful that the Government of India replied by letter of 8 April 2010 to the communication of 20 January 2005.

164. According to Commission on Human Rights resolution 1986/20 and Human Rights Council resolution 6/37, the Special Rapporteur's mandate includes the examination of "incidents and governmental actions that are incompatible with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief and to recommend remedial measures as appropriate". He would also like refer to the Special Rapporteur's country report on India, in which his predecessor addressed the situation of Dalits and the links between Scheduled Caste status and the individual's religious affiliation (see A/HRC/10/8/Add.3, paras. 11-12, 18-19, 27-28 and 71).

**2. Communication sent on 28 September 2010 jointly with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

*(a) Allegations transmitted to the Government*

165. The Special Procedures mandate holders brought to the attention of the Government information regarding the situation of 65 Pakistani **members of the Mehdi Foundation International** (MFI) who are currently detained in Central Jail Tihar, New Delhi, India. Their case has been subject of an urgent appeal sent jointly by the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the question of torture on 26 September 2007 (see A/HRC/7/10/Add.1, paras. 100-104 and a summary of the Government's response of 12 February 2009 in A/HRC/13/40/Add.1, para. 101).

166. According to new information received, since their arrival in Central Jail Tihar in April 2007, five female MFI members who were pregnant at the time of their arrest have given birth to five children. Reportedly, medical staff treated the pregnant MFI women inhumanly and slapped their faces during delivery. After delivery, no food or medication was given to the women for the next two days, while in the hospital food is usually served two times a day. Sanitary pads were not provided after delivery. One MFI woman was not administered stitches correctly and subsequently new stitches were readministered without any local anesthetic. During a medical checkup in Deen Dayal Hospital, it was found that two of the MFI women have cysts in their ovaries. While surgery was recommended, the Senior Medical Officer refused this, reportedly stating that "You take care of it at your own expense outside after your jail term."

167. On 28 January 2010, the Government of India rejected the applications made on behalf of the MFI detainees for political asylum and subsequently all criminal charges against them were reportedly withdrawn. The MFI members continue to be held in custody, pending a decision by the courts on whether their deportation to Pakistan would be lawful.

168. In Central Jail Tihar, the MFI members are detained in unsanitary and overcrowded facilities which have reportedly resulted in communicable diseases. If MFI detainees are sick they are scarcely referred to an external hospital and the prison authorities make them clean drainage lines with their bare hands.

169. Mr. Iqbal Shahi suffers from fits and there is neither medical care in the prison nor is he referred to outside physicians. Mr. Iqbal Shahi has been diagnosed with a tumor in his brain; however, reportedly no medical help is forthcoming.

170. Mr. Muhammad Ashfaque is diabetic and suffers from an illness affecting his backbone. The prison staff only gave him Metaformin tablets and his sugar level is getting higher. When Mr. Muhammad Ashfaque raised this issue with the prison staff he was reportedly told that “medication is very expensive outside and we cannot afford it, nor can we refer you to an outside hospital”.

171. Mr. Abdul Waheed underwent heart bypass surgery before his arrest and is still suffering from acute heart-related illnesses and blood pressure. Reportedly, he is not getting proper medical treatment but only receives pain-killers. The prison authorities asked Mr. Abdul Waheed to take care of his medical needs at his own expense from outside.

172. Mr. Abdul Rashid is diabetic, but the prison authorities did not allow him to visit an Outpatient Department. Due to high diabetic condition his eyesight deteriorated and he has blurred vision.

173. Ms. Kulsoom Khan suffered from fever in May 2007. The prison authorities gave her medication that did not help and the prison staff allegedly beat her. Ms. Kulsoom Khan was then sent to Deen Dayal Hospital where some liquid was withdrawn from her spine which generated pain in her lower spine. In Deen Dayal Hospital, Ms. Kulsoom Khan was reportedly given electric shocks once or twice daily. She was tied to the bed with ropes and would be unconscious for hours. Upon her return to Central Jail Tihar she was weak but she was reportedly refused to special diet including milk, egg, cheese and fruit. Ms. Kulsoom Khan developed anemia, however, she did not receive medication nor proper medical care.

174. Currently, eleven MFI children remain in detention in Central Jail Tihar (Farah Naz Gohar, Sana Riaz, Shahzaib, Hassan AlGohar, Asad Gohar, Zill-e-Gohar, Mary Gohar, Abhaya Gohar, Aamir Gohar, Tabassum Gohar and Abasah Gohar). However, the prison authorities do not have the required medication for children and the detained children are given adults’ medication instead. Thus the two-year-old Ms. Abasah Gohar was given full antibiotics over 15 days and subsequently developed gastric problems.

175. The Special Rapporteurs drew the attention of the Government to the Standard Minimum Rules for the Treatment of Prisoners (approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977). Rule 22 (2) provides that “[s]ick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.” Furthermore, rule 25 (1) provides that “[t]he medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.” The Special Rapporteurs requested the Government to provide the details, and

where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case.

(b) *No response received from the Government*

(c) *Observations by the Special Rapporteur*

176. The Special Rapporteur regrets that he has so far not received a reply from the Government of India concerning the above mentioned allegations. He would also like to recall the rights of the above-mentioned MFI members to all their human rights, including freedom of religion or belief, in accordance with the articles of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Civil and Political Rights, among other standards. The General Assembly, in its resolution 64/164, urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end “to ensure that no one is discriminated against on the basis of his or her religion or belief when accessing, inter alia, [...] medical care [...]”. He would like to take the opportunity to refer to his predecessor’s thematic report to the General Assembly on the situation of refugees, asylum-seekers and internally displaced persons (see A/62/280, paras. 38-63).

### **3. Communication sent on 5 November 2010 as a follow-up to the Special Rapporteur’s country visit to India in March 2008**

177. In a follow-up letter of 5 November 2010, the Special Rapporteur reiterated his appreciation for the cooperation of the Government in relation to his predecessor’s visit to India from 3 February to 20 March 2008. He emphasized that follow-up to country reports was of central importance to the cooperation and dialogue between mandate holders and States. Referring to the report to the Human Rights Council (A/HRC/13/40, para. 15), the Special Rapporteur indicated that the mandate has re-established the initial approach of sending follow-up letters after visits in order to receive updated information about the implementation of the recommendations at the national level.

178. For ease of reference, the Special Rapporteur transmitted a table containing the conclusions and recommendations in the related mission report (A/HRC/10/8/Add.3) as well as follow-up information from relevant United Nations documents, including from the Human Rights Council’s Universal Periodic Review, Special Procedures and Treaty Bodies.

179. The Special Rapporteur asked the Government to provide him with updated information on the consideration given to these recommendations, the steps taken to implement them, and any constraints which may prevent their implementation. This table, including any information provided by the Government, is available online on the Special Rapporteur’s website ([www2.ohchr.org/english/issues/religion/visits.htm](http://www2.ohchr.org/english/issues/religion/visits.htm)).

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

### **1. Urgent appeal sent on 5 May 2010 jointly with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on freedom of religion or belief; and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health**

(a) *Allegations transmitted to the Government*

180. The Special Procedures mandate holders brought to the attention of the Government information regarding **Ayatollah Sayed Hossein Kazemeyni Boroujerdi**, Iranian citizen,

who has been the subject of joint urgent appeals dated 20 December 2006, 30 August 2007 and 3 June 2009. In its response dated 14 February 2008, the Government of the Islamic Republic of Iran indicated that Mr. Boroujerdi had committed “anti-Islamic teaching acts” and that the Special Court for the Clergy had sentenced him in this context to ten years of imprisonment (see A/HRC/10/8/Add.1, paras. 82-83).

181. According to the new information received, Mr. Boroujerdi has spent approximately one year out of his prison sentence in solitary confinement at Evin Prison and Yazd Central Prison. During his detention, and particularly since January 2010, he has been subjected to various forms of ill-treatment, including apparent attacks on his life. From 22 to 27 April 2010, he was held in solitary confinement in the “information ward”, as a punishment for speaking on the phone about the conditions and treatment at Evin Prison. During this time, the guards reportedly threatened to amputate both his hands if he spoke of the torture and ill-treatment he had been subjected to. It is also believed that on 27 April 2010, several gases were diffused in his cell. As a result, Mr Boroujerdi was unable to stand easily, suffered from vertigo and vomiting, and had injuries on his vocal cords, forcing the guards to transfer him to the general ward. He has allegedly not received any medical attention and has been barred from receiving any visits.

182. In light of the allegations of torture and ill-treatment against Mr. Boroujerdi, as well as his urgent need for medical attention, concern is expressed for his physical and psychological integrity.

(b) *No response received from the Government*

(c) *Observations by the Special Rapporteur*

183. The Special Rapporteur regrets that he has so far not received a reply from the Government of the Islamic Republic of Iran concerning the above mentioned allegations. The Special Rapporteur appeals to the Government to ensure Mr. Boroujerdi’s right to freedom of religion or belief in accordance with article 18 of the Universal Declaration on Human Rights as well as of the International Covenant on Civil and Political Rights. Furthermore, the General Assembly, in its resolution 64/164, “urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end: [...] (b) To ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights”. The Special Rapporteur would also like to reiterate the observations of his predecessor concerning the case of Mr. Boroujerdi (see A/HRC/10/8/Add.1, paras. 84-85).

184. In addition, the Special Rapporteur draws the attention of the Government of the Islamic Republic of Iran to the Standard Minimum Rules for the Treatment of Prisoners (approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977). Rule 22 (2) provides that “[s]ick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers”. Furthermore, Rule 25 (1) provides that “[t]he medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed”.

2. **Urgent appeal sent on 13 August 2010 jointly with the Chair-Rapporteur of the Working Group on Arbitrary Detention; and the Independent Expert on Minority Issues**

(a) *Allegations transmitted to the Government*

185. The Special Procedures mandate holders brought to the attention of the Government information regarding recent cases involving members of the Bahá'í community in the Islamic Republic of Iran.

186. According to the information received, on 7 August 2010, Ms. **Fariba Kamalabadi**, Mr. **Jamaloddin Khanjani**, Mr. **Afif Naeimi**, Mr. **Saeid Rezaie**, Mr. **Behrouz Tavakkoli**, Mr. **Vahid Tizfahm** and Ms. **Mahvash Sabet** were reportedly sentenced by a Revolutionary Court in Teheran to 20 years of imprisonment each. The five men and two women, who were formerly the members of the Bahá'í leadership group at national level and have been detained in Evin prison since 2008, were allegedly convicted of charges including "insulting religious sanctities", "espionage for Israel" and "propaganda against the system". On 9 August 2010, they were reportedly transferred to a prison in Gohardasht, Karaj.

187. On 18 July 2010, Mr. **Ghavamoddin Sabetian** was arrested by Intelligence Ministry agents who came to his home in Sari (Mazandaran Province). Ministry officers had searched the home on 9 June 2010 and confiscated personal belongings, including all material related in any way to his religious beliefs.

188. On 17 July 2010, Intelligence Ministry officials arrested Mr. **Hedayatollah Rezaie** in Abadan (Khouzestan province) following a search of his home.

189. On 14 July 2010, Mr. **Houman Hourbod**, aged 18 years, was summoned to the local Intelligence Ministry office in Sari (Mazandaran Province) and arrested upon arrival. On 30 June 2010, Intelligence Ministry officers had come to search his family's home, summoning his father, Mr. **Ehsanollah Hourbod**, for interrogation the next day and then releasing him.

190. On 22 June 2010, officers from the Intelligence Ministry arrested Ms. **Noura Nabilzadeh** in an orphanage in Mashhad, while she was playing music for the children there. The officers took her to her home, searched the house and confiscated all materials related to her religion along with other personal belongings, including the computers and cell phones of all family members. On 5 July 2010, Ms. Nabilzadeh was permitted to have a telephone conversation with her family. She is being detained at the local detention centre of the Intelligence Ministry. Her father, Mr. **Davar Nabilzadeh**, recently lost his appeal against a sentence of five years' imprisonment and he was taken back into custody to begin serving his prison term on 13 July 2010.

191. On 20 June 2010, Intelligence Ministry officials searched Ms. **Sara Mahboubi**'s home in Sari (Mazandaran Province) and confiscated computers and books, CDs and photos linked to the Bahá'í faith. She was not home at the time and the officials told her parents that she had to go to the local office of the Ministry upon her return. On 24 June 2010, Ms. Mahboubi went to the Ministry and was immediately arrested.

192. On 7 June 2010, Mr. **Moshtagh Samandari** was summoned to the local Intelligence Ministry office in Babol and was arrested upon arrival. Subsequently, he was sentenced to three years of prison on charges of disrespecting Islam by advertising Baha'ism. His brother, Mr. **Moshfeq Samandari** (also of Babol) is currently in prison serving out a six-month sentence.

(b) *No response received from the Government*

(c) *Observations by the Special Rapporteur*

193. The Special Rapporteur regrets that he has so far not received a reply from the Government of the Islamic Republic of Iran concerning the above mentioned allegations. He is very concerned by the arrest and detention of members of the Bahá'í community and the continued violations of their freedom of religion or belief.

194. With regard to the judgement of 7 August 2010 against Ms. Fariba Kamalabadi, Mr. Jamaloddin Khanjani, Mr. Afif Naeimi, Mr. Saeid Rezaie, Mr. Behrouz Tavakkoli, Mr. Vahid Tizfahm and Ms. Mahvash Sabet, he would like to remind that their case has been the subject of previous communications sent jointly by several Special Procedures mandate-holders (see summaries of the communications and the government's reply in A/HRC/10/8/Add.1, paras. 93-94 and paras. 101-112; A/HRC/13/40/Add.1, paras. 130-135). Furthermore, the Working Group on Arbitrary Detention issued Opinion No. 34/2008 (A/HRC/13/30/Add.1, pages 142-145) stating that the detention of the individuals in this case was arbitrary and contrary to articles 9, 10 and 18 of the Universal Declaration of Human Rights and 9, 14 and 18 of the International Covenant and Civil and Political Rights, to which the Islamic Republic of Iran is a State party. The Working Group on Arbitrary Detention also held that this case fell within category II of the categories applicable to the consideration of the cases submitted to the Working Group and called for the immediate and unconditional release of the above-mentioned persons.

195. In addition, the case of Mr. Davar Nabilzadeh was already taken up in a communication sent on 11 October 2005 jointly by the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the promotion and protection of to freedom of opinion and expression (see E/CN.4/2006/5/Add.1, para. 195).

196. The Special Rapporteur would also like to take this opportunity to reiterate his wish to conduct a country visit to the Islamic Republic of Iran in the framework of his mandate in 2011. Already in November 2003, the Government of the Islamic Republic of Iran extended an invitation for a country visit by the Special Rapporteur. Despite the standing invitation issued by the Islamic Republic of Iran and several reminder letters sent by the Special Rapporteur (in September 2006, April 2008 and November 2010), however, neither his predecessor nor the current mandate-holder have so far been able to receive dates on which the Special Rapporteur could conduct such an official country visit to the Islamic Republic of Iran.

## **K. Iraq**

### **Communication sent on 15 November 2010 jointly with the Independent Expert on Minority Issues**

(a) *Allegations transmitted to the Government*

197. The Special Procedures mandate holders brought to the attention of the Government information regarding recent terrorist **attacks deliberately targeting locations where civilians congregate, including Christian and Muslim places of worship** in Baghdad, Karbala and Najaf.

198. According to the information received, on 31 October 2010, at least 50 civilians, including the Catholic priests Rev. Saad Abdal Tha'ir, Rev. Waseem Tabeeh and Rev. Raphael Qatin, were killed and dozens of others wounded during the attempted rescue of worshippers who had been taken hostage in the Our Lady of Salvation church in the Karrada neighbourhood of Baghdad. Seven or eight militants, allegedly from an

organization called “Islamic State of Iraq”, had stormed into the church during evening mass after detonating bombs in the neighborhood.

199. On 2 November 2010, another 68 civilians were killed and hundreds wounded in a series of explosions in at least ten mostly Shi’a neighborhoods in Baghdad. On 8 November 2010, two bombings targeting Shi’a pilgrims killed at least 13 people in the cities of Karbala and Najaf. In the first attack, a bus carrying pilgrims was hit by a bomb explosion in Karbala. In the second incident, a car bomb exploded near buses transporting Iranian pilgrims in the city of Najaf.

200. On 8 November 2010, members of the Kurdish Kakayee religious minority received leaflets threatening their community with murder and kidnapping in Daquq district of Kirkuk province. Seven villages in Daquq district are mainly inhabited by Kurdish Kakayees. This incident followed the kidnapping of two daughters of a Kurdish Kakayee politician in Kirkuk city on 28 October 2010, when five unidentified armed men attacked the house. The two daughters were later released on 29 October 2010, in exchange for five female detainees linked to the organization “Ansar Al Suna”, an Islamic group of Al Qaeda in Iraq.

201. On 9 and 10 November 2010, at least four civilians were killed and 25 others injured in a coordinated series of attacks in Christian neighbourhoods in Baghdad. Around 14 bombs were detonated and mortar shells targeting a number of houses across Baghdad and a church. Al Qaeda claimed responsibility for these attacks and has threatened more violence against the Christian community in Iraq.

202. On 10 November 2010, the members of the United Nations Security Council condemned the recent state of terrorist attacks in Iraq, indicating that these attacks deliberately targeted locations where civilians congregate, including Christian and Muslim places of worship. The members of the Security Council expressed their deep condolences to the families of the victims and reaffirmed their support for the people and Government of Iraq and their commitment to Iraq’s security.

203. The Special Procedures mandate holders requested the Government of Iraq to provide the details and where available, the results, of any judicial investigation, or any criminal charges and other inquiries carried out in relation to the above mentioned cases. They also asked which concrete measures the Government envisages or has already implemented to provide better protection for members of vulnerable groups, minorities and religious communities, including to their places of worship.

*(b) Responses from the Government dated 11 and 19 January 2011*

204. On 11 and 19 January 2011, the Government of Iraq replied to the joint communication of 15 November 2010. Since the Special Rapporteur had not received the responses’ translation from the relevant services at the time this report was finalized, he is unfortunately not in a position to summarize in English the content of the Government’s response in the present report. However, a copy of the original response letter is available online at the following address: [www2.ohchr.org/english/issues/religion/docs/response11011iraq.pdf](http://www2.ohchr.org/english/issues/religion/docs/response11011iraq.pdf).

*(c) Observations by the Special Rapporteur*

205. The Special Rapporteur is grateful that the Government of Iraq replied to the joint communication of 15 November 2010 and hopes to be able to make observations on the response in the next report.

## L. Israel

### 1. Communication sent on 11 March 2010 jointly with the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967

#### (a) Allegations transmitted to the Government

206. The Special Procedures mandate holders brought to the attention of the Government information regarding **religious tensions and violent clashes related to religious sites and places of worship** in Bethlehem, Hebron and Jerusalem.

207. According to the information received, the Prime Minister of Israel, H.E. Mr. Benjamin Netanyahu, announced on 21 February 2010 a plan to rehabilitate and strengthen the national heritage infrastructures of the State of Israel and in this context confirmed his intention to include Rachel's Tomb (on the outskirts of Bethlehem city) and the Cave of the Patriarchs/Ibrahimi Mosque (in Hebron city) in the list of national heritage sites. During the following days and in relation to this decision, violent clashes occurred between dozens of Palestinian youths and Israeli forces at various locations in Hebron and in other cities.

208. On 22 February 2010, the United Nations Special Coordinator for the Middle East Peace Process, Mr. Robert H. Serry, indicated in a statement that the two holy sites in Bethlehem and Hebron were located in occupied Palestinian territory and were of historical and religious significance not only to Judaism but also to Islam and to Christianity. Mr. Serry urged Israel not to take any steps on the ground which could undermine trust or prejudice peace negotiations. On 25 February 2010, the Director-General of UNESCO, Ms. Irina Bokova, also expressed her concern at the announcement by the Israeli Prime Minister to include the two sites in Bethlehem and Hebron in the Israeli list of National Heritage sites and at the resulting escalation of tension in the area.

209. In a statement of 25 February 2010, the Israeli Prime Minister emphasized that the Government of Israel would not harm freedom of worship for Muslims, just as the Government of Israel would preserve freedom of worship for Jews.

210. On 28 February 2010, Israeli police forces entered the al-Haram al-Sharif/Temple Mount compound in Jerusalem and dispersed a crowd of Palestinian youths who had reportedly thrown stones at visitors. On the same day, the Israeli police forces banned Muslim men under the age of 50 years from the site, however, women and non-Muslims could continue visiting the al-Haram al-Sharif/Temple Mount compound. On 5 March 2010, Israeli police and Palestinian youths reportedly clashed again at the al-Haram al-Sharif/Temple Mount compound, resulting in several injuries on both sides.

211. Furthermore, with the authorization and support by Israeli State authorities, the ongoing construction of a museum on a portion of the Ma'man Allah (Mamilla) cemetery in Jerusalem reportedly involves the excavation or exposure of hundreds of graves of this cemetery which has been a Muslim burial ground for more than 1000 years. Concerns have been expressed that the decision to remove and reinter Muslim remains was apparently taken without consulting the relevant Muslim religious authorities or the family members of those interred in Ma'man Allah (Mamilla) cemetery.

212. The Special Rapporteurs asked the Government of Israel to provide information about the current status of the inclusion of Rachel's Tomb and the Cave of the Patriarchs/Ibrahimi Mosque in the list of Israeli national heritage sites, including about any consultations the Government had with interested parties and religious communities in this regard. The Special Rapporteurs also requested to be provided with a list of the places which have been designated by the Government of Israel as holy sites so far and with a copy of the text of regulations implementing the 1967 Protection of Holy Sites Law. Furthermore, the Special Rapporteurs asked what measures the Government of Israel has

already implemented or envisages implementing in order to ensure that excavations and construction works on Ma'man Allah (Mamilla) cemetery in Jerusalem respect and protect cultural heritage and cultural property as well as freedom of religion or belief.

(b) *No response received from the Government*

(c) *Observations by the Special Rapporteur*

213. The Special Rapporteur regrets that he has so far not received a reply from the Government of Israel concerning the above mentioned allegations. He would like to appeal to the Government of Israel to ensure the right to freedom of religion or belief in accordance with articles 18 of the Universal Declaration of Human Rights and of the International Covenant on Civil and Political Rights. This right includes freedom to manifest one's religion or belief in teaching, practice, worship and observance, either alone or in community with others and in public or private. In addition, he would like to refer to international humanitarian law, which also protects the freedom to practice one's religion through religious observances, services and rites. With regard to territories of the parties to the conflict and to occupied territories, article 27 of the Fourth Geneva Convention provides that the protected persons are entitled, in all circumstances, to respect for "their religious convictions, and practices and their manners and customs". They must be able to practice their religion freely, without any restrictions other than those necessary for the maintenance of public law and morals.

214. The General Assembly, in its resolution 55/254, calls upon all States to exert their utmost efforts to ensure that religious sites are fully respected and protected in conformity with international standards and in accordance with their national legislation. In the same resolution, the General Assembly encourages all States, relevant intergovernmental and non-governmental organizations and the media to promote, inter alia, through education, a culture of tolerance and respect for the diversity of religions and for religious sites, which represent an important aspect of the collective heritage of humankind.

215. He would also like to refer to the observations concerning places of worship and related recommendations in his predecessor's report, who visited Israel and the occupied Palestinian territory in January 2008 (see A/HRC/10/8/Add.2, paras. 25-39 and 76). One of the recommendations to the Government of Israel, with regard to the protection and preservation of religious sites, was to issue as soon as possible non-selective regulations and designate holy sites on a non-discriminatory basis (see A/HRC/10/8/Add.2, para. 77). It was emphasized that the unique spiritual and religious dimension of the holy sites and their importance for believers in the whole world needed to be appropriately taken into account.

## **2. Communication sent on 5 November 2010 as a follow-up to the Special Rapporteur's country visit to Israel and the Occupied Palestinian Territory in January 2008**

216. In a follow-up letter of 5 November 2010, the Special Rapporteur reiterated his appreciation for the cooperation of the Government in relation to his predecessor's visit to Israel and the Occupied Palestinian Territory from 20 to 27 January 2008. He emphasized that follow-up to country reports was of central importance to the cooperation and dialogue between mandate holders and States. Referring to the report to the Human Rights Council (A/HRC/13/40, para. 15), the Special Rapporteur indicated that the mandate has re-established the initial approach of sending follow-up letters after visits in order to receive updated information about the implementation of the recommendations at the national level.

217. For ease of reference, the Special Rapporteur transmitted a table containing the conclusions and recommendations in the related mission report (A/HRC/10/8/Add.3) as well as follow-up information from relevant United Nations documents, including from the

Human Rights Council's Universal Periodic Review, Special Procedures and Treaty Bodies. The Special Rapporteur indicated that he sent this follow-up table also to the Permanent Observation Mission of Palestine to the United Nations Office at Geneva.

218. The Special Rapporteur asked the Government of Israel to provide him with updated information on the consideration given to these recommendations, the steps taken to implement them, and any constraints which may prevent their implementation. This table, including any information provided by the Government, is available online on the Special Rapporteur's website ([www2.ohchr.org/english/issues/religion/visits.htm](http://www2.ohchr.org/english/issues/religion/visits.htm)).

## M. Kyrgyzstan

### Communication sent on 12 July 2010

#### (a) *Allegations transmitted to the Government*

219. The Special Rapporteur brought to the attention of the Government information regarding the situation of Jehovah's Witnesses in Toktogul, including Mr. **Turcunbek Abdiev**, Ms. **Mairam Ozubikova**, Mr. **Moses Chiltanbek**, Mr. **Talant Abdiev**, Mr. **Samat Abdiev**, Mr. **Nazim Abdiev** and Mr. **Talant Boobekov**.

220. According to the information received, on 10 May 2010, at 5:00 p.m., a mob of approximately 100 persons threw stones at the recently built Kingdom Hall of Jehovah's Witnesses in Toktogul, breaking windows and damaging the roof. The mob told the Jehovah's Witnesses who were present at the Kingdom Hall that if they did not leave Toktogul by 13 May 2010, they would be killed and their place of worship destroyed. Jehovah's Witnesses contacted the Toktogul City Police for help. While several policemen arrived and asked the mob to disperse, none of the mob was charged.

221. On 13 May 2010, at 8:00 p.m., a mob of approximately 100 persons returned to the Kingdom Hall in Toktogul. They forced their way into the Kingdom Hall and seized and burned all Bible literature of the Jehovah's Witnesses. In response to calls for help by the Jehovah's Witnesses, three policemen arrived and asked the crowd to disperse, however, none of the mob was charged.

222. At 11:30 p.m. on 13 May 2010, a mob of approximately 40 persons went to the home of Mr. Turcunbek Abdiev (age 72) and Ms. Mairam Ozubikova (age 61), who are both Jehovah's Witnesses. The mob threw stones at their house, breaking many windows, and Ms. Mairam Ozubikova was injured. Their son-in-law Mr. Moses Chiltanbek (age 34) and their sons Mr. Talant Abdiev (age 42), Mr. Samat Abdiev (age 31) and Mr. Nazim Abdiev (age 23) arrived at their parents' home in an attempt to reason with the mob. The mob seized the four men and beat them repeatedly with sticks and metal objects, causing extensive bruising and swelling to their head and body. The mob threatened to kill Mr. Talant Abdiev with a pitchfork and to burn his home if he did not give them USD 1,000.

223. At 2:00 a.m. on 14 May 2010, the mob went to the home of Mr. Talant Boobekov, also a member of Jehovah's Witnesses in Toktogul. The mob forced their way into his home, smashed the windows and stole his personal belongings. On the same day, members of Jehovah's Witnesses reported the violence and theft to the Toktogul Police Department, including the names of the alleged perpetrators. However, none of the assailants has reportedly been charged so far.

(b) *No response received from the Government*

(c) *Observations by the Special Rapporteur*

224. The Special Rapporteur regrets that he has so far not received a reply from the Government of Kyrgyzstan concerning the above mentioned allegations. He would like to appeal to the Government to ensure the right to freedom of religion or belief of the members of Jehovah's Witnesses in accordance with the principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief and article 18 of the Universal Declaration on Human Rights and of the International Covenant on Civil and Political Rights.

225. The Special Rapporteur would also like to refer to Human Rights Council resolution 6/37, which urges States "(a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practice freely one's religion, including the right to change one's religion or belief, is violated; [...] (e) To exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights and humanitarian law, to ensure that religious places, sites, shrines and symbols are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration or destruction; [...] (l) To take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to religious minorities".

226. Furthermore, he would like to recall that the General Assembly, in its resolution 63/181, urges "(j) To ensure that all public officials and civil servants, including members of law enforcement bodies, the military and educators, in the course of fulfilling their official duties, respect all religions or beliefs and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate education or training is provided".

## N. Maldives

### **Communication sent on 20 May 2010 jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

(a) *Allegations transmitted to the Government*

227. The Special Rapporteurs brought to the attention of the Government information regarding **provisions in the draft "Regulations on protecting religious unity of Maldivian Citizens"**. According to the information received, in May 2010, the Ministry of Islamic Affairs drafted new "Regulations on protecting religious unity of Maldivian Citizens" and submitted the draft Regulations to the Office of the President for gazetting. On 18 May 2010, the Cabinet discussed the draft Regulations and decided to have them reviewed by the Attorney General before the draft Regulations could be gazetted.

228. Concern is expressed that a number of provisions in the draft Regulations, if enacted in this form, may seriously hamper several human rights, including freedom of religion or belief and freedom of opinion and expression.

229. Article 2 of the draft Regulations enumerates their aims, including "to maintain the religious harmony existing among Maldivians; solve conflicts that arise from disagreement among Islamic scholars on religious issues; ensure that information regarding such issues is spread so as not to sow discord in society; [...] maintain religious unity of Maldivian

citizens [...]”. Article 12 of the draft Regulations envisages the “revoking or temporary suspension of licenses” for violating the regulations and enables stopping “any persons whose actions are deemed to be threatening religious unity”.

230. Among the criteria for giving preaching licenses according to article 16 (b) of the draft Regulations, is the requirement that “the person must belong to any sect of the Sunni Muslims” and must have reached 25 years of age. In addition, article 19 of the draft Regulations stipulates that “foreign preachers who are given permission under these regulations should shape their sermons in reference to the Maldives culture and traditions”. Article 21 of the draft Regulations would impose “an obligation on the Government and all the people of Maldives to protect the religious unity of Maldivian citizens as Maldives is a 100 percent Muslim nation and because Islam maintains harmony of Maldivian citizens and because Islam is the basis of the unity of Maldivian citizens”.

231. Article 24 of the draft Regulations would give the authority to deport anyone who propagates any religion other than (Sunni) Islam. Article 27 of the draft Regulations would prohibit, for example, “promoting one’s own individual opinion on issues that are in disagreement among Islamic scholars”, “inciting people to disputes” and “talking about religions other than Islam in Maldives”. Similarly, it would be prohibited to build places of worship of other religions (article 30), to commit any action that may offend Islamic thought (article 32), for Non-Muslims to express their religious beliefs or carry out their religious activities (article 33) and to propagate any religion other than Islam (article 34).

232. Article 35 of the draft Regulations would make it “illegal to show or spread sound bites of programs on religions other than Islam, and any such literature, drawings, advertisements, music, and songs”, “to use any Internet website, blog, newspaper, or magazine to publish such material” and “to depict advertisements and make announcements in a way that affects Islamic way of life”.

233. The Special Rapporteurs requested the Government to indicate the current status of the draft “Regulations on protecting religious unity of Maldivian Citizens” and they asked what steps have been taken by the Government to address the situation of members of religious minorities, dissenting believers and journalists, especially in order to guarantee their rights to freedom of religion or belief and to freedom of opinion and expression.

(b) *No response received from the Government*

(c) *Observations by the Special Rapporteur*

234. The Special Rapporteur regrets that he has so far not received a reply from the Maldives Government concerning the above mentioned allegations. He would like to appeal to the Government to ensure the right to freedom of religion or belief in accordance with article 18 of the Universal Declaration on Human Rights and of the International Covenant on Civil and Political Rights. The Covenant, inter alia, guarantees “freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching”. In addition, according to article 27 of the Covenant, persons belonging to religious minorities shall not be denied “the right, in community with the other members of their group, [...] to profess and practise their own religion”.

235. The draft “Regulations on protecting religious unity of Maldivian Citizens” (draft Regulations) contain a number of highly problematic provisions which, if enacted in this form, may seriously hamper several human rights, including freedom of religion or belief and freedom of opinion and expression. Since 19 September 2006, the Maldives are legally bound by the provisions of the International Covenant on Civil and Political Rights. The

following gives a preliminary overview of the Special Rapporteur's main human rights concerns with regard to the draft Regulations.

236. Vague terms such as "religious unity" or "disagreement" (article 2 of the draft Regulations) makes the interpretation of the draft Regulations prone to abuse which may be detrimental for members of religious minorities and dissenting believers. In the 2006 country report on the Maldives, the previous mandate-holder noted that "the concept of national unity appears to have become inextricably linked to the concept of religious unity, and even religious homogeneity, in the minds of the population. She notes that religion has been used as a tool to discredit political opponents and that political opponents have publicly accused each other of being either Christians or Islamic extremists, both of which have proved to be damaging accusations in a country in which religious unity is so highly regarded." (A/HRC/4/21/Add.3, para. 56).

237. Similarly dangerous is the vague wording and possible interpretation of article 12 of the draft Regulations which envisages "revoking or temporary suspension of licenses" for violating the regulations and which enables stopping "any persons whose actions are deemed to be threatening religious unity".

238. Among the criteria for giving preaching licenses according to article 16 (b) of the draft Regulations is the requirement that "the person must belong to any sect of the Sunni Muslims", which in a discriminatory manner would exclude members of any other Muslim denomination, e.g. Shi'as. In addition, article 19 of the draft Regulations stipulates that "foreign preachers who are given permission under this regulations should shape their sermons in reference to the Maldives culture and traditions", which again is an ambiguous wording.

239. Article 21 of the draft Regulations would impose "an obligation on the Government and all the people of Maldives to protect the religious unity of Maldivian citizens as Maldives is a 100 percent Muslim nation and because Islam maintains harmony of Maldivian citizens and because Islam is the basis of the unity of Maldivian citizens". The Special Rapporteur would like to emphasize that restricting citizenship to people with certain religious beliefs is contrary to the principle of non-discrimination (A/63/161, paras. 39 and 70). The Special Rapporteur has also encouraged the Maldivian legislators to consider introducing amendments to the citizenship law to bring it into compliance with treaty obligations, particularly with regard to non-discrimination provisions (A/HRC/4/21/Add.3, para. 67).

240. Article 24 of the draft Regulations would give the authority to deport anyone who propagates any religion other than (Sunni) Islam. This provision would unduly restrict the "freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching" according to article 18 (1) of the International Covenant on Civil and Political Rights. In addition, this provision contravenes article 27 of the Covenant since the draft Regulations would deny persons belonging to religious minorities "the right, in community with the other members of their group, [...] to profess and practise their own religion".

241. The prohibited activities, enumerated in articles 27 to 37 of the draft Regulations, may also seriously hamper the manifestation of freedom of religion or belief and stifle any related debate. Article 27 of the draft Regulations would prohibit, for example, "promoting one's own individual opinion on issues that are in disagreement among Islamic scholars", "inciting people to disputes" and "talking about religions other than Islam in Maldives". Similarly, it would be prohibited to build places of worship of other religions (article 30), to commit any action that may offend Islamic thought (article 32), for Non-Muslims to express their religious beliefs or carry out their religious activities (article 33) and to propagate any religion other than Islam (article 34).

242. In her 2006 mission report, the Special Rapporteur on freedom of religion or belief was “disturbed by provisions of the Law on Religious Unity, which criminalize any action or form of expression intended to disrupt, jeopardize or disunite social and religious order and harmony, and considers that the law has the potential to limit the manner in which people choose to manifest their religion or belief. She considers that the law may fail to satisfy the requirement that any limitations on the right to manifest one’s religion or belief must be prescribed by law and must be necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others” (A/HRC/4/21/Add.3, para. 63).

243. In addition, the Special Rapporteur on the right to freedom of opinion and expression also noted human rights concerns in his 2009 mission report to the Maldives: “He further observed that people are prevented both by legislative provisions and through social pressure from expressing their views about issues relevant to religion or belief and as a result exercise self-censorship. The Special Rapporteur was informed of a recent case in which a journalist had been threatened due to comments made about religious beliefs in the country” (A/HRC/11/4/Add.3, para. 46).

244. Article 35 of the draft Regulations would make it “illegal to show or spread sound bites of programs on religions other than Islam, and any such literature, drawings, advertisements, music, and songs”, “to use any Internet website, blog, newspaper, or magazine to publish such material” and “to depict advertisements and make announcements in a way that affects Islamic way of life”. Such overbroad and vaguely worded restrictions would not be in line with article 19 (3) of the International Covenant on Civil and Political Rights, which requires that restrictions must be provided by law and must be necessary for respect of the rights or reputations of others or for the protection of national security or of public order (*ordre public*), or of public health or morals.

245. Against this background, the Special Rapporteur would urge the Maldives Government to reconsider the draft Regulations, specifically taking into account the international human rights standards on freedom of religion or belief and freedom of opinion and expression. To this end, he calls upon the Maldives Government to allow for further debate and revision of the draft Regulations due to concerns that their implementation could have a significant negative impact on human rights in the country.

## O. Nigeria

### 1. Communication sent on 22 January 2010 jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions

#### (a) Allegations transmitted to the Government

246. The Special Rapporteurs brought to the attention of the Government information regarding **violent clashes between mobs of Christians and Muslims in Jos, Plateau State**, on 17 January 2010, which reportedly resulted in the killing of at least 200 persons. They also sought information on the outcome of efforts to hold accountable the perpetrators of violence, particularly killings, during previous outbreaks of inter-communal violence in Plateau State in 2001, 2004 and November 2008.

247. According to the information received with regard to the inter-communal violence in January 2010, fighting broke out between Christian and Muslim youths in Jos on 17 January 2010. According to some reports, the violence was sparked by the construction of a mosque in a predominantly Christian neighbourhood. The Police Commissioner declared that the violence was triggered by the attack of Muslim youths on Christian worshippers, while another official indicated that the violence had erupted at a football match. Gangs of youths armed with guns, bows, arrows and machetes burned and looted houses, cars and

shops and also attacked churches and mosques. The inter-communal violence continued during the following two days. On 20 January 2010, the Nigerian Army informed that it had brought the situation in Jos under control and stopped the violence. There are allegations that the military and police forces used excessive force in responding to the mob violence, but no specific incidents are reported yet.

248. There are no reliable figures on the number of casualties of the violence. According to one report reviewed, by the evening of 19 January 2010, the central mosque of Jos had received 192 dead bodies, and at least 800 persons were injured, 90 of them seriously. According to a second report, 151 bodies had been taken to the central mosque for burial by 19 January, while 65 Christians had been killed. A third report states that more than 460 people in and around Jos have been killed, while official Government estimates of the death toll are significantly lower at 75 persons killed.

249. The violence on 17 January 2010 follows previous outbreaks of inter-communal violence in Plateau State. The Special Rapporteurs summarized the information received with regard to four major incidents in the past years:

250. From 7 to 13 September 2001, violence between Christian and Muslim mobs in Jos resulted in the killing of hundreds of persons, possibly more than a thousand, the displacement of tens of thousands, and massive destruction of property (see also the mission report of the Special Rapporteur on freedom of religion or belief, E/CN.4/2006/5/Add.2, para. 81). The village of Dilimi on the outskirts of Jos, which was inhabited in majority by Muslims, for instance, was nearly entirely razed to the ground, resulting in the destruction of about four thousand houses, eleven mosques, and two schools. Only a few buildings belonging to Christians were left standing. In another incident, in an attack on the University of Jos by Muslim men, at least twenty-five students and at least six or seven university staff were killed. Eventually, the Nigerian Army intervened and restored law and order. The Plateau State Government set up a judicial commission of inquiry chaired by Judge Niki Tobi, which held public hearings and received numerous submissions. However, its report was never published. Another judicial commission of inquiry with a broader mandate to investigate the conflicts in Plateau, Nasarawa, Benue and Taraba States was set up at the federal level in 2002. It concluded its hearings and submitted its report to the President in April 2003. The report has not been published and its conclusions are not known.

251. On 24 February 2004, fighting erupted between Christians and Muslims in Yelwa (see also the mission report of the Special Rapporteur on freedom of religion or belief, E/CN.4/2006/5/Add.2, para. 81). The number of victims is not known: according to the police investigations a total of around 78 people were killed, according to a local government official 265 people. The majority of the victims were Christians. In what appears to have been the worst incident on 24 February 2004, a group of more than 50 young Muslim men attacked the compound of a church known as COCIN no.1. With guns, machetes, swords and axes they killed at least 48 Christians, according to some witnesses even more.

252. On 2 May 2004, large groups of attackers from the (mostly Christian) Gamai, Montol and Tarok tribes surrounded Yelwa from different directions and blocked all the main roads leading out of the town, displaying a high level of coordination. Witnesses estimated that the attackers numbered several thousand. They invaded Yelwa town and proceeded to kill Muslims with machine guns mounted on jeeps and machetes. In the evening they withdrew, to return in the early morning hours and continue killing Muslim inhabitants of Yelwa. In one of the incidents on 3 May, a small private clinic in the Angwan Galadima area of Yelwa, Al-Amin clinic, was attacked. The attackers allowed the women to leave, burned the clinic and killed 32 male patients inside, most of whom were being treated for injuries sustained during the violence on the previous day. The police and the

military were absent from Yelwa until the late morning of 3 May 2004. Credible estimates are that overall 660 Muslims were killed in Yelwa on 2 and 3 May 2004. There were also an unknown number of Christian dead. These events were the subject matter of a communication to your Excellency's Government by the then Special Rapporteur on freedom of religion or belief on 7 May 2004 (see E/CN.4/2005/61/Add.1, para. 174), to which no response was received. On 18 May 2004, the President of Nigeria declared a state of emergency in Plateau State, which remained in force until 18 November 2004. The interim Administrator appointed by the President launched a Plateau Peace Program, which included a peace conference. The peace conference began on 18 August 2004 and lasted about one month. The Plateau Peace Program also included plans for a truth and reconciliation commission. In October 2004, the President submitted a bill for the establishment of the commission to the National Assembly. It was never adopted.

253. As to criminal justice, the interim Administrator set up special courts to try persons suspected of involvement in the violence in Plateau State since 2001. As of May 2005, the special courts were still functioning and the trials of 78 defendants were ongoing, but all but six of the accused had been released on bail. The final outcome of the trials before the special courts is not known. On 3 June 2004, the police issued a public statement which reported that a total of 1,284 suspects "have, or are being prosecuted in court". The accuracy of this figure has been challenged and, in any event, the outcome of the police prosecutions is not known.

254. Following disputed local government elections in Jos North on 27 November 2008, two days of violence between Muslim and Christian mobs, as well as by the security forces, resulted in the death of hundreds of persons. Groups of young men from Muslim and Christian communities defended their neighbourhoods from attack and attacked the homes, businesses, places of worship and religious establishments of the opposing side. These mobs were armed with machetes, knives, petrol bombs, rocks, sticks, and in some cases firearms, including locally made hunting rifles and pistols. Mobs of Christians reportedly destroyed 22 mosques, 15 Islamic schools, and hundreds of Hausa-Fulani businesses and homes. For instance, on the morning of 28 November 2008, five children attending the Al Bayan Islamic boarding school were killed in or near their dormitory by a mob of Christians. Muslim authorities in Jos reportedly registered 632 dead, including several hundred victims buried in three mass burials on 30 November and 1 December 2008. Likewise, mobs of Muslim youth beat and burned to death Christians. Church officials reported that seven Christian pastors and church leaders were killed in the violence and that 46 churches were burned. 133 houses in a predominately Christian area of the Ali Kazaure neighbourhood were allegedly burned. Christian authorities allegedly documented 129 deaths.

255. While the majority of the deaths appear to have been the result of mob violence, the police and the military allegedly killed at least 133 persons, mostly young Muslim men from the Hausa-Fulani ethnic group. The vast majority of police killings were perpetrated by a specially trained anti-riot unit called the Police Mobile Force (MOPOL). Most of the inter-communal mob violence took place on 28 November 2008, but the majority of the killings by the police and military occurred on 29 November 2008.

256. More than a year after these incidents, no criminal prosecution is known to have been initiated. Six different authorities, however, set up inquiries into the clashes and their causes, with a view to making recommendations to prevent the re-occurrence of inter-communal violence. They include inquiries set up by the President of Nigeria (the "Abisoye Panel"), the Nigerian Senate and House of Representatives, the Defense Headquarters, the Plateau State House of Assembly, and the Plateau State Government. The latter inquiry, the Plateau State Judicial Commission of Inquiry, submitted its report to the Plateau State

Governor on 27 October 2009, but its findings have not been made public. The Abisoye Panel inquiry started sitting on 15 December 2009 and is ongoing in January 2010.

257. In summarizing some of the information received on lethal inter-communal violence in Plateau State the Special Rapporteurs described the attackers and the victims as “Muslim” or “Christian”. This does not imply that they believe religious tensions to be the main cause of the violence (see also the mission report of the Special Rapporteur on freedom of religion or belief, E/CN.4/2006/5/Add.2, para. 82). Indeed, the reports received indicate that economic and political tensions between the different ethnic groups living in Plateau State, and particularly the difference in rights and opportunities afforded to so-called “indigene” vis-à-vis the “non-indigene”, may be among the root causes of the violence.

258. The Special Rapporteurs sought from the Government information on the inquiries into the inter-communal clashes and their outcomes, on the measures taken to hold those responsible for killings accountable, and on the measures taken to prevent further outbreaks of deadly inter-communal violence in Plateau State.

(b) *No response received from the Government*

(c) *Observations by the Special Rapporteur*

259. The Special Rapporteur regrets that he has so far not received a reply from the Government of Nigeria concerning the above mentioned allegations. He would further like to remind the Government that Human Rights Council resolution 6/37 urges States to “take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence”.

260. The Special Rapporteur wishes to emphasize that commissions of inquiry may be a very appropriate measure in the case of inter-communal violence, however, they are not sufficient. Principle 18 of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (“Prevention and Investigation Principles”) provides that “Governments shall ensure that persons identified by the investigation as having participated in extra-legal, arbitrary or summary executions in any territory under their jurisdiction are brought to justice.” The Special Rapporteur would like to recall in this regard the pertinent recommendations in his predecessor’s country report (see E/CN.4/2006/5/Add.2, para. 112): “With respect to religious tensions and communal violence, the Special Rapporteur is of the opinion that the obligation of the Government of Nigeria is first and foremost to ensure that justice is done promptly and properly. This obligation should include a full investigation of the violence that occurred, including the identification and prosecution of alleged perpetrators, allowing victims to file proper claims for the damage they have suffered, and recognizing their proper status as victims in trials as well as awarding them appropriate compensation.”

261. The Special Rapporteur would also like to refer to the statement of the Secretary-General, who on 20 January 2010 appealed to all concerned to exercise maximum restraint and to seek peaceful solutions to religious and other differences in the country. In particular, he called on all political and religious leaders in Nigeria to work together to address the underlying causes of the recurring sectarian violence in the country.

**2. Urgent appeal sent on 12 March 2010 jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions**

*(a) Allegations transmitted to the Government*

262. The Special Rapporteurs brought to the attention of the Government information regarding **continued violent clashes between Christians and Muslims communities in Jos**, Plateau State, specifically clashes which occurred on 7 March 2010, which reportedly resulted in the killing of at least 200 persons.

263. According to new information received, on 7 March 2010, men armed with guns, machetes, and knives attacked residents of the villages of Dogo Nahawa, Zot, and Ratsat, 10 kilometers south of Jos, the capital of Plateau State. The attackers hunted down and attacked Christian residents, killing and burning them as they fled. It is reported that at least 200 people have been killed including women and children.

264. The present attack appears to be in retaliation for the violent clashes that occurred in the town of Kura Karama on 19 January 2010, against Muslim communities in which more than 150 people were killed. It is believed that some of the attackers had previously lived in the same villages but had re-located due to inter-communal tensions.

265. The Special Rapporteurs were informed that communal clashes in Jos are a recurring phenomenon. In September 2001, a major outbreak of violence claimed as many as 1,000 lives; in May 2004, about 700 were killed in the town of Yelwa in the southern part of Plateau State and in November 2008, about 700 people were killed in Jos. The Special Rapporteur were also informed that the Government had responded to the January 2010 clashes by deploying additional troops to the areas of Jos and surrounding communities. However, the troops have been largely limited to the major towns and not deployed in the smaller communities.

*(b) No response received from the Government*

*(c) Observations by the Special Rapporteur*

266. The Special Rapporteur regrets that he has so far not received a reply from the Government of Nigeria concerning the above mentioned allegations. He is concerned over the lack of investigation and prosecution of those responsible for the communal clashes. In general, it appears that after such communal clashes a few arrests are made and prosecutions of minor players follow. In some cases, an inquiry is also held, but the resulting report remains confidential and without meaningful follow up. In this regard, he would like to refer to the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions which stipulate that "There shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances. Governments shall maintain investigative offices and procedures to undertake such inquiries. The purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses" (Principle 9). Further it is provided that "Governments shall ensure that persons identified by the investigation as having participated in extra-legal, arbitrary or summary executions in any territory under their jurisdiction are brought to justice" (Principle 18). The Human Rights Committee, in its general comment no. 31, has observed that failure to investigate and failure to bring to justice perpetrators of such violations could in and of itself give rise to a separate breach of

the Covenant. Such failures lead to impunity which can encourage a repetition of the crimes by others in subsequent incidents.

267. The Special Rapporteur urges the Government to consider the need for thorough-going reforms and long term preventive measures targeted to address the root causes of communal clashes and preventing future recurrences. The Special Rapporteur would like to refer to his predecessor's recommendations in her country report on Nigeria (E/CN.4/2006/5/Add.2, paras. 113-115): "The Government should also abide by its basic obligation to ensure the protection and security of religious groups which may be targeted and which should be entitled to practise their religions freely and without any obstacles, including those created by non-State actors. The Government should reassess the efficiency of its mechanisms in order to be able to intervene in a timely and proper manner when such violence occurs. Early warning mechanisms should also be strengthened. The mechanisms created by the Government to promote interreligious dialogue should be strengthened and extended. In particular, they should ensure that religious leaders of all communities can participate and involve the civil society. Mechanisms at the local level should be created in as many places as may require them because of the composition of the population, past experience, or any other indication of possible religious tensions. The Government should also increase its support for such initiatives coming from the civil society and disseminate principles of good practice."

## **P. Lao People's Democratic Republic**

### **Urgent appeal sent on 12 February 2010 jointly with the Special Rapporteur on the right to food**

#### *(a) Allegations transmitted to the Government*

268. The Special Procedures mandate holders brought to the attention of the Government information regarding the situation of the members of 11 Christian families from Katin village of Ta-Oyl district in Saravan province, Lao People's Democratic Republic.

269. According to the information received, on 10 January 2010, approximately 100 people, consisting of villagers and local officials, including the village chief, an official from the Lao Front for National Construction (LFNC), district police and village policemen, disturbed the Sunday morning worship service of the Christian community in Katin village of Ta-Oyl district, Saravan province. With guns pointed at the worshippers' heads, these officials allegedly forced all members of the 11 Christian families present, including children, out of their place of worship to an open field in the village. Subsequently, the officials seized the personal belongings of the Christians from 11 homes and destroyed 6 of their homes. While they did not manage to persuade the Christians to renounce their faith, the officials forced the Christians to walk six kilometers away from their homes and then left them on the side of the road. Unable to return to their home village due to police posted at the entrance of Katin village, the Christians, including women and 27 children, have been sleeping on the ground in the woods with no food and shelter.

270. Around 18 January 2010, the Saravan provincial LFNC official and the Ta-Oyl district official met with the members of the 11 Christian families and tried to persuade them to renounce their faith. The two officials argued that neither the 56 villages in Ta-Oyl district nor the officials want Christians to reside in the district. However, the Christians confirmed their faith and emphasized that since they believe in God they no longer had to participate in any animal sacrifice as animist believers would do. The two officials then prohibited the members of the 11 Christian families from returning to their home village.

271. On 9 February 2010, the Deputy Head of Ta-Oyl District visited the field and directed the Christians to stop erecting temporary shelters and to sleep on the ground instead. It has also been reported that the Katin village authorities have confiscated livestock of Katin Christians in at least two occasions over the past year. The children of the Christians, who are still prevented from returning to their village, are reportedly starving for lack of food.

272. The Special Rapporteurs appealed to the Government to protect the human rights of the Christians from Katin village, and in particular to ensure their right to freedom of religion or belief in accordance with articles 18 of the Universal Declaration of Human Rights and of the International Covenant on Civil and Political Rights.

(b) *No response received from the Government*

(c) *Observations by the Special Rapporteur*

273. The Special Rapporteur regrets that he has so far not received a reply from the Government of the Lao People's Democratic Republic concerning the above mentioned allegations. He would like to reiterate that, according to article 18, paragraph 2, of the International Covenant on Civil and Political Rights, "no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice". The Human Rights Committee indicated in its general comment 22 that "Article 18.2 bars coercion that would impair the right to have or adopt a religion or belief, including the use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert. Policies or practices having the same intention or effect [...] are similarly inconsistent with article 18.2."

274. Furthermore, the General Assembly, in its resolution 64/164, "urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end: (a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practise freely one's religion, including the right to change one's religion or belief, is violated". With regard to the alleged coercions and evictions of Christians, the Special Rapporteur would also like to refer to the observations and recommendations in his predecessor's country report to the Human Rights Council on the Lao People's Democratic Republic (see A/HRC/13/40/Add.4, para. 68): "Furthermore, the Special Rapporteur is concerned about the inadequate level of implementation of the legislative protection for freedom of religion or belief. The central and provincial authorities should ensure that the local administration level ceases ordering evictions or otherwise trying to coerce Christians to renounce their faith."

## **Q. Pakistan**

### **1. Communication sent on 22 January 2010**

(a) *Allegations transmitted to the Government*

275. The Special Rapporteur brought to the attention of the Government information regarding the situation of Hindu minority living in Khudaabad Hala, District Matiari, Sindh. According to the information received, Ms. **Samira Ood**, a twelve year old Hindu girl and daughter of Mr. Bachayo Ood, died in 2009 in Khudaabad Hala, District Matiari, Sindh.

Owing to the fact that no Hindu graveyard was available in the vicinity, her parents buried Ms. Samira Ood in a Muslim graveyard.

276. In early January 2010, however, local Muslim clerics incited people of the area to dig out the dead body in order “to purge the sanctity of a Muslim graveyard”. Subsequently, a tense atmosphere has been prevailing in Khudaabad Hala and members of the Hindu minority there are threatened. Concern is expressed about the risk that violence may erupt against the Hindu minority living in Khudaabad Hala, District Matiari.

277. The Special Rapporteur referred to Human Rights Council resolution 6/37, in which the Council urges States “to take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to religious minorities”. The Special Rapporteur urged the Government to take all necessary measures to guarantee that the rights and freedoms of the Hindu minority living in Khudaabad Hala, District Matiari, Sindh are respected and, in the event that the investigations support or suggest the above allegations to be correct, the accountability of any person guilty of the alleged violations should be ensured.

(b) *Response from the Government dated 29 March 2010*

278. In its letter dated 29 March 2010, the Government of Pakistan responded to the communication of 22 January 2010. The Government indicated that the matter had been referred to the concerned authorities for the necessary investigation and response.

279. The Government stated that it had been informed by the concerned authorities that a Hindu girl named Ms. Samira Ood was buried in Khudabad graveyard on 30 April 2009 (reserved for Muslims). The Government indicated that subsequently there had been strong feelings in the local communities that the burial had insulted the sanctity of the Muslims graveyard. It indicated that there is no tense atmosphere in the area against the deceased’s family, who are living peacefully.

280. The Government indicated that the authorities had conveyed that an application was received from the villagers on the incident but was not subsequently pursued by the complainants.

(c) *Observations by the Special Rapporteur*

281. The Special Rapporteur is grateful that the Government of Pakistan replied by letter of 29 March 2010. He wishes to take this opportunity to refer to his framework for communications, more specifically to the international human rights norms and to the mandate practice concerning freedom to worship (see para. 1 above, category A. 3. (a)) and the situation of minorities (category C. 5.).

**2. Urgent appeal sent on 19 April 2010 jointly with the Chair-Rapporteur of the Working Group on Arbitrary Detention; and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

(a) *Allegations transmitted to the Government*

282. The Special Procedures mandate holders brought to the attention of the Government information regarding Mr. **Khalid Mehmood Naqash** and Mr. **Muhammad Afzal**, who are currently detained in district jail of Jhelum, and concerning Mr. **Zafar Iqbal** from Mohallah Suleman Paris.

283. According to the information received, a blasphemy case was registered under section 295-C of the Pakistani Penal Code on 3 July 2008 (FIR no. 270/2008) at the police station in Saddar Jhelum against Mr. Khalid Mehmood Naqash, who authored a book entitled “Quran aur Hum”, and Mr. Muhammad Afzal, who wrote the preface of the book. They were arrested and detained in district jail of Jhelum on charges that the publication contained blasphemous content about Prophet Muhammad. Section 295-C of the Pakistani Penal Code provides that “whoever by words, either spoken or written, or by visible representation or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine”. On 20 May 2009, the Lahore High Court rejected the application for bail of Mr. Khalid Mehmood Naqash and Mr. Muhammad Afzal. Their case is in the final stages and a decision is expected on 21 April 2010.

284. During the proceedings at Session Court Rawalpindi, Mr. Zafar Iqbal acted as a witness for the defense. On 4 April 2010, around 11:00 a.m., two gunshots were fired by a veiled person in the direction of Mr. Iqbal’s house in Mohallah Suleman Paris. On 5 April 2010, around 3:30 p.m., another four gunshots were fired at his house by two unidentified persons. On 8 April 2010, Mr. Zafar Iqbal tried to register a First Information Report with the District Police Officer of Jhelum, however, the police reportedly failed to do so or to provide protection to him and his family.

285. A local religious leader, Mr. M. H. S. H., issued a fatwa on 11 April 2010, entitled “Zafar Iqbal’s support for the person who degraded Holy Prophet (PBUH) and consequent verdict against him”. This so-called religious verdict against Zafar Iqbal states, inter alia, the following: “Khalid Naqash openly and repeatedly used blasphemous words. Babu Mohammed Afzal is accomplice, friend and supporter of Khalid Naqash. Consequently Zafar Iqbal automatically becomes accomplice of Khalid Naqash. If one is a staunch supporter of a blasphemous person, one turns blasphemous oneself. Hence, verdict is issued that Zafar Iqbal is an accomplice of Khalid Naqash and Babu Mohammad Afzal.”

286. Furthermore, it has been alleged that Mr. M. H. S. H. sent instructions to his followers to kill Mr. Zafar Iqbal. Concerns have been expressed that the lives of Mr. Khalid Mehmood Naqash, Mr. Muhammad Afzal, Mr. Zafar Iqbal and their family members are under threat. The Special Procedures mandate holders also appealed to the Government to ensure the rights of Mr. Khalid Mehmood Naqash, Mr. Muhammad Afzal and Mr. Zafar Iqbal to freedom of opinion and expression and to freedom of religion or belief in accordance with articles 18 and 19 of the Universal Declaration of Human Rights.

*(b) Response from the Government dated 23 June 2010*

287. In its letter dated 23 June 2010, the Government of Pakistan responded to the joint urgent appeal of 19 April 2010, requesting information about the alleged detention of the two accused and the alleged life threats to a witness for the defence of the accused, on the charges of publishing blasphemous content.

288. The Government of Pakistan informed that the matter was referred to the authorities concerned for the necessary investigation and response. As a result of the information received, the Government of Pakistan informed that local authorities have conveyed that after carefully examining the content of the book, a blasphemy case was registered in accordance with the laws of the land, under section 295 C of the Pakistani Penal Code, on 3 July 2008 in Jhelum, against the two accused on publishing blasphemous content in their book. Both the accused were arrested and challenged to the Court of Law. The case is pending in the court of the learned District before the Session Judge in Rawalpindi.

289. The Government informed that with regard to the alleged firing at the house of the witness for the defence of the accused, it has been conveyed that the police officials visited the spot but did not find any evidence in this connection. In addition the Government of Pakistan informed that notables of the area have also expressed ignorance about any incident of firing. The Government of Pakistan informed that local authorities have been instructed to provide full protection to the life and property of the witness for the defence and his family members as and when requisitioned.

(c) *Observations by the Special Rapporteur*

290. The Special Rapporteur is grateful that the Government of Pakistan replied by letter of 23 June 2010. He would like to stress the risk that efforts to combat blasphemy may be manipulated for purposes contrary to human rights and that any blasphemy legislation should not be used to censure all inter-religious and intra-religious criticism (see E/CN.4/2000/65, para. 111). The Special Rapporteur recommends a review of the Penal Code and he would like to reiterate that a useful alternative to blasphemy laws is to fully implement the protection of individuals against advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (see A/62/280, para. 76).

291. Furthermore, the Special Rapporteur wishes to take this opportunity to refer to his framework for communications, more specifically to the international human rights norms and to the mandate practice concerning the intersection of freedom of religion or belief with other human rights, including freedom of expression (see para. 1 above, category D. 1.).

**3. Communication sent on 19 April 2010 jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Independent Expert on minority issues**

(a) *Allegations transmitted to the Government*

292. The Special Procedures mandate holders brought to the attention of the Government information regarding the killing of Mr. **Ashraf Pervez**, Mr. **Masood Javed** and Mr. **Asif Masood**, all of them members of the Ahmadiyyah community in Faisalabad, province of Punjab.

293. According to the information received, the three Ahmadi traders Mr. Ashraf Pervez (aged 60), Mr. Masood Javed (aged 57) and Mr. Asif Masood (aged 24) were returning home around 10:00 p.m. on 1 April 2010 after the closure of their businesses in Rail Bazaar, Faisalabad. When their car reached Faisal Hospital, Canal Road, at least four persons jumped out of a white car and started shooting indiscriminately at the three businessmen. As a result, Mr. Ashraf Pervez, Mr. Masood Javed and Mr. Asif Masood were seriously injured and died on the way to hospital.

294. Some weeks before their death, Mr. Ashraf Pervez, Mr. Masood Javed and Mr. Asif Masood had reportedly complained to police at People's Colony that they were being threatened by unidentified people because of their religious activities. However, the police officers had only recommended them to limit their movements and hire bodyguards to protect their safety.

295. In the province of Punjab, it is reported that anti-Ahmadiyya rhetoric in open-air conferences is permitted to clerics in the Punjab, where some mullahs exhort their audience to commit violence against Ahmadis by declaring them *Wajib ul Qatl* (liable to be killed). At the same time, several Ahmadis have been arrested under discriminatory domestic blasphemy laws; for example, section 298-C of the Penal Code provides that any Ahmadi

who poses as a Muslim, refers to his faith as Islam, or preaches or propagates his faith shall be punished with imprisonment up to three years and shall also be liable to be fined.

(b) *Response from the Government of Pakistan dated 11 June 2010*

296. In its letter dated 29 March 2010, the Government of Pakistan responded to the communication of 19 April 2010 requesting information about the alleged killings of Mr. Ashraf Pervez, Mr. Masood Javed and Mr. Asif Masood, members of the Ahmadiyyah community in Faisalabad, Pakistan.

297. The Government indicated that the matter had been referred to the authorities concerned for necessary investigation and response. As per the information received, the local authorities, based on the complaint file by the family member of the deceased, have registered the case against the unidentified assassins.

298. The Government indicated that investigations are underway to find their whereabouts and that the concerned administrative and law enforcement authorities have been instructed to redouble their efforts in this regard.

(c) *Observations by the Special Rapporteur*

299. The Special Rapporteur is grateful that the Government of Pakistan replied by letter of 11 June 2010. He would like to refer to Human Rights Council resolution 6/37, in which the Council urges States “(a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practice freely one’s religion, including the right to change one’s religion or belief, is violated; [...] (1) to take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence”. The General Assembly, in its resolution 64/164, urges States “to ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief [...] and to bring to justice all perpetrators of violations of these rights”.

**4. Urgent appeal sent on 27 July 2010 jointly with the Special Rapporteur on extrajudicial, summary or arbitrary executions; and Independent Expert on minority issues**

(a) *Allegations transmitted to the Government*

300. The Special Procedures mandate holders brought to the attention of the Government information regarding Mr. **Rashid Emmanuel** and Mr. **Sajid Emmanuel**, killed on 19 July 2010, in Faisalabad, Punjab province.

301. According to the information received, Pastor Rashid Emmanuel (32 years) and his brother Sajid Emmanuel (30 years) were arrested in Faisalabad on 2 July 2010 on charges of having written a pamphlet with derogatory remarks in respect of the Prophet Mohammad, which pursuant to section 295-C of Pakistan’s Penal Code is punishable with death or imprisonment for life. A representative of the Christian community contacted the police and was told by station head officer Aamir that a Sub-inspector and an Assistant Superintendent had been chosen to undertake the investigation. However, this procedure reportedly does not comply with section 156-A of the Criminal Procedure Code which provides that a blasphemy case has to be investigated by an officer not less than the rank of Superintendent of Police.

302. On 7 July 2010, during a procession in Warispura, local Muslim residents chanted threatening slogans against Christians, calling for the hanging of Rashid Emmanuel and Sajid Emmanuel. In addition, a mob attacked a Catholic Church, breaking its windows and doors.

303. On 10 July 2010, persons in another procession burned tires on the streets and there were calls to declare that Christians would not be allowed to live in Warispura. During a procession at 1:00 a.m., motorbike riders allegedly harassed Christians who were leaving their homes with their belongings.

304. At a public meeting at noon on 11 July 2010, Muslim leaders from various political parties allegedly reiterated death threats against the brothers. At the meeting it was announced that a set of gallows had been set up at the tower of Ghanta Ghar in the centre of Faisalabad, in preparation for the hanging of blasphemous Christians.

305. While Rashid Emmanuel and Sajid Emmanuel remained in detention at the police station, fears were voiced that they could be attacked at any time, either by a mob or by co-detainees. On 19 July 2010, Rashid Emmanuel and Sajid Emmanuel were taken to their hearing at the sessions court in Faisalabad city. When leaving the court under police custody around 1:30 p.m., they were killed by two unidentified gunmen who managed to escape despite the presence of a number of police officers.

306. Immediately following the killing of Rashid Emmanuel and Sajid Emmanuel, the local administration deployed a heavy contingent of police to control the situation in the town. However, violent clashes between the local Christian and Muslim communities broke out, injuring at least ten Christians and Muslims. At around 10:00 p.m. on 19 July 2010, announcements were made from mosques in Waris Pura asking people to fight against Christians. A church was pelted by Muslim protestors with stones and the protestors damaged some shops. Police used tear gas to disperse the crowd and reportedly around 60 Muslims were arrested in connections with the clashes.

307. The Federal Minister for Minority Affairs of Pakistan reportedly said he suspected that Rashid Emmanuel and Sajid Emmanuel were falsely accused of blasphemy by people with a grudge against them. Concerns have been expressed at the safety and security of members of the Christian minority community in Pakistan.

(b) *Response from the Government of Pakistan dated 11 August 2010*

308. In its letter dated 11 August 2010, the Government of Pakistan responded to the joint urgent appeal of 27 July 2010 regarding information about the killing of Pastor Rashid Emanuel and his brother Sajid Emanuel on 19 July 2010 in Faisalabad, Pakistan.

309. The Government enclosed the reply received from the relevant authorities in Pakistan to the questions raised in the urgent appeal, with further details on the case to be proved upon receipt. The response from the relevant authorities in Pakistan stated that the case was registered on 1 July 2010 in accordance with laws of the land by the complainant against Pastor Rashid Emmanuel and Mr. Sajid Emanuel on the charge of blasphemous pamphlets containing derogatory remarks in respect of the Holy Prophet (PBUH). Investigation of the case was entrusted to the competent authorities as required by Section 156-A Cr.P.C. The accused were arrested on 5 July 2010 and their physical remand was obtained up to 19 July 2010. During the course of investigations, the alleged accused were interrogated and their handwriting samples were obtained before the judicial magistrate and the same were sent to the Office of the Handwriting Expert, Lahore for comparison.

310. In order to extend judicial remand, the concerned authorities produced the accused in the court of Senior Civil Judge, Faisalabad on 19 July 2010 in police custody. After attending proceedings of the court, while the accused were escorted towards official

vehicle, unknown accused opened indiscriminate fire killing the accused along with a police official. Following the incident, a case was registered at a police station in Kotwali against the unknown accused in a First Information Report (FIR) dated 19 July 2010.

311. The investigation of the case was handed over to Incharge Investigation Staff at the police station in Kotwali, which examined the spot on the same day and collected blood stained soil and 4 empty cartridges of pistol 30 bore. All these were sent to the forensic science laboratory for analysis. Since the case falls within the jurisdiction of the Anti Terrorism Court, competent authorities were requested to constitute a joint investigation team.

312. Meanwhile, on 3 August 2010, a suspect was arrested and remanded to judicial lock up for identification parade. The Special Judicial Magistrate has been deputed to conduct and supervise the identification parade at the earliest. The relevant authorities are in the process of investigation which will be finalized in light of the identification report by the Special Judicial Magistrate.

(c) *Observations by the Special Rapporteur*

313. The Special Rapporteur is grateful that the Government of Pakistan replied by letter of 11 August 2010. He would like to refer to Human Rights Council resolution 6/37, in which the Council urges States “to take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence”. The General Assembly, in its resolution 64/164, urges States “to ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief [...] and to bring to justice all perpetrators of violations of these rights”.

314. Moreover, the Special Rapporteur wishes to take this opportunity to refer to his framework for communications, more specifically to the international human rights norms and to the mandate practice concerning the intersection of freedom of religion or belief with other human rights, including the right to life (see para. 1 above, category D. 2.).

**5. Communication sent on 26 August 2010 jointly with the Independent Expert on minority issues**

(a) *Allegations transmitted to the Government*

315. The Special Procedures mandate holders expressed their great sadness and sympathy for the people of Pakistan, as well as our solidarity as the country bears the terrible tragedy and loss of life during these difficult days of natural disaster. While fully recognizing the extreme challenges facing the Government at this time, pursuant to the responsibilities provided to us under our mandates, the Special Procedures mandate holders drew the attention of the Government to information regarding the situation of **members of the Ahmaddiyah community** from Dera Ghazi Khan, Muzaffargarh and Rajanpur districts.

316. According to the information received, in the context of the displacement by the massive floods in South Punjab in August 2010, Government officials and local clerics have reportedly refused to provide shelter to around five hundred flood-affected Ahmadi families from Dera Ghazi Khan, Muzaffargarh and Rajanpur districts.

317. Reportedly, two hundred families, who have been displaced from Basti Rindan and Basti Sohrani by flooding, took shelter in a state-run school at Jhok Utra but the local administration forced them to leave this school. The local administration indicated that people from the surrounding areas did not want any Ahmadis in the relief camp and that the local administration tried to avoid a law and order situation.

318. Around forty Ahmadi families who took shelter in a state-run school at Jhakar Imam Shah near Sumandri have reportedly not received any relief from the Government or humanitarian aid organizations. Relief packages were being distributed through local lawmakers who allegedly had been told by the district administration that Ahmadis were not eligible for any support.

319. At least one hundred members of the Ahmadiyyah community from Hussainwala and Masroorabad were trapped at Shahjamal. Even though the police was asked to rescue the trapped Ahmadis or to provide a boat, the district police officer and the district coordination officer did not take notice of these requests.

320. Concerns are expressed about the alleged lack of provision of relief goods to the flood-affected Ahmadi families and expulsion of displaced Ahmadis from State-run schools in South Punjab. The Special Procedures mandate holders also asked the Government whether measures have been taken to ensure non-discrimination in the delivery of humanitarian assistance and what those measures are.

(b) *No response received from the Government*

(c) *Observations by the Special Rapporteur*

321. The Special Rapporteur regrets that he has so far not received a reply from the Government of Pakistan concerning the above mentioned allegations. He would like to recall the rights of members of the Ahmadiyyah community in Pakistan to all their human rights, including freedom of religion or belief, in accordance with articles 18 of the Universal Declaration of Human Rights and of the International Covenant on Civil and Political Rights.

322. The Special Rapporteur would like to emphasize that disadvantaged minorities and other groups may be particularly vulnerable during natural disasters and have faced discrimination in the delivery of humanitarian assistance in numerous situations globally. The rights to equality and non-discrimination are fundamental principles of human rights law. The obligations of States to ensure non-discrimination are thus far reaching and are understood to include obligations to non-discrimination in the delivery of humanitarian assistance following natural disasters. The International Court of Justice, among other bodies, has noted that provision of humanitarian assistance is “to prevent and alleviate human suffering”, and “to protect life and health and to ensure respect for the human being”; it must also, and above all, be given without discrimination to all in need.

323. Furthermore, the General Assembly, in its resolution 64/164, urges States “to ensure that no one is discriminated against on the basis of his or her religion or belief when accessing, inter alia, education, medical care, employment, humanitarian assistance or social benefits”. In the same resolution, the General Assembly also urges States “to ensure that all public officials and civil servants, including members of law enforcement bodies and personnel of detention facilities, the military and educators, in the course of fulfilling their official duties, respect freedom of religion or belief and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate awareness-raising, education or training is provided”.

324. The Special Rapporteur would also like to emphasize that the responsibility not to discriminate in the delivery of humanitarian assistance extends to non-governmental organizations and that the Government of Pakistan should, to the fullest extent possible, ensure that all those active in the delivery of humanitarian assistance are aware of their commitments. In this context, he would like to refer to the Principles of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Response Programmes (principle 2: “Aid is given regardless of the race, creed or nationality of the

recipients and without adverse distinction of any kind. Aid priorities are calculated on the basis of need alone”; principle 3: “Aid will not be used to further a particular political or religious standpoint”).

325. The Special Rapporteur also would like to refer to Human Rights Council resolution 6/37, in which the Council urges States “to ensure that appropriate measures are taken in order to adequately and effectively guarantee the freedom of religion or belief of [...] persons belonging to minorities”.

**6. Urgent appeal sent on 22 November 2010 jointly with the Chair-Rapporteur of the Working Group on Arbitrary Detention and the Special Rapporteur on extrajudicial, summary or arbitrary executions**

*(a) Allegations transmitted to the Government*

326. The Special Procedures mandate holders brought to the attention of the Government information regarding Ms. Asia Bibi, a member of the Christian minority from the village of Ittanwali in Sheikhpura district, Punjab Province. According to the information received, on 7 November 2010, Ms. Asia Bibi, was sentenced to death on blasphemy charges under section 295-C of the Pakistani Penal Code by the Sheikhpura district and sessions court. Section 295-C of the Pakistani Penal Code provides that “whoever by words, either spoken or written, or by visible representation or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine”.

327. Reportedly, in June 2009, a group of Muslim women from the village of Ittanwali in Sheikhpura district had claimed that the water Ms. Bibi served was “unclean” because of her Christian faith. When Ms. Bibi maintained that her religion was as good as any and refused to convert to Islam, a mob led by a local Muslim religious leader tried to attack her and the police took Ms. Bibi into so-called “protective custody” in Nankana. Subsequently, she has spent more than a year as an under-trial prisoner on blasphemy charges at Sheikhpura District Jail.

328. The Pakistani National Commission on the Status of Women (NCSW) has investigated Ms. Bibi’s cases and found gross irregularities in the judicial process, highlighting the need for reform in the legal injunctions. According to the NCSW, the false allegation against Ms. Bibi was rooted in a personal vendetta by a local landlord. The NCSW called to repeal sections 295-B and 295-C of the Pakistani Penal Code.

329. On 20 November 2010, Ms. Bibi reportedly submitted a petition for pardon under article 45 of the Pakistani Constitution to the President of Pakistan. In her petition, Ms. Bibi emphasized that she had “never uttered any derogatory remark against the Holy Prophet (peace be upon him)”. It is also reported that a sub-inspector initially investigated the case against Ms. Bibi, contrary to section 156-A of the Criminal Procedure Code which requires that blasphemy cases have to be investigated by an officer not less than the rank of Superintendent of Police.

330. The Special Procedures mandate holders brought to the attention of the Government that, although the death penalty is not prohibited under international law, it has long been regarded as an extreme exception to the fundamental right to life. As such, it must be interpreted in the most restrictive manner and can be imposed only for the most serious crimes. In this respect, the Special Procedures mandate holders recalled that article 6 (2) of the International Covenant on Civil and Political Rights, which Pakistan signed in 2008 and ratified on 23 June 2010, provides that “in countries which have not abolished the death penalty”, the “sentence of death may be imposed only for the most serious crimes”. In

interpreting article 6 (2) of the Covenant, however, the Human Rights Committee has consistently rejected the imposition of a death sentence for offences that do not result in the loss of life, finding only cases involving murder not to raise concerns under the most serious crimes provision.

331. Furthermore, the Special Procedures mandate holders also appealed to the Government to ensure the right to freedom of religion or belief of Ms. Bibi in accordance with article 18 of the Universal Declaration of Human Rights and of the International Covenant on Civil and Political Rights. In this context, they referred to General Assembly resolution 64/164, in which the Assembly urges States “to ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief [...] and to bring to justice all perpetrators of violations of these rights”.

332. The Special Procedures mandate holders asked the Government to provide detailed information on how the detention and death sentence of Ms. Bibi and the application of section 295-C of the Pakistani Penal Code is compatible with the international norms and standards on the rights to life, freedom of religion or belief and freedom of opinion and expression.

(b) *Response from the Government of Pakistan dated 23 November 2010*

333. In its letter dated 23 November 2010, the Government of Pakistan acknowledged receipt of the joint urgent appeal of 22 November 2010. The Permanent Mission of Pakistan stated that the urgent appeal has been transmitted to Islamabad for serious consideration and an early response. The Permanent Mission of Pakistan indicated that it will revert to the Special Procedures mandate holders as soon as a response has been received.

(c) *Observations by the Special Rapporteur*

334. The Special Rapporteur is grateful that the Government of Pakistan acknowledged receipt of the joint urgent appeal of 22 November 2010. He would like to stress the risk that efforts to combat blasphemy may be manipulated for purposes contrary to human rights and that any blasphemy legislation should not be used to censure all inter-religious and intra-religious criticism (see E/CN.4/2000/65, para. 111). The Special Rapporteur recommends a review of the Penal Code and he would like to reiterate that a useful alternative to blasphemy laws is to fully implement the protection of individuals against advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (see A/62/280, para. 76).

335. Furthermore, the Special Rapporteur would like to make reference to his predecessor’s country report to Pakistan, in which Mr. Abdelfattah Amor stated that “applying the death penalty for blasphemy appears disproportionate and even unacceptable” (see E/CN.4/1996/95/Add.1, para. 82). International human rights law provides that States which retain the death penalty can only impose it for “the most serious crimes”. As observed by the Special Rapporteur on extrajudicial, summary or arbitrary executions, the conclusion to be drawn from a thorough and systematic review of the jurisprudence of all of the principal United Nations bodies charged with interpreting the “most serious crimes” provision, is that a death sentence can only be imposed in cases where it can be shown that there was an intention to kill which resulted in the loss of life (see A/HRC/4/20, para. 53). This would exclude charges related to blasphemy from those for which the death penalty can be imposed under international law.

## **R. Republic of Moldova**

### **1. Communication sent on 7 January 2010**

#### *(a) Allegations transmitted to the Government*

336. The Special Rapporteur brought to the attention of the Government information regarding public manifestations of religious intolerance against the **Jewish community in Chisinau**. According to the information received, on 13 December 2009, a group of around 100 parishioners from the Orthodox St. Parascheva Church in Chisinau dismantled a Jewish symbol – the Hannukah Menorah – on Europe Square, transported it to Stefan the Great Square and dumped it unceremoniously upside-down. Under the leadership of the priest, the group of parishioners also put a small Orthodox cross at the place of the Hannukah Menorah. Representatives of the Jewish community had reportedly received telephone calls in the morning of 13 December 2009 telling them to remove the Menorah or it would be destroyed.

337. In addition, during the events, the priest allegedly stated that Jewish people were trying to “dominate people” and recalled that Moldova was an Orthodox country. He reportedly also said that the “Jews can try to kill us, to traumatize our children”, but that Moldovan Orthodox believers would resist. According to the reports, the police or other law enforcement authorities did not intervene during the events.

338. While reports suggest that a number of Moldovan officials, including the President of the Republic of Moldova, the Minister of Justice and the Mayor of Chisinau, condemned the events and called for an investigation by the General Prosecutor’s office, and while the situation seems to be relatively calm at present, concern is being expressed that a backlash may occur unless prompt preventive measures are taken by the authorities.

#### *(b) Response from the Government of the Republic of Moldova dated 22 July 2010*

339. In its letter dated 22 July 2010, the Government of the Republic of Moldova responded to the urgent appeal of 7 January 2010 regarding the public manifestations of religious intolerance against the Jewish community in Chisinau.

340. The Government informed that it strongly condemned the above mentioned demonstrations and had initiated procedures in order to identify all of the circumstances. It was established that the circumstances constituted an enquiry under Article 274 of the Code of Criminal Procedure and that it should be realized by a prosecuting agency of the Police Commissariat of Buiucani district and Prosecution Office of Buiucani, m. Chisinau.

341. The Government indicated that after a control had been performed, it was established that on 13 December 2010, after the service had closed in the church “Holy Mother Matrona”, under the guidance of the accused, all parishioners present had walked to the Europe Square by the entrance to Stephen cel Mare park from Chisinau. The accused without any violent actions, required to knock down the Hebrew Menorah and change its locations.

342. The Government indicated that as a result of the facts described above, the Prosecution Office of Buiucani, on 22.12 2009, disposed the non-initiation of criminal proceedings because the actions of the accused did not represent elements of a crime according to Article 275 (p.3) of the Code of Criminal Procedure of the Republic of Moldova. Subsequently, an administrative case under Article 54 align.5) of the Administrative Code had been initiated against the accused, which penalizes “offences brought against religious feelings of individuals, desecration of their venerated objects, premises, monuments and symbols”.

343. The Government informed that as a result of the decision of the Buiucani district made on 23.12.2010, the accused was found guilty of the offence charged and a penalty of the amount of 600 lei. The accused has filed an action to the Buiucani Court of Justice, against the decision adopted. This has yet to be examined.

344. The Government stated that the Prosecution Office of Buiucani had disposed of the initiation of criminal proceedings against the actions of those persons who had allegedly knocked down the Hebrew symbol, transferring it to the monument of Stefan cel Mare, dismembering it and placing it on the ground. The Government indicated that the facts are currently being examined by the Police Commissariat of Buiucani district, which has initiated measures in order to gather evidence, identify perpetrators and bring them accountable under applicable law for offences set out in Article 288 of the Criminal Code “Vandalism” and Article 346 of the Criminal Code “Intentional actions aimed at stirring strife or national, racial or religious disunity”.

(c) *Observations by the Special Rapporteur*

345. The Special Rapporteur is grateful that the Government of the Republic of Moldova replied by letter of 22 July 2010. He wishes to take this opportunity to refer to his framework for communications, more specifically to the international human rights norms and to the mandate practice concerning the situation of minorities (category C. 5.).

**2. Communication sent on 6 July 2010**

(a) *Allegations transmitted to the Government*

346. The Special Rapporteur brought to the attention of the Government information regarding the proposal to introduce mandatory and confessional Orthodox Christian education into the **general school curriculum**. According to the information received, on 4 June 2010, the Central Electoral Commission decided to register an initiative group in preparation for a Republican Legislative Referendum on the subject of introducing mandatory and confessional Orthodox Christian education into the general school curriculum (Central Electoral Commission Decision Nr. 3251). Reportedly, the Constitutional Court reviews the legality of the proposed referendum question only after the referendum has been held.

347. Concerns have been expressed that for reasons of international human rights law, including freedom of religion or belief and the principle of non-discrimination, the Central Electoral Commission had erred when it allowed the initiation of proceedings toward a Republican Legislative Referendum on the subject of approving mandatory school curriculum in Orthodox Christianity. On 15 June 2010, the Appeals Court of Chisinau reportedly struck down the decision of the Central Electoral Commission, however, this judgment may be appealed.

348. The Special Rapporteur appealed to the Government to ensure the right to freedom of religion or belief and right to education in accordance with article 18 of the Universal Declaration of Human Rights, article 18 of the International Covenant on Civil and Political Rights and article 13 of the International Covenant on Economic, Social and Cultural Rights. In addition, article 5 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief provides that “The parents or, as the case may be, the legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up. Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians,

the best interests of the child being the guiding principle. The child shall be protected from any form of discrimination on the ground of religion or belief.”

349. The Special Rapporteur also recalled that in its resolution 6/37, the Human Rights Council urges States “to design and implement policies whereby education systems promote principles of tolerance and respect for others and cultural diversity and the freedom of religion or belief”. In its General Comment no. 22 (1993) on the right to freedom of thought, conscience or religion, the Human Rights Committee has underlined that “[p]ublic education that includes instruction in a particular religion or belief is inconsistent with article 18.4 [of the International Covenant on Civil and Political Rights] unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians.” Furthermore, article 18 of the International Covenant on Civil and Political Rights is considered to protect “[t]heistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief”.

350. In its General Comment no. 13 (1999) on the right to education, the Committee of Economic, Social and Cultural Rights permits public school instruction in subjects such as “[g]eneral history of religions and ethics if it is given in an unbiased and objective way, respectful of the freedoms of opinion, conscience and expression”. Furthermore, the Committee has deemed that, “[p]ublic education that includes instruction in a particular religion or belief is inconsistent with article 13.3 unless provision is made for non-discriminatory exemptions or alternatives that would accommodate the wishes of parents and guardians.”

(b) *Response from the Government of the Republic of Moldova dated 29 July 2010*

351. In its letter dated 22 July 2010, the Government of the Republic of Moldova responded to the communication of 6 July 2010 regarding the proposal to introduce mandatory and confessional Orthodox Christian education into the general school curriculum.

352. On 8 July 2010, the Supreme Court Civil and Administrative Litigation College rejected the appeal of the President of the Initiative Group for introducing mandatory and confessional Orthodox Christian education into the general school curriculum and maintained the decision of the Appeals Court of Chisinau from 15 June 2010 that struck down the decision no. 3251 of the Central Electoral Commission regarding the registration of the Initiative Group concerning the holding of a Republican Legislative Referendum on the subject of introducing mandatory and confessional Orthodox Christian education into general school curriculum. The Government of the Republic of Moldova emphasized that the decision of the Supreme Court is final and irrevocable.

353. On 2 June 2010, the Government of the Republic of Moldova took a decision according to which “beginning with the school year 2010-2011, in the school timetables of the primary and secondary educational institutions it will be included the discipline “Religion”, which will be an optional one and will be taught on the basis of demands of the children’s parents or legal guardians.

(c) *Observations by the Special Rapporteur*

354. The Special Rapporteur is grateful that the Government of the Republic of Moldova replied by letter of 29 July 2010. He wishes to take this opportunity to refer to his framework for communications, more specifically to the international human rights norms and to the mandate practice concerning the right of parents to ensure the religious and moral education of their children (see para. 1 above, category A. 3. (g)) as well as to his latest thematic report on freedom of religion or belief and school education (A/HRC/16/53, paras. 20-62).

**3. Communication sent on 17 August 2010 jointly with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment or belief**

*(a) Allegations transmitted to the Government*

355. The Special Rapporteurs brought to the attention of the Government information regarding Mr. **Grigori Djoltaili**, a member of the Church of Evangelical Christians of Baptists in Tvarditsa village, Taraclia County, Republic of Moldova.

356. According to the information received, Mr. Grigori Djoltaili has in previous years and most recently been discriminated against and physically assaulted by members of the majority Orthodox community in his village of Tvarditsa in Taraclia County. Reportedly the head of the local school did not allow him to complete his studies because Mr. Djoltaili's parents are also members of the Church of Evangelical Christians of Baptists. Mr. Djoltaili ceased studies with an incomplete secondary education in 1991. In 1994, members of the Orthodox community of St. Pareschiva Church in the Tvarditsa village, Taraclia County, broke the gates of his house and entered his house without his permission and tried to kill his mother and father. His father was 60 years old at the time and his mother was 58. During the same events, the members of the Orthodox community also tried to assault him, but failed. In 1994, Mr. Djoltaili submitted a complaint concerning these events to the prosecutor's office in Chadirlunga, but no action followed. Since then, Mr. Djoltaili has reportedly lived in extreme poverty, suffering also from malnutrition, among other things because of the marginal position to which he has been forced as a result of his minority religious affiliation.

357. On 12 July 2010, between 8:00 p.m. and 9:00 p.m., Mr. Djoltaili was approached in the Tvarditsa village by Mr. A. who reportedly works for the Christian Orthodox St. Pareschiva Church. Mr. A. used threatening words and degrading terms and threatened to beat Mr. Djoltaili. There was a police car nearby, with a person in civil clothes inside. These persons were witness to the threats, however, they did not intervene but rather drove away.

358. Two days later, at a local Internet café, the Mr. A. reportedly told other individuals that he and the police officer were planning to beat Mr. Djoltaili. On 15 July 2010, when Mr. Djoltaili left an Internet café, some persons followed him and used insulting phrases about his faith in Jesus Christ and his affiliation with the Baptist Church. They threatened that they would beat him harshly and would throw him into the local canal.

359. Approximately one hour later on 15 July 2010, a person named Mr. I. A. allegedly attacked Mr. Djoltaili physically. This assault was stopped as a result of the intervention of a third party. On the same night, while Mr. Djoltaili was going home, a car stopped nearby. Several people got out of the car and ordered him to approach. Mr. Djoltaili refused and began to flee down a lighted path.

360. On 20 July 2010, Mr. Djoltaili submitted a complaint to the prosecutor in Taraclia town. Following this complaint, the threats and attacks against him increased. Several days after submitting this complaint, and apparently as a result of the complaint, Mr. I. A. threatened to kill him. In addition, the local police officer required Mr. Djoltaili to go to the police station and put pressure on him to write another communication to the prosecutor, in which he would withdraw his complaint. Mr. Djoltaili regularly received calls from unknown telephone numbers with similar pressure and threats to withdraw his complaint. A neighbour also informed Mr. Djoltaili that unknown persons came looking for him while he was not at home.

- (b) *No response received from the Government*
- (c) *Observations by the Special Rapporteur*

361. The Special Rapporteur regrets that he has so far not received a reply from the Government of the Republic of Moldova concerning the above mentioned allegations. He would like to recall that in its resolution 6/37, the Human Rights Council urges States “(a) To ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practice freely one’s religion, including the right to change one’s religion or belief, is violated; [...] (j) To ensure that all public officials and civil servants, including members of law enforcement bodies, the military and educators, in the course of their official duties, respect different religions and beliefs and do not discriminate on the grounds of religion or belief, and that all necessary and appropriate education or training is provided; [...] (l) To take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to religious minorities [...]”.

## S. Saudi Arabia

### **Communication sent on 2 February 2010 jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**

- (a) *Allegations transmitted to the Government*

362. The Special Rapporteurs brought to the attention of the Government information regarding threats made against **members of the Shi’a community** in the Kingdom of Saudi Arabia. According to the information received, Mr. Mohammed Al-Arifi, who has been appointed by the Ministry of Religious Affairs as Imam of Riyadh mosque, delivered a Friday prayer speech in Al-Bourdi mosque on 1 January 2010 in which he called for the elimination of all Shi’a believers in the world, including those residing in the Kingdom of Saudi Arabia. Furthermore, Mr. Al-Arifi stated that Shi’a believers were not true Muslims, their doctrine was based on blasphemed principles and that they were remnants of an old Persian religion. Mr. Al-Arifi called Shia’s “traitors” and argued that their affiliation was to Iran rather than to their respective countries.

363. One week earlier, Mr. Al-Arifi, while wearing a Saudi military uniform, had reportedly urged the Saudi soldiers in the border area to Yemen to kill all Shia’s they can see in their fight against al-Houthi rebels. Reportedly, the Saudi authorities have not taken any legal action against Mr. Al-Arifi, who continues to receive a monthly salary from the Government and still delivers speeches on national television and radio. In addition, Mr. Al-Arifi’s speeches are available online on Internet websites.

364. The Special Rapporteurs highlighted the principle that the right to freedom of expression carries with it special duties and responsibilities. In this regard, they referred to Human Rights Council resolution 12/16 on freedom of opinion and expression, in which the Human Rights Council expresses concern that “incidents of racial and religious intolerance, discrimination and related violence, as well as of negative racial and religious stereotyping continue to rise around the world, and condemns, in this context, any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence” (para. 4). In the same paragraph, the Human Rights Council urges States to “take effective measures, consistent with their obligations under international human rights

law, to address and combat such incidents”. In addition, the resolution also stresses that “condemning and addressing [...] any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence is an important safeguard to ensure the enjoyment of human rights and fundamental freedoms for all, including persons belonging to minorities” (para. 6).

365. The Special Rapporteurs urged the Government to take all necessary measures to guarantee that the rights and freedoms of the Shi’a community in the Kingdom of Saudi Arabia are respected and, in the event that the investigations support or suggest the above allegations to be correct, the accountability of Mr. Mohammed Al-Arifi of the alleged violations should be ensured.

(b) *No response received from the Government*

(c) *Observations by the Special Rapporteur*

366. The Special Rapporteur regrets that he has so far not received a reply from the Government of Saudi Arabia concerning the above mentioned allegations. He would like to reiterate that the General Assembly, in its resolution 64/164, “condemns any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence, whether it involves the use of print, audio-visual or electronic media or any other means”. In the same resolution, the General Assembly also urges States “to take all necessary and appropriate action [...] to combat hatred, discrimination, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to members of religious minorities in all parts of the world”.

## T. Switzerland

### **Lettre d’allégation envoyée le 13 août 2010 avec le Rapporteur spécial sur les formes contemporaines de racisme, de discrimination raciale, de xénophobie et de l’intolérance qui y est associée; et le Rapporteur spécial sur les droits de l’homme des migrants**

(a) *Allégations transmises au Gouvernement*

367. Les Rapporteurs spéciaux ont attiré l’attention du Gouvernement sur la **consultation populaire du parti politique de l’Union Démocratique du Centre (UDC)** sur la politique d’asile et des étrangers. Selon les informations reçues, le parti politique de l’UDC aurait lancé une consultation populaire sur le thème de la politique à l’égard des étrangers. Dans le cadre de cette campagne politique, un journal accompagné d’un questionnaire aurait été distribué aux ménages suisses. Les réponses au questionnaire seront analysées par l’UDC et lui permettront d’en tirer son programme politique en vue des élections fédérales de 2011.

368. Dans le journal et le questionnaire distribués par l’UDC, plusieurs thèmes sont abordés, notamment ceux relatifs à l’accord de libre circulation des personnes avec l’Union Européenne et à l’augmentation du nombre d’étrangers en Suisse; à la naturalisation des étrangers; aux prestations sociales offertes aux étrangers; à la présence d’enfants étrangers dans les écoles suisses; à la criminalité commise par les étrangers; à la présence de l’Islam en Suisse; et au nombre croissant de demandes d’asile.

369. En guise d’introduction au questionnaire, le Président de l’UDC, M. Toni Brunner, affirme que « la Suisse a un problème évident avec les étrangers vivant dans le pays. De nombreuses Suissesses et de nombreux Suisses ne se sentent plus à l’aise ou se sentent même menacés dans leur propre pays ». Il déclare également que « nous autres gens de

l'UDC, nous voulons que le problème des étrangers soit réglé rapidement et complètement ».

370. Dans le journal analysant les thèmes susmentionnés, l'UDC affirme à propos de « la proportion excessive d'étrangers vivant en Suisse », qu'il « n'est pas acceptable que l'identité suisse soit minée par des naturalisations en série et des flots migratoires ». En ce qui concerne l'éducation, l'UDC est d'avis que « les enfants suisses sont entravés dans leur développement par une présence excessive d'étrangers dans les classes d'école ». Sur le thème de l'«islamisation de la Suisse », l'UDC indique que « durant les 30 ans écoulés [1980 à 2009], la proportion de musulmans en Suisse a environ octuplé et que les immigrants musulmans « ont une conception du droit et de l'ordre qui est incompatible avec l'ordre juridique suisse, avec nos lois et nos règles démocratiques ». Quant à la question de l'asile, l'UDC souligne que « le développement des demandes d'asile en provenance d'Erythrée commence à poser un grave problème. L'ancienne Commission de recours en matière d'asile a en effet interdit en décembre 2005, le renvoi des objecteurs de conscience érythréens. Depuis, la Suisse est submergée de jeunes hommes qui prétendent être des objecteurs de conscience érythréens ».

371. Les Rapporteurs spéciaux ont exprimé leur inquiétude quant au fait que le journal et le questionnaire préparés par l'UDC puissent intentionnellement présenter les étrangers vivant en Suisse comme un « problème » à régler « rapidement et complètement ». Etant conscient qu'il est important dans une démocratie que des débats politiques abordant tous les thèmes touchant la population suisse puissent avoir lieu, nous souhaitons néanmoins attirer l'attention du Gouvernement de votre Excellence sur le fait que le journal et le questionnaire distribués par l'UDC peuvent contribuer à véhiculer des idées racistes et xénophobes au sein de la société suisse, et contribuer à l'intolérance à l'égard des membres des minorités religieuses.

372. A cet égard, référence était faite au rapport du Rapporteur spécial sur les formes contemporaines de racisme, de discrimination raciale, de xénophobie et de l'intolérance qui y est associée, Doudou Diène, sur la mission qu'il a effectuée en Suisse en 2007 (voir A/HRC/4/19/Add.2). Dans ce rapport, Doudou Diène avait noté « tant dans le discours politique que dans les plateformes politiques, ainsi que dans une partie des médias, la place croissante de la rhétorique de 'la défense de l'identité nationale' et de 'la menace de la présence allogène'. L'impact électoral de ces plates-formes est révélateur de l'existence dans la société d'un courant politique favorable à un enfermement identitaire face à l'immigration et donc de l'émergence d'une culture de xénophobie dans certaines parties de la société - notamment rurale -, confirmée par les résultats de certaines votations récentes ».

373. Dans ce contexte, les Rapporteurs spéciaux ont rappelé au Gouvernement que le Programme d'action de Durban « invite instamment tous les États à interdire tout traitement discriminatoire à l'égard des étrangers et des travailleurs migrants au motif de la race, de la couleur, de l'ascendance ou de l'origine nationale ou ethnique, notamment, le cas échéant, en ce qui concerne l'octroi de visas et de permis de travail, le logement, les soins de santé et l'accès à la justice » (paragraphe 81). Ce dernier prie également « tous les États de combattre les manifestations exprimant un rejet général des migrants et de décourager activement toute manifestation et tout acte raciste susceptibles d'engendrer la xénophobie, le rejet des migrants ou l'hostilité à leur égard » (paragraphe 24). A cet effet, le Programme d'action de Durban « encourage les États à promouvoir l'enseignement des droits fondamentaux des migrants et à lancer des campagnes d'information pour que l'opinion publique ait des informations exactes sur les migrants et les problèmes de migration et prenne notamment conscience de la contribution positive que les migrants apportent à la société d'accueil et de leur vulnérabilité, surtout lorsqu'ils sont en situation irrégulière » (paragraphe 27).

(b) *Réponse datée du 8 septembre 2010 du Gouvernement*

374. Dans sa réponse du 8 septembre 2010, le Gouvernement suisse indiquait qu'à l'instar d'autres pays, les questions liées aux mouvements migratoires et à l'intégration des migrants revêtent toujours plus d'importance en Suisse. Le Gouvernement suisse a pris position comme suit quant aux inquiétudes que les Rapporteurs spéciaux ont exprimé dans leur courrier.

375. Selon le Gouvernement suisse, toutes les sociétés doivent aujourd'hui faire face à une accélération de la diversité dans tous les domaines. Les dynamiques liées à la globalisation peuvent conduire à un climat de tensions identitaires, susceptibles d'être exploitées politiquement. Ces confrontations sont le signe de démocraties vivantes.

376. En Suisse, les instruments de la démocratie directe, à laquelle participent tous les groupes de la population, permettent aux thèmes les plus controversés d'être discutés sur la scène publique. Une grande transparence est ainsi assurée dans le débat politique afin de trouver des solutions pratiques et constructives. Il s'agit là d'une règle fondamentale de toute démocratie.

377. Selon le Gouvernement suisse, la « consultation populaire » du parti de l'Union Démocratique du Centre (UDC) est une enquête qui se propose de recueillir pour le compte de ce parti l'avis de la population sur le système de l'asile et de l'intégration des migrants, en posant des questions rhétoriques qui reflètent la position de ce parti. Il ne s'agit pas d'une initiative du Gouvernement suisse.

378. En Suisse, les étrangers représentent 21,7 % de l'ensemble de la population résidente permanente. La Suisse affiche l'une des proportions d'étrangers les plus élevées d'Europe. Dans son rapport du 5 mars 2010 sur l'évolution de la politique d'intégration de la Confédération, le Conseil fédéral stipule que : « Comparées à celles d'autres pays européens, les données telles que l'intégration sur le marché du travail, la participation à la formation ou la ségrégation spatiale montrent que, dans les domaines social et économique, la politique d'intégration suisse peut globalement être qualifiée de réussie » (Rapport du Conseil fédéral à l'intention des chambres fédérales sur l'évolution de la politique d'intégration de la Confédération, 5 mars 2010).

379. Le Conseil fédéral porte une attention particulière aux questions migratoires et à la politique d'intégration : « Entrée en vigueur le 1er janvier 2008, la loi fédérale sur les étrangers (LEtr) pose pour la première fois, à l'échelle fédérale, les grandes lignes d'une politique d'intégration étatique, à mettre en œuvre aux niveaux de la Confédération, des cantons et des communes. D'une part, la politique d'intégration repose sur une politique d'encouragement à grande échelle, qui s'inscrit en premier lieu dans les structures existantes des domaines les plus significatifs pour la politique d'intégration ; elles sont regroupées sous le terme de « structures ordinaires » et couvrent, par exemple, l'école, la formation professionnelle, le marché du travail ou le domaine de la santé. La politique d'intégration prévoit aussi des mesures complémentaires spécifiques comme l'encouragement des connaissances linguistiques, l'intégration professionnelle, le conseil et l'information. D'autre part, elle pose des exigences d'intégration en droit des étrangers : respect de la Constitution fédérale, de la sécurité et de l'ordre publics, volonté d'acquérir une formation et de travailler, connaissances d'une langue nationale. A cet égard, le Conseil fédéral a proposé de nouvelles mesures dans le cadre du contre-projet à l'initiative sur le renvoi. Ces dernières années, la Confédération, les cantons et les communes ont entrepris les démarches nécessaires à la mise en œuvre de cette politique ».

380. En Suisse, la politique migratoire s'articule autour des trois axes que sont la garantie du bien-être de la population, la solidarité envers les victimes de persécutions et le maintien de la sécurité pour tous, étrangers et autochtones. Le thème transversal de l'intégration touche chacun de ces trois axes.

381. Concernant la question relative aux mesures prises visant à prévenir les manifestations de racisme, de discrimination raciale, de xénophobie et de l'intolérance, le Conseil fédéral a réitéré plusieurs reprises son engagement contre toutes les formes de discriminations et continuera à prendre clairement position contre le racisme et la xénophobie. La norme constitutionnelle interdisant toute discrimination pour cause d'origine, de race, de langue et de conviction religieuse (art. 8 Constitution fédérale ; art. 19 et 20 du Pacte II) se traduit au niveau du code pénal par l'article 261 bis CP, respectivement l'article 171c du Code pénal militaire (Discrimination raciale).

382. Ces dispositions, dont l'application relève de la responsabilité et de la compétence des organes de la justice pénale, punissent celui qui aura publiquement incité à la haine ou à la discrimination envers des personnes ou un groupe de personnes en raison de leur appartenance raciale, ethnique ou religieuse, de même que celui qui aura publiquement porté atteinte à la dignité humaine ou qui lui aura refusé une prestation destinée à l'usage public, ainsi que quiconque aura propagé publiquement une idéologie raciste visant à rabaisser ou à dénigrer de façon systématique les membres d'une race, d'une ethnie ou d'une religion, ou qui aura dans le même dessein organisé, encouragé ou pris part à des actions de propagande. Par ailleurs, la liberté de religion est inscrite à l'article 15 de la Constitution fédérale, qui protège la liberté de conscience et de croyance ainsi que la liberté de culte, cette dernière étant comprise à la fois comme une composante et une émanation de la liberté de conscience et de croyance.

(c) *Observations du Rapporteur spécial*

383. Le Rapporteur spécial remercie le Gouvernement pour cette réponse. Il souhaite rappeler que le Conseil des droits de l'homme, dans sa résolution 6/37, paragraphe 9 (b), « demande instamment aux Etats de concevoir et d'appliquer des politiques destinées à assurer la promotion par les systèmes éducatifs des principes de tolérance et de respect d'autrui, de la diversité culturelle et de la liberté de religion ou de conviction ».

## U. Turkmenistan

### **Urgent appeal sent on 12 February 2010 jointly with the Chair-Rapporteur of the Working Group on Arbitrary Detention**

(a) *Allegations transmitted to the Government*

384. The Special Procedures mandate holders brought to the attention of the Government information regarding Mr. **Navruz Nasyrlyev**, son of a baptised Jehovah's Witness who has not yet been baptised himself, residing in Dashoguz; Mr. **Sakhetmurad Annamamedov**; Mr. **Mukhammedmurad Annamamedov**; Mr. **Shadurdi Ushotov**; and Mr. **Akmurat Egendurdiev**, who are Jehovah's Witnesses and conscientious objectors in Turkmenistan.

385. According to the information received, on 7 December 2009, Mr. Navruz Nasyrlyev was sentenced by the Dashoguz City Court under article 219, part 1, of the Turkmen Criminal Code to two years imprisonment in a general regime labour camp for his refusal to serve in the military. Mr. Navruz Nasyrlyev appealed against his sentence, but in its decision of 3 January 2010 the Dashoguz Regional Court upheld the original sentence of the court of first instance. Mr. Navruz Nasyrlyev was called up in March 2009 when reaching the age of 18. He, however, refused to serve in the army because of his beliefs.

386. With the arrest and sentencing of Mr. Navruz Nasyrlyev, a total of five conscientious objectors are currently serving prison terms in Turkmenistan: Mr. Sakhetmurad Annamamedov and Mr. Mukhammedmurad Annamamedov originally received a

suspended sentence in November 2008, which was commuted to a two years prison sentence on 21 May 2009. Mr. Shadurdi Ushotov was convicted for refusing to serve in the military on 13 July 2009. Mr. Akmurat Egendurdiev was sentenced on 29 July 2009 to 18 months of imprisonment. All are currently imprisoned at Seydi Labour Camp.

387. Three more conscientious objectors are serving non-custodial sentences. Mr. Vladimir Golosenko, from Turkmenbashi, was sentenced in February 2008 to two years of forced labour and 20 percent of his salary goes to the State. Mr. Zafar Abdullaev was given a two-year suspended sentence by Dashoguz City Court in April 2009. He is currently living at home. Also in April 2009, the Dashoguz City Court rendered a suspended sentence of two years against Mr. Dovran Kushmanov. He has to report to the police weekly.

388. The Jehovah's Witness young men have indicated that they were willing to do alternative non-military service, however, the laws of Turkmenistan offer no non-combat alternative to those who cannot serve in the military on grounds of conscience, religion or belief.

(b) *No response received from the Government*

(c) *Observations by the Special Rapporteur*

389. The Special Rapporteur regrets that he has so far not received a reply from the Government of Turkmenistan concerning the above mentioned allegations. He appeals to Government of Turkmenistan to ensure the right to freedom of thought, conscience and religion of the above mentioned Jehovah's Witnesses in accordance with article 18 of the International Covenant on Civil and Political Rights. The Human Rights Committee indicated in its general comment 22 that a right to conscientious objection "can be derived from article 18, inasmuch as the obligation to use lethal force may seriously conflict with the freedom of conscience and the right to manifest one's religion or belief." Furthermore, he would like to draw the attention of the Government to paragraph 5 of Resolution 1998/77 of the Commission on Human Rights, which emphasizes that States should take the necessary measures to refrain from subjecting conscientious objectors to imprisonment.

390. The Special Rapporteur refers to Opinion No. 16/2008 of the Working Group on Arbitrary Detention (A/HRC/10/21/Add.1, p. 139), in which concerns are expressed that the arrest and imprisonment of Mr. Navruz Nasyrbaev, Mr. Sakhetmurad Annamamedov, Mr. Mukhammedmurad Annamamedov, Mr. Shadurdi Ushotov, and Mr. Akmurat Egendurdiev might represent an unlawful restriction of their right to freedom of thought, conscience, and religion or belief. In its Opinion, the Working Group declared arbitrary the imprisonment – including the first term in case of repeated convictions – of a conscientious objector as being in violation of the rights guaranteed by article 18 of the International Covenant on Civil and Political Rights.

391. The Special Rapporteur would like to reiterate the observations and recommendations on the issue of conscientious objection in his predecessor's country report on Turkmenistan (see A/HRC/10/8/Add.4, paras. 17, 50-51, 61 and 68). In paragraph 68 of the country report, the Special Rapporteur recommended that "the Government should ensure that conscientious objectors in Turkmenistan, in particular Jehovah's Witnesses who refuse to serve in the army due to their religious beliefs, be offered an alternative civilian service which is compatible with the reasons for conscientious objection. As such, the Government should also revise the Conscription and Military Service Act which refers to the possibility of being sanctioned twice for the same offence. The Special Rapporteur would like to recall that according to the principle of "ne bis in idem", as enshrined in article 14 (7) of the International Covenant on Civil and Political Rights, no one shall be liable to be tried or punished again for an offence for which he or

she has already been convicted or acquitted in accordance with the law and penal procedure of each country.”

## V. Uganda

### **Urgent appeal sent on 31 May 2010 jointly with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

#### *(a) Allegations transmitted to the Government*

392. The Special Rapporteurs brought to the attention of the Government information regarding Mr. **Mohammad Hassan Haji**, a Somali national and asylum-seeker in Uganda who is due to be forcibly returned to Somalia after 31 May 2010.

393. According to the information received, subsequent to his conversion to Christianity, Mr. Mohammad Hassan Haji was threatened in Somalia by the armed opposition group al-Shabab and was forced by them to stop working as a cameraman for a Muslim company. Mr. Haji fled from Somalia in 2008, going first to his uncle in Nairobi and then in April 2009 to Uganda in order to seek asylum. In December 2009, he was arrested in Katuna and charged with illegal entry into Uganda. He was convicted and the court in Kabale ordered on 10 March 2010 that he should be deported back to Somalia. Mr. Haji is currently in police custody in Kampala and the Ugandan authorities indicated that his deportation will take place any time after 31 May 2010.

394. Concerns have been voiced that converts to Christianity face great risk of serious human rights abuses such as torture and other ill-treatment or extrajudicial execution in Somalia.

#### *(b) No response received from the Government*

#### *(c) Observations by the Special Rapporteur*

395. The Special Rapporteur regrets that he has so far not received a reply from the Government of Uganda concerning the above mentioned allegations. He would like to appeal to the Government to ensure the right to freedom of religion or belief of Mr. Haji in accordance with the principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief and article 18 of the Universal Declaration on Human Rights as well as of the International Covenant on Civil and Political Rights.

396. The Special Rapporteur would like to take the opportunity to refer to his predecessor's reports to the General Assembly, which deal with the vulnerable situation of refugees and asylum-seekers (see A/62/280, paras. 38-63; and A/64/159, paras. 22-24 and 67). He would also like to recall the obligation of non-refoulement in article 33 of the 1951 Convention relating to the Status of Refugees: “No Contracting State shall expel or return (*‘refouler’*) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.” In this context, the Special Rapporteur would like to refer to the press statement he issued on 11 November 2010 jointly with the Independent Expert on the situation of human rights in Somalia, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on

the Independence of Judges and Lawyers and the Special Rapporteur on violence against women, its causes and consequences.<sup>3</sup>

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

### **1. Communication sent on 20 November 2009 as a follow-up to the Special Rapporteur's country visit to the United Kingdom of Great Britain and Northern Ireland in June 2007**

397. In a follow-up letter of 20 November 2009, the Special Rapporteur transmitted a table containing the conclusions and recommendations in the mission report on the United Kingdom of Great Britain and Northern Ireland (A/HRC/7/10/Add.3) as well as information from relevant United Nations documents, including from the Human Rights Council's Universal Periodic Review, Special Procedures and Treaty Bodies. The Special Rapporteur asked the Government to provide updated information on the consideration given to these recommendations, the steps taken to implement them, and any constraints which may prevent their implementation.

398. The Special Rapporteur is grateful that the Government of the United Kingdom of Great Britain and Northern Ireland replied by letter of 10 March 2010. The follow-up table, including any information provided by the Government, is available online on the Special Rapporteur's website ([www2.ohchr.org/english/issues/religion/visits.htm](http://www2.ohchr.org/english/issues/religion/visits.htm)).

### **2. Urgent appeal sent on 19 March 2010 jointly with the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Chair-Rapporteur of the Working Group on Arbitrary Detention**

#### *(a) Allegations transmitted to the Government*

399. The Special Procedures mandate holders brought to the attention of the Government information regarding Mr. A., a national of the Islamic Republic of Iran and since September 2008 resident of Bolton, United Kingdom of Great Britain and Northern Ireland.

400. According to the allegations received, Mr. A. is detained in the immigration removal centre Harmondsworth and due to be forcibly removed from the United Kingdom on flight BA7531/BD931 to Tehran, Islamic Republic of Iran, on 21 March 2010. Mr. A. used to be a Muslim and learned about Christianity through an underground church in Tehran. He came to the United Kingdom of Great Britain and Northern Ireland on a student visa in 2007 and applied for asylum in August 2008, before expiry of his visa, as he had converted to Christianity. His asylum application has been refused, reportedly on the grounds that his Christian faith was not genuine but a contrivance in order to gain asylum in the United Kingdom. However, Mr. A. is reported to be a young man with a deep and genuine Christian faith and he has been a covenant member of the Jesus Fellowship Church since August 2009.

401. Concerns have been voiced that converts from Shia Islam to Christianity face great risk of ill-treatment in the Islamic Republic of Iran and are not free to practise their faith openly without fear of persecution and even threat of death as an apostate. The Special Rapporteurs also recalled the obligation of non-refoulement in article 33 of the 1951 Convention relating to the Status of Refugees: "No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life

<sup>3</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10522&LangID=E>.

or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”

(b) *Response from the Government dated 14 April 2010*

402. In its letter dated 14 April 2010, the Government of the United Kingdom of Great Britain and Northern Ireland responded to the urgent appeal of 19 March 2010 seeking clarification of the case concerning Mr. A.

403. The Government indicated that Mr. A. sought judicial review of the decision to remove him from the United Kingdom, claiming breaches of Article 3 and 8 of the European Convention of Human Rights as well as the Refugee Convention. The Government stated that Mr. A., in the course of the application, had an opportunity to set out his reasons for challenging the decision before an independent judge of the High Court, with the benefit of legal representation.

404. The Government indicated that this issue of his conversion to Christianity had already been substantively considered, and rejected, in his Asylum and Immigration Tribunal in January 2009.

405. The Government indicated that the judge refused the judicial review claim on paper on 17 February 2010, ordering that the claim was unarguable, lacked any merit and that removal action could take place even if Mr. A. wished to take further court proceedings. The Government stated that Mr. A., through his representatives, renewed his application on 1 March 2010 but in light of the observations from the court it was not deemed to be a barrier to removal. The Government indicated that it was open to Mr. A. to apply to the court for an injunction to prevent removal action from being taken.

406. The Government informed that consequently the Claimant was removed from the United Kingdom of Great Britain and Northern Ireland on 21 March 2010.

(c) *Observations by the Special Rapporteur*

407. The Special Rapporteur is grateful that the Government of the United Kingdom of Great Britain and Northern Ireland replied by letter of 14 April 2010. He would like to refer to his predecessor's country report (A/HRC/7/10/Add.3, para. 79), in which the Special Rapporteur issued the following recommendations with regard to refugees and asylum-seekers: “The Special Rapporteur was informed that asylum claims in the United Kingdom, including those based on well-founded fear of religious persecution, are subject to rigid scrutiny and that few applications are successful in the initial decision or in the appeal procedure. Since there is no official data available on how many asylum-seekers sought asylum in the United Kingdom on grounds of religious persecution, further research and aggregated data collection may be useful in order to analyse the issues involved with regard to freedom of religion or belief. Such research by the Government, civil society or academia may also deal with the situation of individuals converting after their departure from their country of origin and their refugee *sur place* claims. The Special Rapporteur would like to reiterate that a post-departure conversion should not give rise to a presumption that the claim is fabricated and the immigration authorities should evaluate the genuineness of the conversion on a case-by-case basis taking into account the applicant's past and present circumstances.”

## X. United States of America

### 1. Communication sent on 22 January 2010

#### (a) *Allegations transmitted to the Government*

408. The Special Rapporteur brought to the attention of the Government information regarding Mr. **Colin Van Billiard**, currently detained in Southport Correctional Facility, Pine City, New York.

409. According to the information received, Mr. Colin Van Billiard requested in 2009 that the facility's authorities change his religious designation to "Muslim" in the records of the Department of Correctional Services of the State of New York. The authorities, however, denied Mr. Van Billiard's request, referring to Directive # 4202 on "Religious Programs and Practices" (last revised on 7 October 2009) which states that "changes of religious designation shall not be permitted while a Superintendent's proceeding is pending and for the duration of an inmate's confinement to a cell, room or Special Housing Unit, but not to exceed twelve months from the commencement of such confinement". Mr. Van Billiard complains that without the official change of his religious designation in the Departmental records he could not take part in Ramadan.

410. Subsection "H. CHANGE OF RELIGIOUS DESIGNATION" of the State of New York, Department of Correctional Services, Directive # 4202 provides the following: "After reception/classification, an inmate may request an initial change of his or her religious affiliation, as recorded in Departmental records, by completing a 'Change of Religious Designation Form' (Attachment C) and presenting it to the facility Coordinating Chaplain. The Coordinating Chaplain will maintain a log of such requests and will ensure that the affected chaplains are made aware of the change. The facility chaplain of the inmate's former religion, if any, and the facility chaplain of the inmate's newly designated religion, if any, shall both sign the 'Change of Religious Designation Form.' The Coordinating Chaplain will forward the original of the completed form to the facility Inmate Records Coordinator (IRC) for entry into the Department's central computer system, and distribute copies to the inmate's counselor for placement in the guidance file and to the inmate. It is expected that a change will be accomplished within 30 days. Subsequent changes of religion will be permitted only at twelve-month intervals. Changes of religious designation shall not be permitted while a Superintendent's proceeding is pending and for the duration of an inmate's confinement to a cell, room or Special Housing Unit, but not to exceed twelve months from the commencement of such confinement. Change of religion forms are not to be handed out at religious services or classes. In the event a particular religious faith does not recognize the validity of a change of religious designation, then any controversy regarding the status of the inmate's religious affiliation shall be between the inmate and the outside authorities of that particular religious faith."

411. The Special Rapporteur appealed to the Government to ensure Mr. Van Billiard's right to freedom of religion or belief in accordance with articles 18 of the International Covenant on Civil and Political Rights and of the Universal Declaration of Human Rights. The latter provides that "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance". The Special Rapporteur requested the Government to comment on the compliance of Directive # 4202 on "Religious Programs and Practices" with articles 18 of the Universal Declaration of Human Rights and of the International Covenant on Civil and Political Rights.

(b) *No response received from the Government*

(c) *Observations by the Special Rapporteur*

412. The Special Rapporteur regrets that he has so far not received a reply from the Government of the United States of America concerning the above mentioned allegations. He would like to refer to Human Rights Council resolution 6/37, in which the Council urges States “to ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practice freely one’s religion, including the right to change one’s religion or belief, is violated”.

413. Furthermore, the Special Rapporteur would like to recall that the Human Rights Committee in its general comment 22 (1993) on freedom of thought, conscience and religion emphasized that “Persons already subject to certain legitimate constraints, such as prisoners, continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific nature of the constraint.”

**2. Communication sent on 8 September 2010 jointly with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance**

(a) *Allegations transmitted to the Government*

414. The Special Procedures mandate holders brought to the attention of the Government information regarding **plans by church members of the Dove World Outreach Center to burn copies of the Qur’an** on the property of their New Testament Church in Gainesville, Florida.

415. According to information received, on a website, the Dove World Outreach Center in Gainesville publicly announced that on 11 September 2010, from 6:00 p.m. to 9:00 p.m., their members would be burning copies of the Qur’an, allegedly “in remembrance of the fallen victims of 9/11 and to stand against the evil of Islam – Islam is of the devil!”

416. Ms. Hillary Rodham Clinton, United States Secretary of State, condemned the church’s plans during her remarks at the Annual State Department Iftar dinner on 7 September 2010, indicating that she was “heartened by the clear, unequivocal condemnation of this disrespectful, disgraceful act that has come from American religious leaders of all faiths, from evangelical Christians to Jewish rabbis, as well as secular U.S. leaders and opinion-makers”.

417. While the Interim Fire Chief of Gainesville has reportedly denied a burn permit, the Dove World Outreach Center still intends to burn copies of the Qur’an on 11 September 2010.

418. The Special Rapporteurs urged the Government to take all necessary measures to guarantee that the rights and freedoms of members of the Muslim community in the United States of America are respected and protected. The Special Rapporteurs requested to be provided with information on any initiatives taken by the Government of the United States of America in this regard, including preventive ones.

(b) *No response received from the Government*

(c) *Observations by the Special Rapporteur*

419. The Special Rapporteur regrets that he has so far not received a reply from the Government of the United States of America concerning the above mentioned allegations. He would like to refer to General Assembly resolution 64/164, in which the Assembly urges States “to step up their efforts to protect and promote freedom of thought, conscience, religion or belief, and to this end: [...] (h) To exert the utmost efforts, in accordance with their national legislation and in conformity with international human rights law, to ensure that religious places, sites, shrines and symbols are fully respected and protected and to take additional measures in cases where they are vulnerable to desecration and destruction; [...] (k) To take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, discrimination, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to members of religious minorities in all parts of the world; (l) To promote, through education and other means, understanding, tolerance, non-discrimination and respect in all matters relating to freedom of religion or belief by encouraging a wider knowledge in the society at large of the history, traditions, languages and culture of the various religious minorities existing within their jurisdiction”.

420. The Special Rapporteur would also like to refer to the Durban Programme of Action, which in paragraph 211 “urges leaders of religious communities to continue to confront racism, racial discrimination, xenophobia and related intolerance through, inter alia, promotion and sponsoring of dialogue and partnerships to bring about reconciliation, healing and harmony within and among societies, invites religious communities to participate in promoting economic and social revitalization and encourages religious leaders to foster greater cooperation and contact between diverse racial groups”. Furthermore, paragraph 106 of the Durban Review Conference Outcome Document “reaffirms that the eradication of racism, racial discrimination, xenophobia and related intolerance should aim not only at promoting equality and eliminating discrimination but also at promoting interaction, social harmony and integration, respect for tolerance and diversity among ethnic, cultural and religious communities”.

421. On 30 November 2010, the Special Rapporteur held a consultation on the theme “Equality, non-discrimination and diversity: challenge or opportunity for the mass media?”, bringing together in Geneva 12 experts with work experience in mass media organizations with a global outreach (see A/HRC/16/53, paras. 18-19). As part of the discussion, the experts analysed two specific cases studies, including one on the media coverage of the above mentioned plans to burn copies of the Qur’an. Drawing upon their work, the experts also reflected upon existing initiatives and guidelines used by mass media organizations to promote equality, freedom of expression and diversity.<sup>4</sup>

<sup>4</sup> See for example Aljazeera’s *Code of Ethics* (<http://english.aljazeera.net/aboutus/2006/11/2008525185733692771.html>); the British Broadcasting Corporation’s *Editorial Guidelines* ([www.bbc.co.uk/guidelines/editorialguidelines](http://www.bbc.co.uk/guidelines/editorialguidelines)); Article 19’s *Camden Principles on freedom of expression and equality* ([www.article19.org/advocacy/campaigns/camden-principles](http://www.article19.org/advocacy/campaigns/camden-principles)); and the International Federation of Journalist’s *The Ethical Journalism Initiative* (<http://ethicaljournalisminitiative.org>).

## Y. Viet Nam

1. **Urgent appeal sent on 24 December 2009 jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

(a) *Allegations transmitted to the Government*

422. The Special Procedures mandate holders brought to the attention of the Government information regarding **Father Thadeus Nguyen Van Ly**, a Catholic priest, aged 63 years. Father Ly was already the subject of the Working Group on Arbitrary Detention's Opinion No. 20/2003 (Viet Nam), adopted on 27 November 2003 and a joint urgent appeal by the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on freedom of religion or belief and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression dated 23 February 2007 (see A/HRC/7/10/Add.1 paras. 301-303) to which the Government replied on 18 May 2007 (see A/HRC/7/10/Add.1 paras. 304-308). The Special Rapporteur on freedom of religion or belief has previously sent two communications to the Government of Viet Nam regarding Father Thadeus Nguyen Van Ly (see E/CN.4/1993/62, para. 68 and A/56/253, para. 77) to which the Government replied (see E/CN.4/1994/79, para. 80 and E/CN.4/2002/73, para. 114).

423. According to new information received, on 11 December 2009, Father Nguyen Van Ly was transferred back to Ba Sao prison, where he is serving an eight-year prison sentence for "carrying out propaganda against the Socialist Republic of Viet Nam," (Article 88 of the Vietnamese Criminal Code). He was arrested on 18 or 19 February 2007 and sentenced on 30 March 2007 following a trial that lasted approximately four hours. He was denied access to counsel before and during the trial.

424. At Prison Hospital 198, which is run by the Ministry of Public Security in Hanoi, Father Ly had been recovering from a second stroke suffered in detention on 14 November 2009. Father Ly remains partially paralyzed on the right side of his body. During his detention, Father Ly has been mainly held in solitary confinement. He has suffered from high blood pressure and other health problems. In the seven months before the stroke, he had several bouts of ill-health for which the prison authorities neither provided a proper diagnosis nor adequate medical treatment.

425. Father Ly was first imprisoned for his criticism of the policies of the Vietnamese Government on religion in the late 1970s, and has already spent approximately 17 years in prison in relation to his activities promoting respect for human rights, including freedom of opinion, expression and religion. He is one of the founders of the internet-based movement "Bloc 8406" which supports democracy, and has helped to set up other political groups which have subsequently been banned in Viet Nam. He also secretly published a journal entitled "To Do Ngon Luan".

426. Grave concerns are expressed in respect of Father Nguyen Van Ly's state of health, particularly in view of reports that he has been transferred back to the prison despite not having fully recovered from a stroke. The Special Procedures mandate holders appeal to the Government to ensure the right to freedom of religion or belief in accordance with the principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief and article 18 of the Universal Declaration on

Human Rights as well as of the International Covenant on Civil and Political Rights. In addition, they referred to General Assembly resolution 63/181, in which the Assembly urged States to step up their efforts to ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights.

427. Furthermore, the Special Procedures mandate holders would highly appreciate information from the Government on the steps taken by the competent authorities with a view to ensuring the right to the highest attainable standard of health of Father Thadeus Nguyen Van Ly. This right is reflected, inter alia, in article 12 of the International Covenant on Economic, Social and Cultural Rights, which provides for the right of everyone to the enjoyment of the highest attainable standard of mental and physical health. This includes an obligation on the part of all States parties to ensure that health facilities, goods and services are accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination.

(b) *Response from the Government of Viet Nam dated 19 March 2010*

428. In its letter dated 19 March 2010, the Government of Viet Nam responded to the joint urgent appeal of 24 December 2009. The Government indicated that Mr. Nguyen Van Ly was the accused of activities which violated Vietnamese laws and sentenced to 8 years in prison by the People's Court of Thua Thien Hue Province on 30 March 2007, according to article 88 of the Penal Code. The Government stated that Mr. Ly was allowed to have counsel but refused to do so. The Government stressed that the arrest, provisional detention and trial against Mr. Ly had been carried out in strict compliance with the sequence and procedures stipulated in existing Vietnamese laws, in particular with the Criminal Procedures Code and also in line with international standards in human rights, and specifically, the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights. The Government stated that many foreign diplomats and journalists, including from the United States and some European countries were allowed to attend the court. The Government indicated that no complaint was lodged by or on behalf of Mr. Ly.

429. In mid 2009, whilst serving his eight year sentence in Nam Ha prison, Mr. Ly suffered from high blood pressure symptoms and was provided with medical treatment by the health service of the prison. On 25 May 2009, Mr. Ly suffered a stroke causing a temporary paralysis of his arms and legs and some brain injuries, but later recovered. Speaking in October, with the United States Ambassador in Viet Nam, Mr. Ly recognised that he had been provided with adequate health care. On 14 November 2009, Mr. Ly again found paralysis on his right arm and leg. He was immediately moved to hospital for better medical treatment. The diagnosis showed that this paralysis was caused by brain injuries from a previous stroke. The family and the Hue Bishop were informed of the health situation. The family of the accused were allowed to look after him at the hospital. A group of priests of Hue's diocese led by Archbishop Nguyen Nhu The also visited the hospital. Following improvement in the health condition including recovery of his arm and leg, Mr. Ly returned to the prison to continue his sentence.

430. On 12 March 2010, given the health situation of Mr. Ly, the high risk of strokes and in the spirit of amnesty, the People's Court of Ha Nam Province decided to postpone imprisonment for a period of 12 months, beginning from 15 March 2010, in accordance with article 61 of the Penal Code and allowed Mr. Ly to return to Thua Thien Province for health treatment. Allegations that Mr. Ly was denied access to counsel and not provided adequate medical treatment are totally not true.

(c) *Observations by the Special Rapporteur*

431. The Special Rapporteur is grateful that the Government of Viet Nam replied by letter of 19 March 2010. He wishes to take this opportunity to refer to his framework for communications, more specifically to the international human rights norms and to the mandate practice concerning the vulnerable situation of persons deprived of their liberty (category C. 2.).

**2. Communication sent on 3 February 2010**

(a) *Allegations transmitted to the Government*

432. The Special Rapporteur brought to the attention of the Government information regarding the families of Mr. **Sung Cua Po**, Mr. **Sung A Sinh** and Mr. **Hang A Xa**, who converted to Protestant Christianity in Na Son Commune, Dien Bien Dong District, Dien Bien Province in North-West Viet Nam.

433. According to the information received, in November 2009, the families of Mr. Sung Cua Po and Mr. Sung A Sinh from Ho Co Village in Na Son Commune and the family of Mr. Hang A Xa Trung Phu Village in Na Son Commune converted from their traditional animist beliefs to Protestant Christianity. On 1 December 2009, Mr. Sung Cua Po, Mr. Sung A Sinh and Mr. Hang A Xa reported that commune police incited the public to abuse and stone the three men and their families due to their religious conversion. Reportedly they were taken to the Na Son Commune People's Committee office by district and commune police. The three men were pressurized to renounce their faith and on refusing to do so were severely beaten around 1:00 a.m. on 2 December 2009. Mr. Sung Cua Po was fined 8 million Dong (around 430 USD) and one pig of at least 16 kg in weight. His father, who was present allegedly at police insistence, took Mr. Po's cell phone and motorbike away from him, purportedly to prevent him contacting Christians or running away. Mr. Sung A Sinh and Mr. Hang A Xa were also fined a pig of at least 16 kg in weight.

434. Subsequently, all three men received an official "Second Summons" dated 11 December 2009 stating that they were required to appear at the Na Son Commune Peoples' Committee Office at 7:30 a.m. on 15 December 2009. This document was signed by the Na Son Commune Police Chief and indicated that the purpose of the meeting was "to take care of business relating to following the Vang Chu religion".

435. On 15 December 2009, Mr. Sung Cua Po and his wife appeared at the Na Son Commune People's Committee Office. Police then accompanied them to visit members of their extended family where the police incited the family members to pressurize the couple to renounce their faith. Police in attendance threatened Mr. Sung Cua Po, saying that unless he renounced his Christian faith they would beat him to death and then seize his property, leaving his widowed wife and fatherless children homeless. Under pressure and fearful for his life, Mr. Sung Cua Po signed renunciation papers provided by the police, indicating that he rejected Protestant Christianity and would return to his "traditional beliefs". He was told not to associate with, visit or speak on the phone with other Christians. Mr. Sung Cua Po was also subjected to additional social pressure, family and clan "fines" and spirit rites to appease the traditional Hmong spirits, whom the villagers believe have been offended by the family's conversion to Christianity. Mr. Sung Cua Po reportedly remains under threat of death unless he voluntarily offers sacrifices to his ancestors on 13 February 2010, i.e. Eve of the Tet New Year. However, completing these sacrificial rites at the Tet festival would reportedly be incompatible with the Christian faith.

436. In late December 2009, Mr. Hang A Xa received an additional "Fourth Summons" handwritten by the chief of Trung Phu Village. Mr. Xa was ordered to appear at the private house of the village chief, bringing with him sufficient food to feed everyone present and

the purpose of this summons was “to solve the issue of the Vang Chu religion”. The term “Vang Chu religion” in these documents was allegedly used by the officials to avoid the term “Protestantism”, which is recognized by Vietnamese national policy.

437. Article 1 of the Ordinance Regarding Religious Beliefs and Religious Organisations (21/2004/PL-UBTVQH11) guarantees the right to freedom of religion and religious belief, and its article 8(1) prohibits discrimination on the basis of religious beliefs. However, the Ordinance also sets out a series of limitations, for example by prohibiting the “abuse” of religion to undermine national unity, to “sow division among the people, ethnic groups and religions” or to “spread superstitious practices” (article 8(2) of the Ordinance). Its article 15 provides that religious activities will be suspended if they “negatively affect the unity of the people or the nation’s fine cultural traditions”. Article 16(1) of the Ordinance stipulates that no organization is permitted to be contrary to “the nation’s fine traditions”.

438. The Special Rapporteur appealed to the Government to ensure the right to freedom of religion or belief of the families of Mr. Sung Cua Po, Mr. Sung A Sinh and Mr. Hang A Xa in accordance with articles 18 of the International Covenant on Civil and Political Rights and of the Universal Declaration of Human Rights. The latter provides that the right to freedom of thought, conscience and religion “includes freedom to change his religion or belief”. In addition, article 18(2) of the International Covenant on Civil and Political Rights requires that “no one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice”.

439. In addition, the Special Rapporteur referred to Human Rights Council resolution 6/37, in which the Council urges States “to ensure that their constitutional and legislative systems provide adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practise freely one’s religion, including the right to change one’s religion or belief, is violated”.

440. Furthermore, the Special Rapporteur recalled that the General Assembly, in its resolution 63/181, urges States “to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end: [...] (b) To ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights; [...] (j) To ensure that all public officials and civil servants, including members of law enforcement bodies, the military and educators, in the course of fulfilling their official duties, respect all religions or beliefs and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate education or training is provided; [...] (l) To take all necessary and appropriate action, in conformity with international standards of human rights, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by intolerance based on religion or belief, as well as incitement to hostility and violence, with particular regard to religious minorities [...]”.

(b) *Response from the Government of Viet Nam dated 17 June 2010*

441. In its letter dated 17 June 2010, the Government of Viet Nam responded to the urgent appeal of 3 February 2010 regarding the case of some ethnic minority persons in the Dien Bien Province, Viet Nam.

442. According to the Government, the allegations that the three persons were fined, threatened and forced to renounce their Christian faith are totally untrue. In fact, after converting to Protestant Christianity, one person demolished the traditional places of

worship of his family, including those belonging to his father who still follows the traditional belief. This act incited a dispute on beliefs, within the family members, causing violent reactions and even a punch from the father. This case like the cases of the other two individuals occurred within the family and have been reconciled. They did not need the local authority to intervene and no complaint was lodged by or on behalf of the three persons.

443. The Government indicated that it was the consistent policy of the State of Viet Nam to respect the right to freedom of religion or belief and to create favourable conditions for people to exercise their rights. The present open and religious practices in Viet Nam show that the rule of law in the state of Viet Nam has undertaken all necessary measures to guarantee citizens freedoms and prevent acts that could violate freedoms of religion or abusing religion or belief to violate the law.

444. In Viet Nam the right to freedom of religion or belief is clearly stipulated in its Constitution, legal documents and in accordance with International law and practices. Viet Nam's legal system has been continuously readjusted to accommodate and harmonize with its international commitments. Article 70 of the Constitution 1992 and Article 47 of the Civil Code and the Ordinance on Religion and Belief stipulate that citizens have the rights to freedom of religions or beliefs and freedom not to believe or to follow any religion. Religions are equal before the law. Worship places are protected by the law. No one shall infringe on the right to freedom of religions or beliefs, or to take advantage of religions to violate State laws. Citizens, religious leaders and followers are entitled to all citizens' rights and bear citizens duties. Article 5 of the Civil Code 2005 provides that all sides involved in a civil transaction are equal and it is forbidden to resort to differences of ethnicity, gender, social strata, religions, beliefs... to have unequal treatments. Article 49 of the Civil Code stipulates that "Everyone shall have the right to work and are free to choose their jobs and profession; and are free from discriminations on the bases of ethnics, gender, social strata, religions or beliefs. Article 87 of the Criminal Code 1999 stipulates heavy punishment for acts of separation between religious followers and non followers, between followers and people's authorities and social organizations; Article 129 of the Criminal Code 1999 stipulates punishment for acts of violations of the right to freedom of belief and religion of citizens.

445. According to the Government, Viet Nam is a multi-religion country with 22,000 places of worship, belonging to 32 organizations and associations of 12 different religions. Eighty percent of its population exercises faith, among which 22.3 million people are religious followers. Viet Nam is also considered to be a museum of religions for hosting almost all major religions in the world such as Buddhism, Catholicism, Protestantism, Islam, which coexist in peace and development. The Vietnamese State implements various preferential policies towards religions, including granting land for construction of places of worship. In the past three years alone, the State has provided assistance for constructing new or renovating 1500 places of worship.

446. The religious life in Viet Nam has been diversified and well developed with achievements recognised by the international community. In reality, Christianity (Catholicism and Protestantism) has become the second largest religion in Viet Nam after Buddhism, with over 7 million followers (of which over 6 million are Catholics and over 1 million are Protestants). Protestantism is currently the fastest developing religion in Viet Nam. Throughout the country, there are now 6 major seminaries for religious dignitaries and over 700 educational facilities for followers. The Protestant Institute of Bible and Theology in the city of Ho Chi Minh has the capacity to train 500-700 postulants annually. Furthermore, many religious-supplementary training classes have been organized for Protestant dignitaries in central highland provinces, who belong to ethnic minorities and have not undergone such training.

*(c) Observations by the Special Rapporteur*

447. The Special Rapporteur is grateful that the Government of Viet Nam replied by letter of 17 June 2010. He wishes to take this opportunity to refer to his framework for communications, more specifically to the international human rights norms and to the mandate practice concerning the vulnerable situation of minorities (category C. 5.).

**3. Urgent appeal sent on 6 October 2010 jointly with the Chair-Rapporteur of the Working Group on Arbitrary Detention; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

*(a) Allegations transmitted to the Government*

448. The Special Procedures mandate holders brought to the attention of the Government information regarding the situation of Degar **Christians** in 32 villages in Gia Lai Province, Central Highlands of Viet Nam. According to the information received, on 22 August 2010, Vietnamese soldiers, riot police, security forces and local police forces reportedly surrounded, attacked and threatened Degar Christians in the following 32 villages in Gia Lai Province: Ploi Ngol Grong, Ploi Ngol Le, Ploi Khop, Ploi Ge, Ploi Sung Kep, Ploi Sung Tung, Ploi Bak, Ploi Phun, Ploi Bang, Ploi Kuao, Ploi Klah, Ploi lam Klah, Ploi Bang, Ploi Bui Hle, Ploi Kenh, Ploi Phin, Ploi Le Ngol, Ploi Ho Bi, Ploi Hreng, Ploi Mrong Yu, Ploi Wan, Ploi Kom, Ploi Bang, Ploi Beng, Ploi Del, Ploi Te, Ploi Nang, Ploi K'mong, Ploi Krung, Ploi Hluh, Ploi Ciam and Ploi Khop.

449. Reportedly, the Christian villagers were told to renounce their faith and officially join the State-approved church, the Evangelical Church of Viet Nam (ECVN). The soldiers and police allegedly sprayed chemicals in some villagers' eyes, beat them up until they fell down to the ground unconscious, hand cuffed them and arrested them.

450. Ms. Puih H'Bat, who had lead prayer services for Christians in her house in Ploi Bang village, Ia Chia commune, Ia Grai district, Gia Lai province, has already been detained for more than two years. On 11 April 2008, Ms. Puih H'Bat was arrested by police officers and she was taken to Ia Grai district prison. A few days earlier, police had allegedly threatened her and demanded that she sign documents agreeing to follow the ECVN. Ms. Puih H'Bat was subsequently convicted of violating the law by "destruction of the unity of the people's solidarity" and sentenced to five years imprisonment in her home province.

451. The Special Procedures mandate holders appealed to the Government to ensure the right to freedom of religion or belief in accordance with the principles set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief and article 18 of the Universal Declaration on Human Rights as well as of the International Covenant on Civil and Political Rights. The Special Procedures mandate holders requested information from the Government concerning the legal grounds for the arrest and detention of the above mentioned persons and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

*(b) No response received from the Government**(c) Observations by the Special Rapporteur*

452. The Special Rapporteur regrets that he has so far not received a reply from the Government of Viet Nam concerning the above mentioned allegations. He would like to refer to General Assembly resolution 64/164, in which the Assembly urges States to step up their efforts to protect and promote freedom of thought, conscience and religion or belief, and to this end "(a) To ensure that their constitutional and legislative systems provide

adequate and effective guarantees of freedom of thought, conscience, religion and belief to all without distinction, inter alia, by the provision of effective remedies in cases where the right to freedom of thought, conscience, religion or belief, or the right to practise freely one's religion, including the right to change one's religion or belief, is violated; (b) To ensure that no one within their jurisdiction is deprived of the right to life, liberty or security of person because of religion or belief and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on that account and to bring to justice all perpetrators of violations of these rights; [...] (e) To review, whenever relevant, existing registration practices in order to ensure that such practices do not limit the right of all persons to manifest their religion or belief, either alone or in community with others and in public or private; [...] (g) To ensure, in particular, the right of all persons to worship, assemble or teach in connection with a religion or belief and their right to establish and maintain places for these purposes and the right of all persons to write, issue and disseminate relevant publications in these areas; [...] (j) To ensure that all public officials and civil servants, including members of law enforcement bodies and personnel of detention facilities, the military and educators, in the course of fulfilling their official duties, respect freedom of religion or belief and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate awareness-raising, education or training is provided".

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