



General Assembly

Distr.
GENERAL

A/HRC/7/11/Add.1
4 March 2008

Original: ENGLISH/FRENCH/
SPANISH ONLY

HUMAN RIGHTS COUNCIL
Seventh session
Agenda item 3

**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS,
INCLUDING THE RIGHT TO DEVELOPMENT**

**Report of the Special Rapporteur on the right of everyone to the enjoyment
of the highest attainable standard of physical and mental health, Paul Hunt**

Addendum* **

**Summary of communications sent to and replies received
from Governments and other actors**

* The report is being circulated as received in the languages of submission only.

** The present report was submitted late in order to incorporate the most recent information.

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction	1 - 5	3
REPLIES FROM GOVERNMENTS	6 - 67	3
Afghanistan	6 - 9	3
Angola	10	4
Australia	11 - 13	5
Bangladesh	14 - 16	6
Burundi	17	7
Canada	18 - 20	8
China	21 - 27	9
Cuba	28 - 29	13
Iran (Islamic Republic of)	30 - 31	14
Israel	32	14
Latvia	33 - 34	15
Malaysia	35 - 36	16
Niger	37	16
Peru	38 - 45	17
Philippines	46 - 48	20
Romania	49	21
Russian Federation	50 - 51	22
Sierra Leone	52	22
Thailand	53 - 54	23
Ukraine	55 - 56	24
United Arab Emirates	57 - 60	25
United States of America	61 - 67	26
OTHER ACTORS	68 - 69	29
United Nations Interim Administration Mission in Kosovo	68 - 69	29

Introduction

1. The Human Rights Council, in its resolution 6/29, extended the mandate of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health as originally set out in resolutions 2002/31 and 2004/27 of the Commission on Human Rights.
2. In accordance with his mandate, the Special Rapporteur regularly receives information related to the right to the highest attainable standard of health. This information sometimes includes credible allegations of serious violations of the right to health. In such cases, the Special Rapporteur writes to a Government or other relevant actor, independently or together with other special procedures, inviting comments on allegations, seeking clarifications and urging remedial action where appropriate.
3. This addendum contains summaries of communications, on a country-by-country basis, sent by the Special Rapporteur between 2 December 2006 and 1 December 2007 as well as responses from Governments received between 2 December 2006 and 21 January 2008. The report also reflects two communications that originated prior to 2 December 2006 but for which a response from the Government was received after that date and therefore was not included in the last year's report on communications.
4. Most of the communications of the Special Rapporteur have been sent jointly with one or more special procedures of the Human Rights Council. During the period under review, the Special Rapporteur sent a total of 27 communications to 22 Member States and one communication to the United Nations Interim Administration Mission in Kosovo (UNMIK). The Special Rapporteur has received 17 replies from Governments and one from UNMIK.
5. The Special Rapporteur is grateful to those Governments and international organizations that have replied to his communications. However, he regrets that some Governments, have failed to respond at all, or have responded only partially to the questions arising from the communication. Full responses to these communications remain outstanding.

REPLIES FROM GOVERNMENTS

Afghanistan

Communication sent

6. On 2 May 2007, the Special Rapporteur on torture and Special Rapporteur on the right to health brought to the Government's attention the situation concerning Sanad Ali Yislam Al-Kazimi, Yemeni national, and Fahd Muhammed Abdullah Al-Fawzan, a Saudi national, both of whom were, at the time of the communication, detained at the U.S. Naval Base in Guantanamo Bay, Cuba.
7. According to the information received Mr. Al-Kazimi was arrested in Dubai, United Arab Emirates, in early January 2003 and was detained for eight months and 16 days. While in detention in Dubai, it is alleged that he was subjected to spatial and temporal disorientation by having his eyes and ears covered and by being held in complete darkness. It was reported that on or about 16 to 18 August 2003, he was transferred to the custody of United States forces and

taken to Kabul, Afghanistan, where he was held for nine months. It is alleged that he was physically and psychologically tortured by Jordanian interrogators under the supervision of U.S. personnel and he attempted suicide three times by hitting his head into the cell wall. It was further reported that on or about 16 May 2004, he was transferred to Bagram, where he was held in U.S. custody for four months and tortured. According to the information received on or about 18 September 2004, he was taken to Guantanamo Bay, Cuba, where he was detained at the time of the communication. It is reported that the detainee was suffering from chronic constipation, haemorrhoids, and blood in his faeces since his detention. Moreover, it is alleged that he was not permitted to see a lawyer, relatives or friends before his transfer to Guantanamo Bay, and also that he has not seen any member of his family since his arrest in early 2003.

8. According to the information received Mr. Al-Fawzan was apprehended between October and December 2001 by Pakistani tribesmen who turned him over to the Pakistani military. He was reportedly interrogated by Pakistani military and shortly afterwards transferred to U.S. military custody in Kohat, Pakistan; thereafter he was taken to Kandahar, Afghanistan, where he was held for two months. It is alleged that while in detention in Afghanistan, Mr. Al-Fawzan was threatened with firearms, strangled with wires and shocked with electricity by unidentified U.S. officials. It was further reported that in early 2002, he was transferred to Guantanamo Bay, Cuba, where he was detained at the time of the communication. While in Guantanamo, he allegedly suffered severe abuse and torture in the course of interrogations. It was reported that he had not seen any member of his family since his departure for Afghanistan in October 2001.

9. It was reported that since both Mr. Al-Kazimi and Mr. Al-Fawzan were arrested, they were tortured for purposes of intimidation, coercion to extract information and punishment for not complying with demands by U.S. personnel. In addition, it is alleged that prisoners in Guantanamo routinely refused to ask for medical treatment due to a fear that treatment would be withheld or that knowledge of their medical condition by interrogators would be exacerbated during interrogations. As a consequence, both detainees refused medical treatment.

Observation

The Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted any reply to his communication.

Angola

Communication sent

10. On 4 June 2007, the Special Rapporteur on the right to health sent a letter concerning the health situation in Xa-Muteba municipality. According to information received, there was a complete lack of State-provided maternal health care in the Xa-Muteba municipality. In addition, the public health posts in the municipality allegedly did not offer pre- and/or post-natal consultations or obstetric services. Maternal health care is reportedly hampered due to limited allocation of financial resources. Allegations were also made regarding the lack of healthcare facilities within a short distance, the high cost of consultations, untrained and often absent health staff due to unpaid salaries, and the unaffordability of private clinics providing services of questionable quality. Lack of certain essential medicines required for the health of children in the area, which led to a high number of neonatal deaths from tetanus and improper immunization

processes, were also reported. Considering that malaria was reported to be the leading cause of death in the group under 5 years of age, accounting for 51.6 per cent of deaths, additional claims were made with respect to the lack of available effective malaria treatment. The Special Rapporteur was concerned that the Global Fund was funding the roll-out of the Artemisin-based Combination Therapy (ACT), a first-line treatment for malaria in Angola, whereas Xa-Mutabe was not included in the list of prioritized municipalities. It was also alleged that the State had failed to ensure access to clean water and adequate sanitation since the end of the war, which had led to major outbreaks of epidemic diseases such as Marburg haemorrhagic fever and cholera.

Observation

The Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted any reply to his communication.

Australia

Communication sent

11. On 8 December 2006, the Special Rapporteur sent an urgent appeal concerning Mr. Amer Haddara, Mr. Shane Kent, Mr. Izzydeen Attik, Mr. Fadal Sayadi, Mr. Abdullah Merhi, Mr. Ahmed Raad, Mr. Ezzit Raad, Mr. Hany Taha, Mr. Aimen Joud, Mr. Shoue Hammoud, Mr. Majed Raad, Mr Bassam Raad and Mr Abdul Nacer Benbrika (collectively “the detainees”), who were being held on remand as non-convicted prisoners in the maximum security Acacia Unit of Barwon Prison in Victoria. According to the information received, the detainees were subjected to periods of extended solitary confinement, had extremely limited and restrictive visitation rights, and were allowed outside of their cells for a very limited time each day. Reportedly, there was an overall lack of access to adequate health care and particularly mental health care in Victorian prisons. It was also reported that the conditions of confinement had a deleterious effect on the mental health of some of the detainees. Further, the Senate Select Committee on Mental Health accepted in its 2006 report that the provision of health care for forensic patients and mentally ill prisoners in all Australian jurisdictions was inadequate, including in Victoria.

Communication received

12. By letter dated 22 February 2007, the Government replied to the communication sent on 8 December 2006 and stated, inter alia, that the alleged offenders had never been held in solitary confinement; rather, each prisoner had an individual cell. Remand prisoners were permitted one non-contact visit per week of one hour duration and one contact visit per month with any children they had under the age of 16 years. It was further confirmed that all prisoners, upon entering the prison, are medically assessed, including a psychiatric assessment, and, if needed, are provided with adequate treatment. As the Government was finalizing its response to the Senate Select Committee on Mental Health report, it could not comment on it in this response.

Observation

The Special Rapporteur thanks the Government for its reply.

Communication received

13. By letter dated 5 January 2007, the Government replied to the communication sent on 12 October 2006 (A/HRC/4/28/Add.1, paragraph 9). In this communication the Special Rapporteur expressed concern regarding the access to health care of individuals holding a Bridging Visa E (BVE), as well as the enjoyment of the right to health of asylum seekers in detention centers in Australia. In its response, the Government stated that most of the people holding a BVE are those who have been found not to meet Australia's protection obligations. The Government also informed that access to Australia's universal healthcare system, Medicare, which provides subsidized or free charge care, is granted only to holders of BVE, but emergency medical treatment is available to all persons including holders of BVE or any other temporary visa. Regarding financial assistance, the Government stated that Asylum Seeker Assistance (ASA) is available to protection visa applicants who are unable to meet their basic needs for food, accommodation and health care. The ASA provides financial assistance to asylum seekers who have been awaiting a primary decision on their protection visa application for six months or more, although there are generous exemptions to this criterion to ensure the most vulnerable are supported. Therefore, asylum seekers who hold BVEs and are eligible for the ASA may receive financial assistance for health services. The Government recognized that some people may experience mental health concerns while in immigration detention and confirmed that additional funding has been allocated to ensure that mental health care of people in detention is addressed. The Government also confirmed that all detention facilities in Australia have safe and potable water and sewage systems in place. The Department for Immigration and Multicultural Affairs has recently completed a review of the Bridging Visa system in order to establish a system which is clearer and more consistent and, at the same time, sufficiently flexible to respond to individual circumstances.

Observation

The Special Rapporteur thanks the Government for its reply.

Bangladesh

Communication sent

14. On 13 July 2007, the Special Rapporteur on the question of torture and the Special Rapporteur on right to health sent an urgent appeal regarding Ms. Sigma Huda, a lawyer, head of the human rights group Bangladesh Society for the Enforcement of Human Rights, and the United Nations Special Rapporteur on trafficking in persons, especially in women and children. According to the information received, since 5 July 2007 she has been detained in custody in connection with a case of alleged extortion. Reportedly she had potentially life-threatening heart and kidney conditions and is not getting adequate treatment in prison. It was reported that according to a senior consultant in cardiology, she was suffering from coronary heart disease, diabetes mellitus and a chronic renal (kidney) failure. According to the information received Sigma Huda was under treatment and observation when she was taken into custody. Allegedly she was taken to court in an ambulance, and to the courtroom on a stretcher, to hear the charges against her. She was then sent to back to jail.

Communication received

15. By letter dated 24 July 2007, the Government replied that the Anti-Corruption Commission had filed formal complaints against Ms. Huda and her husband and detailed the charges. The Government reiterated that it was adhering to strict legal principles in dealing with her case. She was being represented by two of the most prominent attorneys in Bangladesh. According to the letter received the Government had noted concerns expressed on the health condition of Ms. Huda. According to the latest information received from the concerned authorities, Ms. Huda appeared to be in good health, having recovered from her earlier ailment. It is also reported that Ms. Huda was receiving the necessary medical care, including the assistance from doctors of her choice.

16. By letter dated 16 August 2007, the Government informed that Ms. Huda was being provided with proper and timely medical treatment as and when required, under the exiting Jail Code of Bangladesh. She was also receiving specialized medical care. As desired by her, a renowned cardiac specialist of BSM Medical University, the country's most reputed Medical Hospital, attended her on 14 July 2007. She was also sent to this specialized hospital recently to obtain medical advice. On 6 August 2007, she was again referred to this hospital. Subsequently, as per advice of the doctors, she was admitted to the same hospital, where she was then in receipt of necessary medical care. A copy of a medical certificate was provided by the Government.

Observation

The Special Rapporteur thanks the Government for its reply.

Burundi

Communications sent

17. On 18 December 2006, the Special Rapporteur, together with the Special Rapporteur on the right to education, sent a joint letter regarding Fabrice Nimubona, a fifteen year old boy who was being detained at Prince Regent Charles Hospital in Bujumbura. According to the information received, Fabrice Nimbuona was admitted to the hospital after being injured in July 2004 and where he spent a year undergoing surgery and treatment until he was declared well enough to be discharged in July 2005. However, it was alleged that he had been detained because his mother had not been able to pay the hospital charges, which, according to an estimate made in October 2006, amounted to 3.050.065 FBU or US\$ 2,891. According to the report, Fabrice Nimbuona had missed more than a year of school as a consequence of his detention in the hospital since July 2005.

Observation

The Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted any reply to his communication.

Canada

Communication sent

18. On 1 February 2007, mandates of the Working Group on Arbitrary Detention, the Special Rapporteur on the right to health and the Special Rapporteur on torture sent an urgent appeal regarding three men, Mohammad Mahjoub, Mahmoud Jaballah and Hassan Almrei in immigration detention on so-called “security certificates.”

19. According to the information received Mohammad Mahjoub, a citizen of Egypt was accepted as a convention refugee in Canada in 1996. It was reported that Mohammad Mahjoub was arrested in Toronto in June 2000 under a security certificate. His certificate was upheld in October 2001 and he was denied bail in November 2003 and again in November 2005. Furthermore, according to the information received Mahmoud Jaballah, also an Egyptian citizen was arrested under a security certificate in August 2001, days before the hearing on his asylum claim. Reportedly he had previously been detained under a security certificate for seven months in 1999 before a judge declared the certificate null and void. The second certificate was also declared null and void by a judge as well, but, a third certificate having been issued, he was not released. It was also reported that Hassan Almrei, from Syria, was accepted by Canada as convention refugee in June 2000. Allegedly he was arrested under a security certificate in October 2001 and his certificate was upheld by a judge the same year. He has been refused bail twice. While *de jure* in immigration detention, the three men had spent most of the more than five years (in the case of Mr. Mahjoub, more than six-and-a-half) of their detention in a provincial (criminal) high-security prison, several of those years in solitary confinement. According to the reports, Mohammad Mahjoub, Mahmoud Jaballah and Hassan Almrei were, at the time of the communication, detained at the Kingston Immigration Holding Centre, where the three men were on a liquids-only hunger strike. As of the 30 January 2007, Mohammad Mahjoub had been on hunger strike for 67 days, while Mahmoud Jaballah and Hassan Almrei had been on hunger strike for 56 days. According to the information received, the authorities in charge of the Kingston Immigration Holding Centre were not medically monitoring the vital signs (i.e., blood pressure, cardiac and respiratory rates) nor the general health status of the three detainees. Moreover, Mohammad Mahjoub had reportedly not received treatment for his hepatitis C since September 2006. In addition, Mr. Mahjoub and Mr. Jaballah were, according to the information received, particularly vulnerable to a variety of health difficulties because they had been tortured in their country of origin.

Communication received

20. In the response dated 2 March 2007, the Government of Canada informed that the detainees were being housed at the Kingston Immigration Holding Centre (KIHC), which opened in 2006 for the purpose of housing persons who were subject to security certificates and, although within the confines of the federal penal institution of Millhaven Penitentiary at Bath, it was operated by the Canada Border Services Agency, the governmental agency responsible for enforcing Canada’s immigration laws. Access to essential medical, mental and dental care is provided to detainees. A nurse visits daily KIHC and is able to monitor the vital signs of the detainees if they consent. Licensed physicians are also available to provide examinations and treatment. With respect to the potential mental health problems that may arise out of their

confinement, Canada reiterated that the detainees had psychological and medical care available, should they choose to access it. Canada was aware of the risks to the mental health of the detainees but considered that a certain amount of psychological stress is an inevitable consequence of the fact of detention. Nevertheless, it is committed to minimizing the potential impact of their confinement on the detainees. Some of the measures implemented in that regard include the availability of daily family visits and telephone use; spiritual and religious services; availability of special or religious diets on request; daily outdoor activity in the exercise yard; daily access to an indoor gym; shared library material; a common room where table games may be played; personal televisions; and medical care.

Observation

The Special Rapporteur thanks the Government for its reply.

China

Communication sent

21. On 10 January 2007, the Special Rapporteur on the right to health and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal regarding restrictions on events and human rights defenders promoting human rights in the context of HIV/AIDS, as well as the treatment for haemophiliacs infected with HIV through blood products. According to information received, the Shanghai authorities arrested three haemophiliacs, Mr. Zhao Chenyang, Mr. Wang Xinyang and Mr. Yang Shoufu in front of a hospital in Shanghai on 24 October 2006 and Mr. Kong Delin, the leader of the Chinese Haemophilia Association, on the following day. Each of these individuals had been raising issues regarding the protection of the human rights of haemophiliacs. Though Kong Delin was released on 30 November 2006, it was reported, the others were kept in detention without any update on their condition and whereabouts. Furthermore, it was reported that on 24 November 2006, Dr. Wan Yanhai, founding member and director of the Beijing ZHIAIXING Information and Counseling Centre (commonly known as the AIZHIXING Institute), an organization which promotes and defends the rights of individuals living with HIV/AIDS, was instructed by the police to cancel the workshop on "Blood Safety, AIDS, Law and Human Rights", scheduled for 25 November 2006. He was then reportedly taken into police custody in an undisclosed location and remained therein for more than 48 hours without being charged, in breach of both the PRC Public Order Management Punishment Law and the Regulations on Procedures of Processing Administrative Detention by Public Security Authorities. He was released on 27 November 2006. It was also reported that Dr Wan had been threatened on previous occasions in relation to his work on HIV/AIDS and health rights. He was reportedly detained for one month in August 2002 on suspicion of "illegally leaking state secrets" for electronic distribution to the organization's mailing list of a government document regarding the issue of HIV/AIDS epidemic in Henan Province. The AIZHIXING Institute was allegedly prevented from registering as a non-profit non-governmental organization and was required to register as a for-profit business. The information received also alleged that at that time there was neither satisfactory treatment nor compensation for haemophiliacs infected with HIV/AIDS and hepatitis. The free medication and treatment made available to HIV/AIDS patients by the Government since 2003 was reportedly not suitable for haemophiliacs. In addition, it is known

that haemophiliacs are prone to develop various syndromes such as malformation, impaired mobility and bleeding, conditions for which treatment was not made available by the Government.

Communication received

22. On 9 March 2007, the Government replied and informed that, on 17 August 2002, Wan Yanhai unlawfully gained possession of classified government documents and transmitted to third parties outside the country. Therefore, on 25 August 2002, Wan Yanhai was legally kept in custody for investigative purposes. Following the investigation, Wan Yanhai confessed his unlawful actions, voluntarily acknowledged his guilt and rendered positive assistance to the State security authorities in tracing other persons who had unlawfully provided secrets to third parties. In view of the good attitude shown by Wan Yanhai, the Beijing city public security bureau decided to release him on 20 September 2002. The Government stressed that Wan Yanhai was not taken into custody because of his work towards the protection of the rights of people infected with HIV/AIDS, but because of his violation of the country's law. In November 2006, in Beijing, Wan Yanhai organized the second symposium on Blood Safety, AIDS, the Law and Human Rights. On 24 November, becoming aware of the event, the public security authorities sought further information on it from Wan Yanhai, but did not take any coercive measures against him or take him into custody in an undisclosed location, as alleged.

23. Regarding the provision of free medical treatment to HIV-infected haemophilia patients in China, it was stressed that AIDS patients living in unfavourable economic conditions were entitled to receive antiretroviral treatment and drugs free of charge as well as social assistance. With regard to the issue of haemophilia patients infected with HIV through coagulation factor infusions, it was informed that the Ministry of Health issued circulars regarding appropriate treatment and care programmes for haemophilia patients infected with HIV in which the principle of antiretroviral treatment provided free of charge for those living in conditions of economic need was reaffirmed. Thus, since 2001, Shanghai city has been providing free medical services and welfare benefits for haemophilia patients listed in the city's household as infected with HIV through coagulation factor infusions. Apart from providing free treatment, the Shanghai city government has mounted a range of fundraising activities to provide these patients with subsistence allowances. It was also claimed that in Suzhou city, Nantong city, Tongshan county, Zhejiang province and Hubei province, haemophilia patients who have become infected with HIV as a result of infusions of blood plasma and blood products receive a lump-sum compensation payment and a monthly subsistence allowance. It was also mentioned that the implementation of these policies in provinces with relatively depressed economic conditions was somewhat uneven, and that some haemophilia patients had not received compensation or medical and subsistence allowances or were not satisfied with the rates of compensation and the allowances paid in their areas. Therefore, in recent years there have been pleas for help, which on some occasions have become radical mass protests where some people take advantage to perpetrate unlawful criminal activities, for which they are duly punished. Finally, the Government said that none of the persons mentioned in the communication, namely, Zhao Chenyang, Wang Xinyang, Yang Shoufu and Kong Delin, had been arrested or taken into custody.

Observation

The Special Rapporteur thanks the Government for its reply.

Communication sent

24. On 12 January 2007, the Special Rapporteur on toxic wastes, the Special Rapporteur on the right to health and the Special Representative of the Secretary-General on the situation of human rights defenders sent an urgent appeal regarding the situation of Mr. Sun Xiaodi, a Gansu-based activist who spent more than a decade petitioning the central authorities over radioactive contamination from the No. 792 Uranium Mine in the Gannan Tibetan Autonomous Prefecture in Gansu Province. It was reported that since 1 December 2006, when Mr. Sun Xiaodi received the Nuclear-Free Future Award, he started facing problems like his house being raided at night and stones being thrown at his doors and windows. Mr. Sun Xiaodi reported the attacks to the local state security officers, who, instead of taking action, told him he was free to leave if desired. Moreover, since his brief detention in early 2006, Mr. Sun Xiaodi was reportedly facing interruptions in water and electricity supplies for no apparent reasons. Although no longer officially under surveillance, in practice all of his movements were allegedly monitored. Furthermore, Mr. Sun Xiaodi was unable to obtain official permission to seek medical treatment in Beijing for a tumour, a potentially life-threatening health condition. It was also reported that residents of the area where he lives were suffering an unusually high rate of cancer and other health conditions which might be associated with radioactive contamination. Mr. Sun Xiaodi reportedly experienced physical discomfort and, in addition to the tumour, suffered from gall stones and coronary heart disease. Concerns were expressed that the absence of response regarding Mr. Sun Xiaodi request for further treatment in Beijing may be in retaliation for his legitimate activities in the defence of human rights.

Communication received

25. By letter dated 26 February 2007, the Government presented clarifications. To begin with, it was said that on 29 April 2005 Sun Xiaodi was taken into criminal detention in accordance with the law for suspicion of having provided State secrets to third parties outside the country. Then, on 4 June 2005, his arrest warrant was approved by the competent authorities and on 19 September 2005 the measure of restraint implemented against him was amended to residential surveillance. He was later released from residential surveillance and by the time of the reply no public security authorities were applying restraint measures against him. In respect to the treatment and disposal of radioactive waste from nuclear plant 792, the Government reported that the mentioned plant stopped operating in 1994 and was definitively closed in 2002, when the Gansu Longjiang Nuclear Company Ltd. was set up in its place with the specific responsibility for decommissioning and treatment projects as well as for the recovery of disused ore. In addition, according to relevant State model regulations and design criteria, plant 792 carried out sorting, treatment and disposal procedures for its polluting equipment and installations, while the waste rock and tailings from uranium mining activities and hydro-metallurgical processing only contain the low-level radioactive materials found in naturally occurring radioactive nuclides. The decommissioning and treatment work for the closure of the mine was supposed to be completed by 2007 in order to gradually restore the area's natural environmental system.

Observation

The Special Rapporteur thanks the Government for its reply.

Communication sent

26. On 19 June 2007, the Chairperson-Rapporteur of the working group on arbitrary detention, the Special Rapporteur on the right to freedom of opinion and expression and the Special Rapporteur on the right to health sent an urgent appeal regarding Mr. Peng Ming, who was at the time detained at Han Yang Prison No. 16 in Wu Han City, Hu Bei province. His case was the subject matter of Opinion no. 43/2005 of the Working Group on Arbitrary Detention, adopted on 29 November 2005, in which the Working Group found that “any limitation of Mr. Peng Ming’s legitimate political and non-violent activities carried out peacefully and in exercise of his rights to freedom of association and expression would be contrary to the international human rights law enshrined in the Universal Declaration of Human Rights” and concluded that Mr. Peng Ming’s detention from 28 May 2004 onwards, was “arbitrary, being in contravention of articles 19 and 20 of the Universal Declaration of Human Rights”. According to the information received, Mr. Peng Ming, who was still detained at the time of the communication in spite of the Working Group’s Opinion, suffered from serious health problems - including kidney stones, infections, swelling and open wounds on arms and legs - whereas the prison authorities were denying him adequate medical care.

Communication received

27. By letter dated 31 July 2007, the Government replied. It was reported that Peng Ming was arrested on 17 June 2004 on suspicion of kidnapping and on 23 June 2004 he was put in custody. On 20 July 2005, proceedings were instituted against him by the Wuhan city people’s procurator for the offences of setting up and directing a terrorist organization, kidnapping and possessing counterfeit currency. On 13 October 2005, the Wuhan city people’s intermediate court, passing judgment at first instance, sentenced Peng Ming to life imprisonment for the offence of setting up and directing a terrorist organization and deprived him of his political rights in perpetuity; for the offence of kidnapping, he was sentenced to 13 years fixed-term imprisonment, deprivation of political rights for two years, and payment of a fine of 20,000 yuan; for the offence of possession of counterfeit currency, the court sentenced him to six years fixed-term imprisonment and to the payment of a fine of 15,000 yuan. The court ruled that the final consolidated sentence should be life imprisonment, with the deprivation of his political rights in perpetuity, and the payment of a fine of 35,000 yuan. It was also reported that refusing to accept the court’s verdict at first instance, Peng Ming lodged an appeal. The Hubei provincial people’s high court, after hearing the case at second instance, found that the determination of the offences by the court of first instance had been based on clearly established facts, the evidence had been sound and ample, the classification of the offences had been accurate, the sentence was commensurate with the offences and the trial proceedings had followed due process. Accordingly, on 15 December 2005, the court reached its ruling at second instance and, on 23 December, made public its judgment in which Peng Ming’s appeal was dismissed and the original judgment should stand. Upon entering prison, the results of Peng Ming’s physical examination showed that he was suffering from high blood pressure, kidney stones in his right kidney and hepatitis. Following medication and treatment over the

course of nearly one year, his state of health improved demonstrably so that in December 2006 the results of his medical examination were normal, apart from a slight kidney stone problem. He then continued receiving treatment as before. The Government finally affirmed that the allegations in the communication that Peng Ming suffered from serious health problems and that the prison authorities were denying him adequate medical care were completely groundless.

Observation

The Special Rapporteur thanks the Government for its reply.

Cuba

Communication sent

28. El 26 de junio de 2007, el Relator Especial sobre la tortura, el Relator Especial sobre el derecho de toda persona al disfrute del más alto nivel posible de salud física y mental, el Relator Especial sobre la independencia de magistrados y abogados y el Representante Especial del Secretario-General para los defensores de los derechos humanos señalaron a la atención urgente del Gobierno la información recibida respecto a la situación del Sr. Francisco Chaviano Gonzalez, fundador de la organización llamada Consejo Nacional por los Derechos Civiles en Cuba, quien estaba al tiempo de la comunicación cumpliendo una condena por revelar secretos concernientes a la seguridad del Estado en la Prisión del Combinado del Este en La Habana. Según los informes recibidos, desde el momento de su encarcelamiento el 7 mayo 1994 hasta cuando fue juzgado por un tribunal militar en abril 1995, el Sr. Chaviano Gonzalez había sido detenido incomunicado en confinamiento solitario y sin tener acceso a un abogado. Su solicitud de revisión del proceso había sido denegada. Los reportes recibidos también indicaban que el prisionero sufría de un tumor de crecimiento alterado en el pulmón, de serios problemas de circulación sanguínea, cardiopatía isquémica, artrosis, además de serios problemas estomacales a raíz de una úlcera duodenal. El prisionero no estaba recibiendo tratamiento médico adecuado y estaba viviendo en condiciones insalubres, abusivas y negligentes. Se alegó también que a lo largo de sus 13 años de encarcelamiento, el Sr. Chaviano Gonzalez había sido víctima de fuertes golpizas, torturas psicológicas y humillaciones, además de enviado a celdas de castigo y privado de visitas familiares por largos periodos de tiempo. Todas las mencionadas situaciones habían contribuido a empeorar el estado de salud física y mental del prisionero. De acuerdo con la información recibida, el Sr. Chaviano Gonzalez se ocupaba de compilar información, conducir entrevistas y documentar casos de personas desaparecidas en Cuba. Se alegó que él sería un prisionero político, o prisionero de conciencia.

Communication received

29. El 9 de julio 2007, el Gobierno contestó a la comunicación urgente enviada por los Relatores Especiales e informó que las alegaciones sobre el caso del ciudadano cubano Francisco Chaviano eran falsas, puesto que él no había sido arrestado, enjuiciado y sancionado por el ejercicio o la defensa de la libertad de opinión o de expresión, sino procesado y sancionado tras haber sido demostrado en juicio su responsabilidad en graves hechos constitutivos de delitos en virtud de la legislación cubana. Todas las garantías del debido proceso habían sido respetadas. El Gobierno reportó que el Sr. Francisco Chaviano fue encontrado culpable de los delitos de

revelación de secretos concernientes a la seguridad del Estado y falsificación de documentos. Además, fue reportado que el estado de salud del Sr. Francisco Chaviano era bueno y que él beneficiaba de modo sistemático de los servicios de salud gratuitos y de calidad ofrecido en el sistema penitenciario. Según las autoridades, las condiciones de internamiento del prisionero eran compatibles con su estado de salud. También se informó que el Sr. Francisco Chaviano recibía visitas familiares y que no había sido sometido a castigos. Su conducta ha sido tomada en cuenta, tanto que desde noviembre de 2006 cumplía sanción en un Centro de Rehabilitación, en el que tenía la posibilidad de laborar en un huerto agrícola.

Observación

El Relator especial agradece al Gobierno por su respuesta.

Iran (Islamic Republic of)

Communication sent

30. On 30 August 2007, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on torture and the Special Rapporteur on the right to health sent an urgent appeal regarding Shi'a cleric Ayatollah Sayed Hossein Kazemeyni Boroujerdi, Iranian citizen, aged 49, who has already been the subject of a joint urgent appeal dated 20 December 2006.

31. According to the new information received, Mr. Boroujerdi's trial was held on 10 June 2007 before the Special Court for the Clergy and he was denied legal counsel. It remained unclear whether he was sentenced to death or whether his case was still under consideration. Allegedly, the trial was related to Mr. Boroujerdi's religious views, since he supported freedom of religion and the separation between religion and politics. At the time of the communication, Mr. Boroujerdi was detained in Evin prison, where in addition to the severe conditions of detention, he was allegedly beaten and had cold water spilled on him while sleeping. He is also suffering from Parkinson's disease, diabetes, high blood pressure and heart problems, Mr. Boroujerdi had reportedly been denied permission to seek treatment at the prison's medical facility until he started a hunger strike on 22 July 2007.

Observation

The Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted any reply to his communication.

Israel

Communication sent

32. On 21 August 2007, the Special Rapporteur on the right to health sent an urgent appeal regarding the inability of the patients in need of medical treatment unavailable in hospitals in Gaza to have access to potentially life-saving medical treatment abroad after Israel closed the Rafah Crossing between Gaza and Egypt. According to the information received,

since 9 June 2007 Palestinians had been unable to leave the Gaza Strip. As a consequence, patients with severe health conditions were unable to leave the Gaza Strip. Hospitals in Gaza lacked the specialized personnel and equipment required to treat a range of conditions such as cancer, cardio-vascular diseases, complex surgeries and other emergencies. Reportedly, prior to the ban on the Rafah Crossing, every month several hundreds of Palestinian inhabitants of the Gaza Strip used to receive medical treatment or undergo surgery in Egyptian hospitals/medical facilities, and some of them were sent to other countries subject to them receiving security clearance. Since 9 June, only the most urgent medical cases had been allowed by the Israeli authorities to leave the Gaza Strip to go to hospitals in Israel. Some patients reportedly died because of the late Israeli permission or the refusal from authorities in the basis of “security threat”.

Observation

The Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted any reply to his communication.

Latvia

Communication sent

33. On 15 March 2007, the Special Rapporteur on torture and the Special Rapporteur on the right to health sent an urgent appeal regarding Mr. Vasiliy Grilyanov, who was, at the time of the communication, in preliminary detention at Riga Central prison since December 2006. Mr. Grilyanov was allegedly suffering from severe spinal atrophy and was officially recognized as “1st group invalid”. In spite of his illness, he was reportedly not receiving any special assistance in the prison - guards and other members of staff were not regularly coming to his cell, therefore depriving him from receiving food and water with regularity. Mr Grilyanov was also not receiving medical treatment or any medication for his condition, which caused the atrophy to progress rapidly together with severe pain. Moreover, it was alleged that he filed complaints with the prison administration, prison doctors and the prosecutor's office but did not receive any replies.

Communication received

34. By letter dated 30 April 2007, the Government of Latvia indicated that the person with the name provided by the Special Rapporteurs has never been in detention in the Riga Central prison. As a spelling error in the applicant's name or place of his detention cannot be excluded, the Government expressed its willingness to verify the facts of the case once again when more details were made available.

Observation

The Special Rapporteur thanks the Government for its reply.

Malaysia

Communications sent

35. On 20 December 2006, the Special Rapporteur sent a letter to the Government of Malaysia concerning the United States - Malaysia Free Trade Agreement that was under negotiation. According to the information received, the Agreement could extend patent protections in Malaysia in a way that would not make use of the flexibilities contained in the TRIPS Agreement and further elaborated in the Doha Declaration on the TRIPS Agreement and Public Health. It was also alleged that provisions in the Agreement could conflict with the ability of the Malaysian Government to implement tobacco control measures. It was noted that access to medication in the context of pandemics such as HIV/AIDS, tuberculosis and malaria is a fundamental element for achieving progressively the full realization of the right to the highest attainable standard of health, as recognized in many international treaties. The Special Rapporteur also drew the attention of the Government to the Framework Convention on Tobacco Control, which recognizes the right to the highest attainable standard of health, and which requires States to undertake a comprehensive range of tobacco control measures.

Communication received

36. By the letter dated 15 January 2007, the Government responded to the communication and stated that the negotiations on the Free Trade Agreement between Malaysia and the United States of America were still ongoing and that Malaysia does not enter into any legal undertaking before ensuring its compliance with the existing domestic and international obligations. The Government also indicated that the communication would be transmitted to the relevant agencies and the negotiating team for their consideration.

Observation

The Special Rapporteur thanks the Government for its reply.

Niger

Communication sent

37. Le 10 octobre 2007, le Rapporteur spécial a envoyé une lettre d'allégation, conjointement avec le Rapporteur spécial sur la situation des droits de l'homme et des libertés fondamentales des populations autochtones, le Rapporteur spécial sur le droit à l'alimentation et le Rapporteur spécial sur les conséquences néfastes des mouvements et déversements illicites de produits et déchets toxiques et nocifs pour la jouissance des droits de l'homme, concernant les activités minières réalisées sur des territoires habités ancestralement par les populations nomades Touarègues du nord Niger dans la région d'Agadez ainsi que sur l'impact de ces activités sur l'environnement de ces populations. Selon les informations reçues, le groupe français Areva y exploiterait des mines d'uranium depuis des décennies. Il semblerait que ces activités aient, de par une teneur en radioactivité très élevée, causé des dégâts importants à l'environnement. Les mesures de protection et de sécurité sur les sites d'exploitation seraient inexistantes ou très largement insuffisantes. La main d'œuvre, provenant presque exclusivement des nomades

Touaregs, aurait été maintenue dans l'ignorance des effets de l'exploitation minière. Selon un rapport publié en avril 2005 par la « Commission de Recherche et d'Information Indépendante sur la Radioactivité » (CRIIRAD), la charge en uranium dans les villes d'Arlit et Akokan dépasserait les normes internationales de potabilité, avec des valeurs de 7 à 78 fois supérieures aux recommandations de l'Organisation Mondiale de la Santé. De nombreux cas de maladies et de décès ont été recensés depuis les années 1970. Les cas de maladies pulmonaires ou de leucémies ne seraient pas diagnostiqués dans les hôpitaux miniers et décelés trop tard dans des hôpitaux publics d'Agadez et Niamey. Les médecins des hôpitaux miniers n'informerait que les patients souffrant de diabète, d'hypertension ou de paludisme. Il est allégué que les évacuations sanitaires seraient tardives ou refusées par les hôpitaux miniers. Par ailleurs, les rapports reçus expriment des craintes quant aux conséquences négatives de ces activités minières, entraînant des changements drastiques dans les modes de vie des communautés Touarègues. Les activités d'élevage seraient rendues très difficiles, ce qui entraînerait le départ des populations nomades. D'après certaines informations, en mai 2007 de nouvelles concessions minières auraient été accordées à des sociétés étrangères dans le bassin de Tim Mersoï, dans la région d'Agadez. Toutes ces concessions affecteraient aussi les terres traditionnelles des communautés Touarègues. Celles-ci n'auraient été ni informées ni consultées au sujet de ces nouvelles implantations. Au contraire, selon des informations rapportées, il y eut des tentatives de les expulser de ces territoires. Apparemment, aucune mesure n'aurait été prévue pour indemniser les communautés affectées.

Observation

Le Rapporteur spécial regrette que le Gouvernement n'ait pas transmis de réponse à sa communication au moment de la finalisation du rapport.

Peru

Communication received

38. El 1 de marzo de 2007, el Gobierno remitió a la atención del Relator Especial un informe elaborado por el Ministerio de Salud en atención a los comentarios y recomendaciones formulados por el Relator Especial con ocasión de su visita al Perú en octubre de 2006. En el citado informe se recogieron los principales lineamientos y acciones orientadores de la gestión en materia de salud del Gobierno del Perú dentro del marco de los compromisos asumidos por el país ante las Naciones Unidas en materia de derechos humanos. Se han tomado medidas para avanzar hacia un sistema único de salud, que articule todos sus componentes, y promover el derecho del acceso universal a la salud entre las cuales la ampliación del horario de atención de los hospitales, la ampliación de la población beneficiaria del Seguro Integral de Salud (SIS) y la mejora de instalaciones de los servicios de emergencia y unidades de cuidados intensivos. Fue señalado que una de las primeras acciones realizadas para la prevención de enfermedades ha sido la "Campaña Nacional de Vacunación Contra la Rubéola". Para el futuro próximo estaría prevista la "Campaña Nacional de Vacunación contra la Hepatitis B". Dentro de las acciones de prevención también se encuentran el Plan de Educación en Salud - dirigido a escolares sobre prácticas de vida saludables - y la atención integral a los menores de tres años y a las madres gestantes. La disminución de la tasa de mortalidad materna fue mencionada como uno de los objetivos principales del Gobierno y para lograrlo se tenía en consideración el incremento de la

cobertura del parto institucional y la atención de controles prenatales. También se estaría trabajando para mejorar el control de la infección congénita-infantil del VIH y la eliminación de la sífilis congénita. También fue subrayada la preocupación del Gobierno respecto a la mejora de la salud de los niños. La promoción de la salud a través de la educación a la población respecto a hábitos saludables de vida fue declarada prioridad. En relación con la prevención y el tratamiento de enfermedades, el Gobierno llamó la atención para el control de la malaria e infecciones de transmisión sexual, además del control de la tuberculosis. Dando seguimiento al informe del Relator Especial, el Gobierno estaría vigilando la calidad del agua. Las víctimas de violencia social, las poblaciones dispersas de la Amazonía, las comunidades alto andinas y las víctimas de conflicto armado interno lograron ser incorporadas al Seguro Integral de Salud. Se mencionaron los lineamientos para la acción en salud mental y cultura de paz y se hizo hincapié en las reparaciones ya iniciadas en el Hospital Víctor Larco Herrera. Finalmente, el Gobierno señaló que en seguimiento a las recomendaciones formuladas por el Relator Especial se estarían empleando políticas de fortalecimiento ético de los funcionarios y empleados públicos del Ministerio de Salud y de transparencia de la gestión pública.

Communication sent

39. Mediante carta del 8 agosto 2007, el Relator Especial expresó su apreciación por las importantes medidas para el derecho a la salud emprendidas por Gobierno en cumplimiento a las recomendaciones presentadas en el informe confeccionado en base a la misión realizada en el Perú el junio de 2004. El Relator Especial también expresó su preocupación por los continuos problemas relacionados con el derecho a la salud en el país y solicitó más información acerca de los planes de seguimiento del Gobierno con respecto al informe mencionado. Siguiendo la recomendación del Relator Especial, el Gobierno adoptó, en 2005, un Plan Nacional de Derechos Humanos para 2006-2010 en el que se incluyó un capítulo sobre el derecho de toda persona al disfrute del más alto nivel posible de salud. El Relator Especial solicitó informaciones respecto a la implementación del mencionado derecho. La iniciativa de colaboración sobre malnutrición crónica infantil adoptada por el Gobierno, algunas agencias de Naciones Unidas y la sociedad civil llamó la atención del Relator Especial, que manifestó su interés en monitorearla.

40. Teniendo en cuenta que la recomendación primordial del informe de 2005 había sido la formulación por parte del Gobierno del Perú de una política sanitaria equitativa a favor de los pobres, el Relator Especial elogió las importantes nuevas políticas e iniciativas relacionadas con el derecho a la salud, las cuales abarcaban las áreas de salud mental, acceso a medicamentos y promoción de la salud. También requirió informaciones respecto al recién elaborado Plan Nacional Concertado en Salud 2007-2025.

41. El Relator Especial expresó su satisfacción por la activa e informada sociedad civil del país y, en particular, por los sistemas que permiten la participación de comunidades locales y usuarios del sistema de salud. Aún así, solicitó informaciones sobre el proceso de perfeccionamiento de los Comités Locales de Administración de Salud (CLAS) y sobre los nuevos planes gubernamentales para asegurar y profundizar la participación de la sociedad civil en las políticas del Gobierno. En relación con las pésimas condiciones en las que se encontraba el Hospital Víctor Larco Herrera, visitado oficialmente en 2004 y 2006, el Relator Especial manifestó mucho gusto por enterarse que se estaban tomando medidas para responder a la situación del hospital. El Relator Especial asimismo solicitó más información acerca de las medidas adoptadas

por el Gobierno y las autoridades del mencionado hospital para monitorear la implementación de mejoras en las condiciones hospitalarias. Recordó que en no siendo adecuadas las mejoras, quizás sería necesario el cierre del hospital y el reemplazamiento por instalaciones y servicios modernos.

42. Tomando conocimiento de la ratificación del acuerdo comercial del Perú con los Estados Unidos, el Relator Especial llamó la atención del Gobierno para sus obligaciones internacionales de derechos humanos al negociar acuerdos comerciales bilaterales, en particular las medidas para garantizar el acceso de la población a medicamentos.

43. Mientras manifestó complacencia respecto a ciertos progresos relacionados con el derecho a la salud de los pueblos indígenas, el Relator Especial también solicitó informaciones sobre la implementación de algunas recomendaciones elaboradas en el informe de 2005 en relación con el mencionado derecho. Le agradó al Relator Especial enterarse de la estrategia del Gobierno para la disminución de la tasa de mortalidad materna. Se solicitó más información respecto al seguimiento del Gobierno en relación con el Dictamen del Comité de Derechos Humanos sobre la violación de las obligaciones del Gobierno peruano bajo el Pacto Internacional de Derechos Civiles y Políticos al negar a una mujer la posibilidad de una intervención médica para suspender el embarazo en un situación justificada por el Código Penal peruano y también en relación con la carta del Relator Especial sobre tal asunto. El Relator Especial aprovechó la oportunidad para expresar su contentamiento y demandar información adicional sobre los esfuerzos del Gobierno para tratar, prevenir y evitar los estigmas de los contaminados con el VIH/SIDA y sobre las iniciativas de servicios de información juvenil sobre salud sexual.

44. Por fin, el Relator Especial exhortó al Gobierno a asegurarse de responder a los riesgos para la salud de comunidades ocasionados por la minería y el transporte de minerales.

Communication received

45. El 28 septiembre 2007, en respuesta al comunicado de fecha 8 agosto 2007, el Gobierno del Perú transmitió el informe de la Defensoría de la Salud y Transparencia del Ministerio de Salud y información complementaria a la atención del Relator Especial. El Gobierno informó que en julio de 2007 fue aprobado el Plan Nacional Concertado en Salud, a través del cual se busca mejorar el estado de salud de la población con enfoque de género, reconociendo la interculturalidad del país, la biodiversidad y el reconocimiento del derecho a la salud como un derecho fundamental. La elaboración ha sido considerada un hito, ya que fue la primera vez que se realizó una consulta y discusión en todo el país, con participación de gobiernos nacional, regional, local y la sociedad civil. El Gobierno subrayó que, en respuesta a su rol protector de los derechos y de promoción a los derechos en salud, viene dando cumplimiento a un conjunto de compromisos asumidos internacionalmente, creando una serie de condiciones para la promoción, prevención, protección y atención integral a la población. El Gobierno justificó la destinación de recursos para la implementación de una política sanitaria dirigida a los más pobres y explicó detalladamente el funcionamiento de los Comités Locales de Administración de Salud (CLAS). Se seguía trabajando en el Plan Nacional Concertado de Salud respecto al acceso a medicamentos esenciales de calidad garantizada para la población pobre. En relación con el acuerdo comercial entre los Estados Unidos y el Perú, el Ministerio de Salud elaboró una agenda interna para disminuir el impacto que podría tener el referido tratado en el acceso a

medicamentos. Seguían también los trabajos para mejorar la salud sexual y reproductiva de la población peruana a través de acciones para reducir la mortalidad materna y neonatal. Fueron señaladas las iniciativas y medidas adoptadas en la lucha contra la transmisión del VIH/SIDA y la discriminación para con los infectados, en especial las campañas de sensibilización. Dando seguimiento a las recomendaciones del Relator Especial, el Gobierno informó sobre el proyecto de creación de un Centro Especializado de Salud Mental y sobre la mejora de las instalaciones y atención hospitalaria en el Hospital Víctor Larco Herrera. Por fin, fue afirmado que el Ministerio de Salud del Perú asumió el compromiso de apoyar a los gobiernos regionales con el desarrollo y asistencia técnica de los programas de vigilancia ambiental con el fin de garantizar la mejora de la salud de la población y, al mismo tiempo, la existencia de recursos naturales para el bienestar de generaciones futuras.

Observación

El Relator especial agradece al Gobierno su respuesta y la información facilitada sobre el seguimiento dado a sus recomendaciones.

Philippines

Communication sent

46. On 23 May 2007, the Special Rapporteur on the right to health sent a letter to the Government of Philippines concerning the House Bill (HB) 6035 - An Act Providing for Cheaper Medicines and for other Purposes, - which includes legislative proposals intended to amend the Philippines Patents Act, RA 8293. According to information received, HB 6035 was not making full use of the flexibilities contained in the TRIPS Agreement and further elaborated in the Doha Declaration on the TRIPS Agreement and Public Health. Thus, the proposals could jeopardize the enjoyment of the right to health. Moreover, some of the proposals in HB 6035 were unclear with regard to compulsory licensing. For instance, HB 6035 did not provide for compulsory licensing in the event of such medicines being made available to the public in insufficient quantity or quality or at an abnormally high price. Such a provision is or may be necessary to provide access to essential medicines, especially for medicines for certain rare diseases. Similarly, the proposal did not deal with the granting of compulsory licenses for importation. Under the TRIPS Agreement, compulsory licenses may legitimately be granted for the importation, as well as manufacture, of a protected product. Importation is crucial for developing countries with limited technological capabilities to undertake manufacturing of the protected product and to address emergency or anti-competitive situations in which rapid action is necessary.

Communication received

47. By its letter dated 29 June 2007, the Government affirmed that the House Bill 6053 was not approved during the 13th Session of the Philippine Congress and provided some information from the Intellectual Property Office of the Philippines regarding the points raised by the Special Rapporteur.

Observation

The Special Rapporteur thanks the Government for its reply.

Communications sent

48. On 8 December 2006, the Special Rapporteur sent an allegation letter concerning the adoption and implementation of an Executive Order (no. 0003 of series 2000) in Manila, which aimed to discourage the use of modern methods of contraception, including condoms, pills, intrauterine devices and surgical sterilization. According to the information received, this policy obstructed access to reproductive health information and modern methods of contraception. Furthermore, drug stores and other entities that sold contraceptives had reportedly found it difficult to obtain business licenses. The Women's Health Care Foundation, a non-profit organization that provides emergency contraceptive services, was reportedly forced to stop its operations in the city and move its clinic outside of Manila because of "harassment" by the city authorities.

Observation

The Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted any reply to his communication.

Romania

Communication received

49. By letter dated 4 January 2007, the Government replied to the joint communication sent on 5 October 2006 by the Special Rapporteur and the Special Rapporteur on the right to education (A/HRC/4/28/Add.1, para. 38). In this communication, the Special Rapporteurs expressed concern regarding reports alleging discrimination and denial of medical care to children and young people living with HIV/AIDS. In its response, the Government stated that a National Strategy for Monitoring, Preventing and Controlling cases of HIV/AIDS for 2004-2007 was adopted to provide measures to prevent the spread of HIV/AIDS infection as well as to protect those already infected. The strategy was being implemented by an inter-ministerial commission that guaranteed a coordinated and transparent approach to the various aspects involved with the disease. The Government also indicated that the National Authority for the Protection of Children's rights was taking actions to reduce discrimination of children living with HIV/AIDS. These actions were aimed at increasing tolerance and acceptance of children with HIV/AIDS as well as ensuring their right to education. Furthermore, awareness raising campaigns were organized to inform the population and to train professionals on the obligation to respect children's rights and to ensure social reintegration of children living with HIV/AIDS.

Observation

The Special Rapporteur thanks the Government for its reply.

Russian Federation

Communication sent

50. On 15 December 2006, the Special Rapporteur sent a joint urgent appeal with the Chairperson-Rapporteur on the Working Group on Arbitrary Detention and the Special Rapporteur on the independence of judges and lawyers concerning a Russian defence lawyer, Mr. Mikhail Trepashkin, who was imprisoned at IK 13, an open prison colony located in Sverdlovsk Region. Although his situation was already the subject matter of past urgent appeals, the information received indicated that Mr. Trepashkin was still being denied access to adequate medical treatment for chronic, life-threatening asthma. Mr. Trepashkin had been preliminarily diagnosed with a level of asthma which, under Russian law, qualified him for transfer to a hospital for medical treatment and consideration of early release. According to the information received the head of the prison continued to object to such a transfer despite repeated statements by the head of the prison's health department that the prison's medical staff were unable to treat Mr. Trepashkin adequately. It was also alleged that prison authorities denied his lawyers the results of the medical examinations carried out in May and October 2006, thereby precluding any legal contest of the refusal to transfer. Further, it was alleged that Mr. Trepashkin had repeatedly been placed in a punishment cell, apparently in connection with his demands for medical treatment in compliance with the law. The dire hygienic conditions in those cells, which were neither heated nor ventilated irrespective of temperature, further contributed to the deteriorating status of Mr. Trepashkin's health.

Communication received

51. By letter dated 28 December 2006, the Government of Russia responded to the joint communication and indicated that Mr. Trepashkin was under clinical observation at the medical section of the prison and repeatedly examined by specialists in April, May, June and October 2006. He was receiving recommended treatments. According to the Government, the claim that the head of prison's medical unit requested the transfer of Mr. Trepashkin to a hospital was untrue. Having breached internal regulations, the prisoner was placed in a punishment cell. Before being sent there, medical staff had examined him. During his time in the punishment cell, he was examined daily by medical staff and received the treatment recommended. On 19 December 2006, Mr. Trepashkin was examined. His state of health was deemed satisfactory and he was thus receiving outpatient care.

Observation

The Special Rapporteur thanks the Government for its reply.

Sierra Leone

Communication sent

52. On 27 July 2007, the Special Rapporteur jointly with the Special Rapporteur on the question of torture sent an urgent appeal regarding Mr. Omrie Golley, a British born lawyer of Sierra Leonean descent, currently at Pademba Road Prison, Freetown, Sierra Leone. According to the information received on 12 January 2006, Mr. Golley was arrested in a hotel room in

Freetown without a warrant and was later charged with treason, which carries the death penalty. On 21 January 2006, he was transferred to Pademba Road Prison and since his incarceration his health had deteriorated. According to the reports he suffered from a serious heart problem resulting in palpitations and daily angina attacks, very high and fluctuating blood pressure despite medication, high cholesterol, impaired liver and kidney function, a kidney infection and anaemia. It was reported that during a previous visit in March 2007 to the local hospital, the doctor stated that he needed further tests after a period of about a month but he was not allowed to do so. Moreover, it was alleged that on 26 July 2007, the prisoner was unable to attend a court hearing because of his serious health condition but the prison doctor was subpoenaed to give evidence on Mr. Golley's condition, which he did under oath. The doctor offered no date for Mr. Golley's return to court and stated that he was in immediate need of diagnosis and treatment which he could not offer within the prison. With a view to Mr. Golley's alleged health problems and the denial to offer adequate medical treatment, fear was expressed for his physical and mental integrity.

Observation

The Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted any reply to his communication.

Thailand

Communication sent

53. On 10 August 2007, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on housing, the Special Rapporteur on torture and the Special Rapporteur on the right to health sent an urgent appeal concerning 149 Lao Hmong people at Nong Khai Immigration Detention Centre (IDC), of whom 90 were children and babies. All of them were recognized as refugees by UNHCR. According to the information received, the Hmong group was arrested by immigration police in Bangkok on 17 November 2006 and on 8 December 2006 the group was transferred from Bangkok to Nong Khai IDC. On 30 January 2007, the authorities attempted to deport them to Laos but failed due to strong resistance by the group. On 12 and 29 June 2007, seven Lao Hmong men escaped from Nong Khai IDC, which caused the immigration officials to apply stricter measures towards the Lao Hmong. According to subsequent reports, the conditions of detention deteriorated. Allegedly, all of them were confined to tiny cells, without access to daylight, and were not allowed to leave the cells. It was further alleged that they had no access to clean, potable water and had to drink water from the bathrooms inside the cells. According to reports these restrictions as well as limited access to medical care caused the spreading of diseases, such as rashes, diarrhoea, respiratory infections and fever, especially among children. Furthermore, it was reported that contact with the outside world was not permitted and ten video cameras, directly connected to Bangkok Immigration, were installed to monitor detainees' activities.

Communication received

54. By letter dated 7 November 2007, the Government stated that from the time the joint urgent appeal was sent until the moment when the reply was written, the situation of the Laotian Hmongs in the Nong Khai IDC had improved considerably. Proper consideration was given to

the needs of these people, particularly the children. It was further explained that the center in Nong Khai was not constructed to respond to this particular situation or to a large influx of illegal migrants entering Thailand. The Government confirmed that after seven Laotian Hmongs escaped from the detention center, stricter measures were adopted. As a protest, the group started a hunger strike that lasted for four days. Even before the hunger strike occurred, the Immigration Bureau was already seeking approval for budgetary funding from the Government to expand facilities at the IDC. The Government refuted the allegations concerning the prisoners' lack of access to daylight and potable water. Except for the period that followed the referred escapes until the end of the hunger strike, the detainees were allowed to move around outside the detention rooms during the day. Clean water and food was offered to every detainee. It was also affirmed that medical care was provided to the Laotian Hmongs on a daily basis and that no serious diseases were found among the group. The Government considered the Laotian Hmongs mentioned to be illegal immigrants. As a consequence, they were subject to judicial process in accordance with the national legislation. However, the Government stated that the treatment given to these illegal immigrants was compliant with humanitarian principles and respectful to their human rights.

Observation

The Special Rapporteur thanks the Government for its reply.

Ukraine

Communication sent

55. On 20 June 2007, the Special Rapporteur on torture and the Special Rapporteur on the right to health sent an urgent appeal regarding Mr. Donchu, currently held at Artemovsky SIZO (pre-trial detention centre), Donetsk Region. According to the allegations received, Mr. Donchu was arrested on 22 June 2005, already in poor health. At the time of the communication, he was allegedly diagnosed with "rheumatism (inactive phase), combined heart valve disease with a stenosis of the aortic isthmus, cardiac decompensation at 2B stage (on admission, cardiac decompensation had been at 2A stage), hypertension, chronic ciliary tachyarrhythmia accompanied by chronic bronchitis and respiratory failure of 1 degree". The ward's medical chief concluded that Mr. Donchu was seriously somatically ill and therefore needed proper treatment and further examination at a specialized (cardiologic) institution. Furthermore, at a recent court hearing, when an ambulance had to be called to treat Mr. Donchu, the treating doctor found that Mr. Donchu "was on the brink of a micro stroke or a micro infarction." Given the refusal to hospitalize the prisoner despite the consistent medical advice to this end, concern was expressed for Mr. Donchu's physical and mental integrity.

Communication received

56. By letter dated 15 August 2007, the Government provided the Special Rapporteurs with information on the situation concerning Georgy Petrovich Donchu, who, according to the authorities, was arrested on suspicion of the commission of an offence covered by article 364, paragraph 3, of the Criminal Code of Ukraine. Upon entering the Artemovsk remand centre on 4 July 2005, Mr. Donchu was examined at the centre's medical unit and referred for treatment. During his custody in the remand centre, the detainee repeatedly received medical

assistance - including, in 2005, specialized treatment in the local health care unit of the Ukrainian Ministry of Health. In addition, Mr. Donchu was examined by specialist from the cardiology division of Artemovsk central district hospital on five separate occasions. At the time of the reply, the detainee's health state was consistent with the chronic illness from which he was found to be suffering, therefore being submitted to regular check-ups and proper treatment. The Government also reported that despite the several attempts of Mr. Donchu and his legal counsel to judicially have the measure of restraint to be replaced by a non-custodial measure, the court rejected all the applications. During the court hearings on 12 and 26 June 2007, emergency medical services were called when Mr. Donchu suffered health crises; however, the doctors that took care of him attested that Mr. Donchu was in no danger of a heart attack and did not need to be hospitalized. Finally, the Government affirmed that Mr. Donchu was being treated in accordance with the doctor's recommendations and monitored by specialists, being sufficiently healthy to participate in the court hearings.

Observation

The Special Rapporteur thanks the Government for its reply.

United Arab Emirates

Communication sent

57. On 2 May 2007, the Special Rapporteur on the question of torture and Special Rapporteur on the right to health brought to the Government's attention the situation concerning Sanad Ali Yislam Al-Kazimi, Yemeni national, and Fahd Muhammed Abdullah Al-Fawzan, a Saudi national, both of whom were, at the time of the communication, detained at the U.S. Naval Base in Guantanamo Bay, Cuba.

58. According to the information received Mr. Al-Kazimi was arrested in Dubai, United Arab Emirates, in early January 2003 and was detained for eight months and 16 days. While in detention in Dubai, it is alleged that he was subjected to spatial and temporal disorientation by having his eyes and ears covered and by being held in complete darkness. It was reported that on or about 16 to 18 August 2003, he was transferred to the custody of United States forces and taken to Kabul, Afghanistan, where he was held for nine months. It is alleged that he was physically and psychologically tortured by Jordanian interrogators under the supervision of U.S. personnel and he attempted suicide three times by hitting his head into the cell wall. It was further reported that on or about 16 May 2004, he was transferred to Bagram, where he was held in U.S. custody for four months and tortured. According to the information received on or about 18 September 2004, he was taken to Guantanamo Bay, Cuba, where he was detained at the time of the communication. It is reported that the detainee was suffering from chronic constipation, haemorrhoids, and blood in his faeces since his detention. Moreover, it is alleged that he was not permitted to see a lawyer, relatives or friends before his transfer to Guantanamo Bay, and also that he has not seen any member of his family since his arrest in early 2003.

59. According to the information received Mr. Al-Fawzan was apprehended between October and December 2001 by Pakistani tribesmen who turned him over to the Pakistani military. He was reportedly interrogated by Pakistani military and shortly afterwards transferred to U.S. military custody in Kohat, Pakistan; thereafter he was taken to Kandahar, Afghanistan, where he

was held for two months. It is alleged that while in detention in Afghanistan, Mr. Al-Fawzan was threatened with firearms, strangled with wires and shocked with electricity by unidentified U.S. officials. It was further reported that in early 2002, he was transferred to Guantanamo Bay, Cuba, where he was detained at the time of the communication. While in Guantanamo, he allegedly suffered severe abuse and torture in the course of interrogations. It was reported that he had not seen any member of his family since his departure for Afghanistan in October 2001.

60. It was reported that since both Mr. Al-Kazimi and Mr. Al-Fawzan were arrested, they were tortured for purposes of intimidation, coercion to extract information and punishment for not complying with demands by U.S. personnel. In addition, it is alleged that prisoners in Guantanamo routinely refused to ask for medical treatment due to a fear that treatment would be withheld or that knowledge of their medical condition by interrogators would be exacerbated during interrogations. As a consequence, both detainees refused medical treatment.

Observation

The Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted any reply to his communication.

United States of America

Communication sent

61. On 2 May 2007, the Special Rapporteur on the question of torture and Special Rapporteur on the right to health brought to the Government's attention the situation concerning Sanad Ali Yislam Al-Kazimi, Yemeni national, and Fahd Muhammed Abdullah Al-Fawzan, a Saudi national, both of whom were, at the time of the communication, detained at the U.S. Naval Base in Guantanamo Bay, Cuba.

62. According to the information received Mr. Al-Kazimi was arrested in Dubai, United Arab Emirates, in early January 2003 and was detained for eight months and 16 days. While in detention in Dubai, it is alleged that he was subjected to spatial and temporal disorientation by having his eyes and ears covered and by being held in complete darkness. It was reported that on or about 16 to 18 August 2003, he was transferred to the custody of United States forces and taken to Kabul, Afghanistan, where he was held for nine months. It is alleged that he was physically and psychologically tortured by Jordanian interrogators under the supervision of U.S. personnel and he attempted suicide three times by hitting his head into the cell wall. It was further reported that on or about 16 May 2004, he was transferred to Bagram, where he was held in U.S. custody for four months and tortured. According to the information received on or about 18 September 2004, he was taken to Guantanamo Bay, Cuba, where he was detained at the time of the communication. It is reported that the detainee was suffering from chronic constipation, haemorrhoids, and blood in his faeces since his detention. Moreover, it is alleged that he was not permitted to see a lawyer, relatives or friends before his transfer to Guantanamo Bay, and also that he has not seen any member of his family since his arrest in early 2003.

63. According to the information received Mr. Al-Fawzan was apprehended between October and December 2001 by Pakistani tribesmen who turned him over to the Pakistani military. He was reportedly interrogated by Pakistani military and shortly afterwards transferred to U.S.

military custody in Kohat, Pakistan; thereafter he was taken to Kandahar, Afghanistan, where he was held for two months. It is alleged that while in detention in Afghanistan, Mr. Al-Fawzan was threatened with firearms, strangled with wires and shocked with electricity by unidentified U.S. officials. It was further reported that in early 2002, he was transferred to Guantanamo Bay, Cuba, where he was detained at the time of the communication. While in Guantanamo, he allegedly suffered severe abuse and torture in the course of interrogations. It was reported that he had not seen any member of his family since his departure for Afghanistan in October 2001.

64. It was reported that since both Mr. Al-Kazimi and Mr. Al-Fawzan were arrested, they were tortured for purposes of intimidation, coercion to extract information and punishment for not complying with demands by U.S. personnel. In addition, it is alleged that prisoners in Guantanamo routinely refused to ask for medical treatment due to a fear that treatment would be withheld or that knowledge of their medical condition by interrogators would be exacerbated during interrogations. As a consequence, both detainees refused medical treatment.

Observation

The Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted any reply to his communication.

Communication sent

65. On 25 June 2007, the Special Rapporteur on the right to health sent an urgent appeal concerning serious delays in the procurement of anti-retroviral drugs, which are produced in the United States of America and destined for HIV/AIDS patients in the Islamic Republic of Iran under a project financed by the Global Fund to fight AIDS, Tuberculosis and Malaria. According to the information received, UNDP Iran has aimed to import anti-retroviral medicines for HIV/AIDS patients in Iran as part of the Global Fund project. Reportedly, an order was placed on 6 December 2005 for eleven types of anti-retroviral medicines, out of which six were received during the period of February to April 2006. However, the remaining five items, all manufactured by U.S. companies, had reportedly not been shipped because of delays in the issuance of the required licenses by the Office of Foreign Assets Control, U.S. Department of Treasury. These medications are reported to be components of triple combination therapy, which cannot start without all three elements being available. According to the reports, the Iranian Transactions Regulations-31 C.F.R. Part 650, issued by the U.S. Department of the Treasury, indicates that medicines, which are intended to relieve human suffering, are permitted to be exported to Iran. The medications in question are essential for HIV/AIDS patients, and should therefore be legally authorized in a timely manner by the U.S. Department of the Treasury. Furthermore, it is reported that of the five medications only one has an acceptable substitute approved by the World Health Organization, which is produced outside of the United States.

Observation

The Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted any reply to his communication.

Communication sent

66. On 24 August 2007, the Special Rapporteur on the right to freedom of opinion and expression, the Special Rapporteur on the question of torture and the Special Rapporteur on the right to health sent an urgent appeal regarding Samil Al-Haj, a Sudanese cameraman who worked for Al-Jazeera and who has been detained in Guantanamo since June 2002. According to the information received Samil Al-Haj was arrested by Pakistani security forces at the Afghan border in December 2001 and transferred to US military custody in the Guantanamo Bay military base in June 2002, where he remained in detention ever since. Reportedly, Mr. Al-Haj began a hunger strike in December 2006 to protest against his detention. According to his lawyer, he had lost 18 kilograms and was suffering from intestinal problems. It was alleged that Mr. Al-Haj's hunger strike has been followed by reprisals from medical and military personnel and that he was force fed. Allegedly, medical personnel had inflicted injuries on Mr. Al-Haj and other detainees on hunger strike by using large-diameter tubes or by inserting them into the lungs rather than the stomach. Four prisoners had allegedly died since June 2006 as a result of hunger-strikes and force-feeding. According to reports, the mental condition of Mr Samil Al-Haj has deteriorated and he exhibited signs of anxiety and paranoia attacks. At the time of the communication, no charges had been brought against Mr. Al-Haj.

Observation

The Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted any reply to his communication.

Communication sent

67. On 13 September 2007, the Special Rapporteur on the right to health sent an urgent appeal regarding late Arellano Victoria, a 23-year old Mexican citizen, transgender and HIV patient who had been detained at San Pedro Detention Centre, California. According to the information received Arellano went by the name Victoria, was deported to Mexico in 2003. After that he was reportedly detained in early May 2007 for entering the United States of America illegally for the second time, and was awaiting a hearing to determine whether he could be deported to Mexico. Before his detention, he was prescribed a daily dose of Bactrim, a prophylactic given to HIV patients to prevent pulmonary infections from developing into life-threatening pneumonia. Arellano was later switched to Dapasone, another antibiotic, which he was taking when he was detained at San Pedro Detention Centre in May 2007. It is alleged that Arellano was denied medicines upon detention at the San Pedro Detention Centre, even though Dapasone is a potent anti-leprosy drug used as a preventive measure against pneumocystis pneumonia. Reportedly, Arellano spent most of his days in a bunk bed, complaining of debilitating headaches, back pain and stomach cramps. It is alleged that despite Arellano vomiting blood, no medical attention was provided to him. Eventually, when Arellano's condition became critical, he was transferred by ambulance to San Pedro Hospital. Though too weak to walk to the bathroom alone and experiencing intense vomiting and bouts of diarrhoea, it is alleged that barely 24 hours later, he was returned to the detention centre. Subsequently, he was transferred to the Little Company of Mary Hospital's intensive care unit, where he died on July 20, 2007. At the time of his death, Arellano was alleged to have been shackled to a hospital bed.

Observation

The Special Rapporteur regrets that at the time of the finalization of the report, the Government had not transmitted any reply to his communication.

OTHER ACTORS

United Nations Interim Administration Mission in Kosovo

Communication sent

68. On 10 January 2007, the Special Rapporteur on the right to health sent an urgent appeal with the independent expert on minority issues, the Special Rapporteur on adequate housing and the Special Rapporteur on toxic wastes concerning the issue of emergency medical treatment for internally displaced persons affected by lead contamination in northern Mitrovica/Mitrovicë. The informed medical evidence revealed widespread lead poisoning among persons belonging to Roma, Ashkali and Egyptian minority groups who lived in or still live in the Žitkovac/Zhikovc, Ćesmin Lug/Çesmin Llugë and Kablare/Kablar camps. Moreover, it was alleged that the Osterode camp where IDPs were voluntarily moved was also located on contaminated soil and the effectiveness of medical treatment is contingent upon removing affected persons from the source of poisoning where as it was referred to as a “lead-safer environment” in the press release of 1 September 2006.

Communication received

69. By letter dated 16 April 2007, United Nations Interim Administration Mission in Kosovo (UNMIK) reported that after transfers, 395 RAE are still living in Camp Osterode and 100 at Cesmin Lug. Primary health care services are provided in Cesmin Lug and, even though Serbian politicians are opposed to any forced relocation, UNMIK is making efforts to convince the remaining occupants to voluntarily move to Roma Mahala. WHO monitors periodically Camp Osterode for lead contamination and its Chelaton Therapy clinic (operational since March 2006), in which 37 children out of 100 were treated, will be moved to Roma Mahala once the ambulanta, under construction at the time when the letter was written, is completed. UNMIK planned to hand over Camp Osterode to a successor organization by the end of 2007.

Observation

The Special Rapporteur thanks UNMIK for its reply.
