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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 the rights to freedom of peaceful assembly and of association, Maina Kiai**

**Addendum**

**Observations on communications transmitted to Governments and  
replies received\***

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## I. Introduction

1. The present document is submitted by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, pursuant to Human Rights Council resolution 24/5. The document provides observations on the communications addressed by the Special Rapporteur to States, and on the replies received.
2. This addendum contains cases raised by the Special Rapporteur in his communications from 1 March 2013 to 28 February 2014. It further contains observations on these communications and on responses received from States until 30 April 2014.
3. For ease of reference, communications have been grouped by country, with countries listed alphabetically according to their names in English. Each communication is referenced as urgent appeal (UA), allegation letter (AL), joint urgent appeal (JUA) and joint allegation letter (JAL). This is followed by the date the communication was issued, as well as the case number and the State reply. The electronic version of the present document has both of these items hyperlinked, and clicking on them will open the communication sent and the reply from the concerned State, respectively, as uploaded on the OHCHR website. Finally, a summary of the allegations contained in the communication has been inserted in the language of submission. All communications are available in full in the Special Procedures' joint communication reports.
4. The Special Rapporteur expresses his gratitude to all States which have transmitted responses to communications sent. He considers responses to his communications an important part of cooperation by States with his mandate. In this context, the Special Rapporteur recalls paragraph 6 of the Human Rights Council resolution 24/5 which calls upon States "to continue to cooperate fully with and assist the Special Rapporteur in the performance of his mandate [and] to respond promptly to his urgent appeals and other communications...". Therefore, he urges all States which have not yet replied to his communications to do so as soon as possible.

## II. Observations

### Algeria

5. JAL 07/03/2013. Case no. [DZA 1/2013](#). State reply: [02/08/2013](#). Allégation d'entraves indues au droit à la liberté de réunion pacifique d'activistes syndicaux.
6. JAL 23/04/2013. Case no. [DZA 2/2013](#). State reply: Aucune à ce jour. Allégations d'un usage excessif de la force durant une manifestation pacifique et des violations à la liberté de mouvement.
7. JAL 28/06/2013. Case no. [DZA 3/2013](#). State reply: Aucune à ce jour. Allégations de représailles et d'actes d'intimidation à l'encontre d'un défenseur des droits de l'homme pour avoir coopéré avec l'Organisation des Nations Unies, ses représentants et ses mécanismes dans le domaine des droits de l'homme.
8. JAL 20/08/2013. Case no. [DZA 4/2013](#). State reply: [16/12/2013](#). Allégations d'usage excessif de la force et d'arrestations subséquentes lors d'une manifestation pacifique de familles de disparus.
9. JAL 18/10/2013. Case no. [DZA 6/2013](#). State reply: [21/01/2014](#). Allégations d'usage excessif de force et d'arrestations lors d'une manifestation pacifique de familles de disparus.

### **Observations**

10. Le Rapporteur spécial remercie le Gouvernement de l'Algérie des informations fournies dans les réponses à ses communications du 7 mars 2012, 20 août 2013 et 18 octobre 2013. Toutefois, il regrette l'absence de réponses aux deux autres communications envoyées durant la période couverte par le présent rapport.

11. Le Rapporteur spécial demeure préoccupé par des rapports reçus qui dénoncent, lors de manifestations pacifiques, un usage excessif de la force contre les participants. Il a lu avec une attention particulière la réponse apportée par le Gouvernement faisant référence à la mise en application par les Service de la Sûreté nationale d'un nouveau concept de gestion démocratique des foules. Le Rapporteur spécial est satisfait que de nouvelles dispositions limitent en dernier recours l'usage excessif de la force lors de manifestations pacifiques. Cependant, il demeure inquiet par les allégations qui indiquent que les forces de sécurité utiliseraient encore de la violence pour contenir des manifestations pacifiques et auraient recours à des restrictions de mouvements pour éviter que des personnes, y compris des défenseurs des droits de l'homme et des syndicalistes, puissent se rendre à des lieux de rassemblement, comme lors du Forum Social Mondial à Tunis entre le 25 et 27 mars 2013.

12. Le Rapporteur spécial recommande aux autorités de prendre des mesures positives afin de favoriser l'exercice de la liberté d'association et de réunion pacifique de la société civile, y compris des membres d'associations non enregistrées et syndicalistes, et de s'assurer que ceux-ci ne sont pas soumis ou menacés d'être soumis à des faits de discrimination, de menace, de recours à la violence, d'harcèlement, de persécution, d'intimidation ou de représailles.

13. Le Rapporteur spécial rappelle les dispositions de la résolution 24/5 du Conseil des droits de l'homme selon lesquelles les États ont l'obligation « de respecter et de protéger pleinement le droit de tous les individus de se réunir pacifiquement et de s'associer librement, à la fois en ligne et hors ligne, notamment à l'occasion des élections, y compris les personnes qui professent des opinions ou des croyances minoritaires ou dissidentes, les défenseurs des droits de l'homme, les syndicalistes et tous ceux, notamment les migrants, qui cherchent à exercer ou à promouvoir ce droit, ainsi que leur obligation de faire en sorte que les restrictions éventuellement imposées au libre exercice du droit de réunion pacifique et de la liberté d'association soient conformes aux obligations qui leur incombent en vertu du droit international des droits de l'homme.»

14. Le Rapporteur spécial rappelle au Gouvernement de l'Algérie ses demandes de visite formulées en 2011 et 2013. A cet égard, le Conseil des droits de l'homme, par le biais de sa résolution 15/21, « [e]ngage les États à prêter leur concours et à offrir une coopération sans réserve au rapporteur spécial lorsqu'il exerce ses fonctions... et à donner une suite favorable à ses demandes de visite » (OP6).

### **Armenia**

15. JUA 10/09/2013. Case no. [ARM 1/2013](#). State reply: [27/02/2014](#). Allegations of threats and harassment of Armenian women's non-governmental organizations and women human rights defenders.

### **Observations**

16. The Special Rapporteur thanks the Government for its response. He calls on the authorities to apprise him on the status of the investigation regarding the alleged perpetrator apprehended.

17. In this regard, the Special Rapporteur wishes to highlight the following recommendations made to States in his latest thematic report to: “[t]ake positive measures,

including affirmative action measures, to ensure that all individuals belonging to groups most at risk [such as women] have the ability to exercise effectively their rights, including to freedom of peaceful assembly and of association” (A/HRC/26/29, para. 73(c)); and “[e]nsure that no individual belonging to a group most at risk is criminalised for exercising his/her rights to freedom of peaceful assembly and of association, nor is subject to threats or use of violence, harassment, persecution, intimidation or reprisals” (para. 74).

## Angola

18. JAL 26/04/2013. Case no. [AGO 2/2013](#). State reply: [30/09/2013](#). Alleged arrests of 18 individuals who intended to participate in a peaceful protest.

19. JUA 10/06/2013. Case no. [AGO 3/2013](#). State reply: [08/07/2013](#), [30/09/2013](#). Alleged incommunicado detention of one human rights defender and alleged arbitrary arrests and excessive use of force by the police against eight other human rights defenders.

20. JAL 05/12/2013. Case no. [AGO 5/2013](#). State reply: [08/01/2014](#). Alleged excessive use of force to disperse a peaceful demonstration, and killing of peaceful protesters, including a human rights defender.

## Observations

21. The Special Rapporteur thanks the Government of Angola for replying to all his communications in the period under review. The Special Rapporteur remains deeply disturbed by the killings of Messrs. Silva Alves Camulingue and Isais Sebastião Cassule. As a matter of utmost importance, the Special Rapporteur requests the authorities to thoroughly investigate these killings, hold those responsible accountable, and provide victims’ families with redress. He requests the Government to keep him informed on the progress made into the investigations conducted in relation to the aforementioned cases.

22. The Special Rapporteur recommends that the Government of Angola put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms of peaceful assembly and association without undue hindrances. He reiterates the content of the operative paragraph 2 of the Human Rights Council Resolution 24/5 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

## Argentina

23. JUA 20/12/2013. Case no. [ARG 6/2013](#). State replies: [21/12/2013](#), [28/01/2014](#), [07/02/2014](#), [10/03/2014](#), [10/03/2014](#), [26/03/2014](#). Alegaciones de ataques físicos contra familiares de un defensor de derechos humanos y miembro de una comunidad indígena.

## Observaciones

24. El Relator Especial agradece las respuestas detalladas del Gobierno de Argentina al llamamiento urgente con fecha del 20 de diciembre de 2013. Las respuestas del Gobierno incluían una serie de documentos adjuntos que no se han hecho públicos dada la información contenida en los mismos. El Relator Especial los examinó con particular atención, en especial el Protocolo de Intervención de las Fuerzas de Seguridad y Policiales concurrentes en jurisdicción de la Comunidad Indígena Qom Navogoh “La Primavera”.

25. El Relator Especial solicita al Gobierno mantenerlo informado del cumplimiento de las medidas cautelares para garantizar la vida y la integridad física de los miembros de la comunidad indígena Qom Navogoh “La Primavera” contra posibles amenazas, agresiones u hostigamientos por miembros de Agentes Estatales, y reitera el contenido del párrafo operativo 2 de la Resolución 24/5 del Consejo de Derechos Humanos donde se “[r]ecuerda a los Estados su obligación de respetar y proteger plenamente los derechos de todas las personas a la libertad de reunión pacífica y de asociación por cualquier vía, electrónica o no, también en el contexto de unas elecciones, incluidas las personas que abracen opiniones o creencias minoritarias o disidentes, los defensores de los derechos humanos, las personas afiliadas a sindicatos y otras personas, como los migrantes, que traten de ejercer o promover esos derechos, y de adoptar todas las medidas necesarias para asegurar que cualquier restricción al libre ejercicio del derecho a la libertad de reunión pacífica y de asociación sea conforme con las obligaciones que les incumben en virtud del derecho internacional de los derechos humanos.”

### **Azerbaijan**

26. JAL 28/03/2013. Case no. [AZE 3/2013](#). State reply: [16/08/2013](#). Reported amendments to the Code of Administrative Offences, the law “On non-governmental organizations (public associations and foundations)” and the law “On grants” which will allegedly affect the work of religious organizations and non-governmental organizations (NGOs), including those working for the promotion and protection of human rights.

27. JUA 26/07/2013. Case no. [AZE 4/2013](#). State reply: [28/08/2013](#). Alleged administrative detention of three youth activists for the period of 15 days.

28. JAL 26/11/2013. Case no. [AZE 5/2013](#). State reply: none to date. Alleged targeting of an NGO in the aftermath of the recent presidential elections of 9 October 2013.

### **Observations**

29. The Special Rapporteur thanks the Government of Azerbaijan for its replies, but regrets that it did not respond to his letter of 26 November 2013. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide as soon as possible detailed responses to all the concerns raised in his communication.

30. The Special Rapporteur remains seriously concerned about the legislative amendments made to the Law on Freedom of Assembly, the Administrative Offences Code and the Criminal Code in December 2012, under which peaceful gatherings can now be criminalised when they “cause the significant violation of the rights and legal interests of citizens” (art. 169, para. 1 of the Criminal Code). More generally, he expresses his serious concern about the shrinking of the space for the peaceful promotion of human rights and fundamental freedoms in Azerbaijan, including the rights to freedom of peaceful assembly and of association.

31. The Special Rapporteur remains similarly concerned that the legislative amendments to the Code of Administrative Offences, the law “on non-governmental organizations” and the law “on grants” could be used to hinder the work of non-governmental organizations in Azerbaijan. These amendments have increased the penalties in cases where organizations do not register with the Ministry of Justice, and have defined what constitutes a “donation” for the purposes of grants legislation. Therefore, only those organizations whose causes are approved by the Government via registration are legally entitled to receive funds for their cause. In this regard, the Special Rapporteur called on State to “[t]o ensure that associations – registered and unregistered – can seek, receive and use funding and other resources from natural and legal persons, whether domestic, foreign or international, without prior



authorization or other undue impediments, including from individuals; associations, foundations or other civil society organizations; foreign Governments and aid agencies; the private sector; the United Nations and other entities” (A/HRC23/39, para. 82(b)).

32. The Special Rapporteur, jointly with the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders, issued a press [release](#) on 4 October 2013<sup>1</sup> about the importance of the work of human rights defenders and civil society organizations in the run-up to the presidential elections in Azerbaijan, which took place on 9 October 2013.

33. The Special Rapporteur, jointly with the Special Rapporteur on the situation of human rights defenders, issued a follow-up press release on 9 May 2014 over the charges brought against Messrs. Anar Mammadli, Bashir Suleymanli and Elnur Mammadov in the aftermath of the 2013 presidential elections in Azerbaijan.<sup>2</sup> The Special Rapporteurs were seriously concerned that the three human rights defenders were being prosecuted in retaliation for their legitimate work in documenting alleged widespread irregularities and human rights violations around the presidential election. The Special Rapporteur was troubled to learn that on 26 May 2014, Messrs. Anar Mammadli and Bashir Suleymanli were sentenced respectively to five years and six months, and three years and six months, in prison, with deprivation of their right to occupy positions in State and municipal bodies for three and two years respectively. Mr. Mammadov was sentenced to two years of conditional penalty with deprivation of his right to occupy positions in State and municipal bodies for two years. The Special Rapporteur calls on the authorities to release the defenders immediately, and reinstate their rights.

34. Full respect for the rights to freedom of peaceful assembly and of association is paramount in Azerbaijan. In this context, the Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

35. The Special Rapporteur hopes to be able to honour the invitation of the Government of Azerbaijan to conduct an official visit to the country soon.

## **Bahrain**

36. JAL 19/04/2013. Case no. [BHR 1/2013](#). State reply: [05/06/2013](#). Allegations that newly adopted law on Associations, Social and Cultural Clubs, Private Youth and Sports Organizations and Private Foundations violates international norms and standards relating to the right to freedom of association.

37. JAL 10/05/2013. Case no. [BHR 2/2013](#). State reply: [05/06/2013](#). Alleged arbitrary detention and torture of a human rights defender and denial of legal representation.

<sup>1</sup> “UN experts urge Azerbaijan to recognize and enable the role of rights defenders in run up to elections” (4/10/2013): <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13829&LangID=E>

<sup>2</sup> “UN Experts urge Azerbaijan to drop charges against human rights defenders” (09/05/14): <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14582&LangID=E>

38. JUA 23/05/2013. Case no. [BHR 3/2013](#). State reply: [24/06/2013](#). Alleged incommunicado detention of human rights defender.
39. JUA 30/07/2013. Case no. [BHR 4/2013](#). State reply: [29/08/2013](#). Alleged irregularities in the trials of human rights defenders, alleged acts of reprisals for co-operation with the United Nations and reported torture.
40. JUA 14/08/2013. Case no. [BHR 5/2013](#). State reply: [04/09/2013](#). Alleged restrictions of freedom of expression and freedom of assembly following 22 recommendations to amend the anti-terrorism Law no. 58 of 2006.
41. JUA 28/08/2013. Case no. [BHR 6/2013](#). State reply: [01/10/2013](#). Allegations of arbitrary detention and torture of two human rights defenders.
42. JUA 04/10/2013. Case no. [BHR 7/2013](#). State reply: [05/11/2013](#). Allegations of inadequate investigations of torture whilst in detention and of lack of access to legal representation.
43. JAL 26/11/2013. Case no. [BHR 8/2013](#). State reply: [23/01/2014](#). Allegations of arbitrary detention, torture and ill-treatment of two peaceful protestors.
44. JUA 10/01/2014. Case no. [BHR 1/2014](#). State reply: [11/02/2014](#). Alleged arbitrary detention and torture of a photographer and journalist.

#### **Observations**

45. The Special Rapporteur would like to thank the Government of Bahrain for replying to all his communications during the reporting period. However, he expresses his concern at the volume of allegations received and severity of the issues raised therein. Although the Government refutes these allegations, the Special Rapporteur remains concerned about the situation of individuals and members of civil society organizations, including human rights organizations, who remain at risk of arbitrary detention and ill treatment as a result of their legitimate and peaceful activities.
46. The Special Rapporteur takes note with appreciation that the civil society was engaged in producing amendments to the Decree No. 21 of 1989 promulgating the Law on Associations, Social and Cultural Clubs, Private Youth and Sports Organizations and Private Foundations. However, he expresses concern that the mentioned law unduly restricts the right to freely associate as it includes: a prior approval procedure to set up an association, extensive discretion to the authorities to monitor and influence the internal affairs of an association, and prior ministerial approval with regards to funding. As stated in his thematic report to the Human Rights Council, the Special Rapporteur “underlines that the right to freedom of association equally protects associations that are not registered ... This is particularly important when the procedure to establish an association is burdensome and subject to administrative discretion ... ” (A/HRC/20/27, paragraph 56). Furthermore, he is of the opinion “that a “notification procedure”, rather than a “prior authorization procedure” that requests the approval of the authorities to establish an association as a legal entity, complies better with international human rights law ...” (A/HRC/20/27, paragraph 58). Moreover, the Special Rapporteur reminds the Government that “members of associations should be free to determine their statutes, structure and activities and make decisions without State interference” (A/HRC/20/27, paragraph 64). Concerning access to funding, the Special Rapporteur reminds the Government that it is necessary for the existence and sustainable operations of associations. Furthermore, he emphasize that, according to Article 21 of the International Covenant on civil and political rights, “No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the

protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.”

47. The Special Rapporteur appreciates the response provided by the Government on recommendations adopted on 28 July 2013 to amend the Law no. 58 (Protecting Society from Terrorists Act) of 2006. Although the Special Rapporteur is aware that States have an interest in protecting “national security or public safety”, which are legitimate grounds for restricting freedom of association, he reminds the Government of Bahrain that there is also need for States to comply with international human rights law while countering terrorism and that, under the International Covenant on civil and political rights, any limitation must not only pursue a legitimate interest but also be “necessary in a democratic society”. In addition, concerning the recommendation of the National Assembly to “[g]ive the security agencies the necessary and appropriate powers to protect society from terrorist acts and prevent their spread”, the Special Rapporteur did not find such specific reference in Security Council Resolution 1373 (2001) as indicated by the State. The Special Rapporteur further reminds that national security should not be used to justify measures aimed at suppressing opposition or repressive practices against its population.

48. The Special Rapporteur urges the Government of Bahrain to take immediate steps to facilitate the exercise of peaceful assembly and free association. He reiterates the content of the operative paragraph 2 of the Human Rights Council Resolution 24/5 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

49. The Special Rapporteur reminds the Government of Bahrain of his country visit requests sent in September 2011 and October 2013. He regrets to not have received a response to date. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

## **Bangladesh**

50. JUA 14/06/2013. Case no. [BGD 7/2013](#). State reply: [20/06/2013](#). Alleged enforced disappearance and risk of torture of an opposition party member.

51. JUA 25/06/2013. Case no. [BGD 8/2013](#). State reply: [27/06/2013](#). Alleged enforced disappearance of an opposition activist.

52. JUA 14/08/2013. Case no. [BGD 9/2013](#). State reply: none to date. Allegations of arrest and detention of, and charges against, the secretary of a human rights non-governmental organization, coupled with searches of the NGO premises.

53. JUA 06/09/2013. Case no. [BGD 10/2013](#). State reply: [10/09/2013](#). Allegations of charges against the Secretary and Director of a human rights non-governmental organization.

54. JAL 29/10/2013. Case no. [BGD 11/2013](#). State reply: [31/10/2013](#). Alleged lack of compliance of the amended Information and Communication Technology Act with international human rights standards.

55. JUA 13/11/2013. Case no. [BGD 14/2013](#). State reply: 14/11/2013. Allegations of incarceration of, and charges against, a human rights defender.

### **Observations**

56. The Special Rapporteur takes note of the responses of the Government of Bangladesh acknowledging receipt of his communications. He however regrets that the Government provided no substantial response to any of the communications sent since 2011. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges again the authorities to provide as soon as possible detailed responses to all the concerns raised in the communications.

57. The Special Rapporteur remains seriously concerned about the physical and psychological integrity of people exercising their right to freedom of association in Bangladesh, in particular political opponents and human rights defenders. He reiterates his concern about the judicial harassment of members of the human rights organization Odhikar.

58. The Special Rapporteur remains similarly concerned about the amended Information and Communication Technology Act which reportedly restricts the right to freedom of opinion and expression, and by extension the rights to freedom of peaceful assembly and of association. He calls on the authorities to review the Act to ensure its compliance with international human rights norms and standards.

59. He recommends again that the Government put in place an enabling and safe environment that is conducive to the free expression of civil society allowing individuals to exercise their legitimate right to freedom of association without undue hindrances. In this regard, he urges the authorities to take all relevant measures to ensure that any individual and legal entity can peacefully exercise their rights of freedom of peaceful assembly and of association. He recommends that the Government put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms without undue hindrances. A thorough and independent investigation into any allegations of human rights violations, including acts of intimidations or harassments, committed against those exercising their rights to freedom of peaceful assembly and of association, should be conducted; those responsible should be held accountable; and victims should be provided with full redress.

60. The Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

61. The Special Rapporteur reminds the Government of Bangladesh of his country request sent in January 2014, to which a response is yet to be received. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

### **Belarus**

62. JAL 28/03/2013. Case no. [BLR 2/2013](#). State reply: none to date. Allegations of confirmed forced cessation of a human rights organization’s activities in appeal.

### Observations

63. The Special Rapporteur regrets that the Government of Belarus did not respond to his communication. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide as soon as possible detailed responses to all the concerns raised in his communication.

64. The Special Rapporteur remains seriously concerned about the confirmation in appeal of the forced cessation of Platforma's activities. More generally, the Special Rapporteur reiterates his concern about a continued campaign of harassment of members of human rights organizations in order to arbitrarily prevent them from carrying out their legitimate work in defence of human rights and fundamental freedoms. He echoes all the concerns raised by the Special Rapporteur on the situation of human rights in Belarus in his latest report (A/68/276, see in particular para. 49-75).

65. The Special Rapporteur urges again the authorities to ensure that no individual is criminalised for the peaceful exercise of his fundamental freedoms, and to take all relevant measures to ensure that any individual and legal entity can peacefully exercise their rights of freedom of peaceful assembly and of association. He recommends again that the Government put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms without undue hindrances. A thorough and independent investigation over any allegations of human rights violations or abuses should be conducted, those responsible should be held accountable, and victims should be provided with full redress.

66. The Special Rapporteur refers to Human Rights Council resolution 24/16, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

67. The Special Rapporteur reminds again the Government of Belarus of his country request sent in September 2011 and October 2013, to which a response is yet to be received. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

### Bolivia (Plurinational State of)

68. JAL 27/02/2014. Case no. [BOL 2/2014](#). State reply: Ninguna a la fecha. Presuntos actos intimidatorios, vigilancia y amenazas, incluyendo amenazas de muerte, contra defensores de derechos humanos.

### Observaciones

69. El Relator Especial lamenta no haber recibido respuesta por parte del Gobierno a la carta de alegaciones enviada conjuntamente con otros expertos independientes de la ONU, en la cual expresaba preocupación por la integridad física y psicológica de miembros de una organización no gubernamental que investiga y denuncia presuntos casos de tortura por parte de agentes estatales.

70. El Relator Especial considera que las respuestas a sus comunicaciones constituyen una parte esencial de la cooperación de los gobiernos con su mandato, e insta a las autoridades a proporcionar con la menor dilación posible respuestas detalladas a todas las inquietudes planteadas en sus comunicaciones.

71. El Relator Especial quisiera insistir en la necesidad de asegurar la existencia de un ambiente seguro y propicio para la sociedad civil que permita el libre ejercicio de los derechos de asociación y reunión pacífica. Asimismo, reitera que el Estado tiene una obligación positiva de llevar a cabo medidas eficaces para hacer efectivo el disfrute de estos derechos.

72. Se reitera el contenido del párrafo operativo 2 de la Resolución 24/5 del Consejo de Derechos Humanos donde se “[r]ecuerda a los Estados su obligación de respetar y proteger plenamente los derechos de todas las personas a la libertad de reunión pacífica y de asociación por cualquier vía, electrónica o no, también en el contexto de unas elecciones, incluidas las personas que abracen opiniones o creencias minoritarias o disidentes, los defensores de los derechos humanos, las personas afiliadas a sindicatos y otras personas, como los migrantes, que traten de ejercer o promover esos derechos, y de adoptar todas las medidas necesarias para asegurar que cualquier restricción al libre ejercicio del derecho a la libertad de reunión pacífica y de asociación sea conforme con las obligaciones que les incumben en virtud del derecho internacional de los derechos humanos.”

### **Bosnia and Herzegovina**

73. JAL 07/02/2014. Case no. [BIH 1/2014](#). State reply: [17/04/2014](#). Alleged violent disruption of the Queer Festival Merlinka in Sarajevo.

#### **Observations**

74. The Special Rapporteur thanks the Government of Bosnia and Herzegovina for its response.

75. The Special Rapporteur remains concerned that, despite the alert given by the organizers two hours prior to the incident, the police failed to take adequate measures to prevent the violent disruption of the Queer Festival Merlinka. He urges the authorities to take all relevant measures to ensure that any individual, in particular lesbian, gay, bisexual and transgender people, can peacefully exercise their rights of freedom of peaceful assembly and of association. He recommends that the Government put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms without undue hindrances. He notes that two individuals have been apprehended in relation to the abovementioned case. He calls on the authorities to bring all the perpetrators before justice and ensure that the victims are provided with full redress.

76. In this context, the Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

### **Botswana**



77. JAL 08/07/2013. Case no. [BWA 2/2013](#). State reply: [10/07/2013](#). Alleged arbitrary denial to register a human rights association working against discrimination and for the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people.

### **Observations**

78. The Special Rapporteur thanks the Government of Botswana for acknowledging receipt of the communication sent during the reporting period. He however regrets to not have received a substantive response to date. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide as soon as possible detailed responses to all the concerns raised in his communication.

79. The Special Rapporteur remains concern that the denial to register LEGABIBO may lack adequate legal basis and could be directly related to the organization's peaceful activities promoting non-discrimination and upholding the human rights of lesbian, gay, bisexual, transgender and intersex people in Botswana.

80. The Special Rapporteur reminds the Government that the International Covenant on Civil and Political Rights, ratified by Botswana on 8 September 2000, guarantees the right to freedom of association (article 22), stipulates that "each State Party undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant, without distinction of any kind, such as race colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status"(article 2), and guarantees to all individuals equal and effective protection against discrimination on grounds identified in article 2 (article 26).

### **Brazil**

81. JAL 07/05/2013. Case no. [BRA 1/2013](#). State reply: None to date. Alleged infiltration and surveillance of human rights organizations.

82. JUA 03/06/2013. Case no. [BRA 2/2013](#). State reply: [16/09/2013](#). Alleged incidents of excessive violence against indigenous peoples in the states of Mato Grosso do Sul and Pará, including the alleged killing of an indigenous person by police authorities.

83. JUA 27/06/2013. Case no. [BRA 3/2013](#). State reply: None to date. Alleged excessive use of police force against protestors in vast demonstrations sweeping the nation since 10 June 2013.

84. JAL 07/11/2013. Case no. [BRA 5/2013](#). State reply: None to date. Alleged death threats and false allegations of paedophilia and sexual abuse against lesbian, gay, bisexual, and transgender (LGBT) rights defenders in Brazil.

### **Observations**

85. The Special Rapporteur thanks the Government of Brazil for the detailed reply received to one of the communications sent during the reporting period. However, he regrets that four communications remained without a response, at the time of writing this report. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide as soon as possible detailed responses to all the concerns raised in his communications.

86. The Special Rapporteur expresses deep concern at the reported continuous climate of violence and pressure against those exercising their rights to freedom of peaceful assembly and of association, which includes acts of intimidations and harassments against associations, social movements and indigenous communities defending environmental and land-related rights.

87. While recognizing the steps taken by the Government to engage in participatory and informed consultation process with civil society activists, as outlined in the Government's response dated 16 September 2013, the Special Rapporteur urges the Government of Brazil to conduct prompt and thorough investigations in each case, prosecute perpetrators, and provide adequate reparation to victims.

88. The Special Rapporteur recommends that the Government of Brazil put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms of peaceful assembly and association without undue hindrances. He reiterates the content of the operative paragraph 2 of the Human Rights Council Resolution 24/5 that "[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

### **Cambodia**

89. JUA 27/09/2013. Case no. [KHM 2/2013](#). State reply: none to date. Allegations of dispersal of two peaceful protests against alleged election irregularities, one brutally, by law enforcement officials.

90. JUA 01/10/2013. Case no. [KHM 1/2013](#). State reply: none to date. Allegations of indiscriminate and excessive use of force against individuals in the margins of peaceful protests, leading to the death of one person and injuries, as well as arrests of at least six individuals.

91. AL 17/02/2014. Case no. [KHM 1/2014](#). State reply: [19/02/2014](#). Alleged current ban on demonstrations imposed in Phnom Penh, and the related arrest and detention of, and the alleged excessive use of force against, several peaceful protestors.

92. JUA 28/02/2014. Case no. [KHM 2/2014](#). State reply: none to date. Allegation of excessive and indiscriminate use of force against protestors, resulting in killings and injuries, and arrest and detention (including incommunicado) of 23 individuals.

### **Observations**

93. The Special Rapporteur thanks the Government of Cambodia for its response to his communication dated 17 February 2014, but regrets that it did not respond to the other communications. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide as soon as possible detailed responses to all the concerns raised in the latter communication.

94. The Special Rapporteur remains seriously concerned about undue interferences with the right to freedom of peaceful assembly, including the indiscriminate and excessive use of force against protestors, leading to the death, and arrest and detention of, several individuals. As a result, he urges again the authorities to ensure that no individual is criminalised for the peaceful exercise of his fundamental freedoms. He recommends that the Government put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms without undue hindrances. A thorough and independent investigation over any allegations of human rights violations or abuses should be conducted, those responsible should be held accountable, and victims should be provided with full redress.



95. In relation to elections, the Special Rapporteur “stresses that electoral periods are such an important time to build democratic, responsive and accountable institutions and that very strict and clear safeguards should be put in place by States to prevent undue interference in public freedoms, in particular in the rights to freedom of peaceful assembly and of association. Further, in times of elections, States should make greater efforts to facilitate and protect the exercise of these core rights, which should be enjoyed by everyone, especially by members of groups at risk. In effect, genuine elections cannot be achieved if the rights to freedom of peaceful assembly and of association are curtailed” (A/HRC/68/299, para. 56).

96. The Special Rapporteur also refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

97. The Special Rapporteur reminds again the Government of Cambodia of his country requests sent in September 2011 and October 2013, to which a response is yet to be received. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

## **Cameroon**

98. JUA 13/08/2013. Case no. [CMR 3/2013](#). State reply: Aucune à ce jour. Allégations de meurtre d'un défenseur des droits des personnes lesbiennes, gays, bisexuelles, transgenres et intersexuées (LGBTI) et d'actes d'intimidations à l'encontre d'autres défenseurs.

99. JAL 04/09/2013. Case no. [CMR 4/2013](#). State reply: Aucune à ce jour. Allégations de tentative de meurtre, d'harcèlement judiciaire et de représailles à l'encontre de différents membres d'une organisation non gouvernementale.

100. JAL 21/02/2014. Case no. [CMR 1/2014](#). State reply: Aucune à ce jour. Allégations d'attaques physiques, arrestations arbitraires et harcèlement judiciaire contre des membres de deux organisations non-gouvernementales, et imposition d'une interdiction de réunion aux membres de l'une d'entre elles.

## **Observations**

101. Le Rapporteur spécial regrette de ne pas avoir reçu de réponse du Gouvernement du Cameroun à ses communications durant la période couverte par le présent rapport. Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des gouvernements avec son mandat et invite de ce fait le Gouvernement à lui transmettre sans plus tarder des réponses aux préoccupations soulevées dans ses communications.

102. Le Rapporteur spécial s'inquiète de la situation particulièrement difficile dans laquelle les individus tentent d'exercer leur droit à la liberté d'association et de réunion pacifique au Cameroun. Il appelle les autorités à prendre toutes les mesures nécessaires pour que toute personne puisse librement exercer son droit à la liberté d'association et de réunion pacifique sans être soumis, ou menacé d'être soumis, à des faits de discrimination,

de menace, de recours à la violence, d'harcèlement, de persécution, d'intimidation ou de représailles. Il appelle également les autorités à prendre toutes les mesures nécessaires pour que soit mis fin à toute forme d'impunité contre les violations des droits de l'homme dans le pays.

103. Le Rapporteur spécial rappelle les dispositions de la résolution 24/5 du Conseil des droits de l'homme selon lesquelles les États ont l'obligation « de respecter et de protéger pleinement le droit de tous les individus de se réunir pacifiquement et de s'associer librement, à la fois en ligne et hors ligne, notamment à l'occasion des élections, y compris les personnes qui professent des opinions ou des croyances minoritaires ou dissidentes, les défenseurs des droits de l'homme, les syndicalistes et tous ceux, notamment les migrants, qui cherchent à exercer ou à promouvoir ce droit, ainsi que leur obligation de faire en sorte que les restrictions éventuellement imposées au libre exercice du droit de réunion pacifique et de la liberté d'association soient conformes aux obligations qui leur incombent en vertu du droit international des droits de l'homme.»

## **Canada**

104. JAL 07/11/2013. Case no. [CAN 4/2013](#). State replies: [10/1/2014](#), [10/1/2014](#). Allegations concerning discrimination in funding and retaliation acts against the Executive Director of the First Nations Child and Family Caring Society of Canada.

### **Observations**

105. The Special Rapporteur thanks the Government of Canada for its detailed response to his communication.

106. The Special Rapporteur notes, *inter alia*, that according to the Government, “there has been no retaliation against Ms. Blackstock... [and that t]he allegations... have been and are still in the process of being addressed by domestic remedial mechanisms”. In this regard, he notes with interest the findings of the Office of the Privacy Commissioner of Canada, which considered “well-founded” the allegations made that officials from the Aboriginal Affairs and Northern Development Canada (AANDC) and the Department of Justice repeatedly accessed and monitored Ms. Blackstock's social media feeds. He further notes that the AANDC accepted these findings and that it is complying with the recommendations made by the Office of the Privacy Commissioner. He looks forward to receiving further information once the Canadian Human Rights Tribunal takes a decision on the retaliation proceedings in relation to the case.

107. The Special Rapporteur reminds the Government of Canada of his country request sent in October 2013, to which a response is yet to be received. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

## **China**

108. JUA 26/03/2013. Case no. [CHN 3/2013](#). State reply: [28/05/2013](#). Alleged persecution against Tibetans who express their views regarding freedom of religion and autonomy in the Tibet Autonomous Region.

109. JUA 12/06/2013. Case no. [CHN 4/2013](#). State reply: [12/07/2013](#). Allegations of sentencing of eight student protestors to prison terms following their participation in peaceful demonstrations in the Tibet Autonomous Region in November 2012.

110. JUA 24/06/2013. Case no. [CHN 5/2013](#). State reply: [01/08/2013](#). Alleged incarceration on the basis of a sentence to a four years' prison term of a student in

Huangnan Tibetan Autonomous Prefecture, for leading a peaceful protest in November 2012.

111. JUA 17/07/2013. Case no. [CHN 6/2013](#). State reply: [23/09/2013](#). Alleged arrest and detention of peaceful protesters requesting to participate in the consultation and drafting process preceding China's upcoming Universal Periodic Review (UPR), as well as a trial and alleged torture of an activist working on the same issue.

112. JUA 22/07/2013. Case no. [CHN 7/2013](#). State reply: [10/09/2013](#). Allegations of excessive use of force in dispersing a peaceful religious gathering of Tibetans celebrating the birthday of the Dalai Lama.

113. JUA 09/08/2013. Case no. [CHN 8/2013](#). State reply: [11/11/2013](#). Allegations of arrests, detention and intimidation of human rights defenders, denial of access to appropriate medical treatment, incommunicado detention and torture while in detention, and alleged sexual violence.

114. JUA 22/08/2013. Case no. [CHN 9/2013](#). State reply: none to date. Alleged arrests and administrative detention of four human rights defenders.

115. JUA 18/09/2013. Case no. [CHN 10/2013](#). State reply: [03/12/2013](#). Allegations of arrest and detention of a human rights defender.

116. JUA 01/10/2013. Case no. [CHN 11/2013](#). State replies: [07/01/2014](#), [24/01/2014](#). Alleged imposition of travel bans on two human rights defenders, and enforced disappearance of one, working on China's upcoming UPR.

117. JUA 22/10/2013. Case no. [CHN 12/2013](#). State reply: [07/01/2014](#). Allegations of arbitrary arrest and detention, and enforced disappearance.

118. JUA 14/11/2013. Case no. [CHN 13/2013](#). State reply: [24/01/2014](#). Alleged arbitrary detention and deprivation of medical treatment of a human rights defender.

119. JUA 03/02/2014. Case no. [CHN 1/2014](#). State reply: [30/04/2014](#). Alleged arrest and detention of ten Tibetan singers and musicians.

### **Observations**

120. The Special Rapporteur thanks the Government of the People's Republic of China for its responses to most of his communications, but regrets that it did not respond to his letter of 22 August 2013. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide as soon as possible detailed responses to all the concerns raised in his communication.

121. The Special Rapporteur remains very preoccupied about the physical and psychological integrity of people exercising their rights to freedom of peaceful assembly and of association in China. He recommends that the Government put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms without undue hindrances.

122. The Special Rapporteur remains seriously concerned about the on-going repression against peaceful protestors in China, in particular in the Tibet Autonomous Region. He urges the authorities to protect and facilitate peaceful demonstrations, and refrain from using force during such demonstrations. He reminds that the rights to life and to be free from torture or cruel, inhuman or degrading treatment or punishment are non-derogable rights in international human rights law, including in the context of assemblies. In this regard, he refers to Article 5 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials Adopted by the Eighth United Nations Congress on the

Prevention of Crime and the Treatment of Offenders (1990), which provides that “whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall minimize damage and injury, and respect and preserve human life.” A thorough and independent investigation over any allegations of excessive use of force and of torture and ill treatment during peaceful demonstrations should be conducted, those responsible should be held accountable, and victims should be provided with full redress. He requests the Government to keep him informed about the investigations conducted in relation to the aforementioned case.

123. In addition, the Special Rapporteur remains deeply concerned about the arrest and detention of, and acts of intimidation against, human rights defenders in China for peacefully claiming their legitimate right to be part of the Universal Periodic Review process. He is particularly deeply disturbed by the death of Ms. Cao Shunli on 14 March 2014, subsequent to her enforced disappearance and then arbitrary detention, and the alleged denial of medical treatment while in detention. In this regard, the Special Rapporteur, jointly with other special procedures mandate holders, voiced concerns about Ms. Shunli’s situation in a public statement issued on 16 October 2013.<sup>3</sup>

124. The Special Rapporteur is also seriously concerned about the targeting of the members of the New Citizens Movement because of their peaceful and legitimate work in promoting human rights, primarily exposing alleged corruption amongst public officials and advocating for democracy.

125. The Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

126. The Special Rapporteur reminds again the Government of his country visit requests sent in September 2011 and October 2013, to which a response is yet to be received. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

## **Colombia**

127. JUA 01/05/2013. Case no. [COL 5/2013](#). State reply: Ninguna a la fecha. Supuestos ataques, amenazas, actos de intimidación y agresión física contra mujeres defensoras de derechos humanos en las regiones del norte de Colombia.

128. JUA 07/06/2013. Case no. [COL 6/2013](#). State reply: Ninguna a la fecha. Presunto robo de información contra miembros de la Fundación Nydia Erika Bautista y actos de hostigamiento contra miembros de la misma organización.

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<sup>3</sup> “UN experts alarmed by reprisals against activists linked to China’s international human rights review”(16/10/2013): <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13860&LangID=E>

129. JUA 02/08/2013. Case no. [COL 8/2013](#). State reply: [14/11/2013](#). Presuntas amenazas de muerte contra miembros del movimiento de derechos humanos de Barrancabermeja.
130. JUA 13/08/2013. Case no. [COL 9/2013](#). State reply: Ninguna a la fecha. Supuestas amenazas de muerte continuas contra sindicalistas en Colombia.
131. JUA 13/09/2013. Case no. [COL 10/2013](#). State replies: [14/11/2013](#), [24/12/2013](#). Presunto asesinato de un abogado y supuestos actos de intimidación, estigmatización y amenazas de muerte contra abogados en un contexto de ataques contra profesionales del derecho trabajando en casos de violaciones de derechos humanos, incluidas desapariciones forzadas e involuntarias.
132. JAL 18/11/2013. Case no. [COL 11/2013](#). State replies: [07/01/2014](#), [23/01/2014](#). Presuntos asesinatos de tres defensores y defensoras de derechos humanos.
133. JUA 27/01/2014. Case no. [COL 2/2014](#). State reply: Ninguna a la fecha. Presunto patrón de asesinatos, ataques, y amenazas de muerte y allanamientos, perpetrados por grupos armados ilegales en contra defensores de derechos humanos trabajando en conexión con el proceso de restitución de tierras en el país.
134. JUA 25/02/2014. Case no. [COL 3/2014](#). State reply: Ninguna a la fecha. Presunto patrón de ataques y amenazas de muerte perpetrados por actores no-estatales contra defensores de derechos humanos en Colombia.

### Observaciones

135. El Relator Especial agradece al Gobierno de Colombia las respuestas recibidas a tres de sus ocho comunicaciones durante el periodo del presente informe, y lo invita a responder con urgencia a las comunicaciones pendientes. El Relator Especial considera que las respuestas a sus comunicaciones constituyen una parte esencial de la cooperación de los gobiernos con su mandato, e insta a las autoridades a proporcionar con la menor dilación posible respuestas detalladas a todas las inquietudes planteadas en sus comunicaciones.
136. El Relator Especial toma nota de la respuesta del Gobierno del 12 de noviembre de 2013 respecto del estado de las investigaciones relativas a las presuntas amenazas de muerte contra miembros del movimiento de derechos humanos en Barrancabermeja, y subraya la importancia de que se lleven a cabo investigaciones prontas e imparciales, que los responsables sean traducidos en justicia y que las víctimas reciban una reparación adecuada.
137. Se reconoce el esfuerzo del Gobierno de Colombia para garantizar que las personas que ejercen su derecho a la libertad de reunión pacífica y de asociación puedan hacerlo en condiciones de seguridad, incluyendo medidas de protección adoptadas en favor de organizaciones que son blancos de amenazas. Sin embargo, el Relator Especial muestra su gran inquietud ante la información recibida relativa al presunto asesinato del abogado Juan Carlos Canizales Ocampo y actos de intimidación y amenazas de muerte contra los abogados José Humberto Torres y Sneither Cifuentes del Colectivo de Abogados José Alvear Restrepo (CAJAR). Asimismo, expresa grave preocupación por los presuntos asesinatos de la Sra. Adelinda Gómez Gaviria, miembro del Proceso de Mujeres Maciceñas del Comité de Integración del Macizo Colombiano (CIMA), y los Sres. Nelson Giraldo Posada, líder del Movimiento de Ríos Vivos, y César García, miembro del Comité Ambiental Conciencia Campesina y Presidente de la Junta de Acción Comunal de la Vereda, todas organizaciones relacionadas al derecho de acceso a la tierra.
138. A su vez, el Relator Especial desea manifestar su preocupación por las serias alegaciones recibidas de amenazas de muerte continuas contra sindicalistas y/o miembros de sus familias. En este sentido, desea insistir en el contenido del párrafo operativo 2 de la

Resolución 24/5 del Consejo de Derechos Humanos donde se “[r]ecuerda a los Estados su obligación de respetar y proteger plenamente los derechos de todas las personas a la libertad de reunión pacífica y de asociación por cualquier vía, electrónica o no, también en el contexto de unas elecciones, incluidas las personas que abracen opiniones o creencias minoritarias o disidentes, los defensores de los derechos humanos, las personas afiliadas a sindicatos y otras personas, como los migrantes, que traten de ejercer o promover esos derechos, y de adoptar todas las medidas necesarias para asegurar que cualquier restricción al libre ejercicio del derecho a la libertad de reunión pacífica y de asociación sea conforme con las obligaciones que les incumben en virtud del derecho internacional de los derechos humanos.”

139. El Relator Especial expresa a su vez su preocupación por las alegaciones recibidas de amenazas, intimidación y agresión física contra asociaciones en las regiones del norte de Colombia. En particular, le preocupa la seguridad e integridad física y psicológica de los miembros de asociaciones que trabajan en temas relacionados con los derechos humanos y la restitución de tierras, en un contexto de creciente violencia e inseguridad que pone en especial riesgo a las mujeres en el ejercicio legítimo de su derecho a la libertad de reunión pacífica y asociación.

140. En este sentido, el Relator Especial quisiera insistir en la necesidad de asegurar la existencia de un ambiente seguro y propicio para la sociedad civil que permita el libre ejercicio de los derechos de asociación y reunión pacífica. Asimismo, reitera que el Estado tiene una obligación positiva de llevar a cabo medidas eficaces para hacer efectivo el disfrute de estos derechos.

141. El Relator Especial reitera los artículos 21 y 22 del Pacto Internacional de Derechos Civiles y Políticos, que Colombia ratificó y se comprometió a respetar y a garantizar el 29 de Octubre de 1969, y que garantizan los derechos de reunión pacífica y asociación. En el primero “[s]e reconoce el derecho de reunión pacífica. El ejercicio de tal derecho sólo podrá estar sujeto a las restricciones previstas por la ley que sean necesarias en una sociedad democrática, en interés de la seguridad nacional, de la seguridad pública o del orden público, o para proteger la salud o la moral públicas o los derechos y libertades de los demás”. El segundo estipula: “[t]oda persona tiene derecho a asociarse libremente con otras, incluso el derecho a fundar sindicatos y afiliarse a ellos para la protección de sus intereses. El ejercicio de tal derecho sólo podrá estar sujeto a las restricciones previstas por la ley que sean necesarias en una sociedad democrática, en interés de la seguridad nacional, de la seguridad pública o del orden público, o para proteger la salud o la moral públicas o los derechos y libertades de los demás...”

## **Cuba**

142. JUA 28/03/2013. Case no. [CUB 1/2013](#). State reply: [21/05/2013](#). Supuesto uso excesivo de la fuerza y agresión física contra de una defensora de los derechos humanos, y supuesta negación de atención médica.

143. JAL 23/07/2013. Case no. [CUB 4/2013](#). State reply: [19/08/2013](#). Presuntos actos de intimidación y represalias contras dos abogadas y defensoras de derechos humanos por su cooperación con el Comité de Naciones Unidas para la Discriminación contra la Mujer durante la 55 sesión del mismo.

144. JUA 04/11/2013. Case no. [CUB 5/2013](#). State reply: [06/01/2014](#). Presunto incremento de actos de acoso, conocidos como “actos de repudio”, llevados a cabo por agentes del Estado y grupos de vigilantes, que tienen como objetivo intimidar a defensores y defensoras de derechos humanos en sus propias casas.



145. JUA 04/12/2013. Case no. [CUB 6/2013](#). State reply: [11/02/2014](#). Alegaciones de abuso físico y psicológico contra un periodista independiente y defensor de derechos humanos que se encuentra detenido.

146. JAL 28/02/2014. Case no. [CUB 1/2014](#). State reply: Ninguna a la fecha. Presunto hostigamiento y detención de defensores y defensoras de derechos humanos y activistas en conexión con la segunda Cumbre de la Comunidad de Estados Latinoamericanos y Caribeño (CELAC), que se celebró los días 28 y 29 de enero de 2013 en La Habana.

### **Observaciones**

147. El Relator Especial agradece al Gobierno de Cuba las respuestas recibidas a cuatro de sus cinco comunicaciones durante el periodo del presente informe, y lo invita a responder con urgencia a la carta de alegación con fecha del 28 de febrero de 2014 (CUB 1/2014).

148. El Relator Especial leyó con interés las respuestas recibidas. Reconoce que asociaciones integradas por personas que abrazan convicciones o creencias minoritarias o disidentes pueden provocar tensiones, pero insiste “en el deber del Estado de asegurar a todas las personas la posibilidad de expresar pacíficamente sus opiniones sin ningún temor.” (A/HRC/20/27, párrafo 64).

149. El Relator Especial hace nuevamente hincapié en la necesidad de asegurar la existencia de un ambiente propicio para la sociedad civil, en términos de disfrute del derecho a la libertad de reunión pacífica y asociación.

150. El Relator Especial confía en que el Gobierno de Cuba responderá favorablemente a sus solicitudes de visita hechas en 2011, 2012 y 2013. En este contexto, el Consejo de Derechos Humanos, en su resolución 15/21, “[e]xhorta a los Estados a que colaboren plenamente con el relator especial y le presten asistencia en el desempeño de sus funciones... y consideren favorablemente sus solicitudes para realizar visitas” (OP6).

### **Czech Republic**

151. JAL 22/07/2013. Case no. [3/2013](#). State reply: [22/09/2013](#). Alleged repeated attacks targeting Roma communities in the cities of Ceske Budejovice and Duchcov by far-right groups.

### **Observations**

152. The Special Rapporteur thanks the Government for its response to his communication. He notes with interest the reinforcement of police patrols, the scrutiny of riot units and conflict-prevention teams, and the establishment of a special team tasked with analysing the audio and video recordings of the incident. He further notes with satisfaction that several alleged perpetrators have been apprehended. He calls on the authorities to bring all the perpetrators before justice and ensure that the victims are provided with full redress.

153. The Special Rapporteur deems necessary to remind the authorities that “[i]n the case of simultaneous assemblies at the same place and time, [he] considers it good practice to allow, protect and facilitate all events, whenever possible. In the case of counter-demonstrations, which aim at expressing discontent with the message of other assemblies, such demonstrations should take place, but should not dissuade participants of the other assemblies from exercising their right to freedom of peaceful assembly. In this respect, the role of law enforcement authorities in protecting and facilitating the events is crucial” (A/HRC/20/27, para. 30).

### **Djibouti**

154. JAL 14/02/2014. Case no. [DJI 1/2014](#). State reply: Aucune à ce jour. Allégations d'arrestations arbitraires et de harcèlement judiciaire contre des défenseurs de droits de l'homme, opposants politiques et un membre du personnel de presse.

#### **Observations**

155. Le Rapporteur spécial regrette de ne pas avoir reçu de réponse du Gouvernement de Djibouti à sa communication transmise durant la période couverte par le présent rapport. Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des gouvernements avec son mandat et invite de ce fait le Gouvernement à lui transmettre sans tarder des réponses aux préoccupations soulevées dans sa communication.

156. Notamment, le Rapporteur spécial s'inquiète de la situation particulièrement difficile dans laquelle les individus, y compris les défenseurs de droits de l'homme, les journalistes et les membres de partis politiques de l'opposition, tentent d'exercer leur droit à la liberté d'association et de réunion pacifique à Djibouti. Il appelle les autorités à prendre toutes les mesures nécessaires pour que toute personne puisse librement exercer son droit à la liberté d'association et de réunion pacifique sans être soumis à, ou être menacé d'être soumis à des faits de discrimination, de menace, de recours à la violence, de harcèlement, de persécution, d'intimidation ou de représailles. Il appelle également les autorités à prendre toutes les mesures nécessaires pour que soit mis fin à toute forme d'impunité contre les violations des droits de l'homme dans le pays.

157. Le Rapporteur spécial rappelle les dispositions de la résolution 24/5 du Conseil des droits de l'homme selon lesquelles les États ont l'obligation « de respecter et de protéger pleinement le droit de tous les individus de se réunir pacifiquement et de s'associer librement, à la fois en ligne et hors ligne, notamment à l'occasion des élections, y compris les personnes qui professent des opinions ou des croyances minoritaires ou dissidentes, les défenseurs des droits de l'homme, les syndicalistes et tous ceux, notamment les migrants, qui cherchent à exercer ou à promouvoir ce droit, ainsi que leur obligation de faire en sorte que les restrictions éventuellement imposées au libre exercice du droit de réunion pacifique et de la liberté d'association soient conformes aux obligations qui leur incombent en vertu du droit international des droits de l'homme.»

158. Le Rapporteur spécial rappelle au Gouvernement de Djibouti ses demandes de visite formulées en 2011 et 2013. A cet égard, le Conseil des droits de l'homme, par le biais de sa résolution 15/21, « [e]ngage les États à prêter leur concours et à offrir une coopération sans réserve au rapporteur spécial lorsqu'il exerce ses fonctions... et à donner une suite favorable à ses demandes de visite » (OP6).

#### **Ecuador**

159. JAL 16/09/2013. Case no. [ECU 1/2013](#). State reply: [06/12/2013](#). Presunta restricción indebida del derecho de asociación mediante la expedición del Decreto Ejecutivo No. 16.

160. JAL 04/10/2013. Case no. [ECU 2/2013](#). State reply: [29/11/2013](#). Alegaciones de condena a 12 años de prisión por el delito de terrorismo organizado de tres líderes indígenas.

161. JAL 31/12/2013. Case no. [ECU 4/2013](#). State reply: Ninguna a la fecha. Presunto cierre de una organización que trabaja por derechos medioambientales y de los pueblos indígenas de la Amazonía, basado en el Decreto no. 16.

#### **Observaciones**



162. El Relator Especial agradece los acuses de recepción a dos de sus tres comunicaciones. Sin embargo, lamenta no haber recibido ninguna respuesta a sus preguntas por parte del Gobierno de Ecuador durante el período del presente informe. Considera que las respuestas a sus comunicaciones constituyen una parte esencial de la cooperación de los gobiernos con su mandato, e insta a las autoridades a proporcionar con la menor dilación posible respuestas detalladas a todas las inquietudes planteadas en sus comunicaciones.

163. Como ha hecho con anterioridad, el Relator Especial insiste en la necesidad de asegurar la existencia de un ambiente propicio para la sociedad civil, que permita el libre ejercicio de los derechos de asociación y reunión pacífica. Asimismo, reitera que el Estado tiene una obligación positiva de llevar a cabo medidas eficaces para hacer efectivo el disfrute de estos derechos.

164. El Relator Especial muestra su seria inquietud ante la información recibida relativa al presunto cierre de la Fundación Pachamama, una organización que trabaja desde hace 18 años de forma pacífica y legítima por la promoción y defensa de los derechos humanos, en especial los derechos de los pueblos indígenas en la Amazonía. El Relator Especial está también muy preocupado por que aquélla decisión se base en la participación pacífica de dos de sus miembros en una protesta en Quito, y se sustente en un Decreto Ejecutivo, el Decreto no. 16 -referente al reglamento para el funcionamiento del Sistema Unificado de Información de las Organizaciones Sociales y Ciudadanas (SUIOS)- que pueda que contravenga normas y estándares internacionales y obligaciones del Ecuador en virtud del derecho internacional.

165. Al Relator Especial le preocupan particularmente algunas disposiciones contenidas en el Decreto no. 16 adoptado el 4 de junio de 2013, entre otras, la definición ambigua de asociación, la regulación del financiamiento externo posiblemente discriminatoria, la imposición de miembros, los causales amplios de disolución de asociaciones, y la sujeción a un requisito obligatorio de registro. El Relator Especial recuerda que de conformidad con las mejores prácticas identificadas sobre el derecho a la libertad de reunión pacífica y asociación, “el término “asociación” debería entenderse “como todo grupo de personas físicas o jurídicas agrupadas para actuar de consuno y expresar, promover, reivindicar o defender colectivamente un conjunto de intereses comunes” (A/HRC/20/27, párrafo 51). Con respecto al financiamiento, el Relator Especial recuerda que el Consejo de Derechos Humanos ha exhortado a los Estados “a velar por que con ellas [las obligaciones de información impuestas a los individuos, los grupos y las instituciones] no se impongan restricciones de manera discriminatoria a posibles fuentes de financiación destinadas a apoyar la labor de los defensores de los derechos humanos” (A/HRC/RES/22/6, párrafo 9b) y ha reconocido “que los recursos son necesarios para la existencia y el funcionamiento sostenible de toda asociación” (A/HRC/RES/24/5, pp. 7). En lo referente a la adhesión, el Relator destaca como un elemento importante del derecho a la libertad de asociación “el principio de que nadie podrá ser obligado a pertenecer a una asociación... ya que una injerencia directa en la composición de sus miembros podría poner en peligro su independencia” (A/HRC/20/27, párrafo 55). Recuerda también, como mencionado en su informe temático al Consejo de Derechos Humanos, que “[l]a suspensión y la disolución involuntaria de una asociación son las formas más severas de restricción de la libertad de asociación. Por consiguiente, de conformidad con las normas internacionales de derechos humanos, esas medidas sólo podrán imponerse ante un riesgo claro e inminente de violación flagrante de la legislación nacional. Deberán ser estrictamente proporcionales a su legítimo objetivo y se utilizarán únicamente cuando sean insuficientes medidas menos severas” (A/HRC/20/27, párrafo 75). A su vez, reitera que en lo relativo a la institución de asociaciones como personas jurídicas sólo un “procedimiento de notificación” se ajusta a las normas internacionales de derechos humanos y debe ser aplicado por los Estados en lugar del “procedimiento de autorización previa”, que implica recibir la aprobación de las autoridades (A/HRC/20/27, párrafo 75). Asimismo, recuerda que “[e]n caso de adopción de

nuevas leyes, no se debe exigir la reinscripción de todas las asociaciones ya registradas, a fin de protegerlas contra denegaciones arbitrarias o la interrupción de sus actividades” (A/HRC/20/27, párrafo 62).

166. El Relator Especial quisiera hacer hincapié en los artículos 21 y 22 del Pacto Internacional de Derechos Civiles y Políticos, que Ecuador ratificó y se comprometió a respetar y a garantizar el 6 de marzo de 1969, y que garantizan los derechos de reunión pacífica y asociación. En el primero “[s]e reconoce el derecho de reunión pacífica. El ejercicio de tal derecho sólo podrá estar sujeto a las restricciones previstas por la ley que sean necesarias en una sociedad democrática, en interés de la seguridad nacional, de la seguridad pública o del orden público, o para proteger la salud o la moral públicas o los derechos y libertades de los demás”. El segundo estipula: “[t]oda persona tiene derecho a asociarse libremente con otras, incluso el derecho a fundar sindicatos y afiliarse a ellos para la protección de sus intereses. El ejercicio de tal derecho sólo podrá estar sujeto a las restricciones previstas por la ley que sean necesarias en una sociedad democrática, en interés de la seguridad nacional, de la seguridad pública o del orden público, o para proteger la salud o la moral públicas o los derechos y libertades de los demás...” En su informe temático al Consejo de Derechos Humanos, el Relator Especial destaca “que solo podrán aplicarse "ciertas" restricciones, es decir que, sin lugar a dudas, la libertad será la regla y la restricción su excepción. A este respecto, se refiere a la Observación general N° 27 (1999) del Comité de Derechos Humanos sobre la libertad de circulación, según la cual, "al aprobar leyes que prevean restricciones... los Estados deben guiarse siempre por el principio de que las restricciones no deben comprometer la esencia del derecho..., no se debe invertir la relación entre derecho y restricción, entre norma y excepción". En consecuencia, cuando los Estados deseen restringir esos derechos, deberán cumplir todas las condiciones mencionadas. Por lo tanto, toda restricción debe obedecer a uno de los intereses concretos antes señalados, poseer un fundamento jurídico (estar "prescrita por la ley", lo que implica que la ley debe ser accesible y estar formulada con la suficiente precisión) y "ser necesaria en una sociedad democrática" (A/HRC/20/27, párrafo 16).

167. Asimismo, el Relator Especial reitera el contenido del párrafo operativo 2 de la Resolución 24/5 del Consejo de Derechos Humanos donde se “[r]ecuerda a los Estados su obligación de respetar y proteger plenamente los derechos de todas las personas a la libertad de reunión pacífica y de asociación por cualquier vía, electrónica o no, también en el contexto de unas elecciones, incluidas las personas que abracen opiniones o creencias minoritarias o disidentes, los defensores de los derechos humanos, las personas afiliadas a sindicatos y otras personas, como los migrantes, que traten de ejercer o promover esos derechos, y de adoptar todas las medidas necesarias para asegurar que cualquier restricción al libre ejercicio del derecho a la libertad de reunión pacífica y de asociación sea conforme con las obligaciones que les incumben en virtud del derecho internacional de los derechos humanos.”

168. El Relator Especial quisiera recordar al Gobierno de Ecuador su solicitud de visita del 14 de febrero de 2014 a la cual no ha aún recibido respuesta. En este contexto, el Consejo de Derechos Humanos, en su resolución 15/21, “[e]xhorta a los Estados a que colaboren plenamente con el relator especial y le presten asistencia en el desempeño de sus funciones... y consideren favorablemente sus solicitudes para realizar visitas” (OP6). Una eventual visita, le permitiría clarificar las alegaciones recibidas y valorar objetivamente la situación de los derechos a la libertad de reunión pacífica y de asociación en el país.

## **Egypt**

169. JAL 20/03/2013. Case no. [EGY 5/2013](#). State reply: [19/05/2013](#). Allegations relating to a new draft law on associations violating international law and standards pertaining to the right to freedom of association.

170. JAL 20/06/2013. Case no. [EGY 9/2013](#). State reply: [22/01/2014](#). Allegations that sentences issued by the Cairo Criminal Court form part of a campaign aimed at unduly restricting the work carried out by civil society organizations.
171. JAL 28/06/2013. Case no. [EGY 8/2013](#). State reply: None to date. Alleged serious physical threats and assaults on and interference in the independence of the judiciary from both the executive and legislative.
172. JUA 09/07/2013. Case no. [EGY 10/2013](#). State reply: None to date. Allegations relating to at least 90 cases of sexual violence against women since 30 June 2013 during protests, partly due to the absence of police.
173. JUA 06/08/2013. Case no. [EGY 11/2013](#). State reply: None to date. Allegations of excessive use of force, including lethal force, during a demonstration, which resulted in the killing of over 80 persons and the wounding of hundreds.
174. JAL 16/09/2013. Case no. [EGY 16/2013](#). State reply: None to date. Alleged issuance of an arrest warrant against a human rights defender.
175. JUA 03/12/2013. Case no. [EGY 16/2013](#). State replies: [30/12/2013](#), [21/01/2014](#). Alleged disproportionate use of force and arbitrary arrest of peaceful protestors, including journalists and human rights defenders, by Egyptian security forces.
176. JUA 06/12/2013. Case no. [EGY 17/2013](#). State replies: [27/12/2013](#), [21/01/2014](#). Alleged torture and ill-treatment during arrest and while in detention of a blogger and human rights activist.
177. JUA 24/12/2013. Case no. [EGY 19/2013](#). State reply: [13/03/2013](#). Alleged acts of intimidation and reprisals in the form of a raid and arrests by security forces of the offices and its members of a prominent human rights organization which had been co-operating with the United Nations.

### **Observations**

178. The Special Rapporteur thanks the Government of Egypt for its responses to five out of nine of his communications. However, he regrets that the Government has not replied to all his communications at the time of the finalization of the present report.
179. During the period covered by the present report, the Special Rapporteur observed in dismay as 1,212 defendants were imposed death sentences for charges such as unlawful gathering after a two-day trial rife with procedural irregularities. Such events pushed him to publicly express his concerns in two press releases on [31 March](#) and [15 May](#) 2014. He trusts the Government of Egypt will take all the necessary steps to foster a society based on dialogue, justice and respect of human rights, without delay.
180. The Special Rapporteur wishes to express his serious concern at the alleged absence of police protection for demonstrators and excessive use of force during peaceful protests, which resulted in at least 90 cases of sexual violence against women. While he fully takes note of the response of the Government on 4 April 2013 denying records, the Special Rapporteur wishes to emphasize the positive obligation of the State to facilitate the exercise of the right to hold and participate in peaceful assemblies. He reminds the Government of Egypt that this obligation includes tackling practices that threaten or impede the enjoyment of the right to peacefully demonstrate by groups at greater risk of discrimination, violence, harassment and retribution, such as women. He urges the authorities to investigate into allegations of excessive use of forces and allegations of gender-based violence, including sexual violence, during peaceful assemblies. He calls on the authorities to bring the perpetrators to justice and ensure that the victims will obtain adequate redress.

181. The Special Rapporteur recommends that the Government put in place an enabling and safe environment allowing *all* individuals to exercise their legitimate freedoms of peaceful assembly and association without undue hindrances. He reiterates the content of the operative paragraph 2 of the Human Rights Council Resolution 24/5 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

182. The Special Rapporteur read with specific interest the response of the Government sent on 19 May 2013 concerning an alleged new draft law on associations violating international law and standards. He is pleased to read that the drafting of new laws is done in consultation with civil and political associations and he trusts authorities will review controversial clauses to ensure that legal texts remain in full respect of the State’s international obligations. The Special Rapporteur stands ready to be of assistance and trusts that the Government of Egypt will provide him soon with updates on the status on the national debate on this matter.

183. In relation to the arrest of 43 members of civil society organizations, the Special Rapporteur wishes to thank the Government of Egypt for its detailed response on 23 January 2014. However, he remains concern about the prosecution and conviction of members of non-governmental organizations, including human rights organizations, carrying out a legitimate and peaceful work. He is concerned that the legal grounds for their convictions do not meet with international human rights norms and standards. According to the Government’s response, charges include: carrying out “unauthorized activities”, running “unlicensed branches”, “conspiring to carry out activities run by unlicensed branches”, and “receiving money directly from a foreign organization” to operate unlicensed associations’ branches”. As stated in his thematic report to the Human Rights Council, the Special Rapporteur underlines that the right to freedom of association “equally protects associations that are not registered ... Individuals involved in unregistered associations should indeed be free to carry out any activities ... and should not be subject to criminal sanctions” (A/HRC/20/27, paragraph 56). Furthermore, he is of the opinion that authorities should automatically and as soon as notified grant legal personality to associations and that “the formation of branches of associations, foreign associations or unions or networks of associations, including at the international level, should be subject to the same notification procedure” (A/HRC/20/27, paragraph 58 and 59). In addition, the Special Rapporteur reiterates that the ability for associations to seek, secure and use funding is an integral and vital part of the right to freedom of association. The Human Rights Committee observed in its communication 1274/2004 that “the right to freedom of association relates not only to the right to form an association, but also guarantees the right of such an association freely to carry out its statutory activities. The protection afforded by article 22 extends to all activities of an association ...” (CCPR/C/88/D/1274/2004, paragraph 7.2). The Special Rapporteur is mindful of the responsibility of the State to address money-laundering and terrorism. However, these cannot justify restrictions “other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others”, in accordance with the article 22 of the International Covenant on Civil and Political Rights ratified by Egypt on 14 January 1982.

184. The Special Rapporteur refers to the content of the operative paragraph 2 of the Human Rights Council Resolution 24/5 that “[r] reminds States of their obligation to

respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

185. The Special Rapporteur reminds the Government of Egypt of his country visit requests sent in September 2011 and October 2013. He regrets to not have received a response to date. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

## **El Salvador**

186. JAL 28/11/2013. Case no. [SLV 3/2013](#). State reply: [29/01/2014](#). Presunto allanamiento y destrucción de documentos y materiales de una organización y actos violentos e intimidatorios contra varios integrantes de la misma.

### **Observaciones**

187. El Relator Especial agradece la respuesta detallada del Gobierno de El Salvador a la carta de alegación conjunta con fecha del 20 de diciembre de 2013 y toma nota con satisfacción de las acciones realizadas por el Estado para implementar las medidas cautelares otorgadas por la Comisión Interamericana de Derechos Humanos el 21 de Noviembre de 2013, a favor de la Asociación Pro-Búsqueda de Niñas y Niños Desaparecidos.

188. El Relator Especial solicita al Gobierno mantenerlo informado de las investigaciones de los hechos y del cumplimiento de las medidas cautelares. A su vez, hace hincapié en la necesidad de asegurar la existencia de un ambiente propicio para la sociedad civil, en términos de disfrute del derecho a la libertad de reunión pacífica y asociación y reitera el contenido del párrafo operativo 2 de la Resolución 24/5 del Consejo de Derechos Humanos donde se “[r]ecuerda a los Estados su obligación de respetar y proteger plenamente los derechos de todas las personas a la libertad de reunión pacífica y de asociación por cualquier vía, electrónica o no, también en el contexto de unas elecciones, incluidas las personas que abracen opiniones o creencias minoritarias o disidentes, los defensores de los derechos humanos, las personas afiliadas a sindicatos y otras personas, como los migrantes, que traten de ejercer o promover esos derechos, y de adoptar todas las medidas necesarias para asegurar que cualquier restricción al libre ejercicio del derecho a la libertad de reunión pacífica y de asociación sea conforme con las obligaciones que les incumben en virtud del derecho internacional de los derechos humanos.”

## **Georgia**

189. JAL 13/06/2013. Case no. [GEO 1/2013](#). State reply: none to date. Alleged lack of effective protection provided to demonstrators during the International Day against Homophobia and subsequent threats made against members of an LGBTI organization.

### **Observations**

190. The Special Rapporteur regrets that the Government of Georgia did not respond to its communication. He considers responses to his communications as an important part of

the cooperation of Governments with his mandate, and urges the authorities to provide as soon as possible detailed responses to all the concerns raised in the latter communication.

191. The Special Rapporteur urges the authorities to take all relevant measures to ensure that any individual, in particular lesbian, gay, bisexual and transgender people, can peacefully exercise their rights of freedom of peaceful assembly and of association. He recommends that the Government put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms without undue hindrances. In this regard, he calls upon the authorities to “[t]ake positive measures, including affirmative action measures, to ensure that all individuals belonging to groups most at risk [such as LGBTI people] have the ability to exercise effectively their rights, including to freedom of peaceful assembly and of association” (A/HRC/26/29, para. 73(c)). Finally, he calls on the authorities to bring all the perpetrators before justice and ensure that the victims are provided with full redress.

192. In this context, the Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

## **Guatemala**

193. JUA 27/03/2013. Case no. [GTM 3/2013](#). State reply: Ninguna a la fecha. Presuntos asesinatos, amenazas y secuestros de defensores de derechos humanos.

194. JAL 17/05/2013. Case no. [GTM 5/2013](#). State reply: Ninguna a la fecha. Supuestos actos de desprestigio e intimidación contra una organización de derechos humanos.

195. JAL 05/08/2013. Case no. [GTM 6/2013](#). State reply: Ninguna a la fecha. Presuntos asesinatos, ataques y actos de intimidación y desprestigio contra defensores y defensoras de derechos medioambientales.

## **Observaciones**

196. El Relator Especial lamenta no haber recibido respuesta por parte del Gobierno a las comunicaciones enviadas conjuntamente con otros expertos independientes de la ONU, en las cuales expresaba consternación por las muertes de defensores de derechos humanos que trabajan por los derechos de los pueblos indígenas y campesinos, y ataques a su integridad física y psicológica. También le preocupaba la supuesta criminalización del ejercicio del derecho a la libertad de reunión pacífica. El Relator Especial considera que las respuestas a sus comunicaciones constituyen una parte esencial de la cooperación de los gobiernos con su mandato, e insta a las autoridades a proporcionar con la menor dilación posible respuestas detalladas a todas las inquietudes planteadas en sus comunicaciones.

197. El Relator Especial confía en que el Estado complete de forma pronta y adecuada investigaciones de los hechos para depurar responsabilidades, llevar a los culpables ante la justicia y proveer compensación adecuada a las víctimas. Solicita al Gobierno de Guatemala mantenerlo informado del estado de las investigaciones.

198. El Relator Especial quisiera insistir en la necesidad de asegurar la existencia de un ambiente seguro y propicio para la sociedad civil que permita el libre ejercicio de los derechos de asociación y reunión pacífica. Recuerda que el Estado tiene una obligación

positiva de llevar a cabo medidas eficaces para hacer efectivo el disfrute de estos derechos y reitera el contenido del párrafo operativo 2 de la Resolución 24/5 del Consejo de Derechos Humanos acerca de la obligación de los Estados “de respetar y proteger plenamente los derechos de todas las personas a la libertad de reunión pacífica y de asociación por cualquier vía, electrónica o no, también en el contexto de unas elecciones, incluidas las personas que abracen opiniones o creencias minoritarias o disidentes, los defensores de los derechos humanos, las personas afiliadas a sindicatos y otras personas, como los migrantes, que traten de ejercer o promover esos derechos, y de adoptar todas las medidas necesarias para asegurar que cualquier restricción al libre ejercicio del derecho a la libertad de reunión pacífica y de asociación sea conforme con las obligaciones que les incumben en virtud del derecho internacional de los derechos humanos.”

199. El Relator Especial agradece nuevamente la invitación del 3 de noviembre de 2011 del Gobierno de Guatemala para llevar a cabo una visita oficial al país. Lamenta no haber podido realizarla en las fechas propuestas debido a otros compromisos y propone al Gobierno aplazarla a una ulterior fecha mutuamente acordada.

## Guinea

200. JUA 24/05/2013. Case no. [GNQ 1/2013](#). State reply: Ninguna a la fecha. Presunta detención arbitraria de 11 personas por haber intentado organizar una manifestación política en Malabo el 15 de mayo de 2013.

201. JUA 20/08/2013. Case no. [GNQ 2/2013](#). State reply: Ninguna a la fecha. Presunta detención arbitraria de una dirigente política con un estado de salud preocupante.

## Observaciones

202. El Relator Especial lamenta no haber recibido respuesta por parte del Gobierno de Guinea a los dos llamados urgentes enviados conjuntamente con otros expertos independientes de la ONU, en la cual expresaba seria preocupación por la integridad física y psicológica de diez personas que habrían sido detenidas sin cargos entre el 13 y el 15 de mayo de 2013 por intentar organizar una reunión pacífica, incluida la Sra. Clara Nsegue Eyi, fundadora del partido de oposición Partido Democrático de Justicia Social, y el Sr. Salvador Bibang Ela, dirigente del partido político opositor Convergencia Social Democrática Popular, así como por la detención en régimen de incomunicado y sin cargos, el 20 de mayo de 2013, del Sr. Jerónimo Ndong, Secretario General del partido político de oposición Union Popular.

203. El Relator Especial considera que las respuestas a sus comunicaciones constituyen una parte esencial de la cooperación de los gobiernos con su mandato, e insta a las autoridades a proporcionar con la menor dilación posible respuestas detalladas a todas las inquietudes planteadas en sus comunicaciones.

204. El Relator Especial quisiera insistir en la necesidad de asegurar la existencia de un ambiente seguro y propicio para la sociedad civil que permita el libre ejercicio de los derechos de asociación y reunión pacífica. Recuerda al Gobierno de Guinea que la palabra asociación se refiere, entre otras cosas, a organizaciones de la sociedad civil, organizaciones no gubernamentales y partidos políticos (A/HRC/20/27 párrafo 52) y que el derecho a la libertad de reunión pacífica y asociación se encuentra garantizado en una variedad de instrumentos del derecho internacional de los derechos humanos, incluido en el Pacto Internacional de Derechos Civiles y Políticos, que Guinea se comprometió a observar el 24 de enero de 1978. Asimismo, reitera que el Estado tiene una obligación positiva de llevar a cabo medidas eficaces para hacer efectivo el disfrute de estos derechos.

205. Se reitera el contenido del párrafo operativo 2 de la Resolución 24/5 del Consejo de Derechos Humanos donde se “[r]ecuerda a los Estados su obligación de respetar y proteger



plenamente los derechos de todas las personas a la libertad de reunión pacífica y de asociación por cualquier vía, electrónica o no, también en el contexto de unas elecciones, incluidas las personas que abracen opiniones o creencias minoritarias o disidentes, los defensores de los derechos humanos, las personas afiliadas a sindicatos y otras personas, como los migrantes, que traten de ejercer o promover esos derechos, y de adoptar todas las medidas necesarias para asegurar que cualquier restricción al libre ejercicio del derecho a la libertad de reunión pacífica y de asociación sea conforme con las obligaciones que les incumben en virtud del derecho internacional de los derechos humanos.”

## **Haiti**

206. JAL 02/08/2013. Case no. [HTI 1/2013](#). State reply: Aucune à ce jour. Allégations de meurtre et d’agressions physiques à l’encontre de personnes homosexuelles ainsi que de menaces reçues par des associations défendant les droits des personnes lesbiennes, gays, bisexuels et transgenres (LGBT).

207. JUA 21/10/2013. Case no. [HTI 2/2013](#). State reply: Aucune à ce jour. Allégations d’une attaque et d’une série d’actes d’intimidation et de menaces contre deux femmes défenseuses des droits de l’homme.

### **Observations**

208. Le Rapporteur spécial regrette de ne pas avoir reçu de réponse du Gouvernement de Haïti aux communications transmises durant la période couverte par le présent rapport. Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des gouvernements avec son mandat et invite de ce fait le Gouvernement à lui transmettre sans tarder des réponses aux préoccupations soulevées dans ses communications.

209. Notamment, le Rapporteur spécial exprime son désarroi face aux allégations reçues concernant des meurtres, agressions physiques, actes d’intimidation, appels à la violence et menaces de mort à répétition contre des individus prétendus homosexuels, y compris les membres de l’organisation Kouraj qui milite pour les droits des personnes lesbiennes, gays, bisexuelles et transgenres en Haïti. Il appelle les autorités à prendre toutes les mesures nécessaires pour que toute personne puisse librement exercer son droit à la liberté d’association et de réunion pacifique sans être soumis, ou menacé d’être soumis, à des faits de discrimination, de menace, de recours à la violence, d’harcèlement, de persécution, d’intimidation ou de représailles. Il appelle également les autorités à prendre toutes les mesures nécessaires pour que soit mis fin à toute forme d’impunité contre les violations des droits de l’homme dans le pays.

210. Le Rapporteur spécial rappelle les dispositions de la résolution 24/5 du Conseil des droits de l’homme selon lesquelles les États ont l’obligation « de respecter et de protéger pleinement le droit de tous les individus de se réunir pacifiquement et de s’associer librement, à la fois en ligne et hors ligne, notamment à l’occasion des élections, y compris les personnes qui professent des opinions ou des croyances minoritaires ou dissidentes, les défenseurs des droits de l’homme, les syndicalistes et tous ceux, notamment les migrants, qui cherchent à exercer ou à promouvoir ce droit, ainsi que leur obligation de faire en sorte que les restrictions éventuellement imposées au libre exercice du droit de réunion pacifique et de la liberté d’association soient conformes aux obligations qui leur incombent en vertu du droit international des droits de l’homme.»

## **Honduras**



211. JUA 27/08/2013. Case no. [HND 4/2013](#). State reply: [20/09/2013](#). Presunto asesinato, amenazas y otros actos intimidatorios en contra de defensores de derechos medio-ambientales, derechos a la tierra, y derechos de los pueblos indígenas.

212. JUA 20/01/2014. Case no. [HND 1/2014](#). State reply: Ninguna a la fecha. Presunto patrón de ataques y hostigamiento contra organizaciones que trabajan en defensa de los derechos de las personas LGBTI en Honduras.

### **Observaciones**

213. El Relator Especial agradece la respuesta detallada del Gobierno de Honduras al llamado urgente conjunto con fecha del 27 de agosto de 2013. Sin embargo, lamenta no haber recibido respuesta por parte del Gobierno a la comunicación con fecha del 20 de enero de 2014 en la cual expresaba su seria preocupación por un supuesto patrón de ataques y actos de hostigamiento contra integrantes de asociaciones que trabajan por los derechos humanos de las personas lesbianas, gays, bisexuales, transexuales e intersexuales, en particular las asociaciones Por Una Vida Mejor (APUVIMEH), y Arcoiris. El Relator Especial considera que las respuestas a sus comunicaciones constituyen una parte esencial de la cooperación de los gobiernos con su mandato, e insta a las autoridades a proporcionar con la menor dilación posible respuestas detalladas a todas las inquietudes planteadas en sus comunicaciones.

214. Como ha hecho con anterioridad, el Relator Especial insiste en la necesidad de asegurar la existencia de un ambiente propicio para la sociedad civil, que permita el libre ejercicio de los derechos de asociación y reunión pacífica. Asimismo, reitera que el Estado tiene una obligación positiva de llevar a cabo medidas eficaces para hacer efectivo el disfrute de estos derechos y llama la atención del Gobierno de Honduras sobre el contenido del párrafo operativo 2 de la Resolución 24/5 del Consejo de Derechos Humanos donde se “[r]ecuerda a los Estados su obligación de respetar y proteger plenamente los derechos de todas las personas a la libertad de reunión pacífica y de asociación por cualquier vía, electrónica o no, también en el contexto de unas elecciones, incluidas las personas que abracen opiniones o creencias minoritarias o disidentes, los defensores de los derechos humanos, las personas afiliadas a sindicatos y otras personas, como los migrantes, que traten de ejercer o promover esos derechos, y de adoptar todas las medidas necesarias para asegurar que cualquier restricción al libre ejercicio del derecho a la libertad de reunión pacífica y de asociación sea conforme con las obligaciones que les incumben en virtud del derecho internacional de los derechos humanos.”

215. El Relator Especial quisiera recordar al Gobierno de Honduras su solicitud de visita del 14 de febrero de 2014 a la cual no ha aún recibido respuesta. Espera que la misma pueda llevarse a cabo en un futuro próximo; tal visita le permitiría clarificar las alegaciones recibidas y valorar objetivamente la situación de los derechos a la libertad de reunión pacífica y de asociación en el país. En este contexto, el Consejo de Derechos Humanos, en su resolución 15/21, “[e]xhorta a los Estados a que colaboren plenamente con el relator especial y le presten asistencia en el desempeño de sus funciones... y consideren favorablemente sus solicitudes para realizar visitas” (OP6).

### **India**

216. JAL 08/03/2013. Case no. [IND 4/2013](#). State reply: none to date. Alleged killing of a human rights defender and attempted killing of another defender.

217. AL 13/03/2013. Case no. [IND 5/2013](#). State reply: none to date. Allegations of attack against a peaceful protestor.

218. JAL 11/06/2013. Case no. [IND 7/2013](#). State reply: none to date. Alleged forced eviction of residents living in Jagatsinghpur District, Odisha, and surrounding areas in India.

219. JAL 04/07/2013. Case no. [IND 8/2013](#). State reply: none to date. Allegations of arbitrary detention and forcible dispersal of women human rights defenders in the context of a peaceful protest in West Bengal.

#### **Observations**

220. The Special Rapporteur regrets that the Government of India has not responded to any of his communications. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide detailed answers to all the concerns raised in his communications.

221. The Special Rapporteur remains gravely concerned about the killing of a human rights defender and attempted killing of another defender. He remains also concerned about reports of harassment and intimidation and the arbitrary detention of human rights defenders, including women human rights defenders, participating in peaceful protests. He urges that a thorough and independent investigation regarding the abovementioned incidents be conducted, to hold accountable those responsible and to provide full redress to victims.

222. The Special Rapporteur recommends that the Government put in place an enabling and safe environment that is conducive to the free expression of civil society allowing individuals to exercise their legitimate right to freedom of association without undue hindrances.

223. On 1 October 2013, the Special Rapporteur, jointly with other special procedures mandate holders, issued a press release calling to halt immediately the construction of a mega-steel plant in Odisha in light of serious human rights concerns.<sup>4</sup>

224. The Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

#### **Indonesia**

225. JAL 23/09/2013. Case no. [IDN 4/2013](#). State reply: none to date. Alleged arbitrary dispersal and arrests of a total of 71 peaceful protestors in Papua.

#### **Observations**

226. The Special Rapporteur regrets that the Government of Indonesia has not responded to his communication. He considers responses to his communications as an important part

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<sup>4</sup> “India: Urgent call to halt Odisha mega-steel project amid serious human rights concerns” (01/10/2013): <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13805&LangID=E>

of the cooperation of Governments with his mandate, and urges the authorities to provide detailed answers to all the concerns raised in his communications.

227. The Special Rapporteur remains very concerned about the situation of human rights defenders and political activists in West Papua who exercise their rights to freedom of peaceful assembly and of association. He urges the authorities to protect and facilitate the exercise of their rights, and not unduly interfere with it.

228. The Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

229. The Special Rapporteur reminds again the Government of Indonesia of his country visit requests sent in September 2011 and October 2013, to which a response is yet to be received. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

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

230. JUA 11/06/2013. Case no. [IRN 8/2013](#). State reply: none to date. Alleged threats against a church in Tehran and harassment of its members.

231. JUA 05/07/2013. Case no. [IRN 10/2013](#). State reply: [18/12/2013](#). Alleged arbitrary arrest and detention of journalists, political and student activists and a trade unionist in the lead up to the presidential elections of 14 June 2013.

232. JUA 18/11/2013. Case no. [IRN 22/2013](#). State reply: none to date. Alleged sentencing of human rights lawyer to 6 years of prison.

### **Observations**

233. The Special Rapporteur thanks the Government of the Islamic Republic of Iran for its reply to his communications dated 5 July 2013, but regrets that the Government of Indonesia has not responded to his other communications. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide detailed answers to all the concerns raised in his communications. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide detailed answers to all the concerns raised in his communications.

234. The Special Rapporteur remains seriously concerned about the physical and psychological integrity of people exercising their rights to freedom of peaceful assembly and of association in the Islamic Republic of Iran. He recommends again that the Government put in place an enabling and safe environment that is conducive to the free expression of civil society allowing individuals to exercise their legitimate right to freedom of association without undue hindrances. A thorough and independent investigation into any allegations of human rights violations, including acts of intimidations or harassments, committed against those exercising their rights to freedom of peaceful assembly and of

association, should be conducted; those responsible should be held accountable; and victims should be provided with full redress.

235. On 29 May 2013, the Special Rapporteur, jointly with other special procedures mandate holders, issued a press release in which he “warned that unreasonable limitations placed on the right of Iranian citizens to stand for Presidential office, discrimination against women candidates for elections and ongoing restrictions on freedoms of expression, association and peaceful assembly, constitute a serious violations of rights guaranteed by international law”.<sup>5</sup>

236. The Special Rapporteur welcomes the positive steps taken by the Government of the Islamic Republic of Iran in releasing prisoners of conscience, including the release of human rights lawyer, Ms. Nasrin Sotoudeh on 18 September 2013. However, he remains concerned that a number of human rights defenders, including lawyers, are currently serving lengthy sentences due to their legitimate work. He urges the Government to take immediate steps to ensure that civil society actors are able to carry out their work in a safe and enabling environment without fear of arrest, detention, harassment and prosecution.

237. In relation to elections, the Special Rapporteur “stresses that electoral periods are such an important time to build democratic, responsive and accountable institutions and that very strict and clear safeguards should be put in place by States to prevent undue interference in public freedoms, in particular in the rights to freedom of peaceful assembly and of association. Further, in times of elections, States should make greater efforts to facilitate and protect the exercise of these core rights, which should be enjoyed by everyone, especially by members of groups at risk. In effect, genuine elections cannot be achieved if the rights to freedom of peaceful assembly and of association are curtailed” (A/HRC/68/299, para. 56).

238. The Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

## **Israel**

239. JUA 27/03/2013. Case no. [ISR 4/2013](#). State reply: None to date. Alleged arrest, ill-treatment and arbitrary detention of a human rights defender.

240. JUA 02/08/2013. Case no. [ISR 7/2013](#). State reply: None to date. Alleged judicial harassment, stigmatization, physical attacks torture in custody and an assassination attempt against a human rights defender; possible acts of reprisals.

## **Observations**

241. The Special Rapporteur regrets that the Government of Israel has not responded to his communications. As stated in his previous report on 30 May 2013, he reiterates that he

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<sup>5</sup> “Iran: UN experts concerned at barring of women presidential candidates and freedom restrictions” (29/05/2013): <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13373&LangID=E>

considers the responses to his communications as an important part of the cooperation of Governments with his mandate and urges the authorities to provide detailed responses to all the concerns raised in his communications. The Special Rapporteur trusts the Government will shed light without further delay on the cases brought to his attention during the period under review, which include the reported detention and torture of Mr. Karajah, human rights defender and member of the Palestinian Grassroots Anti-Apartheid Wall Campaign, in January 2013, and the reports of judicial harassment, torture and defamation against Mr. Issa Amro, prominent human rights defender and founding member of several peaceful human rights organizations in the occupied West Bank, including Youth Against Settlements.

242. The Special Rapporteur expresses again his concern about increased restrictions on the rights of individuals to freedom of association of peaceful assembly; in particular, he is concerned that security considerations may be used to curtail these rights. The Special Rapporteur reminds the Government of Israel that the limitation measures provided for in the International Covenant on Civil and Political Rights are sufficient to effectively fight against terrorism. He reiterates the content of the articles 21 and 22 of the mentioned Covenant, which Israel ratified on 3 October 1991: “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.” (ICCPR, article 21) “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right” (ICCPR, article 22).

243. The Special Rapporteur urges the Government of Israel to take immediate steps to facilitate the exercise of peaceful assembly and free association. He reiterates the content of the operative paragraph 2 of the Human Rights Council Resolution 24/5 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

## **Kazakhstan**

244. JUA 31/01/2014. Case no. [KAZ 1/2014](#). State replies: [28/03/2014](#), [07/04/2014](#). Alleged persecution of several Jehovah’s Witnesses for alleged illegal missionary activity.

### **Observations**

245. The Special Rapporteur thanks the Government of Kazakhstan for its replies to his communication. A translation of these replies was not available at the time of drafting the present report.

246. The Special Rapporteur further thanks the Government for its invitation of 22 January 2014 to visit the country in January 2014. He hopes to be able to honour this invitation in the near future.

## Kenya

247. JAL 28/03/2013. Case no. [KEN 1/2013](#). State reply: None to date. Alleged undue blanket restrictions on public gatherings.

248. JUA 31/07/2013. Case no. [KEN 3/2013](#). State reply: None to date. Alleged harassment and intimidation of families of victims of enforced disappearances and of eight human rights defenders from a local NGO for perceived cooperation with the Working Group on Enforced and Involuntary Disappearances (WGEID).

249. JAL 04/09/2013. Case no. [KEN 4/2013](#). State reply: None to date. Alleged killing of a member of a human rights organization.

250. JUA 26/09/2013. Case no. [KEN 5/2013](#). State reply: None to date. Alleged killing of a human rights lawyer and alleged harassment and intimidation of families of victims of enforced disappearances and human rights defenders, including for cooperating with the Working Group on Enforced and Involuntary Disappearances.

251. JAL 15/11/2013. Case no. [KEN 8/2013](#). State reply: None to date. Alleged legislative developments that could unduly restrict the rights to freedom of association and expression.

### Observations

252. The Special Rapporteur deeply regrets that the Government of Kenya has neither responded to his communications sent during the current reporting period nor during the previous one. He reiterates that he considers the responses to his communications as an important part of the cooperation of Governments with his mandate and urges again the authorities to provide detailed responses to all the concerns raised in his communications without further delay.

253. Among the cases brought to his attention, the Special Rapporteur is particularly concerned about the reported harassment and intimidation by the police of members of local non-governmental organizations working on alleged cases of enforced disappearances and collaborating with human rights mechanisms of the United Nations. He also expresses his grave concern about the alleged killing of Mr. Hassan Guyo, founder member of the Strategies for Northern Development, an organization that promotes human rights for women, children and refugees and combat human trafficking in Eastern Africa. He urges the authorities of Kenya to conduct prompt and thorough investigations in each case, prosecute perpetrators, and provide adequate reparation to victims.

254. The Special Rapporteur calls upon the Government to put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms of peaceful assembly and association without undue hindrances. He reiterates the content of the operative paragraph 2 of the Human Rights Council Resolution 24/5 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

255. The Special Rapporteur expresses further concern about the provisions of the Statute Law (Miscellaneous Amendments) Bill (the “Bill”) that aims at amending, among others, the Public Benefit Organizations Act, 2013, which regulates associations, and the National Youth Council Act, 2009, which regulated activities carried out by youth groups and other



associations. The Bill allegedly includes unclear provisions that limit the rights to freedom of association, restrict the access of associations to funding, allow for undue State interference, and impose additional and unnecessary burden on civil society organizations.

256. Furthermore, the Special Rapporteur expresses concern at the allegations of a blanket ban on public gatherings in March 2013 following the presidential elections. He wishes to refer to the following extracts of his thematic report to the General Assembly: “The right to freedom of peaceful assembly and of association are pertinent to the democratic process, both during the election period and between elections” (A/68/299, paragraph 5). “More specifically, the right to freedom of peaceful assembly and of association are a critical means for individuals and groups of individuals to participate in public affairs” (A/68/299, paragraph 6). “The engagement of civil society organizations in the electoral process should not lead to their being involuntary labelled or treated as political parties simply as a result of their having participated in public life in the way in which they have chosen” (A/68/299, paragraph 9). Civil society organizations have also an important play in the context of elections ... In different capacities, organizations undertake various activities to advocate for the concerns and interests of their beneficiaries, to contribute to ensuring the integrity of the electoral process, to further contribute to the achievement, protection and strengthening of democratic goals and standards, and to keeping authorities accountable to the electorate” (A/68/299, paragraph 42).

257. In addition, the Special Rapporteur recalls the opinion of the Human Rights Committee that considers unjustified temporary derogation measures from the right of freedom of assembly during a state of emergency (General comment no. 29). He further reminds the Government of Kenya that only certain restrictions may be applied, as provided for in the International Covenant on Civil and Political Rights and that the freedom is to be considered the rule and its restriction the exception. He reiterates the content of the articles 21 and 22 of the mentioned Covenant, which Kenya acceded on 1 May 1972: “The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.” (article 21) “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right” (article 22).

258. The Special Rapporteur reminds the Government of Kenya of his country visit requests sent in March 2014. He regrets to not have received a response to date. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”. He is convinced that such a country visit could provide him with a significant opportunity to engage in a constructive dialogue with the Government.

### **Kyrgyz Republic**

259. JAL 30/09/2013. Case no. [KGZ 2/2013](#). State reply: [22/11/2013](#). Alleged proposed legal amendments, which would significantly impinge on the right to freedom of association and the right to defend human rights.

### **Observations**

260. The Special Rapporteur thanks the Government of the Kyrgyz Republic for its reply to his communication. He notes with interest the points made in this reply, in particular the reported cooperation with civil society in relation to the public debate surrounding the proposed legal amendments. He stands ready to provide technical assistance to ensure that the legal amendments comply with international human rights norms and standards governing freedom of association.

261. In this context, the Special Rapporteur hopes to be able to conduct an official visit to the Kyrgyz Republic soon.

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

262. JAL 11/10/2013. Case no: LAO 1/2013. State reply: 06/12/2013. Alleged violation of the right to freedom of association.

263. JUA 09/12/2013. Case no: LAO 2/2013. State reply: 30/12/2013. Allegations of ongoing enforced disappearance of a prominent human rights defender.

### **Observations**

264. The Special Rapporteur thanks the Government of the Lao People's Democratic Republic for its replies to his communications.

265. The Special Rapporteur remains deeply concerned about the case of Mr. Sompath Somphone. He takes note of the response from the Government that the investigation is ongoing and that perpetrators will be brought to justice. A year and a half after Mr. Somphone's disappearance, the Special Rapporteur urges again the authorities to do their utmost to locate his whereabouts. He reiterates the concerns that he voiced publicly jointly with other special procedures mandate holders on 16 December that Mr. Somphone's disappearance might have a chilling effect on human rights defenders operating in the country, owing to his high profile at the national and international levels.<sup>6</sup>

266. More generally, the Special Rapporteur recommends that the Government put in place an enabling and safe environment that is conducive to the free expression of civil society allowing individuals to exercise their legitimate right to freedom of association without undue hindrances.

267. With regard to the draft Guidelines for the implementation of the Prime Minister's Decree on International Non-Governmental Organizations, the Special Rapporteur welcomes the assurances from the Government of Lao PDR in its reply of 6 December 2013 that these Guidelines are a work in progress in consultation with all development partners and stakeholders, including international non-governmental organizations working in the country. In this regard, he stands ready to provide technical assistance to ensure that the guidelines comply with international human rights norms and standards governing freedom of association.

268. In this context, the Special Rapporteur reminds the Government of the Lao People's Democratic Republic of his country visit request sent in September 2011, to which a response is yet to be received. In this connection, OP6 of resolution 15/21 states that the "Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special

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<sup>6</sup> "A year on, the enforced disappearance of Sombath Somphone continues with impunity in Lao PDR" (16/12/2013): <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14103&LangID=E>



Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

## **Libya**

269. JAL 13/08/2013. Case no. [LBY 2/2013](#). State reply: None to date. Alleged killing of a political activist.

### **Observations**

270. The Special Rapporteur regrets that the Government of Libya has not responded to his communications. As stated in his previous report on 30 May 2013, he reiterates that he considers the responses to his communications as an important part of the cooperation of Governments with his mandate and urges the authorities to provide detailed responses to all the concerns raised in his communications.

271. The Special Rapporteur urges the authorities of Libya to conduct prompt and thorough investigations into the killing of Mr. Abdulsalam Elmessmary, prominent political activist and founder of the 17 February Coalition, prosecute perpetrators, and provide adequate reparation to victims. He expresses serious concern about the security and the physical and psychological integrity of members of associations expressing dissenting views in the country.

272. The Special Rapporteur reminds the Government that the International Covenant on Civil and Political Rights acceded by Libya on 15 May 1970, guarantees the right to freedom of peaceful assembly and of association. He further calls upon the authorities to put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms of peaceful assembly and association without undue hindrances. He reiterates the content of the operative paragraph 2 of the Human Rights Council Resolution 24/5 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

## **The former Yugoslav Republic of Macedonia**

273. JUA 17/05/2013. Case no. [MKD 1/2013](#). State reply: [21/06/2013](#). Alleged attack on LGBT rights defenders.

274. JUA 05/07/2013. Case no: [MKD 2/2013](#). State reply: none to date. Allegations of on-going harassment of lesbian, gay, bisexual, transgender and intersex (LGBTI) rights defenders.

### **Observations**

275. The Special Rapporteur thanks the Government for its reply to his communication of 15 May 2013, but regrets that the Government of the former Yugoslav Republic of Macedonia has not responded to his other communication. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide detailed answers to all the concerns raised in his communications. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide detailed answers to all the concerns raised in his communications.

276. The Special Rapporteur takes note that an investigation is underway in relation to the attacks and harassment of LGBTI defenders, and looks forward to receiving additional information on the allegation in the communication sent on 17 May 2013.

277. The Special Rapporteur calls upon the authorities to “[t]ake positive measures, including affirmative action measures, to ensure that all individuals belonging to groups most at risk [such as LGBTI people] have the ability to exercise effectively their rights, including to freedom of peaceful assembly and of association” (A/HRC/26/29, para. 73(c)).

278. More generally, the Special Rapporteur remains concerned about the physical and psychological integrity of those working and advocating for the rights of LGBTI people, and working to promote equality and non-discrimination, particularly in exercising their right to freedom of opinion and expression, of association and of peaceful assembly.

279. In this regard, the Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

## Malaysia

280. JUA 03/06/2013. Case no. [MYS 4/2013](#). State reply: none to date. Allegations of harassment and arrest of activists and political leaders participating in demonstrations following the conclusion of the last national elections on 5 May 2013.

281. JUA 19/06/2013. Case no. [MYS 5/2013](#). State reply: none to date. Allegations of new instances of harassment and arrest of activists and political leaders participating in demonstrations following the conclusion of the general election held on 5 May 2013.

282. JAL 12/07/2013. Case no. [MYS 6/2013](#). State reply: none to date. Allegations of arrest of, and possible charges against, three organisers of a private screening of a human rights documentary.

283. JAL 23/07/2013. Case no. [MYS 7/2013](#). State reply: none to date. Allegations of arrest of 14 student activists and opposition political party members.

284. JAL 16/08/2013. Case no. [MYS 8/2013](#). State reply: [20/08/2013](#). Allegations of investigation of a human rights defender under the Sedition Act 1948.

285. JAL 26/09/2013. Case no. [MYS 10/2013](#). State reply: none to date. Proceedings allegedly initiated against a human rights defender.

286. JAL 18/11/2013. Case no. [MYS 12/2013](#). State reply: none to date. Allegations of arrest of, and possible charges against, 19 demonstrators during a peaceful protest against the demolition of Kampung Hakka Mantin historical village, which could lead to the forced eviction of many local residents.

287. JUA 22/01/2014. Case no. [MYS 1/2014](#). State reply: none to date. Alleged reprisals against a coalition of Malaysian non-governmental organizations for their engagement with the Universal Periodic Review process.

## Observations

288. The Special Rapporteur takes note of the acknowledgement of receipt for the communication sent on 16 August 2013. He regrets that, at the time of the finalisation of this report, no substantive response had been transmitted to any of the communications sent during the reporting period. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide as soon as possible detailed responses to all the concerns raised in these communications due to the grave nature of the allegations received.

289. The Special Rapporteur remains seriously concerned about the allegations of harassment and arrest of activists and political leaders who participated in demonstrations in the aftermath of the 2013 national elections. He remains equally concerned about the allegations of reprisals against COMANGO because of their engagement with the UPR process. Furthermore, instances of excessive use of force against protestors, and the arrest and detention of demonstrators and human rights defenders under the Peaceful Assembly Act, are also of serious concern to him. In addition, he remains preoccupied by the situation of Ms. Lena Hendry from Pusat KOMAS, and calls on the authorities to drop all the charges against her.

290. The Special Rapporteur urges the authorities to ensure that no individual is criminalised for the exercise of his or her legitimate fundamental freedoms. He also urges the authorities to take all relevant measures to ensure that any individual and legal entity can peacefully exercise their rights of freedom of peaceful assembly and of association. He recommends that the Government put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms without undue hindrances. A thorough and independent investigation into any allegations of any alleged human rights violations, including acts of intimidations or harassments, committed against those exercising their rights to freedom of peaceful assembly and of association, should be conducted; those responsible should be held accountable; and victims should be provided with full redress.

291. The Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

292. The Special Rapporteur hopes that the Government will eventually agree on dates for an official visit following its invitation extended in 2012.

## **Maldives**

293. JUA 21/10/2013. Case no. [MDV 4/2013](#) State reply: none to date. Alleged undue investigation of three NGOs and threats directed towards the staff of one of them.

## **Observations**

294. The Special Rapporteur regrets that, at the time of the finalisation of this report, no response had been transmitted to the communication sent during the reporting period. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide as soon as possible detailed responses to all the concerns raised in the communication due to the serious nature of the allegations received.

295. The Special Rapporteur remains seriously concerned about the alleged threats against Transparency Maldives, and the alleged targeting of Tourism Employee Association of Maldives, Transparency Maldives and Maldives NGO Federation. He urges the authorities to take all relevant measures to ensure that any individual and legal entity can peacefully exercise their rights of freedom of peaceful assembly and of association. He recommends that the Government put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms without undue hindrances. A thorough and independent investigation into any allegations of alleged human rights violations, including acts of intimidations or harassments, committed against those exercising their rights to freedom of peaceful assembly and of association, should be conducted; those responsible should be held accountable; and victims should be provided with full redress.

296. The Special Rapporteur hopes to honour in the near future the invitation extended by the Government in 2011 to conduct a field visit to the Maldives.

## **Mexico**

297. JAL 13/08/2013. Case no. [MEX 7/2013](#). State reply: [25/10/2013](#). Presunto secuestro de migrantes y amenazas de muerte y actos de intimidación contra defensores de los derechos de migrantes.

298. JUA 06/11/2013. Case no. [MEX 9/2013](#). State reply: [04/12/2013](#). Presuntos arrestos, actos violencia por parte de las fuerzas del orden, denegación de tratamiento médico en detención así como amenazas contra defensoras de derechos humanos y sus familiares.

299. JUA 21/11/2013. Case no. [MEX 11/2013](#). State reply: Ninguna a la fecha. Presuntos repetidos allanamientos del domicilio de un defensor de derechos humanos, así como detención arbitraria, uso excesivo de la fuerza y actos de tortura y malos tratos contra él y otras cuatro personas.

300. JUA 26/11/2013. Case no. [MEX 10/2013](#). State reply: Ninguna a la fecha. Presunto clima de violencia, intimidación y hostigamiento a defensores y defensoras de derechos humanos que trabajan en defensa del acceso a la tierra y a los recursos naturales.

301. JUA 06/12/2013. Case no. [MEX 12/2013](#). State reply: [20/01/2014](#), [10/02/2014](#). Alegaciones de ejecuciones extrajudiciales, desaparición forzada y actos de tortura y malos tratos de habitantes del municipio de Iguala, estado de Guerrero, entre ellos un líder de una organización.

## **Observaciones**

302. El Relator Especial agradece al Gobierno de México las respuestas detalladas recibidas a tres de cinco comunicaciones durante el período del presente informe, y lo invita a responder con urgencia a las comunicaciones pendientes. El Relator Especial considera que las respuestas a sus comunicaciones constituyen una parte esencial de la cooperación de los gobiernos con su mandato, e insta a las autoridades a proporcionar con la menor dilación posible respuestas detalladas a todas las inquietudes planteadas en sus comunicaciones.

303. Las respuestas del Gobierno incluían en algunos casos documentos adjuntos que no se han hecho públicos dada la información contenida en los mismos. El Relator Especial los examinó con particular atención. Toma nota de las respuestas detalladas del Gobierno del 20 de enero y 10 de febrero de 2014 respecto de las presuntas ejecuciones extrajudiciales de ocho individuos, incluido un miembro de la organización Unidad Popular de Iguala (UPI), y solicita a las autoridades que lo mantengan informado sobre los avances del caso. Respecto de la información recibida relativa al presunto secuestro de migrantes y amenazas e intimidación de defensores de los migrantes, el Relator Especial agradece la respuesta

proporcionada el 25 de octubre de 2013, que incluía las averiguaciones preliminares relacionadas con la Casa Albergue “La 72”. El Relator las examinó con atención y confía recibir pronto un informe del avance de las mismas.

304. El Relator Especial quisiera insistir en la necesidad de asegurar la existencia de un ambiente seguro y propicio para la sociedad civil que permita el libre ejercicio de los derechos de asociación y reunión pacífica. Asimismo, reitera que el Estado tiene una obligación positiva de llevar a cabo medidas eficaces para hacer efectivo el disfrute de estos derechos.

305. Se reitera el contenido del párrafo operativo 2 de la Resolución 24/5 del Consejo de Derechos Humanos donde se “[r]ecuerda a los Estados su obligación de respetar y proteger plenamente los derechos de todas las personas a la libertad de reunión pacífica y de asociación por cualquier vía, electrónica o no, también en el contexto de unas elecciones, incluidas las personas que abracen opiniones o creencias minoritarias o disidentes, los defensores de los derechos humanos, las personas afiliadas a sindicatos y otras personas, como los migrantes, que traten de ejercer o promover esos derechos, y de adoptar todas las medidas necesarias para asegurar que cualquier restricción al libre ejercicio del derecho a la libertad de reunión pacífica y de asociación sea conforme con las obligaciones que les incumben en virtud del derecho internacional de los derechos humanos.”

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

306. JAL 17/05/2013. Case no. [MDA 2/2013](#). State reply: [28/06/2013](#). Allegations relating to a re-routing of the 2013 Chisinau Pride Parade.

307. JAL 29/07/2013. Case no. [MDA 4/2013](#). State reply: [08/11/2013](#). Alleged risk of restrictions on the rights to freedom of expression, association and peaceful assembly.

### **Observations**

308. The Special Rapporteur thanks the Government of Moldova for its replies to the two communications sent during the reporting period.

309. The Special Rapporteur remains nevertheless concerned at the hostile environment in which human rights defenders promoting and protecting the rights of LGBTI people operate in the country. In this regard, article 90 of the Contravention Code no. 218-XVI, as amended by Law no. 117 (2013), provides that the distribution of public information (with or without criminal intent) on “relations other than those of the family and marriage as specified in the Family Code” will entail sanctions. The Special Rapporteur notes of the Ministry of Interior’s Implementation Instruction for article 90, dated 26 July 2013, and calls on the authorities to adopt the adequate measures to ensure that individuals promoting and protecting the rights of LGBTI people can work in a safe and enabling environment without fear of violence or harassment of any sort. In this regard, he echoes his recommendation made to States to “[t]ake positive measures, including affirmative action measures, to ensure that all individuals belonging to groups most at risk [such as LGBTI people] have the ability to exercise effectively their rights, including to freedom of peaceful assembly and of association” (A/HRC/26/29, para. 73(c)).

310. The Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of

peaceful assembly and of association are in accordance with their obligations under international human rights law”.

## Morocco

311. JUA 24/05/2013. Case no. [MAR 1/2013](#). State reply: [17/10/2013](#). Allégations d’actes de torture et mauvais traitements de manifestants pacifiques, y compris afin d’obtenir des preuves lors de garde à vue, et d’incarcération d’une des victimes de torture et mauvais traitement pour avoir porté plainte contre ses agresseurs.

### Observations

312. Le Rapporteur spécial remercie le Gouvernement du Maroc les informations fournies dans sa réponse le 17 octobre 2013 qu’il a lu avec attention. Il est satisfait de lire que les autorités n’ont pas dispersé les rassemblements pacifiques spontanés des mois d’avril et de mai 2013, bien « qu’ils n’aient pas fait l’objet d’autorisation préalable de la part des autorités locales ». Néanmoins, il estime nécessaire de rappeler « que l’exercice des libertés fondamentales ne devrait pas être soumis à l’autorisation préalable des autorités ... mais tout au plus à une procédure de notification préalable, ayant pour raison d’être de permettre aux autorités publiques de faciliter l’exercice du droit de réunion pacifique et de prendre des mesures pour protéger la sécurité et l’ordre publics et les droits et libertés du reste de la population » (A/HRC/20/27, paragraphe 28). Dans le cas des réunions spontanées ... le Rapporteur Spécial considère que les législations qui [les] autorisent ... non soumises à l’obligation de notification, constituent une pratique optimale. » (A/HRC/20/27, paragraphe 29).

313. Concernant les allégations de torture, y compris sur des mineurs, le Rapporteur spécial demande instamment aux Gouvernement du Maroc de mener des enquêtes rapides et approfondies, de poursuivre les auteurs et accorder une réparation adéquate aux victimes. Il remercie d’avance les autorités de le maintenir informé quant à l’état d’avancement des enquêtes.

314. Le Rapporteur spécial rappelle au Gouvernement du Maroc ses demandes de visite formulées en 2011 et 2013. Il est convaincu qu’une visite du pays lui permettrait de mieux comprendre le contexte dans lequel le droit de réunion pacifique et d’association y est exercé et d’engager un dialogue constructif avec le Gouvernement sur ces questions.

315. Le Rapporteur spécial rappelle les dispositions de la résolution 24/5 du Conseil des droits de l’homme selon lesquelles les États ont l’obligation « de respecter et de protéger pleinement le droit de tous les individus de se réunir pacifiquement et de s’associer librement, à la fois en ligne et hors ligne, notamment à l’occasion des élections, y compris les personnes qui professent des opinions ou des croyances minoritaires ou dissidentes, les défenseurs des droits de l’homme, les syndicalistes et tous ceux, notamment les migrants, qui cherchent à exercer ou à promouvoir ce droit, ainsi que leur obligation de faire en sorte que les restrictions éventuellement imposées au libre exercice du droit de réunion pacifique et de la liberté d’association soient conformes aux obligations qui leur incombent en vertu du droit international des droits de l’homme.»

316. Le Rapporteur spécial rappelle au Gouvernement du Maroc ses demandes de visite formulées en 2011 et 2013. A cet égard, le Conseil des droits de l’homme, par le biais de sa résolution 15/21, « [e]ngage les Etats à prêter leur concours et à offrir une coopération sans réserve au rapporteur spécial lorsqu’il exerce ses fonctions... et à donner une suite favorable à ses demandes de visite » (OP6).



## Myanmar

317. JAL 18/03/2013. Case no. [MMR 1/2013](#). State reply: none to date. Allegations of restrictions on the right to freedom of peaceful assembly not in compliance with international norms and standards.

318. JUA 02/05/2013. Case no. [MMR 6/2013](#). State reply: [01/07/2013](#). Alleged excessive use of force by riot police and military to remove farmers from land around Letpadaung copper mine in Sagaing Region, Myanmar, and reported charges and detention of persons involved in a protest at the site.

319. JUA 07/06/2013. Case no. [MMR 8/2013](#). State reply: [26/07/2013](#). Alleged arbitrary detention and arrests, ill-treatment in detention and violation of due process rights of seven Rohingyas, including one minor, in Rakhine State.

320. JAL 11/06/2013. Case no. [MMR 9/2013](#). State reply: [22/07/2013](#). Alleged excessive use of force by law enforcement officials against a group of Rohingyas engaged in a peaceful protest, which included the fatal shooting of three Rohingya women.

321. JUA 20/06/2013. Case no. [MMR 10/2013](#). State replies: [16/08/2013](#), [05/10/2013](#). Allegations of continuous targeting of human rights activists, including peaceful demonstrators, defending and promoting economic and social rights in Myanmar.

322. JUA 16/07/2013. Case no. [MMR 11/2013](#). State reply: [15/08/2013](#). Alleged arbitrary arrest and detention of human rights defender in Myanmar for a 2011 poster campaign calling for the release of political prisoners.

323. JUA 24/07/2013. Case no. [MMR 13/2013](#). State reply: [30/08/2013](#). Alleged arbitrary detention of Rohingya Muslim community leader and human rights defender in relation to a population verification exercise in Rakhine State, Myanmar.

324. JUA 03/10/2013. Case no. [MMR 14/2013](#). State reply: [26/12/2013](#). Allegations of continuous targeting of peaceful demonstrators and human rights defenders opposing a mining project.

325. JUA 27/11/2013. Case no. [MMR 16/2013](#). State reply: none to date. Allegation of physical attacks against human rights defender in Myanmar, and violation of his rights to freedom of opinion and expression, freedom of peaceful assembly and of association and freedom of religion or belief.

## Observations

326. The Special Rapporteur thanks the Government of Myanmar for its replies to most of communications. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide as soon as possible detailed responses to all the concerns raised in the communications of 18 March 2013 and 27 November 2013 due to the serious nature of the allegations received.

327. The Special Rapporteur remains very preoccupied about reports of excessive force by law enforcement officials during peaceful protests that led to the killing of protestors. He urges the authorities to protect and facilitate peaceful demonstrations, and refrain from using force during such demonstrations. He reminds that the rights to life and to be free from torture or cruel, inhuman or degrading treatment or punishment are non-derogable rights in international human rights law, including in the context of assemblies. In this regard, he refers to Article 5 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (1990), which provides that



“whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall minimize damage and injury, and respect and preserve human life.”

328. The Special Rapporteur stresses his recommendations made to States to: “[t]ake positive measures, including affirmative action measures, to ensure that all individuals belonging to groups most at risk [such as women and non-citizens] have the ability to exercise effectively their rights, including to freedom of peaceful assembly and of association” (A/HRC/26/29, para. 73(c)); and “[e]nsure that no individual belonging to a group most at risk is criminalised for exercising his/her rights to freedom of peaceful assembly and of association, nor is subject to threats or use of violence, harassment, persecution, intimidation or reprisals” (A/HRC/26/29, para. 74).

329. The Special Rapporteur remains seriously preoccupied about the continuous targeting of peaceful demonstrators and human rights defenders opposing the Letpadaung Copper Mine project for years.

330. The Special Rapporteur recommends that the Government put in place an enabling and safe environment that is conducive to the free expression of civil society allowing individuals to exercise their legitimate right to freedom of peaceful assembly and of association without undue hindrances. In this regard, he urges the authorities to bring the legal framework governing the exercise of the rights to freedom of peaceful assembly and of association in conformity with international human rights norms and standards (see notably A/HRC/20/27).

331. The Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

332. The Special Rapporteur reminds the Government of Myanmar of his country visit requests sent in September 2011 and October 2013, to which a response is yet to be received. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

## **Nepal**

333. JUA 22/03/2013. Case no. [NPL 1/2013](#). State reply: none to date. Alleged threats of violence widely published in mass media and official harassment of human rights defenders and an alleged physical attack against a human rights defender.

334. JUA 28/03/2013. Case no. [NPL 2/2013](#). State reply: none to date. Alleged undue delays in registration proceedings of a non-governmental organization, and alleged instances of harassment and arbitrary arrest on the part of the authorities against LGBT individuals.

335. JUA 13/06/2013. Case no. [NPL 3/2013](#). State reply: none to date. Allegations of violent dispersal by law enforcement authorities of peaceful demonstrations organised by Kamlari activists in Nepal.

## **Observations**

336. The Special Rapporteur regrets that, at the time of the finalisation of this report, no response had been transmitted to the communication sent during the reporting period. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide as soon as possible detailed responses to all the concerns raised in the communication due to the serious nature of the allegations received.

337. The Special Rapporteur remains seriously concerned about the violent dispersal and arrests of peaceful protesters by police forces, including sexual assaults of female protesters. He remains similarly concerned about reports of threats and stigmatising remarks against human rights defenders in the media. Of particular concern are the allegations of calls for “people’s action”, which have led to violent physical attacks of these defenders.

338. Furthermore, the Special Rapporteur also expresses his concern regarding reports of undue delays in the procedure to renew the registration of the Blue Diamond Society which promotes respect for the rights of LGBTI people. He further expresses his concern regarding arbitrary arrests, harassment, intimidation by the police and ill-treatment in detention of its members. In this regard, he calls upon the authorities to “[t]ake positive measures, including affirmative action measures, to ensure that all individuals belonging to groups most at risk [such as LGBTI people] have the ability to exercise effectively their rights, including to freedom of peaceful assembly and of association” (A/HRC/26/29, para. 73(c)).

339. The Special Rapporteur recommends that the Government put in place an enabling and safe environment that is conducive to the free expression of civil society allowing individuals to exercise their legitimate right to freedom of peaceful assembly and of association without undue hindrances. A thorough and independent investigation into any allegations of human rights violations, including acts of intimidations or harassments, committed against those exercising their rights to freedom of peaceful assembly and of association, should be conducted; those responsible should be held accountable; and victims should be provided with full redress.

340. In this regard, the Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

## **Nigeria**

341. JUA 17/04/2013. Case no. [NGA 2/2013](#). State reply: [29/08/2013](#). Alleged arbitrary detention of two NGO workers.

342. JAL 13/06/2013. Case no. [NGA 4/2013](#). State reply. None to date. Alleged restrictions on the rights to freedom of association and peaceful assembly of groups defending the rights of lesbian, gay, bisexual, and transgender (LGBT).

343. JAL 13/01/2014. Case no. [NGA 1/2014](#). State reply: None to date. Alleged approval of the Same Sex Marriage (Prohibition) Bill, 2011, by the Senate on 18 December 2013.

## **Observations**

344. The Special Rapporteur would like to thank the Government of Nigeria for its detailed response on 29 August 2013 and takes due note of its content. He requests the authorities to respond to all the concerns raised in the joint allegation letters sent on 13 January 2014 and 13 June 2013 without further delay. He considers responses to his communications as an important part of the cooperation of Governments with his mandate

345. The Special Rapporteur deeply regrets the passing of the Same Sex Marriage Prohibition Act in January 2014. He is concerned that this Act -which bans gay marriage and makes it an offence to register, operate, participate in or support gay clubs, societies, organizations, processions or meetings, or to make a public display of a same-sex amorous relationship, directly or indirectly- discriminate against the right to peacefully assemble and associate on the basis of sexual orientation and gender identity

346. The Special Rapporteur reminds the Government that the International Covenant on Civil and Political Rights acceded by Nigeria on 29 July 1993, guarantees the right to freedom of peaceful assembly and of association. In his thematic report to the Human Rights Council, the Special Rapporteur stresses “that the Human Rights Committee has clarified that any limitations to rights protected by the International Covenant on Civil and Political Rights, when permitted by the Covenant, may not be imposed for discriminatory purposes or applied in a discriminatory manner. Therefore, provisions restricting or prohibiting the right to freedom of association of a specific group on discriminatory grounds, such as sexual orientation or gender identity, is not permitted under the Covenant and must be reviewed with a view to repeal” (A/HRC/26/29, paragraph 64).

347. The Special Rapporteur calls upon the Government to put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms of peaceful assembly and association without undue hindrances. He reiterates the content of the operative paragraph 2 of the Human Rights Council Resolution 24/5 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

348. The Special Rapporteur reminds the Government of Nigeria of his country visit requests sent in October 2013. He regrets to not have received a response to date. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

## **Pakistan**

349. JAL 22/03/2013. Case no: [PAK 2/2013](#). State reply: [25/03/2013](#). Allegations of forced cessation of activities of a human rights non-governmental organization working on, inter alia, women’s rights in Gilgit-Baltistan.

350. JUA 12/07/2013. Case no: [PAK 4/2013](#). State reply: [18/07/2013](#). Alleged killing of a woman human rights defender and her sister, as well as attacks and death threats against, her family members.

## **Observations**

351. The Special Rapporteur takes note of the responses of the Government of Pakistan acknowledging receipt of his communications. He however regrets that the Government provided no substantial response to any of the communications sent since 2011. He

considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges again the authorities to provide as soon as possible detailed responses to all the concerns raised in the communications.

352. The Special Rapporteur remains gravely concerned about the killing of a woman human rights defender and her sister and acts of harassment against family members. He is also seriously preoccupied by defamation campaigns and threats against human rights defenders, as well as the forced closure of the Association of Global Humanists and Ethics, which works, *inter alia*, in support of women's rights and girls' education.

353. The Special Rapporteur recommends that the Government put in place an enabling and safe environment that is conducive to the free expression of civil society allowing individuals to exercise their legitimate right to freedom of peaceful assembly and of association without undue hindrances. A thorough and independent investigation into any allegations of human rights violations, including acts of intimidations or harassments, committed against those exercising their rights to freedom of peaceful assembly and of association, should be conducted; those responsible should be held accountable; and victims should be provided with full redress.

354. The Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

355. The Special Rapporteur reminds the Government of Pakistan of his country visit requests sent in September 2011 and October 2013, to which a response is yet to be received. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

## Paraguay

356. JAL 10/09/2013. Case no. [PRY 1/2013](#). State reply: Ninguna a la fecha. Aprobación de modificaciones a la Ley de Defensa Nacional y Seguridad Interna y presunto acto intimidatorio por parte de agentes de seguridad del Estado contra organizaciones que expresaron su oposición a dicha reforma legal.

## Observaciones

357. El Relator Especial lamenta no haber recibido respuesta por parte del Gobierno a la carta de alegaciones enviada conjuntamente con otros expertos independientes de la ONU, en la cual expresaba preocupación por supuestos actos de intimidación por parte de la policía contra varias organizaciones, entre ellas la Coordinadora de Derechos Humanos de Paraguay (CODEPUY), que habrían manifestado pacíficamente contra la reforma legislativa de la Ley de Defensa Nacional y Seguridad Interna en agosto de 2013. También le preocupan al Relator Especial algunas disposiciones introducidas por dicha reforma, entre ellas, el artículo 56 que permitiría al Poder Ejecutivo instalar un estado de excepción permanente sin límite de tiempo y sin aprobación ni control del Poder Legislativo.

358. El Relator Especial considera que las respuestas a sus comunicaciones constituyen una parte esencial de la cooperación de los gobiernos con su mandato, e insta a las

autoridades a proporcionar con la menor dilación posible respuestas detalladas a todas las inquietudes planteadas en sus comunicaciones.

359. El Relator Especial recuerda la opinión del Comité de los Derechos Humanos relativa a la suspensión de obligaciones durante un estado de excepción, según la cual, en el ámbito de las libertades de reunión pacífica y asociación, son suficientes medidas restrictivas recogidas en el Pacto Internacional de Derechos Civiles y Políticos y consideraciones de seguridad no justifican medidas de derogación (Observación General No. 29). Asimismo, hace hincapié en los artículos 21 y 22 del Pacto Internacional de Derechos Civiles y Políticos, que Paraguay accedió y se comprometió a respetar y a garantizar el 10 de junio de 1992, y que garantizan los derechos de reunión pacífica y asociación. En el primero “[s]e reconoce el derecho de reunión pacífica. El ejercicio de tal derecho sólo podrá estar sujeto a las restricciones previstas por la ley que sean necesarias en una sociedad democrática, en interés de la seguridad nacional, de la seguridad pública o del orden público, o para proteger la salud o la moral públicas o los derechos y libertades de los demás”. El segundo estipula: “[t]oda persona tiene derecho a asociarse libremente con otras, incluso el derecho a fundar sindicatos y afiliarse a ellos para la protección de sus intereses. El ejercicio de tal derecho sólo podrá estar sujeto a las restricciones previstas por la ley que sean necesarias en una sociedad democrática, en interés de la seguridad nacional, de la seguridad pública o del orden público, o para proteger la salud o la moral públicas o los derechos y libertades de los demás.”

360. En este contexto, el Relator Especial quisiera insistir en la necesidad de asegurar la existencia de un ambiente seguro y propicio para la sociedad civil que permita el libre ejercicio de los derechos de asociación y reunión pacífica. Asimismo, reitera que el Estado tiene una obligación positiva de llevar a cabo medidas eficaces para hacer efectivo el disfrute de estos derechos.

361. Se reitera el contenido del párrafo operativo 2 de la Resolución 24/5 del Consejo de Derechos Humanos donde se “[r]ecuerda a los Estados su obligación de respetar y proteger plenamente los derechos de todas las personas a la libertad de reunión pacífica y de asociación por cualquier vía, electrónica o no, también en el contexto de unas elecciones, incluidas las personas que abracen opiniones o creencias minoritarias o disidentes, los defensores de los derechos humanos, las personas afiliadas a sindicatos y otras personas, como los migrantes, que traten de ejercer o promover esos derechos, y de adoptar todas las medidas necesarias para asegurar que cualquier restricción al libre ejercicio del derecho a la libertad de reunión pacífica y de asociación sea conforme con las obligaciones que les incumben en virtud del derecho internacional de los derechos humanos.”

## Peru

362. JAL 21/06/2013. Case no. [PER 1/2013](#). State reply: [28/10/2013](#). Presunta utilización de las Fiscalías Especiales de Prevención del Delito para limitar protestas sociales, perseguir y hostigar a defensores de derechos humanos y líderes sociales, así como para restringir indebidamente los derechos de libertad de expresión y de reunión pacífica.

363. JAL 20/02/2014. Case no. [PER 1/2014](#). State reply: Ninguna a la fecha. Presunto intento de desalojo forzado, amenaza de muerte y actos de coacción contra una defensora de derechos humanos por parte de agentes estatales.

## Observaciones

364. El Relator Especial agradece la respuesta detallada del Gobierno de Perú respecto del supuesto recurso a las Fiscalías Especiales de Prevención del Delito para prevenir reuniones pacíficas y estigmatizar a sus participantes, incluido defensores de derechos humanos y líderes sociales. Sin embargo, lamenta no haber recibido respuesta por parte del

Gobierno a la carta de alegaciones enviada conjuntamente con otros expertos independientes de la ONU, en la cual se expresaba seria preocupación por el presunto desalojo, amenaza de muerte y agresión física contra la Sra. Máxima Acuña de Chaupe, miembro de la Asociación de Mujeres en Defensa de la Vida y de la Unión Latinoamericana de Mujeres (ULAM) y cabeza visible de la oposición a las actividades de la compañía minera Yanacocha, en mayo de 2012.

365. El Relator Especial leyó con atención la respuesta del Gobierno de Perú con fecha del 28 de octubre de 2013 y se congratula por el compromiso de las autoridades para garantizar y proteger el derecho a la libertad de reunión pacífica en el país. No obstante, ante la referencia en la respuesta de las autoridades al artículo 137 inciso 1 de la Constitución nacional, el Relator Especial quisiera recordar la opinión del Comité de los Derechos Humanos relativa a la suspensión de obligaciones durante un estado de excepción, según la cual, en el ámbito de las libertades de reunión pacífica y asociación, son suficientes medidas restrictivas recogidas en el Pacto Internacional de Derechos Civiles y Políticos y consideraciones de seguridad no justifican medidas de derogación (Observación General No. 29). El Relator Especial quisiera también reiterar la obligación de los Estados de proteger activamente las reuniones pacíficas, incluido a través de sus agentes del orden. En su informe temático al Consejo de Derechos Humanos, considera como buena práctica “crear una unidad de policía de respuesta rápida (policía antidisturbios) dedicada a proteger a los manifestantes pacíficos contra los ataques de provocadores y contramanifestantes, y cuyos agentes están entrenados para separar a los principales provocadores de los manifestantes pacíficos” (A/HRC/20/27, párrafo 33).

366. Se reitera el párrafo operativo 2 de la Resolución 24/5 del Consejo de Derechos Humanos donde se “[r]ecuerda a los Estados su obligación de respetar y proteger plenamente los derechos de todas las personas a la libertad de reunión pacífica y de asociación por cualquier vía, electrónica o no, también en el contexto de unas elecciones, incluidas las personas que abracen opiniones o creencias minoritarias o disidentes, los defensores de los derechos humanos, las personas afiliadas a sindicatos y otras personas, como los migrantes, que traten de ejercer o promover esos derechos, y de adoptar todas las medidas necesarias para asegurar que cualquier restricción al libre ejercicio del derecho a la libertad de reunión pacífica y de asociación sea conforme con las obligaciones que les incumben en virtud del derecho internacional de los derechos humanos.”

## **Republic of Korea**

367. JAL 11/06/2013. Case no. [KOR 1/2013](#). State reply: [14/08/2013](#). Alleged forced eviction of residents living in Jagatsinghpur District, Odisha, and surrounding areas in India.

368. JAL 14/01/2014. Case no. [KOR 1/2014](#). State reply: [10/04/2014](#). Alleged massive layoffs, arrest of trade union members and raid of offices of the Korean Railroad Workers Union in connection with a strike.

### **Observations**

369. The Special Rapporteur thanks the Government of the Republic of Korea for its responses.

370. The Special Rapporteur wishes to echo the findings of the Special Rapporteur on the situation of human rights defenders who visited the Republic of Korea from 29 May to 7 June 2013. According to her, “significant challenges originate in connection with the existing legal framework governing the exercise of basic freedoms, such as the rights to freedoms of opinion and expression, of peaceful assembly and of association” (A/HRC/25/55/Add.1, para. 101). With regard to trade unions, she found that “there are



important limitations to the exercise of labour rights in the Republic of Korea whereby the right to collective bargaining and to strike as legitimate means to claim economic and social rights are seriously curtailed... [and] strikes are often declared illegal by a court of law due to a restrictive interpretation of such rights” (para. 69-70). She called on the Government to “[e]nsure that labour rights, including collective bargaining and the right to strike, can be exercised without undue restrictions or intimidation, establishing adequate mediation mechanisms between management and labour unions and by protecting unions and workers from harassment by private firms and corporations” (para. 107(j)).

371. The Special Rapporteur urges the authorities to ensure that no individual is criminalised for the exercise of his or her legitimate fundamental freedoms. He also urges the authorities to take all relevant measures to ensure that any individual and legal entity can peacefully exercise their rights of freedom of peaceful assembly and of association. He recommends that the Government put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms without undue hindrances.

372. The Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

### **Russian Federation**

373. JAL 09/04/2013. Case no. [RUS 2/2013](#). State reply: [10/07/2013](#). Alleged increasing restrictions and obstacles being imposed on the space for civil society organizations and activists, especially for those active in the field of human rights, to operate.

374. JAL 13/06/2013. Case no. [RUS 3/2013](#). State reply: none to date. Alleged implementation of a law leading to arbitrary and undue restrictions on the enjoyment of the right to freedom of association.

375. JAL 12/07/2013. Case no. [RUS 4/2013](#). State reply: [24/10/2013](#). Alleged attack against lesbian, gay, bisexual, transgender and intersex (LGBTI) rights activists and break-up of St. Petersburg Pride parade.

376. JAL 26/08/2013. Case no. [RUS 6/2013](#). State reply: [13/11/2013](#). Allegations of possible eviction of human rights non-governmental organizations from their premises.

377. JAL 18/12/2013. Case no. [RUS 13/2013](#). State reply: [19/02/2014](#). Enforcement of the Law on “Introducing Amendments to Legislative Acts of the Russian Federation in Part Regulating Activities of Non-Commercial Organizations which Carry Functions of Foreign Agents (the “Law”)”.

378. JAL 20/12/2013. Case no. [RUS 14/2013](#). State reply: [20/01/2014](#). Alleged arbitrary detention of 30 environmental activists after their participation in a peaceful protest against oil drilling in the Arctic Circle.

### **Observations**

379. The Special Rapporteur thanks the Government for its replies transmitted to most of his communications. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges again the authorities to



provide as soon as possible detailed responses to all the concerns raised in his communication of 13 June 2013.

380. The Special Rapporteur is particularly concerned about the use of the legal and administrative framework to restrict the space in which people can individually or collectively exercise their rights to freedom of peaceful assembly and of association.

381. The Special Rapporteur remains very preoccupied by the implementation of the Law on Introducing Amendments to Certain Legislative Acts Regarding the Regulation of Activities of Non-commercial Organizations Performing the Functions of Foreign agents (No. 7-FZ). According to the Law, any non-commercial organization carrying out political activity and receiving funding from sources outside the Russian Federation must register as a “foreign agent”. In this regard, the Special Rapporteur, jointly with other special procedures mandate holders, warned in a public statement issued on 14 May 2013 about the “obstructive, intimidating and stigmatising” effects that the application of this law is having on human rights defenders and organizations.<sup>7</sup> The Special Rapporteur remains further preoccupied about the use of this law to target human rights organizations which have engaged with the UN, its mechanisms and representatives in the field of human rights.

382. The Special Rapporteur remains also very preoccupied about the break-up of the St. Petersburg Pride parade. He deems necessary to remind the authorities that “[i]n the case of counter-demonstrations, which aim at expressing discontent with the message of other assemblies, such demonstrations should take place, but should not dissuade participants of the other assemblies from exercising their right to freedom of peaceful assembly. In this respect, the role of law enforcement authorities in protecting and facilitating the events is crucial” (A/HRC/20/27, para. 30). With regard to LGBTI people, the Special Rapporteur called upon States to “[t]ake positive measures, including affirmative action measures, to ensure that all individuals belonging to groups most at risk [such as LGBTI people] have the ability to exercise effectively their rights, including to freedom of peaceful assembly and of association” (A/HRC/26/29, para. 73(c)).

383. The Special Rapporteur recommends that the Government put in place an enabling and safe environment that is conducive to the free expression of civil society allowing individuals to exercise their legitimate right to freedom of association without undue hindrances. He urges again the authorities to ensure that no individual is criminalised for the exercise of his or her legitimate fundamental freedoms. He also urges the authorities to take all relevant measures to ensure that any individual and legal entity can peacefully exercise their rights of freedom of peaceful assembly and of association. In this regard, he urges the authorities to bring the legal framework governing the exercise of the rights to freedom of peaceful assembly and of association in conformity with international human rights norms and standards (see notably A/HRC/20/27).

384. The Special Rapporteur reminds the Government of the Russian Federation of his country visit requests sent in September 2011 and October 2013, to which a positive response is yet to be received. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

## **Saudi Arabia**

<sup>7</sup> “Russia: increasingly hostile environment for NGOs and rights defenders is unacceptable” (14/05/2013): <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13323&LangID=E>

385. JUA 27/03/2013. Case no. [SAU 5/2013](#). State reply: None to date. Alleged closure of a political rights association and sentencing of two of its members to five and 10 year imprisonment and travel bans.

386. JAL 01/07/2013. Case no. [SAU 6/2013](#). State reply: None to date. Alleged arbitrary investigation of individuals working on the defence and promotion of human rights.

387. JUA 12/09/2013. Case no. [SAU 8/2013](#). State reply: None to date. Alleged crackdown on human rights defenders, including arrests, detention, unfair trials and the use of torture.

### **Observations**

388. The Special Rapporteur regrets that the Government of Saudi Arabia has not responded to the communications sent during the reporting period. He considers the responses to his communications as an important part of the cooperation of Governments with his mandate, and urges again the authorities to provide detailed responses to all the concerns raised in his communications without further delay.

389. Among the cases brought to his attention, the Special Rapporteur remains particularly concerned about the reported conviction of Messrs. Mohammad Fahd Al-Qahtani and Abdulla Al Hamid, funding members of the Saudi Civil and Political Rights Association (ACPRA), to ten and five years' imprisonment, respectively, for offenses including "establishing an unlicensed association", "providing false information to outside sources such as the human rights mechanisms of the United Nations", and "inciting disorder by calling for protests". This case was the subject of earlier join urgent appeals by several Special Procedures mandate holders on 12 June 2012 and 21 December 2012, both of which remain unanswered to date. The Special Rapporteur expresses similar concern about the reported arrests of six other members of ACPRA during the period under review, and alleged torture against one of them. The Special Rapporteur further expresses concern at the alleged harassment of members of the human rights organization Union for Human Rights. He urges the authorities of Saudi Arabia to conduct prompt and thorough investigations in each case, prosecute perpetrators, and provide adequate reparation to victims.

390. As stated in his thematic report to the Human Rights Council, the Special Rapporteur "underlines that the right to freedom of association equally protects associations that are not registered ... This is particularly important when the procedure to establish an association is burdensome and subject to administrative discretion ... " (A/HRC/20/27, paragraph 56). Furthermore, he is of the opinion "that a "notification procedure", rather than a "prior authorization procedure" that requests the approval of the authorities to establish an association as a legal entity, complies better with international human rights law ..." (A/HRC/20/27, paragraph 58). Moreover, the Special Rapporteur reminds the Government of Saudi Arabia that "members of associations should be free to determine their statutes, structure and activities and make decisions without State interference" (A/HRC/20/27, paragraph 64).

391. The Special Rapporteur calls upon the Government to put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms of peaceful assembly and association without undue hindrances. He reiterates the content of the operative paragraph 2 of the Human Rights Council Resolution 24/5 that "[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on

the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

392. The Special Rapporteur calls upon the Government to ensure that the right to freedom of association and of peaceful assembly, as recognized under article 20 of the UDHR, is enjoyed free of arbitrary restrictions.

393. The Special Rapporteur reminds the Government of Saudi Arabia of his country visit requests sent in October 2013. He regrets to not have received a response to date. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

## **Serbia**

394. JAL 03/04/2013. Case no. [SRB 1/2013](#). State reply: none to date. Alleged threats and attack against a human rights defender working against discrimination and for the rights of lesbian, gay, bisexual and transgender people.

### **Observations**

395. The Special Rapporteur regrets that the Government of Serbia has not responded to his communication. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide detailed answers to all the concerns raised in his communications. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide detailed answers to all the concerns raised in his communication.

396. The Special Rapporteur remains seriously preoccupied about the situation of Mr. Kenig and by the reported lengthy police investigation regarding this case. He calls on the authorities to conduct a thorough investigation and hold the perpetrators accountable.

397. More generally, the Special Rapporteur remains concerned about the physical and psychological integrity of those working and advocating for the rights of LGBTI people, and working to promote equality and non-discrimination, particularly in exercising their right to freedom of opinion and expression, of association and of peaceful assembly. He calls upon the authorities to “[t]ake positive measures, including affirmative action measures, to ensure that all individuals belonging to groups most at risk [such as LGBTI people] have the ability to exercise effectively their rights, including to freedom of peaceful assembly and of association” (A/HRC/26/29, para. 73(c)).

398. The Special Rapporteur urges the authorities to take all relevant measures to ensure that any individual and legal entity can peacefully exercise their rights of freedom of peaceful assembly and of association. He recommends that the Government put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms without undue hindrances. A thorough and independent investigation into any allegations of human rights violations, including acts of intimidations or harassments, committed against those exercising their rights to freedom of peaceful assembly and of association, should be conducted; those responsible should be held accountable; and victims should be provided with full redress.

399. The Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others,

including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

### **Somalia**

400. JAL 30/07/2013. Case no. [SOM 2/2013](#). State reply: None to date. Alleged killings of human rights defenders.

401. JAL 06/12/2013. Case no. [SOM 6/2013](#). State reply: None to date. Alleged killing of a human rights monitor by the militant group Al-Shabaab, in Somalia.

### **Observations**

402. The Special Rapporteur regrets that the Government of Somalia has not responded to the communications sent during the reporting period. He considers the responses to his communications as an important part of the cooperation of Governments with his mandate, and urges again the authorities to provide detailed responses to all the concerns raised in his communications without further delay.

403. The Special Rapporteur expresses grave concern that the reported killings of Messrs. Libaan Abdullahi Farah, Abdi Farah Dheere and Adan Salah Abdalla may be related to their peaceful and legitimate human rights activities and exercise of the rights to freedom of peaceful assembly and of association. He urges the authorities of Somalia to conduct prompt and thorough investigations in each case, prosecute perpetrators, and provide adequate reparation to victims.

404. The Special Rapporteur calls upon the Government to put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms of peaceful assembly and association without undue hindrances. He reiterates the content of the operative paragraph 2 of the Human Rights Council Resolution 24/5 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

405. The Special Rapporteur reminds the Government that the International Covenant on Civil and Political Rights acceded by Somalia on 24 January 1990, guarantees the right to freedom of peaceful assembly and of association.

### **South Sudan**

406. JAL 04/12/2013. Case no. [SSD 1/2013](#). State reply: None to date. Alleged conflict of a draft law with international human rights standards.

### **Observations**

407. The Special Rapporteur regrets that the Government of South Sudan has not responded to the communication sent during the reporting period. He considers the responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide detailed responses to all the concerns raised in his communication without further delay.

408. The Special Rapporteur expresses concern that the reported Non-Governmental Organizations Bill, 2013 unduly limits the right to freedom of association, by defining narrowly the permissible work and objective of non-governmental organizations, allowing for State interference, criminalizing unregistered associations, and introducing broad and discretionary grounds for revocation of registrations.

409. In relation to the above concern, the Special Rapporteur would like to recall good practices as identified in his thematic report to the Human Rights Council, (A/HRC/20/27): “A regime of notification to establish an association should be in force. Associations should be established after a process that is simple, easily accessible, non-discriminatory, and non-onerous or free of charge. Registration bodies should provide a detailed and timely written explanation when denying the registration of an association. Associations should be able to challenge any rejection before an impartial and independent court” (paragraph 95); “[a]ny associations, including unregistered associations, should be allowed to function freely, and their members operate in an enabling and safe environment” (paragraph 96); “[a]ssociations should be free to determine their statutes, structure and activities and to make decisions without State interference” (paragraph 97); “the right to freedom of association equally protects associations that are not registered” (paragraph 56); and; “[n]ewly adopted laws should not request all previously registered associations to re-register so that existing associations are protected against arbitrary rejection or time gaps in the conduct of their activities” (paragraph 62).

410. The Special Rapporteur calls upon the Government to put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms of peaceful assembly and association without undue hindrances. He reiterates the content of the operative paragraph 2 of the Human Rights Council Resolution 24/5 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

411. The Special Rapporteur calls upon the Government of South Sudan to ensure that the right to freedom of association and of peaceful assembly, as recognized under article 20 of the UDHR, is enjoyed free of arbitrary restrictions.

## Spain

412. JAL 22/10/2013. Case no. [ESP 3/2013](#). State reply: [12/12/2013](#). Supuesta aprobación el 20 de septiembre de 2013 del Proyecto de Reforma del Código Penal, cuyo contenido limitaría los derechos a las libertades de libre expresión, opinión, asociación y manifestación pacífica.

413. JAL 30/12/2013. Case no. [ESP 7/2013](#). State reply: [03/04/2014](#). Presunta disconformidad del anteproyecto de Ley Orgánica sobre Protección de la Seguridad Ciudadana, con estándares internacionales de derechos humanos.

## Observaciones

414. El Relator Especial agradece las respuestas detalladas del Gobierno de España a sus dos cartas de alegaciones enviadas conjuntamente con otros expertos independientes de la ONU, en las cuales expresaba preocupación por los supuestos efectos que podrían tener sobre el derecho de reunión pacífica el Proyecto de Ley de Reforma del Código Penal

(Proyecto de Código Penal) y el anteproyecto de Ley Orgánica sobre la Protección de la Seguridad Ciudadana (ALOPSC).

415. El Relator Especial leyó con atención las respuestas del Gobierno con fecha del 23 de diciembre 2013 y 3 de abril 2014 y se congratula por el compromiso de las autoridades de clarificar la regulación de los delitos contra el orden público y articular un marco de convivencia para garantizar y proteger el ejercicio de libertades públicas, incluida de reunión pacífica. No obstante, refuta los argumentos esgrimidos por el Gobierno de que el Proyecto de Código Penal y el ALOPSC refuerzan el derecho a la libertad de reunión pacífica. Contrariamente, el Relator Especial considera que los proyectos de ley examinados apuntan a una vulneración de la propia esencia del derecho de manifestación al penalizar un amplio número de conductas inherentes al propio ejercicio de este derecho fundamental, originando una importante limitación en el ejercicio del mismo. El Relator Especial insta al Gobierno a asumir plenamente su compromiso de garantizar el goce efectivo de este derecho fundamental y a considerar una profunda revisión de ambos proyectos a la luz de las numerosas críticas presentadas por la sociedad civil.

416. Con respecto al Proyecto de Código Penal, el Relator Especial expresa grave preocupación sobre la actual redacción que califica de delito la mera resistencia pacífica. Asimismo, le preocupa que la definición de los delitos de desórdenes públicos se base sobre expresiones imprecisas, tales como “actos de violencia”, o “incitar a realizar acciones o amenazas de actos de violencia”. El Relator Especial considera que estas referencias, además de ser claramente desproporcionadas en el segundo caso, permiten un margen de interpretación excesivamente amplio. A esto, se añade el carácter ambiguo y desproporcionado de expresiones tales como “el simple hecho de portar... un instrumento peligroso” que constituyen agravantes considerables a la hora de calificar presuntos delitos de desórdenes públicos. A su vez, al Relator Especial no le convencen los argumentos por los que se introduce la autoría individual del delito de desorden público, por cuanto un acto individual difícilmente puede alterar per se la paz pública. El Relator Especial se muestra asimismo seriamente preocupado por el carácter claramente excesivo de la agravación de la pena en supuestos de manifestaciones o concentraciones pacíficas, puesto que de las condiciones vienen referidas no sólo a actos de violencia ejecutados, sino también a la mera existencia de amenazas de llevar a cabo actos de violencia.

417. En opinión del Relator Especial, el Proyecto de Código Penal también amenaza con socavar el derecho de manifestar pacíficamente al castigar a quienes difundan públicamente mensajes que inciten a la comisión de delitos de alteración del orden público. Al Relator Especial no le convencen los argumentos esgrimidos por Gobierno de España de que la reforma propuesta reduce las penas en caso de delito de interrupción de los servicios de telecomunicaciones o medios de transporte. Según la información disponible, los daños en los servicios mencionados ya estarían tipificados, por tanto, lo que al parecer hace esta nueva disposición es introducir penas de hasta dos años de prisión por la simple acción de alterar su funcionamiento, aún sin causar daño. De forma similar, el Relator Especial permanece seriamente preocupado por la tipificación del delito de invasión u ocupación de domicilios de personas jurídicas, en especial cuando aquél se ve agravado si tuvo lugar “durante una manifestación o reunión numerosa o con ocasión de ella”.

418. Con respecto al ALOPSC, al Relator Especial le preocupa particularmente que se haga prevalecer un concepto extensivo de seguridad de instituciones y autoridades sobre la protección del ejercicio de los derechos y libertades civiles de los ciudadanos, incluido el derecho a la libertad de reunión pacífica. El Relator Especial es consciente de que conforme al Pacto Internacional de Derechos Civiles y Políticos y tal como claramente expresa la Resolución 15/21 (párrafo 4) del Consejo de Derechos Humanos, este derecho no es absoluto y “puede estar sujeto a ciertas limitaciones prescritas por la ley que sean necesarias en una sociedad democrática en razón de la seguridad nacional o la integridad de

la población, el orden público, la protección de la salud o de la moral públicas o la protección de los derechos y libertades de los demás". No obstante, el Relator Especial quisiera reiterar, tal como expresó en su informe temático al Consejo de Derechos Humanos, que sólo podrán aplicarse "ciertas" restricciones, es decir que, sin lugar a dudas, la libertad será la regla y la restricción su excepción. A este respecto, se refiere a la Observación general N° 27 (1999) del Comité de Derechos Humanos sobre la libertad de circulación, según la cual, "al aprobar leyes que prevean restricciones... los Estados deben guiarse siempre por el principio de que las restricciones no deben comprometer la esencia del derecho..., no se debe invertir la relación entre derecho y restricción, entre norma y excepción". En consecuencia, cuando los Estados deseen restringir esos derechos, deberán cumplir todas las condiciones mencionadas. Por lo tanto, toda restricción debe obedecer a uno de los intereses concretos antes señalados, poseer un fundamento jurídico (estar "prescrita por la ley", lo que implica que la ley debe ser accesible y estar formulada con la suficiente precisión) y "ser necesaria en una sociedad democrática".

419. Teniendo en cuenta lo anterior, el Relator Especial permanece hondamente preocupado por las restricciones desproporcionadas y excesivas al derecho de reunión pacífica que supone el ALOPSC, ya que teme que socaven la existencia misma de los atributos de pluralismo, tolerancia y mentalidad abierta necesarios a cualquier sociedad democrática. Por consiguiente, el Relator Especial confía en que el Gobierno de España realizará sin la mayor dilación las modificaciones necesarias a la luz de los informes emitidos por los órganos colegiados independientes como es el caso del informe publicado por el Consejo General del Poder Judicial (CGPJ), en marzo de 2014.

420. Se reitera el contenido del párrafo operativo 2 de la Resolución 24/5 del Consejo de Derechos Humanos donde se "[r]ecuerda a los Estados su obligación de respetar y proteger plenamente los derechos de todas las personas a la libertad de reunión pacífica y de asociación por cualquier vía, electrónica o no, también en el contexto de unas elecciones, incluidas las personas que abracen opiniones o creencias minoritarias o disidentes, los defensores de los derechos humanos, las personas afiliadas a sindicatos y otras personas, como los migrantes, que traten de ejercer o promover esos derechos, y de adoptar todas las medidas necesarias para asegurar que cualquier restricción al libre ejercicio del derecho a la libertad de reunión pacífica y de asociación sea conforme con las obligaciones que les incumben en virtud del derecho internacional de los derechos humanos."

## **Sri Lanka**

421. JAL 05/04/2013. Case no. [LKA 3/2013](#). State reply: none to date. Allegations of undue obstruction to the travel of about 600 human rights defenders, including relatives of disappeared persons, from Vavuniya to Colombo to attend a peaceful demonstration.

422. JAL 02/09/2013. Case no. [LKA 4/2013](#). State reply: [19/09/2013](#). Allegations of excessive use of force, including lethal force, during a peaceful assembly, resulting in deaths and injuries.

423. JUA 26/11/2013. Case no: [LKA 5/2013](#). State reply: none to date. Alleged death threats against a human rights defender broadcast by State media.

424. JUA 10/02/2014. Case no. [LKA 2/2014](#). State reply: none to date. Alleged acts of intimidation and reprisals, including death threats, directed against human rights defenders.

## **Observations**

425. The Special Rapporteur thanks the Government of Sri Lanka for its response to his communication of 2 September 2013, but regrets that no responses have been received to the other communications. He considers responses to his communications as an important



part of the cooperation of Governments with his mandate, and urges the authorities to provide detailed answers to all the concerns raised in his communications.

426. The Special Rapporteur remains seriously concerned about the physical and psychological integrity of people exercising their rights to freedom of peaceful assembly and of association in Sri Lanka. He is gravely concerned about reports received of undue interference with the right to freedom of peaceful assembly, including excessive use of force -in particular lethal force- during protests; stigmatising remarks and death threats against human rights defenders, including in the media; and instances of reprisals against defenders.

427. The Special Rapporteur recommends again that the Government put in place an enabling and safe environment that is conducive to the free expression of civil society allowing individuals to exercise their legitimate right to freedom of peaceful assembly and association without undue hindrances. A thorough and independent investigation into any allegations of human rights violations, including acts of intimidations or harassments, committed against those exercising their rights to freedom of peaceful assembly and of association, should be conducted; those responsible should be held accountable; and victims should be provided with full redress.

428. The Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

429. The Special Rapporteur reminds the Government of Sri Lanka of his country visit requests sent in September 2011 and October 2013, to which a response is yet to be received. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

## **Sudan**

430. JUA 16/04/2013. Case no. [SDN 4/2013](#). State reply: [22/08/2013](#). Alleged torture, incommunicado detention and subsequent risk of further torture and ill-treatment of two individuals, including the nephew of a human rights defender.

431. JUA 17/10/2013. Case no. [SDN 7/2013](#). State reply: None to date. Alleged violent crackdown on peaceful assemblies, killings and arrests, harassment of journalists and prohibition of political parties to hold meetings.

## **Observations**

432. The Special Rapporteur would like to thank the Government of Sudan for its response on 22 August 2013 concerning the alleged arbitrary incommunicado detention of peaceful protestor Messrs. Hatim Ali Mohammed and Sharf Eldein Tia. He further requests the authorities to provide him with detailed information concerning the legal grounds for the arrest and detention of Mr. Hatim Ali Mohammed, including the relevant sections of the Criminal Law Act 1991. Moreover, the Special Rapporteur urges the authorities to provide a detailed response to the joint urgent appeal sent on 17 October 2013 without further

delay. He considers responses to his communications as an important part of the cooperation of Governments with his mandate

433. The Special Rapporteur calls upon the Government to put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms of peaceful assembly and association without undue hindrances. He reiterates the content of the operative paragraph 2 of the Human Rights Council Resolution 24/5 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

434. The Special Rapporteur reminds the Government that the International Covenant on Civil and Political Rights acceded by Sudan on 18 March 1986, guarantees the right to freedom of peaceful assembly and of association.

### **Syrian Arab Republic**

435. JUA 13/05/2013. Case no. [SYR 2/2013](#). State reply: None to date. Alleged enforced disappearance, torture, incommunicado detention and denial of medical treatment of two human rights defenders.

436. JUA 28/06/2013. Case no. [SYR 3/2013](#). State reply: None to date. Alleged acts of reprisal, incommunicado detention and torture and ill-treatment of human rights defenders for their cooperation with the United Nations, its representatives and mechanisms in the field of human rights.

437. JUA 29/08/2013. Case no. [SYR 5/2013](#). State reply: None to date. Alleged enforced disappearance of two political activists, and alleged arrest of one political activist.

438. JUA 24/02/2014. Case no. [SYR 4/2014](#). State reply: None to date. Alleged attempted killing of a human rights defender and founder of a non-Governmental organization.

### **Observations**

439. The Special Rapporteur regrets that, at the time of the finalization of this report, the Government of the Syrian Arab Republic has not responded to any of the four join urgent appeals sent during the period under review. He considers the responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide detailed responses to all the concerns raised in his communications without further delay.

440. The Special Rapporteur expresses grave concern about the numerous reports received of enforced disappearances, incommunicado detention, ill-treatment, torture and killings of members of associations, including human rights and political activists. He urges the authorities of the Syrian Arab Republic to conduct prompt and thorough investigations in each case, prosecute perpetrators, and provide adequate reparation to victims. He requests the Government to keep him informed on the progress made into the investigations conducted in relation to the aforementioned cases.

441. The Special Rapporteur calls upon the Government to put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms of peaceful assembly and association without undue hindrances. He reiterates the content of the operative paragraph 2 of the Human Rights Council Resolution 24/5 that “[r]eminds States

of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

442. The Special Rapporteur reminds the Government that the International Covenant on Civil and Political Rights ratified by the Syrian Arab Republic on 21 April 1969, guarantees the right to freedom of peaceful assembly and of association.

### **Tajikistan**

443. JUA 11/07/2013. Case no. [TJK 1/2013](#). State reply: [03/09/2013](#). Allegations of arrest and detention of a political activist who intended to establish a new political party, in the context of upcoming presidential elections.

#### **Observations**

444. The Special Rapporteur thanks the Government of Tajikistan for its response to his communication.

445. In relation to elections, the Special Rapporteur “stresses that electoral periods are such an important time to build democratic, responsive and accountable institutions and that very strict and clear safeguards should be put in place by States to prevent undue interference in public freedoms, in particular in the rights to freedom of peaceful assembly and of association. Further, in times of elections, States should make greater efforts to facilitate and protect the exercise of these core rights, which should be enjoyed by everyone, especially by members of groups at risk. In effect, genuine elections cannot be achieved if the rights to freedom of peaceful assembly and of association are curtailed” (A/HRC/68/299, para. 56).

446. The Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

### **Thailand**

447. JAL 02/04/2013. Case no. [THA 3/2013](#). State reply: [02/07/2013](#). Alleged killing of an environmental rights defender.

448. JAL 28/05/2013. Case no. [THA 5/2013](#). State reply: [14/10/2013](#). Allegations of threats intimidating human rights defenders contained in a statement made by Thailand’s Deputy Prime Minister prior to the 2nd Asia-Pacific Water Summit.

#### **Observations**

449. The Special Rapporteur thanks the authorities of Thailand for its replies to his communications. He notes the arrest of three suspects in relation to the murder of Mr. Prajob Nao-opas, as well as the criminal charges to be brought, and disciplinary action or

administrative punishment to be undertaken, against them. He calls on the authorities to apprise him on the latest development in relation to this case.

450. The Special Rapporteur recommends that the authorities put in place an enabling and safe environment that is conducive to the free expression of civil society allowing individuals to exercise their legitimate right to freedom of peaceful assembly and association without undue hindrances.

451. The Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

452. The Special Rapporteur reminds the authorities of his country visit request sent in September 2011 and October 2013, to which a response is yet to be received. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

## **Tunisia**

453. JAL 09/08/2013. Case no. [TUN 1/2013](#). State reply: Aucune à ce jour. Allégations d’assassinat d’un responsable politique.

### **Observations**

454. Le Rapporteur spécial regrette de ne pas avoir reçu de réponse du Gouvernement de Tunisie à la communication transmise durant la période couverte par le présent rapport. Il considère les réponses à ses communications comme faisant partie intégrante de la coopération des gouvernements avec son mandat et invite de ce fait le Gouvernement à lui transmettre sans tarder des réponses aux préoccupations soulevées dans sa communication. Notamment, le Rapporteur spécial demeure très préoccupé par la mort de M. Mohamed Brahmi, membre de l’Assemblée nationale constituante et ancien secrétaire général du Mouvement Populaire, qui, selon les informations reçues, s’inscrirait dans une vague d’assassinats de militants politiques, dont auraient déjà été victimes M. Lofti Nagedh et M. Chokri Belaid. Il exprime également de sérieuses préoccupations quant aux conditions de sécurité dans lesquelles les activistes politiques, en particulier de l’opposition, exercent leur droit à la liberté d’association en Tunisie. Le Rapporteur spécial exhorte les autorités à mener des enquêtes rapides et approfondies, de poursuivre les auteurs et d’accorder une réparation adéquate aux victimes. Il remercie d’avance les autorités de le maintenir informé quant à l’état d’avancement des enquêtes.

455. Le Rapporteur Spécial rappelle les dispositions de la résolution 24/5 du Conseil des droits de l’homme selon lesquelles les États ont l’obligation « de respecter et de protéger pleinement le droit de tous les individus de se réunir pacifiquement et de s’associer librement, à la fois en ligne et hors ligne, notamment à l’occasion des élections, y compris les personnes qui professent des opinions ou des croyances minoritaires ou dissidentes, les défenseurs des droits de l’homme, les syndicalistes et tous ceux, notamment les migrants, qui cherchent à exercer ou à promouvoir ce droit, ainsi que leur obligation de faire en sorte que les restrictions éventuellement imposées au libre exercice du droit de réunion pacifique et de la liberté d’association soient conformes aux obligations qui leur incombent en vertu

du droit international des droits de l'homme.» Il rappelle également au Gouvernement que le Pacte International relatif aux Droits Civils et Politiques, que la Tunisie a ratifié le 18 mars 1969, garanti le droit de réunion pacifique et la liberté d'association.

## **Turkey**

456. JUA 15/03/2013. Case no. [TUR 1/2013](#). State reply: [24/09/2013](#). Alleged arrest, detention and conviction of human rights defenders.

457. JUA 14/06/2013. Case no: [TUR 3/2013](#). State reply: [06/09/2013](#). Allegations of excessive use of force during peaceful protests.

### **Observations**

458. The Special Rapporteur thanks the Government of Turkey for its replies to his communications.

459. The Special Rapporteur takes note of the detailed response received concerning the protest that took place around Istanbul's Gezi Park in May 2013 and the police intervention in relation to the mentioned protest. He nevertheless would like to remind the authorities that the rights to freedom of peaceful assembly, association and expression play a decisive role in the existence of effective democratic systems as they are a channel allowing for dialogue, pluralism, tolerance and broadmindedness. Any restriction on these rights should be prescribed by law, necessary in a democratic society, proportionate to the aim pursued, and subject to an independent, impartial, and prompt judicial review.

460. The Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

## **Uganda**

461. JAL 17/12/2013. Case no. [UGA 1/2013](#). State reply: None to date. Alleged conflict of a law known as the Public Order Management Act 2013 with international human rights standards.

462. JAL 04/02/2014. Case no. [UGA 1/2014](#). State reply: [21/02/2014](#). Alleged passing by Parliament of a revised version of the Anti-Homosexuality Bill, 2009, now referred to as the Anti-Homosexuality Act, 2013, on 20 December 2013.

### **Observations**

463. The Special Rapporteur thanks the Government of Uganda for acknowledging receipt of the communication sent on 4 February 2014, but he regrets to not have received a substantive response to date to neither of his two communications. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide as soon as possible detailed responses to all the concerns raised in his communications.

464. The Special Rapporteur deeply regrets the signing of the Anti-Homosexuality Act, 2013 (the Act) in February 2014. He is concerned that it compromises the free exercise of

the rights to freedom of association and peaceful assembly, by preventing organizations working on issues related to the rights of lesbian, gay, bisexual, transgender and Intersex (LGBTI) people from carrying out their legitimate work and peaceful activities. He fears that by criminalizing the “promotion” of homosexuality, the Act directly targets and threatens the work of LGBTI organizations.

465. The Special Rapporteur reminds the Government that the International Covenant on Civil and Political Rights, acceded by Uganda on 21 June 1995, guarantees the right to freedom of association (article 22), stipulates that “each State Party undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant, without distinction of any kind, such as race colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”(article 2), and guarantees to all individuals equal and effective protection against discrimination on grounds identified in article 2 (article 26).

466. Furthermore, the Special reiterates the content of the operative paragraph 2 of the Human Rights Council Resolution 24/5 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

467. The Special Rapporteur reminds the Government of Uganda of his country visit requests sent in September 2011 and October 2013. He regrets to not have received a response to date. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

## **Ukraine**

468. JUA 22/07/2013. Case no. [UKR 2/2013](#). State reply: [05/09/2013](#). Alleged forced psychiatric treatment and confinement of human rights defender.

469. JUA 10/12/2013. Case no. [UKR 4/2013](#). State reply: [16/01/2014](#). Alleged use of excessive force against peaceful protestors, including 53 journalists, and disappearance of 15 individuals.

470. JUA 20/02/2014. Case no. [UKR 1/2014](#). State reply: none to date. Alleged excessive use of force against, killings, injuries, enforced disappearances of, and/or arbitrary arrests and detention of, largely peaceful protestors and journalists in the context of Euromaidan (“Independence Square”) protests.

## **Observations**

471. The Special Rapporteur calls on the Government of Ukraine to shed light on all the concerns brought to the attention of its predecessor. In particular, a thorough and independent investigation into allegations of human rights violations, including acts of intimidations or harassments, committed against those exercising their rights to freedom of peaceful assembly and of association, should be conducted; those responsible should be held accountable; and victims should be provided with full redress.

## United Arab Emirates

472. JUA 16/04/2013. Case no. [ARE 1/2013](#). State replies: [10/06/2013](#), [03/11/2013](#). Alleged violation to the right to a fair trial of 94 human rights defenders and other civil society activists, and sentencing of a human rights defender for publishing information on these trials.

473. JUA 20/06/2013. Case no. [ARE 3/2013](#). State reply: None to date. Alleged physical attack and acts of intimidation and reprisal against a human rights defender for having cooperated with the United Nations, its representatives and mechanisms in the field of human rights.

474. JUA 06/08/2013. Case no. [ARE 4/2013](#). State reply: [20/11/2013](#). Alleged sentencing of 69 out of the 94 individuals arrested, including human rights lawyers, judges, academics and student leaders, reported irregularities in their trial, and allegations of torture whilst in detention.

475. JUA 07/11/2013. Case no. [ARE 5/2013](#). State reply: None to date. Alleged implementation of the new law on Cyber Crime as well as alleged torture of detainees.

### Observations

476. The Special Rapporteur thanks the Government of the United Arab Emirates for its responses to two out of four of his communications. However, he regrets that the Government has not replied to all his communications at the time of the finalization of the present report. He considers the responses to his communications as an important part of the cooperation of Governments with his mandate and urges the authorities to provide detailed responses to all the concerns raised in his communications.

477. The Special Rapporteur expresses concern at the volume of allegations received and severity of the issues raised therein. Although the Government refutes these allegations, the Special Rapporteur remains concerned about the situation of individuals and members of civil society organizations, including human rights organizations, who remain at risk of arbitrary detention and ill treatment as a result of their legitimate and peaceful activities.

478. The Special Rapporteur takes note with appreciation of the Government's renewed engagement with the international community in the field of human rights and he calls on the Government to keep him informed on the progress made into the investigations conducted in relation to the aforementioned cases, and that perpetrators will be brought to justice and that the victims will obtain adequate redress.

479. Furthermore, the Special reiterates the content of the operative paragraph 2 of the Human Rights Council Resolution 24/5 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

## Uzbekistan

480. JAL 05/07/2013. Case no. [UZB 1/2013](#). State reply: [06/09/2013](#). Alleged denial of entry and deportation of a human rights defender.

### Observations



481. The Special Rapporteur thanks the Government of Uzbekistan for its reply to his communication. He remains concerned that Ms. Ismailova was denied entry in Uzbekistan and deported because of her legitimate human rights activities.

482. The Special Rapporteur recommends that the Government put in place an enabling and safe environment that is conducive to the free expression of civil society allowing individuals to exercise their legitimate rights to freedom of peaceful assembly and of association without undue hindrances. A thorough and independent investigation into any allegations of human rights violations, including acts of intimidations or harassments, committed against those exercising their rights to freedom of peaceful assembly and of association, should be conducted; those responsible should be held accountable; and victims should be provided with full redress.

483. The Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

484. The Special Rapporteur reminds the Government of his country visit requests sent in September 2011 and October 2013, to which a response is yet to be received. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

### **Venezuela (Bolivarianan Republic of)**

485. JUA 16/05/2013. Case no. [VEN 4/2013](#). State reply: [06/06/2013](#). Presunta detención arbitraria de un general del ejército en situación de retiro y dirigente opositor del partido político Voluntad Popular.

486. JAL 11/07/2013. Case no. [VEN 5/2013](#). State reply: Ninguna a la fecha. Supuesto uso excesivo de la fuerza y criminalización de las protestas ocurridas durante el mes de abril 2013.

487. JAL 19/11/2013. Case no. [VEN 7/2013](#). State reply: Ninguna a la fecha. Presuntas restricciones indebidas al trabajo de organizaciones de la sociedad civil.

### **Observaciones**

488. El Relator Especial agradece la respuesta detallada, incluido sus extensos anexos, del Gobierno de la República Bolivariana de Venezuela al llamamiento urgente con fecha del 6 de junio de 2013. El Relator Especial los examinó con particular atención. Sin embargo, el Relator Especial lamenta no haber recibido respuesta por parte del Gobierno a las dos cartas de alegaciones enviadas conjuntamente con otros expertos independientes de la ONU, en las cuales expresaba grave preocupación por las alegaciones de uso excesivo de la fuerza, criminalización y estigmatización de manifestantes pacíficos en abril 2013 y reportes de injerencia estatal indebida en las actividades legítimas de asociaciones.

489. A pesar de que el Gobierno refuta las alegaciones de detención arbitraria del opositor político Antonio Rivero, el Relator Especial se muestra preocupado por el alto volumen de reportes que indican que la situación de individuos y miembros de organizaciones de la sociedad civil, incluidas organizaciones de los derechos humanos,

están expuestos a detenciones arbitrarias y malos tratos al ejercer sus legítimas y pacíficas actividades.

490. El Relator Especial recuerda que “los derechos a la libertad de reunión pacífica y de asociación son fundamentales para que los individuos y los grupos de individuos participen en los asuntos públicos. Mediante el ejercicio de esos derechos las personas pueden unir sus preocupaciones e intereses y hacerlos conocer y procurar moldear una gobernanza para que resuelva sus problemas” (A/68/299, párrafo 6) y hace nuevamente hincapié en el papel de las asociaciones en general, y en particular en los partidos políticos, como medios clave para que los individuos participen en la gestión de los asuntos públicos por medio de los representantes que han elegido. El Relator Especial insta al Gobierno de la República Bolivariana de Venezuela a que reconozca que los derechos a la libertad de reunión pacífica y asociación desempeñan un papel central en la democracia y asegure que nadie sea criminalizado, violentado ni intimidado por ejercer estos derechos.

491. El Relator Especial recuerda la opinión del Comité de los Derechos Humanos relativa a la suspensión de obligaciones durante un estado de excepción, según la cual, en el ámbito de las libertades de reunión pacífica y asociación, son suficientes medidas restrictivas recogidas en el Pacto Internacional de Derechos Civiles y Políticos y consideraciones de seguridad no justifican medidas de derogación (Observación General No. 29). Asimismo, hace hincapié en los artículos 21 y 22 del Pacto Internacional de Derechos Civiles y Políticos, que la República Bolivariana de Venezuela ratificó y se comprometió a respetar y a garantizar el 10 de mayo de 1978, y que garantizan los derechos de reunión pacífica y asociación. En el primero “[s]e reconoce el derecho de reunión pacífica. El ejercicio de tal derecho sólo podrá estar sujeto a las restricciones previstas por la ley que sean necesarias en una sociedad democrática, en interés de la seguridad nacional, de la seguridad pública o del orden público, o para proteger la salud o la moral públicas o los derechos y libertades de los demás”. El segundo estipula: “[t]oda persona tiene derecho a asociarse libremente con otras, incluso el derecho a fundar sindicatos y afiliarse a ellos para la protección de sus intereses. El ejercicio de tal derecho sólo podrá estar sujeto a las restricciones previstas por la ley que sean necesarias en una sociedad democrática, en interés de la seguridad nacional, de la seguridad pública o del orden público, o para proteger la salud o la moral públicas o los derechos y libertades de los demás.”

492. En su informe temático al Consejo de Derechos Humanos, el Relator Especial destaca “que solo podrán aplicarse “ciertas” restricciones, es decir que, sin lugar a dudas, la libertad será la regla y la restricción su excepción. A este respecto, se refiere a la Observación general N° 27 (1999) del Comité de Derechos Humanos sobre la libertad de circulación, según la cual, “al aprobar leyes que prevean restricciones... los Estados deben guiarse siempre por el principio de que las restricciones no deben comprometer la esencia del derecho..., no se debe invertir la relación entre derecho y restricción, entre norma y excepción”. En consecuencia, cuando los Estados deseen restringir esos derechos, deberán cumplir todas las condiciones mencionadas. Por lo tanto, toda restricción debe obedecer a uno de los intereses concretos antes señalados, poseer un fundamento jurídico (estar “prescrita por la ley”, lo que implica que la ley debe ser accesible y estar formulada con la suficiente precisión) y “ser necesaria en una sociedad democrática” (A/HRC/20/27, párrafo 16).

493. En este contexto, el Relator Especial quisiera insistir en la necesidad de asegurar la existencia de un ambiente seguro y propicio para la sociedad civil que permita el libre ejercicio de los derechos de asociación y reunión pacífica. Asimismo, reitera que el Estado tiene una obligación positiva de llevar a cabo medidas eficaces para hacer efectivo el disfrute de estos derechos.

494. Asimismo, el Relator Especial reitera el contenido del párrafo operativo 2 de la Resolución 24/5 del Consejo de Derechos Humanos donde se “[r]ecuerda a los Estados su

obligación de respetar y proteger plenamente los derechos de todas las personas a la libertad de reunión pacífica y de asociación por cualquier vía, electrónica o no, también en el contexto de unas elecciones, incluidas las personas que abracen opiniones o creencias minoritarias o disidentes, los defensores de los derechos humanos, las personas afiliadas a sindicatos y otras personas, como los migrantes, que traten de ejercer o promover esos derechos, y de adoptar todas las medidas necesarias para asegurar que cualquier restricción al libre ejercicio del derecho a la libertad de reunión pacífica y de asociación sea conforme con las obligaciones que les incumben en virtud del derecho internacional de los derechos humanos.”

495. El Relator Especial reitera que confía en el que el Gobierno de la República Bolivariana de Venezuela responderá prontamente y favorablemente a sus solicitudes de visita hechas en 2011 y 2013 para valorar objetivamente la situación de los derechos a la libertad de reunión pacífica y de asociación en el país. En este contexto, el Consejo de Derechos Humanos, en su resolución 15/21, “[e]xhorta a los Estados a que colaboren plenamente con el relator especial y le presten asistencia en el desempeño de sus funciones... y consideren favorablemente sus solicitudes para realizar visitas” (OP6).

## **Viet Nam**

496. JAL 12/04/2013. Case no. [VNM 4/2013](#). State reply: [02/07/2013](#). Alleged harassment and threats against a Buddhist activist, writer and human rights defender.

497. JUA 20/09/2013. Case no. [VNM 6/2013](#). State reply: none to date. Alleged arbitrary arrest and detention of three labour rights activists, and alleged torture and denial of medical treatment to one of them.

498. JUA 01/10/2013. Case no. [VNM 7/2013](#). State reply: [10/01/2014](#). Alleged legislative amendments which would lead to severe restrictions on the right to freedom of opinion and expression online.

499. JUA 28/01/2014. Case no. [VNM 2/2014](#). State reply: [14/04/2014](#). Alleged arrest, threats and harassment against members of the Unified Buddhist Church of Vietnam in Hue and Ho Chi Minh City.

## **Observations**

500. The Special Rapporteur thanks the Government of Viet Nam for its replies to most of his communications sent during the reporting period. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide detailed answers to all the concerns raised in his communication of 20 September 2013.

501. The Special Rapporteur remains seriously concerned about the physical and psychological integrity of individuals exercising their right to freedom of association in Viet Nam. In particular, he expresses concern about the situation of members of the Unified Buddhist Church of Viet Nam and labour activists who have been targeted by the authorities.

502. The Special Rapporteur remains similarly concerned about the adoption of the *Decree on the Management, Provision, Use of Internet Services and Information Content Online (No. 72/2013/ND-CP)* (‘Decree 72’). The Decree contains a number of provisions that may limit the right to freedom of expression and freedom of information, and by extension the rights to freedom of peaceful assembly and of association. He calls on the authorities to review the Decree to ensure its compliance with international human rights norms and standards.

503. The Special Rapporteur remains seriously concerned about the physical and psychological integrity of people exercising their rights to freedom of peaceful assembly and of association in Viet Nam. He recommends again that the Government put in place an enabling and safe environment that is conducive to the free expression of civil society allowing individuals to exercise their legitimate right to freedom of association without undue hindrances. A thorough and independent investigation into any allegations of human rights violations, including acts of intimidations or harassments, committed against those exercising their rights to freedom of peaceful assembly and of association, should be conducted; those responsible should be held accountable; and victims should be provided with full redress.

504. The Special Rapporteur refers to Human Rights Council resolution 24/5, and in particular operative paragraph 1 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law”.

505. The Special Rapporteur reminds the Government of his country visit request sent in February 2014, to which a response is yet to be received. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

## **Zambia**

506. JAL 21/10/2013. Case no. [ZMB 2/2013](#). State reply: None to date. Alleged undue interference with the work and organizational structure of civil society organizations.

### **Observations**

507. The Special Rapporteur regrets that the Government of Zambia has not responded to his communication. He considers the responses to his communications as an important part of the cooperation of Governments with his mandate and urges the authorities to provide him, as soon as possible, with detailed responses to all the concerns raised in his communication.

508. The Special Rapporteur expresses concern that the reported Non-Governmental Organizations Bill unduly limits the right to freedom of association. He is of the opinion “that a “notification procedure”, rather than a “prior authorization procedure” that requests the approval of the authorities to establish an association as a legal entity, complies better with international human rights law ...” (A/HRC/20/27, paragraph 58). Moreover, the Special Rapporteur reminds the Government that “members of associations should be free to determine their statutes, structure and activities and make decisions without State interference” (A/HRC/20/27, paragraph 64).

509. The Special Rapporteur calls upon the Government to put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms of peaceful assembly and association without undue hindrances. He reiterates the content of the operative paragraph 2 of the Human Rights Council Resolution 24/5 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human

rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

510. The Special Rapporteur reminds the Government that the International Covenant on Civil and Political Rights acceded by Zambia on 10 April 1984, guarantees the right to freedom of peaceful assembly and of association (article 21 and 22). He also reminds the authorities that according to article 21 of the International Covenant on civil and political rights “*No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others*” (emphasis added). International law therefore does not give the State any right to take measures to “limit acts that and place restrictions to guarantee national security”.

## **Zimbabwe**

511. JAL 08/10/2013. Case no. [ZWE 3/2013](#). State reply: [24/10/2013](#). Alleged excessive use of force by police and arbitrary arrest of individuals exercising their right to freedom of peaceful assembly.

512. JAL 07/02/2014. Case no. [ZWE 1/2014](#). State reply: None to date. Alleged acts of harassment against leaders of two associations promoting and defending human rights.

## **Observations**

513. The Special Rapporteur thanks the Government of Zimbabwe for acknowledging receipt of the communication sent on 8 October, but he regrets to not have received a substantive response to date to neither of his two communications. He considers responses to his communications as an important part of the cooperation of Governments with his mandate, and urges the authorities to provide him, as soon as possible, with detailed responses to all the concerns raised in these communications.

514. The Special Rapporteur wishes to express his serious concern at the alleged excessive use of force during a peaceful protest in Harare in September 2013 and the reported arrest of three women leaders of the Women and Men of Zimbabwe Arise (WOZA), peacefully protesting: Mses. Jenni Williams, Ms. Magodonga Mahlangu and Ms. Taurai Nyamanhindi. The Special Rapporteur wishes to emphasize the positive obligation of the State to facilitate the exercise of the right to hold and participate in peaceful assemblies. He reminds the Government of Zimbabwe that this obligation includes tackling practices that threaten or impede the enjoyment of the right to peacefully demonstrate by groups at greater risk of discrimination, violence, harassment and retribution, such as women. He urges the authorities to investigate into allegations of excessive use of forces during peaceful assemblies. He calls on the authorities to bring the perpetrators to justice and ensure that the victims will obtain adequate redress.

515. The Special Rapporteur calls upon the Government to put in place an enabling and safe environment allowing individuals to exercise their legitimate freedoms of peaceful assembly and association without undue hindrances. He reiterates the content of the operative paragraph 2 of the Human Rights Council Resolution 24/5 that “[r]eminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on

the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

516. The Special Rapporteur reminds the Government that the International Covenant on Civil and Political Rights acceded by Zimbabwe on 13 May 1991, guarantees the right to freedom of peaceful assembly and of association (article 21 and 22), stipulates that “each State Party undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant, without distinction of any kind, such as race colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”(article 2), and guarantees to all individuals equal and effective protection against discrimination on grounds identified in article 2 (article 26). He also reminds the authorities that according to article 21 of the International Covenant on civil and political rights “*No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others*” (emphasis added). International law therefore does not give the State any right to take measures to “limit acts that and place restrictions to guarantee national security”.

517. The Special Rapporteur reminds the Government of his country visit request sent in September 2011 and October 2013, to which a response is yet to be received. In this connection, OP6 of resolution 15/21 states that the “Human Rights Council... [c]alls upon States to cooperate fully with and assist the Special Rapporteur in the performance of his or her tasks... and to consider favourably his or her requests for visits”.

### **Other**

518. JAL 11/06/2013. Case no. [OTH 5/2013](#). Reply: [24/01/2014](#). Alleged forced eviction of residents living in Jagatsinghpur District, Odisha, and surrounding areas in India.

### **Observations**

519. The Special Rapporteur thanks POSCO (India) Private Limited for its response. He notes with interest the drafting of a new Code of Conduct reportedly based on the principle of respect for human rights, which is to enter into force during the first half of 2014. He welcomes the invitation extended by POSCO to various experts to check on the ground whether the company have committed any human rights abuses. He hopes to be able to honour it in the near future.