

# SPECIAL PROCEDURES BULLETIN



## FOURTEENTH ISSUE: JULY-SEPTEMBER 2009

### HIGHLIGHTS

#### **12<sup>TH</sup> SESSION OF THE HUMAN RIGHTS COUNCIL**

The Human Rights Council held its twelfth regular session from 14 September to 2 October 2009 in Geneva. Highlights of the session relating to special procedures include several interactive dialogues, follow up to special sessions, appointment of new mandate holders, and participation in panels. During this session, the High Commissioner for Human Rights, Ms. Navanethem Pillay, asked States parties and other stakeholders to initiate a process of reflection on how to achieve better coordination among treaty bodies, Special Procedures and the UPR. She further noted that the work of Special Procedures mandate holders is of the outmost importance and that all States should do more to support the Special Procedures normative and fact-finding work, in particular ensuring that their recommendations help shape reform at the national level. *continued on page 12*

#### **TWO NEW SPECIAL PROCEDURES MANDATE HOLDERS APPOINTED**

At its 12th regular session, the Human Rights Council appointed two new Special Procedures mandate-holders for the two new mandates created earlier this year. *continued on page 15*

#### **HOW TO FIND INFORMATION ON SPECIAL PROCEDURES**

The OHCHR website (<http://www.ohchr.org>) provides information on the system of special procedures under Human Rights Bodies/ Special Procedures, including details on each mandate and the Coor-dination Committee. It also contains details of country visits, links to reports, press statements, etc. To learn more about Special Procedures, consult Fact Sheet no. 27, Seventeen Frequently Asked Questions about United Nations Special Rapporteurs available at:

<http://www.ohchr.org/Documents/Publications/FactSheet27en.pdf>

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The Special Procedures Bulletin provides a general overview of the main activities of the 39 Special Procedures mandates. The next issue of the Bulletin will cover October-December 2009. The Bulletin is produced by the Information, Coordination and Management Unit of the Special Procedures Division of the OHCHR.

#### **How to send information on alleged human rights violations to Special Procedures**

For further information on how to submit communications, please visit the OHCHR website under Human Rights Bodies/ Special Procedures. Communications should contain a factual description of the alleged violation and be submitted by individuals or organizations acting in good faith with direct or reliable knowledge of the violations they are reporting. They should not be politically motivated, abusive or based solely on media reports. Please specify which special procedure(s) mechanism the information is addressed to in the subject line of the e-mail or fax, or on the envelope.

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## COMMUNICATIONS

Some special procedures mechanisms intervene directly with States on specific allegations of human rights violations that fall within their mandates. The intervention can relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process generally involves sending a letter to the concerned States requesting information and comments on the allegation and calling for preventive or investigative action.

The decision to intervene is at the discretion of the special procedure mandate holder and depends on criteria

established by him or her, as well as the criteria laid out in the Code of Conduct. Criteria generally relate to the reliability of the source and the credibility of information; the details provided; and the scope of the mandate itself. Further information is frequently requested from sources. Communications should not be politically motivated, abusive or based solely on media reports. Mandate holders may send joint communications when the case falls within the scope of more than one mandate. The OHCHR's Special Procedures Division Quick Response Desk coordinates communications and keeps relevant databases updated

Between 1st July and 30 September 2009, 205 communications were sent.

64.9 % were joint communications.

The communications concerned 682 individuals.

10.9 % of these cases concerned women.

75 countries received communications.

## COUNTRY VISITS

### AUSTRALIA

#### **Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people**

From 17 to 28 August, the Special Rapporteur, Mr. James Anaya, undertook an official visit to Australia. In the statement issued at the end of his visit, he commended the Government of Australia for taking significant steps to improve the human rights and socio-economic conditions of the Aboriginal and Torres Strait Islander peoples of Australia, as well as for its recent expression of support for United Nations Declaration on the Rights of Indigenous Peoples and for its apology to the victims of the Stolen Generation. He added that given the disparities, the Government has developed and implemented a number of important initiatives in order to "close the gap" of indigenous disadvantage within a wide range of social and economic areas, with a stated emphasis on women and children. He stated that these programmes must continue to be improved and strengthened.

The Special Rapporteur noted with satisfaction that a process to reform the Emergency Response is currently underway and that the Government has initiated consultations with indigenous groups in the Northern Territory in this connection. He urged the Government to act swiftly to reinstate the protections of the Racial Discrimination Act in regard to the indigenous peoples of the Northern Territory. He noted numerous successful indigenous programmes to address issues of alcoholism, domestic violence, health, education, and other areas of

concern, in ways that are culturally appropriate and adapted to local needs. Further, adequate options and alternatives for socio-economic development and violence prevention programmes should be developed in full consultation with affected indigenous communities. The Special Rapporteur noted a need to move deliberately to adopt genuine reconciliation measures, such as the proposed recognition of the rights of Aboriginal and Torres Strait Islander peoples in a charter of rights to be included in the Constitution and welcomed the Government's willingness in this regard. Furthermore, he noted the importance of securing the rights of indigenous peoples to their lands, the central importance to indigenous peoples' socio-economic development, self-determination, and cultural integrity. He urged the Government to comply with the recommendations concerning indigenous lands and resources made by the United Nations treaty-monitoring bodies.

#### **OHCHR WEBSITE PAGE ON SPECIAL PROCEDURES COUNTRY VISITS**

<http://www.ohchr.org/english/bodies/chr/special/visits.htm>

Links to alphabetical tables of country visits by Special Procedures mandate holders since 1998 are available at this link as well as a list of all countries having extended standing invitations to all the thematic procedures. As of November 2009, 65 countries have extended standing invitations.

An annual compilation of recommendations of Special Procedures by country is also available on the Special Procedures webpage.

## **COLOMBIA**

### **Special Rapporteur on indigenous people**

From 22 to 27 July 2009, the Special Rapporteur, Mr. James Anaya, undertook an official mission to Colombia. At the end of his visit, he issued a [press release](#) noting that despite some initiatives of the Government in the past few years the situation of human rights of indigenous people in Colombia is critical and of grave concern.

During his visit, the Special Rapporteur noted the significant initiatives of the Government regarding health and education to improve the situation of extreme vulnerability of indigenous people in Colombia. He further noted the significant powers to protect the indigenous that judicial and control authorities have and recognized the Early Warning System (SAT) of the National Human Rights Institution (Defensoría del Pueblo) as an important mechanism for the identification and prevention of violence against indigenous people. Regarding the armed conflict, he noted with concern that illegal armed groups, in particular FARC-EP, seem to ignore the principles of human rights and international humanitarian law. According to information received, these groups are responsible for the killings of indigenous people and other serious crimes which affect indigenous peoples disproportionately. He made a special call to illegal armed groups to eliminate the practice of recruitment of indigenous boys and girls, as well as the use of landmines. On the other hand, the Special Rapporteur noted persistent allegations of human rights violations by members of public forces and called upon them to respect the autonomy of indigenous peoples and agree with indigenous authorities the conditions of any presence within their territories. The Special Rapporteur also expressed concern for the situation of indigenous children and women affected by the armed conflict. Noting that right to land and territory is a persistent demand of indigenous people in Colombia, he stressed the need to harmonize economic development public policy, in particular that which concerns the “mega projects” related to the extraction of resources or infrastructure, with collective and individual human rights of indigenous people.

Indigenous people as well as the Constitutional Court have identified as a persistent problem the lack of consultation in decisions affecting them directly. In this regard, the Special Rapporteur took note of efforts made by the Government, including the elaboration of a draft law to regulate previous consultation. He trusts that the assistance of OHCHR will be most helpful. Finally, he noted the importance of the elaboration and implementation of legislation and public policy in conformity with international applicable regulations on the rights of indigenous peoples.

### **Special Rapporteur on the situation of human rights defenders**

From 7 to 18 September 2009, the Special Rapporteur on the situation of human rights defenders carried out a fact-finding mission to assess the situation of human rights

defenders in Colombia. At the end of her visit she issued a [press release](#) and commended the Government for the significant improvement in the overall security situation in the country since 2002 and for designing policies and strategies for the protection of human rights defenders. She expressed support for the work of the regional and municipal Ombudspersons, in particular the early warning system, and noted that reports should be made public and be more often taken into account by the Inter-institutional Committee on Early Warning (CIAT). She further welcomed the adoption of the Law on Intelligence and Counterintelligence, and urged the Government to implement it as soon as possible. The Special Rapporteur urged the Government to promptly implement agreements reached with human rights defenders on guarantees for their work, to continue dialogue, and to prioritise investigations on threats received by defenders who participated in the roundtables on guarantees for human rights defenders.

She noted that journalists, trade unionists, magistrates, lawyers, student and youth activists, women defenders, indigenous and Afro-Colombian leaders, and LGBT activists have been killed, tortured, ill-treated, disappeared, threatened, arbitrarily arrested and detained, judicially harassed, under surveillance, forcibly displaced, forced into exile, or their offices have been raided and their files stolen, because of their legitimate work in upholding human rights and fundamental freedoms. Some of these violations are allegedly attributable to guerillas, new illegal armed groups and paramilitary groups. She stated that the Government bears the responsibility to denounce and thoroughly investigate these violations and prosecute the perpetrators. In this context, she stated that threats against judges of the Supreme Court of Justice weaken the justice system as a whole, fuel impunity and, through this, impact negatively on the work of defenders. A prime reason for the insecurity of human rights defenders lies in the systematic stigmatization and branding of defenders by Government officials. The public statement by President Uribe recognizing the legitimate work of human rights defenders, and the recent ones made by the Vice-President and the Ministers of Interior and Justice are important pronouncements for the human rights community. It is further important that the Inspector General's Office (Procuraduría General de la Nación) continue investigating statements made by public officials on human rights defenders which are greatly harmful to their work. The Special Rapporteur welcomed the recent creation of the Humanitarian Affairs Units (Unidades de Asuntos Humanitarios) within the Attorney General's Office. Finally, she was concerned about the fact that some prosecutors operate within military premises, casting doubts about the independence of the judiciary in Colombia.\*

## **GUATEMALA**

### **Special Rapporteur on the right to food**

The Special Rapporteur on the right to food, Mr Olivier De Schutter, visited Guatemala on an official mission between 3

and 5 September. This was a follow up mission to that of the former Special Rapporteur, in January 2005. At the end of his visit, the Special Rapporteur issued a [press release](#) where he noted with appreciation the level of commitment of the Government towards the realization of the right to food. Since 2005, with the adoption of the Law on the national system for food and nutritional security (SINASAN), Guatemala stands out as one of the first countries to have adopted framework legislation on the right to food. A large number of initiatives were taken since the current administration took office in order to improve the situation of the poorest segments of the population, and to combat in particular child nutrition and extreme poverty within the indigenous part of the population. However, he was concerned that inequalities in Guatemala remain at intolerably high levels, and that the number of poor is unacceptable. The promotion of rural development and agricultural services, and financing the access to land for landless rural laborers, require that the State has the required budgets at its disposal. The Special Rapporteur also noted that the agreement reached in May 2009 on a Policy for Integral Rural Development is an encouraging development and hoped that it will be codified into legislation. Considering the stark inequalities in access to land that exist currently and the further pressures towards concentration that result from the boom in agrofuels, the elements of the policy that seek to limit excessive concentration of land ownership - including the redistribution of fallow land and the development of alternative modes of resolution of conflicts over land - are particularly important ; so should be the protection of indigenous communities against evictions from the land on which they depend for their livelihoods.

The Special Rapporteur also raised serious concerns about the protection of labour rights in rural areas. While this situation is not new, it is now more urgent than ever, both because of the gradual transition from the *mozos colonos* system towards a system of waged employment on large plantations, and because of the increased speculation on land, that makes land often inaccessible to landless rural laborers, or results in a situation where the small farmers are systematically priced out by large estate-owners in market-led land reform. He was also particularly concerned that disproportionate force continues to be used against landless workers who resort to forms of protest against unpaid wages or other abuses that include the occupation of farms (*fincas*). The legal protection of the right to food remains insufficient. Despite the fact that the tools exist both in the constitution and in the SINASAN law, neither the Constitutional Court nor ordinary courts have, at yet, protected the right to food against violations. The Special Rapporteur stated that courts in Guatemala should and could do more when presented with cases of violations of the right to food. He welcomed the active role of the head of the National Human Rights Institution (Procurador de Derechos Humanos) in this context, and was encouraged by the fact that his has been significantly increasing its efforts to contribute to the realization of the right to food.

## **HAITI**

### **Independent Expert on the situation of human rights in Haiti**

The Independent Expert on the situation of human rights in Haiti, Mr Michel Forst, undertook his third country visit from 29 August to 7 September 2009. At the end of his mission, the Independent Expert issued a [press statement](#). He concluded that although there were high hopes for the laws designed to reform the judiciary, progress appears to have been halted with their passage. The judicial reform remains blocked by the delay in appointing the President of the Supreme Court which should allow the High Council of Judicial Power as well as other institutions like the School of Magistrate to become fully functional. He added that in comparison to the justice sector, which is still marked by deprivation and limited resources the reform of the Haitian National Police (HNP) is proceeding at a fast pace. However, he expressed concern over more than 2,000 files that have been transferred to the authorities within the framework of the vetting process. The files, however, have not been processed since last year, which implies that police officers who allegedly committed human rights violations have remained in office.

On the other hand, the Independent Expert described the conditions in the overcrowded prisons as cruel, inhuman and degrading treatment. He called for a separation between accused and convicted inmates and warned that "a prison should deprive the inmates of their liberty but it should not be the school of crime".

The Independent Expert will carry out his fourth mission to Haiti from 24 November to 1 December in order to focus on economic, social and cultural rights. Before the next country visit, Mr. Forst intended to hold meetings related to the human rights situation in Haiti at United Nations headquarters in New York.

## **JAPAN**

### **Special Rapporteur on Trafficking in Persons, especially women and children**

From 12 to 17 July 2009, the Special Rapporteur on Trafficking in Persons, especially women and children, Ms. Joy Ngozi Ezeilo, undertook an official mission to Japan. At the end of her mission, the Special Rapporteur issued a [press release](#) where she noted that Japan is clearly affected by human trafficking as a destination country. She further noted that although trafficking for prostitution and other forms of sexual exploitation constitutes the vast majority of the recorded cases in Japan, trafficking for labour exploitation is also of great concern. The Japanese Government recognizes the seriousness of the problem and has taken important steps, including the adoption of a National Plan of Action on trafficking. More recently, victims have also been granted the right to a special residence permit if they wish to stay in Japan. The Special Rapporteur also recognized the efforts undertaken by the Government to cooperate with sending countries to support the reintegration of victims in their home countries.

Moreover, with regard to international cooperation, Japan has established a Joint Task force with Thailand to combat trafficking. Among the challenges that Japan must address, the Special Rapporteur highlighted the non-ratification of relevant international treaties; the unclear identification procedure which may lead to mis-identification of victims of trafficking; the lack of appropriate shelters with adequate assistance to victims of trafficking; the abuses within the foreign trainees programme; and the lack of appropriate training of, and coordination among, relevant law enforcement officials. In this regard, the Special Rapporteur shared some preliminary recommendations, including the urgent ratification of relevant international treaties; establishing a national rapporteur office on trafficking; strengthening labour inspections; strengthening the services provided to victims of trafficking; creating a special fund for compensations; and improving partnerships between Government agencies and NGOs. She also encouraged Japan to take action and show leadership at the regional level in the fight against trafficking, and to consider the adoption of bilateral agreements with source countries to tackle the human trafficking problem on a long term basis. The Special Rapporteur believes that it is imperative to adopt a comprehensive and holistic approach to combat this phenomenon, and that strategies for combating trafficking should rest on the '5 P's' and '3 R's' - Protection, Prosecution, Punishment, Prevention, Promotion (of international cooperation), Redress, Rehabilitation and Reintegration of victims to assume a constructive role in the society.

## **KAZAKHSTAN**

### **Independent Expert on minority issues**

From 6 to 15 July, the Independent Expert on minority issues, Ms. Gay J. McDougall undertook an official mission to Kazakhstan. At the end of her visit, she issued a [press statement](#) commending the Government and the people of Kazakhstan for the high degree of inter-ethnic and inter-religious cooperation and tolerance that is evident in the society. Nevertheless, she said that a number of issues require further attention and action by the Government. She will present a comprehensive report to the Human Rights Council in March 2010. In her preliminary findings, the Independent Expert welcomed the existence of the Assembly as a valuable national symbol of the recognition of minorities and the commitment of the State to the preservation of the cultural heritage of minorities. She noted that the government is establishing Kazakh as the State language and that members of minorities raised language issues during her visit. In this regard, she cautioned that sensitivity must continue to be exercised to ensure that the policy does not unduly impact upon the rights and opportunities of those communities and sectors of society that might require additional assistance, time and resources to gain proficiency in the Kazakh language. On the issue of religion, the expert urged the Government to engage in a wide-ranging dialogue with 'non-traditional' religious groups about ways to guarantee their full rights and freedoms. The visit to Kazakhstan allowed the expert a

unique opportunity for dialogue in relation to her mandate to promote implementation of the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic minorities.

## **NICARAGUA**

### **Special Rapporteur on the right to food**

From 6 to 12 September 2009, the Special Rapporteur on the right to food, Mr. Olivier De Schutter, conducted an official mission to Nicaragua, in order to assess the obstacles to the realization of the right to food and to identify recommendations that could contribute to removing such obstacles in the future. The report will be presented to the Human Rights Council in March 2010. In the [statement](#) issued at the end of the visit, he welcomed the commitment of the Government to the realization of the right to food. He emphasized in particular the importance of the Law (No. 693) on food and nutrition sovereignty and security, published on 16 July 2009. He was impressed by a number of initiatives of the Government to improve food security in the country, particularly under the national 'Hambre Cero' strategy. The Special Rapporteur encouraged the government to ensure the integration of human rights principles in the design and implementation of support schemes such as 'Hambre Cero'. During his visit, he gathered extensive information about the situation of workers in the agricultural sector, who constitute a particularly vulnerable category. The Special Rapporteur noted that he will follow the discussions surrounding the proposal for a law on subcontracting of labour and the decisions of the national tripartite council established to encourage dialogue between Government, employers, and workers' unions. He also noted that access to land remains an important issue in Nicaragua and that access of women to land should be strengthened. The initiative towards creating a fund for the acquisition of land by women is welcome and deserves wide discussion.

On the situation of indigenous people, he noted that the issue of land is of particular importance and added that Nicaragua must give legal recognition and protection to their lands, territories and resources, with due respect to the customs, traditions and land tenure systems of the indigenous people concerned. He noted with concern that indigenous communities are particularly vulnerable to the impact of climate change, as a result of floods from rivers. Rapid alert systems should be put in place, and support should be given to the indigenous communities to enable them to develop modes of agricultural production that are more resilient to weather-related events.

Finally, he noted that the international community has an important role to play in supporting the efforts of Nicaragua towards improving food security, particularly in agricultural and rural development.

## **SENEGAL**

### **Working Group on arbitrary detention**

From 5 to 15 September 2009, the Working Group on arbitrary detention undertook an official visit to Senegal. At the end of the visit the Working GroupAD issued a [press statement](#). The Working Group met authorities from the executive, judiciary, as well as the Senegalese Committee of Human Rights, the Conseil de l'Ordre des Avocats, civil society actors and representatives of United Nations agencies. The Working GroupAD had interviews, private and without witnesses, with detainees at Rebeuss, the Dakar Central Prison and at the Dakar Criminal Camp and at Liberté VI, the women detention centre. The Working Group also visited the detention and correction centres and the Police Commissioner's Office of Saint-Louis and Thiès, as well as the Psychiatric Clinic of the National University Hospital Center of Fann in Dakar. During its visit, the Working Group was represented by two members: Mr. Aslan Abashidze (Russian Federation) and Mr. Roberto Garretón (Chile). Pending the preparation of its report to the Human Rights Council, the Working Group made a series of preliminary observations on efforts made by the Government, the National Assembly and Senate to update national legislation which establishes criminal proceedings. These observations are also in regard to the insufficient numbers of defense lawyers, the long duration of preventive detention, juvenile justice, administrative detention, detention of journalists, detentions related to sexual orientation and prison overcrowding.

### **Special Rapporteur on the human rights of migrants**

From 17 to 21 August 2009, the Special Rapporteur on the human rights of migrants undertook an official visit to Senegal. At the end of his visit, in a [press statement](#), the Special Rapporteur commended the Government of Senegal for the finalization of the report to be submitted to the Committee on the Rights of Migrant Workers and the inclusion of civil society in its elaboration. Noting that Senegal is a country of origin, transit and destination of migrants, he was encouraged by the openness and integration environment vis-à-vis migrants willing to stay in Senegal and whose rights are guaranteed by the improved legal framework. He welcomed the attention the Government gives to irregular migration and commended efforts through multilateral and bilateral cooperation to protect the rights, including the right to life, of those who try to migrate using dangerous routes. In this regard, the Special Rapporteur learned with great interest that the number of departures and deaths of migrants from Senegalese coasts by sea fell sharply during the first half of this year. Therefore, he encouraged the Government to continue its efforts to strengthen the protection of human rights of migrants. Following preliminary observations, the Special Rapporteur invited the Government to strengthen investigations on irregular migration to Senegal with the support of the international community and to ensure the coordination with different mechanisms aiming at

protecting the rights of migrants, and in particular those of women and children.

## **SERBIA AND KOSOVO**

### **Representative of the Secretary-General on the Human Rights of Internally Displaced Persons**

From 28 June to 4 July 2009, the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Mr. Walter Kälin, undertook an official mission to Serbia and Kosovo as a follow-up mission to his visit in 2005 to the then Serbia and Montenegro. After concluding his visit, he stated in a [press release](#) that persons who were internally displaced from and within Kosovo still face serious obstacles to return and local integration. He noted with appreciation that the relevant authorities expressed commitment to facilitate return of all internally displaced persons, regardless of their ethnicity. At the same time, he found that entrenched patterns of discrimination, lack of access to employment and livelihoods, too few schools for minorities and difficulties in repossessing property and having houses reconstructed are among the chief obstacles to return. He also added that it was important that the municipalities as well as the Kosovo Ministry for Return and Communities receive adequate resources, both financial and human, for this purpose. He noted some improvements in the local integration of internally displaced persons. He expressed concern, however, that bureaucratic obstacles, in particular cumbersome procedures to get documents, continued to make it unnecessarily difficult for many displaced persons to access public services.

The Representative of the Secretary-General expressed particular concern about the situation of internally displaced persons of Roma, Ashkali and Egyptian ethnicity. He called on the authorities to treat these persons like any other internally displaced persons, in full accordance with the United Nations Guiding Principles on Internal Displacement. The RSG was alarmed that several hundred Roma internally displaced persons were still living in Cesmin Lug Camp, where the United Nations had placed them a decade ago, and the adjacent Osterode barracks in Mitrovica/Mitrovicë. The expert called on all authorities and actors to cooperate and find without any further delay a durable solution within Kosovo, in close consultation with and with the participation of the group. "This is a humanitarian emergency and a very serious human rights issue. The lives and health of these sick children must not be abused for political purposes," he stated.

## **UGANDA**

### **Representative of the Secretary-General on the Human Rights of Internally Displaced Persons**

From 12 to 17 July 2009, the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Mr. Walter Kälin, undertook an official visit to Uganda. At the end of the mission he issued a [press release](#) in which he noted the progress made in addressing the

displacement situation in Northern Uganda and welcomed the progress made in restoring security and freedom of movement in the north of the country. However, he stressed that serious challenges remain for those remaining in camps to freely opt for return, local integration or settlement elsewhere as provided for by the Ugandan National IDP Policy and to ensure the sustainability of returns or other durable solutions. While impressed with Government efforts, he expressed his concern at the low impact of recovery and development activities in the North, in particular with regard to the establishment of basic services in return areas. He called on the national as well as local authorities to do their utmost to successfully implement the Peace, Recovery and Development Plan for Northern Uganda, and urged the international community to support recovery efforts. He recommended to authorities and their development partners to invest further into measures restoring long-term food security, which is necessary to guarantee the right to food. He stressed that the phase out of food distribution and the current drought exacerbate the risk for extremely vulnerable individuals to become the first hunger victims. He called upon donors to continue to support humanitarian as well as recovery and development efforts. "Quick impact is needed now to find solutions for all the displaced and to consolidate peace in Northern Uganda where communities have been affected by a long and brutal armed conflict and have lived in displacement for over 20 years", he highlighted.

### **UNITED STATES OF AMERICA**

#### **Working Group on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination**

From 20 July to 3 August 2009, the Working Group on the use of mercenaries undertook an official mission to the United States of America. At the end of its mission, the Working Group issued a [press release](#). It expressed concern at the trend towards extensive privatization of the war in Afghanistan. The Working Group expressed concern over the intention to increase the number of private security contractors to match the surge in troops in Afghanistan, and at the recent objection expressed by the Obama Administration to a prohibition in the 2010 defense funding bill of the use of contractor-personnel in interrogating persons detained during or in the aftermath of hostilities. Violations of human rights committed by private security contractors, the Working Group noted, may include excessive use of force which could lead to injuries or death and which often are not adequately investigated and prosecuted by the relevant authorities. The Working Group received reports of such abuses in Iraq and Afghanistan, including the use of contractors for the interrogation of detainees in US custody. Following the Nissour Square killings of 16 September 2007 in Baghdad where Blackwater guards shot 17 Iraqi civilians, the US Congress repeatedly expressed its concern at the lack of proper oversight of private military and security contractors. The experts noted that the US government has since taken serious corrective

action including adoption of legislation and regulations aimed at strengthening the oversight and accountability of private military and security contractors. The Department of Justice has a key role to play to ensure application of the stated commitment of the Government that criminal offenses and violations of human rights will not remain unpunished, and the fulfillment of the Government's legal obligations under several international human rights treaties. To date, 17 cases involving a range of contractors in several countries and a broad range of crimes had been formally launched by the Justice Department. The experts were informed that some seven convictions had been obtained. However, the Working Group called on prosecutors to play a more proactive role in investigating and prosecuting allegations of human rights violations. The Working Group noted that the responsibility of the State to protect human rights does not stop with contracting or subcontracting. It is the responsibility of the State to ensure that any contractor to which it outsources its functions fully respects human rights, and, in cases of violations is prosecuted and held accountable. Finally, the Working Group called upon the authorities to engage constructively in the international process towards the elaboration of a possible new treaty to achieve an international framework regulating the use of private contractors for security



José Luis Gómez del Prado, member of the Working Group on mercenaries, Congresswoman Jan Schakowsky and Shaista Shameem, Chairperson of the Working Group on mercenaries

functions.

### **ZAMBIA**

#### **Independent Expert on human rights and extreme poverty**

From 20 to 28 August 2009, the Independent Expert on human rights and extreme poverty, Ms. Magdalena Sepúlveda, undertook an official mission to Zambia. In the [press statement](#) issued at the end of the visit, the first mission of a human rights expert to Zambia, she noted that it was appalling to see the persistence of extreme poverty in different regions of the country. During her visit, she learnt about the daily struggle for survival by people living in extremely difficult conditions. The Government has made clear commitments and outlined important plans to change this situation. Regarding the ongoing review of the

Constitution by the National Constitution Conference, the Independent Expert pointed out that this process is a unique opportunity to bring the Zambian legal framework in line with international human rights commitments. She added that access to health, housing, education and social security must be incorporated into the Bill of Rights. She noted that poverty will be reduced in Zambia only when poor people are placed at the centre of national policy planning and if resources to social protection are ensured. The Independent Expert fully acknowledged the resources constraints of the Government and encouraged international donors to support social protection programmes in Zambia. She stressed that the Government still can do much more with the limited resources that it has and noted that transparency, accountability and participation are indispensable for effective poverty reduction policies. She added that civil society has a crucial role in the struggle against poverty, and that it should not only actively participate in the design process but also be able to monitor and evaluate action taken. She expressed concern about the impact that the recently adopted NGO Act may have in restricting the independence of NGOs and subjecting them to excessive controls. The expert will present her report to the Human Rights Council in June 2010.

## POSITIVE DEVELOPMENTS

**Afghanistan:** After being held for nearly two years, Sayed Perwiz Kambakhsh, a young journalist who was sentenced to death and then to 20 years in prison for downloading an article about the rights of women in Islam, was pardoned and released. In the meantime he has left the country for fear of reprisals. The issue had been raised in a joint urgent appeal (JUA) sent by the Special Rapporteur on freedom of opinion and expression, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the independence of judges and lawyers, and the Working Group on enforced or involuntary disappearances on 28 January 2008.

**Belarus:** On 30 June 2009 the President of Belarus pardoned and ordered the release of U.S. national Emanuel Zeltser. He had been arrested on 12 March 2008 and was later sentenced to three years in prison for "using false official documents" and "economic espionage" following a closed trial. The Working Group on Arbitrary Detention, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment had sent a JUA on his behalf on 30 January 2009.

**China (People's Republic of):** On 12 August 2009, Mr. Zhang Lin, a dissident writer, pro-democracy advocate and member of Independent Chinese PEN Center (IPN), was released from prison, allegedly due to his good conduct during Reeducation through Labour. He had been sentenced to "incitement to subversion" charges to five

years in prison and was due to be released in February 2010. The Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the independence of judges and lawyers had taken up his case with a communication sent on 22 February 2005.

**Democratic People's Republic of Korea:** on 4 August 2009, Kim Jong-il of the Democratic People's Republic of Korea pardoned and ordered the release of imprisoned U.S. journalists, Ms. Laura Ling and Ms. Euna Lee. The two journalists had been arrested on 17 March 2009 on the border between the Democratic People's Republic of Korea and China and sentenced on 8 June 2009 to 12 years' hard labour for illegally entering the country and committing unspecified "hostile acts" while reporting near the border with China. The Working Group on arbitrary detention, the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, the Special Rapporteur on the promotion and protection of freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on violence against women, its causes and consequences, had taken up her case with a communication sent on 2 April 2009.

**The Gambia:** Six Gambian journalists sentenced to two years' imprisonment for supposedly defaming President Yahya Jammeh were granted presidential pardon and released. They had been imprisoned for accusing the President of consistently slandering the memory of the late Deyda Hydara, a veteran journalist who was murdered in 2004. President Jammeh said the pardon was in line with the spirit of the month of Ramadan, which encourages Muslims to forgive each other. The issue had been raised in a Joint Letter of Allegation sent by the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders on 9 July 2008.

**Guatemala:** On 29 October 2009, the Ninth Court of the First Criminal Instance declared inadmissible the accusation of "accessory after the fact" in the attempted murder of a sexworker brought against Jorge Luis López Sologastoa, director of the Organisation to Support an Integrated Sexuality to Confront AIDS. Provisional control measures, such as house arrest and the obligation to periodically sign the court register, were also lifted. After more than eight months, this decision has freed Mr. López of all charges against him. The Public Prosecutor's Office is permitted to appeal the judge's decision. This issue had been raised in a Letter of Allegation by the Special Rapporteur on the situation of human rights defenders on 26 March 2009.

**Guinea:** Colonel Fodé Bacar Sylla, a soldier held without charge in Guinea, was released without charge on 19 September 2009, after more than seven months in custody. He has returned to his family in the capital, Conakry. Ten other soldiers are still detained incommunicado and are at



risk of torture or other illtreatment. This issue had been raised in a JUA by the Working Group on arbitrary detention and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on 20 August 2009.

**Honduras:** As a result of the repeal of a decree that suspended a number of constitutional guarantees, including the right to freedom of expression, the Radio Globo and Radio La Catracha radio stations as well as the Canal 36 television station have begun operating once again. The three media outlets were silent for 22 days after the approval of the decree and the seizure of their equipment by the National Police and the National Telecommunications Commission on 28 September 2009. The issue had been raised in a JUA by the Working Group on arbitrary detention, the Working Group on forced or involuntary disappearances, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on torture and other forms of cruel, inhuman or degrading treatment on 30 September 2009.

**Iran:** Human rights defender and lawyer Shadi Sadr was released from prison. Following her arrest on 17 July 2009, a JUA was sent by the Working Group on arbitrary detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and by the Special Rapporteur on violence against women, its causes and consequences on 21 July.

**Iran:** On 19 August 2009, Ms. Jila Baniyaghoob, editor of a news website that focuses on women's rights, was freed on payment of 100 million toman. Ms. Baniyaghoob had been arrested on 20 June 2009 at her home with her husband, who is allegedly still in solitary confinement in Evin prison. The Special Rapporteur on the promotion and protection of freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on violence against women and its consequences had taken up her case previously with a communication sent on 16 June 2006. Additionally, the Special Rapporteur on the promotion and protection of freedom of opinion and expression, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on violence against women and its consequences took up her case with a second communication sent on 30 June 2008.

**Iran:** Gholam Ali Eskandari and Gilan Mohammad, a man and a woman convicted of adultery and who faced death by stoning, were released on appeal after spending six years in detention. This issue had been raised in three different JUA by the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and

other forms of cruel, inhuman or degrading treatment and the Special Rapporteur on violence against women, its causes and consequences on 30 July 2008, by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture and other forms of cruel, inhuman or degrading treatment on 21 January 2009, and by the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture and other forms of cruel, inhuman or degrading treatment and Special Rapporteur on violence against women, its causes and consequences on 21 January 2009.

**Iran:** Safar Angooti, a juvenile who was due to be executed on 21 October 2009 for a murder committed when he was 17, was granted a one-month stay to allow time to persuade the victim's family to agree to pardon him, in exchange for compensation. The stay of execution, however, falls short of the commutation of the death penalty which, as the Special Rapporteur on extrajudicial, summary or arbitrary executions has pointed out, is required by international law. The case had been raised by the Special Rapporteur in two distinct urgent appeals, on 6 April 2008 and 8 October 2009.

**Iraq:** on 4 August 2009 the arrest of three militants who confessed to the murders of Atwar Bahjat, a reporter and presenter for the Dubai-based satellite TV station Al-Arabiya and her crew, on 22 February 2006 was announced. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression had taken up her case with a communication on 27 February 2006.

**Lebanon:** On 10 July 2009, the President pardoned Palestinian refugee Youssef Mahmoud Chaabane and ordered his release. Mr. Youssef Mahmoud Chaabane had been convicted and sentenced to life imprisonment by a Lebanese court in 1994 for the killing in Beirut of a Jordanian diplomat. The Working Group on arbitrary detention declared his continued deprivation of liberty to be arbitrary in its Opinion No. 10/2007 as it found grave violations of his right to fair trial.

**Lebanon:** On 14 and 22 July 2009, a Somali citizen, Deeq Mohamad Bere, and a de facto stateless, UNHCR recognized refugee, Ghandi El-Nayer Dawelbeit, were released from detention. They had been arrested and detained in Lebanon on 30 May and 3 December 2008 respectively, for having allegedly violated Lebanese immigration laws. The Working Group on arbitrary detention had transmitted their case to the Lebanese Government on 29 May 2009.

**Mongolia:** Mr. Buuveibaatar, a thirty-three-year-old man who had been sentenced to death by the Bayangol District Court of Ulanbattar for murder, was granted presidential pardon and will not be executed. Buuveibaatar had exhausted all his means of appeal. He will continue to serve a prison sentence. This issue had been raised in a JUA by the Working Group on arbitrary detention, the Special

Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on torture and other forms of cruel, inhuman or degrading treatment on 4 August 2009.

**Myanmar:** Ms. Ma Eint Khaing Oo, reporter for the "Ecovision" journal, and Mr. Kyaw Kyaw Thant, freelance reporter and former assistant editor for the "Weekly Eleven" journal, were among the 7,114 prisoners released on 18 September 2009. Both journalists had been arrested for assisting the victims of cyclone Nargis. Two other journalists working for the "Myanmar Nation" and the "90 Minutes Journal" were also among those granted amnesty. Only 218 of the 7,114 prisoners released through the amnesty have been identified as political prisoners. The Special Rapporteur on freedom of opinion and expression and the Special Rapporteur on the situation of human rights in Myanmar had taken up their case in a joint communication on 7 April 2009.

**Occupied Palestinian Territory:** On 28 July, Palestinian national Mohammad Abu Alkhair was released after more than three months of detention by the Palestinian Authority. The Working Group on arbitrary detention transmitted his case to the Palestinian Authority on 29 May pursuant to its regular procedure leading to the adoption of an Opinion. Based on new information received about his continued detention despite an order of the Palestinian High Court of Justice for his release and grave concerns as to his health, the Working Group on arbitrary detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment had addressed a JUA to the Palestinian Authority on 24 July 2009.

**Philippines:** On 28 August 2009, the Freedom Fund for Filipino Journalists (FFFJ) received the decision of the Philippines' Supreme Court granting its petition for the transfer of the trial venue of the case against the alleged killers of broadcaster Dennis Cuesta from General Santos City to Makati City. FFFJ had filed the petition in February 2009 based on the argument that the influence of the accused in the province of General Santos City would prevent a fair trial. One of the accused, police inspector Redempto "Boy" Acharon, is a cousin of the mayor of General Santos City and was the head of the city government's civil security unit. Gloria Cuesta, widow of the murdered journalist, told the Center for Media Freedom and Responsibility (CMFR) that the transfer of the case to Makati City was helpful. The issue had been raised in a letter of allegation sent by the Special Rapporteur on freedom of opinion and expression on 15 August 2008.

**Senegal:** on 20 July 2009, Mr. Madiambal Diagne, the managing editor of a privately-owned newspaper, was exonerated by the appeal court of Dakar in a 2004 criminal defamation case. The criminal charges against him stemmed from an article that accused President Abdoulaye Wade of manipulating the country's judiciary. The Working

Group on arbitrary detention and the Special Rapporteur on the promotion and protection of freedom of opinion and expression had taken up his case with a communication sent on 14 July 2004.

**Zimbabwe:** On 28 September 2009, the Supreme Court ruled that the Government could not prosecute Jestina Mukoko, a leading human rights activist facing terrorism charges, because her abduction and torture in custody infringed her rights. She had challenged her prosecution at the country's highest court, accusing State security agents of abducting her from her home during a dawn raid last year and torturing her while she was held at secret locations for three weeks. This ruling opens the way for other human rights and opposition activists to have similar charges dropped. The issue had been raised in a JUA by the Working Group on arbitrary detention, the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders on 4 December 2008, and in a joint letter of allegation by the Special Rapporteur on freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders on 7 May 2009.

## FORTHCOMING VISITS

### **FORTHCOMING VISITS BETWEEN OCTOBER AND DECEMBER 2009**

**Bangladesh:** (joint mission) Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation and Independent Expert on the question of human rights and extreme poverty, 3-10 December 2009

**Brazil:** Special Rapporteur on the right to food, 12-16 October 2009

**Canada:** Independent Expert on minority issues, 13-23 October 2009

**Colombia:** Special Rapporteur on the independence of judges and lawyers, 7-16 December 2009

**Democratic Republic of the Congo:** Special Rapporteur on extrajudicial, summary or arbitrary executions, 5-15 October 2009

**Georgia:** Representative of the Secretary-General on Internally Displaced Persons, 5-6 November 2009

**Haiti:** Independent Expert on the human rights situation of Haiti, 24 November-1 December 2009

**Kyrgyzstan:** Special Rapporteur on violence against women, its causes and consequences, 7-17 November 2009

**Lao People's Democratic Republic:** Special Rapporteur on freedom of religion or belief, 23 to 30 November 2009

**Mauritania:** Special Rapporteur on contemporary forms of slavery, including its causes and consequences, 24 October-4 November 2009

**Mongolia:** Special Rapporteur on the right to education, 1 to 8 October 2009

**Russian Federation:** Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, 5-16 October 2009

**Senegal:** Special Rapporteur on the sale of children, child prostitution and child pornography, 21-29 October 2009

**United Arab Emirates:** Special Rapporteur on the sale of children, child prostitution and child pornography, 12-18 October 2009; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, 4-8 October 2009

**United States of America:** Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, 22 October-8 November 2009

## REQUESTED VISITS

### REQUESTS INITIATED BETWEEN JULY AND SEPTEMBER 2009

**Croatia:** Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

**Ghana:** Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

**Laos:** Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context;

**Malawi:** Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

**Mexico:** Special Rapporteur on extrajudicial, arbitrary or summary executions

**Nigeria:** Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

**Serbia:** Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

**Singapore:** Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

**Somalia:** Representative of the Secretary-General on the Human Rights of Internally Displaced Persons

**Venezuela:** Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

**Zimbabwe:** Special Rapporteur on adequate housing as a component of the right to an adequate standard of living,

and on the right to non-discrimination in this context; Working Group on Enforced or Involuntary Disappearances

## REMINDERS

### REMINDERS SENT BETWEEN JULY AND SEPTEMBER 2009

**China:** Independent Expert on minority issues

**Indonesia:** Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

**Iran:** Working Group on Enforced or Involuntary Disappearances

**Nepal:** Working Group on Enforced or Involuntary Disappearances

**Nicaragua:** Working Group on Enforced or Involuntary Disappearances

**Russian Federation:** Working Group on Enforced or Involuntary Disappearances

**Sri Lanka:** Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Working Group on Enforced or Involuntary Disappearances

**Sudan:** Working Group on Enforced or Involuntary Disappearances

**Tunisia:** Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

## ACCEPTED VISITS

### REQUESTS ACCEPTED BETWEEN JULY AND SEPTEMBER 2009 AND WHICH WILL TAKE PLACE AFTER DECEMBER 2009

**Bangladesh:** Special Rapporteur on adequate housing as a component to the right to an adequate standard of living and on the right to non discrimination in this context, dates to be determined.

**Colombia:** Independent Expert on minority issues, 24 January-6 February 2010 (to be confirmed)

**Mexico:** Special Rapporteur on the right to education, 8-17 February 2010 and Special Rapporteur on the right to food, second half of 2010

**Singapore:** Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, dates to be established

**Slovenia:** Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, dates to be established

**Spain:** Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, dates to be confirmed

## HIGHLIGHTS

**12TH SESSION OF THE HUMAN RIGHTS COUNCIL**

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During this session, the High Commissioner for Human Rights, Ms. Navanethem Pillay, asked States parties and other stakeholders to initiate a process of reflection on how to achieve better coordination among treaty bodies, Special Procedures and the UPR. She further noted that the work of Special Procedures mandate holders is of the outmost importance and that all States should do more to support the Special Procedures normative and fact-finding work, in particular ensuring that their recommendations help shape reform at the national level.

The following special procedures mandate holders presented their reports to the Council and held interactive dialogues: the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Ms. Gulnara Shahinian, the Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Najat M'jid Maalla, the Independent Expert on human rights and international solidarity, Mr. Rudi Mohammad Rizki, the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Ms. Catarina de Albuquerque, the Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, Mr. Okechukwu Ibeanu, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Mr. James Anaya, and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Githu Muigai. The Special Rapporteur on racism, Mr. Muigai presented, at the request of the Human Rights Council, a report on "all manifestations of defamation of religions, and in particular on the serious implications of Islamophobia, on the enjoyment of all human rights by their followers". In this report, he reasserted the need to renew the approach towards this issue and to focus on existing legal standards protecting individuals and groups of individuals from discrimination based on religion or belief. During the debate under item 3 on follow up to special sessions, the Special Rapporteur on the right to food, Mr. Olivier De Schutter, presented his second report on the global food crisis.

Interactive dialogues also took place with two country rapporteurs: the Independent Expert on the situation of human rights in Somalia, Mr. Shamsul Bari, and the Special Rapporteur on human rights in Cambodia, Mr. Surya Prasad Subedi. Mr. Subedi asserted in his report that improvements are needed in the overall human rights situation in Cambodia, expressing particular concern about the situation of freedom of speech and the lack of independence of the judiciary. Mr. Bari expressed concern

about the impact the renewed violence had on civilian population in the affected areas. He noted that more people had been killed, many more internally displaced or forced to seek refuge in neighboring countries.

On 2 October 2009, the Council appointed Ms. Farida Shaheed (Pakistan) as the new Independent Expert in the field of cultural rights, and Mr. Mohamed Chande Othman (Tanzania) as the new Independent Expert on the situation of human rights in the Sudan. The two new mandates have been established by HRC resolutions 10/23 and 11/17, respectively. The HRC President also appointed Ms. Barbara Lee as Chairperson of the Forum on Minority issues, to be held in November 2009.

The Council adopted 28 resolutions and 19 decisions, including 16 decisions on the outcome of the Universal Periodic Review (Afghanistan, Belize, Central African Republic, Chad, Chile, Comoros, Congo, , Malta, Monaco, New Zealand, Slovakia, The Former Yugoslav Republic of Macedonia, Uruguay, Vanuatu, Viet Nam and Yemen ) and decisions on the issue of missing persons, United Nations Declaration on human rights education and training, and the effect of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights.

**PANEL ON HUMAN RIGHTS OF MIGRANTS IN DETENTION**

On 17 September 2009, during the 12<sup>th</sup> session of the Human Rights Council, the Special Rapporteur on the human rights of migrants, Mr. Jorge A. Bustamante, and the Chair of the Working Group on Arbitrary Detention, Mr. El Hadji Malick Sow, participated in a panel on human rights of migrants in detention. The Panel was organized in accordance with resolution 11/7. Mandate holders noted that the criminalization of irregular migration remained a subject of concern and further efforts were needed to ensure that administrative detention was but a last resort, legislation determined a maximum duration of detention, and detainees were informed of the reasons of their detention as well as of their rights. It was also pointed out that there was a need to address the underlying causes of human rights issues relating to migrants such as the correlation between irregular migration and labour demand in countries of destination, and the tendency to criminalize irregular migration.

**PANEL DISCUSSION ON THE INTEGRATION OF GENDER PERSPECTIVES IN THE COUNCIL'S WORK, WITH FOCUS ON THE UNIVERSAL PERIODIC REVIEW**

On 28 September 2009, at the 12<sup>th</sup> session of the Human Rights Council, a Panel was held on the integration of gender perspectives in the Council's work, with a focus on the Universal Periodic Review. The Chairperson-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, Mr. Jeremy Sarkin, participated in the event. He noted that there had been

significant progress towards broader attention to women's human rights in the UPR where gender issues could be integrated as a standing item in the review process. Delegations and panelists stressed the need for political will and appropriate action to ensure a better integration of gender perspectives in order to build on the gaps and problems that had been identified in the UPR. It was also highlighted that the Council had an important role to play in mainstreaming the human rights of women in the United Nations, and full implementation required that both men and women had equal opportunities to participate in decision-making at all levels. It was noted that the UPR had allowed for some progress in the area.

### **HUMAN RIGHTS COUNCIL ADVISORY COMMITTEE**

From 3 to 7 August 2009, the Human Rights Council Advisory Committee held its third session during which it adopted six recommendations. Among them, the Advisory Committee submitted for the consideration of the Human Rights Council a draft set of principles and guidelines on the elimination of discrimination against persons affected by leprosy and their family members, as mandated by the Council in its resolution 8/13. It also recommended that the Council request all relevant UN bodies, special agencies and programmes, as well as Member States to give due consideration to the principles and guidelines in the formulation and implementation of their policies and measures for persons affected by leprosy and their family members. The Committee recommended that its Drafting Group on human rights education and training to continue its consultations with all stakeholders regarding the preliminary text with a view to submitting a draft version of the declaration on human rights education and training to the Advisory Committee at its fourth session. It assigned the task of the preparation of the study on "Discrimination in the context of the Right to Food", to the existing Drafting Group on the right to food. It also recommended that the Council request its Drafting Group to continue its work on a study on best practices in the matter of missing persons in situations of armed conflict as requested by the Council. The Advisory Committee designated Mr. Miguel Alfonso Martinez to prepare an initial working paper on the need to initiate a study with the purpose to further clarify the content and scope of the right of peoples to peace; propose measures to raise awareness of the importance of realising this right; and suggest concrete actions to mobilize States, intergovernmental and non-governmental organizations in the promotion of the right of peoples to peace. It also designated Ms. Chinsung Chung to prepare an initial working paper on the need to study the human rights of elderly people, including making practical recommendations with a view to promoting and protecting these rights, to be submitted to the Human Rights Council at its fourteenth session in June 2010.

The Committee will hold its fourth session from 25 to 29 January 2010.

### **EXPERT MECHANISM ON THE RIGHTS OF INDIGENOUS PEOPLES**

The second session of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) was held in Geneva from 10 to 14 August 2009. This session allowed the EMRIP to join millions of indigenous peoples worldwide in celebrating the World's Indigenous Peoples Day on August 9. The pledge of Ms. Navanethem Pillay, High Commissioner for Human Rights, to continue supporting human rights mandates dealing with the rights of indigenous peoples was welcomed.

The two main items during the session were the discussion of the draft report on the study on lessons learned and challenges to achieve the implementation of the right of indigenous peoples to education, and the implementation of the Declaration on the Rights of Indigenous Peoples at the regional and national levels.

Mr. James Anaya, Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people participated in the session. He made a statement on the issue of education and on advancing the implementation of the United Nations Declaration on the Rights of Indigenous People. The Special Rapporteur observed, *inter alia*, that there is a need to improve implementation of the duty to consult indigenous peoples in decisions affecting them. He proposed that the Expert Mechanism could be asked to consider this issue in the future.

### **SOCIAL FORUM OF THE HUMAN RIGHTS COUNCIL**

The second meeting of the Social Forum of the Human Rights Council took place from 31 August to 2 September 2009. The forum focused on: (i) national anti-poverty programmes: best practices of States in implementing social security programmes from a human rights perspective; (ii) negative impacts of the economic and financial crisis on efforts to combat poverty; and (iii) international assistance and cooperation in combating poverty. These issues were addressed in seven panels by 21 experts from 19 countries, encompassing all five Regional Groups with an almost equal gender, geographic and stakeholder (governments, United Nations agencies and other international organizations, NGOs and civil society actors) balance. The Social Forum was a vital space for open and fruitful dialogue. Sixty percent of the three-day-meeting time was allocated to open debate.

The Independent Expert on human rights and extreme poverty, Ms. Magdalena Sepúlveda, and the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, Mr. Cephias Lumina, participated in the Social Forum. Ms. Sepúlveda spoke during a panel discussion devoted on "Human rights perspectives on a social protection floor, addressing the social protection gap". On the last day of the Forum, she participated in an

interactive debate between Council members and special procedures. Mr. Lumina was a panelist at the discussion “Protecting the human rights of particularly vulnerable groups during economic and financial crises”.

## PRESS RELEASES

### **UNITED NATIONS EXPERT CONCERNED AT RESTRICTIONS ON FREEDOM OF LAWYERS TO REPRESENT THEIR CLIENTS IN CAMBODIA**

On 1 July 2009, the Special Rapporteur on the independence of judges and lawyers expressed his concern at recent attempts to restrict the freedom of lawyers to represent their clients effectively in Cambodia. The Special Rapporteur was concerned that recent moves against lawyers in Cambodia seem to indicate a worrying new trend that could have a chilling effect on the legal profession. The Special Rapporteur reminded the Royal Government of Cambodia of its obligations under international law as set out in the United Nations Basic Principles on the Role of Lawyers which specifically state that “lawyers should not be identified with their clients or their clients' causes as a result of discharging their functions”. They go on to provide that “Governments shall ensure that lawyers [...] are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference [and] shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics”. Furthermore, lawyers should enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority. The Special Rapporteur also called for the Bar Council of the Kingdom of Cambodia to be allowed to exercise without external pressure its responsibilities under the Law on the Bar to protect the independence and autonomy of the legal profession in Cambodia.

### **GAZA: UN EXPERT DENOUNCES SEIZURE OF AID BOAT BY ISRAELI FORCES**

On 2 July 2009, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, denounced the unlawful naval seizure by an Israeli gunboat on the high seas of a ship carrying medicine and reconstruction material to blockaded people of Gaza. The Special Rapporteur pointed to a recent report on the impact on health resulting from the two year blockade, issued by the International Committee of the Red Cross, stressing that Israeli actions not only restrict such vital supplies as food, medicine, and fuel to bare subsistence levels, but has in unprecedented fashion, disallowed the entry to Gaza of building materials and spare parts needed for repairing some of the widespread damage caused by its attacks on the Strip that took place for 22 days starting on 27 December

2008. “Such a pattern of continuing blockade under these conditions amounts to such a serious violation of the Geneva Conventions as to constitute a continuing crime against humanity”, he added the boat in question had been inspected in response to Israeli demands before departure by the port authorities in Cyprus to determine whether there were weapons on board. None were found, and Israeli authorities were so informed. Nonetheless, the 21 peace activists on the boat were arrested, held in captivity, and have been charged with ‘illegal entry’ to Israel even though they had no intention of going to Israel.

### **HONDURAS: UN EXPERTS URGE THE IMMEDIATE REESTABLISHMENT OF DEMOCRACY AND FUNDAMENTAL FREEDOMS**

On 2 July 2009, the Chairperson -Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on freedom of opinion and expression issued a press release urging for the immediate reestablishment of democracy and fundamental freedoms in Honduras.

### **HONDURAS: UN EXPERT CALLS UPON THE REESTABLISHMENT OF THE RULE OF LAW**

On 10 July 2009, the Special Rapporteur on the independence of judges and lawyers, Mr. Leandro Despouy, issued a press release condemning the action taken by the Congress and of the Supreme Court of Justice of Honduras, which did not respect the principles of independency and impartiality. In his statement, the Special Rapporteur asked for the adoption of urgent measures and called upon the Supreme Court of Justice to respect the rule of law.

### **UN EXPERTS GRAVELY CONCERNED BY MASS ARRESTS IN IRAN**

On 7 July 2009, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on summary executions, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on torture, the Special Rapporteur on the situation of human rights defenders, and the Chairperson-Rapporteur of the Working Group on enforced and involuntary disappearances, called upon the Government of Iran to uphold its international obligations to ensure that human rights are protected following the presidential elections. They noted that despite concerns expressed about the possible use of excessive police force and violence employed by some militia members during opposition protests, freedom of expression and peaceful assembly continued to be undermined and the situation of human rights defenders was increasingly precarious.

Hundreds of human rights defenders, journalists, students, clerics and opposition supporters have been injured and arrested following clashes with security forces and members

of the militia. The safety of defenders deteriorated considerably in the aftermath of the elections, most significantly in reaction to denunciations of human rights abuses reportedly committed by security forces. Interference with broadcasts and online coverage of protests, the expulsion of foreign journalists as well as restrictions on the freedom of journalists to move and report freely has stifled freedom of expression. Since 12 June 2009, at least 20 people were killed and hundreds of others seriously injured in clashes with security forces which allegedly used live ammunition and rubber bullets to disperse protests. The experts recalled that the use of force must be exercised with restraint and only once non-violent means have been exhausted. In addition, the use of firearms by the security forces is prohibited, except in self-defense or defense of others from an imminent threat of death or serious injury. Independent investigations into the actions of the security forces have yet to be carried out. The majority of those arrested were reportedly detained at Evin prison, many were held incommunicado without charge or access to legal representation or their families. The experts are concerned about the risk of enforced disappearances given that the whereabouts of many of those arrested remained unknown.

#### **UN HUMAN RIGHTS FOOD EXPERT TO G8: "BETTER, BUT NOT GOOD ENOUGH"**

On 10 July 2009, the Special Rapporteur on the right to food welcomed the increase in agricultural aid and investment which should be confirmed at the G8 meeting in L'Aquila. "Heads of State will have to do more if they want to help the billion human beings now suffering from hunger", said the Special Rapporteur. "Structural measures must be taken now", he stressed. "If the G-8 does not succeed, then the G-20 to be held in Pittsburgh will have to tackle food price volatility, social protection, sustainability of production and the protection of agricultural worker rights. Only then will real progress be made to ensure greater enjoyment of the right to food now denied to so many". The Special Rapporteur believed that heads of State are making progress, but argued that "there is still urgent homework for the world's leaders in tackling a food crisis that is far from over. Just like the collapse of large banks, widespread hunger makes the economic recovery less likely". "Increasing food security for the more vulnerable groups is not only a moral imperative and a binding obligation under international human rights law", the Special Rapporteur reminded States, "but also makes economic sense as a priority in tackling the current crises". He welcomed the leadership shown by the United States, Spain and others to increase aid budgets for agriculture. He commended Japan for initiating reflection on the need for responsible investment in land. He also argued that a global action plan on food security, firmly based on human rights, is urgently needed. "It should be considered for adoption at the G-20 to be held in Pittsburgh, if the G-8 do not today address the full range of measures needed", he noted. The United Nations expert has identified the need for action in five crucial areas: (1) Reducing volatility in international

agricultural markets. (2) Encouraging States to build social protection schemes and safety net programmes, including through a global reinsurance mechanism. (3) Channelling resources to scale up sustainable agriculture systems rather than simply increasing food production. (4) Protecting agricultural worker rights. (5) Reforming global governance for food and agriculture.

#### **UN EXPERTS READY TO ASSIST RUSSIA IN INVESTIGATING SERIES OF KILLINGS OF HUMAN RIGHTS DEFENDERS**

On 21 July 2009, the Special Rapporteur on summary executions, the Special Rapporteur on freedom of expression, the Special Rapporteur on torture, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on violence against women and the Chairperson-Rapporteur of the Working Group on enforced or involuntary disappearances issued a press release reiterating their request to the Russian authorities to extend an invitation to them to visit the country to assist the authorities in conducting an independent investigation into a series of killings of human rights defenders, lawyers and journalists in recent years, including the latest killing of Natalia Estemirova. The experts acknowledged the expressions of outrage and assurances by the Russian leadership that all necessary steps will be taken to apprehend and punish Estemirova's killers. "However, these assurances will be worth little unless the authorities take steps that go beyond what has been done in the past, which has all too often led to a cycle of impunity", they added. "We offer our assistance to the Russian authorities in light of the failure to effectively and impartially investigate the killings and attacks on a number of human rights defenders in recent years and to prosecute and bring the perpetrators to justice", said the experts. "This would break the cycle of prevailing impunity surrounding the killings of other high profile human rights defenders and contribute to the prevention of further violence and harassment against human rights defenders", added the experts. The independent experts also reminded that "the Government of the Russian Federation has a prime responsibility under international human rights instruments to ensure the protection of human rights defenders against any violence, threats, retaliation, pressure or any other arbitrary action as a result of their human rights work".

#### **UN EXPERT WARNS ABOUT THE WORRYING SITUATION OF THE JUSTICE IN VENEZUELA**

On 30 July 2009, the Special Rapporteur on the independence of judges and lawyers expressed concern about the situation of the justice system in Venezuela. He referred to the high number of provisional judges and prosecutors in the country who are subject to arbitrary removals. This gravely infringes on the independence of the judiciary. The Special Rapporteur also referred to Venezuela's lack of execution of decisions of the Inter-American Court of Human Rights in this regard.

**SPECIAL RAPPORTEUR ON FREEDOM OF OPINION AND EXPRESSION RAISES SERIOUS CONCERN ABOUT THE SITUATION OF THE RIGHT TO FREEDOM OF EXPRESSION IN VENEZUELA**

On 5 August 2009, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Frank La Rue, issued a media release on the closure of radio and TV stations in Venezuela.

**VENEZUELA: "DRAFT MEDIA LAW COULD BE USED AS A TOOL FOR POLITICAL INTIMIDATION," WARNS UN EXPERT**

On 10 August 2009, the Special Rapporteur on freedom of expression stated that the proposed 'Special Law against Media Crimes' in Venezuela, presented to the National Assembly, "would involve serious violations of the right to freedom of opinion and expression and would curtail press freedom in the country, if it is adopted in its current form". The expert noted that the inclusion of the concept of 'media crimes' in the draft legislation was particularly worrying, noting that "it could be used as a tool for political intimidation which may lead to the criminalization of dissent and criticism". He also added that such measures would "undermine pluralism of the media, and consequently transparency and debate on matters of public interest that should exist in a democratic society". "No Government in the world has the right to silence critics or those who oppose the State with threats of criminal proceedings", he said, and added that "transparency implies that access to information along with the right to freely express one's opinion and belief without limitation is guaranteed". However, he noted that "the legitimate criteria included in the human rights standards outlined in the Covenant cannot be used to criminalize free speech". The expert stressed that "restrictions on the right to freedom of expression must be provided for by law and applied by an independent Court", adding that "under no circumstances should limitations be established through the policy decisions of the Government". He appealed to the members of the National Assembly to incorporate international human rights principles in the discussion of the draft law. "In this regard, I stand ready to provide technical support and assistance to promote and protect the right to freedom of opinion and expression in Venezuela", he concluded.

**UN EXPERT SEES ROOM FOR IMPROVEMENT FOR NEPAL'S INDIGENOUS PEOPLE**

On 10 August 2009, the Special Rapporteur on indigenous people commended "the Government's stated commitment to advance the rights of indigenous peoples of Nepal, comprehensively referred to as Adivasi Janajati." However, "much remains to be done to transform into reality the Government's agreement to advancing their rights", he stressed in his report on Nepal to the Human Rights Council. The expert, who visited Nepal from 24 November to 2 December 2008, reviews in his report the human rights

situation of the Adivasi Janajati, analysing the ongoing process of constitution-making and political transition as it relates to them. The report assesses the implementation of Nepal's expressed initiatives to secure the rights of the Adivasi Janajati, as reflected in Nepal's ratification of the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169), and its support of the United Nations Declaration on the Rights of Indigenous Peoples, as well as in a number of policy and law reforms at the domestic level. The Special Rapporteur highlights a number of ongoing human rights concerns related to a history of discrimination against the Adivasi Janajati. Conscious of the challenges involved in Nepal's period of transition to democracy, the Special Rapporteur offers several recommendations that may serve to enhance the recognition and protection of the rights of the indigenous peoples in line with the Government's commitments, and expresses his resolve to support these efforts.

**UN EXPERT COMMEMORATES INTERNATIONAL DAY OF THE WORLD'S INDIGENOUS PEOPLES**

On 10 August 2009, on the occasion of the International Day of the World's Indigenous Peoples, the Special Rapporteur on indigenous people, recalled that "indigenous peoples continue to face many impediments to the enjoyment of human rights, despite some important advances". The adoption of the Declaration on the Rights of Indigenous Peoples in September 2007 by the UN General Assembly was a milestone, culminating in two and a half decades of study and discussion. This achievement, among other things, is a testament to the courage and resilience indigenous peoples have displayed in their determination to survive, and demonstrates their relative success in increased recognition on the world stage. Since its adoption, the rights upheld in the Declaration - which represent a common understanding at the global level of the minimum content of the rights of indigenous peoples based on universal human rights principles - have been increasingly endorsed and incorporated into States' approaches to overcoming current and historic discrimination and injustices involving indigenous peoples. Initiatives to implement the rights in the Declaration can be seen in all regions, including efforts to raise awareness and provide greater understanding among United Nations representatives, government officials, members of legislative bodies and of national human rights institutions, judicial authorities, civil society partners, and indigenous peoples themselves, about upholding the rights in the Declaration and incorporating them into domestic laws, practice and policy. But much remains to be done to make the rights affirmed in the Declaration a reality in the every day lives of indigenous peoples around the world, and there have been heightened tensions at the local level in certain cases, at times erupting into alarming surges of violence against indigenous peoples. These worrying incidents demonstrate the continuing need for creating spaces for constructive dialogue and mutual cooperation,



with the full participation of indigenous peoples in the decisions that affect them.

**UN HUMAN RIGHTS EXPERTS CALL FOR UNCONDITIONAL RELEASE OF AUNG SAN SUU KYI AFTER UNFAIR TRIAL**

On 11 August 2009, the Vice Chairperson-Rapporteur of the Working Group on arbitrary detention; the Special Rapporteur on freedom of expression, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on the situation of human rights in Myanmar, issued a press release deploring the confinement of Aung San Suu Kyi to 18 months of house arrest, and reiterated their call for her immediate and unconditional release. "This was a baseless trial convened by the Government of Myanmar to exclude Aung San Suu Kyi from the 2010 elections", they stated. The charges laid against the leader of the National League for Democracy and Nobel Peace Prize laureate were themselves in violation of international human rights law. "The court was not independent, judicial guarantees were disregarded, and charges under the State Protection Act were unsubstantive. This trial should never have occurred in the first place", the experts said. This view was confirmed by the most recent Opinion adopted by the Working Group on arbitrary detention on Aung San Suu Kyi, which declared the continuation of her house arrest to be arbitrary. She was sentenced under article 22 of Myanmar's State Protection Law 1975 after an uninvited intruder swam across Lake Inya and spent two nights at Aung San Suu Kyi's home. "If the State assumes the responsibility to prevent access to the house of Aung San Suu Kyi and has disciplined, even punished, 20 security officials in connection with the incident", the experts said, "how can she then be held criminally liable for an unwanted intrusion?". "We are also deeply concerned about numerous reports of irregularities in the way it was conducted", they added. Only selected diplomats and journalists were allowed into the special court on 20 and 26 May as well as 24, 27 and 31 July 2009, and the rest of the trial was conducted behind closed doors, and the media were prevented from speaking to the defence lawyers. Only two of the five witnesses called by the defence were permitted to testify. "The Universal Declaration of Human Rights guarantees the right not to be arbitrarily detained, as well as the rights to due process and a fair trial, and to freedom of opinion, expression and assembly", the experts said. "None of these have been complied with". They rejected the suggestion that the trial was a purely internal affair as is also evidenced by three statements concerning the situation in Myanmar and Aung San Suu Kyi in particular issued by the UN Security Council on 25 May 2009, 2 May 2008 and 11 October 2007. "This case has been riddled with irregularities from start to finish", the four experts concluded.

**UN EXPERT WARNS OF MASS FORCED EVICTIONS IN NIGERIA**

On 13 August 2009, the Special Rapporteur on adequate housing expressed her concern at the mass evictions

planned by the Nigerian River State Government, which could leave hundreds of thousands of people homeless. "Forced evictions can only be justified in the most exceptional cases and in full compliance with international human rights law", she said. "Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Nigeria, as State Party to several international human rights treaties must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing or resettlement is available", she added. According to international human rights standards, people affected by forced evictions have the right to compensation and to procedural protection, including genuine consultation, adequate and reasonable notice, information on the proposed evictions, provision of legal remedies and legal aid, to be present during the eviction and to identify all persons who are carrying out the eviction. However, according to local sources, most of these conditions have not been met in evictions already carried out in Port Harcourt. The Special Rapporteur urges the Government of Nigeria to respect its international obligations by fulfilling all of them. She is also concerned that military personnel may assist in the forced evictions in Port Harcourt. "The military's participation in forced evictions may result in multiple human rights violations", she pointed out.

**IRAN: DETAINEES SUBJECTED TO TORTURE AND ILLTREATMENT TO EXTRACT CONFESSIONS, WARN UN EXPERTS**

On 13 August 2009, the Vice-Chairperson of the Working Group on arbitrary detention, the Special Rapporteur on torture and the Special Rapporteur on the situation of human rights defenders voiced their concerns over reports of detainees being subjected to torture and harsh interrogations to obtain confessions which are being used in the recently started trials at the Revolutionary Court. They said that the accused include lawyers, journalists and other human rights defenders, as well as members of the opposition, who have gone to the streets in protest at the presidential elections held on 12 June. "No judicial system can consider as valid a confession obtained as a result of harsh interrogations or under torture", expressed the Special Rapporteur on Torture, stressing the alarm raised by the three human rights experts over consistent allegations of severe practices of torture to obtain confessions. "These confessions for alleged crimes such as threats against national security and treason must not, under any circumstances, be admitted as evidence by the Revolutionary Court", added the Vice-Chairperson of the Working Group on arbitrary detention. No foreign media have been allowed to cover the trials and it is unclear whether the defendants have adequate legal counsel. In addition, many detainees remain in incommunicado detention, without any charges and denied family visits, legal assistance or medical treatment. Reports of people who have died in custody continue to be received, and their

families are given false or contradictory information regarding the cause of their deaths.

**BOLIVIA: UN EXPERT REJECTS CRIMES AND CALLS FOR DIALOGUE**

On 20 August 2009, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Mr. James Anaya, issued a press release regretting the attacks on 12 August 2009 in the regions of Sopocachi Villa Fatima and La Paz and expressing his solidarity with the victims and their families.

**VIOLENCE AGAINST WOMEN: SOUTH AFRICAN LEGAL EXPERT TAKES OVER AS NEW UN SPECIAL RAPPOREUR**

On 27 August 2009, the new Special Rapporteur on violence against women, Ms. Rashida Manjoo, issued a press release on the occasion of the assumption of her mandate, highlighting the importance of addressing violence and discrimination against women in all their manifestations. "Violence against women violates human dignity as well as numerous rights, including the right to equality, physical integrity, freedom and non-discrimination" she said. "I believe that equality and equal protection doctrines demand that we address violence against women, in all its manifestations, as discrimination against women. It is my hope to work within this framework during my mandate", she stressed. The new UN independent expert has taught and conducted research at a number of universities. Most recently she was the Des Lee Distinguished Visiting Professor at Webster University, USA where she taught courses in human rights with a particular focus on women's human rights and transitional justice. Ms. Manjoo has also served as a clinical instructor and as the Eleanor Roosevelt Fellow with the Human Rights Program at Harvard Law School. She is also a Research Associate in the Law Faculty of the University of Cape Town, South Africa. In addition to her academic credentials, the new Special Rapporteur is the former Parliamentary Commissioner of the Commission on Gender Equality (CGE), a constitutional body mandated to oversee the promotion and protection of gender equality. Prior to this appointment she was involved in training programs for judges and lawyers at the Law, Race and Gender Research Unit, University of Cape Town. The new independent expert was also involved in setting up both a national and a provincial network on violence against women and is the founder of the Gender Unit at the Law Clinic at the University of Natal as well as the Domestic Violence Assistance Programme at the Durban Magistrates Court (the first such project in a court in South Africa). Ms. Manjoo succeeds Dr. Yakin Ertürk (Turkey), who served from August 2003 to July 2009, and Ms. Radhika Coomaraswamy (Sri Lanka), from 1994 to July 2003.

**AN INDEPENDENT INVESTIGATION INTO SRI LANKAN EXECUTIONS IS URGENT, SAYS UN EXPERT**

On 28 August 2009, the Special Rapporteur on extrajudicial, summary or arbitrary executions called for the urgent establishment of an independent investigation into the authenticity of a video alleged to show the extrajudicial execution of two naked and helpless men by the Sri Lankan army and the presumed prior execution of a number of others. "These images are horrendous and, if authentic, would indicate a serious violation of international law", he said. "I am aware that the Sri Lankan Government has categorically denied the veracity of the allegations. This makes it all the more important for an independent investigation to be set up. The independent expert stated, "if the Government's position is validated as a result of an inquiry, the international community can rest easy and the Government will have been vindicated. There is no justification for not moving ahead with such an investigation in view of the Government's confidence that such atrocities were never perpetrated by its armed forces". The Special Rapporteur also stated that no Government today can simply dismiss such allegations without undertaking a thorough investigation that meets international standards. He also recalled that he has, on a number of occasions over recent years, requested to undertake a visit to Sri Lanka in order to review the situation. He regretted that, to date, he has not yet received an invitation to do so from the Government of Sri Lanka, but indicated that he was hopeful that such an invitation might be forthcoming in light of the most recent allegations.

**ENFORCED DISAPPEARANCES, A GROWING HUMAN TRAGEDY**

On 31 August 2009, on the occasion of the International Day of the Disappeared, the Working Group on Enforced or Involuntary Disappearances stressed the importance of drawing "more attention to the issue of enforced disappearances as it still remains severely underreported, particularly in certain regions of the world". It stressed that "the Working Group has dealt with more than 50,000 cases since it was established in 1980", and highlighted the Group's concern over the growing number of cases of enforced disappearances around the world. According to the group of experts, enforced disappearance is a terrible practice that "affects many people worldwide, and has a particular impact on women and children". Women particularly often bear the brunt of the serious economic hardships "that accompany a disappearance". "When women are victims of disappearance themselves, they are particularly vulnerable to sexual and other forms of violence". In addition, say the experts, "the disappearance of a child, or the loss of a parent as a consequence of enforced disappearance are serious violations of the rights of the child". The Working Group also raises its concern at the measures being taken by Governments while countering terrorism and the implications for enforced disappearances, and stressed that arrests committed during military operations, arbitrary detentions and extraordinary renditions "can amount to enforced disappearances". The five experts ask States to prevent and eradicate enforced disappearances, and to take specific measures to promote

truth and reconciliation in their societies. However, they stressed, "these measures ought not to be used as a substitute for bringing perpetrators particularly of enforced disappearances, to justice". The Working Group once again calls upon Governments that have not signed and/or ratified the International Convention for the Protection of all Persons from Enforced Disappearance to do so as soon as possible. "The cooperation of Governments is indispensable to discovering the fate or whereabouts of disappeared persons throughout the world", they reiterate. They call upon all States "to cooperate with the Working Group and to take steps to address all disappearances regardless of when or who perpetrated these disappearances".

### **UN EXPERT CONDEMS INDIGENOUS KILLINGS IN COLOMBIA**

On 31 August 2009, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people issued a press release strongly condemning the murder of 12 people committed on 25 August 2009 in the indigenous reserve of Gran Rosario (Colombia) and inviting the Government to undertake an effective investigation into this case.

### **TOXIC WASTE: UN EXPERT RELEASES REPORT ON 'PROBO KOALA' INCIDENT**

On 16 September 2009, the Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights issued a press release on a report containing his findings and recommendations concerning his official visits to Côte d'Ivoire (August 2008) and the Netherlands (November 2008). "We still don't know the full effect of the dumping of 500 tons of toxic waste in Cote d'Ivoire", he said, "but there seems to be strong prima facie evidence that the reported deaths and adverse health consequences are related to the dumping of the waste from the cargo ship 'Probo Koala'". In August 2006, the 'Probo Koala' dumped 500 tons of toxic waste belonging to the Dutch commodity trading company Trafigura in various sites in the district of Abidjan, Cote d'Ivoire. According to official estimates, there were 15 deaths, 69 persons hospitalised and more than 108,000 medical consultations resulting from the incident. Prior to its journey to Côte d'Ivoire, the 'Probo Koala' had inter alia docked in Amsterdam, the Netherlands. Without prejudice to legal proceedings in the Netherlands and the United Kingdom concerning the exact composition and toxic nature of the waste in question, the Special Rapporteur encouraged all actors involved to take all necessary measures "to address possible long-term human health and environmental effects of the incident". "Further action should be taken to protect the right to life, the right to the enjoyment of the highest attainable standard of physical and mental health and the right to a healthy environment of all affected victims and their families", he stressed.

### **SRI LANKA SHOULD PERMIT AN IMPARTIAL INVESTIGATION INTO THE 'CHANNEL 4 VIDEOTAPE', SAYS UN**

### **EXPERT**

On 17 September 2009, the Special Rapporteur on summary executions, in response to the latest information provided by the Government of Sri Lanka in relation to a video which purports to show extrajudicial executions being carried out by the Sri Lankan Army, stated: "I welcome the fact that the Government is now devoting considerable attention to this issue. The legal obligation incumbent upon a Government in a situation such as this is to undertake a 'thorough, prompt and impartial investigation'. My role as Special Rapporteur (...) is to evaluate whether the investigations undertaken have met the relevant criteria established under international law, and to advise the Human Rights Council accordingly. I can attest to the fact that the investigation has been 'prompt' since it was completed within two weeks of the information becoming available. I am not, however, in a position to conclude that it was 'thorough'. The fourth of the investigations seems to have originated as an Opinion piece in 'The Island' newspaper, and was subsequently elaborated upon. It is not clear whether or not this was at the Government's request. The statement provided by the Minister summarizes 'observations' made by the remaining three experts in presentations made at a meeting convened by the Government for this purpose. I would welcome the publication of the full text of the analyses undertaken and reports presented by each of the four experts. The third and most important question is whether the 'four separate investigations' meet the criteria of impartiality. (...) Based on the limited information available to me, it is impossible to conclude that these four individuals, given their relationship to the Government, meet the criteria for impartiality in this context. When the actions of a Government are called into question in a matter of this gravity, what is required is to undertake an investigation by demonstrated experts who can be shown to be fully independent of the Government concerned. Two of these individuals are full-time Government employees, one has previously acted on behalf of the Government, and the basis on which the fourth was identified and selected as an expert remains unclear. I must conclude therefore, on the basis of the information made available by the Government, that the investigations undertaken cannot be characterized as 'impartial'. The final question that remains is whether the information provided by the Government raises significant doubts as to the authenticity of the video.

### **"POLITICAL WILL NEEDED TO TACKLE FOOD CRISIS AND RESTRUCTURE AGRICULTURE," WARNS UN RIGHT TO FOOD EXPERT**

On 18 September 2009, the Special Rapporteur on the right to food, argued that "there has not been enough structural change in response to the world food crisis," as he presented his second report on the emergency to the Human Rights Council. Regarding greater emphasis on right to food, he stated "The right to food is not the right to be fed. It is the right to access the means to produce food or to obtain an income that enables the purchase of adequate food". "The

international legal framework on the right to food provides operational tools and mechanisms to ensure that public policies are geared towards alleviating hunger and malnutrition and towards building the resilience of the most vulnerable groups against risks, shocks and policy changes." "That is different and more effective than the outdated and misplaced emphasis on increasing food production", said the Special Rapporteur. "As in the case of the financial system, it is the responsibility of policy makers to take the decisions needed to ensure real change. Political will is needed to tackle the structural flaws in the global food system".

At a press conference after his appearance before the Council, the Special Rapporteur called for the G20 meeting that will take place in Pittsburgh next week to follow up on the commitment to invest \$20 billion in agriculture in poor countries. "G20 leaders must agree on a more ambitious policy agenda. For one billion hungry persons to escape poverty, the initiative announced at L'Aquila can only be a first step. It cannot be the last", he warned. Despite some progress, the Special Rapporteur remains critical of insufficient international cooperation to address the root causes of hunger, including instability in international agricultural markets. "Nothing has been done to prevent renewed food price increases, while experts warn that climate change will result in more frequent and extreme volatility in international food markets".

The Special Rapporteur added that "increased investment in agriculture will not benefit small farmers without action to reduce market instability and create an enabling environment". He emphasized that "small farmers need access to land, credit, storage facilities, research and extension services, and communications as well as support to cooperatives". He emphasized in his report to the Council the need for action in five areas in order to prevent hunger and ensure enjoyment of the right to food: reducing volatility in international agricultural markets; encouraging States to build social protection schemes; scaling up sustainable agriculture; protecting agricultural worker rights; and reforming global governance for food and agriculture.

**LINKS TO REPORTS OF SPECIAL PROCEDURES MANDATE HOLDERS PRESENTED AT THE 12<sup>TH</sup> REGULAR SESSION OF THE HUMAN RIGHTS COUNCIL**

Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Ms. Gulnara Shahinian

[http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-21\\_E.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-21_E.pdf)

Addendum: Mission to Haiti

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A.HRC.12.21.Add.1.pdf>

Report of the Special Rapporteur on the sale of children, child prostitution and child pornography, Ms. Najat M'jid Maalla

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A.HRC.12.23.pdf>

Addendum: Mission to Latvia

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/145/66/PDF/G0914566.pdf?OpenElement>

Addendum: Mission to Estonia

[http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-23-Add2\\_E.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-23-Add2_E.pdf)

Addendum: Communications with Governments

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/155/23/PDF/G0915523.pdf?OpenElement>

Report of the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Ms. Catarina de Albuquerque

[http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-24\\_E.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-24_E.pdf)

Addendum: Mission to Costa Rica

[http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-24-Add1\\_E.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-24-Add1_E.pdf)

Corrigendum: Mission to Costa Rica

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/154/01/PDF/G0915401.pdf?OpenElement>

Addendum: Mission to Egypt (Preliminary note)

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/150/56/PDF/G0915056.pdf?OpenElement>

Corrigendum: Mission to Egypt

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A.HRC.12.24.Add.2.Corr.1.pdf>

Report of the Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, Mr. Okechukwu Ibeanu

[http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-26\\_E.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-26_E.pdf)

Addendum: Communications to and from Governments

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/151/52/PDF/G0915152.pdf?OpenElement>

Addendum: Joint mission to the Netherlands and Côte d'Ivoire

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-26-Add2.pdf>

Report of the Independent Expert on human rights and international solidarity, Mr. Rudi Muhammad Rizki

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-27.pdf>

Corrigendum

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/154/74/PDF/G0915474.pdf?OpenElement>

Report of the Special Rapporteur on the right to food, Mr. Olivier De Schutter (follow-up to the 7th special session)

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-31.pdf>

Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Mr. James Anaya

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-34.pdf>

Addendum: Communications to and from Governments

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-34-Add1.pdf>

Addendum: Mission to Brazil

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A.HRC.12.34.Add.2.pdf>

Addendum: Mission to Nepal

[http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-34-Add3\\_E.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-34-Add3_E.pdf)

Addendum: Mission to Botswana

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-34-Add4.pdf>

Addendum: Observations on the situation of the Charco la Pava community and other communities affected by the Chan 75 hydroelectric project in Panama

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A.HRC.12.34.Add.5.pdf>

Addendum: Mission to Chile

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A.HRC.12.34.Add.6.pdf>

Addendum: Report on Madrid Expert Seminar

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-34-Add7.pdf>

Addendum: Mission to Peru

[http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A.HRC.12.34.Add.8\\_sp.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A.HRC.12.34.Add.8_sp.pdf)

Addendum: Preliminary note on the situation of indigenous peoples in Colombia

[http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A.HRC.12.34.Add.9\\_sp.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A.HRC.12.34.Add.9_sp.pdf)

Addendum: Preliminary note on the situation of indigenous peoples in Australia

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A.HRC.12.34.Add10.pdf>

Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Githu Muigai

[http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-38\\_E.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-38_E.pdf)

Report of the Special Rapporteur on the situation of human rights in Cambodia, Mr. Surya Prasad Subedi

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A.HRC.12.40.pdf>

Corrigendum

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A.HRC.12.40.Corr1.doc>

Report of the Independent Expert on the situation of human rights in Somalia, Mr. Shamsul Bari

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A.HRC.12.44.pdf>