

face in fighting terrorism, noted with concern that in some countries governments have adopted counter-insurgency strategies aimed at targeting those suspected of being members, collaborators or sympathizers of those groups, leading to further violations of the right to life.

The section of the report dealing with capital punishment makes a number of points, including that: the death penalty is an exception to the fundamental right to life and, as an exception, must be interpreted restrictively; the imposition of a capital sentence must fully respect all restrictions imposed by the pertinent international instruments on this question and the application of these restrictions must be guaranteed in each and every case; the desirability of abolition of the death penalty has been strongly reaffirmed on various occasions by UN human rights organs and bodies, including the Commission on Human Rights in resolution 1997/12 (3 April 1997); on a regional level, new members of the Council of Europe are required to sign within one year, and ratify within three years of joining the organization, the Optional Protocol No. 6 to the European Convention, aimed at abolishing the death penalty, and are also required to place an immediate moratorium on executions; and, in several countries where legislation allowing for capital punishment had remained on the books, executions were resumed in 1997 after many years during which death sentences had not been carried out.

Referring to legal proceedings leading to the imposition of capital punishment, the report notes that these proceedings must conform to the highest standards of independence, competence, objectivity and impartiality of judges and juries, that is: all defendants in capital cases must benefit from the services of a competent defence counsel at every stage of the proceedings; defendants must be presumed innocent until their guilt has been proved beyond a reasonable doubt; all mitigating factors must be taken into account; the burden of proof must lie with the state; imposition of the death sentence upon the conclusion of a trial in which the basic fair trial standards were not ensured constitutes a violation of the right to life, should the execution be carried out; proceedings must guarantee the right of review of both the factual and legal aspects of the case by a higher tribunal, composed of judges other than those who dealt with the case at first instance; the defendant's right to seek pardon, commutation of the sentence or clemency must also be guaranteed; and, mandatory appeal of a death sentence should be provided.

The report notes concerns related to the imposition of the death penalty by special jurisdictions, including that: such jurisdictions often involve courts which lack independence; proceedings are subject to time limits that seriously affect a defendant's right to an adequate defence; limitations on the right to appeal are imposed; and, in some cases, death sentences imposed in trials before special courts for the suppression of terrorist activities reportedly do not proceed from the presumption of innocence. Reference is also made to: reports indicating that in some cases foreigners have been sentenced

to death without having been informed of their right under the Vienna Convention to receive assistance from their consulate; in terms of the time spent awaiting execution and exhausting all avenues of appeal, the solution to the problem of the anguish of awaiting execution on death row by executing the person faster is not acceptable; and imposition of the death penalty for economic and/or drug-related offences in a number of countries should be eliminated.

On the issue of impunity, the SR made a number of points, including that: governments have an obligation to carry out exhaustive and impartial investigations into allegations of violations of the right to life, to identify, bring to justice and punish perpetrators, as well as to take effective measures to avoid the recurrence of such violations; in most of the countries where violations of the right to life were committed, perpetrators have not systematically been brought to justice; in those same or other countries there is a climate of impunity which leads to further violations of the right to life; impunity is the principal cause of the perpetuation and encouragement of human rights violations, including extrajudicial, summary or arbitrary executions; the manner in which a government reacts to human rights violations committed by its agents, through action or omission, clearly shows the degree of its willingness to ensure effective protection of human rights; very often, statements and declarations in which governments proclaim their commitment to respect human rights are contradicted by a practice of violations and impunity; and, even if in exceptional cases governments may decide that perpetrators should benefit from measures that would exempt them from or limit the extent of their punishment, the obligation of governments to bring them to justice and hold them formally accountable stands.

In addition to inaction or inadequate action by governments to eradicate impunity, the report notes other factors encouraging its perpetuation including the lack of an independent and impartial judiciary, and prosecution of members of the security forces before military courts, where they may evade punishment because of an ill-conceived *esprit de corps*.

The concluding remarks in the report state that: there is no indication that extrajudicial, summary or arbitrary executions have decreased; one of the most prevalent targets of extrajudicial, summary or arbitrary executions has continued to be persons involved in struggles such as those to prevent or combat racial, ethnic or religious discrimination, and to ensure respect for economic, social, cultural, civil and political rights, including rights to ancestral lands; in situations of internal armed conflict, up to 90 per cent of the victims were reported to be civilians, many of them women and children; UN personnel, humanitarian workers, journalists, members of political parties and trade unions, participants in demonstrations, displaced persons and persons belonging to minorities have been deliberately killed; extrajudicial, summary or arbitrary executions can be prevented only if there is a genuine will on the part of governments and the interna-