

when it is based on a lawful order and does not run counter to fundamental rights. Non-governmental sources stated that the draft military criminal code presented by the government reproduced the content of article 221 of the Constitution and excluded its application with regard to serious violations of human rights in the matter of military justice.

- ♦ The government referred to its active participation in the friendly settlement processes under way through the Inter-American Commission. Non-governmental sources recognized the importance of the mechanism of commissions of inquiry. They pointed out, however, that with regard to the clearing up of cases, the punishment of those responsible, and social redress for the victims, progress was minimal and none of the judicial inquiries had reached a conclusion.
- ♦ The government stated that the activities of groups dispensing private justice had been condemned by the highest government authorities and the Attorney-General had made putting an end to impunity for acts committed by these groups a priority. Non-governmental sources stated that the government's attitude to these groups is permissive; and that a trend towards legitimizing such groups had emerged with the establishment and promotion of the so-called "Convivir".
- ♦ The government stated that the Social Solidarity Network of the Presidency of the Republic was carrying out a special programme for promoting the rights of street dwellers and protecting them in 12 cities. Non-governmental sources reported that between October 1995 and September 1996, 314 persons had been killed as a result of violence against members of marginal groups with responsibility in 57 per cent of the cases attributed to paramilitary groups.

The report concludes with the statement that, because of the high number of complaints and the limited resources available to the SR, the situation in Colombia cannot continue to be examined solely under a thematic mandate — that it warrants the appointment of a special rapporteur on the situation in Colombia to work directly with the Office of the High Commissioner in the field and to report to the Commission on Human Rights.

Independence of judges and lawyers, Special

Rapporteur on the: (E/CN.4/1998/39, paras. 15, 16, 17, 19, 49–55)

The report refers to cases that were transmitted to the government, some on an urgent basis. One case related to a lawyer and City Ombudsman of San Calixto who had received a death threat from a paramilitary group called "Autodefensas del Catatumbo", reportedly linked with the security forces. Another case concerned two lawyers who the military alleged were active members of the National Liberation Army (ENL), reportedly because one of the lawyers defended an individual who had been arrested and charged with being a member of the ENL. A third case concerned three members of the "José Alvear Restrepo" lawyers' collective who were threatened and

harassed. The President of the collective was accused of supporting a wing of the ENL.

The government's replies to the cases variously indicated that: the lawyer concerned had been under investigation for rebellion, arrested and subsequently released pending further investigation; the complaint was under investigation; and, that the case of the members of the lawyers' collective had been studied by the competent authorities which had ordered the adoption of measures to protect the office and the integrity of the members of the collective.

The SR visited Colombia from 15 to 27 September 1996. The focus of this mission was to study the so called "regional courts" — a system created by the government in order to prosecute civilians charged with terrorist-related crimes and drug trafficking. The report of the mission (E/CN.4/1998/39/Add.2) contains information on a number of subjects including, *inter alia*: the crisis in the administration of justice, the general structure of the judiciary, the regional courts and international standards, the right to due process of those tried by regional courts, conditions of service that hinder the independence and impartiality of the judiciary and prosecutors and the right to defence, conditions of service of the Procurator's Office (Ministerio Público), impunity, and follow-up to previous missions.

In setting the context the report notes that, at the time of the mission, figures from the Office of the Procurator General of the Nation (Fiscalía General de la Nación) indicated that approximately 100 violent deaths occurred daily and while common crime and social violence were the causes of most violent deaths, the rate of politically-motivated homicides and executions was one of the highest in the world. The report further notes that in 1996 and 1997 the human rights situation had deteriorated seriously and, between October 1996 and March 1997, 1,704 people were victims of social and political violence. The majority of victims were civilians, particularly peasants. The increase in human rights violations reportedly committed by paramilitary groups was characterized as commensurate with the extension of the territories they controlled and the development of their activities. Despite government promises to disband paramilitary groups, these were in fact becoming more powerful and were responsible for the majority of extralegal executions, acts of torture and forced disappearances. Serious allegations had also been brought to the SR's attention concerning the links between the paramilitary groups and the armed forces. At the same time, the government continued to support rural security cooperatives or associations called "Convivir" — created and regulated by Special Decree No. 356 of 1994 — which promote an involvement of the civil population in the conflict.

Narrative on the crisis in the administration of justice refers to a number of points, including that: the main problem affecting the judiciary is the high rate of impunity at both ordinary criminal courts and military criminal courts; despite the fact that there is a well structured judicial system, there is an obvious absence of the