

member team from 8 to 19 December 1997 and provides information on, *inter alia*: the evolution of the situation of human rights, strengthening of civilian power, citizen security, the national civil police and the army, social and economic aspects, the identity and rights of indigenous peoples, uprooted persons, clarification of past human rights violations, and the agreement on the basis for the legal integration of the Unidad Revolucionaria Nacional Guatemalteca (URNG). Annex II of the report contains a summary of complaints of violations of human rights received by the mission during its time in Guatemala.

The report notes that both state and non-governmental sectors agreed that the human rights situation had improved substantially compared with the past, and that there is no state policy of violating human rights or that violations which are still occurring are on a large scale and systematic in nature. Concern is expressed, however, over the continued existence of the problem of impunity, the continuing structural defects in the system of the administration of justice and criminal investigation, the situation of citizen security, the frequent denials of due process, the continuing existence of discrimination against indigenous peoples, the lack of economic, social and cultural rights, and the weakness of national institutions for the promotion and protection of human rights.

The section of the report on the strengthening of civilian power recalls that this is one of the basic objectives in the Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society, signed by the government and the URNG in September 1996. In the Agreement, "civilian power" is defined as the expression of the will of the people through the exercise of political rights. Following on this, the report notes a number of points, including that reform of the administration of justice is a priority, aimed at ending inefficiency, eliminating corruption and guaranteeing free access to the justice system, impartiality in the application of law, judicial independence, ethical authority and the integrity and modernization of the system as a whole. The report refers to the establishment in March 1997, and subsequent extension of the mandate for a further six months through to February 1998, of a Commission on the Strengthening of the Justice System (CSJS). Following public hearings, this Commission recommended a number of measures related to modernization and professionalization, the recognition of multiculturalism and ethnicity and affirmation of legal certainty. The Commission specifically recommended, *inter alia*, that: the Supreme Court of Justice should have strictly jurisdictional functions; the administration of the judiciary should be the responsibility of the President of the Supreme Court assisted by specialized officials; and recognition be given to principles, criteria and procedures used by indigenous peoples to settle disputes between members of their communities.

The Secretary-General's mission found that the Congressional Commission was not taking into account these and other recommendations, particularly in areas such as the separation between administrative and jurisdictional

functions and efforts to professionalize judges and magistrates, with the latter related to the machinery for their selection and appointment, job security and length of service. The report states that the recommendations of the CSJS were being politicized by the action of the political parties represented in the Congress and, as a consequence, were being ignored or undermined. On other points, the report notes, *inter alia*, the fact that community justices of the peace are empowered to take account of community customs in the settlement of disputes but that there remains a need to strengthen the investigation capacity of the Office of the Human Rights Procurator and increase the budget resources allocated to the Office in order to strengthen its operational capacity.

Concerning citizen security, the national civil police and the army, the report states that efforts to improve the situation had begun to yield results but that there had been an obvious increase in the feeling of insecurity and a perception that the signing of the peace agreements created more insecurity. The report notes that this opinion, which has been encouraged by some sectors, is adversely affecting the full exercise of human rights and the implementation of the peace agreements by giving rise to responses that are outside institutional channels. The dozens of lynchings of alleged offenders, many of which have taken place in the presence of police authorities powerless to stop them, as well as some evidence of cases of "social cleansing", are cited as examples of such extra-institutional responses.

The report refers to, *inter alia*: the continuing high number of abductions and cases of extortion; the fact that there are delays in the establishment of a new police force and the effective deployment of the new structure of the National Civil Police, coupled with a high crime rate, have required the presence of the army in public security operations; the need for the government to clearly spell out the purpose, scope and conditions for temporary deployment of the army in citizen security operations; reports indicating that former members of the army, particularly the disbanded Mobile Military Police, are taking part in criminal activities; and the fact that measures establishing new methods for monitoring intelligence bodies have been delayed but remain important in order to give civilian power to functions which had been concentrated in the hands of the army.

Commentary on social and economic aspects noted, *inter alia*, that: the tax burden in Guatemala was among the lowest in Latin America and there remained a need for the government to combat tax evasion effectively and systematically; there remained extreme inequalities in the distribution of property and a heavy concentration of ownership of the best land by a very small sector of the population; few recoveries of land acquired unlawfully had been made by the time the mission's report was prepared; the decline in land invasions during 1997 was, possibly, only of short-term duration in light of the absence of programmes and activities designed to deal with unemployment and underemployment; land would continue to be a key issue that causes conflicts; there