

the seriousness of the offence being investigated. The government noted that an evaluation of evidence of guilt is not part of the mandate of the Working Group, and therefore could not be included in any of the three categories of arbitrary detention considered by the Working Group. On the basis of the facts presented, the Working Group declared that the detention of the three was not arbitrary.

**Disappearances, Working Group on enforced or involuntary:** (E/CN.4/1997/34, paras. 3, 11, 12, 111–122, 393)

1. The Working Group (WG) transmitted 23 new cases to the government, 16 of which were reported to have occurred in 1996. A communication was also sent on behalf of persons who had been subjected to acts of intimidation or harassment, including: members of the Association of Relatives of Disappeared Detainees; relatives of two persons missing after the killing of one member of the family, who had been making inquiries on the whereabouts of the disappeared; and witnesses to the arrest of one person who subsequently disappeared, who had given testimony before the judicial authorities.

The majority of the 756 cases remaining to be clarified have occurred since 1981, in particular in Bogota and regions where the level of violence is highest. The cases include those of persons belonging to civic or human rights groups who had publicly denounced abuses by members of the security forces or paramilitary groups. The forces alleged to be responsible are the army, the police, members of paramilitary groups and unidentified men in civilian clothes believed to be linked to governmental forces.

The report also refers to information received expressing concern over: a bill of constitutional reform, presented to Parliament in April 1996 by a group of senators, establishing that all crimes committed by members of the armed forces and police should be dealt with under military jurisdiction; lack of progress in the preparation and discussion of a new bill aimed at including forced disappearance as a separate crime in the Penal Code; and, a bill on constitutional reform presented to Parliament in August 1996 which would suppress many of the limitations imposed by the 1991 Constitution on the possibility of declaring a state of emergency, give additional powers to the Executive while a state of emergency was in force, give judicial police functions to the Armed Forces, and restrict the possibility of individuals availing themselves of the writ of protection.

The government sent information to the WG on the implementation of recommendations made by the various thematic mechanisms of the CHR that had visited the country, citing: the elaboration of a plan for the development of the justice system; establishment of a unit in the Office of the Attorney-General to deal exclusively with investigations on human rights cases; the decision of the Constitutional Court declaring unconstitutional the practice of incorporating military personnel into judicial police units; and, a draft of the new code of military justice.

**Extrajudicial, summary or arbitrary execution, Special Rapporteur on:** (E/CN.4/1997/60, paras. 15–19, 31, 35–38, 51, 52, 57, 58, 60, 61, 66, 68, 71; E/CN.4/1997/60/Add.1, paras. 115–140)

The report states that violations of the right to life continue to occur on a large scale and that there are no indications

of an improvement in the short term. Members of the army, paramilitary groups, the police and, to a lesser extent, guerrilla groups are reported to have been responsible for a large number of violations of the right to life. The Special Rapporteur (SR) has continued to receive claims that there is a clear relationship between paramilitary groups and the armed forces. Links between them are said to have been observed specifically in the context of counterinsurgency operations, where the armed forces and paramilitary elements have reportedly acted together. Landowners, local politicians, major industrialists and drug traffickers would appear to be giving financial backing to these paramilitary groups.

The report notes that, according to information provided, paramilitary groups had made threats against trade unionists and community leaders, human rights activists and members of the judiciary; and, the risks facing human rights defenders are believed to have prompted several organizations to suspend their activities. Reference is also made to impunity. The SR cites information indicating that only three per cent of the offences reported in Colombia result in convictions. The report suggests that victims of violations and witnesses may be deterred from going to court out of fear of reprisals in light of the fact that, on some occasions, people may have been killed for taking legal action in cases of human rights violations.

The SR sent 21 urgent appeals to the government and transmitted communications alleging violations of the right to life of 152 named individuals and 14 unidentified persons. The appeals and communications related to: human rights activists, members of political parties, trade unionists, inhabitants in La Paz, Segovia and Remedios, peasant leaders and displaced peasant families and indigenous leaders, children, members of Unión Patriótica, politicians and community leaders and workers.

The government replied to a number of the appeals and cases and informed the SR, *inter alia*, that: a bill had been submitted that would authorize the government to pay compensation resulting from decisions taken by intergovernmental bodies, in view of the legal difficulties that had arisen on a number of occasions; a "Development Plan for the Justice System", which would provide for heavy investment in that field, had been instituted; the Statutory Act on the Administration of Justice, whose review was due to be completed by the Constitutional Court, introduced various changes in the system including limiting the use of secret witnesses and prosecutors; implementation of a witness protection programme had been initiated; a commission had been appointed to prepare a draft military penal code and code of penal procedure; and, a programme to combat the so-called "social cleansing" killings was being formulated.

In follow-up with the government, the SR noted that, while it was clear that the authorities had initiated investigations into the alleged violations of the right to life, concern remained that it had not been possible to identify those responsible in the majority of cases. The SR also expressed his concern that investigations had been suspended or the cases had been temporarily filed as a result of the failure to determine responsibility for these crimes.