Организация Объединенных Наций A/HRC/14/26/Add.2

Генеральная Ассамблея

Distr.: General
16 April 2010
Russian
Original: Spanish

**Совет по правам человека**
**Четырнадцатая сессия**
Пункт 3 повестки дня
**Поощрение и защита всех прав человека, гражданских, политических, экономических, социальных и культурных прав, включая право на развитие**

# Доклад Специального докладчика по вопросу о независимости судей и адвокатов г-жи Габриэлы Карины Кнауль ди Альбукерке и Сильва*

**Добавление**

## Миссия в Колумбию**

* Документ представлен с опозданием.

** Резюме настоящего документа распространяется на всех языках. Полный текст доклада, который содержится в приложении к резюме, распространяется только на испанском и английском языках.

*Резюме*

Специальный докладчик посетила Колумбию с официальной миссией 7−16 декабря 2009 года по приглашению правительства. В ходе визита она была принята Президентом Республики и встречалась с Вице-президентом Республики, должностными лицами органов государственной власти и судебных органов, представителями гражданского общества и профсоюзов. Она побывала в городах Богота, Букараманга, Кали и Медельин, что позволило ей ознакомиться с состоянием судебной системы в различных регионах страны.

В докладе содержится ссылка на Политическую конституцию 1991 года, которая провозглашает независимость судебной власти и выносимых судами решений. Хотя вся структура судебной власти зиждется на этой независимости, в докладе упоминаются различные факторы, непосредственно на нее влияющие: общее чувство безнаказанности и, как следствие, неэффективность судебной системы; большой объем дел, находящихся в производстве каждого суда и трибунала; неадекватное управление и нехватка людских и материальных ресурсов; трудности в деле сбора доказательств и расследования преступлений; нападения и запугивание потерпевших и свидетелей; существование организованных преступных групп, активно противодействующих расследованию преступлений; отсутствие четких ориентиров, в том что касается приоритетности при расследовании случаев; коррупция в системе правосудия, а также проблема доступа к правосудию, имеющая две грани: получение доступа к судопроизводству и судебным процедурам и возможность добиться вынесения окончательного решения.

По ходу встреч с действующими лицами системы отправления правосудия − судьями, магистратами, работниками судебной прокуратуры, прокурорами, адвокатами, общественными защитниками − этот список пополнился следующими проблемами, вызывающими обеспокоенность: нападения, угрозы и запугивания, пагубно сказывающиеся на ходе расследования и судебном преследовании; отсутствие надлежащих мер обеспечения безопасности и неадекватные оценки степени риска; обязательные переводы в другие города; отсутствие подходящих помещений для размещения судебных органов, а также оборудования и информационных систем, позволяющих упростить и ускорить процесс производства по делу; недостаточность финансовых средств; отсутствие надлежащей подготовки, особенно среди судей, занимающихся рассмотрением уголовных дел, учитывая введение системы устного состязательного судопроизводства; трудности с применением на практике принципа равенства сторон, с которыми сталкиваются прокуроры, работающие в судах первой и второй инстанции.

Участились нападения на судей и магистратов, а особенно серьезным случаем стал захват и разрушение в 1985 году Дворца правосудия в Боготе. С этого момента нападения на судей, прокуроров и адвокатов, причем в атмосфере практически полной безнаказанности, получают все более широкое распространение. В докладе также упоминается о захвате и разрушении в 2005 году Дворца правосудия в Кали и тот факт, что пять лет спустя судьи и магистраты размещаются в неприспособленных для работы помещениях.

Реализуемые в последнее десятилетие программы установления мира, демобилизации, безопасности, разоружения и правосудия переходного периода (Закон № 975 от 2005 года) привели к резкому увеличению числа расследований в связи с нарушениями прав человека, преступлениями против человечности и военными преступлениями, а также к перегруженности судов судебными делами. Проводимые ныне расследования не ограничиваются только делами членов преступных организаций и незаконных вооруженных формирований, но затрагивают также связи их руководителей с правительственными кругами и представителями органов законодательной власти. В этой связи Специальный докладчик отмечает выдающуюся работу, проделанную Верховным судом в отношении случаев так называемой параполитики, хотя и напоминает о необходимости уважения международного принципа двух инстанций.

В докладе также сообщается о случаях политического вмешательства при назначении членов судов высокой инстанции, в частности со стороны Дисциплинарной палаты Высшего совета судебных органов и Генеральной судебной прокуратуры Республики; действие этих двух ведомств квалифицируется как наиболее серьезное препятствие на пути гарантирования независимости судебных органов. Специальный докладчик отмечает, что внедрение параллельной системы правосудия в переходный период на основании Закона о правосудии и мире, а также введение системы устного состязательного уголовного судопроизводства привели к возникновению серьезной проблемы для судебной власти.

В связи с этим в докладе говорится о негативных последствиях нынешнего неопределенного положения, в котором находится Генеральная судебная прокуратура. Работа Генеральной судебной прокуратуры тесно связана с деятельностью судов и трибуналов и влияет на нее. От того, как они координируют свои усилия, зависит увеличение или уменьшение доверия к судебной власти в целом, равно как и усугубление или ослабление проблемы безнаказанности.

В докладе также находит отражение обеспокоенность Специального докладчика по поводу использования судами высокой инстанции механизмов защиты прав для отмены приговоров и решений, вынесенных другим аналогичным судом. Что касается военной юрисдикции, то в случае сомнений Специальный докладчик призывает к урегулированию коллизии юрисдикций в пользу обычной юрисдикции. Кроме того, Специальный докладчик обращается с призывом положить конец всяческим нападкам, направленным на дискредитацию судебной власти, подрыв доверия к судьям и магистратам и способным поколебать уверенность граждан в системе правосудия.

В докладе также отмечается важное значение профессиональной деятельности адвокатов и юристов и подчеркивается необходимость обеспечения всех требуемых условий для надлежащего выполнения ими своей работы. Оговаривается целесообразность их объединения в коллегию адвокатов, которая отстаивала бы их права и интересы и следила за соблюдением этических норм поведения, позволив тем самым вывести адвокатов из-под контроля и санкций со стороны Высшего совета судебных органов.

В докладе делается вывод о том, что в основе многих из рассматриваемых вопросов лежат проблемы, связанные с землей. Необходимо добиваться прогресса в деле демаркации земель, оформления титулов на землю и регистрации прав собственности, поскольку неопределенность в этих вопросах является и будет являться скрытой причиной многих преступлений и нарушений прав человека.

Наконец, в докладе утверждается необходимость поощрения усилий по обеспечению представленности женщин в судах высокой инстанции, апелляционных судах, трибуналах и органах прокуратуры. Подчеркивается необходимость введения в судебных органах единой, а в Генеральной судебной прокуратуре − целевой системы набора и продвижения по службе, причем на конкурсной основе, предполагающей объективный и беспристрастный учет профессиональных качеств.

Специальный докладчик завершает свой доклад утверждением о том, что вся борьба с насилием и весь мирный процесс обязательно должны следовать по пути достижения справедливости. Независимость судебной власти во всех ее аспектах представляет собой инструмент обеспечения более надежной гарантии того, что справедливость восторжествует.

# Annex

## Report of the Special Rapporteur on independence of judges and lawyers

### Mission to Colombia

## Contents

# I. Introduction

1. The Special Rapporteur visited the Republic of Colombia from 7 to 16 December 2009 in response to an invitation from the Government. The visit included the cities of Bogotá, Bucamaranga, Medellín and Cali. The Special Rapporteur was received by the President of the Republic and held meetings with Government authorities, authorities of the Judiciary, judges, prosecutors and judicial officers. She also had meetings with representatives of civil society, international organizations and bodies of the United Nations system.

2. The Special Rapporteur thanks the Government for inviting her to visit the country and for the generous cooperation extended during her visit, including the Government's readiness to make last-minute changes in the official programme. Special thanks are due to the Presidential Programme on Human Rights and International Humanitarian Law for its constant readiness to provide information and resolve doubts, as well as to OHCHR-Colombia.

3. As the visit began to evolve, the Special Rapporteur realized that the concerns of her interlocutors centred on a few specific topics: the widespread sense of impunity; the appointment of the Attorney General of the Nation; the importance of the investigation and prosecution of "*parapolítica*" cases; the role of the Judiciary in punishing the persons responsible for the violence; the physical attacks, intimidation and threats suffered by judges, prosecutors and lawyers; the introduction of a new criminal-trial system; the justice and peace process; the criticism of human rights in various public documents; and the acts of intimidation against the Judiciary and the attempts to undermine its credibility.

# II. The judicial system

## A. The High Courts of Justice

4. The 1991 Constitution provides that the Judiciary consists of the Constitutional Court, to which is entrusted protection of the integrity and supremacy of the Constitution, the Supreme Court of Justice, the highest court of ordinary justice, the Council of State, the highest administrative court, the Supreme Council of the Judiciary, which regulates careers in the Judiciary, the special courts (indigenous peoples' courts and justices of the peace), and the Office of the Attorney General of the Nation, which investigates offences and brings prosecutions. The decisions of the Judiciary are independent (art. 228) and judges are subordinate only to the rule of law (art. 230).

5. The four high courts are formally of equal status although exercising different powers. During her visit the Special Rapporteur received the following information on each of these courts.

6. The Constitutional Court has handed down decisions of importance for Colombia's constitutional development, in particular with regard to indigenous peoples and internally displaced persons[1]. It has declared states of emergency and several of the acts passed by the Congress to be unconstitutional and has issued precise instructions for the amendment of legislation to bring it into line with the Constitution.

[1] Decisions of the Constitutional Court.

Both the Executive and the Legislature respect its decisions. The members of the Constitutional Court make a habit of travelling the country to inform the general public about how to exercise their constitutional rights and to publicize the Court's jurisprudence. Its decisions constituted an important factor in the differentiated treatment of internally displaced persons.

7. The Constitutional Court has adopted a number of decisions designed to strengthen the independence of the Judiciary[2]. Some of its decisions have been overturned: for example the decision on the possibility of immediate re-election of the President for a further term. The Court's consideration of the possibility of holding a referendum to authorize such re-election resulted in the adoption of decision C-141 of 26 February 2010, which declared unenforceable Law 1354 (2009) prohibiting the holding of a referendum on the issue. The Government complied with this decision in its entirety.

8. The Supreme Court of Justice has investigated through its Criminal Division the "*parapolítica*" cases concerning possible links of heads of paramilitary organizations to members of the Congress and the Government. Ninety-three parliamentarians are currently being prosecuted, and the Court has handed down 22 decisions: 13 guilty and five not guilty verdicts and four orders imposing prohibitions or exclusions. Up to November 2009 the Attorney General had initiated proceedings in 249 cases, against 13 deputies, 12 governors, 166 mayors and 58 local councillors.

9. The judges of the Council of State informed the Special Rapporteur that its decisions are generally accepted by the Government. But they complained that the Government acted on those decisions only in specific sub judice cases instead of applying them to all similar cases by issuing a general directive or instruction. There have also been cases in which a directive has been issued which ran totally counter to the Council's finding[3]. This obliges persons affected by a similar situation to bring actions to assert their rights, thus clogging the Council's work. The Government has taken several steps to correct this situation: paragraph 6 of Presidential Directive 05 of 22 May 2009 provides that in administrative cases the extra-judicial conciliation commissions "shall study the patterns of consolidated jurisprudence". A bill on decongestion of the courts, submitted to the Congress by the Executive on 18 November 2009, proposes to make it mandatory for public bodies to align their administrative rulings with the reiterated jurisprudence of the high courts.

10. The Higher Council of the Judiciary is responsible for managing the Judiciary's human resources, for assessing, promoting and disciplining judges, for drawing up and executing the Judiciary's budget, and for resolving any jurisdictional conflicts between the various courts. Judges are assessed annually on the basis of the number of cases dealt with, the time taken, and other criteria such as efforts to update vocational or academic training. But it is important to make a diagnosis of all the needs and to devise suitable measures to satisfy them, with a clear and objective definition of the results to be obtained within a specific period. Criticism has come from several quarters concerning political influence in the appointment of the Disciplinary Division of the Higher Council of the Judiciary and its implications for the fight

[2] See for example decision C-1643/2000, in which the court distinguishes between the principles of judicial autonomy and judicial independence, and decisions T-592/2002 and T-593/2002, in which the Court states that the principle of judicial independence is a safeguard of the application of current law.

[3] For example in a recent pensions case, when the Government issued a directive having the converse effect.

against corruption. Judges of the courts of first instance and other judicial officers are not represented in the Higher Council's Administrative Division.

11. There is Judiciary School offering various training courses and seminars tailored to the needs and the demand. Several courses have provided training in the new accusatorial system in the criminal courts. The Special Rapporteur heard some criticism concerning differences in the intensiveness and content of these courses. There would appear to be a need for improved coordination and harmonization of their content.

## B. The balance between the high courts

12. Resort to *tutela*, a remedy of *amparo* employed widely by Colombians to obtain revocation of a final decision of another high court, is giving rise to serious tensions between the high courts. Judges of the Constitutional Court have stated that the Supreme Court of Justice, in particular its Civil Division, does not accept that the Constitutional Court may overturn its decisions. Members of the Supreme Court complain about the Constitutional Court's referral of the controversy to the Higher Council of the Judiciary, which has no greater knowledge of the substance of the matter in question.

13. Members of the Constitutional Court, the Supreme Court of Justice and the Council of State believe that the Higher Council of the Judiciary is being used by the authorities of the Executive and the Legislature to encroach on the independence of the Judiciary. Its Disciplinary Division is accused of yielding to pressure in connection with the nomination of candidates for appointment to the high courts and of lack of transparency in the selection of candidates. The Special Rapporteur heard the same allegation from judges, prosecutors and members of non-governmental organizations. The procedure followed by the Chamber of Representatives when appointing members from among the candidates nominated by the President of the Republic was a particular target for criticism, with a clear imputation of a political motive. It is also feared that its disciplinary powers may be used as a means restricting the activities of judges or impairing their independence and impartiality.

14. *Tutela* is a sophisticated and effective constitutional remedy, the quality which is perhaps most highly valued by citizens where justice is concerned. It has proved itself an effective means of protecting fundamental rights. Its use on a massive scale (10,000 applications are lodged every week) has compelled the Constitutional Court to establish a selection process based on objective criteria of admissibility.

15. The terms of office of the presidents of the various high courts are short (one year) and apparently allow insufficient time for proper planning of the work to be done and adequate monitoring of project implementation. There are no proper retirement arrangements.

## C. The appointment of judges

16. The entry and promotion examinations for judicial personnel are generally objective. They are usually conducted without outside interference through a process of elimination. Once appointed, judges have security of tenure, a factor of immense importance for ensuring their independence and impartiality. However, judicial careers are halted on reaching the level of judge of second instance. Appointment to the high courts does not depend on a person's earlier career in the Judiciary.

17. The constitutional amendment authorizing the re-election of the President of the Republic affected the balance of powers so laboriously constructed in the Constitution, with the result that the President governs with judges and with an Attorney General which he himself helped to appoint.

18. The President has to draw up shortlists of (three) candidates for the appointment of the members of the Disciplinary Division of the Council of the Judiciary, the Attorney General and, in part, the members of the Constitutional Court. During her visit the Special Rapporteur pointed out that re-election for a second term or re-election for an indefinite period would have an even greater impact on the system of reciprocal checks and balances between the branches of State power.

19. Judges of the high courts are appointed for a term of eight years; this period is not long and may jeopardize the independence of the Judiciary, for judges who at the end of their term are still of working age often have to seek posts in the labour market, where the State is the leading employer.

20. The Special Rapporteur notes the recourse to appointment of temporary judges to fill vacancies. These judges have no security of tenure or labour protection, a situation which renders them potentially vulnerable to pressure or threats.

21. Particular concern was expressed about the absence of measures to increase the numbers of judges. The Special Rapporteur noted that there is a legal regulation providing that at least one woman must be included in the shortlists of candidates for appointment to the higher courts. Indeed, some appointment exercises were annulled for failure to include a woman in the shortlist.

## D. The special courts

22. The indigenous communities have their own system for administering justice, a system recognized and safeguarded by the Constitution. The State is endeavouring to conclude further agreements with these communities in order to harmonize the jurisdictional competence of the indigenous courts with that of the ordinary courts.

23. Representatives of the indigenous communities stressed that they should be allowed to apply their law and dispense justice in accordance with their own concepts and assumptions. Some of them complained about the absence of the necessary autonomy in the application of their own system. Others asserted that the State did not provide them with the necessary resources to operate the system, although this problem is mitigated to some extent by the allocation of municipal resources. There are sometimes serious discrepancies, in connection for example with the possible imposition of corporal punishment. Representatives of the Government stated that its intention was to respect the indigenous jurisdiction as far as possible but to ensure that no violations of human rights occurred.

24. The indigenous peoples are overrepresented in the prison population. Many indigenous persons lack the education and resources to make their way in ordinary life – a circumstance which may bring them into conflict with the law. Once in that situation they usually cannot count on an effective defence. In some cases the sentences handed down by the indigenous authorities overstep the legal maximum. The Government reported that it had produced a breakdown of the numbers of indigenous persons imprisoned by decision of the ordinary courts and by decision of the special indigenous courts.

## E. The Office of the Attorney General of the Nation

25. The Office of the Attorney General of the Nation forms part of the Judiciary. Its functions include the direction of criminal investigations by means of the instructions which it issues to the criminal investigation police and the gathering and production of evidence and its submission to the courts. The physical presence of prosecutors in the courts and their actual participation in the various hearings has been increased by the introduction of the new accusatorial system in criminal trials[4]. Although as part of the Judiciary the Office of the Attorney General is autonomous and enjoys independence, its prosecutors are responsible to the Attorney General himself. This rule was declared enforceable by the Constitutional Court, which held that the application of the principles of autonomy and independence to prosecutors was predicated on their judicial function pursuant to articles 228 and 230 of the Constitution and article 5 of Law 270 (1996) and that this did not necessarily imply any contradiction with the principle of hierarchical responsibility but provided instead a clarification of its extension and scope (Decision C-888/2004).

26. Although one is provided for in article 159 of Law 270 (1996) on the administration of justice, the Attorney General's Office does not in fact have a careers structure. Many of its staff members are employed on a temporary basis and are recruited thanks to regional, personal or political connections. Many of them are in a precarious situation with respect to tenure. The Government reported that in mid-February 2010 the Review Division of the Council of State confirmed the Office's legal obligation to make the appointments resulting from the competition for posts which it had held in 2007. On 4 February 2010 the Supreme Court of Justice decided to set the Office a final deadline for filling the 2,100 posts with candidates who had passed the tests in the competition for posts and were on the rosters of eligible candidates. An equal number of temporary prosecutors and assistants are being terminated in order to comply with this order.

27. The current problem with the appointment of the Attorney General is connected with the change of arrangements for criminal trials and the introduction of the oral accusatorial system, which requires specialized legal knowledge (in particular with regard to cases heard by the Supreme Court of Justice) and with the system of transitional justice established by the Justice and Peace Law. The appointment is also affected by the imbalance between the branches of State power implied by the re-election of presidents. These changes have imposed a different logic on the system established by the Constitution. The Attorney General has to be chosen by the Supreme Court of Justice from a shortlist transmitted by the President of the Republic. This Attorney General, who necessarily has the President's support, for otherwise he or she would not have been included in the shortlist, has broad managerial powers with respect to specific investigations. The Government reported that the candidates on the shortlist submitted by the President satisfy the requirements of articles 249 and 232 of the Constitution and have the highest professional and personal attributes. The shortlist has been declared admissible and is being considered by the Plenary of the Supreme Court.

28. During her visit the Special Rapporteur interviewed a number of prosecutors who had been subjected to physical attacks, threats and intimidation. Several prosecutors have been murdered. Transfer to other places in the same department of the country is usually used as a means of protection. But such transfers may also be ordered as a means of punishment or to remove prosecutors from cases which they

[4] See A/HRC/10/82, para. 48.

are investigating. The number of transfers in the Office is high, and transfer is sometimes used as a reprisal. The transfers are effected very swiftly, with very little time allowed for moving house, while the cases which were being investigated are virtually abandoned.

29. The Office of the Attorney General has established programmes to protect its prosecutors. However, there are difficulties with the funding of these programmes, which sometimes do not measure up to the extent or seriousness of the threats received.

30. In some regions of the country the Office is located within military precincts or units. One example is the Office's support unit in the city of Arauca. Other units are located within police stations. This presents obvious difficulties of access for lawyers, victims and witnesses to the Office's facilities.

31. Some prosecutors also complained of the lack of sufficient protection or security measures when they had to conduct investigations in areas where guerrilla or paramilitary forces were present. This was a particularly serious problem when bodies had to be exhumed in places which were not sufficiently secure. Despite the large numbers of murders and of attacks on prosecutors, the Office does not have sufficient resources to investigate all cases properly and collect the necessary evidence. This fosters the current perception of impunity.

# III. Recent reforms and developments affecting the judicial system

## A. The justice and peace process

32. Law 975 (2005) introduced the justice and peace process in Colombia. This Law contains a number of provisions on the reintegration of former combatants, members of paramilitary groups and guerrilla organizations. It seeks to facilitate their disarmament and return to civilian life while at the same time making progress in the quest for truth, justice and reparation. It establishes no general amnesty or pardon in respect of crimes against humanity or war crimes. However, it does establish a number of benefits, chiefly the reduction of sentences, for persons who provide substantive information leading to the determination of the truth and who renounce violence and agree to compensate their victims. They must confess to the crimes in question before a prosecutor or a judge. In order to safeguard the rights of victims the Law created the National Reparations and Reconciliation Commission, made up of representatives both of the State and of civil society, including victims' associations. The process is currently encountering some difficulties. The fundamental one is the need to balance and reconcile the notions of justice and peace.

33. The Special Rapporteur was informed that some of the reintegrated combatants are being recruited as guides in the search for their former comrades and as informers and to maintain surveillance of highways. The Government stated that Decree 2767 of 31 August 2004 established the possibility for voluntarily demobilized and reintegrated combatants to provide useful information both to the Judiciary and to the forces of law and order. It pointed out that the policing of highways is the exclusive responsibility of specialized police officers. Some paramilitaries have reverted to the use of violence by organizing criminal gangs or forming new illegal armed groups. The Special Rapporteur considers that this may affect the overall credibility of the justice and peace process. The Government reported that the fight against criminal gangs had been stepped up by the National Police and the other

forces of law and order, stating that these efforts had brought about a reduction in the number of gangs from 33 in 2006 to six in 2009.

34. There is also debate about the punishment of the guilty parties. Some of the persons interviewed complained that the maximum sentence which could be imposed on persons who confessed and contributed to the determination of the truth, including those who admitted committing serious crimes, was only eight years. Most of the persons involved in the justice and peace process are demobilized combatants accused of crimes against humanity or serious violations of human rights, for which no amnesty or pardon is allowed. But the parameters of this transitional justice must be kept in mind.

35. The Constitutional Court interpreted Law 975 (2005) in its Decision C-370/2006, declaring some of the Law's articles unenforceable and giving its interpretation of others. The Supreme Court adopted a decision in which it argued that the Justice and Peace Law applied only to persons demobilized before 25 July 2005. The application of the Law to persons demobilized after that date would require new legislation extending its application.

36. Up to the time of the visit no final verdicts had been handed down in justice and peace cases. The Supreme Court referred back two concluded cases on the ground of incomplete charges. The defendants had not been charged with agreement to commit a crime, a circumstance which the Court regards as essential for prosecutions under Law 975. In the Government's view, laying incomplete charges constitute the only means of advancing the justice and peace process. On 14 December 2009 the Supreme Court accepted this view in a decision (Rad. 32575; case of the former paramilitary leader Cañas Chavarriaga).

37. Approximately 31,000 persons have been demobilized. Some 29,000 of them who had not committed war crimes or crimes against humanity invoked Law 782 (2002) and Decree 128/2003 and received several legal benefits (both pardons and discontinuance of proceedings); only 1,600 of them invoked the Justice and Peace Act.

38. One particular success of this process was that it helped to bring to light possible links between leaders of paramilitary organizations and members of the Congress and the Executive as a result of the investigations carried out by the Supreme Court (against extreme pressure). Another success was the award of compensation and damages to victims of serious violations of human rights, although their award by administrative decision generates suspicion. This process facilitated the location of common graves containing some 2,500 bodies, 721 of which have already been returned to their families. Demobilized members of self-defence groups have given information about 1,500 forced disappearances. The approximately 2,000 former members of self-defence groups have reported to prosecutors some 50,000 crimes, including 30,000 murders.

39. However, the justice and peace process has been affected by the approval of the extradition to the United States of America, under existing judicial cooperation arrangements, of 18 members of paramilitary organizations, on charges of drug trafficking. The extradition of these persons to the United States has prevented their physical appearance before Colombian judges to give information about the crimes against humanity and the human rights violations which they committed and about their relations with Colombian politicians, mainly members of the Congress and public officials. This causes frustration among the victims and is seen by the people as a source of impunity. According to the Government, the decision to extradite was based on serious suspicions that these persons would continue to engage in criminal

activities from their places of imprisonment in Colombia. Their testimony was not helping to establish the truth and they were not handing over their assets to the victim compensation fund.

40. Although physical appearance is not possible, Colombian prosecutors may be able to issue rogatory commissions or even go in person to the United States to take testimony from the extradited persons. Teleconferencing is another possibility. The United States prison authorities are obstructing the taking of statements from the extradited persons. Notwithstanding the commitment entered into by the federal authorities, the local prison authorities prefer to apply their own regulations. Another possible solution would be to send a delegation of Colombian judicial officers to the United States. The Government stated that the two countries are trying to establish cooperation mechanisms under the Inter-American Convention on Mutual Assistance in Criminal Matters.

## B. The new accusatorial system

41. The oral accusatorial system in criminal cases, introduced in 2004 by Law 906 establishes a clear demarcation between persons responsible for investigating cases (prosecutors), for trying cases (judges), and for supervision of due process (supervisory judges). This demarcation was introduced in four stages and now covers the whole country.

42. One of the bigger difficulties is the inability of personnel of the Office of the Attorney General and the criminal investigation police to carry out investigations promptly. This difficulty is even greater with respect to serious offences and crimes. When they are unable to find and produce evidence in such cases, prosecutors simply reduce the charges in order at least to secure convictions for lesser offences. If the accused confesses or admits the charges, the sentence may be reduced by half.

43. This explains the allegations of violations of the right to due process. Some accused persons are subjected to pressure to confess because the prosecutor has been unable to obtain sufficient evidence for a conviction. This seems to be a problem not solely of training but also of shortage of prosecutors and criminal investigation officers. The Government reported that training in the new accusatorial system has been provided for 1,500 judges and other personnel of the judicial system, 800 court-appointed counsel and 332 criminal lawyers and that the necessary physical infrastructure and technology for operating the new system has been put in place.

44. The accusatorial system is based on the involvement of supervisory judges, who have to assess searches and arrests in the light of the principles and rules of human rights. Some authorities complained about the high proportion of releases ordered by these judges, chiefly in Antioquia. In some cases they had ordered the release of persons carrying and concealing firearms who had resisted arrest, on the ground that the police had not been in possession of search or arrest warrants. This may indicate either excessive supervisory zeal or corruption. In January 2010 the then Attorney General reported that a plan of operations to break up the armed gangs in Medellín had led to successful prosecutions.

45. The Special Rapporteur considers that it is the duty of the supervisory judge to verify the legality of an arrest. If the judge finds that the legal rules were not followed in the course of the arrest, he or she must order release. The other branches of State power should avoid making comments which may jeopardize the credibility of the Judiciary.

46. Other persons interviewed complained that the accusatorial system did not pay sufficient attention to the rights of victims and their lawyers. Under this system victims are excluded from the investigation and have great difficulty in obtaining access to the case file and taking part in the search for evidence, and they attend the hearings only as spectators. Lawyers and court-appointed counsel also complained that the system did not allow them sufficient time to prepare the defence.

47. Since the accusatorial system is essentially oral it exposes witnesses to danger. Given the inadequate protection provided to witnesses, some of them prefer to water down their testimony in order to avoid reprisals. This situation can be especially serious when powerful interests are at play. The Government mentioned the existence of the Attorney General's victims and witnesses protection programme.

## C. The military jurisdiction

48. The military jurisdiction is not part of the Judiciary. It consists of the Supreme Military Court and 44 military tribunals. In principal these courts may try only military personnel in respect of exclusively military offences, such as sedition, rebellion or desertion. Cases of violation of human rights by military personnel must in principle be heard by the ordinary courts.

49. The Special Rapporteur was informed about a recent tendency to decide conflicts of jurisdiction in favour of the ordinary courts. However, the resolution of conflicts of jurisdiction is a lengthy process which delays the referral of cases to the competent courts. A protocol setting out clear criteria for determining the competent jurisdiction was drawn up in 2007. The difficulties in making decisions encountered by the Higher Council of the Judiciary arose when the conflict was badly handled: while the Attorney General considered that the examining magistrate of the military criminal courts was competent to rule on the conflict, the criminal courts considered that competence rested with the courts of instance.

# IV. Challenges facing the judicial system

## A. Impunity

50. The attacks on judges reached a high point in 1985 with the assault on the Bogotá Palace of Justice in which judges of various instances died, including members of the Supreme Court of Justice. Twenty years later the Cali Palace of Justice was attacked and destroyed; the courts have been sitting in various other parts of the city since then. These acts are still unpunished.

51. The Special Rapporteur was informed about several pieces of draft legislation designed to put an end to the grievous situation of perceived impunity in which Colombia currently finds itself. Every effort aimed at achieving this end is welcome. A State which accepts impunity is a State which is failing in its essential functions. The Presidential Programme on Human Rights and International Humanitarian Law has identified several projects to combat impunity: institution-building and improved organization; human resources management and development; victim and witness care; and establishment of the specific necessary conditions for proper investigation, prosecution and punishment.

## B. Murders, threats and intimidation

52. The Special Rapporteur learned about many threats and acts of intimidation aimed at judges, prosecutors, lawyers, witnesses and victims. These threats and harassment come from various quarters. Several judges of the Supreme Court of Justice requested precautionary measures of protection from the Inter-American Commission on Human Rights as a result of the death threats received in connection with the investigation of "*parapolítica*" cases.

53. More than 300 Judiciary personnel have been murdered over the past 15 years. The situation has improved since 2004, but the killings continue. Recently, on 22 March 2010, the sole judge for sentence enforcement in Fusagasugá, José Fernando Patiño Leaño, who was dealing with important cases of drug trafficking and guerrilla and paramilitary activities, was murdered as he was entering his home in Chapinero. The most serious point is that most of these crimes are not properly investigated, let alone punished by the courts, a situation which helps to maintain the sense of impunity. The Office of the Attorney General does not investigate effectively even the murders of and attacks on its prosecutors and members of the Technical Investigation Unit. The National Police established that seven judges, 12 prosecutors and 334 lawyers were murdered in the period 2003-2009.

54. The Special Rapporteur held individual interviews, *in camera*, with several judges, prosecutors and lawyers who had received death threats. In one specific case a judge said that she had seen the plan for her murder, which had been drawn up in great detail and specified the place, time and method of her death.

55. The Special Rapporteur also received allegations of unlawful activities involving surveillance, recording, wiretapping, tailing and harassment carried out by the Department of National Security (DAS) against judges, prosecutors and lawyers, activities which constitute an attack on the Judiciary. The Government stated that these alleged unlawful activities were not a Government policy and that the necessary steps had been taken for them to be investigated, prevented and punished.

## C. Resources allocated to the Judiciary

56. According to representatives of the Government, the past seven years have seen the total resources allocated to the Judiciary, the Office of the Attorney General and the Office of the Procurator General double. A high court judge receives a salary of about $US 10,000. The salary of a municipal judge is about $US 1,500. Ordinary Judiciary employees receive at least $US 1,000. The ratio in any event is ten to one and bears no relationship to the responsibilities borne by judges of the courts of lower instance.

57. Government officials stated that account should also be taken of the considerable amount of budgetary funds which the Government expends on the protection and security of judges, in particular round-the clock bodyguards and armoured vehicles. However, representatives of the Judiciary stated that the proportion of the national budget allocated to the justice system has been declining in real terms in recent years.

58. The draft budget for the Judiciary is prepared by the Administrative Division of the Higher Council of the Judiciary. An inter-institutional committee made up of the presidents of the four high courts, the Attorney General and representatives of the judicial services reviews the draft budget, which is then submitted to the Executive. The Special Rapporteur was informed that while in 2005 the difference between

the amount requested and the amount approved was 35,000 million pesos it had risen to 225,000 million pesos in 2009. The Government stated that the Judiciary was the only branch of State power not to have suffered budget cuts. It added that it had undertaken to include, over the next four years, a budget line equivalent to up to 0.5 per cent of GDP for the introduction of oral proceedings.

59. Colombia's justice system has had to cope with two parallel processes which both required a major injection of budget resources for their successful implementation: the justice and peace process, and the introduction of the accusatorial system. These processes require the construction of appropriate infrastructure, offices for judges and prosecutors and courtrooms, but above all they require the training of judicial personnel.

60. One especially important matter is the training of court-appointed counsel and of lawyers, who bear the responsibility of ensuring a proper defence. Court-appointed counsel are not permanent employees of the justice system, being recruited under contract by the Office of the Ombudsman for a fixed term, during which the cases are shared out among them.

61. The Special Rapporteur also heard complaints about the excessive length of remand in custody and its connected procedures and about the difficulties encountered by detainees in preparing, drafting and submitting the necessary judicial remedies.

62. Government authorities complained that judges do not feel themselves obliged to report on the results and effectiveness of their work or on their productivity and their use of the financial resources allocated to them. However, the high courts do submit to the Senate an annual report on the costs incurred.

63. The Special Rapporteur heard allegations of cases of corruption in the Judiciary. An official of the Office of the President of the Republic was given the task of studying corruption and has submitted case reports, but no concrete information is available and further studies have been initiated to discover the extent and magnitude of the problem.

## D. Reform of the Judiciary

64. The Ministry of the Interior and Justice told the Special Rapporteur that the justice system was to be improved by means of a process of profound reform, although the Government does not wish to formulate any concrete proposals in this connection.

65. Representatives of the high courts stated that there were specified areas for reform, mainly: the system for appointing judges; administrative management; the participation of the Judiciary in the appointment of non-Judiciary officials and other personnel; and the conflicts of jurisdiction between the four high courts with respect to the resolution of actions of *tutela* entered against their respective decisions. The Advisory Commission on Reform of the Justice System was established on 18 December 2009. The Committee of Experts was set up on 19 January 2010. However, they expressed their fear that the Executive might intervene in this process, with a consequent threat to the independence of the Judiciary and the independence and impartiality of judges.

# V. The legal profession: lawyers and court-appointed counsel

66. Criminal lawyers reported several cases of intimidation and threats. They said that they were not infrequently accused, usually without foundation, of being members of or having links with guerrilla organizations.

67. Some lawyers reported that the DAS had temporarily removed their personal computers in order to inspect the hard disks; others stated that their electronic mail was monitored.

68. They also complained that they were liable to investigation and punishment by the Disciplinary Division of the Supreme Court of Justice. This issue is a relevant one in the light of the excessive politicization of the appointment of the Division's members.

69. Colombian cities do not have formal bar associations, and the country has no federation of bar associations. Associations of lawyers do exist for special subjects or matters of common interest. Accordingly, there is no official professional body to defend lawyers' interests and rights. The existing associations are informal, and anyone who wishes may join; their membership consists mainly of legal specialists and practising lawyers. The Government proposed establishing working groups in conjunction with lawyers in order to study the viability of a collegiality bill to replace the bill currently before the Congress, which was drafted without the participation of representatives of any professional associations.

70. Lawyers have to register with the Supreme Court, which issues them with a card of professional accreditation. However, the then President of the Supreme Court was unable to supply any information on the number of lawyers active in each legal speciality. She did provide a list of approved lawyers.

# VI. Access to justice

71. There are no courts in the remotest parts of the country. In these places litigants and lawyers have to travel dozens, sometimes hundreds, of kilometres to reach a court. In some regions a single court has to cover several municipalities, with a consequent serious problem of accessibility. At the national level the demand for justice is increasing in all spheres, for citizens are increasingly aware of their rights.

72. The situation is even more serious when it is remembered that the first to suffer are society's most vulnerable groups and indigenous and Afro-Colombian groups. The Special Rapporteur learned of the initiatives described below.

73. The first initiative is the establishment of halls of justice (*casas de justicia*). These are buildings located in municipalities, housing in the same premises a police station, an office of the Attorney General, an office of the Ombudsman and a court, as well as municipal conciliation and mediation personnel and human rights officers. They have proved their effectiveness in the specific case of intra-community conflicts by facilitating conciliation and mediation.

74. The second initiative is the strengthening of community justice, which enables disputes to be settled more quickly than in the formal justice system. Community authorities complain that the State does not provide them with the necessary resources and that representatives of the ordinary justice system sometimes interfere in disputes which are being dealt with under the community justice arrangements.

75. The third initiative is the reinforcement of the system of justices of the peace, both qualified and unqualified. This is a system of justice which is readily available, informal and dispensed by respected members of the community; it is designed to find rapid solutions to simple but common disputes.

76. In the end access to justice is delivered only when there is a final decision which settles the action, guarantees the right, and is effectively enforced.

# VII. Conclusions

77. **Colombia has been undergoing profound changes since the entry into force of the 1991 Constitution. This is a Constitution whose content and adoption process are universally recognized to be democratic. The Government has to tackle the violence while at the same time combating impunity. New illegal armed groups have appeared. Links have been established between leaders of paramilitary groups and politicians, including members of the Congress. The Constitution had to be amended in certain regards: the powers of the Office of the Attorney General were redefined; the principle of speedy criminal proceedings was introduced (2002); the accusatorial system was established for criminal trials (2004); and a system of transitional justice was introduced under the Justice and Peace Law (Law 975) in 2005.**

78. **The judicial system is faced with serious challenges, including: lengthy delays in the processing of cases, particularly cases heard under the accusatorial system (Law 600); attacks on the independence of judges constituted by intimidation and threats; the lack of a level of protection commensurate with the objective risk involved in judges' work, especially at key points in the proceedings; compulsory transfers executed immediately and without prior consultation or much justification; scant financial resources; wide gap in remuneration between judges of first and second instance and high court judges; unsuitable working conditions and lack of equipment and information technology systems; corruption; lack of victim- and witness-support arrangements; deficiencies in the gathering and handling of evidence; problems encountered by lawyers in providing a proper defence, combined with the possibility of disciplinary sanction by the Supreme Court of Justice; false accusations and disqualification of lawyers.**

79. **Many of the difficulties facing the Judiciary relate to the tenure and demarcation of land. This problem affects access to justice, the investigations of the Office of the Attorney General, the collection of evidence, and other matters, all of which forms the basis for the perceived sense of impunity. The restitution of land has been seen as a means of individual reparation by administrative means for the victims of outlawed armed groups.**

80. **The introduction of the accusatorial system may represent, in the long term and after it has been assimilated by the personnel of the justice system, a new juridical culture which will deliver concrete results in the fight against impunity. The abandonment or deferral of cases initiated prior to 31 December 2004 is indeed a worrying possibility, with respect both to investigation and to the low priority resulting from the dynamics of the new system. A further problem is the lack of adequate training and the dearth of infrastructure.**

81. **The desired swiftness of the accusatorial system must be compatible with respect for the principles of assumption of innocence and due process. The introduction of the system of transitional justice caused a considerable increase in**

**the workload and in the number of investigations and actions for the Office of the Attorney General.**

82. **In this context, the Special Rapporteur is concerned about the temporary nature of employment in the Office. If it continues it may compromise the credibility of the entire justice system, for it will imply a failure to adopt the necessary administrative and operational management measures, as well as delays in the design and construction of projects essential to the Office's development.**

83. **The Special Rapporteur considers that the work done by the Supreme Court of Justice in the conduct of "*parapolítica*" proceedings constitutes an effective contribution to the fight against impunity. The impartiality and firmness displayed have been fully acknowledged by Colombian society.**

84. **There is a high level of political influence apparent in the appointment of members of the Disciplinary Division of the Supreme Court of Justice, together with a lack of transparent management, guided by objective criteria, of the Administrative Division, which has an overview of the entire Judiciary and possesses accurate information and updated statistics on the Judiciary's situation.**

85. **With regard to the cases falling within the scope of the Law-600 procedure, the Special Rapporteur considers that no other measures are needed, apart from the appointment of judges to deal with the backlog.**

86. **The Judiciary should take an active part in any decisions concerning the administration of justice. It should be requested to give its opinion on any proposed amendment to the Constitution or any other legal amendment affecting the Judiciary, both with regard to substantive matters and to ensure that the cost of any proposed change has first been assessed and has the necessary technical back-up, infrastructure and resources.**

87. **Judges of first and second instance, the corresponding ranks of the prosecution service and other judicial personnel should be involved in important decisions on the administration of justice and the Judiciary adopted by the high courts, as well as in decisions of the Inter-Sectoral Commission.**

# VIII. Recommendations

88. **The Special Rapporteur has formulated the following recommendations for the purpose of collaborating with Colombia in its efforts to protect and promote the independence of the Judiciary and the independence and impartiality of judges and lawyers:**

**(a) Institution-building in the Judiciary and the constitutional safeguards:**

**(i) The arrangements for appointment of members of the Disciplinary Division of the Higher Council of the Judiciary should be revised in order to ensure that the Division has a majority of career personnel among its membership and that judges, lawyers and academics play a substantive role in its work;**

**(ii) Representatives of judges of first instance, judicial officers and other personnel of the judicial system should be allowed to participate in the Administrative Division of the Higher Council of the Judiciary;**

**(iii) Resort to actions of *tutela* as a means of obstructing the work of the high courts should be avoided;**

**(iv) Mechanisms should be devised for settling conflicts of jurisdiction with the military courts in favour of the ordinary courts in a swift and expeditious manner. In the event of doubt, the case should be sent to the ordinary courts;**

**(v) The participation of the Judiciary in any discussion on the justice system or plans for reform should be guaranteed;**

**(vi) The possibility of extending the term of office of judges of the high courts should be studied;**

**(vii) Appointment to the high courts of judges of second instance and university professors should be encouraged;**

**(viii) The proposal to re-establish the Ministry of Justice should be given careful study; the Ministry's terms of reference, mission, functions and powers should be clearly spelled out and the necessary resources allocated to it;**

**(ix) Priority should be given to the investigation and prosecution of serious crimes committed against members of the Judiciary, including the attacks on the Palaces of Justice, in Bogotá in 1985 and in Cali in 2005;**

**(x) The possibility should be studied of establishing a fixed percentage of the national budget to be allocated to the Judiciary;**

**(xi) Women should be encouraged to make careers in the Judiciary;**

**(xii) A single career path should be established in the Judiciary in order to ensure that promotion to the higher levels is based on objective and technical criteria;**

**(xiii) The legislation on indigenous courts provided for in the Constitution should be enacted;**

**(xiv) The principle of appeal to a higher court against decisions at first instance should be established, with the possibility of appeal to the Supreme Court of Justice in cases heard by lower courts. Decisions of courts of first instance in the Criminal Division should be subject to review by the Plenary Chamber;**

**(b) Strengthening Judiciary institutions and procedures:**

**(i) The principle of the natural court should observed in the allocation of legal actions, and objective criteria should be adopted;**

**(ii) Particular attention should be given to the investigation of any murder of a judge or attack, threat or intimidation aimed at a judge;**

**(iii) Article 257, paragraph 3, of the Constitution should be observed to the letter;**

**(c) Rights and freedoms of judges:**

**(i) The freedoms of opinion, expression and association should be guaranteed;**

**(ii) Members of the other branches of State power should comply with judicial decisions and refrain from any appeal for non-compliance with**

**a ruling and from any statement liable to discredit or lead to the disqualification of judges or lawyers;**

**(d) Selection, appointment and promotion:**

**(i) The objective criteria for the creation, abolition or merger of courts should be strengthened;**

**(ii) The wishes of judges and prosecutors should be taken into account in decisions on their transfer within the country;**

**(iii) All Judiciary posts should be filled by competitive examination;**

**(iv) Appointments and promotions of judges should be made at open meetings, when the grounds for every decision should be stated;**

**(v) When filling vacant judgeships priority should be given to candidates approved in earlier examinations who were not selected for a vacancy, thus avoiding recourse to the recruitment of temporary personnel;**

**(e) Security of tenure, fixed appointments, disciplinary measures and impunity:**

**(i) The numbers of judges and prosecutors should be steadily increased by making permanent appointments;**

**(ii) The involvement of persons from outside the Judiciary in the appointment of judges and prosecutors should be reduced;**

**(iii) Specific safeguards should be established to ensure the independence and impartiality of judges and prosecutors during the probationary period following their appointment;**

**(iv) Judges and prosecutors should be irremovable;**

**(v) Criteria for the retirement of judges should be formulated;**

**(vi) All decisions concerning the imposition of disciplinary measures should be backed a statement of the grounds, published and subject to review;**

**(f) Conditions of service:**

**(i) The wide gap in the remuneration of judges of first and second instance and high court judges should be reduced, and their remuneration levels should be commensurate with their responsibilities and the nature of their functions;**

**(ii) Sufficient human and material resources should be allocated for the efficient functioning of the courts;**

**(iii) As far as possible, judicial activities should be concentrated in a single building in order to facilitate access to justice and improve the security of personnel of the judicial system;**

**(iv) Accurate assessments should be made of the level of risk, leaving aside considerations of the lack of the necessary financial and logistical resources;**

**(v) Continuing training should be provided for judges and prosecutors to foster their career development, especially in the areas of international human rights law, international humanitarian law, and the administration of justice;**

**(g) The Office of the Attorney General:**

**(i) The Office of the Attorney General should pay particular attention to investigation of the attacks, murders, threats and pressure suffered by the prosecutors and other personnel of the Office and the Technical Investigation Unit;**

**(ii) An adequate level of protection should be provided for persons assigned to special units or areas of armed violence or to the investigation of sensitive offences;**

**(iii) Careers in the Office should be made more attractive by encouraging permanent appointments and recruitment and promotion by means of competitive examinations;**

**(iv) The independence of prosecutors in the discharge of their functions should be reinforced;**

**(v) An end must be put to the current temporary nature of the appointment of the Attorney General, for the impossibility of designing projects and taking decisions for the medium and long terms is adversely affecting the Office's performance;**

**(vi) In principle, the first choice for appointment of the Attorney General should come from among the Office's career personnel;**

**(vii) The Office should operate in premises open to the public, for this will facilitate access for lawyers, victims and witnesses. Similarly, the facilities of the Office presently located in military installations or police stations should be transferred to urban civilian areas, and the necessary security measures should be put in place;**

**(h) The legal profession:**

**(i) A debate on the legal profession should be encouraged among lawyers to examine the usefulness of establishing a national or departmental bar association and subsequently a national federation of bar associations;**

**(ii) If such an institution is established, it should be consulted about all draft legislation affecting the legal profession and it should take charge of the oversight functions currently performed by the Disciplinary Division of the Higher Council of the Judiciary;**

**(iii) While the possibility of establishing a national bar association is under discussion the Higher Council of the Judiciary should conduct a study to determine the exact number of lawyers, their distribution throughout the country, and their various areas of legal expertise;**

**(iv) The access of lawyers to all places of detention, including police stations, should be made easier, as should their access to the documents of the preliminary investigation;**

**(v) Lawyers should be able to interview their clients in private and in suitable facilities;**

**(vi) Measures should introduced to prevent abuse of the entry of criminal complaints against lawyers or judicial personnel in order to prevent them from acting for the defence in specific cases, as well as of resort to**

**accusations that they are members of illegal armed groups or groups having links to organized crime;**

**(vii) Adequate levels of protection should be provided for lawyers acting for the defence in sensitive cases;**

**(viii) Particular attention should be given to the investigation of murders of lawyers and attacks, threats and intimidation aimed at lawyers;**

**(i) The fight against impunity:**

**(i) Arrangements should be made to facilitate the participation of victims of crime and human rights violations in accusatorial criminal proceedings;**

**(ii) Adequate protection should be provided for witnesses, and all attacks, threats or intimidation suffered by witnesses should be investigated;**

**(iii) It should be made clear that the evidence gathered and used in a prosecution may also be used and admitted in other cases, in accordance with the principle of economy of procedure;**

**(iv) Consideration should be given to concluding formal agreements with the authorities of States which have received Colombian citizens under extradition arrangements, in order to facilitate collaboration of these citizens with the Colombian authorities even though they are being held abroad; this is a particularly important matter for the justice and peace process;**

**(v) The reintegration benefits granted to demobilized combatants should not include functions of investigation, surveillance, security or policing;**

**(vi) Immediate attention should be given to the processing of pending cases falling within the scope of the Law-600 arrangements in order to prevent**
**the lengthy remand in custody of detainees or the simple failure to investigate the alleged acts and offences;**

**(vii) The investigative capacity of the Office of the Attorney General should be boosted, in particular with regard to justice and peace cases;**

**(viii) The number of court-appointed counsel should be increased and their working conditions improved, in particular when they have to travel to remote regions;**

**(j) Access to justice:**

**(i) Access to justice in remote areas of the country should be improved, in particular in areas affected by the violence or organized-crime activities;**

**(ii) Access to justice should be facilitated for indigenous peoples and Colombians of African descent, especially when they have been dispossessed of their ancestral lands by armed violence or intimidation;**

**(iii) The rebuilding of the Cali Palace of Justice should be completed, or some other means should be found to bring together in one place the courts which are currently dispersed throughout the city;**

**(iv) In order to deliver effective access to justice, mechanisms should be introduced to ensure the speedy settlement of disputes and the enforcement of and compliance with judicial decisions.**

89. **The Special Rapporteur urges the international community to boost its contribution to the fight against violence and impunity in Colombia in order to strengthen its institutions and democratic principles and the rule of law and to consolidate the relevant role of the Judiciary through the independent and impartial work of judges, prosecutors and lawyers.**