

In summarizing both the causes and effects of the conflict, the report stated directly that those responsible for the conflict were: the state, which was directly involved in and had incited people to commit such violations, and which had not made sufficient effort either to prevent violations or to restrain violators; the political class, which had fomented xenophobic nationalist sentiment; some ethnic leaders, who had not concealed the fact that they were arming, albeit to defend themselves; and, some human rights organizations, which had chosen to foster racial hatred and ethnic cleansing rather than defending the oppressed.

The second addendum to the SR's main report concerns the mission he undertook between 25 and 29 March 1997 to investigate reports of the massacre of Hutu refugees in areas of Northern and Southern Kivu that were then occupied by Kabila's Alliance forces. The commentary refers to a number of conditions and events including reports of enforced disappearances, summary executions, attacks on one or several individuals, numerous reports of mass killings, common and mass graves, torture and destruction of medical facilities and supplies to prevent treatment of the wounded. The SR also indicated that information had been received on violations of freedom of expression, the right to property, recruitment of children into the rebel forces, and impediments to humanitarian action in the region. The addendum clearly stated that the Alliance of Democratic Forces for the Liberation of Congo-Zaire was far from fulfilling its commitments to respect human rights and concluded with the recommendation that a commission of inquiry be established specifically to investigate all of the reports of massacres and other violations in the areas of Northern and Southern Kivu.

Resolution of the Commission on Human Rights

At its 1997 session, the Commission adopted by consensus a resolution on the situation in DR Congo (CHR 1997/58).

The Commission welcomed the agreement of the previous government to the establishment of an office of the High Commissioner for Human Rights in Kinshasa; expressed concern at continuing violations of human rights including summary execution, torture, violence against women, arbitrary detention, inhuman prison conditions particularly for children, denial of the right to fair trial and intimidation and reprisals particularly against political figures; expressed concern at the situation of human rights defenders; expressed concern at the armed conflict in the eastern part of the country, use of force against civilians and continuing impunity for police and security forces; expressed concern at discrimination based on ethnicity and arbitrary deprivation of nationality; called on the government to end impunity and ensure that decisions related to acquisition or deprivation of nationality are consistent with international norms; called for the reinforcement of the independence of the judiciary; called on the government and all other parties to accept international monitoring and investigation into reports of human rights violations; established a commission of inquiry to investigate reports of massacres in the eastern part of country; extended the mandate of Special Rapporteur for one year; requested the SR to submit an interim report to the 1997 session of the General Assembly and a final report to the 1998 session of the Commission.

THEMATIC REPORTS

Mechanisms of the Commission on Human Rights

Arbitrary detention, Working Group on: (E/CN.4/1997/4, para. 4; E/CN.4/1997/4/Add.1, Decision 7)

During the period under review, the Working Group (WG) transmitted communications concerning two cases of arbitrary detention.

The WG issued Decision 7 (1996) concerning three Burundian officers who were detained in the DR Congo in October 1993 for illegal entry into the country and complicity in an assassination, allegedly President Ndadaye of Burundi. The three officers were held pending an application for extradition by the Burundian government in office. The deadline for formalization of the application for extradition expired in July 1994 and the Advocate-General of the DR Congo ordered the release of the three men. This order was not carried out and the three officers continued to be held in prison, apparently without cause, since none of them had committed an offence in the DR Congo. The Working Group decided that their continued detention could not be linked to any legal basis other than mere "reason of State" and, thus, was arbitrary. The WG notes that two of the men were eventually extradited and the third was released.

Disappearances, Working Group on enforced or involuntary: (E/CN.4/1997/34, paras. 376-379)

The Working Group transmitted three newly reported cases of disappearance to the former government, all of which reportedly occurred in 1996. Two of the cases involved villagers from Kitshanga who were arrested by members of the Zairian armed forces in September 1996 as they were on their way to Goma. The third case involved a man who was arrested by members of the Service for Action and Military Intelligence (Service d'actions et de renseignements militaires), also in September 1996.

The majority of the 21 cases remaining to be clarified occurred between 1975 and 1985 and involved people suspected of being members of a guerrilla group known as the Parti de la révolution populaire or of being political activists. More recent cases concerned a journalist who was abducted from his home in 1993 by members of the Division spéciale présidentielle and the civil guard, and four men who were arrested in Likasi in 1994 by soldiers and detained for almost two months before being transferred to Kinshasa. The four men have not been seen since their arrest and their whereabouts remain unknown. The former government did not provide any information on the cases referred to it.

Extrajudicial, summary or arbitrary execution, Special Rapporteur on: (E/CN.4/1997/60, paras. 15, 41, 54, 56, 60, 67, 71; E/CN.4/1997/60/Add.1, paras. 564-572)

The report notes that information continued to be received concerning mass violations of human rights, including extrajudicial, summary or arbitrary executions, particularly in the context of the ethnic conflict between Hutus and Tutsis in North-Kivu and between Hutus and indigenous ethnic groups. The Special Rapporteur (SR) received disturbing, specific reports of the direct involvement of the armed forces and security forces not only in killings, looting and fire-raising, but also in the expulsion of Zairian