

International Committee of the Red Cross unhindered access to all persons detained within the country and called upon other parties also to allow access; stressed the need to lift restrictions on the work of NGOs and to ensure respect for the right to freedom of expression and opinion and for the right to freedom of association; and recalled and welcomed the expressed commitment of the government to a process of democratization, leading to the creation of a state based on the rule of law and respect for human rights. The GA: called upon the government to create conditions that would allow for a democratization process that is genuine and inclusive and fully reflects the aspirations of the people of the country; welcomed the establishment of the Constitutional Commission, in November 1997, and its elaboration of a new draft Constitution; encouraged a broad and sustained public debate on the principles of the new Constitution before the holding of a referendum; also welcomed the government's commitment to reform and restore the efficacy of the judicial system, and called for all necessary measures to be taken in this regard; called on the government to investigate, without delay, the allegations contained in the report of the Investigative Team and to bring to justice any persons found to have been involved in massacres, atrocities or other violations of international humanitarian law; expressed regret at the government's lack of cooperation with the SR, and urged the government to allow the SR to visit the country; welcomed the activities of the Human Rights Field Office and encouraged the government to extend full cooperation; and underlined the need to take human rights considerations fully into account in any settlement of the conflict.

SECURITY COUNCIL

Report of the Secretary-General

The letter of the Secretary-General (S/1998/581, 29 June 1998) contains the report of the Investigative Team that was established in July 1997 to help break a deadlock between the government and the Joint Investigative Mission which had been established by the Commission on Human Rights.

The Secretary-General's Team was mandated to investigate serious violations of human rights and international humanitarian law alleged to have been committed in the DRC between 1 March 1993 and 31 December 1997. The report notes that between its first deployment in August 1997 and its withdrawal in April 1998, the Team was not allowed to carry out its mission fully and without hindrance. Despite difficulties, the Team was able to reach a number of conclusions that are supported by strong evidence. Two of these conclusions are highlighted. The first is that all the parties to the violence that racked Zaire, especially its eastern provinces, during the period under consideration committed serious violations of human rights or international humanitarian law. The second is that the killings by the Alliance of Democratic Forces for the Liberation of the Congo (AFDL) and its allies, including elements of the Rwandan Patriotic Army, constitute crimes against humanity, as does the denial of humanitarian assistance to Rwandan Hutu

refugees. The members of the Team stated that some of the killings may constitute genocide, depending on their intent, and called for further investigation of those crimes and of their motivation.

The report contains information on, *inter alia*: background to the appointment of the Investigative Team and to its mandate; the legal obligations of the DR Congo; obstacles encountered by the Team; results of the investigation within the DR Congo; testimonies obtained as a result of missions to neighbouring countries; the failure of the government to ensure conditions necessary for the successful completion of the investigation; destruction of evidence; human rights violations committed by the Zairian Army; massacres committed during inter-ethnic violence; killings of civilians during attacks on camps by the AFDL; other serious violations of humanitarian law committed by the AFDL; killings by militia during the 1996 armed conflict; the commission of crimes against humanity; the nature of the massacres; the duty to investigate and prosecute; and the duty to rehabilitate. The appendix to the report summarizes allegations and information obtained mainly through UN sources and published NGO reports.

The Investigative Team stated that the DR Congo government had had no intention of accepting the mission of the Team and there is a profound gulf between the government and the UN. On the latter point, the Team noted that the government accuses the UN "of having been at the origin of all its problems since independence in 1960, with the result that 'national sovereignty and dignity' are Government leitmotifs." With that in mind, and following a list of conclusions of a general nature, the Team recommended, *inter alia*, that:

- ♦ the cycle of impunity be broken and those responsible for the violence and violations be sought out and punished; further investigation be carried out by appropriate judicial or investigative entities; the statute of the International Criminal Tribunal for Rwanda (ICTR) be extended to include genocide and other such violations committed in neighbouring states between 1 January 1994 and 31 December 1997;
- ♦ the evidence collected by the Team be kept in a secure place until such time as: conditions are right to complete the investigation; competent national authorities unequivocally demonstrate their determination to prosecute those responsible; and the ICTR or another international criminal tribunal acquires competence to investigate the serious violations in the DRC during the specified time period;
- ♦ should it become possible for the investigation to be completed, the effort should focus on individual and state responsibility for violations in North and South Kivu, violations committed by or with the collusion of representatives of the former Rwandan government, the extent of direct and indirect participation by the Rwandan Army (RPA), the extent of participation by foreign troops, and the intent underlying the massacres of Hutus;