

human rights and humanitarian law violations that appear to have been ethnically motivated — including violations that were committed in the 1994 civil war and during the course of subsequent security operations in various regions of the country. Concern was nonetheless expressed that some of these military trials appear to have been significantly lacking in basic due process guarantees. Note was also taken that additional allegations of a similar nature remain to be investigated. The Committee stated that, where sufficient evidence exists, soldiers and commanding officers must be prosecuted in a timely manner in proceedings that incorporate sufficient due process guarantees.

The Committee further welcomed steps leading to the establishment of the National Human Rights Commission and called on the government, without further delay, to nominate, from a broad cross section of society, qualified members to the new posts on the National Human Rights Commission. It was recommended that technical and advisory services of the OHCHR, including the assistance of members of the Committee, be extended to the National Human Rights Commission so that it could take up its functions and perform them effectively.

The Committee decided: to bring its decision to the urgent attention of the UN Secretary-General, the Secretary-General of the OAU, and the High Commissioner for Human Rights so that it could be studied by those who carry human rights and humanitarian responsibilities in the Great Lakes Region. It was further decided that the situation of Rwanda would be reviewed again at the Committee's March 1999 session, with the hope that government representatives would appear before the Committee or that an updated report on conditions within the country, including security conditions and reports of escalating ethnic violence, would be submitted for the Committee's consideration.

## COMMISSION ON HUMAN RIGHTS

### Special Representative on the situation of human rights in Rwanda

At its 1997 session the Commission did not continue the mandate of the Special Rapporteur and, instead, appointed a Special Representative (SRep). The three main points of focus of the mandate were, and remain, to: make recommendations on how to improve the human rights situation in Rwanda; facilitate the creation and effective functioning of an independent national human rights commission; and make recommendations on situations in which technical assistance to the government in the field of human rights might be appropriate. The Special Representative in 1998 was Mr. Michel Moussalli.

The SRep's report (E/CN.4/1998/60) notes that three visits were made to Rwanda — 26 July to 4 August 1997, 1 to 8 November 1997, and 19 to 25 January 1998. During the missions, discussions were held with government representatives, members of the diplomatic community posted in Kigali, non-governmental organizations and

representatives of UN agencies operating in the country. The SRep, in a separate mission to Pretoria (26 and 27 January 1998), met with ministers and officials of South Africa because South Africa now has a functioning national human rights commission which could provide the government of Rwanda with useful insights into the role and functions of such a body.

The report provides information on the cooperation extended by the government to the international community. Among the points noted were that: in November and December 1996, refugees moved en masse back to Rwanda in conditions of relative calm and security; the government took measures to enhance confidence, such as restraining local authorities from carrying out arrests of genocide suspects until the mass return movement could stabilize; the government had granted access for the human rights field officers and various other actors to all prefectures throughout the country, noting that it was the UN Security Coordinator who introduced strict security regulations in the western prefectures as well as in parts of Byumba, Gikongoro, Gitarama, Kibungo and Kigali Rural prefectures following the worsening situation in those areas and the assassination of five members of the Human Rights Field Operation for Rwanda (HRFOR). The SRep also stated that it was these restrictions and not government actions which prevented UN staff from visiting those areas and carrying out on-site monitoring activities. The SRep also referred to the fact that the monitoring activity of HRFOR has created a tense relationship, with the government recalling that its intention in agreeing to the Field Operation was to invite the presence of a UN human rights operation to encourage a sense of partnership and to help Rwandans develop the capacity to promote human rights, rather than to bring in monitors to "police" the government. The SRep strongly supports the response of the High Commissioner for Human Rights to the government's position on HRFOR, made in her report to the General Assembly (A/52/486/Add.1/Rev.1), stating that monitoring should be conceived as a means of assisting the government to address problems, as a basis for dialogue to diagnose the needs, and as encouragement to the international community to provide the help necessary.

The SRep noted that by mid-January 1998, the total detainee population in Rwanda was estimated to have reached 126,216, with individuals held in shocking conditions and with a large number of them detained without dossiers setting out substantiated grounds for their arrest and detention. Reference is made to promulgation of Law No. 16/97, on 31 December 1997, which extended the period of time for which a person may be held in pre-trial detention and resulted in a situation in which persons placed in detention prior to 31 December 1997 may be detained until 31 December 1999 without being informed of the reason for their arrest, without a provisional arrest warrant and without the benefit of a pre-trial detention hearing. The SRep noted that some officials of the prison and communal detention centres have made an effort to relieve some of the harshness of conditions, for example, by allowing families of detainees to visit and bring them