

work must be pursued because the emphasis of current inter-agency collaborative efforts often lies in relief assistance rather than protection and, for instance, needs assessment missions only rarely include human rights professionals. The report also observes that the best solution lies in prevention and that, to this end, the inter-agency early-warning efforts should be intensified or resumed, activities in which the High Commissioner should be intimately involved. In addition, the report calls for increased attention to be focussed on the mobilization of a response to early warning signals.

The report concludes with observations on the need to establish the means and will to prevent ethnic conflicts from occurring, strengthen efforts to ensure compliance with international standards related to the protection of civilians in times of armed conflict, address areas related to justice, peace and institution-building in post-conflict reconstruction programmes and adopt a more balanced approach to take advantage of all possibilities for prevention and resolution of crises related to displacement.

At the 1997 session, the Commission adopted a resolution by consensus (1997/75) on the question of human rights and mass exoduses. The Commission, *inter alia*: acknowledged that mass exoduses are caused by multiple factors that may include human rights violations, political, ethnic and economic conflicts, famine, insecurity, violence, poverty and environmental degradation; acknowledged that early warning requires an intersectoral and multidisciplinary approach; recognized the complementarity between protection of human rights and humanitarian action; welcomed existing cooperative initiatives and arrangements; recognized that the UN human rights machinery has important capabilities to address human rights violations causing movements of refugees and displaced persons; recognized that women and children represent the majority of most refugee populations and that women and girls are vulnerable to gender-based discrimination, violence and exploitation; recalled the principles of international protection for refugees; deplored ethnic and other forms of intolerance as one of the major causes of forced migratory movements; urged states to take all necessary steps to ensure respect for the rights of persons belonging to minorities; urged all bodies involved in inter-agency consultations on early warning to cooperate fully and increase the commitment and resources necessary for successful operation of the consultations; invited thematic and country mechanisms and treaty bodies to incorporate into their work information and recommendations on problems resulting in mass exoduses and/or impeding voluntary return; requested the High Commissioner for Human Rights to pay particular attention to situations which cause or threaten to cause mass exoduses and address such situations through protection measures as well as emergency preparedness and response mechanisms; welcomed the establishment by the Department of Humanitarian Affairs of the Humanitarian Early Warning System; urged the Secretary-General to give high priority and the necessary resources to action to identify all human rights abuses that contribute to mass outflows of people and invite comments on the issue; encouraged states that have not done so to ratify or accede to the 1951 Convention relating to the Status of Stateless Persons, the 1961 Convention on the Reduction of Statelessness and other relevant regional refugee instruments and international human rights instruments; called on states to

ensure effective protection for refugees through, *inter alia*, respect for the principle of non-refoulement; and, requested the High Commissioner for Human Rights to submit a report to the 1998 session of the Commission with particular attention paid to defining appropriate early-warning capacities, implementation procedures and activities necessary to respond promptly and effectively.

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MERCENARIES

Special Rapporteur on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination (E/CN.4/1997/24)

The mandate of the Special Rapporteur (SR) on the use of mercenaries was established in 1987 and was up for renewal at the 1998 session of the Commission. The SR in 1997 was Mr. E. Bernales-Ballesteros (Peru). One of the basic aims of the Commission in establishing the mandate was to encourage states to ratify the International Convention Against the Recruitment, Use, Financing and Training of Mercenaries. However, as of 20 February 1997 only 11 states had become parties to the Convention and only 11 states had signed. Twenty-two ratifications are required for the Convention to enter into force.

The report to the 1997 Commission highlights concerns related to the emergence of private security companies that have been implicated in mercenary activities and the fact that they represent a relatively new operational model. The SR stated that the formal lawfulness of these companies, in the light of the relevant national and international legislation, is not open to question, as they are covered by the gaps and loopholes that would prevent their activities from being classified as mercenary *stricto sensu*. Nonetheless, international allegations about their operations, the concern and alarm of some governments, and the expansion of these firms as a kind of alternative security model for countries with internal conflicts that are practically unmanageable for the governments concerned, make it essential to give some thought to the problem.

Following on this statement, the SR posed a number of questions:

- ▶ Do mercenaries now constitute the rank and file of personnel recruited by private companies to contract with governments to provide internal security services, safeguard public order, and even put an end to internal armed conflicts?
- ▶ Is not responsibility for a country's internal order and security an inalienable obligation that a state fulfils through its police and armed forces?
- ▶ Is it not a serious infringement of a state's sovereignty to hand over such responsibilities to companies registered in third countries?
- ▶ Who will be responsible for any repressive excesses that may be committed by these companies against the civilian population, particularly with regard to political opposition?
- ▶ Who will take responsibility for any violations of international humanitarian law or human rights?