

**Rights of the Child**

Signed: 8 May 1990; ratified: 19 October 1990.

Burundi's initial report was due 17 November 1992.

**COMMISSION ON HUMAN RIGHTS****Special Rapporteur on the human rights situation in Burundi: (E/CN.4/1997/12)**

At its 1995 session, the Commission on Human Rights appointed a Special Rapporteur (SR) on Burundi. The SR's report to the 1997 session of the Commission, by Mr. Paulo Sérgio Pinheiro, provides commentary on: the evolution of the conflict in the last three months of 1996; continuing stagnation in Burundi; violations of the right to life and physical integrity and enforced disappearances; obstacles to the right to freedom of movement and freedom to choose one's residence; obstacles to freedom of expression and freedom of the press; violations of the right to an adequate standard of living and the right to health; and violations of the right to education.

The SR noted that fighting intensified in November and December 1996 fuelled by the constant stream of killings and massacres, targeted assassinations, arbitrary arrests, enforced disappearances, looting and acts of banditry, and the destruction of private property by both parties to the conflict. His report states that, while final responsibility for gross violations of human rights very often devolved on the armed forces, it was also clear that the rebels were frequently implicated.

The SR characterized the situation in the country as one of a democracy in neutral gear. Following the July 1996 coup, Burundi experienced a radicalization in the positions of extremist groups and increased militarization of society. The de facto authorities refused to revert to the March 1992 constitution as the basis of law and authority. The regime imposed compulsory national civic service on all citizens in the form of unpaid services in areas of public utility or development (education, national defence, health, social work, environment, reconstruction), and obligated all "physical and legal persons" to contribute financially to the war effort. The de facto authorities also decided to withdraw from all negotiations with the rebels until the embargo was lifted.

The report drew attention to the continued exclusion of the National Assembly from substantive debate on the nature of a transitional regime, and to the insecurity faced by members of Parliament who were subjected to searches of their homes, legal proceedings, and assassination and death threats. On the system of justice in Burundi, the SR noted the unmanageable workload and the under-resourcing in the system; the lack of trained or qualified personnel; improperly executed arrests; a lack of access to legal counsel; the prevalence of torture and ill-treatment in prisons and places of detention; and deaths in detention. In his discussion of problems in the economy, the SR noted hyper-inflation arising from the sanctions and the embargo, increased transportation costs for available commodities, and a shortfall in agricultural production.

The SR did not hold out much hope for the establishment of a representative, democratic and rights-oriented government in Burundi in the absence of a regional approach taking into account the situations in neighbouring countries. The SR

warned the governments of the Great Lakes region and the international community that a crisis similar to the one that occurred in the DR Congo could well recur. The report set out a series of measures that, in the view of the SR, had to be undertaken on a regional basis, including: reform of the administration of justice and introduction of effective mechanisms for the protection and promotion of human rights; development of regional agreements on nationality, citizenship, refugee status and the question of domicile, and migration for economic reasons; eradication of poverty through economic measures; rehabilitation of inhabitants to facilitate a return to stability, and living and security conditions acceptable to all; limitations on the consequences of the weapons build-up and of armed groups bent on destabilizing neighbouring territories; and formulation of state policies that do not perpetuate previous forms of exclusion.

The report concluded with a number of recommendations addressed to the national de facto authorities and included that they should:

- ▶ take steps to institute power-sharing between the minority and majority;
- ▶ end the violence and massacres occurring throughout the country and find and prosecute those responsible;
- ▶ prevent the army and security forces from carrying out extrajudicial, summary or arbitrary executions, disappearances, arbitrary arrests, torture and other forms of ill-treatment;
- ▶ instruct general staff of the army and security forces to end immediately massacres of unarmed civilians;
- ▶ inform members of the armed forces that they have a right to refuse to carry out orders that will result in slaughter;
- ▶ establish a firm chain of command within the army and security forces;
- ▶ ensure freedom of movement for human rights observers;
- ▶ provide non-governmental organizations with the necessary security to carry out assistance programmes to vulnerable groups in society;
- ▶ provide returnees with guarantees against any attempt at murder or summary execution or other threat to physical integrity;
- ▶ negotiate without delay a cease-fire with other parties to the conflict;
- ▶ protect the physical integrity of Parliamentarians and halt criminal proceedings against some of them;
- ▶ lift restrictions on political freedoms and take adequate measures to prevent violations of the right to life, physical integrity and freedom of opinion, with no discrimination whatsoever;
- ▶ in the absence of appropriate judicial guarantees, defer death sentences and sentences of life imprisonment which were handed down by sessions of criminal chambers in February, March, June and November of 1996; and
- ▶ take steps to ensure the right to fair trial, access to legal assistance and other requirements for a properly functioning system of due process.

The addendum to the SR's main report (E/CN.4/1997/12/Add.1) is divided into two sections, the first contains observations on developments in the crisis in Burundi and the