

- ♦ establish a genuine civil service and, in particular, a civilian police force that is separate from the military forces of the Alliance and respects international rules on the use of public force by law enforcement officials;
- ♦ ensure that anyone accused of participating in torture, summary executions or enforced disappearances is not admitted to the police force; and
- ♦ enable UN agencies and other humanitarian organizations to carry out their work in order to solve the problems confronting the country, with particular emphasis on the protection of women, children and the elderly, whether refugees or victims of forcible dispersal or displacement, and of the sick and wounded.

Addressing the UN and the international community, the report further recommended, *inter alia*, that:

- ♦ the Security Council envisage the immediate dispatch of military and/or police observers to areas where there is little or no security;
- ♦ the necessary steps be taken to ensure that the investigation of massacres and other human rights violations can be carried out in cooperation with the government, using all necessary technical and human resources;
- ♦ the possibility be considered of convening a special session of the Commission on Human Rights, given the *ratione temporis* and *ratione loci* limitations placed on the joint mission's mandate and the explosive situation currently prevailing in the DR Congo; and
- ♦ the necessary steps be taken to halt arms trafficking in the Great Lakes region and to publicize the report prepared by the International Commission of Inquiry established under Security Council resolution 1013 (1995).

Special Rapporteur on the situation of human rights in DR Congo

The report of the Special Rapporteur (E/CN.4/1998/65) is based on information received up to 12 January 1998 and covers such areas as: the transition from the former authoritarian regime to a new government; the new power structure; transboundary nationality; the continuing war in Nord-Kivu; the activities of the Conseil de la résistance and de la libération de Kivu; violence against Cabindan leaders in Eastern Province; the situation in the refugee camps; rights under the Mobutu regime and in the liberated areas and under the Kabila government – life, physical and psychological integrity, security of person, personal liberty, privacy, opinion, association, assembly, due process, economic, social and cultural rights, and the situation of children and the situation of women.

The report was prepared without the benefit of a field mission to the DR Congo in the absence of an invitation

from the government and recalls that, upon assuming power, the AFDL authorities stated that the Special Rapporteur (SR) was *persona non grata* and would never again “set foot on Congolese soil.” The report notes that the government did not reply to any of the 24 communications sent by the SR, transmitting 186 complaints of human rights violations involving more than 430 persons, although receipt of two of them was acknowledged.

The description of the legal authority and structure of the current government covers a number of points, including that: article 1 of Decree-Law No. 3 of 28 May 1997 places the organization and exercise of power in the hands of the Head of State; the institutions of state are the President, the Government and the courts; no provision is made for a legislative body, even as a formality; legislative authority is vested in the Head of State, who exercises it through decree-laws; ministers are appointed and dismissed by the Head of State; judges and magistrates and members of the public Prosecutor's Office can be replaced or dismissed by the President on the proposal of the Supreme Council of the Judiciary; the Supreme Council of the Judiciary, however, is not functioning and its responsibilities are being discharged by the Alliance; and the constitutional protection for human rights and freedoms is provided, subject to respect for the law, public order and public morality.

The report notes that: the armed forces appear to have no precise structure and no identifiable ranks or responsibilities; officers in the armed forces are known under the generic name of “afande”, which corresponds to “commander”; all military personnel are “afandes” and at the same time none are “afandes”; transboundary Tutsi nationality allows the police and armed forces to operate in joint units or commands in both the DR Congo and Rwanda; the transfer of detainees from one country to the other gives rise to “prisoners without frontiers” and ensures impunity for human rights abuses; the civilian population suffers most from fighting between military factions and is subjected to extortion, looting and theft, frequently by the kadogos – Tutsi child soldiers recruited without any training and armed with heavy weapons – who live off looting and extortion; the real power in the country rests with the Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL), which is the only authorized party; ministers of the civil service, regional governors, mayors and others belonging to the Union for Democracy and Social Progress (UDPS) and other democratic parties act in their personal capacity; and every independent minister has an AFDL adviser. The groups that led the peaceful opposition to Mobutu are being marginalized, according to the report, all political activity has been banned and a ban on political parties, announced in June 1997 was extended indefinitely in August, on the grounds of a state of emergency.

With regard to a transition to democracy, the report notes various statements by authorities in which the intention of holding elections in 1999 was reiterated but also observes that there were no teams preparing either the elections or the necessary groundwork for holding them.