

## COMMISSION ON HUMAN RIGHTS

### Report of the Special Rapporteur

The mandate of the Special Rapporteur (SR) on DR Congo (then Zaire) was established by the Commission at its 1994 session. The SR for 1998 was Roberto Garretón.

At its 1998 session the Commission had before it two reports. The first was prepared by the commission of inquiry established by Commission resolution 1997/58, comprised of the Special Rapporteurs on the DR Congo and summary/arbitrary execution as well as a member of the Working Group on Enforced Disappearances. The resolution requested that the commission undertake a joint mission to investigate allegations of massacres and other issues affecting human rights arising from the situation prevailing in the eastern part of the country since September 1996. The second report was from the SR focussing on the general situation in the country.

### Commission of Inquiry

The report of the Commission of Inquiry (E/CN.4/1998/64) essentially summarized points in the report provided to the 1996 General Assembly (A/51/942) which dealt with information related to, *inter alia*: attacks on Rwandan refugee camps in Zaire, both directly and by the blockading of humanitarian assistance, and allegations of massacres and other human rights violations, classified according to the party reportedly responsible, viz. violations attributed to: Alliance of Democratic Forces for the Liberation of Congo-Zaire (AFDL), the Banyamulenge and their allies, (representing 68.02 per cent of the allegations received); the Zairian armed forces (16.75 per cent); the former Rwandan armed forces (FAR) and the Interahamwe militias (9.64 per cent); the Rwandan Patriotic Front (2.03 per cent); the armed forces of Burundi (2.03 per cent); and mercenaries fighting on the side of the Zairian armed forces (1.52 per cent). The report notes the fact that pending verification, some of these alleged massacres could constitute acts of genocide. The commission stated that violations of international humanitarian law, as set out in common article 3 of the Geneva Conventions, could be attributed not only to the Alliance, but also to the other parties to the conflict, and the concept of crimes against humanity could also be applied to the situation which prevailed in DR Congo.

Information was provided on acts of intimidation, arrests and other human rights violations committed by AFDL leaders and the authorities of the DR Congo against persons who cooperated with the investigative team appointed by the Secretary-General, including *inter alia*: the President of the Regional Council of Non-Governmental Organizations for Development (CRONGD) in Maniema and member of the human rights organization Haki Za Binadamu, who was accused of being an "enemy of the people"; the Executive Secretary of CRONGD, arrested for having communicated information to the UN about the massacres committed by Batutsi members of AFDL; a journalist, accused of being an agent working for the investigative team appointed by the Secretary-

General; and the Secretary-General of the National Human Rights Centre (CENADHO), arrested and held in custody for 48 hours without explanation, while his home and office were searched and all the documentation in his possession was seized.

The report stated that the massacres and human rights violations were the result of indiscriminate attacks on refugee camps, in which not only members of the former Rwandan armed forces and the Interahamwe, authors of threats and persons guilty of genocide were killed and wounded, but also many innocent civilians, particularly children, women and the elderly. The report states that the systematic blockade of humanitarian assistance intended for refugee camps meant that many refugees died of malnutrition and disease; the policy of war without quarter precluded the taking of prisoners; and measures of intimidation were aimed at forcing refugees to flee into the forests and towards hostile areas where access by humanitarian missions was absolutely impossible.

The report recommended that the government, *inter alia*:

- ♦ unequivocally and publicly condemn the atrocities and pledge to do its utmost to put an end to them;
- ♦ put an immediate end to the blockade of humanitarian assistance intended for refugees and displaced persons and take all appropriate steps to end the suffering of the most disadvantaged refugees, particularly dispersed refugees, women, the elderly and children;
- ♦ guarantee the security and the right to life and physical integrity of anyone who is in the territory under its jurisdiction;
- ♦ cooperate unreservedly with the mission charged with investigating allegations of massacres and other human rights violations in the eastern part of the country, ensure that it has unimpeded access to the territory and give it the necessary security guarantees;
- ♦ protect the sites of massacres and guarantee the security of any witnesses, in strict accordance with the decisions of the competent UN organs, particularly Commission on Human Rights resolution 1997/58;
- ♦ in particular, guarantee the mission's freedom of movement and security;
- ♦ with respect to the allegations of massacres and violations of human rights and international humanitarian law, order official, impartial investigations which conform to UN norms and make public the report(s) of these investigations;
- ♦ take all necessary measures to end impunity and the cycle of criminal violence, in order to promote the full and complete attainment of the rule of law, in particular by establishing an effective, independent and impartial judicial system that provides guarantees against impunity;