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COMMISSION ON HUMAN RIGHTS
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Agenda item 9

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
IN ANY PART OF THE WORLD

Argentina, Austria, Belgium*, Bulgaria*, Canada, Chile,
Costa Rica*, Cyprus*, Czech Republic, Denmark*, Estonia*,
Finland*, France, Germany, Greece*, Hungary*, Iceland*,
Ireland, Japan, Latvia, Liechtenstein*, Lithuania*, Luxembourg,
Netherlands*, Norway, Poland, Portugal*, Romania, Slovakia*,
Slovenia*, Spain*, Sweden*, Switzerland* and United Kingdom of
Great Britain and Northern Ireland: draft resolution

1999/... Situation of human rights in the Democratic Republic of the Congo

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

Mindful that the Democratic Republic of the Congo is a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, as well as to the African Charter on Human and People's Rights,

Noting General Assembly resolution 53/160 of 9 December 1998 and recalling resolution 1998/61 of 21 April 1998 previous resolutions of the General Assembly and the Commission on the subject, as well as Security Council resolution 1234/1999 of 9 April 1999,

Concerned at all violations of human rights and international humanitarian law in the territory of the Democratic Republic of the Congo, including acts of and incitement to ethnic hatred and violence by all parties to the conflict,

Taking into account the regional dimension of the human rights issues and stressing the importance of technical cooperation with a view to strengthening regional cooperation for the promotion and protection of human rights,

1. Welcomes:

(a) The report of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo (E/CN.4/1999/31) and of the update he provided in his oral presentation to the Commission on Human Rights;

(b) The recent visit of the Special Rapporteur to the Democratic Republic of the Congo at the invitation of the Government and the cooperation of the Government of the Democratic Republic of the Congo in this regard;

(c) The activities of the Human Rights Field Office in the Democratic Republic of the Congo;

(d) Commitments of the Government of the Democratic Republic of the Congo to a process of democratization, leading, through the creation of democratic institutions and the holding of elections, to the creation of a State based on the rule of law and respect for human rights;

(e) The intention of the Government of the Democratic Republic of the Congo to hold an all-inclusive national debate as a precursor to elections, and encourages further progress in this respect;

(f) The recognition by the authorities that massacres were committed against refugees and internally displaced persons in 1996 and 1997;

(g) The appointment of the Minister for Human Rights within the Government of the Democratic Republic of the Congo, and expresses the hope that this appointment will contribute to an improvement of the human rights situation;

(h) The release of a number of prisoners whose arrest was irregular or politically motivated, and certain improvements in the penitentiary system;

(i) The decision of the Government of the Democratic Republic of the Congo to establish a national commission of inquiry to investigate alleged human rights violations and breaches of international humanitarian law in the Democratic Republic of the Congo (formerly Zaire) between 1996 and 1997 and the mandate of that commission to cooperate with the United Nations in this regard;

(j) The announcement by the Government of its intention to ratify Additional Protocol II to the Geneva Conventions of 12 August 1949, and international human rights treaties;

(k) The setting up of human rights education programmes for members of the military and the police, and the beginning of distribution of the Universal Declaration of Human Rights in national languages;

2. Expresses its concern

(a) At the adverse impact of the continuing conflict on the situation of human rights and its severe consequences for the security and well-being of the civilian population throughout the territory of the Democratic Republic of the Congo;

(b) At the preoccupying situation of human rights in the Democratic Republic of the Congo, particularly in the eastern parts of the country, and the continuing violations of human rights and international humanitarian law committed throughout the territory of the Democratic Republic of the Congo, often with impunity, in particular:

(i) The perpetration of massacres in the course of the conflicts, including more recently, in 1998, those in Kasika, Makobola, Kamituga, Kavumu, Kilungutwe, Kasanga, Kazima, Mboko, Kabare, Mwenga and Libenge;

(ii) At the occurrence of cases of summary or arbitrary executions, disappearances, torture, beatings, arbitrary arrest and detention without trial, including of

journalists, opposition politicians and human rights defenders;

(iii) At reports of sexual violence against women and children and the forcible recruitment and use of children as soldiers and combatants;

(iv) At the trial of civilians and the imposition of the death penalty by the Military Court;

(v) At the situation of human rights defenders;

(c) At the large numbers of refugees and displaced persons in the Democratic Republic of the Congo who disappeared between 1994 and 1997, as well as in 1998, and at serious allegations of killings and other human rights abuses in this connection;

(d) At the proliferation and the illicit distribution, circulation and trafficking of arms in the region and their negative impact on human rights;

3. Recognizes that promotion and protection of human rights for all are essential for achieving stability and security in the region and will contribute to the creation of the necessary environment for cooperation among States in the region;

4. Takes note with great concern of the report of the International Commission of Inquiry on the sale, supply and shipment of arms and related material in the Great Lakes region of Central Africa, and of the report of the Investigative Team of the Secretary-General charged with investigating serious violations of human rights and international humanitarian law in the Democratic Republic of the Congo (S/1998/581, annex);

5. Urges all parties to the continuing conflict in the Democratic Republic of the Congo:

(a) To work towards a rapid and peaceful settlement of the conflict and, in particular, to sign immediately a ceasefire agreement allowing the orderly withdrawal of all foreign forces and the re-establishment of the authority of the Government of the Democratic Republic of the Congo throughout its territory, and stresses, in the context of a lasting peaceful settlement, the need for the engagement of all Congolese in an all-inclusive process of political dialogue with a view to achieving national reconciliation and the holding, at an early date, of democratic, free and fair elections;

(b) To respect and protect all human rights and to respect international humanitarian law, in particular to respect the rights of women and children and immediately stop the use of children as soldiers, and to ensure the safety of all civilians;

6. Welcomes the appointment by the Secretary-General of his Special Envoy for the Democratic Republic of the Congo Peace Process;

7. Calls upon the Government of the Democratic Republic of the Congo:

(a) To comply with its obligations under international human rights instruments to which the Democratic Republic of the Congo is a party and to promote and protect human rights and fundamental freedoms;

(b) To fulfil its responsibility to protect the human rights of the population on its territory, as well as to take a leading part in efforts to prevent conditions that might lead to further flows of internally displaced persons and refugees within the Democratic Republic of the Congo and across the border;

(c) To fulfil its commitment to reform and restore the judicial system, and particularly to reform military justice in conformity with the provisions of the International Covenant on Civil and Political Rights;

(d) To implement fully its commitment to the democratization process and the rule of law and to create, in this context, conditions that would allow for a democratization process that is genuine and all-inclusive and that fully reflects the aspirations of the people of the country;

(e) To prepare for the holding of free and fair elections, drawing, where appropriate, on assistance from the international community, and to allow without delay the full restoration of political party activity to provide a meaningful choice for the people of the Democratic Republic of the Congo;

(f) To remove remaining administrative restrictions on the activities of political parties, in furtherance of its recent move to lift the ban on the activities of political parties;

(g) To remove the restrictions that still affect the work of non-governmental organizations;

(h) To ensure further full respect for freedom of opinion and expression, including freedom of the press in relation to all types of mass media, as well as freedom of association and assembly, throughout the territory of the Democratic Republic of the Congo;

(i) To work closely and strengthen further its cooperation with the Human Rights Field Office in the Democratic Republic of the Congo;

(j) To cooperate fully with the International Tribunal for Rwanda in ensuring that all those responsible for the crime of genocide, crimes against humanity and other grave violations of human rights are brought to justice in accordance with international principles of due process;

(k) To promote human rights awareness, including by strengthening cooperation with civil society including human rights non-governmental organizations;

(l) To follow up on the interim report on the alleged massacres of a large number of refugees and displaced persons in the Democratic Republic of the Congo (formerly Zaire) between 1994 and 1997 submitted to the Secretary-General of the United Nations on 15 October 1998, to submit a further report as soon as possible to the Secretary-General on the progress of its investigations and to cooperate fully with the Secretary-General and the United Nations High Commissioner for Human Rights in addressing the allegations in question;

8. Decides

(a) To extend the mandate of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo for a further year, to request the Special Rapporteur to submit an interim report to the General Assembly at its fifty-fourth session and to report to the Commission at its fifty-sixth session on the situation of human rights in the Democratic Republic of the Congo and on the possibilities for the international community to assist with local capacity-building, and also to request the Special Rapporteur to continue to keep a gender perspective in mind when seeking and analysing information;

(b) To request the Special Rapporteurs on the situation of human rights in the Democratic Republic of the Congo and on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances to carry out, immediately after the signing of a ceasefire agreement or as soon as security considerations permit and, where appropriate, in cooperation with the National Commission of Inquiry to investigate alleged human rights violations and breaches of international humanitarian law in the Democratic Republic of the Congo (formerly Zaire) between 1996 and 1997, a joint mission to investigate all massacres carried

out on the territory of the Democratic Republic of the Congo, including those in the province of South Kivu and other atrocities as referred to in the report of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo (E/CN.4/1999/31), with a view to bringing to justice those responsible, and to report to the General Assembly at its fifty-fourth session and to the Commission at its fifty-sixth session;

(c) To request the Secretary-General to give all necessary assistance to the Special Rapporteur and to the joint mission, to enable them to discharge their mandates fully;

(d) To request the High Commissioner for Human Rights to provide appropriate technical expertise to enable the joint mission to fulfil its mandate;

(e) To request the international community to support the Human Rights Field Office in the Democratic Republic of the Congo in order, in particular:

(i) To strengthen its involvement in programmes of technical cooperation, advisory services and human rights advocacy programmes, including supporting efforts by the Government of the Democratic Republic of the Congo towards strengthening the judicial system;

(ii) To strengthen its support for, and continue and expand cooperation with, human rights non-governmental organizations in the Democratic Republic of the Congo;

and to facilitate the activities of the joint mission, including through funding;

9. Recommends the following draft decision to the Economic and Social Council for adoption:

"The Economic and Social Council, taking note of Commission on Human Rights resolution 1999/.. of .. April 1999, endorses the Commission's decisions

(a) To extend the mandate of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo for a further year and requests him to report to the Commission at its fifty-sixth session on the situation of human rights in the Democratic Republic of the Congo and on the possibilities for the

international community to assist with local capacity-building, and to keep a gender perspective in mind when seeking and analysing information;

(b) To request the Special Rapporteurs on the situation of human rights in the Democratic Republic of the Congo and on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances to carry out, immediately after the signing of a ceasefire agreement or as soon as security considerations permit and, where appropriate, in cooperation with the National Commission of Inquiry to investigate alleged human rights violations and breaches of international humanitarian law in the Democratic Republic of the Congo (formerly Zaire) between 1996 and 1997, a joint mission to investigate all massacres carried out on the territory of the Democratic Republic of the Congo, including those in the province of South Kivu and other atrocities as referred to in the report of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo (E/CN.4/1999/31), with a view to bringing to justice those responsible, and to report to the General Assembly at its fifty-fourth session and to the Commission at its fifty-sixth session;"
