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

Written statement* submitted by International Centre for Human Rights and Democratic
development (Rights & Democracy), a non-governmental organization in special
consultative status

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2003]

*This written statement is issued, unedited, in the language(s) received from the
submitting non-governmental organization(s).

The Situation in the Democratic Republic of the Congo

1. The human rights situation in the Democratic Republic of the Congo (DRC) has continued to deteriorate severely since the 58th session of the UN Commission on Human Rights, partly because the war that began in August 1998 persists. The ongoing peace process, embodied in the Inter-Congolese Dialogue which was provided for by the Lusaka Ceasefire Agreement and which opened in Sun City, with subsequent negotiations in Pretoria, and the deployment of Phase III of the UN observer mission in Congo (MONUC) have done nothing to change the situation.
2. Continued fighting, particularly in the North-East of the DRC, and the resumption of fighting in the South-East, pose a threat to the implementation of the various agreements that have been signed, including the Pretoria Accord between Rwanda and DRC; the Luanda Accord between Uganda and DRC; and, particularly, the inclusive, global accord between representatives of all the parties involved in the Inter-Congolese Dialogue, signed on December 17, 2002, in Pretoria.
3. The report presented to the UN General Assembly by Ms. Lulia A. Motoc, Special Rapporteur on the human rights situation in the DRC, as well as her current report to the 59th session, a special report on extrajudicial executions in relation to an uprising in Kisangani, corroborate the analyses of several Congolese human rights organizations, our partners in the DRC.
4. The civil and political rights situation is as dramatic in the government-controlled territories as in those occupied by the RCD, MLC, and RCD-ML rebel forces supported by Rwanda and Uganda.
 - Despite the formal withdrawal of Rwandan and Ugandan troops, violations against civilian populations by these forces and their Congolese allies continue in Ituri and South-Kivu. As a result, civil resistance is continually repressed through incessant harassment of leaders of the church and other civil society organizations, arbitrary arrests, even forced disappearances and arbitrary executions, as well as terror tactics in rural areas;
 - The Kinshasa government persists in maintaining a military court criticized by human rights organizations because it tries both military personnel and civilians, and applies the death sentence in the form of summary executions. This court has just sentenced 30 people to death for their alleged role in the assassination of President L.D. Kabila. It also passed several other sentences, including life imprisonment for dozens of others who were denied their right to a fair trial. Moreover, the death sentences handed down on January 7, 2003, violate a commitment made by the Congolese president to the UN Human Rights Commission in March 2001 to maintain the moratorium on the death penalty. This moratorium was lifted on September 23, 2002, and soon thereafter, the Republic's prosecutor called for the death penalty for 115 of the 135 defendants;
 - The Kinshasa government continues its practice of arbitrary arrests and arbitrary obstacles to freedom of movement for certain political or civil-society leaders. This is true despite the welcome liberation of several political prisoners and

prisoners of conscience, as well as the formal measures aimed at liberalizing the political arena and the participation of this government in the peace process.

5. Overall, economic and social rights are not respected. The social and economic situation remains catastrophic throughout the country. The report by the UN Panel of Experts on the Illegal Exploitation of Natural Resources in the DRC exposed the existence of a system of organized networks intent on plundering the country's economic resources even after the withdrawal of foreign troops. According to Congolese organizations, whose statements have been corroborated by the recent report of the UN Panel of Experts on the Illegal Exploitation of Natural Resources, these new networks profit neither the population of the DRC nor the populations of neighbouring countries involved in the war. The wartime economy only profits a handful of civilian and military individuals and firms who will continue to control the smuggling rings as long as the war lasts.

In government-controlled territory, the scant resources available are unfortunately channeled toward the war effort. The cost of living has increased, health care services are inaccessible, public health care infrastructure facilities are obsolete and far from universal. The infant mortality rate has increased due to malnutrition and lack of treatment for mild diseases. Endemic diseases have cropped up again in areas where they were previously under control. There has been a recorded increase in the spread of HIV and AIDS cases. The school system no longer operates at full capacity.

6. The occupied territories have witnessed the appearance of a parallel tax system, as well as a system of organized pillaging of natural and economic resources by smuggling networks that continues to operate at the expense of the population.

7. Hundreds of thousands of persons have been displaced by the war to areas that are inaccessible to humanitarian organizations. The fields are neither cultivated nor maintained, and foodstuffs are not sent to population centres. This has led a number of international humanitarian organizations coordinated by the UN to define the situation as a humanitarian catastrophe in several areas of the country.

8. Human rights organizations are of the opinion that the war crimes and crimes against humanity, as well as the violations of international humanitarian law committed during this war result partly from the tacit impunity granted by the international community to those who committed and ordered massive violations and crimes during the AFDL (Alliance des forces démocratiques pour la libération du Congo) war of 1997-98.

9. Women continue to be ignored in the DRC peace process, despite the fact that they are the main victims of this conflict, and in violation of UN Security Council Resolution 1325 calling for the integration of women in conflict resolution and peace building. In addition, impunity continues unabated in the country's conflict zones, where there have been massive violations of the rights of women and girls, particularly by non-state actors.

10. The International Commission of Inquiry, made up of three members, the Special Rapporteur for the DRC, the Special Rapporteur on Extrajudicial Executions, and a

member of the Working Group on Forced Disappearances, whose mandate was renewed at the 58th session of the Human Rights Commission, has made no progress in its inquiry due to security conditions in the country.

Recommendations

Rights & Democracy requests that the Commission on Human Rights:

1. Renew the mandate of the Special Rapporteur for the Democratic Republic of the Congo;
2. Renew the mandate of the International Commission of Inquiry, formed of three members, the Special Rapporteur for the DRC, the Special Rapporteur on Extrajudicial Executions, and a member of the Working Group on Forced Disappearances, into massive violations in DRC during the 1996-97 war, provided for in resolution 2002/14 of the Commission on Human Rights, extending it to cover massive human rights violations and crimes against humanity committed during the current war, particularly in the provinces of South Kivu, North Kivu and the eastern province, with the aim of bringing the perpetrators to justice;
3. Contemplate having the United Nations Security Council set up an ad-hoc international criminal tribunal for the DRC, as recommended by delegates to the Inter-Congolese Dialogue held in Sun City, South Africa, in April 2002;
4. Encourage UN organs, in particular the MONUC, and the new Congolese government to vigorously promote the application of Resolution 1325 calling for the participation of women in peace-building efforts in conflict situations.
