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**ADVISORY SERVICES AND TECHNICAL COOPERATION
IN THE FIELD OF HUMAN RIGHTS**

Congo (on behalf of the States members of the African Group): draft resolution

**2004/... Technical cooperation and advisory services in the
Democratic Republic of the Congo**

The Commission on Human Rights,

Reaffirming that all States Members have an obligation to promote and protect human rights and fundamental freedoms,

Noting that the Democratic Republic of the Congo is a party to several international and regional human rights instruments and to several instruments pertaining to international humanitarian law,

Recalling its previous relevant resolutions, the most recent of which is resolution 2003/15 of 17 April 2003, those of the General Assembly, the most recent of which is resolution 58/123 of 17 December 2003, and the Security Council resolutions on the subject, the most recent of which is resolution 1533 (2004) of 12 March 2004,

Recalling the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2003/3/Add.3), concerning the massacres that took place in the region of Kisangani on 14 May 2002 and thereafter, and referring in that connection to the statements made by the President of the Security Council on 19 November 2003 (S/PRST/2003/21), 20 November 2003 (S/PRST/2003/23) and 26 January 2004 (S/PRST/2004/22),

Taking note of the report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo (S/2003/1098) and of his progress report on the recommendations of the Security Council mission to Central Africa (S/2004/52), and concerned at the violations of human rights and international humanitarian law committed in the territory of the Democratic Republic of the Congo,

Concerned at reports of violations of human rights and international humanitarian law in the eastern part of the Democratic Republic of the Congo, particularly in North Kivu and South Kivu, North Katanga and Ituri, as described in the above-mentioned reports,

1. *Welcomes:*

(a) The promulgation by the Head of State on 4 April 2003 of the Constitution which is to govern the country during the period of transition, the commencement of work by the transitional Government of national unity in the Democratic Republic of the Congo on 17 July 2003, the inauguration of the National Assembly and the Senate on 22 August 2003, and the official announcement of the establishment of five institutions to support the transition, on 28 August 2003;

(b) The extension of the mandate and increased deployment of the United Nations Organization Mission in the Democratic Republic of the Congo, in accordance with Security Council resolution 1493 (2003) of 28 July 2003, and the support for the implementation of the Pretoria and Lusaka Peace Agreements;

(c) The activities of human rights defenders and the action of the Congolese Ministry of Human Rights, as well as the growth in the media;

(d) The action taken by the Human Rights Field Office in the Democratic Republic of the Congo, and encourages the Government to continue to strengthen cooperation with this Office;

(e) The joint initiative of the Government of the Democratic Republic of the Congo and United Nations agencies and non-governmental organizations to combat sexual violence against women and children;

(f) The report submitted by the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo to the fifty-eighth session of the General Assembly (A/58/534), her visit to the Democratic Republic of the Congo from 29 November to 10 December 2003 and her report to the Commission at its sixtieth session (E/CN.4/2004/34), and thanks the Special Rapporteur for her work;

(g) The consultations between the Secretary-General and the United Nations High Commissioner for Human Rights on ways of dealing with the problem of impunity in the Democratic Republic of the Congo, and recalls the High Commissioner's proposal to establish an international body of inquiry to investigate violations of human rights and international humanitarian law;

2. *Expresses its concern at:*

(a) Persistent reports of serious violations of human rights and international humanitarian law in the eastern part of the Democratic Republic of the Congo, particularly in North Kivu and South Kivu, North Katanga and Ituri, as described in the above-mentioned reports;

(b) The violations of freedom of expression, opinion, association and assembly, and the attacks against human rights defenders throughout the Democratic Republic of the Congo, particularly in the eastern part of the country;

3. *Condemns:*

(a) The persistent violations of human rights and international humanitarian law in the Democratic Republic of the Congo, particularly the armed violence and reprisals against the civilian population in Ituri, North Kivu and South Kivu, North Katanga and other areas in the eastern part of the country;

(b) All the massacres that have occurred in Ituri, particularly in Drodro and Katchele and, more recently, in Gobu and Kitenge (Katanga province), and supports the efforts of the United Nations Organization Mission in the Democratic Republic of the Congo and the Office of the United Nations High Commissioner for Human Rights to investigate them;

(c) The cases of summary or arbitrary execution, disappearance, torture, victimization, illegal arrest, systematic persecution and arbitrary detention for long periods;

(d) The widespread recourse to sexual violence against women and children, as a means of subduing the civilian population;

(e) The impunity of those responsible for violations of human rights and international humanitarian law, and points out in this connection that the Democratic Republic of the Congo is a party to the Rome Statute of the International Criminal Court;

(f) The illegal exploitation of the natural resources of the Democratic Republic of the Congo, which has established a link between that exploitation and the continuation of armed clashes;

4. *Urges* all the parties, including the signatories of the Global and All-Inclusive Agreement:

(a) To refrain from all military activity, including support for the armed groups allied to them, in order to promote strengthening of the sovereignty, unity and territorial integrity of the Democratic Republic of the Congo;

(b) To provide support for the transition and its institutions in order to permit the restoration of political and economic stability and the progressive strengthening of State machinery throughout the Democratic Republic of the Congo, in accordance with their obligations under the transitional constitution;

(c) To allow free and secure access to all areas in order to permit and facilitate investigations of the presumed serious violations of human rights and international humanitarian law, so that the perpetrators are brought to justice, and to that end to cooperate fully with national and international human rights protection mechanisms in the interests of the investigations of the presumed violations of human rights and international humanitarian law in the Democratic Republic of the Congo;

(d) To ensure that the military officers whose names are mentioned in the report of the High Commissioner in connection with serious violations of international humanitarian law and human rights should continue to be investigated and, if the conclusions of the investigations so warrant, be brought to justice;

(e) To prevent conditions that lead to flows of displaced persons in the territory of the Democratic Republic of the Congo and across its borders, and to apply all necessary measures to encourage the voluntary return of all refugees and displaced persons;

(f) To put an end to the recruitment and use of child soldiers, which are in contravention of international law and the African Charter on the Rights and Welfare of the Child, bearing in mind that, under the Convention on the Rights of the Child and the Optional Protocol thereto on the involvement of children in armed conflict, persons under 18 are entitled to special protection, and to provide information on measures taken to discontinue such practices;

(g) To protect human rights and to respect international humanitarian law, in particular by ensuring the safety, security and freedom of movement of all civilians, and that of United Nations personnel and associated personnel, as well as free access for humanitarian personnel to all affected population groups throughout the Democratic Republic of the Congo;

(h) To respect and promote the full exercise of all human rights by women and to take special measures to protect women and children from all sexual and other violence;

5. *Calls upon* the transitional Government of national unity to take specific measures:

(a) To achieve the objectives set for the period of transition in the Global and All-Inclusive Agreement, in particular the holding of free and transparent elections at all levels, to permit the establishment of a constitutional and democratic regime and the formation of a restructured and integrated national army, as well as the formation of an integrated and properly equipped national police force;

(b) To comply fully with its obligations under international human rights instruments, and accordingly to continue to cooperate with United Nations mechanisms for the protection of human rights and further strengthen its cooperation with the Human Rights Field Office in the Democratic Republic of the Congo;

(c) To strengthen the transitional institutions, and in particular to effectively set up the Independent Electoral Commission, the Truth and Reconciliation Commission and the Human Rights Monitoring Centre, and to restore stability and the rule of law throughout the Democratic Republic of the Congo, thus enabling the population to experience peace and progress once again;

(d) To put an end to impunity and ensure, as it is duty-bound to do, that those responsible for human rights violations and grave breaches of international humanitarian law are brought to justice in accordance with due process, and to that end requests the High Commissioner to keep it informed of the consultations between the Human Rights Field Office in the Democratic Republic of the Congo and the Secretary-General concerning the ways to assist the transitional Government of the Democratic Republic of the Congo in tackling the problem of impunity;

(e) To cooperate with the International Criminal Court and to continue to cooperate with the International Tribunal for Rwanda;

- (f) To continue to reform the judicial system, and notes the entry into force of the presidential decrees on the reform of the military justice system and the establishment of conventional military courts;
- (g) To reinstate the moratorium on capital punishment and persevere in its declared objective of progressively abolishing the death penalty;
- (h) To adopt speedily and implement the national disarmament, demobilization and reintegration programme, and to cooperate closely with the United Nations Organization Mission in the Democratic Republic of the Congo in that regard;
- (i) To respond to the specific needs of women and girls during the period of post-conflict reconstruction and ensure as soon as possible the full participation of women in all aspects of the settlement process and the peace process, in particular peacekeeping, conflict management and the consolidation of peace;
- (j) To continue to cooperate with the United Nations system, humanitarian organizations and the World Bank in order to ensure the rapid demobilization and reintegration of armed groups and of child soldiers in particular;
6. *Calls on* the international community:
- (a) To support the transition and its institutions, in particular by providing financial and political support in the fields of reform of the security sector, the rule of law and the electoral process;
- (b) To support the Human Rights Field Office in the Democratic Republic of the Congo to enable it to implement its programmes fully;
- (c) To facilitate the scheduled holding of an international conference on peace, security, democracy and development in the Great Lakes region, under the auspices of the United Nations and the African Union, to be attended by all the governments of the region and all the other parties involved, and to promote the issue of human rights and humanitarian questions as one of the main themes of the conference;

7. *Decides:*

(a) To appoint an independent expert to provide assistance to the Government of the Democratic Republic of the Congo in the field of human rights, to study the evolving situation of human rights in the Democratic Republic of the Congo and to verify that its obligations in this field are being fulfilled;

(b) To request the independent expert to submit a progress report on the implementation of the present resolution to the General Assembly at its fifty-ninth session, and to report to the Commission on Human rights at its sixty-first session;

(c) To request the Secretary-General to provide advisory services to this country in the field of human rights;

(d) To reconsider the matter at its sixty-first session under the same item of the agenda.
