



Democratic Republic of Congo

Briefing to the 60th Session of the UN Commission on Human Rights

January 2004

Objective

The Commission on Human Rights should adopt a resolution encouraging the Democratic Republic of Congo (DRC) to implement reforms in its judicial system and to begin investigation and prosecution of violations of international law committed during the recent wars (beginning in 1996 and 1998 respectively). The resolution should encourage the field office of the High Commissioner, the Special Rapporteur for the DRC and other Special Rapporteurs, the human rights officers of the UN Mission in Congo (MONUC) and of other UN agencies, as well as national and international human rights organizations to continue documenting such violations and gathering evidence to be used in future prosecutions.

It should urge the creation of a group of experts to assist the Secretary-General and the High Commissioner in proposing a judicial mechanism for investigating and prosecuting past abuses. The resolution should also urge donor nations as well as UN agencies to support such an accountability process and the rebuilding of the Congolese judicial system.

Background

The Democratic Republic of Congo is emerging from a period of disastrous war marked by violations of international humanitarian law on a colossal scale. All parties have engaged in slaughtering civilians, raping women and girls and holding them for sexual and household service, recruiting child soldiers and using them in combat, and pillaging and destroying civilian property. According to one estimate, these wars have directly or indirectly cost more than three million civilian lives, making this the most deadly war for civilians since World War II. Even months after the implementation of a political settlement and the installation of the transitional government, armed groups continue to prey upon civilians, particularly in Ituri and the Kivu provinces in eastern DRC. Some of these groups are said to be linked with Rwanda, Uganda, or with national political leaders who have agreed to the political settlement that supposedly ended the war. Reports by the field office of the High Commissioner and the human rights unit of MONUC, as well as by human rights organizations and the press, describe killings, rapes, the use of child soldiers, and crimes against property in late 2003 and early 2004.

Child Soldiers. In the war in the Democratic Republic of Congo, children are abducted and used as soldiers by many of the parties to the conflict. The forced recruitment of children increased so dramatically in late 2002 and early 2003 that observers described the fighting forces as “armies of children.” Combatants also abducted girls and took them to their bases where they forced them to provide sexual services and domestic labor, sometimes for periods of more than a year. While some progress has been made in demobilizing child soldiers from the various warring factions, in Ituri, the abduction and recruitment continues.

Investigating and Prosecuting Grave Violations of International Humanitarian Law. The Commission on Human Rights, the U.N. Security Council, and national and international leaders have all said grave abuses in the DRC must be punished in order to deliver justice to the victims and to break the impunity that has prompted recurrent violence in this region. Although convinced in principle of the need to deliver justice, many international and national leaders hesitate to demand accountability while the government is not yet solidly established. But there is no better way for the new authorities to gain legitimacy than by promoting justice and ensuring human rights.

The field office of the High Commissioner, the Special Rapporteur for the DRC, and human rights officers of MONUC and other UN agencies as well as human rights organizations have gathered evidence of war crimes and crimes against humanity committed in the DRC since 1996. With its limited capacity, the Congolese judicial system cannot adequately investigate and prosecute these crimes. In addition, the nature and scale of the crimes as well as the varied nationalities of the perpetrators—representing several other countries as well as the DRC—necessitates international participation in the investigations and prosecutions.

In UN resolution 1468 of March 2003, the Security Council requested the Secretary-General, in consultation with the High Commissioner for Human Rights, to make recommendations to the Council on ways to help the DRC address the issue of impunity. A small group of judicial experts could help speed this process. After examining various models of mixed and international justice already operating in different parts of the world, these experts could assist the Secretary-General and the High Commissioner in making concrete and effective proposals for an appropriate justice mechanism.

With his July 16, 2003 announcement, the International Criminal Court (ICC) Prosecutor indicated that he was following the situation in Ituri Province closely. An ICC prosecution could greatly assist accountability in the country and could also be a means to strengthen national capacity to bring justice for serious past crimes.

Rebuilding the Judicial System. The DRC government will need to invest enormous human and material resources to rebuild the judicial system. It will need to assure the independence of the judicial system, breaking with past practices that allowed the executive to dominate the judiciary. It

will need to end the use of special tribunals to circumvent the ordinary courts or to target political opponents. It will need to assure the observance of international human rights standards by security and law enforcement officials as well as those of the court system. The DRC government will need considerable international assistance, financial as well as technical, in carrying out these comprehensive reforms.

Recommendations

The Commission on Human Rights should:

- **Condemn continuing grave violations** of international humanitarian law by armed groups in Ituri, the Kivu provinces and elsewhere in the DRC, including the military recruitment of children and sexual abuses of women and girls.
- Commend staff of the field office of the High Commissioner, the Special Rapporteur on the DRC, the human rights officers of MONUC and other UN agencies, and national and international human rights organizations for their diligence in **gathering evidence of grave violations** of international humanitarian law in the DRC and encourage them to continue this work.
- Encourage the DRC government to give priority to **rebuilding the justice system** by investing the necessary resources, by assuring judicial independence, and by requiring security and judicial officers to conform to international human rights standards in the performance of their duties.
- Encourage the Security Council to promptly name a group of experts to assist the Secretary-General and the High Commissioner in **proposing an effective justice mechanism** to investigate and prosecute grave violations of international humanitarian law during the wars of 1996 and 1998 in the DRC.
- **Support any investigation by the ICC and subsequent prosecution** of those responsible for crimes against humanity and war crimes in the DRC committed after July 1, 2002.
- Urge donor governments and UN agencies to **provide essential assistance to the DRC government in rebuilding its judicial system** and in investigating and prosecuting past abuses.