



A NEW CHAPTER FOR HUMAN RIGHTS

A handbook on issues of transition
from the Commission on Human Rights
to the Human Rights Council



Annex 3.1

Independent Expert on the Situation of Human Rights in the Democratic Republic of the Congo (DRC)

Current mandate holder: Titinga Frédéric Pacéré
Mandate started: 1994

Term of mandate holder: 2004
Mandate up for renewal: 2006

Background and areas of focus

- The DRC began by being considered under the confidential 1503 procedure at the 41st session of the Commission of Human Rights in 1985. This consideration was suspended in 1989 and taken up again at the 47th session of the Commission of Human Rights in 1991;
- Mandate established as the Special Rapporteur on the situation of human rights in Zaire in 1994 and was modified in 2004 to become the Independent Expert;
- Established due to concern about the serious violations of human rights, particularly the practice of torture and cruel, inhuman and degrading treatment or punishment, arbitrary detention and incommunicado detention, inhuman and degrading prison conditions especially in the detention centres administered by the army, enforced disappearances, summary and arbitrary executions of persons exercising their right to freedom of opinion and expression, and denial of the right to a fair trial and reports of mass forced displacements of more than 750,000 persons belonging to ethnic minorities;
- Establish direct contacts with the authorities and the people of the DRC;
- Provide assistance to the Government of the DRC in the field of human rights;
- Study the evolving situation of human rights in the DRC and verify that the Government is fulfilling its human rights obligations.

Differing working methods and reporting obligations

- The Independent Expert generally does not submit communications to the Government.

Cooperation with the Government

- Between 1994 and 1997, the Government of Zaire cooperated with the Special Rapporteur and he was able to carry out his missions to the country in complete freedom;
- In 1997, with the transition of power, the Government of the DRC rejected any form of collaboration with the then Special Rapporteur and eventually declared him a persona non grata;
- Between 1997 and 1998, the Secretary-General of the United Nations had an investigative team to investigate complaints of atrocities in the eastern part of the DRC;
- In 1999, the Special Rapporteur held talks with the Ambassador of the DRC to the UN, which led him to believe that future collaboration with the Government might be possible;
- In 2000, the Special Rapporteur participated in a special session of the Security Council to consider the situation of human rights in the DRC;
- In 2000, the Commission on Human Rights requested that the Special Rapporteur conduct a joint investigation with a member of the Working Group on Enforced or Involuntary Disappearances into human rights violations and breaches of international humanitarian law in 1996 and 1997;
- Currently, the Government cooperates with the Independent Expert;

- The Independent Expert meets with members of the Government and Parliament, civilian and military judicial authorities, members of NGOs, and leaders of political parties and religious groups.

Key developments

- In May 2005, a draft Constitution was formally adopted;
- In December 2005, the President promulgated the *Amnesty Law* for acts of war, political offences and crimes of opinion, which provides amnesty for "all Congolese" for "acts of war, political offences and crimes of opinion" committed between August 1996 and June 2003;
- The human rights situation in the eastern regions and in the northern Katanga, where militias and other armed groups are committing atrocities and other massive human rights violations, continues to be an area of concern;
- Other ongoing human rights issues include the climate of impunity; threats, harassment and killings of journalists and human rights defender; lack of independent judiciary and the control exercised by the executive branch over the judiciary and judicial decisions; insecurity; the situation of women and children; and the trafficking and illegal exploitation of natural resources.

Country visits

DRC: August 2005, November 2004, August to September 2004, February to March 2003, February 2002, August 2000, March 2000, March 1997, October 1996, November 1995, November 1994

Rwanda: 1996

Pending reports

Annual report (E/CN.4/2006/113).

Communications to the Government

- The Special Rapporteur (1994-2004) sent communications to the Government during his term, many of which went unanswered;
- The Independent Expert does not transmit communications to the Government generally; however, in January 2006, he sent a memorandum to the Government containing analyses of the human rights situation in the country and recommendations.

