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И СОЦИАЛЬНЫЙ СОВЕТ**

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**ГРАЖДАНСКИЕ И ПОЛИТИЧЕСКИЕ ПРАВА, ВКЛЮЧАЯ ВОПРОСЫ
ОБ ИСЧЕЗНОВЕНИЯХ И КАЗНЯХ БЕЗ НАДЛЕЖАЩЕГО
СУДЕБНОГО РАЗБИРАТЕЛЬСТВА**

Внесудебные казни, казни без надлежащего судебного разбирательства
или произвольные казни

Доклад Специального докладчика г-жи Асмы Джахангир, представленный
в соответствии с резолюцией 2002/36 Комиссии по правам человека

Добавление

Миссия в Демократическую Республику Конго*

* Резюме доклада распространяется на всех языках. Полный текст доклада, содержащийся в приложении к резюме, распространяется только на том языке, на котором он был представлен, и на французском языке.

Резюме

Специальный докладчик по вопросу о внесудебных казнях, казнях без надлежащего судебного разбирательства или произвольных казнях посетила Демократическую Республику Конго 16-22 июня 2002 года с миссией по установлению фактов. Эта поездка была предпринята в связи с заявлением Председателя Совета Безопасности от 24 мая 2002 года, в котором Совет обратил внимание Верховного комиссара Организации Объединенных Наций по правам человека на серьезность событий, которые произошли в Кисангани 14 мая 2002 года и сразу после этого. С учетом данного заявления Верховный комиссар срочно связалась со Специальным докладчиком по поводу предполагаемых массовых убийств гражданских лиц, военнослужащих и сотрудников полиции, организованных руководством КОД-Гома ("Конголезского объединения за демократию - Гома"), а также по поводу убийств отдельных лиц неуправляемыми толпами, откликнувшимися на призыв к восстанию, с которым к ним обратились мятежники из числа военнослужащих, захватившие местную радиостанцию в Кисангани. По просьбе Верховного комиссара Специальный докладчик безотлагательно отправилась с миссией по установлению фактов в Демократическую Республику Конго, где она посетила Киншасу, Гому и Кисангани.

В ходе этой миссии Специальный докладчик имела возможность встретиться с представителями правительства Демократической Республики Конго, включая министра по правам человека, министра юстиции и заместителя министра иностранных дел. В ходе визита состоялся также ряд встреч с представителями учреждений системы Организации Объединенных Наций и международных неправительственных организаций. Специальный докладчик встречалась также с рядом представителей гражданского общества, включая представителей религиозных общин, местных правозащитных НПО и отдельных правозащитников. Ей также удалось встретиться со свидетелями и семьями пострадавших. В Гома и Кисангани Специальный докладчик встречалась с представителями руководства КОД-Гома, в том числе с исполняющим обязанности Председателя КОД-Гома, а также с некоторыми членами его кабинета, губернатором и инспектором полиции Кисангани, а также с командующим Седьмой бригадой. В этой связи Специальный докладчик отмечает, что исполняющий обязанности Президента КОД-Гома вручил ей доклад о выводах назначенной КОД-Гома комиссии по расследованию майских событий в Кисангани.

В настоящем докладе сообщается о наиболее серьезных выводах миссии Специального докладчика с упором на рекомендации, требующие неотложного внимания. Обстановка в Кисангани продолжает оставаться взрывоопасной, и существует очевидная необходимость принятия превентивных мер для предотвращения дальнейших случаев

насилия. Руководство КОД-Гома допустило серьезные перегибы, чреватые возможными ответными действиями каждой из сторон, которые могут привести к возникновению спирали насилия и распространиться на всю территорию страны. Подобное насилие практически ничем не сдерживается в силу почти полной безнаказанности любого лица, занимающего какую-либо должность, даже в том случае, когда оно совершает такие серьезные нарушения прав человека, как неприкрытые массовые убийства. Поддержание стабильности в Кисангани является насущным и решающим фактором для продолжения межконголезского диалога с участием всех сторон.

События 14 мая 2002 года в Кисангани не могут рассматриваться без учета общей обстановки насилия в стране. Вместе с тем они свидетельствуют о насущной необходимости поддержания мирного процесса, с тем чтобы население перестало жить в постоянном страхе за свою жизнь. Хотя нет сомнений в необходимости продолжения расследования с целью установления всех фактов, а также личностей пострадавших и виновных в событиях, имевших место в Кисангани 14 мая 2002 года и сразу после этого, Специальный докладчик хотела бы высказать несколько предварительных замечаний, основанных на информации и свидетельских показаниях, которыми она располагает на данный момент. Эти материалы свидетельствуют о том, что внесудебные убийства и казни без надлежащего судебного разбирательства совершались по крайней мере в пяти основных местах, о которых сообщается ниже. При описании событий будет сделана также попытка хотя бы приблизительно установить временные рамки, с тем чтобы проиллюстрировать очевидную последовательность событий в Кисангани 14 мая 2002 года.

В своем докладе Специальный докладчик делает вывод о том, что КОД-Гома, фактически осуществляющее властные полномочия в Кисангани, несет непосредственную ответственность за массовые убийства, которые имели место после захвата городской радиостанции. Специальный докладчик располагает информацией о том, что 48 гражданских лиц и по крайней мере 41 военнослужащий и сотрудник полиции явились жертвами внесудебных казней, организованных руководством КОД-Гома. Эти цифры явно превосходят те данные, которые были предоставлены КОД-Гома, что является еще одним свидетельством настоятельной необходимости продолжения расследований, включая судебно-медицинскую экспертизу, с целью установления имевших место фактов. Реальное число погибших может быть гораздо выше числа установленных на данный момент жертв, поскольку имеющиеся данные собирались под огромным давлением в условиях общества, пережившего огромную травму и живущего в обстановке террора.

Специальный докладчик подчеркивает, что следует в срочном порядке заняться проблемой глубоко укоренившейся безнаказанности и что властям надлежит незамедлительно арестовать тех, кто отдавал приказы или был причастен к массовым убийствам гражданских лиц, военнослужащих и полицейских. Суд над ними должен быть открытым и проходить под наблюдением представителей Управления Верховного комиссара Организации Объединенных Наций по правам человека в Демократической Республике Конго, Миссии Организации Объединенных Наций в Демократической Республике Конго и гражданского общества в Кисангани. Должен быть объявлен полный мораторий на все казни, поскольку, как представляется, на местах не существует и в ближайшем будущем не ожидается создания независимой правовой или судебной системы.

Специальный докладчик обращает внимание на срочную необходимость обеспечения защиты представителей гражданского общества и свидетелей, поскольку существует опасность того, что они будут арестованы или даже уничтожены властями. Миссии Организации Объединенных Наций в Демократической Республике Конго предлагается усилить защиту этих лиц, а власти должны быть предупреждены международным сообществом о том, что оно не потерпит никаких актов насилия против этих лиц.

Annex

Report of the Special Rapporteur on Extrajudicial,
summary or arbitrary executions on her mission to
The Democratic Republic of the Congo

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Introduction

1. From 16 through 22 June 2002, the Special Rapporteur carried out a fact-finding mission to the Democratic Republic of the Congo. The mission was carried out in response to a statement by the President of the Security Council of 24 May 2000 (S/PRST/2002/17), in which the Council drew the attention of the High Commission for Human Rights to the seriousness of the events that took place in Kisangani on 14 May 2002 and immediately thereafter. Pursuant to this statement, the High Commissioner alerted the Special Rapporteur on extrajudicial, summary or arbitrary executions to the alleged massacres of civilians, soldiers and police by the RCD-G (Rassemblement Congolais pour la Démocratie-Goma, Congolese Rally for Democracy-Goma) authorities and the killing of individuals by mobs responding to a call to rebellion by mutineers who had occupied the local radio station in Kisangani. At the High Commissioner's request, the Special Rapporteur promptly travelled on a fact-finding mission to the Democratic Republic of the Congo, where she visited Kinshasa, Goma and Kisangani.

2. Upon completing the visit, the Special Rapporteur submitted an interim report to the High Commissioner on the basis of which the High Commissioner briefed the Security Council on 16 July 2002, and presented the Special Rapporteur's findings (S/2002/764). In a statement (S/PRST/2002/22) on 23 July 2002 the President of the Council expressed its appreciation for the report and recommendations and reiterated its strong condemnation of the killings and attacks that took place on 14 May 2002 and thereafter in Kisangani. The Council stressed that RCD-Goma would be held accountable for any extrajudicial executions, including among members of the civil society or detainees at the detention centres of RCD in Kisangani. It also stressed that Rwanda had a duty to use its strong influence to ensure RCD-Goma took no such action. It requested the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) to continue its investigations in cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR) in order to gather further information concerning the massacres in Kisangani and to make recommendations on concrete measures to be taken to effectively end impunity. It recalled the Mission's mandate to extend its protection, in accordance with Council resolution 1417 (2002) of 6 June 2002, to civilians under imminent threat of physical violence, in the areas of deployment of its armed units and as it deemed fit within its capabilities.

I. Programme of the mission and general comments

3. During the mission the Special Rapporteur had the opportunity to meet with representatives of the Government of the Democratic Republic of the Congo, including the Minister for Human Rights, the Minister of Justice and the Vice-Minister for Foreign Affairs. The visit also included a number of meetings with representatives of United Nations agencies

and international non-governmental organizations (NGOs). At all locations, the Special Rapporteur also met with a number of representatives of civil society, including religious communities, local human rights NGOs and individual human rights activists. She was also able to talk to witnesses and families of victims. In Goma and Kisangani, the Special Rapporteur met with representatives of the leadership of RCD-Goma, including its President ad interim, along with several members of his Cabinet, the Governor and Police Inspector of Kisangani, as well as the Commander of the Seventh Brigade. In this connection, the Special Rapporteur notes that the President a.i. of RCD-Goma presented her with the report on the findings of the RCD-appointed Commission of Inquiry on the May events in Kisangani.

4. The Special Rapporteur wishes to express her appreciation for the support and assistance given to her during her mission by the Office of the High Commissioner for Human Rights in the Democratic Republic of the Congo (HRFOC) and MONUC in particular its Human Rights Section.

5. The Special Rapporteur wishes to note that she carried out her mission in relative freedom. While she was, in theory, free to see all persons and locations she wished, the tense security situation and the pervasive fear of the RCD-Goma authorities among the population prevented her from meeting with some individuals who had valuable information, but who were unwilling to be seen anywhere near the Special Rapporteur. Despite these limitations there was an overwhelming amount of information, and after giving assurances of confidentiality the Special Rapporteur was able to receive sufficient material to enable her to draw the firm conclusion that on 14 May 2002 the authorities of RCD-Goma carried out summary executions and extrajudicial killings of civilians, soldiers and members of the police.

II. General background and context

6. The present report focuses on the most serious findings of the Special Rapporteur's mission, with the emphasis on immediate observations and recommendations requiring urgent attention. The situation in Kisangani after 14 May is still explosive and there is an immediate need to take preventive measures to curtail further incidents of violence. The excesses committed by the RCD-Goma authorities are serious and any further reprisals could erupt into a spiral of violence and spread to other areas of the country. There is hardly any deterrence to such violence as impunity is virtually guaranteed for those in positions of authority, even when they commit such serious human rights violations as massacres in broad daylight. Maintaining stability in Kisangani is imperative and crucial for the continuation of an all-inclusive inter-Congolese dialogue.

7. In order not to lose sight of the broader context in which the incident under discussion took place, the Special Rapporteur wishes to recall the numerous massacres and extrajudicial killings that have occurred in the Democratic Republic of the Congo in the last several years. The overall human rights situation in the country has been analysed in detail by the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo in numerous reports to the Commission on Human Rights and the General Assembly. The issue of earlier large-scale extrajudicial killings and massacres is also addressed in the report of the Secretary-General's Investigative Team (S/1998/581, annex), which visited the country between August 1997 and April 1998. Since her appointment in August 1998, the Special Rapporteur has sent numerous communications to the Government of the Democratic Republic of the Congo containing cases of alleged extrajudicial, summary or arbitrary executions, requesting it to inform her whether and how these cases had been investigated and prosecuted. Summaries of these cases have been reproduced in her reports to the Commission on Human Rights (E/CN.4/1999/39/Add.1, paras. 66-71; E/CN.4/2000/3/Add.1, paras. 164-193; E/CN.4/2001/9/Add.1, paras. 164-169; and E/CN.4/2002/74/Add.2, paras. 242-247).

8. The allegation received includes a great large number of large-scale extrajudicial killings of refugees and other unarmed civilians by government forces. In 1998, the Special Rapporteur transmitted allegations to the Government regarding the killing by army soldiers of 54 Rwandan refugees and some 100 Congolese civilians in March and April 1998 in Shabunda, South Kivu. Another 30 civilians were reportedly killed by government soldiers on 12 May 1997 in Mudja, Bukumu county, in Kivu. On 3 January 1999, over 300 civilians were allegedly killed by Congolese army soldiers in Mobé south of Zongo and Bangui in the northern part of the country.

9. In this connection, the Special Rapporteur wishes to recall Commission on Human Rights resolution 1999/56 in which it requested 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 would permit, a joint mission to investigate all massacres carried out in the country with a view to bringing those responsible to justice. The Special Rapporteur regrets that the situation and conditions on the ground have remained such that it has so far not been possible to carry out a mission of that scale. She looks forward to working with the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo in the coming months to explore ways of carrying out this mission without undue delay.

10. Over the last years, the Special Rapporteur has on repeated occasions also approached the Government of the Democratic Republic of the Congo regarding alleged arbitrary, summary or extrajudicial use of the death penalty, including a number of cases in which minors under the age

of 18 or persons accused of crimes committed when they were under the age of 18 had been sentenced to death. In October 1999, the Special Rapporteur was informed that in Bulinzi, Nwenga, government soldiers had reportedly buried alive 12 women who were allegedly accused of witchcraft and collaboration with the Mai-Mai movement. She notes that in discussions with the Minister for Human Rights during her visit to Kinshasa she received assurances that the Democratic Republic of the Congo was not going to carry out any death sentences already passed, and was in fact intent on eventually abolishing capital punishment.

11. The Special Rapporteur further wishes to take this opportunity to express her regret that to date the Government of the Democratic Republic of the Congo has not replied to any of her communications.

III. The Peace Process

12. For a better understanding of the context in which the present incidents have occurred, it is important to recall that an extremely complex process has been ongoing for several years with the aim of finally achieving lasting peace in the Democratic Republic of the Congo. The country is divided into territories controlled variously by the Government and several rebel factions. In 1997, President Laurent Desiré Kabila overthrew the authoritarian regime of Mobutu Sese Seko in an armed operation. Mr. Kabila continued a policy of authoritarianism and the armed conflict did not end.

13. The state of war between the Government and rebel force worsened in 1998. Negotiations ended in the Ceasefire Agreement concluded in Lusaka on 10 July 1999 which provided for a political dialogue among the Government, rebel factions, the unarmed opposition and elements of civil society. The Ceasefire Agreement included provisions for normalization along the country's borders and the control of arms trafficking and infiltration by armed groups. Furthermore, it provided for the establishment of a Joint Military Commission (JMC) composed of two representatives of each party under the chairmanship of the Organization of African Unity (now the African Union). The Democratic Republic of the Congo signed the Ceasefire Agreement along with Angola, Namibia, Rwanda, Uganda and Zimbabwe. The Movement for the Liberation of the Congo (MLC) and the Congolese Rally for Democracy (RCD) signed the Agreement on 1 and 31 August 1999, respectively. However, RCD-G did not sign it. A few months later the peace process was interrupted and Laurent Kabila in essence withdrew from it. On 16 January 2001 Laurent Kabila was assassinated by one of his guards. He was succeeded in the presidency by his son, Joseph Kabila, who renewed the peace process.

14. Welcoming the Secretary-General's report of 15 July 1999, the Security Council, in resolution 1258 (1999) of 6 August 1999, authorized the deployment of up to 90 United Nations

military liaison personnel, along with the necessary civilian staff. Since then the mandate of this United Nations presence has been extended and amended by the Council. By resolution 1279 (1999) of 30 November 1999, it decided that the previously authorized force would constitute MONUC.

15. Despite these measures, the following years were marked by repeated ceasefire violations and the continued presence of foreign troops in many parts of the Democratic Republic of the Congo. After several weeks of negotiations in Sun City, South Africa, in April 2002 a partial power-sharing agreement was signed by MLC and the Government of President Joseph Kabila. However, the RCD authorities did not sign this agreement either and fears of continued and intensified fighting, especially in the east of the country, persisted. Amid mounting instability and repeated clashes between RCD and government troops, on 30 July 2002 the Presidents of Rwanda and the Democratic Republic of the Congo signed a peace agreement aimed at putting an end to their conflict. The United Nations and South Africa are to act as guarantors for the accord, under which Rwanda committed itself to withdraw its troops from the Democratic Republic of the Congo. At the same time, the Government of the Democratic Republic of the Congo agreed to assist in disarming Rwandan Hutu militias accused of participating in the 1994 genocide. However, in August 2002 renewed fighting in the east of the country brought the agreement into question.

IV. Findings and observations

16. The Special Rapporteur notes that during her mission it was not possible to draw up a comprehensive picture of the situation in the Democratic Republic of the Congo, owing to the urgency with which the visit was arranged and the limited time and resources available. While the focus of the mission was on the events in Kisangani on and around 14 May 2002, the Special Rapporteur did have the opportunity to hold discussions with non-governmental groups in Kinshasa concerning extrajudicial killings reported in areas throughout the country. The cases and incidents described to her gave a bleak picture of the human rights situation in the country, including in the capital. There were numerous reports of government soldiers and police officers stopping motorists at checkpoints in Kinshasa and demanding money at gunpoint. In one instance in September 2001 in Kinshasa, a person who had overtaken an army general's car was allegedly pulled out of his car and beaten to death by the officer's bodyguards. It would appear that these cases are symptomatic of the prevailing atmosphere of impunity and lawlessness which allows grave human rights violations, including extrajudicial killings, in the Democratic Republic of the Congo.

17. The Special Rapporteur brought up these concerns in her discussion with government representatives in Kinshasa, and she is committed to continue to monitor the situation and to

follow up on the cases presented to her. At the same time, there was general agreement that the incidence of such abuses had decreased in the course of the last years. A number of interlocutors expressed despair at the inability and unwillingness of government and de facto authorities to end impunity for extrajudicial killings. Impunity was identified as a major cause of continued extrajudicial, summary and arbitrary executions. The human rights violations in the country are directly linked to the political instability which in turn invariably leads to poor governance and absence of justice. This vicious cycle can only be corrected if sincere efforts are made by the political and military leaders exercising authority in the Democratic Republic of the Congo.

18. The events of 14 May 2002 in Kisangani cannot be isolated from the overall state of violence in the country. They do, however, bring home the urgency of keeping the peace process alive so that people do not have to live in perpetual fear of being killed. While it is clear that investigations must continue in order to establish the facts in detail, as well as profiles of the victims and perpetrators of the events of and immediately after 14 May 2002 in Kisangani, the Special Rapporteur wishes to present some preliminary observations based on the information and testimonies available to her at this stage. This material indicates that extrajudicial killings and summary executions were committed in at least five main locations (Mangobo municipality, Bangoka airport, Ketele military camp, Tshopo bridge and the detention centre at the headquarters of the Seventh Brigade). In describing the events an attempt will also be made to draw a rough time-line in order to illustrate the apparent sequence of the events of 14 May 2002.

19. At around 5 a.m. on 14 May 2002, sporadic gunfire was reportedly heard in central Kisangani as crowds composed of civilians and uniformed military and police personnel allegedly headed for the local prison to free prisoners and for the Radio-Télévision National Congolais (RTNC) radio station. At 6 a.m. the dissidents reportedly captured the radio station without any ostensible resistance or shots being fired. In their broadcast, of which the Special Rapporteur has transcripts given to her by a number of interlocutors, the dissidents called upon the population to rise against the “Rwandan invaders”, “to kill the Rwandans” and “to chase them out”. The dissidents also called upon MONUC and its Radio Okapi to inform the Government of the Democratic Republic of the Congo of the situation and to transmit their request for reinforcements. In addition, they called for named military commanders and civil society organizations to join them. In response to the broadcast, civilians and soldiers began to move towards the city centre from municipalities in the outskirts of Kisangani. A number of sources estimate that as many as 5,000 people may have taken to the streets.

20. Between 7.50 a.m. and 8.10 a.m. the RCD-G authorities reportedly went on the air to announce that they had recaptured the RTNC radio station. During later broadcasts, the Acting Commander of the Seventh Brigade, Commander Ivon Nguizama, and the Governor addressed the population, announcing that “the troublemakers and the thieves are now on the run and the

town is back under the full control of the RCD”. (Commander Nguizama is now under arrest in Goma. The Special Rapporteur met him.) The population was also ordered to stay at home, as RCD troops would “kill those who are in the street”. The Governor announced on the radio a ban on all associations and public meetings. By 12 noon the RCD-G had regained control of the city. Some time between 11 a.m. and 12 noon two aircraft carrying some 120 soldiers belonging to the so-called “Zulu-Tiger Brigade” flew into Kisangani from Goma. At the same time, a plane with a high-level military delegation arrived from Goma, including the current Commander of the Seventh Brigade in Kisangani, Commander Laurent Kunda, who had been visiting Goma, his predecessor, Commander Gabriel Amisi (also known as “Tangofort”) and Commander Bernard Byamungu of the Seventy-Second Brigade. Reports and testimonies suggest that these senior officers had operational responsibility for planning and carrying out the operation on and directly after 14 May in Kisangani.

21. According to the report by the official Commission of Inquiry appointed by RCD-G, seven persons were killed by members of the population heeding the call of the dissidents to attack “Rwandans”: Mr. Ndayire, a Rwandan businessman, was stoned to death in front of the “Lengema” building; the bodyguard of Commander Nguizama, called “Zaïrois”, was taken out of prison and shot dead and his body burned in central Kisangani; Commander Saidi was stoned and hacked to death with machetes outside the municipal building in Mangobo; a visitor, Bongungu Fili, was killed by crowds looking for RCD-G Commander “Franck” in his residence on Mamayemo Avenue; a 3-year-old child was killed in the same incident, apparently by a stray bullet; a police officer named Okito, an ethnic Hema, who was the commander of the Lumbulumbu camp, was killed in Mangobo; and a young woman called “Yalanga” was killed with machetes, apparently because of her “Rwandan appearance”. Information provided by international and independent local observers identify the same victims of alleged mob killings committed during the occupation of the RTNC radio station.

22. In discussions with the Special Rapporteur, the RCD-G authorities emphasized their view that the dissidents’ call to “kill Rwandans” referred not only to persons of Rwandan nationality, i.e. foreigners, but also to Congolese Tutsis or so-called Banyamulenge. According to the authorities the local language, Lingala, does not make a clear distinction between persons of Rwandan nationality and Congolese Tutsis. As a result of this “incitement to genocide”, everyone who “appeared” to be Rwandan was also at risk of being killed. However, other local sources told the Special Rapporteur that Lingala does make a clear distinction between these two categories of people. The argument has little significance as there was a clear incitement to use violence against Rwandan nationals. Given the ethnic complexity of the region, a mob could interpret the message to cover everyone who seemed to them to be Rwandan. During a meeting with the authorities in Kisangani, Commander Kunda expressed his distress over the dissidents’ ethnically based incitement to kill. He explained that his bodyguard, a Congolese Tutsi, was in

the detention cell with a non-Tutsi soldier, and that the crowd had singled his bodyguard out and killed him.

23. At the same time, it must be clarified that the announcement at the radio station did have nationalistic overtones and appears to have targeted Rwandan nationals alone. Any form of incitement - whether against foreign or nationals - cannot be condoned or justified but it does disclose the sources of resentment and the intentions of the dissidents.

24. In addition to the killings referred to above, the report prepared by the RCD-G Commission of Inquiry identifies a second category of victim consisting of: (a) soldiers and police killed in fighting between rebel soldiers and loyalists; and (b) civilians killed by RCD-G troops during the operation aimed at disarming and “neutralizing” civilians carrying firearms. In the report, one loyalist policeman and one male civilian are identified under this heading. Other fatalities are recorded but not attributed to the RCD-G troops. According to the report, after realizing that the rebellion was about to fail, a group of rebels joined the so-called “Bana Etats-Unies” (a militant political group that had been called upon to join the rebellion in the radio broadcast) and went to the municipality of Mangobo, where fire fights continued between rebels and loyalist forces resulting in the deaths of 21 civilians.

25. Other sources, including several eyewitnesses, indicate that on 14 and 15 May 2002 RCD-G loyalist troops used excessive, indiscriminate and deliberate lethal force against unarmed civilians in Mangobo, particularly in the areas of Matete, Walengola, Walendu, Bambole, Baboa and Babali. Some of the deaths reportedly occurred as a result of indiscriminate and random gunfire aimed at terrorizing the population, while other victims lost their lives in what would appear to be targeted extrajudicial executions. An unconfirmed number of people were reportedly also abducted and disappeared from Mangobo. There are numerous reports of looting, ill-treatment and rape in connection with these operations. While the exact number of people summarily executed and extrajudicially killed in Mangobo cannot be determined without more exhaustive investigations, the Special Rapporteur does have the names of 48 civilians extrajudicially killed on 14 May 2002. This information was fully supported by injured eyewitnesses and families of victims. The medical doctors treating the injured confirmed that many of the injured were fired upon at close range. In one case, a man was shot dead while bathing.

26. It is reported that at around 9 a.m. on 14 May, RCD-G loyalist troops began arresting police and military alleged to have taken part in the mutiny, mainly at Makiso and Camp Ketele. Many police officers were reportedly also detained after having been summoned for inspection at the Seventh Brigade headquarters. RCD-G officers were also reported to have confiscated private vehicles, which were later identified by witnesses as being used to transport detainees to

be summarily executed and dead bodies for burial. Eyewitness testimonies and reports indicate that during the night of 14 May trucks took an unknown number of soldiers and police officers to Bangoka airport, 15 kilometres east of Kisangani, where they were allegedly executed and buried in an unknown place. In one case, two soldiers had been shot, but one survived as he fell unconscious after the shooting and was left for dead. He subsequently managed to escape from the scene. Eyewitness accounts of soldiers being held in detention at Bangoka before disappearing were provided to the Special Rapporteur by a number of individuals. The Special Rapporteur also heard testimonies of summary executions carried out at Camp Ketele in Kisangani.

27. During the night of 14 May trucks with arrested police officers and soldiers were also seen arriving at the Tshopo bridge and the UNIBRA beach. All access to the bridge had reportedly been blocked by RCD-G soldiers prior to this operation. Witnesses said that a large number of police and military, with their hands bound, were ordered to lie down on the ground and then shot, hacked to death with machetes or had their throats slit by RCD-G loyalist soldiers on the Tshopo bridge. Many of the perpetrators were reportedly soldiers wearing red berets. It appears that some of the bodies were decapitated before being thrown in the river. Some of the bodies were reportedly put in plastic bags. One witness the Special Rapporteur spoke to had met and talked to four soldiers who were washing blood from themselves and their clothes after having participated in the disposal of bodies after the summary executions. Later witnesses also observed soldiers trying to wash out bloodstains and sprinkling sand on the bridge. The Special Rapporteur met a number of witnesses living next to the Tshopo bridge who had heard gunshots and subsequently seen blood splattered on the bridge. It appears that the news of “an operation” at the Tshopo bridge spread quickly and by the next day a number of people were already aware of it.

28. In the morning of 16 May, the bridge reopened and a few soldiers remained nearby. By the evening, the first bodies were seen floating in the Tshopo river. According to one eyewitness, the first body that surfaced was naked with its hands bound by a piece of underwear. The next day at around 7 a.m. more bodies appeared, some decapitated, others bound or in bags. At least 20 bodies were spotted by fishermen and local people on 16 and 17 May near the bridge on the UNIBRA beach and further downstream at Isangi. MONUC military observers and human rights personnel observed 12 bodies floating in the river between 7 a.m. and 8 a.m. on 17 May. As a result, on 17 May at around 8.30 a.m. RCD-G soldiers cordoned off the area around the bridge and the beach. Shots were fired in the air to keep local spectators at bay. Staff of both MONUC and the International Committee of the Red Cross trying to gain access to the scene were firmly turned away. Between 12 noon and 3 p.m. witnesses saw RCD-G soldiers recovering the bodies and loading them into two trucks, one of which was a yellow Leyland truck (licence plate HZ 51 67 B) requisitioned earlier from its private owner by RCD-G officers.

29. It is alleged by the same sources that the corpses recovered from the river were buried in an unknown location. There were rumours of a mass grave close to the end of the runway at the Bangoko airport. Another report received was of a mass grave dug at the Red Cross cemetery, which was later abandoned. There was indeed a huge pit dug at the Red Cross cemetery which was left open. The RCD-G authorities admit having recovered 11 corpses but were evasive when asked where the bodies found in the river were buried. They replied that some were buried by them and the rest by the local Red Cross, but did not disclose the location of the graves. The Special Rapporteur made every effort to meet with the local Red Cross, but it appeared that they were indeed very hesitant to receive her.

30. In reference to the above incident, the report by the RCD-G Commission of Inquiry states that a group of four rebel soldiers reportedly fled towards the Tshopo river, where they took a Belgian businessman, Mr. Troupin, hostage and stole his motorized pirogue. After having abandoned Mr. Troupin, the four allegedly capsized with the pirogue before reaching the town of Bumba. One of them drowned, while the three others survived. However, the RCD-G report indicates that no fewer than 11 corpses of rebels who had drowned while trying to escape had been recovered from the river. When asked where the bodies were buried, the RCD-G authorities would give no precise locations, nor was there any specific mention of the grave sites in the report of the Commission of Inquiry. The RCD-G categorically deny that any executions took place at the Tshopo river. There is clearly a discrepancy in the report: in one instance the Commission claims that one mutineer drowned, while later admitting to having recovered 11 bodies from the river without giving any details about the origin of these corpses.

31. In the detention centre at the headquarters of the Seventh Brigade in Kisangani, 17 deserters (rebels) were under arrest. The following prisoners were present at the time of the Special Rapporteur's visit at the detention centre: Bembide Gegbele, Kongolo Ekofo, Jean-Claude Azagu, Roger Besoke, David Bofola, Toso Alomo, Gelongo Bolima, Nyembo Kitenge and Kasongo Monga. Another prisoner in the same group, Mudaka Akungu, had reportedly been hospitalized, and the remaining seven sent for "reorientation". One prisoner had been released earlier. The Special Rapporteur met three of these persons, who were in fear for their lives. During her visit to the detention centre and subsequently, the Special Rapporteur learned of prisoners who had been taken out of the detention centre and shot dead. The families of these prisoners were given no information about their fate and whereabouts. They had learned from an escaped soldier that some of the detainees were shot dead while being taken to another place.

32. The RCD-G Commission's report identifies a total of 41 fatalities as a result of the events on and immediately after 14 May 2002. According to the report, and as noted earlier, only one person, an armed civilian, was directly killed by RCD-G loyalist forces. The remaining 40 deaths were described as follows: 7 people were killed by unruly mobs, one loyalist police officer was killed in confrontations with the dissidents, 11 rebels drowned in the Tshopo river while trying to escape, and 21 civilians were killed in the crossfire between the two sides in the municipality of Mangobo. In other words, only 2 armed combatants would have been killed in these clashes, while 21 civilians would have lost their lives as so-called "collateral damage". In discussion with the Special Rapporteur, the RCD-G leadership stated that nobody had been executed, summarily or otherwise, by its forces during or after the events of 14 May. This very finding of the official inquiry makes the whole exercise a farce.

33. A number of people handed over lists of those allegedly executed by the authorities to the Special Rapporteur. She cross-checked these as carefully as she could. (Similar names were counted only once; at the same time it should be noted that the same person might appear under different names.) According to her calculation, based on the material given, 103 civilians and 60 police and military persons have been identified as reportedly summarily executed in connection with the events of 14 May. In addition, 20 corpses were seen floating in the Tshopo river. It was pointed out that a number of bodies thrown into the river may never have surfaced or been discovered. These figures are only indicative of the potential scale of the summary executions.

V. Final remarks and observations

34. The Special Rapporteur wishes to note that there were valid concerns and a need to react on the part of the authorities following the takeover of the RTNC radio station and the dissidents' broadcasts. Firstly, their position was challenged by a mutiny. Secondly, the radio broadcast did incite the population to violence and killings targeting "Rwandans". However, the reprisals and crackdown by RCD-G were brutally calculated to punish collectively a whole population, including soldiers and police, with the intention of silencing their protests against RCD-G oppression and its alliance with Rwandan troops present in the area. In this connection, the Special Rapporteur wishes to note that the presence of Rwandan troops was admitted by the President ad interim of RCD-G who, when asked about the presence of foreign forces in Kisangani, stated that "of course there are foreign troops in the Congo: Ugandan, Zimbabwean, Rwandan ...". The majority of people the Special Rapporteur spoke with expressed a deep-seated resentment against the presence of Rwandan military, which they saw as a major obstacle to peace. The May massacre has only sharpened tensions and opposition to the authorities and their Rwandan allies.

35. The RCD-G authorities are exploiting the situation by emphasizing and publicizing the fact that the dissidents pointedly incited the population to kill Congolese Tutsis and Banyamulenge. They also justify the use of force after the rebellion on the grounds of protecting the Tutsi population. In this way they have isolated the Tutsi community from the rest of the population, made them vulnerable and polarized society. A number of interlocutors warned of another campaign of ethnic violence, which could be initiated by the authorities themselves, to carry out a new "operation" against dissidents so that all opposition to RCD-G is effectively silenced. Given the history of violence and ethnically based conflicts in the Democratic Republic of the Congo, the Special Rapporteur is concerned about the explosiveness of the situation.

36. As is often the case in highly volatile and politically charged situations, rumours and disinformation abound in the Democratic Republic of the Congo. The Special Rapporteur heard several contradictory theories about the mutiny or rebellion. There was a strong belief that the mutiny was staged by the RCD-G authorities themselves. The Special Rapporteur is not inclined to support this theory based on the facts and information she received during the mission.

37. At the time of the Special Rapporteur's visit to Kisangani, the relationship between RCD-G and MONUC was becoming increasingly tense. The authorities told the Special Rapporteur that they also held MONUC partly responsible for the mutiny. Their suspicion was mainly based on broadcasts by Radio Okapi and its work with civil society groups, as RCD-G considers such associations threatening to its authority. MONUC Officials assert that they have maintained their neutrality and followed their mandate.

38. At the same time, members of civil society were outraged at MONUC. They expected MONUC to intervene physically to protect people from the excesses and abuses of RCD-G after 14 May. A large number of members and leaders of civil society are now on the run. Their lives are at risk and they look to MONUC to protect them. The pressure on MONUC is overwhelming. In the present circumstances its presence is critical. The Special Rapporteur welcomes Security Council resolution 1417 (2002) of 14 June 2002, in which the Council reaffirmed the mandate of MONUC to protect civilians under imminent threat of physical violence.

39. In discussion with the Special Rapporteur, RCD-G officials and other observers indicated that they had observed unrest and increased tensions amongst the people, the military and the police, both prior to and after the 14 May incident. On 8 March, a large number of students staged a protest in Kisangani against electricity power failures. The meagre progress made in the inter-Congolese dialogue in Sun City had further disappointed people. Soldiers and police were not being paid regularly, which added to their frustration. Thus, the spontaneous turnout of 4,000-5,000 civilians (figure given by the authorities) in response to the call of the

rebels further supports the impression that the people of Kisangani are opposed to the presence of elements of the Rwandan Patriotic Army and hold the authorities responsible for it. The background to 14 May highlights the fragility of the situation. It should be noted that the tension has not gone, and there are predictions that further bloodshed and massacres could occur if those responsible for the killings of 14 May are not brought to justice.

VI. Conclusions

40. The de facto authority of Kisangani, RCD-G, is responsible for the massacres that took place after it regained control of the city's radio station. The Special Rapporteur has information identifying 48 civilians and at least 41 soldiers and police officers reported to have been extrajudicially killed by the RCD-G authorities. These figures clearly exceed those given by RCD-G, which further underlines the urgent need for continued investigations, including forensic expertise, in order to establish the detailed facts, as well as the profiles of the victims and perpetrators of the events of and immediately after 14 May 2002. The actual number of victims may be significantly higher, as the data presently available have been gathered and compiled under immense pressure by a traumatized and terrorized society.

41. It is appalling that the authorities believe that they can commit such flagrant human rights abuses with impunity. The official inquiry conducted by the RCD-G authorities makes a feeble attempt at whitewashing the human rights violations carried out by its representatives and soldiers. It further strengthens the argument that the authorities are making every attempt to protect the perpetrators and conceal the facts.

42. There is a genuine fear amongst the detainees at the detention centre at the headquarters of the Seventh Brigade in Kisangani that the authorities would execute them before any reasonable trial can be held.

43. Several members of civil society are on the run, as they genuinely fear the use of violence against them. The Special Rapporteur is inclined to conclude that their lives are at risk, and they need immediate protection.

44. The Special Rapporteur was dismayed that the authorities had taken no confidence-building measures to allay fears of ethnic reprisals or to reach out to the general public to resolve the ethnic tensions that may be building in society. On the contrary, she detected a tendency amongst some members of RCD-G to attribute the whole episode to ethnic incitement and play upon it to further aggravate the situation.

45. There is an opportunity to pursue the inter-Congolese dialogue with renewed vigour by including all disputing parties. RCD-G expressed its eagerness to join this effort and recognized that ultimate peace and an end to violence can only be achieved through dialogue and not by resorting to aggression.

VII. Recommendations

46. The Security Council should exert more pressure on all neighbouring countries, but particularly on Rwanda, to sincerely negotiate a complete withdrawal of their forces from the Democratic Republic of the Congo, in accordance with Council resolutions.

47. The volatile situation in the area demands the demilitarization of Kisangani, without which violence, oppression and reprisals will continue and recur. The Special Rapporteur fully endorses the demand for the demilitarization of Kisangani by the Security Council and other concerned bodies of the international community. It is imperative that the authorities in Kisangani promptly implement the resolutions of the Security Council in this regard. The Council is also encouraged to explore mechanisms aimed at ensuring that its resolutions are implemented. The inter-Congolese dialogue process must be pursued. Peace can only be achieved and sustained if steps are taken towards the democratization of the Democratic Republic of the Congo. A framework should be agreed in order to define the relationship between the central Government and the regions and local authorities.

48. The entrenched impunity for grave human rights violations must be urgently addressed and the authorities must take immediate steps to arrest those who ordered or were involved in the actual massacre of civilians, soldiers and policemen. The trials of those persons should be public and observed by representatives of HRFOC, MONUC and members of civil society in Kisangani. There should, however, be a complete moratorium on executions, as the realities on the ground do not point to the existence of an independent legal or judicial system now or in the near future.

49. The Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo is encouraged to take a lead role so that the joint mission by herself, the Special Rapporteur on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances, called for in Commission on Human Rights resolution 1999/56, can be carried out without further delay.

50. Members of the public suspected of killing individuals at the incitement of the radio broadcast should also not benefit from any form of impunity. However, there is very little faith in the fairness of the system and even less confidence in the neutrality of the authorities, and the

deliberate persecution of people critical of the authorities cannot be ruled out. Given these realities, the Special Rapporteur recommends the following:

(a) Arrests made by the authorities in connection with the killings in response to the radio broadcast should be notified to the MONUC Human Rights Section and HRFOC which, in turn, should monitor and observe the process of investigation and trial. Such detainees should be allowed access to regular visits by ICRC;

(b) There are reports of a considerable number of people who are on the run and are being hunted down by the authorities on genuine or trumped-up allegations of being connected to the rebellion, incitement to use violence, or killing of individuals in response to the radio broadcast. Their lives are in imminent danger and some amongst them may genuinely consider giving themselves up to the authorities in order to prove their innocence or to be tried, but are hesitant to do so for fear of being executed or facing other forms of violence. The Special Rapporteur therefore recommends that MONUC could facilitate the surrender of such individuals and thereafter monitor and observe the process of investigation and trial. Such detainees should be allowed access to regular visits by ICRC. The Special Rapporteur believes that this specific role of MONUC would be in accordance with Security Council resolution 1417 (2002), whereby the Council reaffirmed the mandate of MONUC to take necessary action to protect civilians under imminent threat of physical violence, within its capabilities;

(c) There is a clear need to build momentum for the inter-Congolese dialogue which must also address the immediate need to establish a judicial forum to try grave violations of human rights that will be effective enough to challenge the established norm of impunity prevalent in the Democratic Republic of the Congo;

(d) Members of civil society and witnesses require protection, as they risk being apprehended or even liquidated by the authorities. MONUC is encouraged to extend protection to these individuals and the authorities should be put at notice by the international community that any acts of violence against them will not be tolerated;

(e) The authorities must take the lead in organizing community-based peace committees with the objective of protecting ethnic minorities within their reach. This effort should be supported and assisted by MONUC and the Office of the High Commissioner for Human Rights. In particular, the communication centres of MONUC, including its radio, should give space to the leaders of such community centres, whose voices for multicultural tolerance reach the population and thus bring comfort to the ethnic minorities, who may be feeling vulnerable in the present situation;

(f) A claustrophobic atmosphere gives rise to suspicions, rumours and insecurity. The Special Rapporteur found this to be the case in Kisangani during her mission. There is a compelling need to open up a dialogue between various groups of civil society, people from various ethnic backgrounds and the authorities. The Office of the High Commissioner for Human Rights has the expertise to design and generate such a multiparty dialogue, and the Special Rapporteur strongly recommends that this be undertaken immediately.
