



## **PUBLIC STATEMENT**

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### **The Democratic Republic of the Congo: Alleged Rights Violators Should Be Vetted and Prosecuted, Not Given Army Appointments**

NEW YORK, February 14, 2005—The Government of the Democratic Republic of the Congo (DRC) should not appoint militia leaders, suspected of perpetrating massacres and other war crimes, to high-ranking positions in the Congolese army, urged the International Center for Transitional Justice (ICTJ) today.

On January 10, 2005, the Government appointed four suspected human rights abusers to serve as generals in the army. A fifth individual was made a colonel after he had been convicted of committing arbitrary arrests and torture and sentenced to 20 years' imprisonment. The appointments were vigorously opposed by human rights organizations in the DRC and abroad.

On February 10, militia leaders Jean-Pierre Guena (known as Shinja Shinja, meaning “throat-cutter” in Swahili) and Bakanda Bakoka — both from the southeastern Katanga province — came forward demanding military appointments in exchange for commitments to disarm their groups. In an interview with Radio Okapi, Guena threatened to burn down North Katanga if he received a rank lower than general.

Both militia leaders are alleged to have committed serious human rights abuses. In October 2003, three Congolese NGOs submitted a report to the International Criminal Court (ICC) that documented atrocities committed by Guena's and Bakoka's militias. An investigation by the United Nations Mission in the Democratic Republic of Congo (MONUC) concluded that Guena and his militiamen were responsible for killings, torture, rape, and mutilations of civilians in Kitenge in February 2004.

“If the Democratic Republic of the Congo is to achieve a lasting and sustainable peace, it must not appoint individuals to the army when there is evidence that they may be responsible for serious abuses,” said Juan Méndez, President of the ICTJ and the United Nations Special Adviser to the Secretary-General on the Prevention of Genocide.

As the ICTJ recommended in its October 2004 report, “A First Few Steps: The Long Road to a Just Peace in the Democratic Republic of the Congo,” individuals who have committed serious crimes — including genocide, war crimes, and crimes against humanity — should not hold or be recruited for public office. Such appointments undermine public confidence in institutions and perpetuate the cycle of impunity.

Further, the appointment of human rights abusers to the army is explicitly prohibited by the constitution of the DRC, which stipulates that all army personnel must meet the high standard of “proven morality.”

Steps must therefore be taken to end impunity and to promote justice and accountability. The Congolese government should implement a comprehensive and publicly transparent vetting program for prospective and current high-ranking military officers, based on clear criteria designed to exclude human rights abusers from military service.

The Congolese government should also investigate and prosecute individuals who are responsible for serious human rights abuses. In order to overcome impediments to prosecuting high-ranking military officials, the government should act to give jurisdiction over war crimes, crimes against humanity and genocide to civilian courts, and should immediately adopt the law implementing the ICC statute. The ICC should also consider prosecuting perpetrators who are responsible for serious abuses, especially those who are protected from domestic prosecution under Congolese law.

While it has been argued that prosecuting militia leaders could destabilize the peace process in the DRC, recent evidence contradicts this view. The arrests and sentencing of several powerful militia leaders from Ituri last year did not have direct repercussions.

Further, experience has shown that integrating rebel leaders into the regular army does not guarantee their loyalty. Dissident army units led by two reintegrated rebels, Colonel Jules Mutebusi and General Laurent Nkunda, clashed with regular army forces in May and June of 2004 and occupied a provincial capital for several days.

Vetting a relatively small number of high-ranking military officers, reforming domestic laws that entrench their impunity, and prosecuting individuals responsible for serious abuses are all measures that the government of the DRC can and must implement without delay. The appointment of warlords responsible for mass murder, torture, rape, mutilations and other atrocities cannot bring stability to the DRC now or in the future. Only measures that are designed to bring about justice and accountability will yield lasting peace.

## **The ICTJ in the Democratic Republic of the Congo**

The ICTJ has been involved in transitional justice in the Democratic Republic of the Congo since early 2003 when it began providing comments on draft legislation for a truth commission and traveled to Kinshasa to hold workshops and consultations with local groups, the UN, and international NGOs. Since then, the Center has been working with local civil society groups to enhance their ability to formulate transitional justice policies and lobby effectively for their implementation.

In January 2004, the ICTJ held an international workshop in Cape Town, South Africa, to discuss transitional justice options for the Democratic Republic of the Congo. Congolese government officials and civil society representatives, UN officials, the prosecutor of the International Criminal Court, international NGO representatives, and experts discussed prosecutions, possible legal and institutional reform measures to advance justice during the transition, and truthseeking initiatives. The ICTJ has advised MONUC and other members of the international community on issues relating to prosecutions, vetting, and the truth commission.

In October 2004, Senior Associate Federico Borello traveled to Kinshasa and Lubumbashi to present the latest ICTJ report, “A First Few Steps: The Long Road to a Just Peace in the DRC,” to Congolese civil society and government, and to the DRC-based international community.

The report, which is the result of 18 months of work by the ICTJ in the DRC, analyzes the steps taken in the implementation of a transitional justice framework since the beginning of the Congolese transition, and it provides some suggestions on ways forward.

### **About the ICTJ**

The ICTJ assists countries pursuing accountability for past mass atrocity or human rights abuse. The Center works in societies emerging from repressive rule or armed conflict, as well as in established democracies where historical injustices or systemic abuse remain unresolved. It provides comparative information, legal and policy analysis, documentation, and strategic research to justice and truth-seeking institutions, nongovernmental organizations, governments, and others.

The ICTJ assists in the development of strategies for transitional justice comprising five key elements: prosecuting perpetrators, documenting violations through nonjudicial means such as truth commissions, reforming abusive institutions, providing reparations to victims, and advancing reconciliation. The Center is committed to building local capacity and generally strengthening the emerging field of transitional justice, and works closely with organizations and experts around the world to do so.

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