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Congolese Militia Leader Arrested and Transferred to the ICC

A Positive Development but Further Steps toward Accountability in the DRC Needed

NEW YORK, March 17, 2006—The International Center for Transitional Justice (ICTJ) today welcomed the arrest and transfer of Thomas Lubanga, a Congolese militia leader charged with war crimes, to the International Criminal Court (ICC) in the Hague.

As the first arrest warrant to be issued by the ICC, this marks a significant preliminary step towards accountability for atrocities committed in the war-torn Democratic Republic of the Congo (DRC). But much more must be done to ensure justice for victims in that country, the ICTJ said, where countless others accused of war crimes continue to operate with impunity. The ICTJ expressed the hope that this development is but the first step in a broader and more comprehensive prosecutorial strategy targeting the long list of those responsible for horrific abuses in one of the world's most deadly conflicts.

Lubanga has been charged with three counts of war crimes involving recruiting and conscripting children under the age of fifteen and forcing them to take part in armed hostilities. Under his leadership, the Union of Congolese Patriots (UPC)—one of several notorious armed rebel groups—committed widespread atrocities, including two well-documented massacres in Bunia in 2002 and Mongbwalu in 2003. In so doing, they contributed to a conflict that has claimed more than 60,000 lives in the Ituri region of northeastern DRC alone. Lubanga's arrest on March 19, 2005, was prompted by an investigation into the February killings of nine Bangladeshi UN peacekeepers, which he is alleged to have masterminded.

The ICC has been involved in the DRC since March 2004, when President Kabila referred the situation to the Office of the Prosecutor. Since June 2004, a multinational team led by Chief Prosecutor, Luis Moreno-Ocampo, has carried out extensive investigations in the country, identifying for prosecution those persons bearing the greatest responsibility for the atrocities.

“Thomas Lubanga’s arrest by the ICC marks significant progress on the DRC’s long road to justice,” said Alpha Fall, head of the ICTJ’s DRC program based in Kinshasa. “But given the staggering scale of atrocities and suffering inflicted on Congolese victims and the impunity that many of those responsible continue to enjoy, much more will need to be done. Lubanga and the scores of other militia leaders and their supporters must be held accountable for the full range of terrible crimes they have committed.”

The ICTJ urges that the following steps be taken to bolster the pursuit of justice and combat the impunity that has fueled and prolonged the conflict in the DRC:

- In addition to child recruitment, the ICC must also bring charges against Thomas Lubanga for his widespread torture, rape, forced displacement, and killing of civilian populations.
- Other notorious warlords currently in custody in the DRC and suspected of bearing the greatest responsibility for war crimes, must be indicted and transferred to the ICC.
- Efforts must also be intensified to arrest, indict, and transfer to the ICC those leaders bearing the greatest responsibility who are still at large in the DRC, Uganda, and Rwanda, including those who continue to enjoy high-ranking official posts in the Congolese government or military.
- Finally, in order to bridge the “impunity gap” in the DRC, every effort must be made to strengthen the capacity of the domestic courts to prosecute and hold accountable all lower-level perpetrators falling outside of the ICC Prosecutor’s mandate. These efforts should include the expeditious establishment by the UN of a Special Chambers within the domestic system for trying war crimes.

“Allowing the perpetrators of some of the most massive and horrific acts of violence to roam free and escape accountability would be a deadly betrayal of the victims and of Congolese society,” said Fall. “It would be a tragedy if the progress marked by Lubanga’s transfer to the ICC was not immediately followed by vigorous efforts to bring all of those responsible to justice.”

History of the Conflict in the DRC

The DRC is emerging from over thirty years of brutal and corrupt dictatorship under Mobutu Sese Seko, whose rule ended in May 1997 when rebel forces led by Laurent-Desire Kabila took control of Kinshasa with support from Burundi, Rwanda, and Uganda. In August 1998, Kabila’s expulsion of Rwandan and Ugandan officials sparked a full-scale armed conflict that has since involved nine African states, 20 different armed factions, and is estimated to have killed as many as four million people, branding it “Africa’s World War.”

Despite Laurent-Desire Kabila's death and replacement in January 2001 by his more moderate son, Joseph Kabila, and the subsequent negotiation of peace agreements with neighboring states, the fighting has continued, drawing in local ethnic groups, proxy militias, UN forces, and breakaway forces of the national army. Today, atrocities against civilians continue largely unabated, particularly in the volatile regions of Ituri, North Katanga, and the Kivu Provinces. The nation is poised to hold its first democratic elections in four decades in June 2006.

The ICTJ in the DRC

The ICTJ has been involved in transitional justice in the DRC since early 2003, when it provided 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.

Because of the significance of the Congolese conflict for the Great Lakes region, in late 2005 the ICTJ established a permanent presence in the country through the appointment of Senior Associate Alpha Fall, who is based in Kinshasa. Alpha Fall is accompanied by Olivier Kambala, a Congolese Program Associate based in the Center's Cape Town office. In November 2005, the ICTJ DRC team conducted a series of meetings with senior UN personnel, diplomats, and high-level government officials, including President Kabila and several cabinet members, members of civil society, and the Congolese Coalition for Transitional Justice (CCJT). This mission served to consolidate the Center's work in the DRC and to launch a two-year program to provide support to transitional justice initiatives in that country.

About the ICTJ

The International Center for Transitional Justice (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.

In order to promote justice, peace, and reconciliation, government officials and nongovernmental advocates are likely to consider a variety of transitional justice approaches including both judicial and nonjudicial responses to human rights crimes. The ICTJ assists in the development of integrated, comprehensive, and localized approaches to transitional justice comprising five key elements: prosecuting perpetrators, documenting and acknowledging violations through non-judicial means such as truth commissions, reforming abusive institutions, providing reparations to victims, and facilitating reconciliation processes.

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. By working in the field through local languages, the ICTJ provides comparative information, legal and policy analysis, documentation, and strategic research to justice and truth-seeking institutions, nongovernmental organizations, governments and others.

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