

AMNESTY INTERNATIONAL PRESS RELEASE

AI Index: AFR 62/014/2004 (Public)
News Service No: 161
24 June 2004

DR Congo: International Criminal Court's investigation of war crimes and crimes against humanity a major step forward

Amnesty International hopes the announcement by the International Criminal Court (ICC) that it will begin investigations of crimes under international law, including crimes against humanity and war crimes committed during the conflict in the Democratic Republic of Congo (DRC), will bring some degree of justice to the millions of victims of the war in that country.

The announcement by the Prosecutor of the ICC of the commencement of an investigation follows a preliminary examination of crimes committed in the country since July 2002. In a positive step, the investigation will cover the entire country, not just the Ituri region that was the subject of the preliminary examination.

"This marks an important first step in addressing crimes under international law. We hope that the investigation will lead to the prosecution of persons bearing the greatest responsibility, including senior political and military figures in all the armed forces and groups who ordered or condoned crimes under international law such as mass killings, rapes and the use of child soldiers," Amnesty International said.

"Although the ICC has jurisdiction only to investigate and prosecute crimes committed after 1 July 2002, we hope that the ICC Prosecutor's actions will act as a catalyst to ensuring effective national and regional justice strategies. These strategies should include rebuilding the national justice system, to address all of the crimes committed in the country and to ensure reparations for victims to help them rebuild their lives," the organization added.

This is the first investigation announced by the new International Criminal Court since it was established two years ago. However, the investigation presents many challenges and requires the full support of the DRC government and the international community.

Amnesty International is concerned that, to date, the DRC government has yet to enact legislation defining the crimes in the Rome Statute as crimes under national law and ensuring full cooperation with the ICC. "The government must now enact as a matter of urgency, effective implementing legislation that excludes the death penalty," the organization said.

Furthermore, the government has yet to sign, or ratify, the Agreement on Privileges and Immunities for the ICC, which will be essential to ensure that the ICC can conduct investigations without undue hindrance. It should do so as soon as possible.

An illegal impunity agreement signed by the government with the USA committing not to surrender US nationals to the ICC should now be revoked.

The full cooperation of the government and the international community will be essential especially in ensuring the protection of victims, witnesses and ICC investigators, sharing evidence, protecting physical evidence and implementing the arrest and surrender of persons indicted by the ICC.

The ICC will have a particularly important role in ensuring the safety of victims and witnesses, including identifying those at risk and ensuring measures for their protection. Furthermore the ICC will now need to begin immediately the task of informing the population of the DRC about the ICC and how it will work.

Amnesty International calls on the international community to help the DRC rebuild and reform its justice system. Such assistance must ensure that the national justice system can investigate and prosecute, in fair trials and without recourse to the death penalty, crimes that the ICC will not be able to address and that victims will be able to obtain full reparations.

"The ICC will be able to bring to justice only a small number of those responsible for grave crimes in the Democratic Republic of the Congo. We hope that today's announcement will act as a catalyst in building an effective national justice strategy to address all the crimes committed in the course of the conflict and to ensure full reparations for victims," the organization said.

Background

The opening of the investigation follows a preliminary examination by the ICC Prosecutor's Office of crimes committed in the Democratic Republic of the Congo since July 2002 and the announcement by the Prosecutor in April 2004 that he had received from the government a referral of the situation in the DRC, the second such referral by a state under the Rome Statute of the International Criminal Court (Uganda made the first such referral when it referred the situation in the north of that country earlier this year).

The DRC government has drafted, but not yet adopted, legislation that would implement the Rome Statute in national law. In the draft implementing legislation, the death penalty replaces life imprisonment as the punishment for the crime of genocide and for crimes against humanity. Inclusion of the death penalty, which Amnesty International considers a violation of the right to life and constitutes the ultimate cruel, inhuman and degrading punishment, is contrary to international human rights standards and inconsistent with the increasing abolition of this penalty in Africa.

More than three million people are estimated to have died as a result of the conflict in the eastern part of the DRC, since 1998.

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