

Ref: TG AFR 62/2011.034
Index: AFR 62/011/2011

M. Joseph Kabila
President of the Democratic Republic of Congo
Palais de la Nation
Avenue de Lemera
Kinshasa-Gombe
Democratic Republic of Congo

**AMNESTY
INTERNATIONAL**



AMNESTY INTERNATIONAL INTERNATIONAL SECRETARIAT
Peter Benenson House, 1 Easton Street,
London WC1X 0DW, United Kingdom
T: +44 (0)20 7413 5500 F: +44 (0)20 7956 1157
E: amnestyis@amnesty.org W: www.amnesty.org

6 October 2011

OPEN LETTER TO PRESIDENT JOSEPH KABILA

APPEAL TO TRANSLATE PROMISES TO FIGHT AGAINST IMPUNITY INTO ACTION

Mr President

I am writing to encourage you to fulfil all your promises to reform the Congolese justice system and to take practical action to effectively combat impunity for international crimes committed in the Democratic Republic of Congo (DRC) and to allow victims of these crimes to obtain the truth, justice and reparations to which they have a right.

Since you took office, you have many times prioritised reform of the justice system and the fight against impunity. In your speech at the 66th session of the United Nations General Assembly in New York, you repeated your commitment to making progress with reform of the security sector, army, police, justice and prison services in the DRC. I believe that the effective implementation of these reforms is essential to end the impunity that reigns in the DRC. I would particularly like to welcome the recent initiative by your government, in response to one of the recommendations of the United Nations Mapping Project report, to establish a specialised court to deal with the crimes of genocide, crimes against humanity and war crimes.

One year after the publication of the United Nations Mapping Project report, which documented the most serious violations of human rights and international humanitarian law committed in the DRC between March 1993 and June 2003, much progress remains to be made in strengthening the justice system and fighting impunity for past and present crimes against international law.

The United Nations Mapping Project report identified more than 600 cases of the most serious violations of human rights and international humanitarian law in the DRC. After evaluating the capacity of the Congolese justice system, the report concluded that it is incapable in its current state of providing justice for these crimes. Among other issues, the report highlighted the limited resources allocated to the justice system, the tolerance of interference by political and military authorities in court cases that confirm the system's lack of independence and the inadequacy of the military justice system, which has sole jurisdiction for dealing with the numerous crimes under international law committed by the security forces.

In its recent report, "*The time for justice is now: new strategy needed in the Democratic Republic of Congo*" (AFR62/006/2011), published on 10 August 2011, Amnesty International, while recognizing that strengthening the Congolese justice system is a long-term process, notes that current efforts

remain insufficient in the face of the large-scale reforms necessary for victims of these international crimes in the DRC to obtain the truth, justice and reparations, in the form of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, to which they have a right.

Mr President, I strongly urge you to formulate and implement without further delay a strategy to reform the justice system and combat impunity, based on the recommendations of the Mapping Project report as well as on the complementary recommendations listed below.

In particular, I encourage you to continue your efforts to implement a comprehensive and long-term reform of the Congolese justice system so that it will be able to fight impunity effectively, and, in particular:

- Adopt measures to ensure the protection of victims and witnesses, and establish a legal framework to this effect;
- Ensure the independence of the judiciary by strengthening the role of the Conseil supérieur de la magistrature, Superior Council of the Judiciary and by combating political and military interference;
- Allocate the financial, material and human resources that will allow the justice system to fulfil its mission properly;
- Transfer jurisdiction over crimes of genocide, crimes against humanity, war crimes and other international crimes to the civil justice system;
- Ensure implementation of justice system verdicts condemning the state for international crimes;
- Ensure that the victims of international crimes obtain full and complete reparations;
- Reform the prison system, especially with a view to improving conditions of detention and reducing the number of escapes.

I would also like to draw your attention to the need to establish complementary mechanisms of transitional justice in accordance with international standards and after consultation with the victims and the population as a whole. These mechanisms include the establishment of a specialised court responsible for investigating and initiating proceedings against those suspected of international crimes in the DRC, as part of a comprehensive reform and strengthening of the justice system. The establishment of a national reparations programme for victims of international crimes, complementary to existing mechanisms, is also indispensable.

Finally, I call on you to implement as quickly as possible an effective mechanism to clean up the security services, particularly the police, armed forces and intelligence services, so that those suspected of international crimes can no longer hold positions in state institutions. It is therefore imperative to arrest Bosco Ntaganda, for whom the International Criminal Court has issued an arrest warrant for war crimes.

I am convinced that implementation of these recommendations would also prevent more international crimes. The establishment of a mandate for a United Nations Human Rights Council independent expert on the DRC to provide technical assistance with judicial reform and the fight against impunity could help the DRC in this area.

Yours sincerely

For Salil Shetty, General Secretary