

Action contre l'impunité pour les droits humains (ACIDH)
Association Africaine de Défense des Droits de l'Homme (ASADHO)
Global Witness
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***Kilwa appeal should take place in Kinshasa
to reduce the risk of political interference***

For immediate release:

London, UK / Lubumbashi, DRC (5 December 2007): The Congolese military court of appeal should take urgent measures to ensure that the Kilwa appeal, due to begin tomorrow, does not simply compound earlier miscarriages of justice, said a group of international and Congolese non-governmental organisations (NGOs).

ASADHO, ACIDH, Global Witness and RAID are calling for the appeal to be heard in the capital, Kinshasa and for a full independent forensic examination of the bodies of the victims of the Kilwa massacre to be carried out with international assistance.

In June 2007, a military court acquitted nine soldiers of the Congolese Armed Forces and three employees of the Canadian-Australian mining company, Anvil Mining, of all charges related to the October 2004 massacre of over 70 civilians in the remote town of Kilwa, in Katanga province, southeastern Democratic Republic of Congo (DRC).

The trial was plagued with flaws, irregularities and political interference. The families of victims and the prosecution immediately lodged an appeal against the verdict, which was publicly criticised by Louise Arbour, the United Nations High Commissioner for Human Rights.

“Only a full, independent forensic examination of the remains can establish the truth about the cause of death and the identities of the victims,” said the NGOs. “The Congolese judicial authorities lack the capacity to conduct a thorough examination of the graves, so we are urging the military court of appeal to request expert international assistance from the UN and donor governments. The appeal should not begin until such an examination has been conducted.”

The victims of the Kilwa massacre included a group of about 30 people who were taken into military custody and extrajudicially executed by soldiers. Their bodies were buried in pits along the side of the road leading to Anvil Mining's Dikulushi mine.

The three employees of Anvil Mining were charged with complicity in war crimes for having provided vehicles and logistics to transport soldiers and prisoners. The company argued that it had no choice, claiming that its vehicles and logistical support were requisitioned by the DRC authorities.

In the DRC, the hearing before the military court of appeal would normally be heard in Kinshasa. However, in this case, it is to take place in Lubumbashi, capital of

Katanga province, under the auspices of the provincial government. The NGOs maintain that in these circumstances, the proceedings are even more likely to be marred by political interference. The Governor of Katanga, Moïse Katumbi, who has reportedly pledged that the costs of the appeal will be met by the Katanga provincial government, is a former close business associate of Anvil Mining and publicly discouraged witnesses from testifying against the company during the first stage of the trial.

During the original trial, some witnesses were openly threatened in the court room, allegedly by friends of the military defendants. The dismissive attitude of the presiding judge has also left families of the victims uncertain about what they should do to seek redress.

“Many witnesses and relatives of victims are reluctant to come forward and cooperate with the appeal proceedings for fear of reprisals or further humiliation”, said Georges Kapiamba, one of the lawyers representing the families. “On the basis of their experience so far, they have no faith that justice will be done at the appeal.”

The NGOs urged the Congolese authorities to view the appeal as an opportunity to rectify the injustices and errors which have been committed and to restore faith in the independence of the Congolese judiciary.

“We are also calling on donor governments to demonstrate their support for the rule of law in the DRC by sending observers to the appeal hearings and by providing financial support and expertise for a forensic investigation”, said the NGOs.

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Note to editors

For details on the Kilwa events and the trial, see *Kilwa trial: a denial of justice. A chronology, October 2004 – July 2007*, published by ASADHO Katanga, ACIDH, Global Witness and RAID, 17 July 2007.

www.globalwitness.org/media_library_detail.php/560/en/kilwa_trial_a_denial_of_justice