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Association Africaine de Défense des Droits de l'Homme (ASADHO)
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**Three years on – still no justice for the victims of the Kilwa massacre
Fears of political interference in appeal hearing**

London, UK/Lubumbashi and Kinshasa, DRC (18 October 2007):

At a press conference in Kinshasa marking the third anniversary of the Kilwa massacre, international and Congolese non-governmental organisations (NGOs) are calling on the Congolese authorities to respect the independence of the judiciary and ensure a fair appeals process for the victims. The massacre of at least 73 civilians took place in the mineral-rich province of Katanga in the Democratic Republic of Congo (DRC) in October 2004.

After numerous obstacles in the investigation, nine members of the Congolese army and three expatriate employees of Anvil Mining (a Canadian-Australian company) were eventually charged with war crimes and complicity in war crimes in relation to the incident, including summary executions, torture, illegal detention and looting. The trial, which was characterised by serious flaws and political interference, was concluded in June 2007 with the acquittal of all the defendants in relation to the Kilwa events. Appeals challenging the verdict were filed by the prosecutor and the victims' lawyers.

“Justice is now in the hands of the military appeals court” said the NGOs. “The judicial authorities will have to resist further attempts to subvert the course of justice.” The NGOs expressed particular concern at reports that the provincial authorities have been putting pressure on the military authorities in the capital, Kinshasa, to hold the appeal in Lubumbashi, the capital of Katanga. “This is a highly unusual move that could jeopardise the integrity of the appeal. The process would be much more vulnerable to political pressure in Katanga.”

In their report “Kilwa Trial: A Denial of Justice” (published in July 2007) the NGOs documented a series of irregularities and obstructions that plagued the investigation and the military trial in Lubumbashi. Louise Arbour, the United Nations High Commissioner for Human Rights, also criticised the conduct of the trial. The victims and their families have expressed disbelief at the verdict according to their lawyers.

Since the verdict, Anvil Mining, with the support of the Congolese officials and some foreign governments, has been actively promoting its mining activities in the DRC. “Given the flawed process and the fact that the appeal is still pending, it seems inappropriate and premature to be acting as though justice has been served” said the NGOs.

The NGOs reiterated their call to the Congolese military judiciary to carry out a fair appeal process promptly, conforming to international legal standards and in the presence of international observers. The NGOs stated that if the appeal is to have any legitimacy,

the appeal court must take into account all the evidence, including detailed eyewitness testimony.

The NGOs are also calling on the governments of South Africa and Canada to undertake their own investigations and possible prosecutions against their nationals named in the Congolese trial (the three Anvil Mining employees). Likewise the Australian Federal Police should continue its investigation into the role of Anvil Mining and Anvil Mining staff in the events of October 2004. The three governments are all signatories to the Rome Statute which, under international law, enables home states to investigate and prosecute international crimes that occur abroad.

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For more information, please see the report "Kilwa Trial: a Denial of Justice" which can be downloaded at:

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

For further information and documentation, see: www.raid-uk.org