

Statement of Suliman Ali Baldo
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Subcommittee on State, Foreign Operations, And Related Programs
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Thank you, Madam Chairwoman, for the invitation to testify at this hearing on next steps toward peace and reconciliation in the Great Lakes region and the Democratic Republic of Congo.

My name is Suliman Baldo, and I am director of the Africa Program at the International Center for Transitional Justice (ICTJ). This morning I will comment on recent developments in the Democratic Republic of Congo that show the role the donor community – and especially the United States – can play to help achieve peace and progress in the region both at the policy and assistance level.

My own organization, ICTJ, focuses its programs in the DRC on combating the impunity that continues to fuel endless cycles of violence, and on promoting the rights of the victims to justice and redress. Our programming seeks to promote reconciliation through official and non-official forms of truth seeking and the introduction of much needed institutional reforms, particularly in the critical governance, justice, and security sectors.

Almost three years after Congo held democratic elections, the international community should reflect on the successes and failures of its contributions – diplomatically and through foreign assistance – in the region. Let me describe the situation.

In eastern Congo, opposing rebel groups, militias, the Congolese army (FARDC), and foreign troops from neighboring Rwanda and Uganda were fighting on Congolese soil. The clashes became progressively violent from 2007 through late 2008, triggering the displacement of tens of thousands fleeing killings, pillaging and horrendous rapes and mutilations.

In western Congo, the Kabila government demonstrated its use of abusive force, prompting concerns about the narrowing space for diversity of political opinion.

Mediation efforts scored only limited success in containing the violence; international pressure on Kabila to create the space for meaningful democratic exchange, including serious national dialogue on institutional reform, has been

inconsistent. Regional and international actors with influence in the region must redouble their efforts to bring lasting peace to the African Great Lake region and the killing grounds of the eastern DRC in particular.

We believe the international community should focus its development assistance in the following areas:

- **Short-term independent human rights and military observer mechanism.** In light of the ongoing atrocities perpetrated by all sides to the recent conflict, the international community should support the appointment of an independent human rights monitor for the DRC. This monitor would provide:
 - Further support and oversight to an effective process of disarmament, demobilization and re-integration (DDR). Numerous armed and militia groups continue to operate in northern and eastern Congo. Processes such as the recent “accelerated integration” of folding former rebels into the Congolese FARDC armed forces is highly problematic. As such, the international community must insist and provide financial support for a meaningful DDR process. International support, however, should also include increased resources on improving the “R”s – namely reintegration for demobilized Congolese rebels into society, as well as repatriation for Rwandan elements of the FDLR to put down their arms and return to Rwanda. The security and development situation on the ground in eastern Congo, as well as in Rwanda, must be improved to change the incentive structure that has facilitated the ongoing operation of myriad rebel and militia movements.
- **Meaningful security system reform (SSR).** The international community must change its current approach, characterized by piecemeal and uncoordinated bilateral and multilateral initiatives to reform various sectors of the security system – such as the army, police, and justice sectors – in isolation from each other. SSR requires a long-term commitment. Furthermore, financial and technical assistance on SSR must be accompanied by political pressure and benchmarks to promote national ownership of the long-term SSR process.
- **Continued support for civil society.** A vibrant civil society exists in Congo. But since the elections, international donor assistance to support the professionalization of civil society has waned. With economic conditions difficult throughout Congo, continued support to civil society is

necessary to guarantee their role in promoting Congo's fledging democracy and ensuring democratic and popular oversight of Congo's institutions.

- **Support for transitional justice measures.** The experience of Congo's conflicts shows that the culture of impunity must be broken if there is to be meaningful change in Congo's governance and leadership. The international community should support – by financial means and political pressure – a national dialogue on various transitional justice mechanisms. For example, a national policy should be developed on how to vet serious human rights abusers to exclude them from the security services. Furthermore, in the context of justice-sector reform, appropriate legislation should be adopted and policy decisions should be taken on how Congo wishes to pursue prosecutions for alleged perpetrators of grave international crimes.

Let me review security developments; political and humanitarian issues; the failings so far of attempts at demilitarization and security sector reform; the importance of transitional justice measures; and actions by donors.

1. Security Developments in Eastern DRC: A Regional Alliance of Convenience

In January 2009, the Ugandan and Rwandan armed forces were operating in the DRC at the invitation of the government. This was worryingly reminiscent of the regionalization of the Second Congo War from 1998-2003, known as Africa's First World War.

In the Orientale Province of northeastern Congo, the Ugandan Peoples' Defense Forces – with the support of the United States Government – joined the Congolese army and the Sudanese Peoples' Liberation Army (SPLA) in attacking the rebel Lord's Resistance Army (LRA) forces present in Congo with the objective of hunting down the LRA's leader, Joseph Kony. Kony is wanted by the International Criminal Court and has been the key obstructionist in the Ugandan peace process; the United States considers the LRA a terrorist organization.

While the goals of neutralizing the LRA and arresting Kony are worthy, the joint offensive in northeastern Congo, which continues to this day, has had disastrous consequences for the Congolese population. Not only have the UPDF, FARDC, and SPLA attacks against the LRA led to massive displacement, they also have prompted violent reprisals against remnant LRA troops against the Congolese

population. For example, in the “Christmas massacres” the LRA attacked several villages while the population was attending Christmas mass, killing hundreds of Congolese civilians and abducting children.

In the eastern Congolese province of North Kivu, the rebel National Congress for the Defense of the People (CNDP) of General Laurent Nkunda had been engaged in violent attacks against FARDC troops and remnant militias since 2007. Despite signing a peace deal in January 2008, the CNDP and other militias repeatedly failed to respect the ceasefire agreements. They increased their attacks starting in October 2008, threatening even to capture the North Kivu capital of Goma. Again, the civilian population of North Kivu suffered, with hundreds of thousands displaced. Furthermore, all sides to the conflict are alleged to have committed grave crimes against civilians, such as by the CNDP in the village of Kiwanja on November 4-5, 2008 and by the Congolese army in Kanyabayonga, also in November 2008.

From January 20 – February 25, Rwandan Defense Force troops operated in North Kivu at the invitation of the Congolese government to undertake joint military operations against remnant Hutu rebels of the Democratic Forces for the Liberation of Rwanda (FDLR). Despite recent bilateral rapprochement initiatives between Congo and Rwanda, these joint operations surprised the international community. Nevertheless, this turnaround in bilateral relations was a result of several pressure points from the international community. First, a critical by the UN Expert Panel on the Arms Embargo in November 2008 documented direct Rwandan government support to Nkunda’s CNDP, while also providing evidence that the Congolese government was supporting the FDLR. For once, the proof of the power relations behind the regional rebel conflicts in eastern Congo proved a significant embarrassment to Rwanda and the DRC governments alike. The report unmasked the merger between conflicts in the sub-region and the role of state actors in propping up each other’s abusive militias and rebel groups. Second, the UN Panel’s findings on the support of rebel groups prompted some European donor countries to suspend their financial aid to Rwanda.

Rwandan attempt to persuade its critics of its credentials as a responsible regional power nonetheless demonstrated that international community pressure can make a difference.

2. Political, Humanitarian Costs

Despite various claims of victory, these military operations have achieved limited results, and the security and political situations remain as precarious as ever. Joseph Kony remains at large, and his LRA elements have dispersed, posing an ongoing threat to the civilian population. In North Kivu, the military operations

only destroyed some FDLR bases and the attacks also led to the dispersal of FDLR fighters westward into Congolese territory. The collapse of the CNDP has resulted in its “accelerated integration” into the inept Congolese forces – notorious not only for their inability to fight and maintain effective control of sovereign Congolese territory, but also for their own record of massive human rights abuse against the civilian population.

Furthermore, the DRC-Rwanda alliance has sparked a constitutional crisis in the DRC. The Speaker of the National Assembly, Vital Kamerhe, publicly denounced the secrecy of the deal and demanded guarantees of parliamentary oversight of the operations. In response, Kabila denounced Kamerhe and called for him to resign from his parliamentary leadership position. Confusion reigns in Kinshasa at the approach of the March 15 opening of parliamentary session. It remains to be seen whether the recent military operations will result in invigorated democratic oversight or successful efforts by Kabila to stifle political dissent.

The current situation in the DRC makes clear that support for a purely military solution to the complex legacy of serious international crimes and breaches of international humanitarian law is not the answer.

3. On the Failures of Disarmament, Demobilization, and Reintegration & Security Sector Reform Processes

In the DRC, soldiers and policemen who are supposed to protect civilians from foreign aggressors, marauding militias, and common criminals are the primary perpetrators of looting, racketeering, banditry, and rape.

When a “Global and All-Inclusive Peace Agreement” signed in 2003 ended five years of Congo’s larger civil and international wars, there was little effort at the national level to create accountability mechanisms in the new army and national police forces. Some donors supported a disarmament, demobilization, and reintegration (DDR) process, while others embarked already on providing uncoordinated multilateral or bilateral initiatives supporting security system reform (SSR) – with isolated efforts made to influence army, police, and justice sector reforms. But the DDR and SSR processes were never coordinated, either financially or with political pressure from the international community. As a result, the international community continued supporting the 2006 elections, ignoring that the elections were occurring before disarmament and demobilization process was complete – rendering the region a tinder box.

Today, while some international actors hail the fact that the CNDP is no longer acting as a rebel menace against the Congolese government, its sudden

disintegration illustrates serious ongoing dangers. In the five weeks that followed the CNDP's defection to the government, more than 3,500 CNDP fighters have integrated into the national army's 15th Brigade. Immediately, human rights and military observers documented a marked increase in cases of human rights violations, including rape and sexual violence.

The lack of intervention to improve the professionalism and competence of integrated FARDC troops will likely result in increased commission of human rights violations in the near future committed by FARDC elements. The United Nations peacekeeping force in Congo, known by its acronym MONUC, is now facing a serious dilemma. Mandated to assist the Congolese government, it will be called upon to assist the inept and abusive Congolese army in continuing anti-FDLR operations in the East. This raises grave concerns that MONUC will not only be bystanders, but a companion force to future abusive military operations.

4. The Relevance of Transitional Justice

Last but not least, political and security developments of the last few months in the Great Lakes region clearly underpin the importance of transitional justice as a tool for consolidating peace and reconciliation. Vibrant Congolese civil society and human rights advocates have been making demands for accountability throughout the over-decade long conflict. Unfortunately, the international community has done little to put political pressure on the Congolese government to respond to this demand expressed by the public. Diplomats should increasingly place justice considerations as conditions on future assistance in contexts such as the Congo, facing overwhelming legacies of rights violations in the course of past or ongoing conflicts or after periods of autocratic rule.

Particularly in the short-term, the Congolese government's various positions vis-à-vis pursuing criminal justice for alleged war criminals is troubling. Currently, all four individuals detained at the International Criminal Court (ICC) are Congolese. One of these suspects is Kabila's former presidential challenger, Jean-Pierre Bemba, who is being tried for alleged war crimes committed by his former rebel forces in the Central African Republic.

In 2004, the DRC invited the ICC to investigate and prosecute alleged war crimes committed in Congo arguing that the Congolese justice system was not capable of providing impartial trials to pursue these serious crimes. While Congo initially cooperated with the ICC, it recently has named one ICC suspect, Bosco Ntaganda, a deputy commander of military operations in eastern DRC. Until recently, the Congolese government was seeking to secure Bosco's arrest. The Congolese government has explained its change in position with the dubious claim of seeking to promote peace. At the same time, Congo has requested the extradition of

former CNDP leader, Laurent Nkunda – now under unknown terms of custody in Rwanda – to face war crimes charges before the Congolese military justice system. In sum, the Congolese government’s contradictory positions – pursuing some prosecutions, but not others, at the international and national level – raise grave concerns about setting precedents for the promotion and establishment of the rule of law in Congo.

5. Donor Engagement

International assistance to the DRC has been marked by a change in focus from supporting steps toward democratic elections to supporting good-governance or development. But little attention is given to adapting aid policies to achieve results in light of the ongoing protracted armed conflict in northern and eastern Congo and uncontested fact that the Congolese government does not have effective sovereign control over its national territory.

Given recent events in the DRC, the international community must reassess the effectiveness of its aid and make a serious commitment to long-term efforts at meaningful security system reform. Regardless of the objectives of development assistance – be it improved malaria or HIV/AIDS prevention, environmental protection, improved education and access to social services, or improved access to justice for victims of sexual- and gender-based violence – **no measures will be effective unless a minimum of security is established in the destabilized regions, effective sovereign control extends throughout the DRC, and political space exists for democratic growth and meaningful participation by Congolese citizens.**

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