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## **Impunity in the Great Lakes Region**

Statement by Human Rights Watch prepared for the “Arria Formula” meeting

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As experience has shown in the Great Lakes region and elsewhere, failure to ensure accountability for grave crimes has time and time again resulted in outbreaks of violence from groups whose grievances have never been addressed. In Burundi the Hutu who received no justice for mass slaughter in 1972 joined all the more readily in attacking Tutsi in 1993 and after. When amnesty for serious crimes is offered in hope of ending hostilities, such offers rarely spur combatants to put down their arms. In Uganda, despite the general amnesty for rebel forces in 2000, the Lord's Resistance Army continues to engage in the killing, torture and mutilation of civilians and abduction of children. The amnesty granted those in the conflict in Sierra Leone through the Lome Peace Accord only sowed the seeds for further loss of life and destruction in that country.

In contrast, the credible threat of prosecution can have a positive effect by stigmatizing and isolating a disruptive actor from the political scene. The indictment of Charles Taylor by the Sierra Leone Special Court, for example, undermined his political stature, hastened his departure from Monrovia and thus has helped to strengthen stability in the region.

Therefore, when the council enumerates recommendations for the situation we urge you to include specific steps to end impunity in the resolution or action plan. Furthermore, we urge you to see such steps are implemented on the ground. I will enumerate a few specific recommendations.

#### DEMOCRATIC REPUBLIC OF THE CONGO

In the Congo we welcome the investigation of the International Criminal Court (ICC) in Ituri. We look forward to the issuance of arrest warrants for those most responsible for the most serious crimes of concern to the international community as a whole regardless of their official position or nationality. The ICC prosecutor has the opportunity to send a strong message against impunity across the region and we urge him to maximize it. But ICC involvement alone is not enough to end impunity for the serious crimes that occurred since 1996. The ICC will only try a handful of perpetrators. As a practical necessity and to best strengthen the rule of law, many more trials for war crimes should take place in the Congo. To that end, we look forward to the passage by the transitional parliament of ICC implementing legislation consistent with international human rights norms. The law contains provisions granting authority to eleven appeals courts to try violations of international humanitarian law. But this is only a first step. These trials will be complex and the court system of the Congo will need targeted international assistance to develop the capacity to conduct these trials. We applaud the success of the European Commission's pilot project for rebuilding justice in Ituri. It is an important step, but it is very limited. We urge the international community to provide the expertise and resources necessary for the Congo to strengthen its national judicial system.

MONUC forces should also assist in the arrest of individuals sought by the ICC and Congolese authorities. MONUC's mandate, as set forth in Resolution 1565 and reiterated recently in Resolution 1649, includes cooperation with efforts to bring perpetrators to justice. We urge the Security Council to continue to make justice a priority in its initiatives in the Congo. We also believe MONUC should strengthen its rule of law unit to be able to better assist in developing national judicial capacity.

While some of these actions will unfold over the medium term, we urge that immediate steps-- consistent with Resolution 1649 -- be taken to assist Congolese authorities in bringing to justice perpetrators of grave violations of human rights and of international humanitarian law. This will send a strong message that the culture of impunity will not be tolerated. The council should urge the Congolese government, neighboring countries, and MONUC to arrest known human rights abusers. This should include former general Laurent Nkunda whose renegade forces are responsible for renewed fighting in North Kivu last week and continuing abuses against civilians. Nkunda's role in the eastern Congo exemplifies the dynamic link between justice and peace: bringing Laurent Nkunda to

justice is critical to any meaningful peace in the east. Other serious abusers such as Jerome Kakwavu and Kisémbó Bahumeka, responsible for serious crimes in the Ituri region of the DRC, have been promoted to generals rather than being held to account for their abuses. These flawed decisions have sent a message that abusers will be rewarded rather than punished – a dangerous message to send in Congo. MONUC should be doing all it can politically and militarily to ensure human rights abusers are held to account.

## UGANDA

The ICC has issued arrest warrants for five senior leaders of the Lord's Resistance Army (LRA) after having accepted Ugandan referral of the situation in the northern part of the country. The killing on Monday of MONUC forces by the LRA in the Democratic Republic of the Congo underscores the regional nature of the threat posed by the LRA. This latest loss of life emphasizes the need for states across the Great Lakes to render all necessary assistance to the ICC to secure the arrests of the indictees. In addition, as part of this Great Lakes initiative, we urge the Security Council in any resolution it adopts to call on Ugandan authorities to investigate and, where appropriate, prosecute their own military personnel for abuses against civilians. To ensure stability in the long-term, Uganda should investigate all serious violations of international human rights and humanitarian law, regardless of the perpetrator, from the beginning of the conflict in 1986.

## BURUNDI

Burundi represents a clear and immediate opportunity for the Security Council to contribute to a meaningful accountability process. While we welcome the new democratically elected government in Burundi, we are concerned about the lack of progress in creating a Truth Commission and Special Trial Chamber in the Burundian national justice system as recommended by the Security Council last June in Resolution 1606. The new government shows little will to bring accused perpetrators to justice for violations of international humanitarian law. We urge the government to set time limits to the grants of “provisional immunity” made to parties in the civil war and to ensure that the exclusion of serious violations of international humanitarian law from such “provisional immunity” be rigorously enforced.

In Burundi the legacy of impunity in the past kept alive the anger and fear of disaffected groups, leading to repeated periods of violence. We believe that only meaningful accountability measures can break the futile cycle and promote the long-term stability of the nation. It is imperative that the Security Council press forward with the implementation of Resolution 1606 to establish truth and justice mechanisms and that Burundi receive the assistance necessary for these mechanisms to succeed.

## RWANDA

In Rwanda, the International Criminal Tribunal for Rwanda continues to move forward with its completion strategy. As its work draws to a close, the

assistance of states in the region in making arrests becomes more and more urgent. The council has called upon states to cooperate with the ICTR in resolutions 1534 and 1649 and we urge the council to continue to press states to assist with arrests. In addition, in order for the ICTR to fulfill its mandate, it must fully investigate the events of 1994 and indict those responsible for serious violations of international humanitarian law no matter what the political affiliation of the perpetrator. If the tribunal closes without ensuring justice for crimes laid to the Rwandan Patriotic Front (RPF), it will have fallen short of its mandate in the eyes of those whose opinion most matters: the Rwandan people. Sadly, and I can't emphasize this enough, the tribunal will leave a legacy of one-sided justice harmful to the region if it fails to fully investigate the events of 1994. Thus, if it becomes necessary, we believe that the Security Council should signal its flexibility about the timetable for completing the work of the tribunal.

Efforts to ensure justice in Rwanda show how establishing credible tribunals can affect the stability of the region. The gacaca jurisdictions established in 2002 to try crimes of genocide and war crimes were meant to combine customary practices of conflict resolution with punitive justice. But these jurisdictions have failed to win widespread public trust, in part because they fail to provide justice for crimes committed by the RPF. When pre-trial inquiries began throughout Rwanda early last year, some 10,000 Rwandans fled to surrounding countries, many saying they feared false accusations and unfair trials. Those found guilty of genocide and other crimes must be punished, but the system judging accusations must be fair and must be seen to be fair if stability within Rwanda and the larger region is to be preserved.

## CONCLUSION

In conclusion, we therefore urge the Security Council to stress the importance of ending impunity as a crucial component of its work on peace and security in the Great Lakes region and to actively support national efforts to develop accountability mechanisms. Thank you.

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