



A. Preliminary Remarks of the Berlin Jury:

Over the last two decades, numerous crimes against humanity have been committed in the Democratic Republic of Congo – without so much as a rudimentary response from the courts to date. This impunity is unacceptable. To effectively combat these crimes, the Congolese government and the international community must make available the needed resources. Congolese civil society and local human rights organizations must be strengthened and the survivors of violence supported.

To these ends, the trying of these crimes before national tribunals as well as – yet to be created – tribunals of mixed national and international composition must be made a priority. We therefore call on the Congolese government and the international community to do everything in their power to make these mixed chambers (chambres mixtes) a reality. The International Criminal Court in The Hague should also play an important role as ultima ratio. However, it must no longer be as selective as in the past in deciding which crimes to try. Not only violent crime, but also white-collar crime must be investigated and prosecuted.

B. Findings of the Berlin Jury:

We now come to the individual areas of investigation of the Berlin Hearings:

- 1) the responsibility of international companies and the World Bank
- 2) the responsibility of the EU and its member states
- 3) the responsibility of the United Nations and major NGOs

1) The question of the responsibility of international companies is difficult to answer from a legal perspective. Many of the activities of multinational corporations are surely in compliance with Congolese mining laws. However, the legitimacy of this legislation itself must be examined, as well as its consistency with international law and the Congolese constitution. We therefore demand that the activities of international companies be judged according to international law and the Congolese constitution. At the same time, we observe that there are no institutions at present that offer the persons concerned a venue for legal action and the assertion of their rights. These must be created.

As regards international companies' furthering of economic development and the establishment of peace in the Democratic Republic of Congo, we are unable to discern any

such decisive contribution. Rather, as in other states with comparable conflict situations, the weakness and corruption of the Congolese central government in Kinshasa has afforded, and continues to afford, opportunities to negotiate contracts and agreements to the detriment of the respective population. The questioning of experts in Berlin has shown that international corporations – for example, the Canadian company BANRO – profit from this situation. Moreover, there is reason to believe that the World Bank and other institutions, despite substantial knowledge about conditions in the Democratic Republic of Congo – the result of three decades of dictatorship, two wars, and a complete breakdown of state institutions – supported the passage of these agreements as well as a mining law that has proven damaging to the Congolese population. We demand that the specific roles of the World Bank and other institutions in this context be legally and politically investigated.

2) As regards the responsibility of the EU and its member states, which we examined in the Berlin Hearings with respect to the influence of European and North American trade regulations concerning the Democratic Republic of Congo, we found in the course of the questioning of experts and the recording of the witness statements in Bukavu, that, for example, the section 1501 of the Dodd-Frank Act had undesired outcomes for the economic life of Eastern Congo.

A number of the Jury members additionally observe that regulatory measures like the Dodd-Frank Act only serve the public image of the electronics industry while negatively impacting the Congolese population itself.

All of the Jury members fundamentally agree that the extraction and trade of mineral resources must be regulated. However, we demand that all regulation, whether this be of North American or European provenance, incorporate the priorities and interests of the Congolese population and in particular the artisanal miners and cooperatives.

We further demand that these regulations, once they have been worked out to the satisfaction of all concerned parties, be binding and that compliance with them be institutionally monitored.

3) As regards the role of the UN and NGOs with respect to human rights violations in Eastern Congo, we find that the United Nations mission stationed there indeed has the means necessary to protect the civilian population – as it does in other, comparable conflict areas. Despite all of its capabilities, its human resources, and its military, organizational, and budgetary capacities, however, this mission has not comprehensively protected the population from attacks and thus has not fulfilled its mandate.

Cases of inactivity of the UN forces through neglect, along with their direct involvement in crimes, must be investigated. In light of the severity of the crimes, the immunity of the UN must not be a legal obstacle and must be annulled.

As regards the sustainability and the effectiveness of the efforts of international humanitarian organizations (NGOs) in Eastern Congo, the experts that we questioned all found that these in their current practice do not contribute to the protection of, or to establishing sustained peace in, the region. All of the experts agreed that increased efficacy in the work of international NGOs depends on long-term planning and cooperation with local nongovernmental organizations. Moreover, we call for the implementation of a binding code of conduct for NGOs, adherence to which is a decisive condition for their financing, and which must be observed by all donors and sponsors. As long as these conditions are lacking, as is currently the case in Eastern Congo, the activities of international humanitarian organizations will contribute not to the cessation or resolution of the problems, but to their perpetuation.

C. Concluding Remarks of the Berlin Jury:

We repeat: The prosecution of human rights violations is essential; the impunity with which such crimes are being carried out in the Democratic Republic of Congo at present is intolerable and unacceptable. However, the circle of groups of actors held accountable for such crimes must extend far beyond the immediate perpetrators on the ground. In addition to the multinational mining companies, corrupt government officials, dealers of conflict materials, the army, armed groups, etc., it must include those who consider it a human right to be able to acquire finished products as cheaply as conceivably possible without regard to the conditions under which they are made. If, for example, smartphones – which rely on raw materials like those from the Congolese mines – had to be purchased at prices reflecting the social and ecological costs of their production, this would be a vital step in breaking the current continuum of exploitation and crime.

Declared in the presence of the President of the Tribunal, Jean-Louis Gilissen, at the Bundeszentrale für politische Bildung (Federal Agency for Civic Education) in Berlin, Germany, on 29 June 2015.

Members of the Berlin Jury:

Colette Braeckman (Belgium)

Saran Kaba Jones (Liberia)

Wolfgang Kaleck (Germany)

Saskia Sassen (USA)

Marc-Antoine Vumilia (Democratic Republic of Congo)

Harald Welzer (Germany)