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Technical assistance and capacity-building

Written statement* submitted by The Next Century Foundation, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[21 August 2023]

* Issued as received, in the language of submission only.



Calling the Major Cellphone Manufacturers to account, alongside the United Nations itself, with regard to the Democratic Republic of the Congo

The Next Century Foundation, in conjunction with the UK Justice Congo Group, write to join our voice with that of the United Nations Human Rights Council in its Resolution 51/36, which has called for progress on the situation of human rights in the Democratic Republic of the Congo (DRC) since its adoption on 7 October 2022. We welcome the main spheres of activity to which this Resolution refers.

However, there is one matter missing from the list of impressive activity with regard to the Democratic Republic of the Congo. This is the failure to mention the need for urgent implementation of the all-important 2009 Mapping Report by Robert Garreton, commissioned by the United Nations and only partially published in 2010. It was partially published in the sense that the identities of the alleged perpetrators of the documented abuses – around 200 people, including several dozen high-level military and political officials – do not appear in the public report, but are in a confidential database available to the United Nations High Commissioner for Human Rights (OHCHR).

The Mapping Report contains details of 617 alleged violent incidents occurring in the Democratic Republic of the Congo between March 1993 and June 2003, during the First and Second Congo Wars. At the time of publication, on 1 October 2010, the United Nations High Commissioner for Human Rights (OHCHR) said: “The majority of the 617 documented acts of violence can be qualified as crimes against humanity and war crimes. Concerning the massacres targeting the Hutu populations between 1996 and 1997, the report indicates that the attacks committed by the Rwandan Patriotic Army (APR) and the Alliance of Democratic Forces for the Liberation of Congo (AFDL) reveal several damning elements which, if proven in a competent court, could qualify as crimes of genocide”.

The Mapping Report contains a plan of action to deal with these appalling and gross violations of human rights and international humanitarian law, but till now no action has been taken to implement the recommendations of the Report. The Report has remained shelved by the United Nations.

One of the recommendations by the OHCHR was the setting up of a specialized court to shed light on the abuses committed between 1993 and 2003. This never saw the light of day. Although the Congolese government – under former President Joseph Kabila – proposed in 2013 the creation of mixed specialized chambers composed of Congolese and foreign judges, to be integrated into the Congolese judicial system, the law creating such a body was never adopted.

For their part, the judicial systems of neighbouring countries (Rwanda, Uganda, and Burundi) have systematically ignored the abuses committed by their regular armies on Congolese territory.

It is clear, from the lack of action during the 13 years since the Report was published, that the Congolese government and the Congolese people need the assistance of the United Nations and the international community in addressing these immensely serious matters. The current transitional justice activity is nowhere near robust enough to address such grave crimes as those referred to in the OHCHR’s quote above, not least because a number of perpetrators are actually present within the Congolese, Rwandan and Ugandan governments and armies. This toxic mix has paralysed any attempt by the Congolese government to address the findings of the Mapping Report.

Instead, the Congolese people are left with a burden of unresolved agony that is preventing a move forward to peace, especially in the troubled area of eastern Democratic Republic of the Congo. To quote from the Foreword of the Mapping Report: “No report...can adequately describe the horrors experienced by the civilian population in Zaire, now the DRC, where almost every single individual has an experience to narrate of suffering and loss”. Furthermore, with some of the perpetrators named in the Mapping Report still at large in the Democratic Republic of the Congo, further terror is instilled into the hearts of those who remember their past crimes of violence, murder and rape.

It is essential that the United Nations High Commissioner for Human Rights and the United Nations Human Rights Council face up to this historic legacy, and implement their own Mapping Report, as a matter of urgency.

When we attended the 52nd Session of the United Nations Human Rights Council, we were encouraged to hear a number of United Nations officials refer to the Mapping Report in their oral reports to the Enhanced Interactive Dialogue on the Democratic Republic of the Congo of 30 March 2023. We heard references to it from Ms Marie-Therese Keita-Bocoum and Mr Arnaud Akodjenou, from the Office of the United Nations High Commissioner for Human Rights. Ms Bintou Keita, Special Representative of the Secretary-General in the Democratic Republic of the Congo, also referred to the Mapping Report. In addition, there were a number of oral statements which made mention of the Report, including from Amnesty International and the International Service for Human Rights, as well as several other NGOs, including our own oral statement. We believe this cumulative concern indicates that the tide is turning, and that the time has come for the Mapping Report to be implemented in full.

It is well known that the tragic legacy of the First and Second Congo Wars, referred to above, is directly related to the West's desire for the minerals that are so abundantly present, and fought over in the east of the Democratic Republic of the Congo. These are the so-called "conflict minerals" of coltan/tantalum, tungsten, tin/cassiterite and gold used in millions of mobile phones across the world. During the past 30 years, since these technologies have been developed, the Democratic Republic of the Congo's neighbours, Rwanda and, to a lesser extent, Uganda and Burundi, have stirred chaos and violence in the mining lands, in order to terrorize the local population and drive them away from these valuable areas. A large amount of minerals is smuggled across the border and sold as Rwandan or Ugandan produce, being passed off as "conflict-free" regardless of its actual origin.

The Dodd-Frank Act 2010 in the United States of America requires the United States of America technology companies to disclose their use of conflict minerals. Although well intentioned, this caused some unintended consequences, such as an increase in rebel groups' looting of civilians in the Democratic Republic of the Congo. Furthermore, artisanal mining (by hand) of minerals in eastern Democratic Republic of the Congo is the most important rural, non-farming activity across the east of the Democratic Republic of the Congo, providing the only source of income to thousands of Congolese families. It is necessary to decriminalize this source of income and recognize it as legitimate as a first step to supporting the livelihoods of these families – rather than "de-risking" in the short or medium term for a company's benefit.

International organizations, including the United Nations, need to collaborate with local government, miners and rebel fighters to create comprehensive strategies that tackle the economic drivers of the conflict mineral trade. At an individual level, consumers should be encouraged to lobby their mobile phone provider to fully disclose where the minerals used are coming from.

The Ethical Consumer magazine carried out a conflict minerals rating exercise in September 2022, with the following results: Fairphone, Google, Apple and Sony scored the best rating; Motorola and Samsung scored the middle rating; the remaining brands (67% of the market) scored the worst rating. There is clearly a very long way to go in addressing the tragedy of conflict minerals in the war-torn east of the Democratic Republic of the Congo.

We believe that the United Nations Human Rights Council could play its part in pursuing a serious and consistent approach to the conflict minerals trade that ravages the lives of so many Congolese people. Such international action, combined with implementation of the Mapping Report, could provide hope and change for the people of the Democratic Republic of the Congo, which they so desperately need.

The UK Justice Congo Group, NGO(s) without consultative status, also share the views expressed in this statement.