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May 1, 2015

Hon. Alexis Tambwe Mwamba
Minister of Justice and Human Rights
P.O. Box 3137
Kinshasa/Gombe
Democratic Republic of the Congo

Dear Minister Mwamba:

I write on behalf of the Association of the Bar of the City of New York (the Association) to express our grave concern over the arrest and continuing detention, without formal charges or access to lawyers or visits from their families, of youth activists who were peacefully assembling in civil society events in the capital, Kinshasa and in the North Kivu capital, Goma. We urge you to take all necessary measures to ensure that all the detainees be given due process protections and released immediately if no valid charges are warranted. These requested actions are necessary for the Democratic Republic of the Congo (DRC) to comply with international law and its Constitution.

The Association is an independent non-governmental organization with more than 24,000 members in over 50 countries. Founded in 1870, the Association has a long history of dedication to human rights, notably through its Committee on International Human Rights, which investigates and reports on human rights conditions around the world, and the Committee on African Affairs, which closely monitors and responds to legal developments in Africa.

It has been reported that security officials stormed a press conference held on March 15 at a youth center in Kinshasa. Approximately 30 people were arrested at the time, including activists from the Congolese youth organization Lutte pour le Changement (LUCHA), the Senegalese movement Y'en a Marre, the Burkinabé group Balai Citoyen, as well as an American diplomat and journalists present at the press conference. The press conference followed a workshop on youth civic engagement in political processes in the run up to the country's elections, and was organized by local NGOs.

An eyewitness told Amnesty International that people were harassed and man-handled by security officials before being taken to unknown places. The American diplomat and foreign

journalists were released the same day, and the Senegalese and Burkinabé activists were subsequently deported.¹

Three members of “Filimbi”, a youth group, who were arrested, have been held in secret detention since March 15 by the intelligence service without being charged, and not allowed to see their families or lawyers.² On April 7, intelligence agents and police in the eastern city of Goma also arrested members of the group Struggle for Peace (Lucha) on April 7 who peacefully protested the Kinshasa detentions. Four members of the group are still being held in Goma’s central prison since their arrest.³

The arrest and detention of the peaceful activists who assembled in a workshop violates the DRC’s obligations under the International Covenant on Civil and Political Rights (ICCPR) that the DRC acceded to in 1976,⁴ the African Charter on Human and Peoples’ Rights (ACHPR) that the DRC ratified in 1987,⁵ and the Constitution of the DRC.

As a signatory to the ICCPR, the DRC is obligated to abide by Part II, Article 9 which states that “Anyone arrested or detained...shall be brought promptly before a judge or other authorized officer...and shall be entitled to trial within a reasonable time or to release.” Article 14 3 (a) states that everyone shall be entitled “To be informed promptly...of the charge against him;” and in (b) the right “to communicate with counsel of his own choosing.” Article 14 3 (c) further requires that a defendant “be tried without due delay.” Article 18 requires State Parties to allow everyone the right to freedom of thought, and in Article 19 2 to allow “Everyone...the right to freedom of expression, and in Article 21 “the right of peaceful assembly”.⁶

The ACHPR stipulates in Article 71.d that every individual shall have “the right to be tried within a reasonable time,” and in Article 71.c, the right “to be defended by counsel of his choice.” Article 9 states that, “Every individual shall have the right to express...his opinions” and Article 10 requires that every individual have the right to free association. Article 11 obliges State Parties to ensure that, “Every individual shall have the right to assemble freely with others.”⁷

The DRC Constitution states in Title II, Article 18 that “Any person who has been arrested must be immediately informed of the reasons for his/her arrest,” and that “A person kept in custody has the right to immediately contact his/her family and his/her counsel. Custody must not exceed

¹ Amnesty International, *Urgent Action Human Rights Activists Held Incommunicado*, UA: 67/15 Index: AFR 62/1284/2015 Democratic Republic of Congo, March 23, 2015.

² News24, *DRC illegally detained, tortured pro-democracy activists – HRW*, April 16, 2015, available at <http://www.news24.com/Africa/News/DRC-illegally-detained-tortured-pro-democracy-activists-HRW-20150416>.

³ *Id.*

⁴ Guide to International Procedures Available in Cases of Human Rights Violations in Africa, *Claiming Human Rights-in the Democratic Republic of the Congo*, available at <http://www.claiminghumanrights.org/drcongo.html>.

⁵ *Id.*

⁶ International Covenant on Civil and Political Rights, available at <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

⁷ African Charter on Human and Peoples’ Rights, available at <http://www.achpr.org/instruments/achpr/>.

⁸ The Constitution of the Democratic Republic of the Congo, Title II Human Rights, Fundamental Liberties and the Duties of the Citizen and the State, available at <http://www.constitutionnet.org/files/DRC%20-%20Congo%20Constitution.pdf>.

48 hours. On expiry of this period, the person in custody must be released or placed in the hands of a competent judicial authority.” Article 23 ensures the right to freedom of expression, and Article 22 states that, “All persons have the right to freedom of thought...both in public and in private.” And in Article 25 the freedom of peaceful meetings without weapons is guaranteed.⁸

Because of the violations of international law and the DRC’s Constitution, we respectfully request that you take all necessary measures to ensure that these detainees are afforded full due process and released immediately if no charges are warranted. Such steps are necessary to uphold the right of freedom of expression and peaceful assembly.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Debra L. Raskin". The signature is fluid and cursive, with the first name "Debra" being the most prominent part.

Debra L. Raskin

CC:

The Honorable Flory Kabange Numbi
Attorney General of the DRC

The Honorable M. Evariste Boshab
Minister of Interior of the DRC

The Honorable Faida Mitifu
DRC Ambassador to the United States

The Honorable Commissioner Zeid Ra'ad Al Hussein
U.N. High Commissioner for Human Rights

The Honorable John F. Kerry
U.S. Secretary of State

The Honorable Dr. Nkosazana Dlamini Zuma
Chairperson of the African Union Commission

The Honorable Kayitesi Zainabo Sylvie
Chairperson of the African Commission on Human and People’s Rights
