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The Hon. Peter MacKay  
Minister of Foreign Affairs  
Foreign Affairs Canada  
125 Sussex Drive  
Ottawa, ON K1A 0G2

January 11th, 2007

**RE: Killers of CIDA-supported human rights defender in the Democratic Republic of the Congo remain at large**

Dear Minister MacKay,

On July 31, 2005 a leading human rights defender, Pascal Kabungulu Kibembi, was assassinated in his home in Bukavu, eastern Democratic Republic of the Congo (DRC). Mr. Kabungulu was the Executive Secretary of the organization Héritiers de la justice, a partner of KAIROS and several Canadian churches and supported by Canadian taxpayers through the Canadian International Development Agency. His organization had uncovered grave human rights abuses by armed groups in eastern DRC and called on the government to put an end to the impunity with which these groups operated.

In late 2005, Colonel Thierry Ilungu, commander of the 105th Brigade of les Forces Armées de la République Démocratique du Congo (FARDC) was arrested and put on trial by the military. Colonel Ilungu had issued death threats against Mr. Kabungulu in the past and was accused of ordering the assassination. Convictions were handed down but later overturned as a result of pressure within the military. No further action has been taken. (Please [see the appendix](#) for details.)

Despite a visit with representatives of Héritiers de la justice by a delegation of the Standing Senate Committee on Foreign Affairs led by its President, the Honourable Peter Stollery, and the perfunctory acknowledgement of our concerns from the Canadian ambassador to the DRC, KAIROS has received no further response on any action taken to follow up on this situation since our initial letter to Minister Pettigrew on August 11, 2005.

Nevertheless, we at KAIROS see the Canadian push for justice in the case of Mr. Kabungulu's assassination as a means of beginning to address the much larger culture of impunity in the DRC that has been exacerbated by the recent war and the subsequent unrest. In total, nearly 4 million lives have been lost by the fighting, the most in any country since World War II.

Consequently, we urge Canadian officials to:

- Meet with the members of Héritiers de la justice to discuss re-starting the trial as well as mechanisms for protection of its staff.

As well, we continue to urge the Canadian government to request from the newly elected Congolese government:

- A new, complete and independent investigation into Mr. Kabungulu's death; and,
- The re-prosecution of individuals involved in the murder, including those accused of obstructing justice.

While the recent historic rounds of elections in the DRC are an important first step to establishing the rule of law and good governance, the elections do not in themselves address the many cases of impunity that have gone unpunished, abetting more of the same. Taking up the very tangible case of Mr. Kabungulu's assassination is a barometer for justice by the Canadian government for all Canadians following events in the Congo.

We have reason to believe there are those in authority in the Congo who would prefer that the memory of Mr. Kabungulu be erased. While Mr. Kabungulu's family has now been resettled in Canada as refugees, the truth about his death and the protection of those still struggling for human rights in the DRC need to be established for justice to be fully served.

Looking forward to your response,

Mary Corkery  
Executive Director  
KAIROS: Canadian Ecumenical Justice Initiatives

cc. Jean-Pierre Bolduc  
Ambassador of Canada to the Democratic Republic of Congo

Henri-Paul Normandin  
Director, Human Rights, Humanitarian Affairs and International Women's Equality Division,  
Foreign Affairs Canada

Julian Murray  
Program Director  
Central Africa and Great Lakes Program  
Canadian International Development Agency

Alfa Sow  
Chief Clerk, MONUC Sector 5  
Bukavu, DRC

## Appendix

It has been well documented that the alleged killers of Mr. Kabungulu, including a local Congolese military commander, were identified, and that the United Nations Mission to the DRC (MONUC) and the international community took no action. The killing was a response to Mr. Kabungulu's role in exposing Congolese commanders' involvement in contraband smuggling that still continues, e.g., Keith Harmon Snow and David Barouski in "Suffering in the Congo: Behind the Numbers" (*Z Magazine*, July/August 2006, Volume 19 Number 7/8).

Subsequently, Mr. Kabungulu's widow and children, having fled the DRC in fear of their safety, were recently accepted as refugees by Canada and settled in Gatineau in the fall of 2006.

On August 4, 2005 two members of les Forces Armées de la République Démocratique du Congo (FARDC) accused of involvement in Mr. Kabungulu's murder escaped from custody with the help of Colonel Thierry Ilungu, commander of the 105th Brigade of the FARDC.

A subsequent military trial was held in late 2005. It culminated in a final military court session held in Bukavu in open air to accommodate the tens of thousands of on-looking citizens demanding justice. All of this is captured on DVD. Convictions were handed down.

Unfortunately, we understand that military superiors subsequently dismissed the convictions because the military prosecutor was of a lower rank than the principal defendant. There have apparently been no resources within the military justice system with which to begin a new trial including a prosecutor of a higher rank.

In the last six months there has been a progressive isolation of all judges who participated in the trial and who have information on the alleged assassins of Pascal Kabungulu. Recent developments include the following:

- The accused, including Colonel Thierry Ilungu, currently the commander of an integrated brigade based in Goma, Nord-Kivu, the former Vice Governor of Sud-Kivu, Didace Kaningini, the ANR agent (Agence nationale de renseignements) Wandjo and others continue in their positions, enjoying total political protection;
- A massive escape from Bukavu's central prison included a student, Jean Marie Katula, a key witness in the trial;
- The transfer from Bukavu to Kinshasa of Majaliwa Mulindwa who led the initial inquest and was the prosecutor at the military trial; and,
- The isolation of Major Diemo, who presided over the trial, and Judge Douglas, who accused the high profile defendants, both of whom are on indefinite reassignment in Kinshasa.

As a consequence, Héritiers de la justice believes its own security as a human rights defender organization is in danger as long as the assassins of Mr. Kabungulu continue to benefit from political protection in defiance of the United Nation's General Assembly declaration on the responsibility to promote and protect universally recognized human rights and fundamental liberties and the guiding principles of the European Union around human rights defenders in the DRC of December 2005.