



## ***TALKING POINTS: THE VERDICT IN THE CASE OF THE PROSECUTOR V. THOMAS LUBANGA DYILO***

*These talking points highlight the issues of the Lubanga case that are relevant to AMICC's advocacy, based on and coordinated with our background paper on the Lubanga verdict, available at [amicc.org](http://amicc.org).*

- In this, the ICC's first case, Thomas Lubanga Dyilo was convicted of three counts of the war crime of conscripting, enlisting, or using child soldiers under the age of 15 in armed conflict. He was a leader of the *Union des Patriotes Congolais* (UPC) militia, active in the 2002-2003 ethnic conflicts in the Ituri region of the Democratic Republic of Congo.
- The Lubanga case is the first to focus solely on the crime of deploying child soldiers. The White House praised the Lubanga conviction, saying it showed the "international community is united in its determination to end the repugnant practice of using child soldiers."
- Over 120 former UPC child soldiers participated in the case. Legal representatives and the Court's Office of Public Counsel for Victims represented them; they did not have to be called on by either the prosecution or defense to participate in the proceedings.
- Former UPC child soldiers told stories about being given guns and forced to kill in battle. Many were abducted from school. Some were forced to murder their parents in order to alienate them from their communities. Girls were forced to serve as sex slaves and wives. Although the OTP did not specifically charge Lubanga with sex crimes, gender-based crimes were part of child soldier crimes and taken into account in both the prosecution's arguments and the judges' verdict.
- The Office of the Prosecutor (OTP) heavily relied on "intermediaries," Congolese locals who helped the Prosecutor collect evidence. This practice was severely criticized by the judges. Some testimonies were ultimately deemed unreliable because the judges believed intermediaries had tampered with evidence. In one instance, the judges concluded that intermediaries had encouraged Congolese witnesses to lie that they had been child soldiers.
- The Trial Chamber judges stringently upheld the due process rights of Mr. Lubanga in order to ensure a fair trial. They ordered two stays when the Prosecutor failed to release potentially exculpatory material to the defense and when he refused to identify an intermediary. The defense scrupulously monitored the credibility of the OTP's evidence. The ability and energy of the defense were essential to a fair trial.
- The trial began in January 2009 and ended in August 2011. The proceedings were so lengthy partly because of the stays that sought to resolve procedural issues. The Prosecutor, defense, and judges were all practically interpreting the Rome Statute for the first time.

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- The guilty verdict was unanimous; the 624-page judgment is meticulous and comprehensive. Lubanga will be sent to one of the State Parties (possibly a Scandinavian country) willing to imprison the Court's convicted criminals. The Prosecutor will seek close to the maximum sentence of 30 years.
- Appeals and reparations proceedings are likely to follow release of the verdict in French.

*Researched and drafted by Anjie Zheng  
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