

First Conviction by the ICC

The Prosecutor v. Thomas Lubanga Dyilo

14 March 2012

Today, Trial Chamber I issued the first ever trial judgement of the International Criminal Court (ICC), in the case against Thomas Lubanga Dyilo (Lubanga). This is the first time a Trial Chamber of the ICC has issued a judgement on the guilt or innocence of the accused. The Trial Chamber convicted Lubanga of the war crimes of conscripting and enlisting children under the age of 15 and using them to participate actively in hostilities from 1 September 2002 to 13 August 2003. The case involved two stays of proceedings, an adjournment, 67 witnesses and the participation of 129 victims.

“The conviction today is very important in demonstrating that no-one is beyond the reach of the law and that militia leaders operating in remote areas can be held accountable. This is important for the people of Ituri, for eastern DRC and for all war-torn countries especially those conflict zones involving child soldiers,” said Brigid Inder, Executive Director of the Women’s Initiatives for Gender Justice.

“The Lubanga trial is the first international criminal trial ever held on the conflict in eastern DRC, and also one of the few international criminal cases in history to charge and convict an individual with acts of enlistment and conscription of child soldiers,” Inder said.

“This case has involved six years of work for the Women’s Initiatives and our partners including a filing to the Judges regarding the exclusion of sexual violence charges, girl soldiers and the impact of the limited charges on victims participation issues; the submission of a dossier to the Office of the Prosecutor in 2006 including interviews with 31 victims/survivors of gender-based crimes allegedly committed by Lubanga’s UPC militia group; the relocation of several women’s human rights defenders in Ituri due to threats to their safety as a result of their local advocacy for victims and accountability; and support for victim participants and their legal representatives to ensure the gender dimensions and experiences of former girl soldiers were recognised in the public record of this case,” Brigid Inder said.

“It’s a good day for the brave victims and witnesses involved in this case and an important milestone for the ICC in securing its first conviction,” said Inder.

“It is too early to be able to digest the entire judgement and the separate and dissenting opinions. We will carefully read and review the full text and publish our analysis shortly,” said Brigid Inder.

Despite evidence of rape and other forms of sexual violence having been committed by Lubanga’s troops, and no charges of gender-based crimes brought by the ICC Prosecutor, at least 15 prosecution witnesses spoke about sexual violence during their testimony. These crimes were also referenced by the victims’ legal representatives, especially those representing former girl soldiers.

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“In the absence of explicit charges for gender-based crimes, we hope the decision or one of the separate or dissenting opinions will recognise the gender dimensions of enlistment, conscription and the forced participation of children in hostilities. The acts of sexual violence were integral components of the crimes for which the accused has been convicted,” said Brigid Inder.

“The judges’ decision today provides justice for children abducted, abused, and forced to fight by the UPC, and it may also deepen our collective understanding of the terror and impact on children, boys and girls, who are forced to participate in armed conflicts.”

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For more information about this case please see:

- *Gender Report Card 2011*, available at <<http://www.iccwomen.org/documents/Gender-Report-Card-on-the-International-Criminal-Court-2011.pdf>>; *Gender Report Card 2010*, available at <http://www.iccwomen.org/news/docs/GRC10-WEB-11-10-v4_Final-version-Dec.pdf>; *Gender Report Card 2009*, available at <http://www.iccwomen.org/news/docs/GRC09_web-2-10.pdf>; *Gender Report Card 2008*, available at <http://www.iccwomen.org/news/docs/GRC08_web4-09_v3.pdf>;
- For a detailed analysis of the absence of gender-based crimes in this case, see ‘The ICC, child soldiers and gender justice’, *Brigid Inder*, 21 November 2011, available at: <http://viewer.zmags.com/publication/5ebbab6d?page=55#/5ebbab6d/55> and http://www.iccwomen.org/news/berichtdetail.php?we_objectID=139;
- In May and July 2006, the Women’s Initiatives conducted two documentation missions in Ituri, eastern DRC, and interviewed victims/survivors of gender-based violence, committed by a range of militias, including the UPC. We produced a dossier, which we subsequently shared with the Office of the Prosecutor, detailing 51 individual interviews with predominantly women victims/survivors of rape and other forms of sexual violence. Of these, 31 interviewees were victims/survivors specifically of acts of rape and sexual slavery allegedly committed by the UPC. On 16 August 2006, the Women’s Initiatives submitted the confidential report and a letter to the Office of the Prosecutor describing our grave concerns that gender-based crimes have not been adequately investigated in the case against Thomas Lubanga and providing information about the commission of these crimes by the UPC. A redacted version of this confidential letter submitted to the Office of the Prosecutor is available at <http://www.iccwomen.org/documents/Prosecutor_Letter_August_2006_Redacted.pdf>;
- Radhika Coomaraswamy, UN Under-Secretary General for Children and Armed Conflict, testified as an expert witness on 7 January 2010. For a detailed account of her testimony, see the *Gender Report Card 2010*, p 135-136, available at <http://www.iccwomen.org/news/docs/GRC10-WEB-11-10-v4_Final-version-Dec.pdf>, and the transcript of her testimony ICC-01/04-01/06-T-223-ENG;
- For a detailed description of the Prosecution’s closing arguments, see Women’s Initiatives for Gender Justice, ‘Summary of the closing statements in *The Prosecutor v. Thomas Lubanga Dyilo*’, *Legal Eye on the ICC e-letter*, October 2011, available at <http://www.iccwomen.org/news/docs/LegalEye_Oct11/LegalEye10-11.html>. See also *Gender Report Card 2011*, p 203-218, available at <<http://www.iccwomen.org/documents/Gender-Report-Card-on-the-International-Criminal-Court-2011.pdf>>.

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