

ICC Commencement of the Confirmation of Charges Hearing

The Prosecutor vs. Bosco Ntaganda

10 February 2014

Today, the confirmation of charges hearing in the case against Bosco Ntaganda (Ntaganda) will commence before Pre-Trial Chamber II of the International Criminal Court (ICC).

'According to the communities affected by the crimes for which Ntaganda is charged, this case brings before the ICC one of the most notorious perpetrators of violence in eastern DRC,' said Brigid Inder, Executive Director of the Women's Initiatives for Gender Justice.

'Bosco Ntaganda is reported to have terrorised communities in at least three provinces within eastern DRC as a senior military leader for more than a decade and is known locally as the "Terminator",' said Ms Inder.

Ntaganda has been charged with 13 counts of war crimes and five counts of crimes against humanity, in his alleged capacity as the Deputy Chief of Staff in charge of operations and organisation of the *Forces Patriotiques pour la Libération du Congo* (FPLC), the military wing of the *Union des Patriotes Congolais* (UPC). The crimes alleged by the ICC took place in the Ituri region in Eastern DRC between September 2002 and September 2003.

Thomas Lubanga, former President of the UPC and Commander-in-Chief of the FPLC, was convicted by the International Criminal Court in 2012 for the war crimes of conscription, enlistment and use of children under the age of 15 to participate actively in hostilities.

'This case is also highly significant because for the first time in international criminal law, the ICC has charged a senior military figure with acts of rape and sexual slavery committed against child soldiers within his own militia group and under his command,' said Ms Inder.

'Ordinarily charges of sexual violence relate to the commission of these acts by combatants of one militia group against females of another militia or against women, primarily, within the civilian population. But in this case, Ntaganda, in light of his leadership position, is charged as being responsible for the rape and sexual slavery of girl soldiers within his own militia group committed by other FPLC combatants and commanders,' she stated.

'According to documentation missions conducted by the Women's Initiatives for Gender Justice in 2006 and 2007 in Ituri, the rape of girls and women occurred not only between warring tribes and militias but also *within* militias and ethnic groups. In the case of girl soldiers conscripted, enlisted and used by the FPLC, their vulnerability as children and as girls appears to have been exploited and violated purposefully and systematically as part of the routine internal management of this militia,' said Ms Inder.

'Ntaganda is also charged with crimes of sexual violence committed against civilians. The combination of charging Ntaganda for gender-based crimes committed *within* the militia and *by* the militia accurately reflects the use of sexualised violence by the FPLC and is a very positive development by the ICC,' Ms Inder said.

Charges

Ntaganda is charged with the war crimes of: murder and attempted murder of civilians; attacks against a civilian population; rape of civilians and of UPC/FPLC child soldiers; sexual slavery of civilians and of UPC/FPLC child soldiers; pillaging; displacement of civilians; conscription, enlistment

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and use of children under the age of 15 to participate actively in hostilities; attacks against protected objects; and destruction of property. He is charged with the crimes against humanity of: murder and attempted murder of civilians; rape of civilians; sexual slavery of civilians; persecution; and forcible transfer of population.¹

'The broader approach to gender-based crimes in the Ntaganda case, both against child soldiers and civilians, represents an encouraging and necessary development and demonstrates a much more advanced conceptualization of these crimes by the ICC than in their earlier case against Thomas Lubanga, former President of the UPC/FPLC,' stated Ms Inder.

'We hope the Court will also be addressing the full extent of the experience and harm suffered by children conscripted, enlisted and used by the UPC as well as the gender dimensions of these crimes including the overall treatment of girl soldiers and the roles to which they were assigned within the FPLC,' said Ms Inder.

Women's organisations from communities affected by the crimes for which Bosco Ntaganda is charged, expressed their expectation that the ICC's case would result in justice for the victims.

'Speaking on behalf of the women of the Orientale Province, I take this opportunity to reaffirm our commitment to and confidence in the ICC, the only institution that keeps our hope alive by seeking an end to impunity for crimes committed in the DRC,' said Claudine Bela Badeaza, Director of *Centre d'Education et de Recherche pour les Droits des Femmes* in Kisangani, Orientale Province, DRC.

'This case is of paramount importance to ensuring that the voices of victims, who are mostly women and girls, are heard; that justice will be rendered; and that the struggle against impunity will continue,' stated Ms Bela Badeaza.

Background- Arrest Warrants

Significantly, the initial arrest warrant for Ntaganda, issued by Pre-Trial Chamber I on 22 August 2006, did not include charges for sexual violence crimes.² However, a second arrest warrant was issued by Pre-Trial Chamber II on 13 July 2012, charging Ntaganda with sexual violence crimes, including rape and sexual slavery as war crimes and crimes against humanity.³

After the issuance of the first ICC arrest warrant, following the Goma Peace Agreements in 2009, Ntaganda was integrated into the National Congolese Army (FARDC) and promoted to the rank of General, eventually becoming the *de facto* second-in-command in charge of FARDC operations in the Kivus. In April 2012, Ntaganda reportedly led a mutiny against the FARDC and the creation of the *Mouvement du 23 Mars* (M23).

Women's Initiatives partners have reported crimes by the M23 and the FARDC including abductions, killings and rapes. Such crimes were also detailed in a 2012 UN expert report concerning the DRC, which further documented the recruitment and use of child soldiers by the M23.⁴

¹ ICC-01/04-02/06-203-AnxA.

² The warrant, which was unsealed on 28 April 2008, charged Ntaganda with six counts of war crimes, including enlistment, conscription, and use of children under the age of 15 to participate actively in hostilities. ICC-01/04-02/06-2-Anx-tENG.

³ The warrant also charged Ntaganda with murder and persecution as crimes against humanity, as well as murder, attacks against the civilian population and pillaging as war crimes. ICC-01/04-02/06-36-Red.

⁴ See generally Letter dated 12 November 2012 from the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council, S/2012, 843, 15 November 2012. Available at:



Although not directly affected by the crimes alleged in the ICC's indictment for Ntaganda, women's groups representing victims from communities in North Kivu, DRC, which have been subjected to violence by the M23, applauded the commencement of the hearing.

Josephine Malimukono of the *Ligue pour la Solidarité Congolaise* in Goma, North Kivu, said that 'the communities of Rutshuru and Nyiragongo believe that the consideration of charges against Bosco Ntaganda will be a significant step in the healing process of victims and affected communities. Families and survivors welcome the hearing as contributing to their psychological recovery'. She further urged the DRC Government to keep in mind 'the humiliation experienced by the women victims of sexual violence and other abuses committed by armed men' and urged the ICC 'to expand the charges against Ntaganda', in light of his senior military role in other militias, including the M23.

Ntaganda voluntarily surrendered to the ICC on 22 March 2013. The Women's Initiatives for Gender Justice and its partners, women's rights advocates in Eastern DRC, welcomed the surrender. Inder hailed it as 'an encouraging development for the communities in the DRC and a sign for other conflict-affected countries that those indicted by the ICC will eventually appear before the Court'.⁵

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 in August 2006, 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/FPLC.

The Women's Initiatives for Gender Justice is an international women's human rights organisation that advocates for gender justice through the International Criminal Court (ICC) and through domestic mechanisms, including peace negotiations and justice processes, and works with women most affected by the conflict situations under investigation by the ICC. The Women's Initiatives has extensive country-based programmes in selected conflict sites and legal monitoring initiatives in all situations under investigation by the ICC.

For more information about the Situation in the DRC and the case against Bosco Ntaganda, see [Gender Report Card on the ICC 2012](#).⁶

Read the full [statement](#) by the Women's Initiatives for Gender Justice and Partners on Ntaganda's surrender

For information on gender-based crimes in relation to child soldiers in the Lubanga case, see [here](#)

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http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2012_843.pdf

⁵ See Statement on surrender by Bosco Ntaganda, Women's Initiatives for Gender Justice, 21 March 2013, available at: <http://www.iccwomen.org/documents/Statement-on-Ntaganda-surrender.pdf>.

⁶ See specifically pages 97-98 and 173-178.

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