

## **Gédéon Trial Seen as Judicial Landmark**

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Campaigners say Katanga court conviction shows ICC is having impact beyond own trial in The Hague. Human rights groups have applauded the conviction of a Mai Mai leader who committed a series of brutal crimes in the so-called “triangle of death” in Congo’s southern Katanga province.

After a 19-month trial, a Katanga military court on March 5 found Gédéon Kyungu Mutanga guilty of crimes against humanity, insurgency and terrorism. Twenty others were also convicted on similar charges. Gédéon, commonly known by his first name, and six of the defendants, were sentenced to death.

The defence has appealed the conviction.

Human Rights Watch described the trial as “landmark”, pointing out that judges used the definition of crimes against humanity found in the International Criminal Court’s Rome Statute. HRW said this illustrates the ICC’s impact beyond its own trials in The Hague.

The court is currently hearing the prosecution’s case against Congolese militia leader Thomas Lubanga from the northeastern Ituri province. Four other Congolese are also indicted by the ICC.

Gédéon’s Mai Mai militia conducted a reign of terror in central Katanga from 2003 to 2006. Originally supported by the Congolese army during its war with Rwanda and Uganda, Kinshasa armed Gédéon with guns and ammunition to stop the march of Rally for Congolese Democracy-Goma rebels.

When relations soured between Gédéon and the government, 150,000 people were forced from their homes in the fighting that ensued. His soldiers destroyed crops, looted goods and livestock, and forced the local population to flee.

Parents were killed in front of their children and women’s genitals mutilated and used as bracelets. Their breasts were used as necklaces.

In their ruling, the court found the government liable for failing to disarm Gédéon’s militia and awarded millions of dollars in compensation to the victims.

Lawyer Jean-Pierre Kuboya representing 75 victims described himself as “satisfied” with the outcome of the case. He said he is confident that if the verdict is upheld on appeal, the state will pay the compensation.

“Awarding damages to victims sends a strong message that the government is not above the law,” said HRW’s Anneke van Woudenberg. “We urge the government to respect the ruling and to comply as a matter of priority.”

Venacie Bisimwa, a member of a women’s rights group in South Kivu province, said, “The Congolese state

must have the capacity and the will to compensate victims.” She urged the government to also set up victim support programmes.

Others from Congolese civil society groups applauded the verdict, describing it as a significant step in the fight against impunity.

“The victims’ families who were following the trial have been rejoicing at his sentencing,” said Ndayi Wamande Mascotch, a Katanga-based sociologist who has followed the case.

“Many people were convinced that nothing would come out of this trial.”

They could be forgiven for being cynical.

Congo’s judicial system is notoriously corrupt and inefficient. Civilian courts have no jurisdiction to hear war crimes cases, leaving military courts as the only option for the likes of Gédéon.

Though he believes army tribunals are making a real effort to try international crimes, lawyer Marcel Ochokonda, from the human rights advocacy group Global Rights, suggested some have been less effective than the one hearing the Gédéon case.

Ochokonda cited the Kilwa case, where military judges cleared nine soldiers of war crimes and three foreign employees of a mining company for complicity in war crimes committed during a massacre at Kilwa. Seventy-three civilians died during battles between rebels and the army.

Observers said the trial was plagued by obstructions and political interference and failed to conform to international judicial standards. They said the Congolese authorities blocked investigations into the incident for more than a year; witnesses and victims were intimidated; and the military prosecutor was taken off the case when he resisted pressure to drop the charges against the mining company employees.

Prison security for those convicted is also a huge problem in Congo.

In 2006, a military court sentenced seven soldiers from the Congolese army to life imprisonment for gang raping dozens of women in the northern town of Songo Mboyo. Judges cited the Rome Statute in their verdict, the first time in Congolese judicial history that a court had recognised rape and sexual violence as a crime against humanity. However, the men escaped and remain at large.

HRW called on the government to ensure Gédéon and the others are imprisoned in a high-security facility. “All too often we have seen human rights abusers convicted in trial but then left to escape from prison only weeks or months later,” said van Woudenberg.

HRW also expressed concern at Gédéon’s death sentence, a concern shared by the Proddes network, a coalition of human rights, economic and social rights organisations. Danny Singoma, the Proddes permanent secretary, said it is “a positive step when warlords are brought to justice and sentenced” but said civil society is calling for the death penalty “to be abolished once and for all”.

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