

## **On Home Ground, Lubanga Verdict Falls Flat**

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Conviction for using child soldiers does not reflect full scale of abuses in Ituri conflict, locals say.

The city of Bunia in the east of the Democratic Republic of Congo saw some of the worst fighting during the conflict that ravaged the Ituri region in 2002 and 2003, and memories of massacres are still vivid for many inhabitants.

At least 5,000 people died during the fighting between militias from the Hema and Lendu ethnic groups.

“There were body parts in the street and piles of corpses. Blood everywhere,” said Emmanuel, who works at Bunia’s high court.

Yet although Congolese rebel leader Thomas Lubanga Dyilo was a leading figure in the Ituri conflict, this week’s landmark verdict passed against him at the International Criminal Court, ICC, in The Hague went largely unnoticed in Bunia.

Lubanga was found guilty of all three charges against him – conscripting, enlisting and using child soldiers under the age of 15 to participate in hostilities.

Few in the town were aware that the verdict was to be pronounced on March 14, and those who did know about it were unlikely to be able to follow the proceedings online. The ICC did not arrange a screening of the judgement in Bunia, as it did when the trial began in January 2009 and at other important stages of the proceedings.

“Headquarters did not send us the budget to organise a screening,” Nicolas Kuyaku, public information and outreach assistant for the ICC in Ituri, said.

In Bunia, people who had followed the Lubanga trial were disappointed by the decision not to show the judgement, and wondered why this last and most important stage in proceedings was not better communicated to them.

“We are supposed to be the first concerned, aren’t we?” said law student Deo, who said he had never missed a previous screening, and planned to become a lawyer to prosecute war crimes.

The general feeling here seemed to be that the ICC prosecuted Lubanga for the benefit of the international community rather than for people in Ituri. Moreover, the charges against him did not encompass the full range of abuses committed during the conflict.

Lubanga was found guilty of using child soldiers in his militia – the armed wing of his rebel group, the Union of Congolese Patriots, UPC – but many here argue that communities in Ituri would have been better served by prosecutions for additional war crimes and crimes against humanity such as murder, pillage and rape.

“The real crimes that were committed in Ituri were not the enrolment of children, but the murders and the rapes,” human rights activist Jean-Paul Lonema said. “If the ICC had prosecuted him for these crimes, it would have had a positive impact on reconciliation and peace in the region.”

Alfred Buju, a priest working with the charity Caritas, was similarly disappointed.

“In effect, this verdict does not mean much for us in Ituri; it doesn’t help to heal the wounds,” he said. “Those who lost everything won’t gain anything from hearing he is guilty of enrolling children in his militia. We know that – we sent our children. We needed to hear he is guilty of bringing this conflict upon us for his personal gain.”

Most people were glad to hear of Lubanga’s conviction, even on lesser charges.

Supporters of Lubanga see him as a hero, of course, but there are plenty of others who wanted him tried but became sceptical after questions over the authenticity of prosecution evidence and witnesses. Several local human rights activists have argued that the investigation led by ICC prosecutor Luis Moreno Ocampo relied too heavily on reports from Human Rights Watch, other international organisations and local intermediaries.

“It was very difficult for the ICC to find witnesses,” said a military judge, speaking on condition of anonymity. “People are still scared to talk – they are afraid there might be consequences.”

The prosecution's methods in the Lubanga case – the first to go to trial at the ICC – have been criticised by outside observers, and there were two stays of trial over disclosure issues.

The first instance, in June 2008, was because the prosecution failed to hand over potentially exonerating evidence to defence lawyers or the judges, after promising confidentiality to its sources of information. In July 2010, judges again halted the trial after prosecutors would not reveal the identities of certain local intermediaries who the defence alleged had coached and bribed witnesses to lie.

In their March 14 verdict, judges were critical of the prosecution's use of these intermediaries – who were unsupervised – and said that it should “not have delegated its investigative responsibilities” to them. As a result of these intermediaries' actions, judges stated, the evidence of “a series of witnesses... cannot be safely relied upon”.

Judges also found that three intermediaries might have “persuaded, encouraged or assisted witnesses to give false evidence” and could be guilty of committing “crimes against the administration of justice”, but that it was up to the prosecution to investigate this.

In Ituri, many local people see this trial as a case of political manipulation, since they regard Lubanga as a minor warlord who was prosecuted to assuage concerns in international community, while more significant figures remained safe from legal action.

Nevertheless, the military judge concluded that DRC was unable to conduct such trials itself.

“The trial was imperfect, but I think in this case it was necessary that the ICC takes over,” he said. “We don't have the necessary means to carry on complex investigations here, and we do have a lot of political pressure.”

Now that Lubanga has been convicted, the focus has shifted to Bosco Ntaganda, wanted by the ICC as one of Lubanga's alleged co-perpetrators.

Ntaganda remains free and has the rank of general in DRC's national army.

At a press conference in The Hague on March 15, Moreno-Ocampo said his office was planning to visit Kinshasa to meet Congolese president Joseph Kabila and “thank him for his support but also request the immediate arrest” of Ntaganda.

In addition, the prosecutor said there were plans to add charges of murder and rape to Ntaganda's arrest warrant, which currently only includes charges relating to child soldiers.

Meanwhile, on April 18 the prosecution will submit its sentencing request in the Lubanga case. Moreno Ocampo said he would be seeking something “close to the maximum” of 30 years. A sentencing hearing will be held at a later date.

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