

ICC Examines Child Soldier Convictions

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Sierra Leonean court's precedent-setting verdicts likely to influence ICC cases in Uganda and DRC. The conviction of three Sierra Leonean military leaders this week for conscripting child soldiers will have a major impact on upcoming prosecutions at the International Criminal Court, ICC, say observers interviewed by IWPR.

The guilty verdicts on 11 counts of war crimes and crimes against humanity were the first from the Special Court for Sierra Leone and the first by an international court for the recruitment of children to fight in an armed conflict.

The Special Court's first-ever prosecutor told IWPR that the verdict will be closely examined by the ICC as child soldier recruitment also features heavily in its cases in Uganda and the Democratic Republic of Congo.

"Our colleagues in the ICC have been following our work in West Africa with great interest and have been emboldened by the fact that we've moved forward on child soldiers," said David Crane, who signed the original Special Court indictments and is now a law professor at Syracuse University in New York state.

"It's all part of the jurisprudence that's building up. Each of the tribunals follows the other's precedents, so clearly this [verdict] will have a huge impact.

"This sends an incredible notice to cynical warlords round the world who are using children and abusing children in their armed forces that they can now be prosecuted and convicted for this."

Human rights campaigners agreed that the June 20 verdicts delivered in a Special Court courtroom in Freetown were significant for ICC prosecutors.

"This verdict is a very concrete demonstration of criminal prohibition of the conscription of child soldiers," said Jo Becker, children's rights advocacy director at Human Rights Watch. "These prosecutions are a major step towards bringing justice to hundreds of thousands of children worldwide. And hopefully this will be the first of many."

In Uganda, the ICC has charged four LRA leaders with numerous war crimes, including some relating to child soldier recruitment. In DRC - where more indictments are expected within the next few weeks - militia leader Thomas Lubanga Dyilo faces similar child soldier allegations.

Beck Bukeni Waruzi, director of Ajedi-Ka /Child Soldiers Project, an NGO in eastern DRC, sees the convictions as a victory for African children.

"It is very positive that a court in Africa, for the first time, has touched on the important issue of youth in Africa. In every conflict on the continent, children are involved as both victims and perpetrators," he said.

Alex Tamba Brima, Brima Bazzy Kamara and Santigie Borbor Kanu were also found guilty of crimes including rape, murder, enslavement, pillage and extermination. All three were members of the Armed Forces Revolutionary Council, AFRC, made up primarily of soldiers from the Sierra Leone army.

Prosecutors alleged the AFRC joined with the rebel Revolutionary United Front, RUF, which fought against the government-backed Civil Defence Forces, CDF, wreaking havoc on Sierra Leone during an 11-year civil war that claimed tens of thousands of lives and displaced millions.

Prosecutors told the trial that attacks were carried out against civilians to terrorise and punish those who didn't support the rebel militias. Physical mutilations, including the amputation of hands and feet, were common.

Civilians were routinely abducted while captured women were raped and used as sex slaves or forced labour. Abducted boys and girls were given combat training and used in battle.

"The three who were found guilty, they were the individuals who caused the rape and destruction of Freetown in January of 1999," said Crane. "When these individuals joined the RUF, the horror became worse. It was like horror to the second power. Just incredible."

But there was also bad news this week for prosecutors.

Judges ruled the men were not guilty of three of the charges, including one of forced marriage. It was the first time in legal history that charges had been laid alleging forced marriage during an armed conflict. Crane admitted he was disappointed, telling IWPR that he believed the case was strong.

Alison Smith, legal advisor at the human rights NGO No Peace Without Justice, shares that disappointment. She said forced marriage and other crimes of sexual violence were features of the Sierra Leone conflict and were experienced by most girls conscripted by the warring groups.

"The charges of forced marriage were one of the innovations of the Special Court for Sierra Leone," said Smith. "They were the first tribunal to prosecute this crime, and I hope that hasn't been diluted by the not guilty verdict."

Forced marriage allegations also feature in the case against three RUF leaders currently underway in Freetown. However, Special Court judges hearing the case against three CDF leaders ordered forced marriage charges to be removed from their indictments. That case ended last November with verdicts expected by July.

The Special Court in Freetown is slowly winding down with all trials and appeals due to be completed by the end of 2008.

It's final - and arguably most high profile - case against Liberia's former president Charles Taylor began earlier this month in an ICC courtroom in The Hague.

The ICC is hosting the trial because of fears of unrest if the case is heard in Sierra Leone. Taylor - who prosecutors say supported the RUF rebels - faces 11 counts of war crimes and crimes against humanity including murder, rape and conscripting child soldiers.

The case resumes June 25, though whether Taylor will appear is unclear as he boycotted the first day of the trial earlier this month.

For Sierra Leone, the impending closure of the Special Court will likely mark the end of prosecutions for crimes committed during the civil war.

The peace deal that ended the war granted amnesty for war crimes and crimes against humanity. A South Africa-style Truth and Reconciliation Commission was held, but Christopher Hall, senior legal advisor in Amnesty's international justice project, said many of its recommendations have yet to be implemented.

He wants the amnesties to be cancelled and national laws to be changed to make crimes like recruiting child soldiers illegal - which they are not under current legislation.

"Amnesties are contrary to international law," said Hall. "We are calling for Sierra Leone to fulfil its obligations under international law to define crimes against humanity and war crimes as crimes under national law and to resource the national judiciary to be able to investigate and try these crimes."

Becker agrees that local prosecutions - both in Sierra Leone and elsewhere where war crimes have been committed - are crucial.

"There is a limited capacity to try all war crimes suspects at an international level," she said. "We need to see national prosecutions with the UN and governments with legal expertise providing resources such as training lawyers and judges."

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