

AMNESTY INTERNATIONAL PUBLIC STATEMENT

AI index: AFR 62/017/2012
19 December 2012

ICC acquits Congolese armed group leader

Yesterday's decision by the International Criminal Court (ICC) to acquit Mathieu Ngudjolo Chui will undoubtedly disappoint many victims, but it should only strengthen demands for justice for war crimes and crimes against humanity in the Democratic Republic of the Congo (DRC) where impunity is pervasive, Amnesty International said today.

The Trial Chamber ruled that the prosecution had failed to prove beyond reasonable doubt that Ngudjolo Chui was responsible as a co-perpetrator for war crimes and crimes against humanity, including unlawful killings, rape, sexual slavery and use of child soldiers during the February 2003 attack against the village of Bogoro in the eastern region of Ituri.

The prosecution has indicated that it will appeal the decision.

The Chamber said the prosecution did not prove beyond a reasonable doubt that Ngudjolo Chui had committed any of the crimes charged. For this reason, and, in accordance with the Rome Statute, Ngudjolo Chui continues to be presumed innocent of those charges.

Importantly, the Trial Chamber also ordered the Court's Registry to take all necessary measures to protect witnesses in the case.

The completion of this trial should also focus attention on the tens of thousands of war crimes and crimes against humanity that have been committed with almost complete impunity in the DRC in the last two decades and which continue today in North and South Kivu.

More must be done, in particular by the government of the DRC, to ensure justice, truth and reparation for victims.

The case against Ngudjolo Chui

This decision closes the ICC's first prosecution of rape and sexual slavery in armed conflict. Previously, Amnesty International expressed disappointment that the ICC's first trial, which convicted Thomas Lubanga Dyilo in March 2012 of using child soldiers in Ituri, did not address allegations of these and other crimes, including sexual violence against abducted girls.

Following a referral of the situation by the Congolese authorities, the ICC has been investigating the situation in eastern DRC since 2004.

Ngudjolo Chui is alleged to have been the leader of the National Integration Front (FNI) and the Congolese Revolutionary Movement (MRC) armed groups until 2006 when he was integrated into the national Congolese army as a result of peace negotiations. The Congolese authorities subsequently arrested and surrendered him to the ICC in February 2008.

When the ICC's Pre-Trial Chamber confirmed the charges against the armed group leader that year, it recognized that sexual slavery includes forced "marriage" of women and girls, domestic servitude or other forced labour involving compulsory sexual activity. This was a key

development in the Court's jurisprudence and an issue that Amnesty International will continue to monitor closely.

In a trial that began on 24 November 2009, he and Germain Katanga – the alleged leader of another armed group – were charged with seven counts of war crimes. This included using child soldiers, directing an attack against a civilian population, wilful killings, destruction of property, pillaging, sexual slavery and rape. They also faced three counts of crimes against humanity – murder, rape and sexual slavery.

In March 2008, ICC judges decided to join the two cases as the charges related to the same attack in Bogoro. However, recently the Trial Chamber decided to consider modifying the mode of liability with which Katanga is charged and, separated the cases in order to proceed with the judgment of Ngudjolo Chui yesterday.

Impunity in the DRC

The horrendous crimes committed in Bogoro make up a tiny fraction of the overall war crimes and crimes against humanity committed in the DRC over the past two decades – including killings, rape and sexual slavery and use of child soldiers. The vast majority of victims continue to be denied justice, truth and full reparation by the national authorities.

Today, the number of such crimes committed in Ituri has declined in comparison to the scale of a decade ago, but such crimes continue to be committed on a large scale in other parts of the DRC. In North Kivu province in particular, a dozen armed groups, some allegedly with the support of neighbouring countries, are committing such crimes.

There are numerous obstacles to justice for past and current crimes, including: interference with the independence of the national judicial system; inadequate resources; ineffective programs to protect victims and witnesses and the continuing lack of jurisdiction of ordinary civilian courts over such crimes.

Many victims never come forward with complaints for a myriad of reasons, including distrust of the justice system which is susceptible to the influence of a national army that counts former warlords among its members.

Amnesty International has repeatedly [called on the DRC authorities](#) to address these obstacles by taking all measures necessary to develop a comprehensive long-term justice strategy aimed at reforming the criminal justice system.

Although the ICC's investigations into the situation in the DRC have given new hope for justice for millions of Congolese victims of crimes under international law, the proceedings at The Hague concern only a handful of the individuals allegedly bearing the greatest responsibility for the most serious crimes. The overwhelming majority of these crimes must be investigated and, if there is sufficient admissible evidence, prosecuted in national courts in fair trials without the death penalty.