

## Commencement of the Trial

### The Prosecutor vs. Bosco Ntaganda

1 September 2015

Tomorrow, the trial against Bosco Ntaganda (Ntaganda) will commence before Trial Chamber VI of the International Criminal Court (ICC)<sup>1</sup> with opening statements by the Prosecutor, the Defence and the Legal Representatives of Victims.

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 against Ntaganda by the ICC took place in the Ituri region in Eastern Democratic Republic of the Congo (DRC), between September 2002 and September 2003.

‘This case is highly significant because for the first time in international law, the ICC is prosecuting a senior military figure for acts of rape and sexual slavery committed against child soldiers within his own militia group and under his command’, said Brigid Inder, Executive Director of the Women’s Initiatives for Gender Justice.

‘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 Ms Inder.

‘Bosco Ntaganda has terrorised communities in at least three provinces within Eastern DRC as a senior military leader for more than a decade and is known to us as the “Terminator”,’ said a partner of the Women’s Initiatives for Gender Justice from Eastern DRC who did not want to be named.

Bosco 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 and use of children under the age of 15 to participate actively in hostilities; attacks against protected objects; and destruction of property. He is also 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.<sup>2</sup>

The start of the Prosecution’s presentation of evidence is scheduled for the week of 15 September 2015. The Office of the Prosecutor intends to present 8,000 evidentiary documents in support of its case and call approximately 80 witnesses to testify.<sup>3</sup>

‘We hope that the trial against Bosco Ntaganda will set a precedent of accountability for those who commit acts of rape and sexual slavery in Eastern DRC’, said Claudine Bela Badeaza, Women’s Initiatives Focal Point for Province Orientale (DRC), Director of the Centre d’Education et de Recherche pour les Droits des Femmes, based in Kisangani.

‘We are very pleased to see the extent of the sexual violence charges in this case which address both the acts committed against child soldiers within his militia group as well as against civilians. The combination of charging Ntaganda for gender-based crimes committed *within* the militia and *by* the

---

<sup>1</sup> Trial Chamber VI was composed of Presiding Judge Robert Fremr (Czech Republic), Judge Kuniko Ozaki (Japan) and Judge Chang-ho Chung (Republic of Korea).

<sup>2</sup> ICC-01/04-02/06-203-AnxA.

<sup>3</sup> Statement by the Prosecutor of the ICC, Press Conference, 1 September 2015.



militia accurately reflects the use of sexualised violence by the FPLC and is a very positive development in international humanitarian and criminal law, 'Ms Inder said.

Two groups of victims have been established in this case with separate legal counsel. One group is comprised of almost 300 former child soldiers from the UPC/FPLC (Ntaganda's militia group) and includes the parents of former child soldiers who are deceased. The second group of victims is comprised of those in the community who were harmed by the attacks directed against the civilian population.

'This case is also significant as it marks the first time a Pre-Trial Chamber has authorised alternate modes of liability at the confirmation of charges stage. Ntaganda is the first accused to be charged as an individual under several provisions of Article 25 and alternatively as a commander under Article 28', added Inder.<sup>4</sup>

'The trial against Bosco Ntaganda is important because according to the law, he must be held accountable for the crimes he has committed in the DRC. We want the ICC to: conduct fair legal proceedings from the start of the trial until the delivery of judgment; and guarantee victim participation as victims are the direct witnesses of the damage suffered because of Bosco Ntaganda's crimes. We also hope that there will be a chance that the crimes committed by Bosco in North Kivu will also become known', said a partner of the Women's Initiatives from Eastern DRC, who did not want to be named.

## Background

Significantly, the initial ICC arrest warrant for Bosco Ntaganda, issued by Pre-Trial Chamber I on 22 August 2006, did not include charges for sexual violence crimes.<sup>5</sup> However, a second arrest warrant was issued by Pre-Trial Chamber II on 13 July 2012, with additional charges of sexual violence crimes, including rape and sexual slavery as war crimes and crimes against humanity.<sup>6</sup>

Following the 2009 Goma Peace Agreements, Ntaganda was integrated into the Congolese Army (FARDC) and promoted to the rank of General. In April 2012, Ntaganda reportedly led the desertion of former Congrès National pour la Défense du Peuple (CNDP) members from the Congolese Army and the creation of a new movement, the Mouvement du 23 Mars (M23). During November and December 2012, the M23 attacked several villages in the territories of Nyiragongo, Rutshuru and Masisi. In March 2013, Women's Initiatives partners reported that the M23 continued to attack villages in these areas.<sup>7</sup> On 20 November 2012, the city of Goma, capital of the North Kivu province in the Eastern DRC, was overtaken by the M23. Commission of crimes by the M23 was also detailed in a 2012 UN expert report concerning the DRC, which further documented the recruitment and use of

---

<sup>4</sup> Ntaganda is charged under different modes of liability, including direct perpetration, indirect co-perpetration (article 25(3)(a) of the Statute); ordering, inducing (article 25(3)(b) of the Statute); any other contribution to the commission or attempted commission of crimes (article 25(3)(d) of the Statute); or as a military commander for the crimes committed by his subordinates (article 28(a) of the Statute), available at <http://icc-cpi.int/iccdocs/PIDS/publications/NtagandaEng.pdf>.

<sup>5</sup> 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.

<sup>6</sup> 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.

<sup>7</sup> Women's Initiatives for Gender Justice, 'Statement on surrender by Bosco Ntaganda', 21 March 2013, available at <http://iccwomen.org/documents/Statement-on-Ntaganda-surrender.pdf>.



child soldiers by the M23.<sup>8</sup>

Ntaganda voluntarily surrendered to the ICC on 22 March 2013. The Women's Initiatives and its partners, women's rights advocates in Eastern DRC, welcomed the surrender and 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'.<sup>9</sup>

Ntaganda made his initial appearance before the Court on 26 March 2013. Following the confirmation of charges hearings in February 2014, on 9 June 2014 Pre-Trial Chamber II unanimously confirmed the charges against Ntaganda.<sup>10</sup> According to the ICC, 2,148 victims have been granted the right to participate in proceedings in the Ntaganda case.

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.<sup>11</sup>

\*\*\*

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 case against Ntaganda, see *Gender Report Card 2014*, p 112-118; *Gender Report Card 2013*, p 69-71; *Gender Report Card 2012*, p 114-115, 174-177. See also Women's Initiatives for Gender Justice 'A Review of Charges and Prosecutions for Gender-based Crimes before the International Criminal Court', Making a Statement Second Edition, February 2010, p 10, 17, available at [http://iccwomen.org/publications/articles/docs/MaS2\\_10-10\\_web.pdf](http://iccwomen.org/publications/articles/docs/MaS2_10-10_web.pdf)

Read the full statement by the Women's Initiatives for Gender Justice on the Commencement of the Confirmation of Charges hearing in the Ntaganda case <http://iccwomen.org/documents/Ntaganda-Press-Statement-February-2014.pdf>

Read the full statement by the Women's Initiatives for Gender Justice and Partners on Ntaganda's surrender <http://www.iccwomen.org/documents/Statement-on-Ntaganda-surrender.pdf>

---

<sup>8</sup> 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 [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2012/843](http://www.un.org/ga/search/view_doc.asp?symbol=S/2012/843).

<sup>9</sup> 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>.

<sup>10</sup> ICC-01/04-02/06-309.

<sup>11</sup> See Statement on Commencement of the Confirmation of Charges Hearing in Ntaganda, 10 February 2014, available at <http://iccwomen.org/documents/Ntaganda-Press-Statement-February-2014.pdf>.



Read the Women`s Initiatives for Gender Justice Legal Eye eLetter on Ntaganda confirmation of charges decision <http://4genderjustice.org/publications/eletters/legal-eye-on-the-icc-september-2014-special-issue-ntaganda-confirmation-of-charges/>

For information on gender-based crimes in relation to child soldiers in the Lubanga case, see <http://www.iccwomen.org/documents/Gender-Issues-and-Child-Soldiers.pdf>

**Women`s Initiatives for Gender Justice**

