

AMICC

THE ARREST OF THOMAS LUBANGA DYILO

SUMMARY

On March 17, 2006, Thomas Lubanga Dyilo, leader of the Union des Patriotes Congolais/Forces Patriotique pour la liberation du Congo (UPC/FPLC) militia, was arrested in Kinshasa, the Democratic Republic of the Congo (DRC), and handed over to the International Criminal Court (ICC). Lubanga has been charged with committing war crimes that include “enlisting and conscripting children under the age of fifteen and using them to participate actively in hostilities.”¹

Lubanga’s arrest warrant, issued on February 10, 2006, was the first warrant to be issued by the ICC in connection with the atrocities in the DRC. Furthermore, this is the first arrest made by the ICC since its inception in July 2002.

BACKGROUND

Despite the apparent gains in the past two years, violence continues unabated in much of the DRC. While fighting among official military units has dwindled, armed factions remain in control of their respective areas, terrorizing local civilian populations. The withdrawal of foreign troops proved to be largely symbolic, as the various state militaries left behind well-organized proxy networks to act on their behalf by exploiting the rich supply of natural resources in the country.

Large profits from minerals and other resources fuel the continuation of hostilities. Various military and political groups battle over access to mineral deposits, along with agricultural production and local tax revenues. Civilians find themselves caught in the middle of these turf wars, falling victim to the violence and coercion of the various factions of military, ex-military, armed rebels and militia affiliated with the Networks.

Much of the violence is concentrated in eastern DRC. Human Rights Watch estimated in November that 60,000 civilian murders have taken place in the Ituri region.² Approximately 5,000 of these murders took place between July 2002 and March 2003.

¹ See the following ICC Press Releases for additional information: “First arrest for the International Criminal Court,” March 17, 2006, <http://www.icc-cpi.int/press/pressreleases/132.html>; “Issuance of a warrant of arrest against Thomas Lubanga Dyilo,” March 17, 2006, <http://www.icc-cpi.int/press/pressreleases/133.html>.

² Human Rights Watch: Commentary: *Arrest All Ituri Warlords*, March 11, 2005, <http://hrw.org/english/docs/2005/03/11/congo10311.htm>.

DETAILED OVERVIEW

Who is Thomas Lubanga Dyilo?

Thomas Lubanga Dyilo, a Congolese national, is the president of the Union des Patriotes Congolais (UPC) and has been since its inception in 2000. In September 2002, he established and led the Forces Patriotique pour la liberation du Congo (FPLC), a military group affiliated with the UPC and dedicated to carrying out its goals using violence. He is alleged to have enlisted and conscripted children to serve as soldiers in this organization.

Lubanga was initially arrested in March 2005 in connection with the assassination of nine Bangladeshi soldiers of the UN peacekeeping force in the Congo (MONUC).

The role of the UPC/FPLC in the conflict in the DRC

The UPC/FPLC is based in the Ituri district of the DRC, one of the most violent regions of the country. It is one of thirteen armed groups that operate in this region. The UPC/FPLC is primarily composed of persons from the Hema ethnic group. During the war in 2000, Lubanga's organization is alleged to have been responsible in part for many of the massacres, most notably the massacres involving the Lendu tribes, and other abuses that took place in the Ituri region, accusations that Lubanga vehemently denies.³

The Arrest

A sealed warrant for the arrest of Thomas Lubanga was issued by Pre-Trial Chamber I (PTC I) on February 10, 2006. On March 14, 2006, after the Chamber found that there were reasonable grounds to believe that Lubanga had committed the crimes he was accused of, the Registrar notified Congolese authorities of the arrest warrant. Two days later, the Congolese authorities agreed to surrender Lubanga, already in custody in the DRC, to the ICC. His arrest and transfer to The Hague were facilitated by France and MONUC. Lubanga is now in an ICC detention center.

The Arraignment

On March 20, 2006, PTC I, under the authority of Judge Claude Jorda, hosted an initial public hearing with the purpose of clearly informing Lubanga of the charges against him and of his rights under the Rome Statute. PTC I also elected June 27, 2006 as the date on which it plans to hold a hearing to confirm the charges against Lubanga. At the initial public hearing, Lubanga, accompanied by his provisional defense council, Jean Flamme, confirmed his identity and

³ For more information on the activities of the UPC/FPLC see the following website and the relevant links listed: http://en.wikipedia.org/wiki/Union_des_Patriotes_Congolais. Also: "ICC Arrest Its First War Crimes Suspect," March 20, 2006, <http://allafrica.com/stories/200603220096.html>

listened to a reading of his rights, but refused to hear a reading of the charges against him, saying that he had already been informed of them earlier.⁴

The Trial

Currently, Prosecutor Luis Moreno-Ocampo plans to charge Lubanga with: (1) the conscription and enlistment of children under the age of 15 and (2) the use of children in hostilities, serious war crimes under Articles 8(2)(b)(xxvi) and 8(2)(e)(vii) of the Rome Statute. Evidence that the prosecutor plans to present proving the accuracy of the charges brought against Lubanga include pictures of Lubanga inspecting military camps in which children are present and the accounts of witnesses.⁵ Ocampo has indicated that he will continue to investigate Lubanga's case, with the possibility of adding more charges to his indictment. However, it is important to note that, according to the Rome Statute, individuals can only be tried for crimes committed after the creation of the ICC, so any additional charges will focus on offenses committed after July 2002.

Future Actions

The Prosecutor has stressed that this is only the first case in the DRC, that the investigation is still ongoing, and that he plans to take a phased approach to prosecuting crimes committed in the DRC.⁶ Future indictments are likely to follow.

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⁴ "Ituri Warlord Faces First Trial at ICC in The Hague," March 21, 2006, <http://allafrica.com/stories/200603210148.html>.

⁵ *Id.*

⁶ "International Court Acts on Congo," March 21, 2006, <http://allafrica.com/stories/200603210252.html>.