

Situation in Uganda

The Prosecutor v. Dominic Ongwen

ICC-02/04-01/15

Opening of the trial in the case *The Prosecutor v. Dominic Ongwen*, 6 December 2016

HOW DID THE INTERNATIONAL CRIMINAL COURT COME TO UGANDA?

The Government of Uganda ratified the Rome Statute of the International Criminal Court (ICC) in June 2002. In 2004, the Government of Uganda referred the situation on its territory since 1 July 2002 to the ICC. Since then, the ICC Office of the Prosecutor has investigated alleged war crimes and crimes against humanity committed in the context of an armed conflict predominantly between the Lord's Resistance Army (LRA) and the national authorities, mainly in Northern Uganda. In 2005, a Pre-Trial Chamber issued arrest warrants for war crimes and crimes against humanity against five top LRA commanders: Joseph Kony, Vincent Otti, Okot Odhiambo, Raska Lukwiya, and Dominic Ongwen. Raska Lukwiya and Okot Odhiambo have both been confirmed dead and the ICC Judges have terminated proceedings against them; Vincent Otti and Joseph Kony remain at large. Dominic Ongwen is in ICC custody awaiting trial.

WHO IS DOMINIC ONGWEN?

Dominic Ongwen was born in the village of Coorom, Kilak County, Amuru District, Northern Uganda. He was the alleged former commander of the Sinia Brigade which is one of the four brigades of the Lord's Resistance Army (LRA). As one of the highest commanders of the LRA, Dominic Ongwen was allegedly a member of "Control Altar", the central command of the LRA responsible for devising and implementing the LRA's military strategy. An arrest warrant for war crimes and crimes against humanity was issued against him in 2005. After almost a decade escaping justice, Dominic Ongwen was transferred to the custody of the ICC on 21 January 2015.

WHAT CHARGES IS DOMINIC ONGWEN FACING AT THE ICC?

Dominic Ongwen, as an alleged Brigade Commander within the LRA, faces 70 counts of war crimes and crimes against humanity related to attacks against the civilian population in the former IDP camps of Lukodi, Pajule, Odek and Abok between October 2003 and June 2004: attacks against civilian population; murder and attempted murder; rape; sexual slavery; forced marriage; torture; cruel treatment of civilian and other inhumane acts; enslavement; outrage upon personal dignity; conscription and use of children under the age of 15 to participate actively in hostilities; pillaging; destruction of property and persecution. It is further alleged that from at least 1 July 2002 until 31 December 2005, Dominic Ongwen, Joseph Kony, and the other Sinia Brigade commanders were part of a common plan to abduct women and girls in northern Uganda that were then used as forced wives and sex slaves, tortured, raped and made to serve as domestic help; and to conscript and use children under the age of 15 to participate actively in hostilities in the LRA.

WHAT CAN BE EXPECTED AT THE OPENING OF THE TRIAL?

The trial will open with the reading of the charges against Mr Ongwen. The Judges will verify that the accused person understood the nature of the charges. The Judges will ask him whether he makes an admission of guilt or pleads not guilty to the charges. Oral opening statements will be delivered by the Office of the Prosecutor and the Legal Representatives of Victims. At its request, the Defence will make its opening statements at the beginning of the presentation of its evidence.

The trial will resume on 16 January 2017, when the Prosecution will begin to present its case and witnesses before the judges. The Prosecution's case is likely to take some time, and after it is finished the Legal Representatives of Victims may submit observations, and the Defence will have the opportunity to make opening statements, present its case and call witnesses.

While the Prosecution must prove the guilt of the accused, the Trial Chamber will convict someone only if it is satisfied that the charges have been proven beyond reasonable doubt. At the end of the trial hearings, the Judges will render their judgement within a reasonable period of time. The verdict will be read out in public and will either acquit or convict the accused. If the accused is convicted, a sentence will be imposed on him. The Prosecution and the Defence may appeal the judgement and/or the decision on sentencing before the ICC's Appeals Chamber.

HOW LONG WILL THE TRIAL OF DOMINIC ONGWEN LAST?

The trial may last several years, depending on the complexity of the case and challenges that may arise. Judges ensure that the rights of all parties and participants are respected. Cases involving war crimes and crimes against humanity tend to be complex, because of the range of incidents and extended time period involved in the charges, as well as other logistic and linguistic measures that have to be taken to protect the accused' rights, protect the witnesses and facilitate the victims' participation. But the Judges are committed to expedite the trial as much as possible.

WHAT ARE THE RIGHTS GRANTED TO THE ACCUSED DURING THE TRIAL?

Dominic Ongwen is presumed innocent and is entitled to several rights during the trial including, to mention a few:

- to be defended by the counsel (lawyer) of his choice, present evidence and witnesses of his own and to use a language which he fully understands and speaks;
- to be informed in detail of the charges in a language which he fully understands and speaks;
- to have adequate time and facilities for the preparation of his defence and to communicate freely and in confidence with his Counsel;
- to be tried without undue delay;
- not to be compelled to testify or to confess guilt and to remain silent, without such silence being a consideration in the determination of guilt or innocence;
- to have the Prosecutor disclose to the Defence evidence in her possession to the defence or control which he believes shows or tends to show the innocence of the accused, or to mitigate the guilt of the accused, or which may affect the credibility of prosecution evidence.

IF MR ONGWEN IS FOUND GUILTY AFTER THE TRIAL, WHAT PENALTIES MAY BE IMPOSED BY THE COURT?

There is no death penalty at the ICC in the event of a conviction. The Judges may impose a prison sentence, to which may be added a fine or forfeiture of the proceeds, property and assets derived directly or indirectly from the crime committed. The maximum sentence is 30 years. However, in extreme cases, such as the specific circumstances of the accused conviction, the Court may impose a term of life imprisonment.

Persons convicted of crimes under the jurisdiction of the ICC do not serve their sentence at the ICC Detention Centre in The Hague as the facility is not designed for long-term imprisonment. Convicted persons are therefore transferred to a prison in a State designated by the Court from a list of States which have indicated their willingness to allow convicted persons to serve their sentence there.

ARE VICTIMS PARTICIPATING IN THE TRIAL AND HOW?

Yes. A total number of 4,107 victims have been accepted to participate in the proceedings in the Ongwen case. They are represented by two different teams of lawyers: a first group of victims is represented by two lawyers, Mr Joseph Akwenyu Manoba and Mr Francisco Cox, who were chosen by these victims; a second group of victims who did not choose a lawyer are represented by Ms Paolina Massidda from the Office of Public Counsel for Victims.

Through their Legal Representatives, participating victims can exercise the following rights at trial:


- to consult the record of the case, including: decisions of the Chamber, submissions of the parties, participants and the Registrar, transcripts and evidence disclosed by the parties and communicated to the Chamber;
- to be notified of documents filed;
- to attend all public and non-public hearings in the case;
- to make written submissions on points of fact and on law and to respond to submissions;
- to make opening statements;
- to present evidence, should leave to do so be granted by the Chamber;
- to question witnesses;

The Trial Chamber might grant additional rights to victims either on request or on its own initiative.

WHAT MODALITIES WILL THE ICC PUT IN PLACE TO ENSURE THAT VICTIMS, AFFECTED COMMUNITIES AND THE GENERAL UGANDAN POPULATION HAVE ACCESS TO TRIAL PROCEEDINGS?

Ensuring that the communities most affected by the cases before the ICC have access to and understand the judicial proceedings at all stages is crucial to ensuring the fairness of the proceedings and the quality of justice. To this end, special efforts are made by the Court to render the proceedings accessible to communities affected by the alleged crimes committed in northern Uganda. Such efforts will include creating viewing sites in locations where the victims and most affected communities reside, for communities to view screenings of the trial's opening.

The Court is developing and distributing audio-visual programs to allow Ugandans to follow and understand the judicial proceedings. Face to face outreach activities are also held with various groups to hold discussions about latest developments, and to respond to the



concerns and expectations of communities. The ICC is continuously working in partnership with local and international actors present in the north of the country to ensure the timely dissemination of the information at different levels.

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