



Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, at the closing of Bosco Ntaganda trial

28.08.2018

Mr President, Your Honours,

At the beginning of this trial three years ago, the Office of the Prosecutor submitted that the evidence will prove beyond any reasonable doubt that between the 6th of August 2002 and the 31st of December 2003, Bosco NTAGANDA, a notorious commander known as “the Terminator”, is criminally responsible for crimes against civilians and for the systematic recruitment and use of children under the age of 15 as soldiers in his armed group, and for their rape and sexual slavery.

Today we stand before this Chamber to submit that the evidence has proven beyond all reasonable doubt that Bosco NTAGANDA is indeed guilty of the crimes charged against him.

The evidence tendered during trial proves the truth of witness P-859’s testimony to the Court: “[T]he UPC’s sole objective was to target the Balendu. Everybody knew that [...] it was the Lendus who were the real targets.”

The evidence proves the truth of rape victim P-19’s testimony which I recall here:

“Did you hear the UPC soldiers talking about the rapes?”

- *Yes, they talked about it.*

What did they say?

- *They said that ‘The Lendu are useless wild animals and we can do with them anything we want. They are not humans.’*

The evidence proves the truth of witness P-105's testimony of the UPC's murder of nearly 50 people, mainly Lendu, in Kobu in February 2003: "[...] a lot of people were executed by hand, with machetes. They used strength to execute them. Some of them were disembowelled, even pregnant women as well. They took the foetus out of the women. And you don't use a rifle to do that, you use something else, in order to disembowel a woman. All that made me very sad. The civilian population arrived to identify their families. It created great sorrow".

The evidence supports UPC commander P-768's testimony that the Accused explained to UPC troops that the Lendu were the enemy and that "you had to kill them and eliminate them".¹

The evidence presented at trial exposes the full spectrum of the UPC's targeted and violent crimes committed in two main charged attacks as well against children within its own ranks. The crimes were not random, isolated or spontaneous. They were part of a carefully planned, co-ordinated and executed campaign of violence, deliberately targeting the Lendu and Ngitu civilian populations and other non-Hema ethnic groups. Deliberately targeting youth, including children under the age of 15, to recruit, use, rape and sexually enslave in its forces.

Mr President, your Honours,

These proceedings would not have been possible were it not for the courage and commitment of the witnesses who have come before you to testify, those who were raped, enslaved, maimed and pillaged; those whose loved ones were killed by the UPC, those whose children were recruited, used, raped or sexually enslaved by the UPC, and of those who were members of the perpetrator group and have told you of the crimes that they and their fellow soldiers and commanders committed during the conflict.

The pursuit of justice and the establishment of the truth in these proceedings owes such individuals a debt of gratitude for their willingness to come forward and tell the Court what they know and of their experiences.

Mr President, your Honours,

¹ T-33, p.54, lines 10-13.

Bosco NTAGANDA and his co-perpetrators conceived a plan to assume the military and political control of Ituri and expel the non-Hema civilian population. By controlling Ituri, they not only had significant military and political reach, they also gained enormous economic power. Power meant to benefit themselves and the Hema community. The Lendu, Ngiti, and non-Hema civilian populations stood in the way of this plan. Bosco NTAGANDA and those who joined him drove out the non-Hema civilian population to gain control of the territory; aiming to ensure that they would not return.

Bosco NTAGANDA and his co-perpetrators not only terrorized the civilian population, they terrorized their own troops.

They forced the children in their army to kill. They treated them cruelly. They raped and sexually enslaved them. Witness P-758, who was only 13 at the time, poignantly described for the Chamber the pervasive and degrading sexual violence within the UPC:

“Question. Was any term used to describe the female soldiers?”

Answer. Yes.

Question. What was the term?”

Answer. They called us the guduria.

Question. Why did they call you “guduria”?”

Answer. Because soldiers who wanted to could sleep with us and that’s why they called us “guduria”.

Question. What is a guduria?”

Answer. Guduria is a cooking pot in which you prepare soldiers food.

Question. How did you feel when you heard people refer to you and other women, girls at the camp, as guduria?”

Answer. I didn't feel well. It wasn't a good name to call somebody. It's a very bad name. It means that the food prepared in this cooking pot is eaten by any soldier. And that's how they treated us. Any person who wanted to sleep with us could do so.²

This is a landmark case in recognizing that the rape and sexually slavery of soldiers by members of the same armed group is a war crime for which this Court is empowered to prosecute and convict. The evidence presented at trial proves these horrific sexual crimes beyond reasonable doubt and proves Bosco NTAGANDA's criminal responsibility for them.

On the strength of the Prosecution's evidence in the case, which I submit, confidently meets the applicable standard of proof at trial, the Accused must be convicted for the crimes charged.

Mr President, your Honours,

The evidence shows that Bosco NTAGANDA was one of the highest and the most experienced military commanders in the UPC. He planned, coordinated and commanded the two attacks of November 2002 and February 2003, with Floribert Kisembo and other UPC commanders. The evidence supports UPC soldier P-907's testimony that Bosco NTAGANDA *"planned the war"* and *"was in charge of all the war operations"*.

The evidence supports the Accused's own testimony when asked if he was viewed as the real operational leader of the army, to which he replied: *"I was a tactician, I certainly accept that."*³

The evidence proves that Bosco NTAGANDA personally committed crimes. He persecuted and attacked civilians, murdered them, pillaged their goods, destroyed their churches and hospitals. He enlisted and used children under the age of 15 to participate directly in hostilities.

He also made other, essential contributions to the common plan to assume military and political control of Ituri and drive out the UPC's enemies; enemies that included the Lendu, Nande and other non-Hema civilian population. He recruited, trained and organized the

² Transcript T-161, P-38, lines 2-19.

³ T-225, p.49, lines 9-10.

army, distributed weapons and ammunition, deployed troops, ensured compliance with orders, developed the UPC's communication ability, issued orders to attack, pillage, rape, persecute and kill, and induced the commission of crimes.

Crimes of this scale and of this nature required Bosco NTAGANDA's direct commission and his essential contribution to their planning and organisation. They required Bosco NTAGANDA's will to be executed.

As a military commander, Bosco NTAGANDA failed to prevent or punish the crimes committed by the troops under his effective command and control. His orders were executed automatically. He knew or should have known that his troops were committing or were about to commit the crimes. These were the same troops that had committed crimes in other attacks, using the same brutal tactics. While Bosco NTAGANDA conceded that he could discipline his soldiers at any time, he did not discipline any soldier for the charged crimes.

Mr President, your Honours,

Despite the Defence's claims to the contrary during trial, this was an exemplary trial in terms of fairness.

The Accused chose an experienced legal team to represent him during these proceedings. He had full and early disclosure of the Prosecution's witness statements and expert, forensic and documentary evidence. He had the opportunity to cross-examine Prosecution witnesses and he did so. He fully tested the evidence that incriminates him. Mr Ntaganda was also given full opportunity to present his own witnesses, evidence and arguments, and he testified at great length in his own defence.

The Chamber took reasonable and necessary measures to address indications of witness interference or disclosure of confidential information by the Accused or his associates. The Chamber restricted the Accused's telephone contacts and visits during the trial and regularly reviewed the ongoing need for the restrictions. The Chamber's decisions were fair and ensured the integrity of the trial.

There is no doubt that this Chamber ensured a fair trial, which is a cornerstone for the authority of the International Criminal Court.

To conclude, Mr President, your Honours,

The evidence in this case proves beyond reasonable doubt that Bosco NTAGANDA is guilty of the charged crimes and the Prosecution asks your Honours to so find.

My colleague, **Ms Nicole Samson**, the Senior Trial Lawyer of the case will now present overviews of the evidence adduced at trial and of the scope of the charges. She will also summarise the evidence relating to the charged crimes committed during the First Attack in November 2002.

Ms Marion Rabanit will then address the Chamber on the evidence relating to the Second Attack in February 2003.

Ms Kristy Sim will elaborate on the evidence of the crimes against children in the ranks of the UPC.

Ms Dianne Luping will reveal the evidence of the Accused's individual criminal responsibility for the charged crimes for his direct and co-perpetration of them, for his orders and his inducements to commit crimes and for his contributions to the commission of crimes by persons acting with a common purpose, all under Article 25.

Mr Eric Iverson will then present the key evidence and issues relevant to the Accused's individual criminal responsibility as a military commander under Article 28.

I thank you for your attention.