



ACADEMY MODEL UNITED NATIONS 2010
BERGEN COUNTY ACADEMIES

INTERNATIONAL CRIMINAL COURT

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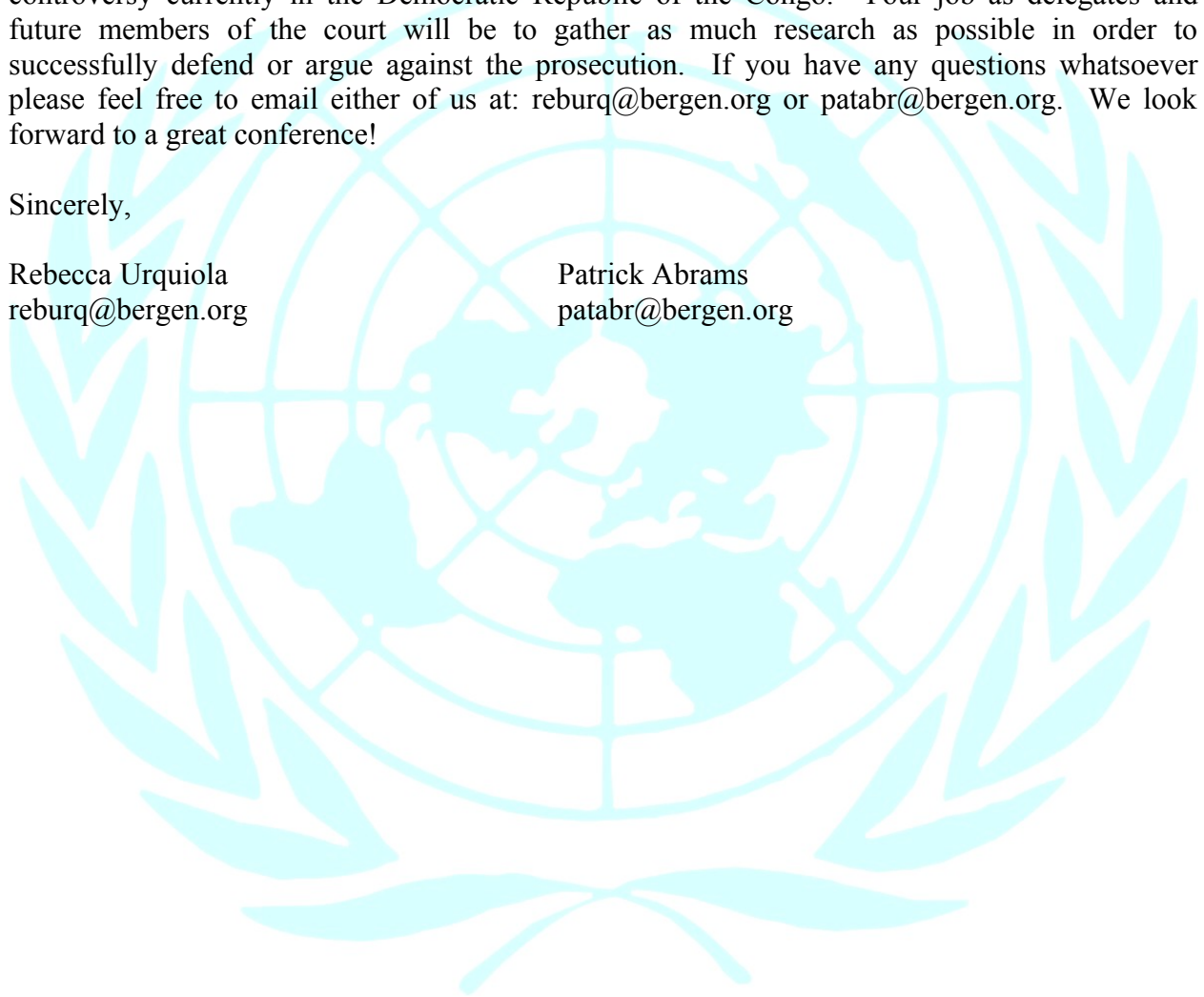
Hello delegates!

Welcome to the International Criminal Court. Our names are Rebecca Urquiola and Patrick Abrams. We are both looking forward to some very interesting debate. Over the next couple of days, we will be simulating real court cases that are of current debate at the actual United Nations. For those of you not familiar with Model UN, we will be operating on more lenient parliamentary procedures since we are a judicial body. We will explore the heated controversy currently in the Democratic Republic of the Congo. Your job as delegates and future members of the court will be to gather as much research as possible in order to successfully defend or argue against the prosecution. If you have any questions whatsoever please feel free to email either of us at: reburq@bergen.org or patabr@bergen.org. We look forward to a great conference!

Sincerely,

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TOPIC 1: DEMOCRATIC REPUBLIC OF THE CONGO

Introduction

ICC Workings:	
<p>Office of the Prosecutor: An independent organ of the court, it investigates allegations of the commission of war crimes and determines whether to pursue prosecutions against selected alleged perpetrators. Situations can be referred to the court for investigation by member states, as occurred with the DRC, or by the UN Security Council, as is the case with the situation under investigation in the Darfur region of Sudan.</p>	<p>The Pre-Trial Chamber: Has authority to issue an arrest warrant after considering submissions by the prosecutor. When a wanted person appears before the court, the Pre-Trial Chamber holds a hearing to confirm the charges that will be the basis of the trial.</p>
<p>The Trial Chamber: If the charges are confirmed the court assigns the case to a three-judge Trial Chamber responsible for conducting fair and expeditious proceedings. After the conclusion of testimony the Trial Chamber issues its decision, acquitting or convicting the accused. If the person is convicted the Trial Chamber issues a sentence of imprisonment and may also order reparations to victims.</p>	<p>Appeals Chamber: Throughout the proceedings the parties can appeal decisions to an Appeal Chamber of five judges. The Trial Chamber's verdict or sentence may be appealed by the prosecutor or the accused.</p>

How the Court Works

States Parties or the United Nations Security Council may refer situations of crimes within the jurisdiction of the Court to the Prosecutor. The Prosecutor evaluates the available information and commences an investigation unless he determines there is no reasonable basis to proceed.

The Prosecutor may also begin an investigation on his own initiative. In doing so, he receives and analyzes information submitted by a variety of reliable sources. If the Prosecutor concludes there is a reasonable basis to proceed with an

investigation, he asks a Pre-Trial Chamber to authorize an investigation.

The Prosecutor's investigations cover all facts and evidence relevant to an assessment of criminal responsibility. The Prosecutor investigates incriminating and exonerating circumstance equally and fully respects the rights of the accused.

Establishment of the Court

The International Criminal Court was established by the Rome Statute of the International Criminal Court, so called because it was adopted in Rome, Italy on 17

July 1998 by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court.

The Rome Statute is an international treaty, binding only on those States which formally express their consent to be bound by its provisions. These States then become "Parties" to the Statute.

In accordance with its terms, the Statute entered into force on 1 July 2002, once 60 States had become Parties. As of 21st July 2009, 110 States are Parties to the Rome Statute. The States Parties meet in the Assembly of States Parties which is the management oversight and legislative body of the Court.

Following the adoption of the Rome Statute, the United Nations convened the Preparatory Commission for the International Criminal Court. As with the Rome Conference, all States were invited to participate in the Preparatory Commission.

Among its achievements, the Preparatory Commission reached consensus on the Rules of Procedure and Evidence and the Elements of Crimes. These two texts were subsequently adopted by the Assembly of States Parties. Together with the Rome Statute and the Regulations of the Court

adopted by the judges, they comprise the Court's basic legal texts, setting out its structure, jurisdiction and functions.

Overview

Thomas Lubanga Dyilo, a Congolese national, is the first to be put on trial for war crimes at the International Criminal Court (ICC). Lubanga is the leader of the Union of the Congolese Patriots (UPC) in the Democratic Republic of Congo (DRC). He is accused of having recruited hundreds of children under the age of 15 to fight in the armed wing of the organization during the civil war in the DRC between September 2002 and August 2003.

Lubanga has pleaded not guilty to the charges at the ICC, located in The Hague, the Netherlands. He says he was fighting to prevent rebels and foreign fighters from plundering the vast mineral wealth of the



<http://mappery.com/maps/Democratic-Republic-of-Congo-Map.mediumthumb.jpg>

DRC's eastern Ituri region. The prosecution alleges that Lubanga's role in the conflict in Ituri was driven by a desire to maintain and expand his political control over the region, one of the world's most lucrative gold-mining territories.

History of the Democratic Republic of the Congo

Currently, the DRC has been working on recovering from a 5 year war in which the country greatly suffered from death and disease. This was fought against Uganda and Rwanda rebels with the help of Angola, Namibia, and Zimbabwe. This fighting was a result of the country's abundance in resources similarly, the court Lubanga case stems from the same desire in these resources. The DRC has always had a history of civil war and corruption. It gained independence in 1960 but faced opposition from an army military.

When the Prime Minister, Lumumba was seized and killed, Mobutu from the opposition army took power, renaming the country Zaire. He ensured US banking by fighting against Soviet Angola and was known for establishing corruption in the government. However, after the Cold War, the US lost interest in the country. Later in 1997, Rwanda invaded to rid the country of Hutu militia and at the same time empowered anti- Mobutu rebels to install a new president, Kabila.

Kabila did not have it easy. Tensions with countries in Africa rose thereby starting a war that left the DRC damaged. Even with the signing of a peace deal, the DRC was plotted against. Currently, the DRC hosts the UN's largest peacekeeping mission.

History of the Case

In order to fully understand the court case, we must look back at the Ituri conflicted region.

The Ituri conflict is a conflict between the agriculturalist Lendu and pastoralist Hema ethnic groups in the Ituri region of northeastern Democratic Republic of Congo

(DRC). The most famous of the conflicts involve Lubanga. The situation worsened with the inclusion of various armed groups in the Second Congo War wanting the area's abundant natural resources. While the Lendu ethnicity was represented by the Nationalist and Integrationist Front (FNI), Lubanga helped lead the Union of Congolese Patriots (UPC) which fought for the Hema. During this conflict, more than 50,000 people were killed and many forced to leave their homes.

The conflict stems from the Hutu-Tutsi standoff. While Lendu followed the Hutu ideology, the Hema conformed to Tutsi principles. This tension greatly adds to the severity of the conflict. However, this conflict did not start recently; there has been tension since colonial times. The Belgian colonists favored the Hema which presented inequalities between the two groups. This tension continues to present day however, the two groups have for the most part lived in peace practicing intermarriage.

The two groups seem to take out their aggressions for each other in land disputes. This land conflict seemed to commence with the passing of the 1973 land use law. This law allows people to buy land which they do not live in and then force the residents to leave after two years when the ownership can no longer be challenged. This made families leave their homes because they didn't know that their homes had been bought by other people. The Hema were claimed to have taken land from the Lendu in 1999. Lubanga and the defense told the court that Belgian rule granted Hema people greater political power than Lendu people. Land disputes have led to "ethnic radicalization" says the defense.

As well as gold, the province is rich in deposits of diamonds, timber, and newly

discovered oil. There are deposits of coltan, short for columbite-tantalite, a rare ore that is an essential component in cell phones, laptop computers and other hi-tech devices. A Canadian company, Heritage Oil, is drilling for oil in the Semliki Valley which straddles the Uganda-Ituri border. Canada's Barrick Gold claims exploration rights to the world's biggest gold field, Kilo Moto.

The outpour of resources provides incentive for the fighting.

However, the Ugandan government is now looking for significant gains from transactions such as this merger, reasoning that companies exploring oil in its territory raise profiles using its resources. "The government should benefit with any transfer of license. It could be in cash or otherwise but am yet to get a formal communication from Heritage Oil about this," said Mr Kabagambe-Kallisa. "It is a good thing that will improve the company's cash flow but I think Uganda should benefit in cash terms given that it is partly our resource that has pushed up Heritage's market value," said a senior official from the Energy Ministry who requested anonymity. However information from Heritage Oil at this stage does not signal any such benefit.



http://a.abcnews.com/images/International/abc_lubanga_090128_mn.jpg

Lubanga's Role in the Conflict

As a delegate, you should be prepared to understand the history in order to fully understand Lubanga's role. His participation in the Second Congo War included his role as military commander and minister of defense in the pro- Congolese

Rally for Democracy-Liberation Movement (RCD-ML). In July of 2001, he made another rebel group called the Union of Congolese Patriots (UPC). IN 2002, he split from RCD-ML and became the president of the UPC forming the military division. This division was called, Patriotic Force for the Liberation of the Congo (FPLC).

As stated previously, the conflict within the Ituri region was worsened with the armed groups including the UPC. The UPC is a largely Hema group. The UPC gained control of the capital, Burnia, which happens to be the gold-rich Ituri region. In 2002, he demanded for the Congolese government to recognize the Ituri region as an independent region. While on a mission in Kinshasa, he was arrested but then was released in exchange for a government official.

Soon after this arrest, the Human Rights Watch accused the UPC of "ethnic massacres, murder, torture, rape and mutilation, as well as the recruitment of child soldiers". Between November 2002 and January 2003, the UPC killed 800 civilians. This was because of the civilian's interest in the fold mining region. More damage was caused between February and March

when the UPC destroyed 26 villages which in turn lead to the deaths of 350 people and forced 60,000 to flee. Part of the reason for putting Lubanga on trial was not only his clear violation of human rights but also the issue of having up to 3,000 child soldiers during this time. These children were from the ages of 8-15. He reportedly ordered every family in the area under his control to

help the war effort by donating something: money, a cow, or a child to join his militia.

[Patriotic Forces for the Liberation of Congo] (FPLC) and using them to

Timeline of Court's Actions	
EVENT	DATE
Prosecution application for a warrant of arrest	January 12, 2006
Warrant of arrest issued by Pre- Trial Chamber I	February 10, 2006
Surrender to the Court and transfer to the Detention Centre in The Hague	March 17, 2006
First appearance before Pre-Trial Chamber I	March 20, 2006
Confirmation of charges hearing	November 9-28 2006
Decision on the confirmation of charges	January 29, 2007
Commencement of trial	January 26, 2009

In 2003, the UPC was kicked out of Bunia by the Ugandan army. When Lubanga moved to Kinshasa, he registered the UPC as its own political party but was then arrested on March 19th of 2005. This arrest was in response to the deaths of 9 Bangladeshi United Nations peacekeepers in Ituri.

Counts

“M. Lubanga is allegedly responsible, as perpetrator, of war crimes consisting of:

- Enlisting and conscripting of children under the age of 15 years into the Forces patriotiques pour la libération du Congo

participate actively in hostilities in the context of an international armed conflict from early September 2002 to 2 June 2003 (punishable under article 8(2)(b)(xxvi) of the Rome Statute);

- Enlisting and conscripting children under the age of 15 years into the FPLC and using them to participate actively in hostilities in the context of an armed conflict not of an international character from 2 June 2003 to 13 August 2003 (punishable under article 8(2)(e)(vii) of the Rome Statute).” (International Criminal Court)

Prosecution

As for the prosecution, it may be easier to point out Lubanga's faults considering his actions violating human rights. You should consider what exactly Lubanga did in order to violate the ICC's guidelines on human rights. You should find evidence that proves Lubanga's involvement with the UPC and his interest in child soldiers.

Defense

As for the defense, your task may be a bit more challenging. Recently, during the trial, the point was brought up that Lubanga was acting as a scapegoat. Should Lubanga be the one on trial? Was Lubanga solely responsible for the destroying of villages and the deaths in the Ituri region? Currently the defense has been put under a difficult situation in that they claim Lubanga is representing many people responsible for the behaviors in Africa.

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