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ICC verdict raises questions about quality of prosecutions

18 December 2012 – Today, in a major setback for victims of the Bogoro massacre in Ituri, the Democratic Republic of Congo, the International Criminal Court acquitted one of the alleged masterminds behind the attack, for lack of sufficient evidence.

The Prosecutor alleged that Mathieu Ngudjolo Chui was the former commander of the Lendu combatants from Bedu-Ezekere and had played a key role in the planning and execution of the attack. He was charged with war crimes and crimes against humanity. The indiscriminate attack on 24 February 2003 left at least 200 civilians dead, mainly of the Hema ethnic group. Furthermore, many women and young girls were abducted and turned into sex-slaves. His co-accused, Germain Katanga, is awaiting a ruling on his alleged responsibility for the attack.

This case is the second one to go to trial before the ICC and the first to include sexual violence charges, including rape and sexual slavery. The accused also faced other charges such as murder, pillage and the use of child soldiers. A total of 366 victims participated in the proceedings.

The ICC judges said that the non guilty verdict did not mean that no crimes were committed in Bogoro nor did it question what the people of this community suffered on that day. They emphasized that the evidence was simply not enough to form a conviction “beyond reasonable doubt”.

In particular, the ICC judges questioned the credibility of three key witnesses for the prosecution. This is a disturbing reminder of the serious flaws in the Prosecutor’s investigations in the Lubanga case earlier this year. In that case, the ICC judges heavily criticised the use by the Prosecutor of evidence produced by local actors on the ground. Some of this evidence was disqualified as tainted.

“It is difficult to understand how the Prosecutor was apparently unable to establish the simple fact that Ndudjolo was the commander of the group allegedly responsible for the crimes or else to identify who was,” said Gaelle Carayon, ICC Programme Officer. “REDRESS hopes that the verdict in the Ngudjolo case will lead to some careful reflection about how the ICC prosecutions are conducted in the future.”

“In the Lubanga case, victims found at times international justice a difficult and long process to swallow,” added Carayon. “Victims in the Katanga and Ngudjolo case had hoped that the trial would help establish who was responsible for the terrible harm they suffered in Bogoro. The Prosecution owes it to them to build the best case possible and bring the most compelling evidence to satisfy victims’ thirst for justice. ”

As noted by the judges, protection measures need to remain in place in order to ensure that no reprisals occur against witnesses and victims who had the courage to come forward.

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Note: REDRESS was founded by a British torture survivor in 1992. Since then, it has consistently fought for the rights of torture survivors and their families in the UK and abroad. REDRESS, along with others, played a role in ensuring that key provisions for victims were incorporated into the Rome Statute which established the ICC. We are also currently the informal coordinator of the Victims' Rights Working Group, a network of 400 national and international organisations and experts that advocates on victim's issues before the ICC (www.vrwg.org).