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REDRESS HOPES THAT LUBANGA'S SENTENCE WILL CONSIDER LONG-LASTING HARM TO VICTIMS AND FAMILIES

13 June 2012 – A sentencing hearing for Congolese warlord Thomas Lubanga is taking place today and tomorrow in The Hague with the prosecution, the defense and the legal representatives of victims making submissions.

Mr Lubanga was found guilty last March of the war crimes of enlisting and conscripting children under 15 into the Forces Patriotiques Pour la Liberation du Congo (FPLC) and using them actively in hostilities in the Ituri region of the Democratic Republic of Congo between 2002 and 2003.

In hearing submissions on the sentence to be ordered against Mr Lubanga we hope that the ICC judges will consider the gravity of the crime and the long-lasting harm caused to his vulnerable victims, their families and their communities.

Article 78 of the Rome Statute states that in determining the appropriate sentence, the Court shall take into account such factors as the gravity of the crime and the individual circumstances of the convicted person. In addition, Rule 145 of the Rule of Procedure requires the Court to reflect the culpability of the convicted person and to consider and balance other factors, such as the harm caused to the victims and their families, and appropriate aggravating and mitigating factors.

Among the aggravating factors that the ICC can consider are the vulnerability of victims, the cruelty in the commission of the crime as well as the commission of the crime where there were multiple victims.

Some of the children were as young as 10 years old when they were abducted and they still bear the psychological and physical scars of their time in the UPC/FPLC. Some children were also often forced to, encouraged or lead to commit crimes themselves including pillaging, rape, and killing. Many children were also abused, beaten, and submitted to cruel and

inhuman treatment which could amount to torture. A critical part of their childhood was destroyed.

"When one thinks of the crime of enlisting, conscripting and using children in hostilities, the fact that these children were often brutalised, subjected to harsh treatment, and themselves were asked to commit crimes is often overlooked. They were asked or encouraged to rape; they were asked to pillage villages, sometimes their own; they were asked to kill people. So it's not just about children being trained, asked to fight and often being put in the first line of fire. The children suffered much worse and they still live with the consequences," said Carla Ferstman, director of REDRESS.

For Ferstman, the consequences go far beyond those on the individual child victims.

"It's not just the children that are victims here, it's also the families and the communities. A lot of these families have had their children taken never to come back, they still don't know what happened to them. When the children did return, they were often rejected by their communities which perceived them as perpetrators. Communities have had to reintegrate children that were heavily psychologically and physically hurt and tensions are still perceivable," she said.

Another aggravating factor at sentencing that the judges should consider is the evidence of sexual violence and rape, which highlights the gender element of the crimes of enlistment, conscription and using children in hostilities.

"Even though Mr Lubanga was not convicted of gender crimes, there is evidence that girls that were enlisted or conscripted were systematically abused and raped and these are all consequences of the crimes that should be taken into consideration as part of the harm suffered by victims and their families," said Ferstman. "The sentence will send a strong message to other leaders that are thinking of recruiting child soldiers that this should not be tolerated."

Article 77 of the Rome Statute outlines the possible penalties for persons convicted by the ICC, including imprisonment not exceeding 30 years and life imprisonment in cases of "extreme gravity" and where "individual circumstances of the convicted person" warrant. In

addition to imprisonment, the Court may order a fine or a “forfeiture of proceeds, property and assets derived directly or indirectly from that crime”.

The Chamber in the Lubanga case is yet to indicate the approach, principles and criteria it will apply in relation to the reparation of Lubanga’s victims.

For further information, please contact Eva Sanchis, Communications Officer, at eva@redress.org or +44 (0) 20 7793 1777.

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).