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Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to

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Assistant professor of Law

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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He

participated in several workshops on research methodology and teaching and learning.

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**TITLE- THE FIRST TRIAL OF
INTERNATIONAL CRIMINAL COURT (THE
PROSECUTOR VS. THOMAS LUBANGA DYILO) -
A CRITICAL STUDY**

AUTHOR - ANKITA DAS
DESIGNATION- ASSISTANT PROFESSOR
AT BIHAR INSTITUTE OF LAW, PATNA
PHONE NO- 8800978452
EMAIL ID- dasankita1994@yahoo.com

**THE FIRST TRIAL OF INTERNATIONAL CRIMINAL COURT (THE
PROSECUTOR VS. THOMAS LUBANGA DYILO) - A CRITICAL
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ABSTRACT

If we look around the world we will see that many inhuman treatments, offences had taken place and it is continuing even today. Innocent people were killed, children were tortured, women are used as sex slave thus people in power rule over them. Many a times even the concerned state also found to be helpless and thus not able to try the offender and punish them. So to punish the offenders and control over the situation, International Criminal Court has been brought up to punish the offenders where the state not in position to investigate against them and punish them. This paper deals with the issues like role and procedure in ICC trial, role of prosecutor, victim participation in the trial. The paper also analyzes ICC first trial that is of Thomas Lubanga who has been charged with the enlisting children, conscription of children and using children to participate in hostilities. The paper covers the detailed analysis of the case of Thomas Lubanga. Even the paper also focuses on the issues like how is war crime different from the armed conflict not of international character, what is gender crime. At the end paper also enumerates on the court positive points and its failure.

INTRODUCTION

Lubanga Case is the first International Criminal Court trial against Congolese warlord Thomas Lubanga Dyilo. This case is also famous for the first time formal victim participation in an international criminal trial. Lubanga is accused of enlisting and conscripting children

under the age of fifteen and using them to participate actively in warfare from September 2002 to 13 August 2003. He was also been accused of massive human rights violations, including ethnic massacres, murder, torture, rape, mutilation.

INTRODUCTION TO THOMAS LUBANGA

Thomas Lubanga is the Congolese citizen who is born on 29 December 1960 in Djugu Territory, Ituri district, Orientale province, of the Democratic Republic of the Congo (DRC). He belongs to ethnicity group of Hema. He was the president and leader of the Union of Congolese Patriots and commander-in-chief of the Liberation of the Congo, the military wing of the UPC and one of the principal armed militias in the Ituri conflict.¹

ITUTRI CONFLICT

Itutri conflict is considered as one of the bloodiest war. Itutri is the place in Congo which is rich in reserve of gold, diamonds, wood, petroleum. Government or armed forces or any group want to have control over the wealth of Itutri and thus in race of controlling the wealth of Itutri leads to the conflict. In Congo from 1996 to 1997 there was dictatorial regime of Mobutu Sese Seko. Another campaign was lead by Laurent-Desiré Kabila to overthrow the dictatorial regime. The Uganda forces, Rwandan forces, Congolese forces fought with each other to have control over the Itutri region. Thus the struggle of different armed forces for the control of wealth of Itutri is one of the main reasons for the duration, extent, intensity of Itutri Conflict.²

Land dispute over the Itutri region also exist between two ethnic communities that is Hema and Lendu which worsened in 1999. In 1999, the Rally for Congolese Democracy which was the rebel group operated in Itutri at that time split between two groups namely the RCD-Mouvement de Libération (RCD-ML), which was under Ugandan influence, and the RCD-Goma which was under Rwandan influence.³

Lubanga first served as the Minister of Defence of the RCD-ML which was under the Uganda influence, but later internal conflict arises in RCD-ML and Lubanga left the RCD-

¹The Prosecuor v Thomas Lubnaga, Case Information sheet, No.ICC-01/04-01/06,ICC (Last updated Feb 10,2016) available at <https://www.icc-cpi.int/iccdocs/PIDS/publications/LubangaENG.pdf>

²Michèle Laborde-Barbanègre,Guy Mushiata, and Meritxell Regue “Case against Thomas Lubanga” , ICTJ Briefing (Last updated May 2014), available at < <https://www.ictj.org/sites/default/files/ICTJ-Briefing-DRC-Lubanga-2014.pdf>>

³ *Id.*

ML and formed its own group known as Union of Congolese Patriots (UPC) in 2000. It's the first Political party with an ethnic base (Hema) in Ituri, to fight the RCD-ML. In September 2002, he became President of the UPC and founded its military wing, the Patriotic Force for the Liberation of the Congo (FPLC) and took power in Ituri and demanded that the Congolese government recognise Ituri as an autonomous province and later more tension arose when UPC asked Uganda troops to withdraw from the Ituri region.⁴ In 2003, another event arose that is in the UPC, there were certain anti-Lubangists who took side on Uganda which was already supporting another Hema militia coalition opposed to Lubanga, Party for Unity and Safeguarding of the Integrity of Congo. Violence arises among these groups in order to gain power over Ituri region.

On the other hand, seeing the creation of military group by Hema communities, Lendu militias also founded many groups know as Nationalist and Integrationist Front (FNI), and the Front for Patriotic Resistance in Ituri (FPRI) of Germain Katanga and Mathieu Ngudjolo.⁵

CRIME COMMITTED BY THOMAS LUBANGA

Between 1 September 2002 and 13 August 2003, the armed wing of the UPC/FPLC was responsible for the widespread recruitment of young people, including children under the age of 15 years on an enforced as well as a voluntary basis and were sent to either the headquarters of the UPC/FPLC in Ituri or its other military training camps. Children were deployed as soldiers and they took part in fighting. The UPC/FPLC used children under the age of 15 to participate actively in hostilities including during battles.⁶ Children were used as bodyguards for senior officials including of Thomas Lubanga⁷ and also to be domestic workers. Boys were trained to rape and to use girls as sex slave.⁸ The UPC was forced out of Ituri by the Ugandan army in March 2003. Lubanga later moved to Kinshasa and registered the UPC as a political party, but was arrested on 19th March 2005.

⁴ "Who's who in Ituri - militia organizations leaders", the inside story on emergencies, IRIN news, (Last updated on 20 April, 2005) available at <https://www.irinnews.org/report/53981/drc-whos-who-ituri-militia-organisations-leaders>

⁵ Supra 2

⁶ Supra 1

⁷ Case of The Prosecutor v. Thomas Lubanga Dyilo, International Bar Association (September 11, 2016) available at http://www.ibanet.org/ICC_ICL_Programme/ICC_DRC_Lubanga.aspx

⁸ The Prosecutor vs Thomas Lubanga Dyilo, The office of the prosecutor, International Criminal Court, (September 12, 2016) available <https://www.icc-cpi.int/NR/rdonlyres/374A34E6-96EB-4A40-8EC3A3F95F9AC5DF/284353/OTPFactsheetontheThomasLubangaDyilojudgment.pdf>

JURISDICTION

Democratic Republic of Congo ratified the Rome Statute on 11 April 2002, the founding instrument of the International Criminal Court (the Court). In March 2004, Government of Congo invited the ICC to look into the situation of the country. Then ICC prosecutor were invited by Congolese Authorities for the determination of crime within the ICC jurisdiction. The ICC prosecutor announced the opening of an investigation in Congo in June 2004.⁹

CHARGES AGAINST THOMAS LUBANGA¹⁰

1. Enlisting children,(means taking help of children) in constituting a war crime in violation of article 8(2)(b)(xxvi) of the Rome Statute;
2. Conscription of children,(compulsory involving the children into the armed forces) constituting a war crime in violation of article 8(2)(b)(xxvi) of the Rome Statute;
3. Using children to participate in hostilities, constituting a war crime in violation of article 8(2) (b) (xxvi) of the Rome Statute.

ROLE OF PROSECUTOR IN THE TRIAL

Prosecutor has a very important role in the trial from the beginning that is for the first time case brought to the court till the judgment is delivered. However to prove the wrongs of perpetrators, investigation has to be done in a proper manner. The whole responsibility is on the prosecutor to investigate the case. Prosecutor also had a role in deciding the jurisdiction of the case.

The ICC does not replace the national court rather it act as complementary to the national court. It is the will of the state to bring under the jurisdiction of ICC. When the national court not able to investigate or bring prosecution, then state prefers to move to ICC. The first role of Prosecutor comes in deciding the jurisdiction of the court, whether national court system has jurisdiction to try the particular crime or not. As per the Article 17 of the Rome Statute, the Prosecutor can proceed only where States fail to act, or are not “genuinely” investigating or prosecuting. On these grounds prosecutor can open an investigation on it’s own but has to first take permission from the Pre-Trial Chambers judges. Prosecutor has to establish whether

⁹ Khanh Renaud, “ Thomas Lubanga, President of UPC” International Criminal Court of Thomas Lubanga,(Last updated January 23, 2009) , available at <<https://www.hrw.org/news/2009/01/23/international-criminal-court-trial-thomas-lubanga>>

¹⁰ Supra 2

the crime of genocide, crimes against humanity or war crimes may have been committed.¹¹

For the investigation, the office of the Prosecutor sends its investigators to collect the evidences in areas where crimes are alleged to have been committed. They can also take help from the States and International Organization.

The office of prosecutor has three division, they are as follow¹²:-

Investigation Division – This is responsible for conducting the investigation of case and examining of the evidences.

Prosecution Division- The main duty of the division is litigating the cases before the various Chambers of the Court.

The Jurisdiction, Complementarily and Cooperation Division- It helps the investigation division to secure and access to information required in order to fulfill the investigation.

ROLE OF VICTIMS IN CRIMINAL PROCEEDING BEFORE THE INTERNATIONAL CRIMINAL COURT

I. When victims can participate in International Criminal Court proceedings?

ICC statute grants the participation of victim in the trial proceeding. Article 15(3) of the Rome Statute and Rules 50, 92(3), 93, 107, and 109 of the ICC Rules of Procedure and Evidence (RPE) provides for the participation of victims. Article 68(3) of the Rome Statute states that victims can participate in proceeding only when their personal interests are affected by the trial. Thus, they should be allowed to present their views and concerns in the proceeding. Provided that their participation in the proceeding will not prejudice the rights of accused in a fair and impartial trial.¹³ Rules 92(2), 93, 107, and 109 of the Rules of Procedure and Evidence (RPE) provides for the participation of victims at the investigation stage of a situation. Analysis of whether victim's personal interest is affected must be carried out at the

¹¹ Paper on some policy issues before the Office of the Prosecutor, International Criminal Court, ICC-OTP (2003). available at https://www.icc-cpi.int/nr/rdonlyres/1fa7c4c6-de5f-42b7-8b25-60aa962ed8b6/143594/030905_policy_paper.pdf

¹² Supra 9

¹³ Rome Statute of the International Criminal Court, A/CONF.183/9 (2002) [Hereinafter referred as Rome Statute] Article 68 “Where the personal interests of the victims are affected, the Court shall permit their views and concerns to be presented and considered at stages of the proceedings determined to be appropriate by the Court and in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial. Such views and concerns may be presented by the legal representatives of the victims where the Court considers it appropriate, in accordance with the Rules of Procedure and Evidence.

investigation stage or preliminary proceeding because at this stage verification of the events and the identification of the alleged perpetrators take place. Thus they can express their hardship, trauma, personal suffering and violation of their rights in context of the perpetrators. Chambers at every new situation or case can set out the procedure for victim's participation.¹⁴

II. The manner in which victim can participate in trial

The first procedural rule for victim's participation in trial is given under Rule 89 of RPE¹⁵, where victim has to make a written application in which they have to demonstrate themselves as victims within the meaning of Rule 85¹⁶ of RPE. Then as per Rule 68 of RPE, they have to demonstrate that their personal interests are affected by their trial and thus be allowed to present their views and concerns during the stage of proceeding. Rule 91 of RPE¹⁷ states that victim's representative is allowed to participate in the proceeding and its intervention is only permitted through written submission or observations. However the prosecutor and the defence are allowed to reply to any of the observations made by the legal representatives. Rule 91 of RPE further allowed those victims who have been granted permission to attend the proceeding to question witnesses in those hearing. Rule 93 of the RPE¹⁸ grants the ICC Chambers the discretion to seek the views of the victim on any issue that may arise in proceeding. In following all these procedures there should be consistency that rights of accused of fair trial should not be infringed.¹⁹

III. Protection provided to the victims

In order to protect the victim, in camera proceeding can take place, a psychologist or a family member be permitted to attend during the testimony of the victim or the witness. Chamber

¹⁴ Héctor Olásolo, "Systematic and Casuistic Approaches to the Role of Victims in Criminal Proceedings before the International Criminal Court", *New Criminal Law Review: An International and Interdisciplinary Journal*, No. 4, 513-528 (2009)

¹⁵ Rules of Procedure and Evidence, International Criminal Court, ICC-ASP/1/3 and Corr.1, Part II (2013) [Hereinafter Rule of procedure of evidence referred as RPE], Rules 89 states Application for participation of victims in the proceedings

¹⁶ Rule 85 of RPE : Definition of victims : "Victims" means natural persons who have suffered harm as a result of the commission of any crime within the jurisdiction of the Court;

¹⁷ Rule 91 of RPE: Participation of legal representatives in the proceedings

¹⁸ Rule 93 of RPE: Views of victims or their legal representatives: A Chamber may seek the views of victims or their legal representatives participating pursuant to rules 89 to 91 on any issue, inter alia, in relation to issues referred to in rules 107, 109, 125, 128, 136, 139 and 191. In addition, a Chamber may seek the views of other victims, as appropriate.

¹⁹ Supra 30

can control the manner of questioning a witness or victim so as to avoid any harassment or intimidation, paying particular attention to attacks on victims of crimes of sexual violence.²⁰ Administrative and logistical supports are also provided to the victims and witnesses to enable them to appear before the court. Specialized agencies are made who take special care to the needs of children, women, the elderly, persons with disabilities and victims of sexual violence.²¹

In Lubanga case, Chamber accepted the participation of 129 victims represented by 3 teams of lawyers. They were allowed to express their views and to interrogate the witnesses. The chamber heard 67 witnesses. The prosecution called 36 witnesses, including 3 experts, while the defense called 24 witnesses.²²

PROCEDURE FOLLOWED IN THE ICC TRIAL

Heinous crimes, violence, conflicts occur in the twentieth century which lead to many violation of International laws and human rights. Many violators remain unpunished so United Nation General Assembly felt the need of establishment of permanent international court to deal with these autocrats. On 17th July 1998, a conference of 160 states established the first treaty based International Court. The treaty adopted during that conference is known as the Rome Statute of the International Criminal Court. The state who becomes party to the Rome Statute agrees to submit itself to the jurisdiction of the ICC with respect to the crimes enumerated in the Statute. The ICC liable to prosecute only the individuals (not the group and the state) who committed crimes within the jurisdiction of ICC and include the crime of genocide, war crimes, crimes against humanity, and the crime of aggression within it's jurisdiction.²³

ICC while imposing a sentencing also hears the accused. The maximum term of imprisonment which can be given by ICC is thirty years, however in case of extreme gravity of crime and circumstances life imprisonment can also be given. It has the authority to impose a fine and can also asked the accused to forfeiture the property or asset which he gain during the crime. A trust fund is also established by the ICC which takes the fine and

²⁰ Rule 87 and 88 of RPE

²¹ Victim before the International criminal court, A guide for the participation of the victims in the proceeding of the court , International Criminal Court, available at <https://www.icc-cpi.int/NR/rdonlyres/8FF91A2C-5274-4DCB-9CCE-37273C5E9AB4/282477/160910VPRSBookletEnglish.pdf>

²² Supra 2

²³ Understanding the International Criminal Court, International Criminal Court, at 3,4 available at <<https://www.icc-cpi.int/iccdocs/PIDS/publications/UICCEng.pdf>

forfeiture assets and are used for the benefits of the victims and their families.²⁴ The ICC has jurisdiction only with respect to events which occurred after the entry into force of its Statute on 1 July 2002. One of the special feature of ICC is that no one is exempt from prosecution because of holding any office.²⁵

CASE ANALYSIS

NATURE OF CRIME COMMITTED BY THOMAS LUBANGA

I. WAR CRIME

The definition of war crime as per ICC statute is “serious violations of the laws and customs applicable in international armed conflict” and “serious violations of the laws and customs applicable in an armed conflict not of an international character”²⁶.

The following below is the list which constitutes war crime that is serious violations of laws and customs.²⁷

1. The conduct endangers protected persons or objects- It is not necessary that person actually suffered loss. Launch of attack or endangering the life or object is sufficient enough to constitute a war crime.
2. The conduct breaches important values- Any act which does not necessarily endanger the life of person or object directly but it breaches the important values such as subjecting persons to humiliating treatment, making persons undertake work that directly helps the military operations of the enemy, recruiting children less than 15 years of age into the armed forces.

In Tadic case²⁸, it has been said that breach must be such that it gives grave consequences to the victim. Breach does not necessarily bring death or physical injury to the victim even anxiety and distress is sufficient to bring the act of war crime. It was also held in this case that war crime include both customary rules and applicable treaty provisions. So in constituting a war crime, crimes under Nuremberg Tribunal judgment and treaty of ICC both

²⁴ Mark A. Drumbl and Kenneth S. Gallant “*Sentencing Policies and Practices in the International Criminal Tribunals*”, Federal Sentencing Reporter, No. 2, 140-144 (2002).

²⁵ Supra 9

²⁶ ICC Statute, Article 8

²⁷ Definition of War Crime, Rule 156. Serious violations of international humanitarian law constitutes war crime., International Committee of Red Cross, available at <https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule156#Fn_13_7

²⁸ ICTY, Tadić case, Case No. IT-94-1-AR72, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, Appeals Chamber (2 October 1995), at Para 94 and 143. Also see Supra 20

will be considered.²⁹ In Lubanga case, charges which were imposed against him is of war crime. So court rightly prosecuted him under war crime.

II. GENDER VIOLENCE AS PER UNDER ARTICLE 7(1) (H) OF ROME STATUTE

Gender crime is a violence or crime established under Rome Statute, under Article 7 (1) (h), it says it is crime against humanity. Various provisions of statute laid down the characteristics of gender crime which includes rape, sexual slavery, enforced prostitution, forced pregnancy which also comes under war crime or crime against humanity. According to Article 68(1) of the Rome Statute the “court shall give regard to all relevant factors including the gender and nature of crime which involves gender or sexual violence or violence against children”.

First time in the case of *Prosecutor vs. Jean Pierre Bemba*, criminal justice system dealt with sexual crimes. Jean Pierre Bemba used to send his soldiers to Central African Republic to terrorize the area by committing rape and other sexual crimes. Sexual violence, Rape outrages personal dignity, in personal humiliating thus it is both crime against humanity and war crime. The same had happened in the Democratic Republic of Congo (DRC), in the case against Germain Katanga, former leader of the *Force de Résistance Patriotique in Ituri* (FRPI). He attacked on the village named Bogoro where women on captured being undressed and raped. Women were detained and were regularly raped by the soldiers and commanders. He was charged both against war crime and crime against humanity.³⁰

Thus it can be inferred that Lubanga offence is of Gender Violence and it comes under war crime.

FULFILLMENT OF NATURE OF WAR CRIME

Since Thomas Lubanga has been charged with conscripting, enlisting, and using child soldiers in the conflict of Congo (DRC). Prosecutor has proved beyond reasonable doubt that how children's were used by Thomas Lubanga and his men for their own violent goals. Boys were instructed to rape and the girls were daily victim of rapes by the commanders. Lubanga's soldiers took the girls as their forced wives and transform them into sexual slaves.

²⁹*Id.*

³⁰Luis Moreno-Ocampo, “Keynote Address—Interdisciplinary Colloquium on Sexual Violence as International Crime: Interdisciplinary Approaches to Evidence”, *Law & Social Inquiry*, No. 4, 839-846 (2010).

Hundreds of children have been affected in the conflict. Thomas Lubanga had the key role for the recruitment policy of children below 15 years of age. He gave speech in the local population and encouraged children below 15 years of age to join army.³¹ Thus these allegations have been proved by the Prosecutor. The nature of the crime fulfills the criteria of war crime as he had endangered the life of children and also breaches important values like humiliation treatment, recruiting children under 15 years of age into the armed forces as stated in Article 8 of the ICC Statute. Thus he is rightly charged with the war crime as per by the court.³²

ENGAGEMENT OF VICTIMS IN THOMAS LUBANGA TRIAL

As we already discussed the procedure that how victims can participate in the trial and Thomas Lubanga the first case of ICC has made the remarkable step in allowing the victim's participation in the trial.

Appeal chamber defines the criteria for the participations of the victim. It stated that not only the direct victims like child soldiers but also indirect victims like parents of the child soldiers can also apply for participation in the trial.

With began of the trial on 26th of January 2009, eight lawyers, represented a total of 93 victims. The first witness was former child soldier. With the proceeding of the trial, more victims were allowed to participate and thus total of 123 victims participated in the trial.

One drawback was that victims and witnesses identity was known to defence and this brought the major issue of their protection. Many participants hesitant while giving testimony in trial. However Court ensures adequate protection of victims. Court stated that every applicant who had applied for the participation should be provided protection no matter whether they were allowed or formally recognize as participants in the trial. Trust fund was created to provide physical and psychosocial rehabilitation and/or material support of victims.

On 20th May 2011, there was official close of the evidence of the trial and victims submitted their final written submission. In its observation, they stated that there was active participation of children under the age of fifteen years of age in hostilities and also in activities like espionage, sabotage, and using children as messengers.³³

³¹ *Id.*

³² *Supra* 1

³³ Thomas Lubanga Trial, Timeline of victim's engagement in the case , Redress (2011) available at <http://www.redress.org/downloads/ThomasLubangaVictimsTimeline-250811.pdf>, Also available at <https://www.icc-cpi.int/Pages/item.aspx?name=pr1092>

TRIAL PROCEEDING

Pre-trial

In the pre-trial charges framed against Lubanga was confirmed by virtue of Article 8(2) (e)(vii) of the Rome Statute which prohibits the enlisting and Conscription of children under the age of fifteen into armed forces or using children into hostilities.

➤ Prosecutor contention

In order to gain power in Itutri, accused agreed with others for the recruitment of children under the age of fifteen years for their own benefits and for the benefits of UPC. The methods for recruiting children included abduction and pressuring the population to provide children to the UPC.³⁴ During military training, the UPC allegedly abducted, beat, whipped, imprisoned, and inadequately fed children, and raped young girls.³⁵

➤ Defence contention

The defense denied individual criminal responsibility by arguing that Thomas Lubanga was not involved in an alleged criminal plan and did not play a central role in the military wing of the UPC, but instead implemented measures prohibiting the recruitment of child soldiers and ensuring their demobilization.³⁶

PRE-TRIAL CHAMBER DECISION

The Trial Court confirmed the charges against Lubanga and sufficient evidence to establish substantial grounds to believe that Lubanga is criminally responsible as a co-perpetrator for the charges made against him.³⁷

TRIAL

On 26 January 2009, the ICC opened its first trial in the case against Congolese warlord Thomas Lubanga. The Prosecution, the Defence, the Registry and 8 Legal Representatives of Victims representing 93 victims had participated in the trial hearing. On 14th March verdict was announced where he was given imprisonment for 14 years.

³⁴ Prosecutor v. Thomas Lubanga, Case No. ICC-01/04-01/06, Judgment Pursuant to Article 74 of the Statute, at Para 30 (Mar. 14, 2012) [hereinafter Lubanga Trial Judgment]. Also see, Alison Cole and Kelly Askin, “*Thomas Lubanga : War Crime Conviction in the first case in the International Criminal Court*”, American Society of International Law, No. 12 (2012) available at <https://www.asil.org/insights/volume/16/issue/12/thomas-lubanga-war-crimes-conviction-first-case-international-criminal>

³⁵ *Id.* at Para 32

³⁶ *Id.* at Para 40-42

³⁷ Coalition for the International Criminal Court, available at <http://www.iccnw.org/?mod=drctimelinelubanga>

CONCLUSION

At the end author likes to say that trial taken place at ICC of Thomas Lubanga has done in a very good manner, all the evidence has been taken properly and conducted in a fair manner. Also the concept of granting the permission to the victim to participate in the trial and give their opinion on certain issues is also appreciable step. The decision of the court to bring the crime of Thomas Lubanga under war crime rather than bringing in any other offences is also a wise decision because all the criteria of war crime fulfilled the content of crime committed by Thomas Lubanga. Since it is the first trial of ICC, so persuasion and certain guidelines has also been taken from military tribunal like ICTY and ICTR. Thus it can be said that ICC trial is recourse to those states who are not been able to held the trial for the war criminal then ICC can step in by starting the proceeding with the investigation. In investigation Prosecutor has very significant role, from the investigation till the conclusion of trial, every little step has to be taken by Prosecutor to make the trial successful. However a lot of time has been took in completion of trial. The court from the next trial should make an effort to shorten the duration of trial so that speedy justice can be provided to the victim.

Some even criticized the ICC trial on the ground that lot of focus has been placed on chief prosecutor which sometimes lead to impartial trial. Another drawback is that sometimes state cooperation is required for the investigation of trial and in practicality state does not put such an effort and thus the crime cannot prove and pressure put on the ICC to trial the case with limited material. Lastly, the Security Council should also have provided support to the ICC in conducting its first trial.³⁸ However, the overall trial conducted by the ICC is very remarkable; every effort was taken to bring out the justice to the victim.

³⁸Danlel Donovan, "International Criminal Court : Successes and Failures", International Policy Digest (2012) available at <http://intpolicydigest.org/2012/03/23/international-criminal-court-successes-and-failures/>