

Forum: International Criminal Court

Topic: ICC V. Dominic Ongwen

President / Deputy President / Chair

Introduction:

The case of **The Prosecutor v. Dominic Ongwen** is one of the most crucial cases before the International Criminal Court (ICC); it concerns grave allegations against Dominic Ongwen, former commander of the Sinia Brigade of the Lord's Resistance Army (LRA), for crimes committed against Ugandan civilians and represents a key turning point in international criminal justice.

Uganda, wanting to investigate the crimes committed by the LRA and provide justice for its civilians, referred the situation to the ICC, a judicial institution established by the Rome Statute. The ICC then opened an investigation in northern Uganda in July 2004, exploring the crimes committed by the LRA, accusing Dominic Ongwen, former commander of the LRA, of committing crimes under the Rome Statute.

This case is distinguished from other ICC prosecutions as it is the first ICC case prosecuting a former abducted child soldier. Ongwen was abducted by the LRA when he was 9 years old, walking to school. Following his abduction was his immediate conscription into the LRA, where he was forced to commit atrocities and endure initiation rituals for "cleansing" purposes. Ongwen remained part of the LRA when he was between 24 and 27 years old despite enduring great suffering and trauma in his youth. These circumstances raise complex legal issues concerning the relationship between victimhood and criminal responsibility.

While serving in this role, Ongwen was prosecuted for 70 counts of war crimes, crimes against humanity and widespread humanitarian atrocities allegedly committed by the LRA between 2002 and 2005. These crimes include murder, enslavement, rape, sexual slavery, forced marriage, and child abduction and

recruitment into the LRA, all of which fall within the jurisdiction of the Rome Statute. These crimes primarily affected civilians in northern Uganda, specifically women, children, and internally displaced persons (IDPs).

These actions add to the unique complexity of the case which highlights justice for former abducted child victims like Ongwen, while ensuring fairness towards defendants who were themselves victims to the acts orchestrated by Ongwen.

Definition of Key Terms

International Criminal Court (ICC)

The ICC is a judicial institution established under the Rome Statute and is based in The Hague, the Netherlands. The Court's purpose is to bring the world's worst criminals to justice by investigating and prosecuting individuals alleged to have committed crimes under the Rome Statute. The Court was established in 2002 and has 125 States Parties. The Court has jurisdiction over four categories of crimes under international law, or under the Rome Statute, which are genocide, crimes against humanity, war crimes, and crimes of aggression.

The Rome Statute

The Rome Statute is the treaty that established the International Criminal Court. It was adopted on July 17, 1998, and its role is to set out the Court's powers, jurisdiction, and structure and to allow the ICC to prosecute those accused of serious international crimes.

The Lord's Resistance Army

The Lord's Resistance Army is a militant rebel group founded by Joseph Kony in 1987. It has operated for over 2 decades across Africa. It is known for perpetrating brutal attacks against civilians across four countries—Uganda, South Sudan, Democratic Republic of Congo, and Central African Republic—including torture, mutilation, and widespread child abduction.

Sinia Brigade

One of the several large, organized military units of the Lord's Resistance Army.

Crimes Against Humanity

Article 7 of the Rome Statute defines Crimes Against Humanity as systematic or widespread attacks such as murder, extermination, enslavement, and deportation or forcible transfer of population, directed against any civilian population.

War Crimes

Article 8 of the Rome Statute defines War Crimes as grave breaches of the Geneva Conventions of 1949, including acts such as wilful killing, torture or inhumane treatment, wilfully causing great suffering or injury, unlawful widespread destruction of property, and compelling a prisoner of war or protected person to serve in the forces of a hostile power, against people or property that are safeguarded under the Geneva Conventions.

Internally Displaced Persons (IDPs)

Internally Displaced Persons (IDPs) are a group of civilians who were forced to flee from their homes due to conflict or violence but stay within the borders of the country.

General Overview

The Prosecutor v. Dominic Ongwen is an international criminal case before the International Criminal Court that examines Dominic Ongwen, a former Brigade Commander in the Lord's Resistance Army (LRA). The case discusses the accountability of Dominic Ongwen for the crimes against humanity and war crimes that occurred in northern Uganda from 2002 to 2005. The charges included mass murder, rape, forced marriage, sexual slavery, enslavement, and the forced recruitment of children into the LRA.

The case is centred around the history and actions of the LRA, a Ugandan rebel group founded by Joseph Kony in 1987 as an insurgent group. Since its establishment, the LRA has been held accountable for widespread humanitarian atrocities across Africa, mainly focusing on northern Uganda. Although the LRA was founded in 1987, Ongwen became a member later at age 9 or 10, as he was abducted by other members of the group. Senior LRA leaders provided Ongwen with military training, which allowed him to rise in the ranks of the group and become one of the LRA's most ruthless commanders. The LRA's goal was to depose the Ugandan President and establish a new government due to their perception of the political and economic marginalization in Uganda. To accomplish this, widespread attacks occurred against civilians in Uganda, intensifying in 2002, including murder, abduction, sexual slavery, and the recruitment of child soldiers. As a former brigade Commander of the LRA, Ongwen was held accountable for the crimes committed during this period, overall leading to the beginning of his prosecution in the ICC for crimes against humanity and war crimes.

In December of 2003, the Ugandan government referred the crisis to the ICC following all the atrocities that occurred by the LRA. The referral was sent with the request for the ICC to investigate the actions that were allegedly performed by the LRA, including those of Dominic Ongwen. Following the referral issued by the Ugandan government, the ICC began investigating the case in 2004. In 2005, the

International Criminal Court issued an arrest warrant under the Rome Statute for the primary LRA leaders of the time, including the former brigade commander, Dominic Ongwen. After the warrant, Ongwen remained beyond the reach of authorities for years, until he surrendered in 2015 to the Central African Republic and was taken into custody of the ICC. After being in ICC custody for several years, Ongwen's trial began on December 16th, 2016, where he was prosecuted for 70 counts of war crimes and widespread humanitarian atrocities in Uganda.

Throughout the International Criminal Court's investigation of the case, multiple legal issues arose during the proceedings, leading to controversy over whether Dominic Ongwen's past as a child soldier affected his responsibility for the conflict. The Ugandan government and the ICC argued that, as former brigade commander of the LRA, Ongwen was criminally responsible and should be held accountable for the crimes and attacks that occurred during the conflict. From the prosecutor's point of view, the crimes committed by Ongwen should not be justified simply by his past, since as an adult, Dominic Ongwen maintained a high position in the LRA and exercised effective control over his brigade, therefore granting him responsibility for the atrocities that took place. The prosecution believed that Ongwen played a crucial role in the multiple attacks that occurred between 2002 and 2005, including rape, torture, mass murder, sexual slavery, enslavement, child abduction, and forced marriage. Although this perspective acknowledged the past and traumas faced by Ongwen, they believe that it is not excused from the widespread attacks and atrocities that civilians endured for long periods of time.

In sharp contrast, the defence argued that Ongwen's crimes can be justified by his past and should be viewed by considering his victimization by the LRA. As he was abducted at a young age, the defence argues that Ongwen lived under a constant threat and was forced to endure psychological trauma, propaganda, and years of brutality. This point of view claims that these experiences shaped his moral development and controlled the ways that Ongwen acted on these issues. They contended that this also

affected his ability to make independent decisions, as his decisions were controlled by fear and were influenced by the LRA's leaders, including leader Joseph Kony. To conclude, the defence believes that the suffering of Ongwen must be considered as it plays a major role in how the situation was carried out.

Overall, this case highlights how international attention is drawn towards legal issues. As Ongwen is perceived as both a leader of cruelty and a child soldier, this case raises questions about criminal responsibility individually. The case delves into how criminals should be judged, while recognizing their past and building up to conflicts. This case directly links to this year's AMMUN theme of Moderating Morality as moral and legal questions arose about whether an abducted individual who was forced into a rebel group should be held fully accountable and responsible for crimes that occurred later in his adult life. In addition, the case highlights how morals are not simply enough to decide a verdict, as legal principles and understanding the context of a case play a crucial role in a verdict. For these reasons, the case is a great example of how the relation between international justice and morality is both used and considered while investigating a case.

Major Parties Involved

International Criminal Court (ICC)

The International Criminal Court (ICC) is an independent judicial body that exercises jurisdiction over individuals charged with genocide, crimes against humanity, war crimes, and crimes of aggression. Headquartered in the Hague, Netherlands, the ICC is intended to complement rather than replace national courts. The ICC is responsible for both prosecuting and investigating cases under the Rome Statute.

In the Dominic Ongwen case, the ICC is prosecuting Dominic Ongwen, a former Brigade Commander in the Lord's Resistance Army (LRA). The involvement of the ICC in this case began in 2005, when the ICC issued arrest warrants for LRA leaders at the time, including Dominic Ongwen. After the warrants, Ongwen remained beyond the reach of authorities for years, until he surrendered in 2015 to the Central African Republic and was taken into the custody of the ICC. The trial began in the ICC on December 16th, 2016, where Ongwen was prosecuted on both crimes against humanity and war crimes. The prosecution believes that Ongwen played a crucial role in multiple attacks that occurred between 2002 and 2005, including rape, torture, mass murder, sexual slavery, enslavement, child abduction, and forced marriage.

Dominic Ongwen

Dominic Ongwen is a Ugandan former child soldier and a former commander of a brigade of the Ugandan group the Lord's Resistance Army (LRA). Ongwen was born in the village of Choorum, Kilak County, Amuru district, Northern Uganda, in 1975. Ongwen became a member of the LRA at around 9 or 10 when he was abducted by other members of the group on his way to school. Senior LRA leaders provided Ongwen with military training, allowing him to rise in the ranks of the group and become one of the LRA's most ruthless commanders.

In this case, Dominic Ongwen is the defendant and is being prosecuted for crimes against humanity and war crimes. Dominic is being held accountable as a brigade commander in the LRA for the attacks and atrocities that happened in Uganda against civilians, such as mass murder, displacement, and sexual slavery. As the defence counsel, Ongwen's crimes are sought to be justified by his past and should be viewed by considering his victimization by the LRA.

Lord's Resistance Army (LRA)

The Lord's Resistance Army (LRA) is a Ugandan rebel group founded by Joseph Kony in 1987 as an insurgent group to overthrow the Ugandan government that operated mainly in northern Uganda. The LRA is known as a violent group that is held accountable for numerous widespread humanitarian atrocities across Africa, mainly focusing on northern Uganda. The LRA has abducted, mutilated, and killed thousands of civilians and has long engaged in particular brutality against children.

The LRA began severely attacking Uganda around 2002, when widespread attacks were orchestrated by leaders of the LRA, including Dominic Ongwen and Joseph Kony. These attacks included murder, abduction, sexual slavery, and the recruitment of child soldiers. In response to the attacks from the LRA, the Ugandan government referred the situation to the International Criminal Court in 2003. In 2005, the ICC issued an arrest warrant for five leaders of the LRA, including Joseph Kony, Dominic Ongwen, Vincent Otti, Okot Odhiambo, and Raska Lukwiya. The arrest warrants were issued on different counts of crimes against humanity and war crimes, although not all of them were prosecuted.

Joseph Kony

Joseph Kony, born in Uganda in 1961, is the leader of the Lord's Resistance Army (LRA). Kony's goal with the LRA is to overthrow the Ugandan government and establish a new one based on the Ten Commandments. The ICC issued a warrant for Kony's arrest on behalf of both crimes against humanity and war crimes. Kony is accused of 39 counts of both charges, allegedly committed between July 2002 till 2005. Although many global efforts tried to capture him, Kony remains at large and continues to threaten civilians in Central Africa.

Timeline Of Events

Date	Event
1987	Ugandan militant Joseph Kony establishes the Lord's Resistance Army (LRA) in northern Uganda. The LRA was established as an insurgent group to overthrow the Ugandan government. This marked the start of an armed rebellion against the Ugandan government.
Late 1980s	Dominic Ongwen at age 9 or 10 was abducted by the LRA on his way to school. The LRA forcibly recruited Ongwen as a child soldier. Ongwen received military training for years to follow until he was sufficient enough to become a brigade commander in the LRA.
2002	Attacks by the LRA intensify in northern Uganda. The attacks involved widespread murder, abduction of child soldiers, sexual slavery, enslavement, rape, torture, and forced marriage. Many of the crimes that occurred during this period were examined and investigated later by the ICC.

2003 December	In December of 2003, the Ugandan government under orders of president Yoweri Museveni referred the attacks and crimes committed by the LRA to the ICC. The government requested the ICC to investigate the alleged war crimes and crimes against humanity that were committed during the conflict.
2004 / July / 29	The Chief Prosecutor of the ICC, Luis Moreno Ocampo, announced plans to begin investigating the situation concerning the LRA and northern Uganda in response to requests from the Ugandan government.
2005 / July / 8	The International Criminal Court issued the first ever arrest warrants against 5 leaders of the LRA, including Dominic Ongwen and Joseph Kony. The warrants of arrest were issued under seal by Pre-Trial Chamber II. The leaders were charged on several counts on crimes against humanity and war crimes. The leaders were charged with several

	counts of crimes against humanity and war crimes, and Dominic Ongwen was among those named in the arrest warrants.
2015 / January / 6	Dominic Ongwen as a top leader of the LRA surrendered to American forces in the Central African Republic (CRA). Ongwen's identity was confirmed by the Ugandan People's Defence Forces (UPDF).
2015 / January / 21	Ongwen was transferred into the custody of the ICC in the Hague after he surrendered to the American forces in the Central African Republic.
2015 / January / 26	Ongwen makes his first appearance in the court and is faced with the charges issued against him by the ICC.
2016 / December / 16	The trial of Dominic Ongwen officially begins before the ICC. Dominic is being charged with 70 counts of crimes against humanity and war crimes.

Attempts To Solve the Issue

Referral of the Issue in Uganda to the International Criminal Court (2003/12/16)

On December 16th, 2003, the International Criminal Court received a referral from the Ugandan government requesting an investigation into the alleged war crimes and crimes against humanity committed by the LRA during the conflict in northern Uganda. This referral marked the first time a state referred a situation under Article 14 of the Rome Statute to the ICC voluntarily.

This led to a thorough investigation in 2004 carried out by the ICC and later led to the indictment of five leaders of the Lord's Resistance Army (LRA), including Dominic Ongwen. The arrest warrant charged these leaders with multiple counts of crimes against humanity and war crimes. Following the referral, most of the LRA leaders were not arrested, and the conflict continued despite strengthened international efforts.

The Juba Peace Talks (2008/12)

The Juba Peace Talks were a series of negotiations between the government of Uganda and the LRA over the terms of a ceasefire and to possibly reach a peaceful agreement. The Juba talks began in July 2006 in Juba, where strategies and policies were discussed to reach an end to the conflict. The talks resulted in many agreements of accountability and reconciliation, and some ceasefire agreements. However, the Juba talks later collapsed and were no longer effective in December 2008 due to the LRA's refusal to sign the final peace agreement. In addition, the Juba Talks did not properly work as the conflict had already spread into neighbouring countries. Although the talks failed to bring both the government and the LRA to a

civil agreement for justice or to end the conflict, the talks reduced violence in northern Uganda and allowed both sides to understand opposing perspectives on the issue to a moderate extent.

Possible Solutions

Strengthening Rehabilitation programs for child soldiers

One of the main issues that Ongwen's case sheds light on is the transformation of child soldiers from victims to perpetrators. Governments, the United Nations (UN), and non-governmental organizations (NGOs) should invest in and prioritize long-term help and rehabilitation programs for child soldiers and abductees like Ongwen himself to support their psychological recovery and help them recover from trauma effectively and professionally with therapists and psychologists. Additionally, prioritizing education and vocational training in these campaigns would be useful. Early prevention of the issue could help de-escalate the issue and avoid similar situations from arising again in the future.

Increasing Reparations and Support for Victims

Numerous LRA victims are still dealing with psychological trauma, dislocation, and financial difficulties. Humanitarian organizations and the ICC's Trust Fund for Victims should increase access to financial aid, medical treatment, trauma therapy, and education. Rebuilding impacted communities and boosting trust in the international legal system are two benefits of providing long-term assistance and reparations.

Increasing the Prevention of Child Recruitment

To stop armed groups from recruiting children, governments and international organizations should step up their efforts. Enforcing international accords like the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, bolstering child protection systems, assisting at-risk communities, and expanding educational opportunities are all examples of this. The possibility that future victims may turn into offenders is decreased by preventing child recruitment.

Guiding questions

1. Who is Dominic Ongwen, and why was he indicted by the ICC?
2. What are the charges against Dominic Ongwen?
3. Why is it important to note that Ongwen was a child soldier?
4. Is it possible to be a victim and a perpetrator at the same time?
5. What is the Lord's Resistance Army (LRA)?
6. What is the process of establishing individual criminal responsibility according to the ICC?
7. Should Ongwen's childhood abduction exonerate him from criminal responsibility?
8. What is the significance of the Rome Statute in this case?
9. Why did it take so long for Dominic Ongwen to be prosecuted?
10. What evidence was presented by the prosecution to show Dominic Ongwen’s culpability?

Appendix

- International Criminal Court – Case: Dominic Ongwen: https://www.icc-cpi.int/uganda/ongwen
- International Criminal Court – Case: Joseph Kony: https://www.icc-cpi.int/uganda/kony
- International Criminal Court – Uganda Refers the Situation Concerning the Lord's Resistance Army (LRA) to the ICC: https://www.icc-cpi.int/news/icc-president-uganda-refers-situation-concerning-lords-resistance-army-lra-icc
- International Criminal Court – Warrant of Arrest Unsealed Against Five LRA Commanders: https://www.icc-cpi.int/news/warrant-arrest-unsealed-against-five-lra-commanders
- United Nations News – Uganda Refers LRA Situation to the International Criminal Court: https://news.un.org/en/story/2004/07/110902

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