

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original : English

N°: ICC-02/04-01/15

Date: 21 January 2016

PRE-TRIAL CHAMBER II

Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN UGANDA

**IN THE CASE OF
*THE PROSECUTOR v. DOMINIC ONGWEN***

Confidential

Order to redact the transcript and audio visual broadcast of a public hearing

The Office of the Prosecutor
Fatou Bensouda

Counsel for Dominic Ongwen
Kripus Ayena Odongo

Legal Representatives of the Victims

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants
(Participation/Reparation)

**The Office of Public Counsel for
Victims**

**The Office of Public Counsel for the
Defence**

States' Representatives

Amicus Curiae

REGISTRY

Registrar
Herman von Hebel

Counsel Support Section

Deputy Registrar

Victims and Witnesses Unit

Detention Section

**Victims Participation and Reparations
Section**

Other

I, Judge Cuno Tarfusser, judge at the International Criminal Court (the "Court");

CONSIDERING that during the public hearing held on 21 January 2016 (the "Hearing") confidential information has inadvertently been mentioned;

NOTING Article 68 of the Rome Statute, Rules 87 and 88 of the Rules of Procedure and Evidence, Regulation 21 of the Regulations of the Court and Regulation 43 of the Regulations of the Registry;

ORDER the Registry that the following highlighted text be omitted from the transcript of this hearing and that the following extracted portion be removed from the public audiovisual recording/ broadcast of this hearing:

10:53:15 of that year Dominic Ongwen reported the success of an ambush
10:53:20 he's carried out on the Acholi he recalled several people
10:53:28 had been killed including a boda boda or motorcycle taxi. And

10:53:35 there was an abduction mission at Acet which he had ordered and
10:53:40 which fighters under his command took part in.
10:53:46 There was no precise date from the Prosecution's witness who
10:53:50 took part in that attack but he is precise about is that
10:53:56 Ongwen's orders were abduct boys and girls between the ages of
10:54:01 13 and 15.
10:54:03 The crimes with which Dominic Ongwen is charged were an integral
10:54:07 part of this attack on the civilian population. The offences
10:54:11 committed at Pajule, at Odek, at Lukodi and at Abok they're just
10:54:18 well evidenced selections from a large range of similar attacks
10:54:23 in which identical offences were being committed.
10:54:27 Dominic Ongwen's conscription and use of child soldiers and his
10:54:34 essential part in the scheme of abduction of girls so that
10:54:41 sexual and gender based crimes could be perpetrated were part of
10:54:51 this attack. Indeed they provided a considerable agree of the
10:54:56 motivation for it. Dominic Ongwen knew that his contact was
10:55:02 part of the overall policy of attacking the civilian population.
10:55:06 Of course he did. He was among the foremost of the LRA
10:55:10 commander who carried that policy out.
10:55:17 I want to turn now lastly to make some submissions on accounts
10:55:23 50 and 61. These two counts charge the crime of forced
10:55:31 marriage.
10:55:33 And the crime of forced marriage is not in those words contained
10:55:38 within the Rome Statute and it is for that reason that I make
10:55:43 some brief submissions now about what the Prosecution say is the

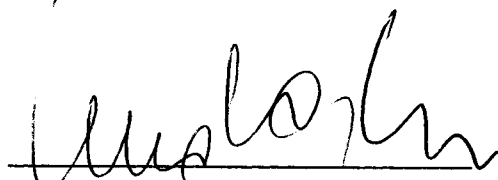
10:55:48 nature of that offence and the reason for charging it in this
10:55:53 case.
10:55:53 There was a rule within the ranks of the LRA that there was to
10:56:00 be no sex outside marriage. LRA fighters who had sex with women
10:56:08 who were not their wives risked being punished or killed and the
10:56:13 same applied to women having sex outside their forced marriages.
10:56:19 Of course for the men, for the men the severity of their rule
10:56:33 was mitigated by the fact that it was common particularly for
10:56:37 LRA officers to have many wives. There's evidence that Joseph
10:56:42 Kony at one stage at 80 wives. Dominic Ongwen himself is said
10:56:48 to have had as many as 20.
10:56:52 Witnesses who describe the treatment of girls and young women
10:56:56 following abduction by the LRA give consistent and repeated
10:57:00 evidence of a process whereby abductees were assigned without
10:57:06 any regard for their wishes to men usually much older than them
10:57:12 and forced to take them as their husbands. In truth the process
10:57:18 of these forced conjugal relations makes the use of words like

10:57:24 husband, wife and marriage repugnant, but they're the words that
10:57:29 were used by the protagonists at the time and by the witnesses
10:57:35 now and so in accommodation must be made.
10:57:40 Because of these strict LRA rules about sexual activity forced
10:57:45 marriages served as a gate way for the subsequent sexual and
10:57:50 gender based crimes which were perpetrated straight upon
10:57:54 abducted women and girls crimes like rape, sexual slavery, and
10:58:01 it's this gate way feature and the element exclusive from the

10:58:09 with the women's point of view which is absent from any or the
10:58:13 other crimes charged and which merits the charging of forced
10:58:17 marriage as a separate crime. Forced marriage changed the

Page 35 line 21 to 23 of the English Real Time transcript;

Done in both English and French, the English version being authoritative.


Judge Cuno Tarfusser
Single Judge

Dated this 21 January 2016

At The Hague, The Netherlands

INTERNAL REGISTRY	
Name of technician:	Claire Hynes
Redacted:	Y/N
Time: From	10:53:15 To 10:58:20
	