

Raising the Bar - ICC Acquits Matheiu Ngudjolo Chui

6 January 2013

Raising the Bar - ICC Acquits Matheiu Ngudjolo Chui

On 18th December 2012, Trial Chamber II of the International Criminal Court (ICC), in the second judgment since the inauguration of the court almost a decade ago, unanimously found Matheiu Ngudjolo Chui **not** guilty of each and all seven counts brought against him for war crimes, crimes against humanity including rape, and sexual slavery allegedly committed during an attack against the Bogoro village (Democratic Republic of the Congo) on 24 February 2003. The Chamber was composed of Presiding Judge Bruno Cotte (France), Judge Fatoumata Dembele Diarra (Mali) and Judge Christine van den Wyngaert (Belgium), who also filed a concurring opinion. The Office of the Prosecutor has decided to appeal the verdict. Trial Chamber II also rejected the Prosecutor's request to keep Mathieu Ngudjolo Chui in custody pending the appeal against his acquittal, which decision was affirmed by the Appeals division of the ICC.



Mr. Mathieu Ngudjolo Chui

Trial Chamber II was not insensitive to the suffering of the victims. The judges opined that the acquittal does not signify that no crimes were committed against the people of Bogoro nor that Mr. Ngudjolo Chui was innocent. The judgment merely implies that, given the standard of proof, the evidence presented to support his guilt did not allow the Chamber to convict the accused “beyond reasonable doubt”.

Some human rights advocates were not pleased with the judgment. Birgid Inder, Executive Director of Women's Initiatives for Gender Justice and Special Gender Adviser to the ICC Prosecutor said "Today's acquittal is a devastating outcome for the Huri communities in the DRC and for the victims/survivors of the Bogoro attack". Bill Pace, Convener of the Coalition for the International Criminal Court (CICC) expressed similar sentiments, as did a representative of Human Rights Watch. Gaelle Carayon of Redress was more direct and intimated that the verdict raises questions about the quality of prosecutions. One commentator opined: "I am not sure what message the NGO community is promoting. Would it have been less devastating if he was convicted even if there was no evidence"?

"Raising the Bar" was the theme of a side event convened by the International Bar Association (IBA) during the recent meeting of the Assembly of State Parties to the ICC. The IBA meeting, organized by Lorraine Smith van-Lin, was devoted to

the quality of not only prosecutions but also of the defense and the judiciary. It is generally accepted that if there isn't sufficient evidence the Court has no choice other than to acquit. Or to quote lawyer Johnnie Cochrane in the O.J. Simpson murder trial where the glove found on the crime scene was smaller than the defendant's larger hands: "if it doesn't fit, you must acquit".

This is not what many might want to hear, and indeed the dissatisfaction of the victims is understandable. Yet, the credibility and legitimacy of the ICC depend on the quality of justice, not the number of convictions. Quality of justice includes respect for the right of the accused and demands that the standard of burden of proof be met. Disrespect for these values might, in the long run, do more harm than good for the pursuit of international criminal justice, as is well illustrated by the controversy surrounding the Charles Taylor Verdict by the Special Court for Sierra Leone. Click [here](#) to read a recent interview with Justice Sow, “dissenting” Judge in that trial in *New African*.

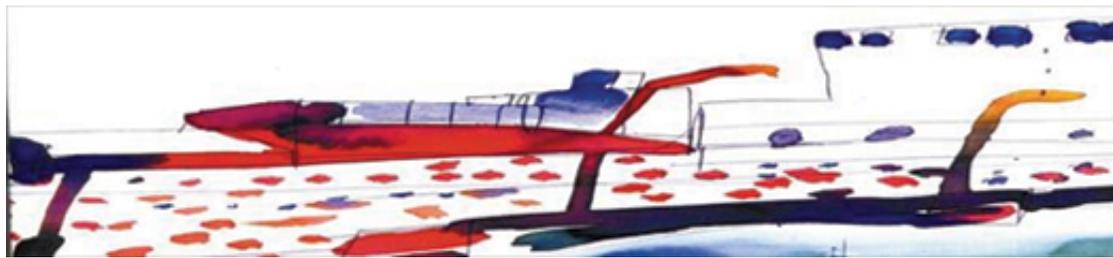
Your comments are most welcome. Please click [here](#) to comment.

Please visit our [web shop](#)

Additionally, become a fan of Africa Legal Aid on [Facebook](#), connect with us on [LinkedIn](#) and invite your friends to join AFLA and its worldwide community of supporters.

HAPPY 2013.

[back to top](#)



[Unsubscribe the Newsletter](#)