

Bemba Conviction Overturned by the ICC Appeals Chamber ***The Prosecutor v. Jean-Pierre Bemba Gombo***

Overturn of the first ICC conviction for crimes of sexual violence

12 June 2018

On 8 June 2018, the Appeals Chamber of the International Criminal Court (ICC),¹ by a 3-2 majority, acquitted Jean-Pierre Bemba Gombo (Bemba).² The Appeal Judgment overturned his conviction handed down unanimously in March 2016 for two counts of crimes against humanity (murder and rape) and three counts of war crimes (murder, rape and pillaging).

Bemba's conviction was the first at the ICC to include crimes of sexual violence as well as the first involving an individual charged with command responsibility.³ At the time, the Bemba trial involved the largest number of witnesses for sexual violence in any ICC case, with 14 out of 40 Prosecution witnesses testifying about rape and other forms of sexual violence allegedly committed by forces under Bemba's command. In total, over 5,200 victims participated in the proceedings in this case.

"During this year marking the 20th anniversary of the Rome Statute, it is very disappointing to note that, as of today, there has not been a single successful conviction for sexual and gender-based crimes", said Melinda Reed, Executive Director of the Women's Initiatives for Gender Justice. "Starting with the failure to include sexual and gender-based crimes in the charges against Lubanga in 2006, to the subsequent acquittals of Ngudjolo and Katanga for these types of crimes, and now Bemba's acquittal, the stark reality is that the Court has not been able to deliver formal justice to victims of conflict-related sexual violence. Additionally, thousands of victims who had hopes of justice and reparations stemming from Bemba's conviction in 2016 have reason to be greatly disappointed by this outcome", stated Ms Reed.

Bemba, a Congolese national, was the founder and former President of the political group *Mouvement de libération du Congo* (MLC) and Commander-in-Chief of the MLC's military branch, the *Armée de libération du Congo* (ALC).⁴ He was charged with, and initially convicted of, crimes committed by MLC soldiers in the Central African Republic (CAR) from on or about 26 October 2002 to 15 March 2003, including sexual and gender-based crimes.⁵

¹ The Appeals Chamber was composed of Presiding Judge Christine Van den Wyngaert, Judge Chile Eboe-Osuji, Judge Sanji Mmasenono Monageng, Judge Howard Morrison and Judge Piotr Hofmański.

² ICC-01/05-01/08-3636-Red. Judge Monageng and Judge Hofmański issued a dissenting opinion. ICC-01/05-01/08-3636-Anx1-Red. Judge Van den Wyngaert and Judge Morrison issued a separate opinion. ICC-01/05-01/08-3636-Anx2.

³ ICC-01/05-01/08-3343; ICC-01/05-01/08-3399. See further Women's Initiatives for Gender Justice, 'ICC first conviction for acts of sexual violence', 21 March 2016, available at <https://4genderjustice.org/pub/Statement-Bemba-Trial-Judgement-FINAL.pdf>; Read the full statement by the Women's Initiatives for Gender Justice on the closing oral statements in the Bemba Trial, available at <https://iccwomen.org/documents/Bemba-Closing-Statement--FINAL.pdf>.

⁴ ICC-01/05-01/08-3343, para 1.

⁵ ICC-01/05-01/08-424, p 184-185; ICC-01/05-01/08-3399.

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In June 2016, Bemba was sentenced to 18 years' imprisonment, the longest ICC sentence to date.⁶ Since then, this case had been at the reparations stage, with all preparatory steps having been taken for a Reparations Order to be issued, while awaiting the rendering of the Appeals Judgments.⁷

Bemba currently remains in detention pending a renewed decision by Trial Chamber VII relating to his sentence in an ancillary case against him and four individuals associated with his defence.⁸ He was convicted in October 2016 for offences against the administration of justice committed in relation to the main case against him.⁹

The Women's Initiatives for Gender Justice is an international women's human rights organisation that works to achieve gender justice. We aim for equality through and in the law, including increased accountability for SGBCs. We work to include gender perspectives and increase female participation in justice mechanisms, and strive to elevate the voices of local actors and victims to international structures such as the ICC.

For more information on the main case against Bemba, see [The Compendium: An overview of Situations and cases before the International Criminal Court](#), p 83-90.

⁶ The Chamber found that the crimes of rape and pillaging were committed under aggravating circumstances. ICC-01/05-01/08-3399, paras 93-94. See Women's Initiatives for Gender Justice, 'Bemba Sentenced to 18 Years by the ICC', 21 June 2016, available at <https://4genderjustice.org/pub/Bemba-Sentencing-Statement.pdf>.

⁷ Following Bemba's conviction and sentence in 2016, the Defence appealed the Conviction decision. ICC-01/05-01/08-3348; ICC-01/05-01/08-3434-Red. Both the Defence and the Prosecution appealed the Sentencing decision. ICC-01/05-01/08-3412; ICC-01/05-01/08-3450-Red; ICC-01/05-01/08-3411; ICC-01/05-01/08-3451.

⁸ For more information on the status of the Bemba *et al* case, see 'Bemba et al. case: Trial Chamber VII to hold hearing on Mr Bemba's detention on 12 June 2018', *ICC Press Release*, 8 June 2018, available at <https://www.icc-cpi.int/Pages/item.aspx?name=ma227>.

⁹ ICC-01/05-01/13-749. For more detailed information about this case and the charges and proceedings therein, see 'The Compendium: An overview of Situations and cases before the International Criminal Court', *Women's Initiatives for Gender Justice*, December 2017, p 91-93, available at <https://4genderjustice.org/pub/The-Compendium.pdf>; 'Gender Report Card 2014', *Women's Initiatives for Gender Justice*, December 2014, p 196-200, available at <http://iccwomen.org/documents/Gender-Report-Card-on-the-ICC-2014.pdf>; Women's Initiatives for Gender Justice, 'First ICC Trial involving allegations of witness tampering and forgery of evidence', 28 September 2015, available at <https://4genderjustice.org/pub/Statement-Bemba-et-al-Final.pdf>.

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