

**ICC first conviction for acts of sexual violence**  
*The Prosecutor vs. Jean-Pierre Bemba Gombo*

**21 March 2016**

Today, the International Criminal Court (ICC) unanimously convicted Jean-Pierre Bemba Gombo (Bemba) as a military commander for two counts of crimes against humanity including murder and rape and three counts of war crimes including murder, rape and pillaging. Bemba was convicted in his capacity as President and Commander-in-Chief of the *Mouvement de libération du Congo* (MLC).<sup>1</sup> The crimes were committed by the MLC between 25 October 2002 and 15 March 2003 on the territory of the Central African Republic (CAR).

This is the first conviction before the ICC for crimes of sexual violence as well as the first conviction of an individual charged with command responsibility, under Article 28 of the Rome Statute. It is also the first case in which testimony from male victims of sexual violence was heard in support of the charge of rape.

The Bemba trial involved the largest number of witnesses for sexual violence in any ICC case to date, with 14 out of 40 Prosecution witnesses testifying about rape and other forms of sexual violence allegedly committed by the MLC under Bemba's command.

The Women's Initiatives for Gender Justice and our partners welcome today's landmark decision convicting Mr Bemba for acts of rape and we hope that this significant development signals a new era of accountability for sexual violence crimes. This judgment sends a strong message that perpetrators of these sexual violence crimes should no longer count on impunity. It also sends a clear message to military commanders that they cannot turn a blind eye to the crimes committed by their subordinates and that failure to prevent, repress or punish those crimes will engage their own criminal responsibility.

Together with our partners in the CAR, the Women's Initiatives now looks to the ICC to deliver a sentence that reflects the seriousness of the crimes for which Mr Bemba has been convicted and considers any aggravating factors that may have caused additional harm and suffering to victims.

In 2006, the Women's Initiatives for Gender Justice visited the CAR and interviewed women victims/survivors of sexual violence allegedly committed by 'Bemba's men' and the repercussions they, and others, faced. Many were rejected by their families, ostracised by their communities, contracted HIV, gave birth to children as a result of rape and continue to experience medical and psychological complications and high levels of violence-related trauma.

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<sup>1</sup> The Judgment was rendered by Trial Chamber III, composed of Presiding Judge Sylvia Steiner (Brazil), Judge Joyce Aluoch (Kenya) and Judge Kuniko Ozaki (Japan). ICC-01/05-01/08-3343.

**Women's Initiatives for Gender Justice**



This trial judgment is the first arising from the CAR Situation and the fourth ICC trial judgment. It follows the conviction of Thomas Lubanga Dyilo (Lubanga) in March 2012, the acquittal of Mathieu Ngudjolo Chui (Ngudjolo) in December 2012 and the partial conviction of Germain Katanga (Katanga) in March 2014 each of these cases arising from the Situation in the Democratic Republic of Congo (DRC).

### **Case background**

The arrest warrant against Bemba was issued in June 2008 and he made his initial appearance before the Court on 4 July 2008. Following the confirmation of charges hearing in January 2009, on 15 June 2009, Pre-Trial Chamber II issued its decision confirming the charges against Bemba.<sup>2</sup>

In the request for Bemba's arrest warrant, the Prosecution had sought a broad range of charges of gender-based crimes including rape as a crime against humanity and war crime; rape as torture as a crime against humanity and war crime; outrages upon personal dignity as a war crime; other forms of sexual violence as a war crime and crime against humanity; murder; and pillaging.<sup>3</sup> Those charges were narrowed at the arrest warrant and confirmation of charges stages.

The charges of 'other forms of sexual violence', related to forcing women to undress in order to publicly humiliate them, were not included in the arrest warrant, on the grounds that the Chamber did not consider the facts presented were of comparable gravity to other enumerated acts.<sup>4</sup> The charges of rape as torture and outrages upon personal dignity were not confirmed because the Chamber found they were 'cumulative' to the charge of rape.<sup>5</sup> Ultimately, at trial, Bemba only faced charges of rape as war crime and crime against humanity.

Trial proceedings commenced in November 2010 before Trial Chamber III and concluded with the closing oral statements in November 2014. The Prosecution presented its case from November 2010 to March 2012, during which time it called a total of 40 witnesses. Of these, 14 witnesses, including two expert witnesses, testified to the charges of rape, including ten female witnesses, nine of whom were direct victims of rape.<sup>6</sup> The Defence presented its case from August 2012 through November 2013, ultimately calling 34 witnesses during its presentation of evidence. The Defence did not seek to introduce testimony to disprove the allegations that rape occurred, but instead introduced testimony indicating that rape was committed not by the MLC soldiers, but by other actors, primarily the rebel factions within the CAR. A total of nine Defence witnesses testified either to their knowledge of rapes occurring, or that they witnessed rape, while one woman, Witness 30, testified to having been raped by rebel forces.<sup>7</sup>

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<sup>2</sup> ICC-01/05-01/08-424.

<sup>3</sup> ICC-01/05-13-US-Exp.

<sup>4</sup> Women's Initiatives for Gender Justice, 'Statement on the Opening of Bemba's Trial', available at <[http://www.iccwomen.org/documents/Bemba\\_Opening\\_Statement.pdf](http://www.iccwomen.org/documents/Bemba_Opening_Statement.pdf)>.

<sup>5</sup> ICC-01/05-01/08-424.

<sup>6</sup> *Gender Report Card 2012*, p 252-256.

<sup>7</sup> *Gender Report Card 2013*, p 114-115.

### **Women's Initiatives for Gender Justice**



In July 2009 the Women's Initiatives for Gender Justice requested and was granted leave to prepare an *amicus curiae* brief for the Judges on the dismissal of charges for gender-based crimes, arguing that all charges of gender-based crimes requested by the Prosecution should be included.

However, on 18 September 2009, Pre-Trial Chamber II declined to grant the Prosecution request for leave to appeal, and the case proceeded to trial on the more limited charges of rape. Following this decision, the Women's Initiatives issued a statement, arguing that:

The Pre-Trial Chamber's interpretation of the Rome Statute appears to ignore the distinct crimes articulated in the Statute under which an accused can be charged for sexual violence, and also appears to contradict the Elements of Crimes, which states in its general introduction that 'a particular conduct may constitute one or more crimes' [...] Other international tribunals such as the International Criminal Tribunal for Rwanda, as well as many national jurisdictions, accept that cumulative charging is appropriate – and necessary – to capture the different and multiple harms experienced by victims/survivors, in particular those who have suffered from sexual violence.<sup>8</sup>

Bemba is also accused of offences against the administration of justice in an ancillary case against him and four individuals associated with his Defence.<sup>9</sup> Trial in this case started on 29 September 2015.

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The Women's Initiatives for Gender Justice is an international women's human rights organisation that advocates for gender justice through the International Criminal Court (ICC) and through domestic mechanisms, including peace negotiations and justice processes, and works with women most affected by the conflict situations under investigation by the ICC. The Women's Initiatives has extensive country-based programmes in selected conflict sites and legal monitoring initiatives in all situations under investigation by the ICC.

For more information about the Situation in the CAR and the case against Bemba, see *Gender Report Card 2014*, p 194-196; *Gender Report Card 2013*, p 105-115; *Gender Report Card 2012*, p 252-261; *Gender Report Card 2011*, p 234-262; *Gender Report Card 2010*, p 113-118; *Gender Report Card 2009*, p 63-67; *Gender Report Card 2008*, p 50-51.

Read the full statement by the Women's Initiatives for Gender Justice on the closing oral statements in the Bemba Trial <http://iccwomen.org/documents/Bemba-Closing-Statement---FINAL.pdf>

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<sup>8</sup> Women's Initiatives for Gender Justice, 'Statement on the ICC decision to omit charges for gender-based crimes against Jean-Pierre Bemba Gombo', available at <<http://www.iccwomen.org/news/docs/Statement--PTC-Decision-on-Bemba.pdf>>.

<sup>9</sup> ICC-01/05-01/13-749. To read more about the case against Bemba and four individuals associated with his Defence team, see *Gender Report Card 2014*, p 196-200.

### Women's Initiatives for Gender Justice



Read the full statement by the Women's Initiatives for Gender Justice on the Opening of Bemba's Trial [http://www.iccwomen.org/documents/Bemba\\_Opening\\_Statement.pdf.pdf](http://www.iccwomen.org/documents/Bemba_Opening_Statement.pdf.pdf)

Read the full statement by the Women's Initiatives for Gender Justice on the ICC decision to omit charges for gender-based crimes against Jean-Pierre Bemba Gombo  
<http://www.iccwomen.org/news/docs/Statement---PTC-Decision-on-Bemba.pdf>

Read the full statement by the Women's Initiatives for Gender Justice on Bemba's arrest  
[http://www.iccwomen.org/news/berichtdetail.php?we\\_objectID=60](http://www.iccwomen.org/news/berichtdetail.php?we_objectID=60)

View comments on Bemba Trial by the Women's Initiatives for Gender Justice Executive Director Brigid Inder on Al-Jazeera [http://www.iccwomen.org/news/berichtdetail.php?we\\_objectID=90](http://www.iccwomen.org/news/berichtdetail.php?we_objectID=90)

Read post on the IntLawGrrls blog by the Women's Initiatives for Gender Justice on prosecution of gender-based crimes in the Bemba case  
[http://www.iccwomen.org/news/berichtdetail.php?we\\_objectID=36](http://www.iccwomen.org/news/berichtdetail.php?we_objectID=36)

Read Women's Initiatives for Gender Justice, Making a Statement, Second Edition, February 2010, p 27-32 [http://iccwomen.org/publications/articles/docs/MaS2\\_10-10\\_web.pdf](http://iccwomen.org/publications/articles/docs/MaS2_10-10_web.pdf)

Read *Amicus curiae* observations by the Women's Initiatives for Gender Justice in the Bemba case  
[http://www.iccwomen.org/publications/articles/docs/Legal\\_Filings\\_submitted\\_by\\_the\\_WIGJ\\_to\\_the\\_International\\_Criminal\\_Court\\_2nd\\_Ed.pdf](http://www.iccwomen.org/publications/articles/docs/Legal_Filings_submitted_by_the_WIGJ_to_the_International_Criminal_Court_2nd_Ed.pdf)

For more information about the recent conflict in the CAR, read the two Women's Voices Special Issues on the CAR by the Women's Initiatives for Gender Justice available at <http://www.iccwomen.org/news/docs/WI-WomVoices7-14/WomVoices7-14.html> (Special Issue #1) and <http://www.iccwomen.org/news/docs/WI-WomVoices8-14/WomVoices8-14.html> (Special Issue #2)

For more information about charges of offences against the administration of justice against Bemba and four individuals associated with his Defence, read *Gender Report Card 2014*, p 196-200.

## Women's Initiatives for Gender Justice

