

ICC - AFRICA

Newsletter of the Coalition for the ICC



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The Union of Comoros joins the ICC!

by Francis Dako

Back on 22 September 2000 Comoros signed the Rome Statute of the International Criminal Court (ICC). Since that date, it appears that there was never any domestic opposition to the ICC, leaving it hard to explain why Comoros took so long to finally ratify the Rome Statute six years later on 18 August 2006.

The ICC is essential for Comoros, as it is sure to play a deterrent role in preventing potential serious international crimes from being committed while simultaneously strengthening the current national reconciliation process.

Indeed, during the last few years, Comoros has faced

harsh political and institutional turmoil, which included the secession of the Island of Anjouan in March 1997 and the military coup of 30 April 1999.

After these series of crises, the ICC ratification Comorian government sent the bill to the Constitutional Court for consideration. On 15 July 2006, the Court issued a decision confirming that the Rome Statute of the ICC was in conformity with the Comorian Constitution!

Since that confirmation, a natural course of events has taken place. The President of the Union of Comoros signed the bill authorizing the ratification of the Rome Statute and this bill was ultimately pub-

lished in the Official Bulletin as Bill n° 06-006/AU of 27 June 2006. On 15 August 2006, the instruments of ratification were forwarded to the UNDP office in Moroni, capital of Comoros. And finally, on 18 August 2006, Comoros' UN deposit became official. Comoros has become the 101st State Party to join the ICC and has simultaneously united itself with the 100 countries who support this new system of international criminal justice.

The next step? The implementation of the Rome Statute in the Comorian domestic law!

Francis Dako is CICC Regional Coordinator for Francophone Africa.

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Welcome to the New CICC Outreach Liaison for Africa !

By Linda Gueye

After spending four exceptional years with the Coalition for the International Criminal Court (CICC), **Mr. Désiré Assogbavi**, Outreach Liaison for Africa, went back to Africa, specifically to Addis Ababa, Ethiopia, to start his new job as Pan African Senior Policy Analyst for the UK-based NGO Oxfam.

Originally a lawyer from Togo and having exercised the functions of lawyer, Mr. Assogbavi brought both field experience and legal expertise to. Mr. Assogbavi contributed dynamically to the CICC Africa Team, who achieved, among other things, many successful ratification cam-

paigns. Mr. Assogbavi was also the co-creator of ICC-Africa newsletter and contributed to the editing of the first issue.

The departure of Mr. Assogbavi led to the arrival of **Mr Richard Nsanzabaganwa**, to the position of the CICC's new Outreach Liaison for Africa. A Human Rights activist who has won the prestigious Reebok Human Rights Award, Mr. Nsanzabaganwa worked in Rwanda (his country of birth) first as a Chief Investigator, then as an Executive Secretary for the Association Rwandaise de Défense des Droits de l'Homme (ARDHO). Before joining the CICC, M. Nsan-

zabaganwa practiced law in Canada. He is also a member of the Bar of Ontario. Mr. Nsanzabaganwa holds a Master's degree in Law and two Bachelor's degrees in civil law and common law from the University of Ottawa in Canada. His experience on the ground, determination and enthusiasm will be major assets contributing to his success within the CICC.

We wish all the best to Mr. Assogbavi in his new position and are happy to welcome Mr. Richard Nsanzabaganwa!!

Linda Gueye is CICC French Information Coordinator and Coordinator of ICC-Africa.

ICC-Africa Editing Team

Linda Gueye
CICC French Information Services Coordinator

Richard Nsanzabaganwa
CICC Outreach Liaison for Africa

Sally Eberhardt
CICC Director of Communications



Interview with Bukeni Tete Waruzi Beck Director of AJEDI-Ka/PES

On 28 August 2006, the Prosecutor of the International Criminal Court (ICC) officially charged Thomas Lubanga with enlisting and conscripting children under the age of 15 and using them to participate actively in hostilities in the Democratic Republic of Congo (DRC). Those charges could be confirmed during the confirmation hearing in The Hague on 28 September 2006. The use of child soldiers forms the core of the charges against Thomas Lubanga. To discuss this sensitive issue, the Coalition for the ICC interviewed Mr. Bukeni Tete Waruzi Beck, Director of the Congolese NGO, AJEDI-Ka/PES (Association des Jeunes pour le Développement Intègre-Kalundu/Projet Enfants Soldats), and a CICC Expert on the issue of child soldiers.

1. What is the work of your organization?

The work of AJEDI-Ka is divided into three main programs.

Our first program, “*Demobilization, Reintegration and the Prevention of Recruitment*”, has three objectives:

(1) to assist in demobilizing child soldiers by bringing them to our reception center and reuniting them with their families;

(2) to ensure and support the children’s reintegration back into the community, the economy and the school system and to provide psychological support for the children in order to help facilitate their transition back into society. As just one example, we have classes to help the children learn a particular craft, such as tailoring; and

(3) to help prevent the future recruitment of children by conducting information campaigns in affected communities.

Our second program, “*Monitoring and Reporting on Children’s Rights Violations*”, sends monitoring missions to war-affected regions in the DRC which are then able to provide updated information on children’s rights violations for AJEDI-Ka reports.

Our third program, “*Advocacy and HIV/AIDS*”, involves outreach and advocacy campaigns on the issue of child soldiers and the plague of AIDS in the DRC.

2. What kinds of techniques do you use?

We have various ways of engaging people depending on the targeted group. We make interventions and declarations during various debates and conferences on the issues of child soldiers, justice or the fight against

impunity. We were also able to make a statement at the Open Debate on Children and Armed Conflicts at the UN Security Council in New York on 24 July 2006. However, our main activity remains using film as an advocacy tool. The films that we produce in collaboration with the US-based NGO, WITNESS, help us to advocate for human rights, and particularly children’s rights.

At the local and national level, we show one of our films, “*On the Frontlines*” (“*Soldats Malgré Eux*”) across the DRC, from village to village. These screenings are followed by a public debate in which civilians and



Bukeni Beck (right), representative of the Watchlist on Children and Armed Conflict, addresses the Security Council meeting on children in armed conflict at UN Headquarters in New York. During the meeting, Special Representative of the Secretary-General for Children and Armed Conflict, Radhika Coomaraswamy urged Member States to step up efforts to protect children by acting against their violators. UN Photo/Marie Gandois

military participate. To date, 11 villages in Eastern DRC have seen this film. It has also been shown in Congolese refugee camps in Burundi.

At the international level, another one of our films “*A Duty to Protect*” (“*Un Devoir de Protection*”) has been used as an advocacy tool directly with the ICC as a way of encouraging the Office of the Prosecutor to prioritize the issue of child soldiers and to bring

those responsible for the recruitment of child soldiers to the Court. We believe this is part of the reason why Thomas Lubanga was arrested and transferred to the ICC last March.

“*A Duty to Protect*” was also shown at the UN Security Council in July 2006 during the first meeting of the UN Security Council’s Working Group on Children and Armed Conflicts. The Working Group, which put the DRC at the top of its priority list in its agenda, has now started working on their “Monitoring and Reporting on Children and Armed Conflicts in the DRC”.

AJEDI-Ka’s latest film, “*Awaiting Tomorrow*” (“*Attendre Demain*”) aims to promote greater awareness of the effects of HIV/AIDS on the youth of the DRC. Among a number of other issues, the film discusses the lack of access to treatments and tests in rural areas; the lack of adequate nutrition; and the lack of political will to fight this plague. “*Awaiting Tomorrow*” calls for a general mobilization to fight HIV/AIDS by demanding that the cost of medicines and treatments be reduced so that we can destroy this disease which ravages so many young Congolese (including child soldiers).

3. With regard to the reintegration of demobilized child soldiers, how are they usually received by their families and their communities?

Very often, the love the parents have for their children is still there. The problem is that parents feel like they can’t employ their parental authority as they used to. However, most children are accepted by their mothers and fathers. But if children end up with their extended families (uncles, aunts, cousins, friends, etc) instead, the children naturally face more distrust.

For their re-

(continue on p.3)

The CICC will not take a position on potential or current situations before the Court. The Coalition, however, will continue to provide the most up-to-date information about the ICC.

integration back into the community, it is important to make a distinction between girl and boy child soldiers. Boys are usually seen as having done a "good job", since they fought the "enemies", while the girls are viewed as "prostitutes", as it is well known that sexual exploitation is the main reason behind their recruitment.

Sadly, therefore, we have seen that families and communities are less tolerant towards returning girls than they are towards the boys. AJEDI-Ka, therefore, always stresses the point that a distinction has to be made between returning boy and girl soldiers.

4. How do those children who are rejected by their families and communities tend to react?

The lack of support for their reintegration forces the children to "lapse", meaning that they return to the armies. It is important to understand the role that the lack of support from families and communities and the all-too common lack of opportunities or the lack of appropriate psychological support can play in these children's decisions to not reintegrate.

5. What does the Ituri community think of the ICC's work on the issue of child soldiers?

In Ituri (Eastern DRC), the feelings are

mixed. Indeed, the enlisting of children has never been considered a crime that is more serious than any other crime. Iturians and many other Congolese people have always believed that crimes like killings or sexual violence were more serious than the use of child soldiers. ICC accusations about the enlisting of child soldiers has created divisions between the Hema community (which Thomas Lubanga belongs to) and the Lendu community. The Hema community feels guilty while the Lendu feel victorious and relieved. So the ICC needs to conduct an efficient outreach program if it is going to rely on the support of these local communities.

6. What do you think about the work of the ICC? Is it an efficient way of deterring potential war criminals?

For me, the ICC remains an institution capable of bringing back peace and ending impunity in the world. Of course, the Court has certain statutory limitations and needs the cooperation of national jurisdictions. But, prosecuting those bearing the greatest responsibility for serious crimes – no matter what their rank or position – is essential to the re-establishing of true justice, especially in the countries where impunity and human rights violations have become institutionalized. The ICC has the ability to reach even those people who

had formerly been "untouchable".

Since the arrest of Thomas Lubanga, the Congolese leaders and fighters have realized the universality of international justice and the ICC's territorial jurisdiction. However, the expectations of victims and ICC supporters are high, which sometimes lead to disillusionment and some confusion. But those are challenges the ICC must face. The Court will have to prosecute other crimes in other regions of the DRC if it intends to secure the trust of the whole Congolese population.

7. Are you working in collaboration with the Court?

We are working in collaboration with the ICC and we are waiting for them to come to Kivu, particularly South Kivu, for future ICC investigations in the DRC.

For more information, visit the website of AJEDI-Ka/Pes :

<http://www.ajedika.org/index.html>

To receive a copy of the films produced by AJEDI-Ka/Pes, contact WITNESS:

<http://www.witness.org>

ADDITIONAL RESOURCES

International Criminal Court/ OTP

"Child soldier charges in the first International Criminal Court case"

Press Release

28 August 2006

<http://www.icc-cpi.int/press/pressreleases/174.html&l=en>

Human Rights Watch

"D.R. Congo: ICC Charges Raise Concern: Joint letter to the Chief Prosecutor of the International Criminal Court"

Open Letter

31

July 2006

<http://hrw.org/english/docs/2006/08/01/congo13891.htm>

Watchlist on Children and Armed Conflict

"Struggling to survive: Children in armed conflict in the Democratic Republic of Congo "

Report

April 2006

http://www.watchlist.org/reports/dr_congo.report.20060426.php&of=eng-364

Amnesty International

"Democratic Republic of Congo: Alarming resurgence in recruitment of children in North-Kivu"

Press Release

31 March 2006

<http://web.amnesty.org/library/index/engAFR620092006?open>

The Coalition for the ICC is not an organ of the Court. The CICC is an independent NGO movement dedicated to the establishment of the International Criminal Court as a fair, effective, and independent international organization. The Coalition will continue to provide the most up-to-date information about the ICC and to help coordinate global action to effectively implement the Rome Statute of the ICC.

Peace and Justice in Uganda

by Stephen Lamony

The conflict that has raged between the Ugandan government and the rebel group, the Lord's Resistance Army (LRA), has been ongoing for two decades now. During those twenty years of war, serious atrocities have been committed against civilians, especially in the district of Gulu where LRA soldiers have been abducting children.

In December 2003, the government of Uganda referred the LRA case to the International Criminal Court (ICC). The ICC started its investigation in Uganda the following year and in November 2005 it issued its first arrest warrants against five high commanders of the LRA. Those indictees, including the LRA's top leader, Joseph Kony, are accused of committing crimes against humanity and war crimes in Uganda since 2002. However, until today those arrest warrants have not been executed.

In the meantime, in May 2006, the Vice-President of Sudan, Riek Machar, offered to mediate peace talks between the Ugandan government and the LRA. But, Joseph Kony, aware of the ICC arrest warrants, has refused so far to come out of the bush (the LRA has reportedly been hiding in the northeastern Congolese forest of Garamba) for the negotiations, demanding instead the withdrawal of the ICC warrants. In response, President Museveni guaranteed Kony's safety, even announcing in July total amnesty to Kony if the peace talks succeed, despite the ICC indictments. The ICC, for its part, has stated that Uganda has the legal obligation to execute the arrest warrants.

Here starts the issue of peace versus justice. Which one should prevail? Should ICC arrest warrants be withdrawn to facilitate the peace negotiations? Are the negotiations a barrier to the enforcement of the arrest warrants?

National and international NGOs, local religious groups as well as the Ugandan population in general have different views on this issue. This

division is mainly based upon two opposing arguments: some NGOs, religious groups and a part of the Ugandan population support the idea that peace should be reached by any and all means, even if, in this case, it compromises international criminal justice by offering amnesty. On the other hand, other NGOs and critics believe that while peace is essential, LRA indictees still need to be accountable before the ICC for the crimes committed and therefore should not be granted amnesty.

It is important to note that *both* arguments support the peace process but for the latter, it is argued that justice and accountability are more likely to provide a lasting peace and stability.

At the international level, criminal justice has generally implied sentencing or



Children who had been abducted by the LRA dance at the GUSCO rehabilitation center (Gulu Support the Children Organization) © 2003 Jo Becker/Human Rights Watch

punishing criminals if they are found guilty of the crimes they allegedly committed against their victims. This is the form of justice that the ICC is mandated to seek.

However, the way traditional justice is administered in Uganda depends on the types of communities affected. Ugandan traditional justice mechanisms apply either "punitive" or "forgiving" justice.

In the Langa and Teso communities, justice involves expelling the perpetrators from the community and withdrawing any protection from them. Other communities even excommunicate the perpetrators as a punishment for their crimes. So far, there has been no report

on how justice is applied among the Madi community, who have been equally affected by the conflict in the northern, eastern and western Nile regions of Uganda. The Acholi community, through their traditional justice system, encourages forgiveness. The Acholi justice mechanism, promoted by the Ugandan government, is the most documented among all the traditional justice systems in Uganda. Acholi religious leaders have been involved in numerous initiatives to encourage the ending of the conflict by approaching the LRA and pushing for forgiveness for their crimes.

The particular position of the Acholi leaders led other communities to argue that by promoting only one tribal justice system, they are being denied access to justice, although they suffered from the same crimes as the Acholi community.

The "forgiving" justice of the Acholi system is then in conflict with what is seen as the "punitive" justice sought by the ICC. Many believe that encouraging forgiveness and amnesty for Joseph Kony and his top commanders would help bring peace to the region while some support the idea that it would actually encourage a culture of impunity.

Whatever justice is considered, it is essential that consultation be broadened to all the local communities affected by the conflict (Acholi, Langa, Teso and Madi), religious and traditional leaders and the ICC. This would allow all parties to express their views, facilitate information-sharing and avoid any stigmatization or marginalization of certain communities.

In the end, what is crucial is that appropriate mechanisms ensure real justice to the victims and prevent the future commission of atrocities.

Stephen Lamony is the Coordinator of the Ugandan Coalition for the International Criminal Court.

(see resources p.5)

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ADDITIONAL RESOURCES

Fédération Internationale de la Ligue des Droits de l'Homme (FIDH)

"No Sustainable Peace without Justice and Open letter to Mr. Yoweri Museveni, President of the Republic of Uganda" Open Letter
5 September 2006

http://www.fidh.org/article.php3?id_article=3609

European Union CFSP statement, General Affairs and External Relations

"Presidency Statement on the Cessation of Hostilities in Uganda"
Press Release
28 August 2006

http://www.eu2006.fi/news_and_documents/cfsp_statements/ko35/en_GB/1156770336170/

Amnesty International (AI)

"Uganda: Amnesty International calls for an effective alternative to impunity"

Public Statement

4 August 2006

<http://web.amnesty.org/library/index/engAFR590042006?open&of=eng-2af>

Human Rights Watch (HRW)

"Uganda: No Amnesty for Atrocities: Turning a Blind Eye to Justice Undermines Durable Peace"

Press Release

28 July 2006

<http://hrw.org/english/docs/2006/07/27/uganda13863.htm>

The ICC is the first permanent international judicial body capable of trying individuals for genocide, crimes against humanity and war crimes when national courts are unable or unwilling to do so. For more information on the Court, please visit the ICC website: <http://www.icc-cpi.int/home.html>

Ratification and Implementation of the Rome Statute of the ICC in Cape Verde

By Fatima Da Camara

Cape Verde signed the Rome Statute of the International Criminal Court ('Rome Statute') on 28 December 2000. However, nearly six years after this signature, the Rome Statute still hasn't been ratified allegedly due to constitutional barriers, in particular the Constitution's prohibition of the extradition of national citizens; the imposition of the death penalty; and the immunity given to the President of the Republic, members of the government and members of the parliament. Other countries with similar obstacles have ratified the Rome Statute, either by revising their constitutions, as Portugal did, or by going the "interpretative way" by proceeding to ratification without revising the constitution beforehand, as Brazil did. The Rome Statute has now been ratified by 102 states, including three Portuguese-speaking states and 28 African states.

A committee to analyze the compatibility of the Rome Statute with the Constitution of Cape Verde has concluded that it is necessary for Cape Verde to make constitutional revisions before ratifying the Rome Statute. This discussion is expected to take place in the near future. The draft amendments do not seem to

include any provision expressly recognizing the jurisdiction of the Court. The CICC has encouraged the authorities and civil society organizations of Cape Verde not to lose this opportunity to remove any potential barriers that might be delaying the ratification of the Rome Statute.

A new Penal Code entered into force in Cape Verde on 1 July 2004. This new Code includes: a section on crimes against the international community, namely, incitement to war or genocide; genocide; slavery crimes against protected people in case of armed conflict; reprisals or threats of violence against the civilian population; destruction of monuments, places of worship or buildings; and destruction of civilian targets, among other crimes. It also includes a general provision defining as a crime any other infractions committed in times of war, armed conflict or occupation that may be contrary to provisions included in international conventions to which Cape Verde is a state party. These include conventions related to the conduct amidst hostilities and the protection of the wounded, sick or shipwrecked, as well as prisoners of war, civilians and goods. However, for Cape Verde to be able to fully comply with all its obligations under the Rome Statute when it be-

comes a state party, it will need to properly implement the Rome Statute into the national legislation and, ensure its cooperation with the Court.

Civil society organizations have an important task ahead in encouraging the authorities of Cape Verde to complete the ratification and implementation process of the Rome Statute as soon as possible. It is also crucial that these organizations participate, at the earliest possible stage, in the process of implementing legislation of the Rome Statute as well as in the discussion of the draft constitutional amendments so that their concerns are properly addressed in the enacted legislation.

In addition, the CICC has encouraged the authorities of Cape Verde to proceed with the ratification of the Agreement of Privileges and Immunities of the Court, at the same time that Cape Verde ratifies the Rome Statute so that Cape Verde may be able to fully participate in this new system of international criminal justice to put an end to the worst crimes committed against humanity.

Fatima Da Camara is the CICC Lusophone Campaign Advisor

ICC Developments on the Situations

Informal Summary of Recent Developments at the ICC on the Situation of the Democratic Republic of Congo related to the Case of Thomas Lubanga Made Public Since May 2006.

On 19 April 2004, the DRC government referred the situation of the DRC to the ICC Prosecutor and on 23 June 2004, the Prosecutor started an official investigation. The situation of the DRC is assigned to the Pre-Trial Chamber (PTC I).

On 22 May 2006, the Prosecution requested the re-scheduling of the confirmation hearing once certain protective measures are fully implemented. (Request not publicly available but referred to in 24 May Decision)

On 24 May 2006, noting, among other things, the Prosecution's submission of 12 May, PTC I decided to postpone the confirmation hearing in the Lubanga case until 28 September 2006 and outlined the timetable regarding disclosure, including status conferences (23 June, 14 July, 17 August, 4 September and 19 September).

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-126_English.pdf

On 28 June 2006, the Prosecution announced the temporary suspension of the investigation into the Lubanga case and that the Prosecution will not be amending or adding to the charges against Mr. Lubanga. The Prosecution alleges difficulties to pursue the investigation in DRC and to properly protect witnesses and victims as the reasons to suspend the investigation. The Prosecution notes that it reserves its right to apply for a new arrest warrant or submit further charges for confirmation if the investigation continues after the close of the present proceedings and if reasonable grounds for Mr. Lubanga's responsibility for additional crimes are established.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-170_English.pdf

On 29 June 2006, the PTC I decided not to grant the participation of victims VPRS1 to VPRS6 in the proceedings of the case against Lubanga since they had not proven that there is a causal link between their harm suffered and the crimes included in the arrest warrant against Mr. Lubanga. The Chamber notes that the applicants may submit a fresh application at a further phase of the proceedings.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-172_French.pdf (only in French)

On 28 July 2006, PTC I accepted applicants a/0001/06, a/0002/06 and a/0003/06's applications to participate as victims in the Lubanga case and in the DRC situation, since a link could be established between the harm suffered by the applicants and the charges against Thomas Lubanga Dyilo on the one hand, and the investigations on the DRC situation on the other hand. http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-228_French.pdf (only in French)

On 7 August 2006, the Defense requested PTC I to grant leave to appeal the 28 July 2006 decision allowing Victims a/0001/06 to a/0003/06 to participate in the proceedings against Lubanga.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-272_English.pdf

On 17 August 2006, PTC I decided not to authorize victims a/0001/06 to a/0003/06 to participate to the statute conference, scheduled for the 24 August 2006.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-335_French.pdf (only in French)

On 18 August 2006, PTC I rejected the Defense request for leave to appeal the decision of 7 August 2006 authorizing victims a/0001/06 to a/0003/06 to participate in the proceedings.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-338_English.pdf

On 25 August 2006, the Prosecution responded to the observations of 8 August 2006 filed by the Legal Representative of victims a/0001/06 to a/0003/06. In his response, the Prosecution argued that the restrictive nature of the confirmation hearing –to determine whether the Prosecution has sufficient evidence to justify sending the case for trial– would impede victims in making open and closing submissions, questioning witnesses or filing documents. Moreover, the Prosecution submitted that, in lights of the fairness of the proceedings, once victims have been admitted as participants at the confirmation stage their identity must be known by the Defense. Finally, the Prosecution submitted that disclosure obligations remain primarily a matter between the parties, and since the victims are not parties but participants in the proceedings, they should not be granted access to the entire record of the case and the situation.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-353_English.pdf

On 28 August 2006, the Prosecution filed, in accordance with PTC I Decision of 24 May 2006, the document containing the charges together with the list of evidence which the Prosecution intends to present at the confirmation hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-356_English.pdf

On 4 September 2006, the Single Judge denied the right of victims a/0001/06 to a/0003/06 to participate in the status conference of 5 September 2006 as the issue of the modalities of participation is still pending and the hearing concerns only the disclosure system between the Prosecution and the Defense and the filing of the evidences that will be produced at the confirmation hearing.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-380_French.pdf (only in French)

On 4 September 2006, the Defense filed Conclusions regarding the requests for participation to the proceedings of Applicants a/0004/06 to a/0052/06, asking PTC I to deny all the applicants the status of victims.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-386_French.pdf (only in French)

On 6 September 2006, the Prosecution submitted observations on the applications for participations as victims in the Lubanga Case of applicants a/0047/06 to a/0052/06. The Prosecution requested that PTC I grant the applicants the right to participate as victims in the case because the harm they suffered has a causal link to the charges in the case.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-390_English.pdf

On 7 September 2006, Women's Initiatives for Gender Justice (Women's Initiatives) applied to the PTC I for leave to submit observations as *amicus curiae*, both in written form and orally, in the confirmation of charges hearing in the Lubanga case, to be held on 28 September 2006. Women's Initiatives submitted that they seek to address the issue of the role and duties of the PTC in the determination of the charges. According to the applicants, the role of the Chamber is not limited to merely confirming or declining the charges brought by the Prosecution, but it needs to satisfy itself that the Prosecution has exercised its discretion correctly. As a result, in case it is not satisfied, the PTC should request the Prosecution to consider providing further evidence or conducting further investigations or amending the charges.

http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-403_English.pdf

Informal Summary of Recent Developments at the ICC on the Situation of Uganda Made Public Since June 2006

On 29 July 2004, ICC Prosecutor determined that there is a reasonable basis to open an investigation into the situation concerning Northern Uganda, following the referral of the situation by Uganda in December 2003. The situation of Uganda has been assigned to Pre-Trial Chamber II (PTC II) .

On 27 June 2006, the Registrar of the ICC transmitted the corrigenda to the warrants of arrest in Acholi to: the Ambassador of the Republic of Sudan in the Netherlands; the Ambassador of the Republic of Uganda in Belgium; and to the Counselor Minister of the Embassy of the DRC in the Netherlands. The corrigenda replace the previous warrants in Acholi.

On 14 August 2006, the OTP notified PTC II of the reported death of Raska Lukwiya and informed the Chamber that the Ugandan Government is in the process of confirming the identity of the body believed to be that of Lukwiya.

http://www.icc-cpi.int/library/cases/ICC-02-04-01-05-97_English.pdf

Informal Summary of Recent Developments at the ICC on the Situation of Darfur Made Public Since August 2006

On 31 March 2005, the United Nations Security Council adopted Resolution 1593, referring the situation in Darfur, Sudan to the Prosecutor of the ICC. On 6 June 2005, the Prosecutor of the ICC, Mr. Luis Moreno Ocampo, officially opened an investigation. The situation of Darfur, Sudan has been assigned to Pre-Trial Chamber I (PTC I).

On 25 August 2006, Prof. Cassese (Chairperson of the International Commission of Inquiry on Darfur) submitted his observations to the PTC I on issues concerning the protection of victims and the preservation of evidence. He noted that in a situation of continuing insecurity in Darfur and in the absence of a functioning system for the protection of victims and witnesses, investigations into alleged crimes may not be undertaken in Darfur and victims may not be protected from ongoing attacks. He submitted that, consequently, the only solution is to establish the criminal responsibility of those who have created and continue to create insecurity, i.e. to collect evidence about the possible criminal responsibility attributable to military forces of Sudan (as well as armed militias) on the one side, and rebels on the other side. Prof. Cassese further suggested that the Prosecutor could request the Chamber to take measures relating to the protection of victims by requesting: that the Sudanese authorities guarantee protection of victims and report to the Chamber on such measures; and that the Sudanese authorities take measures to allow investigators to investigate without harassment or unlawful interference. Such requests made by the Chamber would be important because any non-compliance with the Chamber's order could lead to a request for remedial action by the UN Security Council. (...) [**see the rest of the developments on p.11**]

Please note that the CICC will not take a position on potential or pending situations before the Court. The Coalition, however, will continue to provide the most up-to-date information about the ICC.

Signatures and Ratifications of the ICC Rome Statute in Africa

(As of 22 August 2006 : 28 States Parties, 14 Signatory States and 27 Non-States Parties)

<u>States Parties / Date of Ratification</u>					
Benin	22 Jan 2002	Nigeria	27 Sept 2001	Sudan	08 Sept 2000
Botswana	08 Sept 2000	Senegal	02 Feb 1999	Zimbabwe	17 July 1998
Burkina-Faso	16 Apr 2004	Sierra Leone	15 Sept 2000		
Burundi	21 Sept 2004	South Africa	27 Nov 2000		
Central. Africa Rep	03 Oct 2001	Tanzania	20 Aug 2002		
Comoros	18 Aug 2006	Uganda	14 Jun 2002		
Congo (Brazzaville)	03 May 2004	Zambia	13 Nov 2002		
Dem. Rep of Congo	11 Apr 2002				
Djibouti	05 Nov 2002				
Gabon	20 Sept 2000				
Gambia	28 Jun 2002				
Ghana	20 Dec 1999				
Guinea	14 Jul 2003				
Mauritius	05 Mar 2002				
Kenya	15 Mar 2005				
Lesotho	06 Sept 2000				
Liberia	22 Sept 2004				
Malawi	19 Sept 2002				
Mali	16 Aug 2000				
Namibia	25 Jun 2002				

<u>Signatory States / Date of Signature</u>			
Angola	07 Oct 1998		
Cameroon	17 Jul 1998		
Cape Verde	28 Dec 2000		
Chad	20 Oct 1999		
Côte D'Ivoire	30 Nov 1998		
Egypt	26 Dec 2000		
Eritrea	07 Oct 2000		
Guinea Bissau	12 Sept 2000		
Madagascar	18 Jul 1998		
Morocco	08 Sept 2000		
Mozambique	28 Dec 2000		

<u>Non-States Parties</u>	
Algeria	Madagascar
Angola	Morocco
Cameroon	Mauritania
Canaries	Mozambique
Cap Verde	Rwanda
Chad	Sao Tome
Côte d'Ivoire	and Principe
Eritrea	Seychelles
Ethiopia	Somalia
Egypt	Sudan
Equatorial Guinea	Swaziland
Guinea Bissau	Togo
Liberia	Tunisia
Libya	Zimbabwe

Rome Statute in the world	Signatures: 139	Ratifications: 102	Last Ratification: St Kitts & Nevis
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Signatures and Ratifications of the Agreement on Privileges and Immunities in Africa

(As of 19 April 2006: 6 States Parties, 7 Signatory States)

<u>States Parties / Date of Ratification</u>					
Benin	24 Jan 2006	Namibia	29 Jan 2004	Sierra Leone	26 Sept 2002
Burkina Faso	10 Oct 2005			Senegal	19 Sept 2002
Lesotho	16 Sept 2005			Tanzania	27 Jan 2004
Liberia	16 Sept 2005			Uganda	30 Jun 2004
Mali	08 Jul 2004				

<u>Signatory States / Date of Signature</u>			
Ghana	12 Sept 2003		
Guinea	01 Apr 2004		
Madagascar	12 Sept 2002		

APIC in the world	Signatures: 62	Ratifications: 40	Last ratification: Albania
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Status of the Rome Statute Implementation in Africa

Benin

A draft law is under consideration. In October 2002, a coalition of local NGOs was created to promote and raise awareness of the ICC and will work on implementing legislation in partnership with the government.

Botswana

Botswana is cooperating with SADC countries on implementing legislation and a draft law is under consideration.

Burkina Faso

A workshop on implementation was held in Ouagadougou from the 3rd to the 8th of July 2006 with the participation of high-level officials. The draft bill on implementation which was prepared during this workshop has been officially accepted by the Ministers of Justice and Human Rights who promised to examine carefully the draft text for consideration.

Burundi

In mid-April, the Parliament passed a bill that incorporated genocide, crimes against humanity and war crimes into Burundi's criminal statutes. However, the definition of crimes in the national legislation is not fully in conformity with the Rome Statute.

Central African Republic

A draft law is under consideration.

Congo (Brazzaville)

In April 2005, the civil society and the government organized a joint seminar on implementation legislation with the participation of local and international experts. The draft bill is currently going through administrative process.

Democratic Republic of Congo

On 9 September 2005, the Counsel of Ministers (the Cabinet) adopted the draft ICC implementing legislation bill. The bill must now be adopted by the National Parliament. The government completed its draft implementing legislation after consultations with judges of the Supreme Court, lawyers, civil society, members of the law reform commission and law professors.

Gabon

Gabon has begun the process of reform of its criminal code and procedural code, in order to integrate the crimes under the Rome Statute into national law.

Gambia

The Gambian Coalition for the ICC is currently engaging the government for a civil society input in the domestic implementation of the Rome Statute. In a recent visit by the Coalition to the Ministry of Justice in May 2006, the Permanent Secretary restated the fact that they are open to ideas and collaborations.

Ghana

Draft legislation has been prepared by an ad hoc committee of legal experts but this draft has not yet been made public.

Kenya

At a seminar on the International Crimes Bill held in Nairobi in July 2005, the Attorney-General urged prompt adoption of the ICC implementing legislation. It is still a draft law at the moment.

Lesotho

The government initiated the process of drafting national implementing legislation in mid-2001. Lesotho is using Canada's implementing legislation as a model.

Malawi*

As of October 2002, the government was in the process of enacting cooperation legislation, which had to be introduced to the Cabinet, but nothing has been done.

Mali

In July 2004, the National Assembly of Mali completed the process of amending to its Criminal Code to make it consistent with the Rome Statute. It now incorporates crimes covered under the Rome Statute. However, the provisions do not provide for cooperation.

Niger

In June 2003, Niger implemented the definition of crimes through Law N° 2003-025 of 13th June 2003, amending Law N° 61-27 of 27th July on National Criminal Code. But the implementation process had been limited to the definition of crimes. Much legal work still needs to be done on the other aspects of complementarity and cooperation.

Nigeria

On 19 May 2005, the Senate passed a legislation implementing the Rome Statute into law which was previously approved by the House of Representatives on 1 June 2004. The Bill is currently awaiting harmonization by the two Houses and Presidential assent.

Senegal

On 20 June 2003, an official of the Ministry of Justice said that the draft implementation law would be included in the general package on the renewal of criminal law in Senegal. The Minister of Justice created an implementation committee, which drafted implementation legislation based on recommendations from the conference in Dakar in October 2001.

South Africa*

South Africa is currently the only African country with fully enacted implementation legislation.

Tanzania*

SAHRINGTON Tanzania (an amalgam of NGOs) is currently working with the Tanzanian government to produce a draft implementation bill.

Uganda

A draft of implementing law is currently before the Parliament.

Zambia

At a meeting organized by the Zambian Coalition for the ICC in April 2006, the Zambian Minister of Justice, George Kunda, stated that Zambia will collaborate with NGOs in Zambia in the domestic implementation of the Rome Statute.

States Parties that have neither draft nor enacted implementing legislation:

Djibouti, Guinea, Liberia, Mauritius*, Namibia, Sierra Leone.

*To assist Southern African Development Community (SADC) Member States in enacting legislation, an SADC meeting held in Pretoria, South Africa, 5-9 July 1999 adopted a model-enabling-law that each state could adapt to their national situations. This model law covers virtually all aspects of the Rome Statute that require state action and cooperation.

Calendar of Events

EVENTS OF THE MONTH

8 September

Workshop on Strengthening the Rome Statute of the ICC

Abuja, Nigeria

Host: Nigerian Coalition for the ICC and the Macarthur Foundation

Objective: Establishing a civil society/parliamentary working group in order to work towards the final passing into law of the Rome Statute Bill before the expiration of the National Assembly in April 2007.

Participants: Ministry of Justice, President of Senate, Attorney General, academics, NGOs.

Contact: Ighorodje Voke,
viqhorodje@cddnig.org

11-16 September

Advocacy Mission

Niamey, Niger

Host: Coalition for the ICC

Objective: Discussion with state officials, NGOs and other key actors on the need to start the implementation legislation process and ratify the APIC.

Participants: Government officials, Parliamentarians, legal officials, NGOs, media

Contact: Francis Dako, dako@iccnw.org

26 September

Meeting Office of the Prosecutor (OTP)/NGOs

The Hague, The Netherlands

Host: International Criminal Court

Objective: Meeting between OTP and NGOs to discuss the 3-year OTP report

Participants: NGOs and OTP

REPORT OF PAST EVENTS

13-14 July

Seminar on ICC for Journalists – Kinshasa, Democratic Republic of Congo

The DRC Coalition for the ICC organized an information session on the ICC for journalists in Kinshasa on 13 and 14 July. The seminar was attended by the media, NGOs, and ICC representatives. The objective was to assist journalists in public outreach through accurate and objective information on the ICC. During this seminar, journalists received background information on the ICC and were reminded of the importance of considering the interests of both the victims and the accused while processing information. They were also provided with different ways to obtain reliable information and run an efficient public campaign. At the end of the meeting, journalists agreed to provide reliable and objective information about the ICC and create a lobby through which the press can encourage the Congolese authorities to set up legal and institutional reforms necessary to harmonize substantive Congolese law with the Rome Statute.

5-9 July

Outreach Mission – Moundou, Chad

A delegation of the Chadian Coalition for the ICC led a mission of outreach in Moundou, district of Logone (South region of Chad) from 5 to 9 July 2006. The objective was to discuss ICC developments in Chad with local authorities. The delegation met with the Governor of Logone, the Imam representing the Islamic Committee of Logone, the Commandant of the local police of Moundou as well as the Mayor of the city. The delegation informed them about the ICC, the current process of the ratification of the Rome Statute in Chad; the process of implementation that should follow, and the existence of a National Coalition for the ICC in Chad. Local authorities welcomed the message of the delegation and expressed their willingness to learn more about the ICC. The delegation of the Coalition also held a press conference with local media in Moundou and participated on a radio show (Radio DODJI LOKAR) which provided a framework for discussion on the ICC, and attracted a large audience to the conference-debate the Coalition organized, including some prominent regional personalities such as the Prefect of Logone.

6-8 July

Implementation Workshop – Ouagadougou, Burkina Faso

The CICC organized a workshop on implementation in Ouagadougou from 6 to 8 July. The meeting was attended by representatives of key governmental agencies (Ministries of Justice, Human Rights and Defense); parliamentarians; lawyers; NGOs and the media. With the objective to discuss the draft law prepared by the drafting committee, in consultation with the civil society, the meeting focused on several key issues such as the definition of crimes, immunities, amnesties and victims'

rights. The CICC and the International Committee of the Red Cross (ICRC) moderated two working groups: one on the issue of complementarity and another on cooperation. The draft law was then amended to reflect the input of both working groups and submitted to the representative of the Minister of Justice, who reiterated his commitment to further the implementation process.

30 June

Parliamentary Outreach - Kampala, Uganda

The Ugandan Coalition on the International Criminal Court (UCICC) in conjunction with Human Rights Network co-organized on 30 June a one-day parliamentary advocacy workshop in Kampala for Ugandan Parliamentarians. The objectives of the workshop were to create an appreciation of the relevance of the ICC and the international criminal justice system within the parliament of Uganda and to advocate for the enactment of the ICC Court 2004 bill into law. Representatives from civil society as well as members of Parliament attended the workshop. The meeting allowed participants to raise certain issues such as their concern over the application of the implementation law if it is adopted and the question of amending the Constitution to remove the immunity of the Head of State. It was also made clear that the application of the Amnesty Law would not prevent the ICC from prosecuting Joseph Kony.

21-22 June

Implementation Workshop – Bangui, Central Africa Republic

The CICC and its national members in Central Africa Republic (CAR), in collaboration with the Ministry of Justice, organized an implementation meeting in Bangui on 21 and 22 June. The workshop was highly attended by: Representatives of the Ministry of Justice, Ministry of Defense, National Assembly, the UN Office in CAR (BONUCA), the International Committee of the Red Cross (ICRC), NGOs and lawyers. The objective of the implementation workshop was to discuss the draft criminal code and criminal procedure code that CAR prepared 2 years ago. While the draft criminal code needed some improvements in order to be in line with the Rome Statute of the ICC, the criminal procedure draft did not contain any provisions on cooperation with the ICC. A drafting committee, established by the Ministry of Justice, presented the drafts for comments. Amnesty International, among others, provided suggestions for both texts, which will be included in the drafts. The Minister of Justice confirmed that another one-day meeting will be convened in order to finalize those texts before submitting them to the Council of Ministers for consideration. At the end of the meeting, a CAR Coalition for the ICC was created. This meeting was followed by a one-day public outreach event for NGOs, media, lawyers and the general public.

ICC Developments on the Situations

(from p.7)

Informal Summary of Recent developments at the ICC on the Situation of Darfur Made Public Since August 2006

On 31 March 2005, the United Nations Security Council adopted Resolution 1593, referring the situation in Darfur, Sudan to the Prosecutor of the ICC. On 6 June 2005, the Prosecutor of the ICC, Mr. Luis Moreno Ocampo officially opened an investigation. The situation of Darfur, Sudan has been assigned to Pre-Trial Chamber I (PTC I).

(...) With respect to the protection of victims of rape and child abuse, he submitted that the only solution is to hold accountable, under the notion of command responsibility, those who would be in a position to prevent or punish its authors and to request the Sudanese authorities to urgently take measures to bring to trial the alleged perpetrators. In order to avoid the degradation of testimonial evidence, Prof. Cassese suggested that as many people as possible in IDP camps be interviewed in the most expeditious manner possible and that official Sudanese documents relevant to the commission of the crimes be obtained. In case of non-compliance, the Prosecutor should report to the Security Council.

http://www.icc-cpi.int/library/cases/ICC-02-05-14_English.pdf

On 11 September 2006, the Prosecutor filed a response to Professor Cassese's observations on victim protection and the preservation of evidence. The Prosecutor submitted that Prof. Cassese's observations are premised on a mistakenly broad interpretation of Article 68(1) and a belief that OTP and Chambers have a responsibility to enhance security for victims in Darfur. The Prosecutor further submitted that the wider observations on his investigative strategy and policy, modes of liability and means of proof are beyond the scope of PTC I decision. The Prosecutor explained that although investigations outside Darfur are carried out successfully, the security situation renders it impractical to carry out investigations inside Darfur, and therefore there are no witnesses to protect there.

http://www.icc-cpi.int/library/cases/ICC-02-05-16_English.pdf

To read the complete ICC developments, please visit our website: <http://www.iccnw.org/?mod=casessituations>

Contact - Info



COALITION FOR THE INTERNATIONAL CRIMINAL COURT

CICC Secretariat in New York

Linda Gueye

*French Information Services Coordinator /
Coordinator of ICC-Africa*
gueye@iccnorw.org

Richard Nsanzabaganwa

Outreach Liaison for Africa
nsanzabaganwa@iccnorw.org

Brigitte Suhr

Director of Regional Programs
suhr@iccnorw.org

Sally Eberhardt

Director of Communications
eberhardt@iccnorw.org

Tanya Karanasios

Program Director

William R. Pace

Convenor

Regional Coordination

Francis Dako

Regional Coordinator for Francophone Africa
dako@iccnorw.org

Benson Chinedu Olugbuo

Regional Coordinator for Anglophone Africa
olugbuo@iccnorw.org

Fatima da Camara

Lusophone Campaign Advisor
fcamara@amnesty.org

For more information on
how to become a CICC
member, please contact:

cicc@iccnorw.org

Adresse CCPI:

c/o WFM - IGP
708 Third Avenue, 24th Fl
New York NY 10017
Fax: 1-212-599-1332.
Tel: 1-212-687-2176
Email: cicc@iccnorw.org
Site: www.iccnorw.org

What is the Coalition for the International Criminal Court ?

The Coalition for the International Criminal Court (CICC) is a global network of over 2,000 non-governmental organizations (NGOs) advocating for a fair, effective and independent International Criminal Court (ICC).

Our objectives :

- Ensuring the universal ratification of the Rome Statute of the ICC
- Ensuring the full implementation of the Rome Statute in the national legislations
- Monitoring ICC developments and supporting its work
- Strengthening CICC national and regional networks for our ICC campaigns

Join Our Information Lists !

In order to receive by email the latest ICC developments, join our email lists by sending an empty email to :

icc-africa-suscribe@yahoogroups.com

For the regional list

icc-info-suscribe@yahoogroups.com

For the English language list

reseau-cpi-suscribe@yahoogroups.com

For the French language list

tpi-port-subscribe@yahoogroups.com

For the Portuguese language list

noticias-cpi-subscribe@yahoogroups.com

For the Spanish language list

For any comments,
suggestions or questions on
ICC-Africa, please contact

Linda Gueye:

gueye@iccnorw.org