Welcome to the 7th Edition of ICC-Africa!

When Thomas Lubanga Dyilo, Congolese militia leader, became the first and only suspect detained at the International Criminal Court (ICC), many were expecting to see the Court issue additional arrest warrants for other perpetrators of serious crimes in the Democratic Republic of Congo (DRC).

On 17 October 2007, Germain Katanga, presumed commander of the Force de Résistance Patriotique en Ituri (FRPI), was arrested and transferred to the ICC. He is accused of six counts of war crimes and three counts of crimes against humanity in the Ituri region. His confirmation of charges hearing is provisionally scheduled for 28 February 2008 in The Hague.

As for the Lubanga Case, the ICC’s Trial Chamber I announced that it is examining the possibility of holding in situ hearings of the trial in DRC, which is scheduled to start on 31 March 2008. Concerning the situation in Central Africa Republic (CAR), the ICC officially inaugurated its field office in Bangui on 18 October 2007.

Although the Court made major progress in DRC and CAR, it is still struggling to achieve similar results with the Uganda and Darfur situations, where arrest warrants issued for the LRA top leaders and the Janjaweed militia leader, Ali Kushayb and the Sudanese Minister of Humanitarian Affairs, Ahmad Harun, are still outstanding for lack of States’ cooperation.

In this issue, you will find an interview with Paul Madidi, ICC Field Public Information and Coordinator at the Kinyasa field office, who discusses the increased field presence of the Court in DRC; and the perspective of Congolese NGOs on ICC outreach and the Lubanga Case.

In addition, you will learn how Sudanese and international civil society organizations continue to mobilize for Darfur victims and what the perception of Ugandan NGOs and victims is on the ICC and the peace talks between the Ugandan government and the Lord’s Resistance Army (LRA).

This issue also includes an article on the launch of a new Cameroonian Coalition for the ICC intended to push for the ratification of the Rome Statute by the government; an analysis of the Central African government’s actions with regards to its deferral of the situation in Central Africa Republic to the ICC; and an analysis of the ICC’s capacity to prosecute those most responsible for crimes under the Court’s jurisdiction, regardless their official rank is.

Finally, you will find an overview of the key issues that will be discussed during the sixth session of the Assembly of States Parties (ASP) to the Rome Statute of the ICC which will be held from 30 November to 14 December 2007 at the United Nations headquarters in New York.

We hope you enjoy this 7th edition and we encourage you to send questions and comments to: gueye@iccnow.org

Sincerely,

ICC-Africa Editorial Team
SPECIAL DRC

Interview with Paul Madidi

The International Criminal Court (ICC), which in 2005 opened its first field office in Kinshasa, Democratic Republic of Congo (DRC), then another office in Bunia (eastern DRC), is now well placed on the ground to advance the Court’s work, particularly with outreach to affected communities. ICC-Africa sat down with Paul Madidi, Field Public Information and Outreach Coordinator at the Kinshasa field office to learn more about how the ICC’s increased field presence is making a difference.

Paul Madidi during a media session on the ICC organized by the DRC Coalition for the ICC (CN-CPI) in July 2006. Credit: CN-CPI

ICC-Africa: Can you briefly describe the structure of the ICC field office in Kinshasa?

Paul Madidi: The ICC’s Kinshasa Office includes a field-office manager in charge of administration. He represents the Court before the Congolese State. There is also the Victims and Witnesses Unit; the Victims’ Participation and Reparation Section and the Public Information and Outreach Section, which I represent.

As the coordinator of this section, I am responsible for implementing the communication strategy of the ICC, which consists of informing local communities of the Court’s work on the Lubanga and now Katanga cases, along with other relevant developments at the ICC. But our work is not just to inform; it is also to take into account the concerns and expectations of the public regarding the Court. This is what is called “outreach”. I work with two assistants, one of whom is based in Bunia, Ituri. He will be assisted by another assistant position for which we are currently recruiting.

The Office of the Prosecutor (OTP) is also represented through a section in the field, which I represent.

To summarize, the field office has been established to provide a certain visibility to the Court in the DRC and proximity to the local population. It represents a point of contact for the public by providing answers to those who want information about the Court.

ICC-A: The ICC has been criticized for not doing enough outreach work to victims, and instead focusing its efforts on a public information campaign targeting civil society, the media and academic contacts. Is this still the case?

PM: We are in the process of conducting a series of outreach activities with the Victims’ Participation and Reparation Section in Ituri. In March, June, and July, we conducted other activities that further targeted victims. In June, we participated in an outreach mission in the field with the Executive Director of the Trust Fund for Victims. We also developed a multimedia program - using radio and television - that focused on an audience of victims. One cannot say today that we do nothing for the victims, quite the contrary.

ICC-A: The Court was also criticized for being distant from victims. What would you say about that? What is the relationship between the Court and communities of victims?

PM: It is true that we had many problems last year, which was a highly political year with the [presidential] elections. Also, due to security issues, the Court was not able to work as it should have. In February 2006 activities were already in full swing when unfortunately we had to stop because of the security conditions, which were worsening, and an intensifying political climate.

But since the beginning of this year, outreach efforts in the field showed clear progress, with permanent outreach to the affected populations of Ituri our primary goal. We are increasingly present in Ituri, Bunia, Mahagi, and in Aru. We go there twice a month. It is a daunting task considering that in a country like the DRC moving from one area to another is always done by plane. We do not work there alone.

Without exception, collaboration with [local] associations like Lipadho, Terre des Enfants or Ofocedep, which are very dynamic in the field, is crucial from our point of view. The second most crucial aspect is to be closer and more present: we now have someone from the Outreach Section who will be based in Bunia and Ituri permanently. This person will be assisted [by an additional staff member so that there will now be two people assigned to outreach efforts in Ituri. I think that with this [additional] personnel, we will be able to overcome the difficulties of the past.

ICC-A: You have just developed broadcast outreach tools, particularly televised plays that explain the work of the Court. How has the public reacted?

PM: As explained to us, the two television channels, RTNC (State Channel) and Digital Congo TV (private channel) that have broadcast these sketches said viewers have sent in many questions and that the plays have generally been well-received. We are currently studying the possibility of developing further sketches that would address the questions viewers have so far submitted.

So far, we have progressed from airing two to now three broadcasts a day. The result of this increased activity is that the heads of these channels themselves feel involved in the fight against impunity. For now, these sketches are being broadcast in French only, but will soon air in Swahili and Lingala as well. The public’s first impressions are quite encouraging, and I hope that they will continue
to remain interested and gain a deeper understanding of the International Criminal Court.

**ICC-A:** What impact does ICC outreach have in the DRC? How do you evaluate this impact? What are the indicators of success?

**PM:** I acknowledge that we do not have very precise figures on the impact of the work we do. However, some statistics will be published in the near future. That said, there are some indications found in the questions we encounter and the evolution of these questions in the various meetings that have taken place so far. For example, we noticed that there was a lot of confusion in the beginning between the ICC mandate and that of the International Criminal Tribunals for Rwanda and the former Yugoslavia. Today, this type of question does not occur any more.

The public is in fact more interested in knowing when Thomas Lubanga’s trial will be held and why he was the Court’s only detainee for a while *. The interest and the impact of the outreach work we do are also apparent in the questions that the media ask us.

A substantial number of questions are sent to Radio Okapi. At the beginning we had planned for the program to run from April to June, but now, having seen the number of questions submitted to Radio Okapi, we decided to extend this program until the end of the year to answer all of these questions. The number of questions submitted really demonstrates the public’s interest in the ICC. Interest is growing and questions have clearly evolved.

**ICC-A:** By how much does insecurity in the east of the country affect your outreach work, particularly in Ituri?

**PM:** This is a crucial question for us. We had many problems moving around in 2006. The question of the insecurity affects us, but also affects the victims. The security problem, if it still is an issue in the eastern region, may slow down the pace of our work. I hope conditions will not worsen.

**ICC-A:** What kind of relationship do you have with the National Coalition for the ICC in the DRC (CN-CPI) and other local NGOs?

**PM:** For the moment, we have rather good and friendly relationships. They are privileged partners, of course. We never fail to solicit them and to inform them of our activities. What we expect from the National Coalition is that it proposes concise programs in which we can participate. In general, we have a good relationship. What’s more, it is with the National Coalition that we started our activities in November 2005.

**ICC-A:** What is the NGO’s contribution to your outreach work?

PM: In Ituri for example, there are NGOs that have good networks in the field, which facilitates our work in terms of relaying the information. We have sufficiently informed them of the ICC’s work so that for the time being they can relay the Information to greater masses. The NGOs working in the field and those who have solid networks in the field help us spread information. As a result, we have gotten the word out to our base populations. We have reached the greater masses thanks to these networks.

**ICC-A:** What are the challenges ahead?

**PM:** There are many challenges. The public has many questions and it is necessary to be able to answer them. For example, the challenge of explaining why Thomas Lubanga had been the only detainee for so long?* How to explain to people in Ituri that there has only been one charge against him: the enlistment and conscription of children? How to explain that the Court is working and that the prosecutor could launch other arrest warrants? These are the challenges that we face in terms of communication.

But there is also a language barrier. The generally low level of education in the country poses a challenge. How do we explain the ICC to journalists? The journalists are also our partners, but as long as journalists do not understand the ICC (its operation, its mandate, etc.), it is unclear how they can communicate accurate information to others.

Another challenge is the size of the Ituri region and of the country. It is nothing like Uganda, where one can go from Kampala to the north of Uganda without any problems. Here, traveling is done by plane or by MONUC helicopters. Sometimes you are not on the passenger list and must therefore go through Nairobi (Kenya) to come back to Ituri. The challenges are both serious and huge!

Outreach work is also an enormous challenge because, contrary to the public perception of us as merely diffusers of messages, our outreach efforts require us to carefully consider and balance the victims’ needs, expectations and concerns.

**ICC-A:** Does the ICC plan to recruit more personnel for your office?

**PM:** Yes, I think that we are going to focus on Ituri. Two members of our team will be permanently in Ituri and two others will remain here in Kinshasa with the possibility of hiring a third person.

*On 17 October 2007, Germain Katanga, presumed leader of the Force de Résistance Patriotique en Ituri (FRPI) was arrested and transferred to the ICC. He is now the second suspect detained at the ICC’s headquarters.

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Who Truly Benefits from the ICC Outreach in Ituri?

By Joël Bisubu**

With the pending trial of Thomas Lubanga Dyilo, the first suspect to be indicted by the International Criminal Court (ICC) for war crimes committed in the Ituri region of the Democratic Republic of Congo (DRC), the need for outreach to victims is paramount.

The increased outreach activity of the Court in the Ituri region since the beginning of this year, though certainly laudable, begs the question of who really benefits from this outreach.

While the ICC did indeed conduct several missions on the ground, including information sessions in Bunia, the capital of Ituri, these sessions focused on dialogue with non-governmental organizations and fell short of reaching the victims for whom they were intended. For instance, although the international justice sketches produced by the ICC and aired on local television channels in Kinshasa were commendable, they did not reach the intended audience of victims.

The provisions of the Rome Statute that allow victims to participate in different stages of proceedings before the Court, marks an important innovation in victim’s rights in international criminal justice. Victims must not only be authorized to share their views, but also be informed in a timely fashion of proceedings that concern them.

Two facts emerge in the case of victims from Ituri: on the one hand, victims who have requested to participate in the proceedings must wait a long time before receiving a definitive reply. The length of the process often discourages victims, who consequently lose interest in the ICC. On the other hand, those victims who do participate in the proceedings do not receive information regarding the advancement of the proceedings even though their legal representatives are responsible for transmitting this information to them.

Victims need to not only be informed of the Court’s work and operations but also of procedural issues directly affecting them. It has been proven that direct dialogue with communities of victims, using tools that engage their interest, would be a more efficient outreach tool and would help them to better understand the ICC’s role in Ituri. As this is not fully in place, victims do not feel involved in the core work of the ICC, which they increasingly see as an institution that appears distanced from the realities of those who suffered and continue to suffer the effects of grave crimes under the Court’s jurisdiction. Since the security situation in Ituri has now vastly improved, the ICC must undertake local outreach campaigns in those communities affected by serious human rights violations.

NGOs that support the ICC in its mission may facilitate the Court’s outreach work in Ituri by acting as intermediaries between communities of victims and the Court. The ICC and these NGOs work toward the common goal of fighting against impunity for international crimes. It is imperative that the ICC and the civil society organizations supporting the Court’s outreach to victims receive financial support—victims depend on it.

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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).
By Freddy Kitoko

In light of the communications received describing the seriousness of the situation, the Prosecutor of the International Criminal Court (ICC) announced in July 2003 that he was going to launch his first investigations in the district of Ituri, Democratic Republic of Congo (DRC). Most non-governmental organizations (NGOs), the communities of victims and the general population gained great hope that they would see justice. This hope was not due to the fact that the ICC was going to pursue all the people presumed to be responsible for the crimes committed in the DRC, especially in the East, but rather that it would pursue and condemn those most responsible for committing the commission of such crimes, thereby having a deterrent effect on would-be criminals.

This hope was reinforced by the DRC President’s letter, in which he defers the situation in the DRC to the ICC Prosecutor in March 2004. In taking such an initiative, the President acknowledged the national justice system’s ability to pursue international crimes. This is underscored by the fact that judges and magistrates have no experience in investigating and prosecuting international crimes.

Unfortunately, all hope faded when the Prosecutor announced, on 28 June 2006, his intention to present charges, that are limited to enlisting and conscripting children under fifteen and using them to participate actively in the hostilities, for confirmation before the Pre-Trial Chamber I. This announcement raised a collective protest from the NGO community to the point that eight international NGOs which provided to the Office of the Prosecutor information on human rights violations committed in the DRC, submitted a letter to the ICC Prosecutor. The letter asked him to broaden the charges to massacre, sexual violence, and acts of cannibalism committed by the Union of Congolese Patriots (UCP) - Thomas Lubanga’s military and political movement - even though several reports and communications along with some evidence were sent to him. It is clear that he could have made a better use of this information.

Considering the poor results that came from those eight months of investigations made by the Office of the Prosecutor in Ituri, some people in the DRC believe the Prosecutor has either been swayed by political pressure, or his investigative team is not up to the task. What else could explain the weakness of the charges presented to the judges of the Preliminary Chamber I, while the entire world waited for investigations that would lead to more satisfactory results?

Congolese human rights NGOs, victims and the entire population have also noticed that the ICC proceedings concerning the Lubanga Case have been especially slow, contrary to some ICC officials who affirmed at the

(Continue on p.7)
Although both Sudanese and civil society organization operate under difficult security conditions, they have continued to defend the rights of victims of the conflict in Darfur since 2004 and also continue to condemn the serious international crimes committed against them.

The worsening of the crisis in Darfur continues to affect thousands of victims and refugees. This has compelled NGOs to raise awareness amongst governments, regional organizations, and the general public about the conflict and the resulting humanitarian crisis.

In September 2004, the International Federation for Human Rights (FIDH) requested Security Council members at the United Nations to refer the situation in Darfur to the prosecutor of the International Criminal Court (ICC). The January 2005 report of the UN's international investigative committee on Darfur classified the crimes committed in the western region of Sudan as crimes against humanity. Given the extreme gravity of the crimes committed, FIDH indicated that it was the Security Council's responsibility to ensure the ICC's involvement in this situation. Several months later the Security Council referred the Darfur situation to the ICC, and in June 2005 the Court officially announced the launch of an investigation.

The civilian population continues to be the main victim of the fighting in Darfur. In September 2006, FIDH and its member organizations in Africa and the Middle East wrote an open letter that called upon the Sudanese president to allow the deployment of a UN peacekeeping mission in Sudan. They also urged the African Union and the Arab League to intensify their efforts and to take the necessary diplomatic measures in order to call on Sudan to consent to the deployment of the UN peacekeeping forces.

Earlier this year, the Arab Organization for Human Rights, the Arab Program for Human Rights Activities, and the Save Darfur Consortium organized a workshop in Egypt at which 31 Arab civil society organizations participated. The objective of the workshop was to address questions on human rights violations committed in Darfur and the lack of accountability for the perpetrators of these crimes. The Cairo Declaration for Peace in Darfur was adopted at the conclusion of this workshop, calling for a unified Arab position in support of peace in Darfur and for increased and more effective cooperation between Arab and Sudanese NGOs.

Moreover, the Cairo Institute for Human Rights Studies (CIHRS) urged the Human Rights Commission of the Arab League to support the UN and the ICC's efforts in their struggle against impunity in Darfur.

On the fourth World Darfur Day, Amnesty International and Save Darfur organized a gathering on 16 September 2007 in Brussels to affirm their solidarity with the victims of the conflict as well as to encourage the international community to act upon its responsibility to protect. Additionally, the Urgence Darfour collective urged senior government officials and the European Union (EU) to pressure the Sudanese government to allow for the immediate dispatch of an international protection force in Darfur.

The government refuses to execute the arrest warrants issued by the Court against the Sudanese Humanitarian Affairs Minister, Ahmad Harun, and the chief of the Janjaweed militia, Ali Kushayb, both accused of war crimes and crimes against humanity. Despite repeated calls on Sudan to execute the arrest warrants, the Sudanese government did not cooperate with the Court. To this day, the Sudanese government refuses to cooperate with the Court. To this day, the Sudanese government refuses to cooperate with the Court.

However, the effectiveness of this resolution is contingent upon the Sudanese government’s cooperation with the Court. To this day, the Sudanese government refuses to execute the arrest warrants issued by the Court against the Sudanese Humanitarian Affairs Minister, Ahmad Harun, and the chief of the Janjaweed militia, Ali Kushayb, both accused of war crimes and crimes against humanity. Despite repeated calls on Sudan to execute the arrest warrants, Sudan has not taken the necessary diplomatic measures in order to call on Sudan to consent to the deployment of the UN peacekeeping forces.

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The Moroccan Centre for Human Rights (CMDH) condemned Harun’s nomination and Human Rights Watch called upon the UN Security Council to enforce Resolution 1593 and to demand that the Italian government put pressure on Sudanese President Al-Bashir to cooperate with the Court.
during his visit to Rome earlier this year.
FIDH and SOAT labeled Kushayb’s liberation as well as Harun’s controversial nomination as an insult to the victims of Darfur, arguing that these moves demonstrated “a total lack of respect on the part of the Sudanese government towards justice” and “seriously [diminished] the opportunities to end impunity for crimes committed in Darfur, and in reaching durable peace in the region.”
Sudanese and international civil society organizations continue to campaign relentlessly for peace in Darfur for the sake of justice for the victims. The ICC needs the support of NGOs and the international community to bring its mandate to fruition. It is therefore now up to the members of the international community to do their part and act with urgency.

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Victims Want to Regain Hope in the Lubanga Case
(Continued from p.5)

time of the establishment of the Rome Statute, that the ICC proceedings would be particularly expeditious compared to the slowness of previous courts. Indeed, the Lubanga trial, which was first scheduled to start in September 2007, had to be postponed so that, among other things, the new Defense Counsel could obtain additional time to prepare the case. The date of trial was eventually reached on 9 November by the Trial Chamber I: the Lubanga trial would start on 31 March 2008 - to most victims and the general population’s relief. Previously, the Chamber announced that ICC Judges were examining the possibility of holding in situ hearings of the trial in DRC. Although this news was welcomed by many, raised some questions on infrastructure and security issues, particularly in east DRC.
Victims and the population wait now to see how the Lubanga trial will play out and further develop. Given that the ICC communications and outreach prevents a large part of the population from knowing the work of the Court in the DRC, national and international NGOs are trying to close the communication gap.

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To the great satisfaction of victims and Central African human rights organizations alike, ICC Prosecutor Luis Moreno-Ocampo, announced on 22 May 2007 the decision to open investigations in the Central African Republic on those crimes committed on Central African soil during the violence in 2002 and 2003 which fall under the Court’s jurisdiction.

The decision comes three years after the CAR government’s referral of the situation to the International Criminal Court. The true motivations of such a referral by the Central African Republic, however, remain unclear.

Is it indeed, as claimed by those in power, an attempt to address the demands of the victims of the “Banyamulengue,” the Central African term for the Congo Liberation Movement led by Jean Pierre Bemba? Is it an attempt to fight against impunity? Nothing is certain.

During an official visit to Kinshasa on 23 August 2007 to meet with the President of the Democratic Republic of Congo (DRC) Joseph Kabila, Central African President General François Bozizé felt the need to publicly justify his position, stating at a press conference, “The Central African complaint against Jean-Pierre Bemba has not been withdrawn,” and thereby suggesting that he had briefly considered such a possibility. Why else would he affirm this fact?

Only weeks prior to this declaration, President Bozizé had named Zakaria Damane and Martin Koutmadadjii, aka Abdoulaye Miskine, both warlords and former actors to the conflict, as presidential advisors.

Both Damane and Miskine had previously negotiated and signed peace agreements providing for amnesty for both leaders as well as their troops (for Miskine, under the auspices of the Libyan moderator on 2 February 2007 at Syrta and for Damane in Birao on 13 April 2007).

The nomination to a government position of an individual accused of these crimes suggests a lack of consistency in the government’s behavior, especially given the prosecutor’s announcement of the decision to open an investigation in CAR.

Indeed, real discontinuity between the government’s public commitment to prosecuting individuals for international crimes committed in Central Africa and the actions of its leaders.

Some would cite transitional justice and the false opposition between the choice of peace and the choice of justice to explain away these inconsistencies. For these individuals, the country’s peace and stability justifies forgetting those past crimes and focusing on the future. But there can be no true and lasting peace without justice.

To withdraw from the procedures would imply that the Court is useless. This would be a very unsound move given the Rome Statute’s significant contribution to deterring serious crimes.

Victims in Central Africa have a right to justice and should not be written off for the sake of reconciliation or for an apparent, yet ill-defined, peace dialogue which would only be a step backwards toward impunity.

Although the government has ratified the Agreement on Privileges and Immunities and undertaken reform of the Criminal Code and the Code of Criminal Procedure so as to fall in line with the Rome Statute of the ICC, it has only done so under pressure from the international community. The CAR government’s behavior may be characterized as atypical, showing particular resistance to signing a protocol agreement which would allow Court officials to start their work.

Serious human rights violations and violations of international humanitarian law are still being committed in the Central African Republic since the 15 March 2003 coup d’état. While both national and international human rights organizations regularly report these violations, Bangui’s power structure continues to ignore it, adhering to a “hear no evil, see no evil” policy. These criminals, the former “liberators” and Bozizé’s fellow rebel leaders, are not only perfectly known to the government, but also receive its protection. These events cast doubt on the state’s commitment to punishing those allegedly responsible for international crimes.

Is it possible to effectively fight against impunity by initiating legal proceedings for past crimes while at the same time ignoring those crimes currently being perpetrated under one’s own regime?

To set the record straight, the Central African Human Rights League, a national human rights organization, after documenting both human losses and other damage, was the first to...
New Cameroonian Coalition Pushes for Ratification
By Roland Abeng

On 22 September 2007, more than thirty people attended the conference that officially launched the Cameroonian Coalition for the International Criminal Court. The formation of this new national coalition was the direct result of the hard work of the CICC Coordinator for Francophone Africa, Francis Dako, and the National Coordinator of the Cameroonian Coalition, Dieudonné Zognong.

At the inaugural ceremony, however, I wondered what stumbling blocks might await us. I thought about my fellow countrymen who show too little interest in issues that might have a long-term impact on the wellbeing of every citizen. This, I felt, was counter to what I know to be true of Cameroon.

As one of the first signatories of the Rome Statute in 1998, Cameroon, backed by a number of eminent Cameroonian jurists such as Professor Maurice Kamto, the current minister delegate at the Ministry of Justice, participated in preparatory meetings leading to the creation of the Rome Statute. These actions led us to believe that Cameroon was inching closer to ratification. Not long before, the Inter-Ministerial Committee was established to prepare the ratification of the Rome Statute by the Cameroonian National Assembly. In addition, the government organized in 2002 a regional seminar with Central African countries on the ratification of the ICC Treaty.

In the last five years, Cameroon has signed and ratified a number of vitally important international conventions related to human rights, money laundering, trafficking of persons, corruption or torture. Cameroonian jurists currently hold or have held important positions in the International Criminal Tribunal for Rwanda and the Special Court for Sierra Leone, not to mention many other international bodies related to law or human rights. Also, considering that Cameroon deferred the Bakassi case to the International Court of Justice - which eventually in 2002, awarded Cameroon its sovereignty over the peninsula of Bakassi at the expense of Nigeria – there is no reason why it would not consider joining the International Criminal Court. And yet, Cameroon and Equatorial Guinea remain the only countries in Central Africa that have still to join the Court.

There is today an urgent need to understand why a country like Cameroon, with its open support for human rights principles, should lag behind in

When Words and Actions Diverge: The CAR Referral to the ICC

publicly state that the crimes perpetrated during the deadly confrontations of October 2002 fell under the International Criminal Court’s jurisdiction and that the situation should be referred to the ICC Prosecutor.

The new government, having come to power through force and committed its fair share of atrocities, decided to refer the situation to the Court as a political strategy, thereby establishing its legitimacy within the international community and improving its image domestically. It did not have the slightest intention of following through with the legal proceedings.

The government truly believes that international justice systems, like the national system, can be manipulated to serve its own interests. Government officials also believe that any investigations will only review crimes committed by deposed leaders or at best, the case would be simply closed.

Government officials, however, did not expect the persistence of non-governmental organizations such as the International Federation of Human Rights Leagues (FIDH), its affiliated organization the Central African Human Rights League (LCDH) and the country’s only victims’ organization, the Organization for Compassion and Development of Families in Distress (OCCODEFAD). Given these circumstances, the contrast between the government’s actions and its supposed commitment to seeking justice for crimes against humanity is not surprising; we can assume that as the investigations continue, the inconsistencies in the government’s behavior and its resistance to the Court’s activities will only intensify.

The Court’s credibility will be tested by the Central African case. Of interest will be whether the prosecutor’s investigation will be carried out with full respect for the fair trial principles of impartiality and objectivity. If this is the case, both the former leaders and the former rebels (currently in power) should be investigated for their involvement and responsibility in the commission of grave crimes. Any other outcome would amount to the manipulation of international justice by Central African leaders.

The criminal evidence shows that the loyalist forces and their allies as well as the rebel forces are guilty of the crimes committed from 2002 to the present.

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This August marked the first anniversary of the signing of the Cessation of Hostilities Agreement to put an end to the 20-year conflict in Northern Uganda. The agreement is a prelude to the current peace negotiations in Juba, Sudan between the Ugandan government and the Lord’s Resistance Army (LRA).

In order to find common ground on important accountability and reconciliation issues, the government delegation has held country-wide consultations, while the LRA is expected to begin its consultation process with the general public soon.

If a comprehensive peace agreement is reached, LRA top leaders – also ICC-indictees for war crimes and crimes against humanity – may forgo prosecution in The Hague, and instead be subjected to a traditional justice system per the provisions laid out in the Accountability and Peace Agreement signed by the Ugandan government and the LRA in June. In contrast, the agreement provides that UPDF (the Ugandan Army) will be tried under the existing formal justice system.

Victims of crimes in the conflict, however, are scarcely involved in the peace process which might explain, in part, that international and local NGOs conducting research on victim perceptions of the peace negotiations are finding divergent views on accountability.

It bears mention here that most victims live rather precariously as internally displaced persons (IDPs) in camps throughout the sub-regions of Acholi, Lango and Teso in Northern Uganda. Victims generally acknowledge that LRA attacks are on the decline and security has improved in the region after the issuance of arrest warrants by the ICC.

Above and beyond their concern of securing a lasting peace, they also worry about their own survival (essentials such as food and drinking water are hard to come by); accessing social services ranging from education to psychological assistance; repatriation; and reparations payments for personal injuries sustained, loss of land and more.

Considerable numbers of victims -- mostly from the Acholi community -- claim top LRA leaders deserve forgiveness through the traditional justice system for the sake of peace and the safe release of abducted children. In other words, they would rather see top LRA commander Kony and his men forgiven through the Acholi justice mechanism Mato Oput. In the words of one mother living in Omat camp whose children were ab-

Questions for Eleanor Thompson on Mission in Northern Uganda

Eleanor Thompson, former program assistant for the Coalition for the International Criminal Court recently spent seven months in Northern Uganda conducting an independent research project about children and armed conflict in the region. During her time there, Thompson also worked as a CICC consultant and met with our local members. ICC-Africa sat down with her to learn more of her impressions from the ground.

ICC-Africa: From your discussion with Ugandan NGO members, could you explain their view on the current peace negotiations and the role of the International Criminal Court (ICC)?

Eleanor Thompson: NGO members throughout the region have differing views on the ICC. However, they generally agree that successfully concluding the peace talks, and the signing of a comprehensive peace agreement is crucial to the peace process. Although members believe that the ICC has some role to play in the overall peace process, they do not feel that it is a primary actor in the peace negotiations, and that the ICC should wait for the outcome of the peace talks before moving forward with investigations and prosecutions.

ICC-Africa: What is the general opinion on the traditional justice system as an alternative to the ICC?

Eleanor Thompson: There are various opinions on this issue as well. Depending on which communities they belong to, some members believe that the ICC is not the most appropriate justice mechanism while others look at how the Court can dispense justice in different ways, meaning that the Court could assist in providing compensation and repa-
Some victims view the ICC as a stumbling block to peace, criticizing the Court for not withdrawing the arrest warrants after Kony indicated he would not surrender until the indictments were dropped.

Those who have heard about the ICC seem to appreciate its mandate and purpose the Court, as illustrated by one man’s statement from Amida camp, “If the ICC arrests Kony, he will be hanged like Saddam [Hussein].”

On the other hand, a number of victims from conflicted-affected regions, in particular, support LRA prosecution through they view the importance of peace paramount. They believe that the proposed traditional justice system, particularly the Acholi traditional mechanism, would be inappropriate given the seriousness of the crimes committed.

Those who have heard about the ICC, either from the media or in the form of hearsay, say the ICC is the right mechanism because of the Court’s deterrent potential.

Sadly, victims have limited to no access to the information they need to help them make an informed decision; instead, they rely on information from politicians, the internet and the press (at times, inaccurate). This has made it difficult to grasp the substance of the peace negotiations and the inner workings of the formal justice systems. Equally deplorable is the fact that they do not have full understanding of what the ICC can or cannot do.

The Accountability and Reconciliation Agreement suggests mechanisms for dealing with issues of concern to the parties including prosecution of the alleged perpetrators. The provisions of the agreement are being used to guide the parties to reach the concrete terms of enforcement which will be reduced into a protocol.

The protocol, which is likely to be signed after the ongoing consultations, should be able to spell out concrete implementation measures that include appropriate sanctions or penalties for serious crimes committed by both parties. Human Rights Watch has warned in the past that “penalties should reflect the gravity of the crimes, with imprisonment as the principal penalty.”

In order to ensure the promotion of peace, justice, and reconciliation, any mechanisms of accountability and reconciliation must take the views of victims into account.

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¹ Read the Oxfam report, “The Building Blocks of Sustainable Peace,” September 2007, p.15
² Read the Oxfam report, “The Building Blocks of Sustainable Peace,” September 2007, p.16

**Views expressed here are those of the authors and not necessarily those of the CICC Secretariat, its members or its funders**

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.
Can the International Criminal Court (ICC) prosecute those most responsible for the most serious violations of international law, regardless of their official status? According to Article 27 of the Rome Statute, official capacity “shall in no way exempt a person from criminal responsibility.” But in practice how does the issue of official capacity play out?

Consider the earliest cases in situation countries, namely the Democratic Republic of Congo (DRC) and Uganda where, the rebel groups are among the first to be accused by the Court of war crimes and crimes against humanity. For instance, Thomas Lubanga, leader of the Congolese militia and head of the political movement the Union of the Congolese Patriots (UPC) is currently held in The Hague; whereas Joseph Kony, leader of the Ugandan rebel group known as the Lord’s Resistance Army (LRA) and three of its high commanders, are under the threat of arrest warrants from the ICC.

Given that the ICC can only prosecute on the basis of evidence and information that it collects or receives, it is not surprising that among the first accused are rebel groups since the Congolese and Ugandan governments deferred situations relative to their respective country.

With regard to government cooperation on evidence-gathering, and governments accountable for their own crimes in particular: Can the ICC really prosecute high-ranking people in charge of serious crimes, no matter what their official status is?

Following an investigation which began in 2004 in the Ituri region of the DRC, the Pre-Trial Chamber I of the ICC issued on 17 March 2006 a warrant for Thomas Lubanga’s arrest for the commission of war crimes, namely: having enrolled and conscripted children of less than 15 years of age and having forced them to take an active role in hostilities. Thanks to the cooperation of the Congolese government, amongst other things, Thomas Lubanga was arrested and handed over to the Court where he represented the Court’s first detainee.

It was not until the 17th of October that Germain Katanga, alleged commander of Force de Résistance Patriotique en Ituri (FRPI), was transferred to the ICC after an arrest warrant was issued for him. He is now the second ICC suspect detained in The Hague. It is also important to note that Mr. Katanga belongs to the Lendu ethnic group while Mr. Lubanga comes from the rival group of Hema. However, some high-ranking political figures of the Lubanga and Katanga, leader of the Union of Congolese Patriots (UPC). Credit: congo-vision.com

DRC, Uganda or Rwanda, who supported these militia are still free from any prosecution.

On this subject, it is worth noting that at the time of the hearing for the confirmation of the charges against Thomas Lubanga on 29 January 2007, the Pre-Trial Chamber I, commenting on the presentation of evidence, considered that the war was now international as of July 2002 to June 2003, because the presence of Uganda as the occupying power in Ituri gave an international character to the conflict.

Would Lubanga and Katanga represent “small fish” compared to other political personalities who are implicated in the commission of odious crimes committed in Congo and who benefits from impunity? What about Joseph Kony and the other LRA commanders?

The investigation on the serious crimes committed in the context of the Northern Uganda conflict, carried out since 2004 by the Office of the Prosecutor, led to the issuance of arrest warrants for Joseph Kony and five of his commanders in October 2005. On 22 March 2007, the arrest warrant for one of the commanders in question, Raska Lukwiya, was withdrawn after confirmation of his death, thus reducing the number of indicted LRA commanders to four.

However, in contrast with Lubanga and Katanga, whose arrests and transfers to the Court were handled expeditiously, the leaders of the LRA, while making clear that they would prefer to face their crimes before the Ugandan justice rather than before the ICC, accepted an offer of peace talks with the Ugandan government through South Sudan’s Vice President to put an end to more than 20 years of conflict. Whereas the Court expected to see the government carry out the warrants, the government put this issue on the back burner in the hopes of positive negotiations.

This reversal of situation would lead people to believe that the Ugandan government was using the Court to further its own interest. It is indeed out of fear of the ICC’s warrants that the LRA leaders accepted peace talks. Considering the Ugandan government’s change of attitude, how can one not doubt the government’s willingness to put an end to impunity?

In addition, the Ugandan army itself would not be exempt from the prosecution of crimes according to a large part of the North Ugandan population and the LRA. However, owing to the fact that it is the government itself...
which deferred the situation with the ICC and that the Office of the Prosecutor concluded that “the crimes which would have been committed by the LRA were more serious than the possible crimes of any other group,” there are then few chances to see high-ranking government or military officials prosecuted by the Court.

If the first two situations that the ICC investigated have only led to the indictment of rebel groups, this tendency was upended with the situation in Darfur. Indeed, Ahmed Harun, current Sudanese Minister for Humanitarian Affairs, as well as the leader of Janjaweed militia, Ali Kushayb, are currently the subjects of arrest warrants for war crimes and crimes against humanity committed in Darfur. The ICC prosecutor, at the end of his investigation, concluded that Ahmed Harun and Ali Kushayb “joined together to systematically pursue and attack innocent civilians.”

By accusing a government Minister – moreover a minister currently in office – the ICC demonstrated that it could aim higher than the rebel groups. This was widely acknowledged by victim communities and non-governmental organizations; although, some regretted the failure of the ICC to go higher up the chain of command, and reach for the highest Sudanese government officials. This criticism notwithstanding, the Court’s warrant of arrest for Minister Harun suggests the ICC can indeed reach higher.

It is thus necessary to give the Court more time to prove what it can really do. Turns in the investigation on the Central African Republic (CAR) situation will make it possible to know the future direction of the Court. After announcing the opening of an investigation in the CAR in May 2007, the Prosecutor of the ICC - who has not yet named suspects - has the option of accusing former Central African President Ange Felix Patassé and former Vice-President of DRC and current Senator Jean-Pierre Bemba for their alleged involvement in the crimes committed during the 2002-2003 conflict in CAR. These individuals are in fact accused of committing war crimes and crimes against humanity by the Central African government and human rights NGOs. On the basis of the information that the Office of the Prosecutor receives, he has the power to target these individuals.

In sum, even if the International Criminal Court has the jurisdiction over even the highest-ranking war criminal suspects, we know that in practice, the Court has to weigh the numerous constraints it faces – including political obstacles. In this respect, the case of Sudan is most striking: without the cooperation of the Sudanese government and states parties to ensure the execution of the arrest warrants and the transfer of the suspects, proceedings cannot and will not advance. It is thus the responsibility of states to cooperate with the ICC in order to guarantee that it can fulfill its mandate and prosecute those responsible for war crimes, crimes against humanity and genocide, irrespective of their official status.

Eugene Bakama is president of the Club des Amis du Droit du Congo (CAD), an NGO member of the DRC Coalition for the ICC (CN-CPI).

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**New Cameroonian Coalition Pushes for Ratification**

(Continued from p.7)

ratifying the Rome Statute. Do government officials fear the Rome Statute or the International Criminal Court? Is the signing of the Bilateral Immunity Agreement (BIA) with the United States in 2003 forcing second-guessing on whether to ratify? Or, was the slow absence of a fighting force like the Cameroonian Coalition for the ICC for so long, coupled with a weak civil society, to blame?

Whatever the underlying reason, Cameroonian authorities have no reason to turn away from ratifying the Rome Statute, particularly considering that most of them have ample knowledge of the ICC. In addition, there is nothing about the Rome Statute that is incompatible with the fundamental laws of Cameroon. Both the Ministries of Justice and External Relations agree that ratification of the Rome Statute by this country is long overdue.

Nine years after Cameroon’s signing of the Rome Statute, the time has come for the government to finally ratify it and adopt the necessary implementing legislation. To make this a reality, civil society has a key role to play. It is imperative that the country’s new coalition for the ICC apply constant pressure on authorities to back-up their promises with action.

The November parliamentary session will be the third and final session of 2007 and I firmly believe that with the appropriate political will, the Statute could be ratified as before the end of the year. For this to happen, however, the responsibility for raising awareness about the ICC should not only fall upon the new national coalition, but to every single member and civil society group including the Bar Association, religious bodies, the media, and academics. The time for change is now!

Roland Abeng is a human rights lawyer and the vice national coordinator of the Cameroonian Coalition for the ICC.

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**Signatures and Ratifications of the ICC Rome Statute in Africa**

(As of 17 July 2007: 29 States Parties, 13 Signatory States and 26 Non-States Parties)

<table>
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<tr>
<th>States Parties / Date of Ratification</th>
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<td>Comoros 18 Aug 2006</td>
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**Non-States Parties**

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**Status of the Rome Statute Implementation in Africa**

**Madagascar:** Following consistent advocacy from CICC national members, particularly the Christian Action against Torture (ACAT), the Government of Madagascar has pushed through a new Constitution with a specific provision authorizing the ratification of the Rome Statute

**ICC Developments on Situations**

To read the unofficial summaries of developments at the ICC on the situations, visit the CICC’s website:


Calendar of Events

**UPCOMING EVENT**

30 November – 14 December : Sixth Session of the Assembly of States Parties of the ICC, United Nations Headquarters, NY

**Objective:** Adopting the Budget for 2008 and discussing important issues that will impact the work of the Court.

**Participants:** States Parties, invited non-States Parties, and NGOs


**REPORT OF PAST EVENTS**


Francis Dako, CICC Regional Coordinator for Francophone Africa, led an advocacy mission in Yaoundé, Cameroon on 15-23 September in conjunction with the Universal Ratification Campaign targeting Cameroon for September 2007. The objective was advocating for the ratification of the Rome Statute by Cameroon, which signed the Treaty on 17 July 1998 but never subsequently ratified. Mr. Dako met with government officials, including the Cameroonian Minister of Justice, Mr. Maurice Kamto; parliamentarians; international organizations and the media. State officials expressed their willingness to complete the ratification process of the Rome Statute. On 21 September during a seminar gathering members of the civil society, international organizations, government officials, parliamentarians, academics and the media, the Cameroonian Coalition for the ICC was officially established.


Richard Nsanzabaganwa, CICC Outreach Liaison for Africa, led an advocacy mission in Bangui, Central Africa Republic (CAR). The objective was to meet government officials, including the Minister of Justice and the Foreign Minister, local NGO members, the media and religious leaders such as the Archbishop of Bangui and raise the issue of outreach. Mr. Nsanzabaganwa explained the importance of informing the population on the ICC’s work as the Court has opened an investigation in CAR and was in the process of opening a field office in Bangui.

18 September 2007: Training Session for NGOs on the ICC – Abidjan, Côte d’Ivoire

The Ivorian Coalition for the ICC (CI-CPI) held a training session on the ICC as requested by local NGOs on 18 September 2007 in Abidjan, Côte d’Ivoire. Those NGOs that reported outreach activities included women’s associations, youth associations and religious and traditional leaders. At the end of the session, which was also attended by a representative from the Ministry of Justice and the media, the CI-CPI called for the ratification of the Rome Statute by the Ivorian authorities.

14 September 2007: Conference on “Understanding International Criminal justice and International Criminal Court” - Kigali, Rwanda

A CICC sponsored conference under the theme, “Understanding International Criminal justice and International Criminal Court.” was held in Kigali (Rwanda) on 14 September 2007. The main purpose of the conference was to raise awareness on the work of the International Criminal Court, and highlight its impact in the effort to end impunity for perpetrators of the crime of genocide, war crimes, and crimes against humanity. The conference was organized by Together Against Impunity in the Great Lakes Region, a Rwandan member of the CICC. A wide range of participants: officials; diplomats; journalists; academia; NGOs, etc. attended the one-day conference. They expressed the hope to see the Rwandan Government acceding to the Rome Treaty in a near future, and encouraged the civil society to create a national coalition for ICC in order to better coordinate their campaign for the accession to the Rome Treaty by the Republic of Rwanda.

6 September 2007: National Consultative Conference on Accountability & Reconciliation – Kampala, Uganda

The Uganda Coalition for the ICC held a national consultative conference on accountability and reconciliation on 6 September 2007 in Kampala, Uganda. The objective was to consult UCICC members on Agenda item three and the Agreement on Accountability and Reconciliation signed by the Ugandan Government and the LRA. 45 UCICC members from all over the country, representatives from the office of the UPDF’s spokesperson and a representative from the LRA delegation attended this conference which focused on three main points: the lack of victims’ participation in the peace talks, the importance of accountability in ensuring lasting peace in Uganda (and not just in Northern Uganda) and the assistance for victims of gender crimes.

For more information, visit the Coalition’s website: [http://www.iccnow.org/?mod=currentevents](http://www.iccnow.org/?mod=currentevents)
COALITION FOR THE INTERNATIONAL CRIMINAL COURT

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

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noticias-cpi-subscribe@yahoogroups.com  For the Spanish language list

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