

**Victimhood and agency:
the
International Criminal Court
in the
Central African Republic**



CAR basics:

- Blighted since independence: first president Boganda dies in mysterious plane crash
- Series of coups and dictators, most famous Bokassa, always with French collusion

- 1993 first elected president Patassé; re-election 1999 controversial
- October 2002 former head of army Bozizé attempts coup. Patassé hires mercenaries.
- Bozizé fails but attempts again in March 2003, succeeds. May 2005 elected.
- 2005-onwards, two new rebellions.

History of the CAR case – and why it is different:

- CAR has handful of local human rights groups, all volunteering lawyers. LCDH and OCDH are affiliated with international FIDH
- LCDH takes statements immediately after Oct. 2002 violence, later supported by FIDH. File sent to ICC in early 2003.
'Acknowledgment of receipt'
- January 2005: state referral engineered by LCDH lawyer.
Prosecutor: first I must know that CAR unable. CAR justice system goes through motions, in April 2006 concludes that unable because main characters abroad, also capacity constraints.
- May 2007 investigation opened. Oct. 2007 ICC Bangui office opens. Jan. 2008 outreach activities.
- May 2008 arrest of Jean-Pierre Bemba
- November 2010 start of trial

Victim mobilisation:

- November 2003, rape victim Bernadette Sayo is gets involved in a UNDP project to assist women raped in the conflict, which begins to document the cases
- When the UNDP project is closed after one year, Mme Sayo sets up the Organisation for Compassion and Development of Families in Distress (OCODEFAD)
- OCODEFAD soon becomes enthusiastic about the possibility of redress through the ICC, and expands the collection of testimonies while also undertaking livelihood activities and trying to break the cultural taboo on discussing rape
- In 2007, OCODEFAD had approximately 2,000 members, divided into 19 ‘antennae’, including victims of crimes perpetrated by different political factions
- Various other, local or community-based victim organisations have also emerged

Domestic context: neither transition nor justice

- Judicial system more or less bankrupt, prison conditions appalling
- ‘The state ends at PK12’
- Members of the army in particular the presidential guard responsible for numerous crimes including manslaughter, torture, rape, and in particular burning down of houses, both in the 2003 coup and in the 2005-2007 conflicts: no serious prosecutions.
- Prosecuting lower-level perpetrators on Patassé should be less sensitive, but no developments there either
- (No discussion over the use of ‘traditional justice’ in political crimes)

European Research:

- analysis of NGO documents, news articles
- in-depth interviews with international NGO staff most involved

Field Research September 2007:

- in-depth interviews CAR ‘civil society’, i.e. journalists, religious leaders and a retired politician; human rights advocates in CAR; and fifteen victims, representing a mix of gender, age, location and experiences, but all members of OCODEFAD
- participatory observation at OCODEFAD

Research limitations:

- Can a western academic really know what Central African rape victims want and need?
- Only mobilised victims interviewed
- Small, opportunity-driven sample
- Snapshot; no follow-up

I will present victim views on:

- What they expected
- Who should go to trial
- Pace of trials
- Participation in trials
- Protection

Justice and compensation:

- Victims want to see perpetrators named, shamed and imprisoned

Female rape victim:

“They came here massively, they raped people, they took things from people by force, and they killed people all over the place. I want the ICC to catch or condemn these people ... It’s not normal for them to come and rape us like that, and leave like that...”

- Some take a broader view of its effects (after ‘sensitisation’??):

“Those people have to be arrested. That way, there will be our peace. It’s not only our peace, the victims. There are also the Central Africans, there are the generations after us and they also need to be in peace, that this country be at peace To help our country, we don’t want this to happen to us again. It must be stopped.”

- But they also expect the Court to concern itself with basic needs

Teenage girl, orphaned:

we prioritize justice. We wait for justice. But if justice occurs, we strongly wish to be supported so that we can really recover because, for example, currently, we cannot go to school ... So we want the Court think about justice but also to support us to redo our life. Everyday, they talk to us, to ask us to interview us. Will we wait for justice eternally without eating? We are hungry.

HIV-infected rape victim:

It's true that I want a trial. But they should at least bring little things so that I can eat. Because I am sick. I need to have strength to continue to wait. And we also want to do little activities that bring us more income to survive.

Who should go to trial?

One young female rape victim:

If they arrest the highest it's still good ... They will still have helped us. If the big fish stay, who have killed, they recruit others and train them again.

Another says:

'I don't want the soldiers to be free. These are the soldiers who raped us. So it is them we are afraid of. If them, they are arrested, it would work well. But since they are still free, we are afraid.'

Slow pace:

- Low life expectancy means bigger rush
- Expectations had not been tempered
- Four years between violence and case opening, another four years to Bemba trial

Female rape victim:

“With regards to the trial’s delay, we are really not pleased. Because many of us contracted the disease, the AIDS virus, and some women who were raped were abandoned by their husbands. For us, for example our husbands died, we have children who are not yet schooled ... the length of the trial, it really impedes us. It brings us handicaps into our lives. Related to what we lived, we lost our high spirits, we lost many things in our lives so we are reduced, we became destitute and we want justice to be done immediately. It’s too long. And the delay, it’s already a lot. Many years have passed already. So we want justice be done immediately.”

Participation

(Question: The ICC has a special procedure which allows the victims to participate through their own lawyer, independently of the prosecutor, to make their worries known. Are you interested in participating in those procedures?)

Young female rape victim:

Yes, I am part of it. Because we have our lawyer. We have our lawyer. He knows our problems, he knows what's happened to each victim.

Middle aged female rape victim:

It's a dream Is it true that the ICC will do a trial for me? I don't think so. Because the white people always come to collect testimonies and they go Madame Sayo always goes to talk over there, she comes back. But I pray God that the rape trial really occurs.

Protection

- Organised victims were very motivated to testify
- But they and their leaders were constantly threatened

Middle-aged female rape victim:

If they call me, look at my belly now. When they raped me, I had just given birth to this child through a caesarean ... The wound stayed until this day. So me, if the ICC calls me to testify for the cases of others, I will come. In front of the ICC, I can even show my belly

Male rape victim:

I am not afraid, I am not afraid, I am not afraid. I can die, but the others will not die. There will always be one who will follow me

Conclusions I

Early positive effects of ICC investigation on victims:

- had boosted self-esteem of victims, given them a collective project and legitimacy
- Some at least felt part of the procedures
- had sparked local debates on rape and impunity
- raised profile of human rights violations, conflict in CAR

Conclusions II

Long-term concerns:

- When trials drag and without socio-economic support, collective victim aspirations may turn into collective disillusionment
- ICC has neither the mindset nor the capacity for sufficient investment in outreach
- Close relationship of civil society organisations and ICC, asset or problem?
- What is relevance of ICC in context of generalised material and physical insecurity?