

Jean-Pierre Bemba at the International Criminal Court

On January 12–15, 2009, a pretrial chamber of the International Criminal Court (ICC) will hold hearings on whether to pursue charges against Jean-Pierre Bemba for crimes his troops allegedly committed in the Central African Republic (CAR) in 2002–03. The ICC prosecutor opened an investigation in May 2007 into crimes committed in the CAR, based on a December 2004 referral from Central African President François Bozizé. On May 24, 2008, a pre-trial chamber unsealed an arrest warrant for Bemba, and Belgian authorities arrested him that day. Belgium later transferred Bemba to ICC custody in The Hague, where he remains in detention.

BACKGROUND

Jean-Pierre Bemba was born in 1962 in the Equateur Province of Zaire, now the Democratic Republic of Congo (DRC), and was a prominent businessman who thrived during the repressive era of Mobutu Sese Seko. Protracted war in the DRC began with Laurent-Désiré Kabila's successful 1996–97 campaign to overthrow Mobutu with Rwandan and Ugandan support. Kabila's attempt to consolidate his power in 1998 prompted fresh fighting and the creation of rebel movements opposing him. Bemba formed the armed Movement for the Liberation of Congo (MLC). Backed by Uganda, the MLC gained de facto control of northern DRC.

Peace accords signed in 2002 brought the formal war in the DRC to a close and established a political transition that led to democratic elections in 2006. Under these agreements Bemba served as one of four vice-presidents and transformed the MLC from an armed rebel movement into a political opposition party. Bemba ran for president and forced a runoff with candidate Joseph Kabila but lost in the second round of voting. In January 2007 Bemba was elected to the Congolese Senate. Fighting in Kinshasa broke out in March 2007 as a result of a dispute over disarming Bemba's private security guards. In April 2007 Bemba fled the DRC for Europe. The DRC threatened him with treason charges as the government began to stifle political opposition. Bemba did not return to the DRC after April 2007.

CONFLICT IN THE CAR

The Central African Republic has suffered successive rebellions since it gained independence from France in 1960. In 2002–03 conflict raged in the CAR between the forces of then-President Ange-Félix Patassé, supported by Bemba's MLC troops and Libya, and those of then-General François Bozizé, supported by Chad and France. All sides in the conflict committed large-scale human rights violations against civilians. Bozizé successfully ousted Patassé in March 2003, and democratic elections consolidated Bozizé's control of the CAR in 2005.

Various rebellions have continued to challenge President Bozizé, with Chad backing rebel groups in north-western CAR while spillover from the Darfur conflict in neighboring Sudan has destabilized northeastern CAR. The fighting is characterized by ongoing human rights violations and humanitarian crises.

ICC ALLEGATIONS AGAINST BEMBA

The ICC prosecutor focused his investigation on atrocities committed during the Patassé-Bozizé conflict in 2002–03. On this basis the ICC issued an arrest warrant for Bemba in May 2008, alleging that in his capacity as president and former commander-in-chief of the MLC, he is criminally responsible for the following serious international crimes committed in the CAR between October 25, 2002, and March 15, 2003:

- **Three counts of crimes against humanity**, including rape, torture and murder;
- **Five counts of war crimes**, including rape, torture, murder, committing outrages upon personal dignity, and pillaging a town or place.

SIGNIFICANCE OF THE BEMBA CASE AT THE ICC

The ICC's arrest warrant for Bemba is one of only seven warrants the court has issued to date. The ICC's conduct in the Bemba case has the following significant implications:

- **Targeting senior leaders:** The ICC's investigations into serious crimes in the DRC have yielded arrest warrants only against regional militia leaders from the Ituri conflict in northeastern Congo. The ICC's arrest warrant against Bemba for his leadership role in commanding MLC troops in the CAR shows that the ICC will target senior leaders who bear the greatest responsibility for serious international crimes.
- **Prosecuting rape and sexual violence:** The charges against Bemba focus on rape and sexual violence as defining tactics of the atrocities committed by his MLC troops. These charges seek to break the cycle of impunity for rape and sexual violence as tools of war and to highlight the fact that the ICC will make prosecuting such offences a priority.
- **Investigating the regional dimensions of African conflicts:** Prosecuting Bemba for crimes committed by his Congolese militia forces in the CAR marks the ICC's first formal recognition of the regional dynamics of African conflicts. Previously the International Court of Justice acknowledged the regional nature of conflict in Africa by holding Uganda liable in 2005 for illegal occupation of the DRC and serious humanitarian-law violations on Congolese soil. In its ongoing investigations the ICC should take into account the potential criminal responsibility of Chadian or other foreign troops in the CAR conflict, as well as Rwandan and Ugandan responsibility for crimes committed in eastern DRC.
- **Pursuing forms of accountability besides ICC prosecutions:** The armed conflicts in both the DRC and the CAR involve complex networks of national, regional and international support. Authoritative reports have documented massive human rights atrocities committed by all sides in these conflicts. To avoid the taint of victor's justice in the CAR, additional prosecutions should be pursued at the international and national levels and the Central African government must endorse meaningful nonjudicial transitional justice mechanisms to establish a full historical record and responsibility for atrocities committed by Patassé, Bozizé, and their supporters. Likewise the Congolese population should demand—and Congolese authorities support—judicial and nonjudicial transitional justice measures to make a proper accounting of human rights violations committed by all sides in the Congo wars, including the Congolese government, rebels and militias.
- **Improving ICC outreach:** In light of the ICC's activity in the DRC, Bemba's prominence as a DRC opposition figure, and the complexity of the CAR and DRC conflicts, the ICC should make detailed public information widely available in both countries to explain the court's activities, thereby informing the victims the court is intended to serve.

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