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CENTRAL AFRICAN REPUBLIC

The ICC verdict in the Jean-Pierre Bemba Case

15 years of FIDH action :
from field investigations to
Prosecutor's conclusions

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The case of Jean-Pierre Bemba before the International Criminal Court (ICC) has been central to the work of FIDH and its member organisations for the last 15 years in seeking justice for the victims of the most serious crimes that were committed between 2002 and 2003 and which have been ongoing since then in the Central African Republic (CAR), a country ravaged by conflict because of its impunity.

From its first urgent mission to the conflict area in November 2002 to the verdict in the Bemba case on 21 March 2016, FIDH responded to the international crimes committed in 2002 and 2003 in the following ways : numerous missions to obtain victims' testimonies and material evidence; incriminating investigative reports; analyses of judicial responses at the national level; capacity building for the local civil society enabling it to act and become more influential; appeals for support for the victims' associations; appeals to the UN and the African Union for support in the fight against impunity for crimes committed in CAR; advocating for referral to and action by the International Criminal Court (ICC); interactions with the ICC to orient its criminal policy to respond to attacks against the victims, especially the victims of sexual violence, etc.

The trial for Jean-Pierre Bemba was the only one held by an independent judicial body against one of the alleged perpetrators of international crimes committed in 2002 and 2003. The sad fact that other alleged perpetrators have not been prosecuted makes this trial of fundamental and symbolic importance for two reasons: first, for the victims of these crimes, especially the victims of sexual crimes, and second, given the person being charged-Bemba was a warlord, a vice president in the transitional government who was still in the race during the second round of the presidential elections in DRC in 2006, and a Senator.

The trial is also important with regard to the current situation in CAR and should resonate as a signal of things to come. The 15 years of the war that started in 2002 have shown the devastating effects of impunity. Yesterday's criminals are the same criminals today. Support must be given to the Special Criminal Court in CAR and the ICC supplementary investigation on the situation in the country. FIDH and its member organisations will continue working to ensure respect for the victims' right to justice and reparations.

The following is a review of the actions taken by FIDH and its member organisations, in their fight against the international crimes committed in CAR in 2002 and 2003, and in the Jean-Pierre Bemba case.

In October 2002, General François Bozizé and his rebel group tried to overthrow President Ange-Félix Patassé. Patassé called on Jean-Pierre Bemba, a warlord in the neighbouring country, DRC, and his men to quell the rebellion. Bemba and his men reached the outskirts of Bangui, the capital of CAR, at the end of October. These Congolese mercenaries fought back, with the help of the CAR security forces and the Libyan airforce. After several days of bitter fighting in the capital, the troops loyal to the government drove the rebels to the north. During their counter-offensive, the CAR forces and Bemba's men committed massive atrocities against the populations who were accused of supporting the rebels or who simply were in their path.

At the end of November 2002, in response to a request from the FIDH member league, LCDH (*Ligue centrafricaine des droits de l'Homme*), **FIDH sent a mission to investigate the serious crimes that had been committed since October against the civilians during the attempted Coup**. Whilst the rebels were just a few dozen kilometers from the capital, the FIDH representatives went into various districts and hospitals of Bangui, and to a place 22 km from Bangui on the Damara road (PK22) to record the testimonies of close to 100 victims and discovering several mass graves.

The mission report denounced the serious violations of international humanitarian law, which qualifies them as war crimes. These crimes were committed by General Bozizé's men called the "liberators", who wanted to topple the government, and especially by the troops loyal to Président Patassé, the army, and its back-up forces during the counter-offensive to repel the attackers¹.

1. FIDH, "War Crimes in the Central African Republic : When the Elephants Fight, the Grass Suffers", <https://www.fidh.org/en/region/Africa/War-Crimes-in-the-Central-African>

FIDH denounced in particular the rapes, murders, and the plundering committed by the Banyamulengues, the red-headbanded Congolese mercenaries (Democratic Republic of Congo), who, on orders from the chief, Jean-Pierre Bemba, crossed the Ubangui River to come to the aide of a tottering regime. **FIDH concluded that the individual criminal responsibility of Jean-Pierre Bemba can be engaged on the basis of his position of a superior authority as the President of the Mouvement de Libération du Congo, a warlord, a future Vice President of DRC, and a candidate for the presidency of his country.**

Excerpts of testimonies recorded by the FIDH representatives in November 2002:

"I am 15 years old and live in PK12. On Friday November 1st, 2002, armed men in combat uniform came to our house. I was sleeping in the room with my sister. All of a sudden they broke down the door. They asked us for money and jewelry and gold. My sister said that we didn't have any money. One of the men dragged my sister into the shower. She started yelling. We ran to her. The man pointed his gun at us, while he was on top of her. He ordered us to go back into the living room, which we did because we were afraid. Then a big, fat young man turned to me. He tore my panties. He threw me on the floor. He took off his pants. He stuck his penis into me. He hurt me very badly. I saw a lot of blood on my pagne (loincloth). My belly still hurts. He spoke Lingala, and very poor French."



Woman, victim of sexual violence being treated at the Bangui hospital. Photo credit: FIDH

"I think that the shell was fired from the presidential district (...). On October 28th, they tried to evacuate me to Amitié, but the aerial bombings made us change our mind. It wasn't until 3 pm, on a rickshaw (pousse-pousse), that I was finally taken to the hospital where the amputation was performed. Because of complications I had to stay here and they had to amputate a second time, just above the knee."

"On October 31st I saw a military-type truck on the road to the Saint Charles school and it stopped. There were 16 Fulanis (Peuls) in the truck and a soldier ordered them to get down. There were a lot of armed soldiers and the Fulanis were barechested. They had shoes and were not chained (...). That's when the soldiers shot them over and over again in the back. The men collapsed."



Second mass grave observed by FIDH representatives near the cattle market where 15 bodies were buried. Credit : FIDH

"The plundering started at 5 in the morning on November 1st, 2002. They arrived in groups. The first group had five people. The other groups were bigger. I saw five groups. They were all armed and in military dress. They yelled in shakey French, 'money, jewelry, or else, diamonds'. They broke down the front door, the door to the living room, the door to the bedroom where father lay paralysed for the last 17 years. They took everything, everything they could carry: clothes, shoes, electronic devices. They broke the windows. They left their old shoes and took the ones that were in good condition. Some of them filled their backpacks with whatever they stole. They mainly spoke Lingala and sometimes French and Sango, with a poor accent."

Between October 2002 and March 2003, more than 100 civilians were killed and several hundred women, but also men and children, were raped by the fighters. The houses were systematically ransacked.

In February 2003, FIDH sent its report as a Communication to the Office of the Prosecutor of the International Criminal Court. This was the first Communication sent by an NGO to the newly formed ICC, calling on the ICC to open an investigation in CAR, since CAR had ratified the Rome Statute in 2001.

The CAR President and two of his allies are summoned to the International Criminal Court
Friday 14 February 2003, *Le Monde*

"A complaint for "war crimes" has been filed by FIDH, the International Federation for Human Rights. Serious violence was also committed in the rebel zone"

In **2003 and 2004, FIDH carried out more investigations in CAR** to complete the analysis of the crimes committed between October 2002 and March 2003, when the government was finally overthrown by General Bozize's troops. FIDH compiled more testimonies from the victims, especially the ones who had been brought together by OCODEFAD (*Organisation pour la compassion et le développement des familles en détresse* – Organisation for compassion and development for families in distress) reported on the shortcomings of the judicial proceedings of the CAR courts.



Credit : FIDH

The FIDH mission reports such as: **“What justice for victims of war crimes?”**, **“What answer will the ICC give”** were also transmitted to the ICC.

Faced with the lack of any action by the ICC Prosecutor and the national courts, FIDH urged the CAR authorities to refer the situation to the ICC. President Bozizé made this referral on 22 December 2004. The ICC made the referral public on 7 January 2005.

In **2005, FIDH and its member organisations held a conference in Bangui, “The Situation in Central African Republic and the International Criminal Court”** in order to acquaint the CAR authorities and the civil society with the international justice mechanisms and the principles of cooperation and complementarity with the ICC.



Credit : FIDH

In 2006, FIDH carried out another mission to collect the testimonies of the numerous victims and witnesses of sexual violence, thus confirming the systematic character of this violence. FIDH also conducted an investigation that showed that the CAR judicial and political authorities had neither the will nor the capacity to fight the impunity of the perpetrators of the crimes committed in 2002 and 2003.



Fact-finding mission of the FIDH in CAR. Credit : FIDH

This mission report, entitled «Forgotten, stigmatised: double suffering of victims of international crimes», was sent to the ICC Prosecutor, calling on him once again to conduct an investigation and to prosecute the main alleged perpetrators of the most serious crimes, the loyalist troops, and the rebels.

In an order dated **11 April 2006**, the **CAR Cour de cassation** deems that the ICC, and it alone, can judge the serious crimes committed in the Central African Republic since 1 July 2002 by Ange-Felix Patassé, and the banyamulengues under Jean-Pierre Bemba, Abdoulaye Miskine, Paul Barril and others.

On 27 September 2006, the representative of CAR made a submission to the ICC Pre-Trial Chamber III inquiring about the reasons as to why the Office of the ICC Prosecutor had not launched an investigation, and to take measures to protect the victims and preserve the evidence.

FIDH held regular strategic sessions in The Hague between 2005 and 2008 for representatives of OCODEFAD, LCDH the Office of the Prosecutor and the Registrar, in order to facilitate the opening of an investigation by the ICC and to familiarise the ICC representatives with the situation.

With the assistance of FIDH, its member organisations also advocated to the African Union, the African Commission of Human and Peoples' Rights and the United Nations, bringing about considerable support for the fight against impunity for crimes committed in CAR.

The Office of the ICC Prosecutor finally opened the investigation on 22 May 2007 for crimes, especially sexual crimes, committed in 2002 and 2003 in CAR. A warrant was issued for the arrest of Jean-Pierre Bemba, who was arrested in May 2008 and transferred to The Hague.

Throughout this quest for justice, **many victims and representatives of FIDH member organisations, and FIDH representatives were subjected to pressure and threats**, some of which have been denounced in urgent appeals published by the Observatory for the Protection of Human Rights Defenders (a joint FIDH-OMCT programme) and disseminated **between 2003 and 2008**. In 2007, FIDH also helped the OCODEFAD President and her children relocate temporarily in Senegal.

On the night of 27-28 September 2008, **Goungaye Wanfiyo Nganatouwa**, LCDH President and a lawyer, was killed in a car accident driving back from Sibut when his car hit a truck. He had been working with victims whom he was preparing to represent a few days later at the ICC hearing in The Hague to confirm the charges against Jean-Pierre Bemba. In an effort to determine the circumstances of his death, FIDH stood by his family and joined as the plaintiff in the judicial proceedings being opened in France.



Lawyer Nganatouwa Goungaye Wanfiyo. Credit: FIDH

The Jean-Pierre Bemba trial opens on 22 November 2010.

Excerpts from the press release of the Office of the Prosecutor on the opening of an inquiry in CAR

« To reach the decision to open an investigation, the Office of the Prosecutor reviewed information provided by the government in its referral, NGOs, international organisations, and other highly knowledgeable sources ».

The documents produced by FIDH were submitted to the ICC and were used by the Office of the Prosecutor, the legal representatives of victims and the judges to prove several contextual elements of the crimes in the case against Jean- Pierre Bemba.

Excerpts from the confirmation of charges decisions against Jean-Pierre Bemba

« The indirect massive evidence of crimes committed include testimonies compiled by the United Nations and FIDH and transcribed in their reports ».

« In its report [War Crimes in Central African Republic "When the elephants fight, the grass suffers" February 2003, EVD-P-00001at0051-0053] FIDH, referring to information from an NGO, indicates that 79 women had been subjected to sexual violence ».

« In its report of October 2006, "Forgotten, stigmatised: double suffering of victims of international crimes", FIDH provides testimony compiled during an investigative mission in CAR, from civilian victims who had been raped by MLC fighters EVD-P-0215 2 at 0898-0902; see all the FIDH press release dated 5 November 2002 EVD-P-02099, at0975 ».

Excerpt from the oral conclusions of the Prosecutor's Office in the Bemba trial

« In this report [the FIDH report entitled 'War Crimes in Central African Republic'], it is not a question of rumours but rather results of an investigative mission whose participants, including lawyers, are clearly identified.

The goals and methods are explained, in particular the visits to the hospitals and the meetings with the victims. In this report, mention is made of meetings with the local authorities, the representatives of international organisations and the NGOs. In this report, the events and locations are precisely described, the crimes attributed on the *banyamulenge* are listed, and an analysis of the criminal responsibility of Jean-Pierre Bemba is proposed.

These are not unfounded rumours and, Jean Pierre Bemba admits being informed on 2 February 2003 at the latest; no action was taken.

In this report, the detailed depictions of rapes, pillages and assassinations are reported using the victims' own words. The age and the initials of the victims are provided. Young girls who have been raped are identified by their first name, and the dates and places of the incidents are given. The information provided is, in some cases, so specific that the residence of a victim or the immediate surroundings of the residence could be identified ».

The verdict in the Bemba Case takes us back over the last 15 years of work by FIDH and its member organisations in CAR to support the quest for justice for the victims of the most serious crimes, especially the victims of sexual crimes committed in 2002 and 2003 in that country.

Even though FIDH deplors that Jean-Pierre Bemba is the only alleged culprit being held accountable before the ICC for the crimes committed during the conflict period, it continues to fight against impunity for the perpetrators of international crimes committed in CAR who are still criminals today. FIDH also contributed to the opening of the second investigation into the situation in CAR and the creation of a special criminal court in CAR and continues to call for further prosecutions.

In 2007 when the ICC had just opened its investigation into the situation in CAR, a victim of the sexual violence committed in 2002 by Jean-Pierre Bemba men was interviewed by a CAR radio station and declared: « **I can live again!** »



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Keep your eyes open

FIDH

Establishing the facts - Investigative and trial observation missions

Supporting civil society - Training and exchange

Mobilising the international community - Advocacy before intergovernmental bodies

Informing and reporting - Mobilising public opinion

For FIDH, transforming societies relies on the work of local actors.

The Worldwide movement for human rights acts at national, regional and international levels in support of its member and partner organisations to address human rights abuses and consolidate democratic processes. Its work is directed at States and those in power, such as armed opposition groups and multinational corporations.

Its primary beneficiaries are national human rights organisations who are members of the Mouvement, and through them, the victims of human rights violations. FIDH also cooperates with other local partner organisations and actors of change.

LCDH

The Central African League for Human Rights (LCDH) is a non-governmental association founded on 11 June 1991 and recognised by the Central African state.

It is the first Central African organisation for the defence and protection of human rights, and was created as a result of the state liberalisation expressed through the introduction of a multiparty system and the emergence of a civil society. This organisation, at the national level, particularly seeks to create citizen awareness in a country with a long one-party

state history. Thanks to its continued efforts to engage with Central African authorities on human rights' issues, LCDH has gained national and international renown.

The goal of LCDH is to promote, protect and defend human rights. LCDH uses national and international instruments to reach its objectives, in particular the Universal Declaration of Human Rights (10 December 1948), the African Charter on Human and Peoples' Rights (1981), conventions and agreements duly ratified by the CAR and the laws and regulations that protect human beings. Before the conflict, LCDH had 6000 members based throughout

the country.

It has 8 district committees in Bangui, 16 prefectural committees and 72 sub-prefectural committees. Its head office is located in Bangui. LCDH works across the country's 622,000 km² serving a population of close to 4 million.

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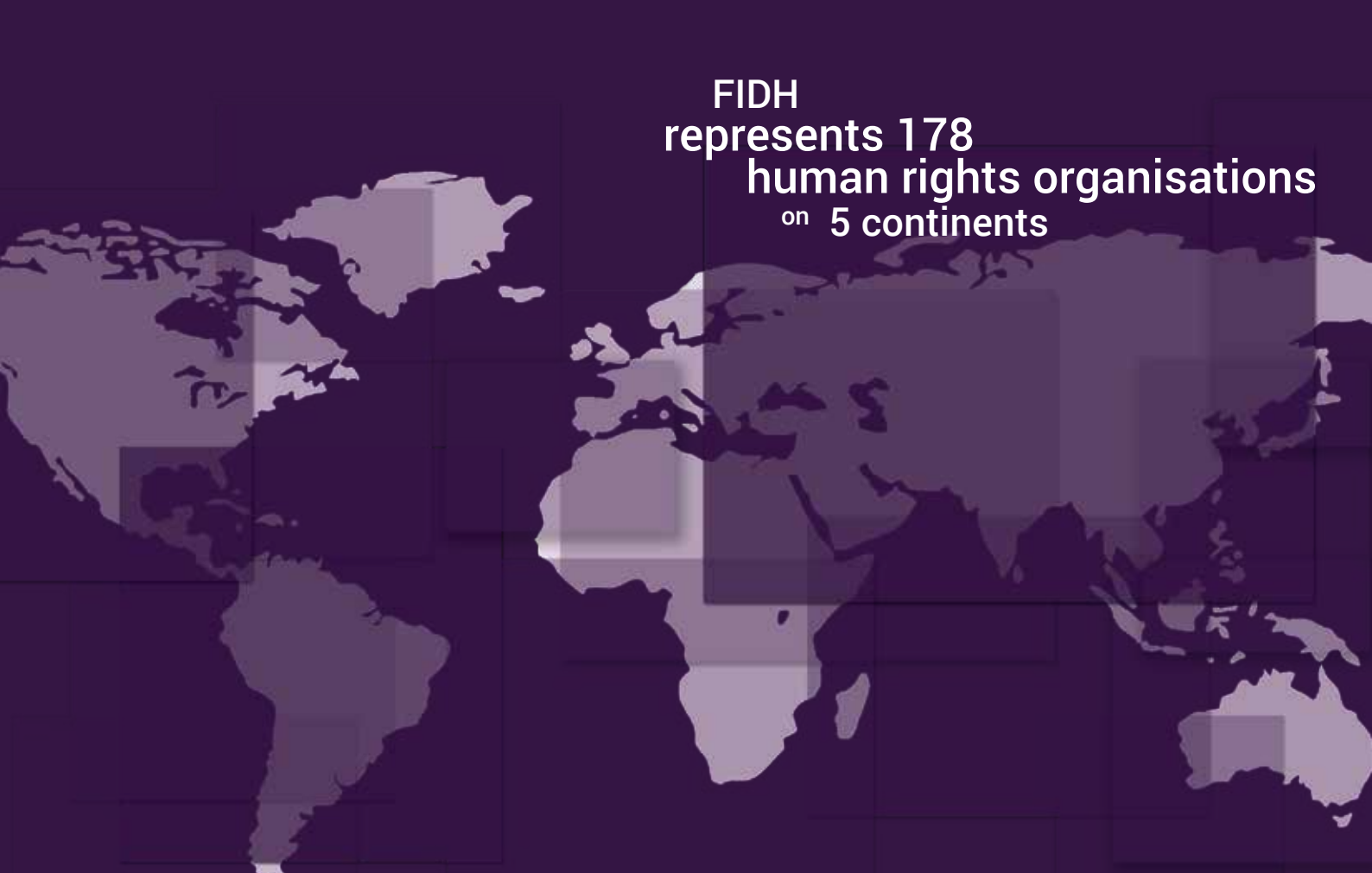
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**FIDH
represents 178
human rights organisations
on 5 continents**

fidh

ABOUT FIDH

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

A broad mandate

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

A universal movement

FIDH was established in 1922, and today unites 178 member organisations in more than 100 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

An independent organisation

Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.