



**fidh**

## « All I want is reparation »

Views of victims of sexual violence about reparation in the Bemba case before the International Criminal Court

In memory of **Maitre Goungaye Wanfiyo**,  
First lawyer mandated by the victims in the Bemba case before the International Criminal Court,  
President of the Central African Human Rights League

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## ABBREVIATIONS

CAR	Central African Republic
DRC	Democratic Republic of the Congo
ICC	International Criminal Court
FACA	Central African Armed Forces
FIDH	International Federation for Human Rights
HIV	Human Immunodeficiency Virus
LCDH	Central African Human Rights League
LRA	Lord's Resistance Army
MINUSCA	United Nations Multidimensional Integrated Stabilization Mission in the
Central	African Republic
MLC	Movement for the Liberation of the Congo
OCDH	Central African Human Rights Observatory
OCODEFAD	Organization for Compassion and Development of Families in Distress
OPCV	Office of the Public Counsel for Victims at the International Criminal Court
SCC	Special Criminal Court
TFV	Trust Fund for Victims at the International Criminal Court
UNDP	United Nations Development Programme
UNESCO	United Nations Organization for Education, Science and Culture

## EXECUTIVE SUMMARY

International crimes, including rape and other crimes of sexual violence perpetrated by various forces and armed groups during the multiple conflicts that have ravaged the Central African Republic (CAR) since 2002, remain unpunished. Until now, only the International Criminal Court (ICC) has begun to respond to the injustices committed against the victims of these crimes. In 2016, the ICC sentenced Jean-Pierre Bemba for serious crimes committed between October 2002 and March 2003 by his troops. Bemba, former Vice-President of the neighbouring Democratic Republic of the Congo (DRC) and Commander of the Movement for the Liberation of the Congo (MLC), had come to support former president Ange-Félix Patassé against an attempted coup d'état by François Bozizé, who became the President of CAR in March 2003. Jean-Pierre Bemba was found responsible in his capacity as military commander for murder, rape and pillage constituting crimes against humanity and war crimes, and was sentenced to 18 years of imprisonment. This sentence is the first to be handed down by the International Criminal Court for crimes of sexual violence. The Court must now issue reparation orders for the more than 5000 victims participating in the proceedings, and potentially for others who have yet to be identified.

The attacks carried out by the troops of Jean-Pierre Bemba (known as *Banyamulengue*) were characterised by extreme violence against the victims as well as by the systematic pillaging of homes, which were also sometimes destroyed. Stripped of all their assets and resources, victims continue to suffer serious physical and psychological consequences which at times have meant they are unable to work even many years after the attacks. These consequences have condemned the victims to live in situations of extreme vulnerability and poverty. The victims live in a state of extreme deprivation, and have never received appropriate care or assistance from their Government or the international community. Now that the ICC is about to define reparation to the victims more than fifteen years after the violent events took place, many are deceased, many are ill and know they will soon be gone, and all are waiting impatiently for help to alleviate their suffering and meet the needs of their families. The slow pace of the proceedings is causing many of the victims to feel discouraged and desperate. In fact, while the proceedings were underway, the country was ravaged by a number of other conflicts with similar consequences.

The survivors with whom the delegation met lost everything in the attacks in 2002 and 2003. Victims of rape and other forms of sexual violence, they have suffered grave physical and psychological consequences. Most of them have lost their housing and means of subsistence. The youngest have had to halt their studies. They have been stigmatized and rejected by their families and communities. The seriousness of the crimes and their consequences make it difficult if not impossible for the original circumstances of the victims to be restored. Nevertheless, that is what the victims want: for what they have lost and what they could have had (lost opportunities) to be restored, insofar as this is possible. The needs of the victims with whom we have met are many. They need all of the types of reparation provided for under the ICC Statute and in its jurisprudence. The victims have shared with the delegation from FIDH their urgent need for medical care, psychological support, materials to build houses for themselves and their families, furniture, farming implements to work the fields, financing for small businesses to provide for their basic needs, adult education programmes, assistance to pay for school enrolment fees for their children, and programmes to raise awareness in their communities to mitigate the stigmatization arising from the sexual violence they have endured. Most of the victims encountered have nevertheless said that they would like to receive reparation in the form of financial compensation, considering the extreme corruption that is prevalent in the country. In fact, they expressed a complete lack of trust in the infrastructure of the Central African Republic, saying that they feared that they would never benefit from the reparation unless it was directly given to each of them individually.

Regarding the source of the reparations, some people indicated that they wished to receive reparation from Jean-Pierre Bemba. Given that most of his assets might be consumed to pay his legal fees, it is unlikely that those assets will suffice to cover all of his debt towards the victims. The Trust Fund for Victims (TFV) created by the ICC will definitely have to allocate a significant sum for the financing of the reparations to supplement the contribution of Jean-Pierre Bemba.

Significant time has elapsed since the crimes were committed. The victims are extremely vulnerable and impoverished and have experienced multiple re-victimizations. Corruption is generalized in the Central African Republic and an atmosphere of extreme insecurity persists as a result of repeated armed conflicts, in a humanitarian situation that continues to worsen even today. All of these factors add layers of complexity to the ICC's task of providing reparation through the Trust Fund for Victims. Furthermore, the Court will have to coordinate its strategy and action taking into consideration upcoming cases linked to the crimes committed since 2013 by the *Séléka* and *anti-Balaka* armed groups that are currently under investigation. The ICC will also have to coordinate with the Special Criminal Court (SCC), a hybrid tribunal in charge of investigating and prosecuting the perpetrators of serious human rights violations and breaches of international humanitarian law committed since 2003 in the Central African Republic. The key issue will be to guarantee the consistency and harmonization of the reparation measures granted to the victims, for crimes that are sometimes similar and could have been committed over the same time periods.

# INTRODUCTION

FIDH has worked since 2002 with the Central African Human Rights League (LCDH) to document the crimes committed between October 2002 and March 2003 in the Central African Republic. FIDH advocated against the impunity of these crimes and for an investigation to be opened before the International Criminal Court.

Between 2002 and 2006, FIDH and LCDH conducted four investigative missions to document war crimes and crimes against humanity, including crimes of sexual violence committed between 2002 and 2003, as well as two national advocacy missions and a seminar on the ICC<sup>1</sup>. At the same time, between 2005 and 2008, FIDH organized several information-sharing and strategy meetings at ICC headquarters in the Hague between representatives of its respective leagues - the LCDH and, at the time the Organisation pour la compassion et le développement des familles en détresse (OCODEFAD) (the organization for compassion and development of families in distress) - and the Office of the Prosecutor and Registry of the ICC. In the course of those meetings, FIDH underscored the seriousness of the crimes of sexual violence and the grave consequences of those crimes for the victims in an attempt to prompt the opening of an investigation by the Court for these crimes, and to raise awareness among the Court representatives regarding the situation.

The information sent by FIDH, which from the beginning emphasized the seriousness of the crimes of sexual violence, contributed to the decision of the ICC Prosecutor to open an investigation in May 2007<sup>2</sup>. That information also made it possible to establish much of the context and evidence used by the Office of the Prosecutor, the legal representatives of the victims and the judges of the ICC<sup>3</sup>.

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1. See the following FIDH reports on crimes committed in 2002/2003 [all reports in French only – English titles for information purposes only]:

- « Crimes de guerre en République centrafricaine » (War Crimes in the Central African Republic), February 2003 [<https://www.fidh.org/IMG/pdf/cf355f.pdf>].
- « Quelle justice pour les victimes de crimes de guerre » (No Justice for the Victims of War Crimes), February 2004 [<https://www.fidh.org/fr/themes/justice-internationale/Quelle-justice-pour-les-victimes>].
- « Fin de la transition politique sur fond d'impunité - Quelle réponse apportera la CPI ? » (Political Transition Ending as Impunity Continues - How Will the International Criminal Court Respond?), March 2005 [<https://www.fidh.org/fr/themes/justice-internationale/cour-penale-internationale-cpi/Fin-de-la-transition-politique-sur>].
- « Forgotten, stigmatised: double suffering of victims of international crimes », October 2006 [<https://www.fidh.org/en/region/Africa/Forgotten-stigmatised-double>].
- « La FIDH et la situation en République centrafricaine devant la Cour pénale internationale. L'affaire Jean-Pierre Bemba Gombo » (FIDH and the Situation in the Central African Republic before the International Criminal Court. The Jean-Pierre Bemba Gombo Case), July 2008 [<https://www.fidh.org/IMG/pdf/CPIaffbemba502fr2008.pdf>].
- « République centrafricaine. Déjà-vu. D(é)s accords pour la paix au détriment des victimes » (Central African Republic. Déjà-vu: Peace Accords Detrimental to Victims), December 2008 [<https://www.fidh.org/IMG/pdf/RCA513fr2008.pdf>].
- « Bemba devant la CPI : 15 ans d'action de la FIDH, de l'enquête de terrain aux conclusions du Procureur » (The Bemba Case before the ICC: 15 Years of Work by FIDH, from the Investigations on the Ground to the Conclusions of the Prosecutor), March 2016 [<https://www.fidh.org/fr/regions/afrique/republique-centrafricaine/verdict-dans-l-affaire-jean-pierre-bemba-devant-la-cpi-15-ans-d>].

2. This is the first time the Prosecutor has opened an investigation in which allegations of sexual crimes far outnumber alleged killings. According to the Prosecutor, "The allegations of sexual crimes are detailed and substantiated. The information we have now suggests that the rape of civilians was committed in numbers that cannot be ignored under international law. Hundreds of rape victims have come forward to tell their stories, recounting crimes acted out with particular cruelty. Reports detailing their accounts were ultimately provided to the Prosecutor's Office. Victims described being raped in public; being attacked by multiple perpetrators; being raped in the presence of family members; and being abused in other ways if they resisted their attackers. Many of the victims were subsequently shunned by their families and communities". Office of the Prosecutor of the ICC, press release, "Prosecutor opens investigation in the Central African Republic", The Hague, 22 May 2017 [<https://www.icc-cpi.int/legalAidConsultations?name=prosecutor+opens+investigation+in+the+central+african+republic>].

3. FIDH, « Bemba devant la CPI : 15 ans d'action de la FIDH, de l'enquête de terrain aux conclusions du Procureur », (The Bemba Case before the ICC: 15 Years of Work by FIDH, from the Investigations on the Ground to the Conclusions of the Prosecutor), *op. cit.*, pp. 9-10.



FIDH continues to work to document the crimes in CAR and to combat impunity. FIDH has carried out several missions to document the crimes perpetrated, in particular between summer 2013 and February 2014, requesting that the ICC open an investigation, which was finally announced on 24 September 2014<sup>4</sup>. FIDH is working with the Office of the Prosecutor on the investigations under way and has also worked to have the Special Criminal Court put in place to break the cycle of impunity in CAR<sup>5</sup>. In this regard, FIDH has opened a joint office with its member organisations in Bangui to support the victims in gaining access to justice, in particular the justice of the Special Criminal Court<sup>6</sup>.

Since 2016, FIDH has also been leading a project to strengthen accountability for sexual and gender-based violence, as well as access to reparation before the International Criminal Court for the victims of those crimes. After Jean-Pierre Bemba was sentenced in 2016 for rape as a war crime and crimes against humanity, FIDH and its member organisations in Central African Republic felt that it was necessary to continue to transmit the voices of the victims to the judges of the International Criminal Court to ensure that their reparation order would reflect the wishes of those victims. A delegation from FIDH therefore travelled to Bangui from 9 to 16 June 2017. The delegation was made up of Karine Bonneau, Director of the International Justice Department of FIDH, and Daisy Schmitt, Programme Officer at the Women's Rights Department of FIDH. The delegates interviewed victims of crimes of sexual violence committed in 2002 and 2003 in CAR, for which Jean-Pierre Bemba was found responsible. The delegation met with 12 women and 1 man who were from Bangui, Sibut, Moundoumba, Damara and Bossangoa. All are victims participating in the proceedings against Jean-Pierre Bemba before the ICC. The delegation also met with representatives of the ICC Registry, Support Units from the United Nations Development Programme (UNDP) and members of the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) to the SCC, as well as civil society organizations (see the Appendix with the list of persons interviewed). The delegation received support in its mission from personnel from the office in charge of executing the joint program of the FIDH to combat impunity in the Central African Republic, the LCDH and the Observatoire Centrafricain des Droits de l'Homme (Central African Human Rights Observatory, OCDH). The delegation extends its sincere appreciation to the President of LCDH, the President of OCDH, the joint Programme Coordinator, the Financial and Administrative Director and programme officers.

FIDH would especially like to thank Marie-Edith Douzima, the legal representative of the victims in the Bemba case and her assistant Evelyne Ombeni, who facilitated meetings with their clients and assisted the delegation during the interviews. FIDH also extends its most sincere thanks to all of the interviewees who participated in the proceedings during the Bemba case for having agreed to be interviewed. FIDH thanks Elisabeth Mbaya and Michelle-Séfora Dibert-Yamonza, who enabled the interviews to take place by interpreting into Sango, the language of the interviewees. Finally, FIDH is extremely grateful to the representatives of NGOs and international organisations

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4. FIDH « Centrafrique : ils doivent tous partir ou mourir. Crimes contre l'humanité en réponse aux crimes de guerre » (FIDH, Central African Republic: They must all leave or die. Crimes against humanity in response to war crimes"), June 2014 [<https://www.fidh.org/fr/regions/afrique/republique-centrafricaine/15617-centrafrique-ils-doivent-tous-partir-ou-mourir>]; FIDH, « La FIDH appelle la Procureure de la CPI à ouvrir une enquête sur les crimes graves commis en RCA », [FIDH calls for the ICC Prosecutor to open an investigation on the serious crimes committed in CAR], 13 June 2014 [<https://www.fidh.org/fr/themes/justice-internationale/15541-la-fidh-appelle-la-procureure-de-la-cpi-a-ouvrir-une-enquete-sur-les>]; Office of the Prosecutor of the ICC, press release, "Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on opening a second investigation in the Central African Republic", The Hague, 24 September 2014, ICC-OTP-20140924-PR1043 [<https://www.icc-cpi.int/Pages/item.aspx?name=pr1043&>].

5. FIDH, « Qu'est ce que la Cour pénale spéciale » (What is the Special Criminal Court), 19 July 2017. [<https://www.fidh.org/fr/regions/afrique/republique-centrafricaine/qu-est-ce-que-la-cour-penale-speciale>].

6. FIDH, « Inauguration du Bureau conjoint FIDH-LCDH-OCDH pour lutter contre l'impunité » (Joint Office of FIDH-LCDH-OCDH to Combat Impunity Inaugurated), 11 March 2017, [<https://www.fidh.org/fr/regions/afrique/republique-centrafricaine/inauguration-du-bureau-conjoint-fidh-lcdh-ocdh-pour-lutter-contre-l>].

for making themselves available for discussions and for the quality of the interviews that were conducted.

The International Criminal Court is about to hand down reparation orders in the Bemba case. The purpose of this report is to document the claims for reparation by the survivors of sexual violence who are participating in these proceedings. The report aims to provide information to the experts appointed by the Court and to the judges who will issue rulings on reparations, describing the current living conditions of the victims, the consequences of the sexual violence which continue to affect victims on a daily basis, their needs and the reparations that they would actually like to receive. The report examines the different reparation measures that should be granted by the Court, but also the significant risks that must be taken into account to guarantee effective and ongoing reparation in the current context of the Central African Republic.

# I. CRIMES OF SEXUAL VIOLENCE COMMITTED IN THE CENTRAL AFRICAN REPUBLIC SINCE 2002



## 1.1. CAR, a battlefield since 2002

Since 2002, the Central African Republic has seen many armed conflicts between government forces and armed groups, as well as flagrant and repeated violations of international humanitarian law and international human rights law throughout the entire period.

The first major conflict between October 2002 and March 2003 was the result of a coup d'état by General François Bozizé against then-President Ange-Félix Patassé. The coup was supported by Jean-Pierre Bemba, Vice-President of the DRC and his troops from the Movement for the Liberation of the Congo known as *Banyamulenge*, who at the time were active in the southern parts of the Central African Republic on the border of the DRC.

The northern part of the country has then been the scene of a number of abuses constituting war crimes, sometimes committed by the same fighters<sup>7</sup>. The abuses then spread to the southern part of the country as incursions began by the Lord's Resistance Army (LRA), a group of Ugandan armed rebels.

In the second major conflict, members of *Séléka*, who had been in power since 2013, battled until 2015 with a group known as *anti-Balaka*, and were responsible for a massive wave of systematic criminal abuses. *Séléka* are a coalition of armed rebel groups mainly coming from the northern part of the country, joined by large numbers of mercenaries from Chad and the Sudan. The *anti-Balaka* are a group of armed vigilantes, mostly Christian, made up of members of the Central African Armed Forces (FACA) and political personalities close to former president François Bozizé<sup>8</sup>.

7. FIDH, « La population civile en grande insécurité dans le nord de la République centrafricaine » (Civil population experiencing high levels of insecurity in the northern part of the Central African Republic), 27 February 2006 [https://www.fidh.org/fr/regions/afrique/republique-centrafricaine/La-population-civile-en-grande].

8. FIDH « Centrafrique : ils doivent tous partir ou mourir. Crimes contre l'humanité en réponse aux crimes de guerre » (Central African Republic: They must all leave or die. Crimes against humanity in response to war crimes.), *op.cit.*

However, criminal violence remains endemic. The *ex-Séléka* (no longer in power since 2014) continue to battle against *anti-Balaka* and other groups of armed bandits, and are now also battling United Nations peacekeeping forces and humanitarian groups on the ground in the Central African Republic<sup>9</sup>.

According to United Nations report published in 2017 mapping serious violations of international human rights law and international humanitarian law committed within the territory of the Central African Republic from January 2003 to December 2015<sup>10</sup>, sexual and gender-based violence is “a widespread but underreported phenomenon”<sup>11</sup>.

## 1.2 Sexual Violence

*“The perpetrators may differ in their political or military objectives but they all shared extreme disregard for, and deliberate infringement of the dignity and of the physical and mental integrity of their victims. In some instances, victims were raped several times, by different perpetrators, during the successive conflicts. The victims had in the vast majority of cases no recourse to protection or justice by the authorities.”<sup>12</sup>*

Absolutely all of the parties involved in the conflict in CAR committed rape and other crimes of sexual violence: members of the Armed Forces, rebel groups, foreign combatants, and even soldiers deployed in United Nations peacekeeping operations tasked with protecting civilians.

Most of the sexual violence was committed in public, before family members of the victims. Some of the victims were also kidnapped during the attacks to be used as sexual slaves by armed groups. These crimes of sexual violence were often perpetrated alongside other crimes, especially pillaging and murder, depriving the victims of the support of their close family members and resulting in loss of access to the social and material resources essential for their survival.

Most of the victims are women and children.<sup>13</sup> However, these crimes are also perpetrated against men and boys. The number of acts of sexual violence is significantly underestimated due to the many barriers to reporting the crimes. The perpetrators of rape and other types of sexual violence target victims because of their real or imagined social, ethnic or religious ties to the groups they are battling. These crimes are also perpetrated to terrorize and humiliate populations, rupture the family and social circle of the victims and destroy communities that are perceived as enemies<sup>14</sup>.

The victims of rape are rejected by their spouses, and sometimes also by their families. They are mocked by their community and must raise their children alone, without resources or support. Because the children involved have witnessed or been the victims of rape, or have been born of rape, they in turn are stigmatized and excluded<sup>15</sup>.

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9. Human Rights Watch, “Killing Without Consequence: War Crimes, Crimes Against Humanity and the Special Criminal Court in the Central African Republic”, July 2017 [<https://www.hrw.org/report/2017/07/05/killing-without-consequence/war-crimes-crimes-against-humanity-and-special>].

10. United Nations, Report of the Mapping Project documenting serious violations of human rights law and international humanitarian law committed within the territory of the Central African Republic between January 2003 and December 2015, May 2017 (hereinafter the “Mapping Report”) [[http://www.ohchr.org/Documents/Countries/CF/Mapping2003-2015/2017CAR\\_Mapping\\_Report\\_EN.pdf](http://www.ohchr.org/Documents/Countries/CF/Mapping2003-2015/2017CAR_Mapping_Report_EN.pdf)]

11. “Indeed, sexual violence has been systematically underreported for various reasons... The Mapping Project team therefore decided to gather information and documents establishing that sexual violence was committed in certain contexts... This approach showed that, while sexual violence has been extremely underreported, the documented cases were most probably not isolated incidents and indicate that the phenomenon was recurrent and widespread.” See Mapping Report, p. 215.

12. Mapping Report, *op.cit.*, p. 215.

13. The Mapping Report also highlights that women and girls are the main targets of torture and other forms of ill-treatment perpetrated by the different armed groups (see p. 208).

14. “In 2015 alone, service providers in the Central African Republic recorded 29,801 cases of women who had survived gender-based violence, including rape, sexual assault and sexual slavery. Of them, 27,977 were women and girls, and 1,824 were men and boys. Forty-four per cent of rape cases involved gang rapes, often committed in front of family members.” See Mapping Report, *op.cit.*, p. 208.

15. Mapping Report, *op.cit.*; FIDH, “Forgotten, stigmatised: double suffering of victims of international crimes”, *op.cit.*; “FIDH and the Situation in the Central African Republic before the International Criminal Court. The Jean-Pierre Bemba Gombo Case”, *op.cit.*; FIDH: “Central African Republic: They must all leave or die. Crimes against humanity in response to war crimes”, *op.cit.*

*"Thousands of women and girls in the Central African Republic were survivors of conflict-related sexual violence and many suffered double jeopardy: being raped, enslaved and/or forced to be married, and then ostracized or rejected by their community, sometimes even by their own families. The trauma experienced was often aggravated by the fact that the perpetrators also looted their properties. The victims were thus deprived of the means to cater for their own recovery and livelihood or that of other people under their care."*<sup>16</sup>

This sexual violence perpetrated during a period of armed conflict took place in a context of widespread violence and discrimination against women and girls. As the United Nations Mapping Report highlights:

*"Conflict-related sexual violence is a manifestation of the more general discrimination, marginalization and violence suffered by women and girls in the Central African Republic... Customs and tradition relegate females to an inferior position and lead to or create conditions in which the rights of women and girls are violated. As such, women and girls are often excluded from decisions that affect their lives and livelihood. Sexual and gender-based violence and discrimination is thus widespread and marked by a general lack of will by the authorities and armed groups to address the issue."*<sup>17</sup>

Discrimination against women and girls often results from practice, but also stems from legislation. For example, the Family Code of the Central African Republic permits polygamy<sup>18</sup>, providing that the future husband must pay a dowry to the family of the future wife<sup>19</sup> and that the husband is the head of the family.<sup>20</sup>

According to the Criminal Code of the Central African Republic, the general prohibition against abortion is lifted in the event of rape on condition that the intervention is approved by a college of physicians and is performed by a doctor in a hospital during the first eight weeks of pregnancy<sup>21</sup>. However, in practice, taking into consideration the lack of medical infrastructure and information on legal abortion, the costs involved, the very short time period within which an abortion may be legally performed, and other procedural obstacles, many women opt for clandestine abortions, risking their health and their very life<sup>22</sup>. Furthermore, women who have an illegal abortion are liable for a prison term of up to 2 years<sup>23</sup>.

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16. Mapping Report, *op.cit.*, p. 207.

17. Mapping Report, *op.cit.*, p. 208. The Mapping Report places particular emphasis on female genital mutilation and murders of women after accusations of witchcraft and charlatanism.

18. Law No. 97 013 of the Family Code, Articles 216 and 230 et seq. *Ibid.*, Article 208.

19. *Ibid.*, Article 254.

20. Law No. 97 013 of the Family Code, Articles 216 and 230 et seq.

21. Law No. 10001, 6 January 2010, Criminal Code of the Central African Republic, Articles 79 (3), 80. The prohibition on abortion is also lifted in cases where a girl who is pregnant is experiencing severe medical distress; where there are serious or incurable defects of the fetus; in cases where the pregnancy represents a serious threat to the life of the mother; and in cases of incest (article 79).

22. See Médecins sans frontières, « À Bangui, les avortements non médicalisés sont devenus une véritable urgence » (Doctors Without Borders, In Bangui, unsafe abortions have become a real emergency), 28 September 2017 [<https://msf.lu/fr/actualites/toutes-les-actualites/a-bangui-les-avortements-non-medicalises-sont-devenus-une-veritable>].

23. Law No. 10001, 6 January 2010, Article 78, Criminal Code of the Central African Republic.

### 1.3. The crimes falling under Jean-Pierre Bemba's responsibility

During its missions to the CAR to investigate the crimes committed in 2002 and 2003, FIDH collected many testimonies from victims, including victims of sexual violence.

According to testimony gathered by the FIDH, particularly between 2002 and 2003 (some of which is copied below), rapes were extremely widespread after the battle of Bangui, when Congolese mercenaries belonging to the MLC were pushing the rebels of François Bozizé towards the northern part of the country, at the end of October and beginning of November 2002. Some of the testimony also reveals that these crimes were not perpetrated only during the counteroffensive of the Congolese mercenaries against the rebels of general Bozizé. They continued between November 2002 and March 2003 because there was still a significant Banyamulengue presence behind the front. The story below also confirms that a final massive wave of crimes took place, including rape and pillaging, crimes committed by Banyamulengue fleeing before the rebel forces of François Bozizé as they advanced victorious towards the capital in March 2003. As they retreated towards the Democratic Republic of the Congo, the Banyamulengue committed serious violations of human rights in an attempt to forcefully make off with anything they could carry, the final spoils of their battle.

*"The men from Zaire, I mean the Banyamulengue, who were coming from Bossembele (which is 60 km from my town) arrived in Boali, in the city centre, at five in the afternoon on 15 March 2003. Armed men showed up in a truck and took away the street vendors. I was one of them. They also picked up a crazy guy who was hanging around in the street. We had to follow them on foot with all of our merchandise. There were six of us, all young. We walked for 4 km, and then we got to the lorry that was carrying other things. Another lorry full of Banyamulengue arrived and picked up our things. It was eight in the morning. That's when the armed men who had taken us with them started to beat us up, hitting us with the butt of their rifles. The leader hit us the most, with a machete, and he hurt me, like I showed you just now, on my arms, my legs and my head, on the top of my head and across my eyebrows. He cut me with his machete. Then six of them sodomized us, the three oldest ones of our group of kids. Each of us was raped by two men. Another victim of those rapes, the crazy man, was there with me. Towards noon, the liberators arrived (the rebellion led by Bozizé) and the Banyamulengue fled. But the liberators killed eight of them, from what I could see. They also blew up the lorry, and you can still see the chassis there today. After they left, I was very tired, I had lost a lot of blood. I lay down by the side of the road. I know that it was the Banyamulengue who attacked us...the leader was speaking to us in French... between themselves, they spoke in Lingala. I don't understand the language but I know it when I hear it."*

X, a minor (13 years old at the time of the events). Testimony gathered during FIDH investigations.<sup>24</sup>

The stories told by the victims reveal that rape was committed indiscriminately against all civilians - including some men who held important positions in their communities - in public, or in their homes before other members of their families.

*"It happened when the rebel troops of Bozizé were withdrawing before the Banyamulengue and falling back towards PK22. On 7 November 2002, the Banyamulengue occupied the Begoua region in PK 12 where I live. Night fell and they hadn't done anything to the civilians. It wasn't until the next day on 8 November that they started pillaging anything of value, whether they were stealing it from people directly or taking it from homes that they sacked. I spoke up and told them not to do that. That's when all of the problems began. When I did that, four Banyamulengue came after me, saying that it was people like me who had made the people rise up against President Patassé. They told me that I deserved to die. They were wearing military outfits, but they weren't wearing military shoes. They had weapons, Kalashnikovs. One of them ordered me to lie down on the ground, in front of my wife and children, and he sodomized me in front of them. He took off all my clothes, I was completely naked. When it was over, the other three raped my four daughters and my wife in front of me. I tried to fight them but because they were pointing their weapons at me,*

24. FIDH, « La FIDH et la situation en République centrafricaine devant la Cour pénale internationale. L'affaire Jean-Pierre Bemba Gombo », *op. cit.*, p.8.

*there was nothing I could do. My brother-in-law tried to fight back, and they ended up killing him. When the four of them had finished, they left us and went away. But they came back with other Banyamulengue, and they completely sacked my house...I knew that they were Banyamulengue because they were speaking only Lingala. Bemba was their commander. One day, Bemba himself even landed in a small plane, in the courtyard of the medical centre in Begoua. It was 17 November 2002, while fighting was happening in PK22."*

P. Testimony gathered during FIDH investigations.<sup>25</sup>

Sexual violence, especially rape, was therefore used as a weapon of war, to humiliate, terrify and punish the civilian population of the Central African Republic who were accused of complicity with the rebels. The modus operandi of these crimes is almost identical in all of the stories: the soldiers would burst into the room, demanding money, terrorize the people by firing random shots or holding them at gunpoint, and then rape everyone.

*"It was 25 December 2002. My mother and I were hiding in PK22 at our parents' house when we heard that the Banyamulengue were coming. Our parents gave us money so that we could go and hide in Bangui, and meanwhile they went off to hide in the hills. We left, heading in the direction of the PK22 market. That's when we met the Banyamulengue. They asked my mother for money. She didn't have any. They tried to take her clothes off, but she said that she was sick. I tried to get in between them to defend her. Then one of the Banyamulengue, a young guy, took out his bayonet and slashed my ankle. After having hurt me, they told me that since I didn't want them to sleep with my mother, I would be their victim. Then two of them grabbed me and sodomized me. They took off all of my clothes. While that was happening to me, some other ones took my mother and took her away. They must have done the same thing to her. After that, a vehicle from the Red Cross came to pick us up, my mother and me, and they took us to Bangui and took us back to our house. We had never seen those people before. But the simple fact that they didn't speak either Sango or French, and they only spoke Lingala, made us realize that they were Banyamulengue. My mother died on 11 February 2003 of AIDS."*

W, a minor (13 years old at the time of the events). Testimony gathered during FIDH investigations<sup>26</sup>.

*"I am 15 years old. I live in PK12. On Friday 1 November 2002, men came dressed in military fatigues and carrying weapons. I was asleep in my room with my sister. With one blow, they broke down the door. They demanded money, jewellery, gold. My sister replied that we didn't have any money. They didn't understand. Then they asked where the father's bedroom was, my uncle, who has been paralyzed for 17 years. We went towards the bedroom with X, Y and Z, my cousins. One of the men dragged my sister into the shower. She started to scream. We all ran towards her. The man pointed his gun at us, when he was on top of my sister. He ordered us to return to the living room, which we did because we were terrified. That's when a young man, he was big and fat, turned towards me. He dragged me over beside the freezer. He tried to take off my pagne (a dress fashioned from a piece of cloth). I fought back. That's when he ripped my underwear. He threw me on the ground. He took off his pants. He penetrated me with his penis. He hurt me so badly. I saw lots of blood on my dress. I still have pains in my lower belly. This person spoke Lingala, and spoke French very badly. The humanitarian workers came to see me. They took a blood sample. They gave me some medicine. I am afraid when I see men. I am afraid they will come back. I'm afraid of being sick."*

Y. Testimony gathered during FIDH investigations.<sup>27</sup>

25. FIDH, « La FIDH et la situation en République centrafricaine devant la Cour pénale internationale. L'affaire Jean-Pierre Bemba Gombo », *op. cit.*, p. 9.

26. *Ibid.*, p. 8.

27. *Ibid.*, p. 6.

Some of the stories also speak of women being raped by having their vaginas penetrated by soldiers' hands, under the pretext of searching for money, or being raped with a weapon.

*"The Banyamulengue took all my clothes off in front of my husband. He was able to get away. They raped me in front of my three children. They put their hands in my vagina. My son was crying a lot, the Banyamulengue frightened him with their weapon, and then he stopped crying. When my husband came back, he found us all naked in the bedroom. We got divorced after everything that happened."*

B, 40 years old (from Bossangoa). When the Banyamulengue pillaged the city, they ordered B. to give them her money. She didn't have any. They told her that they were going to look for it in her vagina and they penetrated her with their hands. Bangui, 14 June 2017.



## II. THE JUDICIAL RESPONSE TO THE CRIMES OF SEXUAL VIOLENCE

### 2.1. The total absence of judicial response at the national level

It is important to underscore that the victims in the Central African Republic initially tried to accede to national justice, and they filed suit against the presumed perpetrators of the crimes in the domestic courts. However, these courts had neither the willingness nor the ability to investigate these criminal acts and prosecute their perpetrators. The Court of Cassation thus concluded on 11 April 2006 that it did not have the capacity to judge blood crimes, rape and pillaging, referring the cases to the International Criminal Court for the responsibility of the perpetrators to be established.<sup>28</sup>

According to the UN's Mapping Report, *"The armed conflicts in the Central African Republic have provided an environment in which perpetrators of sexual violence enjoy unbridled impunity as a result of widespread insecurity and dysfunctional or collapsed institutions, a situation which persists to date. In order to bring justice to the thousands of survivors of such crimes and ensure a future where women and girls can enjoy their fundamental human rights, the national authorities, with the support of the wider international community, have to urgently institute and implement judicial, political, psycho-social, economic and educational measures to promote and effectively protect the rights of women and girls in the Central African Republic."*<sup>29</sup>

Later in the report, the United Nations lists the barriers faced by the survivors in their attempt to see justice done:

*"In practice, survivors of sexual violence face numerous obstacles to accessing justice. Chief among these are a variety of practical and procedural hurdles to filing criminal complaints, including: the difficulty and cost to reach authorities; the control of commissariats and gendarmerie posts by the very armed groups which may be responsible for the crimes; as well as the total unavailability of protective measures for survivors. In the rare cases where a survivor, or their relatives, overcome these challenges to file complaints – often with the assistance of non-governmental organizations – this is unlikely to result in any criminal proceedings, convictions or penalties...In the few cases the State took actions against members of security forces documented in this report, perpetrators either received derisory sentences, escaped from prison or were posted outside Bangui."*<sup>30</sup>As highlighted further on in the report, *"Even in times of peace, very few cases of sexual violence ever reached the justice system, few resulted in decisions, and even fewer in convictions."*<sup>31</sup>

In the absence of national remedy, the International Criminal Court was the last resort for the victims. "I am coming back to life," said one of them when she was interviewed on the radio about the arrest of Jean-Pierre Bemba.<sup>32</sup>

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28. FIDH, « République centrafricaine. Oubliées, stigmatisées : la double peine des victimes de crimes internationaux », <https://www.fidh.org/en/region/Africa/Forgotten-stigmatised-double> *op.cit.*, pp. 72-73.

29. Mapping Report, *op.cit.*, p. 208.

30. *Ibid.*, p. 211.

31. *Ibid.*, p. 233.

32. FIDH, « La FIDH et la situation en République centrafricaine devant la Cour pénale internationale. L'affaire Jean-Pierre Bemba Gombo », *op.cit.*, p. 21.

## 2.2. The Bemba case before the International Criminal Court: some scant justice for the victims of sexual violence

On 21 March 2016, the Trial Chamber III of the ICC found Jean-Pierre Bemba guilty, as military commander, of all the crimes of which he had been accused: rape, murder and pillaging, constituting crimes against humanity and war crimes. On 21 June 2016, he was sentenced to a prison term of 18 years.

In determining the sentence against Jean-Pierre Bemba, the Trial Chamber first considered the extreme gravity of the crimes<sup>33</sup>. The Chamber concluded that the troops of Jean-Pierre Bemba had committed crimes against victims who were particularly vulnerable, which constitutes an aggravating circumstance under Rule 145(2)(b)(iii), Rules of Procedure and Evidence (RPE) of the ICC, because the rape victims: “ i) were unarmed; ii) were targeted in their homes, on temporary MLC bases, or in isolated locations, such as the bush, and/or when they were seeking refuge; iii) were forcefully restrained; iv) and/or were children”.<sup>34</sup>

The Trial Chamber added that the MLC soldiers had committed the crimes of rape with particular cruelty, which constitutes an aggravating circumstance in the meaning of Rule 145(2)(b)(iv) of the RPE: the rapes were committed “(i) for self-compensation; (ii) to punish suspected enemies and their sympathisers; (iii) without regard to age, gender, or social status, including against multiple members of the same family and local officials; (iv) in the presence of the victims’ family members, neighbours, and/or other civilians or soldiers, thereby heightening the victims’ humiliation; (v) in conjunction with acts of murder, pillaging, and other violence and abuse during the same events and against the same direct and indirect victims; and/or (vi) repeatedly against the same victims, sometimes penetrating the same victim orally, vaginally, and anally”.<sup>35</sup>

According to the United Nations, this ICC Judgment against Jean-Pierre Bemba is “the notable exception” to the overwhelming impunity that prevails in the Central African Republic.<sup>36</sup> The success of the ICC was made possible thanks to the confluence of a variety of factors, in particular the expertise and motivation of the investigative team to research the evidence of sexual crimes, but also the work to document the crimes of sexual violence undertaken by NGOs, including FIDH, which then sent the relevant information to the Office of the Prosecutor.<sup>37</sup>

The decision on the acknowledgement of the responsibility of Jean-Pierre Bemba and on the punishment handed down in the first instance are currently being appealed by the Defence and the Prosecution. The Court decided that these appeals would not suspend the reparations proceedings, which are therefore taking place in parallel to the pending appeals, but could be called into question if the decisions on the guilt of the accused and the punishment are not confirmed.<sup>38</sup>

The victims of sexual violence in the Central African Republic can hope to one day see other sentences, given that the Office of the Prosecutor of the ICC is currently conducting other investigations on crimes committed since 2013, both by Séléka/ex-Séléka and by anti-Balaka - which should also involve crimes of a sexual nature, and taking into consideration the Special Criminal Court that has been put in place.

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33. Trial Chamber III, Decision on Sentence pursuant to Article 76 of the Statute, 21 June 2016, No.: ICC-01/05-01/08-3399, §41-42. [[https://www.icc-cpi.int/CourtRecords/CR2016\\_04476.PDF](https://www.icc-cpi.int/CourtRecords/CR2016_04476.PDF)]

34. *Ibid.*, §41-43.

35. *Ibid.*, §47.

36. Mapping Report, *op.cit.*, p. 233.

37. See especially the FIDH report on the strengthening of the establishment of responsibility for crimes of sexual violence and gender-based crimes at the International Criminal Court and beyond (coming out early 2018).

38. Trial Chamber III, Decision on the request of the Defence to suspend the reparations proceedings, 5 May 2017, ICC-01/05-01/08-3522.

## 2.3. The Mandate of the Special Criminal Court and its complementarity with the International Criminal Court

The Special Criminal Court is a special court in the justice system of the Central African Republic, created by Law No. 15,003 of 3 June 2015 to investigate, process and judge serious human rights violations and breaches of international humanitarian law committed in the Central African Republic since 1 January 2003, as defined by the Criminal Code of the Central African Republic and by international law.<sup>39</sup> The composition of the personnel of the SCC will be mixed, meaning that some will be citizens of the Central African Republic and others will come from abroad. The court has a renewable mandate of five years. Its Prosecutor was appointed on 15 February 2017, and some of its domestic and international judges were appointed a few months later.<sup>40</sup>

However, the SCC is facing significant challenges that are delaying the launch of its work. Its Rules of Procedure and Evidence (RPE) have yet to be approved by the Parliament to give a legal basis for the work to be done by the judges and the Prosecutor. Ongoing armed conflicts and increasing insecurity raise the issue of access to the territory and of the safety of SCC personnel and its premises, but also of the victims and witnesses. As yet, no penitentiary infrastructure that could allow for suspects to be housed has been identified.

Because the temporary competence of the ICC, which continues to investigate crimes committed in 2013 and 2014, overlaps with that of the SCC, the two courts will have to structure their investigations based on the principle of complementarity. According to its Statute, the ICC is complementary to domestic criminal courts and has no competence unless the State with jurisdiction does not have the willingness and/or the capacity to conduct investigations and prosecutions<sup>41</sup>. The organic law that instituted the SCC nevertheless provides for a “reversed complementarity”, according to which the competence of the ICC takes precedence over that of the SCC, even though the latter is a national court<sup>42</sup>. The prosecutors and judges must therefore cooperate fully to guarantee the prosecution of the principal perpetrators before the ICC or the SCC. In particular, it will be necessary for the ICC to support the investigations of the SCC, taking into account the evidence that the ICC has already gathered.

Similarly, the law on the creation of the SCC does not contain any provisions regarding the right to reparation of victims, which however is acknowledged when dealing with civil parties according to the provisions of applicable criminal law in the Central African Republic for victims that fall under the jurisdiction of the Court pursuant to international law. The draft RPE, as they exist at the time of writing of this report, contain provisions that are imprecise in regard to reparations and that exclusively provide for symbolic or moral reparations, which in and of themselves are not sufficient to guarantee reparation that is appropriate for the harm undergone. The two courts will have to coordinate their strategies on that topic in order for a harmonized response to the claims for reparation of the victims to be provided. Donors for the SCC should support the creation of a national fund for the victims (similar to the Trust Fund for Victims of the ICC), to compensate for the probable indigence of those sentenced by the SCC and guarantee respect for the right of the civil parties to effectively obtain reparation.

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39. Loi organique 15,003, portant création, organisation et fonctionnement de la Cour pénale spéciale, 3 June 2015 (Organic Law 15,003 on the creation, organisation and functioning of the Special Criminal Court, 2015)[[https://www.fidh.org/IMG/pdf/loi\\_organique\\_portant\\_cre\\_ation\\_organisation\\_et\\_fonctionnement\\_de\\_la\\_cps.pdf](https://www.fidh.org/IMG/pdf/loi_organique_portant_cre_ation_organisation_et_fonctionnement_de_la_cps.pdf)].

40. FIDH, « Qu'est-ce que la Cour pénale spéciale? », *op. cit.*

41. Rome Statute, Article 17.

42. According to Article 37 of Organic Law 15,003, on the creation, organization and functioning of the Special Criminal Court: “When... it is established that the Prosecutor of the International Criminal Court has been seized of a case that concurrently falls under the jurisdiction of the International Criminal Court and the Special Criminal Court, the latter will stand down for the former to take over.”

# III. REPARATION: A FUNDAMENTAL ISSUE FOR THE VICTIMS OF SEXUAL AND GENDER-BASED VIOLENCE

## 3.1. Legal framework, participation and eligibility

In the Statute of the International Criminal Court, reparation is governed by Article 75, which provides the following: "*The Court may make an order directly against a convicted person specifying appropriate reparations to, or in respect of, victims, including restitution, compensation and rehabilitation.*"<sup>43</sup> The Rome Statute also creates a Trust Fund for Victims, whose purpose is to assist the Court in implementing reparation orders, particularly by pooling the resources of persons found guilty, States, and other sources (when they are sentenced to pay fines or make reparations to victims or when their assets are confiscated), with the goal of guaranteeing financing for reparations.<sup>44</sup>

The provisions of the founding texts of the Court on reparations are not detailed. This phase of the proceedings is therefore broadly based on the jurisprudence of the Court, especially the principles applying to reparations that are established pursuant to Article 75 (1) of the Statute. Before the Bemba case, three cases reached the stage of reparations. In the first two cases, the Prosecutor v. Thomas Lubanga<sup>45</sup> and the Prosecutor v. Germain Katanga<sup>46</sup>, the accused were found guilty of war crimes and crimes against humanity committed between 2002 and 2003 in the eastern part of the Democratic Republic of the Congo. Despite the fact that there was proof of their responsibility for sexual crimes committed, no sexual violence charges were filed against Thomas Lubanga, and Germain Katanga was acquitted of rape and sexual slavery<sup>47</sup>. The third case was the Prosecutor v. Ahmad Al Faqi Al Mahdi. In 2016, Al Mahdi was found guilty of the war crime of intentionally directing attacks against sites of a religious and historic character in the city of Timbuktu in 2012, when the Northern part of Mali was occupied by jihadist groups. Despite the fact that there was proof that he had committed sexual crimes, Ahmad Al Faqi Al Mahdi was not accused of any crime against persons. The Bemba case is therefore the first case in which the ICC will grant reparations to the victims of sexual violence.

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43. Rome Statute, Article 75 (2). This list is not exhaustive.

44. Rome Statute, Article 79. See also Rule 98 of the Rules of Procedure and Evidence and the Regulations of the Trust Fund for Victims.

45. See the FIDH report on the strengthening of the establishment of responsibility for crimes of sexual violence and gender-based crimes at the International Criminal Court and beyond (coming out early 2018).

46. In March 2012, Thomas Lubanga was found guilty of the war crimes of enlisting and conscripting of children under the age of 15 years and using them to participate actively in hostilities. In July 2012, he was sentenced to 14 years of imprisonment. In December 2014, the Chamber of Appeals confirmed the verdict and the punishment.

47. In March 2014, Germain Katanga was found guilty of being an accomplice to murder, attacking a civilian population, destruction of property and pillaging, constituting war crimes and crimes against humanity. In May 2014, he was sentenced to 12 years of imprisonment. In June 2014, the defence dropped its appeal against the guilty verdict and did not file an appeal against the sentence. These two decisions are therefore final.

**In the Lubanga case**, Trial Chamber I issued its first decision in August 2012, which was partially amended by the Appeals Chamber in March 2015. These two decisions established a set of principles to serve as guidelines for reparations, such as the issuance of a reparation order against the person who was found guilty<sup>48</sup>, lower evidentiary requirements in this phase of the proceedings<sup>49</sup>, and the need to adopt a gender-sensitive approach to avoid perpetuating or reinforcing discrimination. Based on these principles, the Appeals Chamber gave the Trust Fund for Victims the task of presenting a plan for the implementation of collective reparations. The Trust Fund presented its final plan in September 2016 and agreed to allocate €1 million to the financing of reparations in this case. €170,000 were allocated for the identification of the victims and evaluation of damages, and €730,000 were set aside for physical, psychological and socio-economic rehabilitation programs. As of today, these projects have not been implemented.

**In the Katanga case**, the Court handed down a reparation order in March 2017.<sup>50</sup> The Court assessed the extent of the harm suffered by the victims at a total monetary value of US\$3,752,600 and set the amount of Mr. Katanga's liability at US\$1 million. Because he was found indigent for the purposes of reparation, the Trust Fund for Victims agreed to cover the entirety of his debt. The court decided to order individual and collective reparations to 297 victims. The judges awarded each of the 297 victims symbolic compensation of USD 250 per victim as well as "collective reparations in the form of support for housing, support for income-generating activities, education aid and psychological support." This is the first order handed down to grant individual reparations. The Trust Fund submitted a plan for the implementation of the reparations in June 2017. The Court also ordered the Trust Fund to contact Congolese authorities regarding the potential to have them cooperate in the implementation of the reparations.

**In the Al Mahdi case**, the Court sentenced the guilty party to pay individual and collective reparations to the community of Timbuktu in August 2017. The individual reparations consisted of compensation to cover the economic harm for persons whose income was exclusively dependent on the mausoleums destroyed. These reparations will also benefit the descendants of the deceased whose mausoleums were destroyed, to cover their moral harm. The collective reparations include restoration measures. Symbolic reparations were also granted: Ahmad Al Faqi Al Mahdi filmed a video and posted it online, apologizing for his actions. The State of Mali and the United Nations Organization for Education, Science and Culture (UNESCO) were each granted the symbolic amount of one Euro. The total amount of the reparations was assessed at €2.7 million, and must be covered by the Trust Fund for Victims insofar as the guilty party is indigent. The Trust Fund must draft a plan for the implementation of the Court Order by February 2018.

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48. The Appeals Chamber, Judgment on the appeals against the "Decision establishing the principles and procedures to be applied to reparations" of 7 August 2012, 3 March 2015, ICC-01/04-01/06-3129, §76.

49. *Ibid.*, §81.

50. Trial Chamber II, Reparation Order pursuant to Article 75, Rome Statute, 24 March 2017, ICC-01/04-01/07-3728.

Article 75 (3) of the Rome Statute provides that before making an order, the Court may invite and shall take account of representations from or on behalf of the convicted person, victims, other interested persons or interested States. Rule 97 (2) of the Rules of Procedure and Evidence also authorizes it to appoint experts to assist and advise it. In the Bemba case, the Court received comments from the Defence, the Prosecution, the legal representatives of the victims, the Registry and the Trust Fund for Victims as well as international organizations, NGOs and universities on certain points of the procedure for reparations. The Court then appointed four experts who were given the mission of assisting it to issue a ruling on the eligibility of the victims, the harm to be taken into consideration, the extent of the liability of Jean-Pierre Bemba and the types and means of reparation that would be appropriate. These experts will deliver their report in November 2017. Although FIDH welcomes the decision by the judges of Trial Chamber III to call on experts to further clarify its decision on reparations, FIDH regrets that the Court did not find it useful, in an effort to better understand the reality of the victims, to appoint even one expert from the Central African Republic who would have a profound understanding of the national context and functioning of the country. Of the experts appointed by the Court, not even one was from the African continent. When the experts have submitted their report, the Chamber will then be able to invite the victims, the perpetrator and all other interested persons or States to comment on the report. The Chamber will then hand down its reparation order.

The victims are therefore able to make comments before the Court hands down a reparation order. Pursuant the Rome Statute, this right is an integral part of the overall system for the participation of the victims in the proceedings taking place at the International Criminal Court. This system enabled the victims to have their voices heard other than solely as victims, and has never before been seen within the international criminal justice system. Pursuant to Article 68 (3) of the Statute of the Court, *“Where the personal interests of the victims are affected, the Court shall permit their views and concerns to be presented and considered at stages of the proceedings determined to be appropriate by the Court and in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.”*

In the Bemba case, 5229 victims are participants in the proceedings. Of those, 4674 are represented by an external legal representative, Marie-Edith Douzima. A further 555 are represented by the Office of Public Counsel for Victims (OPCV) of the ICC. The number of participating victims is well above the number in the Lubanga and Katanga cases, with 146 and 366 victims respectively having participated in those proceedings. Organizing participation and granting reparations to that many victims is a challenge for the Court, but the significant participation is also a measure of the success of the Bemba proceedings. The victims who presented their views and concerns or who testified throughout the proceedings helped the Court make its decisions. The victims who met with the FIDH team during its mission in June 2017 also in large part indicated that telling the Court the story of the experiences they had lived through had positively affected their psychological state.<sup>51</sup>

Another challenge is now before the Court: determining which victims are eligible for reparations. First of all, because Jean-Pierre Bemba was found guilty of all of the crimes he was charged with, all of the victims who were authorized to participate in the proceedings should be eligible for reparation. Secondly, there are other victims of the crimes of which Jean-Pierre Bemba was found guilty. These other victims are also eligible to receive reparation. Before issuing a ruling on the extent of the debt of Jean-Pierre Bemba and the concrete reparation measures that must be ordered, the Court must therefore ask the Registry and the Trust Fund for Victims to determine how many people there are in order to enable them to participate in the reparation proceedings.

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51. See below pp. 35-36.

## 3.2. The demands for reparation by victims of sexual violence

*"I will say this: today, I am nothing. I am waiting for Court to give me some reparation so that I can continue surviving for the time I have left on this earth."<sup>52</sup>*

All of the victims who met with the delegation of FIDH are participating in the proceedings. Several of them had the opportunity to testify or present their opinions and concerns before the Court. For the others, their only tie with the ICC is their relationship with their legal representative. Some have been able to participate in joint meetings on the proceedings and reparations, and for others their only source of information on the proceedings has been the radio. During individual interviews conducted by the FIDH, they all insisted that their situation was truly an emergency and that the Court needed to ensure that they would in fact individually be able to benefit from the reparations that were granted.

### 3.2.1. Timely reparation provided by Jean-Pierre Bemba

The victims who met with the delegation all underscored the urgent need to provide reparations in relation with the Bemba case, and their frustration that they had not yet received anything 15 years after the events.

*"All I want is reparation, it doesn't matter what type."*

S., 51 years old. S. was raped by Banyamulengue in 2002. His two wives and his two daughters were also raped during the attack. Bangui, 10 June 2017.

*"Right now, the first thing I want to ask is for things to move forward. Many [of those involved] have already died. Look at my health, when I was so sick in 2010, I could be that sick again within a month. Hurry up. I don't know what the future holds for me."*

Y.B., 43 years old (from Sibut). Y.B. was raped by two Banyamulengue after an ambush in the forest. During those rapes, Y.B. was infected with HIV. Bangui, 13 June 2017.

*"When we went to the ICC, the Court guaranteed us that they would do something, and nothing is happening. We are all going to die. What can the Court do for me? My health is gone (crying). It's too far away, the only one who helps us is our lawyer. In all this time, all the ICC does is observe, it's just going around in circles. I am not okay with this. I have never seen anyone from the ICC here. It has taken too long for the decision to come down. I wish they could give me some money so that I could set up a store, so that I could take care of my children, to get care for myself, or to have a house of my own where I could live with my children. Tell the ICC that we are all going to die. We have waited for too long and this is the point we have gotten to."*

P.M., 32 years old (from Moundoumba). P.M. was kidnapped by the Banyamulengue and forced to carry the loot that they had pillaged. When one of them accused her of not being reliable because she was not from the Congo, she was raped by more than a dozen of the militants until she fainted. P.M. has been HIV-positive since then. She is one of the witnesses of the Prosecution. Bangui, 13 June 2017.

*"Many of our colleagues have already passed away. What happened, it was as if we had poison in our bodies; every time we remember, it's terrible."*

C.I., 51 years old (from Sibut). C.I. was raped in front of her common-law husband. She became pregnant after the rape and had an abortion upon the request of her partner. Bangui, 13 June 2017.

Some of the victims say that the harm has been compounded by the slow pace of the reparations.

*"If the court had thought of us sooner, my health would not have gone downhill so badly."*

B., 40 years old (from Bossangoa). Bangui, 14 June 2017.

52. Trial Chamber III, Transcription, Audience de la fixation de la peine, (Hearing to determine the punishment) 17 May 2016, ICC-01/05-01/08-T-369-Red-FRA WT 17-05-2016 66/68 NB T, p. 66. (Original in French only)

The testimony gathered also indicates that the Bemba proceedings, which are taking place in The Hague almost 8000 km away from the victims in the Central African Republic, and which even 15 years later have brought no concrete benefits to the victims, seem very far away from their daily reality.

*"What reparation? I'm starting to think more about the fact that I don't have anywhere to sleep, I'm sick, that's what I'm thinking about."*

G., 45 years of age (from Bangui). G was raped when she fled Bangui with her family to head for Damara (located 70 km north of Bangui). During those rapes, she was infected with HIV. Bangui, 11 June 2017.

Some of the victims also expressed the wish to receive reparation from Jean-Pierre Bemba, directly financed by him.

*"What we want is reparation from Jean-Pierre Bemba. What he came and did to us is no good, he should pay".*

S., 51 years old. Bangui, 10 June 2017.

### 3.2.2. Reparation with individual repercussions

All of the victims interviewed rejected more or less emphatically any collective projects for reparation managed by the State, because they feared that they would not benefit from them.<sup>53</sup> They all expressed a wish to receive reparations they could benefit individually : that would allow them to access healthcare, education and training for themselves and their children, benefits that would contribute to improving their personal financial situation and their personal wealth, improve their living conditions and those of their children and enable them to leave something to their heirs.

*"What we want is not projects, hospitals, schools that everyone can use. We will not get the benefit of them. We want to build a house for our children, we want to farm. If you only do something for the population, it's not going to benefit us. Even if it's free today, it won't last, and tomorrow we will have to pay. They will sell everything and steal everything. They are always doing backroom deals behind the scenes. We want something individually for us, so that each of us can leave something that is guaranteed for our children."*

C.I., 51 years old (from Sibut). Bangui, 13 June 2017.

### 3.2.3. Types of reparation sought

The victims expressed a wish to receive measures of restitution, compensation and rehabilitation. Some victims also expressed a feeling of having received some satisfaction.<sup>54</sup>

#### A) Restitution and compensation

##### a) The poverty caused by the attacks perpetrated by the Banyamulengue

The attacks perpetrated by the troops of Jean-Pierre Bemba were characterised by systematic pillaging of homes, meaning the theft of all furniture and cash. The houses were also sometimes destroyed at the time that they were pillaged. The victims of the attacks were completely stripped of all of their assets and resources. They found themselves obliged to live in the most extreme poverty thereafter.

*"They took everything, all of our things, our beds, everything."*

N., 33 years old. N. was raped by Banyamulengue in 2002. Her mother, her father, her sister and the second wife of her father were also raped during that attack. Bangui, 10 June 2017.

53. See below pp. 28-29.

54. On the different types of reparation, see the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law adopted by the General Assembly of the United Nations on 16 December 2005 (A/RES/60/147).



*"We were fleeing through the bush and the Banyamulengue pillaged everything from our house, they emptied the entire house and then chased us through the bush. They took the mattresses, everything."*  
C.I., 51 years old (from Sibut). Bangui, 13 June 2017.

The poverty was frequently aggravated because of the physical and psychological consequences of the crimes, meaning that the victims were unable to work.

*"Before the Banyamulengue came, I used to sell merchandise. But I got sick [from HIV]. I stopped because I didn't have the strength and I didn't have any money to run my business. I can't go on fighting to be able to keep my store."*  
Y.B., 43 years old (from Sibut). Bangui, 13 June 2017.

The poverty can also be aggravated by the fact that victims who are women often bear the full financial responsibility for their children because many men left their wives or partners after the rapes that they suffered. Sometimes, the husbands were killed by the Banyamulengue.<sup>55</sup>

Many of the victims of the crimes that Jean-Pierre Bemba was found responsible for were also attacked in subsequent conflicts, which also resulted in violence, murder, destruction and home invasions where property was stolen.

## **b) Restitution**

Some of the victims expressed a wish to have their destroyed homes restored and the objects that were pillaged by the Banyamulengue returned.

*"Before, my father had three houses. During the sacking, the Banyamulengue destroyed one of them. Then the Séléka came and ruined the other one. There is only one left. My parents live there. I have to rent my home with my four children, but I don't have any money so it's my father who pays the rent. He's a farmer, sometimes he has money and sometimes he doesn't. He has debts, we were supposed to be evicted. We are four months behind on the rent. I wish that my father's house that was destroyed by the Banyamulengue could be rebuilt."*  
T., 23 years old. T. was raped by Banyamulengue in 2002. Her mother, her father, her sister and the second wife of her father were also raped during that attack. Bangui, 10 June 2017.

*"I want someone to give me money for the things that were destroyed by the Banyamulengue."*  
I., 45 years old. I. was raped by Banyamulengue in 2002. Her husband, the second wife of her husband and her two daughters were also raped during that attack. A short time later, her seven-month-old baby died. Bangui, 10 June 2017.

*"We would be fine with buying a bed for example. Some people bought a single bed, but now there are always 10 [members of my family] in the house who sleep on the floor."*  
N., 33 years old. Bangui, 10 June 2017.

## **c) Compensation**

Most of the victims who met with FIDH indicated that they wish to receive compensation in the form of cash.

Some said that having a little money would make it easier for those who knew that they were going to die to improve their living conditions and have a better life for their remaining days.

*"It wouldn't be bad to build hospitals and schools, but most of us have already died. Even with the hospitals and the medication, people continue to die. If they had been given money, they would have been able to buy coffee, they would have died happy. It has to be done quickly because many of us are dying now."*  
J., 48 years old (from Damara). J was raped and beaten by five men when she was seven months pregnant. She lost her baby after the rape. Her mother and her husband were killed during the attack by the Banyamulengue. Bangui, 13 June 2017.

55. See below pp. 31-32.

Those who were interviewed generally specified the way that they wished to use the money: for food or medication; to pay the rent or purchase land; to rebuild their houses that had been destroyed or build a house to shelter the families of the victims who were children at the time of the events; to meet the basic needs of their children, including those who were born of rape; and to pay their school fees, among other uses.

*"Ask the ICC to give us money so that we can start a business, put our children in school. I would like some land to build a house for my children."*

CI, 51 years old (from Sibut). Bangui, 13 June 2017.

*"Bemba's soldiers caught me and took me. I gave birth to their child. But I have no means to support that child. If you could think about that."*

C, 28 years old (from Bossangoa). C was kidnapped by one of the Banyamulengue and raped several times. After those rapes, she was pregnant twice and was infected with HIV. The first child died. She was finally able to flee to Bossangoa with help from someone from the Central African Republic. She shared her opinions and concerns during the hearing for determining the punishment in May 2016. Bangui, 11 June 2017.

To meet the needs expressed by the victims, the reparation could be in the form of financial compensation or in the form of income-generating activities so that those who are able to work can improve their level of resources.<sup>56</sup> The reparation could also be in the form of in-kind benefits.

## B) Rehabilitation

Dr Adeyinka M. Akinsulure-Smith and Dr André Tabo, experts on post-traumatic stress disorder and sexual violence in armed conflict, testified when questioned by the Court during the proceedings that "rape victims generally suffer from four types of consequences: (i) medical (including lesions to organs, human immunodeficiency virus (HIV), loss of virginity, and unwanted pregnancies); (ii) psychological (fear, anxiety, anger, aggression, guilt, isolation, embarrassment and shame, loss of confidence, and washing rituals); (iii) psychiatric (PTSD, reactive depression, melancholia, neuroses, addictive behaviour, and psychosomatic disorders); and (iv) social (stigmatisation and repudiation)."<sup>57</sup>

The experts also highlighted the difficulties experienced by victims of rape in reintegrating into society, the lack of access to appropriate medical treatment, how women are abandoned by their husbands after the rapes, which are equated with adultery in the central Central African Republic, and the extreme humiliation experienced by men when they are sodomized by rape<sup>58</sup>.

### a) Medical support

#### i) Physical injury and unwanted pregnancies

The victims interviewed have ongoing physical consequences from the sexual violence inflicted on them by the Banyamulengue and do not have appropriate medical care. Some women became pregnant after the rapes and some were forced to abort.

*"At the time, I had a terrible pain in my lower stomach and pelvic area. It still hurts today. It's a permanent pain. My father makes teas for me out of roots to help with the pain. I take it just to appease him, but it doesn't help."*

T. 23 years old (from Bangui). Bangui, 10 June 2017.

56. See below pp. 34-35.

57. Trial Chamber III, Decision on Sentence pursuant to Article 76 of the Statute, 21 June 2016, No.: ICC-01/05-01/08-3399, §36.

58. *Ibid.*, §37.

*"After what I've lived through, I hurt everywhere, everything hurts. I go to the hospital, they give me prescriptions. I had a D&C to get rid of the foetus of the Banyamulengue. I don't feel good, medicine is a constant in my life. The medicine isn't free and I don't have money to pay for it. My whole family has had to contribute to buy the medication, my children, my aunts, my uncles."*  
C.I., 51 years old (from Sibut). Bangui, 13 June 2017.

Those who were interviewed also have consequences from the other physical violence that they endured during the attacks.

*"I have had pain in my legs ever since the events took place. The Banyamulengue pushed me and I fell down. I started having back pain in 2002."*  
I., 45 years old. Bangui, 10 June 2017.

*"After the shock, my health was ruined. I especially had pain in my chest because the Banyamulengue gave me such a clobbering. Afterwards, I went to the hospital and they gave me something to calm me down. I have headaches, and when I get them, I can't hear anything. I haven't seen a gynaecologist, there are none where I live. All I do is take sedatives. They prescribe them for me every time I go to the hospital. If the prescription is too expensive I have to figure out something I can afford."*  
P.M., 32 years old (from Mougoumba). Bangui, 13 June 2017.

## ii) HIV

Several of the victims interviewed were infected by HIV during the rapes committed by the Banyamulengue.

*"I had some tests done after the events, they found a sickness [HIV]. My family knows about my illness. I haven't hidden it. Everybody knows about it. My children were very sad and it affected them a lot. I take medication, the doctors give it to me for free each month."*  
J., 48 years old (from Damara). Bangui, 13 June 2017.

The interviewees who have been infected with HIV receive free antiretroviral treatment (ARV) from the Community Hospital in Bangui. Still, they all said that food scarcity made it hard or even impossible to take their medication. ARV is usually taken at mealtimes. Without adequate food, the medication can cause significant uncomfortable side effects. The victims who met with the FIDH delegation are so poor that they do not have access to regular meals. In addition, although they receive the ARV at no cost, they have no funds to purchase the other medications to heal against opportunistic diseases (i.e. acetaminophen).

*"Before giving testimony, I had some tests done that I paid for myself [HIV testing]. They gave me some medication for free. At the hospitals in Bangui, you can get ARV at no cost. But if I don't eat when I take the medicine, I get dizzy. I have to take my pills in the morning and the evening but I don't have enough money to buy food. I only eat once a day in the evening, and that doesn't happen every day. So often I cannot take my medication."*  
V., 51 years old (from Bossembélé). V was raped in front of her father on the road between Bangui and Bossembélé. Bangui, 11 June 2017.

*"I'm sick, I don't have enough money for food. The doctor recommended that I eat before taking the medication. So sometimes I can't take the medication. When I take the ARV without eating, I feel tired, I get a headache and I can't do anything anymore."*  
C., 28 years old (from Bossangoa). Bangui, 11 June 2017.

*"When I arrived in Bangui after what happened, I went to see the doctor and he prescribed some tests for detecting STDs and that's how I found out that I was sick [HIV]. I am taking ARVs, they are free. But what's hurting me is famine, it makes the disease worse. When I take the medication and I don't eat, I get dizzy and I feel exhausted."*  
Y.B., 43 years old (from Sibut). Bangui, 13 June 2017.

Finally, those who contracted HIV after the rapes are suffering from a variety of illnesses, some of which could be linked to the destruction of their immune system caused by the infection.

*"I don't get care for the other sicknesses. Sometimes I have pain in my low belly, I have diarrhoea, and I don't have money to buy medicine. Last week I had stomach pain again. I don't have any pills, I take a tea made from roots that my aunt brings for me."*  
C., 28 years old (from Bossangoa). Bangui, 11 June 2017.

*"I don't have money to pay for the medication for the other sicknesses. I am constantly suffering from the symptoms of malaria, I'm anaemic and I have cysts from amoebas. I can't get any care because I don't have any money."*  
V., 51 years old (from Bossembélé). Bangui, 11 June 2017.

The reparation measures ordered by the Court should include free medical care, including free doctor's appointments, as well as full coverage so that any prescribed medications are available at no cost. However, it will be necessary to take into consideration a certain number of barriers to the implementation and efficacy of this type of reparation measure, as listed below.

### iii) Corruption in medical services

Several victims expressed their disbelief in the feasibility of any programme to provide medical care because of the significant corruption that exists in the country.<sup>59</sup> They expressed a disheartening lack of trust in the medical services in the Central African Republic and are convinced that if collective projects are put in place, they will never be able to take advantage of them.

*"We heard that the money for the reparations would be used to build schools and hospitals, and I do not agree with this at all. If a hospital is built, the victims will go there, but we will have to pay for the medication. Show me a hospital where people don't pay for medication? In CAR it's impossible, they will always make us pay. It might work at the beginning. But when the NGOs and the whites leave, they will stop giving us the medicine for free. It's the same for schools. I won't take back my words. If they give us cash, even if it's only 5 or 10 FCFA, it will be better. We will buy the medication."*  
S., 51 years old. Bangui, 10 June 2017.

*"In our country you can't get free care, I don't trust them. Two or three days later they ask you to pay. If you can be sure that it's free, it would be fine."*  
N., 33 years old. Bangui, 10 June 2017.

*"In our country it's impossible to think that something like that would happen. When they build hospitals, in the end, we don't get anything at all. If they have stores of medication, they give them to us for free for a month or two, and then they ask us to pay."*  
N.M., 43 years old (from Bossangoa). When the Banyamulengue arrived, N.M.'s family fled and she stayed with her mother, who was too sick to escape. Both of them were raped, N.M. with the barrel of a rifle. Bangui, 14 June 2017.

*"I have heard people talking about building hospitals, schools, but I don't agree with this. Because even if they are built, not everyone will be able to benefit from them. Whenever there are any events [armed conflict], the white people get scared and they leave, then we will no longer have the right to any free care. It can't work. What I propose is that they give me money so that I can have a little house of my own. The house that I have now is not a good house. I don't have the funds. I would also like some money so that I can do better at farming my land. I'm not necessarily against hospitals and schools, but we have been abandoned."*  
J., 48 years old (from Damara). Bangui, 13 June 2017.

59. The Central African Republic is ranked 159th out of 176 States on the Corruption Index published by Transparency International in 2016.

Many towns in CAR have no hospitals or medical clinics, and most essential healthcare services are provided or supported by humanitarian organizations. Furthermore, the only paved roads in the country are the ones between Bangui and Sibut to the north, the one leading to Baoro to the west and the one leading to Mbaiki to the south. Specialized, safe methods of transportation will therefore have to be found to provide any medical aid and to monitor the proper implementation of the programme on the ground.

## **b) Psychological support**

### i) Psychological harm suffered by direct victims

All of the victims interviewed by the mission experienced extreme psychological effects from the violence inflicted on them by the Banyamulengue 15 years ago. Those effects persist even today.

*"When I remember my child who died just after the attacks and think of all the things that the Banyamulengue did to me, it hurts."*

I., 45 years old. Bangui, 10 June 2017.

*"After the events, I felt so sad, I couldn't stop thinking about it. Sometimes I wished I could just die. Thankfully, we got some counselling from workers from the WHO [World Health Organization] and I started to feel better. They told us that we had to keep going and look towards the future. They went to see village leaders, they crisscrossed the country to raise awareness."*

N.M., 43 years old (from Bossangoa). Bangui, 14 June 2017.

*"When I sit down, when I think about it, I'm sad, sometimes the whole thing gives me a headache. I am a person, something like that should not have happened to me. I ask myself why I had to go through that."*

J., 48 years old (from Damara). Bangui, 13 June 2017.

### ii) Psychological harm suffered by children and spouses

Some of the victims were raped in front of their spouse and/or children. Several women indicated that their children were suffering from significant psychological consequences.

*"The Banyamulengue raped me in front of my three children. My oldest boy is 20 now. He is so violent compared to other kids. We aren't stigmatized but I don't know what people say when I'm not around. When I explained to my son what had happened, my two daughters were there. They were sad but they didn't say anything. They have never asked me any questions about it. But they understand."*

B., 40 years old, (from Bossangoa), Bangui, 14 June 2017.

*"My youngest son is always angry. When people say that I am worth nothing, or they say bad things about me, he gets angry and he fights with the other children. It's not good to fight, I scold him. Now he stays home, and that's not good either."*

P.M., 32 years old (from Mougoumba). Bangui, 13 June 2017.

One of the women interviewed explained that her husband was extremely traumatized by her rape, to the point that it killed him.

*"My husband died because he was so traumatized. He was furious because of what they had done to me. He was depressed, he stopped eating, he became delirious. He was there when it happened."*

C.I., 51 years old (from Sibut). Bangui, 13 June 2017.

### iii) Types of support

Some people indicated that they would like to receive psychological support for themselves or for members of their family who were affected by the crimes that they suffered.

*"I would like some kind of support. Every time I think about all of that again, it's so bad for me, and if I could speak with a psychologist, get some advice, I would feel a little better."*  
V., 51 years old (from Bossembélé). Bangui, 11 June 2017.

*"Some kind of psychological support could help my son get over his aggression, his violence."*  
B., 40 years old (from Bossangoa). Bangui, 14 June 2017.

Some people expressed that they felt some solace from being able to meet in groups, either at church or with other victims, to talk about everything or simply help each other with the tasks of daily life.

*"We meet up with other victims in Bossangoa. When I talk about it with N.M., I feel a little relieved. These groups are a good idea, and they can help us. At first, I thought that I was the only one who had been raped by the Banyamulengue, and then I learned that I wasn't the only one. I shared my testimony with those who had been victims of the Séléka, I told them that I was a victim from 2003 but that God had protected me, I'm still alive. We victims help each other get by. I feel braver after sharing my testimony, after telling them that they are not the only ones."*  
B., 40 years old (from Bossangoa). Bangui, 14 June 2017.

*"I am the chair of a group of women who were victims of the armed conflict. There are about 50 women in the group. We get together and work to clear each other's land, and then we take turns having meals at each other's houses. We go shopping together and we cook together. At the beginning, the idea was to get together because our situation made it impossible to do any hard work. By working together, everything is quicker and easier. We don't have to spend so much time in the hot sun. We don't want to think about what happened to us, it's over and nobody can erase that. We don't talk about the events because we don't know how each of us is feeling, somebody could faint. I am not in favour of psychological support. Our group is only women because these issues that concern women are only for women. Most of us don't have a husband."*  
J., 48 years old (from Damara). Bangui, 13 June 2017.

*"I work a lot with the church. The church is welcoming, I am a member of the choir. Every so often C.I. and I get together to talk."*  
Y.B., 43 years old (from Sibut). Bangui, 13 June 2017.

### **c) Awareness-raising to combat stigmatization**

#### **i) Stigmatization of the victims of sexual violence and their children**

All of the victims who met with the mission suffered and continue to suffer from extreme stigmatization because of the sexual violence that they have undergone. The stigmatization happens in communities as well as in families. Being HIV-positive is an aggravating factor for the exclusion and isolation of the victims. Some of them have suffered physical attacks by people in their communities. This stigmatization often extends to their children.

*"There are always people who stigmatize us, the first thing they say is, 'Are you one of the ones who got raped by the Banyamulengue?'" What can a person say? I didn't ask them to come and rape me."*  
N., 33 years old. Bangui, 10 June 2017.

*"People who know my story stigmatize me. Even in my own family. My brother has beaten me because of that. They tell me that I am nothing, that I am going to die."*  
V., 51 years old (from Bossembélé). Bangui, 11 June 2017.

*"If I tell you that it's easy for me, it would be a lie. I used to be stronger. I used to go and buy supplies to sell, I used to travel. Now I just sit around. Children, adults, everyone points at you, children laugh in your face, they say 'She's the one'. We feel ashamed and we can't really go anywhere. Around adults, nobody pretends. I can't go out, I can't travel around, I am stuck."*  
N.M., 43 years old (from Bossangoa). Bangui, 14 June 2017.

*"My mother is the only one who takes care of me. The other parents are pretty indifferent. But the people from my neighbourhood, we don't get along at all. It seems like we have a good relationship but as soon as there is any little problem, they remind me about my illness, they point the finger at me. I don't react, all I can do is put myself in God's hands."*  
Y.B., 43 years old (from Sibut). Bangui, 13 June 2017.

*"We are the butt of jokes for everyone, people look at us and they say, 'She's the one who was raped by the Banyamulengue.'" My children are stigmatized too. Whenever there is any little problem at school, people say to them that they are victims."*  
J., 48 years old (from Damara). Bangui, 13 June 2017.

*"People have insulted me and called me 'Banyamulengue wife' since the beginning. It makes me feel so sad because I didn't ask for any of this to happen. I was living with my aunt, and her children mistreated my children, they treated them like employees. They called my daughter (the one that I had because of the Banyamulengue) 'monkey' [a term for Congolese citizens living in CAR and working at menial jobs], she was the servant around the house. As time went by, the little kids around the neighbourhood also started to call her that. Now, she feels frustrated and she doesn't want to play with the other children.  
I have my family, my brothers and sisters, but nobody includes me anymore. I am no longer important. My family was sad and upset about what happened to me because of the Banyamulengue. Now my family believes that I'm no longer worth anything, because I lost the ability to continue with my studies and I have children all over the place.  
I want the Court to do something for me because I have become the butt of everyone's jokes, everyone is always laughing at me. Nowadays it's a bit less, it's not as bad as it was before."*  
C., 28 years old (from Bossangoa). Bangui, 11 June 2017.

## ii) Victims abandoned by their spouses

All of the women interviewed who were married at the time of the attacks were abandoned by their husbands because they were raped. The only man that the delegation was able to interview was also abandoned by one of his wives. Men who left their homes also abandoned their children along with their wife.

*"My husband and I got divorced after everything that happened. The Banyamulengue put their hands into my vagina. My husband was able to flee, but they raped me in front of my three children. My son screamed so much. My husband came back and he found us naked in the bedroom. After a time, he made us leave to go to Bangui and stay with our family. Later, we met up with him in Bossangoa. He told me that he didn't feel like living with me anymore because the Banyamulengue had put their hands into my vagina. I asked him, 'What are we going to do about the children?' He answered, 'They abused you in front of them, figure it out yourself.'"*  
B., 40 years old (from Bossangoa). Bangui, 14 June 2017.

*"After the events, my husband and I separated. He went and reported my rape to one of the Banyamulengue leaders, a Rwandan man. He asked why the leader accepted the Banyamulengue doing that kind of thing. But there was no solution, and my husband was afraid that I was infected with an illness, so he went back to his family. I was sad, and I had to take care of my child all by myself."*  
Y.B., 43 years old (from Sibut). Bangui, 13 June 2017.

*"After the events, people talked to my husband, they told him that I must have the sickness [HIV]. So he said to himself that he couldn't carry on with me and he left. I ended up all alone with our children. Every time people point at me, I don't want to have a man in my life anymore."*  
N.M., 43 years old (from Bossangoa). Bangui, 14 June 2017.

### iii) Discrimination against widows and unmarried women

For women, the harm of separation is aggravated because of the discrimination suffered by unmarried women and widows in the Central African Republic.

*"Here in CAR, if you don't have a husband, nobody respects you. If your husband just died, people say you are a witch."*  
C.I., 51 years old (from Sibut). Bangui, 13 June 2017.

### iv) Difficulties being in an intimate relationship

Many women, especially those who lost their virginity because of rape, indicated that they were having trouble finding a husband and/or maintaining a stable intimate relationship.

*"My problem is that I can't find a husband for myself. Men always abandon me. They say that I am a 'Banyamulengue wife'. Everyone in the neighbourhood knows about it. After the violence, I didn't feel good. Even now I feel angry and sad because I can't find a husband who will be only mine. I am the butt of everyone's jokes. I have had children with three different men."*  
T., 23 years old. Bangui, 10 June 2017.

*"My husband and I got divorced after everything that happened. I have had a partner since then but we were not able to live together in peace. He questioned me about the events. I was angry, I didn't answer him, so other people told him. He could see that I was angry. He didn't ask any more questions, but he started to change his behaviour. I understood that it was because of that. I had imagined what would follow. He was the one who left me."*  
B., 40 years old (from Bossangoa). Bangui, 14 June 2017.

### v) Awareness-raising programmes for the population

All of the victims interviewed felt that it would be beneficial to conduct awareness-raising programmes in their communities aimed at fighting against the stigmatization and stereotypes attached to the victims of sexual violence.

*"It would be good to work against stigmatization, because it's the first thing that people say to us when they insult us. Even now, when we have arguments with our neighbours, they point the finger at us."*  
N., 33 years old. Bangui, 10 June 2017.

*"Awareness-raising would be a good choice because we would breathe easier."*  
J., 48 years old (from Damara). Bangui, 13 June 2017.

*"It would be helpful to conduct awareness-raising programmes. Because people mock us, someone needs to tell them that we are humans just like they are, and that's life."*  
V., 51 years old (from Bossembélé). Bangui, 11 June 2017.

*"If we can educate people little by little, stigmatization will end. Someday the taunting can end. People are starting to forget what happened in 2003 because other things have happened since then, but the stigmatization is just as bad as it ever was, and so is the taunting because of sexual violence."*  
S., 51 years old. Bangui, 10 June 2017.



*"It's like an open wound in our heart, each time you want to talk to somebody they call you a 'Banyamulengue wife' ". We are still suffering the repercussions. If people were made more aware, maybe we could feel more like life was still worth living."*  
C.I., 51 years old (from Sibut). Bangui, 13 June 2017.

Some of the victims indicated that they had participated in awareness-raising projects.

*"They asked me to talk to people, I talked. We went around in teams raising awareness with community leaders and the general population. We would rather talk about it ourselves because we are the ones who lived through it. There are also some boys who help us, who didn't live through what we did but who speak to show that what happened is not our fault. The NGOs used to do this too. Today, we are on our own, because the NGOs have left."*  
N.M., 43 years old (from Bossangoa). Bangui, 14 June 2017.

#### **d) Professional education and training**

Some of the victims who were in school at the time of the attacks were forced to abandon their studies because of prejudice and stigmatization or because they had no money to pay their school fees. Leaving school prevented them from continuing with their studies, getting a decent job that was less difficult and menial, and having the benefit of a better income. This lost opportunity has also had significant psychological repercussions.

*"Before the events, I used to go to school. Afterwards, I quit school. I don't know how to read or write. I didn't go back to school because the Banyamulengue took everything and we didn't have any money after that."*  
T., 23 years old. Bangui, 10 June 2017.

Some of the victims also shared that after having been the victims of these crimes, they were no longer able to send their children to school, including children born after the violence perpetrated by the troops of Jean-Pierre Bemba, because of the poverty caused by the crimes or because of the stigmatization.

*"My little brothers and sisters used to go to school before. Three of them quit school. There was no more money to keep going after the violence, and on top of everything, it hurts."*  
N., 33 years old. Bangui, 10 June 2017.

*"After the attacks, my two daughters quit school."*  
I., 45 years old. Bangui, 10 June 2017.

*"After the events with the Banyamulengue, I was left on my own with my three little girls, who were still small. People used to point at us in the neighbourhood, so there was no longer any way for them to continue in school, and they had to quit because people were always pointing at them. Today, they don't work."*  
G., 45 years old (from Bangui). Bangui, 11 June 2017.

Some people have spoken out in favour of an adult education programme, so that they could learn to read and write. Others have expressed a wish to receive professional training. Several have said that they would wish for the reparations to cover the school fees of their children.

*"I didn't want to quit school. I wanted to start up again. I want to learn to read and write in French. My children don't go to school, they are at home. I would really like it if they could be registered to attend school."*  
T., 23 years old. Bangui, 10 June 2017.

*"I would like the State to do something for us. If the State could pay for school for my children. Some of my children are still in school. One of my daughters is in second year. But I haven't been able to pay for her school fees because I don't have any money. When the teachers ask her for money for photocopies and things, she comes home."*  
C.I., 51 years old (from Sibut). Bangui, 13 June 2017.

*"I am 30 years old. I went to school until I was 15. I got my certificate of aptitude. After that, the Banyamulengue kidnapped me and I stopped attending school. I would really like to go back to school because I don't do anything, I'm always thinking, and with my illness... if there were some kind of training, it would help me to forget.*

*None of my children go to school except for one of my boys, whose aunt paid for his school fees. I would like my other children to be registered in school. The first one, who is 11 years old, would like to go to school. She was only able to go between the ages of six and seven years (kindergarten to grade one). I am the one who paid her school fees (3000 FCFA). But you also have to pay for school supplies (15,000 FCFA), the uniform (7000 FCFA), and lunch if she comes home at noon. Now I don't have enough money any more to pay for all that. If there were a programme for children to be able to go to school for free, I would accept that."*

C., 28 years old (from Bossangoa). Bangui, 11 June 2017.

On the other hand, some said that they were not in favour of building schools, an initiative that was announced over the radio, either because they did not believe that school would be free<sup>60</sup> or because they have no children who could attend.

*"Free school, I have no children, what would that do for me?"*

N., 33 years old. Bangui, 10 June 2017.

In the Central African Republic, the cost of private schools varies. Add to that the cost of a uniform, which is sometimes mandatory, and school supplies. The cost of public school is approximately 3300 FCFA per year (including fees, school insurance (AMASCA) and other contributions parents are expected to pay). Parents also have to pay for school supplies (notebooks, slates, pens and pencils, backpacks). Classes are scheduled either in the morning or afternoon depending on the week.

#### **e) Income-generating activities**

Everyone interviewed indicated that they needed money, and some specifically listed what they would need help with to improve their income: the ability to invest in merchandise for resale, purchase a sewing machine to sell clothing, or purchase tools or agricultural inputs to increase production. They strongly expressed a wish to be able to have the means to get personal and individual benefits from the reparation, even if they had to share them, to enable them to improve their individual financial situation. Some people also expressed the need to become involved in some kind of activity to distract themselves, have some fun and improve their mental health.

*"I am a farmer, I would like a tractor and a plough so that I could produce more. The victims could get together depending on how many tractors there are to cultivate the fields together. If the reparations go towards the fields, that's good, because each person has their own field. The results would be more individual and direct than if a hospital were built."*

S., 51 years old. Bangui, 10 June 2017.

*"I sell little things by the roadside, plantains and bananas, little cakes, grilled fish, chicken. But I have a hard time finding money to buy the things I sell. I live thanks to help from my father. I would like some money so that I could run my business. I would like to buy thread for weaving, clothing, shoes to sell, so that I could support my children."*

T., 23 years old. Bangui, 10 June 2017.

*"Before, I used to go into the backcountry to buy manioc and peanuts. Now I am very sick, and I don't have any more money, so I had to stop running that business. I would like a little money so that I could run a small business, to sell a few small things. With my health issues, there's not much I can do."*

V., 51 years old (from Bossembélé). Bangui, 11 June 2017.

60. See above pp. 28-29.

The risk that tools that are distributed could be stolen has however been raised.

*"I could agree with getting some equipment, but the last time they brought us some machines for crushing manioc, they were stolen from us. So I don't know if that would be very effective."*  
J., 48 years old (from Damara). Bangui, 13 June 2017.

#### **f) Housing assistance**

Several victims have expressed a wish to have a house of their own as well as some furniture. Some of them lost their houses and their property when the Banyamulengue attacked, and others are not able or are no longer able to pay rent because of the poverty caused by the pillaging or because of the physical consequences of the sexual violence and other harm caused by the crimes, which prevents them from working.

*"You should film the place where we live; you will be shocked. I have a house made of straw, but during the rainy season, it deteriorated. I would like some tin and some boards to build a house."*  
C.I., 51 years old (from Sibut). Bangui, 13 June 2017.

### **C) Satisfaction**

#### **a) The conviction and sentencing of Jean-Pierre Bemba**

Most of the people interviewed said that they were satisfied with the conviction of Jean-Pierre Bemba and they agreed with the punishment he was given.

*"I was relieved to see that Jean-Pierre Bemba was convicted."*  
I., 45 years old. Bangui, 10 June 2017.

*"He was convicted, my heart is starting to feel a little easier."*  
S., 51 years old. Bangui, 10 June 2017.

Some people however expressed their discontent.

*"The fact that he was convicted did not make me feel relieved, because a lot of us are dying, and nobody did anything for us after that, we are still unhappy."*  
C.I., 51 years old (from Sibut). Bangui, 13 June 2017.

*"What Bemba did was not good, that is why he was tried. But 18 years in prison, that's not much, because what he did to me was my death. Something should be added to the punishment, that would be better."*  
P.M., 32 years old (from Mougoumba). Bangui, 13 June 2017.

#### **b) Testimony/presentation of views and concerns**

##### **i) The relief brought by telling the story of the violence**

Most of the victims who testified or gave their opinions and revealed their concerns before the Court said that they felt relieved after having spoken about what had happened to them.

*"I was happy to testify before the Court, to go and explain because all the things that happened to me did not do me any good. That was a relief."*  
I., 45 years old. Bangui, 10 June 2017.

*"I went to the ICC. I felt calmer after having heard the proceedings. We met with psychologists and we saw other people; we spoke to Bemba and I am happy that I did that."*  
N., 33 years old. Bangui, 10 June 2017.

*"I gave my testimony about what I lived through. It was important. I spoke before everyone, before the judges, my heart was soothed. I will always thank the Court because I was finally able to speak about the pain that I carry in my heart. We want the Court to hear the cries of our hearts. The problem is that we still have no reparation."*  
S., 51 years old. Bangui, 10 June 2017.

*"When I testified, I was well received; I felt gratified. I was allowed to say things that I was carrying in the deepest part of myself that were gnawing away at me so much. I had never spoken to anyone except for my lawyer.  
At the beginning, I thought that I was already done for. But when I testified, I felt something release inside me. I felt completely relieved, it really helped me a lot.  
I testified without covering my face. I didn't want to be anonymous because everyone already knew what had happened to me. There was no use in hiding my identity or covering my face."*  
P.M., 32 years old (from Mougoumba). Bangui, 13 June 2017.

#### ii) Health consequences for the victims

However, the positive effects of testifying must be put into context because of the fact that such a powerful experience could have represented a shock for the victims, and could affect their health, meaning that the ICC should continue to follow up with victims.

*"When I was in The Hague, I had diarrhoea with blood, I had to be taken to the hospital."*  
I., 45 years old. Bangui, 10 June 2017.

*"When I testified (from Bangui on 16 May 2016), it wasn't good for me. I had a fever on that day because I relived everything I had suffered through."*  
V., 51 years old (from Bossembélé). Bangui, 11 June 2017.

*"I had health issues when I got back from The Hague. When I came home, I had constant dizziness, attacks as if I were epileptic, and headaches and chest pains. Before that I didn't have those symptoms, I just had malaria."*  
P.M., 32 years old (from Mougoumba). Bangui, 13 June 2017.

#### iii) Reactions in communities

The testimony also caused envy within communities, although some people were encouraging and in some cases it helped to decrease the stigmatization.

*"When I got home, some people recognized me. I continue to have problems, people envied me because I had gone to testify in The Hague. Out in the country, people are full of complexes. They thought that I had some kind of an advantage over them.  
The ones who were more aware encouraged me. I spoke in sango, in front of everyone; they told each other that it was for the good of the country. Now the stigmatization is a little less. I don't see people pointing at me any more."*  
P.M., 32 years old (from Mougoumba). Bangui, 13 June 2017.

#### iv) Failure to provide adequate psychological support at the Court

Although going back over traumatizing events in front of a large audience in the context of legal proceedings necessarily involves stress for the victims and witnesses, some victims also described a lack of psychological support before, during or after their testimony.

*"I had a full medical check-up when I went to testify in The Hague in 2011. I got all the tests, even the test for AIDS, before I left for The Hague. They give us some pills but I'm not really sure why. Maybe it was to protect us from the cold. I didn't see any doctors after I testified."*  
I., 45 years old. Bangui, 10 June 2017.

*"I remember that before the testimony [by videoconference link], I saw a white woman. I spoke with her by video but I didn't know that she was a psychologist [the Witnesses and Victims Unit of the ICC Registry performs a psychological evaluation before witnesses and victims testify]. The connection was bad. I didn't see any doctors afterwards."*  
V., 51 years old (from Bossembélé). Bangui, 11 June 2017.

Some people complained of their isolation and said that they felt abandoned.

*"The ICC was supposed to come and check on us from time to time. After the Banyamulengue, the Séléka came. We are worn down. I would like it if ICC would come to Bangui to visit the victims."*  
T., 23 years old. Bangui, 10 June 2017.

## CONCLUSION

*"I was still in school when the Banyamulengue took me away to the other side [to the DRC]. I was a virgin. When I came back I no longer had anything. I'm already dead because I have that sickness. I want the Court to do something for me and my children and I want my children to become someone. Since then, I have spoken, for justice. I have nothing left to say."*  
C., 28 years old (from Bossangoa). Bangui, 11 June 2017.

*"I would like to be made whole. I have spoken, now it's up to you."*  
I., 45 years old. Bangui, 10 June 2017.

In a period of time still undetermined, the International Criminal Court will decide to grant reparations to the victims of the sexual violence for which Jean-Pierre Bemba has been found guilty. To make this complex decision, the judges of Trial Chamber III will have to take into consideration a number of factors linked to the crimes and the victims, but also the particular context of the Central African Republic.

The Court intervenes in favour of victims who are in a situation of extreme vulnerability. The survivors of the events in 2002 and 2003 lost everything in the attacks perpetrated by the Banyamulengue, and their financial situation was sometimes aggravated by ensuing conflicts. They are suffering extreme consequences, which in some cases cannot be remedied. They need everything and their needs are interdependent. The Court and the Trust Fund for Victims must therefore create a programme for reparations that makes it possible to respond to all of the consequences of these crimes. In particular, the reparations must be transformative, to ensure that they neither reproduce nor contribute to perpetuating gender-based discrimination and stereotypes.<sup>61</sup>

Furthermore, for more than 15 years, armed conflicts have been ongoing in CAR, and part of its population has been repeatedly re-victimised. Many of the victims of the crimes of Jean-Pierre Bemba have also been the victims of crimes committed by the Séléka, the anti-Balaka or other forces or armed groups that have sacked and pillaged the territory of the Central African Republic.

*"One of my sons died in 2014. He was killed by the anti-Balaka. Another one was shot by MINUSCA, but they were able to get the bullet out and he is alive."*  
S., 51 years old. Bangui, 10 June 2017.

The ICC will therefore be faced with the difficult task of ordering reparations whose goal is to remedy the consequences of crimes that were committed 15 years ago, while other crimes have been and continue to be perpetrated. The judges who define the reparation measures will inevitably have to consider the general context of human rights violations and the multiple re-victimisation of many of the victims.

Moreover, there are still conflicts under way at the time of writing of this report, conflicts that could well continue until the reparations ordered are implemented. The measures ordered must therefore also consider that context of insecurity. It will be particularly important for the judges to ensure that armed groups are not able to affect the reparations process and that the security of the victims is guaranteed.

As confirmed by the testimonies presented in this report, the Central African Republic is a State rotten through with corruption. In order for eligible victims to effectively be able to benefit from the reparation measures to be granted to them, the Court must provide for the implementation of reliable and verifiable procedures that will make it possible to guarantee that sums allocated to the victims are not diverted. One of the major challenges for the Court and the Trust Fund is the choice of the intermediaries who will implement the reparations. They will have to be chosen based on their reliability, integrity and impartiality. The intermediaries should also be selected for their knowledge of the Central African Republic and their proximity to the victims.

61. See Mapping Report, op.cit., p. 234.

One of the criticisms often made against the International Criminal Court is that it is so distant from the situations that it is called to judge. The expert consultation procedure set forth in the founding texts of the Court allows it to receive counsel from people who are closer to the national context in which the crimes were perpetrated in order to better understand the reality of the victims. In the Bemba case, however, the Courts did not feel that it was useful to appoint experts from the Central African Republic, or even any from the African continent, which is unfortunate. Such experts nevertheless decided to go to CAR , in order to meet with the victims and other parties involved in the reparations process.

Because of this lack of contact, the judges will have to rely on the Registry and the Trust Fund for Victims to identify victims who are not already participating in the proceedings, and locate those who are participants but who are scattered around and sometimes displaced, as well as their beneficiaries in the event that they are deceased. The Registry and the Trust Fund for Victims will also be in charge of communicating with victims who are eligible to receive reparation. The two bodies must have sufficient resources to be able to supply relevant information to all beneficiaries regarding the reparation process, or to work with intermediaries who have kept track of where displaced victims have gone and who may be able to assist in identifying them.

Finally, the Court must sentence Jean-Pierre Bemba to provide reparations, and therefore to pay for them. It seems clear that Jean-Pierre Bemba will not have enough personal resources to cover all of his debt, especially given that a significant portion of his own assets will be taken up paying for the reimbursement of the legal aid allocated by the ICC to his defense. The Trust Fund for Victims will certainly have to allocate a significant amount to the financing of the reparations. Nevertheless, the Court should not determine the debt of Jean-Pierre Bemba based on his own assets or on the resources of the Fund. The amount of the reparation must be calculated based on the number of victims and the scope and seriousness of the harm. If the resources that are available when the Court hands down its order are not sufficient, it could imply that reparation will not become effective immediately, and that the amount may not immediately be paid in full. However, the assets belonging to Jean-Pierre Bemba could be identified later, or the Fund could receive voluntary contributions in future, possibly specifically earmarked for reparations in this case, meaning that it could be possible for the entire debt of Jean-Pierre Bemba to be covered. It is important for the harm of the victims to be acknowledged in its entirety and in all its scope, even if some portion of the reparation must remain symbolic for a time. For many victims who are now in poor health or elderly, reparation is urgent, but if they die before all of the reparation granted to them has been paid, their children will still be able to benefit from it.

# RECOMMENDATIONS

## 1. To the Trial Chamber III of the ICC

### 1.1 The eligibility of victims

- Acknowledge the status of the victims who are eligible to receive reparation for all victims who participated in this phase of the proceedings.
- Enable the victims who are not yet participating in the proceedings to demand reparation. The Registry and the Trust Fund for Victims should have the necessary means to identify and support those persons to enable them to effectively participate in the reparations proceedings.

### 1.2 Reparation

- Sentence Jean-Pierre Bemba to pay reparation.
- Respect the independence of the Trust Fund for Victims, which is only involved in a subsidiary manner to supplement the resources of the person who has been convicted, and will decide for itself how much will be taken from its own resources to finance the reparations.
- Order a set of individual and collective reparation measures making it possible to respond to all of the consequences of the crimes. Those measures must be transformative and seek to subvert instead of reinforce pre-existing gender hierarchies and stereotypes.

#### **Restitution**

- Restore the homes, property and assets of the victims that were destroyed or pillaged during the attacks. The reparations programme must include a restitution programme that consists of supplying equipment to rebuild destroyed homes and replace pillaged furniture, such as beds, which are necessary to guarantee an appropriate lifestyle.
- Adopt measures making it possible to guarantee that restitution will continue permanently taking into account the situation of insecurity.
- Guarantee that the restitution does not lead to a reproduction of gender inequality in terms of property ownership. Provide the victims with ownership titles for the assets that are returned to them, ensuring that women and men have equal ownership rights.

#### **Compensation**

- Provide compensation to each victim, based on the harm that they have undergone and without taking into account the solvency of Jean-Pierre Bemba or the amount of resources that the Trust Fund for Victims could make available to the Court to supplement the amount of the reparation order.
- Adopt measures to guarantee the security of victims before and after the payment of compensation, aimed at preventing attacks and pillaging, particularly coming from armed groups that are active in the Central African Republic.
- Implement a programme to raise awareness aimed at managing the expectations of the victims if all the compensation ordered by the ICC cannot immediately be paid by the guilty party, by the Trust Fund for Victims, or by any other stakeholder.

#### **Rehabilitation**

- Guarantee that all victims have access to medical care. Take the necessary measures to ensure that medical appointments and medication are free until the victims are completely healed, and for those who suffer from incurable illnesses, for the remainder of their lives.
- Guarantee that victims but also their relatives who were affected by the crimes have access to psychological support at no cost, for as long as necessary. The reparations programme must include professional counselling services as well as activities to train professionals



who are identified locally, to guarantee that psychological support will be available on an ongoing basis.

- Programmes must be conducted within communities to raise awareness on sexual violence and the consequences of that violence, including sexually transmitted diseases, gender equality, discrimination against single women or widows, and witchcraft, to contribute to reducing the stigmatization and exclusion of the victims and their families.
- Guarantee that victims and their children have access to education and employment, by offering to fund school fees, adult education programmes and professional training.
- Give victims the means to regain control over their lives that have been destroyed by the crimes, and to meet their needs and those of their families, by offering them tools to undertake income-generating activities. Depending on the profession or the views that the victims express regarding professional development, the Court could decide to grant agricultural tools and machinery to improve production, merchandise or money enabling vendors to invest in inventory for resale, or sewing machines for them to make and sell clothing.
- Provide housing assistance to victims who are not eligible for compensation. In effect, some people did not lose their homes in the attacks but they are still experiencing difficulty finding housing because of the poverty caused by the crimes.

#### **Satisfaction**

- Conduct broader programs to raise awareness to inform all victims of the crimes of which Jean-Pierre Bemba was found guilty; to inform people that the ICC found him responsible for murder, rape and pillaging; that he was sentenced to 18 years of prison in the first instance; and to notify the victims about the appeal and the reparations proceedings underway.

## **2. To the Trust Fund for Victims of the ICC**

- Allocate sufficient funds to supplement the amount in the reparation order, so that the debt of Jean-Pierre Bemba is paid insofar as possible and to ensure the speedy and effective implementation of the reparations granted to the victims.
- Allocate funds to cover not only the cost of the collective reparation measures ordered by the Court, but also to cover individual reparation measures, including compensation.
- If the resources of Jean-Pierre Bemba and those allocated to reparations in this case by the Fund are not sufficient to cover all of the debt, especially the amount of compensation ordered, take measures to step up the search for financing so that other stakeholders can cover the debt of the guilty party by making voluntary contributions to the Fund.
- Immediately launch the implementation of assistance activities authorized by the Pre-Trial Chamber since 2012, which have been budgeted for several years and are constantly being suspended for security reasons.<sup>62</sup> The Fund must immediately perform a new needs evaluation and finance projects in places where the security of victims and intermediaries can be guaranteed.

## **3. To the Assembly of States Parties to the Rome Statute of the International Criminal Court**

- Pay the voluntary contributions that can be specifically earmarked for reparations in the Bemba case to the Trust Fund for Victims.

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62. Pre-trial Chamber II, Decision on the "Notification by the Board of Directors in accordance with Regulation 50 a) of the regulations of the Trust Fund for Victims to undertake activities in the Central African Republic", 23 October 2012, ICC-01/05-41 ; Trust Fund For Victims Suspends Its Activities In The Central African Republic, 25 March 2013 [<http://www.trustfundforvictims.org/news/trust-fund-victims-suspends-its-activities-central-african-republic>].

- Allocate an additional budget to the Registry and the Trust Fund for Victims to enable them to have sufficient personnel and the means to identify, locate and inform all of the victims who are eligible to receive reparation.

#### **4. To the Support Units of the Special Criminal Court and its bodies**

- Integrate the provisions relating to the reparations into the founding texts of the SCC.
- Create a Trust Fund for Victims financed by mandatory contributions from governments and institutions participating in the joint project, as well as voluntary contributions. Establish the bodies of the Fund quickly so that those bodies will be able to begin fundraising for voluntary contributions well before the reparations phase to guarantee the effective and rapid implementation of reparations once they are ordered.
- Cooperate with the International Criminal Court to guarantee that communications and awareness-raising strategies for victims are harmonized, ensuring the same harmonization between the two courts regarding approaches on reparations.

#### **5. To the Authorities in the Central African Republic**

- If Jean-Pierre Bemba does not personally have enough assets to pay the entirety of his debt, make a voluntary contribution to cover the amount of his debt to the Trust Fund for Victims of the ICC.
- Cooperate with the Court and the Trust Fund for Victims of the ICC to enable them to implement the reparations ordered within the country.
- Adopt measures to guarantee the security of the personnel of the court and the Fund, their intermediaries, and the victims throughout the entire reparations procedure.
- Adopt measures to guarantee that the reparations granted will continue on an ongoing basis, especially as they relate to combating corruption and insecurity.
- Adopt the Rules of Procedure and Evidence of the SCC as soon as possible to ensure the operationalization of the Court.
- Guarantee reparation for the victims of sexual violence by creating a national victims' fund.

# APPENDIX - LIST OF PEOPLE MET

## International Criminal Court

- Mike P. J. Cole, Representative/Bureau Chief, External Affairs, Central African Republic, Division of External Operations, Registry
- Blaise Pascal Zalagoye Dogui, External Affairs, Central African Republic, Division of External Operations, Registry
- Gervais Bodagay, Assistant in charge of Awareness-raising on the Ground, External Affairs, Central African Republic, Division of External Operations, Registry

## United Nations

- Jasper Pauw, Head, Special Criminal Court Support Unit at United Nations Multidimensional Integrated Stabilization Mission (MINUSCA)
- Gaston Asitaki, Joint Project to Support the Fight against Human Rights Violations and to Resume Justice in the Central African Republic, UNDP

## Embassies

- His Excellency Mr. Christian Bader, Ambassador, Representative of the French Republic in the Central African Republic

## Non-governmental Organizations

- Tatiana Flores Acuna, Director, American Bar Association
- Ben Kabagambe, Assistant Program Director, American Bar Association, Rule of Law Initiative (ABAROLI)
- Adrien Nifasha, Country Director, Lawyers Without Borders







# Keep your eyes open

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**Director of publications:**

Dimitris Christopoulos

**Editor:**

Marceau Sivieude

**Authors /**

**Coordination:**

Karine Bonneau and Daisy Schmitt

**Design:**

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## CONTACT US

FIDH

17, passage de la Main d'Or

75011 Paris - France

Tel: (33-1) 43 55 25 18

[www.fidh.org](http://www.fidh.org)

Twitter: @fidh\_en / fidh\_fr / fidh\_es

Facebook:

<https://www.facebook.com/FIDH.HumanRights/>



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