

PUBLIC ANNEX C

**Negative reports of Mr. Bemba's acquittal following
Prosecution's detailed notice of additional sentencing
submission in tweets, commentaries or newspaper articles**



Alex Whiting

@alexgwhiting

Abonné



1/ Last month, I wrote about how [@IntlCrimCourt](#) Appeals Chamber majority in [#Bemba](#) case unwisely decided not to give deference to Trial Chamber factual findings, and may have relied on tainted evidence in doing so. justsecurity.org/57760/appeals-....

Traduire le Tweet



Appeals Judges Turn the ICC on its Head with Bemba Decision

Reversing Bemba's conviction turns the ICC's procedures upside down, with extremely negative consequences for the institution.

justsecurity.org

05:19 - 3 juil. 2018

27 Retweets 21 J'aime



1

27

21



**Alex Whiting** @alexgwhiting · 3 juil.

2/ Now the Prosecution has filed a submission in the [#Bemba](#) witness tampering case showing how the AC majority's factual findings may have relied on the false narrative of defense witnesses coached by defense lawyer Kilolo. [icc-cpi.int/CourtRecords/C...](https://www.icc-cpi.int/CourtRecords/C...)

Traduire le Tweet

1 8 7

**Alex Whiting** @alexgwhiting · 3 juil.

3/ Specifically, the false narrative coached by Bemba and his lawyer Kilolo related to three of the alleged "errors" that the AC majority found in the TC judgment, relating to Bemba's control as a remote commander and whether he wrote to CAR President requesting inquiry.

Traduire le Tweet

1 6 5

**Alex Whiting** @alexgwhiting · 3 juil.

4/ The witness tampering case against Bemba, Kilolo and others found that defense witnesses D-54, D-15, D-13, and D-25 had been coached to testify falsely on precisely these topics.

Traduire le Tweet

1 3 4

**Alex Whiting** @alexgwhiting · 3 juil.

5/ Moreover, defense witnesses D-19 and D-48 also testified on these topics, and the TC found them unreliable. The AC majority explicitly relies on D-48. Even though D-48 was not among the group of defense witnesses proven to be corrupted in the witness tampering trial

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1 3 2

**Alex Whiting** @alexgwhiting · 3 juil.

6/ his evidence was consistent with the coached testimony of the corrupted witnesses and there is evidence to suggest that he too was corrupted (i.e. he lied about his conversations with defense counsel, which occurred shortly before his testimony).

Traduire le Tweet

1 1

**Alex Whiting** @alexgwhiting · 3 juil.

7/ In other words, and to be clear, three of the errors that the AC majority found in the TC judgment were precisely on topics that were falsely coached by the defense, as found in a separate witness tampering trial.



Alex Whiting @alexgwhiting · 3 juil.

8/ It appears from the AC majority decision that it did not even consider how the corruption on the defense side infected the evidence. The AC majority selectively plucked facts from the record without evaluating how they might have been part of a false defense narrative.

Traduire le Tweet

1 1 1



Alex Whiting @alexgwhiting · 3 juil.

9/ Two conclusions: (1) it appears that because of the AC majority's unwise approach to the evidence, which failed to defer to the TC, the witness tampering by Bemba and his lawyer may have succeeded. The AC majority relied on points that were part of defense false narrative.

Traduire le Tweet

1 1 4



Alex Whiting @alexgwhiting · 3 juil.

10/ And (2) regarding broader discussion about proper standard of review on appeal for factual findings, this shows why TC is in best position to weigh facts and credibility because it sees the WHOLE picture. This is precisely why TC factual findings should be given deference.

Traduire le Tweet

1 3 6

**Marissa Brodney**

@mbrodney

Suivre



Thread on this just-filed [#ICC](#) [#OTP](#) sentencing submission in the [#Bemba](#) Article 70 case: icc-cpi.int/CourtRecords/C..., about witness tampering and the recent Bemba Appeals Chamber Judgment 👉

Alex Whiting @alexgwhiting

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justsecurity.org/57760/appeals-....

Afficher cette discussion

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05:54 - 3 juil. 2018

1 Retweet



**Elvina Pothelet**

@ElvinaPothelet

Suivre



Important development on the Bemba saga

Alex Whiting @alexgwhiting

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justsecurity.org/57760/appeals-....

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06:36 - 3 juil, 2018

2 Retweets 4 J'aime





Philip Grant

@PhilipGrant40

Suivre



Bitter dispute at the [#ICC](#) over [#Congolese](#) politician Jean-Pierre Bemba flares back into the open, as prosecutors alleged his recent surprise acquittal was based on tainted evidence.

Traduire le Tweet



JusticeInfo.net - Bemba 'tainted evidence' row flares into open at ICC

A bitter dispute at the world's only permanent war crimes court over Congolese politician Jean-Pierre Bemba flared back into the open Wednesday, as prosecutors

justiceinfo.net

08:25 - 4 juil. 2018

2 Retweets 4 J'aime





Philip Grant

@PhilipGrant40

Suivre



«It appears that because of the Appeals Chamber majority's unwise approach to the evidence (...) the witness tampering by **#Bemba** and his lawyer may have succeeded».

Read this important thread by **@alexgwhiting**

Alex Whiting @alexgwhiting

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justsecurity.org/57760/appeals-....

Afficher cette discussion

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08:29 - 4 juil. 2018

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4

3



**Philip Grant**

@PhilipGrant40

Suivre



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Traduire le Tweet

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justiceinfo.net

08:25 - 4 juil. 2018

2 Retweets 4 J'aime



**Philip Grant**

@PhilipGrant40

Suivre



La polémique provoquée par l'acquittement de l'ex-vice-président **#congolais** Jean-Pierre **#Bemba** par la **@IntlCrimCourt** a rebondi mercredi devant la **#CPI**, l'accusation affirmant que le jugement surprise prononcé en appel était fondé sur des éléments biaisés.

**JusticeInfo.net - L'affaire Bemba rebondit devant la CPI**

La polémique provoquée par l'acquittement de l'ancien vice-président congolais Jean-Pierre Bemba par la Cour pénale internationale a rebondi mercredi devant la

justiceinfo.net

08:31 - 4 juil. 2018

1 Retweet 1 J'aime



**Maria Mingo Jaramillo**

@MariaMingoJ

Suivre



Interesting thread on the impact of the ancillary case against **#Bemba** for witness tampering on Bemba's acquittal in the main **#ICC** case against him for international crimes. **#CAR #CentralAfricanRepublic @IntlCrimCourt**

Alex Whiting @alexgwhiting

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justsecurity.org/57760/appeals-....

Afficher cette discussion

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05:42 - 4 juil. 2018

8 Retweets 9 J'aime



1



8



9



Tweeter votre réponse

**F. Schweighoferova** @Frederika_schw · 4 juil.

En réponse à @MariaMingoJ @ngos4justice @IntlCrimCourt

Indeed, I also considered it to be a very powerful - and very well formulated - argument used during the OTP's pleading today, assessing and emphasizing the gravity of the crimes committed in light of their impact on the outcome of the main case.

Traduire le Tweet



**Kevin Jon Heller** @kevinjonheller · 4 juil.

New @opiniojuris: my very long post explaining why there is no merit to the OTP's argument that #Bemba's sentence should be enhanced because his witness tampering led to his acquittal. opiniojuris.org/2018/07/04/a-f... #ICC @IntlCrimCourt

Traduire le Tweet

4 26 36

**Alex Whiting** @alexgwhiting · 5 juil.

1/ I think this argument misses larger point. As OTP filing shows, it was proven in the corruption trial that Bemba and defense lawyer Kilolo coached 4 defense witnesses to testify falsely about a narrative that the AC majority then relied on in overturning Bemba's conviction.

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2

**Kevin Jon Heller** @kevinjonheller · 5 juil.

The "larger point" is that the narrative pushed by the corrupted witnesses was the defence's theory of the case — the same theory that was pushed by non-corrupted witnesses. (As the OTP admits.) You and the OTP just prefer to ascribe the AC's decision to the corrupted witnesses.

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1

**Alex Whiting**

@alexgwhiting

Abonné

En réponse à @kevinjonheller @opiniojuris @IntlCrimCourt

When you say the non-corrupted witnesses, there is no proof that they weren't corrupted, and in fact there is evidence that they were corrupted. It's for the TC to determine to what extent the corruption affected credibility in the case.

Traduire le Tweet

08:50 - 5 juil. 2018



Right Truth Impunity

@RTTRimpunity

Suivre



#ICC Prosecutor says #Bemba's acquittal for crimes against humanity and war crimes in the Central African Republic was based partly on false testimonies, via @justiceinfo.net

Traduire le Tweet



JusticeInfo.net - ICC Prosecutor says Bemba acquittal based on false testimo...

As the International Criminal Court (ICC) prepared to hold a hearing this July 5 in a second, witness tampering case against Congolese Senator Jean-Pierre Bemba a...

justiceinfo.net

23:57 - 8 juil. 2018

1 Retweet



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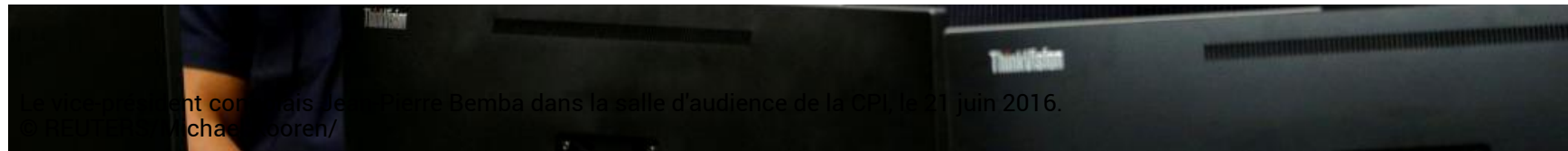
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CPI: l'acquittement de Bemba plane sur l'affaire de subornation de témoins



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Par RFI (/auteur/rfi)

Publié le 04-07-2018 • Modifié le 04-07-2018 à 19:15

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Les avocats de la défense estiment que l'audience de ce mercredi tourne un peu au procès de la décision d'**acquittement de Jean-Pierre Bemba en appel** (<http://www.rfi.fr/afrique/20180608-cpi-jean-pierre-bemba-acquitte-appel>). Ils ont demandé aux juges de ne pas tenir compte du « *désaccord continu* », déjà exprimé publiquement par la procureure générale de CPI, Fatou Bensouda, concernant cette décision.

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Nouveau document

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Les juges ont reconnu que la défense avait le droit de se sentir prise en embuscade pour l'introduction d'un document de plusieurs dizaines de pages dans le registre de la cour alors que normalement, la procédure ne permettait plus l'enregistrement au greffe de requêtes écrites par les parties.

La question sensible des témoignages

La cour a néanmoins décidé de les entendre. Pour le bureau du procureur, il est clair que si 14 des 34 témoins de la défense ont été entraînés à donner certains témoignages par écrit ou à l'oral et que d'autres ont eu des contacts réguliers avant leur témoignage, cela a eu une influence sur la décision d'acquittement.

Car c'est sur la base de certains de ces témoins que la chambre d'appel a décidé de casser la condamnation de **Jean-Pierre Bemba à 18 ans de prison** (<http://www.rfi.fr/emission/20160622-rdc-18-ans-prison-jean-pierre-bemba-justice-internationale-cpi>), en disant que plusieurs circonstances atténuantes n'avaient pas été prises en compte par les juges de première instance.

« *Leur plan a fonctionné* »

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Le premier substitut du procureur cite d'autres témoins, d'autres affirmations et des passages de la décision d'acquittement. « *Leur plan a fonctionné* », n'a cessé de répéter le représentant de Fatou Bensouda.

Ce mercredi matin (<http://www.rfi.fr/afrique/20161019-rdc-jean-http://www.rfi.fr/afrique/20180704-cpi-nouvelle-audience-deuxieme-proces-jean-pierre-bemba>), c'est donc principalement le bureau du procureur qui s'est exprimé. Les avocats de la défense de Me Jean-Jacques Kabongo ont commencé à s'exprimer, mais la cour a prononcé une suspension d'audience. Les plaidoiries ont repris à 14h et devaient se poursuivre cet après-midi jusqu'à 16h.

Chronologie et chiffres clés



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ICC Prosecutor says Bemba acquittal based on false testimony

05.07.18

Stéphanie Maupas, correspondent in The Hague



Bemba at the ICC (2016)

©/ICC

As the International Criminal Court (ICC) prepared to hold a hearing this July 5 in a second, witness tampering case against Congolese Senator Jean-Pierre Bemba and his co-accused, the Prosecutor says his acquittal in early June for crimes in the Central African Republic (CAR) was based partly on false testimonies.

48 hours before the witness tampering sentencing debates, the Prosecutor of the International Criminal Court filed a new deposition. Fatou Bensouda considers that witness tampering by the former Congolese vice-president had an impact on the acquittal decision of June 8. Whilst Bemba was acquitted of crimes against humanity and war crimes charges for rape, murder and looting committed by his forces in the CAR in 2002 and 2003, he remains guilty of tampering with 14 witnesses in the course of the trial. That guilty verdict against him and four others was confirmed

on appeal in early March, but he has not yet been given a final sentence. In her latest document, the Prosecutor says that false testimonies influenced three of the five appeals court judges who pronounced Bemba's acquittal.

“Toxic effect”

“To obtain Mr. Bemba’s acquittal, the convicted persons intentionally and irreversibly poisoned the evidentiary record of the Main Case with the testimony of false, scripted and tainted witnesses,” says Bensouda. “Once the record of a case is polluted with corrupt evidence and false testimony, there is no way of controlling the reach of their toxic effect. Here, that effect reached the appellate stage and affected at least a significant part of the Majority’s assessment and conclusions.”

In short, she says, “the convicted persons’ concerted and unlawful efforts may have ultimately succeeded, not at trial as originally intended, but at the appellate stage”. A few days after the appeals decision, the Prosecutor criticized it strongly in a press release, refusing to admit the weakness of her initial case file, and was called to order by the Court president. Bemba had been charged with command responsibility, not for ordering the crimes committed by his troops, but for failing to prevent or punish them. The trial court rejected Bemba’s attempts to show that he did punish his soldiers.

Bemba’s political future

The trial chamber deemed at the time that Bemba was acting in bad faith, to satisfy the international community. But the appeals chamber considered that the Prosecutor had failed to prove bad faith. Bensouda, however, says the appeals judges “tacitly” accepted the narrative advanced by “scripted and tainted Defence witnesses”. She therefore calls for the maximum 5-year jail sentence and a “substantial fine” for Bemba, his lawyer at the time Aimé Kilolo and defence associate Jean-Jacques Mangenda. The sentences against the two other accused, Congolese parliamentarian Fidèle Babala and witness Narcisse Arido were already confirmed in March.

If the judges impose a fine, it will be paid to the ICC Trust Fund for Victims, which has promised to set up an assistance programme for victims of the 2002-2003 war who will not now obtain reparations. In a memorandum filed before the acquittal, Bemba’s lawyers called for a sentence not exceeding one year in jail and a 300,000 Euro fine. As for Kilolo, he called for confirmation of the 11-month sentence, which he has already served in preventive detention, and 30,000 Euro fine. Jean-Pierre Bemba has already spent more than 10 years in the prison in Scheveningen. But the judges consider that he has spent some four years in preventive detention for the witness tampering (since he was charged). On June 16 he was freed and allowed to join his family in Brussels, after the judges ordered his interim release. Since his acquittal, there has been much speculation about his political

future in Kinshasa, which he left after being beaten by Joseph Kabila in the November 2006 presidential elections. His supporters hope he will return for the Congress of his MLC party scheduled for mid-July.

0 commentaires

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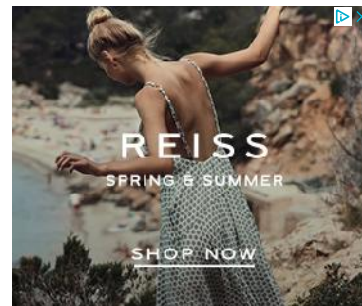
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[Bemba acquitté]: M. Koité Doumbia, du Fonds au profit des victimes de la CPI



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Bemba acquittal overturns important victory for sexual violence victims

Jul. 16, 2018, 9:00 am | By THE CONVERSATION



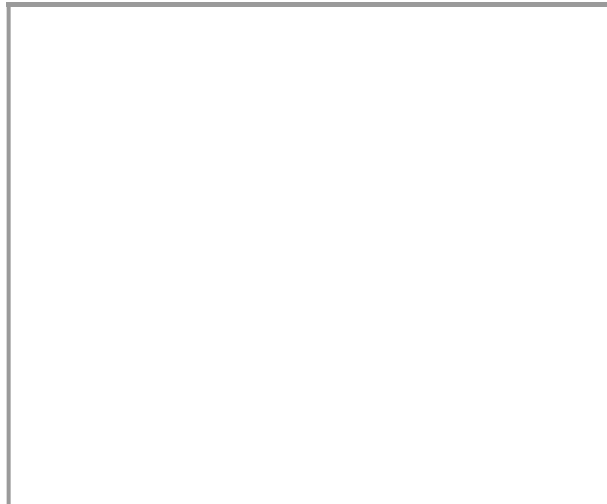
Jean-Pierre Bemba Gombo of the Democratic Republic of the Congo sits in the courtroom of the International Criminal Court (ICC) in The Hague, June 21, 2016. /REUTERS

In early June the International Criminal Court appeals chamber [acquitted](#) Jean-Pierre Bemba in a 3-2 ruling. Two years ago Bemba was sentenced to 18 years' for his role, as military commander, for

atrocities committed in Central African Republic (CAR).

The decision **astounded** observers. The unexpected, narrowly decided acquittal, brought **scads of criticism**. This was because Bemba's 2016 conviction was considered hugely significant. It assigned criminal responsibility to a senior military official physically removed from the violence. It also **made sexual violence a centrepiece of the charges**.

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Sexual violence, a staple of war, has long been absent from international criminal law's charge sheets. By assigning Bemba responsibility for the rapes committed by fighters under his command, the 2016 judgment was seen as an important doctrinal advance for international criminal law.

Bemba's acquittal has wide implications. This is true both for Bemba as well as the ICC and international criminal law. Bemba, who will shortly be released, is rumoured to be returning to Democratic Republic of the Congo (DRC) to pursue political goals. There are reports that his party, the Movement for the Liberation of Congo, known as the MLC, **has nominated** him as its candidate for the presidential race.

Novel interpretations

In acquitting Bemba, the Appeals Chamber made three novel judicial interpretations.

First, the Bemba majority found that the ICC prosecution didn't sufficiently specify the charges against Bemba. International criminal courts have traditionally employed relatively lenient standards of precision in pre-trial indictments and charge sheets. And they've permitted the prosecutor relatively wide latitude in amending the charges, including during trial.

But the Appeals Chamber found that alerting Bemba to the categories of charges he faced (rape, murder, pillage) was not sufficient to later bring precise instances not named prior to trial.

Second, the Bemba majority addressed the question of the appropriate standard of review for appellate bodies. Appellate courts rule on questions of how the law is interpreted and applied, turning to questions of fact only when such facts cannot, as a matter of law, stand as interpreted by the trial court.

The typical appellate standard is therefore one of deference. But the Bemba majority held

when the Appeals Chamber is able to identify findings [of fact] that can reasonably be called into doubt, it must overturn them.

This would seem to invite appeals courts to re-litigate cases heard by trial courts.

Anticipating this objection, the Appellate Chamber emphasised:

This is not a matter of the Appeals Chamber substituting its own factual findings for those of the trial chamber. It is merely an application of the standard of proof [beyond a reasonable doubt.]

This line of argument is not, so far, convincing many observers. The international law scholar Leila Sadat, for example, notes that it is inappropriate for the appeals court to substitute its judgment for a court which worked four-and-a-half years, hearing the testimony of 77 witnesses and producing a nearly 400 page decision.

The "some note" links to the Prosecution Application

In addition, some note that the decision directly rewards Bemba's witness interference. This was because witness tampering – for which Bemba and some of his cohorts were convicted – arguably had a direct

impact on some of the testimony that the Appeals Chamber found to be “in doubt.”

The judgment made no mention of how Bemba’s conviction for obstruction of justice might have altered the evidence it was assessing.

▶ × Finally, the appellate majority reconsidered Bemba’s conviction under command responsibility. It found that the Trial Chamber improperly determined that Bemba did not take “all necessary and reasonable” measures when it convicted him. Specifically, the majority took issue with what it found were unsubstantiated interpretations regarding Bemba’s intent, as well as the Trial Chamber’s use of a standard regarding what Bemba should have done (and the fact that Bemba was never informed of this standard). This may have substantial implications for the possibility of winning convictions under command responsibility.

What the judgment means

Bemba arguably signals a change in direction for the ICC. Other cases have recognised evidentiary ambiguities and inconsistencies.

The [Kenyatta & Ruto cases](#) were dismissed when evidence dissolved: witnesses changed their stories, disappeared, or died. Some were murdered.

In the ICC’s first judgment, [Lubanga](#), all witness testimony was ultimately found to have been tainted and thrown out. Lubanga was still convicted, but given a relatively light sentence.

What’s different about the Bemba case is that it’s the first one in which, after years of effort, evidentiary inconsistencies resulted in acquittal.

More significantly, the Bemba majority's language, arguing against international criminal law as a form of "strict liability," signals the possibility of a change of direction in terms of how legal doctrine is applied and interpreted. This new direction has great positive potential.

Rights advocates and victims lament that substantive justice is not served when defendants are acquitted on procedural grounds. But the language of Van den Wyngaert and Morrison's concurrence in the judgment is instructive and correct. They argue that though acquittals like this are "regrettable", they in fact constitute

the price that must be paid in order to uphold fundamental principles of fairness and the integrity of the judicial process.

But with its narrow majority and its bombshell reception, it's not clear this new focus on procedural legitimacy will hold.

Regarding the problem of witness tampering, the Bemba Appeals Judgment is more ambiguous. Witnesses and their testimony constitute huge, unresolved problems for international criminal trials. US law professor Nancy Combs' fascinating [Factfinding Without Facts](#) follows the problems of evidence gathering and presentation before the ICC. Small and mobile, ICC operatives and investigators can never hope to attain local expertise, and are thus eternally at the mercy of local operators and their interests. This makes the information they collect particularly subjective.

On the other side, the ICC has had trouble protecting witnesses, either from coaching or threat or both. In response to these challenges, the ICC appears to be "getting tougher" through, for example, its prosecution of Bemba and several others for obstruction of justice in his case. On the other hand, Bemba's acquittal on evidentiary grounds that do not themselves reference or consider the problem of witness coaching and tampering, works against any tough line on witness tampering.

Finally, it's not clear what Bemba's acquittal means for the recognition and prosecution of sexual violence crimes. Sexual violence, although pervasive in war, has faced slow doctrinal development under international criminal law. The 2016 Bemba trial judgment's focus on sex crimes was significant,

particularly its doctrinal findings about how sexual violence is articulated under international humanitarian law, and this doctrine is unaffected by the acquittal since it was not addressed.

On the other hand, heightened scrutiny for evidentiary matters is arguably a challenge to future prosecutions for sexual violence. Victims of sexual violence are often slow to come forward, or slow to report sex crimes as part of the litany of what they have suffered. In addition to being very personal (and thus inappropriate to discuss with strangers taking a witness statement), sexual violence often carries deep and pervasive stigma against victims.

The 2016 Bemba judgment was seen as a victory for substantive justice, an important step in carrying us towards the “more just world” the ICC pursues. In the 2018 Bemba acquittal, the majority issued an important challenge about the necessary balance between procedural and substantive justice.

By Kerstin Carlson, Associate Professor International Law, University of Southern Denmark

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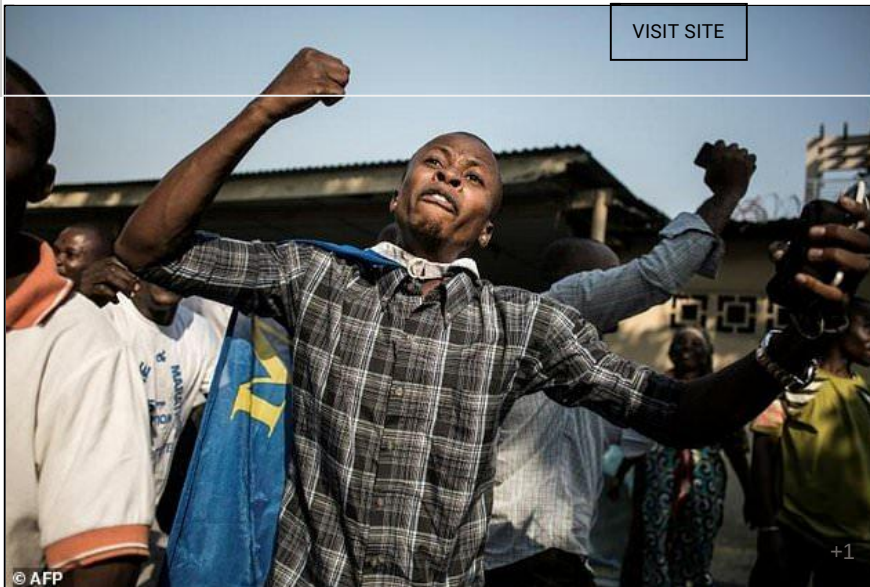
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Bemba's surprise acquittal on appeal was met with celebrations in Kinshasa

A bitter dispute at the world's only permanent war crimes court over Congolese politician Jean-Pierre Bemba flared back into the open Wednesday, as prosecutors alleged his surprise acquittal was based on tainted evidence.

Earlier this month, a starkly divided five-judge bench of the International Criminal Court overturned Bemba's 2016 conviction and 18-year jail term imposed for five counts of war crimes and crimes against humanity.

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But prosecutor Kweku Vanderpuye told judges in a separate corruption and bribery case involving Bemba and his cohorts that "you can't underestimate the degree of corrosion that was in the record before the appeals court".

"At the end of the day, the appeal achieved the very objective of the common criminal plan in which these defendants participated, which was Bemba's acquittal."

Wednesday's hearing was called after the appeals court in the corruption case ordered judges to re-determine the sentence imposed on Bemba, 55, and two others.

The appeals court confirmed in March that they were guilty of bribing, corrupting and coaching 14 defence witnesses in his main trial.

But the appeals judges ruled the original sentences imposed for corruption of between two-and-a half years and six months were too low and sent the case back to the lower court for re-sentencing.

Vanderpuye called for a maximum five years to be imposed on Bemba, his lawyer Aime Kilolo and his legal case manager Jean-Jacques Mangenda.

"Anything other than this in our view is patently untenable. Rather than stem impunity it would only promote it," he argued.

- 'No justice for victims' -

Neither Bemba, once a rebel leader who became vice president of the vast central African country, nor his co-accused were present in the court on Wednesday.

After his June 8 acquittal in the main war crimes case, Bemba was provisionally freed by the ICC pending sentencing in the corruption case and has returned to Belgium, where he was arrested in 2008 and handed over to the ICC.

The ICC opened its doors in 2002 as a court of last resort which seeks to bring to justice those behind the world's worst atrocities where domestic tribunals cannot or will not act.

In the court's toughest sentence to date, Bemba had initially been found guilty by the judges of the atrocities committed by his private army, the Congolese Liberation Movement, under his command.

They committed a series of rapes, murders and pillaging after being sent into neighbouring Central African Republic to put down a coup from 2002-03.

Turning to the some 5,000 victims, Vanderpuye said they had sought justice at the ICC. "They didn't get it."

The sentencing in the corruption case was "a reprieve for this court, and an opportunity for the chamber to set things right, once and for all."

But defence lawyers angrily accused the prosecution of playing "to the peanut gallery" by raising its disagreements over Bemba's acquittal at the hearing.

- Acquittal is 'final' -

The prosecution had no "authority to revisit factual findings issued by the appeals chamber," said Bemba's lawyer Melinda Taylor, insisting the June 8 verdict was final.

"The prosecution has appointed itself judge, jury and executioner of the main case acquittal, and that's not how this court works," she added.

Such moves "undermine the authority of the court, and it undermines the public perception of Mr Bemba's innocence."

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Pointing to the 10 years Bemba has already spent behind bars on trial, Taylor called for him to be discharged completely saying it would be "the fairest, most appropriate outcome" with payment of a reasonable fine to go towards the victims of the crimes.

"It is quite simply time to stop the clock on the proceedings of this court, and let Mr Bemba be free," she added.

After the one-day hearing, the judges will now consider their sentence in private to be issued in the coming months.

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Jean Pierre Bemba's case back at the ICC



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The controversy triggered by the International Criminal Court's acquittal of former Congolese Vice President Jean-Pierre Bemba rebounded Wednesday before the ICC, with the prosecution claiming that the surprise appeal judgment was based on biased evidence.

Jean-Pierre Bemba, was sentenced at first instance in 2016 to 18 years in prison, the heaviest sentence ever imposed by the ICC, for the murders, rapes and looting committed in the Central African Republic by his militia between October 2002 and March 2003.

But last month, an appeal court overturned his conviction.

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“ It is high time to end this trial and let Mr. Bemba go free. ”

However, the case returned to the Hague court on Wednesday where the former DRC vice-president is accused of bribery of witnesses in his main trial. Judges are expected to render their decisions in the coming months.

“You cannot underestimate the degree of corrosion of the file before the Court of Appeal,” prosecutor Kweku Vanderpuye told the international court.

“In the end, the appeal achieved the very purpose of the criminal project in which the accused participated, which was Bemba’s acquittal.

Wednesday’s hearing was convened after the Court of Appeal in the witness bribery case ordered the judges to review the sentence imposed on the 55 year-old former vice president and militia leader and two other co-accused.

The Court of Appeal confirmed in March that they were guilty of corruption and bribery of 14 witnesses in the main case. But it considered that the sentences handed down in March 2017 in this side case, ranging from six months to two and a half years in prison, were too light. Jean-Pierre Bemba was sentenced to one year in prison and a fine of 300,000 euros.

Prosecutor Vanderpuye has requested a maximum of five years for Jean-Pierre Bemba, two of his lawyers, a member of his party and a defence witness, accused of having fabricated or presented false documents to the ICC and paid money to witnesses in order to obtain Mr. Bemba’s acquittal in his trial for war crimes and crimes against humanity.

“Anything other than that is in our view clearly indefensible. This would only promote impunity rather than fight it,” he assured.

But for Bemba’s lawyers, this is only an attempt by the ICC to “amuse the gallery” after the acquittal verdict, which had referred to “serious mistakes” made by the Trial Chamber.

Highlighting the ten that Bemba has already spent in pre-trial detention, her lawyer Melinda Taylor called for a release as “the fairest and most appropriate way out”, while raising the possibility of a fine in the witness bribery case.

“It is high time to end this trial and let Mr. Bemba go free,” she added.

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Jean-Pierre Bemba, who since his release in mid-June joined his family in Belgium, was not present at the hearing on Wednesday.

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La polémique provoquée par l'acquittement de l'ancien vice-président congolais Jean-Pierre Bemba par la Cour pénale internationale a rebondi mercredi devant la CPI, l'accusation affirmant que le jugement surprise prononcé en appel était fondé sur des éléments biaisés.

Ancien riche homme d'affaires devenu chef de guerre puis vice-président, Jean-Pierre Bemba avait été condamné en première instance en 2016 à 18 ans de prison, la peine la plus lourde jamais imposée par la CPI, pour les meurtres, viols et pillages commis en Centrafrique par sa milice entre octobre 2002 et mars 2003.

Mais le mois dernier, un jury d'appel divisé a ordonné sa mise en liberté, l'acquittant à la surprise générale de sa condamnation de 2016.



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Le cas Bemba est toutefois revenu mercredi devant la cour de La Haye où l'ex vice-président de RDC est accusé de subornation de témoins dans le cadre de son principal procès. Les juges doivent rendre leur décision dans les prochains mois.

« Vous ne pouvez pas sous-estimer le degré de corrosion du dossier avant la cour d'appel », a lancé le procureur Kweku Vanderpuye devant le tribunal international.

« Au bout du compte, l'appel a atteint l'objectif même du projet criminel auquel les accusés ont participé, et qui était l'acquittement de Bemba ».

L'audience de mercredi avait été convoquée après que la cour d'appel dans le cas de subornation de témoins eut ordonné aux juges de revoir la peine imposée à l'ancien vice-président et chef de milice âgé de 55 ans et à deux autres co-accusés.

La cour d'appel avait confirmé en mars qu'ils étaient coupables de corruption et subornation de 14 témoins dans le dossier principal. Mais elle avait jugé que les condamnations prononcées en mars 2017 dans cette affaire annexe, allant de six mois à deux ans et demi de prison, étaient trop légères. Jean-Pierre Bemba avait notamment été condamné à un an de prison et 300.000 euros d'amende.

Le procureur Vanderpuye a réclamé un maximum de cinq ans pour Jean-Pierre Bemba, deux de ses avocats, un député de son parti et un témoin de la défense, accusés d'avoir fabriqué ou présenté à la CPI des faux documents et versé de l'argent à des témoins afin d'obtenir l'acquittement de M. Bemba dans son procès pour crimes de guerre et crimes contre l'humanité.

« Tout autre chose que cela est à notre avis manifestement indéfendable. Cela ne ferait que promouvoir l'impunité plutôt que lutter contre elle », a-t-il assuré.

Mais pour les avocats de Bemba, il ne s'agit que d'une tentative pour l'accusation de la CPI « d'amuser la galerie », après le verdict d'acquittement, qui avait évoqué de « sérieuses erreurs » commises par le chambre de première instance.

Mettant en avant les dix que Bemba a déjà passé en détention préventive, son avocate Melinda Taylor a appelé à une relaxe comme « l'issue la plus juste et la plus appropriée », tout en évoquant la possibilité d'une amende dans l'affaire de subornation de témoins.

« Il est plus que temps de mettre un terme à ce procès et de laisser M. Bemba en liberté », a-t-elle ajouté.

Jean-Pierre Bemba, qui depuis sa remise en liberté mi-juin a rejoint sa famille en Belgique, n'assistait pas à l'audience mercredi.

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Owen Bowcott *Legal affairs correspondent*

Fri 8 Jun 2018 17.03 BST

The former Congolese vice-president, Jean-Pierre Bemba, has had his convictions for war crimes and crimes against humanity overturned.

The appeals chamber of the international criminal court in the Hague decided by a majority on Friday to acquit the former politician following an earlier hearing.

The 55-year-old warlord commanded a militia that committed mass murder, rape and pillage in neighbouring Central African Republic, the court ruled at the end of his original trial in 2016.

The verdicts were considered a legal landmark, since it was the first time the ICC had convicted a defendant of either rape or “command responsibility for the actions of their troops”. According to a legal principle established by other UN tribunals, a commander can be found responsible for failing to take action to stop crimes he knows are being committed by subordinates.

There were cheers from Bemba’s supporters in the gallery when the appeal decision was announced by the five-judge panel, headed by judge Christine Van den Wyngaert.

Bemba had been found guilty of two counts of crimes against humanity (murder and rape) and three counts of war crimes (murder, rape, and pillaging) committed in CAR between October 2002 and March 2003. His troops had entered the country to prop up the president, Ange-Félix Patassé, who was eventually ousted.

He was subsequently sentenced to 18 years in prison. His appeal was against both the sentence and the verdicts.

Bemba, who fled the Democratic Republic of the Congo after losing a presidential poll, was arrested in Belgium in 2008 and transferred to the ICC’s detention centre in The Hague. His trial started in November 2010 and lasted four years. It heard from 77 witnesses.

His defence lawyers insisted he had no control over his 1,500 troops. “There is not a single documentary piece of evidence that shows any orders passing from Bemba and going to his troops in Central African Republic,” his lawyer Kate Gibson said in her closing argument at the original trial.

Bemba will remain in custody on account of another case in which he was convicted of offences against the administration of justice, the ICC said in a statement.

In a majority opinion supported by three of the five judges, the ICC appeals chamber said the trial court had “erroneously convicted Bemba for specific criminal acts that were outside the scope of the charges as confirmed”

The court added: “The trial chamber erred in its evaluation of Bemba’s motivation and the measures that he could have taken in light of the limitations he faced in investigating and prosecuting crimes as a remote commander sending troops to a foreign country.”

Two of the five judges, Sanji Mmasenono Monageng and Piotr Hofmański, issued a dissenting judgment upholding the convictions.

The ruling will be considered carefully by other UN war crimes tribunals which have faced similar disputes over legal definitions of the command responsibilities held by

generals and senior politicians in charge of troops who commit mass rapes, murders and other offences.

Fiona McKay, a former ICC official now working for the Open Society Justice Initiative, said: “This was the first ICC case with a major focus on the use of rape as a weapon of war and testing the notion of command responsibility. The acquittal decision is a major blow to the ICC prosecutor’s office, given the vast resources that have been devoted to this case, which has lasted for more than 10 years.”

Rupert Skilbeck, director of the UK based human rights group Redress, said: “This is a devastating outcome for the more than five thousand victims who participated in the trial and had waited 15 years to see justice done and to receive some form of redress for their suffering.

“Some victims contracted HIV after being gang-raped by MLC soldiers. Others were rejected by their families and ostracised by their communities, and many have been left to fend for themselves, without access to basic antiretroviral drugs, psychological or economic support.”

The ICC’s chief prosecutor, Fatou Bensouda, said she regretted the “troubling” decision. “Today’s judgement does not deny that Mr Bemba’s troops committed the crimes which resulted in great suffering in the Central African Republic at their hands,” she said.

“The carnage and suffering caused by those crimes were very real, and they are recognised.

“From the outset of our investigations, my office has worked tirelessly, with the plight of the victims foremost on our minds and guided our actions, and will continue to do so.”

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Congolese ex-Vice President Bemba acquitted of war crimes on appeal

Stephanie van den Berg, Amedee Mwarabu

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THE HAGUE/KINSHASA (Reuters) - The International Criminal Court on Friday overturned the war crimes conviction of former Democratic Republic of Congo Vice President Jean-Pierre Bemba, a

huge blow to prosecutors that could also dramatically shake up politics in his home country.

FILE PHOTO: Jean-Pierre Bemba Gombo is seen in a court room of the ICC to hear the delivery of the judgment on charges including corruptly influencing witnesses by giving them money and instructions to provide false testimony and false evidence, in the Hague, the Netherlands, March 21, 2016. REUTERS/JERRY LAMPEN/Pool/File Photo

Bemba was one of only four people convicted by the permanent war crimes court in its 16 years of operation, and the highest ranking among them. He had been convicted of murder, rape and pillage for actions by fighters he sent to Central African Republic to back CAR's then-president Ange-Felix Patasse.

A crowd of hundreds of supporters cheered outside Bemba's party headquarters in the Congo capital Kinshasa, shouting "Our president is free!" and "Jean Pierre Bemba is our candidate!"

Judge Christine Van den Wijngaert said Bemba, once the leader of Congo's main opposition party, could not be held responsible for crimes carried out by troops under his control in CAR in 2002-2003.

Dismissing his 18-year-sentence, she said trial judges had failed to consider his efforts to stop crimes committed by his Movement for the Liberation of Congo (MLC) once he became aware of them, and how difficult it would have been for him to control the troops' actions from a distance.

"Mr Bemba cannot be held criminally responsible for the crimes committed by MLC troops during the Central African Republic operation," she said, reading the ruling of a 5-judge appeal panel. Bemba's efforts to stop the crimes "extinguished his responsibility in full".

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His acquittal could revive a moribund opposition in Congo, where President Joseph Kabila, still in power after his mandate ran out in

Dec 2016, looks likely to seek a third term on a legal technicality or by changing the constitution.

Congo government spokesman Lambert Mende said on Friday that Bemba had the right to return home if released.

Bemba ran against Kabila in 2006 elections that went to a run-off between them before Kabila won.

According to a nationwide public opinion survey by New York University's Congo Research Group in March, despite being absent for a decade Bemba would finish third in a hypothetical presidential race behind two other opposition leaders

ICC Prosecutor Fatou Bensouda called the appeal decision "regrettable and troubling". She noted that judges did not deny Bemba's troops had committed atrocities "which resulted in great suffering in the Central African Republic."

"The carnage and suffering caused by those crimes are very real and they are recognized," she told journalists.

Fiona McKay of the Open Society Justice Initiative said the decision was a "major blow" to Bensouda's office "given the vast resources that have been devoted to this case, which has lasted for more than 10 years."

“This was the first ICC case with a major focus on the use of rape as a weapon of war”, she said.

Bemba’s case had been seen as cementing the precedent that officials may be held liable for the actions of troops under their command.

He was not released immediately on Friday because he has also been convicted of witness tampering, and an appeals judgment in that case is still pending. The court called a status conference in his case for June 12, which Bemba’s lawyer called “unacceptable” given that the maximum sentence on that charge is five years and Bemba has already been jailed for 10.

He said Bemba would probably go to Belgium to meet with his family there before returning to Congo after he is released.

Bemba, the son of a businessman, became rich during years of close association with former Congolese leader Mobutu Sese Seko. He entered government with Kabila in 2003 as part of a power-sharing deal that ended years of civil war.

Karine Bonneau of the International Federation for Human Rights said the decision was devastating for an estimated 5,000 victims of troops under Bemba who were awaiting the ruling.

The message “to warlords seems to be: when you’re not at the scene, let your troops commit the worst crimes and worst abominations, then say you had nothing to do with it, and we won’t condemn you.”

Reporting by Stephanie van den Berg, Toby Sterling and Bart Meijer; Additional reporting by Benoit Nyemba in Kinshasa and Tim Cocks and Aaron Ross in Dakar; Editing by Peter Graff

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WORLD NEWS JULY 19, 2018 / 1:44 PM / UPDATED 8 MINUTES AGO

Putin says forces in U.S. trying to derail success of Trump summit

Reuters Staff

1 MIN READ



MOSCOW (Reuters) - Russian President Vladimir Putin said on Thursday that certain forces in the United States were trying to undermine the success of his summit with U.S. President Donald Trump, but that the meeting had nevertheless been a positive start.

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Jean-Pierre Bemba: Congo warlord's conviction overturned

8 June 2018



The International Criminal Court (ICC) has overturned the conviction for war crimes and crimes against humanity of former Democratic Republic of Congo Vice-President Jean-Pierre Bemba.

Bemba was found guilty in 2016 of crimes committed in the neighbouring Central African Republic (CAR) from 2002 to 2003.

He was accused of failing to prevent his rebels killing and raping.

But a judge has now said he cannot be held responsible for their actions.

Christine Van den Wijngaert also said the judges in the 2016 case had failed to take into account his attempts to stop the crimes once he was made aware they were taking place.

Africa Live: For more on this and other stories from around the continent

Who is Jean-Pierre Bemba?

What is the International Criminal Court?

The decision to overturn the 18-year sentence was greeted with cheers from his supporters in the gallery.

But human rights group Amnesty International said it was a "huge blow" for the victims of a "horrifying campaign of rape and sexual violence", as it called on the authorities to redouble their efforts to prosecute those who had carried it out.

ICC prosecutor Fatou Bensouda described the ruling as "regrettable and troubling".

Before Friday's decision, the ICC had issued verdicts in six cases, with nine people being convicted and one acquitted, according to its website.

More than 5,000 survivors took part in the proceedings against Bemba, said Amnesty's head of international justice, Solomon Sacco.

"For these brave individuals, as well as thousands of other victims in CAR, the pursuit of truth, justice and reparations will continue," he added.

Landmark

Bemba's conviction marked several milestones for the ICC. It was the first time the court had focused on rape as a weapon of war, and the first time a suspect had been convicted for crimes committed by others under his command.

The court heard how Bemba sent more than 1,000 fighters to CAR back in 2002 to help then President Ange Felix Patasse put down an attempted coup.

But his forces committed acts of extreme violence against civilians - crimes which the original judges said Bemba was made aware of but did nothing to stop.

However, appeal Judge Van den Wyngaert said the judges in the original case had "ignored significant testimonial evidence that Bemba's ability to investigate and punish crimes in CAR was limited".

Appeal judges also said he had been "erroneously" convicted for specific criminal acts.

Bemba, who has already spent almost a decade in jail, will not be immediately released from detention in The Hague after he lost a separate appeal against a conviction for bribing witnesses.

CAR, meanwhile, has remained in an almost constant state of turmoil. The International Committee of the Red Cross warned in January that half its population was in need of humanitarian aid, while the United Nations has had a peacekeeping force in the country since 2013.

A report by Human Rights Watch in October 2017 said fighters in its most recent conflict, which has been raging for more than five years, continued to use sexual violence to "terrorise women and children".

Elation for some, questions for others

Anna Holligan, BBC News correspondent, The Hague

There were scenes of jubilation never before witnessed inside the International Criminal Court.

Jean-Pierre Bemba's legion of loyal friends and family dressed up for the occasion in vibrant shades of traditional attire.

Their elation was expressed with such vigour the judge called on court staff to restore order.

Some will say the verdict proves this court, often derided as a neo-colonial tool, is driven purely by truth and facts.

But the acquittal is a blow for prosecutors. Jean-Pierre Bemba's conviction was one of their few victories and celebrated at the time as a warning to other leaders that they could be held liable for the actions of troops under their command, even when they're committing atrocities on foreign soil.

Human rights groups are already saying the prosecution must learn from its failures and do more to ensure their evidence can stand up in court.

Who is Jean-Pierre Bemba?



A well-connected businessman and the son of prominent Congolese businessman Bemba Saolona

1998: Helped by Uganda to form MLC rebel group in Democratic Republic of Congo

2003: Becomes vice-president under peace deal

2006: Loses run-off election to President Joseph Kabila but gets most votes in western DR Congo, including Kinshasa

2007: Flees to Belgium after clashes in Kinshasa

2008: Arrested in Brussels and handed over to ICC

2010: Trial begins

2016: Found guilty of war crimes and crimes against humanity

2018: Conviction overturned on appeal

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« The fact JP #Bemba was not in Bangui when the facts have occurred and his alleged actions AGAINST THOSE CRIMES make of this verdict an insult to the thousands of victims of the army he equipped, headed and sent to sow despair in #CAR » @IntlCrimCourt

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Lauren Comiteau et Liz Evenson





Karine Bonneau

@Karine_Bonneau_

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#Acquittement #Bemba. Les #victimes en larmes et la #RCA continue de compter ses morts @Sam_hanryon @fidh_fr @D_Carlens @StephMaupas



L'ancien vice-président congolais Jean-Pierre Bemba acquitté en appel par la...

En 2016, l'ancien chef de guerre avait été reconnu coupable par la Cour pénale internationale de « crimes contre l'humanité » et de « crimes de guerre » commis en mobile.lemonde.fr

22:10 - 8 juin 2018

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4



5



4



**Karine Bonneau**

@Karine_Bonneau_

[Suivre](#)

Les juges ne nient pas les crimes ni le rôle de [#Bemba](#). Mais 3/2 juges estiment que son rôle en tant que commandant hiérarchique (art.28 Statut CPI) n' a pas été assez défini. 2 opinions dissidentes fortes. Heureusement!

Sonia Rolley  @soniarolley

#RDC #RCA #CPI : "ses erreurs sont sérieusement entachées le jugement" sur le fait que Jean-Pierre Bemba n'est pas pris les mesures nécessaires et raisonnables, selon la majorite des juges. Jean-Pierre Bemba est acquitté @RFI explosion de joie dans la salle

07:47 - 8 juin 2018

1 J'aime



**Karine Bonneau**

@Karine_Bonneau_

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#Acquittement de Jean Pierre #Bemba en appel par #CPI: un affront aux milliers de #victimes fidh.org/fr/regions/afr... via @fidh_fr



Acquittement de Jean Pierre Bemba en appel : un affront aux milliers de victi...

(La Haye, Paris, Bangui) Aujourd'hui, la Chambre d'appel de la CPI a renversé la condamnation en première instance et acquitté à la majorité de sa (...)

fidh.org

11:13 - 8 juin 2018



2





Karine Bonneau

@Karine_Bonneau_

Suivre



#Bemba Aujourd'hui je pense aux #5229 victimes des crimes de viols et meurtres du MLC qui ont participé dans cette procédure depuis plus de 10 ans et défenseurs centrafricains. Les juges majoritaires de la #CPI ont une lecture étroite et décalée de la réalité centrafricaine.



08:03 - 8 juin 2018

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FIDH, antoine bernard, Amal Nassar et 3 autres



7



14



11





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#Acquittement #Bemba #CPI : "Aujourd'hui, les juges viennent de voler les derniers espoirs de réparations aux 5000 victimes et rescapés, les renvoyant à leur solitude et précarité"

Lire notre communiqué :
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11:03 - 8 juin 2018

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👤 CPI-Cour pénale int., Thijs Bouwknegt, Christophe CHAMPIN et 4 autres

💬 46 🔄 44 ❤️ 43 ✉️

**JusticeInternational**

@Justice_Intl

Suivre



We are concerned with today's extremely disappointing decision of the [#ICC](#) Appeals Chamber on [#Bemba](#) - this is a huge blow to the [#CAR](#) victims first of all and civil society around the world, as well as to the [#OTP](#) and the whole [@IntlCrimCourt](#)

Int'l Criminal Court  [@IntlCrimCourt](#)

Read [#ICC](#) Press Release: [#ICC](#) Appeals Chamber acquits Jean-Pierre [#Bemba](#) Gombo from charges of war crimes & crimes against humanity
icc-cpi.int/Pages/item.asp...

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11:24 - 8 juin 2018

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2



6





Maryna Chebat

@MS_Chebat

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#Bemba "We are extremely disappointed, we've been involved in the process since 2002. It's about 5229 victims that have been part of the proceedings. What would be their feelings today ? Their hopes are shut down", @AmalNassar_ from #FIDH on @BBCWorld

Traduire le Tweet



DR Congo warlord's conviction overturned, Africa Today - BBC World Service
The ICC upholds Jean-Pierre Bemba's appeal against his war crimes conviction.
bbc.co.uk

13:24 - 8 juin 2018

5 Retweets 5 J'aime





Maryna Chebat

@MS_Chebat

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#Bemba

"The message to warlords seems to be: when you're not at the scene, let your troops commit the worst crimes and worst abominations, then say you had nothing to do with it, and we won't condemn you.",

@Karine_Bonneau_ International Justice Desk
#FIDH

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Congolese Ex-Vice President Bemba Acquitted of War Crim...

usnews.com

13:03 - 8 juin 2018

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Karine Bonneau

@Karine_Bonneau_

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Sessions speciales de @RFI sur
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 Quand les réactions de certains a Kinshasa
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CPI: Jean-Pierre Bemba acquitté en appel - RFI

Condamné en première instance à 18 ans de prison pour crimes de guerre et crimes
 contre l'humanité commis en Centrafrique, l'ancien

[rfi.fr](#)

16:01 - 8 juin 2018

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5



1



Acquittement surprise de Jean Pierre Bemba à la CPI : échec et mat pour la justice internationale

Par Maria Malagardis(<http://www.liberation.fr/auteur/6919-maria-malagardis>) — 9 juin 2018 à 14:04

En renversant radicalement la condamnation prononcée contre Jean-Pierre Bemba, leader et ex-chef de guerre congolais, la Cour d'appel de la Cour Penale Internationale sanctionne certaines

approximations du dossier du procureur mais affaibli aussi la crédibilité de la justice internationale.

Notamment aux yeux des nombreuses victimes qui avaient accepté de témoigner dans ce procès qui a duré huit ans.

«*C'est une tragédie, un revers incroyable*», confie, quelque peu sonnée, Karine Bonneau de la Fédération Internationale des Droits de l'Homme (FIDH), après l'annonce vendredi après-midi de l'acquittement de Jean-Pierre Bemba à la Cour Pénale Internationale (CPI) à La Haye. Une décision qui a aussitôt fait l'effet d'un coup de théâtre, accueillie par des cris de stupeur mais aussi des applaudissements dans la salle d'audience. Au moment précis où les juges de la Cour d'Appel ont totalement renversé le verdict prononcé contre ce même inculpé, il y a deux ans, le 21 mars 2016.

Ce jour-là, Jean Pierre Bemba avait été condamné à 18 ans de prison, la peine alors la plus lourde jamais prononcée par la CPI. Bemba avait aussitôt fait appel mais personne n'aurait pu prédire que ce nouveau jugement aboutirait à un verdict aussi radicalement opposé, après huit ans de procès et dix ans d'emprisonnement pour Bemba.

Le choc est rude pour le bureau du procureur de la CPI qui avait fait de ce long procès un symbole. D'abord parce que l'accusé est un homme puissant, le «*premier gros poisson*» en réalité, jamais arrêté par cette juridiction internationale en mai 2008. Dans son pays, la République Démocratique du Congo (RDC), Bemba est en effet un homme qui compte, depuis longtemps : tour à tour, chef de guerre, vice-président du pays, candidat aux présidentielles, sénateur. C'est aussi un riche homme d'affaires, qui n'entrera en politique qu'après 1997 et la chute du Maréchal Mobutu auquel sa famille était liée. Sa milice armée, transformée par la suite en parti politique, le

Mouvement pour la Libération du Congo (MLC) aurait commis de nombreuses exactions dans de lointaines provinces où Bemba s'est un temps replié.

Reste que ce ne sont pas les crimes éventuellement commis dans son propre pays, qui lui étaient reprochés devant la CPI. Mais ceux, commis dans un pays voisin : en Centrafricain. En 2002, alors confiné au nord-est de la RDC, Bemba répond à l'appel à l'aide du président centrafricain Ange-Félix Patassé, alors confronté à une rébellion armée. Or à Bangui la capitale centrafricaine, le contingent du MLC va pendant plusieurs mois multiplier les atrocités : pillages systématiques, mais aussi viols et tortures. Les témoignages recueillis, dès cette époque, par la FIDH reflètent une sauvagerie et une cruauté sans limites qui méritent amplement le qualificatif de «crimes de guerres» et de «crimes contre l'humanité».

Mais qui est responsable ? Bemba ? A l'époque des faits, il n'est pas en Centrafricain, se contentant de «prêter» ses hommes à Patassé. Et en 2007, au moment où la CPI annonce l'ouverture d'une enquête le concernant, il est confronté à d'autres enjeux : devant fuir son pays, lorsque sa rivalité avec le président congolais Joseph Kabila tourne à la guerre ouverte. Moins d'un an plus tard, il est arrêté dans son exil bruxellois et envoyé à La Haye. Ses partisans crieront aussitôt au procès politique, ses avocats n'auront de cesse de rappeler son absence du lieu des crimes commis.

Du côté de la CPI en revanche, le cas Bemba apparaît bientôt comme une opportunité historique : pour sanctionner pour la première fois les violences sexuelles qui n'ont jamais pu être prouvées dans des jugements précédents. Et en imposant également la notion de «supériorité hiérarchique», celle qui rend les «chefs» comptables des exactions de leurs troupes sur le terrain. Même à distance. Reste à le prouver.

«Bemba savait» affirme Karine Bonneau de la FIDH. *«Ses troupes avaient déjà commis des exactions en RDC et il connaissait leur comportement. Par ailleurs, il a été plusieurs fois interpellé notamment par le président de la FIDH dès cette époque. Or jamais Bemba n'a sanctionné le moindre*

militaire», déplore-t-elle. Sauf que la CPI n'a pas non plus cherché à pousser les enquêtes sur les subordonnés qui se trouvaient sur place, se contentant, peut-être un peu vite, du cas symbolique de Bemba. Dont les arguments n'auraient pas été examinés avec l'attention requise, ont finalement estimé trois des cinq juges de la Cour d'appel pour justifier vendredi leur décision surprise. Laquelle évoque également d'autres lacunes, plus techniques, qui accablent au fond le bureau du procureur, très affaibli par cet échec retentissant : dix ans de procès pour rien.

Mais les conséquences sont également dévastatrices pour les 5229 victimes centrafricaines qui avaient accepté de témoigner. Dans ce pays meurtri ensuite par tant d'autres tragédies et violences, la confiance dans la justice risque d'être largement, et pour longtemps, compromise. Quant à la RDC, la libération de Bemba risque de bouleverser la donne dans la perspective des prochaines présidentielles de décembre 2018. Lors d'un scrutin qui s'annonce sous tension, Bemba ne sera-t-il pas tenté de jouer les hommes providentiels face à Joseph Kabila ? Les cartes sont en tout cas désormais rebattues. Mais pour la justice internationale dans l'immédiat, c'est tout simplement : échec et mat.

Maria Malagardis (<http://www.liberation.fr/auteur/6919-maria-malagardis>)

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Samuel Press FIDH

@Sam_hanryon

Suivre



#Bemba: Pour des bisbilles internes, trois juges de la @CourPenaleInt innocentent un criminel de guerre, mettent en danger victimes et associations locales bernées par les promesses de justice, et sabordent la #CPI. Bravo Christine Van den Wyngaert !



Le Congolais Bemba acquitté de crimes de guerre et crimes contre l'humanité
france24.com

00:52 - 9 juin 2018

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FIDH

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#Bemba #ICC "We are extremely disappointed, we've been involved in the process since 2002. It's about 5229 victims that have been part of the proceedings. What would be their feelings today ? Their hopes are shut down", @AmalNassar_ #FIDH on @BBCWorld

Traduire le Tweet



DR Congo warlord's conviction overturned, Africa Today - BBC World Service

The ICC upholds Jean-Pierre Bemba's appeal against his war crimes conviction.

bbc.co.uk

00:57 - 9 juin 2018

6 Retweets 2 J'aime





maria malagardis

@mariamalagardis

Suivre



A La Haye, le Congolais Bemba acquitté, la cour pénale décrédibilisée

liberation.fr/france/2018/06... via @libe



A La Haye, le Congolais Bemba acquitté, la cour pénale décrédibilisée

Deux ans après sa condamnation à dix-huit ans de prison pour « crimes de guerre » et « crimes contre l'humanité » en Centrafrique, le Congolais a été acquitté vendredi par liberation.fr

01:07 - 9 juin 2018

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2



7



13





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#Bemba's acquittal : "Twenty years after its creation, has the #ICC just scuttled itself?"
@Karine_Bonneau_ #FIDH

Traduire le Tweet



Bemba's acquittal may bode ill for ICC's future

The court ruling has critics pondering the future of the ICC and how, if at all, military leaders can be held to account. The timing is sure to throw a wrench into Congo's

dw.com

12:41 - 10 juin 2018

10 Retweets 5 J'aime



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10



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JFJustice

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The "relevance" of the [#ICC](#) in question after the acquittal of Congolese [#Bemba](#)

Stephen Rapp: "For the fight against impunity, this decision is very disappointing, it seriously weakens the ability of international justice to condemn people like Bemba."

justiceinfo.net/fr/justice-rec...

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02:33 - 11 juin 2018

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Jean-Pierre Bemba: ICC orders release of Congo 'warlord'

12 June 2018



Judges at the International Criminal Court (ICC) have ordered the release of former Democratic Republic of Congo rebel leader and Vice-President Jean-Pierre Bemba.

Last week, appeal judges overturned his 2016 conviction on charges of war crimes and crimes against humanity.

Bemba is yet to be sentenced for the separate charge of bribing witnesses.

Judges ruled that he could join his family in Belgium, while he awaits sentencing in that case.

He had already served more than 80% of the maximum possible sentence of five years for bribing witnesses, so it would be "disproportionate" to keep him in custody, judges said.

Africa Live: For more on this and other stories from around the continent

Who is Jean-Pierre Bemba?

What is the International Criminal Court?

Bemba was arrested in Belgium in 2008 after the ICC issued an international arrest warrant for him.

He was accused of failing to stop his rebel forces from killing and raping people in neighbouring Central African Republic in 2002 and 2003.

Bemba was convicted in 2016, and sentenced to 18 years in prison.

The trial was the first before the ICC to focus on sexual violence as a weapon of war.



Bemba waged a long legal battle to overturn his conviction and last week appeal judges finally ruled in his favour.

They said he could not be held criminally responsible for crimes committed by his troops.

Human rights group Amnesty International said his acquittal was a "huge blow" for the victims of a "horrifying campaign of rape and sexual violence".

ICC prosecutor Fatou Bensouda described the ruling as "regrettable and troubling".

The judges ordered what they called Bemba's "interim release" under specific conditions, including barring him from making public statements on the case, changing his address without prior notice, and contacting witnesses.

He is due to be sentenced on 4 July after being convicted in a separate case of corruptly influencing witnesses and falsifying evidence during his war crimes trial.

Bemba's release could have an impact on politics in DR Congo, where he maintains a loyal support base, reports the BBC's Anna Holligan from The Hague.

One member of his party told our correspondent that Mr Bemba now hopes to run for president in elections scheduled for December.

Who is Jean-Pierre Bemba?



A well-connected businessman and the son of prominent Congolese businessman Bemba Saolona

1998: Helped by Uganda to form MLC rebel group in Democratic Republic of Congo

2003: Becomes vice-president under peace deal

2006: Loses run-off election to President Joseph Kabila but gets most votes in western DR Congo, including Kinshasa

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Alice Banens

@AliceBanens

Suivre



Acquittement de #Bemba: en #RCA, "dans ce pays meurtri par tant d'autres tragédies, la confiance dans la justice risque d'être compromise pour longtemps."

liberation.fr/amphhtml/france... via @libe.

Decision de la #CPI: icc-cpi.int/Pages/item.asp...



A La Haye, le Congolais Bemba acquitté, la cour pénale décrédibilisée

Deux ans après sa condamnation à dix-huit ans de prison pour «crimes de guerre» et «crimes contre l'humanité» en Centrafrique, le Congolais a été acquitté vendredi par liberation.fr

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**Barrie Sander**

@Barrie_Sander

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Leila Sadat offers some statistics re the
[@IntlCrimCourt](#)'s [#Bemba](#) acquittal... 📌

Full critique available [@ejiltalk](#) here:
ejiltalk.org/fiddling-while...

🌐 Traduire le Tweet

How did this happen? After all, 8 out of the 11 ICC judges that heard this case concluded that the ICC's rigorous thresholds of proof had been met, that the case could move forward, and 5 of the 8 judges agreed that he was "guilty beyond a reasonable doubt" of serious and terrible crimes. Were the other judges just wrong? If he really was innocent, why did it take 10 years to figure that out, and why had he and his defense team engaged in witness tampering during his trial.

04:36 - 12 juin 2018 depuis [Rio de Janeiro, Brésil](#)

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1



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7





Clément Boursin

@ClementBoursin

Suivre



#RCA L'acquittement de Jean-Pierre Bemba
«est un échec pour tout le monde»
@Karine_Bonneau_ de la @fidh_fr



Invité Afrique - Karine Bonneau (FIDH): l'acquittement de Jean-Pierre Bemba...

Après l'acquittement de Jean-Pierre Bemba, la CPI a-t-elle encore une raison d'être ? Karine Bonneau dirige le...

rfi.fr

03:36 - 12 juin 2018

1 Retweet 1 J'aime



1



1



POINT DE VUE

Centrafrique : « L'acquittement de Jean-Pierre Bemba est un choc pour les victimes et un échec pour la CPI »

Pour Marceau Sivieude, de la FIDH, le chef de guerre congolais était bien au courant des crimes perpétrés par ses troupes en 2002 en Centrafrique.

Par Marceau Sivieude

LE MONDE Le 13.06.2018 à 12h58 • Mis à jour le 13.06.2018 à 13h09



Jean-Pierre Bemba lors de son procès devant la Cour pénale internationale, en mars 2016, à La Haye. Crédits : JERRY LAMPEN / AFP

Tribune. Vendredi 8 juin, trois juges sur cinq de la chambre d'appel de la Cour pénale internationale (CPI) **décidaient l'acquittement de Jean-Pierre Bemba** ([/international/article/2018/06/08/l-ex-vice-president-congolais-jean-pierre-bemba-acquitte-des-crimes-de-guerre-et-crimes-contre-l-humanite-en-centrafrique-par-la-cpi_5311909_3210.html](https://international/article/2018/06/08/l-ex-vice-president-congolais-jean-pierre-bemba-acquitte-des-crimes-de-guerre-et-crimes-contre-l-humanite-en-centrafrique-par-la-cpi_5311909_3210.html)) . Ils déchiraient ainsi le jugement en première instance qui avait condamné le chef de guerre et homme politique congolais à dix-huit ans de prison pour crimes contre l'humanité et crimes de guerre. Ces crimes ont été commis par les troupes de Bemba envoyées se **battre** en 2002 en Centrafrique, en soutien à un régime vacillant confronté à une rébellion.

Lire aussi : En Centrafrique, les souvenirs à vif des victimes des miliciens de Jean-Pierre Bemba ([/afrique/article/2018/06/13/en-centrafrique-les-souvenirs-a-vif-des-victimes-des-miliciens-de-jean-pierre-bemba_5314235_3212.html](https://afrique/article/2018/06/13/en-centrafrique-les-souvenirs-a-vif-des-victimes-des-miliciens-de-jean-pierre-bemba_5314235_3212.html))

En 2002, j'ai fait partie de la mission de la Fédération internationale des ligues des droits de l'homme (FIDH) qui a enquêté en Centrafrique sur les crimes perpétrés contre les civils par toutes les parties au conflit. En pleine guerre, nous avons recueilli les témoignages de femmes, d'hommes et d'enfants, victimes ou témoins de viols collectifs, d'assassinats, de bombardements, de tirs à l'aveugle et de pillages, qui s'étaient trouvés sur le chemin des combattants. Si l'armée et les

rebelles avaient commis leur lot de violations, les récits des atrocités commises par les mercenaires de Bemba étaient légion.

ANNONCE

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BEZOEKEN



En l'absence de poursuites judiciaires au niveau national, l'ouverture d'une enquête de la CPI sur la situation en Centrafrique avait suscité l'espoir pour les victimes d'être enfin reconnues et entendues par une justice indépendante. C'était aussi une occasion pour la Cour de se [saisir](#) de cas de violences sexuelles – si souvent pratiquées comme arme de guerre dans les conflits. Une opportunité également d'établir une jurisprudence forte sur la responsabilité des supérieurs hiérarchiques qui envoient leurs troupes [semer](#) la mort parmi les civils, en toute impunité. Le verdict en appel a été un choc pour les victimes, dont plus de 5 000 avaient courageusement participé à la procédure devant la Cour.

Parodie de procédure

Des enseignements doivent [être](#) tirés de ce jugement. Tout d'abord, l'absolue nécessité du renforcement de la politique pénale du bureau de la procureure de la CPI. La FIDH avait en effet déploré qu'un seul mandat d'arrêt soit émis s'agissant des crimes commis en Centrafrique. Cette décision générait des interrogations sur l'étendue de l'enquête, laissait de côté de nombreuses victimes et revêtait un risque énorme en cas d'échec judiciaire. L'étonnement fut grand, par ailleurs, de [voir](#) que le mandat incriminait d'abord Bemba en tant qu'auteur direct des crimes et non en tant que supérieur hiérarchique. Une erreur rapidement rectifiée, mais qui questionnait à nouveau la politique pénale du procureur de l'époque.

Lire aussi : [La CPI ordonne la libération de Jean-Pierre Bemba](#) ([/afrique/article/2018/06/12/la-cpi-ordonne-la-liberation-de-jean-pierre-bemba_5313763_3212.html](#))

Ensuite, certaines conclusions de la chambre d'appel créent une jurisprudence qui risque d'entraver le mandat même de la CPI, à [savoir](#) le jugement des principaux responsables des crimes les plus graves. Les juges majoritaires ont considéré que Bemba ne pouvait pas être responsable des agissements criminels de ses troupes, car, bien qu'étant leur supérieur, il n'avait pas un contrôle effectif sur celles-ci, n'étant pas présent sur le théâtre des opérations. Pour eux, Bemba n'avait pas connaissance de la réalité des crimes commis et avait même bien agi en sanctionnant à l'époque certains de leurs auteurs.

Les deux juges qui ont exprimé une opinion dissidente ont, à raison, très vivement critiqué ce positionnement. Ils ont relevé l'évidence en affirmant que Bemba était bien au courant des crimes perpétrés par ses troupes, rappelant notamment la lettre écrite par Bemba au président de la FIDH dans laquelle il reconnaissait l'existence d'exactions. Ces juges ont mis en avant le fait que Bemba était en communication régulière avec ses commandants sur le terrain. Il recevait leurs rapports et leur donnait des ordres sur les opérations à [mener](#). Quant à la parodie de procédure que Bemba a diligentée contre certains de ses hommes, elle ne peut que [démontrer](#) le contrôle effectif exercé par celui-ci sur ses troupes.

Il faut **renforcer** la CPI

L’approche restrictive de la chambre d’appel concernant la responsabilité du supérieur hiérarchique est préoccupante en ce qu’elle vide cette responsabilité de son sens. [Juger](#) les principaux responsables des crimes de guerre, génocides et crimes contre l’humanité suppose de ne pas s’en [tenir](#) qu’aux exécutants mais bien de s’en [prendre](#) à ceux qui sont à leur tête, qui financent les opérations et donnent les ordres.

Si, dans cette affaire, on peut [noter](#) que les droits de la défense ont été parfaitement respectés (alors même que Bemba et certains de ses conseils ont été condamnés pour subornation de témoins...), ce verdict nourrira à n’en pas [douter](#) les dures critiques déjà émises contre la CPI, stigmatisant son incompétence ou sa partialité. Des critiques souvent portées par des Etats dont les forces armées sont responsables de graves violations des droits humains dans des situations de conflit et/ou qui ne sont pas parties à la CPI. Des critiques également issues d’Etats qui ne coopèrent pas avec la Cour ou qui ne lui donnent pas les moyens financiers adéquats pour renforcer ses enquêtes.

Lire aussi : Débat sur la CPI : « C’est aux Africains de juger leurs

monstres » ([/afrique/article/2016/02/03/c-est-aux-africains-de-juger-leurs-monstres_4858700_3212.html](#))

La CPI est une belle idée, une création historique et encore une jeune institution. Elle doit être une cour véritablement universelle pour [lutter](#) contre l’impunité quand les justices nationales sont défaillantes. Il faut indéniablement la renforcer pour [éviter](#) qu’elle ne disparaisse sous le flot des critiques, mais également pour qu’elle réponde véritablement aux espoirs fondés en elle par les victimes et familles de victimes des crimes les plus graves. Interviewée par la FIDH quand la CPI annonçait l’ouverture d’une enquête sur la situation en Centrafrique, une femme victime de violences sexuelles commises par les troupes de Bemba avait déclaré : « *Je revis.* »

Marceau Sivieude est directeur des opérations de la Fédération internationale des ligues des droits de l’homme (FIDH).



Statement : 13 June 2018 | [Sango](#), [Lingála](#)

Statement of ICC Prosecutor, Fatou Bensouda, on the recent judgment of the ICC Appeals Chamber acquitting Mr Jean-Pierre Bemba Gombo



Audio visual:

[YouTube](#) (for viewing)

[Video \(MPEG-4\)](#) for download

[Audio \(MPEG-3\)](#) for download

I have carefully reviewed last Friday's judgment by the Majority of the Appeals Chamber judges of the International Criminal Court ("ICC", or the "Court") acquitting Mr Jean-Pierre Bemba Gombo of the charges of war crimes and crimes against humanity brought against him.

It is clear that serious crimes were committed in the Central African Republic ("CAR") by Mr Bemba's forces. My first thoughts are with the victims of those terrible crimes, their families and communities. Last Friday's judgement indeed confirms that Mr Bemba's troops committed grave crimes, which resulted in great suffering in the CAR. The carnage and suffering caused by those crimes were very real. My Office has been in touch with the Legal Representative of Victims in the case, and we join her in her disappointment over this decision and its impact, first and foremost, on the victims.

As Prosecutor and an officer of the Court, I must and will respect the decision and its finality. I must uphold the integrity of the Court's processes and accept the outcome. However, there are certain features of the Majority's ruling that cause me concern and which I hope will see a redirection over time.

As noted by the two dissenting judges in their extensive joint opinion, the Majority of the Appeals Chamber departed from the traditional model of appellate review of factual errors, which had been consistently applied not only by the ICC Appeals Chamber since its inception, but also by the appellate chambers of the UN *ad hoc* Tribunals and other international criminal jurisdictions.

Under this traditional standard of review, the Appeals Chamber would ordinarily defer to the assessment of the evidence made by the Trial Chamber, unless the appealing party demonstrates that the latter could not have reasonably reached the factual conclusions it did on the available evidence. The Majority has seemingly set aside this test, replacing it with an approach that suggests that when the Appeals Chamber is able to identify findings that can reasonably be called into doubt, it must overturn them. Such an approach would seem to confuse the standard of proof, which the Trial Chamber applies having heard all the evidence, with the standard of appellate review, which applies when the Appeals Chamber considers the trial judgment.

It is unfortunate that this "significant and unexplained departure" from the Court's previous jurisprudence, as the dissenting judges described it, and its replacement with new, uncertain and untested standards, has taken place in the most serious case of sexual and gender-based violence decided upon by this Court to date, more so at a time when

there is an acute need to send a clear signal globally that such abhorrent crimes must not go unpunished.

Additionally, the Majority seems to have departed from the Appeals Chamber's previous jurisprudence, as well as international practice, in relation to the manner in which the Prosecution ought to charge cases involving mass criminality. The level of detail that the Prosecution may now be required to include in the charges may render it difficult to prosecute future cases entailing extensive campaigns of victimisation, especially where the accused is not a direct perpetrator, but a commander remote from the scene of the alleged crimes but who may bear criminal responsibility as the superior having effective control over the perpetrators, his subordinates.

In the Court's legal framework, the Appeals Chamber is the highest appellate judicial body and its decisions are final. There is no further possibility to appeal its judgments. That is why, it is, in my respectful view, so critically important that the Appeals Chamber maintains the cautious approach to appellate review that it has always adopted since the commencement of its work, adhering to its own precedents and standards. I hope that there will be, in future, a return to those standards of appellate review.

I remain of the opinion that the case against Mr Bemba was a strong and well-documented one, supported by the body of the evidence presented to the Court. The charges of war crimes and crimes against humanity brought against Mr Bemba were confirmed by the Pre-trial Chamber. As the dissenting judges observed, the Trial Chamber heard 77 witnesses and admitted 733 items of evidence. Trial proceedings led to an unanimous conviction set out in an extensive and detailed judgment. I should add that as a Prosecuting office, we are also grateful for the excellent cooperation we received from States Parties, non-States Parties and, indeed, all who cooperated with our investigations and the prosecution of the case throughout the proceedings.

The Appeals Chamber was unable to reach unanimity, the ultimate acquittal stemming from a divided Chamber, with two Judges in the Majority deciding to acquit, one Judge in the Majority allowing the appeal, but favouring a new trial, and the two dissenting Judges upholding the conviction.

In the end, Mr. Bemba was acquitted because a majority of the Appeals Chamber found that the Trial Chamber's conclusion that Mr Bemba had failed to take all necessary and reasonable measures to prevent or punish the crimes committed by his subordinates was materially affected by errors. Thus, Mr Bemba was found by the Majority not to be individually liable for the crimes as a commander.

In closing, I would like to come back to the victims.

The long journey for justice in the *Bemba* case is a testament to the unwavering courage and determination of the victims of CAR to fight against impunity. The *Bemba* case will always represent an important recognition of the crimes of rape, murder and pillaging suffered by victims in CAR at the hands of *Mouvement de Libération du Congo* troops that were effectively under the authority and control of Mr Bemba who had knowledge of the crimes during the 2002 to 2003 CAR conflict. The *Bemba* Appeals Judgment confirms this.

My Office has stood in solidarity with the victims in CAR for over 10 years. We overcame witness interference, which threatened to derail the case and our pursuit of justice for the victims. Mr Bemba, along with others, were convicted and held criminally responsible for their attempts to interfere with the administration of justice at the Court.

Many Prosecution witnesses expressed their satisfaction and stressed the value of being able to tell their account to the world, of being listened to and having their victimisation recognised.

Despite the appeals judgment acquitting Mr Bemba and its effect of halting the reparations proceedings, the Trust Fund for Victims ("TFV") at the ICC may find itself in a position to provide a 'reparative response' on its own account. I take note and welcome today's decision by the TFV Board of Directors to accelerate the launch of its assistance mandate programme in CAR, which will take into consideration the harms suffered by victims in the *Bemba* case as well as harms suffered from additional sexual and gender-based violence arising out of the situation.

We can only continue to strive to see justice done for atrocity crimes with the courage and perseverance of the countless victims and survivors. To the CAR victims, we are

7/19/2018

Statement of ICC Prosecutor, Fatou Bensouda, on the recent judgment of the ICC Appeals Chamber acquitting Mr Jean-Pierre Bemba Gombo

immensely grateful to you for your strength and commitment to pursuing justice to the very end. You are our source of inspiration and resolve to continue the fight to end impunity.

Notwithstanding the ultimate outcome of this decision, the Court will continue with renewed determination its fight against impunity for perpetrators of the most serious crimes. To that end, my Office is vigorously committed to doing its part, with the plight of the victims foremost and always on our minds.

The ICC's Office of the Prosecutor conducts independent and impartial preliminary examinations, investigations and prosecutions of the crime of genocide, crimes against humanity and war crimes. Since 2003, the Office has been conducting investigations in multiple situations within the ICC's jurisdiction, namely in Uganda; the Democratic Republic of the Congo; Darfur, Sudan; the Central African Republic (two distinct situations); Kenya; Libya; Côte d'Ivoire; Mali; Georgia and Burundi. Pre-Trial Chamber II is seized of the Prosecutor's request for authorisation to commence an investigation into the situation in the Islamic Republic of Afghanistan. The Office is also conducting preliminary examinations relating to the situations in Colombia; the Gabonese Republic; Guinea; Iraq/UK; Nigeria; Palestine; The Philippines; Venezuela and Ukraine.

OTPNewsDesk@icc-cpi.int

Source : Office of the Prosecutor

**Int'l Criminal Court**

@IntlCrimCourt

Abonné



Read & watch the statement of #ICC
Prosecutor #FatouBensouda on the recent
judgment of the ICC Appeals Chamber
acquitting Mr Jean-Pierre #Bemba Gombo

Traduire le Tweet



Statement of ICC Prosecutor, Fatou Bensouda, on the recent judgment of the...

Audio visual:

icc-cpi.int

08:30 - 13 juin 2018

67 Retweets 53 J'aime





CPI-Cour pénale int.

@CourPenaleInt

Suivre



Lisez & regardez la déclaration du Procureur
[#CPI](#) [#FatouBensouda](#) au sujet de la récente
 décision d'acquittement de M. Jean-Pierre
[#Bemba](#) Gombo, rendue par la Chambre
 d'appel de la CPI



Déclaration de Fatou Bensouda, Procureur de la CPI, au sujet de la récente d...
 Documents audiovisuels:

icc-cpi.int

08:29 - 13 juin 2018

71 Retweets 74 J'aime





Alex Whiting

@alexgwhiting

Abonné



The ICC Prosecutor issues a strong and detailed critique of the Bemba Appeals Chamber majority decision. Such a statement is unusual, and it indicates to what extent the Prosecution believes that the majority judges got this one completely wrong. icc-cpi.int/Pages/item.asp...

Traduire le Tweet



Statement of ICC Prosecutor, Fatou Bensouda, on the recent judgment of the...

Audio visual:

icc-cpi.int

07:55 - 13 juin 2018

23 Retweets 17 J'aime





Carsten Stahn

@carstenstahn

Abonné



Expressivism in action: Bensouda on Bemba, deploring acquittal of 'most serious case of sexual violence' case 'at a time when there is acute need to send a clear signal globally that such crimes must not go unpunished'

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Statement of ICC Prosecutor, Fatou Bensouda, on the recent judgment of the...

Audio visual:

icc-cpi.int

08:25 - 13 juin 2018

10 Retweets 23 J'aime



**Karine Bonneau**

@Karine_Bonneau_

Suivre



Tribune de [#MarceauSivieude](#) Directeur des opérations de la [@fidh_fr](#) qui avait mené les 1eres enquêtes sur les crimes de 2002-2003 en [#RCA](#) [#Bemba](#) savait. [@ngos4justice](#)
[@VirginieAmato](#) [@MiiaAroSanchez](#)
[@marianacpena](#) [@EliseKeppler](#)

FIDH [@fidh_fr](#)

"Deux juges de la #CPI ont réaffirmé une évidence: #Bemba était bien au courant des crimes perpétrés par ses troupes (...) La parodie de procédure diligentée contre certains de ses hommes ne peut que démontrer le contrôle effectif exercé sur ses troupes"

07:07 - 13 juin 2018

7 Retweets 6 J'aime



7



6





Juliette Paauwe

@JulietteM87

Suivre



Not totally unexpected but very worrying development. Last month the [#ICC](#) judges acquitted [#Bemba](#) from charges of war crimes and crimes against humanity because of a lack of evidence. This does not necessarily mean that he also is innocent [#justice](#) [#DRC](#)

Traduire le Tweet



Congo opposition leader Bemba nominated for presidential election

Congolese politician Jean-Pierre Bemba, weeks after his conviction for war crimes was quashed at The Hague, was nominated by his party on Friday for December's [reuters.com](https://www.reuters.com)

16:37 - 13 juil, 2018

6 Retweets 8 J'aime





Alexa Koenig

@KALexaKoenig

Suivre



Sobering critique of #ICC appellate decision re: Bemba by @alexgwhiting: "The majority's change to the standard of review is both unwarranted and contrary to the aims of achieving justice": Appeals Judges Turn the ICC on its Head

justsecurity.org/57760/appeals-... via @just_security

Traduire le Tweet



Appeals Judges Turn the ICC on its Head with Bemba Decision

Reversing Bemba's conviction turns the ICC's procedures upside down, with extremely negative consequences for the institution.

justsecurity.org

16:54 - 14 juin 2018

11 Retweets 16 J'aime



**Luca Ferro**

@LucaFerro_Ghent

Suivre



After Prof. Sadat over [@ejiltalk](#), another scathing critique of the Bemba appeals judgment by [@alexgwhiting](#). Any ICL scholars/practitioners in support?

justsecurity.org/57760/appeals-... via [@just_security](#)

Traduire le Tweet



Appeals Judges Turn the ICC on its Head with Bemba Decision

Reversing Bemba's conviction turns the ICC's procedures upside down, with extremely negative consequences for the institution.

justsecurity.org

23:37 - 14 juin 2018

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Marissa Brodney

@mbrodney

Suivre



Strongly worded [@alexgwhiting](#)
[@just_security](#) piece frames procedural
 consequences of [#ICC's](#) [#Bemba](#) acquittal -
 argues we have seen a "double shift away
 from the trial" that will harm the Court.
 Appeals Judges Turn the ICC on its Head with
 Bemba Decision

Traduire le Tweet



Appeals Judges Turn the ICC on its Head with Bemba Decision

Reversing Bemba's conviction turns the ICC's procedures upside down, with extremely negative consequences for the institution.

justsecurity.org

10:42 - 14 juin 2018

5 Retweets 7 J'aime



**Barrie Sander**

@Barrie_Sander

Suivre



En réponse à @DrYvo1

Have you read [@alexgwhiting](#)'s analysis of the judgment on [@just_security](#)? I think he raises some v. persuasive points re problematic aspects of the majority's approach...

Traduire le Tweet

**Appeals Judges Turn the ICC on its Head with Bemba Decision**

Reversing Bemba's conviction turns the ICC's procedures upside down, with extremely negative consequences for the institution.

justsecurity.org02:42 - 15 juin 2018 depuis [Rio de Janeiro, Brésil](#)

1 Retweet 2 J'aime



**Daudi Were**

@dkwere

Suivre



heavy criticism of the @IntlCrimCourt
 Appeal Chamber: "the two parts of the
 majority's decision – its approach to the
 confirmation hearing and to the
 appellate process – upend the
 procedures at the ICC and turn the Court
 on its head" @alexgwhiting.
justsecurity.org/57760/appeals-...
[#bemba](#)

Traduire le Tweet



Appeals Judges Turn the ICC on its Head with Bemba Decision

Reversing Bemba's conviction turns the ICC's procedures upside down, with extremely negative consequences for the institution.

justsecurity.org

 23:04 - 18 juin 2018 depuis [Nairobi, Kenya](#)

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**Kim Thuy Seelinger**

@ktseelinger

Suivre



Very helpful piece from [@alexgwhiting](#) re: [#Bemba](#) appeals judgment. (In case, like me, you were experiencing vertigo re: conf of charges & std of review.) [@just_security](#)

Barrie Sander @Barrie_Sander

Excellent analysis of #ICC #Bemba acquittal by @alexgwhiting @just_security | Appeals Judges Turn the ICC on its Head with Bemba Decision
justsecurity.org/57760/appeals-...

Traduire le Tweet

07:53 - 21 juin 2018

3 Retweets 2 J'aime



**Kip Hale**

@kiphale

Suivre



Must read tweets on the problematic
[#Bemba](#) Appeals Chamber decision at the
[#ICC](#) - Why standard of review is so
 important to get right. [@AmnestyCIJ](#)
[@kevinjonheller](#) [@MarkKersten](#)

Alex Whiting @alexgwhiting

1/ Last month, I wrote about how @IntlCrimCourt Appeals Chamber majority in
[#Bemba](#) case unwisely decided not to give deference to Trial Chamber factual
 findings, and may have relied on tainted evidence in doing so.
justsecurity.org/57760/appeals-....

Afficher cette discussion

Traduire le Tweet

00:58 - 4 juil. 2018

2 Retweets 5 J'aime



↻ 2

♡ 5



CPI : l'acquittement de Bemba est-il légitime?

By **Boureima** - 9 juillet 2018



Jean-Pierre Bemba le regard déjà tourné vers Kinshasa? (Ph. rfi.fr)

La CPI vient de libérer JP. Bemba pourtant condamné 2 ans plus tôt à 18 ans de prison à la Haye. Cette décision laisse plus de 5000 victimes dans la détresse avec un fort sentiment d'injustice et de rejet de la CPI. Dans son article publié en collaboration avec le projet www.librefrique.org, Asmâa Bassouri, doctorante en droit international, Université Cadi Ayyad Marrakech (Maroc), analyse avec son regard de juriste la décision de libérer Bemba. La CPI fait reposer sa décision sur 2 piliers que sont : le dépassement des charges confirmées, et erreur dans l'appréciation des mesures nécessaires et raisonnables que devait prendre Bemba pour stopper les exactions du MLC dont il est le chef. L'auteur est certes d'accord pour le premier point mais s'insurge contre le second. Selon elle, Bemba aurait dû répondre de ses crimes dans la limite des preuves apportées au dossier !

Véritable coup de théâtre, l'acquittement du congolais Jean-Pierre Bemba par la Cour Pénale Internationale (CPI), aura non seulement des conséquences dévastatrices sur les 5229 victimes présentes à son procès, mais infligera aussi un grave revers aux 10 années

d'efforts du Bureau du Procureur pour instruire l'affaire. Tant les praticiens du droit international que les défenseurs des droits de l'Homme seront unanimement d'accord pour dire qu'il s'agit là d'un précédent regrettable pour une institution à vocation universelle et permanente, se voulant un modèle de l'administration de la justice internationale. La CPI a-t-elle finalement pris la bonne décision?

Bref historique de l'affaire

Procès symbole pour la CPI, l'affaire Bemba a été portée devant la Cour en mai 2008. Tenu comptable à La Haye pour les méfaits de sa milice ayant multiplié les sévices contre la population civile en République Centrafricaine, Bemba a été condamné en 2016 à 18 ans d'emprisonnement, pour ensuite être acquitté en appel deux ans plus tard. L'analyse de la décision de la Chambre d'Appel de la CPI laisse entrevoir deux motifs majeurs servant de base à cet acquittement: dépassement des charges confirmées, et erreur dans l'appréciation des mesures nécessaires et raisonnables que devait prendre Bemba pour stopper les exactions du MLC dont il est le chef. Et sans nullement prétendre interférer avec l'indépendance des juges, ni défier leur pouvoir souverain d'appréciation, nous pensons que le premier motif serait plutôt valable, tandis que le second serait un « forçage » des textes, qui au lieu de préciser davantage les méandres de la notion de responsabilité du supérieur hiérarchique (telle qu'initialement conçue en doctrine), va venir la flouter et la vider de sens.

Sur quoi repose d'acquittement ?

Relativement au premier motif, et pour des raisons évidentes, la condamnation ne peut se faire sur la base de chefs d'accusation en dehors de la portée des charges telles que confirmées. Pour rappel, le procès devant la CPI est un échelonnement d'étapes, dont celle de la confirmation des charges qui sert à délimiter les faits criminels qui feront l'objet des débats contradictoires devant les juges pour que ces derniers statuent. Cette délimitation se mesurant bien sûr à l'aptitude du Procureur à s'aménager les preuves nécessaires à l'appui des allégations criminelles qu'il avance. Une lecture des paragraphes 74 à 119 de la décision d'Appel explicite en quoi la condamnation excédait les charges confirmées^[1]. Alors que Bemba comparaitra devant les juges pour des charges de meurtre, viol et pillage, le Procureur va présenter plus tard en cours de procès des informations concernant d'autres allégations de faits criminels plus spécifiques, et que les juges vont retenir pour prononcer la condamnation de Bemba. En cela, l'erreur procédurale consistant à dépasser la portée des charges initialement confirmées pourrait justifier que l'on ne punisse Bemba que par rapports aux charges confirmées au départ. Seulement, est-ce que Bemba sera pour autant

châtié par rapport aux crimes n'ayant aucunement dépassé les charges confirmées? Loin s'en faut! Il sera même acquitté et c'est là où le second motif avancé par les juges d'Appel prête à discussion.

En effet, les juges vont conclure à une erreur commise en première instance lors de l'examen pour savoir si M. Bemba avait pris les mesures nécessaires et raisonnables pour empêcher ou punir les crimes relevant de ses subordonnés, ou d'en référer aux autorités compétentes. La nouvelle (mais fort malheureuse) lecture ayant été faite de la notion de responsabilité pénale du supérieur hiérarchique pour les crimes de ses subalternes, crée un précédent voulant que les contraintes rencontrées par le chef militaire éloigné de ses troupes déployées à l'étranger, lui suffisent de motif pour être exonéré. En d'autres termes, il suffit d'être absent des lieux des crimes pour que soit dégagée sa responsabilité, et que soit signée par là même une autorisation implicite de tuer, violer, piller... en toute impunité. Cet aspect d'impunité étant *in fine* ce qui scandalise le plus dans cette affaire. Il s'agit de crimes documentés, dont personne ne nie la commission, mais qui demeureront pourtant impunis. La manière de procéder des juges est intenable. D'une part, elle conduit à une sous-estimation de la responsabilité (normalement lourde) d'être à la tête d'un groupement armé. Car en acceptant le fardeau d'un grade militaire élevé, on accepte aussi l'obligation de veille et de vigilance en découlant relativement aux agissements de ses subalternes. Être limité dans sa capacité d'intervenir en cas de dérapages pourrait justifier une discussion quant au *quatum* de la peine mais non la suppression de celle-ci.

D'autre part, cela ruine la politique criminelle suivie par le Procureur, dans le sens où la CPI ne pouvant techniquement se livrer à la poursuite de tous les présumés auteurs des crimes d'une situation criminelle portée devant elle, elle va se limiter aux «gros poissons», nommément les personnes occupant le plus haut rang militaire et/ou politique, qui deviennent de ce fait les effigies des crimes en question. Or, dans l'affaire Bemba, le seul auteur identifié ne passera pas sous les fourches caudines de la justice internationale pénale parce qu'on a tout simplement allégé la critériologie pouvant engager sa responsabilité en tant que supérieur hiérarchique.

Doit-on plaider pour la suppression de la CPI ?

Critiquer la CPI ne revient nullement à plaider pour sa suppression. L'institution – et malgré ses travers et ses faiblesses- demeure un pilier incontournable de l'ordre international. Les juges doivent tirer une leçon de ce qui vient de se produire pour éviter la répétition. De même que la république centrafricaine, comme tous les États d'ailleurs qui sont membres à la CPI, doivent assumer le devoir premier qui est le leur, à savoir le jugement des criminels

sur leur sol pour redonner ainsi au principe de complémentarité régissant la CPI ses lettres de noblesse. La juridiction de cette dernière étant en effet complémentaire de celle étatique, tout échec de la CPI serait *volens nolens* un échec de l'État qui faillit à son devoir originel de poursuite poussant la Cour, en tant que juridiction de dernier ressort, à se saisir.



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The latest post on our blog by Balingene Kahombo on the controversies surrounding the ICC Appeals Chamber's acquittal of Bemba

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Les dessous de l'acquittement de Jean-Pierre Bemba



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Justice internationale le 14/06/2018 à 09h17



Dans une déclaration, Fatou Bensouda relève les points qui ont permis au président du MLC d'obtenir un acquittement inattendu après une condamnation à 18 ans de prison en première instance.

« Un écart inexplicable de la jurisprudence »

Fatou Bensouda regrette que « *la majorité des juges de la chambre d'appel s'est écartée du modèle traditionnellement suivi en appel quant à l'examen des erreurs de fait* ».

Alors qu'elle devait s'en remettre à l'appréciation des éléments de preuve effectuée par la chambre de première instance, « *à moins que la partie à l'origine du recours ne démontre* » qu'ils n'étaient pas pertinents, Fatou Bensouda constate que « *la majorité des juges* » les a écartés, adoptant plutôt une démarche « *qui donne à penser que, lorsque la chambre d'appel est en mesure de déceler des conclusions qui peuvent être raisonnablement remises en cause, elle doit les infirmer* ».

Pour la procureur, cela « *revient, semble-t-il, à confondre le niveau de la preuve* ».

Fatou Bensouda trouve « *fort malheureux cet écart important et inexplicable de la jurisprudence de la Cour..., et l'emploi de nouveaux critères incertains et non vérifiés* ».

Les « mauvais signaux » de la CPI

Il sera désormais, selon elle, plus difficile pour l'accusation d'effectuer des « *poursuites dans d'autres affaires portant sur de vastes campagnes de persécution, particulièrement lorsque l'accusé n'est pas directement l'auteur des crimes* ».

Sans remettre en question l'effectivité de l'acquittement de Jean-Pierre Bemba, dont le caractère est définitif, Fatou Bensouda précise que c'est toutefois un mauvais signe envoyé au monde par la CPI « *à un moment où il est vital de signaler clairement que de telles atrocités ne doivent pas rester impunies* ».

Car « *il est clair que des crimes graves ont été commis en RCA par les forces de M. Bemba...* », souligne celle qui poursuivait Jean-Pierre Bemba à la CPI.

Et que l'arrêt rendu le confirme, « *nous ressentons la même déception à l'égard de cette décision et des conséquences qu'elle aura, avant tout, pour les victimes* ».

Ceux qui ont acquitté Bemba

Fatou Bensouda relève que la chambre d'appel « *n'a pas été en mesure de trancher à l'unanimité* », de ses 5 juges.

Trois juges, dont le juge président, la belge Christine Van den Wyngaert, ont voté l'acquittement.

La procureur Bensouda précise que parmi ces 3 juges, le nigérian Chie Eboe-Osuji « *s'est prononcé en faveur d'un nouveau procès* ».

Les deux juges qui se sont opposés à l'acquittement, sont Sanji Mmasenono Monageng (Botswana) et Piotr Hofmański (Pologne).