

International Criminal Court

The situation in Congo: The
Prosecutor v. Pierre Bemba
Gombo



Forum	The International Criminal Court
Issue:	The situation in Congo: The Prosecutor v. Pierre Bemba Gombo
Student Officer:	Sertara Kurt, Elena Castillo
Position:	President, Vice-President

Introduction

The International Criminal Court (ICC) was founded on the first of July 2002 once the Rome Statute was ratified by 60 countries. It was founded in order to prosecute individuals who were allegedly at fault in three crimes (genocide, crimes against humanity and war crimes).

As Congo ratified the Rome Statute in April 2004, the ICC was within their jurisdiction to prosecute the individuals in their nation if they were to commit one of the three crimes that the ICC deals with. When power tensions in the Central African Republic (CAR) began to rise, the MLC (Movement for the Liberation of Congo) got involved in the armed conflict. This led to an investigation on Pierre Bemba Gombo to be opened by the ICC. There were three charges of war crimes and two of crimes against humanity. The alleged crimes committed by Bemba Gombo were supposedly done during a conflict in the Central African Republic in which Pierre Bemba Gombo got involved in.

Definition of Key Terms

Crimes against Humanity

As seen in article 7 of the Rome Statute, crimes against humanity are acts which were “systematic attacks directed against any civilian population, with knowledge of the attack” (3). Those acts include murder, extermination, enslavement, deportation or forcible transfer of population, imprisonment/deprivation of freedom which violates international law, torture, and many more.

War Crimes

Within the 8th article of the Rome Statute, war crimes are defined as an act was “committed as part of a plan or policy or as part of a large-scale commission of such crimes” (5). Some examples of war crimes are: wilful killing, torture/inhuman treatment, taking of hostages, forcing a prisoner of war to serve, within many others.



Actus Reus

Latin for “guilty act”. Legally, when it comes to proving whether someone is guilty or not, one must argue for/against *actus reus*. *Actus reus* is the doing of the crime. In a criminal case, the prosecution must argue that the accused committed the act, therefore they are arguing for *actus reus*. Whereas the defence must argue the opposite, that there was no *actus reus* done by the accused.

Mens Rea

Latin for “guilty mind”. Another main aspect of a criminal court case, one must argue about the *mens rea*. *Mens rea* deals with the criminal intent of the act. The prosecution must argue that the accused had criminal intent, and the defense must argue that there wasn't any criminal intent. This is a major aspect to the final decision of the court as the final sentence of the accused could be lowered or the accused may be acquitted due to the lack of *mens rea*.

Coup d'état

An overthrow of the government done through aggressive attacks. Usually done when the government has been angering the people, which caused them to rebel and use force in order to get their way. Many coups d'état happen with the military helping out the people of the nation.

General Overview

General information about the Democratic Republic of the Congo

In 1960 Congo gained independence from Belgium. The country was named as the Republic of Zaire from 1971 to 1997 under the rule of Gen. Mobutu Sese Seko as he believed that this name was a more authentic name. After 1997, the overthrow of Mobutu, the country regained its previous name, the Democratic Republic of the Congo. The Democratic Republic of the Congo has a population of 81.34 million.

Economy

After gaining independence in 1960, the economy of Congo was based on the extraction of minerals such as copper and diamonds. These were controlled by the Belgian Union Minière du Haut-Katanga (UMHK) and other foreign businesses. Their net worth was at a value of 430 million US dollars. The biggest government revenue came from UMHK which was the biggest single source and made up a large proportion of the exchange



earnings of Congo. After the coup in 1965 monitored by Mobutu, the government aimed to nationalize UMHK, however, the compromise ended in 1967 due to the complications between the government and UMHK.

Congo took measures to stabilize the economic situation at the beginning of the 21st century, as they shifted from a market-oriented economy. Structural reforms were undertaken in order for the economy to liberalize with the aid of the International Monetary Fund (IMF) and the World Bank. These reforms were aimed at reducing hyperinflation and promote durable economic growth. Extensive growth in GDP was seen for the first time in 2002. Throughout the start of the 21st century, the economy expanded due to the end of the civil war after 2003.

Geography

Located in the center of Africa, the Democratic Republic of Congo has a coastline along the Atlantic Ocean of 40km. It is one of the largest countries in Africa with Kinshasa as its capital. The capital is found on the Congo River as it is the biggest city in the center of the continent. Other than the short coastline, the country is landlocked around the Republic of Congo, Central African Republic, Sudan, Uganda, Rwanda, Burundi, Zambia and Angola.



Map of the Democratic Republic of Congo

Political

In 2001, the Democratic Republic of Congo (DRC) was in an armed conflict against the government.. The government had the support of Angola, Namibia and Zimbabwe. Then the groups who opposed the government had the support of Burundi, Rwanda and Uganda. The armed conflict within Congo caused concerns in the United Nations which caused



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investigations to open within the International Criminal Court (once it was founded). The investigations were opened due to the fact that there were some crimes of war and crimes against humanity done within the time of that armed conflict. Those crimes consisted of unlawful killings, torture and more. This then led to the convictions of Thomas Lubanga Dyilo, leader of the Union of Congolese Patriots, and Germain Katanga, leader of the Patriotic Resistance Force. There were also other cases (one ongoing trial and one of an acquitted man). The conflict ended once the President, Laurent-Désiré Kabila, was assassinated by one of his bodyguards. His son then took his place in ruling the nation and signed a peace treaty for the nation.

Historical context

After the Democratic Republic of Congo gained independence from Belgium on the 30th of June in the year 1960, the United Nations gave some of their forces to have provisional control over the nation. When it came to November of 1965, Joseph Désiré Mobutu declared himself as the President of Congo. The people of Congo kept reelecting him until the year 1997. Rebels wanted to have a change in presidency due to the fact that Mobutu had been the head of the government for too long. When Mobutu was out of the country, the Tutsi rebels take over the capital of the Democratic Republic of Congo in order to get a change in the government. This then led to the change of the name of the country, as it was previously named Zaire. The name change was done by the new President, Laurent-Désiré Kabila in May of 1997. Other nations weren't too pleased with the new government, which caused the armed conflict within Congo to begin.

The coup in the Central African Republic

Violence in the Central African Republic has been happening since 1960 when it got its independence. There have been violent conflicts regarding the state power of the government. There have been only three leaders since the independence of CAR and the democratic elections in 1993. In 1966, 1979 and 1981 CAR experienced three coups. The authoritarian leaders of CAR have relied on foreign support. These have come from France, the former colonial power, or Libya, a neighboring country.

In 1993, Ange-Félix Patassé won elections. Between 1996 and 1997, Patassé relied on military assistance from France to suppress three army revolts. The Bangui Agreements



ended the revolts in 1997 and the former rebels, militias and armed groups were disarmed. The MISAB, an African observer mission, and the United Nations mission (MINURCA) controlled and observed the agreements. As Patassé won reelections in 1999, he had to repel the attempted coup by former President André Kolingba in May of 2001. In order to do so, Patassé called for the support of Libya. Furthermore, Patassé requested for the help of MLC militia from Jean-Pierre Bemba.

In March 2003, the Central African Republic experienced another a coup d'état, which had been taking place during armed conflict from 26 October 2002 to 15 March 2003. When the President, Ange-Félix Patassé was on a visit in Niger, General François Bozizé took over the capital, Bangui, with 1000 fighters. They seized the international airport and the presidential palace. The government army did little as they were not paid and the Central Economic Community of Central African States (CEMAC) peacekeepers left the place.

As former-President Ange-Félix Patassé did not have enough troops to fight against the coup, he requested help from the Movement for the Liberation of the Congo (MLC), of which Bemba was the leader. Bemba had sent troops to CAR and the MLC fighters were accused of committing crimes which led to the arrest of Bemba. Later on, in 2006, the MLC forced President Joseph Kabila to flee.

ICC Case: The Prosecutor v. Pierre Bemba Gombo

The Central African Republic requested the International Criminal Court to investigate the crimes committed between 2002 and 2003. CAR's court ordered that the investigation was beyond the national justice systems capability due to not being able to assess crimes under the Rome Statute. The Office of the Prosecutor, therefore, opened an investigation. However, the case was at first rejected by the judges.

The arrest warrant for Bemba was issued on the 23rd of May 2008 by the Pre-Trial Chamber. Bemba was charged for three war crimes and two crimes against humanity. Bemba was arrested near Brussels under Belgian authorities. Shortly after, the Belgian court ordered that Bemba must be sent to the ICC which was fulfilled in two days.

Alleged crimes (Non-exhaustive list):

On the 21st of March 2016, the ICC stated that there were reasonable grounds to believe that Jean Pierre Bemba, as the President and Commander-in-Chief of the



Mouvement de Libération du Congo (MLC), had control and “effective authority” amongst the MLC troops and thus, could be prosecuted for the following alleged crimes:

- Crimes against humanity:
 - Murder
 - Rape
- War crimes:
 - Murder
 - Rape
 - Pillaging

Major Parties Involved

Central African Republic (CAR)

The CAR had been struggling with those in power for many years which caused four successful coups d'état and many other failed ones. A man named Ange-Felix Patassé was the president since 1993. In the year 2001, his position was challenged which led to him asking Pierre Bemba Gombo for support in this moment. Bemba's forces pushed back those who were rebelling towards the north. During this time in which Pierre Bemba Gombo and his forces were pushing back on the rebels was the time period in which he allegedly committed the crimes in which he was accused for and was tried for.

Movement for the Liberation of Congo (MLC)

The MLC was the group which was led by Pierre Bemba, this group included his troops which helped him push back the rebels of the Central African Republic. The MLC was supported by Uganda. They occupied the majority of the northern area of the nation that bordered CAR, which helped them push back the rebels. Although at first Bemba didn't help Patassé at first, MLC ended up supporting Patassé. Bemba then used his troops from the Movement for the Liberation of Congo in favor of Patassé in order to move out the rebels.

Timeline of Key Events

Date	Description of event
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2001	Attempted coup d'état against Ange-Felix Patassé
2002-2003	Armed conflict in Central African Republic. Time in which the alleged crimes of Pierre Bemba Gombo took place.
2003	Bozizé seized power of Central African Republic
May 23 rd , 2008	Warrant issued (sealed document)
May 24 th , 2008	Pierre Bemba Gombo arrested, warrant unsealed
July 3 rd , 2008	Accused brought to the International Criminal Court
January 12 th , 2009	Hearing for the confirmation of the charges against the accused opens
January 15 th , 2009	Decision on the hearing made. (Charges against Pierre Bemba Gombo are confirmed)
November 22 nd , 2010	The trial of The Prosecutor v. Pierre Bemba Gombo begins
November 12 th , 2014	Closing statements
March 21 st , 2016	Verdict
June 21 st , 2016	Sentence
June 8 th , 2018	Appeals



Bibliography

“2003 Central African Republic Coup D’état.” *Wikipedia*, Wikimedia Foundation, 10 Jan.

2017,

www.en.wikipedia.org/wiki/2003_Central_African_Republic_coup_d%27%C3%A9tat.

“A Popular Coup.” *The Economist*, The Economist Newspaper, 20 Mar. 2003,

www.economist.com/middle-east-and-africa/2003/03/20/a-popular-coup.

“Alleged Crimes (Non-Exhaustive List).” *The Prosecutor v. Jean-Pierre Bemba Gombo*,

www.icc-cpi.int/car/bemba/pages/alleged-crimes.aspx.

Ba, Oumar. “What Jean-Pierre Bemba's Acquittal by the ICC Means.” *ICC | Al Jazeera*, Al

Jazeera, 13 June 2018,

www.aljazeera.com/indepth/opinion/jean-pierre-bemba-acquittal-icc-means-180612121012078.html.

“Bemba Case.” *Home*, www.icc-cpi.int/car/bemba#10.

“Central African Republic.” *Infoplease*, Infoplease,

www.infoplease.com/world/countries/central-african-republic.

“Conflict in CAR and the International Criminal Court.” *CAR: Conflict in CAR and the*

International Criminal Court | PeacebuildingData.org,

www.peacebuildingdata.org/research/car/conflict-car.

Cordell, Dennis D., et al. “Democratic Republic of the Congo.” *Encyclopædia Britannica*,

Encyclopædia Britannica, Inc., 24 Jan. 2019,

www.britannica.com/place/Democratic-Republic-of-the-Congo#ref40788.

“ICC - Situation in the The Democratic Republic of the Congo.” *ICC*, [www.icc-](http://www.icc-cpi.int/drc)

[cpi.int/drc](http://www.icc-cpi.int/drc).

INTERNATIONAL JUSTICE MONITOR. *Jean-Pierre Bemba Gombo. Jean-Pierre Bemba*

Gombo, www.ijmonitor.org/jean-pierre-bemba-gombo-background/.



Lewis, Peter. *Judgment on the Appeal of Mr Jean-Pierre Bemba Gombo against Trial*

Chamber III's "Judgment Pursuant to Article 74 of the Statute." 2018, *Judgment on the Appeal of Mr Jean-Pierre Bemba Gombo against Trial Chamber III's "Judgment Pursuant to Article 74 of the Statute."*

LII Staff. "Actus Reus." *Legal Information Institute*, Legal Information Institute, 2 Oct. 2018, www.law.cornell.edu/wex/actus_reus.

LII Staff. "Mens Rea." *Legal Information Institute*, Legal Information Institute, 26 June 2017, www.law.cornell.edu/wex/mens_rea.

Planet, Lonely. "Subscribe." *Lonely Planet*,

www.lonelyplanet.com/maps/africa/democratic-republic-of-congo/.

Scozia, Silvia. *International Criminal Court, Trial Judgment in the Case of the Prosecutor V.*

Jean-Pierre Bemba Gombo. International Committee of the Red Cross, *International Criminal Court, Trial Judgment in the Case of the Prosecutor V. Jean-Pierre Bemba Gombo*,

www.casebook.icrc.org/case-study/international-criminal-court-trial-judgment-case-prosecutor-v-jean-pierre-bemba-gombo.

United Nations. "Amnesty International Report 2002 - Democratic Republic of Congo."

Refworld, www.refworld.org/docid/3cf4bc02d.html.

Paul, James. "Congo: A Brief History." *Congo: A Brief History*, www.globalpolicy.org/component/content/article/181/33687.html.

