Who can participate so far?

On 9 November 2006, Thomas Lubanga, alleged leader of the UPC, operating in the Ituri District of Eastern Democratic Republic of Congo was brought before Pre-Trial Chamber I of the International Criminal Court. Charges of recruiting or using children under fifteen have been leveled against Lubanga, and to be confirmed by the Chamber if there are “substantial grounds to believe” that Lubanga is responsible for these crimes. The hearings will go on for several weeks, with the Prosecution presenting its evidence first.

At least 105 victims have applied to participate in the Lubanga case, and in particular to be represented at this first key hearing. However, the Pre-Trial Chamber needs to assess each victim applicant to see whether there is a causal link between the crimes suffered by the victim and the charges against Lubanga. Only victims of child recruitment and child soldiering will be able to participate, as these are the only crimes he is charged with.

On 20 October, the Pre-Trial Chamber decided that it would not consider any further victim applications before the confirmation hearing. Of the 105 applications considered so far, only victims a/001, 2, 3 and 105 have been granted victim status in Lubanga’s case.1

As for all the others that have applied, they have either been denied victim status due to the lack of a causal link with Lubanga’s charges, or a decision on their application is still pending before the Chamber.

There are disputes between the Prosecution and defence about many applications, which has held up the application process. For example, the Prosecutor has recognised that applicants a/0047 to 52 are all minors and include both girls and boys that meet the criteria for participation as “victims” in the Lubanga case. In fact, the Prosecutor has indicated that these children are also prosecution witnesses, and that he does not find it incompatible for them to hold a dual status as both prosecution witnesses and independent parties participating in the case under article 68(3) of the Statute.2

On the other hand, Lubanga’s defence team claim to have difficulties with these alleged victims. The application forms were given to the Prosecutor in full, however, the defence received edited copies, which exclude all information that could identify the victims. The defense argues that there is so little information that it is impossible for them to provide any response, thereby delaying a ruling.

As a result, the Chamber has not yet granted these children with victim status at this particular point in the proceedings, in spite of the fact that sufficient links to the Lubanga charges were demonstrated by the Prosecutor. In the meantime the Chamber ordered protective measures for them.

Victim status not granted

Victims VPRS 1-6, that were first granted victim status in the “DRC Situation” on 17 January 2006, were subsequently denied the right to participate in Lubanga’s case because their applications did not contain a causal link specifically to the charges against Lubanga. However, the judges did mention that the applicants could always apply again at a later phase if this was appropriate.3 Presumably, this refers to the possibility that the charges against Lubanga could be expanded at a later stage to include further crimes.

The Chamber rejected applicants a/004-7, 16-46, 54-61, 63, and 71-80 because they did not establish a sufficient link to Lubanga’s charges. The Chamber will subsequently consider whether these applicants should be granted victim status in the ongoing “DRC situation”.

Concern is being raised amongst NGOs about the level of information available to intermediaries about assisting victim to apply given the number of applications that do not contain a link to the charges against Lubanga.

Anonymous Participation?

Pre-Trial Chamber I has had the interesting task of balancing victims’ protection with the Lubanga’s rights to a fair trial. On 22 September 2006 the Chamber set out the modalities for victim participation that were “compatible with anonymity”.

The Chamber admitted that for now, not communicating victims’ identities to Lubanga and his lawyers is the only measure available to protect them. The chamber has emphasized the importance of victim participation but has also warned against anonymous accusations. It decided that as “anonymous” parties to the case, victims a/001-3 and a/105 cannot add any elements of fact to the case. The case against Lubanga concerns only “enlisting, scripting or using children under fifteen in hostilities”, and further accusations cannot be made by them.
Will investigations endanger or protect victims in Darfur?
Perspectives from Nyala, West Darfur

In July this year, the ICC Prosecutor said that “the continuing insecurity in Darfur is prohibitive of effective investigations inside Darfur, particularly in light of the absence of a functioning and sustainable system for the protection of victims and witnesses”.1

However, the Pre-Trial Chamber on Darfur called on Professor Antonio Cassese and UN High Commissioner for Human Rights Louise Arbour to provide their input on investigations, protection of victims and preservation of evidence in Darfur. It would seem that the Pre-Trial Chamber I is seeking expertise in order to challenge the Prosecutors’ hands’ off approach in Darfur.

Louise Arbour provided substantial detail about how the Office of the High Commissioner for Human Rights monitors and investigates serious violations of human rights violations in numerous conflict zones. Her office analysed the risk of retaliation against those who interact with the international community, saying that in general retaliation has taken the form of arbitrary arrest and detention and to a lesser extent physical ill-treatment, but as yet it has not resulted in any loss of life.2

She has called for “an increased visible presence of the International Criminal Court in Sudan, as she believes that carefully tailored strategies can operate effectively to conduct investigations”. She also has said that “the Court’s presence on the ground would also importantly contribute, to a proactive presence increasing the level of protection perceived and enjoyed by the affected population”.

REDRESS has asked those working with victims on the ground to provide their views on the debate.

1. What is the situation with regard to the protection of victims in Darfur?

There is nothing that resembles protection for victims as such. Even after the Darfur Peace Agreement (DPA) was signed in Abuja (Nigeria) in May 2006, people on the ground expected to see a change, but the violence has continued as before. Victims are still tortured. There is no direct protection for them. Some 2 million people are displaced living in camps, and some 200,000 are refugees in Chad.

The displaced people living in camps protect themselves in some primitive ways. For instance, they don’t leave the IDP camps to come to town or collect wood for fear of being targeted by rebel troops along the way. The camps themselves are more or less safe, but beyond the camps militia groups operate. The IDPs are very vulnerable and at risk.

In Kalma Camp, in South Darfur near Nyala, the IDPs will try not to leave the camp because they may be arrested at one of the numerous check points or road blocks on the way, that are operated by the Janjaweed militia.

2. Is it possible for ICC investigators to take statements or collect evidence in Darfur without unduly endangering victims and witnesses?

Without the government’s consent, the ICC investigators can not take statements in Darfur. This is the most important point. If organizations mention the ICC, they will be arrested, they will be endangered. So if they contact people on the ground that could also put them at risk.

However, if the government were to allow the ICC investigators to come to Darfur, then that would be something quite different. If the militias on the ground knew that the ICC was here with the consent of the government, then that would be something else! That would be great - it would create a different atmosphere on the ground, in and of itself, having a deterrent effect. But of-course, the ICC needs to ask first, and the government needs to accept.

3. What are the most important steps that should be taken to provide protection?

First the government has a duty to ensure the disarmament of the Janjaweed and other armed militia. This is part of the Darfur Peace Agreement signed in May. The former combatants are then supposed to be integrated into the government army, the police and others supported through education and training programmes.

Then the ceasefire agreement needs to be put into practice. Bringing peace is the first step. Without getting the ceasefire to be respected, people will continue to die. People have really lost a lot already.

The government should also put pressure on those groups that did not sign the Darfur Peace Agreement to sign now. The consequences should be practical and UN troops should come in to oversee the implementation of the DPA and to provide protection, especially to IDPs.

4. What is your reaction to Louise Arbour’s comments?

If the government allows the Prosecutor to go to Darfur, then what Arbour says is right. The presence of the investigators will be a deterrent. There will be protection to a certain degree. However if the government refuses to allow access, then the Prosecutor’s position is understandable. It will be dangerous and their presence will indeed endanger victims and witnesses of the atrocities here.

As for the role of Arbour’s office, there is a great difference between the work of her office and the work of investigators. Perhaps in practice the elements of the work may seem the same, taking statements or collecting evidence, but as yet it has not resulted in any loss of life.

The Office of the High Commissioner for Human Rights has a different mandate compared to the Prosecutor. The United Nations Mission in Sudan (UNMIS) has a human rights section which works with the High Commissioner’s office.

... continued on p.3

2. Arbour’s observations were filed on 10 October, 2006: http://www.icc-cpi.int/library/cases/ICC-02-05-19_English.pdf
They take statements and monitor the situation to produce reports which only have a political significance. ICC investigators will take statements in view of prosecuting at trial before the ICC. This involves a real sanction, and victims who give evidence to investigators may be called to testify in a high pressured criminal trial, entailing real consequences for their lives.

Last year the Prosecutor asked to go to Khartoum and he was allowed. Now he should come here. He should ask for permission. If the government could accept that would be a miracle. The investigators could then come to Darfur and collect evidence. This would not create a danger as long as they are given permission.

5. What should the United Nations do to enhance protection?

The United Nations Mission in Sudan is doing a great job here. However, everybody is worried about what will happen after the AU’s renewed mandate runs out in three months. They have some troops here, which are insufficient and their mandate ran out under the Darfur Peace Agreement in September. Now it has been extended temporarily for three months. But there is a lot of insecurity about what will happen after that, and this is a big issue for us here.

Of course UN troops should be allowed to come in and protect the IDPs, and the government should let them. This would make all the difference.

6. What should the International Criminal Court do to enhance protection?

The presence of the ICC in Sudan, and especially in Darfur is really needed. It will not be easy, as there are many obstacles as we all know. In the meantime, protection could be enhanced by simply providing more information in Arabic. People have no information about the ICC so they do not feel confident about it. It does not exist for them, and this makes the sense of impunity for the militia stronger.

“Last year the prosecutor asked to go to Khartoum and he was allowed. Now he should come here.”

If the Court could provide people on the ground with some information, it would allow them to understand what the ICC is, and what it is not. They might understand why it has taken so long.

People need also to know the limitations of the ICC. For instance, that it would only focus on the top leaders. Everybody wonders whether it is going to bring cases against “the list of 52”. Victims in the camps have high expectations; they think that if the ICC comes, it will target all those who have committed crimes. They imagine that the local headmen that have committed atrocities that they can remember are the ones who will be prosecuted.

According to discussions with IDPs, there is a link between the information and understanding of what is going on with the ICC and the sense that sooner or later they will be safe. Crimes are still being committed, so people have no real sense of security, but knowing and understanding more about the Court would help.

Providing for a single legal representative in this instance was reasonably justified according to Preira, given that in this case, Maitre Carine Bapita has also filed eleven other applications allegedly linked to Lubanga’s charges. In this respect, the representation of a/105 might be integrated into the framework of a common legal representation chosen by the Court could benefit from legal assistance.

Legal aid for former child soldier a/105

On 20 October the Pre-Trial Chamber granted victim status to applicant a/105, who had applied on behalf of her son, born in 1992, and who had been associated with Lubanga’s militia, the UPC. The Chamber indicated that the modalities of participation applicable to a/001-3 would also apply to a/105, and ordered the Registry to take all necessary measures to ensure that the legal representative of a/0105, Maitre Carine Bapita from Democratic Republic of Congo, be present at the confirmation hearing.

The Chamber indicated that the subject matter of the amicus concerned gender based crimes committed in the DRC, and that it was mindful of the rights of the accused, who has a right to defend himself in relation to the crimes for which he is charged. As such, new elements of fact, as suggested in the amicus request, and particularly the letter submitted as Annex I, would need to be argued as part of the ongoing investigation in the DRC situation. Legal aid for former child soldier a/105

Where are the gender crimes?

The Women’s Initiative for Gender Justice sought to file an amicus brief with respect to the confirmation of charges hearing. The Chamber rejected this request and specified that the case against Lubanga was confined to “enlisting, conscripting and using children under fifteen in hostilities” only, and that as a result the amicus request had no link to the case as such.

Anonymous participation at this stage of the proceedings is limited to access of public documents in the case file only, and presence at public hearings only.

However, the Chamber reserved the right to make exceptions to this basic principle in exceptional circumstances, stating that victims can make declarations at the beginning and end of hearings to which they are invited, and that victims’ legal representatives may request permission to intervene in public sessions of the confirmation hearings. The Chamber added that it would decide each request to intervene on a case by case basis.


… ICC Update continued from p.1
Suicide in the camps while Juba peace talks continue: What benefit is the ICC to Ugandan victims?

Joseph Akwenyu Manoba

The Ugandan government is presently engaged in peace talks with the Lords Resistance Army (LRA). Museveni, President of Uganda has offered a blanket immunity to the indicted top leadership of the rebel outfit currently camped in the Garamba National Park (north-eastern corner of the DRC), on condition that the LRA renounces the rebellion and lays down its arms. Indeed a section of the population particularly the local leadership from the districts of northern Uganda have spoken out to support the Juba talks and have even demanded that the ICC withdraws from its efforts to have its arrest warrants executed in order to give the peace process a chance. However the question we ought to be addressing in the event that the negotiations successfully bring peace to the region, is whether the ICC has factored in victims’ potential complete lack of interest in participating in the ICC’s proceedings given the more immediate realities of squalor and deprivation in the camps.

Given the length of the conflict and the atrocities committed by both parties, a lasting peace deal is more than welcome to anybody who has experienced or shared the experience of victims during the past 20 years.

However the question we ought to be addressing in the event that the negotiations successfully bring peace to the region, is whether the ICC has factored in victims’ potential complete lack of interest in participating in the ICC’s proceedings given the more immediate realities of squalor and deprivation in the camps.

A peace deal between the Ugandan government and the LRA does not set aside Uganda’s obligations under international law and as a state party to the Rome Statute. It is still incumbent and prudent that at some point the rebel leader Joseph Kony and his fellow indictees should be arrested in order to face trial.

The ICC has been severely criticized for its failure to have an elaborate sensitization programme with the result that at the time of writing, there is, as yet, no Ugandan victim applicant who has been granted the status of “victim” in order to participate in the Court’s proceedings despite the fact that the investigation in Uganda was opened on 29 July 2004.

As we speak, the majority of the victims are still ignorant of what the tangible benefits of participation might bring. Since under domestic Ugandan law there are no procedures for victims to participate in criminal proceedings to obtain damages, the concept of participating as a civil claimant known in civil law jurisdictions such as neighboring Democratic Republic of Congo is entirely alien in Uganda.

Nonetheless, one does not have to look far to see that victims have serious needs, which could possibly be addressed by some form of reparations. In a recent newspaper article it was reported that victims of the LRA atrocities in northern Uganda were committing suicide on a rather alarming scale and the reason advanced being “a state of hopelessness”. Janeth Achieng, who penned the article “SUICIDE IN THE CAMPS”, tells of how people are ending their lives in a state of hopelessness.

She reports that she traveled to Awere camp, a distance which took her approximately two hours from Gulu town and that there she spoke to several people. One woman she talked to...”told me how she lost her son as a result of suicide. Her son had dropped out of school in P.7 (primary 7) due to lack of school fees. He then became very frustrated with life in the camps and started drinking. Whenever I ever attempted to talk to him, he was so violent. He always told me how people are ending their lives in a state of hopelessness.

In attempting to sell international justice to these victims, the ICC and the Trust Fund for Victims is still unaware of what awaits them. For people who have lost their dear ones to the war and whose lives remain without a semblance of hope for the future, promises to them by either the ICC or the government are met with indifference or mistrust. Given the realities of victims’ situations, it seems far fetched to expect these people to welcome the ‘song being sung by the ICC’.

The ICC needs to rethink its strategy or be prepared to suffer an embarrassment. The ICC, being an international justice mechanism, needs to adapt to the realities of victims, adopting a procedure a kin to a human rights court able for instance to take judicial notice of the human rights violations and atrocities committed in situations under its investigation; and allow for the Victims Trust Fund to provide interim remedies for victims, such as psychosocial therapy pending the disposal of the trial and the reparations that follow thereafter.

This may build victims’ confidence in the lengthy ICC process and demonstrate that the ICC is there to give effect to victims’ needs and rights in a humane manner rather than a foreign institution in which victims are merely remote and irrelevant paper participants. •
Back in July 2006, the struggle for peace in northern Uganda took a turn for the worse. Members of Uganda’s confidence building team forced four girls who had been brutally abducted by the LRA to return to the bush in order to plead with Joseph Kony and his commanders to end the conflict that has been plaguing the region for two decades.

While in captivity, these young female abductees acted as “wives” or sex slaves, to Kony, the leader of the rebel Lord’s Resistance Army. The “confidence building” team claims that they are using these women as an instrument for peace, in order to build confidence in the rebels.

As an organization working to protect the rights of former abductees, Gulu Support the Children Organization (GUSCO) has taken an active role in exposing this renewed violation of victims’ rights. All four young women have passed through GUSCO’s reception centre after being rescued from nearly ten years in captivity.

GUSCO staff sought to meet with the girls at the airfield just before they were flown out with the “confidence building” team to find out if they were well. They discovered the girls confined to a corner of the small waiting room with the commanders’ relatives on the other side of the room. The two groups were staring at each other, with so many unanswered questions in the air. On seeing the GUSCO staff the girls anxiously looked at them as if to say “where were you?”. After exchanging a few words, it was discovered the girls were being forced, against their will, to return to the bush and meet with Kony.

One of the girls had been held hostage in two different hotels in Gulu for two nights before their departure, because she had shown a “lack of interest” in going to Juba. She had been denied last minute access to her child that she wanted to see before she was flown out.

The families of these formerly abducted girls argue that they are not against the peace process; rather, they want the peace team to consider that they are violating the girls’ rights and should take consideration of their children. There is no justification for using human beings as bargaining tools for peace and there is no reason to put their safety at risk.

Not only have the young women been denied amnesty and the government protection guaranteed by Uganda’s constitution, but they have also been forced to leave their school-age children behind with either neighbours or relatives. They mentioned that there was not enough food to feed the children who had been left behind and there was no provision for their basic needs in case of sickness, and there was no soap for them. These young mothers are the sole providers for their children and without their presence at home there is no assurance that the children will be cared for.

They mentioned that GUSCO staff visited the children and the families of the girls to verify the issues. The father of the girl who had been held hostage was worried for her safety. She had been under government monitoring since she had been captured on the Uganda-Sudan border. They had sought to convince her to go to Juba on the pretext that she would be reunited with her son that she had left in the bush. However, she was unwilling to go, and for that reason they had held her hostage and had denied her the opportunity to see her children before she left.

Upon visiting the rest of the children it became clear that indeed there was little food left to feed them. They had barely been left with relatives that were able to care for them, and nobody had explained to them what was happening. It was not clear to them why they had been left behind and when their mothers would return, which seemed to worry them.

GUSCO has recommended that food supplies and other basic items be provided immediately to sustain the children while their mothers are away. Furthermore, GUSCO had requested that the children be supported from where they were residing rather than being returned to GUSCO’s reception centre.

Finally, GUSCO has called upon relevant stakeholders to follow up on the violation of these young mothers’ rights to liberty, to protection from further traumatisation, and protection from potential re-enslavement as a result of their forced participation in the confidence building team.
Resources for victims in the proposed 2007 budget
Jonathan O’Donahue, Amnesty International

Since the International Criminal Court was established in 2002, NGOs have followed the budget process closely, recognising that resources are essential to effectively implement the progressive mandate on victims issues set out in the Rome Statute. The Coalition for the International Criminal Court (CICC) established a Team specifically to analyse and lobby on budget and finance issues. A number of Victims Rights Working Group members are members of the coalition’s budget team.

A high priority for the coalition’s budget team has been to ensure sufficient resources to put into practice the respect, dignity, protection and support owed to victims as set out in the Statute and Rules. In particular, NGOs have focused on the need to ensure an outreach strategy to reach victims. Resources to provide adequate protection and support for victims and witnesses, as well as resources for legal representation and resources for the Secretariat of the Trust Fund for Victims have also been emphasised.

There are three critical stages in the budget process that require action from the CICC budget team. First, input is required during the drafting of the proposed budget to ensure that all necessary resources are included before the draft is submitted to the Committee on Budget and Finance (CBF). In this respect, NGOs met with the Court in May, providing specific recommendations. In particular, they stressed the need for much greater investment in outreach, in order to inform affected populations about the work of the Court and the rights of victims. The team also emphasised the need for increased field based resources for victims’ protection and support as well as victims’ legal representation.

The second phase of action starts when the proposed budget is issued and includes the lead up to the CBF meeting, which takes place in The Hague every October. In August 2006, the Court issued its proposed budget for 2007.1 The coalition’s team analysed the whole budget and issued a commentary including recommendations to the CBF. Overall, there is a lot to be welcomed as regards victims’ issues in the 2007 budget.

There is an important increase of approximately €1.2 million for outreach. The Court’s outreach strategy, which was issued on 29 September 2006, sets out that part of these new resources would be used for developing materials and recruiting field staff to undertake outreach initiatives targeting victims.2 However, while the Court’s outreach strategy and budgetary increase was welcomed, consultations with NGOs on the draft strategy were unfortunately not able to take place before it was issued. The Coalition has a Communications Team which is analysing the strategy and is planning to issue recommendations to the Court on how it can be further improved.

There is also an important increase for the Victims and Witnesses Unit. The increased resources are intended to strengthen protection and support in the existing situations,3 as well as satisfy the demands of witness protection and support in the trial of Thomas Lubanga initially scheduled to commence in March 2007. The increase also covers new protection and support resources for a fourth investigation which the Court has indicated will be launched in 2007.

There are, however, some issues of concern in the draft Budget. In particular, there appears to be insufficient resources for the Gender and Children Unit of the Prosecutor’s Office to achieve its important mandate of providing pre-interview assessments and assistance to victims and witnesses during investigations. The coalition’s budget team has called for the Court to report publicly, providing statistics on existing staffing numbers in relation to the number of pre-interview assessments and interviews undertaken as well as statistics on the work of its “roster of psychosocial experts”.

The coalition’s budget team has urged for greater clarity on the resources that are available to victims’ legal representatives and the role of the Court’s Office of Public Counsel for Victims (OPCV) in organizing victim representation.

The CICC budget team met with the CBF on the first day of their 9-13 October session, and is now awaiting the CBF’s report, which will provide recommendations to the Assembly of States Parties. Preliminary reports suggest that the CBF will recommend significant cuts to the increased €1.2 million budget on outreach.

2. For the Court’s Outreach Strategy, see: http://www.icc-cpi.int/library/asp/ICC-ASP-5-12_English.pdf
3. Democratic Republic of Congo, northern Uganda and Darfur, Sudan.
From the field: a snapshot of some members’ activities from July to September 2006

Training to help traumatised people in Nyal, Wester Darfur, Sudan

Proceedings of the medico-legal training workshop ‘Helping Traumatised People through the Istanbul Protocol in Darfur’, organised by the Amel Centre for Treatment and Rehabilitation and Physicians for Human Rights, in consultation with REDRESS and with the cooperation of the Humanitarian Affairs Commission, held in Nyal, Southern Darfur, Sudan, from 15-17 July 2006.

Role play by participants during the workshop ‘Helping Traumatised People through Istanbul Protocol in Darfur’, showing a rape victim being examined by a doctor in the presence of social workers.

Legal and psychosocial training for attorneys, Kinshasa, Democratic Rep. of Congo

Participants at a training course from 2-6 October 2006, organised by Avocats Sans Frontières, which benefited 100 Congolese attorneys from 12 local bars within the DRC. The training programme, which started in September 2005 and will end in October 2007, focuses on legal assistance to victims and defence of those accused of international crimes.

Lecture sessions and seminars are alternated between Kinshasa and various parts of the country.

Advancing Justice and Reconciliation in Northern Uganda with Faith based Communities

In April and September 2006, the Centre for Justice and Reconciliation undertook trainings in North and North East Uganda. Trainings are based on the Manual developed by the Faith and Ethics Network on the ICC for African Faith based Communities on “Advancing Justice and Reconciliation in relation to the ICC.” Participants came from various religious backgrounds and organisations.

The Manual is now available online at http://www.cjr.nl
Forgotten and stigmatised: double victimisation in Central African Republic

Karine Bonneau, Director of the International Justice Programme, FIDH

On 22 December 2004, the Central African Republic (CAR) referred crimes committed on its territory to the International Criminal Court. These crimes fall within the Court’s jurisdiction, and were committed on CAR territory from 1 July 2002.

The Central African Republic thereby gave effect to a decision of its Court of Appeal, handed down on 16 December 2004, which concluded that its own courts were incapable of undertaking effective investigations on those crimes, and that the ICC had jurisdiction to deal with them. This official report motivated the Fédération Internationale des Ligues des Droits de L’Homme (FIDH) and its affiliated organisation, the Ligue Centrafricaine des droits de l’homme, to provide the ICC’s Prosecutor with a regular supply of information.

The crimes committed during the armed conflict of 2002-3, which ended with a coup d’état staged by current president Bozizé, include summary executions, systematic and widespread rape and pillaging. The fact that these crimes have gone unpunished, coupled with the fact that the nation is incapable of prosecuting them, provides the necessary criteria for the CAR situation to be admissible before the Court.1

The day after the coup, Bozizé opened proceedings against former president Patassé and his accomplices, which include Jean-Pierre Bemba, presidential candidate in neighbouring Democratic Republic of Congo, Abdoulaye Miskine, and others. These proceedings were marked by a lack of evidence and partiality, but were terminated by the above mentioned decision of the Bengui Court of Appeal on the jurisdiction of the ICC over the alleged crimes.

The ICC’s silence raises numerous questions. It has been three and a half years since FIDH’s first communications, and more significantly, nearly two years after the CAR’s referral. The Prosecutor’s hesitation in opening an investigation in Central African Republic, and his extremely meticulous analysis of the situation, first on the basis of article 15, then article 14, provides a stark contrast with the Prosecutor’s speedy treatment of the Ugandan, Congolese and Sudanese situations.

This contrast is particularly so, given that all the elements establishing the Court’s jurisdiction are so clear and that negotiations on cooperation with CAR authorities are at an advanced stage. The Court is officially seized of the matter, having assigned it to Pre-Trial Chamber III. Implementing legislation for the CAR is under way, as is the ratification process for the Agreement on Privileges and Immunities of the Court.

Abandoned by justice in their own country, victims, and particularly victims of sexual violence suffer from a double injury in Central African Republic. In fact they suffer from stigmatisation and discrimination by civil society in CAR, as a result of their desperate physical, social and economic situation on the one hand, and from utter indifference by the international community on the other.

Systematic rape was used as a weapon of war during the 2002-3 conflict. It was used against women, children, men and village leaders alike; always in a public manner and often by groups. Furthermore, rape continues to devastate villages. Victims often carry the HIV virus, and due to the lack of medical facilities and awareness raising, many do not wish to get tested. The vast majority of statements taken by FIDH indicate rejection of rape victims by their own families and refusal of school directors to enrol children in school. Young boys that have been raped are named “wives of the Banyamulenge” which is meant to refer to the Congolese rebel group of Jean-Pierre Bemba, the alleged author of numerous exactions. Rape has become so trivialised that victims of theft or robbery are also raped.

To combat their stigmatisation and isolation, victims have found the courage to organise themselves in the quest for international justice. They have created the Organisation for the Compassion and the Development of Families in Distress (OCODEFAD). In spite of being victims of harassment and intimidation, this organisation preservers alone, providing, within the limit of its feeble capacities, material, psychosocial and educational support.

bearing witness to the devastation of impunity in this country, and of the manifest neglect of the international community in this regard, a new conflict has been raging in Central African Republic since the end of 2005. In the north-west of the country, CAR armed forces are clashing against the popular army for the restoration of the republic, allegedly supported by former President Patassé, overthrown in 2003. In the North-East of the country CAR forces are in conflict against national as well as Chadian rebels, supported partly by Sudan and partly by perpetrators of atrocities in 2003. Recent and reliable sources have reported incursions into the capital Bangui.

It is instructive to note that for the most part, those most responsible for atrocities committed in 2002-3 are also the alleged authors of this new conflict.

Having failed to intervene earlier, it is possible that an opportunity to avert the resurgence of the conflict has been missed. The Prosecutor of the ICC should open its investigation without further delay in order to prosecute crimes committed in 2002-3 and now also committed since 2005. *

1. RCA Oubliées et stigmatisées : la double peine des victimes de crimes internationaux », http://www. fidh.org/article.php3?id_article=3707

We are grateful for the support of the John D. and Catherine T. MacArthur Foundation