

April 2007

Dear Friends,

Welcome to the first edition of **Eye on the ICC**, a regular email-update on developments at the International Criminal Court and the work of the Women's Initiatives in advocating for gender justice.

Eye on the ICC will provide up-to-date information on the substantive work of the ICC, its investigations and prosecutions, trials, participation of victims, judicial decisions as well as our own work in ensuring the prosecution of gender based crimes, access to justice for women in conflict situations and reparations for women victims/survivors of war and armed conflicts.

Information about our work can also be found on our website, www.iccwomen.org.

Sincerely,
Women's Initiatives for Gender Justice

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International Criminal Court (ICC)

There are currently three situations before the Court at various stages of proceedings (Darfur, the Democratic Republic of the Congo and Northern Uganda). In Darfur, the Prosecutor has applied for summons to appear for two individuals. In the Democratic Republic of the Congo (DRC), charges against the first accused before the ICC have recently been confirmed. In Uganda, arrest warrants for five commanders of the Lord's Resistance Army (LRA) are still outstanding.

Below is a summary of the most recent developments in the situations before the Court:

Darfur

On 27 February 2007, the ICC Prosecutor submitted evidence concerning two suspects, Ahmad Harun, a former State Minister for the Interior and currently the State Minister for Humanitarian Affairs, and Ali Kushayb, an alleged Janjaweed leader, supporting 51 counts of war crimes and crimes against humanity. Among the charges are rape as a war crime and crime against humanity. Rape is also charged as other forms of violence including persecution and outrages upon personal dignity. For the first time, the ICC has brought evidence of criminal responsibility against a government official.

Although the charging of gender based crimes in Darfur is relatively narrow considering the wider range of gender based crimes committed for which there are no charges, the charging of rape as a crime in itself and as other forms of violence reflects the multi-faceted character of the sexual violence committed against women in Darfur and although the specific incidents and victims/survivors selected are not holistic, they are representative of the types of crimes and types of victims in the Darfur conflict.

If the Pre-Trial Chamber is satisfied that there are reasonable grounds to believe that Harun and Kushayb have committed crimes within the jurisdiction of the ICC, it shall issue summons or arrest warrants for the two suspects. This decision is still pending.

[Background article](#) by Women's Initiatives for Gender Justice on the ICC and Darfur

Democratic Republic of the Congo (DRC)

In March 2006, Thomas Lubanga Dyilo, Founder and President of the Union des Patriotes Congolais (UPC), a militia group in the Ituri region, eastern DRC, was the first suspect arrested before the Court. Lubanga is charged with the war crimes of the enlistment and conscription of child soldiers and using them to participate actively in hostilities. Despite widespread documentation of gender based crimes, these have not been charged in the Prosecutor's case against Lubanga.

On 29 June 2006 the Pre-Trial Chamber for the DRC case ruled that only victims related to the charges against the suspect would have the right to participate in the case. Victims participation is one of the innovative provisions within the Rome Statute of the ICC, and was envisaged to enable victims' access to the process of justice through their participation in ICC proceedings.

In November 2006, the confirmation hearing took place to determine whether there was a case against Lubanga. Because of the absence of charges for gender based crimes and the narrow definition of victim stipulated by the Pre-Trial Chamber on 29 June 2006, only 4 applicants were recognised as victims and able to participate in the confirmation proceedings. No victims/survivors of gender based crimes were recognised by the Court and able to participate in the confirmation proceedings and no girl soldiers were recognised by the ICC with the right to participate as victims in the case. This will likely have implications for reparations for women victims of the UPC militia group.

On 29 January 2007, the Pre-Trial Chamber confirmed the charges against Lubanga but abbreviated the period for which Lubanga was criminally responsible and modified the nature of the conflict in which Lubanga was involved to one of a partly international character (the Prosecutor had charged Lubanga in relation to a non-international armed conflict).

Both the Defence and the Prosecutor have requested leave to appeal the Confirmation of Charges Decision. While a Trial Chamber has been constituted, the Lead Defence Counsel has withdrawn from the case and has only been recently replaced, an event which shall likely postpone the commencement of the trial.

We shall continue to monitor and assess developments on this issue very closely.

Uganda

Arrest warrants issued in July 2005 against five Lord's Resistance Army (LRA) commanders have yet to be executed. 2 of the 5 commanders are charged with gender based crimes, including inducing rape as a war crime and rape and sexual enslavement as crimes against humanity.

In August 2006, a "Cessation of Hostilities Agreement" negotiated in Southern Sudan was signed between the Ugandan Government and the LRA, which expired in February 2007 amidst demands by the LRA for a change of venue and mediator. Negotiations for the resumption of peace talks are currently underway.

Women's Initiatives for Gender Justice

Advocacy: DRC

In May and July 2006, the Women's Initiatives for Gender Justice, in collaboration with Congolese women's rights and human rights activists, conducted consultations and interviews with women from Ituri and produced a report featuring 55 individual interviews with women victims/survivors of rape, sexual slavery, and other forms of sexual violence committed in the Ituri region. In August the Women's Initiatives submitted the confidential report *Rape and Sexual Violence in Ituri*, and a letter to the Office of the Prosecutor describing our grave concerns that gender based crimes had not been adequately investigated in the case against Thomas Lubanga and providing information about the commission of these crimes by the UPC.

[Redacted letter to the Prosecutor, which for security reasons has been edited to omit identifying information.](#)

In August 2006, the Women's Initiatives for Gender Justice held meetings with local activists from the eastern DRC and issued a joint press release concerning the ICC's failed investigations in the region.

In September 2006, women's rights and human rights activists in DRC issued a [declaration](#) on the arrest of Lubanga.

In September and November 2006, the Women's Initiatives filed requests to the Pre-Trial Chamber requesting leave to prepare an [amicus brief](#), in which we outlined the importance of judicial oversight over the Prosecutor's exercise of his discretion, especially where certain crimes, such as crimes of sexual violence, have not been charged despite evidence of their commission. These are the first filings by an NGO to the ICC.

We continue to work with Congolese women's rights and human rights activists to support their access to justice and women victims'/survivors' participation at the Court.

Advocacy: Uganda

In August 2006, ISIS-WICCE and the Women's Initiatives for Gender Justice in collaboration with the Ugandan Women Lawyers Association, the Ugandan Human Rights Commission and local women's organisations, held a workshop on Women's Human Rights in Lira, northern Uganda.

The 45 women activists from north and north eastern Uganda attending the Women's Human Rights Workshop in Lira, August 22-24, 2006, wrote three open letters to the ICC, the Government of Uganda and the militia group, the Lord's Resistance Army (LRA).

During 2007, the Women's Initiatives plans to carry out Phase III of our work in northern Uganda focusing on victim/survivor participation and women's rights activism in peace-building and justice in north and north eastern Uganda.

Advocacy and Institutional Monitoring: Assembly of States Parties 2006

During the annual Assembly of States Parties (ASP) meeting in the Hague in November we launched our new publication, the [Gender Report Card 2006](#) assessing the structures, institutional development and substantive work of the ICC from a gender perspective. To read more about the launch and comments by speakers, [click here](#).

During the ASP the Women's Initiatives, along with other women activists from Guatemala, Chile, Ecuador, DRC and the Sudan advocated on gender issues. In collaboration with 15 other NGOs, we co-ordinated the development of [advocacy papers](#) on specific issues including: Victim's Legal Representation, Outreach and Participation, the Trust Fund for Victims, ICC Recruitment, and Court Structures and Institutional Development.

The Women's Initiatives also participated in the resumed session of the ASP held in New York in January 2007 where we monitored the negotiations on the Crime of Aggression.

New Resources

Our Rights and the Rome Statute Information Card series is now available in 5 languages. We recently produced these resources in Spanish and Swahili. The cards are now available in: English, French, Spanish, Swahili and Arabic and can be accessed on the [Resources](#) page of our website.

Launch of Visiting Scholars Program

In January 2007, the Women's Initiatives launched our Visiting Scholars Program. Our first Visiting Scholar was Professor Tina Dolgopol from the Law Faculty of Flinders University, Adelaide, Australia. Professor Dolgopol has been commissioned by the Women's Initiatives to produce a paper on the "Interests of Justice".