



OTP Weekly Briefing – 19-25 January – Issue #21

PREVIEW:

- OTP mission to Guinea is confirmed for 15-19 February.

THIS WEEK'S HIGHLIGHT: THE "INVISIBLE CHILDREN" CAMPAIGN TO ARREST JOSEPH KONY REACHES THE US CONGRESS

20 January - Following efforts of civil society (including "Invisible Children"), US Senators Russ Feingold (Democrats) and Sam Brownback (Republicans) [announced](#) that the LRA Disarmament and Northern Uganda Recovery Act has acquired the support of over half of the US Senators. The Act requires the Obama administration to develop a multifaceted

strategy to help end the LRA's continued terror across three central African countries. *"With their support for this bill, senators are sending a clear message that this is unacceptable and that the international community, with the leadership of the United States, must do more to protect civilians and prevent further atrocities by the LRA,"* Senator Feingold stated. Senator Brownback added that *"[t]he United States must work with the international community to bring Joseph Kony and his terrorist organization to justice."*



On 22 June 2009, the Prosecutor participated in the "Invisible children" symposium "How it Ends" in Washington DC, which rallied youth from all over the US to lobby the US Administration and Congress to arrest Joseph Kony. On 10 December, the Prosecutor met with the staff members of Invisible Children at their headquarters in San Diego.

1. Investigations and Prosecutions:

a. General overview of the cases

Over the week, the OTP presented 8 filings in the various cases and conducted 1 investigative mission in 1 country.

b. Situation in the [Democratic Republic of the Congo \(DRC\)](#)

This situation was referred by the DRC in April 2004. The OTP opened its investigation in June 2004, focusing on Ituri where the most serious crimes had been committed by the main armed groups. Four arrest warrants have been issued against [Thomas Lubanga Dyilo](#) and [Bosco Ntaganda](#), leaders of the UPC, and [Germain Katanga](#) and [Mathieu Ngudjolo Chui](#), leaders of FNI and FRPI. The trial of the [Prosecutor v. Thomas Lubanga Dyilo](#) began on 26 January 2009. The trial of [Katanga and Ngudjolo Chui](#) began on 24 November 2009. [Bosco Ntaganda](#) is at large. In September 2008, the OTP announced the start of its investigation into alleged crimes in the Kivus.

Case: *The Prosecutor v. Thomas Lubanga Dyilo*

The Appeals Chamber [granted](#) the Prosecution's Appeal against the 14 July decision of Trial Chamber I, which had considered that the legal characterization of the facts may be subject to change pursuant to Regulation 55(2) of the Regulations of the Court without being limited to those described in the charges. After a new request of the Legal Representatives of victims to Trial Chamber I on 9 December to invoke Regulation 55, the Trial Chamber [confirmed](#) on 8 January 2010 that the modifications to the legal characterization of facts would infringe on the Appeals Chamber's interpretation of Regulation 55 and rejected the request, as argued by the Prosecution. The trial resumed on 7 January 2010 with the hearing of experts and then victims.

Case: *The Prosecutor v. Katanga and Ngudjolo*

The Kivus Investigation

The OTP continued its exchanges with the German judicial authorities with regard to investigations in the Kivu provinces.

18 January - Former CNDP militia leader Laurent Nkunda would accept to be tried in the DRC or to go into exile [according](#) to his lawyer Stéphane Bourgon. Laurent Nkunda, whose militia is accused of committing war crimes and crimes against humanity in the province of North Kivu, was arrested by Rwandan authorities on 22 January 2009.

18-19 January - The Chiefs of Staff of the Congolese, Rwandan and Burundian armies [met](#) in Matadi, Bas-Congo province in western DRC, to discuss security issues and cooperation regarding operation Amani Leo that will focus on protecting civilian populations, holding territory liberated from the FDLR and restoring State authority. A communiqué was signed in the presence of MONUC military leaders, which among other provisions set up a joint monitoring system of the area and a mechanism for the exchange of security information.

c. Situation in [Uganda](#)

This situation was referred by Uganda in January 2004. The OTP opened its investigation in July 2004. Five arrest warrants have been issued against [top leaders of the Lord's Resistance Army \(LRA\)](#): Joseph Kony, Vincent Otti (allegedly killed in 2007 on order of Kony), Okot Odhiambo, Raska Lukwiya (killed on 12 August 2006, whose arrest warrant has been withdrawn), and Dominic Ongwen. These arrest warrants are outstanding. Since early 2008, the LRA is reported to have killed more than 1,250, abducted more than 2,000 and displaced close to 300,000 in DRC alone. In addition, over the past year, more than 80,000 people have been displaced, and close to 250 people killed by the LRA in Southern Sudan and the Central African Republic.

d. Situation in [Darfur, the Sudan](#)

This situation was referred by the UN Security Council in March 2005. The OTP opened its investigation in June 2005. Three arrest warrants and one summons to appear have been issued against [Ahmad Harun and Ali Kushayb](#), [Omar Al Bashir](#), and [Bahar Idriss Abu Garda](#). Three arrest warrants are outstanding. The Prosecution [appealed](#) the decision of the majority of the Chamber to dismiss the charges of genocide. The Appeal decision is expected in the coming months. Mr. Abu Garda [voluntarily appeared](#) before the Court pursuant to a summons. Following his initial appearance on 18 May, he was allowed to leave The Netherlands. The confirmation of charges hearing was held on 19-30 October 2009.

22 January - Sudan Now, a coalition of Sudan advocacy groups, ran a news advertisement in the Washington Post and Politico, calling on five senior US administration officials meeting the same day to undertake a first quarterly review of the Administration's Sudan policy, to "act now in leading multilateral efforts aimed at holding those who promote violence in Sudan accountable".

Case: *The Prosecutor v. Ahmad Harun and Ali Kushayb*

Case: *The Prosecutor v. Bahar Idriss Abu Garda*

Case: *The Prosecutor v. Omar al Bashir*

22 January - The Government of the Sudan had revoked the licenses of 26 aid groups in Darfur, on the recommendation of the Government's Humanitarian Aid Commission (HAC). The groups' licenses were reportedly revoked because they "have not carried out any activities" and failed to renew their annual permits or submit required reports. An additional thirteen group of organizations received warnings that their licenses may be revoked, without further details. At the same time, a study [published](#) by the Belgian organization, CRED, showed that the majority of deaths in Darfur are caused by diarrhea and other forms of slow death, and that any reduction in humanitarian aid could cause death rates to increase sharply.

e. Situation in the [Central African Republic](#) (CAR)

This situation was referred by the CAR in December 2004. The OTP opened its investigation in May 2007. One arrest warrant has been issued against [Jean-Pierre Bemba Gombo](#) for crimes committed in 2002-2003. The [confirmation of charges hearing](#) was held on 12-15 January 2009. On 15 June 2009, Pre-Trial Chamber II rendered its confirmation of charges decision. On 18 September, the case was referred to Trial Chamber III. On 2 December, the Appeals Chamber upheld the Prosecution's appeal and [reversed](#) a previous decision of the Pre-Trial Chamber granting interim conditional release to Jean-Pierre Bemba Gombo. The trial is set to start on [27 April 2010](#). In parallel, the Office continues to monitor allegations of crimes committed since the end of 2005.

Case: *The Prosecutor v. Jean-Pierre Bemba Gombo*

f. [Kenya](#)

The Office made its examination of the post-election violence of December 2007-January 2008 public in February 2008. On 9 July 2009, the African Union Panel of Eminent African Personalities, chaired by Kofi Annan, announced the [submission to the OTP of a sealed envelope containing a list of persons allegedly implicated and supporting materials previously entrusted to Mr. Annan by the Waki Commission](#). On 5 November the Prosecutor informed President Kibaki and Prime Minister Odinga of his view that crimes against humanity had been committed and of his duty, in the absence of national proceedings, to act. Both the President and the Prime Minister committed to cooperate with the Court. On 26 November the Prosecutor requested authorization from Pre-Trial Chamber II to open an investigation. In his application, the Prosecutor noted that 1,220 persons had been killed; hundreds raped, with thousands more unreported; 350,000 people were forcibly displaced; and 3,561 injured as part of a widespread and systematic attack against the civilian population.

19 January - In an [interview](#) with the Kenyan Television Network, the Prosecutor expressed outrage at reports suggesting that individuals supporting accountability in Kenya are threatened or intimidated. "No one will stop the ICC by attacking Kenyan citizens", the Prosecutor stated. On 21 January, the Prosecutor wrote a letter to Justice Minister Mutula Kilonzo in order to check what measures the Kenyan authorities are taking to protect the Kenyan citizens, whose safety and security is primarily the responsibility of the Kenyan Government.

19 January - The Federation of Women Lawyers (FIDA) Kenya [criticized](#) Mr. Hilaire and Mr. Cohn's request to be granted the status of Amicus Curiae, challenging the Prosecutor's request to open an investigation. FIDA stated that the move was an insult to Kenyans. "In calling for the ICC intervention, Kenyans are seeking an end to impunity and to ensure accountability and justice for the over 1,000 Kenyans who lost their lives, the over 300,000 IDPs who lost their homes and the over 5,000 women who were sexually assaulted," read the statement signed by FIDA Chairperson Naomi Wageraka.

g. miscellaneous

Reminder - The final versions of the policy paper on the OTP's legal approach to [victims participation](#) under Article 68(3) of the Rome Statute and of the [Prosecutorial Strategy for 2009-2012](#) will be released on 1 February 2010, following the receipt of comments and questions from external partners.

2. Preliminary Examinations:

a. Statistics on [Article 15 Communications](#) and other preliminary examination activities

A preliminary examination is the first phase of the Office of the Prosecutor activities, in order to assess if an investigation should be opened. It is a phase during which the Office first assesses the jurisdiction of the Court, whether crimes falling under the ICC jurisdiction may have been, or are possibly being, committed in a given situation; if the conditions are met, whether genuine investigations and prosecutions are being carried out by the competent authorities in relation to these crimes; and, as a third step, whether the possible opening of an investigation by the Prosecutor would not go against the [interests of justice](#). During this phase, and in accordance with Article 15, the Office proactively collects and evaluates all information on alleged crimes from multiple sources, including "communications" from individuals and parties concerned. The triggering of a preliminary examination does not imply that an investigation will be opened.

b. Afghanistan

The Office made its examination public in 2007. It examines alleged crimes within the jurisdiction of the Court by all actors involved. The OTP met outside Afghanistan with Afghan officials and organizations. The OTP sent requests for information to the Government of Afghanistan and has not yet received an answer.

28 January - According to its official [website](#), the London Conference on Afghanistan Conference will focus on security, the regional framework and international architecture as well as in development and governance. The Conference will be co-hosted by the Prime Minister Gordon Brown, President Karzai and United Nations Secretary-General Ban Ki-moon.

c. Colombia

The Office made its examination public in 2006. It examines alleged crimes within the jurisdiction of the Court and investigations/proceedings conducted in Colombia against the allegedly most serious perpetrators, paramilitary leaders, politicians, guerrilla leaders and military personnel. The Office is also analysing allegations of international networks supporting armed groups committing crimes in Colombia.

d. Georgia

The Office made its examination public on 14 August 2008. The Georgian Minister of Justice visited the OTP. Russia, a State not Party to the Statute, has sent 3,817 communications to the OTP. The Prosecutor requested information from the Governments of Russia and Georgia on 27 August 2008. Both the Russian and Georgian authorities responded. The Office conducted a visit to Georgia in November 2008.

e. [Palestine](#)

On 22 January 2009, the Palestinian National Authority lodged a declaration with the Registrar under Article 12(3) of the Rome Statute which allows States not party to the Statute to accept the Court's jurisdiction. The OTP will examine issues related to its jurisdiction: first whether the declaration accepting the exercise of jurisdiction by the Court meets statutory requirements; and second whether crimes within the Court's jurisdiction have been committed. The Office will also consider whether there are national proceedings in relation to alleged crimes. A delegation from the Palestinian National Authority, and Representatives of the Arab League visited the Court on 15-16 October 2009 to present a report in support of the PNA's ability to delegate its jurisdiction to the ICC. On 11 January, the OTP sent a [letter](#) summarizing its activities to the United Nations at their request, in the context of following up on the Goldstone report.

18 January - Tzipi Livni, former Israeli Minister of Foreign Affairs during Operation Cast Lead, [declared](#) that she would be willing to face arrest to challenge the validity of war crimes charges reportedly filed against her in a British court. She stated that the Israeli military had already conducted its own investigation into the actions of its soldiers, but that she did not necessarily support a public inquiry in Israel, unless it helped Israeli soldiers when they travelled outside Israel.

19 January - It is [reported](#) that the PNA, following a call by 11 Palestinian NGOs, expressed willingness to implement the recommendations of the Goldstone report by conducting independent and credible national investigations into allegations of crimes committed during and after Operation Cast Lead. Mohamed Faraj al Ghoul, senior Hamas political leader, declared that the Hamas welcomes such a call, that it has created a committee under his direction to study the Goldstone recommendations and that they will announce soon the position of Hamas concerning national proceedings.

22 January - The FIDH [report](#) on “Operation Cast Lead, one year later...” followed an FIDH mission to Israel and the Palestinian Territories from 10-18 January. During meetings with Israeli government representatives, FIDH was informed that the military was in the process of investigating 140 “specific incidents”, out of which only 40 could result in criminal investigation before a military court. The FIDH delegates were assured by the officials that “impunity is not an option.” FIDH noted that, “in order to be effective, credible and compliant with international standards, such investigations cannot be limited only to « incidents » but must imperatively delve into the wider policies that led to the unleashing of Operation “Cast Lead” and its methods of conduction. Only this type of investigation could shed light on the chain of command and therefore responsibility, which led to the events in question.” In meetings with the Palestinian Authority, FIDH was told that a national commission of inquiry comprising international experts and representatives of Palestinian civil society would soon be established. The Secretary-General of the Arab League had been asked to mediate in order to involve Hamas in the process initiated by the PA.

f. Côte d'Ivoire

The Court has jurisdiction over the situation in Côte d'Ivoire by virtue of an Article 12(3) declaration submitted by the Ivorian Government on 1 October 2003. The declaration accepts the jurisdiction of the Court as of 19 September 2002. The most serious crimes, including alleged widespread sexual violence, were committed in 2002-2005. On 17-18 July 2009, high-level representatives of the OTP visited Abidjan.

g. [Guinea](#)

The Office made its examination of the situation in Guinea public on 14 October 2009. Guinea is a State Party to the Rome Statute since 14 July 2003 and, as such, the ICC has jurisdiction over war crimes, crimes against humanity and genocide possibly committed in the territory of Guinea or by nationals of Guinea, including killings of civilians and sexual violence. The Office has taken note of serious allegations surrounding the events of 28 September 2009 in Conakry in accordance with Article 15 of the Statute.

15 January - Under the mediation of President Blaise Compaoré of Burkina Faso, the Guinean President, Moussa Dadis Camara and the interim President, Sekouba Konaté, concluded an [agreement](#) creating a Transition National Council and appointing a Prime Minister from the Guinean political opposition, [Jean Marie Doré](#), who will lead a Government of National Unity. The agreement also seeks to organize presidential elections within six months.

19 January - The Head of the OTP Cooperation Section, Amady Ba, met with the Guinean Minister of Justice, in Dakar, Senegal, to discuss the situation in Guinea. Minister Noulamou indicated that the country would “*strive to ensure that justice prevails within the country, in partnership and with the concurrence of the OTP*”. Moreover, the Minister indicated his commitment to support the OTP delegation’s mission to Guinea, headed by Deputy Prosecutor Fatou Bensouda, which is confirmed to take place from 15 to 19 February.

3. Cooperation – Galvanizing Efforts to Arrest:

20 January - The Prosecutor met with H.E. Mr. Stephen Rapp, US Ambassador-at-Large for War Crimes Issues, in The Hague. They discussed matters of common interest regarding ICC situations.

20 January – The Prosecutor met with the Slovenian Ambassador to the Netherlands, H.E. Mr. Leon Marc, in preparation for the Prosecutor’s meeting with the President of Slovenia, H.E. Mr. Danilo Türk, in Davos.

21 January - The Prosecutor met with Mr. Ismail Aramaz, Deputy Director General of the Department of the International Political Institutions of the Ministry of Foreign Affairs of Turkey, in The Hague. They discussed the upcoming Kampala Review Conference and situations under preliminary analysis, such as Palestine and Georgia.

22 January - The Prosecutor met with the new Irish Ambassador to the Netherlands and the ASP focal point on cooperation for the stocktaking aspect of the Kampala Review Conference, H.E. Mrs. Mary Whelan, in The Hague.

25 January - The ICC Prosecutor with Patricia O'Brien, UN Under-Secretary-General for Legal Affairs and UN Legal Counsel



The Prosecutor met with Patricia O'Brien, UN Under-Secretary-General for Legal Affairs and UN Legal Counsel, during the Under-Secretary-General's visit to the ICC. They discussed the upcoming celebration of international justice at the Kampala Review conference and the impact of the ICC after a few years of existence as recently demonstrated in Kenya and Guinea.

4. Coming Events:

- 26 January - Trial resumes in the case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*
- 27 January - Minister of Justice of Rwanda, H.E. Mr. Tharcissi Karugarama, meets with the Prosecutor in the Hague
- 27-31 January - Prosecutor participates in 40th World Economic Forum Annual Meeting, Davos-Klosters
- 28-29 January - Deputy Prosecutor participates in conference organized by the Gambia Bar Association, Banjul
- 4 February - Deputy Prosecutor participates in Atrocity Crimes Litigation Conference, organized by David Scheffer, former US Ambassador-at-Large for War Crimes Issues, Northwestern University, Chicago
- 4 February - Prosecutor addresses the Council for Foreign Relations, Washington
- 14 February - Deputy Prosecutor participates in a panel during the documentary film series Best.Doks, Munich
- 18 February - Prosecutor delivers speech at *Challenge Future* event hosted by Herausforderung Zukunft, Bochum
- 19 February - Prosecutor opens the London International Model United Nations Conference 2010
- 23 February - Prosecutor meets with Baroness Kinnock, UK Minister of State for Foreign Affairs
- 6 March - Deputy Prosecutor participates in the WOMEN Inc. International Festival, Amsterdam
- 7-10 March - Deputy Prosecutor delivers keynote address for International Women's Day, School of Law of the University of California, Davis, and Santa Clara University School of Law
- 12 March - Deputy Prosecutor participates in "Gender-Based Violence and Access to Justice in Conflict and Post-Conflict Areas" conference organized by Cornell Law School, Washington
- 22-25 March - Resumed session of the meeting of the Assembly of States Parties, New York
- 22-23 March - Prosecutor delivers the Amnesty International Chair public human rights lecture, Ghent University

* This document reflects the views of the Office of the Prosecutor of the ICC. For more information, contact Mrs. Olivia Swaak-Goldman, International Cooperation Adviser in the Office of the Prosecutor, at Olivia.Swaak-Goldman@icc-cpi.int