



Film sheds light on Congo's "unfair rape trials"

By Alex Whiting / 21 Nov 2011



LONDON (AlertNet) – The international community's efforts to increase the number of rape convictions in Democratic Republic of Congo have created unfair trials and led to growing numbers of false convictions, according to a new documentary.

The film "*Justice for Sale*" follows young Congolese human rights lawyer Claudine Tsongo as she investigates the case of Masamba Masamba, a junior soldier jailed in 2008 for 10 years for rape.

"I want to reveal the injustice done in this case," Claudine said in the film, which was premiered at the International Documentary Film Festival Amsterdam on Nov. 20.

"I want to show the truth of all aspects, so that the legal system does its work as it should."



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Claudine meets with Masamba and his wife and five children, with the woman Sifa who said she was raped and her husband Captain Mbala – a captain in Masamba’s brigade – and with the doctors who treated Sifa in hospital and lawyers who represented both sides of the case.

She says the basic principles of law were virtually ignored, and Masamba was convicted with no hard evidence.

Masamba’s lawyer Jean D’Ieu worked for free. *“It’s hard for a lawyer to see a client convicted when the case (of his innocence) is clear,”* he said in the film. *“I believe that everyone, also the court, wanted to hide things.”*

While in custody, Masamba came under pressure to tell the court he raped the woman and in return the court may have been less severe. But Masamba stuck to his version of the story. His lawyer said: *“I told him not to change his statement. Better to die for the truth than be saved by lies.”*

Now in prison, wearing orange prison overalls because, he says, he had to sell his clothes for food, Masamba tells Claudine: *“I still don’t understand why I’m here.”* His wife has now left him for another man.

The tribunal took place in Congo’s war-torn east, where tens of thousands of women and girls have been raped by soldiers, rebels and militiamen. Very few perpetrators have been brought to justice and many experts say ending impunity is key to curbing the widespread problem.

For years the issue received little international attention, but more recently donors began funding non-governmental organisations (NGOs) to set up mobile tribunals to help victims bring their cases to court.

But Masamba’s case highlights an unintended side-effect: NGOs organise and pay for tribunals to deal with cases of sexual violence, pay the judges and pay lawyers to represent the victim, but do not usually pay for lawyers to represent the accused. The result can be an unfair trial.

“Everybody, accused and victims, have the right to a fair trial. That is a fundamental principle and a fundamental right. There is no discussion about that, it is not negotiable,” Claudine said in the film.

Claudine discovers the case against Masamba contains contradictions and uncertainties. The doctors tell her that Sifa and her husband probably had a fight just before she was admitted to hospital, and that Sifa told them she had not been raped. And Claudine’s interview with the captain and his wife raised questions.

Masamba said that previous to the case he and the captain had had a row, at the end of which the captain threatened to ruin his life.

“I think there is no more hope for Masamba to get his freedom back,” Claudine said. “Unfortunately, the second appeal also convicted him with the same contradictions and uncertainty as in the police report. It is now impossible to re-open the case. That’s unacceptable and revolting.”

“Masamba is the victim of a legal system that is based more on money than on rights. Guilty or not, that’s not the question. You are innocent until proven guilty,” she said.

While making the documentary, twin-sister filmmakers Femke and Ilse van Velzen held workshops across the country with lawyers, judges, and NGOs working in the legal system and found this is an emerging problem.

“The Congolese government isn’t doing enough – or nothing at all – to stop impunity, so of course NGOs are going to take over this role. I think it is important they do so, otherwise nothing is going to happen,” Femke told AlertNet.

The problem is that NGOs are getting involved in the legal system, but that isn’t necessarily their background or expertise, she said. *“I think they have to maybe get experienced lawyers to help them ask whether they’re doing it the right way and, if not, how to balance it out and make sure we have fair trials.”*

The situation is made more complicated because there is political interference and corruption in Congo’s justice system, the twins said. Perpetrators who are convicted can often buy their way out.

Although posters in the streets say the punishment for rape is at least 10 years in jail, many get away with paying a fine, or with a very short jail sentence.

The filmmakers said the trials have become less independent than they were because of the international community’s involvement and the money flowing in.

“I think it’s really good that (NGOs) are organising the mobile tribunals, I think they just shouldn’t pay it all... This topic has to be raised and that’s basically what we’re doing with our film and to talk about solutions,” Ilse said.

The Dutch twin sisters have spent seven years making films on rape in Congo. They began with *“Fighting the Silence”* which focuses on victims of sexual violence, then *“Weapon of War”* which portrays military perpetrators of sexual violence.

“Basically the whole community is affected by the rape, so I think the (NGO) focus shouldn’t only be on victims, I think it should be broader, also perpetrators, working with (the) community, children, the husbands, basically everyone,” Ilse said.

Now that the film has been launched, the sisters want to start a campaign in Congo, using mobile cinemas to educate people on their rights to a fair trial and the correct procedures of legal trials.



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