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Central African Republic: Referral to the International Criminal Court should be accompanied by judicial reforms to address impunity

Amnesty International welcomes the decision of the government of the Central African Republic (CAR) to refer the situation to the Prosecutor of the International Criminal Court (ICC). However, a number of other measures should be taken by the government to ensure that the Central African Republic will be able and willing to investigate and prosecute these crimes itself in fair trials without the death penalty.

Amnesty International has for several decades documented serious human rights abuses during armed conflict in the CAR, including war crimes and crimes which may constitute crimes against humanity, committed with complete impunity.

Most recently, war crimes and crimes against humanity, including crimes of sexual violence, specifically against women, were committed during the armed conflict between October 2002 and March 2003. The armed conflict during that period was between insurgents led by former army Chief of Staff and current President François Bozizé, and forces loyal to former President Ange-Félix Patassé.

Amnesty International's findings during a visit to the CAR in September 2003 strongly suggested that sexual violence, including rape, perpetrated by combatants, was committed as part of a widespread or systematic attack on the civilian population, pursuant to government and armed opposition group policies. Under the Rome Statute of the ICC, sexual violence may constitute war crimes or crimes against humanity.

On 7 January 2005, the Prosecutor of the ICC announced that the CAR government had referred the situation of crimes within the jurisdiction of the ICC, committed since 1 July 2002 in the CAR, to him. The Prosecutor stated that an analysis would be carried out to determine whether to initiate an investigation. Regardless of whether the referral to the ICC will lead to investigations and prosecutions, the following measures should be implemented by the CAR government.

A long-term national action plan is urgently needed to end impunity for all crimes under international law committed in the CAR, no matter how far back they were committed or the status and nationality of the suspected perpetrators. The action plan should be developed in a transparent manner in full consultation with civil society. It should ensure that courts can function effectively in all parts of the country, that the victims and witnesses are protected, and that victims and their families can obtain the full reparation to which they are entitled under international law and standards.

The government should adopt implementing legislation to ensure that crimes in the Rome Statute of the ICC are crimes under national law. National legislation should conform to the obligations of the CAR under the Rome Statute and other international human rights treaties, in particular, to exclude the death

penalty. Although the death penalty has not been implemented since 1981, capital punishment is still authorized by law in the CAR. The requirements of such implementing legislation are outlined in Amnesty International's paper, *The International Criminal Court: Guidelines for Effective Implementation* (AI Index: IOR 40/011/00, July 2000).

The government should ratify and implement the Agreement on Privileges and Immunities of the Court as soon as possible. This Agreement is an essential tool to ensure that the ICC can conduct investigations without undue hindrance. As the ICC only has jurisdiction to investigate and prosecute crimes committed since 1 July 2002, the government must investigate and prosecute war crimes and crimes against humanity before that date.

Amnesty International calls on the Central African Republic not to ratify or implement the impunity agreement with the United States of America that it has signed.

The investigation and prosecution of crimes under international law in Central African Republic are not the responsibility of the government and the ICC alone. These are crimes against the entire international community and the fabric of international law. Amnesty International calls on the international community to fulfil its responsibilities by assisting the ICC and by helping the Central African Republic to develop and implement an effective action plan to end impunity for these crimes.

Background

The CAR is the third country, after Uganda and the Democratic Republic of Congo (DRC), to refer a situation of crimes within the jurisdiction of the Court. Investigations by the Prosecutor were launched in the DRC and Uganda in 2004.

In November 2004, Amnesty International published a report entitled, *Central African Republic: Five months of war against women*, (AI Index: AFR 19/001/2004), which highlighted the violence committed against women during the armed conflict between October 2002 and March 2003. The organization submitted the report, which includes recommendations to the CAR Government and to the international community, to the CAR authorities but has not yet received a response from them. The recommendations to the government include instituting an independent, impartial and competent investigation into the abuses and to seek the cooperation of the government of the Democratic Republic of Congo (DRC), from where many of the alleged perpetrators of rape and other forms of sexual violence came.