

## TABLE OF CONTENTS

1. Introduction.....	1
2. Background.....	3
3. Methodology.....	5
4. Rape as a weapon of war.....	6
4.1 Rape by MLC combatants and their CAR allies.....	7
Testimonies by survivors of rape by MLC combatants.....	9
4.2 Rape by combatants loyal to General François Bozizé.....	13
Testimony by survivor of rape by pro-Bozizé combatants.....	14
4.3 Medical, psychological and social consequences of rape.....	15
5. Action taken to alleviate the plight of the rape victims.....	15
Counselling and medical assistance for rape survivors.....	17
6. Existing mechanisms to prevent rape and other forms of sexual violence against women.....	18
6.1 National legislation.....	19
6.2 International standards.....	20
7. Conclusion.....	27
8. Recommendations.....	28
To the Central African authorities.....	28
To the international community.....	31



# Central African Republic

## Five months of war against women

### 1. Introduction

In September 2003, following allegations of widespread and systematic rape by combatants in the armed conflict in the Central African Republic (CAR), Amnesty International (AI) decided to send two researchers to the capital, Bangui, to gather further information. From the limited information available before September 2003, AI was concerned that the extent of rape in late 2002 and early 2003 was greater than in previous years. However, specific details were few and the scale remained unclear. Fearing stigmatization and rejection, most of the victims were reluctant – mostly unwilling - to talk publicly about their ordeal.

The armed conflict was between an armed political group led by former army Chief of Staff François Bozizé and President Ange-Félix Patassé's government forces, and included their respective foreign supporters from Chad and the Democratic Republic of Congo (DRC). AI's findings strongly suggest that acts of rape committed by combatants from the CAR, the DRC and Chad between October 2002 and March 2003 were systematic and widespread.

Virtually all the survivors, witnesses and representatives of human rights and humanitarian organizations that the researchers met in the capital, Bangui, said that most of the perpetrators of rape in late 2002 and early 2003 were members of the *Mouvement de libération du Congo* (MLC), Movement for the Liberation of Congo. The MLC is an armed political group from the neighbouring DRC which had entered the CAR in October 2002, at President Patassé's request, to help crush insurgents trying to overthrow the government.

According to human rights activists and religious leaders, although MLC members were responsible for most of the rapes, Central African nationals were also reportedly among the suspected perpetrators. Survivors and witnesses said they recognized members of the MLC by the fact that they did not speak any *Sango* a national language spoken by virtually all Central Africans, but spoke *Lingala*, one of the mostly widely spoken languages in the DRC, and frequently spoken by members of the armed forces.

The new reports of widespread and systematic rapes were reminiscent of similar violence against women in late May to June 2001, which followed a previous intervention by the MLC in May 2001. An AI delegation had collected many testimonies about widespread rape of women, reportedly mostly carried out by MLC members, on a previous visit to the CAR in January 2002. Neither the MLC leadership nor the CAR government authorities are known to have taken any action against those allegedly responsible for committing rape and other forms of sexual violence between May and June 2001. The perpetrators enjoyed virtual impunity and remained at liberty to commit further human rights abuses, including rape.

Against the background of virtual impunity enjoyed by perpetrators of rape and other forms of violence against women in the CAR, this report is an important contribution to telling the ignored or forgotten stories of women and girl survivors of rape in the CAR. This report exposes the physical and psychological trauma, and in some cases death, suffered by women in the CAR in late 2002 and early 2003 at the hands of combatants in the armed conflict.

The Rome Statute of the International Criminal Court (ICC) defines war crimes as “serious violations of the laws and customs applicable in armed conflicts not of an international character”. It goes on to explicitly include rape as such a violation. The Statute also provides a list of acts – including “[r]ape, sexual slavery ... or any other form of sexual violence of comparable gravity” – that constitute crimes against humanity “when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”. AI’s findings strongly suggest that acts of rape committed by combatants from all sides of the conflict were systematic and widespread.

Additionally, Article 7 (1) (g) -1 of Elements of Crimes of the International Criminal Court provides that rape is a crime against humanity when:

“The perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body. 2. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent. The conduct was committed as part of a widespread or systematic attack directed against a civilian population. 4. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population”.<sup>1</sup>

War crimes and crimes against humanity, including rape and other forms of sexual violence, committed in the CAR after the Rome Statute came into force can be tried by the ICC if the CAR Government is unable or unwilling to bring the alleged perpetrators to justice. In this case, the crimes were committed several months after the Statute came into force and one year after it was ratified by the CAR. The CAR government and the rest of the international community have a responsibility to ensure that suspected perpetrators, as well as their military and political leaders, are identified and brought to justice.

It is important to emphasize that rape is not only committed during armed conflicts or by foreign combatants. AI believes that it is vital that the CAR authorities and civil society, as well as the international community institute measures to protect women and girls from rape and other forms of sexual violence, which include bringing the suspected perpetrators to

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<sup>1</sup> International Criminal Court, Elements of Crimes, U.N. Doc. PCNICC/2000/1/Add.2 (2000).

justice. The fear of rape or other forms of sexual violence that hangs over the women and girls of the CAR will not be lifted by bringing to justice those responsible for rape during armed conflict alone. Education and legal mechanisms are instrumental to alleviating the plight of women and girls in the CAR.

As this report makes clear, rape and other forms of gender-based violence against women are a result of a combination of male domination, cultural practices and the failure of state institutions to protect and promote women's rights. By publishing this report, AI is hoping to get women in the CAR a step closer to full and equal enjoyment of their rights. The organization hopes that the CAR authorities will take action to bring the suspected perpetrators to justice and provide victims with redress, including compensation and rehabilitation. The rehabilitation should include providing material and psychological assistance to enable the victims to recover their lost dignity and, in many cases, their damaged health. The organization calls on the international community to assist and support the government in taking these fundamental steps to end impunity and provide victims with justice and redress.

## **2. Background**

For more than 10 years President André Kolingba used his position to control the armed forces and appoint his close associates, particularly members of his Yakoma ethnic group, to key positions. André Kolingba was replaced by Ange-Félix Patassé following the 1993 presidential elections. The new President as head of state and commander-in-chief of the armed forces sought to gain control of the security forces by appointing soldiers loyal to him to key positions. Many soldiers who had been loyal to former President Kolingba became disaffected as they lost their privileged positions. The tense relations between the armed forces and the government of President Patassé were exacerbated by irregular payment of salaries and culminated in a series of mutinies in the mid-1990s as sections of the armed forces sought to overthrow the government. Numerous human rights abuses, including extrajudicial executions, were reported but rape was not reported to be prominent among the abuses.

On the night of 28 May 2001 mutinous soldiers, apparently led by former President Kolingba, tried to overthrow the government of President Patassé. The government sought military assistance from the MLC, which had begun its rebellion in the DRC in late 1998. The MLC is an armed political group from the neighbouring DRC which at the time controlled territory adjacent to the CAR. The MLC intervention coincided with a dramatic increase in the numbers of reported rapes, which were allegedly mostly carried out by MLC members.

During a visit to the CAR in January 2002, AI researchers gathered testimonies about the rapes and other human rights abuses that had occurred in the aftermath of the May 2001 attempted coup. The abuses included extrajudicial executions, arbitrary arrests and unlawful

detentions of members of the Yakoma ethnic group targeted because they were from the same ethnic group as André Kolingba, the leader of the attempted coup. The representatives discussed with the authorities, including then President Ange-Félix Patassé and Prime Minister Martin Ziguélé, as well as the ministers of Justice and Foreign Affairs, various concerns, including rape by members of the MLC. The representatives also visited north-western DRC where they met the MLC Secretary General and urged the MLC leadership to remove any of their combatants implicated in rape and other abuses from positions in which they could commit or order further human rights abuses. AI also urged the MLC leaders to cooperate with any competent, independent and impartial investigation to identify any of their combatants and others who may have been involved in rape, looting and other human rights abuses and hand them over to a competent judicial authority which should bring them to justice. The MLC leaders are not known to have taken any action against the alleged perpetrators. AI released a report, in June 2002, detailing rapes alleged to have been perpetrated by MLC combatants, as well as other serious human rights abuses committed in the CAR in the aftermath of the 28 May 2001 coup attempt.<sup>2</sup>

The Central African government denied that its forces or its MLC allies had been responsible for rape or any other serious human rights abuses. It is against this background of impunity and a failure to take measures to prevent their recurrence that further rapes occurred at the hands of combatants from the MLC and others in the CAR when fighters loyal to former Army Chief of Staff François Bozizé invaded Bangui on 25 October 2002.

After forces loyal to François Bozizé invaded Bangui on 25 October 2002 and occupied the Presidency, MLC forces entered Bangui and began operations to root out the forces loyal to Bozizé, at the request of President Ange-Félix Patassé. By 29 October, forces loyal to Bozizé had been driven out of central Bangui. They began to retreat northwards, leaving the suburbs around 9 November 2002. MLC forces were deployed at PK12 (*Point kilomètres douze*<sup>3</sup>) to prevent the return of the Bozizé forces to the capital. Members of the *Forces armées centrafricaines* (FACA), Central African Armed Forces, and the MLC continued their offensive northwards. The FACA and MLC reportedly committed rapes and other forms of sexual violence as they advanced, as they allegedly robbed the local population and others fleeing the fighting.

Although the widespread rapes and looting appear to have diminished after the first few weeks of fighting, they nevertheless continued until Bangui and its suburbs were again overrun by the Bozizé forces and the Patassé government was overthrown on 15 March 2003. In mid-2003 the MLC joined a transitional government of the DRC when MLC leader Jean-Pierre Bemba was appointed as one of the DRC's four vice-presidents – two of whom are leaders of armed political groups. Other MLC leaders, as well as leaders of other armed political groups and the government they have joined, have occupied key positions in the

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<sup>2</sup> *Central African Republic: Refugees on the run, ethnic discrimination and the guilty unpunished* (AI Index: AFR 19/001/2002).

<sup>3</sup> 12 kilometres from central Bangui.

DRC transitional government. None of the leaders have been required to account for the abuses they committed, ordered or condoned in the DRC or in the CAR.

There were reportedly fewer cases of rape after 15 March. However, for some days looting by the forces loyal to Bozizé was reported to have escalated. It was gradually scaled down with the intervention of Chadian troops. Chadian troops are reported to have committed serious human rights violations, including summary executions, against combatants and civilians accused of looting.

### **3. Methodology**

This report is a result of research conducted over a year, including a detailed survey of existing published material and extensive interviews, conducted both outside and within the CAR. The interviews were carried out in September 2003 with survivors and witnesses of human rights abuses, as well as with international and local human rights and humanitarian organizations.

Survivors of rape were interviewed individually and confidentially, although in a number of cases interpreters trusted by the interviewees were required. In virtually all the cases, the survivors demanded anonymity because of the stigma attached to rape and its physical and psychological impact. However, testimonies collected by the researchers were significant and enabled AI to get a clear picture of the sexual violence perpetrated between October 2002 and March 2003. During the visit to Bangui in September 2003, AI's findings were corroborated by other organizations that had gathered information from or assisted survivors of rape.

AI representatives visiting the CAR in September 2003 were only able to interview rape survivors and witnesses in Bangui. AI's representatives were unable to interview many people from those parts of northern CAR which had been occupied by the rebels. It was still unsafe to travel to northern CAR in September 2003. This means that there is an emphasis on sexual violence committed by the forces loyal to President Patassé and their MLC allies.

The focus of this report on conflict-related violence against women does not mean that AI ignores or under-estimates the abuses that men also suffered during the conflict. In addition to the risks of injury, death or torture, men also suffered from sexual violence in some cases.

In one case, a man was sexually assaulted by a woman combatant. 22-year-old **VM** was forced by an MLC woman combatant to have sex with her on 12 December 2002. He met a group of about 10 MLC combatants with local civilian guides in the bush near Damara. After the combatants robbed and beat him, he was taken to one side and forced to undress by a woman combatant. She forced him to have sex with her and threatened to tell her male

colleagues to beat him again if he refused. He was treated for injuries and dehydration resulting from the beatings.

AI deplores and works to end those abuses as well. However, this report focuses on the abuses suffered by the women of the CAR as a response to the fact that women and girls are now the majority of victims of conflict the world over and that their suffering has often been ignored or misunderstood.

## 4. Rape as a weapon of war

During conflicts, violence against women is often used as a weapon of war, in order to dehumanize women themselves, or to persecute the community to which they belong. Rape as a weapon of war has been seen in conflicts in every region of the world in recent decades, often with an ethnic, religious or political dimension.<sup>4</sup> All these elements appear to have been a factor in the widespread and systematic rapes that were perpetrated against women during the armed conflict in the CAR from late 2002 to early 2003.

The MLC and their Central African military allies, particularly those led by Abdoulaye Miskine<sup>5</sup>, a former member of a Chadian armed opposition group, accused the Chadian community of supporting the pro-Bozizé forces and their Chadian allies. The pro-Bozizé Chadian forces were widely believed to be Chadian government troops. According to numerous sources in Bangui, the rapes perpetrated by MLC combatants were partly intended to punish the women for alleged assistance to the Bozizé-led combatants. Forces loyal to the government accused women north of Bangui of preparing food for Bozizé's combatants while Bozizé's forces occupied the area. It appeared also to have been a deliberate tactic to humiliate the men and demonstrate their powerlessness to protect their women and families.

Girls as young as eight years old and women as old as 60 were raped, according to human rights and humanitarian organizations that dealt with rape victims in late 2002 and early 2003. Many were attacked in their homes, while fleeing the combat zones or at roadblocks. They were raped in front of their husbands, children or parents. Some relatives who attempted to prevent attacks are reported to have been killed while others were threatened.

Child combatants are among the suspected perpetrators of rape and other abuses. Some sources in Bangui told AI that some of the child combatants involved in rapes and other forms of sexual violence appeared to be as young as eight years old.

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<sup>4</sup> *It's in our hands: Stop violence against women* (AI Index: ACT 77/001/2004), March 2004.

<sup>5</sup> Abdoulaye Miskine (also known as Martin Koumtamadji) commanded the elite Presidential Guard. He fled the CAR when President Patassé was overthrown in March 2003.

Many of the women and girls who were raped feared being shot by combatants. Women who attempted to resist were sometimes reportedly beaten severely, stabbed or even killed. Many of the combatants appeared to have been under the influence of illicit drugs.

In virtually all cases, rape was preceded by or occurred simultaneously with the looting or forcible removal of the victims' property by the perpetrators and their accomplices. Throughout the period that MLC combatants were in the CAR, looted property was either sold locally or was seen being taken across the Oubangui River to the DRC.

#### **4.1 Rape by MLC combatants and their CAR allies**

Widespread rape started simultaneously with the intervention of MLC combatants around 25 October 2002 to repulse combatants loyal to Bozizé. An international medical charity received the first rape survivors on 8 November 2002. By July 2003 when the charity ended emergency assistance to rape survivors, the charity had received 316 of them. The charity believes many more survivors failed to seek assistance for fear of being identified and stigmatized by their community or rejected by their spouses. Rape engenders shame for the victims, their spouses and members of their immediate family. The spouses generally tend to reject them so as not to be associated with the victims who are often regarded by members of their community and spouses as impure or even as having consented to sex and therefore immoral. In some cases, spouses fear that the victims may have been infected with sexually transmitted diseases, including HIV.

According to information gathered by AI researchers in September 2003, most of the widespread rapes took place north of Bangui, particularly in an area locally known as PK12 and PK22 (*Point kilomètre vingt deux*). A large section of the population in the two areas is Muslim. MLC forces had been deployed there to prevent or repel the advance of forces led by Bozizé. The population around PK12 is predominantly Muslim, including many people of Chadian origin. Many people had fled from Bangui, particularly from districts such as Boy Rabé and Gobongo which had been under sustained indiscriminate bombardment by Libyan planes.<sup>6</sup>

According to local reports, hundreds of women and girls were raped in late 2002 and early 2003. A large number of the rape survivors were reportedly members of the Muslim community, but very few of them presented themselves for medical examination or treatment. A medical charity that provided emergency care to rape survivors stated that only 10 of the 316 survivors that they saw were Muslim. All the 10 were accompanied by their husbands

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<sup>6</sup> Sources in Bangui said that most of the bombs dropped by Libyan planes did not explode and hence, although they caused a lot of fear among the population, they did not result in many casualties. The CAR authorities had turned to Libya for support in mid-2001.

whose presence is believed to have restricted how fully they could describe their experiences and the extent of the physical and psychological trauma to which they had been subjected.

The sexual assaults on the women coincided with the Muslim fasting period of Ramadan. A women's organization estimated that as many as 250 women were raped in and around PK12. However, fearing stigma and rejection by their husbands if their testimonies became public, few Muslim women were prepared to talk about their experiences to human rights and humanitarian organizations. Virtually all those who agreed to testify were from the Christian community. When specifically asked by AI researchers about rape perpetrated in their area, leaders of the Muslim community denied that any women had been raped there. This suggested that the stigma also affected male members of the community whose wives or daughters had been raped.

A Christian religious leader told AI researchers that many women were raped in the villages around PK12. However, the women mostly preferred not to talk about their ordeal to people they did not know or trust. The leader said that they mostly talked about it among themselves. The victims were afraid of stigmatization or felt too embarrassed to testify about their ordeal.

In one primary school near PK12 members of the MLC reportedly raped school girls as their teachers held a meeting. The girls were aged between 10 and 12 years. The mass rape only reportedly stopped when a Roman Catholic nun intervened.

As MLC and CAR government forces advanced northwards, so did the occurrence of widespread rape. Representatives of an international humanitarian organization who visited Liton village situated 32 kilometres north of Bangui found it virtually deserted in early November 2002. There were only six men left in the village. The men stated that MLC combatants raped all the women and girls they found in the village, killing some of those who resisted. The number of women killed in the village was not available.

According to Roman Catholic Church sources, at least 18 women were reportedly raped in the Mandaba district and more than 90 others in the Boy Rabé district of Bangui in late 2002. The same sources said at least 45 women were raped at PK12; 62 at PK13 and 32 at PK 22. These figures are not thought to include Muslim women.

Some women reportedly died from the effects of rape. For example, a woman was raped soon after she had given birth. She later died from the physical trauma resulting from the rape. Her baby also reportedly died soon after.

Other rape victims became widows. Their men were targeted because they were suspected of supporting the insurgents or because they tried to protect their wives. In November 2002, soldiers led by Abdoulaye Miskine executed 25 Chadian men whom they accused of collaborating with combatants led by Bozizé and their Chadian allies. Fifteen of them were reportedly shot dead in a village beside a road at PK12. They were buried in a

mass grave by a local chief. Ten others were shot dead at a nearby cattle market at PK13 and buried there in a mass grave. AI researchers visited the mass graves where the victims were buried and interviewed witnesses to the executions. At least seven who survived the executions required hospital treatment. One of them, **Yahya Issa**, was hospitalized with a shattered leg.

In some cases male children were forced to have sex with their mothers, sisters or other female relatives. According to human rights and humanitarian workers in Bangui, both the men and women had been severely traumatized by the experience. Social workers said the trauma was bound to affect their relationships with others in their community for a very long time. Some may never recover from it. These allegations were obtained by AI's researchers from several contacts who said that the victims were unwilling to be interviewed because of the stigma and shame they felt.

Members of the Patassé government and their spouses were also reportedly victims of sexual assault. There were reports of wives of several government ministers and other high-ranking officials being raped by members of the MLC. In one case, MLC women combatants reportedly ordered a government minister to strip naked. The women reportedly told him that they wanted to see a naked government minister because they had not seen one before. The women combatants' main reason for forcing the minister to undress appears to have been to humiliate him. Neither the government nor the MLC took action against the combatants.

## **Testimonies by survivors of rape by MLC combatants**

In order to protect the identity of the rape survivors, AI has chosen to use the initials instead of their full names. Although some of the victims did not explicitly ask for anonymity, we want to protect them too from any possible stigmatization or social rejection. We nevertheless believe that by telling their stories in this report, we will help them in the struggle to end rape with impunity.

**DDH**, a mother of three children aged between two and 10 years, was with her children when MLC combatants arrived at their home on 12 March 2003. They lived in the Fou district of Bangui. The combatants first looted everything in the house, except for a few food items and the family's bed. The combatants then asked for money which DDH did not have.

Following the looting of their home, the family decided to flee some 45 kilometres north of Bangui. On the way another group of combatants forcibly took away the family's bed and food items. The combatants then pounced on DDH and started raping her in turns in front of her children. The children fled into the bush frightened and crying. She said that she became unconscious when the sixth combatant attacked her. After they raped her, the

combatants left DDH on the spot where she was found by an elderly woman. The elderly woman helped DDH reach DDH's sister's home in the Bimbo district of Bangui.

Unable to obtain professional medical care, DDH was massaged with hot water to reduce the pain. After one week she was able to walk to a forest to collect medicinal fruits to treat the injuries she suffered during the rape. She believed that the men who raped her were members of the MLC from the DRC because they only spoke Lingala.

On 2 November 2002 MM, a 46-year-old ex-soldier was fleeing with his wife, EN, 47, towards PK 22 when they saw a group of six MLC combatants at PK 15 coming towards the couple. Fearing that members of the MLC would mistake him for a serving soldier, he fled into the bush leaving his wife behind. His wife was then attacked by two of the combatants, who then raped EN while a third stood by. After they raped her, the combatants went through the couple's baggage stealing anything they could find, including 60,000 CFA Francs (approximately US\$ 90) which MM had been paid as his pension. The attackers spoke Lingala, which EN did not understand.

The husband remained hidden in the bush until after EN's attackers had left. After the rape EN experienced extreme fatigue and treated herself with traditional herbs. EN and MM hid in the bush, surviving on cassava tubers, until they considered it safe to return home. EN walked in great pain for three days to Bangui. After a project funded by the United Nations Development Program (UNDP) to assist rape victims began she was examined by a medical doctor and treated for injuries resulting from rape (see Section 5 below). When AI researchers met her in September 2003 she was still paralysed in the lower right side and walked with a limp.

SM, 34, was infected with sexually transmitted diseases (STDs) after she was attacked on 31 October 2002 by members of the MLC in Liton, also known as PK 22. While travelling with three women and her two children, SM was stopped by some MLC combatants. The combatants searched her bag, removed her clothes and took 30,000 CFA Francs (approximately US\$ 45) from her.

After the search the combatants demanded to have sex with her. Hoping to put them off, SM told them she was menstruating. They forced her to the ground and three of them raped her in turns, while her children hid in the classroom. The combatants left her where they had raped her. She said that many other women, including the three she had travelled with from Bangui, were also raped.

For several months she did not disclose the rape to her husband or other members of the family. When fighting ended she returned to Bangui where she underwent tests for STDs. Although her HIV test was negative, she had a staphylococcus infection and received treatment. After the rape she has experienced itching of the pelvis. She also has trouble with her periods, as well as persistent fevers.

**PN**, 26, suffered temporary paralysis after she was raped along with two of her sisters, by members of the MLC at Koula Bridge, near PK 22, on 31 October 2002. PN was on her way to a local market with her sisters, as well as two children, when five MLC combatants standing near the bridge attacked and raped her, as well as her two sisters. After the rape PN was paralysed from the waist downwards. She was taken to PK22 in a wheel barrow and later to Gobongo, to the north of Bangui. She first saw a medical doctor on 23 May 2003. Although she has since recovered movement in her limbs she still experiences pain, especially when she walks long distances. After they were raped, PN's sisters never returned to Bangui. PN later learned that her two sisters were living in Kaga Bandoro. PN thought that her sisters feared returning to Bangui because of possible stigmatization. After learning that she had been raped, her husband abandoned her and the children. He returned to her when medical examinations confirmed that she had not been infected with HIV or any other STD.

On 28 October 2002 **BI** was at home in Bangui's Boy Rabé district when four armed MLC members came to her house. Although most people were fleeing Bangui, she could not leave because one of her children was seriously ill. She was preparing porridge for the sick child in the kitchen when two of the men attacked her. They ripped her clothes and threw her to the ground. They threatened to shoot her if she continued to resist. All four combatants raped her. Before leaving, the combatants reportedly took with them property from her house, including cassava, palm oil and groundnuts.

On 31 November 2002 **MM**, 44, was at her sister's home near PK22 when three members of the MLC raped her. Two others searched the house for valuables to steal. She estimated that the rape lasted nearly an hour. When they could not find any valuables to steal, one of the combatants hit her with a gun. Following the rape, MM continued to feel abdominal pains. She had had an operation for appendicitis in 1999. She believed that the pains were either caused or exacerbated by the gang-rape.

**MN**, 32, was raped in front of her children on 3 November 2002 by three members of the MLC at PK22. She was then living with relatives in a home at PK22 after fleeing from Bangui's Gobongo district. Her attackers initially demanded money, which she told them she did not have. They then started to rape her in turns as her four children cried. During the attack she lost consciousness. When she regained her consciousness, the combatants had left with any valuables they could find in the house. She fled the home to return to Gobongo. On the way her 4-month-old baby died from illness and was buried in Gobongo.

MN's husband left her to live with another woman after he learned that she had been raped. Subsequent medical tests found that she had HIV and tuberculosis. MN told AI's researchers that she was worried about her children's future if she died.

**BY**, 20, was raped on 18 November 2002 by two MLC combatants at Damara. She and her family had fled into the bush to escape attacks by combatants. MLC combatants found them in the bush and demanded money and livestock. The combatants told the family

they would rape the four women among them as a punishment for having nothing for them to take. BY was raped by two of the combatants. The second one whipped her when she resisted. In all the four women were raped by 12 combatants. BY is among women who lodged a complaint with the Procuracy to bring the perpetrators to justice. As in other similar cases, the Procuracy said the raped women's files had been forwarded to the investigating magistrate but no further action was known to have been taken to identify those reported to be responsible in order to bring them to justice.

**BEY**, 24, was raped on 12 December 2002 in Kpabara village, 10 km from Damara. She was on her way to fetch water when she met three MLC combatants. As she tried to resist being raped one slashed her with a knife on the left shoulder. She subsequently became ill and was treated with traditional medicine. She was later found to be HIV positive.

**PM**, a 26-year-old mother of two children, was raped in early February 2003 by two MLC combatants at the home of her in-laws in Bossombele. She was at home with her 70-year-old mother-in-law. Other people in the neighbourhood had fled to the bush. The combatants who raped her looted anything of value from the house, including cassava, clothes and 10,000 CFA Francs (approximately US\$ 15). They left behind only bulky items that they could not carry with them. Her mother-in-law died in late March 2003. PM believed that her mother-in-law's death was precipitated by having witnessed the rape of her daughter-in-law.

When fighting ended in March 2003 PM returned to Bangui where she and her husband were diagnosed HIV positive. PM would have liked to lodge a complaint against the men who raped her but thought it futile as she did not know where they were. She was worried that she would not be able to pay for her medical expenses if she succumbed to HIV-related illnesses or developed AIDS.

**KMIE**, 18, fled Bangui on 31 October 2002 with her father towards PK26 where they were ambushed by MLC combatants. She was still clearly traumatized as she described her ordeal to AI researchers. Two of the MLC combatants separated her from a group of people sheltering in a school at PK22. One of the combatants raped her as the other pinned her to the ground and slapped her repeatedly. She cried throughout the time she was being raped. Before they left, the combatants took her belongings, including 35,000 CFA Francs (approximately US\$ 53) which her father had given to her to buy food. They beat her brothers too and took their property. She and her siblings decided to return to Bangui, leaving their father behind. The first day after the rape she had pain in her genitals and walked with difficulty. She feared that she had been infected with HIV but medical tests confirmed that she was HIV negative.

On 12 January 2003, **SY**, 17, was with her younger brother and sister at Mabo, 135 kilometres from Bangui, when they met a member of the MLC who threatened to shoot her if she refused to have sex with him. The combatant raped her as well as her 12-year-old sister. On leaving he took their clothes and 1,000 CFA Francs (approximately US\$ 1.50). Her sister was later found to have become pregnant.

**PY**, 20, reportedly died from injuries she sustained during a rape. She and her family had fled from Gobongo to PK22. On her way to join the rest of the family in the fields on 31 October 2002 she met five members of the MLC who raped her in turns. The fourth combatant failed to have an erection bit her on the left ear. Despite treatment for the bite, she died from a tetanus infection five weeks later.

**PG**, 26, was gang-raped in front of her children on 31 October 2002 by three members of the MLC at PK22. She was fleeing with her two children to her aunt who lived at PK26. The MLC combatants raped her in a small hut in front of her crying children. She lay in the hut for about five hours unable to walk and some of the time unconscious. When she managed to walk she continued the journey to her aunt who massaged her with hot water and wild herbs. She sustained swellings and grazes in the genitals. After they raped her, the combatants took her bag which also contained 25,000 CFA Francs (approximately US\$ 38). Her husband abandoned her when he learned that she had been raped. When AI met her in September 2003, she lived alone with her children without any source of income.

**BD**, 20, was fleeing with many other people towards PK22 when they met members of the MLC at PK12. The combatants shot at the group, wounding a village chief who carried a flag to signify that they were non-combatants. BD and many others, including her aunt's husband and other men, hid in a house. Four of the combatants broke down the door. Two of them spoke Lingala and the others French. Those who spoke French ordered the women to strip naked. They raped all the women and BD's 12-year-old sister. Medical examinations confirmed that BD had been infected with STDs but not HIV. BD did not know whether any other women had been infected with STDs.

## **4.2 Rape by combatants loyal to General François Bozizé**

Combatants loyal to General Bozizé, including their allies from Chad, are reported to have carried out rapes in the areas that they occupied. Areas where the combatants are reported to have carried out widespread rapes include Kaga-Bandoro (342 km north of Bangui), Bossangoa (305 km northwest of Bangui), Sibut (188 km north of Bangui) and Damara (76 km north of Bangui). By March 2004, AI was not aware of any action taken against suspected perpetrators of rape between October 2002 and 15 March 2003 under General Bozizé's command.

As noted in the Methodology, AI researchers visiting the CAR in September 2003 were only able to interview victims and witnesses in Bangui. Few of the interlocutors met by the organization's representatives had come from parts of northern CAR which had been occupied by the rebels. Even in September 2003 it was still unsafe to travel to northern CAR, parts of which had no effective administration or were reportedly under the control of marauding bandits.

Four women were raped in January 2003 by General Bozizé's combatants in Sibut. One of the victims was the daughter of a senior government official. She was raped in front of her father. After Damara and Sibut were occupied on 14 February 2003 by Bozizé's combatants they reportedly raped at least two dozen women. It was reported that 23 were raped in Damara and two in Sibut.

A woman testified on a private radio station that on 28 October 2003 she was arbitrarily arrested and gang-raped by five members of a unit of the Presidential Guard known as the *Section de recherche et de documentation* (SERD), Research and Documentation Section, in Bangui. Following publicity about the case, President Bozizé dismissed the alleged perpetrators and two of their accomplices from the army. President Bozizé dissolved the SERD, which already had no legal status after it had been abolished by the previous government in 2000. The President also removed the commander of the Presidential Guard from his post but appointed him a provincial governor. The suspects were detained in the Camp de Roux military barracks.

On 10 January 2004 the state-owned *Radio Centrafrique* reported that the five soldiers had been sentenced to five years' imprisonment after the Permanent Military Court had found them guilty of rape. The military court had resumed in December 2003 after it had not sat for eight years.<sup>7</sup> Those convicted by the military court have no right to appeal to a higher jurisdiction. AI believes that all those suspected of human rights abuses, including rape, should be brought to justice. Trials should meet international standards for fairness, including the right to appeal.

The military court was composed of five judges, four of them members of the security forces. The prosecutor was a government commissioner responsible for prosecutions at the military court.<sup>8</sup> Reports indicate that the victim had no legal representation at the trial and she did not receive any compensation.

### **Testimony by survivor of rape by pro-Bozizé combatants**

GG, 34, was staying with her brother in Bossangoa when she was attacked on 19 November 2002 by two combatants loyal to General Bozizé, whose troops had a camp in the neighbourhood near the town's prison. The combatants found her in the house and started slapping her about the head. She fell to the ground and they raped her in turn. GG believed that they were Chadians because they spoke Arabic and French.

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<sup>7</sup> *Tribunal militaire permanent.*

<sup>8</sup> *Commissaire du gouvernement.*

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### **4.3 Medical, psychological and social consequences of rape**

Some of the women survivors of rape experienced the added trauma of being rejected by their husbands and other members of their community who blamed the women for “allowing” themselves to be raped. The situation was significantly worse for the women who were infected with STDs, particularly HIV. Some of the husbands left their wives without any means of supporting themselves. According to the UNDP and its partners in Bangui much of the psychological trauma suffered by the rape victims was a result of stigmatisation, HIV and other STDs, and unwanted pregnancies.

It was not certain that all HIV and other STDs had been contracted during the rape ordeal.<sup>9</sup> However, for most of those infected it was the first time they learned of their HIV status and it was reasonable for them to believe that they had contracted the illnesses from their attackers. Of the 316 rape victims examined by an international medical charity, 65 were HIV positive. They received no therapy for the infection. Of the 65, 15 returned to the charity for a second test. The others never returned fearing that their status would be confirmed and that they would be identified by members of their community. There were also reports that some of the HIV positive women attempted suicide. Other STDs diagnosed included syphilis, gonorrhoea and chlamydia.

Pregnancies resulting from rape were also particularly difficult for the victims and their families to deal with. A child resulting from rape would be a living reminder to the survivor of the ordeal suffered. The child is also likely to be psychologically affected if and when it learned of the circumstances in which it was conceived and being or feeling unloved.

Most of the women had no access to safe abortion facilities as abortion is illegal in the CAR. The only alternative to giving birth for women were “backstreet” abortions carried out in an unsafe environment by unqualified individuals. Such unsafe terminations of pregnancy are likely to put the women’s lives at risk.

## **5. Action taken to alleviate the plight of the rape victims**

At the time of and in the immediate aftermath of the mass rape that occurred in late October and early November 2002, international and local human rights and humanitarian organizations set out to gather information about the abuse. The organizations reported the abuses, mostly confidentially, to the government and the *Bureau des Nations unies en*

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<sup>9</sup> According to UNICEF, the CAR is one of the ten most affected countries in the world by the HIV/AIDS pandemic. The prevalence of HIV infection in the CAR is estimated by medical experts in the CAR to be between 15 and 20 per cent of the population.

*Centrafrique* (BONUCA), United Nations Office in Central Africa. Several humanitarian organizations provided medical and other material help to the victims, and advised them to report their cases to BONUCA's human rights section.<sup>10</sup> BONUCA reported internally to the Office of the UN High Commissioner for Human Rights but made no detailed public statements or appeals. The failure to make public reports about the human rights situation in the CAR makes it difficult for the people in the country and the wider international community to make an informed judgment on any progress or deterioration of the situation. AI recommends that BONUCA publishes reports about the human rights situation in the CAR.

Following an outcry in late 2002 by human rights and humanitarian organizations about widespread rapes, the government of President Patassé initially denied the abuses. The government authorities reportedly said that they were not concerned and showed no interest in stopping attacks on women or assisting the survivors. Former President Patassé reportedly said that he did not regret anything about the reported rapes. It appeared that the government denied allegations of rape in order not to alienate its main allies who were the main alleged perpetrators – members of the MLC.

Up until late 2002, the MLC leadership denied that its combatants had been involved in systematic and widespread rape. In November 2002 the MLC reportedly acknowledged the abuses and announced that it would bring to justice<sup>11</sup> the perpetrators whom it characterized as “rogue elements”.<sup>12</sup>

A senior woman judge with legal expertise in women's rights assisted women who wanted to place charges against their attackers. However, AI sources indicate that almost none of the victims can recognize their attackers, apart from identifying them as, mostly, MLC members.

The Procuracy in Bangui told AI that they had received more than 300 complaints of rape from rape survivors. The Procuracy in Bangui said that it had forwarded the case files to an investigating magistrate who has yet to charge anyone with any offence in connection with rape. One of the major difficulties that the CAR judiciary face is identifying the suspected perpetrators. Often the survivors could not identify their attackers, as many members of the

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<sup>10</sup> The organizations asked not to be named for the security of their staff and in order not to damage their work with vulnerable people in the CAR.

<sup>11</sup> In areas of the DRC controlled by the MLC, military courts tried and convicted the armed group's combatants accused of disciplinary offences and human rights abuses. For example, a military court at the Gbadolite headquarters of the MLC tried about 20 combatants, including senior officers, in connection with allegations of unlawful killings and other human rights abuses in the DRC's Ituri province at the end of 2002. None were charged with rape. The defendants were convicted and sentenced to between six months and life imprisonment. AI is concerned that the court was dominated by military officers who were prone to pressure from their superiors. The defendants lacked qualified legal counsel. Any appeals by those convicted were also likely to be referred to another military court with a similar composition.

<sup>12</sup> *éléments incontrôlés*.

MLC have returned to the DRC. The CAR authorities have not begun proceedings to seek the cooperation of the DRC authorities in order to identify suspected perpetrators with a view to bringing them to justice or to lodge a suit against the MLC leadership.

No complaint was known to have been lodged against combatants who overthrew President Patassé or their leaders. By July 2004 no one had been indicted in connection with the rapes that occurred in late 2002 and early 2003.

In a 4 January 2003 letter to the UN Secretary-General's Representative to the CAR, MLC leader Jean-Pierre Bemba indicated that eight of his soldiers were under arrest for disobeying orders. Jean-Pierre Bemba asked the UN to assist the MLC to investigate allegations against the eight soldiers with a view to bringing them to justice before a military court. In a 20 February 2003 letter to the FIDH Jean-Pierre Bemba said that the eight soldiers had been found guilty of looting and sentenced to between three and 24 months' imprisonment. He added that the MLC was prepared to cooperate with an international commission of inquiry into human rights abuses that had occurred in the CAR. No such commission of inquiry had been established by July 2004.

In a letter dated 13 February 2003, the Paris-based *Fédération internationale des droits de l'homme* (FIDH), International Human Rights Federation, asked the Prosecutor of the International Criminal Court (ICC) to investigate violations of the 1949 Geneva Conventions, particularly Common Article 3 to Geneva Conventions on the protection of civilians during internal armed conflict. In the communication to the Prosecutor, FIDH highlighted rape, unlawful killings and systematic looting among alleged abuses committed by the protagonists. The lodging of the complaint followed an FIDH fact-finding visit to the CAR in late November to early December 2002.

On 17 February 2003 the ICC's Director of Common Services acknowledged receipt of the communication and added that it would be brought to the attention of the Prosecutor. In July 2003 the Prosecutor announced that he had already received 499 communications from around the world. By July 2004, the Prosecutor had not yet stated whether he would investigate allegations of human rights violations in the CAR.

## **Counselling and medical assistance for rape survivors**

In light of reports of widespread rape, the UNDP offered to provide funding for a project to assist survivors of rape.<sup>13</sup> The project, which started on 28 November 2002, included identifying survivors and providing them with emergency medical care. Medical care included treatment for physical injuries sustained by the survivors and tests for HIV and other

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<sup>13</sup> *Projet d'assistance humanitaire aux femmes et jeunes filles victimes de viols et violences inhérents aux violences du 25 octobre 2002.*

STDs. Survivors were also offered psychological support to overcome the trauma suffered by them, their families and their husbands or partners.

The UNDP-funded project included counselling women who had been raped and their husbands to cope with the trauma. After the Patassé government eventually accepted that rape had occurred, the UNDP-funded project provided air time on the state-owned radio to campaign against stigmatizing the survivors. Counsellors working with the project explained to husbands the suffering their wives had had to endure. Some husbands reportedly returned to their wives, particularly those who had not been infected with HIV. Condoms were provided to couples where a woman had been infected with HIV or was still being treated for other STDs.

According to UNDP officials in Bangui, the UNDP was planning to carry out an evaluation of the project for rape survivors by the end of 2003. However, by July 2004 the UNDP had not yet received the necessary resources to carry out the evaluation.

UNDP was also envisaging an HIV treatment program for survivors of rape. The program was being planned to last up to five years, without a start date being specified. Under existing healthcare provisions, virtually all the women who were HIV positive would be unable to have access to anti-retroviral drugs due to the prohibitive costs. Patients in the CAR have to pay for consultation – usually 1,000 CFA Francs (about US\$ 1.50). This does not include the cost of medication and other therapy that patients require. Most people in the country earn far less than this a day, if at all. According to the 2002 World Bank report on economic indicators, CAR's Gross National Income (GNI) per capita is US\$ 270 – less than US\$ 1 per day. Extreme and widespread poverty leads most people who are ill to resort to traditional medicines which are more readily available and cheaper than modern and usually more effective medicines in hospitals and pharmacies or clinics ran by qualified medical practitioners. Other patients buy cheaper but often poor quality or expired drugs from street vendors with no medical expertise to diagnose illnesses or dispense medicines.

## **6. Existing mechanisms to prevent rape and other forms of sexual violence against women**

A number of Central African laws and international treaties to which the Central African Republic is party offer women formal legal protection from violence. Legal protection of women's rights would be further enhanced if provisions of international treaties which the CAR has ratified were incorporated in domestic law. However, in practice there is little implementation. Most of the population is unaware of the existence of these laws. In addition, the authorities do little or nothing to popularize or enforce them.

## **6.1 National legislation**

Article 1 of the CAR's 1995 Constitution states that a human being is sacred. Article 3 guarantees a person's right to life and physical integrity. Article 6 (3) stipulates that the State has a responsibility to protect young people from violence, insecurity, as well as from moral, intellectual and physical abandonment.

Rape and other forms of sexual violence are offences in the Central African Penal Code. In Article 196 of the Penal Code, indecent assault against a child under 15 years of age is punishable by up to five years' imprisonment. The same punishment is given to a person who indecently assaults an unmarried female student less than 18 years old.

Rape is punishable by imprisonment with hard labour under Article 197 of the Penal Code. However, the Penal Code does not specify a minimum sentence. According to legal experts in the CAR, the trial judge decides on the length of a prison term to be served by the perpetrator. AI is concerned that a failure to set a minimum sentence gives rise to a possibility of abuse or overly lenient sentences.

Indecent assault with violence or attempted indecent assault with violence is punishable by between five and 10 years' imprisonment under Article 197. If the perpetrator is a parent or someone in a position of responsibility the period of imprisonment may exceed 10 years.<sup>14</sup>

The Central African Penal Code's Article 181 punishes the crime of administering blows, deliberate injuries and violence on a person by up to one year. According to Article 182, if the violence has caused illness and inability to work for up to 20 days, it is punishable by up to five years' imprisonment. Article 183 states that if the violence is characterized by mutilation, amputation and permanent incapacity, the offence is punishable by up to 10 years' imprisonment.

BONUCA has helped to revise the Penal Code and the Code of Penal Procedure to include offences that are mainly committed against or specific to women. The revised texts were submitted to the Central African's Ministry of Justice in 2003. AI was unable to obtain the revised texts. However, the organization has learned that the new or amended articles of the Penal Code include legalization of abortion for therapeutic reasons; punishment of the crime of female genital mutilation; crimes against humanity and war crimes; sexual harassment; deliberate contamination with HIV / AIDS; and child trafficking. AI welcomes the revision of the CAR's Penal Code and Code of Penal Procedure. The organization urges the Central African authorities to approve and ensure the implementation of the two texts as a matter of priority.

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<sup>14</sup> augmenté d'un degré.

## **6.2 International standards**

The CAR is a state party to major international and regional human rights treaties protecting the rights of women and girls, and these treaties remain in force even in situations of armed conflict. These treaties include the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).<sup>15</sup> CEDAW prohibits all forms of violence against women. Forms of violence against women include subjecting (or the threat of subjecting) them to physical, psychological and sexual abuse.

CAR is also a state party to the Four Geneva Conventions of 1949 and the Protocol Additional to the Geneva Conventions of 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). Common Article 3 of the four Geneva Conventions applies to non-international conflicts and provides for the protection of those taking no active part in the hostilities. It explicitly prohibits “violence to life or person, in particular murder of all kinds, mutilation, cruel treatment and torture ... outrages upon personal dignity, in particular, humiliating and degrading treatment”. Article 4 of Protocol II prohibits “outrages upon personal dignity, in particular ... rape ... and any form of indecent assault.

International law requires states to address persistent violations of human rights and take measures to prevent their occurrence. With respect to violations of bodily integrity, states have a duty to prosecute abuse, whether committed by an agent of the state or a private citizen. For example, Article 2 of the International Covenant on Civil and Political Rights (ICCPR) to which CAR is a party requires governments to provide an effective remedy for abuses and to ensure the rights to life and security of the person of all individuals in their jurisdiction, without distinction of any kind including gender.

Sexual violence includes rape and attempted rape, and such acts as forcing a person to strip naked in public, forcing two victims to perform sexual acts on one another or harm one another in a sexual manner, mutilating a person's genitals or a woman's breasts, and sexual slavery. The appeals chamber judgment of the International Criminal Tribunal for the former

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<sup>15</sup> Other major international treaties ratified by the CAR include: Convention on the Rights of the Child (CRC), the Rome Statute of the International Criminal Court (ICC), First Optional Protocol to the ICCPR, International Covenant on Economic, Social and Cultural Rights (ICESCR), International Convention on the Elimination of All Forms of Racial Discrimination (CERD). African regional treaties the CAR has ratified include the African Charter on Human and Peoples' Rights (ACHPR). It has also signed but not ratified the Protocol to the ACHPR on the Establishment of an African Court on Human and Peoples' Rights. It has not signed or ratified the Protocol to the ACHPR on the Rights of Women in Africa or the Protocol to the Court of Justice of the African Union, the African Union Convention on Preventing and Combating Corruption and the African Charter on the Rights and Welfare of the Child.

Yugoslavia (ICTY) in the 2002 *Foca* case defines rape as "[t]he sexual penetration, however slight: (a) of the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator; or (b) [of] the mouth of the victim by the penis of the perpetrator; where such sexual penetration occurs without the consent of the victim. Consent for this purpose must be consent given voluntarily, as a result of the victim's free will, assessed in the context of the surrounding circumstances. The *mens rea* is the intention to effect this sexual penetration, and the knowledge that it occurs without the consent of the victim".<sup>16</sup>

Trial Chamber 1 of the International Criminal Tribunal for Rwanda (ICTR) in its 1998 ruling in the *Akayesu* case defines rape as "[a] physical invasion of a sexual nature, committed on a person under circumstances which are coercive. Sexual violence which includes rape is considered to be any act of a sexual nature which is committed on a person under circumstances which are coercive. This act must be committed:<sup>17</sup>

- (a) as part of a widespread or systematic attack;
- (b) on a civilian population;
- (c) on certain catalogued discriminatory grounds, namely: national, ethnic, political, racial or religious grounds."

Rape and other sexual abuse by or with the consent or acquiescence of the state or by organized armed groups today are understood to constitute a form of torture or ill-treatment (certain forms of sexual abuse).<sup>18</sup> The Special Rapporteur on violence against women has argued that in certain circumstances violence against women by private actors, such as domestic violence, when it reaches the requisite level of severity and when the state fails to exercise due diligence to prevent and punish it, should also be considered a form of torture.<sup>19</sup>

As the Special Rapporteur on torture has stated, rape is "an especially traumatic form of torture" and it may have "insidious correlative consequences". Women may be reluctant to seek reparation for this form of torture because of the severe social repercussions that may ensue. There may be "dire consequences for the private and public life of the woman".<sup>20</sup>

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<sup>16</sup> Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic (*Foca* case), Appeals Chamber Judgment, June 12, 2002, IT-96-23 and IT-96-23/1, paras. 127-133.

<sup>17</sup> Prosecutor v. Jean-Paul Akayesu, Trial Chamber 1 judgment, 2 September 1998, ICTR-96-4-T.

<sup>18</sup> AI has affirmed in the past that: "Under customary international law, many acts of violence against women committed by parties to a conflict (whether international or internal) constitute torture. These include rape and gang rape, abduction and sexual slavery, forced marriage, forced impregnation and forced maternity, sexual mutilation, indecent assault and many other forms of physical violence." *Broken bodies, shattered minds: Torture and ill-treatment of women*, (AI Index: ACT 40/001/2001), p. 54.

<sup>19</sup> The inference is that such violence meets all the requirements of the definition of torture, including a prohibited purpose such as discrimination or punishment. See UN Doc. E/CN.4/1996/53, paras. 42-50.

<sup>20</sup> UN Doc. E/CN.4/1995/34, para. 19.

The Beijing Declaration and Platform of Action reaffirms that “rape in war constitutes a war crime and that it may also, in the requisite circumstances, be a crime against humanity or an act of genocide” (paragraph 145d).

Paragraph 54(a) of the Durban Declaration and Programme of Action urges States

“To recognize that sexual violence which has been systematically used as a weapon of war, sometimes with the acquiescence or at the instigation of the State, is a serious violation of international humanitarian law that, in defined circumstances, constitutes a crime against humanity and / or a war crime, and that the intersection of discrimination on grounds of race and gender makes women and girls particularly vulnerable to this type of violence, which is often related to racism, racial discrimination, xenophobia and related intolerance”.

The African Union Protocol on the Rights of Women in Africa (which the Central African Republic has not yet acceded to) calls on states to consider acts of rape and sexual violence in conflict as war crimes, genocide and/or crimes against humanity (paragraph 11(3)).<sup>21</sup>

Successive UN Special Rapporteurs on torture have affirmed that rape in detention is a form of torture.<sup>22</sup> Rape and sexual abuse of women in such contexts also clearly constitute forms of violence against women. Common Article Three of the Geneva Conventions, in particular, prohibits:

- “(a) violence to person including “mutilation, cruel treatment and torture; ...
- (c) “outrages upon personal dignity, in particular humiliating and degrading treatment”;

Both torture and rape are proscribed under international humanitarian law, and both are explicitly proscribed as crimes against humanity under the Statutes of Yugoslavia and Rwanda Tribunals and as war crimes and crimes against humanity under the Rome Statute of the International Criminal Court, no matter whether the perpetrator is a state agent or a non-state actor. Acts of rape and serious sexual assault have been considered by international

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<sup>21</sup> Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, MIN/WOM.RTS/DRAFT.PROT (II) Rev. 5, 28 March 2003, adopted 11 July 2003.

<sup>22</sup> The first Rapporteur, Peter Kooijmans insisted that “(s)ince it was clear that rape or other forms of sexual assault against women in detention were a particularly ignominious violation of the inherent dignity and right to physical integrity of the human being, they accordingly constituted an act of torture.” See 1992 oral introduction to report to Commission on Human Rights, UN Doc. E/CN.4/1992/SR.21, para 16. This report was prepared in the year of the Beijing women’s conference.

tribunals as torture, genocide, crimes against humanity, and the war crimes of “inhuman treatment” and wilfully causing great suffering to body or health”.

The Statutes of the ICTY do not explicitly list rape as a grave breach or a serious violation of the laws and custom of war, though it may be read in via the inclusion of torture.

The Statutes of the ICTR explicitly include rape, enforced prostitution and indecent assault as violations of Common Article 3 and Protocol II of the Geneva Conventions.

In practice, the jurisprudence of these two tribunals has recognized rape and other forms of sexual abuse as “among the most serious of offences” and they have been “charged and prosecuted as such.” For example, rape and other forms of sexual violence have been prosecuted as constitutive elements of genocide, torture and other inhumane acts.<sup>23</sup>

The Rome Statute of the International Criminal Court (1998) specifically enumerates and includes gender-based offences such as rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and “other forms of sexual violence” as crimes against humanity (Art. 7(1)g), war crimes in international armed conflict (Art. 8(2)(b)(xxii) and war crimes in non-international armed conflict (Art. 8(2)(e)(vi)).<sup>24</sup>

Both gender-based persecution (Art. 7(1)(h)) and enslavement, including “the exercise of such power in the course of trafficking in persons, in particular women and children” (Art. 7(1)(c) are considered forms of crimes against humanity.

Geneva Convention Common Article 3 and Additional Protocol II in particular, also pertaining to the actions of armed groups. Common Article 3 specifically says that “each Party to the Conflict” is bound by its provisions, obviously implicating armed groups, while Additional Protocol II speaks instead of “High Contracting Parties” to the protocol which are only states. Still state practice affirms that armed groups are seen as bound by both of these standards as groups, in addition to the provision of individual responsibility for group members.<sup>25</sup> This has been supported by the International Court of Justice in the Nicaragua case<sup>26</sup> and the Inter-American Commission in the *Tablada* case with regards to Common Article 3.<sup>27</sup> With regard to Protocol II, the ICTR in the *Akayesu* case noted that the Protocol

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<sup>23</sup> Adapted from, “Treatment of Sexual Violence in International Law,” available at [www.iccwomen.org/resources/crimechart.htm](http://www.iccwomen.org/resources/crimechart.htm).

<sup>24</sup> The statute, which entered into force in July 2002, may be consulted at: <http://www.un.org/law/icc/statute/romefra.htm> It currently has 139 parties. Updated ratification status may be checked via: <http://www.un.org/law/icc/statute/romefra.htm>.

<sup>25</sup> Zegveld, Liesbeth, *Accountability of Armed Opposition Groups in International Law*, Cambridge University Press, 2002, p. 10.

<sup>26</sup> *Nicaragua v. US* (Judgment of 27 June 1986) (Mertis) 1986 ICJ Rep. 14, at 114, para. 119.

<sup>27</sup> Report No. 55/97, Case No 11.137 (Argentina, para. 174 (30 October 1997); cited in Zegveld, *supra* note X, at 10.

sets forth “norms applicable to States and Parties to a conflict.” The Commission on Human Rights has also called on armed groups to observe Protocol II.

The provisions are applicable to armed groups regardless of their consent. Armed groups are bound by the international humanitarian law treaties ratified by the state on whose territory they operate.

In addition to international humanitarian treaties, customary law is thought to bind armed groups. Common Article 3 of the Geneva Conventions (see above) has been recognized to constitute a statement of customary law repeatedly, including by the ICTR, the ICTY and the International Court of Justice (ICJ).

The right to a remedy and reparation for those who have suffered human rights violations “as a result of acts or omissions that constitute a gross violation of international human rights or serious violations of international humanitarian law” is a developing area of international law.<sup>28</sup> The right to a remedy and reparation counters, in particular, the failure of the international legal regime to date to provide adequate reparation, particularly compensation, to women who have become victims of gender-based abuses in armed conflict.<sup>29</sup>

When states routinely fail to respond to evidence of sexual violence and abuse of women and girls, they send the message that such attacks can be committed with impunity. In so doing, states fail to take the minimum steps necessary to protect the right of women and girls to physical integrity.

International human rights law increasingly recognizes women’s right to sexual autonomy, including the right to be free from non-consensual sexual relations. The right to sexual autonomy for women is reflected in a number of international declarations and conference documents. In the 1994 Cairo Programme of Action on Population and Development, delegates from governments around the world pledged to eliminate all practices that discriminate against women and to assist women to “establish and realize their rights, including those that relate to reproductive and sexual health.” In the 1995 Beijing Declaration and Platform for Action, delegates from governments around the world recognized that women’s human rights include their right to have control over and decide freely and responsibly on matters related to their sexuality free of coercion, discrimination and violence.<sup>30</sup>

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<sup>28</sup> *The right to a remedy and reparation for victims of violations of international human rights and humanitarian law*, draft report to the Commission on Human Rights E/CN.4/2004.57, 10 November 2003.

<sup>29</sup> Dixon, Rosalind, “Rape as a Crime in International Law: Where to from here?”, *European Journal of International Law*, European University Institute, 2002, Vol 13 No. 3, pp. 697-719.

<sup>30</sup> See United Nations *Programme of Action of the United Nations International Conference on Population and Development*, United Nations Publications, A/CONF.171/13, 1994, para. 4.4 (c); and

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AI believes that when a woman or girl is subjected to sexual violence, her right to make free decisions regarding her sexual relations, as well as her physical and mental integrity, are violated. In 1992, the Committee on the Elimination of All Forms of Discrimination against Women enumerated a wide range of obligations for states related to ending sexual violence, including ensuring appropriate treatment for victims in the justice system, counselling and support services, and medical and psychological assistance to victims.<sup>31</sup>

Remedies to women who have suffered such violence should include prompt, effective, independent and impartial investigation and access to justice; reparation for harm suffered; and access to factual information concerning the violation.

The State is under an obligation to give effect to the right to a remedy by restoring the victims as far as possible to the original situation before the violation occurred (restitution); providing proportional compensation for economically assessable damage, including for physical and mental harm, pain, suffering and emotional distress and for costs required for legal or expert assistance, medical services, psychological or social services. Implementation for the right to remedy also extends to rehabilitation in the form of medical and social care as well as legal and social services. It further extends to satisfaction including cessation of continuing violations; verification of the facts and public disclosure of the truth; official declarations restoring the dignity and reputation of the victim; apology and public acknowledgements of the facts and acceptance of responsibility; judicial and administrative sanctions against those responsible for the violation and guarantees of non-repetition and prevention (among other factors).

In Article 4(d), the Declaration on the Elimination of Violence against Women it calls on states to: “Develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subject to violence.”

The Beijing Declaration and Platform for Action, in paragraph 124(c), calls on governments to: “Enact or reinforce penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs done to women and girls who are subjected to any form of violence, whether in the home, the workplace, or the community or society.”

UN General Assembly Resolution 52/86 (Crime prevention and criminal justice measures to eliminate violence against women: Model Strategies and Practical Measures on

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United Nations, *Beijing Declaration and Platform for Action*, United Nations Publications, A/CONF: 177/20, 1995, para. 223.

<sup>31</sup> Committee on the Elimination of All Forms of Discrimination Against Women, “Violence Against Women”, General Recommendation no. 19 (eleventh session, 1992), UN Document CEDAW/C/1992/L.1/ Add.15.

the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice) sets down how states should support survivors of violence against women and help them gain redress:

“10. Member States are urged, as appropriate:

- (a) To make available to women who have been subjected to violence information on rights and remedies and on how to obtain them, in addition to information about participating in criminal proceedings and the scheduling, progress and ultimate disposition of the proceedings;
- (b) To encourage and assist women subjected to violence in lodging and following through on formal complaints;
- (c) To ensure that women subjected to violence receive, through formal and informal procedures, prompt and fair redress for the harm that they have suffered, including the right to seek restitution or compensation from the offenders of the State;
- (d) To provide for court mechanisms and procedures that are accessible and sensitive to the needs of women subjected to violence and that ensure the fair processing of cases;
- (e) To establish a registration system for judicial protection and restraining orders, where such orders are permitted by national law, so that police or criminal justice officials can quickly determine whether such an order is in force.

The implementation by the state of the right to remedy depends on victims' access to remedies. With regard to women against whom gender-based violence has been perpetrated, the Declaration on the Elimination of Violence against Women reinforces this demand in Article 4(d), stating that:

“[W]omen who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by the national legislation, to just and effective remedies for the harm that they have suffered; States should also inform women of their rights in seeking redress through such mechanisms”.

CEDAW also recognizes that many abuses of women's rights emanate from society and culture, and compels governments to take appropriate measures to correct these abuses. CEDAW requires governments to “modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.”<sup>32</sup>

Article 3 of the African Charter on Human and Peoples' Rights, to which CAR is a party, provides that “each person is equal before the law and must be protected equally by the law.” Article 5 guarantees to every individual “the right to the respect of the dignity inherent

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<sup>32</sup> CEDAW, art.5(a).

in a human being" and prohibits torture, cruel, inhuman or degrading punishment or treatment."

## **7. Conclusion**

For several months at the end of 2002 and in early 2003 women in the CAR were subjected to widespread rape, sexual assaults and other forms of violence. Some women and children died as a result. Men who tried to oppose the rape of their wives, children or other women were assaulted and in some cases killed. The government did nothing to protect the victims. On the contrary, it largely denied that any of these grave abuses against women and the rest of the Central African society had occurred. Although the government has subsequently acknowledged the truth of the allegations, no meaningful action has since been taken to bring the suspected perpetrators to justice.

It is very disturbing that many of the rapes reportedly took place and were condoned by the authorities as reprisals against Central Africans accused of colluding with insurgents. Furthermore, the rapes and other forms of violence were intended to humiliate the male population by demonstrating their inability to protect the more vulnerable members of the community. By committing rape, combatants perpetrated war crimes. Given that the rape committed between October 2002 and March 2003 was systematic and widespread, the abuse is a crime against humanity that must be condemned and the perpetrators given very severe sanctions, excluding the death penalty and other forms of cruel, inhuman or degrading treatment or punishment.

According to testimonies gathered during 2003 by AI, the main perpetrators were members of the MLC armed political group from the Democratic Republic of Congo (DRC). The MLC had been invited by the government of former President Ange-Félix Patassé as allies against rebels led by army General François Bozizé.

Although the overwhelming majority of testimonies leave no doubt that the MLC were responsible for widespread and systematic rape, there is evidence to suggest some Central African combatants also carried out similar sexual violence. AI believes that the true extent of rape and other forms of violence against women in areas controlled at the time by combatants loyal to General Bozizé has yet to be uncovered. AI's researchers concluded that rape is still a taboo subject in the CAR. Victims and witnesses were reluctant to testify about rape by Central Africans. Further sensitization, particularly by local human rights and humanitarian organizations, as well as by governmental bodies, is urgently required. Victims and witnesses of rape and other forms of violence against women have to be encouraged to speak out as a means to ending the scourge of violence to which women in the CAR have been subjected for far too long.

## 8. Recommendations

The organized rape of women and girls that occurred in late 2002 and early 2003, as was the case in mid-2001, could and should, have been prevented. This form of violence against women must be condemned in the strongest terms possible and immediate measures are required to bring the suspected perpetrators, as well as those who may have ordered or condoned it, to justice. Justice is the main way in which combatants can be deterred from perpetrating rape in the future.

The Central African authorities should take educational, administrative and judicial measures to combat and eventually eliminate violence against women. Given the country's political, economic and social instability, the CAR needs the international community's support in resources and encouragement. Victims of rape and other forms of violence require material and moral support to recover from the individual and collective ordeals. It is critical that the stigma to which rape victims are subjected is lifted through education and awareness-raising, as well as prosecution of perpetrators. To achieve these goals, AI believes that the Central African authorities and civil society, supported by the international community, should initiate, develop and expand community-based activities designed to reduce stigma and ignorance around violence against women. They should introduce new laws and amend inadequate or discriminatory ones, strengthen the judiciary and law enforcement structures to enable them to investigate and prosecute perpetration of the crime of rape and other forms of violence against women. Access to healthcare and counselling for women who have been survivors of rape or other gender-based violence and discrimination should be increased.

### ***To the Central African authorities***

#### **Commission of inquiry**

The government should institute a competent, independent, impartial and adequately resourced commission of inquiry to carry out a thorough countrywide investigation into the crime of rape committed by combatants, especially in late 2002 and early 2003. It should seek human and material resources from the international community to support such an initiative.

The government should seek the cooperation of the DRC Government and MLC leaders in order to ensure that the commission of inquiry can interview members of the MLC who were deployed in the CAR between October 2002 and March 2003 with a view to identifying the perpetrators and ultimately bringing them to justice.

The Commission of inquiry should make recommendations (in public) to the government, including measures to prevent a recurrence of mass rape, bring the perpetrators to justice and provide victims with redress, including compensation and rehabilitation. The

government should ensure that the Commission's recommendations are implemented in accordance with its obligations under international law.

### **Care for victims of rape and other forms of violence against women**

The government should mobilize resources, both locally and internationally, to provide free and long-term medical care and counselling for the victims of rape. The free medical care should include providing anti-retroviral and other drugs for opportunistic infections to those who contracted HIV/AIDS whether or not it can be confirmed that the patients were infected as a result of rape.

Resources should be mobilized to ensure that Central Africa's social and medical infrastructure is able to dispense the medical care that the patients require.

### **Legal redress**

The government must build the capacity and integrity of the security forces and judiciary, seeking international support as necessary, to ensure that allegations of rape and other forms of violence against women are promptly investigated and where founded, the alleged perpetrators are brought to justice. Measures should include:

- the issuing of clear guidelines to law enforcement agencies stating that deterring women from reporting acts of violence will not be tolerated and insisting on the duties of law enforcement officials to investigate acts of violence against women, whoever the perpetrator;
- the provision of specific training to all judges and lawyers in relevant areas of international human rights law to enhance the understanding of violence against women from a human rights perspective, and to ensure its effectiveness in the prosecution of acts of violence against women;
- the provision of training on handling cases of sexual violence; the use of medical and forensic evidence; and international human rights standards; the recruitment and training of women police officers and women members of the judiciary in sufficient numbers to counter a culture of discrimination and to allow specialization in cases of violence against women;
- Transferring the jurisdiction for human rights violations committed by military personnel on active duty, particularly against civilians, to ordinary civilian courts;

Communication and cooperation between civil society organizations and law enforcement agencies should be established at the local level in the interests of protecting survivors of violence and increasing women's trust in the criminal justice system.

As well as incorporating and implementing international treaties it has already ratified, the CAR Government should ratify other major treaties that would enhance the promotion and protection of women's rights. These treaties include the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, the Protocol of the Court of Justice of the African Union, the African Charter on the Rights and Welfare of the Child, the African Union Convention on Preventing and Combating Corruption, and the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

### **Awareness**

The CAR Government must give greater priority and resources to developing, supporting and promoting education programs targeting the public and community leaders on the importance of not stigmatizing women victims of rape and other forms of violence and allowing them to speak out and seek help. It must coordinate its activities with international organizations, national non-governmental organizations, religious communities and independent radio, and ensure that the response is cohesive and coordinated. Schools at all levels should be involved in the educational program.

It must take a strong public stance on gender-based violence sending a clear message that it is neither inevitable nor acceptable and that those responsible will be brought to justice.

It must ensure that material is available informing people of their rights, what health care is available and how to proceed if they or members of their families are victims of sexual violence.

It should compile statistical data and conduct research on violence against women.

### **Ending general discrimination against women**

The government must promote the participation of women in all decision-making structures and identify and address barriers to such participation, as well as promoting participation in institutions and representative government to push an agenda mindful of the needs of women and girls;

Pay particular attention to ensuring that a higher proportion of women and girls receive education, and are educated about their rights.

## ***To the international community***

The international community should provide human and material resources, as well as encouragement, to ensure that the CAR Government protects and promotes the rights of women and girls not to be subjected to physical, psychological or sexual violence.

### **Legal redress**

The international community must act with urgency to assist the CAR Government to investigate alleged rape and other abuses and to detain and prosecute alleged perpetrators according to international human rights standards. Political pressure must be exerted on the DRC Government (as well as the leadership of the MLC armed political group) and other governments whose citizens are alleged to have been involved in violence against women in the CAR to cooperate with any inquiry into the violence. Those governments and armed political groups must commit themselves to ensuring that any of their nationals alleged to have perpetrated crimes, particularly against women, in the CAR are brought to justice.

The international community must provide resources and other material and expert assistance to train members of the security forces, judiciary and state institutions on gender issues, including appropriate behaviour toward victims, and provide practical means for improving their responses.

To strongly encourage and support the Government in moves to strengthen the civilian justice system and to limit the scope of military jurisdiction, specifically ensuring that members of the armed forces accused of human rights violations are tried by civilian courts.

To use their influence to ensure that no permanent immunity from prosecution for human rights abuses is granted.

### **Awareness**

The international community must assist the CAR Government in establishing a systematic and comprehensive program of care for survivors of sexual and other forms of violence. This should be done in full consultation with Central African and international non-governmental organizations already providing medical care, including psychological assistance, to the survivors.

The international community, through UN agencies or by supporting national non-governmental organizations, must devise, support and promote education programs targeting the public and community leaders on the importance of ending impunity for rape and other forms of violence against women and girls, as well as not stigmatizing female victims of violence and allowing them to speak out and seek help.