CENTRAL AFRICAN REPUBLIC: WEAK NATIONAL PROTECTION SYSTEMS

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INTRODUCTION

This submission was prepared for the Universal Periodic Review (UPR) of the Central African Republic (CAR) in November 2018. In it, Amnesty International evaluates the implementation of recommendations made to CAR in its previous UPR, assesses the national human rights framework and the human rights situation on the ground, and makes a number of recommendations to the government to address the human rights challenges mentioned in this report.

While Amnesty International acknowledges the progress made by the Special Criminal Court, the organization remains concerned about the challenges the Court continues to face, including with regard to funding and the weakness of the national criminal justice system.

Amnesty International also raises concerns about widespread human rights abuses by armed groups, including sexual abuses and exploitation, rampant impunity and dire prison conditions.

FOLLOW UP TO THE PREVIOUS REVIEW

In its previous UPR in 2013, the Central Africa Republic accepted all recommendations made to it except one; however, it has failed to implement most of the recommendations. A few weeks after the second UPR, in December 2013, clashed erupted between the mostly Muslim Séléka.

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2 The Séléka (“alliance” in Sango, the national language) was unknown before December 2012. When its leaders announced its existence at the start of December, it was based in north-eastern CAR from where most of its fighters at the time originated. The main armed groups that constituted the Séléka were the Union des forces démocratiques pour le rassemblement (UFDR), the Convention des patriotes pour la justice et la paix (CPJP) and the Convention patriotique du salut du Kodro (CPSK). The UFDR, led by Michel Djotodia Am Nondroko, drew most its fighters from the Goula ethnic group, including fighters from Sudan. The CPJP, led by Noureldine Adam, comprised mainly of members of the Rouga ethnic group, with a number of fighters from Chad. The CPSK was led by Mohamed Moussa Daffane. The Front démocratique du Peuple Centrafricain (FDPC), led by Martin Koumontadjii (commonly known as Abdoulaye Miskine), was part of the Séléka when it took power in March 2013. The Séléka leader Michel Djotodia became CAR president from March 2013 until his resignation in January 2014. Members of Séléka are almost entirely Muslim. After its official dissolution in September 2013, the Séléka became known as ex- Séléka. The Séléka and ex- Séléka were allegedly responsible for serious human rights abuses, including killings, burning houses and villages mostly belonging to Christians, forced displacement of the populations and enforced disappearances. Christian communities frequently attributed responsibility for Séléka’s abuses to the country’s Muslim minority; acts of retaliation were reported and the already serious sectarian divisions deepened.
and the mainly Christian Anti-balaka\(^3\) armed groups, plunging the country into a spiral of violence with its toll of human rights violations.

**INTERNATIONAL AND REGIONAL HUMAN RIGHTS INSTRUMENTS**

In line with 2013 recommendations, CAR ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment\(^4\) and its Optional Protocol,\(^5\) the Convention for the Protection of All Persons from Enforced Disappearance,\(^6\) the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict,\(^7\) and the Convention on the Rights of Persons with Disabilities.\(^8\) However, CAR is yet to ratify other treaties it agreed to ratify, including the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty,\(^9\) the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women,\(^10\) the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,\(^11\) and the Organization of African Unity Convention for the Elimination of Mercenaries in Africa.\(^12\) CAR also facilitated visits by the Independent Expert on the situation of human rights in the Central African Republic, as per a recommendation it had accepted.\(^13\)

**THE DEATH PENALTY**

Although CAR accepted recommendations in 2013 to abolish the death penalty,\(^14\) it has failed to do so. The death penalty has not been used for many years in CAR; however, the Criminal Code still prescribes it for several crimes, including genocide, war crimes, crimes against humanity, and acts of torture resulting in the death of the victim.\(^15\)

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\(^3\) Anti-balaka armed group ("machete proof" in Sango) was mainly constituted at the end of 2013 by long-standing village self-defence groups restructured to fight the Séléka, calling themselves "Anti-balaka", and were reinforced by former FACA (Forces Armées Centrafricaines, FACA) and Presidential Guards loyal to Bozizé. Anti-balaka members were responsible for war crimes and crimes against humanity. They were the main perpetrators of abuses committed against Muslims in Bangui and in western CAR, especially following the former President’s resignation in January 2014, and the retreat of most Séléka forces to the northeastern region.

\(^4\) A/HRC/25/11, recommendations 104.22 (Mexico), para 104.24 (Ecuador).

\(^5\) A/HRC/25/11, recommendation 104.25 (Democratic Republic of Congo).

\(^6\) A/HRC/25/11, recommendations 104.21- para 104.22, para 104.25 (Costa Rica, Mexico, Democratic Republic of the Congo).

\(^7\) A/HRC/25/11, recommendations 104.12-104.21 (Luxembourg, Lithuania, Chile, Republic of Moldova, Croatia, Sierra Leone, Slovenia, Slovakia, Spain, Costa Rica).

\(^8\) A/HRC/25/11, recommendations 104.21-104.23 (Costa Rica, Benin).

\(^9\) A/HRC/25/11, recommendations 104.4 – 6 (Djibouti, Montenegro, Portugal), para 104.8 (Germany), para 104.11 (Australia).

\(^10\) A/HRC/25/11, recommendation 104.20 (Spain).

\(^11\) A/HRC/25/11, recommendation 104.24 (Ecuador).

\(^12\) A/HRC/25/11, recommendation 104.25 (Democratic Republic of Congo).

\(^13\) A/HRC/25/11, recommendation 104.26 (Romania).

\(^14\) A/HRC/25/11, recommendations 104.6 – 104.11 (Portugal, France, Germany, Rwanda, Uruguay, Australia)

\(^15\) Law no.10.001 of 6 January 2010 on the Central African Criminal Code.
ATTACKS BY ARMED GROUPS
In 2013, CAR committed to re-establish the rule of law in the whole territory. However, the volatile security situation in the country has made it very difficult to realize that commitment.

SEXUAL VIOLENCE
Despite accepting nine recommendations to combat sexual violence, CAR has made very limited progress on developing and applying strategies to end sexual violence. For instance, mechanisms for the identification, reporting and monitoring of such cases are yet to be established and ensuring that victims are provided with support for physical and mental health.

IMPUNITY FOR HUMAN RIGHTS VIOLATIONS
CAR accepted all the recommendations to end impunity in the country. Yet, many suspected perpetrators of human rights violations and abuses, including armed groups and security forces, have yet to be investigated and tried (see also below).

PRISON CONDITIONS
In 2013, CAR accepted recommendations to strengthen measures to respect the Standard Minimum Rules for the Treatment of Prisoners and to establish appropriate facilities for the juvenile prison population. Yet, very little progress has been made to implement these recommendations. Few prisons are functional with an inmate population which is the above maximum capacity and inmates are living in dire conditions (see also below).

THE NATIONAL HUMAN RIGHTS FRAMEWORK

NATIONAL JUSTICE SYSTEM
The national justice system is expected to try most criminal cases, including those related to the conflict. However, despite efforts by the authorities and support by international partners, the justice system continues to face challenges in holding the prescribed two annual sessions by the Court of Appeal. In 2015, two criminal sessions were scheduled by the Court of Appeal of

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16 A/HRC/25/11, recommendations 104.43 – 104.46 (Belgium, Czech Republic, Romania, Sudan).
17 A/HRC/25/11, recommendations 104.34-42 (Lithuania, Republic of Moldova, Croatia, Ireland, Italy, Rwanda, Netherlands, Slovakia, Viet Nam);
18 A/HRC/25/11, recommendations 104.30 (Sierra Leone), 104.49-104.54 (Belgium, Sweden, Luxembourg, France, Portugal, Argentina).
19 A/HRC/25/11, recommendation 104.65 (Benin).
20 A/HRC/25/11, recommendation 104.66 (Uganda).
21 Articles 219 and 220 of CAR’s Criminal Procedure Code provide for criminal trial sessions to be organized by the Court of Appeal twice a year with the dates of each being determined by an Order from the Ministry of Justice following deliberations by the General Assembly of the Court of Appeal.
Bangui. However, due to various challenges, including a strike by pro-bono lawyers\textsuperscript{22} over low fees for representing those accused, the second criminal session was only held in 2016. In 2017, only the Court of Appeal of Bouar held a criminal session, and in early 2018, the Court of Appeal of Bangui held a session.

Other challenges in the national justice system include the lack of functioning judicial institutions, such as courts and prisons, shortage of legal personnel, insecurity in most parts of the country which limits the redeployment of judges, the lack of training, capacity and adequate equipment for the judicial police, and crumbling prisons. In addition, the lack of a legal framework to protect victims has resulted in very limited testimony from victims and witnesses due to fear of retaliation. Some victims told Amnesty International that although they want to see perpetrators held to account, they lack the necessary information and assistance to file complaints. Others said they were reluctant to file a complaint due to the perceived inefficiency and bias of the justice system.

**INTERNATIONAL AND HYBRID JUSTICE MECHANISMS**

In 2013, the transitional President promulgated Law No.15.003\textsuperscript{23} establishing a Special Criminal Court (SCC) within the national justice system. The SCC is to be comprised of national and international judges\textsuperscript{24} and mandated to investigate and prosecute the most serious crimes committed since 2003, including genocide, crimes against humanity and war crimes. Although the authorities have taken steps towards the establishment of the SCC,\textsuperscript{25} much remains to be done, including with regard to recruiting qualified national and international staff, securing sustained funding, evidence preservation and prosecutorial strategy, witness and victim protection, effective outreach and communication,\textsuperscript{26} and defence rights and legal aid.

In 2014, the government referred the situation in CAR to the International Criminal Court and investigations are ongoing into crimes under international law committed since the conflict began in 2012.\textsuperscript{27}

\textsuperscript{22} A pro-bono lawyer is a lawyer who undertake defense cases for people who do not have the means to pay for the services of a private lawyer, with minimal state remuneration.

\textsuperscript{23} Loi organique No. 15003 portant création, organisation et fonctionnement de la Cour Pénale Spéciale, 3 June 2015, Article 3 available at <https://rongdhrca.wordpress.com/2015/07/22/loi-organique-n15-003-portant-creationorganisation-et-fonctionnement-de-la-cour-penale-speciale/>.

\textsuperscript{24} As of 16 March 2018, the SCC was comprised of six international magistrates and four national magistrates. Five national magistrates had been nominated, however, one passed away in February 2018. The other magistrates are yet to be appointed.

\textsuperscript{25} In April 2017 the Special Criminal Court’s Prosecutor was nominated and he took office the following month. National magistrates and international magistrates were nominated and 10 police officers and gendarmes as part of the SCC Special Police Unit. In May 2017, UNHR and MINUSCA also launched a mapping report that documents human rights violations and abuses from 2003 to 2015 by successive government forces, local and foreign armed groups and international and foreign defence forces, available at <http://www.ohchr.org/EN/Countries/AfricaRegion/Pages/CARProjetMapping2003-2015.aspx>.

\textsuperscript{26} Since 2017 outreach sessions on the SCC have been organized and an awareness campaign in both French and Sango was launched on local media channels. For security reasons, outreach sessions are taking place in main cities only at the moment.

\textsuperscript{27} Situation in Central African Republic II, ICC-01/14, available at <https://www.icc-cpi.int/carlI>. This is the second time that CAR referred the situation in its territory to the ICC. The first referral, Situation in Central African Republic I, ICC-01/05, was done in December 2004 and covered the situation in CAR since 1 July 2002. The investigations undertaken under CAR I produced one main case ‘The prosecutor v. Jean-Pierre Bemba Gombo for war crimes (murder, rape and pillaging) and crimes against humanity (murder and rape). In March 2016, Jean-Pierre Bemba was convicted of crimes against humanity and war crime. This provides some precedent for the ICC’s engagement in CAR, and the ICC has been undertaking further investigations in CAR since September 2014 focusing on potential crimes committed since 2012.
In September 2017, the President created a committee to lead consultations on the establishment of a truth, justice, reparations and reconciliation commission.

HUMAN RIGHTS SITUATION ON THE GROUND

HUMAN RIGHTS ABUSES BY ARMED GROUPS
Armed groups continue to kill, torture, rape, and abduct civilians, to loot public and private properties, to recruit and exploit children, and to attack humanitarian workers and premises. For instance, on 10 October 2017, at least 25 people were killed in a mosque by Anti-balaka fighters in an attack aimed at pushing back Union for Peace (Union pour la Paix en Centrafrique, UPC) fighters, an ex-Séléka faction led by Ali Darassa and present in the Kembe town, in the Basse-Kotto province. On 18 October 2017, clashes between Anti-balaka and UPC fighters in Pombolo, in Mbomou province, led to at least 26 deaths.

SEXUAL VIOLENCE
Amnesty International has documented cases of sexual exploitation and abuses by armed groups and UN peacekeeping troops. In August 2017, 20 of the 25 women interviewed by Amnesty International after they fled violent attacks in the Basse-Kotto prefecture in May 2017, reported they had been raped by UPC fighters and nearly all had seen their adult male relatives killed. In August 2015, Amnesty International documented the case of a peacekeeper who allegedly raped a 12-year-old girl on 2 August 2015, following an operation carried out by MINUSCA in the Muslim enclave in Bangui (also known as PK5, Point Kilométrique 5). On 30 September 2017, at least one peacekeeper allegedly drugged and raped a woman in the town of Bambari.

PERSISTENT IMPUNITY FOR HUMAN RIGHTS VIOLATIONS
Little progress has been made to ensure effective investigations of those reasonably suspected of having committed crimes under international law, and impunity remains the norm in the vast majority of cases.

28 According to the International NGO Safety Organisation (INSO), 372 security incidents targeted relief agencies and 16 local humanitarian workers were killed.
In 2014, Amnesty International published a list of 21 individuals from all sides to the conflict whom the organization believed should be investigated for crimes under international law, including war crimes and crimes against humanity. Of these, only two have been arrested, including Andjilo who was prosecuted and sentenced during the criminal session held by the Bangui Court of Appeal in February 2018. The others remain at large, and some have been elected to public positions. For instance, in December 2015, Alfred Yekatom, alias Colonel Rambo, was elected to CAR’s National Assembly, and in February 2018, Patrice-Edouard Ngaissona, a self-proclaimed Anti-balaka coordinator, was elected to serve on the African Confederation of Football (Confédération Africaine de Football, CAF).

Similarly, none of the 11 individuals on the UN sanctions list appear to have been subjected to effective investigation or arrest. The authorities have failed to implement the asset freeze which the UN has extended until 31 January 2019, along with an arms embargo and travel ban. Several of the individuals listed continue to collect their state salaries.

**PRISON CONDITIONS**

In October 2016, Amnesty International documented that only eight of the 35 official prisons across CAR were functional or under rehabilitation. In the jurisdiction of the Court of Appeal of Bouar (district of Nana-Mambéré), the prisons of Berberati (district of Mambere-Kadei) and Bouar are operational with a current inmate population of 80 and 109 prisoners, respectively. The prisons of Sibut (district of Kemo) and Bossembélé (district of Ombella-M’Poko) are in the process of being rebuilt. In the jurisdiction of the Court of Appeal of Bangui, only the prisons of Ngaragba, Camp de Roux, Bimbo and Mbaiki are functional. There are no functional prisons in the Eastern region.

Prison conditions are dire. Basic necessities, such as food, clothing and medicine, are often inadequate, hygiene and accommodation standards are low, and a significant proportion of inmates are detained without charge or trial. There is no centralized record-keeping system to track the number of prisoners across the country, despite efforts by prison authorities to maintain an up-to-date registry in the prisons in Bangui. The prisons are administered mainly by a small number of military staff, with limited or no training in prison administration or human rights standards. Many of the prison structures are old and badly maintained. In 2016, Amnesty International researchers visited Bangui’s main Ngaragba Prison, which was built in 1947 with a maximum capacity for 350 inmates. As of December 2016, the prison was overcrowded with over 615 detainees, who shared only 11 functional latrines. In June 2016, the prison authorities told Amnesty International that two-thirds of the detainees were held in pre-trial detention. The

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33 In December 2013, the UN Security Council first imposed a general and complete arms embargo on CAR with the adoption of resolution 2127 (2013). Later, it imposed individual targeted sanctions, including a travel ban and an assets freeze on individuals and entities meeting a certain number of criteria, including engaging in or providing support for acts that undermine the peace, stability or security; recruiting and using children in armed conflict in CAR or involved in planning, directing or committing acts that violate international human rights law or international humanitarian law. 11 individuals and 2 entities were listed on the UN sanctions list as of January 2018.


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juvenile prisoners are kept in the same precinct as adults although in different cells. Convicted criminals are not held separated from suspects under investigation.

Prison security remains problematic and prison escapes and assisted escapes are recurrent. Between September 2015 and December 2016, there were several prison breaks across CAR: on 28 September 2015, 689 inmates, including some high-profile individuals and 130 who had been arrested by MINUSCA under Urgent Temporary Measures, escaped from Ngaragba Prison in Bangui; on 29 September 2015, at least 80 inmates, of whom 19 were suspected Anti-balaka, escaped from unprotected detention facilities in Bouar and Sibut; and on 11 May 2016, more than 20 inmates escaped from the prison in Bambari.

In October 2016, Amnesty International visited the high security prison, Camp de Roux. At that time, the prison held a total of 39 inmates of whom 26 were awaiting trial. The inmates were held in two buildings, one comprised of two cells with a total capacity of 16, but hosting 24 persons. While all cells had toilets and showers inside, at least four were out of use. Only one meal per day was provided by the prison.

RECOMMENDATION FOR ACTION
BY THE STATE UNDER REVIEW

AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF THE CENTRAL AFRICAN REPUBLIC TO:

INTERNATIONAL HUMAN RIGHTS INSTRUMENTS AND MECHANISMS


THE DEATH PENALTY

- Abolish the death penalty for all crimes in the Criminal Code.

NATIONAL JUSTICE SYSTEM

- Safely re-deploy judicial personnel across the country and re-open courts with the necessary means to function;
- Give higher priority to the justice sector in the allocation of state resources, including by providing financial support to re-build and refurbish courts across the country and ensuring their effective functioning;
- Organize mobile court hearings, particularly in remote areas or areas where court buildings have been destroyed;
- Ensure regular and continuing training in fair trial standards and international criminal law for legal professionals, including magistrates, judges, clerks, lawyers, notaries, and bailiffs, through centralized training facilities;
• Develop and adopt national legislation to enshrine the obligation of national courts to ensure the safety, physical and psychological well-being, and privacy of victims and witnesses, without discrimination;

• Establish an independent victim and witness protection unit and ensure that training on the treatment and protection of victims and witnesses is mandatory for all magistrates and court staff.

INTERNATIONAL AND HYBRID JUSTICE MECHANISMS
• Put in place adequate disciplinary measures for misconduct by judges and other staff;

• Provide appropriate training for national and international judges in international criminal law and practice, international humanitarian law and international human rights law, with specific emphasis on gender-based violence, violence against children, and victims’ rights;

• Establish and sustainably fund an outreach unit to develop and conduct a comprehensive program to inform the population about the activities of the Special Criminal Court and developments in investigations and cases throughout the process;

• Guarantee fair trial rights in accordance with international standards for all those accused of crimes before the Special Criminal Court, establish a legal aid programme, and consider establishing a defence office within the Registry Clerk’s office;

• Ensure that transitional justice mechanisms, including a possible truth and reconciliation commission, coordinate with and complement the Special Criminal Court;

• Exclude amnesties and pardons for crimes under international law before a possible truth and reconciliation commission;

• Provide, at the outset, a long-term, stable and secure method of funding for the operation of the Special Criminal Court.

IMPUNITY FOR HUMAN RIGHTS VIOLATIONS
• Refrain from appointing individuals suspected of human rights abuses and crimes under international law to positions where they may use their position to commit further abuses or crimes, or prevent investigation of themselves or their allies;

• Suspend, pending investigation, all individuals reasonably suspected of crimes under international law from positions within the government that would allow them to commit further abuses or crimes, or prevent any investigation of themselves or their allies.

PRISON CONDITIONS
• Ensure that conditions in detention facilities are humane and preserve prisoners’ physical and psychological integrity, including by providing them with professional medical care, adequate food and water, lighting, cooling, and ventilation, in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners;

• Ensure detainees are not held beyond the legal pre-trial detention term, including by holding regular criminal trial sessions, providing access to courts and adequate resources to process cases, and ensuring access to lawyers and families;

• Implement current legislation providing for civilian management of prisons and deploy civilian staff to prisons;

• Upgrade detention facilities to prevent escapes, including by boosting security and providing regularly and sufficiently paid and trained security personnel;

• Establish and maintain a centralized and public register of all detainees, detailing the date of arrest and detention, transfer, release and revocation;
- Establish an independent national preventive mechanism for the prevention of torture and other ill-treatment in all places of detention, in accordance with the obligations under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE

REPORTS:

PRESS RELEASES AND STATEMENTS:
Fresh evidence UN peacekeepers drugged and raped young woman, 11 October 2017.
CAR: Civilians facing atrocities in Basse-Kotto as UN protection proves ineffective, 8 September 2017.
CAR: Strengthen peacekeepers to prevent renewed violence, 8 February 2016.
UN must address systematic accountability failure for peacekeeper abuses, 13 August 2015.
CAR: UN troops implicated in rape of girl and indiscriminate killings must be investigates, 11 August 2015.

36 All these documents are available on Amnesty International’s website: https://www.amnesty.org/en/countries/africa/central-african-republic/
AMNESTY INTERNATIONAL IS A GLOBAL MOVEMENT FOR HUMAN RIGHTS. WHEN INJUSTICE HAPPENS TO ONE PERSON, IT MATTERS TO US ALL.