

TOWARDS “SILENCING THE GUNS BY THE YEAR 2020”:

**A CALL FOR CLEAR AND TANGIBLE
MEASURES FOR ADDRESSING IMPUNITY FOR
CONFLICT-RELATED VIOLATIONS IN AFRICA**

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PUBLIC STATEMENT

At the 29th ordinary session scheduled to take place from 3-4 July 2017 in Addis Ababa, Ethiopia, the African Union (AU) Assembly should outline clear and tangible measures for addressing impunity for gross violations and abuses of international human rights and crimes under international law by parties to conflicts in Africa.

The upcoming session presents yet another opportunity for critical reflection on the extent to which Africa is progressing towards the goal of “silencing the guns” by the year 2020. This reflection is expected to be premised on the Report on the Activities of the AU Peace and Security Council (PSC) and the State of Peace and Security in Africa. It is also expected that the reflection will be informed by the Report of the AU Peace and Security Council (PSC) on the Implementation of the Master Roadmap of Practical Steps to Silence the Guns by the Year 2020 (Master Roadmap).

The Master Roadmap, adopted by the PSC in November 2016 and endorsed by the AU Assembly in January 2017,¹ outlines several “realistic, practical, time-bound and implementable” steps address causes, drivers and impact of violent conflict in Africa, including “deficits in enhancing and deepening democracy, respect of human dignity, human rights and good governance.” While this holistic approach and ambition towards addressing the multiple root causes of conflicts in Africa is commendable, the Master Roadmap is notable for its silence on justice and accountability. Amongst the 20 areas identified for intervention, the Master Roadmap does not propose any concrete step to address the pervasive and entrenched impunity for gross human rights violations and abuses, and crimes under international law committed in conflicts and crises across the continent.

For years, research by a wide range of actors including Amnesty International has demonstrated that lack of accountability for violations and abuses perpetuates the cycle of violence in many conflict-ridden countries. Despite clear historical and current examples, including in Burundi, Cameroon, Central African Republic (CAR), Democratic Republic of Congo (DRC), Nigeria, South Sudan, and Sudan, of how impunity and injustice continue to fuel unrest, many AU member states are often unable or unwilling to pursue accountability for perpetrators.

For instance, the persistent failure to address violations and abuses committed in the ongoing conflict in South Sudan, which is in its fourth year now, is one of the key drivers of renewed violations and abuses. A report published by Amnesty International in June 2017 describes the forced displacement of tens of thousands of civilians of the Shilluk ethnic minority in South Sudan’s Upper Nile region.² Between January and May 2017, government forces and allied militia burnt, shelled and systematically looted homes. Government forces and allied militia were also involved in deliberate killings of civilians and indiscriminate attacks. Similarly, fighting and consequent human rights abuses by warring parties in the country’s Equatoria region has continued to displace thousands of civilians into Uganda³ and other neighbouring countries. As result, South Sudan currently represents the worst refugee crisis in Africa since the Rwandan genocide.

The lack of accountability for past crimes is also fuelling renewed human rights abuses in the CAR which was plunged into conflict in March 2013 when the Seleka, an armed group made up mostly of Muslims from CAR and neighbouring countries, ousted the government of François Bozizé in a coup. In 2017, renewed violence which has led to large-scale human rights abuses and crimes under international law, has occurred in various parts of the country including in

¹ Decision on the African Union Master Roadmap of Practical Steps for Silencing the Guns in Africa by the Year 2020, Assembly/AU/Dec.630 (XXVIII).

² Amnesty International, *“It was as if my village was swept by a flood”*: South Sudan – Mass displacement of the Shilluk population from the west bank of the White Nile (Index: AFR 65/6538/2017)

³ Amnesty International, *“Help has not reached me here”*: Donors must step up support for South Sudanese refugees in Uganda (Index AFR 59/6422.2017)

Ouaka (centre) and Haute Kotto (east) prefectures where two former ex-Séléka factions⁴ compete for control over lucrative territories. Since late 2016 in the south and east parts of CAR, Anti-balaka forces aligned with the coalition Front Populaire pour la Renaissance de Centrafrique (FPRC), have targeted Muslim communities. Abuses committed by FPRC include killings and rape. The targeted killing of Muslims in Bangassou sparked reprisals in Bria from ex-Seleka members on 13th and 14th May 2017. In other parts, such as Ouham-Pendé, Mbomou and Haute-Mbomou, several other armed groups have also carried out attacks against civilians, humanitarian workers and peacekeeping troops.

Commendably, several steps have already been taken towards accountability for crimes committed in the context of the conflict in CAR. A Special Criminal Court (SCC) is in the process of being established, comprised of international and national staff, which will have jurisdiction over crimes under international law committed during the conflict. Investigations have also been opened by the International Criminal Court (ICC). At the national level, although constrained by various challenges, criminal trial sessions were held in June 2015 and from August and September 2016 and more are planned in 2017.⁵ The UN has placed sanctions on 11 individuals for their alleged responsibility for crimes under international law and other human rights abuses and violations.⁶

However, impunity remains the norm in the CAR. In the vast majority of cases the authorities have failed to ensure effective investigations into those suspected of having committed crimes under international law. Moreover, the possibility of granting blanket amnesties in the context of ongoing conflict resolution initiatives, including through the proposed African Initiative for a Peace and Reconciliation Agreement led by the AU and Economic Community of Central African States (ECCAS), are posing risks to the pursuit of justice and accountability, a strong aspiration of the Central African people as reflected in outcomes of the Bangui Forum⁷ and the country's domestic laws.⁸ Similar risks flow from the emphasis in the newly signed Sant'Egidio peace agreement on reconciliation and pardons at the expense of justice.

Rejection of impunity is one of the 16 organizing principles of the AU, as reflected in its Constitutive Act.⁹ In many recent pronouncements, the AU Assembly has committed to put an end to impunity.¹⁰ But this rhetoric has rarely been backed by tangible and visible actions and impunity for powerful perpetrators of mass atrocities continues to undermine long-term stability and development in the continent. In relation to South Sudan, for example, the AU is specifically mandated by a 2015 peace agreement to establish a hybrid tribunal to try perpetrators of crimes under international law committed in the country. Close to two years later, the process of establishing the Hybrid Court for South Sudan (HCSS) drags on. In March 2017, the PSC urged the AU Commission to “scale-up” efforts towards the establishment of the hybrid court.¹¹ Since then, however, there has been little progress.

In addition, much remains to be done to address the accountability gap for violations committed by AU peacekeepers in Africa.¹² In his August 2016 report titled “*Securing predictable and sustainable financing for peace in Africa*”,¹³ the High Representative, Donald Kaberuka,

⁴ Front Populaire pour la Renaissance de Centrafrique 's coalition (FPRC) and the Unité et la Paix en Centrafrique (UPC).

⁵ Amnesty International, *The long wait for justice. Accountability in Central African Republic* (Index: AFR 19/5425/2017)

⁶ The 2127 Sanctions list last updated on 17 May 2017 and is available at <https://www.un.org/sc/suborg/en/sanctions/2127/sanctions-list-materials> (accessed on 29 June 2017).

⁷ According to the report of the consultations done across the country in advance of the Bangui Forum in May 2015, “the population supports the principle of dialogue and reconciliation, but places justice and reparation for the damages inflicted as a necessary condition”. See Rapport général des consultations à la base en République Centrafricaine (document de travail élaboré par l'équipe de rapporteurs), 15 March 2015, Bangui.

⁸ Article no. 162 of CAR's Criminal Code stipulates that genocide, crimes against humanity and war crimes cannot be ‘the object of an amnesty or pardon’ available at <http://www.ilo.org/dyn/natlex/docs/SERIAL/88116/1/00661/F1881819351/CAF-88116.pdf> (accessed on 29 June 2017).

⁹ Article 4(o) of the AU Constitutive Act

¹⁰ See, for example, Solemn Declaration on the 50th Anniversary of the OAU/AU, Assembly/AU/Decl.3(XXI).

¹¹ PSC Communiqué, 667th Meeting, 17 March 2017.

¹² See Amnesty International, *Counting gains, filling gaps: Strengthening African Union's response to human rights violations committed in conflict situations* (Index: AFR 01/604/2017).

¹³ African Union Commission, *Securing predictable and sustainable financing for peace in Africa*, August 2016, available at <http://www.peaceau.org/uploads/auhr-progress-report-final-020916-with-annexes.pdf> (accessed on 30 June 2017).

recommended that the AU should ensure that all its missions are “compliant with international human rights and humanitarian law as well as accepted international norms of conduct and discipline”. He noted that AU efforts to integrate human rights in its peace support operations remain “ad hoc and must be institutionalized”. He thus recommended that the AU should develop an integrated human rights compliance framework in addition to finalizing the AU conduct and discipline policy. On accountability, the High Representative recommended that investigations of allegations and violations should be institutionalized and that aspects relating to compliance with international human rights and humanitarian law should be reinforced in the memoranda of understanding that the AU signs with troop-contributing countries.

The High Representative also recommended that a compliance office, composed of a monitoring and reporting unit as well as an accountability unit, should be established within the Office of the Chairperson of the AU Commission. Finally, he proposed the establishment of a compliance unit in each peace support operation.

Accountability for violence and violations is necessary to stem the cycle of conflicts in Africa. All that is needed is for African leaders to set out and implement concrete measures aimed at tackling impunity, once and for all. In this regard, Amnesty International urges the 29th Assembly of the AU heads of state and government to outline clear and tangible measures for addressing impunity. In particular, the AU Assembly should:

- a) demonstrate its commitment to the principle of the condemnation and rejection of impunity by demanding the establishment of the Hybrid Court of South Sudan without further delay;
- b) endorse and urgently implement the recommendations of the AU High Representative of the Peace Fund relating to accountability for human rights violations committed by AU peacekeeping troops;
- c) reject any possibility of granting amnesties in the context of peace initiatives in the CAR, including through the proposed African Initiative for a Peace and Reconciliation Agreement between the Government and armed groups; and
- d) Encourage African States to nominate qualified judges and staff, with extensive domestic experience, and preferably experience with crimes under international law, to the Special Criminal Court in the CAR in future calls for nominations.

ADDITIONAL BACKGROUND

On 20 April 2017, Amnesty International published a comprehensive report titled *Counting gains, filling gaps: Strengthening African Union’s response to human rights violations committed in conflict situations*. The report examines the extent to which the respect, promotion, and protection of human rights is integrated into the peace and security processes of the African Union. The report identifies six broad gaps in these processes: gaps in the mechanisms for the prevention of conflicts; failure to consider, publish and implement reports documenting violations; gaps in following-up and enforcing decisions by the regional human rights treaty bodies; challenges in ensuring accountability for violations; logistical and resource challenges; and challenges in institutional coordination and synergy. The report contains a set of recommendations aimed at supplementing the measures already taken or being considered by the African Union. The report is available at <https://www.amnesty.org/en/documents/afr01/6047/2017/en/>.

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