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تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

تقرير المقرر الخاص المعني بحالات الإعدام خارج نطاق القضاء أو بإجراءات موجزة أو تعسفاً، السيد فيليب ألتون\*

إضافة

البعثة التي قام بها إلى جمهورية أفريقيا الوسطى\*\*

\* تأخر تقديم هذا التقرير.

\*\* يعمم موجز هذا التقرير بجميع اللغات الرسمية، أما التقرير نفسه، فيرد في مرفق الموجز ويعمم باللغة التي ورد بها وباللغة الفرنسية.

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## موجز

تعرض شعب جمهورية أفريقيا الوسطى إلى موجات عنف متكررة منذ استقلال البلد في عام ١٩٦٠، كما تعرض لحالات انعدام سيادة القانون على نطاق واسع ولأعمال النهب، بالإضافة إلى الصراعات المسلحة الداخلية التي اندلعت خلال السنوات الثلاث الأخيرة. وشهدت هذه الأزمات انتشار عمليات القتل على أيدي قوات الأمن وإفلات مرتكبي الانتهاكات من العقاب. ولم تتمكن قوات الأمن من حماية حقوق الإنسان أو احترامها، وكانت الحكومة بالمقابل غير راغبة في معاقبة مرتكبي الانتهاكات أو غير قادرة على ذلك.

وحيثما قام المقرر الخاص ببعثته لتقصي الحقائق إلى جمهورية أفريقيا الوسطى في شباط/فبراير ٢٠٠٨، كان الصراع في شمال شرقي البلد قد انتهى، بينما استمر الصراع بشكل محدود في الشمال الغربي. وكان المتمردون قد قتلوا عدداً قليلاً من المدنيين، في حين تورطت قوات الأمن في عمليات واسعة النطاق تم فيها حرق القرى وقتل المئات من المدنيين في شمال غربي البلد. وحدث تراجع كبير في هذه الانتهاكات الواسعة النطاق بحلول منتصف عام ٢٠٠٧ بفضل الخطوات الإيجابية التي اتخذها الرئيس فرانسوا بوزيزي، وخفت حدة الصراع بشكل عام.

وأُخذت خطوات مشجعة نحو تحقيق السلام الدائم في الشمال بعد زيارة المقرر الخاص. وتم التوصل بشكل رسمي إلى وقف لإطلاق النار، وجرى في كانون الأول/ديسمبر ٢٠٠٨ حوار سياسي شاركت فيه العديد من الجهات الفاعلة لضمان استقرار البلد بشكل عام، وشكلت حكومة وحدة وطنية في كانون الثاني/يناير ٢٠٠٩. بيد أن هذه الخطوات قد تعثرت في عام ٢٠٠٨ بسبب القتال المتقطع في شمال غربي البلد وتجدد أنشطة المتمردون في الشمال الشرقي. ولم يحدث توفيق بين التقدم المحرز في تسوية النزاع والتقدم في مجال كفالة حقوق الإنسان. وتواصلت عمليات القتل، ولم تجر المحاسبة على الانتهاكات التي وقعت في الماضي، وساد انعدام الأمن في الأجزاء الشمالية من البلد. والقضايا الأكثر إلحاحاً في الوقت الراهن من منظور حقوق الإنسان تتمثل في حماية السكان من عمليات النهب، ومعالجة غياب سيادة القانون، والتصدي للإفلات من العقاب، وإصلاح قوات الأمن التي لا تخضع للمساءلة.

ومع تراجع عمليات القتال بين الحكومة والمتمردين، باتت عمليات النهب هي التهديد الرئيسي الذي يواجه المدنيين. ويُقدم اللصوص على سرقة السيارات وخطف الأشخاص للمطالبة بفدية؛ كما يقدمون في بعض الأحيان على حرق القرى وقتل القرويين. أما قوات الأمن، فهي غير راغبة في توفير الحماية للقرويين وغير قادرة على ذلك. وعلاوة على ذلك، كان قوات الأمن وراء عمليات القتل التي تعرض لها من يشتبه في كونهم مجرمين، وعمليات قتل بدوافع شخصية أو ذات صلة بالفساد. كما انتشرت عمليات القتل في عهد الشرطة وفي السجون. ويجري في كثير من الأحيان قتل من يُتهم بممارسة "الشعوذة"، وغالباً ما تشارك قوات الأمن بصورة مباشرة في هذه العمليات. وقلما تخضع عمليات القتل للتحقيق والملاحقة القضائية، وذلك بسبب عدم الرغبة في التصدي للانتهاكات التي تتورط فيها جهات فاعلة تابعة للدولة، وبسبب الافتقار الشديد للموارد المخصصة لقطاع القضاء.

ويجمل هذا التقرير أسباب عمليات القتل خارج نطاق القانون في جمهورية أفريقيا الوسطى ويقترح إصلاحات للححد منها ولتعزيز المساءلة. وينبغي إدخال تعديلات على قطاع الأمن لكي تتمكن القوات المسلحة من كفالة ومراعاة حقوق الإنسان. ويعني ذلك ضرورة إصلاح قوات الأمن لتتمكن من حماية الشعب بفعالية من الهجمات التي تتم عبر

الحدود ومن التهديدات الداخلية التي تشكلها الجماعات المتمردة واللصوص. كما يعني أيضاً أن على قوات الأمن مراعاة معايير حقوق الإنسان في سياق العمليات العسكرية وعمليات إنفاذ القانون.

وبالرغم من اتساع نطاق الإصلاحات المطلوبة للتقليل من عمليات القتل خارج نطاق القانون ولكفالة المساءلة فيما يتعلق بالانتهاكات التي وقعت في الماضي، فهناك عدد من العوامل التي تبين أن البلد يمر في الوقت الراهن بظروف مواتية للغاية لإحداث التغيير. ففي حزيران/يونيه ٢٠٠٨، وبعد مشاورات مستفيضة، تعهدت الحكومة بإجراء إصلاحات واسعة النطاق لقطاع الأمن. وبالإضافة إلى ذلك، أبدى الرئيس رغبته في اتخاذ خطوات للحد من عمليات القتل التي تقع على أيدي العسكريين. وتم تشكيل حكومة متعددة الأحزاب انضمت إليها جماعات متمردة سابقة. كما استأنفت المؤسسات المالية الدولية مؤحراً تعاملها مع جمهورية أفريقيا الوسطى، وحدثت زيادة كبيرة في تدفقات المعونة الدولية وأنشطة المنظمات الإنسانية. وقد يتمكن البلد من البدء في وضع حد لنمط الانتهاكات والإفلات من العقاب الذي استمر لعقود، إذا وجدت رغبة الحكومة في الإصلاح دعماً من المجتمع الدولي يستهدف تعزيز قدرة جمهورية أفريقيا الوسطى على وضع هذه الإصلاحات موضع التنفيذ.

**Annex**

[ENGLISH AND FRENCH ONLY]

**REPORT OF THE SPECIAL RAPPORTEUR ON EXTRAJUDICIAL,  
SUMMARY OR ARBITRARY EXECUTIONS, PHILIP ALSTON, ON  
HIS MISSION TO THE CENTRAL AFRICAN REPUBLIC  
(31 January to 7 February 2008)**

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## I. INTRODUCTION

1. From 31 January to 7 February 2008, the Special Rapporteur undertook a mission to the Central African Republic to inquire into the phenomenon of extrajudicial killings. His mission primarily focused on killings in the context of the non-international armed conflict which was then ongoing in the north-west of the country.<sup>1</sup> The Special Rapporteur also investigated killings by police, deaths in custody and in prisons, and the killing of so-called “witches”.

2. The Special Rapporteur is grateful for the cooperation the Government extended to him during the visit. Meetings were held with key Government officials, including the President, the Prime Minister, the Minister of Defence, and the Chief of Staff of the Armed Forces, as well as judges, magistrates, prosecutors, gendarmes, police officers, and members of the armed forces. The Special Rapporteur also met with a large number of civil society representatives, witnesses and victims. Throughout his visit, the Special Rapporteur was greatly assisted by the United Nations Peacebuilding Support Office (BONUCA) and the Special Representative of the Secretary-General, Ambassador François Fall, and was briefed by members of the United Nations Country Team (UNCT) and members of the diplomatic community. The Special Rapporteur travelled to the capital, Bangui, and also to the north-west region, including the towns of Bossangoa and Paoua.

## II. BACKGROUND AND INTERNATIONAL LEGAL FRAMEWORK

3. The economic, health, social, and political problems faced by the Central African Republic are vast. At the time of the visit, the Central African Republic was ranked 171 out of 177 in the 2007/2008 Human Development Index, and essentially no progress had been made in achieving the Millennium Development Goals. These problems are closely connected to the Central African Republic’s political history since independence from France in 1960, in which Governments have been determined primarily through a series of coups. Regional conflicts exacerbate the challenges. The Central African Republic shares porous borders with States facing rebel forces and internal conflict, negatively affecting border security, increasing the circulation of weapons, and permitting the ready entry of bandits.

4. The Central African Republic is party to the International Covenant on Civil and Political Rights (ICCPR), the four Geneva Conventions of 12 August 1949 and the Protocol Additional thereto relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), and the Rome Statute of the International Criminal Court.

5. International human rights law requires the Central African Republic to both respect and ensure the right to life.<sup>2</sup> The Government has an obligation to prevent extrajudicial killings of civilians, including alleged criminals, by the police and other security forces. It also has an obligation to use its security forces to ensure, insofar as possible, that the people living in the country are not murdered by non-State actors, such as bandits. The State must also investigate and prosecute those responsible for the unlawful killings that do occur.<sup>3</sup>

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<sup>1</sup> The Special Rapporteur did not visit the north-east. Although reports documented abuses during that conflict, there had been a ceasefire agreement since April 2007, which was still in effect at the time of the Special Rapporteur’s visit.

<sup>2</sup> ICCPR, arts. 2 (1), 6 (1).

<sup>3</sup> Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

6. In addition to the obligations imposed by human rights law, the conflicts in both the north-west and north-east were non-international armed conflicts to which international humanitarian law applied. All parties to these conflicts, including rebel groups, are bound by this body of law.<sup>4</sup> International humanitarian law requires the parties to distinguish between civilians and combatants at all times,<sup>5</sup> prohibits killing civilians except when they are directly participating in hostilities, and prohibits killing anyone, civilian or combatant, who has been detained or otherwise placed *hors de combat*.<sup>6</sup>

### III. ARMED CONFLICT IN THE NORTH-WEST

7. At the time of the fact-finding mission, there was a de facto ceasefire in the north-west, but occasional clashes continued to occur. Subsequent to the visit, in May 2008, the Government and the *Armée pour la Restauration de la République et la Démocratie* (APRD) rebel group agreed to a ceasefire.<sup>7</sup> In June 2008, the APRD reached a comprehensive peace agreement with the Government.<sup>8</sup> This was expected to lead to a planned “inclusive political dialogue” in August. But the APRD withdrew from the June agreement, and through September renewed clashes took place - resulting in deaths on both sides. Peace talks resumed in September and the inclusive dialogue took place in December 2008.

8. Armed conflict between the APRD rebel group and Government forces began in the north-west in mid-2005. Following minor skirmishes, the rebels launched their first major attack against the town of Markounda (Ouham prefecture) in September 2005, and most of the subsequent fighting took place in Ouham, Ouham-Pendé, and Nana-Grébizi prefectures.

9. The rebellion was in part fuelled by supporters of former President Ange-Félix Patassé who disputed the fairness of current President Bozizé’s 2005 election win. In March 2003, Bozizé carried out a successful coup with the aid of *libérateurs* (Chadians and former *Forces Armées Centrafricaines* (FACA) soldiers loyal to Bozizé). In December 2004, Bozizé announced presidential elections, but excluded Patassé from running. The rebellion was also motivated by the poverty and lack of security experienced by the population of the north-west. Their demands have not been separatist; they have, rather, principally sought development opportunities, greater representation in Government, and the defence of their communities against bandits.

10. The role that extrajudicial executions have played in this conflict is related to the goals and structures and the parties to the conflict, and to high-level decision-making. This section thus begins by profiling the Government security forces and the APRD. This analysis shows how the security forces’ lack of a strong command structure, together with the manner in which they have been deployed, contributed to abuses. Similarly, it shows how the dependence of the APRD on local communities tempered its resort to abusive tactics against the civilian population. This section then discusses the abuses that have occurred. From mid-2005 to mid-2007, Government forces engaged in a brutal counter-insurgency programme and killings were widespread. From mid-2007 to 2008, extrajudicial executions declined dramatically, largely in response to decisions taken by President Bozizé. This analysis of the

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<sup>4</sup> Common article 3 of the four Geneva Conventions of 1949; Protocol II; and customary rules applicable to non-international armed conflicts.

<sup>5</sup> Article 13 (2) of Protocol II, Rule 1 Customary Rules of International Humanitarian Law identified in the study of the International Committee of the Red Cross (Customary Rules).

<sup>6</sup> Common article 3 of the four Geneva Conventions of 1949, article 4 of Protocol II, and Rule 89 of the Customary Rules.

<sup>7</sup> *Accord de Cessez le Feu et de Paix* (9 May 2008).

<sup>8</sup> *Accord de Paix Global* (21 June 2008).

factors that have contributed to causing and preventing killings will subsequently inform the recommendations for security sector reform in section VIII.

### A. Parties to the conflict

#### *Government security forces*

11. The army of the Central African Republic (FACA), and particularly one of its divisions, the *Bataillon de Protection et Sécurité des Institutions* (commonly referred to as the *Garde Présidentielle* (GP) or the *Garde Républicaine*), have undertaken military operations in the north-west in response to rebel attacks. The armed forces have been unable to effectively control the territory of the Central African Republic or to respect and ensure human rights due to severe structural, resource, command and control, and training deficiencies.

12. The FACA is a small force. Military officials stated that while it numbers roughly 5,000 troops, only 2,000 of them are actually available for military operations. Some 800 personnel have reached retirement age but have not left the force as the Government does not have the money to contribute to their retirement funds. At the time of the Special Rapporteur's visit, soldiers' salaries had accumulated 38 months in arrears.

13. Government officials acknowledged that soldiers are poorly trained, lack discipline, and are unprofessional. Foreign military advisers<sup>9</sup> described them as lacking effective command and control structures. This is particularly the case with the GP. Military officials stated that while the GP are structurally part of the FACA, they are not under the command of its Chief of Staff. As detailed below, some units of the GP seem to undertake military operations outside of any formal command structure. The GP were repeatedly singled out as being the least disciplined. They would consume alcohol while on duty, refuse to take care of their military equipment, and many were unable to properly handle their weapons. Human rights and humanitarian law training has, until recently, also been poor. A foreign adviser noted that during a recent humanitarian law training session it became evident that troops were ignorant of the content of the core legal principles.

14. Recruitment into the FACA since the early 1980s has not been based on consistent criteria over time. Rather, soldiers have all too often been recruited through personal relationships, or recruited for their ethnicity and loyalty to the current leader. The result of this today is that the army is not an integrated whole with regularized command and control lines, but includes various informal factions, including members of the Yacoma ethnic group recruited under former President André Kolingba, and the *ex-libérateurs* brought in by President Bozizé.

15. The army is woefully lacking in even basic infrastructure, equipment, and communications. Between the mid-1990s and 2003, much was destroyed in a series of mutinies. It is especially problematic that the FACA is primarily based only in the capital, Bangui. When units are deployed outside the capital, they generally have no access to properly equipped barracks. As one foreign military adviser explained, this means that FACA units sent to the north often live off the land and at the expense of the local population, resulting in low morale for troops and abuses of the civilian population.

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<sup>9</sup> French, South African and regional *Mission de Consolidation de la Paix* (MICOPAX) personnel engage in training and other assistance for the CAR forces. This contribution was generally perceived to be positive.

*The APRD rebel group*

16. While several rebel groups have operated in the north-west over the past three years, the most significant was the APRD.

17. Most of the APRD leaders are of Sara-Kaba ethnicity, and some previously served in the GP of former President Patassé. Jean-Jacques Demafouth, who served as Minister of Defence under President Patassé, has signed the recent peace agreements on behalf of the APRD. Most APRD fighters were principally or originally members of local self-defence groups. Prior to the conflict, local self-defence groups had been organized in villages to protect the population against bandits. There is no unique affinity between such groups and the APRD. Indeed, they have worked with anyone willing to confront bandits. Informed interlocutors were not aware of any APRD efforts to politically train new recruits, suggesting that, regardless of the agenda of senior leaders, most individuals who fought with the APRD continued to be motivated by local interests.

18. The APRD's extreme lack of resources both reflected and reinforced its local character. With regard to weapons, many interlocutors had observed some rebels with AK-47s, but stated that most only had artisanal firearms (while travelling between Bossangoa and Paoua, the Special Rapporteur observed large numbers of rebels along the road, all of whom carried only artisanal weapons). The APRD had a couple of horses but was not believed to have any motor vehicles. With regard to communication technology, the region has no cellular phone coverage and the APRD had few, if any, radios. Only a few APRD leaders had satellite phones.

**Conduct of hostilities and abuses against civilians: mid-2005 to mid-2007**

19. The conflict in the north-west was of a low intensity, and few casualties of armed combatants from either side occurred in the sporadic fighting. The conflict did, however, take a heavy toll on civilians. It probably resulted in hundreds of deaths, and forced at least 10 per cent of the population of the north-west to flee into the bush or to neighbouring countries. Civilians were killed in violation of international humanitarian law by both rebel and Government forces, although abuses by Government forces were far more extensive.

*Extrajudicial executions by the APRD rebels*

20. APRD rebels were responsible for a small number of extrajudicial executions. These related to the conflict as such, and to the efforts of APRD to govern areas under its control. With respect to the conflict, extrajudicial executions by the APRD were isolated incidents. Human rights monitors informed the Special Rapporteur of a small number of cases of the APRD killing civilians accused of supporting the Government. For instance, during the night of 30 May 2007, the APRD killed the *Sous-Préfet* of Ngaoundaye, allegedly because he supported the Government's defence forces. Likewise, the Special Rapporteur was informed of a case where three young men from Bélé were killed by the APRD on 2 September 2007 because they refused to join the APRD. Reports of killings by the APRD that were carried out to exact personal revenge were also received. In one case, an APRD commander executed a volunteer at a local organization because of a personal rivalry.

21. In areas of the north-west under its control, the APRD imposed "taxes", and ran an informal criminal justice system, which fell short of minimum due process standards. No information was received on specific cases in which failures to pay "taxes" resulted in executions, but reliable information is hard to come by, and some abuses have occurred (for example, in 2007 the APRD burned two villages on the Ouandago-Batangafu axis for not paying "taxes"). The Special Rapporteur also received information on a number of cases in which the APRD killed those accused of practising "witchcraft" (section VI addresses the killing of "witches" in detail).

*Extrajudicial executions by Government forces*

22. Killings, beatings, forced displacement, and village burnings committed by the FACA/GP, usually as reprisals against perceived civilian support for or cooperation with rebel forces, were widespread during the mid-2005 to mid-2007 period. These abuses were reported widely.<sup>10</sup> During his visit, the Special Rapporteur received many credible and detailed accounts of violations from civil society, United Nations agencies and humanitarian organizations working directly in the areas of conflict, and from victims and witnesses.

23. These accounts indicate that the abuses by Government forces followed a similar pattern across the north-west. Typically, a group of APRD rebels would pass through or attack a village or town. The FACA/GP would then arrive, kill those believed to be rebels, and attack villagers perceived to be rebel supporters, or simply engage in indiscriminate shooting. The Government forces typically also burned the homes of villagers - targeting the homes of perceived rebel supporters, but also burning indiscriminately. The burning of over 10,000 civilian homes in the north-west in December 2005 by Government forces is well documented.<sup>11</sup> The majority of the villages were subsequently abandoned by their former residents, who moved to live in makeshift bush settlements, temporarily settled in larger towns, or fled to Chad or Cameroon. Travelling by road from Bossangoa to Paoua, the Special Rapporteur saw, after 100 kilometres from Bossangoa, village after village of burned homes.

24. Civil society interlocutors met by the Special Rapporteur estimated that hundreds of civilians were murdered by Government forces during this period. They also reported that the military had killed suspected rebel group members in violation of international humanitarian law.<sup>12</sup> The Special Rapporteur received many credible reports that one GP commander in particular, Lt. Eugene Ngaikossé, was responsible for commanding troops who carried out the more egregious instances of village burnings, the targeting of civilians, and unlawful killings of suspected rebels.

25. One significant incident about which the Special Rapporteur received much detail was a massacre of civilians in Paoua on 29-31 January 2006. On 29 January, the APRD attacked Paoua, looting Government offices and attacking the prison and police station. After initially retreating, soldiers from the FACA and the GP were then able to force the rebels to flee the area. However, instead of ensuring the safety of the population of Paoua during and after the APRD attack, the GP reinforcements from Bossangoa attacked Paoua's residents, killing at least 33 civilians. The Special Rapporteur spoke with one witness whose house was ransacked by the APRD on the first day of the attack, and then witnessed the GP burning down his neighbours' homes and killing four Paoua residents. Other witnesses saw one incident in which three civilian men from Paoua were shot by Government soldiers while the men were trying to flee the fighting. Witnesses described how the GP fired indiscriminately into gatherings of civilians in the town. After the APRD attack, soldiers also entered civilian homes, took men outside, and executed them. Other civilians detained by the FACA were also tortured to death. One victim was detained with seven other men from Paoua and taken to the FACA base. All of the detained men were beaten, and left in the sun for two days; only one survived.

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<sup>10</sup> See e.g., Human Rights Watch, *State of Anarchy: Rebellion and Abuses against Civilians*, September 2007, vol. 19, No. 14 (A).

<sup>11</sup> See e.g., Human Rights Watch, *State of Anarchy: Rebellion and Abuses against Civilians*, September 2007, vol. 19, No. 14 (A), p. 6; FIDH, *Central African Republic - Forgotten, stigmatised: the double suffering of victims of international crimes*, No. 457/2, October 2006, pp. 49-51.

<sup>12</sup> In one case, two suspected rebels were detained by the FACA close to Kaga-Bandoro. The two were taken to the town and publicly executed.

26. A Government official in the prefecture informed the Special Rapporteur that no public investigations and prosecutions took place after this massacre. Indeed, impunity for such actions is the norm, and section VII discusses its causes and the reforms.

*Response of the Government to allegations of abuse*

27. The Special Rapporteur asked Government officials for their response to the many accounts of abuses he received during the visit. He was met with varying degrees of denial and excuses for the violence.

28. One senior Government official stated that much of the information on abuses was fabricated in order to discredit the Government. He suggested that in areas where Government opponents predominated, residents would burn their own houses so that they could blame this on the FACA. This explanation was unsubstantiated and completely at odds with all civil society and witness testimony. It is especially difficult to accept that a village of people would intentionally destroy their own homes, displacing themselves into the bush without shelter, water, adequate food, or access to health care - just so that they could then denounce the FACA.

29. A number of other officials responded by asserting that the rebels also committed abuses. This is clearly true (see above), but it is no answer to inquiries about abuses by State forces.

30. A number of other Government officials stated that reports of violence were exaggerated. The officials admitted that some acts of violence by the military occurred, but stated that it was difficult to control individuals out in the field, or to know who did what to whom. This may be true, but it is not an acceptable excuse for inaction by the Government, nor can it form the basis of a credible denial of the accuracy of the many accounts of violence received. Rather, the Government's admissions of lack of control and lack of knowledge of events - in the face of comprehensive human rights reporting and the statements of many witnesses - indicate instead that it needs to undertake far-reaching security sector reforms so that the failings of command and control structures and investigative processes can be remedied.

**Waning of conflict and reduction of abuses: mid-2007 to 2008**

31. The abuses that marked the mid-2005 to mid-2007 period had become far less common by the time of the Special Rapporteur's visit. There have not been any reports of large-scale abuses against civilians by Government forces since May 2007, when the GP burned approximately 500 houses in Ngaoundaye (on the border between the Central African Republic, Chad and Cameroon).

32. The reasons given for the reduction in abuses were various.

33. One of the most important was the decision by President Bozizé to largely withdraw the GP from the north-west. The GP was the primary actor responsible for abuses, and its withdrawal from the area signalled the end of large-scale State abuses against civilians. President Bozizé visited Ngaoundaye in June 2007, and saw the damage to the villages caused by the GP. He promised to punish those responsible. He also visited Bocaranga in November 2007, and apologized for the abuses committed there by Government forces.

34. In addition, there was a general waning of the conflict in the six months prior to the Special Rapporteur's visit. There was an informal ceasefire in which the Government forces and rebels generally did not enter each others' areas. For instance, with respect to Paoua, Government forces controlled the city and its immediate surroundings but did not move through rural areas except along the road between Paoua and Bozoum. The increased presence of international NGOs and humanitarian organizations, as

well as mounting international pressure on the Government to respect human rights, also played an important role in the reduction of abuses.

35. Despite these positive developments, the security situation remained volatile at the time of the Special Rapporteur's visit. People who had fled their villages were too scared to return. They were worried that the Government could attack the APRD if the rebel group did not follow through with a peace agreement, and they feared that they would be targeted as rebel sympathizers. The population continued to live in particular fear of Lt. Ngaïkossé. The Special Rapporteur received information about one particular incident in which 80 per cent of the population of Markounda fled into the bush when Lt. Ngaïkossé arrived in January 2008 to arrest the mayor.

#### IV. SECURITY VACUUM AND BANDITRY

36. As the armed conflict waned during late 2007 and 2008, it became clear that bandits had emerged as the number one threat to the civilian population in the north-west.

37. There is a dearth of reliable information about the bandits, unsurprisingly given the absence of effective law enforcement in the area. The information provided by most interlocutors came at second-hand from villagers who have encountered or been held hostage by bandits. Nevertheless, some basic facts appear reliable. Banditry in the north-west is a form of organized crime. The general modus operandi of bandits is to ambush a vehicle, loot its contents and take hostage anyone who appears likely to garner a significant ransom. Their activities are sophisticated: foreign bandits will use a citizen of the Central African Republic to act as an interpreter; they hold groups of hostages in the bush for weeks or months; and they efficiently conduct hostage negotiations. Travellers and villagers are not generally killed unless they resist. There are killings, however, but reliable statistics are not available. Over the course of 2007, bandits increasingly attacked and looted villages, and also engaged in village burning, seemingly as revenge for resistance to their demands.

38. Many bandits are from neighbouring countries, including Cameroon, Chad and Niger, although there are also bandits from the Central African Republic. Those from Chad either participated in Chad's civil war or fought for President Bozizé in 2001-2003 but were not subsequently integrated into the security forces. The bandits often wear military uniforms, though there is little information on which countries these uniforms are from. The bandits often have AK-47s and are better armed than the APRD. While individual groups of bandits are sometimes well organized, there is no evidence that the bandits collectively have any kind of organizational unity.

39. In general terms, it appears that the bandits are often fighters from earlier conflicts in the Central African Republic and neighbouring countries who turned to crime rather than demobilizing, using their military weapons and training to exploit the security vacuum in the north.

##### *Government response to banditry*

40. Government forces have made only limited efforts to respond to banditry. In both Ouham and Ouham-Pendé, local officials acknowledged that they seldom arrest or engage with bandits. One prosecutor who asserted that there had been successful prosecutions of bandits could not, however, cite any specific case. Military and gendarmerie commanders in both prefectures stated that their forces were unable to pursue bandits because they lack sufficient vehicles and are relatively evenly matched in firepower. In a rare instance of which officials could provide a detailed account, Government forces engaged with the bandits, but the operation failed, leaving two dead hostages and no captured bandits.

41. Given the failure of law enforcement efforts, alternative approaches have been discussed. The most oft-mentioned is to use financial incentives to demobilize the bandits and repatriate those of foreign

nationality. But, as noted by several interlocutors, this proposal seems both unrealistic and undesirable. No neighbouring country would be interested in accepting large numbers of criminals. Moreover, it is unlikely that many of the criminals, especially those who have also been involved in armed conflict in neighbouring countries, would be willing to be repatriated. Making “demobilization” payments to bandits would also tend to make that vocation even more attractive. While demobilization programmes for armed opposition groups are often a useful component of plans to transition from conflict to peace, there is no reason to think that such programmes would facilitate a transition from criminality to law and order.

42. The APRD has provided effective protection against bandits in areas that it controls. Interlocutors, including Government officials, cited specific instances in which rebels have fought off bandits. In this respect, the obvious difference between Government and APRD forces is that the latter are continuously present and active in rural areas of the north-west, whereas the former are based in Bangui or major towns.

43. There are several factors that were widely believed to have limited the urgency with which the Government has responded to the principal human security problem in the north-west today. One is that banditry principally affects poor, rural residents - people with little political clout. Indeed, merchants can pay for gendarmes to travel on top of their trucks, which has generally proven sufficient to deter bandit attacks. One interlocutor noted that insofar as some bandits are *ex-libérateurs*, moving strongly against bandits risks provoking diplomatic incidents with the Government of Chad. Some interlocutors suggested that there may also be an ethnic dimension to the Government’s inaction. The victims are disproportionately Peulh, a predominantly Muslim ethnic group. Peulh traditionally herd cattle, making them wealthier than most other rural residents. Moreover, cattle are a relatively mobile and “liquid” form of wealth that may be stolen by bandits or sold by the herders to pay ransoms to bandits. There is also tension between the Peulh and other citizens of the Central African Republic. First, as the Special Rapporteur observed in interviews, there is a tendency to lump Peulh in with Muslims from other countries and not consider them “true” citizens of the Central African Republic. Second, the Peulh’s comparative wealth creates tensions grounded in resentment. Third, as has been observed in other areas, there is often tension between the interests of sedentary agriculturalists and pastoral nomads.

## V. LAW ENFORCEMENT KILLINGS AND DEATHS IN CUSTODY

44. In addition to the killings documented above in the context of the armed conflict, the Special Rapporteur received many credible accounts of extrajudicial executions committed by State officials in the course of their regular law and order functions, as well as for a range of personal and corrupt ends.

45. First, deaths in police or FACA/GP custody appear to be widespread. One Government official stated frankly that the torture and murder of arrested suspects was “routine”. By way of example, he recounted in detail two cases in which he witnessed how FACA soldiers tortured to death persons in their custody in 2007. The official feared, at best, inaction, and at worst, retaliation, if he reported these cases. Representatives of civil society in Bossangoa reported a number of killings by law enforcement officials in which the circumstances were contested, but no real investigation followed any of the deaths.

46. Second, there are many cases of killings in the context of efforts by the security forces to extort money from the public at legal and illegal checkpoints and elsewhere. In Bangui, the Special Rapporteur received testimony on three individuals who were allegedly killed by the GP in December 2006. The GP, in front of large number of witnesses, pulled the men from a bus, seeking to extort the money that one of the men had earned that day by selling his produce at a market. Other witnesses then saw the men taken to a nearby GP base. During the night, witnesses heard shots, and the following day, the GP bragged that they had “killed them”. Lawyers for the families of the deceased men sought to have the incident investigated and the suspects tried for murder by lodging official complaints in December 2006. But

nothing was done by the State. During the Special Rapporteur's visit, one of these lawyers had gone to court to once again ask about the progress of the case. He was told that the file could not be found.

47. Third, killings also occur in prisons, after detainees have been convicted, or while they are awaiting trial. Detailed accounts of security guards in prisons torturing inmates to death were provided. These deaths occur in the context of extremely poor prison conditions and nearly non-existent prison oversight. Detainees are sometimes also detained arbitrarily, held without even minimal respect for due process. In Bangui, prosecutors - upon instructions of the Justice Minister - do carry out inspections of detention centres on a weekly basis, and this has led to the release of some prisoners arbitrarily detained. However, at the time of the Special Rapporteur's visit, this practice only occurred in the capital. Detainees legitimately fear reprisals for reporting abuses. In fact, in many areas, there is no external Government prison monitor to whom an inmate *could* report abuses. When deaths in custody are reported, it is simply alleged by prison officials that the prisoner died of an illness, and that is the end of the matter.

48. Fourth, deaths occur during law enforcement operations. Encouragingly, at the time of the visit, both Government and civil society interlocutors noted improvements in the operations of the *Office central de repression du banditisme* (OCRB), which was set up to address banditry in Bangui. Theoretically, it has national jurisdiction, but in practice its efforts are limited to the capital. Civil society representatives reported that police in the OCRB have sometimes used excessive force, killing, rather than arresting, criminal suspects. Government officials admitted that in the past some police had "gone too far". However, the Special Rapporteur was told that unlawful incidents had decreased, especially after BONUCA conducted human rights training for police. Civil society representatives also stated that abuses by the OCRB had reduced over the previous year. Continued training, and the implementation of effective police oversight mechanisms are essential to ensure that the OCRB develops as a reliable institution.

## VI. "WITCHCRAFT" KILLINGS

49. There is a widespread belief in the Central African Republic that some people are "witches" who use their powers to harm others. In fact, however, many of those accused of witchcraft are simply members of vulnerable groups, such as women and children, the elderly or the mentally ill, and are the victims of an accuser's personal grudge. In many cases they are killed with impunity, whether by private persons, Government security forces, or rebel groups. They may also be punished or effectively banished and excluded from society.

50. The Special Rapporteur received credible reports of numerous cases of such killings by the local population. Reliable interlocutors have reported that members of the APRD, sometimes acting together with the local population, have also killed "witches". In one case, the head of the town of Badama was accused of being a sorcerer and detained by the APRD in August 2007. Shortly thereafter, he was taken to Bélé and killed. Informed interlocutors described such cases as examples of the larger phenomenon of the APRD seeking to fill in the law-and-order vacuum left by the Government authorities in the north-west. In areas under Government control, Government forces have been responsible for killings, sometimes upon the request of the local population. In Paoua, the Special Rapporteur received reports of six cases of "witches" killed by the FACA. In some of these cases, Government forces carried out the killings in return for payment.

51. Under the Criminal Code, a person convicted of "witchcraft" (*charlatanisme* and *sorcellerie*) can face capital punishment, a prison sentence or fine.<sup>13</sup> While imposing the death penalty for this "offence" would violate international law - which permits death penalty only for the crime of intentional murder - no recent instances in which the death penalty had been applied were reported. But it is common for

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<sup>13</sup> Criminal Code of the Central African Republic, arts. 162 and 162 bis.

accused persons to be arrested, tried, convicted and imprisoned on the basis of spurious evidence. These problems must be taken seriously. The criminalization of “witchcraft” by the State reinforces the social stigmatization of those accused of witchcraft. Indeed, the proscription of “witchcraft” tends to lead vigilantes, soldiers and rebels alike to view the killing of suspected “witches” as legitimate. It is, moreover, a “crime” that lends itself ideally to the persecution and victimization of women and children in particular. A clear and immediate message should be sent by amending the Criminal Code so as to abolish the crime of witchcraft. Further, there is an educational challenge to ensure that those who fear witches act within the law and on the basis of a criminal code which fully respects human rights when taking measures against those whom they believe to be engaging in harmful acts. In such circumstances, it is wholly unacceptable to invoke the amorphous, subjective and highly manipulable accusation of engaging in “witchcraft” as the basis for either arbitrary private acts of violence or for Government-sponsored or tolerated acts of violence. The killing of “witches” should be prosecuted like any other murder, and other violent acts against such individuals should also be prosecuted.

## VII. IMPUNITY AND THE CRIMINAL AND MILITARY JUSTICE SYSTEMS

### Widespread impunity for killings

52. Impunity is pervasive for unlawful killings, regardless of the perpetrator (security forces, rebels, or private persons) or the context (military operations, routine law enforcement, or detention).

53. Given the frequency with which abuses have been committed by security forces in the north-west, particular attention should be paid to eliminating the sense that they are above the law. Although President Bozizé took the positive step of removing the GP from the north-west after seeing evidence of their crimes, the Special Rapporteur saw no evidence that any FACA/GP members had actually been prosecuted for abuses. The Minister of Defence stated that the soldiers responsible had been dismissed and prosecuted. However, neither he, nor any other official the Special Rapporteur asked could provide detailed information - e.g., about the number of soldiers who had been investigated, disciplined or charged - that would substantiate this assertion. The Director General of the GP stated that comprehensive documentation did not exist, and that the Special Rapporteur should ask the radio or TV stations for the numbers sanctioned, as such orders were announced there.

54. In addition to this general impunity, some elements of the armed forces enjoy a de facto special status and are essentially untouchable. The members of the armed forces who were among those that accompanied the President when he took power in 2003 (*libérateurs*) fall within this group. Indeed, killings by *libérateurs*, often for private reasons, do not seem to be the object of any investigation. Certain elements of the GP, especially Lt. Ngaïkossé and his unit, also benefit from total impunity. Despite the well-documented allegations of killings and other human rights abuses by Lt. Ngaïkossé, no investigations have been launched, and his unit remains operational.

55. To address this impunity, fundamental reforms are required to both the criminal and military justice systems.

### Criminal justice system

56. The criminal justice system is widely condemned as dysfunctional. A senior Government official told the Special Rapporteur that it had reached “rock bottom” and that no one trusted it - neither the citizens of the Central African Republic, nor the Government or the international community.

57. Three different judicial organs are involved in the initial investigative process: the judicial police, the public prosecutor and the investigative judge. The public prosecutor receives complaints and decides

whether to proceed with an investigation. The judicial police gather information on crimes, under the supervision of the public prosecutor and the investigative judge. The investigative judge can investigate following an indictment by the prosecutor or following a complaint by a civil party.

58. Depending on the severity of the offence, crimes may be tried in the ordinary courts, police courts, regional criminal courts, or jury courts. These courts apply the Criminal Code and the Code of Criminal Procedure, which have remained essentially unchanged since their adoption in 1961 and 1962. The Special Rapporteur was informed during his visit of efforts, supported by BONUCA, to update these codes. While this is welcome, it must also include reforms to remove sections criminalizing “witchcraft”.

59. The justice system is plagued by a lack of resources, severely limiting its capacity to address impunity. Human resources are minimal in the capital, and nearly non-existent in the rest of the country. In Bangui, the public prosecutor’s office has just two prosecutors for criminal cases. In Paoua, the justice system barely functions. It is composed of one magistrate, who is simultaneously president of the tribunal, prosecutor and investigative judge. Across the country, there are not enough buildings to house courtrooms and offices of judges and key personnel. Basic equipment is in short supply. In Paoua, the magistrate had his files destroyed and typewriter stolen during an attack by the APRD in January 2007. A year later he had not yet been provided with new equipment.

60. Recent proposals to reform the justice system as part of the Central African Republic’s security sector reform programme are promising. Proposals to address staffing and equipment supply deficiencies, to improve courthouse infrastructure, and to revise training programmes are appropriate. Donors and the international community should support these reform efforts, which are essential to address impunity.

61. However, while the lack of resources is one significant cause of impunity, even when the capacity to investigate and prosecute does exist, there is little effort made to respond to killings by the security forces. The criminal justice system theoretically has jurisdiction over all persons in the Central African Republic, including members of the security forces, but the latter jurisdiction is rarely exercised. The Special Rapporteur received information in Bangui on one incident in which police were being tried in the criminal justice system for alleged killings. But no information on the criminal prosecution of members of the FACA could be obtained. Several interlocutors working in conflict-affected areas noted that the local prosecutors took no action whatsoever with respect to alleged crimes by the military, whether committed in connection to the armed conflict or otherwise. The preference is apparently to leave cases involving soldiers to the military justice system.

### **Military justice system**

62. In practice, cases involving the FACA/GP are dealt with by the Permanent Military Tribunal. This Tribunal can be seized by the public prosecutor and has jurisdiction over offences committed by military personnel. The Tribunal is not a standing institution, and although Government officials stated that three sessions per year would be ideal, it generally meets just once or twice a year. In some years, a lack of funds has prevented sessions from taking place altogether.

63. In addition to resource shortages at the Tribunal, the military justice system - like the ordinary criminal justice system - is plagued by fundamental deficiencies at the investigative level. In theory, if the prosecutor receives allegations of abuse, an investigation is conducted with the assistance of the judicial police, and a report made to the Tribunal. Current arrangements should facilitate such investigations: gendarmes are officers of the judicial police and often accompany military units when they are deployed. Moreover, in the case of a flagrant offence, gendarmes have an obligation to inform the prosecutor and to proceed to the location of the crime and conduct the necessary investigation.

64. In practice, however, the reporting, investigating and prosecuting of human rights violations by the armed forces is almost non-existent. For example, despite the large number of violations committed by the armed forces during the first half of 2007, the Special Rapporteur was informed by the gendarmerie that they had made just 10 reports on acts of violence by the FACA in 2007, and most of those were qualified as relating to private incidents. In one report, the officer noted a rebel attack in the north-west, and discussed the subsequent intervention by the military. The report specifically detailed abuses and killings committed by the GP based in Bossangoa. The gendarme who drafted this report had the power to act as a member of the judicial police; however, there was no indication that any effort had been made to investigate further or arrest the perpetrators. Civil society representatives and witnesses to particular incidents reported a similar reluctance by prosecutors to investigate and refer cases to the Tribunal.

65. An effective military justice system must be considered an integral part of any effort to reduce and prevent killings. The Special Rapporteur recognizes that steps are being taken to improve the system, such as drafting a new military justice code. However, as long as there are almost no investigations and prosecutions, killings by members of the military will continue.

### **Amnesty law**

66. On 29 September 2008, the National Assembly of the Central African Republic passed a General Amnesty Law, which came into effect upon its promulgation on 13 October 2008. This law provides for amnesty from prosecution for Government officials and rebels for all acts committed after 15 March 2003, except for acts amounting to war crimes, crimes against humanity, or other crimes over which the International Criminal Court has jurisdiction.

67. The Special Rapporteur attaches particular importance to those indispensable exclusions from the amnesty. Moreover, it is important that its application be limited to acts committed in the context of the armed conflict and that are consistent with international humanitarian law (although they would normally constitute crimes under domestic law), and that it not be interpreted to cover private acts or abuses committed in the law enforcement context. In addition, it must be ensured that the existence of the amnesty, together with ongoing investigations by the International Criminal Court in the Central African Republic,<sup>14</sup> do not lead to Government inaction on prosecuting the most serious abuses committed by its soldiers.

## **VIII. SECURITY SECTOR REFORM**

### **Introduction**

68. In conjunction with the reform of the justice system, it is crucial to reform the security sector - including the FACA, the GP, the gendarmerie, and the police - and regain the trust of the population. While the population, especially in the north, rightly distrusts the current armed forces in light of their past conduct, they desperately want the presence of security forces that can protect them from bandits and lawlessness.

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<sup>14</sup> On 22 May 2007, ICC prosecutor Luis Moreno-Ocampo announced that the ICC would open investigations into crimes committed in the Central African Republic in 2002-2003, and would continue to gather evidence of current crimes. In the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*, Mr. Bemba, President and Commander-in-Chief of the Mouvement de libération du Congo (MLC), is alleged to be criminally responsible for war crimes and crimes against humanity committed on the territory of the Central African Republic from 25 October 2002 to 15 March 2003.

69. Most interlocutors were fundamentally pessimistic with respect to whether the Government had the will to implement the necessary transformation. One foreign soldier who had helped train the FACA at various points throughout the past 20 years said that he had witnessed zero progress in terms of tactical competence or of respecting the rule of law. While this is sobering, it is encouraging that interlocutors did believe that change is possible if the international community eschews “quick fixes” in favour of a long-term strategy and commitment.

70. A seminar on security sector reform held in Bangui in April 2008 was a significant step forward. It brought together members of civil society and Government to discuss wide-ranging reforms. The detailed timetables for reforms to each institution that were developed provide a promising basis for future efforts. However, while reform efforts must focus on precise measures, the big picture must always be kept in mind as those steps are taken. Reforms must result in security forces that can both ensure and respect human rights. In what follows, the key lessons learned during the mission are outlined.

### **Principles to guide human rights-based reform of the security sector**

71. It is necessary to start by recognizing that, while the steps taken by the President to reduce abuses were positive, change that is rooted in a single individual’s words cannot be expected to endure. Reforms must be institutionalized. This requires that decision-making based on personal relationships be replaced with decision-making based on stable institutional structures.

72. First, there is a fundamental problem with the very concept of a GP directed personally by and loyal to the President, which not only provides close protection to him but also carries out wide-ranging security activities. These problems are compounded by the fact that the GP takes orders from the President rather than through the regular chain-of-command and is recruited through an ad hoc process.

73. As long as a single individual is permitted to control what amounts to a private army, there will always be a danger that large-scale abuses will recommence as quickly as they were brought to an end. Moreover, the pattern in which each new president remakes this critical component of the security sector in his own image will continue, meaning that every transition will threaten to undo all previous efforts at reform. Nevertheless, it must be candidly acknowledged that the GP will not be permanently eliminated until incoming presidents feel that they can rely on the existing FACA and do not need to form ad hoc units to ensure their regime’s survival. This suggests that an element of sequencing is pragmatically reasonable. As the FACA is reformed, the elimination of the GP will be facilitated. There is not, however, anything inevitable about this progression. An end to the use of the GP for any purpose other than the President’s close protection must be treated as a key aim of security sector reform, and donors should link the issues.

74. The limited efficacy of formal legal proscription in making permanent the elimination of an institution that emerges and re-emerges in conjunction with regime transitions must also be acknowledged. Again, there is no perfect solution, but a starting point would be for civil society groups to prioritize this issue and promote a non-partisan understanding that new presidents must accept the existing security forces rather than “supplementing” them - and that the security forces must support whomever is president. Entrenching a new societal norm will not be easy, but the country’s history provides ample evidence of why such a norm is necessary.

75. Second, a regular chain-of-command should be established and enforced. Every operation should be conducted pursuant to a written order signed by the legally designated commander. Personal ties must not be permitted to subvert this chain-of-command. Soldiers who refuse the lawful orders of their commanders, who order military activities outside the proper chain-of-command, or who follow such irregularly issued orders should be disciplined. The importance of this was brought home during meetings with the GP. According to senior GP officials, the GP command had not signed the orders for all of Lt.

Ngaïkossé's missions, and thus was not responsible for any unauthorized missions. The GP had apparently taken no measures to investigate or control these irregular missions by Lt. Ngaïkossé.

76. Soldiers should also be instructed that they have an obligation to disobey manifestly illegal orders and be sufficiently well-educated in international law to recognize these orders. In this respect, recent steps to establish an international humanitarian law unit in the military are encouraging. It should be kept in mind that training must be regularly reinforced, and that it will not achieve its objectives without an effective military justice system to punish violations.

77. Third, the principle that the security sector is accountable to the State and its people rather than to any single individual or regime should be entrenched. As a reflection of this principle and in furtherance of its implementation, the security forces should consult closely with local populations in need of protection in the north-west to guide operations responding to banditry. For a territorial army to provide protection requires a close relationship with the people, in addition to more general reforms in operational performance and respect for human rights.

78. These lessons suggest that donors should continue to provide assistance to increase the effectiveness of the security sector and that this assistance should be accompanied by efforts to provide strong human rights training, ensure effective monitoring of the military and police, and promote respect for human rights.

## **IX. HUMAN RIGHTS MONITORING**

79. The ability to accurately assess the human rights situation in the Central African Republic and to take appropriate action based on those facts is severely hampered by the lack of reliable data collection on human rights abuses.

80. There is no independent national human rights commission in the Central African Republic. The *Ministre d'état responsable pour les droits de l'homme et la bonne gouvernance* has a human rights section, but it has largely been ineffective. Thus, for example, the relevant officials were unable to provide any details on the numbers of killings by police in Bangui, or information on crimes by the military. Structurally, it is not sufficiently independent from the other organs of Government. The department has no cars, and so can only conduct fact-finding missions with BONUCA support. There are 20 posts, but only 10 are filled. There is a decree to set up human rights offices in 16 areas of the Central African Republic, but there are no funds to implement this.

81. The Special Rapporteur met a number of committed local NGOs who were monitoring human rights abuses, engaging in human rights advocacy, and taking legal actions on behalf of victims. Civil society organizations, however, remain weak. They receive little support and are severely under-resourced. NGOs are often unable even to circulate or publish their human rights reports. It is essential for the long-term development of a culture of respect for human rights and for reliable independent monitoring of abuses that the capacity of the domestic civil society in the Central African Republic is strongly supported, especially by the international community.

82. BONUCA has been operating in the Central African Republic since 2000, with a mandate to both monitor human rights and support the Government in consolidating peace and reconciliation. BONUCA has an important role to play in the Central African Republic, and it is clear that the current Special Representative of the Secretary-General is a very positive force. However, there is general consensus that the human rights section of BONUCA has not fulfilled its mission. It has seldom taken a proactive role in information gathering and reporting. Limited resources, especially for the field offices, severely inhibit investigations. Part of the problem stems from the fact that BONUCA's mandate combines both peacebuilding and human rights monitoring. These different functions can sometimes be carried out

effectively within the same mandate, but in some circumstances, the necessity for positive ongoing relationships required for effective peacebuilding, can conflict with the independent human rights assessments needed for effective human rights monitoring. This appears to be the case in the Central African Republic presently. While BONUCA's first public human rights report, published in October 2008, is a positive step forward, a more effective United Nations human rights monitoring and assistance presence needs to be established by clearly separating peacebuilding from human rights monitoring. This is unlikely to be achieved unless the Office of the High Commissioner for Human Rights establishes an office in the Central African Republic.

## X. CORRUPTION AND ECONOMIC REFORM

83. An important factor contributing to the failure to implement the reforms required to reduce extrajudicial executions is the chronic lack of resources in the Central African Republic.

84. Until recently, international support for the Central African Republic was minimal and falling, and the economy was showing no growth. Over the past few years, support has risen, with increases in aid and the presence of humanitarian organizations. International financial institutions - the African Development Bank, the World Bank, and the International Monetary Fund - also re-engaged with the Central African Republic in 2006. And while the number of companies registered in the Central African Republic dropped over the last decade from 400 to 25, the economy showed improvement during 2007, with an increase in the growth rate.

85. To continue these gains, there is a need for further fiscal reform, and specifically for measures to track revenue and expenditure in the natural resource sector. The diamond industry has in the past been a significant source of revenue. The fact that it no longer is appears to be attributable mainly to corruption. The Government should follow through on its commitment to join the Extractive Industries Transparencies Initiative and to undertake an audit of the mining sector, with World Bank support. If it does so, investment will be easier to attract, a positive signal will be sent to international financial and development assistance agencies, and the amount of resources available for security sector reform would appropriately be significantly increased.

86. In addition, the problem of corruption in the Government must be discussed openly. Corruption is widespread in the Central African Republic and directs funds away from where they are most needed. Journalists who report on Government corruption should not be punished for investigating and publishing their findings.

## XI. RECOMMENDATIONS

87. **The Special Rapporteur considers the following to be the essential measures that should be implemented to reduce extrajudicial executions, and to provide for accountability when they occur.**

### **ACKNOWLEDGE, INVESTIGATE, AND PROSECUTE SERIOUS HUMAN RIGHTS ABUSES**

- **Impunity should not be allowed to prevail for recent abuses in the north:**

(a) **The Government should effectively investigate the allegations of human rights abuses that have been made regarding the conduct of its security forces and provide a detailed public response, acknowledging abuses and identifying errors;**

(b) **All members of the security forces implicated in abuses should be suspended from duty, investigated and prosecuted. The Government should begin the effort to end impunity by investigating Lt Eugène Ngaikossé and his unit.**

- **The Government and the international community should continue to support the important work of the International Criminal Court in the Central African Republic.**
- **If the Government fails to take the steps listed above, the Prosecutor of the International Criminal Court should expand the existing investigation to take account of relevant crimes alleged to have been committed.**
- **Reforms should be implemented in the criminal and military justice systems to promote accountability over the long-term:**
  - (a) **The reforms proposed by the Government to, inter alia, improve court infrastructure, recruit more magistrates and clerks, and revise magistrate training should be welcomed and supported by the international community;**
  - (b) **The role of gendarmes in gathering information and reporting on abuses by the military units which they accompany should be clarified and strengthened. Gendarmes should receive training in human rights and humanitarian law directed at ensuring that they investigate, report on, and arrest perpetrators of abuses;**
  - (c) **Prosecutors and investigative judges should recognize their obligation to take on cases in which the security forces are implicated in serious abuses of human rights and humanitarian law, and treat such cases as a priority;**
  - (d) **The Criminal Code should be amended so that genocide, crimes against humanity, war crimes, and other offences under the Rome Statute are criminalized in domestic legislation;**
  - (e) **The Permanent Military Tribunal should be provided with sufficient resources to hold regular sessions;**
  - (f) **There should be transparency regarding the investigation, prosecution and punishment of members of the security forces. The security forces should maintain records and regularly issue reports on allegations of abuse by soldiers and on the numbers of soldiers disciplined and referred for prosecution. Similarly, the Permanent Military Tribunal and administrators of the ordinary judicial system should regularly report on the status of cases against security force members.**

#### **REFORM THE MILITARY TO EFFECTIVELY PROTECT AND RESPECT HUMAN RIGHTS**

- **The Government's proposed reforms to increase the resources and capability of the security forces should continue to be supported by the international community and be pursued in a manner that develops their capacity to both respect and protect human rights.**
- **The general instructions given by the President to end killings and other abuses against the civilian population should be specifically reflected in internal regulations, orders, training and other practices so as to prevent abuses from recurring in the future.**
- **Training in human rights and humanitarian law should be provided to all members of the security forces and regularly reinforced. The President and senior commanders should further support respect for these bodies of law by issuing clear instructions:**

- (a) Soldiers should be instructed that they must obey international human rights and humanitarian law and that they have the obligation to disobey manifestly illegal orders and will otherwise be prosecuted;
  - (b) Commanders should be instructed that they are criminally responsible when they knew or had reason to know that their subordinates were going to commit crimes and did not take all reasonable and necessary measures to prevent and punish those crimes.
- The FACA should be reformed so that it is seen to be an apolitical institution working on behalf of the people rather than of any single individual or regime. Relevant reforms would include:
  - (a) Recruitment and promotion processes should be regularized and based on merit and the development of a force representative of the society as a whole;
  - (b) A regular chain-of-command should be established and enforced;
  - (c) No military operation should be carried out except pursuant to a written order signed by the legally designated commander. Reports of irregular operations should be investigated, and those involved disciplined and prosecuted;
  - (d) The FACA and other security forces should consult closely with local populations in the north in need of protection to reduce fears that the military will engage in abuses and to guide operations responding to banditry and cross-border raids;
  - (e) The FACA should be transformed into a truly country-wide force with soldiers based in key centres throughout the country.
- A process should be embarked upon to permanently abolish the institution of a Presidential Guard - whatever it might be formally named - that plays any role other than providing close protection for the President:
  - (a) Donors should link assistance for reforms that increase the effectiveness and reliability of the military to steps taken to reduce the size and role of the Presidential Guard;
  - (b) Civil society groups should promote a popular non-partisan understanding that new presidents must accept the existing security forces rather than supplementing them with presidential guards, militias or mercenaries, and that the security forces must support whoever is president.

#### **ADDRESS DEATHS IN CUSTODY AND KILLINGS BY LAW ENFORCEMENT**

- The practice in Bangui of prosecutors carrying out regular inspections of detention centres is a positive development, and should be implemented throughout the country. Reports of killings and other serious human rights abuses in detention centres should be fully investigated.
- The human rights training provided to police in Bangui should be extended to law enforcement officers throughout the country. Such training should in particular focus on the lawful use of force in law enforcement operations, and the proper treatment of detained suspects.

#### **END THE KILLING OF “WITCHES”**

- **The Criminal Code should be reformed to abolish the criminalization of “witchcraft”.**
- **Educational efforts should be made to bring an end to arbitrary and unjustified punitive measures against those accused of witchcraft. The killing of “witches” should be prosecuted like any other murder.**
- **All violations of the human rights of those accused of witchcraft should be investigated and prosecuted.**

#### **IMPROVE INDEPENDENT HUMAN RIGHTS MONITORING**

- **The arrangements for international human rights monitoring and assistance at the time of the visit were deeply unsatisfactory. The Special Rapporteur recommended then that the Government and the Office of the High Commissioner for Human Rights engage in discussions aimed at the establishment of an OHCHR office in the Central African Republic. While this recommendation has subsequently been superseded by efforts to strengthen the OHCHR presence within BONUCA, it remains to be seen whether this formula is in fact viable. A detailed review of the effectiveness of the current mechanism should be undertaken when this recommendation is reviewed in the Special Rapporteur’s follow-up report on the Central African Republic.**
- **The Government should establish a national human rights commission that is independent and that fully complies with international standards, including the Paris Principles. Such a commission should be a priority for development assistance agencies.**
- **Local civil society organizations need to be strengthened. They play an indispensable role but are severely under-resourced and lack necessary technical expertise and facilities.**

#### **PROMOTE ECONOMIC REFORM**

**The extractive industries are a potentially substantial source of revenue for the country. Among other measures to increase revenue so that necessary reforms can be implemented, the Government should:**

- **Take the necessary steps to join the Extractive Industries Transparencies Initiative**
- **With World Bank support, conduct an audit of the mining sector**

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