

Central African Republic

Déjà-vu

Peace (*dis*)agreements that are detrimental to victims

Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under limitation of sovereignty. Article



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Map of the Central African Republic

Abbreviations

- APRD - Popular Army for the Restoration of the Republic and Democracy (*Armée populaire pour la restauration de la République et la démocratie*)
- BONUCA – UN Peace-building Support Office in the Central African Republic (*Bureau des Nations Unies pour la Consolidation de la Paix en République Centrafricaine*)
- CAR – Central African Republic
- CEMAC - Economic and Monetary Community of Central Africa (*Communauté économique et monétaire de l'Afrique centrale*)
- DRC – Democratic Republic of Congo
- ECCAS - Economic Community of Central African States (*Communauté économique des Etats de l'Afrique centrale - CEEAC*)
- EUFOR - European Union Force
- FACA – Central African Armed Forces (*Forces armées centrafricaines*)
- FDPC - Central African Peoples' Democratic Front (*Front démocratique du peuple centrafricain*)
- FIDH – International Federation for Human Rights (*Fédération internationale des ligues des droits de l'Homme*)
- FOMAC – Multinational Force of Central Africa (*Force multinationale de l'Afrique centrale*)
- FOMUC – Multinational Force in the Central African Economic and Monetary Community (*Force multinationale de la Communauté économique des Etats de l'Afrique centrale*)
- ICC – International Criminal Court
- LCDH – Central African Human Rights League (*Ligue centrafricaine des droits de l'Homme*)
- LRA – Lord's Resistance Army
- MICOPAX – Mission for the consolidation of peace in the Central African Republic (*Mission de consolidation de la paix en Centrafrique*)
- MINURCAT – United Nations Mission in the Central African Republic and Chad (*Mission des Nations unies en République centrafricaine et au Tchad*)
- OCHA – United Nations Office for the Coordination of Humanitarian Affairs
- OCODEFAD – Organisation for the Compassion and Development of Families in Distress (*Organisation pour la compassion et le développement des familles en détresse*)
- TMP – Permanent Military Tribunal (*Tribunal militaire permanent*)
- UFDR - Union of Democratic Forces for Unification (*Union des forces démocratiques pour le rassemblement*)
- UFR – Union of Republican Forces (*Union des forces républicaines*)
- UFVN – Union of Active Forces of the Nation (*Union des Forces Vives de la Nation*)

Conventions on the protection of human rights and international justice ratified by the Central African Republic

International Convention of the Elimination of All Forms of Racial Discrimination - ratification 16 March 1971

International Covenant on Economic, Social and Cultural Rights – 8 May 1981

International Covenant on Civil and Political Rights – 8 May 1981.

African Charter on Human and Peoples' Rights – 26 April 1986

Convention on the Elimination of All Forms of Discrimination Against Women – 21 June 1991

Convention on the Rights of the Child – 23 April 1992

Statute of the International Criminal Court – 3 October 2001

Some conventions on the protection of human rights not ratified by the Central African Republic

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
Protocol to the African Charter on the Establishment of an African Court on Human and Peoples' Rights

Protocol on the Statute of the African Court of Justice and Human Rights

African Charter on Democracy, Elections and Governance

African Union Convention on Preventing and Combating Corruption

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

Convention on the Elimination of Mercenarism in Africa

International Convention for the Protection of All Persons from Enforced Disappearance

EXECUTIVE SUMMARY

Despite the Libreville Ceasefire and Peace Agreement of 21 June 2008, the General Amnesty Law adopted on 29 September 2008 and an Inclusive Political Dialogue planned to be held from 5 to 20 December 2008, fighting continued in October and November in the north of the Central African Republic (CAR), between the Central African Armed Forces (FACA) and rebel groups. It was accompanied by grave violations of human rights and international humanitarian law.

A mission of the International Federation for Human Rights (FIDH) present in Bangui from 25 September to 2 October 2008 confirmed that the civilian populations in the north are victims of great physical and economic insecurity in the region, due to acts of violence committed by all parties to the conflict.

This mission report shows that although the FACA has put an end to their scorched earth policy, some of its units are still responsible for the summary execution of civilians, extortion of money and arbitrary arrests. In addition, several sources report arbitrary detentions, acts of torture and mistreatment of alleged rebels perpetrated in the detention centres by the Central African security forces.

Some rebels from the Popular Army for the Restoration of the Republic and Democracy (APRD) also execute civilians following summary judgement passed by courts of emergency and engage in kidnapping and looting.

The insecurity in the north has resulted in the forcible displacement of more than 100,000 people and driven more than 100,000 others to escape to neighbouring countries. Sexual violence has become commonplace. The United Nations estimates the HIV prevalence rate in CAR at 10.7 per cent of the four million inhabitants of the country, making CAR one of the countries most affected by the epidemic in Central Africa, and putting it in tenth place world wide.

Contrary to the public declarations of the Central African authorities, in particular President Bozizé, the FACA commit grave human rights violations with complete impunity. Even though the General Amnesty Law excludes international crimes, this report once more underlines the lack of willingness and capacity of the Central African courts to try the perpetrators of these crimes. Without the intervention of the International Criminal Court (ICC), victims will not have access to justice.

Fifteen years of peace agreements, pardons and amnesties have resulted in three political dialogues, yet the participants in past dialogues are the protagonists in today's conflicts. The many declarations of intent in support of peace have never been followed up due to a lack of political will and the absence of any continuous significant support on the part of the international community.

The pursuit of lasting peace in CAR will remain fragile as long as there is no regard for victims and the following political reforms that are required: respect for fundamental freedoms, rebuilding the rule of law, the fight against impunity, the fight against corruption, the consolidation of a strong social and economic fabric.

INTRODUCTION

1. The context: past lessons do not seem to have been learned

Since 1996, the Central African Republic (CAR) has been shaken by repeated politico-military conflicts. In particular, there were clashes between government forces and a part of the army that had engaged in mutiny and then between government forces and rebel groups. The endless armed struggles for power are accompanied by significant violations of human rights and international humanitarian law, plunging the civilian population into complete physical and economic insecurity¹. Since 2005, the clashes between the Central African army and the rebel groups based in the north of the country have been accompanied by summary executions of civilians, rape, systematic pillaging and setting fire to dwellings. The violence has forced more than 100,000 people to move away for fear for their lives.

Faced with chronic instability of security, the governments of Ange-Félix Patassé (from 1993 to 2003) then François Bozizé (since March 2003) gave priority to staying in power, alternating strong-armed attempts to neutralize the rebel movements and negotiations for peace agreements on the basis of amnesty laws. This unique prism of governance is organised with no regard for victims or the political reforms required to build lasting peace: respect for fundamental freedoms, rebuilding of the rule of law, the fight against impunity, the fight against corruption and the consolidation of a strong social and economic fabric.

The protagonists of the conflicts in CAR, in turn in power or in rebellion, continue both to wield the stick and show clemency. The sole common denominator is that all attempts to build peace agreements are founded on amnesties, leaving the perpetrators of serious crimes against the civilian population unpunished and still present on the national political scene.

A non-exhaustive anthology of the initiatives taken in recent years includes: in 2001 General François Bozizé, the former chief-of-staff of the Central African Armed Forces, was involved in an abortive coup against President Patassé. Under pressure from the head of state, the General Prosecutor of the Bangui Court of Appeal declared proceedings against General Bozizé inconvenient or untimely and the persons arrested during the clashes of November 2001 were released. Bozizé overthrew the Patassé regime in a coup d'Etat in March 2003.

On 23 April 2003 President Bozizé granted a general amnesty to participants in the failed coup of 28 May 2001, to the benefit of former Central African President André Kolingba, (1981-1993), who had been sentenced to death in absentia.

In September 2003, during a National Dialogue, Kolingba asked Central African victims for forgiveness : *“I solemnly beg forgiveness from everyone for the acts I may have committed that caused unfair wrong to my compatriots in the twelve years during which I held the highest government office”*².

1. In 2005, the United Nations ranked the Central African Republic 171st out of 177 countries on the Human Development Index.

2. See FIDH Report n°382: « Quelle justice pour les victimes de crimes de guerre » (*“Which Justice for the victims of war crimes?”*), published 27/02/04: <http://www.fidh.org/Quelle-justice-pour-les-victimes-de-crimes-de>

The current Central African President, François Bozizé, also asked for forgiveness before Dialogue participants for the “excesses” of the rebellion that had brought him to power on 15 March 2003. “As in any situation of insurrection, our fight for freedom was accompanied by grave excesses committed ...”, in particular «by those who resolutely served a noble cause”. He said that he was “Human, in other words capable of making mistakes”. Bozizé asked “from the bottom of [his] heart ... for forgiveness from Central Africa and the Central Africans”, hoping that this would “contribute to soothing hearts and healing scars”.

In 2006, Ange-Félix Patassé, the predecessor of François Bozizé, was sentenced *in absentia* to twenty years’ hard labour for forgery. He benefited from the general amnesty of September 29, 2008, as did Jean-Jacques Demafouth, his former Defence Minister who was also prosecuted for killings in Central Africa, and Abdoulaye Miskine, who is allegedly guilty of grave crimes committed against the civilian population in 2002 and 2003.

Pleas for forgiveness, amnesty laws and political dialogues have succeeded each other but the conflicts involving the same participants continue. Conflict protagonists appear to be more concerned with being absolved of their crimes, which allows them to remain resident in CAR, and continue to take part in the political life of the country, than with surrendering their weapons. What future is there for the Ceasefire and Peace Agreement signed in Libreville between the government and two of the rebel groups, taking this situation into account? In the meantime, the bodies and lands of victims of the conflicts are constantly treated with contempt, with no possibility of obtaining justice or compensation for the wrong done to them. Is national reconciliation supposed to result from this omission and this imposed forgiveness?

Faced with such an absurd and ineffective paradigm, FIDH has continued to call for the fight against impunity for the most serious crimes in CAR³. The country’s recent history seems to prove that there is no future for the peace processes and the political dialogues when justice is put aside. As long as the perpetrators of acts of violence, whether members of the rebel groups or the Central African Armed Forces, are not prosecuted and tried, they will be encouraged to start all over again.

Noting the lack of will and inability of the Central African courts to prosecute the perpetrators of international crimes, FIDH seized the International Criminal Court as early as February 2003. FIDH requested it to open an investigation into the most serious crimes committed when General Bozizé forced his way to power during the period October 2002 to March 2003. The opening of the investigation by the ICC Prosecutor on 22 May 2007 and the arrest of Jean-Pierre Bemba in Belgium on 24 May 2008, followed by his transfer to The Hague on 3 July⁴, were welcomed by FIDH as major steps in the fight against impunity for crimes committed in CAR and a crucial contribution to re-establishing peace through legal action⁵. Today the ICC is the focus of every political and

3. See FIDH CAR fact-finding missions reports available at the following Internet address: http://www.fidh.org/-Republique-centrafricaine-?id_mot=26

FIDH Report n° 355: “War Crimes in the Central African Republic” published 24/02/03

FIDH Report n° 382: *Ibid* note 1

FIDH Report n° 410: “The political transition closes against a backdrop of impunity: How will the International Criminal Court respond?” published 04/03/05

FIDH Report n° 457: “Forgotten, stigmatised: the double suffering of victims of international crimes” published 12/10/06

4. President of the Movement for the Liberation of the Congo (MLC), former Vice-president of the Democratic Republic of Congo and candidate in the presidential election, Jean-Pierre Bemba supported the Patassé loyalist troops against the Bozizé rebels in 2002 and 2003. See FIDH Report n° 502: “FIDH and the situation in the Central African Republic before the International Criminal Court: The case of Jean-Pierre Bemba Gombo”, published in July 2008: <http://www.fidh.org/Jean-Pierre-Bemba-Gombo-Before-the-Judges>

5. See FIDH press releases: “The Prosecutor of the International Criminal Court opens an investigation into serious crimes committed in Central African Republic” 22/05/07; “Arrest of Jean-Pierre Bemba Gombo” 25/05/08.

military discussion in CAR and acts as a real sword of Damocles hanging over the heads of certain participants in the conflict, fulfilling its goal of deterrence.

Despite this hope, faced with active rebellions in the north of the country, the Central African authorities followed the same old routine. A law of amnesty for all the perpetrators of crimes committed since 2003 was adopted by the National Assembly on 29 September 2008 and promulgated by the President of the Republic on 13 October.

At the same time, people in the north of the country are constantly in the grip of insecurity due to the criminal activities of the rebels, the Central African Armed Forces, Chadian armed groups and soldiers, and bandits. South-east CAR is now the scene of violence committed by armed individuals who are probably units of the Lord's Resistance Army, a Ugandan rebel movement. The terrified population abandons the villages and is once again forcibly internally displaced or has to take refuge beyond the borders.

Sexual crimes are becoming commonplace. The prevalence rate of AIDS is increasing. Humanitarian aid is dispatched with difficulty.

Past lessons do not seem to have been learned.

2. The FIDH fact-finding mission

A FIDH delegation led by Roger Bouka, Director of the *Observatoire Congolais des droits de l'Homme – OCDH* (Congolesse Observatory for Human Rights), an FIDH member organisation, and including Karine Bonneau, Director of the FIDH International Justice Desk, Marceau Sivieude, Director of the FIDH Africa Desk, and Babacar Fall, from the FIDH International Secretariat, went to the Central African Republic (CAR) from 25 September to 2 October 2008.

The delegation was tasked with assessing the security situation in the Central African Republic, investigating possible grave acts of violence perpetrated in the previous months against the civilian population by the Central African Armed Forces, rebel groups and bandits. Its mission was also to investigate how human rights were taken into consideration in with the context of the ongoing peace process and the future Political Dialogue that was intended to restore security within the country. The mission delegates were also tasked with examining the role of Central African and international justice in building sustainable peace in CAR.

In order to carry out their mandate, the mission delegates met the following persons:

- Mr. Alain Ouaby-Bekai, Magistrate, Director of Criminal Affairs and Pardon, Government Commissioner for the Permanent Military Tribunal
- Mr. Ouangale, President of the Permanent Military Tribunal
- General Henri-Alain Guillou, Councillor to the Defence Minister, member of the Presidential Cabinet
- Mr. François Lonseny Fall, the UN Secretary General's Special Representative in the Central African Republic, Head of the UN Peace-building Support Office in the Central African Republic (BONUCA)
- Ms. Angèle Kinouani, Head of the Human Rights Section, BONUCA
- Mr. Michael Deslaines, First Consul, French Embassy
- Mr. Jean-Sébastien Munié, Office chief, Office for the Coordination of Humanitarian Affairs (OCHA)

- Mr. Nicolas Rost, Assistant Office chief, Office for the Coordination of Humanitarian Affairs (OCHA)
- General Jean-Philippe Ganascia, EUFOR
- Father Aurelio, Priest of Bozoum
- Mr. Guillaume Kopp, Chief of Mission, Solidarité
- The Executive Office of the *Organisation pour la compassion et le développement des familles en détresse*
- OCODEFAD* (Organisation for Compassion and Development for Families in Distress) and of victims who are members of the organisation.
- The Directors of the *Ligue centrafricaine des droits de l'Homme – LCDH* (Central African Human Rights Organisation)

The delegation met several other representatives of humanitarian organisations working in the north of the country but who did not wish to be quoted in this report.

In addition, requests for meetings were addressed to the President of the Republic and the Minister of Justice. The latter explained that he could not meet the mission representatives because his schedule was too full.

PART I – CONSTANT INSECURITY: A POPULATION HELD AT GUNPOINT

I - Insecurity in the north: a lawless territory

The north of the Central African Republic (CAR) has been in the grip of constant insecurity for around ten years.

The north-west (Nana-Mambéré; Ouham-Pendé; Ouham; Nana-Gribizi) and north-east provinces (Bamingui-Bangoran; Vakaga) of CAR are subjected to the instability of neighbouring Chad and Sudan through rebel and military incursions by Chadians, Zaraguinas (bandits) and nomadic herdsmen – all heavily armed and who take advantage of the porosity of the borders.

In addition, north-west CAR, the base for the rebellion led by General Bozizé between 2001 and 2003, has been the stronghold of new rebel groups since 2005.

These armed movements initially legitimized their establishment by the civilian population's need for protection against the criminal activities of bandits and *coupeurs de route*, compensating for the lack of state authority in this part of the territory.

The Central African Armed Forces, particularly the Republican Guard, swiftly reacted to the presence of these armed groups, trying to prevent the setting up of real rebellion. Paradoxically, the murderous attacks by FACA in 2006 and 2007, in gross violation of international humanitarian law (summary executions, rapes, burning villages, lootings) resulted in radicalising the armed movements against the Bozizé regime.

Some civilians, who at first were in favour of the presence of the armed groups that were supposed to protect them from the security forces, recently formed self-defence groups, supported by the FACA, to defend themselves against the atrocities perpetrated by bandits, *coupeurs de route* and rebel groups.

Since 2005, the north-east has also seen the presence of highly active armed units that have bases behind the border in Sudan. Recognising the link between the Darfur conflict and the destabilisation of the CAR sub-region, the United Nations Security Council decided to counter the rebel movements in Nagaka province by setting up United Nations Mission in the Central African Republic and Chad (MINURCAT), supported by the EUFOR European armed forces.

There is considerable insecurity in the north of the country. Weapons circulate on a massive scale. The population is victim of the criminal activities of the various belligerents: the army, the rebels, the bandits, the *coupeurs de routes* and certain nomadic herdsmen. This situation has resulted in the forcible displacement of more than 100,000 persons and driven tens of thousands more to go into exile.

1. The actors of the conflict

1.1. Zaraguinas, *coupeurs de routes* and herdsmen are all armed

Up until February 2008 and the emergence of self-defence groups (see above), the *coupeurs de route* were still very active in the north of the country, principally in the regions of Bouar, Bozoum, Baboua, Baoro and Bocaranga, in the north-west, and Kabo, in the central north.

The term “*coupeurs de route*” encompasses several categories of individuals: the “Zaraguinas” who are mainly Chadian bandits who live on either side of the border and commit acts of violence in CAR; the Central African bandits, mostly former rebel combatants or members of the army who, demobilised but not disarmed, make a living from their crimes; rebel group elements (especially from the Popular Army for the Restoration of the Republic and Democracy - APRD) who also take part in criminal activities to feed themselves at the expense of the population.

The *coupeurs de route* loot lorries and cars on the main roads in northern CAR, attack villagers’ property and kidnapping and demanding ransom is becoming more and more frequent. Their criminal activities are facilitated by the absence of any state control in this part of the country and by the polarisation of the conflict between the FACA and rebel groups.

In addition to the insecurity related to the *coupeurs de route*’s activities, the population in northern CAR is in the grip of the attacks of heavily armed herdsmen. This region is a traditional crossing place for nomads who lead their herds from one side of the Central African-Chadian border to the other, driving them over plots of land cultivated by the villagers. Part of the Central African territory to the west of Kabo is practically under the control of these herdsmen, with no presence of neither FACA, United Nations or even humanitarian organisations. The Chadian herdsmen are sometimes even protected by Chadian army units during their transhumance. This situation causes frictions between the communities. In February 2008, in Kabo, APRD rebels fired on Peul herdsmen who were accompanying their herds. Attacks and reprisals were followed by looting, with several dwellings set on fire and thousands of people forcibly displaced.

1.2. Rebel groups

Since the presidential elections of May 2005 and the victory of Bozizé, there have been several active rebellions in the north of the country. Various demands are at the root of these armed movements: the authorities’ legitimacy is contested due to alleged irregularities during the presidential election; the poor economic situation is condemned (poverty, high cost of living, the salary arrears due to civil servants) as is the lack of equitable redistribution of the country’s wealth; stigmatisation of corruption; ethnic discrimination is denounced; insecurity in the north of the country due to the increased numbers of *coupeurs de route* and bandits is condemned because of the absence of any Central African security forces.

Although some of these rebellion movements have for some time been claiming that they want to destabilise the Bangui regime, “*None of the rebel movements has a separatist or even revolutionary*

*agenda*⁶, according to the UN Special Rapporteur on Extrajudicial Executions. A person close to President Bozizé declared to the FIDH mission officials that: “*none of the rebellions is really capable of carrying out an organised attack on the capital. None of the armed movements is in a position to seize power*”. The same person immediately moderated his words, specifying that it “*is true that Bozizé seized power with only 150 men. But FACA was not so well equipped at the time*”.

Most of these movements have a political branch and all have registered for the prospective Inclusive Political Dialogue which will start on 5 December 2008 in Bangui (see below).

The leaders or supporters of the armed movements are former politicians or military personnel who held important positions within the current government or under past regimes (former ministers, special presidential advisers, military officials, etc). Some, like Abdoulaye Miskine (see below), have already made a name for themselves in the past for committing serious human rights violations and could become a case for the International Criminal Court⁷. This situation shows the damage caused by impunity in the Central African Republic.

6. See Preliminary Note on the Mission in CAR (31 January – 7 February 2008), Report by Philip Alston, Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions. <http://daccess-ods.un.org/TMP/3402281.html>

7. “FIDH believes it has gathered sound indications through corroborating testimonies and material evidence that confirm that on 31 October 2002, at the cattle market, three series of collective murders of civilians were carried out, and that the alleged perpetrators were the men commanded that day by Abdoulaye Miskine.” See FIDH Report n° 457: CAR – Forgotten, stigmatised: the double suffering of victims of international crimes. <http://www.fidh.org/IMG/pdf/RCA457ang-2007.pdf>

A/ Rebels in the north-west

The **Popular Army for the Restoration of the Republic and Democracy** and the **Union of Republican Forces** are active mainly in the north-west of CAR.



Rebel elements
in northern CAR

The **Popular Army for the Restoration of the Republic and Democracy** (*Armée pour la restauration de la république et la démocratie - APRD*) became known due to its regular attacks on government forces since the second half of 2005⁸.

This movement appears to be made up mainly of former members of the presidential guard of the ex-President of the Republic, Ange-Félix Patassé. Jean-Jacques Larmassoum, his chief-of-staff, was arrested in Bangui in 2006 and sentenced to life imprisonment on 18 August 2006 (before being released as a result of the October 2008 amnesty law, see below). The spokesperson for the rebellion, Colonel Laurent Djim Wei, is the rebellion leader in the field in CAR, after ousting a certain Wanfiyo (the latter is nevertheless still active within the group, of which he was the representative in Libreville for the signing of the 21 June 2008 peace agreement, see below).

APRD allegedly has 6 military regions, each under the responsibility of one of its representatives. Those identified by the mission from numerous corresponding statements are: Laurent Djim Wei in Paoua, Ngaounday and Bocaranga; Lakwé in Kabo and Kaga-Bandoro; Félix in Markounda; Rufin in Ndim. Other names are put about, such as Waki and Lucien. According to Mr. François Lonseny Fall, the UN Secretary General's Special Representative in the Central African Republic and head of the UN Peace-building Support Office in the Central African Republic (BONUCA), the "*APRD is a truly nebulous network*".

Young Laurent Djim Wei, who has been described as enjoying alcohol and hemp, is sadly notorious for the human rights violations committed by men under his command, in particular the summary executions of civilians accused of being bandits.

8. The attacks in Markounda (29 September 2005), Kabo (1st December 2005), Bodjomo (28 December 2005), Beboura, Bémal and Paoua (29 January 2006), are attributed to this armed group. *Ibid.*

On the other hand, Lakwé, a sixty year-old former schoolteacher, seems to enjoy quite a different reputation with his interlocutors, whether from BONUCA or the United Nations agencies that operate in his region. He earned respect in particular by breaking his ties in August 2007 with FDPC (the rebel movement led by Miskine operating in the north-east of the country, who wanted to form an alliance with APRD to extend his control to the north-west of CAR), whose mainly Chadian units were responsible for numerous acts of sexual violence in the region. The people have supported Lakwé since then. For him, the enemy is not FACA but the *coupeurs de route*. He asked FACA for a ceasefire during the harvest period. In addition, he facilitates access to the territories under his control for the humanitarian organisations.

APRD does not say that it particularly wants to seize power. However, the rebel group controls a large part of the Central African territory and installs its own administrative organisation.

In March 2008, the former Central African Minister of Defence and candidate in the 2005 presidential elections, Jean-Jacques Demafouth who was in exile in France and who faced legal prosecution in his own country, was appointed to head the rebels with a view to concluding peace agreements with the Central African government and leading the discussions envisaged in the framework of the future Inclusive Political Dialogue.

The **Union of Republican Forces (*Union des forces républicaines - UFR*)** is also present in north-west CAR, based in the Paoua district. Its leader, Lieutenant Florian Ndjadder, left the Central African Armed Forces in 2004. He asserts that his activities are carried out to protect the villages from the acts of violence committed by the government security forces. He claims having the support of former President Ange-Félix Patassé.

B / Rebels in the north-east

Rebel in the northern CAR



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Rebel attacks in north-east CAR are attributed to the **Central African Peoples' Democratic Front** and to the **Union of Democratic Forces for Unification**.

The Central African Peoples' Democratic Front (*Front démocratique du peuple centrafricain* - **FDPC**) is led by Martin Koumtamadji, alias Abdoulaye Miskine (former official of the Presidential Security Unit -USP- of former President Patassé), who has fought for “*the destitution of Bozizé*” since he returned from exile in Togo in 2005 (Declaration of Abdoulaye Miskine of 4 December 2006, see www.afrik.com/article10802.html). According to him, “*François Bozizé only thinks about his Baya ethnic group. Bozizé's clan is the only one in power. The rest of us have been abandoned. There are nearly forty ethnic groups in Central Africa. It can't go on like this*”. This armed movement became known after claiming responsibility for the ambush in which Lieutenant Dogo, from FACA, was killed in May 2006 near Birao (extreme north-east CAR). The FDPC also took part in the new attack on the town of Birao in December 2006, which was beaten back by French Mirage F1 air raids. For a time this movement appeared to have demobilized when its leader, Miskine, signed peace agreements with the Central African government and agreed to become a presidential advisor for a time. Miskine's departure abroad in March 2008 gave rise to fears that this rebel group would return to the Central African scene of hostilities.

The Union of Democratic Forces for Unification (*Union des forces démocratiques pour le rassemblement* - **UFDR**) is active in the provinces of Bamingui-Bangoran and Vakaga, in north-east CAR around the towns of Ndélé and Birao.

This group was initially a coalition comprising the Patriotic Action Group for the Liberation of Central Africa (*Groupe d'action patriotique pour la libération de Centrafrique*), the Movement of Central African Liberators for Justice (*Mouvement des libérateurs centrafricains pour la justice* - **MLCJ**) and the Central African Democratic Front (*Front démocratique centrafricain*).

Today the UFDR is a politico-military organisation composed of former supporters of General Bozizé and members of the Goula ethnic group who affirm that they have long been victims of ethnic discrimination by the government.

A split recently took place within the UFDR when the movement's president, Michel Am Nondroko Djotodia (currently in Benin), excluded his chief-of-staff, Zakaria Damane (a former political collaborator of the deposed president Patassé), from the UFDR for having signed the peace agreement on 13 April 2007 without his approval and accepted the position of presidential advisor. However, Damane claims that he still belongs to this movement and negotiates with the Central African authorities on behalf of UFDR.

Captain Abakar Sabone (a former member of the Liberators and henchman of General Bozizé during his coup d'état), the MLCJ founding president withdrew from the UFDR. He took refuge in Benin and the Central African authorities issued a request for his extradition.

On 30 October 2006, this so far unknown rebel group attacked and occupied Birao, the capital of Vakaga province in north-east CAR. In the following weeks UFDR units took control of the towns of Ouadda-Djallé and Sam Ouandja and occupied others such as Ndélé for a short time. Their members, numbering from 150 to 200, advanced south as far as Mouka. At the end of November 2006, they were repelled by

FACA, supported by the French army and the troops of the Multinational Force of the Economic and Monetary Community of Central Africa (FOMUC).

As in October 2006, the UFDR rebel movement captured two towns in the north east on 3 and 4 March 2007. They were immediately taken back by the FACA, once again with the support of the FOMUC and the French forces.

Since the deployment in March 2008 in the north-east provinces of Vakaga and Bamingui-Bangoran, of units of the United Nations Mission in the Central African Republic and Chad (MINURCAT) supported by the EUFOR European forces⁹, the situation in the region has been “*normalised*”, according to the EUFOR commander and mission leader, General Jean-Philippe Ganascia. He stressed to the FIDH mission delegates the fact that there had been no infiltration from Sudan into CAR for several months, therefore justifying the EUFOR withdrawal from CAR in March 2009, leaving MINURCAT to operate alone in the region.

General Ganascia also confirmed that in the area in which he carried out his mandate, “*many weapons are still in circulation. The ‘coupeurs de route’ are still around. The bandits are drawn by the diamond culture. They collect tribute from the population*”. He also confirmed that “*the people still have a hard time, even if they are no longer subjected to grave acts of brutality*”.

Summarizing his position, the General conceded that “*it would be pretentious to say the situation is stable*”. He added, “*the picture will be clearer after the monsoon season. There is already talk of new splinter groups*”.

This prophecy was soon confirmed with the attack on the town of Amdafock, 60 kilometres from Birao, on 29 September 2008. A number of shops and other properties were looted. According to the Central African authorities, Colonel Yekoua Ketté claimed responsibility for the attack in the name of UFDR (at the same time as another branch of the UFDR, led by Zacharia Damane, was signing the Birao peace agreement). After this attack, most of the armed personnel withdrew to Sudanese territory

1.3. The Central African Armed Forces (FACA)

A/ FACA

The Central African army is composed of a little less than 7,000 men, including 2,000 gendarmes, the presidential guard, *aides-de-camp*, prison warders, firemen and the battalion of honour. However, only around 1,000 of them are permanently in the field outside Bangui.

The most recent recruitment of a battalion of young soldiers was in 2006 when, according to General Henri-Alain Guillou, a French military advisor to the Central African Defence Minister – in other words President Bozizé – “*a whole generation should be changed*”. However, the planning law to be presented in November 2008 was supposed to include a budget for an additional 3,000 recruits. The army is said to seek to recruit young staff on a multi-ethnic basis (according to some observers, the majority of the military is from the Yakoma ethnic group close to ex-President Kolingba).

9. Deployment organised in accordance with Resolution 1778 of the United Nations Security Council, adopted on 27 September 2007..

According to General Guyou, 50,000 individuals are ideally needed to make the country secure, taking into account its size and the presence of rebel movements. The deployment of a greater number is not possible due to the absence of barracks throughout almost all the territory. The lack of a single armoury, for security reasons, means that each person carries his weapon with him all the time. As a result, the fact that 6,000 armed members of the security forces are assigned to the capital contributes to a situation in which blunders may occur.

B/ The support of MICOPAX

On 12 July 2008, the Mission for the consolidation of peace in the Central African Republic (*Mission de consolidation de la paix en Centrafrique - MICOPAX*), under the responsibility of the Economic Community of Central African States (ECCAS - *Communauté économique des Etats d'Afrique centrale - CEEAC*), officially replaced the Multinational Force in the Central African Republic (*Force multinationale en Centrafrique - FOMUC*), created on 2nd October 2002 by the Economic and Monetary Community Central Africa (*Communauté économique et monétaire de l'Afrique centrale - CEMAC*).

MICOPAX has a contingent of over 500 soldiers from Cameroon, Congo, Gabon and Chad and also includes police officers and gendarmes from Angola and Gabon.

The presence of a Chadian unit within MICOPAX is highly criticised by the population that is confronted in the north of the country with acts of violence committed by the (mainly Chadian) Zaraguinas, Chadian military officials and Chadian rebel group elements. According to the director of the Office for the Coordination of Humanitarian Affairs (OCHA) in Bangui, the presence of Chadian soldiers in MICOPAX “*is a bit like giving Pakistanis a mandate to re-establish peace in India*”.

C/ The support of MINURCAT and EUFOR

On 25 September 2007, the UN Security Council unanimously adopted Resolution 1778 authorising the deployment of a multidimensional presence in the regions of eastern Chad and north-eastern CAR to help re-establishing security in the territories destabilised by the conflict in Darfur, Sudan. This presence has two components in CAR:

- A United Nations multidisciplinary mission (MINURCAT), which includes police officers, military and civilian liaison officers, whose mandate covers humanitarian protection and monitoring and promotion of human rights;
- A European Union military presence to support the action of the United Nations.



EUFOR Soldier

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The European force, EUFOR, is deployed under a UN mandate in accordance with Chapter VII of the United Nations Charter authorising the use of force. Its mission is to support the work of the United Nations Mission in CAR (MINURCAT) by:

- contributing to the protection of civilians in danger, in particular refugees and displaced persons;
- facilitating the dispatch of humanitarian aid by improving safety in the operation zone;
- contributing to the protection of UN staff and infrastructures.

As of the date of publication of this report, around 200 EUFOR members were deployed in CAR.

According to certain sources, EUFOR seems to be lacking the appropriate human and logistical resources for making north-eastern CAR secure. This would explain why, in spite of its presence, criminal and rebel activity was noted in the region in October.

However, in September 2008 the decision was taken not to renew the EUFOR mandate, leaving MINURCAT units alone to operate in the region.

D/ The support of France

According to the official French Defence Ministry Website, French military staff members are present in CAR as part of Operation Boali. Its mandate is to provide technical and, if needed, operational support for the CEMAC peacekeeping force (now MICOPAX); to ensure the security of the French part of Camp M'Poko; to carry out patrols in the town of Bangui; to tour the provinces within a radius of 100 to 200 kilometres; and finally to participate in operational detachments for training FACA troops.

The Boali detachment is composed of 220 military personnel. It comprises a general staff, an infantry company and a logistics detachment (maintenance, administration, health, provost guard).

Still according to the Defence Ministry, tactical or strategic transport aircraft, helicopters, lifted from France or from bases pre-positioned in Africa, may provide mobility, information or air support in the framework of occasional operations.

The Boali detachment may be reinforced from time to time as required by the security situation.

From mid-November to mid-December 2006, the Boali detachment was reinforced to support FACA in securing north-eastern CAR, which had fallen under rebel control at the end of October. The number of personnel in Baoli then rose to around 300 men.

Following the rebel attack in Birao on 4 March 2007, the Boali contingent was again reinforced:

- with a group of parachute commandos to support the French detachment under attack in Birao. The parachute commandos added their expertise in planning and conducting operations to recover the town;
- and with an infantry company from the French troops in Gabon. A company from the French forces in Djibouti then relieved the latter. It is deployed in Birao to support the additional company deployed by FACA to secure the town and its surroundings.

The Boali contingent rose to around 420 soldiers.

In addition to Operation Boali, France is particularly well represented within the EUFOR forces in Chad and in CAR, around 60% of which are composed of French military personnel, that is 1,636 soldiers in the two countries.

Finally, in the words of Michael Deslaines, First Counsel to the French Embassy in CAR, France maintains “*an administrative anomaly*” in the person of General Guillou, advisor to the Defence Ministry, in other words to President Bozizé.

The French Embassy also looks after the interests of other members of the European Union who have no diplomatic presence in CAR.

Although this strong French military presence inspires bitterness amongst Central Africans with regard to the former French colonial power, it confirms that CAR remains firmly anchored as a preserve of France. According to some observers, the significant presence of French companies in the country and its rich sub-soil are not irrelevant in this respect¹⁰.

1.4. Self-defence groups

The first self-defence groups were noted in 2007. They were allegedly created spontaneously by villagers in the northern part of the country as a reaction to the atrocities committed by rebels and bandits.

To begin with, the self-defence groups were armed mostly with home-made weapons, but it appears that since May and June 2008 the Central African authorities support them financially for obtaining weapons and ammunitions. There have been reports of several meetings in the field between FACA units and village mayors. Someone close to President Bozizé even spoke to the FIDH mission delegates about an amount of 500,000 CFA francs awarded by the Central African authorities to self-defence groups in Bozoum as compensation “*since they could not go to the fields anymore because of their new job*”. This support appears to meet several objectives: benefiting from a direct, armed presence to confront the rebels; profit - for military purposes - from the villagers’ knowledge of the lay of the land; and stirring up the population against the rebels.

This support contributed to increasing the number of participants in self-defence groups. As an example, in Bozoum and the neighbouring villages, the local authorities registered more than 900 persons as members of self-defence groups.

Nevertheless, when a question was asked regarding the likelihood of integrating these self-defence groups within FACA, someone close to the President replied in the negative and said that the authorities would be accused of “*creating militia groups and that in any case the peace expected as a result of the recently signed agreements would bring everything back to normal*”.

The importance of these self-defence groups to the military strategy of the Central African authorities seem to be demonstrated by the reaction of Laurent Djim Wei, the APRD spokesperson, who allegedly declared that the presence of these groups is a disaster and that they are manipulated by the government in order to divide the population.

10. Many French companies are present in CAR: Total (petroleum distribution and depots), Bolloré (river transport), SEEAO (distribution), AXA, AGF (insurance), etc.

See www.izf.net/pages/republique-centrafricaine/12000/

Areva, the leader in the French nuclear industry, signed an agreement with the Central African government on 1st August 2008 for mining uranium deposits in Bakouma, in the eastern part of the country.

See AFP wire 1st August 2008. <http://www.izf.net/pages/rca---2007/3181>

2. Human rights violations committed against the civilian population

2.1. Human rights violations committed by FACA

Between the second half of 2005 and the end of 2007, certain FACA units became sadly notorious for the serious violations of human rights and international humanitarian law committed during their attacks on the rebel groups. Several reports made particular reference to the army's scorched earth policy of burning all the dwellings in their path, mainly practised by the Presidential Guard. Some soldiers also carried out summary executions of civilians who were assimilated to the insurgents¹¹. According to the Human Rights Watch report published in September 2007, "*the Central African army has killed hundreds of innocent civilians and forced tens of thousands to flee their villages*".

At first, President Bozizé turned a deaf ear to these accusations but because of pressure from human rights non-governmental organisations and states and because he was put in the ICC spotlight, he finally attempted to respond to these. He visited Ngaounday in person in June 2007 and Bocaranga in October 2007 where FACA had committed significant abuses. After asking for pardon from the people in Sango, the President ordered punishment of the military, demanding that some of them be sent back to Bossembélé and to the capital, Bangui, for trial (see below for case details). This public agitation, which was mainly aimed at satisfying the international community and, more insidiously, at disengaging himself from any responsibility with regard to international justice, had some positive effects in the field. In particular, the Central African military contingents ended their scorched earth tactics in 2008. In addition, Ngaïkosset, one of the main persons responsible for crimes committed in the north by the Republican Guard between 2005 and 2007 was removed from the military field of operations and assigned to ensure the personal safety of the President in Bangui since August 2008. However, Ngaïkosset was recently promoted captain, proof of the doublespeak of the Head of State!

General Guillou, advisor to the Defence Ministry, that is to say President Bozizé, appears to confirm the improvement of the situation: "*FACA has made considerable progress. The unstoppable military columns that set fire to the villages now belong to the past. But there are still great tensions in the field, so beware of a possible escalation*".

According to other sources, the reality in the field is more dramatic. As an example, the head of BONUCA in Bangui declared to the FIDH mission that, "*although the situation has improved slightly due to the various pressures put on the government, there are still ongoing acts of violence*".

The UN Special Rapporteur on Extrajudicial Killings confirmed that he had received a range of reports during his visit to CAR (from 31 January to 7 February 2008), which referred to "*killings by members of the Republican Guard and the Central African Armed Forces (FACA) that appear to have been committed in the context of efforts to extort or steal, to avenge a personal grievance or to carry out 'private justice'*".

11. See FIDH Report n° 457: "Forgotten, stigmatised: the double suffering of victims of international crimes", published 12/10/06; the Human Rights Watch report: "State of Anarchy: Rebellion and Abuses against Civilians" published in September 2007.

*The problem of security officials of various kinds extorting money from the public at legal and illegal checkpoints and elsewhere has reached major proportions. The consequences are grave. People's free movement is obstructed, trade is undermined and the Government is deeply resented*¹².

The Report of the UN Secretary-General presented to the Security Council in June 2008 is along the same lines and refers to violations perpetrated by the defence and security forces during counter-attack operations. *“Conflict-ridden areas, such as Ouham and Ouham-Pendé prefectures, are characterized by the absence of the rule of law, with constant reports of the use of excessive force by Government armed forces, resulting in the deaths of innocent civilians. While Government forces have ceased burning villages in the north-west and centre-west, reports still persist of some elements of the Presidential Guard resorting to summary executions or arbitrary arrests to deal with persons suspected of being sympathetic to the rebellion or highway bandits. All those crimes remain unpunished owing to the lack of political will to prosecute alleged perpetrators, thus perpetuating a climate of impunity”*¹³.

These activities are contrary to international humanitarian law and international human rights law, especially the provisions of the International Covenant on Civil and Political Rights (Article 6 – the right to life; Article 9 – the right to liberty and security of person) and the African Charter on Human and Peoples' Rights (Article 4 – the right to life; Article 6 – the right to liberty and security of person) ratified by CAR.

Further information refers to grave human rights violations committed by the Central African security forces against detained members of the rebel groups. Torture and ill-treatment are common practice and are carried out with complete impunity. A report published by BONUCA on 10 October 2008 stresses the fact that violations of the right to the inherent dignity of the human person, to liberty, as well as of the right to a fair hearing, as well as cruel, inhuman or degrading treatments *“can mostly be attributed to the law enforcement officials (police officers, gendarmes), essentially in security and detention centers and prisons..”*¹⁴

These acts of violence violate provisions of the International Covenant on Civil and Political Rights (Article 7 – no-one shall be subject to torture; Article 14 – the right to a fair hearing) and the African Charter on Human and Peoples' Rights (Article 5 – the prohibition of torture; Article 7 – the right to a fair hearing).

2.2. FACA impunity

The public demands by Bozizé in 2007 to see FACA members who committed massive human rights violations at the time of their attacks on the rebels punished, led to the hope that legal proceedings would be opened. The President's new stand was reinforced by the words of his advisor, General Guillou: *“All the military officers who smashed up Ngaounday have either been terminated or down-graded or legally prosecuted”*. The EUFOR general also seemed to echo the words of the authorities: *“a FACA unit operating in the north-eastern part of the country has done things that are unacceptable. But he will be brought back”*.

12. See note 6 above.

13. See the Report of the Secretary-General on the situation in the Central African Republic and on the activities of the United Nations Peace-building Support Office in that country, published 23 June 2008; S/2008/410. <http://www.un.org/Docs/sc/sgrep08.htm>

14. See UN News Centre press release: “Central African Republic: UN reports mounting human rights abuses”, published on 10 October 2008. <http://www.un.org/apps/news/story.asp?NewsID=28531&Cr=&Cr1=&Kw1=Central+Africa&Kw2=&Kw3=>

In April 2008, the Central African authorities made noisy public declarations, letting it be known that more than 40 soldiers had been tried by the Bangui Permanent Military Tribunal (TMP) during its session in March 2008. The TMP president who met FIDH was proud of having passed a sentence of ten years' forced labour against one of the FACA sub-lieutenants responsible for the atrocities committed in Ngaounday.

The TMP Government Commissioner outlined the jurisdiction of the Tribunal to FIDH mission delegates: TMP headquarters are in Bangui and the court has jurisdiction over the entire Central African territory. Its mandate is to try military officers who commit acts of violence in the course of their duty. Victims, the Defence minister, the military Command and the Government Commissioner can all seize the TMP. Although the TMP President did not seem to know whether international crimes were included as offences punishable under the military Code of Justice, the Government Commissioner provided the information that only common law crimes are defined in the Code.

FIDH noted that in fact 26 cases concerning 47 persons had been recorded for the hearing of March 2008. From the set of cases, two related to mortal blows, two others to murder and manslaughter. The remaining accusations were cases of deliberate blows and injuries, unintentional injury, theft, aggravated theft, armed threats, refusal to obey, abandoning one's position, the sale of a weapon of war and illegal possession of weapons of war.

The displayed willingness of the President of the Republic to punish the perpetrators of serious human rights violations disappears when facing the reality of the facts. The number of, and the grounds for proceedings against FACA members, bear no comparison with the scale of the criminal acts committed by certain units of the Central African security forces. The General Amnesty Law adopted by the National Assembly at the end of September also has its origins in this doublespeak (see below).

Illustrating the authorities real lack of willingness to try FACA elements that had committed the most serious crimes in the course of their duty since the second half of 2005, the Government Commissioner acknowledged to the FIDH mission that no case had been opened against Ngaïkosset, a member of the Presidential Guard known for practising the scorched earth policy and for carrying out summary executions. He defended himself, saying: *"None of the victims has come to see me". "I even went to Bossembélé to collect testiùonies from the victims, but no-one came to see me"*. It goes without saying that victims no longer trust a justice lacking independence, but are also frightened to go to court, fearing reprisals. The Government Commissioner did not respond to the suggestion that he might cease himself with this case.

2.3. Violations committed by rebel units of the Popular Army for the Restoration of the Republic and Democracy (APRD)

Like FACA, APRD units also committed serious human rights violations against the civilian population living on the territory under the rebel group's control.

The APRD set up a territorial administration, forcibly collects taxes from its "constituents" and levies road tolls from lorries, other vehicles and even bicycles.

On several occasions during humanitarian organisations' trips in the northern part of the country, the population complained of having to feed APRD units, although their food supplies were already low.

Furthermore, the APRD established "courts" responsible primarily for trying persons allegedly responsible for acts of banditry. There is no respect of the rights of the defence during these expeditious trials, which often result in a death sentence and the immediate execution of the accused.

Between June and August 2008, the APRD executed between 16 and 18 persons after they had been «sentenced» by its courts. In response to the denunciation of these practices, Laurent Djim Wei, the APRD spokesman, said: "*we try civilians for their misbehaviour after complaints filed by plaintiffs before the APRD military council*", and he added that "*it is not possible to find lawyers for those convicted in the forest zone that we control*".

These acts are contrary to the provisions of the International Covenant on Civil and Political Rights (Article 6 – the right to life; Article 14 – the right to a fair hearing) and the African Charter on Human and Peoples' Rights (Article 4 – the right to life; Article 7 – the right to a fair hearing) ratified by CAR.

Another worrying phenomenon is the fact that the self-defence groups are increasingly supported by the Central African authorities, leading the rebel units to carry out acts of violence against civilians who are assimilated to these groups.

Some reports also refer to kidnappings by APRD units. On 21 and 22 August 2008 a self-defence group from the village of Talé (35 km from Bozoum) attacked APRD units accused of having kidnapped two women a few days earlier.

FIDH recalls that the rebel groups that effectively control part of the Central African territory are obliged to respect the international provisions for the protection of human rights and international humanitarian law.

2.4. Sexual violence on a massive scale

According to the United Nations, over 15% of women and young girls are victims of sexual violence in the northern part of the Central African Republic.

"*Sexual violence is a disturbingly common feature of the insecurity in the north of the Central African Republic*"¹⁵, notes a press release issued by the Office for the Coordination of Humanitarian Affairs (OCHA). There are cases of violence against young girls of 12 or 13 years old.

Sexual crimes had already been committed systematically and on a massive scale during the conflict of 2002-2003.¹⁶

The United Nations estimates the HIV prevalence rate in the Central African Republic at 10.7 per cent out of around four million inhabitants in the country.

15. See UN News Centre briefing: "CAR: the UN is preoccupied by the prevalence of sexual violence in the north", 22 February 2008: <http://www.un.org/apps/news/story.asp?NewsID=25725&Cr=central&Cr1=africa>

16. See FIDH Report n° 457: "Forgotten, stigmatised: the double suffering of victims of international crimes", published 12/10/06.

This HIV prevalence rate places CAR, ravaged by years of civil conflicts and faced with persistent insecurity, in the top tier of those countries in Central Africa that are most affected by the epidemic, and in the tenth position globally.

A law on the protection of women against violence in CAR was adopted on 15 December 2006. However, the population is unaware of it and the law is generally not applied. According to this law, the General Prosecutor and competent police officers of the judicial division can bring cases of violence against women to the courts. This provision is never used.

FIDH calls on the Central African State to lead a national campaign against this type of violence and to ratify without delay the Protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa. Furthermore, FIDH calls on the relevant judicial authorities to exert their jurisdiction and open legal proceedings against the perpetrators of violence against women.

2.5. The fate of displaced persons and refugees

The recurrent acts of violence committed by rebels, bandits and government forces frequently oblige civilians to flee and take refuge either in the bush, in the fields or in neighbouring Cameroon or Chad.

The French NGO *Solidarités* made an assessment of the humanitarian and security situation on the Kabo-Batangafu road in the central northern part of CAR at the end of August 2008. This stretch of road had not been used by a humanitarian convoy for several months due to the insecurity resulting from repeated bandit attacks.

Solidarités staff noted that the further villages are located from the two towns the less populated they are. At the mid-point of the road, they found several villages that were entirely empty.

Many villagers said that they often travel to and from the site for displaced persons in Kabo, where currently around 5,500 people live. They return to their village of origin to work on their fields or to harvest the crops. Consequently, the road between the two towns is a food supply route for people living on the Kabo site.

Fear of renewed attacks is an obstacle to a permanent return to the villages. In nearly all the villages, people said there was a permanent feeling of insecurity.

According to the August 2008 statistics of the United Nations High Commission for Refugees, 104,000 Central African refugees have been recorded (56,000 in Chad; 45,000 in Cameroon; 3,000 in Sudan). There are also 197,000 displaced persons in CAR, including 100,000 in the prefectures of Ouham, Ouham-Pendé and Nana-Grébizi. It is to be noted that 85,000 of these 197,000 displaced persons regularly return home to cultivate their land and harvest the crops.



Child carrying water distributed by NGOs at the Kabo site for displaced persons

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People forced to flee their villages - April 2007



© PIERRE HOLTZ, UNICEF

Due to the absence of any protection by the government authorities or the rebel groups that effectively control part of the Central African territory, it is the United Nations agencies that set up support programmes for the displaced populations. However, humanitarian access is largely dependent on the state of relations between the government and the rebel groups. As a result, aid had to be suspended on at least two occasions in April 2008 due to clashes between government forces and APRD units around Paoua and Ndim.

FIDH recalls that responsibility for protecting all the rights of displaced persons is primarily that of the Central African State. As stressed by Walter Kälin, the Secretary General's Representative for the human rights of internally displaced persons, *"this responsibility stems both from treaty norms and from customary law, and the guarantees afforded to displaced persons are those afforded to all other persons living in the national territory. Displaced persons do not lose the rights enjoyed by the rest of the population as a result of their displacement. At the same time, because they have had to flee their homes, displaced persons have specific protection and assistance needs which the Government must address. Moreover, they have the right to request their Government to provide them with this protection"*¹⁷. The Representative added that *"the Guiding Principles also apply to non-State actors effectively controlling part of the territory, when this affects the rights of displaced persons"*.

It is surprising to note that, confronted with a humanitarian situation of great difficulty for those living in the north of the country, international development aid for CAR has increased by only 46% since 1985, although this aid has increased by 87% over the same period for the whole of Sub-Saharan Africa.

17. See Report of the Secretary General's Representative on the human rights of internally displaced persons, Walter Kälin, submitted to the Human Rights Council on 17 March 2008.

II - The shadow of the Lord's Resistance Army brings new insecurity to the south-eastern part of the country

South-eastern CAR is particularly isolated from the rest of the country. Sparsely inhabited, with difficult access, there is rarely any state presence there. Because of this remoteness, the province of Haut Mbomou is regularly subject to criminal incursions by armed groups of bandits and herdsmen from Sudan and the Democratic Republic of Congo (DRC). But at the beginning of 2008, the local population was victim to large scale raids carried out by hundreds of armed elements from DRC who, according to certain witnesses, could have been from Joseph Kony's Lord's Resistance Army (LRA)¹⁸.

Between 19 February and 8 March 2008, several hundreds of men (300 to 500) attacked villages in the Haut Mbomou region: Bambouti (20 February); Gbassigbiri (25 February); Obo (6 March); Ligoua (8 March).

These attacks were allegedly preceded by reconnaissance missions, sometimes with local inhabitants acting as scouts to help them. This would explain why the Obo attack was carried out while 3 of the 8 gendarmes posted in the region, as well as the village mayor and other local officials were visiting Mboki.

According to witnesses, the attackers, who included young boys of less than 15 years old, were "*strangers*", "*probably Ugandan*", with "*black skin*". They were wearing military clothing and plastic boots. Many of them had traditional scarification marks on their faces. They spoke several languages: Zandé, Arab, KiSwahili, Lingala and some English.

The attacks took place at night and lasted from 3 to 5 hours. The attackers were heavily armed with automatic weapons (Kalashnikov rifles), grenades, machetes and axes. Some of them had satellite telephones.

The attacks were carried out in silence, with no shouting or gun-fire. Some of the villagers, including women and children, panicking because of the arrival of the attackers, were brutally beaten with rifle butts. Some villagers said they heard women screaming during the raids. Some women said later that they had indeed been raped on the pretext that they were "hiding money in their vagina". The villagers were looted of their food, clothing, belongings and animals. However, the attackers destroyed none of the buildings.

According to corroborating testimonies, at the time of the attacks, 157 persons were kidnapped by the assailants, including 55 children (40 boys and 15 girls), 43 of whom were under 15 years old. As of today, 35 of those kidnapped have been released. Three others escaped two weeks after being kidnapped.

According to the same testimonies from individuals who were released or who escaped, the people kidnapped, including the women and girls, were forced to carry heavy loads, walk barefooted for hours

18. Created in 1988, two years after the start of the civil war in Uganda, the Lord's Resistance Army (LRA) is a rebel movement engaged in rebellion against the government of Uganda. The aim of the LRA, whose chief is Joseph Kony, is to overthrow the Ugandan President, Yoweri Museveni, and establish a regime based on the biblical Ten Commandments. The LRA has been placed on the list of terrorist organisations in the USA. In 2005, the International Criminal Court Prosecutor issued arrest warrants against Kony and four of his commanders: Vincent Otti, Okot Odhiambo, Dominic Ongwen and Raska Lukwiya (the latter has since been killed in fightings). In September 2008, LRA rebels stated that they were ready to sign a peace agreement with the Ugandan government, at the same time warning that they would not disarm until the matter of the ICC arrest warrants had been "resolved".

without food nor water and threatened with weapons. All along the path leading to the attackers' base, anyone who stopped walking or who complained about his or her condition was severely kicked and beaten with rifle butts, or whipped. Forcibly enlisted, women and girls were used as sexual slaves. The few women who were released reported being victims of rape, some by 3 or 4 men at the same time over several hours. None of the children were released.

The method of operation and the time of these attacks in the Haut-Mbomou seem to prove that they were carried out by the LRA. In fact, at the beginning of 2008, the United Nations Mission in DRC (MONUC) had noted the movement of a large number of LRA armed units from their base in the Garamba National Park in DRC, towards CAR.

The only reaction to these attacks by the Central African authorities was to send 30 FACA members to Obo on 11 March 2008 to reinforce the 8 gendarmes based permanently at the Haut- Mbomou prefecture. Fifteen of them were sent back to the capital after 18 March.

PART II – AN ATTEMPT TO SETTLE THE CONFLICT: THE SAME INEFFECTUAL SCENARIO?

I - Peace agreements against a background of conflict

Noting the intensification of rebel activities in the north of the country that weakened his power, President Bozizé tried to adopt peace agreements prior to setting up an Inclusive Political Dialogue with the goal of normalising the political and security situation of the country in view of the 2010 presidential elections.

President Bozizé first addressed the rebels active in the north-eastern part of the country.

As a result, on 2 February 2007, Abdoulaye Miskine, the FDPC leader, signed a peace agreement with the Central African government in Syrte (Libya). The agreement provided for the immediate end of hostilities and confinement of FDPC troops into Central African territory so to be integrated into the defence and security forces or into civilian life.

On 13 April 2007, the government signed another peace agreement in Birao with Damané Zakaria, UFDR chief-of-staff, without the approval of the leaders of the rebel movement.

However, as the United Nations Secretary General certified in his Report of December 2007, *“the implementation on the ground of the Syrte and Birao peace agreements signed with FDPC and UFDR, respectively, in February and April 2007, continued to be stalled in spite of the appointment of the two rebel leaders, Abdoulaye Miskine of FDPC and Zakaria Damane of UFDR, as advisers to the President”*. In fact, *“sporadic actions by the Democratic Front of Central African People (FDPC), UFDR and APRD continue in northern localities”*.

In April 2008, Abdoulaye Miskine finally decided to leave Bangui.

Despite the lack of any real implementation of the agreements with the rebels from the north-east, President Bozizé tried to make identical agreements with rebels from the north-west, who were very active at the beginning of 2008.

As an example, there were strong clashes between the FACA and the APRD in Mann (north-west) and in Ndjim in April.

On 9 May 2008, at Libreville (Gabon), under the auspices of the President of Gabon Omar Bongo, the Central African government signed a Ceasefire and Peace Agreement with APRD. Like the previous peace agreements with FDPC and UFDR, the text provides for the *“confinement”* of APRD combatants present in north-western CAR, *“into their zones, while waiting to be disarmed, demobilised or integrated in the army”*. The text additionally envisages the adoption of a general amnesty law and the abandonment of all legal proceedings currently under way against the belligerents.

On 21 June a global peace agreement was signed between the government, the APRD and UFDR rebel groups, represented on that occasion by Damane Zakaria. Other UFDR members denied being involved with this agreement and Miskine's FDPC refused to sign it.

Once again this agreement quickly became null and void. Tensions remained high in the northern part of the country. On 16 July, Captain Abakar Sabone¹⁹ announced that UFDR troops had killed 10 soldiers from the Central African government forces, seized 11 Central African army vehicles and appropriated many weapons of war.

On 7 August, clashes between FACA and APRD units took place near Ngaoundaye (500 km to the north-west), causing an unknown number of victims.

Other clashes took place on 3 September between a contingent of 100 soldiers from FACA and the Presidential Guard and the APRD on the Bozoum-Paoua road. Seven APRD members are said to have died.

On 4 September, the prefect of Nana-Grébizi imposed a curfew in Kaga-Bandoro, the administrative town of Bamingui-Bangoran prefecture in the central-northern part of the country.

Bozizé remained confident despite of these events. The 21 June agreement, coupled with the adoption of a general amnesty law, intended to put an end to insecurity in the country and enable the political phase of negotiations to start via the Global Inclusive Dialogue with the opposition political parties, including the political branches of the rebel groups.

This scenario of peace agreement (2002; 2007) – amnesty (1998; 2002; 2003) – political dialogue (1980; 1992; 1998; 2003) is a familiar one in the Central African Republic. Yet the conflict has been going on in northern CAR for over 10 years.

II - When the criminals disclaim responsibility: the General Amnesty Law

1. An amnesty for everyone

In accordance with the provisions of the peace agreements, the Central African government presented three draft general amnesty laws before the Central African National Assembly at its session on 1 August 2008.

Presented as a means of working towards national reconciliation and enabling all the protagonists in the conflict to take part in the political dialogue, the draft laws were criticised by the rebel groups and the political opposition parties for a range of reasons.

19. On 22 July 2008, Captain Sabone and his Movement of Central African Liberators for Justice (*Mouvement des libérateurs centrafricains pour la justice - MLCJ*) left UFDR, which now only brought together the Patriotic Action Group for the Liberation of Central Africa (*Groupe d'action patriotique de libération de la Centrafrique - GAPLC*) led by Michel Am Nondroko Djotodia, and the Central African Democratic Front (Front démocratique centrafricain - FDC) led by Major Justin Hassan.

The draft laws were intended to grant amnesty for crimes committed by the government and the rebel forces since Patassé had been overthrown in March 2003 and those committed by Bozizé's forces and which led to the overthrow of Patassé²⁰. However, none of the laws covered the crimes that were allegedly committed prior to this date by some of the protagonists of the current conflict, including Abdoulaye Miskine, Jean-Jacques Démafouth and Ange-Félix Patassé. The latter two were even the object of legal proceedings before the Central African courts.

“The amnesty for the politico-military groups includes clauses that go against the true sense of national reconciliation that could calm down excitable individuals”, declared Damane Zakaria in a public statement on behalf of UFDR²¹.

The FDPC declared that, *“the draft laws sufficiently demonstrate that the government has no real will to organise a true Inclusive Political Dialogue”*. On 3 August FDPC suspended its participation in the Dialogue and at the same time withdrew its representative, Mr. Marcel Bagaza, from the Dialogue's Preparatory Committee.

On 4 August, for the same reasons, the APRD president, Jean-Jacques Démafouth, suspended his group's participation in the process that should have led to the Political Dialogue. Jean-Jacques Démafouth also announced that APRD was withdrawing from the Ceasefire and Peace Agreement and the Comprehensive Peace Agreement, signed with the government respectively on 9 May and 21 June 2008.

In fact, the rebel groups' criticisms were related to the absence of an amnesty for criminal acts committed prior to 15 March 2003.

The Union of Active Forces of the Nation (Union des forces vives de la nation – UFDV), a political opposition group bringing together opposition parties such as the Central African People's Liberation Movement (*Mouvement de Libération du Peuple Centrafricain* - MLPC), the Central African Democratic Rally (*Rassemblement Démocratique Centrafricain* - RDC), the Alliance for Democracy and Progress (*Alliance pour la Démocratie et le Progrès* - ADP), the Londô Association and the Association for Solidarity and Democracy (*Association pour la Solidarité et la démocratie* - ASD) also declared that they would suspend their participation in the political process. UFDV condemned the fact that, *“President Bozizé granted amnesty to himself and his companions involved in the March 2003 coup d'état for all the serious, massive crimes committed throughout the Central African territory and which have left our country with wounds that remain open”*. For UFDV, with the second draft amnesty, *“President Bozizé envisages an amnesty for the sadly notorious elements of his praetorian guard that, since 15 March 2003, have been sowing the seeds of desolation both in Bangui and in the north-western part of the country”*.

Finally, on 15 September in Libreville, the APRD leader, Jean-Jacques Démafouth, announced his decision to rejoin the peace process negotiations. The government was then able to present a new draft.

On 29 September, the Parliamentarians (86 out of 104 belong to the government camp) finally adopted the General Amnesty Law. The President of the Republic promulgated the law on 13 October.

The Amnesty Law relates to all offences brought before national courts and committed by (Article 1):

–elements of the defence and security forces and the civil and military authorities in the framework of peace-keeping operations and territorial defence operations from 15 March 2003 to the date of promulgation of the present law;

20. See FIDH press release dated 01/08/2008: “Projets de lois d'amnistie en République centrafricaine - Quand les victimes sont une nouvelle fois méprisées par le gouvernement centrafricain”. <http://www.fidh.org/spip.php?article5763>

21. See UFDR public statement dated 10/08/08: <http://centrafrique-presse.over-blog.com/article-22030402.html>

- civilian and military elements who took part in the events that gave rise to the change of government on 15 March 2003 from the date they began to the date of promulgation of the present law;
- officials and members of politico-military groups in the country or in exile as from 15 March 2003 to the date of promulgation of the present law, for threatening state security or national defence and for related offences.

In addition, the law grants amnesty namely to Mrs. Ange-Félix Patassé, Jean-Jacques Démafouth and Martin Koumtamadji, their accomplices and co-perpetrators of crimes of embezzlement of public funds, assassinations and complicity in assassinations.

In this way, all the protagonists of the conflicts in CAR since 1999 (the year the crimes that Jean-Jacques Démafouth is alleged to have committed in the Kembé region took place) are granted with full amnesty although some of them could have been held responsible for hundreds of summary executions, killings, destruction of thousands of dwellings, looting, rapes, etc.

The amnesty induces the remission of all main, accessory and complementary sentences and all disqualifications or forfeitures (Article 3).

Nevertheless, when asked what has become of the rights of victims to a fair and effective remedy, the Central African authorities present two related provisions:

- the amnesty law excludes crimes included in the Rome Statute, i.e. genocide, war crimes and crimes against humanity (Article 2);
- amnesty for offences included under Article 1 does not prejudice the civil interests of victims.

However, statements of intent are once more contradicted by reality.

2. Victims are disregarded once again: without the ICC, there is no criminal justice for victims

In 2003, FIDH condemned the serious human rights violations committed by all the belligerents during the coup d'Etat by General Bozizé (from October 2002 to March 2003). After an examination of the proceedings undertaken before the national courts, FIDH concluded that the latter had neither the will nor the ability to investigate these crimes, nor to pursue their perpetrators. After being referred the situation by the Central African Government in December 2004, the Prosecutor of the International Criminal Court opened in May 2007 an investigation into crimes committed in CAR in 2002 and 2003. One year later, an arrest warrant was issued for Jean-Pierre Bemba. Bemba was immediately arrested in Belgium and transferred to The Hague in July 2008 for trial. The work of the ICC will enable the victims of crimes committed in 2002/2003 to be heard by a fair and equitable body after being refused this right by the Central African courts.

This scenario seems to be repeating itself. Impunity for crimes committed since 2005 in the northern part of the country seems to be ensured again and victims remain unheard and ignored by national courts. It is feared that without the opening by the ICC of an investigation into these crimes, victims would be denied their right to an effective remedy.

Some atrocities carried out by the warring parties since 2005 could be qualified as war crimes or crimes

against humanity, according to the definition of crimes provided for under Articles 7 and 8 of the Rome Statute. According to Article 2 of the amnesty law adopted by the National Assembly in September 2008, the perpetrators of these crimes may not benefit from amnesty. It is therefore still possible, for the Central African courts to be referred or to defer itself with the situation of the most serious crimes committed since 2005, if they consider that such offences constitute crimes under the jurisdiction of the court. In reality this could be complicated by the fact that the ICC Office of the Prosecutor continues to “analyse” the situation in the north as it has not yet concluded on its jurisdiction on these crimes.

In a letter addressed to the President of the United Nations Security Council on 1 August 2008, President Bozizé tried to reinforce impunity for international crimes committed in the northern part of the country. Referring to his concerns as regards a letter sent to him by the ICC Prosecutor on 10 June 2008 stating that “*sustained attention would be paid to acts of violence committed in the northern region of CAR, especially in the prefectures of Nana-Mambéré, Ouham, Ouham-Pendé, Nana-Gribizi, Bamingui-Bangoran, Vakaga and Haute-Koto*”, President Bozizé replied that “*CAR has not declared that it is unable to give a ruling on the facts relating to the 2005 period and that, on the contrary, the Permanent Military Tribunal is prepared to work on this*”. He asked the Security Council to suspend any Court investigation into the crimes committed in the north for one year, in accordance with Article 16 of the ICC Statute, using application of the complementary principle as a pretext. It should be recalled that the Court is not investigating these crimes and that the investigation which is under way is exclusively dealing with crimes committed during the 2002/2003 conflict.

Despite President Bozizé’s declarations of intent, the real willingness and ability of the Central African courts to handle these cases appears to be nonexistent once again.

In fact, CAR has still not adapted its domestic law in line with the provisions of the ICC Statute. International crimes as defined in the ICC Statute do not appear in either the Central African Criminal nor the Military Justice Codes.

Even though it was possible for the Central African courts to investigate the crimes committed in the northern region of the country and to open proceedings against the perpetrators of the most serious crimes as early as 2005, no serious proceedings were opened. The absence of proceedings against Ngoikosset, a member of the Presidential Guard who was allegedly responsible for serious crimes against the civilian population is an example of this failure to hold perpetrators accountable. Even worse, he was promoted and now handles the President’s personal security.

It is also well known that victims are frightened to go to court for fear of reprisals.

President Bozizé’s letter to the Security Council demonstrates his fear of one day having to answer to the ICC for the crimes committed by his army.

The second provision of the amnesty law that directly concerns victims seems to be equally unrealistic: Article 4 specifies that amnesty for offences included under Article 1 do not prejudice the civil interests of victims. According to the law, in the case of judicial proceedings concerning civil interests, the related criminal file will be made available to the parties. Furthermore, where the criminal court is seized before this law came into force, this court will still have jurisdiction over the civil interests of victims.

The absence of criminal proceedings against the perpetrators of the most serious crimes committed in the northern region of the country, and the lack of any policy that takes responsibility for victims show that this

provision appears to be ineffective in this particular case and proves once again the lack of consideration that the Central African authorities have for victims.

3. Unrealistic conditions of amnesty

Under the law of September 2008, application for amnesty is subject to a certain number of conditions:

- Amnesty will be lifted in case of commission of a second offence (irrespective of the offence)
- Amnesty will also be lifted if the rebel groups do not put a real end to violence and do not apply the ceasefire or if parties to the conflict do not submit to the mechanisms of cantonment, disarmament and reintegration within 60 days from the date of promulgation of the amnesty law.

The amnesty law was promulgated on 13 October 2008. The rebels were therefore obliged to submit to the programme of cantonment, disarmament and reintegration before 13 December 2008, or otherwise would risk the lifting of the amnesty. Without specifying how this procedure will be carried out, this time limit appears to be quite unrealistic. Which body will be responsible for implementing the programme? It is hard to imagine that FACA will disarm the rebels.

On 1st October, Jean Jacques Demafouth, the APRD president, rejected the procedure, considering that the conditions for amnesty were too restrictive and that there would be no unanimous approval for them from the main parties concerned.

“The conditions for benefiting from amnesty are unacceptable and risk provoking reactions that are in contradiction with the desire for peace that APRD has shown”, Demafouth believed. “APRD agrees with the principle of cantonment (of rebel combatants in the north) with the risk of losing the benefits of amnesty, but that cannot be done in two months as the law specifies. It cannot be done. Two months is much too short”, explained the APRD leader.

In view of the new crisis caused by the non-consensual amendments to the amnesty law, the APRD leader called on the mediators in the Central African crisis, in particular Gabon and the United Nations, to intercede with President François Bozizé in support of redrafting the text of the law.

III – Fighting continues after the peace agreements and the amnesty

According to an APRD press release, the Central African army launched a large-scale attack on the Bozoum-Paoua road on 5 October.

On 7 October FACA attacked the village of Tallé, 30 km from Bozoum, killing twelve of the villagers and looting 22 dwellings.

The Central African army continued towards Paoua and on 9 October it attacked the village of Gagni, 15 km from Tallé, where two villagers were killed and several houses looted.

On the same day, the Defence Minister announced that a combined MICOPAX and FACA patrol was ambushed by APRD at Bougol, 30 km from Paoua, resulting in the wounding of two soldiers from the regional peace force.

On 10 October, APRD issued a 48 hour ultimatum to the Central African Army to withdraw from the zones it controlled. Failure to do so would result in carrying out all necessary measures to enforce its respect and restore order. APRD accused the Central African government of ordering its armed forces to start fighting again in order to disarm them forcibly and justify the amnesty law. APRD announced that its high command had referred the matter to the command of the Multinational Force of Central Africa (*Force multinationale d'Afrique centrale* – FOMAC), the intervention force, so that they establish the government forces deliberate violation of the ceasefire.

On 11 November, a detachment of the Central African army was attacked by elements of Abdoulaye Miskine's FDPC at Nobandja, 28 km from the Chadian border. According to BONUCA²², around ten government soldiers were killed in the ambush. On the previous day armed men had also attacked the area of Sam Ouandja, 800 km north-east of Bangui.

IV - Towards an Inclusive Political Dialogue?

The peace agreements and the General Amnesty Law were to be the cornerstones for establishing an Inclusive Political Dialogue in preparation for the 2010 presidential elections.

A Preparatory Committee to this Dialogue was created by Presidential Decree on 30 November 2007 and finished its work on 25 April 2008. Facilitated by BONUCA and the *Organisation Internationale de la Francophonie*, and presided by the Centre for Humanitarian Dialogue, the Preparatory Committee brought together the country's main political groups, social stakeholders and rebel movements for in-depth consideration of three main themes relating to a) political and governance issues, b) the state of security and politico-military groups and c) socio-economic development. The Committee presented President François Bozizé with its report, which dealt in particular with the methods of organising the Dialogue. In its report the Preparatory Committee recommended holding the Inclusive Political Dialogue in Bangui on the condition that security was guaranteed and that legal guarantees would be given to certain participants to allow them to

22. See Africa News bulletin: UN condemns rebel attack in Northern Central Africa Republic <http://www.afriquejet.com/news/africa-news/un-condemns-rebel-attack-in-northern-central-african-republic-2008111315935.html>

travel to the Central African capital without fear of being arrested. It was additionally recommended that the Dialogue should bring together a total of 150 participants and last no more than 17 days. In accordance with the Committee's recommendations, on 8 June President Bozizé set up a committee of 15 members responsible for helping to organise the Dialogue.

Political and military opponents strongly criticised the composition of the committee and they especially opposed the appointment of Cyriaque Gonda, the Minister of Communication, Citizenship, Dialogue and National Reconciliation, as its chairman.

On 13 August, Jean Jacques Démafouth asked the CAR President to modify the composition of the Political Dialogue organisation Committee in keeping with the spirit of consensus and the global peace agreement signed on 21 June in Libreville, in Gabon.

The UFVN also denounced the decree establishing the composition of the Dialogue organisation Committee "*made in violation of the principles of consensus and parity which were agreed for all the stakeholders in this dialogue*".

Until the composition of the Dialogue monitoring Committee is modified, none of the people with whom the mission spoke were really able to say whether this Dialogue would be any different from previous dialogues and whether it might really result in political normalisation in the country.

V - The work of the International Criminal Court in the Central African Republic

FIDH has informed the ICC and its Prosecutor since 2003 of the serious crimes committed in CAR which fall under its jurisdiction. Its mission reports have been submitted to the Court each year.

In December 2004, the Central African Government itself referred the situation in CAR to the ICC Prosecutor, who responded on 22 May 2007 by announcing the opening of an investigation.

He stated that the investigation would focus on the most serious crimes, mostly committed in 2002 and 2003 when a peak of violence occurred. The Prosecutor referred in particular to the number of allegations of rapes and other acts of violence. It is the first time that the Prosecutor has opened an investigation in which allegations of sexual crimes far exceed the number of alleged killings. According to the Prosecutor, "*The allegations of sexual crimes are detailed and substantiated. The information we have now suggests that the rape of civilians was committed in numbers that cannot be ignored under international law*"²³.

In parallel with the investigation of crimes committed in 2002 and 2003, he stated that he would continue to "*monitor the current situation in the Central African Republic. There are worrying reports of violence and crimes being committed in the northern areas of the country bordering Chad and Sudan.*"²⁴

Nearly one year later, on 23 May 2008, the Prosecutor communicated to Pre-Trial Chamber III the possibility that Jean-Pierre Bemba might flee, since he had left Portugal and arrived in Belgium, with the aim of escaping

23. Prosecutor opens an investigation in the Central African Republic, The Hague, 22 May 2007, ICC-OTP-PR-20070522-220.

24. Idem.

to an unknown destination. On the same day, the Court issued an arrest warrant, which was made public the following day, after Bemba had been arrested in Brussels. After a hearing before the Belgian courts concerning the legality of the arrest and the ICC request, Jean-Pierre Bemba was transferred to the ICC detention centre in The Hague on 3rd July.

He is accused on counts of:

- i) rape as a crime against humanity, punishable under article 7(1)(g) of the Statute;
- ii) rape as a war crime, punishable under article 8(2)(e)(vi) of the Statute;
- iii) torture as a crime against humanity, punishable under article 7(1)(f) of the Statute;
- iv) torture as a war crime, punishable under article 8(2)(c)(i) of the Statute;
- v) committing outrages upon personal dignity, in particular humiliating and degrading treatment, as a war crime, punishable under article 8(2)(c)(ii) of the Statute;
- vi) murder as a crime against humanity, punishable under article 7(1)(a) of the Statute;
- vii) murder as a war crime, punishable under article 8(2)(c)(i) of the Statute;
- viii) pillaging a town or place as a war crime, punishable under article 8(2)(e)(v) of the Statute.²⁵

The confirmation of charges hearing was planned to take place from 3 to 14 November 2008 but was postponed due to procedural issues. The hearing should be taking place in January 2009.

During its mission in CAR, FIDH noted that very few people and few victims were aware of the precise nature of the Court's work. They wanted to know why Bemba, and only Bemba, had been arrested and queried, the likely consequences for the other participants in the conflict of 2002 and 2003, as well as the conflict that has been raging in the north since 2005.

Various corresponding sources report that outside Bangui in particular, civilians know nothing of the work of the ICC and many Central Africans do not even know that Bemba was arrested.

This ignorance is primarily explained by the absence of any ICC Field Information and Outreach staff. A Field Outreach Assistant had just been recruited at the time of the FIDH mission, but the Field Outreach Coordinator had still not been recruited.

Victims who wish to participate in proceedings can obtain a participation application form from the ICC Office in Bangui. They will then be given a list of five intermediaries, five lawyers or NGOs, all based in Bangui, who will help them to complete the form.

Consequently, due to the fact that few victims are aware of their rights, the procedure to be followed to apply for participation is complex, and because no official from the Victims Participation and Reparation Section of the ICC is present locally, only 24 victims have applied to participate in the Bemba case, according to publicly available information as of today.²⁶

25. See FIDH Report n°502, «Report of the FIDH Legal Action Group (GAJ): FIDH and the situation in the Central African Republic before the International Criminal Court - The case of Jean-Pierre Bemba Gombo».

26. ICC-01/05-01/08, Second Decision on the question of victims' participation requesting observations from the parties, 23 October 2008.

At government level, on the contrary, the opening of the investigation and Bemba's arrest seem to have had a certain effect in the field: *there has been an undeniable change in behaviour due to all the pressure*, General Guillou declared. The changes include: sanctions taken by Bozizé against FACA elements who committed serious crimes in Ngaoundaye (even if these sanctions were generally insufficient) and increased training for officers on war law.

Abdulaye Miskine did not travel to Libreville to sign the peace agreements for fear that he would be arrested there in the framework of the ICC investigation.

These signals make it more urgent for the Court to make greater use of its deterrence mandate and provide more public information about the close watch it is keeping on the situation in the northern areas, and now, with the alleged LRA attacks, the south-eastern regions of the country. More information should be provided concerning the inadmissibility of the amnesty law before the Court for the alleged perpetrators of crimes that fall under its jurisdiction.

CONCLUSION AND RECOMMENDATIONS

Conclusion: peace (*dis*)agreements?

Peace (*dis*)agreements? The title of this report, far from being predictive, reveals two questions regarding the implementation and aims of the peace agreements signed by the protagonists of the conflict in CAR.

The first question is, since the peace agreements signed between the government and the different rebel groups since 2007 have not really been implemented, whether the agreement of 21 June 2008 can really mark the end of hostilities? There is room for doubt in the light of the recent clashes between FACA and APRD in the northern region of the country.

This doubt inspires the second question: do the protagonists genuinely wish to put a permanent end to the conflict in CAR or have they, by signing the peace agreements, sought absolution for their crimes through the granting of amnesties? The hurry of parties to the conflict to see this amnesty adopted and their criticisms of its conditions obviously give rise to considerable caution.

These questions are reinforced by the lessons of the past. Over 15 years of peace agreements and amnesties have resulted in three political dialogues. The dialogues have all concerned the ending of the conflicts, the consolidation of democracy and the rule of law, the economic and social reconstruction of the country and the respect for human rights.

As an example, in 2003, the participants in the dialogue decided to set up a Truth and Reconciliation Commission and a Fund for victims of politico-military conflicts. These declarations of intent have never been put into effect. There has been a lack of political will and a lack of any real support from the international community. The participants in past dialogues are still the protagonists in today's conflicts.

The lack of genuine willingness to change, the search for power for power's sake, the plundering of the economy and corruption all plunge the country into permanent conflict. The human rights situation in CAR is that of a series of violations with no respect for the country's international obligations: serious violations of human rights and international humanitarian law by all the protagonists in the conflict (summary executions; rapes; lootings, etc.); arbitrary arrests and detention, torture and ill-treatment perpetrated by the armed forces and the security forces; absence of independent justice; ineffective remedy; non respect of economic and social rights. CAR presents an almost permanent situation of violation of the rights guaranteed by the international conventions it has ratified: the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the African Charter on Human and Peoples' Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Elimination of All Forms of Discrimination against Women.

Confronted with this dramatic situation, the pursuit of peace is an unavoidable prerequisite. A population, weary of conflicts, of which it is the main victim, also hopes for political dialogue. Any genuine effort in this direction is welcome. These initiatives are made fragile by the exclusion of justice which is the basis of

conflict settlement: impunity gives *carte blanche* to criminals to commit new crimes; increases the feeling of perpetrators that they can commit new crimes without being troubled; encourages repeated violations of victims' rights and challenges of the legitimacy of the judiciary. In addition, these initiatives risk losing credibility once more if there is no genuine desire for political, economic and social transformation of the country. It is essential for the authorities to actively commit to the respect of all human rights if they really intend to take their responsibilities for a population that is now at the end of its rope.

FIDH calls on:

The protagonists of the conflict

- to respect the ceasefire, in accordance with the Libreville agreement of 9 May 2008
- to respect the Libreville peace agreement of 21 June 2008
- to respect international humanitarian law and international human rights law by immediately ending all attacks on the civilian population.

The rebel groups

- to end all tax levies on the civilian population living on the territory under their control
- to respect international humanitarian law and international human rights law, in particular by putting an immediately end to all summary executions, torture, ill-treatment and kidnapping
- to protect displaced persons on the territories under their control, in compliance with treaty obligations and customary law
- to allow humanitarian organisations and United Nations agencies to move about and work in complete safety
- to establish as quickly as possible a programme of cantonment, disarmament and reinsertion of their soldiers, under the responsibility of an independent body
- to participate in the future Political Dialogue.

The Central African Armed Forces and the security forces

- to cease immediately all violations of international humanitarian law, putting an immediate end to summary executions
- to stop all practices of extorting money from traders and the civilian population
- to respect human rights, particularly the prohibition of torture and ill-treatment of rebel prisoners in security or detention centres.

The Government Commissioner for the Permanent Military Tribunal

- to refer to the TMP any case relating to serious violations of human rights and international humanitarian law committed by FACA elements.

The Central African authorities

Peace negotiations

- to allow civil society representatives, especially independent human rights organisations, to participate in the Inclusive Political Dialogue
- to place human rights, in particular the fight against impunity for the most serious crimes and support for victims, at the centre of the Inclusive Political Dialogue
- to provide for the establishment of an independent committee, composed of civil society representatives in particular, to monitor the Dialogue's decisions
- to negotiate with rebel groups the modalities of a neutral mechanism for the cantonment, disarmament and reinsertion of rebel elements and a reasonable timetable for this
- to re-establish and reinforce government presence in the northern region of the country
- to combat banditry throughout the country;

Justice administration

- to adopt an implementing legislation of the Statute of the International Criminal Court, in particular for the inclusion of war crimes, genocide and crimes against humanity in the Criminal Code and the Military Justice Code
- to take administrative sanctions and initiate criminal proceedings against all members of the armed forces and security forces responsible for international crimes perpetrated during the conflict with the rebels, whatever their rank
- to initiate proceedings against rebels responsible for human rights violations, whatever their rank
- to the Government Commissioner for the Permanent Military Tribunal, to refer cases of human rights violations committed by Central African military personnel to the Tribunal
- to amend the amnesty law to specify the jurisdiction of the Central African courts to prosecute and try, with complete independence, the perpetrators of international crimes and to provide for the establishment of a victims' compensation fund administered by an independent committee
- in particular for the concerned judicial authorities to exercise their jurisdiction to open legal proceedings against perpetrators of acts of violence against women, in accordance with law N° 06.32 of 15 December 2006 on the protection of women against acts of violence in the Central African Republic
- to increase substantially the budget allocated to justice in order to rebuild and equip the courts, increase the numbers of legal staff, allow effective legal aid and guarantee judicial independence;

Reform of the military sector and security of the country

- to recruit young soldiers and build barracks, to enable a permanent military presence, in particular in the northern part of the country
- to continue to train the armed forces and the security forces on the respect of human rights and international humanitarian law
- to set up a programme to secure the borders with Chad and Sudan and prevent criminal incursions into CAR;

Cooperation with regional and international bodies

- to respect the provisions of the Declaration on Human Rights Defenders adopted by the United Nations General Assembly in 1998

- to ratify the Statute of the African Court of Human and Peoples’ Rights by making the declaration under Article 34.6 of the Statute, allowing individuals and NGOs to bring cases directly to the Court; the African Charter on Democracy, Elections and Governance; the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa; the Convention on the Elimination of Mercenaries in Africa
- to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and accordingly harmonise Central African domestic law
- to ratify the International Convention for the Protection of All Persons from Enforced Disappearance and accordingly harmonise Central African domestic law
- to implement the Recommendations of the UN Special Rapporteur on Summary Executions
- to protect displaced persons in accordance with the United Nations Directives on Displaced Persons
- to lead a national campaign in partnership with the relevant United Nations agencies on violence against women
- to intensify its HIV/AIDS awareness programmes and provide care for those affected
- to address an open invitation to the United Nations Special Procedures to visit the Central African Republic.

United Nations agencies in CAR and Diplomatic Representations

- to finance support programmes for victims of the most serious crimes committed in CAR since 2002, to be implemented by independent civil society organisations.

The United Nations Special Rapporteur on Human Rights Defenders, the UN Special Rapporteur on Displaced Persons, the Special Rapporteurs of the African Commission for Human and Peoples’ Rights on the Rights of Women, Human Rights Defenders and on Conditions of Detention

- to request permission from the Central African authorities to visit CAR to report on the human rights situation in CAR.

The Peace and Security Council of the African Union

- to monitor closely the implementation of the peace agreements and the human rights situation in CAR.

The United Nations Mission for the Consolidation of Peace in the Central African Republic and in Chad (MINURCAT)

- to fulfil its mandate for the establishment of the rule of law in CAR, in accordance with Security Council Resolution 1778, especially to:
 - Contribute to the monitoring and to the promotion and protection of human rights, with particular attention to sexual and gender-based violence, and to recommend action to the competent authorities, with a view to fighting impunity;
 - Support efforts aimed at strengthening the capacity of the Government of the Central African Republic and civil society through training on international human rights standards;

- Assist the Government of the Central African Republic in the promotion of the rule of law, including through the support to an independent judiciary and a strengthened legal system, in close coordination with United Nations agencies.

Chad and Sudan

- to prevent any incursion into CAR by the military, rebel units or armed men.

The International Criminal Court

- to initiate new criminal proceedings against those primarily responsible for the most serious crimes committed in 2002 and 2003 at the time of the coup d'Etat by General Bozizé
- to continue its analysis of international crimes committed since 2005, to take publicly position on this analysis and to open an investigation into the situation
- to speed up the recruitment of Public information and outreach section staff
- to set up immediately outreach and training programmes on the International Criminal Court in general and more specifically on the proceedings against Jean-Pierre Bemba in relation to the confirmation of charges hearing scheduled to take place in January 2009 in The Hague,
- to recruit field staff from the Victims participation and reparation section and begin training on victims' rights without delay.

The International Criminal Court Victims Trust Fund

- to start assistance projects as soon as possible to provide physical or psychological rehabilitation or material support for the victims of crimes within the jurisdiction of the International Criminal Court in CAR, and to their family members.

The international community and the funding bodies

- to continue to provide humanitarian aid to displaced populations and substantial support for a focused development programme for the northern region of the country
- to support the humanitarian programmes undertaken by United Nations agencies and NGOs present in CAR by allocating the 26 million US dollars required to fill in the gap to the planned budget of 116 million US dollars.

ANNEXES

LAW GRANTING GENERAL AMNESTY TO PERSONALITIES, SOLDIERS, ELEMENTS AND CIVILIAN OFFICIALS OF THE REBEL GROUPS (Non-official translation)

Law adopted by the National Assembly on 29 September 2008 and promulgated by the President of the Republic on 13 October 2008

Article 1: Amnesty is granted throughout the national territory for all offences brought before the national courts and committed by:

- elements of the defence and security forces and the civil and military authorities in the framework of operations of maintenance of order and territorial defence from 15 March 2003 to the date of promulgation of the present law;
- civilian and military elements who took part in the events that gave rise to the change of government on 15 March 2003 from the date they began to the date of promulgation of the present law;
- officials and members of politico-military groups in the country or in exile as from 15 March 2003 to the date of promulgation of the present law, for threatening state security or national defence and for related offences;
- Mrs. Ange-Félix Patassé, Jean-Jacques Démafouth and Martin Koumtamadji, their accomplices and co-perpetrators of crimes of embezzlement of public funds, assassinations and complicity in assassinations.

Article 2: Crimes included in the Rome Statute are excluded from the present Amnesty Law, especially:

- genocide,
- crimes against humanity,
- war crimes or any other crime within the jurisdiction of the International Criminal Court.

Article 3: Amnesty includes remission of all primary, secondary and complementary sentences and all disqualifications or forfeitures.

Article 4: Amnesty for offences included under Article 1 does not prejudice the civil interests of victims. In case of judicial proceedings on civil interests, the relating criminal case file will be made available to the parties. Furthermore, where the criminal court is seized by order or remand before this law came into force, this court will still have jurisdiction over the civil interests of victims.

Article 5: In case of commission of a second offence (irrespective of the offence) the effects of the present law will automatically be annulled with respect to the persons concerned.

In such a situation the acts for which amnesty was granted will be used as grounds for proceedings. The enjoyment of freedom as a result of the present Law, granted to persons who are sentenced or imprisoned, will be revoked by re-imprisonment or reopening of the proceedings.

Article 6: At the risk of annulment, beneficiaries of the present Amnesty Law directly or indirectly responsible for the propagation of violence and military actions via the rebel groups, are required to put an end to the acts of violence, to implement the ceasefire immediately and unconditionally, to require combatants to surrender all weapons and armaments and to require them to submit to the cantonment, disarmament and reinsertion mechanisms within a period of sixty (60) days as from the date of promulgation of the Law.

Article 7: Excluded from the present Amnesty Law are:

- elements or rebel groups who refuse demobilisation and cantonment of their troops;
- those who refuse to surrender or those who hide or attempt to hide weapons, munitions or armaments;
- those who refuse or attempt to refuse to submit to the orders of the established authorities;
- those who have voluntarily carried out or attempted to carry out acts of robbery, rape, looting, burning, voluntary destruction, sabotage, hindrance of freedom of movement;
- those who have voluntarily committed or attempted to commit murders, committed or attempted to commit assault or battery, committed or attempted to commit acts of violence, threats, torture, cruel, inhuman or degrading treatment or any other violation of the physical or moral integrity of a human being and property.

Article 8: Beneficiaries of the present Amnesty Law who continue to act in collusion with any rebel movement, will cease to benefit from this Law and will be disqualified from undertaking any political activity for a probationary period of ten (10) years.

Article 9: Beneficiaries of the present Amnesty Law, at the risk of losing the benefit of this measure, are under the obligation to scrupulously respect of the Constitution of 27 December 2004, the Republic's institutions and the established authorities. They must observe strictly respect public order.

Article 10: The present Amnesty Law applies in its entirety to all civil and military elements and officials, to previously identified politico-military groups and to those who are formally bound to the on-going peace process.

Article 11: The present Amnesty Law, which enters into force from the date of its promulgation, will be recorded and published in the Official Gazette.

INTERNATIONAL CRIMINAL COURT PRESS RELEASES

Prosecutor receives referral concerning Central African Republic

The Hague, January 7, 2005

ICC-OTP-20050107-86

Situation: Central African Republic

The Prosecutor of the International Criminal Court, Luis Moreno-Ocampo, has received a letter sent on behalf of the government of the Central African Republic. The letter refers the situation of crimes within the jurisdiction of the Court committed anywhere on the territory of the Central African Republic since 1 July 2002, the date of entry into force of the Rome Statute.

In accordance with the Rome Statute and the Rules of Procedure and Evidence, the Prosecutor will carry out an analysis in order to determine whether to initiate an investigation. For this purpose, he will seek additional information in relation to the criteria set out in the Statute, including the gravity of alleged crimes, any relevant national proceedings, and the interests of justice.

The Office of the Prosecutor is also analysing several other situations that have been brought to the attention of the Prosecutor by individuals and groups.

Prosecutor opens investigation in the Central African Republic

The Hague, May 22, 2007

ICC-OTP-PR-20070522-220

Today, ICC Prosecutor Luis Moreno-Ocampo announced the decision to open an investigation in the Central African Republic: “My Office has carefully reviewed information from a range of sources. We believe that grave crimes falling within the jurisdiction of the Court were committed in the Central African Republic. We will conduct our own independent investigation, gather evidence, and prosecute the individuals who are most responsible.”

Based on a preliminary analysis of alleged crimes, the peak of violence and criminality occurred in 2002 and 2003. Civilians were killed and raped; and homes and stores were looted. The alleged crimes occurred in the context of an armed conflict between the government and rebel forces.

This is the first time the Prosecutor is opening an investigation in which allegations of sexual crimes far outnumber alleged killings. According to the Prosecutor, “The allegations of sexual crimes are detailed and substantiated. The information we have now suggests that the rape of civilians was committed in numbers that cannot be ignored under international law.”

Hundreds of rape victims have come forward to tell their stories, recounting crimes acted out with particular cruelty. Reports detailing their accounts were ultimately provided to the Prosecutor’s Office. Victims described being raped in public; being attacked by multiple perpetrators; being raped in the presence of family members; and being abused in other ways if they resisted their attackers. Many of the victims

were subsequently shunned by their families and communities. “These victims are calling for justice,” Mr. Moreno-Ocampo said.

The government of the Central African Republic referred the situation to the Prosecutor. The Cour de Cassation, the country’s highest judicial body, subsequently confirmed that the national justice system was unable to carry out the complex proceedings necessary to investigate and prosecute the alleged crimes. The ruling was an important factor because under the Rome Statute, the ICC is a Court of last resort and intervenes in situations only when national judicial authorities are unable or unwilling to conduct genuine proceedings.

To reach the decision to open an investigation, the Office of the Prosecutor reviewed information provided by the government in its referral, NGOs, international organisations, and other highly knowledgeable sources. Investigators working for the Office of the Prosecutor will now begin collecting criminal evidence, with a focus on the peak periods of violence. The investigation is not targeting any particular suspect at this stage and will be guided solely by the evidence that emerges.

While investigating crimes allegedly committed in 2002 and 2003, the Office continues to monitor the current situation in the Central African Republic. There are worrying reports of violence and crimes being committed in the northern areas of the country bordering Chad and Sudan.

The launch of this criminal investigation occurs in the context of insecurity and deteriorating humanitarian conditions in the country, in particular for displaced persons and children. The Office of the Prosecutor supports efforts by the United Nations and others to achieve a comprehensive solution where lasting security can be established, humanitarian assistance delivered, and development and education promoted.

“In the interests of deterring future violence and promoting enduring peace in the region, we have a duty to show that massive crimes cannot be committed with impunity. We will do our part, working through our judicial mandate,” Prosecutor Moreno-Ocampo said.

Jean-Pierre Bemba Gombo arrested for crimes allegedly committed in the Central African Republic

The Hague, May 24, 2008

ICC-CPI-20080524-PR315

Situation: Central African Republic

Case: The Prosecutor v. Jean-Pierre Bemba Gombo

Jean-Pierre Bemba Gombo, alleged national of the Democratic Republic of Congo (DRC), about 45 years old, was arrested today by the Belgian authorities following a warrant of arrest issued under seal by the International Criminal Court.

Jean-Pierre Bemba Gombo, President and Commander in Chief of the Mouvement de libération du Congo (MLC), is alleged to be criminally responsible for four counts of war crimes and two counts of crimes against humanity committed on the territory of the Central African Republic from 25 October 2002 to 15 March 2003.

On 23 May 2008, Pre-Trial Chamber III issued a sealed warrant of arrest for Jean-Pierre Bemba Gombo. The warrant remained under seal until today.

Factual allegations

Pre-Trial Chamber III found that there are reasonable grounds to believe that in the context of a protracted armed conflict in the Central African Republic from about 25 October 2002 to 15 March 2003, MLC forces led by Jean-Pierre Bemba Gombo carried out a widespread or systematic attack against a civilian population during which rape, torture, outrages upon personal dignity and pillaging were committed in, but not limited to, the localities of PK 12, Bossongoa and Mongoumba.

Pre-Trial Chamber III also found that there are reasonable grounds to believe that Jean-Pierre Bemba Gombo, as President and Commander in Chief of the MLC, was vested with de facto and de jure authority by the members of the MLC to take all political and military decisions.

Counts

According to the warrant of arrest for Jean-Pierre Bemba Gombo, he is criminally responsible, jointly with another person or through other persons, within the meaning of article 25(3)(a) of the Rome Statute of the International Criminal Court, on:

- two counts of crimes against humanity: rape - article 7(1)(g), torture - article (7-1-f) ;
- four counts of war crimes: rape - article 8(2)(e)(vi), torture - article 8 (2)(c)(i), outrages upon personal dignity, in particular humiliating and degrading treatment - article 8(2)(c)(ii), pillaging a town or place - article 8(2)(e)(v).

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3. Everyone has the right to life, liberty and security of person. Article 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 6. Everyone has the right to recognition everywhere as a person before the law. Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in this Declaration and against any such discrimination. Article 8.

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