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法外处决、即决处决或任意处决问题特别报告员 菲立普·奥尔斯顿的报告

*

增编

对中非共和国的访问报告的后续行动**

内容提要

本报告分析了中非共和国落实法外处决、即决处决或任意处决问题特别报告员于2008年1月31日至2月7日到该国访问以后所提出的建议(A/HRC/11/2/Add.3)的进展情况。虽然政府军和叛军部队犯下的屠杀和虐待行为自从特别报告员前往访问以来已经大为收敛，但是，中非共和国人民仍然受到其它武装团体——包括土匪、自卫团体、上帝抵抗军和乍得国民军的支配。在该国班吉以外的所有地区，对于平民的保护几乎不存在，该国东北部和西北部的不安全情况仍然特别严重。

虽然政府已经作了改革安全部门的承诺，并为了实现这个承诺采取了令人赞赏的步骤，由于缺乏资金和机构能力，却只取得了最低限度的改善。对各方面犯下的虐待行为有罪不罚的情况仍然维持原样，并不曾针对最为严重的罪行起诉任何高级官员。经过长期讨论的国家人权委员会尚未建立。尽管作了充分的规划，解除武装、复员和恢复正常社会生活的进程尚未真正启动。如果不在这些领域中的每一个领域进行必要的改革，杀人行为仍将继续下去，从现在到定于2010年举行全国选举的期间和其后，将会出现暴力加剧的危险特别严重的情况。

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I. Methodology

1. The present report analyses the progress made by the Central African Republic in implementing recommendations made by the Special Rapporteur on extrajudicial, summary or arbitrary executions following his visit to the country from 31 January–7 February 2008 (A/HRC/11/2/Add.3).

2. In accordance with established practice, the follow-up report was prepared on the basis of all available information. The Special Rapporteur requested information from the Government and from civil society actors on any steps taken to implement the recommendations in his original report. Information on the non-implementation of recommendations was also sought. In addition, information was sought on the current state of the phenomenon of extrajudicial executions in the country, and particularly on whether and how the situation had improved, deteriorated or remained static since the visit of the Special Rapporteur. Unfortunately, the Government did not respond to the Special Rapporteur’s numerous requests for information. The United Nations Integrated Peacebuilding Office in the Central African Republic (BINUCA) did provide information, and the Special Rapporteur has taken the Office’s very helpful comments into account in the present report. Extensive consultations were also undertaken with domestic and international civil society groups.

3. The follow-up report is an important component of one of the principal working methods of the Special Rapporteur – conducting country visits to investigate allegations of violations of the right to life. Country visits provide an opportunity to ascertain the facts on a first-hand basis, to analyse in detail the forms and causes of unlawful killings, and to engage in constructive dialogue with officials at all levels in the country concerned. Following the visit, the Special Rapporteur prepares a detailed report on his findings, including recommendations aimed at reducing unlawful killings and promoting accountability. Country visits can achieve their full potential only if Governments give real consideration to these recommendations. Accordingly, the Commission on Human Rights requested States to carefully examine recommendations and to report to the Special Rapporteur on actions taken on the recommendations (resolution 2004/37, para. 15).

4. In 2006, in order to assess the extent to which States had implemented recommendations, the Special Rapporteur initiated follow-up reports on visits conducted. The first follow-up report (E/CN.4/2006/53/Add.2) concerned the recommendations made by his predecessor, Asma Jahangir, on her visits to Brazil, Honduras, Jamaica and the Sudan. In 2008, a follow-up report (A/HRC/8/3/Add.3) was issued on the first two missions conducted by Special Rapporteur Philip Alston to Sri Lanka and Nigeria. In 2009, follow-up reports were issued on Guatemala (A/HRC/11/2/Add.7), and the Philippines (A/HRC/11/2/Add.8).

5. The Special Rapporteur is grateful to Sarah Knuckey and Christine Chiu from the Center for Human Rights and Global Justice at New York University School of Law, for their excellent assistance in the preparation of this report.

II. Introduction

6. The Special Rapporteur visited the Central African Republic from 31 January–7 February 2008 and his final report was published on 27 May 2009.[1] His report highlighted killings by bandits, rebel groups and Government forces – as well as killings of persons in detention and persons accused of witchcraft. All of these types of killings and abuse continue today.

7. In his original report, the Special Rapporteur indicated that the Central African Republic was at an unusually favourable juncture for change. Unfortunately, this potential for change has largely gone unrealized. Incursions by the Lord’s Resistance Army (LRA) are

on the increase. Bandits operate all over the country with impunity, committing arbitrary executions, kidnappings and other egregious human rights abuses. Although the main rebel groups in the north have ostensibly made peace with the Government, tensions remain high due to dissatisfaction with the stymied disarmament, demobilization and reintegration process and unfulfilled promises from the inclusive political dialogue.[2] Intermittent rebel attacks and killings continue. In addition, violence is increasingly committed along ethnic lines in the northeast, with tensions arising amongst Kara, Goula and Rouanga ethnic militias. Across the country, “private justice” and killings of alleged witches continue. The Government offers virtually no protection for civilians outside of Bangui.

8. Presidential and parliamentary elections are due to be held in May 2010, and have the potential to occasion further instability. There have already been reports that political opponents have been subject to intimidation and restriction of movement by Government security forces. One presidential candidate claimed that his life had been threatened by two kidnapping attempts in January 2010.[3]

9. In his report, the Special Rapporteur focused his recommendations on reforming the criminal and military justice systems, the security sector and human rights monitoring. Action on the recommendations has been disappointing, and no major improvements have been made in any of these areas. However, the Government does appear genuinely committed to security sector reform and has taken preliminary steps in the right direction, including by supporting human rights and humanitarian law training for members of the security forces.

III. Conflict in the North

A. Background

10. The most serious armed insurgencies plaguing the Central African Republic at the time of the Special Rapporteur’s visit in early 2008 have largely been quelled. As of this writing, all the rebel groups except the Convention of Patriots for Justice and Peace (CPJP) had signed a peace agreement with the Government. An overarching peace agreement was signed in Libreville on 21 June 2008, providing for a complete ceasefire, a general amnesty and the disarmament, demobilization and reintegration of former combatants. The participants also agreed to engage in an inclusive political dialogue so that all groups could contribute to the formulation of a more comprehensive plan for peace and development in the Central African Republic.

11. Despite these very positive steps towards peace, intermittent killings by Government forces and rebels in the north continue.

B. Killings by the Central African Republic Armed Forces

12. In his report, the Special Rapporteur documented widespread accounts of killings and other serious abuses such as forced displacement and village burnings committed in the north by both the Central African Armed Forces (FACA) and the Presidential Guard from mid-2005 to mid-2007. These abuses were usually carried out as retaliation for perceived civilian support for, or cooperation with, rebel forces. At the time of his visit, the conflict had waned and abuses of this nature were much more infrequent.

13. Killings and other grave abuses of the scope and scale that took place in 2005-2007 have not since recurred. However, FACA and the Presidential Guard continue to commit occasional abuses against civilians. In one particularly serious incident, credible reports indicate that the Presidential Guard and FACA killed 21 men in the north on 2 February 2009. In another incident in February 2009, near Ndele, Government forces beat a number of civilians suspected of supporting one of the rebel groups. In March 2009, members of the Presidential Guard seriously injured a local police chief in Bangui, who later died of his injuries. In a positive step, the Permanent Military Tribunal tried those accused of involvement in the incident later that month.

14. In addition, FACA soldiers, primarily those at roadblocks and checkpoints along roads, continue to routinely engage in thefts and harassment of civilians. In combination with rampant banditry, FACA makes it difficult for civilians to travel the roads without fear. It does not appear that steps have been taken to address this serious issue.

15. Given the extent of abuses committed by the Presidential Guard at the time of the Special Rapporteur’s visit, he recommended that the institution be abolished insofar as it played any role beyond the limited one of protecting the President. The institution has not been disbanded, it remains politicized and composed along ethnic lines, and there has been no indication that the Government plans on reforming it.

16. The Special Rapporteur found during his initial visit that deaths in police or FACA/Presidential Guard custody were widespread. Although no current statistics are available, reports of deaths in custody continue. Particularly troubling is the alleged death in custody of Charles Massi, the leader of CPJP. His death was confirmed by the President in January 2010, but the circumstances remain unclear. Mr. Massi’s relatives have alleged that he was arrested in Chad in December 2009, was taken to the Central African Republic and tortured, and that he died in custody on 8 January 2010.[4] The Defence Minister has denied the accusations of detention and torture. Various calls for an independent investigation have been made, but none has occurred.

C. Killings by rebel groups

17. The initial report of the Special Rapporteur focused on the Armée Populaire pour la Restauration de la République et la Démocratie (APRD) as the most significant rebel group operating in the northwest. He documented a number of extrajudicial executions committed by APRD in relation to the then ongoing armed conflict. Since the Libreville peace accord, there have been fewer attacks on civilians.

18. However, isolated but serious incidents committed by APRD as well as other rebel groups continue to be reported. For instance, there were credible reports that in October 2008, APRD executed some 16 civilians, in some instances after holding sham trials to condemn them. Some were executed following accusations of witchcraft, others for allegedly having aided the *zaraguinas*

(armed bandits). In April 2009, the president of the National Federation of Cattle Breeders (FNEC) was killed by members of APRD in Paoua. In June 2009, rebel attacks on Birao resulted in an unknown number of casualties. In February 2010, APRD reportedly killed 18 Chadian breeders near Markoundia.[5]

19. In the north-eastern Vakaga region, ethnically motivated conflict appears to be on the rise. The Union of Democratic Forces for Unity (UFDR), comprised in large part of Goula fighters and supported by the Goula community, is ostensibly working with FACA troops to reestablish stability in the region. But, legitimated and armed by the Government, the group extorts money and goods from civilians and commits abuses against members of other ethnic groups with impunity. UFDR forces have clashed with Kara militias and targeted Kara civilians. Kara militias have also launched attacks, especially in Birao, targeting UFDR and FACA, and also burning villages.

20. In addition, new rebel groups have splintered off from those who signed the Libreville agreement. The formation of new groups, including CPJP and the Mouvement National du Salut de la Patrie, has spurred additional violence, as these new groups vie for their share of political power. In early December 2009, skirmishes between CPJP and the Government for control of Ndele killed at least 15 people.

21. The slowness of the country's disarmament, demobilization and reintegration process is in part responsible for continued tensions between, and abuses by, rebel groups. In August 2009, President Bozizé launched a country-wide disarmament, demobilization and reintegration sensitization campaign, a welcome step forward. The process ostensibly began on 17 December 2009, with the deployment of military observers to regions around the country and the opening of applications for former combatants. However, as of January 2010, military observers were refusing to be deployed in areas not monitored by the Mission de Consolidation de la Paix (MICOPAX)[6], which constitutes the majority of the country. Rebel groups are still in possession of their arms, and many groups feel that disarmament, demobilization and reintegration commitments have not been honored. There is a real danger that if there is not substantive progress in disarmament, demobilization and reintegration before the 2010 elections, violence by rebel groups may be exacerbated.

IV. Security vacuum and banditry

22. Banditry has become the major source of insecurity for civilians in the Central African Republic. In his initial report, the Special Rapporteur described the bandits' general method of operation as ambushing vehicles, looting their contents and taking hostages for ransom. Many of the bandits are from neighboring countries including Cameroon, Chad and Niger. They tend to operate in loosely organized groups and are well armed.

23. Since the visit of the Special Rapporteur, armed groups of bandits have proliferated throughout the northern part of the country, becoming both better organized and more violent. Bandits assault and kill villagers and others on the roads, loot property and burn villages. They are increasingly kidnapping people for ransom, demanding upwards of 100,000 CFA, and killing hostages whose families cannot pay. Because of their attacks, they are a significant cause of internal displacement.

24. Violations by the State have also been reported in addressing banditry. For example, the Special Rapporteur received credible information that members of the Office Central de Répression du Banditisme, a police unit set up to address banditry, unlawfully killed 15 individuals in their custody.

25. In some areas of the northwest and the north center, APRD has stepped in to provide protection from banditry for the local population. But both APRD and Abdoulaye Miskine's Front Démocratique pour le Peuple Centrafricain, operating in the north center, have set up roadblocks and often exact illegal taxes from civilians, ostensibly in return for ensuring security in the region.

26. To protect themselves from banditry and from rebel groups, and in the absence of any real State protection, villagers in the north are increasingly organizing themselves into ad hoc self-defence groups. Some of these groups have joined the continued skirmishes between the Government and the rebel troops, with dire consequences for civilians. In June 2009, for example, over 1,000 civilians were displaced from Loura following fighting between self-defence groups and APRD. In March 2009 in Bézéré, seven were killed in APRD self-defence-group violence. In the Ouham-Pendé prefecture, the self-defence groups' support for the FACA forces has provoked a series of reprisal attacks against villages.

27. International efforts have insufficiently addressed the security threats posed by banditry and rebel groups. The United Nations Mission in the Central African Republic and Chad (MINURCAT) replaced European Union-led peacekeeping force troops on 15 March 2009, but interlocutors reported that it patrols infrequently and inadequately.

V. Killings by the Lord's Resistance Army

28. After over 20 years of fighting in northern Uganda, the LRA has increasingly been carrying out violent raids and attacks on civilians in the Democratic Republic of the Congo, the Sudan, and the Central African Republic. The LRA has a major presence in the Orientale Province in northern Democratic Republic of the Congo, and, following Government and United Nations offensives there, LRA fighters have increased their presence in the Haut Mbomou region in southeast Central African Republic.[7] Some of the first reports of significant LRA activity in the Central African Republic were in February and March 2008, when the LRA abducted about 150 people in a raid on four villages in the southeast of the country.

29. Since May 2009, LRA fighters have intensified their attacks against civilians, including killings, kidnappings, rapes, attacks on villages and looting of property. In May 2009, the LRA allegedly killed 10 civilians in an attack on the southeastern village of Kouroukou. On 24 July 2009, members of the LRA reportedly attacked a village near Obo, killing two traders on their way to a market and injuring six others.[8] On 18 November 2009, dozens of people were reported killed when more than 40 LRA fighters attacked the village of Djemah.[9] On 19 February 2010, the LRA launched a series of attacks in the east near the village of Rafai,

killing, injuring and kidnapping civilians and ransacking houses along the way.[10] On 27 February 2010, the LRA attacked Yalinga in Haute-Kotto, thereby confirming it has moved north through the Central African Republic during 2010.

30. The Government deployed additional FACA troops to the region, although military operations against the LRA have largely been led by the Uganda People's Defence Force since August 2009. But there are not enough troops in the region to adequately protect the local population from LRA abuses. The Government and the United Nations have failed to take adequate measures against the LRA, including adopting a much needed regional approach.

VI. Chadian incursions

31. Since 2008, the Chadian National Army has launched cross-border raids in north-western Central African Republic, killing civilians, burning villages and stealing cattle. Elements of APRD around Kaga Bandoro, reported to be loyal to a Chadian dissident leader, General Baba Laddé, have threatened to wage war against the Government of the Central African Republic as well as MICOPAX following General Laddé's arrest and deportation from the Central African Republic in October 2009.

32. In March 2010, following fighting between Chadian herdsman and Central African Republic farmers near Batangafo in which two Chadians were killed, the Chadian group returned with reinforcements, and killed nearly 20 citizens of the Central African Republic. Local officials were reported as stating that although there was a military police brigade and army unit in the town, both of the Central African Republic, they took no action.[11]

VII. "Witchcraft" killings

33. The Special Rapporteur reported after his 2008 visit that he had received credible reports of numerous cases of killings of persons accused of witchcraft by private persons, Government security forces or rebel groups.

34. According to interlocutors, accusations of witchcraft and associated violence have been on the rise since the visit of the Special Rapporteur. Accusations continue to be levied against the most vulnerable elements of society, including women, children, older persons and disabled persons.

35. The problem has become so grave that many of the prisoners incarcerated in Central African Republic prisons are women accused of witchcraft. Suspected witches are frequently the victims of mob violence. In many cases, they are killed with impunity in the presence of Government and rebel forces. In one town in a single month in January 2009, 22 people were accused of witchcraft. The majority were brutally killed, whipped, stoned, or beaten to death by their fellow villagers. A few of the accused survived, but were disabled for life from their injuries. On 10 January 2010, an elderly male was accused of witchcraft, arrested by the police and, under the orders of a State prosecutor, was handed over to a neighborhood chief and the village's self-defence forces and then beaten to death.

36. At the time of the Special Rapporteur's visit, the Criminal Code criminalized witchcraft and provided for penalties of capital punishment, a prison sentence or a fine. The Special Rapporteur recommended that "witchcraft" be decriminalized, because it reinforced social stigmatization, led people to view the killing of alleged witches as legitimate, and lent itself to the persecution of women and children. The revised Code of 6 January 2010 has replaced the death penalty with life in prison, a welcome, though insufficient, change – the Code still contains provisions criminalizing witchcraft.[12] The continued criminalization of witchcraft perpetuates and legitimizes the widespread targeting of alleged witches and provides a convenient carte blanche for the killing of disfavoured individuals in many settings.

37. Workshops and trainings to address witchcraft issues are being held throughout the country at all levels. For example, there was a symposium on "Witchcraft and Justice" on 1 and 2 August 2008 sponsored by the University of Bangui, the European Union, the French Cooperation, the United Nations Children's Fund (UNICEF) and the United Nations Peacebuilding Office in the Central African Republic (BONUCA). The Office of the United Nations High Commissioner for Refugees also put on a workshop on witchcraft that brought together prosecutors and judges from across the country to discuss the challenges and potential solutions. Despite this positive engagement on the issue, other stakeholders criticized the lack of follow-up to training sessions, pointing out that they tend to be conducted as one-off events, reducing their efficacy.

VIII. Security sector reform

38. Security sector reform is probably the area in which the Government has made the most progress since the original report of the Special Rapporteur. The Government, and in particular the Minister of Defence, has adopted a high level of responsibility for the process of security sector reform. This attitude represents a marked improvement since the 2008 visit of the Special Rapporteur, when most interlocutors were fundamentally pessimistic in assessing the will of the Government to implement the necessary reforms. Today, most interlocutors express a tentative optimism about the commitment of the Government to security sector reform.

39. A national roundtable on security sector reform, held in April 2008, resulted in an action plan with a clear timetable of steps to be taken by the Government and others, including reforms to the justice system, police, gendarmerie, FACA and the Presidential Guard. A number of these reforms have been undertaken since April 2008, though primarily those changes that did not require funding.

40. On 28 and 29 October 2009, a donor conference on security sector reform was held in order to raise funding for 27 projects that would be impossible without international assistance. However, the conference was poorly planned, donor attendance was extremely low, and no new pledges were made. Another conference will be held, likely after the elections, to resubmit the project proposals to the donor community.

41. Training of FACA has been somewhat improved. In September 2009, the Government established an office for international humanitarian law within FACA that is tasked with training members of the army on the laws of war. In 2009, human rights law and international humanitarian law were integrated into military training modules, and over 5,575 members of the armed forces have participated in training sessions.

42. Despite these positive changes, the security forces continue to be unable to provide adequate protection for civilians outside of Bangui. Soldiers are ill-equipped and irregularly paid (their salaries are often in arrears for months). They thus lack both the capacity and the motivation to ensure security for local populations. FACA units patrol only minimally, and rarely, move beyond town limits. Furthermore, inadequate training has resulted in FACA employing methodologies that actually endanger civilians, failing to provide warning of impending military operations and using force indiscriminately.

43. In the initial report of the Special Rapporteur, he noted that recruitment for FACA and especially the Presidential Guard was politicized, and that both institutions needed to be reformed so that they worked for the people as a whole, rather than any single regime. There has been no noticeable change made in the recruitment processes for either the Presidential Guard or FACA.

IX. Impunity and the criminal and military justice systems

A. Progress on prosecutions

44. The Special Rapporteur reported after his visit that impunity for killings in the Central African Republic was pervasive, regardless of the perpetrator (security forces, rebels or private persons) or the context (military operations, routine law enforcement or detention). He noted that few FACA/Presidential Guard members had actually been prosecuted for serious abuses against civilians, and that certain elements of the armed forces seemed to enjoy a de facto status protecting them from prosecution.

45. Some progress had been made towards dismantling the longstanding culture of impunity in the country. With 250 cases of human rights violations referred to the judiciary and 80 convictions, 2009 was the most prolific year for prosecutions yet.[13] Moreover, the end of 2009 saw the launch of a programme to train paralegals and open legal clinics. The Government also adopted a law to establish a High Court of Justice, which will have the competence to try cases of serious misconduct, including those involving State civil servants, cabinet ministers, members of parliament and the Head of State. Importantly, the Government adopted a revised Criminal Code in September 2009, which included domestically implementing the Rome Statute of the International Criminal Court offences of war crimes, crimes against humanity and genocide.

B. Continued impunity

46. The Permanent Military Tribunal is charged with trying crimes and violations of military law committed by members of the security forces. It remains largely ineffective, and sometimes does not even convene because it lacks the necessary funds from the Government. When the Tribunal does hear cases, they deal almost exclusively with lower-ranking officials who have committed less serious offenses. For example, the session of the Tribunal held from 15 to 24 April 2009 tried 30 cases involving the theft of arms, abandonment of positions, violence and arbitrary detention, and one case concerning the alleged killing of a police chief by the Presidential Guard in March 2009.[14]

47. Senior members of the military and of the Government have, without exception, escaped judicial scrutiny. The Special Rapporteur had recommended that all members of security forces implicated in abuses be suspended from duty, investigated and prosecuted. He called on the Government to begin the effort to end impunity by investigating Eugène Ngaikossé, who is alleged to have commanded troops who carried out particularly egregious instances of village burnings, targeting of civilians and unlawful killings. Far from facing charges, he has instead been promoted to the rank of captain and placed in charge of a Presidential Guard brigade. The Central African Republic State Prosecutor has not yet even initiated prosecutions into the allegations against Captain Ngaikossé. Information provided by experts in the Central African Republic indicate that the Government has been “complacent” in seeking prosecution of members of the security forces, especially regarding abuses by the Presidential Guard and FACA in the north of the country. Interlocutors noted that a key cause was the lack of prosecutorial and judicial independence from the executive.

48. The general population’s access to, and knowledge of, the justice system remains minimal. Average citizens often rely on local justice mechanisms rather than the formal court system for redress.

49. Corruption is rampant throughout the judiciary, which has little independence from the Government. Judges are subject to intimidation, with threats to both their physical and job security. In the north, the courts, like everything else, have suffered from the ongoing insecurity. Many of the magistrates themselves have fled or been displaced by the conflict.

50. The amnesty law promulgated by the Government on 13 October 2008 also raises questions about whether the perpetrators of serious abuses in the Central African Republic will be brought to justice.[15] As the Special Rapporteur stated in his 2009 report (A/HRC/11/2/Add.3, para. 67), it is important that the amnesty law only be applied to acts committed in the context of armed conflict, and that it not be applied to private acts or those in a law enforcement context.

C. The role of the International Criminal Court

51. The International Criminal Court proceedings represent an important step in bringing perpetrators of some of the most egregious abuses in the history of the Central African Republic to justice.[16] The Prosecutor for the International Criminal Court is working towards establishing responsibility for the crimes committed in 2002 and 2003, but has also continued to monitor allegations of crimes committed since the end of 2005. Particular attention should be paid to abuses committed by Central African Republic security forces in 2005-2007.

X. Corruption and economic reform

52. In his initial report, the Special Rapporteur noted that one factor that strongly contributed to the failure to implement required reforms was the country's chronic lack of resources. The lack was in part due to widespread corruption, which diverted resources and inhibited investment.

53. The Government made some progress over the reporting period in combating corruption. A number of Government institutions have been audited and senior civil servants and heads of public companies are now required to declare their assets.[17] Significant efforts and resources will be required for the Central African Republic to develop functioning institutions and good governance. Interlocutors report that, particularly at the level of local government, officials largely view their duties as collecting taxes in order to pay civil servants, rather than seeing their ultimate objective as providing for the populations that they represent.

54. With respect to the mining industry, the Central African Republic joined the Extractive Industries Transparencies Initiative as an implementing country on 21 November 2008. It has until 20 November 2010 to validate its membership by fulfilling the requirements set by the Initiative.[18]

XI. Civil society and human rights monitoring

A. The role of the United Nations Integrated Peacebuilding Office in the Central African Republic

55. The report of the Special Rapporteur noted that while the United Nations Peacebuilding Office in the Central African Republic (BONUCA) had an important role to play, its human rights section was in need of improvement (A/HRC/11/2/Add.3, para. 82). At the time of his visit, he recommended that peacebuilding and human rights monitoring be separated, perhaps with the establishment of an Office of the High Commissioner for Human Rights (OHCHR) office in the country, and he called for more pro-active monitoring and reporting. When his report was submitted to the United Nations, he noted that the recommendation to establish an OHCHR office had been superseded by reported efforts to strengthen OHCHR within BONUCA.

56. As of 1 January 2010, BONUCA became an integrated mission, the United Nations Integrated Peacebuilding Office in the Central African Republic (BINUCA), but the ramifications, if any, of this shift for human rights promotion have yet to be determined. The two peacebuilding and human rights monitoring functions still remain part of the combined mandate of BINUCA. OHCHR has not established an office in the country, and it is far from clear that OHCHR has been strengthened within BONUCA. However, in an important step forward, February 2010 marked the first ever visit to the country by a United Nations High Commissioner for Human Rights. The Special Rapporteur also notes that the human rights section of BINUCA is planning to open two additional field offices.

B. National human rights institution

57. The Government has agreed to set up a National Human Rights Commission, although no concrete steps appear to have yet been taken to establish it. As was the case during the visit of the Special Rapporteur, a single Government ministry is tasked with human rights monitoring, but lacks independence from other Government organs, as well as the resources to effectively track abuses even within Bangui, let alone outside the capital.

C. Killings of humanitarian workers

58. Security threats to humanitarian organizations risk depriving regions most in need of humanitarian aid. On 21 August 2009, an LRA attack on a lorry hired by an international non-governmental organization, Cooperazione Internazionale, left two staff members dead and two others wounded (S/2009/627, para. 22). Three International Committee of the Red Cross and Cooperazione Internazionale local aid workers were killed in May and September 2009.[19] Two staff members of Triangle Génération Humanitaire, an international non-governmental organization, were kidnapped in Birao on 21 November 2009 and not released until March 2010. These attacks caused international organizations to temporarily suspend operations in the region.

XII. The role of the international community

59. Some interlocutors expressed doubt that the international community was sufficiently committed to the Central African Republic. While the country, objectively, receives far less attention than many of its neighbours, 2009 did see an increased number of international visits, including by representatives of the Office for the Coordination of Humanitarian Affairs, the World Bank, UNICEF, the Peacebuilding Commission and the High Commissioner for Human Rights. Some interlocutors noted that while the Central African Republic still largely remains overshadowed, this slightly more heightened engagement has motivated improved Government compliance with human rights and other international standards.

60. Better information sharing and collaboration within the international community would increase overall leverage with the Government and strengthen development programming.

61. On a positive note, the United Nations announced on 4 February 2010 that it was allocating an additional US\$ 20 million from its Peacebuilding Fund to the Central African Republic, on top of the US\$ 10.8 million it had already disbursed. The additional funds will be used to construct much-needed police barracks and new prisons, to establish the long-awaited national human rights commission, and to develop a human rights action plan.[20]

XIII. Conclusion

62. The Government deserves credit for having enacted some reforms in partial fulfillment of the recommendations of the Special Rapporteur, and for having reduced the number of killings perpetrated by Government forces. In particular, the high level of Government responsibility for security sector reform is to be commended, though it will be important to see this commitment translated into concrete action.

63. In relation to many of the other recommendations of the Special Rapporteur, the Government has failed to make sufficient substantive progress and, in some cases, has made no progress at all. Although killings by rebel groups and Government forces have greatly diminished, extrajudicial killings by both of these groups, as well as by bandits, self-defense groups, the Lord's Resistance Army, and the Chadian National Army, continue to threaten the lives of civilians throughout the country. Impunity for all killings, regardless of the perpetrator, continues unchecked. The Government neither protects civilians from abuses, nor prosecutes those who commit them. In the absence of serious Government steps to institutionalize or implement the many necessary reforms that have been identified, and significant international support for reform efforts, the pattern of abuse and impunity will continue.

Appendix

Summary of follow-up to each recommendationa

Acknowledge, investigate, and prosecute serious human rights abuses

1. Impunity should not be allowed to prevail for recent abuses in the north:

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

This recommendation has not been implemented.

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

This recommendation has not been implemented.

2. The Government and the international community should continue to support the important work of the International Criminal Court in the Central African Republic.

This recommendation has been partially implemented.

3. If the Government fails to take the steps listed above, the Prosecutor of the International Criminal Court should expand the existing investigation to take account of relevant crimes alleged to have been committed.

This recommendation has been partially implemented.

4. Reforms should be implemented in the criminal and military justice systems to promote accountability over the long-term:

(a) The reforms proposed by the Government to, inter alia, improve court infrastructure, recruit more magistrates and clerks, and revise magistrate training should be welcomed and supported by the international community;

This recommendation has been partially implemented.

(b) The role of gendarmes in gathering information and reporting on abuses by the military units which they accompany should be clarified and strengthened. Gendarmes should receive training in human rights and humanitarian law directed at ensuring that they investigate, report on and arrest perpetrators of abuses;

This recommendation has been partially implemented.

(c) Prosecutors and investigative judges should recognize their obligation to take on cases in which the security forces are implicated in serious abuses of human rights and humanitarian law, and treat such cases as a priority;

This recommendation has not been implemented.

(d) The Criminal Code should be amended so that genocide, crimes against humanity, war crimes, and other offences under the Rome Statute are criminalized in domestic legislation;

This recommendation has been implemented.

(e) The Permanent Military Tribunal should be provided with sufficient resources to hold regular sessions;

This recommendation has not been implemented.

(f) There should be transparency regarding the investigation, prosecution and punishment of members of the security forces. The security forces should maintain records and regularly issue reports on allegations of abuse by soldiers and on the numbers of soldiers disciplined and referred for prosecution. Similarly, the Permanent Military Tribunal and administrators of the ordinary judicial system should regularly report on the status of cases against security force members.

This recommendation has not been implemented.

Reform the military to effectively protect and respect human rights

5. The Government's proposed reforms to increase the resources and capability of the security forces should continue to be supported by the international community and be pursued in a manner that develops their capacity to both respect and protect human rights.

This recommendation has been partially implemented.

6. The general instructions given by the President to end killings and other abuses against the civilian population should be specifically reflected in internal regulations, orders, training and other practices so as to prevent abuses from recurring in the future.

This recommendation has been partially implemented.

7. Training in human rights and humanitarian law should be provided to all members of the security forces and regularly reinforced. The President and senior commanders should further support respect for these bodies of law by issuing clear instructions:

(a) Soldiers should be instructed that they must obey international human rights and humanitarian law and that they have the obligation to disobey manifestly illegal orders and will otherwise be prosecuted;

There has been significant progress on this recommendation, but it has not been fully implemented.

(b) Commanders should be instructed that they are criminally responsible when they knew or had reason to know that their subordinates were going to commit crimes and did not take all reasonable and necessary measures to prevent and punish those crimes.

There has been significant progress on this recommendation, but it has not been fully implemented.

8. The FACA should be reformed so that it is seen to be an apolitical institution working on behalf of the people rather than of any single individual or regime. Relevant reforms would include:

(a) Recruitment and promotion processes should be regularized and based on merit and the development of a force representative of the society as a whole;

This recommendation has not been implemented.

(b) A regular chain-of-command should be established and enforced;

This recommendation has not been implemented.

(c) No military operation should be carried out except pursuant to a written order signed by the legally designated commander. Reports of irregular operations should be investigated, and those involved disciplined and prosecuted;

This recommendation has not been implemented.

(d) The FACA and other security forces should consult closely with local populations in the north in need of protection to reduce fears that the military will engage in abuses and to guide operations responding to banditry and cross-border raids;

This recommendation has not been implemented.

(e) The FACA should be transformed into a truly country-wide force with soldiers based in key centres throughout the country.

This recommendation has not been implemented.

9. A process should be embarked upon to permanently abolish the institution of a Presidential Guard ■ whatever it might be formally named ■ that plays any role other than providing close protection for the President:

(a) Donors should link assistance for reforms that increase the effectiveness and reliability of the military to steps taken to reduce the size and role of the Presidential Guard;

This recommendation has not been implemented.

(b) Civil society groups should promote a popular non-partisan understanding that new presidents must accept the existing security forces rather than supplementing them with presidential guards, militias or mercenaries, and that the security forces must support whoever is president.

This recommendation has not been implemented.

Address deaths in custody and killings by law enforcement

10. The practice in Bangui of prosecutors carrying out regular inspections of detention centres is a positive development, and should be implemented throughout the country. Reports of killings and other serious human rights abuses in detention centres should be fully investigated.

This recommendation has not been implemented.

11. The human rights training provided to police in Bangui should be extended to law enforcement officers throughout the country. Such training should in particular focus on the lawful use of force in law enforcement operations, and the proper treatment of detained suspects.

This recommendation has been partially implemented.

End the killing of “witches”

12. The Criminal Code should be reformed to abolish the criminalization of “witchcraft”.

This recommendation has not been implemented.

13. Educational efforts should be made to bring an end to arbitrary and unjustified punitive measures against those accused of witchcraft. The killing of “witches” should be prosecuted like any other murder.

This recommendation has been partially implemented.

14. All violations of the human rights of those accused of witchcraft should be investigated and prosecuted.

This recommendation has been partially implemented.

Improve independent human rights monitoring

15. The arrangements for international human rights monitoring and assistance at the time of the visit were deeply unsatisfactory. The Special Rapporteur recommended then that the Government and the Office of the High Commissioner for Human Rights engage in discussions aimed at the establishment of an OHCHR office in the Central African Republic. While this recommendation has subsequently been superseded by efforts to strengthen the OHCHR presence within BONUCA, it remains to be seen whether this formula is in fact viable. A detailed review of the effectiveness of the current mechanism should be undertaken when this recommendation is reviewed in the Special Rapporteur’s follow-up report on the Central African Republic.

This recommendation has not been implemented.

16. The Government should establish a national human rights commission that is independent and that fully complies with international standards, including the Paris Principles. Such a commission should be a priority for development assistance agencies.

This recommendation has not been implemented.

17. Local civil society organizations need to be strengthened. They play an indispensable role but are severely under-resourced and lack necessary technical expertise and facilities.

Efforts have been undertaken to implement this recommendation, but they have been largely unsuccessful.

Promote economic reform

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

18. Take the necessary steps to join the Extractive Industries Transparencies Initiative.

This recommendation has been implemented.

19. With World Bank support, conduct an audit of the mining sector.

This recommendation has been partially implemented.

* 逾期提交。

** 本报告的内容提要以所有正式语文分发。报告本身载于内容提要的附件，仅以提交语文和法文分发。

[1] During his visit, the Special Rapporteur met with key Government officials, including the President, the Prime Minister, the Minister of Defence, and the Chief of Staff of the Armed Forces, as well as judges, magistrates, prosecutors, gendarmes, police officers, members of the armed forces, civil society representatives, witnesses and victims.

[2] After a series of delays, the Inclusive Political Dialogue was held from 8 to 20 December 2008, attended by almost 200 representatives from all the salient interest groups including the presidential majority, the democratic opposition, rebel group leaders, other political parties and civil society, including representatives of the United Nations. The dialogue resulted in agreements on important issues including the formation of a consensus Government, a truth and reconciliation commission and a disarmament process.

[3] See “CAR leader claims kidnap plot”, News24.com, 25 January 2010. Available from [www](http://www.news24.com).

[4] Police investigators and elements of the Presidential Guard assigned as prison wardens often employ torture and other cruel and inhuman treatment in detention centres. See BONUCA, Section Droits de l'homme, "Rapport public de Janvier à Avril 2008", paras. 21 and 46 and the report of the Secretary-General on the situation in the Central African Republic and the activities of the United Nations Peacebuilding Support Office in that country (S/2008/733), para. 42.

[5] Humanitarian and Development Partnership Team-Central African Republic, newsletter, 22 February-1 March 2010, p.1. Available from [www.reliefweb.int/rw/RWFiles2010.nsf/FilesByRWDocUnidFilename/JBRN-836KHE-full_report.pdf/\\$File/full_report.pdf](http://www.reliefweb.int/rw/RWFiles2010.nsf/FilesByRWDocUnidFilename/JBRN-836KHE-full_report.pdf/$File/full_report.pdf).

[6] MICOPAX is a mission comprised of 500 troops from the Economic Community of Central African States. The MICOPAX mandate is to protect civilians, contribute to national reconciliation, facilitate political dialogue, and to promote a durable peace and security in the Central African Republic.

[7] See the report of the Special Rapporteur on the Democratic Republic of the Congo (A/HRC/14/24/Add.3).

[8] Humanitarian and Development Partnership Team-Central African Republic, news bulletin 118, 20-27 July 2009.

[9] See "Dozens dead in Ugandan rebel attack in CAR-sources", Reuters, 25 November 2009. Available from www.reuters.com/article/idUSGEE5AO1UR_CH_2400.

[10] See "LRA kidnaps at least 10 in Centr. Africa: military", Agence France-Presse, 19 February 2010, available from www.reliefweb.int/rw/rwb.nsf/db900SID/MUMA-82U8J8?OpenDocument; and "Ugandan rebels kill two, abduct 30 in eastern CAR", Reuters-AlertNet, 20 February 2010, available from www.reliefweb.int/rw/rwb.nsf/db900SID/MYAI-82V3A4?OpenDocument.

[11] See "Centr. Africa clashes leave 20 herdsmen dead", Agence France-Presse, 17 March 2010. Available from www.reliefweb.int/rw/rwb.nsf/db900SID/AMMF-83MSG7?OpenDocument.

[12] Witchcraft is punishable with a range of penalties, such as 5 to 10 years' imprisonment, a fine or forced labour. Criminal Code of the Central African Republic, arts. 149 and 150.

[13] Office for the Coordination of Humanitarian Affairs (OCHA), *Consolidated Appeal for the Central African Republic 2010* (New York and Geneva, 2010), p. 8. Available from <http://ochaonline.un.org/humanitarianappeal/webpage.asp?MenuID=13758&Page=1829>.

[14] Humanitarian and Development Partnership Team-Central African Republic, news bulletin 104, 13-20 April 2009.

[15] The law grants amnesty for "all offences committed by members of the defence and security forces and the civil and military authorities as part of their operations to maintain order and defend national territory" since the overthrow of former President Patassé on 15 March 2003. In effect, the law constitutes a blanket pardon for Government security and defence forces as well as for many rebel fighters and specifically named political figures including former President Ange-Félix Patassé, APRD President Jean-Jacques Demaïfouth and Abdoulaye Miskine. However, the law contains some critical and important limitations. First, the law recognizes the exclusion from the amnesty of perpetrators of acts amounting to war crimes, crimes against humanity or other crimes over which the International Criminal Court has jurisdiction.

[16] On 22 May 2007, International Criminal Court Prosecutor Luis Moreno-Ocampo announced that the Court would open investigations into crimes committed in the Central African Republic in 2002-2003, and would continue to gather evidence of current crimes. In the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*, Mr. Bemba, President and Commander-in-Chief of the Mouvement de libération du Congo, is alleged to be criminally responsible for war crimes and crimes against humanity committed on the territory of the Central African Republic from 25 October 2002 to 15 March 2003. Mr. Bemba was transferred to the International Criminal Court in July 2008 and is currently in pre-trial proceedings before the Trial Chamber. The trial is due to begin in July 2010.

[17] See the report of the Secretary-General on the situation in the Central African Republic and on the activities of the United Nations Peacebuilding Support Office in that country (S/2009/627), para. 29.

[18] See Extractive Industries Transparency Initiative, <http://eitransparency.org/CentralAfricanRepublic>. The Government of the Central African Republic made an unequivocal commitment to join the Initiative on 30 August 2007 and the application for candidate status was submitted on 26 September 2008.

[19] European Commission Decision on the financing of humanitarian actions in the Central African Republic from the general budget of the European Communities, supporting document, ECHO/CAF/BUD/2009/01000, p. 4.

[20] United Nations News Centre, 4 February 2010. Available from www.un.org/apps/news/story.asp?NewsID=33670&Cr=central+african+republic&Cr1=.

a As contained in A/HRC/11/2/Add.3, para. 87.