

# **Report**

## **Legal and judicial cooperation programme**

### **Central African Republic**

#### **Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

<b>I - THE LEGAL AND JUDICIAL COOPERATION PROGRAMME IN THE CENTRAL AFRICAN REPUBLIC</b> .....	<b>4</b>
<b>1. Introduction</b> .....	<b>4</b>
<b>2. Preparatory mission (Bangui, 5 -22 July 2001)</b> .....	<b>6</b>
<b>3. Seminar: "Democracy, Human Rights and the State of Emergency " (Bangui, 27 - 31 May 2002)</b> .....	<b>7</b>
<b>4. Evaluation and impact of the legal and judicial cooperation program</b> .....	<b>15</b>
<b>II - CONCLUSION AND RECOMMENDATIONS</b> .....	<b>24</b>
<b>III - APPENDICES</b> .....	<b>27</b>

## SUMMARY

<b>I - THE LEGAL AND JUDICIAL COOPERATION PROGRAMME IN THE CENTRAL AFRICAN REPUBLIC.....</b>	<b>4</b>
<b>1. Introduction .....</b>	<b>4</b>
1.1. Chronological reference points .....	4
1.2. Progress of Central African Republic's ratifications of regional and international human rights protection instruments.....	6
1.3. The Central African League of Human Rights.....	6
<b>2. Preparatory mission (Bangui, 5 -22 July 2001).....</b>	<b>6</b>
<b>3. Seminar: "Democracy, Human Rights and State of Emergency " (Bangui, 27 - 31 May 2002) .....</b>	<b>7</b>
3.1. Seminar issues .....	7
a. National and International Experts	
b. Participants	
c. Scope and Visibility of the Seminar	
3.2. Seminar presentation .....	8
3.3. Report on themes studied .....	9
<b>Theme 1 - Respect for Rule of Law / independence of the judiciary</b>	
<b>Theme 2 - State of emergency, exceptional and temporary</b>	
<b>Theme 3 - Democratic transition and public freedoms</b>	
<b>Theme 4 - Action and protection of the defenders</b>	
<b>Theme 5 - Building an international justice system</b>	
3.4. Interview with the President of the Republic on the side of the seminar .....	13
3.5. Final recommendations of the seminar .....	14
<b>4. Evaluation and impact of the legal and judicial cooperation program .....</b>	<b>15</b>
4.1. Context: war crimes in the Central African Republic .....	15
a. From General Bozizé's attempted coup d'Etat... (October 2002)	
b. to the forced takeover by General Bozizé (March 2003)	
c. The heavy toll of the conflict remains to be assessed	
4.2. Follow-up mission (November 16-23, 2003), Bangui .....	16
a. Concerning the state of emergency decreed following the coup d'Etat of General Bozizé	
b. Concerning the period called 'democratic transition'	
i) The self-proclaimed president monopolizes power	
ii) The establishment of transition institutions	
iii) Preparation for the elections	
c. On the reinforcement of the rule of law	
i) The codification process must continue	
ii) Arbitrary arrests and detentions continue	
iii) Administration of justice in question	
iv) Prisons to rehabilitate	
d. On the fight against impunity for the most serious crimes	
i) A virtual reconciliation and truth Commission	
ii) Activating the system of the International Criminal Court	

**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

**II - CONCLUSION AND RECOMMENDATIONS ..... 24**

**III - APPENDICES ..... 27**

1. Central African Republic: a parody of justice...  
FIDH press release - February 13, 2002
2. Defence rights flouted: defendants without lawyers  
FIDH press release - 11 March 2002
3. Madame Darlan-Demafooth's thank you letter to FIDH
4. FIDH condemns General Bozizé's coup d'Etat and calls for the respect of international humanitarian rights  
FIDH press release - 17 March 2003
5. The Central African Human Rights League wants the election timetable to be respected  
AFP press release, 10 June 2004
6. *Citoyen* Articles
7. Publication of the report: *War crimes in the Central African Republic - When elephants fight, grass suffers*"
8. Publication of the report: "*What justice for war crimes victims?*"

**This report was written during a legal and judicial cooperation programme with the support of the European Commission (European Initiative for democracy and human rights) and the French Ministry of Foreign Affairs.  
The opinions expressed in this document are those of the FIDH only.**

## **I - THE LEGAL AND JUDICIAL COOPERATION PROGRAMME IN THE CENTRAL AFRICAN REPUBLIC**

The legal and judicial cooperation programme set up by FIDH is entitled " Training programme for trainers in human rights standards and procedures in certain African countries". This programme is supported by the European Commission (European Initiative for democracy and human rights) and the French Ministry of Foreign Affairs. It aims to develop activities which will strengthen the rule of law in ten African countries using educational and consciousness-raising techniques focussing on Human Rights, administration of justice and conflict prevention.

### **1. Introduction**

#### **1.1. Chronological reference points**

##### 1960 - 1966 : DAVID DACKO'S REGIME

13 August 1960: Independence. David DACKO is the first president of the Central African Republic.

##### 1966 - 1979 : JEAN BEDEL BOKASSA'S REGIME

1st January 1966 - On the night of 31 December 1965 to 1st January 1966, military coup d'Etat by General Jean Bedel BOKASSA overthrowing David Dacko. This is the start of a vicious dictatorship. Bokassa runs the country as his own personal property. Suspension of democratic institutions and establishment of a dictatorship.

1976 - The Republic becomes an Empire and Bokassa proclaims himself Emperor. His policies ruins the country.

January 1979 - Bloody repression of student riots.

21 September 1979 - Bokassa is overthrown. During "Operation Barracuda ", while Bokassa is abroad, Dacko is returned by a French backed coup and restored as Head of State.

##### 1979 - 1981 : DAVID DACKO'S BRIEF REGIME

1ST September 1981- Presidential election marked by numerous frauds. Dacko wins, but being overwhelmed by events, he willingly hands over power to General André KOLINGBA. Putsch by mutual consent, power is effectively passed on.

##### 1981 - 1993 : KOLINGBA REGIME

21 November 1986 - New Constitution adopted by referendum and presidential elections organised. Kolingba is elected for 7 years with 91% of the votes.

February 1987 - Single party created, Central African Democratic Assembly (RDC).

31 July 1987 - Election of the first National Assembly.

6 March 1991 - Reform of the Constitution. Creation of the post of Prime Minister.

May-December 1991 - Civil servants strike over salary arrears.

8 August 1991 - Opposition parties recognised but many obstacles to their free speech.

27 April 1992 - The President refuses to hold a national conference but agrees to a national debate with the opposition on 1st August 1992.

13 August 1992 - Reform of the Constitution. Candidates for the presidential election no longer have to be residents for 5 years. Institution of government's responsibility to parliament. One complete chapter is dedicated to reform the judiciary, with a view to strengthening its independence and suppressing the exceptional tribunals, except for the High Court of Justice.

25 October 1992 - Presidential election declared void by the Supreme Court for irregularities when Kolingba comes out ahead in the ballot. End of Kolingba's mandate, who remains in power.

##### 1993 - 2002 : ANGE FELIX PATASSE'S REGIME

April 1993 - Presidential elections delayed, should have started on 18 April.

22 August 1993 - First round of presidential elections. Patassé comes out ahead with 37% of the votes. Kolingba who only gets 12% share of the vote is eliminated in the first round. He suspends the process by a decree but goes back on this decision after France's pressure .

**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

- 10 September 1993 - First round of the legislative elections . President's removal. Confrontations resume. Two French soldiers are killed. French forces take reprisals.
- 19 September 1993 - Second round of the presidential elections. Patassé is elected for 6 years as President of the Republic with 52.5% of the votes. He is head of the Movement for the Liberation of the Central African people (MLPC) and Bokassa's former Prime Minister.
- 25 January 1997 - Signature of the Bangui Agreements. The Agreements provide for the deployment of an African intervention force, the Inter-African Mission to Monitor the Bangui Agreements (MISAB).
- October 1993 - Second round of the legislative elections 34 of the 85 seats go to the MLPC, the President's party.
- Mid-February 1997 - President Patassé forms a democracy defence action government which is supposed to contain all the political elements.
- November 1994 -Representatives from the political parties, trade unions and NGOs examine the draft for the new constitution. This draft plans the installation of a semi-presidential regime, with a President elected for 6 years, once renewable, a Prime Minister responsible to Parliament, a reform of the judicial system and the first steps of a process of decentralisation with the creation of regional assemblies elected by direct universal suffrage.
- Mid-March 1997 - Adoption of an amnesty by the National Assembly.
- 29 December 1994 - Referendum on the Constitution which is adopted with 82% of the votes, but 55% non-participation. Very mitigated success for President Patassé. New Constitution implemented 14 January 1995.
- February 1998 - National reconciliation conference held. Failure: The political undertakings were never put into practice.
- The era of mutinies**
- April 1996 - First mutiny of soldiers demanding payment of their wages.
- April 1998 - MISAB hands over to a UN operation, the United Nations Mission in the Central African Republic (MINURCA).
- May 1996 - Soldiers mutiny again, accompanied by riots, looting and destruction. The rebellion becomes an insurrection. To Patassé's request, the French army intervenes to rescue loyalist troops. The signing of an agreement between the rebels and the Commander of the French forces, General Bernard Thorette, ends the rebellion. On french advice, the President proclaims an amnesty for the soldiers involved in the two mutinies and forms a government of national unity.
- 1998 - Elections for the legislature won by the opposition by 55 deputies to 54 already in power. President Patassé corrupts an opposition party deputy to make up his majority. The "purchase" of this deputy was strongly contested in the country.
- 15 November 1996 - Third mutiny. The rebels demand the removal of the President. Patassé requests France's help again. But France supports an African mediation and involvement.
- 1999 - Presidential Elections. President Patassé wins the elections against his opponent Kolingba with 51% of the votes.
- 6 December 1996 - Four African Heads of State (Gabon, Chad, Burkina Faso, Mali) obtain signatures for a truce between the government and the rebels.
- November 2000 - Serious civil crisis. After a call by the unions and a section of the opposition parties, 180,000 civil servants start a strike of nearly five months to protest against salary and student grant arrears of as much as 30 months.
- End December 1996 - Nine opposition parties request the
- 27-28 May 2001 - New putsch attempt made by Kolingba.
- 6 June 2001 - Putsch attempt thwarted by the Presidential security unit, the Central African armed forces (FACA), a small number of Libyan troops and soldiers from Jean-Pierre Bemba's Congolese rebel movement. At least 300 people are killed and there are nearly 80,000 displaced people. Kolingba goes into exile.
- June 2001 - The Yakoma, ethnic group of ex-President Kolingba are hunted down: summary executions, forced disappearances, sexual violence, looting, destruction.

**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

July 2001 - Creation of a joint commission of judicial enquiry presided by M Bindoumi, Procurer General at the Court of Appeal and Government Commissioner at the Permanent Military Tribunal, to establish the responsibility of the authors and accomplices of the putsch. This Commission proves to be a political body and a massive amount of people were arrested, in violation of fundamental human rights established by international instruments for protection of Human Rights and by national legislation.

11 December 2001 - The Joint Commission of judicial enquiry is dissolved, in accordance with the decree which established it.

February 2002 - Beginning of the proceedings against the people involved in the putsch, before the Criminal Court (Cour d'assises). About 80 of the accused are summoned, including the ex-Minister of Defence, Demafouth, and about 600 people are judged in their absence, including the former Head of State, Andre Kolingba.

Night of 5/6 August 2002 - armed clashes on the border between Chad and CAR.

2 November 2002 - Libreville Agreement. During a Central African Heads of State summit a plan is proposed to resolve the crisis between Bangui and N'Djamena.

25 - 30 October 2002 - General Bozizé's coup d'Etat fails. Six days of violent fighting in the capital.

15 March 2003 - General Bozizé's coup d'Etat succeeds.

## **1.2. Progress of Central African Republic's ratifications of regional and international human rights protection instruments**

The Central African Republic has ratified:

### **The 1966 International Covenant on Economic, Social and Cultural Rights**

Date: 8 May 1981

### **The 1966 International Covenant on Civil and Political Rights**

Date: 8 May 1981

Optional Protocol: Date: 8 May 1981

### **1965 International Convention on the Elimination of All Forms of Racial Discrimination**

Signature date 7 March 1966, date of ratification 16 March 1971

### **The 1979 Convention on the Elimination of All Forms of Discrimination against women**

Date: 21 June 1991

### **1989 Convention on the Rights of the Child**

Signature date 30 July 1990, date of ratification 23 April 1992

### **1951 Convention on the status of refugees**

Ratification: 4 September 1962

### **The 4 Geneva Conventions of 1949**

Ratification: 01 August 1966

Optional protocols I and II: Date 17 July 1984

### **The 1998 Rome Statute of the International Criminal Court**

Signature date: 7 December 1999, date of ratification 3 October 2001.

### **The African Human and Peoples' Rights Charter**

Ratification: 26 April 1986

## **1.3. The Central African League of Human Rights**

The Central African League of Human Rights (LCDH) is a non-governmental association whose objective is the promotion and defence of fundamental rights and individual and collective human liberties. It is affiliated to the FIDH and is the founder member of the Inter-African Union of Human Rights (UIDH) and has observer status in the African Union.

The LCDH was created in 1991 in a context of struggle for a real democracy in the Central African Republic and the emergence of rule of law.

## **2. Preparatory mission**

A FIDH mission was in Bangui between 5 and 22 July 2001.

It comprised:

- Eric Plouvier, lawyer
- Christian Mounzeo, journalist and Secretary General of the Congolese Human Rights Watch (OCDH)
- Massalbaye Tenebaye, Secretary General of the Chad League of Human Rights (LTDH)

The mission was set in motion in the aftermath of a new putsch attempt against the Patassé regime on 28 May 2001. The presidency had established a state of emergency that plunged the Central African people into real insecurity.

**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

Numerous human rights violations had been committed by the representatives of the national authorities, in particular against members of the Yakomas ethnic group, suspected of conspiring with the people involved in the putsch.

This was the situation when the FIDH mission, with the help of its affiliated organisation, the LCDH, had to study the feasibility of organising a training seminar and suggesting the principal themes.

In order to perform its mandate and define the specific training requirements for the Central African society, the FIDH mission were able to meet:

- The President of the Republic, Ange Félix Patassé
- The Prime Minister, Martin Ziguelé
- The Minister of Justice, Marcel Metafara
- The Minister of the Interior, Théodore Biko
- The Minister for Defence, Jean-Jacques Demafouth
- Procurer General at the Court of Appeal, the President of the Joint Commission of judicial enquiry, Joseph Bindoumi
- The High Commissioner for Human Rights, Madame Jeannette Dethoua
- The Human Rights Section of the Office of the United Nations Organisation for Central Africa (BONUCA) represented by Mamadi Diakhité
- The Chad Ambassador to the CAR
- The French Ambassador to the CAR Jean-Marc Simon

In addition to these official meetings, the task force members had working sessions with representatives from Central African civil society, including:

- The Central African Human Rights Watch (OCDH)
- The Movement for Defence of Human Rights and Humanitarian Action (MDDH)
- Christian Action for abolition of torture - ACAT / Central Africa
- Central African Red Cross
- Central African Worker's Trade Union (USTC)
- Representatives from the independent press
- Rwandan and Chad refugee representatives
- United Nations High Commissioner for Refugees (HCR)

The time was suitable for the development of the programme according to the authorities and civil society representatives met by the mission; they felt that it was a turning point in the history of the Central African Republic and there was a real need for cooperative ventures. Given this context and the wishes of the local human rights organisations in particular, the task force delegates proposed that the seminar should deal with the subject of constructing the rule of law, particularly the administration of justice.

Even though the FIDH task force was fortunate with the availability of the Central African Republic society players, both State representatives and members of civil society, it was sorely disappointed with the attitude of the President of the Republic, Ange Félix Patassé. When he received the task force in the Palais de la Renaissance on 17 July 2001, once the meeting was in session, the President demanded the expert's evaluation of the Human Rights situation in the country. Once the report had been given the President declared that the FIDH was a manipulated organisation which had produced a false report. According to him, the "rare" human rights violations were justified "for reasons of security" in the country. The President's contempt for the victims of serious human rights violations meant that the experts had no opportunity to talk about setting up a legal and judicial cooperation programme, which was the reason of their presence in the Central African Republic.

Despite this incident, the FIDH was able to complete its task and decide, in agreement with its local partner, the LCDH, to organise a training seminar on the theme of "Democracy, Human Rights and the State of Emergency".

### **3. Seminar: "Democracy, Human Rights and State of Emergency", Bangui (27-31 May 2002)**

#### **3.1. Seminar Issues**

The rebellions and subsequent tensions recorded in recent years in the CAR have presupposed the Rule of Law and fundamental liberties.

The rebellions of 1996 and 1997, the illegal possession of military weapons, lootings, holdups and other acts of violence have plunged the country into insecurity. The national authorities, in response to this crisis situation, created the notorious Central African Office for the suppression of Banditry (OCRB), which has increased the number of arbitrary arrests and summary executions. (See: IFHR Report: 9 February 2002, "Discourse and Reality : a yawning chasm")

Following the attempted coup on 27-28 May 2001, the rebels have become a Government target and the Yakomas, ex-President Kolingba's ethnic group, have become victims of a real witch hunt (see IFHR release: "The witch hunt continues") The malfunctioning of the judicial apparatus, which suffers from a lack of finance, corruption and a total lack of independence, cannot meet the expectations of the people, confronted with manifest violations of Human Rights. Impunity reigns supreme.

**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

Therefore, this seminar aims to extend the knowledge and capacity for action and influence of Human Rights activists in the Central African Republic. It also aims to strengthen the visibility and credibility of organizations, based in civil society in relation to their negotiating partners the authorities of the CAR.

The representatives of civil society have difficulty in making their voice heard. Any act of denunciation and protest against human rights violations exposes NGO members to risk of reprisals, threats and intimidation.

In this context, the seminar had the following objectives:  
Training topics aimed to develop the knowledge and capacity for action of Human Rights defenders on the questions relating to the protection of the Rule of Law and fundamental liberties. Taking into account the lack of independence of the judiciary in the Central African Republic and the impunity of those who violate human rights, the seminar furthered the study of regional and international judicial and quasi-judicial mechanisms and to satisfy the right of victims to an effective appeal.

The seminar, moreover, aimed to strengthen the visibility and credibility of organizations, which are based in civil society in relation to their negotiating partners, the CAR authorities. By creating discussion forums for reflection and training between human rights activists and representatives of the authorities, the seminar should have promoted a better understanding between the different local protagonists and must have encouraged dialogue.

### **3.2 Seminar Presentation**

FIDH and LCDH organized an international seminar on the subject "*Democracy, Human Rights and State of Emergency*" from the 27 to 31 May 2002 in Ministry of Foreign Affairs Department at Bangui

The Minister of Justice, M. Marcel Météfara. presided over the opening ceremony.

#### **a. National and International Experts**

FIDH chose the following experts to lead the seminar:

- Jean Pierre Dubois (France), Deputy General Secretary of FIDH, Vice-chairman of the French League of Human Rights;
- Sylvie Sarolea (Belgium), barrister, member of the Board of Directors of the Belgian League of Human Rights;
- Kassoum Kambou (Burkina Faso), magistrate, Member of the Movement for Human Rights and Peoples from Burkina-Faso (MPDHP), FIDH member organization;

- Christian Mounzeo (Congo), Secretary General of the Congolese Human Rights Watch (OCDH), FIDH member organization;
- Marceau Sivieude (France), assistant at the African Bureau, FIDH international secretariat.

Some topics were the subject of papers by local experts:

- Maître Nicolas Tiangaye, barrister, President of the Central African League Human Rights (LCDH);
- Maître Goungaye Wanfiyo Nganatouwa, barrister, member of LCDH ;
- Simon Sakibede, member of the International Federation of action by Christians for the Abolition of Torture and the Death Penalty (FIACAT);
- Maitre Lambert Zokoezo, barrister, President in the I Central African Human Rights Watch (OCDH) ;
- Sy Ismaila, Professor of law, University of Bangui ;
- Marcel Serekoisse-Samba, Director of Public Prosecutions, Supreme Court .

#### **b. Participants**

The seminar benefited from a wide range of participants - about sixty people at all times.

The conference consisted of members of the executive Council and committees of the Bangui LCDH; members of associations, which were most representative of civil society, such as the Central African Human Rights Watch (OCDH), the association for street children, a representative of the pygmy community, the association of woman lawyers; numerous representatives of the Bangui Bar; journalist representatives of independent media ( notably *Le Citoyen*); unregistered students, academics, and. Bangui citizens.

It was a pleasure to note that there were numerous women at the conference, who actively contributed to the discussions and to the draft of recommendations.

On the authority's side, the seminar was able to count on the involvement of representatives of the Army, military police force and Magistracy, notably the Director of Public Prosecutions at the Supreme Court .

#### **c. Scope and Visibility of the Seminar**

The seminar held at Bangui has been one of the main events in the public life of the country since the attempted coup on 27-28 May 2001. The presence of numerous activists from the Central African League, representatives of civil society, the media and representatives of the authorities at the highest level has aroused great interest and numerous exchanges, which have gone well beyond the seminar room.



**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

The seminar held at Bangui was advertised by banners posted in Bangui's main roads. The radios also announced this event. Media officials, particularly independents like the "*Forum de l'Unité*" and "*Le citoyen*", covered the opening ceremony of the seminar but also several days of work giving a national voice to the issues discussed and solutions examined. The international press agencies, like AFP alerted by the presence of international experts have also mentioned the seminar.

The fact that the Head of State, the Minister of Justice and the Minister of Foreign Affairs received the official representatives of the IFHR is a measure of the interest shown by the country's authorities in this seminar and its impact and high profile at national level.

### **3.3. Report on Themes Studied**

#### **Theme 1 - Respect for Rule of Law/ Independence of the Judiciary**

Seminar participants learned, after hearing different experts' reports, that the CAR has ratified the majority of international and regional instruments relating to Human Rights, including the International Covenant on Civil and Political Rights which guarantees the rights of the accused and respect for the right to a fair trial. However, according to the conference, application of these instruments is only rarely upheld.

It also emerged that if the Central African Constitution, revised in 1995, demands the observance of fundamental rights devolved to individuals and peoples, it is vital that the country's legislation and regulations, particularly the Penal Code and the Code of Criminal Procedure be updated and brought into line with the international commitments of the CAR.

#### **Conditions of the legality of arrest and detention**

With regard to the analysis of the international and regional provisions relating to the liberty and safety of people, it has been established that arrests and detentions carried out following the rebellions of 1996, 1997 et 2001 and those organized in order to punish the upsurge of crime have been and are the most often in violation of the rights guaranteed by the Central African Constitution and the international Pact relating to Civil Rights and Policies.

Participants at the seminar mentioned several times the arbitrary arrests ordered by the Joint Committee of Judicial Enquiry, presided by the Magistrate Bindoumi and supervised by the Ministry of Justice, responsible for establishing legal

responsibilities concerning the rebellion of 2001. According to participants, the Committee has widely abused its privileges implicitly establishing an extra-judicial law of exception non-officially decreed. The Committee did not seem independent, as it has never been concerned about violations carried out by the loyalist forces during the attempted coup. It was rare that anyone wrongly arrested by the Committee was released. The investigators based their work on denunciation and other malicious accusations.

The Committee has questioned around sixty soldiers and a hundred civilians. Mostly of the Yakomas ethnic, the same ethnic group as ex-President Kolingba, presumed author of the attempted coup. However, if one considers that the main people involved in the failed coup have been able to leave the country, many innocent people are currently paying the penalty, because of their ethnic origin or because they fled Bangui, once, in fear of their life.

The case of Maitre Zarambaud is often quoted as an example of arbitrary arrests. The latter was arrested and beaten on 26 September 2001 in the centre of Bangui without the presentation of a warrant or summons. He was accused of "offences of opinion" 3 for an article which appeared in "*Le citoyen*". Mr Bindoumi, President of the Committee, eventually informed the press of the barrister's presumed participation as the brains behind the coup. He was later released .

Regarding arbitrary detentions, the case of Mr Demafouth, the ex-Minister of Defence, was also cited as an example. Arrested on 25 August 2001, Mr Demafouth was still detained while the seminar was taking place (1 June 2002) in the Presidential Palace with no opportunity until the evening before the FIDH delegation left, of seeing his family, a doctor or even his lawyers (see Annexe 3)

Arrests and arbitrary detentions are also common for people responsible for lootings, hold-ups and everyday discourtesies. OCHR agents violate human rights with total impunity: summary executions, torture and bad treatment with no opportunity for a defence and appeal for the accused. The conditions of detention in the military police force premises are extremely precarious; this situation is partly explained by Bangui short stay prison having been closed, following its destruction during the rebellions.

#### **Right to a fair trial**

The speakers at the seminar presented a study of national and international laws relating to the protection of law, to a

**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

fair trial in order to compare them with Central African practice, jointly with the seminar participants.

The speakers have underlined the fact that Article 75 of the Constitution declares that "*the Judiciary is independent of the legislative and executive authorities*". Article 76 reinforces this provision by specifying that "*the judges are independent . They are only subject to the authority of the law in the exercise of their responsibilities*" Finally, Article 77 stipulates that "*the president of the Republic is the guarantor of the independence of the judiciary.*"

The importance of the separation of powers, notably for the effective exercise of the administration of the justice, is then categorically established in the supreme law of the Central African Republic. These provisions incorporate the demand for an independent judiciary guaranteed in international instruments, notably the International Covenant on Civil and Political rights.

Once again the facts reported by the seminars' participants show the extent to which in practice this independence appears theoretical. The Joint Committee of Judicial Enquiry is a convincing example of this: it was supervised by the Ministry of Justice, its headquarters located at the military police force, the members of the Committee are non-commissioned ranks of the judicial police. Its work was not subject to any control. The Committee, instrument of the political police, ordered numerous arrests and detentions without sufficient proof, on simple denunciation or suspicion.

Article 5 of the Central African Constitution specifies moreover that "*all human beings are equal before the law without distinction of race, ethnic origin, region, sex, religion political affiliation and social position*".

A single reading of this provision provided the conference with the basis of an in depth discussion on the gaps in the justice system of the Central African Republic. To enjoy this equality before the law, the citizen must first be in a position to know the law. The Official Journal has barely re-appeared and only for the seminar for a single edition. It has even been said that it is not rare during a trial, that the magistrates asked the barristers to provide them with the text of the law to which they are referring! The penal Codes and the criminal procedure of the Central African Republic are rare and expensive for the ordinary citizen who wants to defend his rights.

The seminar participants have also emphasised that ethnic discrimination before the law is widely endured by the Yakoma population who are held responsible for the attempted coup

of May 2001. This non-egalitarian and discriminatory legislation is also noticeable for people living in the provinces. Not only, do they have no access to the law, but they don't even have the opportunity of being defended by a barrister (only about thirty barristers are practising, and they do so exclusively at Bangui). And even though courts are starting to be established beyond the capital, traditional justice ordered by the head of the family or village retains its preponderant place in the settling of conflicts and the administration of punishments.

The fact that the penal legislation is old has been widely denounced with regard to the new obligations which the CAR has signed through the ratification of international instruments relating to Human Rights. The legislator has insufficiently incorporated the treaty provisions which protect Human Rights in the internal law of the Central African Republic and as the magistrates have only a basic knowledge if any of international law and of its supremacy of principle over national law, the respect of these rights is only very rarely assured by the judge.

**Theme 2 - State of emergency, exceptional and temporary**

Jean Pierre Dubois, Deputy Secretary General of the FIDH, introduced the notion of a state of emergency: in the presence of a serious danger, the protection of the State requires ignoring certain legal rules. This notion thus only exists in constitutional States, as it implies that normality is defined by principles of legality and democracy.

The core idea is that the exceptional must not be arbitrary, which presumes respect not only of the principle of proportionality but also of the rules of jurisdiction (intervention by the Parliament to install an emergency regime or at least to extend its application), along with the submission of the exercise of exceptional powers to a jurisdictional control.

Article 4 of the International Covenant on Civil and Political Rights, ratified by the Central African Republic, stipulates that the institution of an emergency regime is only compatible with a member State's compliance with international obligations under five conditions: strict respect of the principles of necessity and proportionality; the compatibility of emergency measures with all of the other obligations under international law that weigh on the State in question; the non-discriminatory nature of these emergency measures; respect for the inviolability of the rights listed in the second paragraph of Article 4, which enjoy absolute protection (i.e., the

**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

prohibition on violating, even in an emergency situation, the right to life, understood as banning any arbitrary execution, the right not to be tortured or subject to cruel, inhumane or degrading treatment, the right not to be reduced to slavery or servitude, the right to the recognition in all places and at all times of the legal personality inherent in every human being, etc.; and respect for the obligation to report and justify its actions to other States that have signed the Covenant.

In 1981, the UN Human Rights Committee interpreted the provisions of Article 4 as requiring that the measures taken pursuant to this article were only to be exceptional and temporary, as long as the nation is threatened. The emergency measures are thus only compatible with international law if they represent a "lesser evil" in terms of safeguarding freedoms.

Mr. Goungaye, a lawyer and member of the LCDH, noted that the Central African Constitution of 1995 includes a number of provisions on the state of emergency. For example, Article 28 stipulates that "*whenever the institutions of the Republic, the independence of the Nation, the integrity of the territory, the performance of international commitments or the normal functioning of the public authorities are threatened seriously and imminently, the President of the Republic, having heard the recommendations of the Council of Ministers, the President of the National Assembly and the President of the Constitutional Court, shall take the measures required by the circumstances in order to re-establish public order, territorial integrity and the normal functioning of the public authorities.*" Article 29 of the Constitution also empowers the President to declare a state of alert or a state of siege "*whenever circumstance so require, for a period of 15 days that may be extended by decision of the National Assembly.*" No restriction on emergency power thus appears in the country's supreme legal document or in the law. The contradiction with the obligations of the Covenant is obvious in this regard and leads, in practice, notably following the mutiny of May 2001, to multiple violations of human rights, including the right to life, justified by the government by the existence of an emergency situation.

Mr. Goungaye and Simon Sakibede of FIACAT did not fail to point out that in the Central African Republic, unlike in states of law, the exception has become the rule for far too long. The state of emergency is no longer even proclaimed because it is permanent. Departures from common law are constant in their view. The Central African Republic experiences a general situation of massive violations of human rights in a democratic shell.

### **Theme 3 - Democratic transition and public freedoms**

#### **Role of the State in the democratic transition process**

The speakers at the seminar explained to the audience that the consolidation of the democratic process presupposes departing from the exceptional by putting an end to all emergency regimes and practices (state of emergency, *de jure or de facto* exceptional arrangements, etc.). The establishment of the separation of powers, especially the independence of the justice system, is a condition sine qua non of the effective exercise of institutions and of the necessary confidence of the population in the State.

The re-establishment of the State of law also presupposes the normal exercise of political rights. Democracy can only be confirmed by the holding of free, honest, and periodic elections and the full and entire participation of the citizens in the "public things" especially from the perspective of promoting the place of women.

The extreme difficulty for the Central African population to exercise its citizen's right was mentioned and criticized by the participants. The participants concluded that it was absolutely necessary to reorganize the civil registry services, update the electoral lists and comply with the legal obligation of annual updates. They reported the incredible difficulty in receiving a birth certificate. Once this document is obtained, it still takes several years to obtain a voter card. As a large part of the population does not have an identity card and the fact that the voter card does not have a photograph, it is very easy to use it several times during the elections.

The speakers also focused on the effort that national authorities should make towards education. It is necessary to provide, particularly at school, information and training in citizenship (learning to respect others, to accept peaceful arguments, and reintroduce civic education in the programs). This simultaneously requires an ambitious literacy program for the population.

Freedom of expression is another mean to access knowledge and thus of exercising the critical mind allowing a constant dialogue among the various actors in the country. Consequently, the guarantee of equal access to national media (particularly to national radio) by "non-ethnic" parties was considered by the participants to be an essential recommendation for the government.

Finally, political and civil rights can only be effective if the

**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

economic and social rights are guaranteed. Thus the State must ensure the timely payment of wages, pensions and grants. A number of first-hand accounts estimated unpaid public-sector salaries at more than 30 months.

#### **Role of NGOs in the democratic transition**

The experts underlined that democratic life is not limited to representative institutions: it requires a constant dialogue between public opinion and the State apparatus. Citizens should at any time raise their voice, criticize, influence and control those who govern. This civil society includes journalists, associations, intellectuals, unions, movements, etc.

In a democratic State, this situation is in principle enshrined in the Constitution, which sets forth the conditions for permanent oversight by public opinion of the action of those who govern. A State is only democratic if it allows the existence of mechanisms of challenging public authority. According to this model, the NGOs and other participants in civil society have power of oversight and influence, but do not actually participate in decision-making. In many countries, NGOs defending human rights have been subjected to growing repression. To respond to this multi-faceted repression, these organizations must be able to set up certain safeguards:

- The end purpose of their action must remain the pursuit of the general interest;
- their independence;
- the effectiveness of their work;
- their representativeness and legitimacy;
- their transparency, particularly financial.

#### **Theme 4 - Action and protection of the defenders**

The speakers at the seminar noted the fundamental role of human rights defenders in preventing conflicts and strengthening the State of law and of democracy. Their essential work in the fight for the application of human rights instruments was acknowledged through the attribution of a special international status guaranteed by the Declaration on Human Rights Defenders adopted in December 1998 by the United Nations General Assembly.

Human rights defenders also play a fundamental role in observing and protesting human rights violations. In addition to the necessary investigatory and account-gathering work, fulfilling their mission requires them to activate national legal systems, and in the event of obstacles to the establishment of justice, various legal and quasi-legal options, both regional

and international, such as the African Commission on Human and Peoples' Rights and the United Nations Human Rights Committees, should be used to allow victims to exercise their right to effective recourse and to bring to justice those States and individuals guilty of human rights violations.

Finally, the experts presented the Observatory for the Protection of Human Rights Defenders, which was created in 1997 by the FIDH and the OMCT. The Observatory's goal is to respond systematically to repression aimed at human rights defenders. The purpose of this program is twofold: intervene to prevent or remedy specific repression situations, on the one hand, and to contribute to encouraging international recognition of the action of human rights defenders and their necessary protection at the regional and international levels, on the other.

#### **Theme 5 - Building an international justice system**

In an equitable justice system, the victims of human rights violations must be able to have their suffering heard, have the existence of these crimes recognized, demand that the perpetrators be put on trial and that the suffered harm be redressed. Despite national obstacles to the proper administration of justice and the lack of will to fight the impunity of the perpetrators of the most serious crimes, international criminal justice offers certain solutions.

In an initial step, Marceau Sivieude, an assistant in the FIDH's Africa Bureau, presented the mechanism of "universal jurisdiction" to the participants. Considering the exceptional breadth of certain crimes considered to affect all of humanity (war crimes, crimes against humanity, genocide, torture), international law and custom allow national courts to exercise so-called "universal" jurisdiction. This jurisdiction implies the ability to prosecute the presumed perpetrators of these crimes regardless of the location of the infraction, the nationality of the perpetrators or that of the victims. In practice, a French or Senegalese court should be able to try a citizen of the Central Africa Republic suspected of having, in his country, tortured a Central African compatriot. While implementing this mechanism turns out to be difficult in practice, through a long and costly process that requires a scrupulous examination of the evidence, the hearing of witnesses, and legal expertise in those factors constituting international crimes, the FIDH is in a position to begin such legal actions. This is the case today of Belgian and French courts against the former dictator of Chad, Hissène Habré, the torturer Ely Ould Dah, those guilty of the Rwandan genocide, and others.

**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

The second tool presented to participants in order to fight impunity for the most serious crimes is the International Criminal Court (ICC), which came into being on July 1, 2002. The Statute was ratified by the Central African Republic on October 3, 2001. The ICC is the first permanent court authorized to hear cases of war crimes, crimes against humanity and crimes of genocide committed after it took effect. The Statute includes certain general principles of international criminal law, such as waiving criminal immunity for heads of State, of government and ministers. Military leaders and superiors must also answer for crimes committed by their subordinates. Similarly, for any crime falling under the Court's jurisdiction, an order from a government or from a military or civil superior does not exonerate the person who committed it from his/her criminal liability. In another fundamental principle contained in the Statute, international crimes have no statute of limitations.

The historical progress represented by the Rome Statute in the recognition of victims' rights before the International Criminal Court was made clear to seminar participants. Article 68 of the Statute enshrines not only their protection but also their participation and representation before the Court. Furthermore, according to Article 75, the victims enjoy a real right to compensation through a Victims' Trust Fund with the purpose of enforcing awards handed down by the Court and of using its own resources by allocating, for example, a certain amount of money to assistance groups such as NGOs.

The victim's position is strengthened by the fact that the methods by which a case can be brought before the Court allow the Independent Prosecutor to initiate proceedings himself/herself on the basis of information obtained not only from States but also from international organizations and non-governmental organizations. Here again, the responsibility of the national and international NGOs to channel information received from any individual, victim, relative of victims or a witness of violence that falls under the jurisdiction of the Court was emphasized.

The Prosecutor of the Supreme Court of the Central African Republic, Mr. Serekoisse, spoke to describe the ratification process of the Rome Statute by his country and to lay out the future challenges concerning the ICC, particularly the national transposition law of the Court's Statute. The ICC is in fact a supplement to national courts: it can only try crimes under its jurisdiction in the absence of the ability or will at the national level to judge the accused. As a result, the Central African courts' primary responsibility is to exercise their jurisdiction. For this, criminal law in the Central African Republic must be

adapted to include crimes targeted by the ICC and the general principles of international criminal law.

To do this, the Prosecutor explained to the audience that an interministerial committee with the participation of NGOs should be set up. The primary task of this committee will be to catalogue the laws so that they can then be adapted to the Court's Statute taking advantage of the expertise of other countries that have already begun this process. Judging by the number of questions and suggestions from the participants, expectations are high concerning the fight against impunity for the most serious crimes.

#### **3.4. Interview with the President of the Republic on the side of the seminar**

The meeting with the President of the Republic took place in the presidential palace in the presence of a large number of members of his government, the ministers of Foreign Affairs, Internal Affairs and Justice, along with the High Commissioner for Human Rights, the prosecutor of the Court of Appeal and the representative of the UN Peace-Building Office in the Central African Republic (BONUCA). The main concerns of civil society mentioned during the seminar were discussed with the Head of State during the long audience that he granted to the FIDH experts, who were accompanied by the President of the LCDH.

The discussion focused particularly on problems relative to insecurity and the ways to solve it, by respecting the fundamental freedoms and rights mentioned in international instruments on human rights ratified by the Central African Republic.

Deploping the daily insecurity lived by the population of Bangui and by people in the provinces, FIDH experts expressly condemned the authoritarian methods used by the police to bring this problem under control. They expressed their strong concern with the detention conditions of prisoners, in part due to the lack of prisons and their ineffective substitution by police or military police force offices. Overpopulation, disease and sexual violence, along with mistreatment inflicted on prisoners, all represent violations of fundamental rights.

The Court of Appeal's prosecutor and the High Commissioner for Human Rights replied that the law and order deficiency was sharply improving in the capital of the Central African Republic and that a plan to restructure prisons was underway despite the country's financial problems. BONUCA's representative, General Cissé, also replied that efforts were

**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

being made to lower the crime rate particularly with the help of a disarmament program that is now starting to pay off.

The President of the Republic then spoke at length on these issues. He explained first of all that he could obviously not be content with seeing his fellow citizens held in such conditions. But, in a threatening tone, he added that this situation was the responsibility of the NGOs that, "*through their untruthful reports*" on the human rights situation in the Central African Republic, prevent international assistance from arriving, including the financing intended to restructure prisons. Turning to the reasons for insecurity in the country, he pointed out that it was due to the racism and tribalism that former President Kolingba encouraged during his regime.

Finally President Patassé replied to the FIDH representatives question concerning the obvious lack of independence of the justice system in the Central African Republic. Conversely, he defended this independence, noting that he himself had been victim of the executive's involvement in the administration of justice and that as a result, since he was in power, he has refrained from any personal intervention in the judicial exercise.

At the end of the meeting, the FIDH experts exposed the symbolic case of Mr. Jean-Jacques Demafouth, the former minister of defense, held in the President's residence on suspicion of complicity in the attempted coup of May 27-28, 2001. His case had been brought up previously by the FIDH (see the attached press release) in particular because he had been refused any visit from his family or lawyers, in clear violation of international and national standards protecting the rights of defense. After the President of the Republic's intervention, the Court of Appeal's prosecutor, Mr. Bindoumi, replied that the FIDH's request concerning the detention conditions of Mr. Demafouth would be examined.

The day after the interview, the FIDH experts were able to visit Mr. Demafouth's detention site and converse alone with him. The FIDH representatives welcomed this initiative and also obtained Mr. Bindoumi's commitment that the detainee's wife and lawyers could visit the former Minister of Defense during the week following the seminar. This request was allowed (see attachment 5).

### **3.5. Final recommendations of the seminar**

The participants to the seminar that was organized jointly by the International Federation for Human Rights (FIDH) and the Ligue Centrafricaine des Droits de l'Homme (LCDH) in Bangui, from May 27 to 31, 2002, on the theme "Democracy, human

rights and state of emergency," adopted the following recommendations:

#### **1. Ratify, respect and implement international laws on human rights**

1. Ratify as soon as possible the international conventions on the protection and promotion of human rights, in particular the New York Convention (1984) against torture and other cruel, inhumane or degrading treatment or punishment, and the Protocol to the African Charter on Human and People's Rights creating an African Court for Human and People's rights, making the declaration, under Article 34.6 of the Protocol, allowing individuals and NGOs with the status of observer at the African Commission to directly bring cases before the Court
2. Ensure the respect of international instruments ratified by the Central African Republic, in particular the International Covenant on Civil and Political Rights, and their primacy in national legislation
3. Cooperate with the UN bodies responsible for monitoring compliance with and implementation of international conventions ratified by the States, by submitting the preliminary and periodic reports due by the Central African Republic
4. Update and adapt national statutes (laws and regulations), in particular the Criminal Code and the Criminal Procedure Code, with the international commitments of the Central African Republic
5. Implement in domestic law the International Criminal Court Statute by adopting a transposition law that includes obligations of cooperation between the ICC and the Central African state (the definition of crimes, the general principles of international criminal law, etc.) and the harmonization of the material law of the Central African Republic with the Rome Statute
6. Recognize the universal jurisdiction of the courts of the Central African Republic for crimes under the Rome Statute and the other infractions provided in international conventions.

#### **2. Ensure democratic transition and social progress**

1. Put an end to all emergency regimes and practices (state of emergency, *de jure or de facto* exceptional arrangements, etc.)
2. Respect constitutional standards and especially legal equality of all citizens
3. Do whatever is necessary to substitute political dialogue to violence, in particular through the establishment of a weapons-collection program

**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

4. Better respect the separation of powers, in particular an independent judiciary
5. Ensure the timely payment of wages, pensions and grants
6. Take concrete measures to fight effectively against the phenomenon of corruption
7. Ensure specifically the respect of the rights of vulnerable groups, especially minors, women and people belonging to ethnic minorities.

**3. Respect the right to a fair trial**

1. Guarantee more effectively the independence and impartiality of judicial power
2. Ensure the effective respect for rights provided by the Constitution of the Central African Republic and by the International Pact on Civil and Political Rights during arrests and detention
3. Ensure the effective respect of the presumption of innocence
4. Systematize lawyer's involvement right from the preliminary hearing
5. Ensure the respect of the principle of personality of legal proceedings (end "hostage-taking" arrests in which a family member or acquaintance takes the place of the accused person) and of penalties
6. Ensure that the civil servants responsible for the application of laws know and respect national and international law and to this end organize obligatory, long-term training sessions on the protection of human rights for judges, lawyers, prefects and neighborhood leaders
7. Improve the working conditions of judges and criminal investigation officers
8. Central African Republic Bar should organize regular assistance missions across the country.

**4. Promote the status of citizens**

1. Reorganize civil registry services
2. Strengthen the urgent literacy effort
3. Provide information and training in citizenship, particularly in school (learning to respect others, to accept peaceful arguments, and reintroduce civic education into the programs).

**5. Guarantee the effectiveness and equality of political participation**

1. Update electoral lists and respect the legal obligation of annual updates
2. Guarantee equal access to national media (particularly to

national radio) by "non-ethnic" parties

3. Promote the role of women in the process of political participation.

**6. Ensure access to information**

1. Ensure immediate, regular and continual publication of the Official Journal
2. Create Houses of Justice and Law in each prefecture, which provide information and assistance and operate according to a set schedule, drawing on NGO militants and legal professionals.

**7. Guarantee the rights of people deprived of their freedom**

1. Ensure with particular vigilance the respect for fundamental rights in places, regardless of what they are called, where people are deprived of their freedom
2. Accelerate the renovation of Bangui jail (Ngaragba).
3. Authorize and guarantee the presence of defenders (lawyers, NGOs) wherever people are deprived of their freedom.

**8. Guarantee the freedom of action of human rights defenders**

1. Ensure full respect of the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders, December 1998)
2. Publicly reaffirm the essential role played by human rights defenders in the transition to democracy and the strengthening of the state of law
3. Allow human rights defenders to act as indispensable link to effective access to international rights-protection procedures
4. Respect the full and necessary independence of NGOs relative to public authorities.

**4. Evaluation and impact of the legal and judicial cooperation program**

**4.1. Context: war crimes in the Central African Republic**

**a. From General Bozizé's attempted coup d'Etat (October 2002)...**

The efforts by Libya and Gabon to obtain from President Patassé an amnesty law for the "May 2001 putschists,"

**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

particularly General Bozizé, as a required step toward permanent peace in the Central African Republic, were vain. A petition for the arrest and extradition of General Bozizé and his men was refused by Chad, which invoked the right to political asylum against the Central African Republic. Tension has grown in the relationship between the two states. They accuse each other of troop movements on their respective borders. Finally, secured by the presence of Libyan troops in Bangui, President Patassé eased his position and accepted the concessions that were suggested to him: the legal proceedings against General Bozizé were declared "*ill-timed*" by the prosecutor with the appellate court of Bangui. Moreover, the people arrested during clashes in November 2001 will be freed. But the government, while publicly welcoming the return of General Bozizé, reserves the right to prosecute him again "*if he was to commit another mistake*". This discretionary right naturally worried the general. After several confrontations on the border between Chad and the Central African Republic in August 2002, a plan to resolve the crisis was set forth during a summit of Central African heads of state in Libreville on November 2, 2002. The plan proved hollow.

Several days later, the rebel troops under General Bozizé undertook an offensive to take over the government. Between October 25 and 30, 2002, the fightings in the capital between loyalist forces and rebels were bloody. The attempted coup d'Etat failed. The subsequent reprisals by the loyalist forces against the rebels, and especially against the civilian population, were labeled by the FIDH as war crimes, coming under the jurisdiction of the International Criminal Court (see FIDH report No. 355, "*War Crimes in the Central African Republic*").

**b. to the forced takeover by General Bozizé (March 2003)**

After the failed coup d'Etat attempt on October 25, 2002, the rebels under General Bozizé withdrew to the interior of the country, particularly in the northern region near the border with Chad. The fighting continued sporadically. On March 15, 2003, light and heavy weapon fire echoed in Bangui coming from the northern entrance to the city. Hundreds of residents of Bangui fled the northern neighborhoods to take refuge in the south and west of the capital.

President Patassé's airplane, who was to return to Bangui from Niamey where the President had taken part in a summit of African Heads of state, came under fire and was prevented from landing in the capital of the Central African Republic. It was rerouted to Yaoundé. In the evening, several hundred

Bangui inhabitants looted residences abandoned by the regime's dignitaries, including the President's. A number of residences, shops and businesses were also ransacked.

On March 16, 2003, while the looting continued in Bangui, the rebels controlled the strategic points in the capital: presidential palace, airport, radio, television and major avenues. In the morning, General Bozizé's spokesman, Parfait Mbaye, declared that the government takeover was a "*fait accompli*". Shortly afterward, Mr. Mbaye informed the people of the Central African Republic that General Bozizé had declared himself "President of the Republic."

**c. The heavy toll of the conflict remains to be assessed**

The period between the attempted coup d'Etat and its success (October 25, 2002 - March 15, 2003) has never truly been analyzed in terms of number of deaths (combatants or not), wounded and other victims. Several figures are sometimes put forward to describe the magnitude of the damage suffered by the people of the Central African Republic in this final crisis of the Patassé regime. Nearly 700 cases of rape were documented by a program financed by the UNDP, UNICEF, and the United Nations Population Fund (UNFPA), more than 300 of which ended up in court. A number of hospitals in Bangui compiled lists of dead and wounded during the attempted coup d'etat in October 2002.

Corroborating accounts suggest that half of the country (including the city of Bangui) was ransacked: individual houses, administrative centers and production units completely destroyed. During this troubled period, humanitarian NGOs did not report famine, but they were able to analyze the scope of the health repercussions of this conflict, particularly in the so-called red zone - the war zone that was inaccessible for five months from November 2002 to March 2003. For example, the interrupted vaccine coverage in the Lere region, 35 km north of Bossangoa, led to a measles epidemic that caused 52 deaths in September and October 2003.

**4.2. Follow-up mission (November 16-23, 2003), Bangui**

In accordance with the program of legal and judiciary cooperation, the International Federation for Human Rights (FIDH) had planned to organize a mission to follow up on the seminar late 2002. Arriving in Bangui on November 25, 2002, one month after General Bozizé's failed coup d'Etat, which was replete with human rights violations, the mission leaders found that this was an untimely moment to evaluate the



**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

enforcement of the rule of law in the Central African Republic (CAR). The mission leaders and the FIDH opted to adapt their mandate in order to legally qualify crimes committed against civilians, with the idea of possibly legal follow-up. The report for the mission, entitled "War crimes in Central African Republic" (report no. 355) was published in February 2003.

The FIDH decided to publish the report as a "paper" to the services of the International Criminal Court (see above and appendices), considering on the one hand that the crimes and the situation were in the Court's jurisdiction, and on the other hand that publicly submitting the case to the Court could help prevent the situation from getting worse and "hold back" the use of weapons.

Because of the conflict in the Central Africa Republic, the FIDH was unable to pursue its follow-up mission until one year later, in November 2003. The political order at the time had radically changed in the Central African Republic-General Bozizé had been in power since his coup d'Etat in March 2003-but the topics treated at the FIDH seminar were still those of current events: democratic transition, the enforcement of the rule of law, protection and efforts of human rights activists, and the fight against impunity. With the help of a new governmental team, the FIDH, represented by Eric Plouvier, lawyer at the Paris Bar, and Marceau Sivieude, program head at the African branch of the FIDH's international secretariat, was thus able to evaluate the follow-up of the recommendations that civil society had drawn up more than two years earlier concerning the respect of international and regional human rights institutions.

The FIDH delegation met with the following people:

- Prime Minister, Minister of Finance, Abel Goumba
- Minister of Justice, human rights and good governance, Faustin M'Bodou
- Foreign Affairs Minister, Karim Meckassoua
- Charles Massi, second Vice-president of the National Transition Counsel, President of the Forum for democracy and modernity (FODEM)
- High commissioner for human rights, Thierry Maleyombo
- President of the Court of Appeal in Bangui, Jean-Noël Bangue
- President of the civil and commercial chamber of the Court of Appeal in Bangui, Arsène Sendé
- Public prosecutor of the Court of Appeal in Bangui, Sylvain N'Zas
- Prosecutor for the Republic of Bangui, Firmin Feindiro
- Director of criminal affairs and pardon, government commissioner for the permanent military tribunal, Alain

Ouaby-Bekai

- Counselor to the social chamber of the Appeals Court, former Public Prosecutor for the Appeals Court in Bangui, Joseph Bindoumi
- Director of prison administration, Jean-Jacques Ningawong
- Assistant to the director of the Squad for the Repression of Banditry (OCRB), Saturnin Bikoo
- Director of the Bangui prison, Nantoal Léa
- President of the Democratic movement for the Renaissance and Evolution of Central Africa (MDREC), Joseph Bendounga
- Ambassador, head of the European Union delegation, Josep M. Lloveras
- Program head of the European Union delegation, Emilie Leroux
- French Ambassador in the Central African Republic, Jean-Pierre Destouesse
- Chargé d'affaires of the Chad Embassy in the Central African Republic
- Co-resident representatives of the UNDP, Cyriaque K Edjo and Assadi Ahamadi
- UNICEF representative in Bangui, Dr. Joseph Foubi
- Assistant to the World Bank representative in the Central African Republic, Evelyn Madozein
- Coordinator of Médecins Sans Frontières, Spain in the Central African Republic
- IRIN correspondent, Olivier Nyirubugara
- Editor-in-Chief of Le Citoyen, Maka Gbossokotto
- President of the Central African Human Rights Watch , Lambert Zokoezo
- Vice President of the Central African Human Rights Watch , Mathias-Barthélemy Morouba
- Association of women lawyers, Marie-Edith Douzima-Lawson
- ACAT, Hyacinthe Gbiegba

**a. Concerning the state of emergency state decreed following the coup d'Etat of General Bozizé**

The training seminar looked at the international legal framework of the exceptional state, and in particular repeated guarantees to protect human rights. General Bozizé's forced rise to power served as a concrete example for the mission leaders.

The first major legal act that ushered in François Bozizé's regime, entitled constitutional act number 1, dated March 15, 2003 but released in the press on March 24, 2003, was driven by "*the gravity of events that has made normal functioning of state institutions impossible,*" by "*the need to maintain public order,*" and by "*an emergency situation*" (see Annex 5).

**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

In six very brief articles, a new legal order, the product of a power struggle, was established. The general proclaimed himself president of the Republic and head of state, affirmed that the January 15, 1995 Constitution was suspended, that the functions of the President and Prime Minister were no longer applicable, and that he himself was the new source of law. Article 6 of this constitutional act maintains the external legality of the Central African Republic by admitting the superiority of international texts over the decisions of the new head of state and internal law, on the condition that the head of state be able to repeal certain measures of the latter.

This first constitutional act, signed by the self-proclaimed president, thus entrusts him with the bulk of governmental and legislative authority and establishes an exceptional regime. However, not breaching any national or international laws, the new president is, in theory, in conformity with the clauses of article 4 of the International Covenant on Civil and Political Rights. Yet in practice, this exceptional situation, which has been extended in time (18 months) whereas the nation faces no threats, and which has given rise to serious violations of human rights, must not be recognized as legitimate by international law. In no circumstances must the violations (see above) of the right to life and the torture and mistreatment inflicted on the civil population be justified by the state of emergency.

**b. Concerning the period called democratic transition**

*i) The self-proclaimed president monopolizes power*

The second major legal act imposed by General Bozizé on March 15, 2003 divided up the three governmental branches in the following way, "until the Central African people are able to express the will of the nation": The executive power, subject of title 1, is given to the president of the Republic assisted by a Prime Minister responsible for its implementation. The legislative power, subject of title 2, is also controlled by the head of state, who legislates through rulings with a Counsel of Ministers. The judiciary branch is the subject of title 3, which states that "justice is an independent power," which the president of the Republic guarantees. But it is always the Head of state who appoints magistrates by decree, after receiving various opinions.

*ii) The establishment of transition institutions*

The April 3, 2003 decree creating the National Transition Counsel (NTC) shed light on the democratic prospects envisioned by the putschist. According to the President, the democratic transition would last between 18 and 30 months.

During this period, the NTC would act as an advisory body to "help the president exercise his legislative powers by examining all the organizational proposals that are necessarily submitted to him." It can also suggest to the Head of state and his government "any recommendation it deems necessary." Furthermore, it will help the government draw up a draft of a constitution, preparations for the upcoming general election and the structure of national dialogue.

The National Transition Counsel has its headquarters in the Parliament's building. It is made up of about sixty members, all representing different parts of Central African society—associations as well as political parties, corporations, government employees, and human rights organizations. The President of the republic has the right to ratify the election of the NTC's members. Interestingly, the voting system for giving opinions or making recommendations is not defined in the founding decree which, written in a terse style, states in article 7: a consensus or majority opinion of the National Transition Counsel is submitted to the Head of state in the form of an opinion or as a recommendation to the President and/or the government. General Bozizé thus cleverly created a seemingly democratic body that would allow him to share in the decision-making responsibilities for the country.

Yet while these different players from the Central African Republic have accepted to subject themselves to a general to avoid the concentration of power in the hands of the military, they expect economic activity to quickly return to normal and also expect, for the most part, a guarantee of the legal and physical security of their fellow Central African citizens. At the mercy of racketeering or tribal tendencies, the new redistribution of power will need to be closely monitored by international partners and by Central Africans. If not, this forceful seizure of power will turn into a simple commercial change of hands in a country steeped in violence and poverty.

*iii) Preparation for the elections*

The electoral calendar that the government drew up breaks down as follows: a constitutional referendum will take place in November 2004. The public vote will be followed by municipal, legislative and presidential elections between December 2004 and January 2005. To meet these deadlines, it was agreed that from January to May 2004, the Minister of Internal Affairs, Marcel Malonga, and the Minister of Justice, Hyacinthe Wodobode, will form committees that would draw up plans to revise the constitution and the electoral code as well as laws defining the functioning of the constitutional court, political parties, and the structure of local administrations.

**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

Yet as of June 1, 2004, none of these texts, essential for adherence to the electoral calendar, had been adopted. The government and the National Transition Counsel blamed each other for the "*delay in the implementation of the electoral process.*" On June 7, Jean Serge Wafio, a friend of General Bozizé, even stated on behalf of his party that because of the delay, it would be entirely appropriate to postpone the elections to late 2005, in order to give "*the authorities and police the time to restore security.*"

To avoid what would seem like a new Central African crisis, an extraordinary session of the NTC, meeting between June 15 and 30, 2004, agreed to the adoption of the draft constitution. The counsellors also need to evaluate the draft of the electoral code and organic law concerning political parties. Between April and June 2004, Malonga and the assistant minister for the plan, Daniel Boysembe, supervised the electoral census, which was largely based on the general population census that was carried out between December 8 and 22, 2003. At the publication of this report, the results of the census have not been made public.

Between September and October 2004, Malonga will be responsible for supervising the establishment of a commission in charge of making sure the elections and the referendum go smoothly. With the help of this commission, Malonga will organize the constitutional referendum in November. On June 11, 2004, the Central African Human Rights League (LCDH) denounced the composition of this so-called Mixed Independent Election Commission (CEMI) and demanded that the recommendation of the "national dialogue" be scrupulously respected during the evaluation of the draft constitution and electoral code.

In a communiqué that was released to the public, the Central African Human Rights League notes that the composition of this "*important body for the electoral process*" "*reveals the massive presence of political personalities coming from the cabinets of the President of the Republic, the Prime Minister, and the Minister of Territorial Administration, instead of administration technicians.*" The communiqué points out that "*the presence of these politicians alongside representatives of political parties that are satellites of those in power is not of such a nature to guarantee the neutrality of the elections.*" It reminds all those involved in the transition process that the return to constitutional legality according to the universally accepted calendar "*is an absolutely essential imperative that should not be infringed upon.*"

In addition, a constitutional court is supposed to be formed by the end of the year. Hyacinthe Wodobode will be in charge of

its creation. This supreme court will be responsible for making decisions concerning electoral irregularities and for announcing the results of the elections.

**c. On the reinforcement of the Rule of law**

*i) The codification process must continue*

The seminar's participants recommended that the Central African Republic ratify the New York Convention against torture and the Protocol of the African charter creating the African Court on Human and Peoples' Rights. As of the date of the follow-up mission, this had not been done. They also recommended that clauses from international conventions adopted by the Central African Republic be integrated into the internal legal order. Since the seminar, as part of its support of the three-point "Democracy, Rule of law and Human Rights," the BONUCA drew up a revision draft of the Central African penal code. The draft was submitted to a panel of lawyers and magistrates for editing. This text has still not been presented to the National Transition Counsel for adoption.

Whatever the reason, it is inexcusable that the draft of the penal code does not include any clause relative to the cooperation between the ICC and the Central African Republic, even though this is mandatory according to Chapter IX of the ICC Statute. Nonetheless, certain crimes in the Court's jurisdiction are included. Title III of the revision draft concerning "crimes and misdemeanours against individuals" and chapter 1 concerning "crimes against humanity" define genocide and other crimes against humanity.

It is absolutely essential and urgent that Central African authorities take advantage of the revision of the penal code to integrate, in a consistent and exhaustive manner, the definitions of crimes as stated in the Rome Statute, as well as general principles of penal law and a commitment to cooperate with the institutions of the Court.

Ignorance of the law is no excuse. Yet while the Official Journal does exist, it only appears on an irregular basis, and it is still just as difficult as it used to be, even for lawyers and magistrates, to get a copy of the penal code and the code of penal procedure.

*ii) Arbitrary arrests and detentions continue*

The practice of arbitrary arrests and detentions as well as acts of torture, so often denounced by the seminar participants, still claim many victims.

**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

Several clear examples of violations of civil and political rights committed by agents of the Central African state have been examined by the FIDH mission and since by the Central African Human Rights League:

The mission leaders met with 19-year old Aladji Kanouté, who sells used fuel. Kanouté was taken in for questioning on November 13, 2003 for charges of theft that he denies. He was deprived of freedom in the office of the OCRB until November 19, whereas Central African law declares that the police cannot hold individuals in custody for over 48 hours. He said: *"they tore apart my shirt, took 50,000 FCFA from me, and put me in the jail for thieves. There were 40 of us in a 40 sq. m room. I was told that if my family didn't bring money, my mother would have to go get my body at the morgue the next day. They left me standing in the bathroom for a whole night. My mother brought me food to eat. She went to see a lawyer."* The mission also met with Gbiegba, a lawyer with the Bangui Bar and member of the ACAT, who went to see the public prosecutor to denounce this arbitrary detention and to lodge a complaint against such police practices (extortion of funds, death threats, arbitrary detention). Met by the mission on the same day, the deputy public prosecutor condemned these practices and promised to immediately intervene to end the detention. He insisted that the policeman in question would be convoked and reprimanded. Apparently, no legal follow-up was taken against these quite serious practices. In this case, appealing to the legal institutions in a case of illegal police intervention did seem effective. Yet legal pursuits against policemen suspected of violence are still the exception to the rule.

The mission also met with young prisoners at the Ngaragba prison whose stories, corroborated by physical evidence witnessed by the mission, attest to the practice of torture in Central Africa. Amed Achim, born in 1976, was taken in to the SERD for questioning on October 29, 2003. He was undressed. The warden, known as Anatole, whipped each prisoner with a cord. Achim's back was slashed to the point to which it was bleeding. The mission observed recent scars on this part of his body as well as on those of 5 other prisoners, suggesting similar acts of torture. Another prisoner who had even bigger scars explained he had been beaten with a machete on October 17, 2003. Maurice Malongo has been in custody since July 23, 2003, when the warrant officer of the Central African armed forces was taken in for questioning concerning an affair involving the embezzlement of public funds. Falling under the jurisdiction of the permanent military tribunal, the crime was the subject of a preliminary investigation. According to article 16 of the Code of military procedure, in such a case, policy custody can only

last for one month, renewable for one month or more in very specific cases that were not applicable in this particular example.

The family of Maurice Malongo went to the mission representatives because as of November 22, 2003, Malongo was still under custody. The government commissioner and the Minister of Justice told the mission that the affair was "complex," that the crimes were serious, and that *"even if the law stipulates time limits, habits still come into play."* The magistrate continued on to say, "if we ordered his release, we would be reproached for creating a situation of impunity."

On October 15, 2003, Djibrine Oumarou, commercial carrier, was arrested by the police, who had discovered arms and munitions in his truck. Oumarou denies being the owner of these arms. He was questioned and held under police custody for several days before being placed under a committal order in October 2003 on a charge of offence against the internal security of the State. On April 16, 2004, the investigating magistrate dismissed the charges. Yet, under the pretext of an appeal lodged by the public prosecutor's office, Oumarou is being arbitrarily held in detention at the main Ngaragba prison, in violation of the clauses of article 99a, paragraph 2 of the penal procedure. Joseph Boykota Zouketia, general director then deputy of the company Socatel, was arrested by the police on April 7, 2004, and illegally confined in the offices of the SRI for more than 15 days before being placed under a committal order on April 27, 2004. The defence submitted a request to the state prosecutor to temporarily free the prisoner, denouncing the arbitrary nature of the arrest and detention. It wasn't until he first appeared before the investigating magistrate that he was informed of the charges of "embezzlement of public funds and misuse of company property." After the cross-examination, the investigating magistrate ordered him to be released on probation. But he was surprisingly taken in for questioning on May 15, 2004, and once again placed in the SRI offices and then in Ngaragba for the same reasons. On May 17, the judge gave a decision after which he was taken off the case because of pressure that the public prosecutor's office was putting on him.

The lawyer of Djibrine Oumarou and Joseph Boykota Zouketia, Me Goungaye, vice president of the Central African Human Rights League, publicly complained about these arbitrary arrests and detentions as well as about the pressure put on the judge. As a response, the public prosecutor of the Bangui Court of Appeal, Sylvain N'Zas, called the lawyer's comments "disrespectful, authoritarian, and excessive." The Observatory

**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

for Human Rights Defenders drew up an urgent appeal concerning Goungaye's case, asking the Central African authorities to respect the principles of the United Nations Declaration for human rights defenders (see annexes).

*iii) Administration of justice in question*

The seminar's participants blamed the Central African justice for not satisfactorily responding to the right of victims to effective recourse. The situation has not gotten better since the arrival of General Bozizé. The mediocrity of hastily recruited, untrained soldiers who were proud of having brought their leader, General Bozizé, to power, provoked ongoing tension between the Republican Guard and the citizens of Bangui. In particular, since August 2003, the commission responsible for the most serious crimes has presented President Bozizé with a dilemma: how not to upset his personal guard that he relies on and not upset the international community by letting serious crimes go unpunished.

Brought into the former SERD offices, Ms. X was raped on October 28, 2003 by several members of the Republican Guard. Notified by her, the BONUS human rights representative immediately wrote up a detailed note that was sent to the French embassy. On the same afternoon, the representative of the French government was to sign a contract of exceptional aid with the Central African government, to the sum of 700,000,000 FCFA, aimed at paying the back salaries of teachers. In an emergency situation, the French embassy decided to sign the contract only under the condition that legal proceedings be immediately taken. The general Bozizé himself dramatized the affair by accompanying the victim and her husband to the former SERD offices to meet with those who had formally been identified as responsible. General Mazangue, head of the presidential guard, was simply dismissed-and then rapidly promoted to prefect-whereas the suspects were demoted.

On November 11, 2003, under the auspices of the government commissioner, an investigation caused two soldiers on temporary assignment with the Republican Guard to be placed under a committal order. They were charged with the arbitrary arrest of the young woman that they led to the crime scene. Surprisingly the 5 men who were implicated in the collective rapewere not all taken in for questioning. Only two of them were placed under a committal order.

In late August 2003, an intervention of some members of the Republican Guard, called to Boganda High School, where

hundreds of students were waiting for their exam results, was the occasion for 2 new crimes to be committed. A different procedural path was chosen: a soldier of the Republican Guard involved was heard under a preliminary investigation and released after being held in police custody for 48 hours. The case is still open and those responsible have still not been identified.

Twenty-six cases attributable to the Republican guard were on the December 2003 roster of the permanent military tribunal (out of the 26, 10 involved cases of voluntary and involuntary murders and assassinations, and 3 were cases of rape). Placed under a committal order on November 17, SP, "liberating patriot," was accused of voluntarily killing a little girl who sold peanuts and was asking for her money. Bozizé's soldiers also had to answer for a theft of war weapons that was committed two days earlier.

Met by the mission, the government commissioner, also Director of criminal affairs with the Ministry of Justice, admitted that "*some liberators claim powers that they don't have.*" The law doesn't give them any powers to intervene or any responsibilities concerning criminal investigation. The government commissioner considers that the guards in question seemed more disciplined since the general Bozizé personally intervened in the affair of collective rape. He said he could only intervene when complaints were lodged, but that this was rare because victims are often afraid to bring charges. When a case is brought to him, the magistrate convokes those implicated, but they don't always show up. He claims to carry out his functions completely independently, considering himself bound by laws and "*having no better judge than his conscience to fulfil his duties.*" He admits however that he feels pressured from all sides.

*iv) Prisons to rehabilitate*

The main places where freedoms are breached are police stations and sometimes specialized locations that Central African citizens fear, like the office of the Security Investigation Division (SERD). There are 55 prisons dependant of the penal administration, many of which are no longer in use. Central African prisons, like other public buildings, were the targets of looters during the military operations of October 2002 and March 2003. It is estimated that there are currently 1,000 prisoners in the Central African Republic, which has a total prison capacity of 3,500 places.

The mission went to the Ngaragba prison, which on November 20, 2003 held 158 individuals. Before this prison was

**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

reopened, the accused stayed for several weeks or even months in unhealthy and unsuitable police or military police force stations. Since its reopening on October 3, 2003, the prison has not yet been renovated and its prisoners (the majority of which have not yet been judged) live under very basic and rudimentary conditions.

In one of the first quarters, called Golowaka, were about a hundred common criminals. There were no individual cells. In the common rooms, matting served as beds. The prisoners could take showers but said they were inadequately and badly fed. The other quarters, called White House, was made of collective cells that opened onto an interior courtyard. Unlike the first area, this one had plastic and wooden chairs: it was considered the "VIP" area, mostly for dignitaries of the former Patassé regime, suspected of having committed common crimes, often of a financial nature.

The prison director led the FIDH mission to the disciplinary quarters where a young man, 19 year old, begged from the depths of his dark cell to be freed. Some prisoners, whether by choice or force, were lined up before the prison door performing community service, the clearing of the flower bed of the law courts in anticipation of a ceremony to inaugurate new magistrates.

**d. On the fight against impunity for the most serious crimes**

*i) A virtual reconciliation and truth commission*

September 15, 2003 marked the beginning of the work of the National dialogue, bringing together the majority of political parties (47) and politicians of Central African history, with the main goal of national reconciliation. These foundations, desired by the international community, aim to put an end to the divisions that have steeped this country in a cycle of political and military problems.

At the end, the Commission 1 recommended the continuation of the work of the "Truth and Reconciliation" Commission, beyond the level of national dialogue. The Commission would be responsible for "*hearing victims' complaints, auditioning major political and administrative leaders, finding the necessary financing to repair the wrongs suffered by victims of military-political crises, taking measures of appeasement towards citizens in order to mobilize the country and to promote participation in the political transition that is taking place.*" The Commission is extending its field of action to all serious crimes committed since independence. At the time of the FIDH follow-up mission, no steps had been taken to

actually put the so-called "Truth and reconciliation" Commission into place.

*ii) Activating the system of the International Criminal Court*

The training seminar allowed local NGOs to acquire a more in-depth knowledge of the jurisdiction and functioning of the International Criminal Court, a body meant to complement national courts. This training quickly proved practical and useful. Observing serious violations of human rights committed against civilians during General Bozizé's attempted coup in October 2002, the LCDH alerted the FIDH of the existence of crimes that fell under the jurisdiction of the ICC and asked it to investigate. Two FIDH reports, "*War crimes in Central African Republic*" and "*What justice for the victims of war crimes*" have since been submitted to the prosecutor of the ICC (see annex 7).

*Legal qualification of crimes*

The reports show that the fighting in the capital between October 25 and 30, 2002 and that continued later in the northern part of the country until March 2003, was carried out in flagrant violation of the laws and customs of war as described in the Geneva Conventions of 1949. Furthermore, the loyalist forces' retaliation against rebels and especially against the civilian population were qualified by the FIDH as war crimes, applicable to article 8 of the ICC Statute (see annex). So far, more than 700 cases of rape have been counted in Bangui. The FIDH also noted the existence of mass graves, places where numerous civilians had been executed. Hospitals have lists of people injured and killed during the fighting in the capital, including civilians, women and children. In addition, the city was ransacked by pillaging that targeted private housing as well as public and industrial infrastructure. Yet no exhaustive and independent evaluation of the crimes committed during this period has been carried out to this day. Such an investigation has been made difficult by the insecurity still present in the north, where most of the fighting has taken place. The responsibility for these crimes falls to the loyalist forces led by Patassé, Bemba and Miskine, and also to the ex-rebels of General Bozizé.

*The selective application of the principle of complementarity by the Central African justice*

The Bangui prosecutor's office got hold of crimes committed by certain former leaders in exile, notably ex-president Patassé, Jean-Pierre Bemba, Abdoulaye Misikine and Paul Barril, involving offences against internal and external

**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

security, complicity with foreign powers, involvement in assassinations, deadly wounds, arbitrary arrests and sequestrations, thefts, rapes, and looting, etc. However, nearly all those responsible have fled the country and seem "beyond the reach" of the Central African justice. Other pursuits, veritable "anti-corruption operations," have been led against former collaborators of the regime for economic crimes. But none of these pursuits are based on the qualification of war crimes, although accusations were made with the Central Africa law at the time the crimes were committed.

Despite the complaints that were lodged by individuals with the Bangui prosecutor's office, the denunciations made by victims, and the statement of the head of state during the National dialogue, no judiciary proceedings had been carried out, at the date of the FIDH mission in November 2003, against those presumed guilty of war crimes among the former rebels led by General Bozizé. On this subject, the FIDH emphasizes that the new regime has still not adopted any national laws trying to bring Central African legislation into line with the ICC Statute, in particular concerning the definition of crimes and the cooperation with the national courts and the ICC.

*The FIDH requests the intervention of the ICC prosecutor*

In this context, the FIDH considers, with regard to the criteria defined in article 17 of the ICC Statute, that the Central African government has not illustrated a willingness to bring justice to the victims of crimes targeted by the ICC Statute. The FIDH therefore maintains that the ICC should take over these crimes, whose gravity couldn't be clearer. Moreover, this step would respond to the legal strategy outlined by the prosecutor Ocampo: the prosecutor could investigate and pursue all individuals, rebels as well as loyalists, who seem the most responsible for the crimes committed, while leaving the Central African national courts the responsibility of pursuing the other responsible individuals.

The activation by the prosecutor of the system of international criminal justice in the case of the Central African Republic would be a chance to test the new regime's proclaimed intention to fight impunity, at a time when it has not, to this day, pursued any serious action demonstrating its desire to really reach this goal. Otherwise, the FIDH insists that maintaining the status quo would be a synonym of impunity for war criminals. While this may be in the interest of a regime, it is not in the interest of the International Criminal Court.

## **II - CONCLUSION AND RECOMMENDATIONS**

### **Conclusion**

The development of a legal and judiciary program of cooperation has proven extremely appropriate to the current situation in Central Africa.

Weakened by the authoritarian power of Ange Félix Patassé, who allowed no room for disagreement and associated human rights activists with political parties, local NGOs were able to take advantage of the training seminar to open a constructive dialogue with representatives of the national authorities. This cooperative approach brought them acknowledgement and visibility that they are still using today to take part in the democratic transition process.

The themes studied during the seminar - the exceptional state, the enforcement of the rule of law, the role of human rights defenders, the fight against impunity - allowed the Central African Human Rights League, supported by the FIDH, to react concretely to recent events, referring to and utilizing international and regional human rights institutions.

It was in this context that the Central African Human Rights League publicly intervened to denounce violations of the right to defence as well as the impunity of crimes committed by "patriots" against the civilian population, and to request a real adherence to the transition period calendar to allow, over the short term, for the establishment of a democratic regime and the creation of a real rule of law. The LCDH is also participating in the work to reform the penal and the penal procedure codes in the framework of a project created by the BONUCA.

Most notably, the program will have allowed the FIDH and its affiliate league to contribute to the respect of the right of victims to effective recourse. The need to get involved in the fight against impunity for the most serious crimes had been highlighted by the seminar's participants. The FIDH's repeated presence in the Central African Republic allowed it to legally qualify the acts of violence committed against the civilian population, from General Bozizé's attempted coup d'Etat in October 2002 up to the successful coup in March 2003. Two investigative reports were submitted as information to the services of the International Criminal Court, according to article 15.1 of its Statute, asking the prosecutor to open an investigation.

The positive consequences of this judiciary option are already visible, but require continued action: The new Central African government, familiar with the FIDH's first report "War Crimes in the Central African Republic," widely covered in the international media and the local independent press, had insisted at first that it wanted to appeal to the ICC in support of the information sent to the prosecutor by the FIDH. To this effect, it had even asked a member of the FIDH to be the State's lawyer in this affair. A budgetary line was created to allow the latter to go to La Haye to meet the Court's departments. So far, the Central African Republic has still not referred the crimes committed on its territory to the Court. However, the former dignitaries in power and their allies, whose criminal responsibility had been brought to the forefront by the FIDH in the war crimes commission, are now the object of judiciary proceedings brought before Central African tribunals. This situation contrasts with the amnesty procedures usually applied to those who violate human rights in the name of national reconciliation.

Hundreds of victims have even complained to national courts to have their grievances heard in the hope of obtaining redress for the wrongs done to them. Some of them are receiving psychological, medical, and legal help through a UNDP program.

However, at this point, the statements of intention and the few efforts made by the authorities in the fight against impunity of the most serious crimes are not convincing, and they justify the short-term involvement of the ICC system. The FIDH's investigative report "What justice for victims of war crimes?" emphasizes the fact that no action has been taken at the national level against the former rebels of General Bozizé, suspected of war crimes. Making clear the unwillingness and the incapacity of Central African courts to respond to the impunity of the main criminals in the Central African Republic, the FIDH considers that the ICC prosecutor should intervene.

While the papers addressed to the ICC and the situation are being analyzed, it is up to the Central African authorities to make up their minds: the punishment of the main originators of the most serious crimes is a fundamental requirement of a democratic transition. Determining action still needs to be taken by the authorities concerning this issue.

The program of legal and judicial cooperation has opened up



**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

the fight against impunity for the most serious crimes committed in the Central African Republic, as an essential element of the creation of a democratic rule of law that would respect human rights.

## **Recommendations**

### **1. To the national authorities**

#### **1.1 On crimes committed during the period of conflict between October 2002 and March 2003**

- To suggest as quickly as possible, through the reform of the penal procedure codes, a law bringing internal law into line with the ICC Statute, including the definition of crimes that would fall under the Court's jurisdiction, the general principles of international criminal law, and clauses concerning the co-operational duties of the different bodies of the Court and the Central African Republic.

- To refer to the prosecutor of the International Criminal Court so that he opens an investigation into the situation in the Central African Republic.

- To establish an independent investigative commission whose responsibility would be to bring light to the crimes committed between October 2002 and March 2003, especially in the northern region of the country.

- To allow all victims to obtain justice and redress by guaranteeing the exercise of the right to effective recourse before Central African courts, including victims of crimes committed by individuals currently under the authority of the Head of State.

#### **1.2. On the administration of justice**

- To fight against the impunity of crimes committed by certain agents of the public authority and those with a similar status, by systematically opening a legal investigation as soon as knowledge is available of crimes committed that fall within the judge's jurisdiction.

- To imperatively respect the time limits concerning police custody, according to the Central African penal code and regional and international standards concerning the protection of human rights related to the right of defence.

- To give human rights NGOs access to places where freedom is denied in order to evaluate whether the conditions of detention are in conformity with international and regional

clauses relating to the protection of human rights.

- To insist that the judiciary budget be revised upwards in order to avoid the practice of corruption, which stands in the way of good administration of justice.

- To adopt as quickly as possible the reform draft of the penal code.

#### **1.3. On security**

- To make a list of, disarm and rehabilitate former combatants, particularly the "liberators".

- To ensure the authority of the State over the whole of the territory in order to put an end to insecurity.

- To create all the conditions necessary, particularly in the field of security, for the return to the Central African Republic of people currently living as refugees in bordering countries.

#### **1.4. On national institutions for the protection of human rights**

- To establish efficient coordination between national institutions for the protection of human rights - High Commissioner to the Prime Minister, national commission for human rights, and elements of human rights and ministry of Justice - and give them the financial and practical means to accomplish their goals.

#### **1.5. On the ratification and application of international conventions related to human rights**

- To ratify the additional protocol of the African Charter on Human and Peoples Rights creating an African court on Human and Peoples Rights, effective on January 25, 2004, and, in accordance with article 35.6, giving individuals and NGOs the possibility to submit cases to this court.

- To ratify the Convention of the African Union on the fight against corruption

- To ratify the 1984 United Nations Convention against torture and other cruel, inhuman, or degrading treatment or punishment.

- To act in accordance with international institutions for the protection of human rights ratified by the Central African Republic, including the International Covenant on Civil and

**Central African Republic**  
**Rule of law, respect of human rights, fight against impunity: the essential acts still have to be taken**

---

Political Rights and the United Nations Convention on the elimination of all forms of discrimination against women.

- To report to supervisory bodies of the United Nations by submitting initial and periodic reports.

#### **1.6. On the political transition**

- To respect the calendar in order to allow for the legislative and presidential elections to take place early 2005 in accordance with the clauses of article 25 of the International Covenant on Civil and Political Rights.

- To provide all necessary resources to the follow-up committee of the National dialogue, particularly for the implementation of the "truth and reconciliation" commission.

#### **2. To the International Criminal Court**

##### **2.1 To the prosecutor of the International Criminal Court**

To evaluate the situation in the Central African Republic on the basis of reports from the FIDH and all other available independent sources and to ask the preliminary division to authorize an investigation and thus to send in investigators.

##### **2.2 To the registry of the International Criminal Court**

To immediately implement in the Central African Republic a program providing information on the International Criminal Court, particularly concerning the rights of victims and witnesses.

#### **3. To member countries of the Central African Economic and Monetary Community (CEMAC)**

To increase the size of the military contingent of the CEMAC in Central Africa, with the goal of making the country safer, in Bangui as well as in the countryside.

#### **4. To the United Nations Peace-building Office (BONUCA)**

To help with the organization of the upcoming elections that would interrupt the transition period in order to ensure a credible, transparent and democratic process.

#### **5. To the Organisation internationale de la Francophonie**

To publish its evaluation of the situation, its recommendations and suggested follow-up action, in the

framework of chapter V of the Bamako Declaration, whose activation follows the FIDH complaint from March 17, 2003.

#### **6. To all bilateral partners, including France**

To give priority to the fight against impunity for those responsible for international crimes as they relate to the Central African Republic.

### **III - APPENDICES**

#### **1. Central African Republic: a parody of justice...**

##### **FIDH Press release - Paris, February 13, 2002**

When the trial of the presumed instigators of the attempted coup on May 28, 2001 opens tomorrow, the IFHR will make public a report entitled "The Official Line versus Reality: A Gaping Abyss".

This trial gets underway Thursday, February 14, in the Bangui Criminal Court, under completely closed conditions. More than 600 persons will be tried in absentia, including André Kolingba, the former Head of State. Approximately 80 persons are to appear in court, among them former Defense Minister Jean-Jacques Demafouth.

The IFHR has learned from a reliable source that the lawyers for Mr. Demafouth were unable to meet with their client since his arrest on August 25, 2001, and did not receive the Court brief until yesterday. Moreover, the exact charges pending for those accused in the case have not been communicated.

In the report made public today, the IFHR exposes the serious human rights violations which have surrounded the efforts of the Joint Judicial Inquiry Commission, a body set up on June 8, 2001, by order of the Minister of Justice in order to investigate liabilities involved in the attempted coup. Despite the presence of judges on the panel, the Commission very quickly proved to be a political body in the hands of the authorities. It was dissolved in December 2001.

The Joint Judicial Inquiry Commission made haphazard arrests on the basis of "anonymous documents", informers' reports, even betrayals. It utilized procedures prohibited by Central African law, such as the use of wiretapping, which is prohibited by article 13 of the Central African Republic Constitution. It did not respect the limits of police detention, which is a maximum of eight days; persons "detained" since the month of June did not have hearings before the Commission except during the last days of its existence. Others were set free after five months of detention. The Joint Commission violated freedom of movement in prohibiting certain citizens uninvolved in the coup attempt or in any legal action from leaving Central African soil. "Prisoners" considered dangerous were denied all visitation [lawyer, doctor, family]. Based on this Commission work, the defendants tried for crimes bearing the death penalty were brought before the Criminal Court.

The IFHR calls upon the Central African authorities to guarantee the right to a fair trial for those accused, in compliance with the International Covenant on Civil and Political Rights, which was ratified by the Central African Republic. Accused persons must have access to the time and means necessary for the preparation of their defence and must be able to communicate with the counsel of their choice. Moreover, the elements of proof gathered by the Joint Commission in violation of the Central African Constitution and the international instruments for the protection of human rights must be automatically set aside by the Criminal Court.

The IFHR repeats its call for the creation of democratic dialogue among all elements of the political domain and of civil society, with a view to reaching lasting political solutions to the Central African crisis.

## **2. Defence rights flouted: defendants without lawyers**

### **FIDH Press release - Paris, March 11, 2002**

The International Federation for Human Rights was informed by the Central African Human Rights League about the arbitrary divestment of Atty. Zarambaud, lawyer for several persons accused in the case against the presumed instigators of the coup of May 28, 2001.

The Criminal Court, where the trial is taking place, decided to divest Atty. Zarambaud without explaining its reasons and despite the fact that no charge was made against him. On March 7, 2002, following this decision and in order to show their solidarity with Atty. Zarambaud, the lawyers of the Central African Republic bar gathered in a special session and decided to withdraw from the trial proceedings in the Criminal Court. This marked their protest against this violation of defence rights and against the threat that this divestment poses to the legal profession.

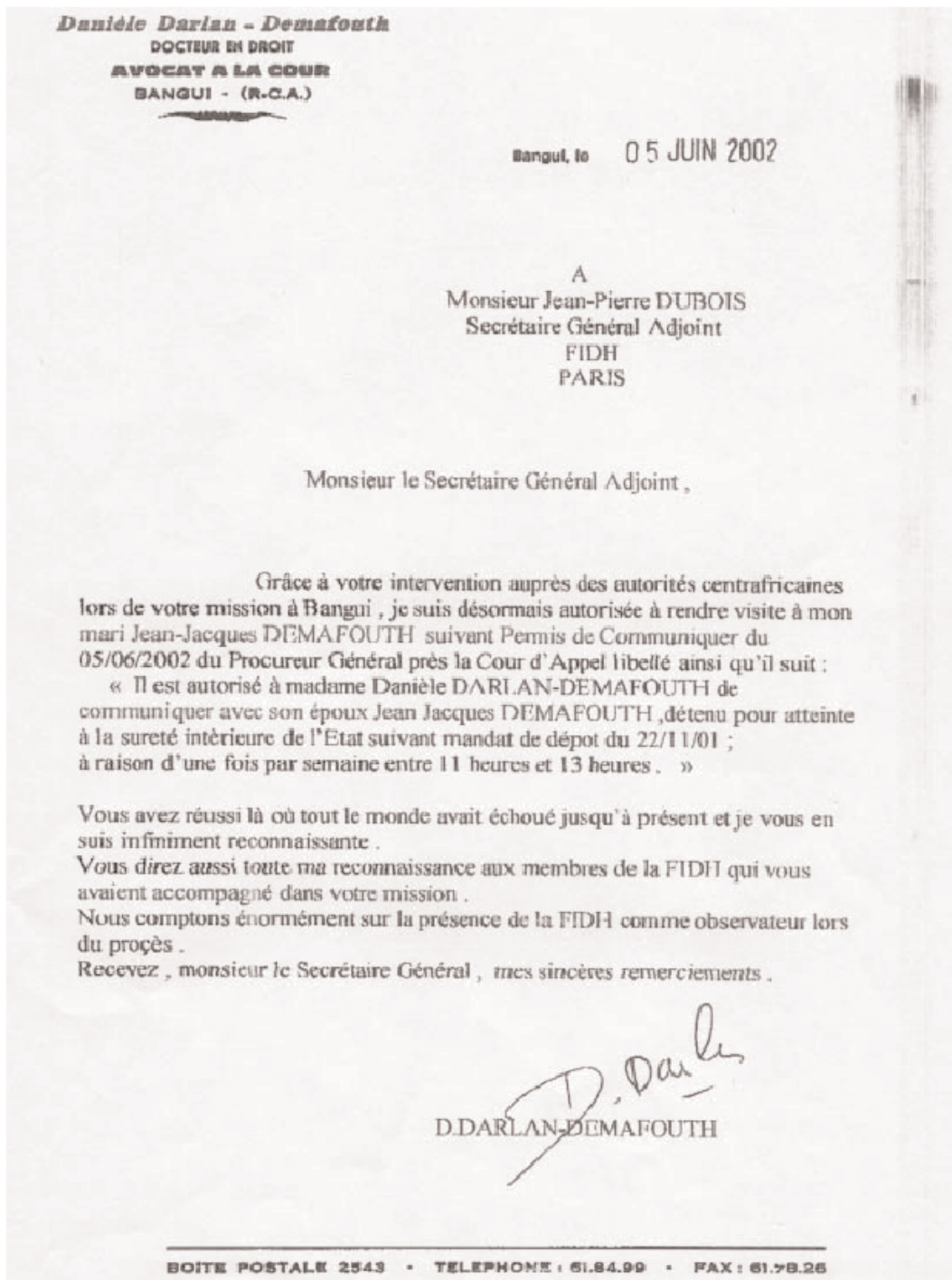
Since Central African law states that in criminal cases the accused must always have the services of a lawyer, the proceedings in the Criminal Court were suspended. The Court is continuing only in the cases of persons being tried in absentia.

The IFHR points out that because of Central African law, only the Council of the Bar Association can temporarily block a lawyer from the exercise of his profession. Moreover, the basic principles of the United Nations on the role of bar associations states that "no tribunal or administrative authority before whom the right to be served by counsel is recognized shall refuse to recognize the right of an attorney to appear before them in the interest of his client" [art. 19].

In addition, the IFHR calls upon the Central African authorities to guarantee to accused persons the right to a fair trial in compliance with the International Covenant on Civil and Political Rights, ratified by the Central African Republic. In particular, this assumes that the accused may communicate with the counsel of their choice. The IFHR has also decided to bring the matter before the special rapporteur of the United Nations on the independence of judges and lawyers.

Reminder: In a report made public last month, the IFHR exposes the serious human rights violations with which surrounded the work of the Joint Judicial Inquiry Commission, a body set up on June 8, 2001, by order of the Minister of Justice in order to investigate the degrees of involvement in the attempted coup. Despite the presence of judges on the panel, the Commission very quickly proved to be a political body in the hands of the authorities. It was dissolved in December 2001. Based on this Commission work, the defendants tried for crimes bearing the death penalty were brought before the Criminal Court. [See [www.fidh.org](http://www.fidh.org).]

### 3. Madame Darlan-Demafouth's thank you letter to FIDH



#### **4. FIDH condemns General Bozizé's military Coup and calls for the respect of international humanitarian law**

##### **FIDH Presse release - March 17, 2003**

The International Federation for Human Rights (FIDH) strongly condemns the coup d'État by General François Bozizé's military coup of 15 March 2003.

The FIDH reiterates its unwavering support for the principles of democracy and firmly condemns violent access to power.

Having taken note of the radical measures of suspension of the rule of law announced by the authors of the Coup, the FIDH urges the new *de facto* authorities to re-establish the constitutional legality at once.

The FIDH strongly denounces the very serious violence that accompanies this latest show of force, in particular the systematic pillage under way. In this regard, the FIDH underlines the responsibility of, not only the General Bozize military forces, but of all forces that participated in destabilising the Central African Republic (CAR).

The FIDH calls upon mercenaries and all foreign forces involved in the latest events to leave the CAR at once.

The FIDH urges the new *de facto* authorities and all forces in CAR to strictly respect the fundamental standards of international humanitarian law and human rights instruments, especially the 1949 Geneva Convention. The FIDH reminds them of their obligation, particularly, to protect civilian populations under all circumstances.

The FIDH finally points out that the CAR ratified the Statute of the International Criminal Court (ICC), and that therefore all authors, whatever their official position, of international crimes committed on the CAR territory after the 1st July 2002 can be found individually responsible.

The FIDH recalls that, on 13 February 2003, it officially lodged a complaint with the International Criminal Court regarding war crimes perpetrated as part of the preceding attempt by General Bozizé to overthrow the government in Autumn 2002. In the report, "War Crimes in Central African Republic" on these events, published in February 2003, the FIDH emphasised that the battle waged in the capital city between 25 and 31 October 2002 by the troops of General Bozizé amount to "acts which are prohibited by the Article 8 of the Rome Statute and by Article 3 of the various 1949 Geneva Conventions and other laws and customs applicable to internal conflict - such as murders and attacks on physical integrity and life -".

The FIDH will keep the ICC duly informed of the evolution of the situation.

## **5. The Central African Human Rights League wants the election timetable to be respected**

### **AFP communiqué - June 10, 2004**

In a statement sent to AFP on Thursday, the Central African Human Rights League [LCDH] demanded that the election calendar set by authorities for the vote on a return to constitutional government be respected. The document signed by LCDH vice-president Ms. Nganatouwa Goungaye Wanfiyo states, "The Central African Human Rights League reminds all parties to the transition that the return to constitutional legality according to the timetable agreed upon by all is an inescapable requirement and must not be subject to any infringement."

Delay is evident in the electoral calendar for voting to mark the end of the transition period in effect since the coup of March 15, 2003 by General François Bozizé. Important texts, in particular the proposed Constitution, the revised Electoral Code, and a proposed text pertaining to political parties, were supposed to be adopted before the end of May, according to the calendar drawn up by the transition authorities, after the National Dialogue took place, after the reconciliation assembly organized in 2003.

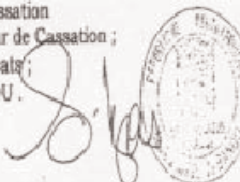
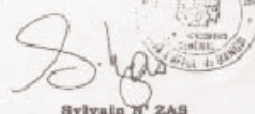
These documents are supposed to be examined by the National Transition Council [CNT, the Transition Parliament] June 15-30, 2004.

"To date, only the texts on the Joint Independent Electoral Commission [Cémi] have been taken ." The LCDH deplores that "in this body the fact that some politicians are close to representatives of political parties that are satellites of the current regime, is not likely to guarantee the neutrality of the balloting."

This position statement from the LCDH comes at the time when the government and the CNT are blaming each other for the delay in the electoral process.

It also comes after the request for a delay in legislative and presidential elections, planned for January 2005, by Jean-Serge Wafio, the president of the Central African Democratic Party [PDCA], an associate of President Bozizé and likely future candidate on the presidential ballot.

## 6. Citizen Articles

JUSTICE		
Affaires Oumarou et Zouketia-Boykota		
Le Procureur général répond à Me Goungaye-Wanfiyo		
<p>COUR D'APPEL DE BANGUI PARQUET GENERAL N° 154/CAB/POCA/04</p>	<p>REPUBLIQUE CENTRAFRICAINE Unité - Dignité - Travail</p>	
<p>Bangui, le 25 05/04</p> <p>Le Procureur Général près la Cour D' Appel <u>Bangui</u></p> <p>A</p> <p>Monsieur NGANATOUWA- GNOUNGAYE-WANFIYO, Avocat <u>Bangui</u></p> <p>Objet : Affaire MP contre DJIBRINE OUMAROU.</p> <p>Cher Maître ,</p> <p>J' ai l' honneur de vous faire connaitre que dans l' affaire suivie contre <b>DJIBRINE OUMAROU</b>, le Juge d' instruction a rendu son Ordonnance de mise en liberté provisoire sans avoir communiqué le dossier au Parquet pour ses réquisitions. Le Ministère Public a naturellement relevé appel de cette Ordonnance rendue en violation de l' article 81 du Code de Procédure Pénale.</p> <p>Vo. si injections et vos propos excessifs n' engagent que vous. Je me réserve toutefois le droit de saisir le Conseil de l' Ordre si vous persistez à traiter les Magistrats comme vos valets.</p> <p>Copie</p> <ul style="list-style-type: none"><li>1<sup>er</sup> Président de la Cour de Cassation</li><li>Procureur Général près la Cour de Cassation ;</li><li>Bâtonnier de l' Ordre des Avocats ;</li><li>Monsieur DJIBRINE OUMAROU .</li></ul> <p> Sylvain N° ZAS</p>	<p>COUR D' APPEL DE BANGUI PARQUET GENERAL N° 154/CAB/POCA/04</p>	<p>REPUBLIQUE CENTRAFRICAINE Unité - Dignité - Travail</p>
	<p>Bangui, le 25 05/04</p> <p>Le Procureur Général près la Cour D' Appel <u>Bangui</u></p> <p>A</p> <p>Monsieur NGANATOUWA- GNOUNGAYE-WANFIYO, Avocat <u>Bangui</u></p> <p>Objet : Affaire ZOUKETIA- BOYKOTA Joseph</p> <p>Cher Maître,</p> <p>Je ne voulais pas répondre à votre demande de mise en liberté formalée sur un ton autoritaire. Je le fais pour ne pas vous donner l' occasion de ternir l' image de la Justice Centrafricaine comme vous en avez l' habitude.</p> <p>Je crois savoir que les grands Avocats ne sont pas ceux qui manquent de respect aux institutions judiciaires et aux Magistrats. Je crois savoir aussi qu' une personne bien éduquée doit être sobre en paroles.</p> <p>Ne voyant pas la nécessité de me comporter comme vous, je vous informe humblement qu' en l' état actuel de la procédure, il n' y a dans le dossier ZOUKETIA- BOYKOTA, ni demande de mise en liberté provisoire, ni ordonnance de soit communiqué, ni requisitoire du Ministère Public, ni ordonnance de mise en liberté provisoire . ;</p> <p>En outre, l' article 8 de la Loi 03.310 du 1<sup>er</sup> mars 2003, dispose qu' en matière de détournement de deniers publics, la détention des inculpés sera obligatoire et toute demande de mise en liberté provisoire irrévocable ;</p> <p>Qu' est - ce qui justifie alors votre hargne ?</p> <p>Recevez, cher Maître, mes meilleures salutations.</p> <p>Copie</p> <ul style="list-style-type: none"><li>1<sup>er</sup> Président de la Cour de Cassation</li><li>Procureur Général près la Cour de Cassation ;</li><li>Bâtonnier de l' Ordre des Avocats ;</li><li>Monsieur ZOUKETIA-BOYKOTA</li></ul> <p> Sylvain N° ZAS</p>	



## **7. Publication of the report "*War Crimes in the Central African Republic - When elephants fight, grass suffers*"**

Monday, February 24, 2003

For the first time, the IFHR formally brings the case before the International Criminal Court.

In its report released today, "War Crimes in the Central African Republic - When elephants fight, grass suffers", the IFHR sets forth the international criminal liability for war crimes committed by the Congolese Jean-Pierre Bemba, the "Chadian" mercenary Abdoulaye Miskine, and the President of the Central African Republic, Ange-Félix Patassé.

An international IFHR inquiry mission, composed of Bochra Beladjamida [attorney of the Bar of Tunis], Eric Plouvier [attorney of the Bar of Paris], and Marceau Sivieude [from the African Office of the IFHR International Secretariat] was in Bangui, Central African Republic from November 25 to December 1, 2002, one month after the coup attempt against the Patassé regime by General Bozizé, the former Chief of Staff of the Central African army.

With the support of its affiliate, the Central African Human Rights League [LCDH], the mission investigated the executions, rapes, and looting which once again victimized the Central African civilian population during and since the October 25, 2002 coup attempt.

The fightings in the capital on October 25-30, 2002 were in direct violation of the laws and rules of war contained in the 1949 Geneva Conventions. Moreover, reprisals by the loyalist forces against the rebels, and especially the civilian population, were characterized as war crimes by the mission, thus falling within the jurisdiction of the International Criminal Court, whose statute was ratified by the CAR on October 3, 2001.

In fact, since President Patassé had been militarily weakened by previous coup attempts [IFHR report "CAR - The Official Line versus Reality: A Gaping Abyss"], and since he distrusted his regular army, the Central African Armed Forces, many of whom had joined with the rebels, he sought protection by surrounding himself with a handful of well-armed Libyans, with support from the men of the Congolese Jean-Pierre Bemba and from troops under the "Chadian" mercenary Abdoulaye Miskine.

When Bozizé troops retreated towards the north of the country, President Patassé called in Bemba's men, who regained control of territory previously held by the rebels. These "Congolese" perpetrated war crimes against the inhabitants under the pretext that they had passively aided Bozizé's troops. Their intent was to accumulate for themselves the "spoils" of war. The members of the IFHR mission gathered overwhelming testimony from numerous civilian victims formally accusing Bemba's men of rape, murder, and systematic looting. Statistical data confirms that these crimes were committed on a large scale.

Moreover, the members of the mission gathered corroborating evidence and directly observed the existence of mass graves, which allowed them to confirm that on October 30-31, 2002, at the livestock market, located at kilometer marker 12 on the Bouali road, three instances of mass executions took place. The victims were most likely civilians, and the perpetrators were men commanded that day by Abdoulaye Miskine.

The members of the IFHR mission concluded that it was a case of war crimes perpetrated by Bemba's men, as well as by Miskine and his troops, as defined by article 8 of the Statute of the International Criminal Court [ICC]. The IFHR considers that in light of these facts, the absence of any reaction from immediate superiors to prevent such crimes or to punish their perpetrators incurs the individual international criminal liability of Jean-Pierre Bemba, Abdoulaye Miskine, and Ange-Félix Potassé, the President of the Central African Republic and head of the army.

In view of the scope and systematic nature of the crimes committed against the civilian population since October 25, 2002, and in view of the impunity granted since then to the perpetrators of these crimes, the IFHR has decided to formally bring the case before the International Criminal Court.

This is the first "complaint" conveyed by the IFHR to this jurisdiction since its activation by the article of incorporation of July 1, 2002.

## **8. Publication of the report: "What justice for war crimes victims?"**

Friday, 27 February 2004

One year after submitting its report on "War crimes in the Central African Republic" to the International Criminal Court (ICC) on 13 February 2003, the FIDH takes stock of the fate of victims of war crimes committed in the Central African Republic by the combatants between the attempted coup and the takeover by the forces of General Bozizé (October 2002 - March 2003). In its new report "What justice for the victims of war crimes?" published today, the FIDH highlights the continuing impunity enjoyed by the authors of war crimes. It gives the reasons why it believes the situation comes within the competence of the international criminal justice 'system' and calls on the ICC prosecutor to intervene.

A FIDH international fact-finding mission, consisting of Eric Plouvier, a member of the Paris Bar, and Marceau Siviéude, a programme officer from the FIDH's Africa Department, stayed in Bangui in the CAR from 16 to 23 November 2003. They highlighted the following facts:

1. Between the attempted coup and the takeover by the forces of General Bozizé, crimes were committed systematically and on a massive scale - crimes which fit the legal qualification of war crimes under the terms of article 8 of the ICC statute. More than 700 cases of rape have been recorded in Bangui. The hospitals have lists of the injured and dead during the fighting in the capital. In addition, the city was sacked, with looting of both private homes and public and industrial infrastructure. Yet so far there has been no independent and exhaustive evaluation of the crimes committed during this period. A study of this kind would be difficult because of the continuing insecurity in the north of the country, the main area of fighting (p. 6-7).

2. The Bangui department of public prosecution has looked into acts committed by certain former senior officials in exile, in particular the former president Patassé, Jean-Pierre Bemba, Abdoulaye Miskine and Paul Barril, accused of undermining the internal and external security of the state, sharing intelligence with foreign powers, complicity in assassinations, fatal blows, false arrests and illegal detention, theft, rapes and looting (p. 13-15). But nearly all of them have fled the country and appear to be 'beyond the reach' of the Central African courts. Other lawsuits (part of a real 'operation clean hands') are being brought against former collaborators of the regime for economic crimes (p. 15-16).

However, none of these lawsuits is based on the qualification of war crimes, since there were existing accusations under Central African substantive law at the time the acts were perpetrated.

3. Despite the complaints reportedly lodged by individuals with the Bangui department of public prosecution, denunciations made by victims and declarations made by the head of state during the national dialogue, at the time of the FIDH's mission no lawsuits had been brought against alleged war criminals within the ranks of the former rebels led by General Bozizé (p. 18-19). In this respect, the FIDH emphasises that the new regime has still not adopted the national law aimed at harmonising the measures of the ICC statute with Central African legislation, in particular as regards the definition of crimes and cooperation between the national courts and the Court.

4. In these conditions, the FIDH mission considers, with regard to the criteria defined in article 17 of the ICC statute, that the Central African government is failing to demonstrate a will to dispense justice to the victims of crimes covered by the ICC statute. The FIDH maintains that the ICC should therefore address the facts, of which there is no need to reiterate the seriousness. Moreover, this approach would fit in with the legal strategy expounded by Mr Ocampo: the prosecutor could investigate and prosecute all those individuals, both rebels and loyalists, with the highest apparent level of responsibility for the crimes committed, leaving the national Central African courts the responsibility of prosecuting the other individuals responsible (p. 20).

If the prosecutor activated the international criminal justice system in the case of the CAR, it would be a means of testing the new regime's proclaimed intention to fight impunity, whereas to date it has not carried out a single serious act to demonstrate its desire to actually attain this objective. Otherwise, the FIDH stresses the fact that maintaining the status quo would be synonymous with impunity for the war criminals. One can understand that this might be in the interests of a regime, but it is certainly not the case for the International Criminal Court.

The FIDH is submitting this report to the ICC prosecutor for further information in accordance with article 15.1 of its statute.



# FIDH represents 141 Human Rights organisations

## 141 organisations

<b>Afrique du Sud</b> -Human Rights Committee of South Africa	<b>Chine</b> -Human Rights in China	Defense des Droits de L'Homme	Droits Humains	des Droits des Personnes et Libertes Publiques
<b>Albanie</b> -Albanian Human Rights Group	<b>Colombie</b> -Comite Permanente por la Defensa de los Derechos Humanos	<b>Guinée Bissau</b> -Liga Guineense dos Direitos do Homen	<b>Mauritanie</b> -Association Mauritanienne des Droits de L'Homme	<b>Rwanda</b> -Collectif des Ligues pour la Defense des Droits de L'Homme Au Rwanda
<b>Algérie</b> -Ligue Algerienne de Defense des Droits de L'Homme	<b>Colombie</b> -Corporacion Colectivo de Abogados Jose Alvear Restrepo	<b>Irak (Royaume Uni)</b> -Iraqi Network for Human Rights Culture and Development	<b>Mexique</b> -Comision Mexicana de Defensa y Promocion de los Derechos Humanos	<b>Rwanda</b> -Ligue Rwandaise pour la Promotion et la Defense des Droits de L'Homme
<b>Algérie</b> -Ligue Algerienne des Droits de L'Homme	<b>Colombie</b> -Instituto Latinoamericano de Servicios Legales Alternativos	<b>Iran</b> -Centre des Defendeurs des Droits de L'Homme en Iran	<b>Mexique</b> -Liga Mexicana por la Defensa de los Derechos Humanos	<b>Sénégal</b> -Organisation Nationale des Droits de L'Homme
<b>Allemagne</b> -Internationale Liga fur Menschenrechte	<b>Congo Brazzaville</b> -Observatoire Congolais des Droits de L'Homme	<b>Iran (France)</b> -Ligue de Defense des Droits de L'Homme en Iran	<b>Moldavie</b> -League for the Defence of Human Rights	<b>Sénégal</b> -Rencontre Africaine pour la Defense des Droits de L'Homme
<b>Argentine</b> -Centro de Estudios Legales y Sociales	<b>Côte d'Ivoire</b> -Ligue Ivoirienne des Droits de L'Homme	<b>Irlande</b> -Irish Council for Civil Liberties	<b>Mozambique</b> -Liga Mocancicana Dos Direitos Humanos	<b>Serbie et Montenegro</b> -Center for Antwar Action - Council for Human Rights
<b>Argentine</b> -Comite de Accion Juridica	<b>Côte d'Ivoire</b> -Mouvement Ivoirien des Droits de L'Homme	<b>Irlande du Nord</b> -Committee On the Administration of Justice	<b>Nicaragua</b> -Centro Nicaraguense de Derechos Humanos	<b>Soudan (Royaume Uni)</b> -Sudan Organisation Against Torture
<b>Azerbaïdjan</b> -Human Rights Center of Azerbaijan	<b>Croatie</b> -Civic Committee for Human Rights	<b>Israël</b> -Adalah	<b>Niger</b> -Association Nigerienne des Droits de L'Homme	<b>Soudan (Royaume-Uni)</b> -Sudan Human Rights Organization
<b>Bahrein</b> -Bahrain Human Rights Society	<b>Cuba</b> -Comision Cubana de Derechos Humanos y Reconciliacion National	<b>Israël</b> -Association for Civil Rights in Israel	<b>Nigeria</b> -Civil Liberties Organisation	<b>Suisse</b> -Ligue Suisse des Droits de L'Homme
<b>Bangladesh</b> -Odhikar	<b>Ecosse</b> -Scottish Human Rights Centre	<b>Israël</b> -B'tselem	<b>Nouvelle Calédonie</b> -Ligue des Droits de L'Homme de Nouvelle Calédonie	<b>Syrie</b> -Comite pour la Defense des Droits de L'Homme en Syrie
<b>Bélarus</b> -Human Rights Center Viasna	<b>Egypte</b> -Egyptian Organization for Human Rights	<b>Israël</b> -Public Committee Against Torture in Israel	<b>Ouganda</b> -Foundation for Human Rights Initiative	<b>Tanzanie</b> -The Legal & Human Rights Centre
<b>Belgique</b> -Liga Voor Menschenrechten	<b>Egypte</b> -Human Rights Association for the Assistance of Prisoners	<b>Italie</b> -Liga Italiana Dei Diritti Dell'uomo	<b>Pakistan</b> -Human Rights Commission of Pakistan	<b>Tchad</b> -Association Tchadienne pour la Promotion et la Defense des Droits de L'Homme
<b>Belgique</b> -Ligue des Droits de L'Homme	<b>El Salvador</b> -Comision de Derechos Humanos de El Salvador	<b>Italie</b> -Unione Forense Per la Tutela Dei Diritti Dell'uomo	<b>Palestine</b> -Al Haq	<b>Tchad</b> -Ligue Tchadienne des Droits de L'Homme
<b>Bénin</b> -Ligue pour la Defense des Droits de L'Homme Au Bénin	<b>Equateur</b> -Centro de Derechos Economicos y Sociales	<b>Jordanie</b> -Amman Center for Human Rights Studies	<b>Palestine</b> -Palestinian Centre for Human Rights	<b>Thaïlande</b> -Union for Civil Liberty
<b>Bhoutan</b> -People's Forum for Human Rights in Bhutan (Nepal)	<b>Equateur</b> -Comision Ecumenica de Derechos Humanos	<b>Jordanie</b> -Jordan Society for Human Rights	<b>Panama</b> -Centro de Capacitacion Social	<b>Togo</b> -Ligue Togolaise des Droits de L'Homme
<b>Bolivie</b> -Asamblea Permanente de los Derechos Humanos de Bolivia	<b>Espagne</b> -Federacion de Asociaciones de Defensa y Promocion de los Derechos Humanos	<b>Kenya</b> -Kenya Human Rights Commission	<b>Pays Bas</b> -Liga Voor de Rechten Van de Mens	<b>Tunisie</b> -Conseil National pour Les Libertés en Tunisie
<b>Brésil</b> -Centro de Justicia Global	<b>Espagne</b> -Asociacion Pro Derechos Humanos	<b>Kosovo</b> -Conseil pour la Defense des Droits de L'Homme et des Libertés	<b>Pérou</b> -Asociacion Pro Derechos Humanos	<b>Tunisie</b> -Ligue Tunisienne des Droits de L'Homme
<b>Brésil</b> -Movimento Nacional de Direitos Humanos	<b>Espagne</b> -Federacion de Asociaciones de Defensa y Promocion de los Derechos Humanos	<b>Kyrgistan</b> -Kyrgyz Committee for Human Rights	<b>Philippines</b> -Philippine Alliance of Human Rights Advocates	<b>Turquie</b> -Human Rights Foundation of Turkey
<b>Burkina Faso</b> -Mouvement Burkinabe des Droits de L'Homme & des Peuples	<b>Etats Unis</b> -Center for Constitutional Rights	<b>Lettonie</b> -Latvian Human Rights Committee	<b>Polynésie Française</b> -Ligue Polynesienne des Droits Humains	<b>Turquie</b> -Insan Haklari Dernegi / Ankara
<b>Burundi</b> -Ligue Burundaise des Droits de L'Homme	<b>Ethiopie</b> -Ethiopian Human Rights Council	<b>Liban</b> -Association Libanaise des Droits de L'Homme	<b>Portugal</b> -Civitas	<b>Turquie</b> -Insan Haklari Dernegi / Diyarbakir
<b>Cambodge</b> -Cambodian Human Rights and Development Association	<b>Finlande</b> -Finnish League for Human Rights	<b>Liban</b> -Foundation for Human and Humanitarian Rights in Lebanon	<b>RDC</b> -Ligue des Electeurs	<b>Union européenne</b> -FIDH AE
<b>Cambodge</b> -Ligue Cambodgienne de Defense des Droits de L'Homme	<b>France</b> -Ligue des Droits de L'Homme et du Citoyen	<b>Liban</b> -Palestinian Human Rights Organization	<b>RDC</b> -Association Africaine des Droits de L'Homme	<b>Uzbekistan</b> -Legal Aid Society
<b>Laos (France)</b> -Mouvement Lao pour Les Droits de L'Homme	<b>Georgie</b> -Human Rights Information and Documentation Center	<b>Libéria</b> -Liberia Watch for Human Rights	<b>République de Djibouti</b> -Ligue Djiboutienne des Droits Humains	<b>Vietnam (France)</b> -Comite Vietnam pour la Defense des Droits de L'Homme
<b>Cameroun</b> -Maison des Droits de L'Homme	<b>Grèce</b> -Ligue Hellenique des Droits de L'Homme	<b>Libye (Suisse)</b> -Libyan League for Human Rights	<b>République Tchèque</b> -Human Rights League	<b>Yemen</b> -Human Rights Information and Training Center
<b>Cameroun (France)</b> -Ligue Camerounaise des Droits de L'Homme	<b>Guatemala</b> -Centro Para la Accion Legal en Derechos Humanos	<b>Lithuanie</b> -Lithuanian Human Rights Association	<b>Roumanie</b> -Ligue pour la Defense des Droits de L'Homme	<b>Yemen</b> -Sisters' Arabic Forum for Human Rights
<b>Canada</b> -Ligue des Droits et des Libertés du Quebec	<b>Guatemala</b> -Comision de Derechos Humanos de Guatemala	<b>Malaisie</b> -Suaram	<b>Royaume-Uni</b> -Liberty	<b>Zimbabwe</b> -Zimbabwe Human Rights Association Zimrights
<b>Centrafrique</b> -Ligue Centrafricaine des Droits de L'Homme	<b>Guinée</b> -Organisation Guineenne pour la	<b>Mali</b> -Association Malienne des Droits de L'Homme	<b>Russie</b> -Citizen's Watch	
<b>Chili</b> -Comite de Defensa de los Derechos del Pueblo		<b>Malte</b> -Malta Association of Human Rights	<b>Russie</b> -Moscow Research Center for Human Rights	
		<b>Maroc</b> -Association Marocaine des Droits Humains	<b>Rwanda</b> -Association pour la Defense	
		<b>Maroc</b> -Organisation Marocaine des		

The International Federation for Human Rights (FIDH) is an international non-governmental organisation dedicated to the world-wide defence of human rights as defined by the Universal Declaration of Human Rights of 1948. Founded in 1922, the FIDH has 141 national affiliates in all regions. To date, the FIDH has undertaken more than a thousand international fact-finding, judicial, mediation or training missions in over one hundred countries.

## La Lettre

is published by Fédération Internationale des Ligues des Droits de l'Homme (FIDH), founded by Pierre Dupuy. It is sent to subscribers, to member organisations of the FIDH, to international organisations, to State representatives and the media.

17, passage de la Main d'Or - 75011 - Paris - France  
CCP Paris : 76 76 Z  
Tel : (33-1) 43 55 25 18 / Fax : (33-1) 43 55 18 80  
E-mail: fidh@fidh.org/ Internet site: <http://www.fidh.org>

### ABONNEMENTS - (Euros)

**La Lettre** - France - Europe : 25 Euros - Etudiant - Bibliothèque : 20 Euros - Hors Europe : 30 Euros  
**Les rapports** - France - Europe : 50 Euros - Etudiant - Bibliothèque : 30 Euros  
Hors Europe : 60 Euros - **La Lettre** et les rapports de mission - France - Europe : 75 Euros  
Etudiant - Bibliothèque : 50 Euros - Hors Europe : 90 Euros

Director of the publication: Sidiki Kaba  
Editor: Antoine Bernard  
Assistant of publication: Céline Ballereau-Tetu  
Original : French - ISSN en cours.  
Printing by the FIDH.  
Dépot légal June 2004 - Commission paritaire N° 0904P11341  
Fichier informatique conforme à la loi du 6 janvier 1978  
(Déclaration N° 330 675)

prix : 4 Euros / £ 2.50