

RESEARCH REPORT

'A Drop of Water on a Hot Stone'

Justice for Victims in the Central African Republic

March 2021



Cover Image: A young girl stands in the doorway of a house in Bangui, Central African Republic. A member of her family was killed two days earlier by a grenade launched by a member of the rebel coalition Séléka. (William Daniels/Panos Pictures)

RESEARCH REPORT

'A Drop of Water on a Hot Stone'

Justice for Victims in the Central African Republic

March 2021

Rim El Gantri and Arnaud Yaliki

About the Authors

Rim El Gantri is a senior expert at ICTJ and currently Head of Program for Libya. She has also served as ICTJ's Head of Program for Nepal and for Tunisia. Ms. El Gantri is an expert in human rights and transitional justice with extensive experience in the Middle East and North Africa region. She has provided technical assistance to various truth commissions and other transitional justice mechanisms, as well as civil society organizations and victims' groups. Previously, Ms. El Gantri served as Director of the Gender Program at Impunity Watch. She holds a master's degree in Public Law from the University of Law and Political Sciences of Tunis and a degree from the International Academy of Constitutional Law.

Arnaud Yaliki is Assistant Judge on the Central African Republic's Constitutional Court and President of the Central African Observatory for Transitional Justice, which supports the country's transitional justice process. He is also a lecturer and researcher at the University of Bangui, focusing on international criminal justice, transitional justice, and human rights. Previously, he served as a legal advisor to the Central African Republic's National Assembly Parliament. He holds a Ph.D. in Law from the University of Paris Est.

Acknowledgments

Cordaid and ICTJ acknowledge the generous support of the Ministry of Foreign Affairs of The Netherlands through the Capacitating Change Strategic Partnership. The authors gratefully acknowledge all of those who generously gave their time to be interviewed for this report and shared their experiences and insights. The authors would like to thank all colleagues who helped facilitate this work, especially Flora Kwizera in Cordaid's Bangui office. The authors are also grateful to Enrica Picco for reviewing the report and providing critical input. Special thanks go to Roger Duthie at ICTJ and Michael Warren at Cordaid for the invaluable support they provided throughout the study.

About ICTJ

The International Center for Transitional Justice works across society and borders to challenge the causes and address the consequences of massive human rights violations. We affirm victims' dignity, fight impunity, and promote responsive institutions in societies emerging from repressive rule or armed conflict as well as in established democracies where historical injustices or systemic abuse remain unresolved. ICTJ envisions a world where societies break the cycle of massive human rights violations and lay the foundations for peace, justice, and inclusion. For more information, visit www.ictj.org

About Cordaid

Cordaid is an international humanitarian and development organization based in The Netherlands. Cordaid empowers security and justice seekers and civil society to demand people-centered, accountable, and inclusive security and justice services, and strengthens the capacity of both formal and informal institutions to respond effectively. Cordaid delivers programming at the country level in fragile and conflict-affected states including Afghanistan, Burundi, Central African Republic, Iraq, Mali, and Uganda, and advocates for acceleration of progress on SDG16 at regional and global levels. For more information, visit www.cordaid.org

CONTENTS

Abbreviations	vi
Executive Summary	1
Methodology	5
Background	7
Preliminary Challenges Relating to the Context	9
Ongoing Conflict and Fragility	9
Polarization and Lack of Inclusion.....	11
Cross-Cutting Themes.....	13
Social Norms and Gender Justice.....	13
Children and Youth: CAR's Neglected Future Generation	17
A Multitude of Measures for a Glimpse of Justice	21
Existing Justice Mechanisms and Institutions	21
A Dysfunctional System, Little Access to Justice.....	23
Conflicting or Complementary Mechanisms?.....	25
Is Informal or Traditional Justice the Solution?.....	26
The TJRRC: Just One More Institution?	27
Toward Responding to Victims' Needs	31
"Victims, First!"	31
Victims' Demands for Criminal Accountability	31
Victims' Demands for Reparations	32
Ensuring Meaningful Participation.....	34
A Unifying and Impactful Outreach and Communication Strategy	35
Conclusions and Recommendations	39
Recommendations.....	40
Epilogue	43
Annex	45

Abbreviations

AMAVE	Association of Mutual Aid to Victims of Events
ASVI	Association of Victims of Events of October 29, 2015
AUVC	Association of United Victims of the Central African Republic
AVED	Association of Victims of Events from 2012 to 2014
CAR	Central African Republic
CAHRO	Central African Human Rights Observatory
CSO	Civil society organisation
DDRR	Disarmament, demobilization, rehabilitation, and reintegration
EU	European Union
ICC	International Criminal Court
INGO	International nongovernmental organization
MINUSCA	United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic
MLC	Mouvement de libération du Congo
NSAW	National Support Association for Women, Free Young Girls and Orphans Victims of Violence in Distress
SCC	Special Criminal Court
SDG	Sustainable Development Goal
SGBV	Sexual and gender-based violence
SRSR	UN Special Representative of the Secretary-General
OSRSG	Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict
TJRRC	Truth, Justice, Reparation, and Reconciliation Commission
UMIRR	Joint Unit for Rapid Intervention and Repression of Sexual Violence against Women and Children
UN	United Nations
UNDP	United Nations Development Programme
UNESCO	UN Educational, Scientific and Cultural Organization

EXECUTIVE SUMMARY

The Central African Republic (CAR) has been described as a “phantom state,”¹ a “state of prey,”² and a “highjacked state.”³ It is a state in which, despite several peace agreements and national dialogues, violence is predominant and armed groups are among the major actors. The country has suffered from instability since its independence in 1960. Decades of recurrent conflicts reached their peak in 2013, when the Séléka rebellion, mainly led by Muslim fighters, seized power in a coup d'état, only to be countered by mainly Christian anti-Balaka self-defense militias later the same year. The country entered one of its worst periods, as conflict became sectarian along religious lines. The crisis was characterized by serious human rights violations that international military missions struggled to contain. Crimes against humanity and war crimes left thousands of victims looking for justice and equity.

A ceasefire agreement signed in 2014 opened the door to efforts to bring the country out of the crisis. It was followed by national consultations, paving the way for the 2015 Bangui Forum on National Reconciliation, which led to peaceful presidential and parliamentary elections in late 2015 and early 2016. Nevertheless, the country remained mired in violence: In 2017 and 2018 several massacres took place in and outside of the capital,⁴ while a weak state failed to sanction itself and a range of armed groups benefiting from impunity. A peace agreement was signed between armed groups and the government in early 2019, followed by a national popular consultation on the process of setting up a truth commission.

In addition to the serious security situation, CAR represents a very fragile context in other ways. As one of the poorest countries in the world, it ranks 188th in the UN Human Development Index,⁵ with approximately half of the population suffering from chronic malnutrition.⁶ Gender inequality and illiteracy are additional signs of a country unable to provide basic services to citizens. Therefore, a transitional period poses challenges related not just to political will, security,

1 International Crisis Group, “Central African Republic: Anatomy of a Phantom State,” ICG Africa Report No. 136, December 13, 2007.

2 Nathalia Dukhan, “State of Prey: Proxies, Predators, and Profiteers in the Central African Republic,” Briefing, The Sentry, October 2020.

3 John Prendergast and Nathalia Dukhan, “Justice in a Highjacked State,” Project Syndicate, October 19, 2020.

4 Several massacres took place in CAR in 2017 and 2018, before the 2019 peace agreement was signed, including the massacre of Alindao in November 2018, where up to 100 civilians were shot and burnt alive in a camp for displaced persons (see Amnesty International, “CAR: Up to 100 Civilians Shot and Burnt Alive as UN Peacekeepers Leave Posts in Alindao,” December 14, 2018) and the massacre of Notre-Dame de Fatima Church that occurred in Bangui in May 2018, where 15 people, including a priest, were killed (see *BBC News*, “Bangui Church Attack: 15 Killed in Central African Republic,” May 1, 2018).

5 See UNDP, “Human Development Indicators, Central African Republic,” <http://hdr.undp.org/en/countries/profiles/CAF>

6 See the World Bank, “The World Bank in the Central African Republic,” www.worldbank.org/en/country/centralafricanrepublic/overview

and stability, but also to development, reducing poverty and hunger, and providing education and health care.

Five years after the Bangui Forum, the national justice system is competent to respond to human rights violations committed during the conflict, the Special Criminal Court (SCC) is slowly getting underway, and a law was promulgated to create the Truth, Justice, Reparation and Reconciliation Commission (TJRRC). These institutions offer the potential for justice in a very challenging context, but they also face limitations and obstacles themselves. The national justice system, for example, has handled some emblematic cases of serious crimes, but dysfunction, lack of capacity and reach, and corruption have excluded the participation of most victims, who often resort to traditional justice to find a basic measure of relief and redress and quick solutions when slow-moving formal processes fail them.

This report examines the potential to provide justice to victims of human rights violations in a very fragile and conflict-affected context like CAR. It reviews the existing and emerging justice institutions, provides analysis from the perspectives of gender and young people, and articulates some of the key contextual and operational challenges. It shows how the absence of institutional capacity has centralized all services in the capital, Bangui. As a result, "national" justice processes concern only those who are based in the capital and neighboring areas. Some regions remain under the control of armed groups and are, hence, excluded from consultative processes. This report also highlights polarization and exclusion as obstacles to the implementation of justice processes, as victims often perceive certain institutions to be biased toward one group or another. Yet, ethnic and religious division, a known driver of the conflict, is often ignored by authorities when designing initiatives and discussing institutional reforms.

Based on interviews with victims of the conflict, this report examines the notion of justice for victims based on their experiences, needs, and expectations. It reveals how these needs evolve over time, depending on access to the provision of justice; direct and indirect participation in the design of justice mechanisms; access to information; and, most importantly, the victim's socioeconomic situation. Criminal accountability is a primary concern for victims in Bangui, but reparations are also important, especially for those outside of the capital. For interviewees in the directorates, dealing with hunger is the primary concern. For many victims, justice claims tend to be about social justice, linked more to equity and equality. The report, therefore, looks at victims' needs both in and outside of Bangui, underscoring the importance of planning and designing justice processes around those needs.

Even in a context like CAR, opportunities exist to provide justice to victims, including through victim and civil society advocacy. Women face obstacles to justice in the form of restrictive social norms, inadequate legal protections, prohibitive costs of legal services, and general physical insecurity. The banalization of sexual and gender-based violence (SGBV) in CAR today is a legacy of the huge number of such violations committed during successive conflicts and violations. Still, legal and institutional developments have aimed to improve women's access to justice and security, while women's associations and legal clinics are actively working to improve gender justice.

Young people, who are supposed to be the country's future leaders and changemakers, have been harmed by recruitment and participation in armed groups, displacement, and the disappearance of family members. Yet, discussions about justice tend to neglect them, and public institutions tend to exclude them, while missed schooling and lack of access to education hamper their awareness of their rights. Child victims of the conflict who enrolled in armed groups are still

considered perpetrators. Yet, young people are trying to change this situation through peaceful political expression, including participation in civil society, the media, and the arts.

Victims' access to information about their rights and options can shape their participation in justice processes as well as their perceptions of and attitudes toward these initiatives. This report highlights how poorly designed communication strategies and information sharing by various stakeholders can raise victims' expectations and result in frustration, leading victims to look to other means to achieve justice. In polarized contexts like CAR, communication not only serves to provide information but also helps to create public ownership and acceptance of newly established state institutions.

This report also highlights the nexus between justice and development. Indeed, the fragility of the context creates development-related challenges, such as reducing poverty and hunger, increasing gender equality, and providing education, which must be met in order to be able to truly provide justice. Issues related to social identity, inequality, education, and poverty in CAR have to be taken into account when designing justice initiatives. Conversely, the provision of justice in fragile contexts is critical to addressing these issues, as it is to the realization of the 2030 Sustainable Development Agenda. The challenges related to access to justice, rule of law, and inclusive institutions demonstrate the connection between transitional justice and Sustainable Development Goal (SDG) 16 ("to promote peaceful and inclusive societies for sustainable development"), while those related to gender, poverty, and education demonstrate the links among delivering justice, fighting impunity, and progress in many other SDGs.⁷

One observer compared recent justice initiatives and efforts in CAR to a "drop of water on a hot stone."⁸ This study contends that advancing justice to a next stage requires taking into account the root causes of conflict, responding to victims' needs, ensuring meaningful participation, and unifying institutions. It sheds light on opportunities for victims' inclusion and participation in justice processes. It reflects people's hope for justice, despite frustrations engendered by persistent conflict and prevailing impunity. The challenges in CAR that constrain efforts to provide justice to victims do not limit such efforts entirely. The more inclusive, participatory, and responsive such efforts are, the more access to justice they will ultimately provide.

Recommendations

To the Government of CAR:

1. Reinforce and accelerate the implementation of the mechanisms of Organic Law n°20.005 on the Organisation of Legal Aid in CAR. Review the high fees that victims have to pay when trying to access justice services (from the police station to the courts) and establish special reduced fees for conflict-related victims and cases.
2. Promote youth participation in justice measures beyond the consultative stage; review conditions related to age in decision-making positions, allowing better and more meaningful youth participation and ensuring that the views and perspectives of young people, the largest portion of the population and the future leaders of CAR, are well reflected.
3. Prioritize a reparations program based not just on prosecutions and court decisions but on the findings of wide consultations with victims, in order to design a comprehensive policy

⁷ See Enrica Picco and Roger Duthie, "Rethinking Transitional Justice in the Central African Republic as Part of the 2030 Agenda," Global Observatory, International Peace Institute, October 17, 2019.

⁸ Interview with a UN official, June 11, 2020.

on reparations; start by providing urgent and specific reparations measures and compensations to victims.

4. Review education fees and ensure free public education as a way to prevent inequality and provide scholarships to the children of victims of the conflict.
5. Work toward putting an end to child recruitment in armed groups by providing means of survival and protection for children, especially orphans and children of the forcibly disappeared and victims of the conflict.
6. Recognize children previously associated with armed groups as victims. Separate incarcerated children from adults and release those who have been detained for years without trial.

To all stakeholders:

1. Ensure meaningful participation and representation of victims in transitional justice processes by
 - Informing victims about their rights, justice mechanisms and institutions, and possible justice alternatives, so their participation is real and not nominal;
 - Guaranteeing the participation of marginalized groups, minorities, diaspora communities, and refugees in the design and implementation of justice processes; and
 - Ensuring wide consultations that cover all victims in all regions of the country, not just in the capital Bangui and the surrounding towns.
2. Promote interaction among different groups and communities in order to create solidarity among victims' groups based on their shared experiences, fight against impunity, and work to ensure their rights, instead of reifying their political, religious, and ethnic affiliations.
3. Develop a victim-oriented outreach strategy that effectively manages public expectations from the start with the participation of victims' groups, in order to ensure victims are well informed.
4. Conduct more culturally sensitive and intersectional studies about gender and social norms that would lead to more adapted responses to sexual and gender-based violence (SGBV) and highlight how the banalization of SGBV against women and men contributes to its persistence before, during, and after conflict.
5. Ensure alternative forms of youth participation in justice measures as a way to contribute to transitional justice processes via other forms of expression and as ways for them to play a positive participatory role in both the transition and the country's overall development.
6. Unify communication approaches and adapt them to the context and victims' level of education; above all, do not create unattainably high expectations among victims for justice.
7. Use the framework of the 2030 Sustainable Development Agenda to emphasize the importance of providing justice to victims of human rights violations related to SDG 16 (on peace, justice, and inclusive societies) and other SDGs, including those related to gender, inequality, and education.

Methodology

This study was launched under exceptional circumstances in the middle of the COVID-19 pandemic, which presented multiple challenges to the implementation of the planned methodology, especially the fieldwork and the timeline. The research team faced additional security-related challenges, particularly in conducting interviews outside of the capital, Bangui. The team nevertheless succeeded in completing its work by conducting interviews both in the field and online with targeted interviewees between April and November 2020. The fieldwork was carried out in Bangui and in Alindao (in the Basse-Kotto prefecture and its surroundings, in the center-south of CAR), a city affected by the crisis with a large population of internally displaced persons (IDPs).

The study is based on a total of 68 qualitative interviews with key informants, including victims and victims' groups (31 victims in total), representatives of local civil society organizations, representatives of international nongovernmental organizations (INGOs) and UN agencies, experts on the CAR context, local policymakers and members of government, journalists, and a filmmaker. An online focus group discussion with a total of 13 victims (seven men and six women) was also held. Interviews were conducted in person in CAR and by email exchange, because some interviewees preferred to receive a written questionnaire online.

The sample of Central African victims included a range of backgrounds in terms of gender, religion, age, education, and socioeconomic status. In Alindao, almost all of those interviewed live in difficult socioeconomic conditions. While the sample is not fully representative of all victims in CAR, its diversity and the rigorous methodology employed in selecting participants allowed for the collection of representative perceptions, priorities, and expectations of victims. An open-ended set of questions was used during interviews, and the objective of the study was explained to victim participants. Initial interviews in Bangui allowed for improvements to be made to the questions. Victims' personal experiences provided the starting point for discussing their vision, perceptions, and expectations of a justice process in the fragile context in which they live.

Background

Since its independence on August 13, 1960, CAR has experienced fragility and insecurity. This creates an extremely difficult operating environment that limits the capacity of the state to meet its legal obligations and victims' expectations in terms of justice. CAR is one of the most fragile contexts in the world, with recurring cycles of violent conflict and periods of acute violence temporarily resolved by negotiated political settlements. Geographically limited to the east by the two Sudans, to the west by Cameroon, to the north by Chad, and to the south by the Democratic Republic of Congo and the Republic of Congo, CAR is a low-population-density country, marked by severe poverty, ethnic tensions, widespread political instability, corruption, and nepotism—all factors that have contributed to the recurrence of armed conflict. Regional instability and internal conflicts in neighboring countries have also caused the movement of refugees across the country's porous borders as well as the flow of arms and rebel groups.

The crisis in CAR dates back more than two decades. The situation began to worsen after the legislative and presidential elections of May 2005, won by former President François Bozizé. The first rebellion started in the northwest of the country, the stronghold of former President Ange Félix Patassé (overthrown in March 2003 by Bozizé). During this period, hundreds of civilians were killed, tortured, and raped; tens of thousands of houses were burned; and several hundred thousand people fled their homes, forced to live under very difficult conditions. This first conflict ended in 2008, after an "inclusive" National Dialogue brought together the main political actors in CAR (the government authorities, the opposition, the rebel groups, and civil society) to move the country out of crisis. Unfortunately, the positive outcomes of this process did not last due to the intransigence of all parties. This led to an upsurge in violence in the northern regions, characterized by extrajudicial executions, arbitrary arrests and detentions, destruction of property and homes, and sexual and gender-based violence (SGBV). Atrocities were committed by both state security forces and nonstate armed groups.

In an attempt to end the conflicts between the main armed groups and the government, several "peace agreements" were negotiated and signed between 2007 and 2012. The most important was the Comprehensive Peace Agreement, signed on June 21, 2008, in Libreville, Gabon, by the government and two rebel groups: the People's Army for the Restoration of Democracy and the Union of Democratic Forces for the Rally. This agreement led, at the end of 2008, to an inclusive political dialogue that brought together most of the main political actors. A third armed group, the Central African People's Democratic Front, joined this agreement in 2009. The fourth main armed group active during this period, the Convention of Patriots for Justice and Peace, signed a ceasefire with the government on June 12, 2011, and a peace agreement on

August 25, 2012. These multiple agreements, however, failed to end the conflicts that were accompanied by serious crimes costing human lives and material loss.

In December 2012, several armed groups came together in the Séléka (meaning “alliance” in Sango) rebellion, organized and reinforced by Chadian fighters, warriors from Darfur, heavily armed poachers, and diamond merchants. In March 2013, the Séléka overthrew the central government in a coup d'état and installed Michel Djotodia, who proclaimed himself president of the republic on March 22, 2013. The violent seizure of power plunged the country into a new political and humanitarian crisis marked by a multitude of human rights violations. In reaction, self-defense groups called “Anti-Balaka” (meaning “invulnerable to machetes or machine gun bullets”) formed and entered the capital, Bangui, on December 5, 2013, 10 months after the coup.

These two nonstate groups, the Séléka and the Anti-Balaka, have since not only fought each other but committed abuses against the population. The upsurge in violence has resulted in thousands of civilian deaths, the displacement of more than 800,000 people internally and hundreds of thousands to neighboring countries, and a context conducive to SGBV. A mapping report outlines 620 incidents that occurred on the territory of CAR between January 2003 and December 2015,⁹ concluding that the vast majority of these incidents constitute serious violations under international human rights and humanitarian law, which could also constitute war crimes, crimes against humanity, or both. The impunity enjoyed by perpetrators and the weakness of Central African institutions are the major causes and consequences of the ongoing conflict.

The Agreement for Peace and Reconciliation, negotiated and initialed in Khartoum, Sudan, and signed in Bangui on February 6, 2019, between the government and 14 armed groups is the most recent initiative to reduce the violence and bring the country out of recurring crisis. Members of armed groups have been integrated into government positions; however, violence has not come to an end. In an attempt to bring justice to victims and foster the reconciliation of divided communities, the Central African government, supported by the international community, has started to put in place judicial and nonjudicial mechanisms of transitional justice, ranging from courts to a truth commission. The December 2020 presidential elections were organized peacefully and voters cast their ballots. However, the exclusion of François Bozizé from the electoral race and the reelection of the President Touadera provoked a violent response from several armed groups,¹⁰ with which Bozizé united, including some that had played a role in toppling him back in 2013, returning the country to insecurity.¹¹

9 MINUSCA, UNDP, Office of the High Commissioner for Human Rights (OHCHR), and the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (OSRSG), “Report of the Mapping Project Report Documenting Serious Violations of International Human Rights Law and International Humanitarian Law Committed on the Territory of the Central African Republic from January 2003 to December 2015,” May 2017, 21.

10 “Central African Republic Court Rejects Ex-president Bozizé’s Election Candidacy,” *France 24*, December 3, 2021.

11 Paul-Simon Handy, “CAR Elections Expose the Depth of the Country’s Crisis,” Institute for Security Studies, January 13, 2021.

Preliminary Challenges Relating to the Context

Ongoing Conflict and Fragility

The major obstacle to providing justice to victims in CAR is the ongoing insecurity and persistence of widespread human rights violations, despite the signing of the 2019 peace agreement. The weakness of state institutions deprives Central African citizens—the majority of whom have suffered abuse, deprivation, and displacement—of security and justice. Vulnerable populations remain in a difficult situation, suffering grave and significant violations, including killing, injury, abduction, looting, and SGBV.¹²

Security was not ensured by disarmament, demobilization, reintegration, and repatriation (DDRR) operations or the peace agreement. In 2013, after the coup, the UN Security Council imposed an arms embargo on CAR for an initial period of one year.¹³ The embargo was initially justified by the alarming situation in the country during the 2013 crisis, but has since lost support because of its impact on the state's ability to ensure security, according to interviews with government officials, civil society groups, and even victims. A high-level official involved in DDRR affirmed that “lifting the arms embargo would be necessary to provide the [Central African] Armed Forces and Security Forces with the necessary equipment to ensure security in the country but also the safety of victims and witnesses.”¹⁴ Indeed, the arms embargo does not apply to “supplies of arms and other related lethal equipment to the CAR security forces, intended solely for support of or use in the CAR process of [security sector reform].”¹⁵ Nevertheless, the approval of arms supplies has to be validated by the UN sanctions committee, which does not expedite or facilitate the process. Interviewees considered this a huge obstacle for the state in enforcing security and maintaining control over its territory, especially given that armed groups are heavily equipped.

This reality underlines a complex situation affected by factors that go beyond national control, that is, “an environment where all the games of the international community are not easy to understand.”¹⁶ Foreign interference in CAR strengthens armed groups and criminal networks to the detriment of rule of law and state capacity to govern the country.¹⁷ One UN official highlighted:

12 See Crisis Tracker, “Central African Republic,” <https://crisistracker.org/map>

13 UN Security Council, Resolution 2127 (2013), S/RES/2127 (2013), December 5, 2013.

14 Interview with high-level Central African Republic official involved in DDRR, June 29, 2020.

15 UN Security Council, Resolution 2127 (2013), par. 54 (e).

16 Interview with UN official, June 10, 2020.

17 For more information about foreign interference in CAR, see Dukhan, “State of Prey.”

The alliance strategies that allow for institutional stability become so complex that it looks like people are going with the devil. When you have a knife to your throat because more than 70 percent of your territory is occupied by armed groups, and you go to negotiations like that in order to put in place inclusive mechanisms and institutions, it becomes a big challenge. It's like walking a tightrope.¹⁸

Such conditions force state officials to compromise and enter deals in which they need to anticipate the reaction of armed groups to certain decisions, especially given that some members of these groups are awarded government positions.¹⁹

The lack of security in CAR has huge implications for the state's stabilization and ability to rule and govern, and, hence, its capacity to provide justice. Everything is conditioned on the state's capacity to implement reforms or even to make decisions. Magistrates and police officers are recruited and trained, for example, but refuse to be deployed to regions outside of Bangui due to safety concerns.²⁰ The resulting insecurity creates a situation of impunity that also influences local chiefs and religious leaders who make decisions based on traditional justice, even though they are trusted by the population and considered an alternative to the official justice system. For instance, an interviewee reported that an Imam in Bangui's commercial district (the PK5) had rendered a court decision based on Islamic law but was beaten up one night by militiamen who objected to it.²¹ Moreover, in 2016 when a network of women organized against sexual violence, mayors from different districts, neighborhood chiefs, women activists, and members of youth associations who were being trained by the United Nations expressed the sentiment that "if it is an Anti-Balaka, I don't intervene."²² Because "perpetrators are everywhere,"²³ contends one expert, it is very difficult to protect victims and ask them to testify or to file a complaint.

Persistent conflict has also affected the financial and economic situation of the country, which in turn reinforces fragility. The state budget does not have the means to fund a justice program. The country lacks proper roads, and travel is very difficult, especially in the rainy season, when many parts of the country are totally cut off. In order to reach justice institutions, victims have to move through regions where they risk encountering armed groups. The lack or absence of educational services as a result of the conflict has also affected the state's ability to recruit personnel and staff for justice institutions.²⁴ Members of the international community pointed to the difficulty in finding counterpart public officials, if those officials even exist. According to an interviewee, "Even if there is a prosecutor, he does not have an assistant."²⁵

Further, the fragility of state institutions makes it difficult to coordinate among different administrations or to develop a long-term vision of reform. According to one expert, "Everything happens by short pieces because of the context. Sometimes you can do more DDRR in one part of the country, redeploy other forces in another part of the country, and redeploy a judge to a third part."²⁶ The justice sector reform document is the first of its kind in CAR,²⁷ with long-term objectives that underline the country's fragility and limited infrastructural and institutional capacity. A UN official said, "I've been working conceptually in fragile contexts for years, but it's

18 Interview with UN officer, June 10, 2020.

19 Human Rights Watch, "Central African Republic: Don't Reward Warlords, Militia Leaders Should Face Justice Instead," April 24, 2019.

20 Interview with UN officer, June 11, 2020.

21 Ibid.

22 Ibid.

23 Interview with expert on CAR, April 21, 2020.

24 Lack of education is discussed in section 3, under "Children and Youth: The 'Neglected' Future Generations of CAR."

25 Interview with UN official, June 11, 2020.

26 Interview with expert on CAR, April 21, 2020.

27 Sectoral Policy of Justice 2020–2024, approved on September 18, 2019.

only when I'm in CAR that I realize what a fragile state means. The imbalance between security and justice is a vicious circle. The solution is not just a technical one."²⁸

Polarization and Lack of Inclusion

Sectarian violence characterized the most recent waves of conflict in CAR, unveiling deep-rooted divisions within society linked to marginalization and discrimination. In interviews, it was not easy to discuss polarization, identities, and religion and their influence on justice. Most interviewees said that there were no differences among Central Africans and that they all lived together. According to one, the fact that some families are made up of Christians and Muslims suggests that religious differences were instrumentalized to further divide people, but in themselves were not divisive.²⁹ Another activist, again pointing out that people from different religions live together in the same household (notably in the north), thought that religious divisions were imported by those who wanted to profit from the crisis. According to him, the UN Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) had played a role in deepening divisions: "At one point, MINUSCA organized the deportation of Muslims from the K5 neighborhoods to northern towns, and at the same time Christians and non-Christians who were in the north were taken back to the south."³⁰

This view is not shared by all, however. One Muslim victim said that "only people benefiting from the system, who do not want it to change, would say that religious differences were instrumentalized and imported."³¹ Indeed, Muslims have long been perceived by most other Central Africans as foreigners.³² They have suffered significant discrimination and marginalization.³³ Their hold on the trade and business sectors made them vulnerable to extortion,³⁴ but they also lacked access to key government positions. The small group of Muslims who chose to rebel did so because of "marginalization and not for the name of Allah, as some may think."³⁵ This marginalization is related to geography, according to an expert on CAR,³⁶ as Muslims are mainly established in the north, with huge distances separating these areas from the capital, Bangui: "The North/Muslim region is also underdeveloped, lacks everything, and sees discrimination there. Religions are, therefore, grafted onto these other aspects (geographic, economic) to define the identifying features that mark the conflict."³⁷ Building on this, another interviewee said, "[CAR] should follow the example of the Tunisian Transitional Justice Law, which adopted the 'region as a victim' approach."³⁸ "We are the most forgotten," said a Muslim victim leader of a victims' group.³⁹ Although Muslims make up nearly 15 percent of the CAR population, the government waited until the Bangui Forum in 2015 to recognize Islamic religious holidays.⁴⁰

This Muslim-north-versus-Christian-south division has implications for justice. As articulated by an expert in transitional justice, "There is a question of redefining national identity. As long

28 Interview with UN official, May 27, 2020.

29 Interview with lawyer, October 16, 2020.

30 Interview with activist, October 16, 2020.

31 Interview with Muslim victim, October 26, 2020.

32 Enrica Picco, "I Am 100% Central African": Identity and Inclusion in the Experience of Central African Muslim Refugees in Chad and Cameroon," ICTJ, 2018.

33 Ibid.

34 Interview with activist, October 16, 2020.

35 Interview with INGO leader, September 14, 2020.

36 Interview with expert on CAR, via email exchange, November 6, 2020.

37 Ibid.

38 Interview with INGO leader, September 14, 2020.

39 Interview with head of victims' group, October 26, 2020.

40 Even though recognition occurred in 2015, it was only made official in 2019 by a law unanimously approved by vote on December 17, 2019.

as the national identity is redefined in an inclusive manner to include Muslims equally and equitably, we may arrive at a definition of justice that will be more in line with what it should be."⁴¹ For the moment, the division has had consequences for victims' groups, leading to "competition" between the different categories of victims and, therefore, a lack of solidarity among victims from different groups."⁴² Members of the international community who had worked with victims' groups and civil society asserted that there was no solidarity among victims' groups and that the conflict had deepened individualism and intolerance within society.⁴³

Polarization based on identity can also be seen in relation to access to criminal justice. Indeed, in interviews, victims revealed a mistrust of institutions that provide justice. The International Criminal Court (ICC), for example, is perceived as conducting a witch hunt against the Anti-Balaka. According to the secretary-general of a local organization:

There are two weights, two measures in the actions of the International Criminal Court. The court persecutes the weak. Since the outbreak of the Central African crisis, the crimes committed are attributable to the Séléka and the Anti-Balaka. Indeed, the Séléka have committed and continue to commit atrocities. But the ICC only goes after the Anti-Balaka, just because they have laid down their arms and are in a weak position. There is no lack of examples: Patrice Edouard Ngaissona and Alfred Yekatom, two high profile Anti-Balaka members, were arrested and transferred to the prison cells of the ICC, in The Hague. The Séléka leaders continue to challenge state authority. They are not worried about facing justice."⁴⁴

The Muslim community has the same perception of the SCC, which it views as targeting the Séléka. A Muslim victim, for instance, said, "The deputy special prosecutor of the SCC belongs to the same ethnic group as Bozizé and is a relative of his family. He was appointed by Bozizé, so his neutrality is a problem."⁴⁵ Concerns have also been expressed about representation among the magistrates of the SCC, which does not include any Muslims.⁴⁶ A UN official said that "usually the SCC is perceived as justice against the Séléka, while the ICC as justice against the Anti-Balaka."⁴⁷

Interviewees expressed similar concerns regarding the upcoming TJRRC. A Muslim victim criticized the composition of the Committee of Selection of TJRRC commissioners,⁴⁸ given that nomination of its members was political and that "the Ministry of Humanitarian Action suggests only people who support their ideas and positions."⁴⁹ She recommended that the public select candidates, adding "it's up to us to decide."⁵⁰ The same concern was expressed by another Muslim victim who said, "The TJRRC is also off to a bad start. I am sure there will be no Muslims among the 11 commissioners."⁵¹ The Committee of Selection comprises nine members: two representatives of the General Assembly, two representatives of the government, three representatives of civil society organisations, one representative of the United Nations, and one representative of the African Union.

41 Interview with expert on CAR, July 16, 2020.

42 Comments of an expert on CAR, via email exchange, September 9, 2020.

43 Interview with INGO official, October 19, 2020; and interview with UN official, June 10, 2020.

44 Interview with the secretary-general of a local NGO, member of Central African civil society, June 26, 2020.

45 Interview with head of a victims' group, October 26, 2020.

46 Ibid.

47 Interview with UN official, May 27, 2020.

48 Committee established by decree n°20-270 dated July 30, 2020.

49 Interview with female Muslim victim, October 20, 2020.

50 Ibid.

51 Interview with head of a victims' group, October 26, 2020.

Despite this polarization, however, “identities and ethnic groups are not taken into consideration when designing justice initiatives.”⁵² According to a UN official, the development of the Sectoral Policy of Justice (2020–2024), approved in September 2019, was a long process, lasting approximately one and a half years, during which identities and groups were never discussed. The same official interpreted it as “the formalist attitude of judicial actors in CAR to apply the same legal standard to everyone, but it’s not something that has been discussed . . . ever.”⁵³ Whether it is a formal way to apply legal standards to everyone or “the justice of the majority,”⁵⁴ this approach denotes several shortcomings in current transformative justice initiatives.

Cross-Cutting Themes

Social Norms and Gender Justice

“Gender equality is an obvious issue but a difficult question to answer.”⁵⁵

Questions about gender justice and equality in CAR can be difficult to answer, in part due to a lack of information and data about gender inequality. This was confirmed by UN officials,⁵⁶ who provided support to the development of the Sectoral Policy of Justice (2020–2024),⁵⁷ which was supposed to include a chapter focusing on women’s access to justice and the difficulties they face, but there was not enough available data, analyses, or studies to serve as a reference. The issue of gender is one dimension of CAR’s cultural complexity. CAR is a huge country with different ethnic and religious groups and communities. Gender-related power dynamics and male-female relations vary from one group to another as well as between people living in the city and those in rural areas.⁵⁸ Religions also play a role in determining social norms. As explained by an expert on CAR, “The ‘Muslim’ and the ‘Christian’ are also codes to explain the differences (in behavior, values, functional occupation) that separate its majority population (Bantu of equatorial Africa and, therefore, ‘Christianized’) and its population of the Sudano-Saharan sphere (some of which are Arabized, but not all). Sometimes it’s a big gap between these two worlds in many ways.”⁵⁹ This complexity explains the lack of information and contradictory responses about women’s level of empowerment in CAR and the nature of the obstacles they face. Thus, it is very important to examine the issue using an intersectional approach.

The legal framework in CAR includes several laws and norms in favor of women, including Law n°06.32 of December 27, 2006, on the protection of women against violence,⁶⁰ which ensures judicial protection for women. Law n°16. 004 of November 24, 2016, established parity between men and women, based on the 2016 Constitution, which enshrines equality before the law without any distinction. The Sectoral Policy of Justice (2020–2024) includes a section on promoting women’s access to justice and takes into consideration all aspects of the normative framework to ensure that a law dealing with SGBV would be adopted, considering that “law n°06.032 was not adapted in the light of many relevant international legal instruments in this area.”⁶¹ The new law would include support and legal aid for victims of SGBV.⁶² In a recent decision, the Constitutional Court ruled that the application of parity “is a constitutional

52 Interview with UN official, May 27, 2020.

53 Ibid.

54 Interview with Muslim victim, October 26, 2020.

55 Interview with UN officials, May 27, 2020.

56 Ibid.

57 Sectoral Policy of Justice 2020–2024.

58 Interview with expert on CAR, July 16, 2020.

59 Interview with expert on CAR, via email exchange, November 6, 2020.

60 Law available online in French at www.ilo.org/aids/legislation/WCMS_172466/lang--fr/index.htm

61 Sectoral Policy of Justice 2020–2024, 68.

62 Ibid.

obligation and not a mere option left to the discretion of the legislative, executive and judicial powers.”⁶³

On the institutional level, a Joint Unit for Rapid Intervention and Repression of Sexual Violence against Women and Children (L'Unité Mixte d'Intervention Rapide et de Répression des Violences Sexuelles Faites aux Femmes et aux Enfants — UMIRR) was established by Decree No. 15.007 of January 8, 2015.⁶⁴ UMIRR's mission is to prevent and reduce all forms of sexual violence against women and children, whatever the context and the social or marital status of the victims, including widows and orphans. It is a joint unit composed of police officers working closely with the Ministry of Social Affairs and Humanitarian Action and the Ministry of Public Health and Population. Created in 2015, UMIRR was the outcome of the first visit of the UN Special Representative of the Secretary-General (SRSG) on Sexual Violence in Conflict, Zainab Hawa Bangura, to CAR in 2012. During that visit, Bangura met with women survivors of SGBV, women's groups, and female members of parliament,⁶⁵ and heard complaints about the absence of a specialized response to sexual violence and limited access to justice for women. As the country entered a new cycle of violence just after this visit, the SRSG's office had to wait until 2015 to re-engage in CAR and create UMIRR. As an important door to the judiciary that provides information about cases before the SCC, UMIRR needs to consider violations against both women and men.

While laws and regulations suggest that the political will exists to try to improve the situation for women, they do not always reflect the reality in CAR. In practice, accountability is rarely ensured, access to justice is not the same for all, and inequality persists. Indeed, SGBV was widely committed in CAR throughout the conflict. Violations included collective rape of women and girls, but also of men and boys, as well as forced marriage, sexual exploitation, and sexual slavery.⁶⁶ These violations were committed by all parties to the conflict and by UN and non-UN forces operating under the UN Security Council mandate.⁶⁷ A collective complaint made by victims' groups with the support of the Central African Human Rights Observatory (CAHRO) and Cordaid addresses numerous cases of SGBV, including collective rape.⁶⁸ “Several Muslim women were kidnapped and forced to marry Anti-Balaka combatants and are still kept captive with the complicity of local communities. Many were forcibly converted to Christianity,”⁶⁹ reported a Muslim victim. Stigma and displacement are the principle effects of SGBV in CAR, because most victims do not return to their villages for fear of being rejected. “Several women victims committed suicide,” shared one Muslim victim who was interviewed.⁷⁰ Many others endure the health consequences of rape. Most suffer the economic impact of rejection, as they must support their family or sometimes cannot or do not have the opportunity to marry due to the stigmatization of rape victims in CAR.⁷¹

For the majority of interviewees one of the most problematic issues was the banalization of SGBV.⁷² Despite the existence of UMIRR, court staff still treat sexual violence as a trivial issue or a

63 Constitutional Court of the Central African Republic, Decision n° 006 /CC /19 relating to the examination of conformity of the Law on the Electoral Code of the Central African Republic, 9.

64 Available online in French at www.legal-tools.org/doc/125469/pdf/

65 *UN News*, “Central African Republic: UN Envoy Signs Agreements on Conflict-related Sexual Violence,” December 12, 2012.

66 MINUSCA et al., “Report of the Mapping Project,” 2017.

67 *Ibid.*

68 More information about the collective complaint can be found in the section titled “A Dysfunctional System, Little Access to Justice.”

69 Interview with head of a Muslim victims' group, October 26, 2020.

70 *Ibid.*

71 Focus group discussion with victims, October 15, 2020.

72 This trivialization does not apply to all ethnic groups in CAR, nor does it apply to conflict-related SGBV. It is, rather, the result of the high levels of SGBV committed during the conflict.

problem between couples. “Sexual violence is banalized compared to murder and other violent crimes,”⁷³ which contributes to delays in addressing some complaints. Aware of this situation, the United Nations provided technical assistance to the Bangui Court of Appeal to hold a special criminal session in 2019 focused mainly on cases of rape and only three cases of other forms of violent crime. The session aimed to sensitize the public about these types of violations, while directing magistrates not to banalize them. Yet, because of security challenges and the fact that combatants are still armed, “No one has been arrested and convicted for conflict-related sexual violence.”⁷⁴ “There was a case in Bambari of two Anti-Balaka who were convicted [of rape] and sentenced to two years in prison (although the penal code stipulates 10 years for rape), but they disappeared and were never found again . . . They must have been released somewhere.”⁷⁵

Decriminalization of rape for years in the Central African system is another sign of the extent of normalization of SGBV. Indeed, in 1998, an instruction was given to prosecutors to decriminalize rape and treat it as an indecent assault (“*attentat à la pudeur*”). According to the Central African Penal Code, rape charges carry a sentence of 10 years of imprisonment and required a criminal session be held. As criminal sessions are infrequent, decriminalizing rapes allows civil courts to handle these cases; however, it also means that sentences are, therefore, reduced. In 2016, a new instruction was given to cease decriminalizing rape because courts and criminal sessions were functional, but magistrates and prosecutors have continued downgrading the crime. “Even when they get [rape] cases from UMIRR, they requalify the crime.”⁷⁶ More recently, as part of general efforts to contain the COVID-19 pandemic and further to the UN High Commissioner for Human Rights Michelle Bachelet’s call to governments to take urgent action to protect the health and safety of people in detention and other closed facilities,⁷⁷ decree n° 20.160 on the release of certain detainees aimed to prevent the spread of COVID-19 was announced on national radio on April 25, 2020. Among the cases that do not benefit from early-release measures was “rape of a minor under the age of 14,” which meant detainees convicted of the rape of a woman or a minor over 14 years of age were released. This decree sheds light on the way in which the state deals with SGBV cases.

Trivializing SGBV, however, is not exclusive to the justice system—it forms part of CAR’s social norms. In rural areas, victims prefer a quick solution and compensation. Many villages and local authorities are still seeking amicable settlements to SGBV cases: “The perpetrator has to give a bag of rice, maybe two cases of beer to the family and that’s it.”⁷⁸ In several cases, survivors have come forward to UMIRR, but when “they are told to go to the hospital to get a medical certificate, they never come back. They want a quick fix and rapid response.”⁷⁹ This is due to both the lack of formal justice and functioning courts in CAR and from the perception that SGBV is not a crime.

Central African social norms hinder both women’s and men’s access to justice for SGBV. Stigmatization is the first issue that victims face. Families often turn against victims. Cultural constraints do not allow women to take legal action against their husbands. Further, because of these cultural constraints, justice for SGBV is perceived as “justice for women.”⁸⁰ UMIRR, for example, focuses mainly on women and children, even though men and boys are also victims

73 Interview with UN official, June 2, 2020.

74 Interview with UN official, June 11, 2020.

75 Ibid.

76 Ibid.

77 OHCHR, “Urgent Action Needed to Prevent COVID-19 ‘Rampaging through Places of Detention’ – Bachelet,” March 25, 2020.

78 Interview with UN official, June 11, 2020.

79 Ibid.

80 Interview with UN official, June 2, 2020.

of SGBV.⁸¹ This is possibly due to a common stereotype that women are the victims of sexual crimes and men are the perpetrators, but it is also related to the fact that “sexual violence against men is a totally taboo topic.”⁸² One UN official acknowledged that while “women and children were the most vulnerable categories in a conflict-affected country like CAR,” in practice, and according to UMIRR statistics, men do reach out to UMIRR (even though the cases are few), possibly because it is known by its acronym, which clearly does not include the words *women* or *children*.⁸³ (According to the unit’s full name in the decree establishing it, UMIRR was intended to focus on women and children.) However, the general perception is that the unit was created to allow women to make complaints of violations committed against them by men. UMIRR staff remain frustrated that they are seen as “people who go after men.”⁸⁴

To overcome misperceptions and stigmatization, the United Nations, international nongovernmental organizations, and local civil society groups are working to sensitize the public about SGBV and the necessity to report these kinds of violations. According to a UN official, “A lot was done to sensitize the population that if a peacekeeper makes sexual advances, it should be reported. Then there was this kind of public perception that if a peacekeeper rapes it’s wrong, but, otherwise, it is normal,”⁸⁵ which pushed the international community to do further outreach and sensitization activities. To correct this, radio programs were aired about UMIRR and its work, which helped the public to understand that they can come forward and report all SGBV violations. Still, in an extremely poor country like CAR, individuals have reported all types of violations to UMIRR; according to UMIRR staff, the unit has received many reports of grievances other than SGBV.

Women’s groups are also strong and active in CAR, and women try to make their voices heard. Women parliamentarians are very involved; some have created their own organizations to help victims, and some support UMIRR and raise the issue of gender equality at the highest level.⁸⁶ Women’s associations strongly advocate for change. Legal clinics are a way to increase access to justice for women. Supported by the international community, the Association of Women Lawyers of CAR, for instance, runs legal clinics that provide legal and judicial assistance to Central Africans, including SGBV victims, and listening centers for women victims of SGBV. The association helps victims to refer cases to UMIRR. Considering it a useful tool to support victims, the EU also supports legal aid projects to vulnerable groups, mainly victims of SGBV, via cooperation programs with several INGOs working in CAR.⁸⁷ As a result of these and other efforts, access to security forces to resolve sexual violence has improved over time, although village authorities and traditional chiefs remain the first place that victims go to resolve these matters.⁸⁸

Still, many obstacles prevent women and men from accessing justice in CAR. Above all, there is the problem of general insecurity. Generally, women do not travel to seek justice. Sometimes perpetrators are known and sometimes not, which can create a fear of reprisal. The public security service is not efficient or well organized, especially in areas under the control of armed groups. In some towns, there is no police station. A redeployment program of police and the gendarmerie within the state is being implemented, so services can reach these areas. A spe-

81 MINUSCA et al., “Report of the Mapping Project.”

82 Interview with UN official, June 11, 2020.

83 Interview with UN official, June 2, 2020.

84 Interview with UN official, June 11, 2020.

85 Ibid.

86 Interview with UN official, May 27, 2020.

87 Interview with EU Officer, February 4, 2021.

88 UNDP, Harvard Humanitarian Initiative, and MINUSCA, “Peace Justice and Security Polls: Central African Republic, Report 4 – May 2019,” 2019, www.peacebuildingdata.org/sites/m/pdf/CAR_Poll4_Engl_Final.pdf

cial police team on SGBV is also working with police and gendarme schools using materials developed by the United Nations, taking into consideration gender balance in its recruitment. The international community is trying to provide certain services and improve the situation; however, funds do not cover services to address the needs in the whole territory. Instead, areas are chosen on the basis of certain criteria, like the number of cases per region.

Pursuing justice is also expensive. In Bangui, only UMIRR offers free legal services to victims. Otherwise, victims must pay to bring complaints and procedures before the police, which is a barrier for many victims, especially women. For the police to arrest an alleged perpetrator, the complainant must pay. Normally expenses are paid by the state, but this is not yet the case.⁸⁹ Obstacles to justice also relate to a lack of knowledge and access to education. Girls often drop out of school, and the majority do not reach university. Women's representation in the justice sector is very low: Out of 210 magistrates, only 22 are women (10 percent), and out of a total of 108 lawyers in CAR, only 4 are women. Women tend not to know the laws and procedures. Such information is better known in cities than rural areas. Legal texts cannot be found easily, even online and even in Bangui. Sometimes legal texts are printed but not on a large scale.⁹⁰

Children and Youth: CAR's Neglected Future Generation

CAR is a young society, with approximately 75 percent of the population under the age of 35. Continuous insecurity and successive conflicts have significantly affected children and youth, shaping the role they will play in the country's future. Violence has turned children into tools of armed groups, diminished their access to education and justice, and fostered a perception of exclusion. Despite the fact that CAR's most recent Peace Agreement, signed in 2019, reiterated the prohibition of violence against children,⁹¹ according to UNICEF, "The lives of millions of children across the country continue to be threatened by violence and a lack of access to food, health care, education, water and sanitation."⁹²

Thousands of children have been recruited by armed groups and used as combatants, envoys, and cooks. As with gender-related crimes, a legal framework prohibiting the recruitment of minors in CAR does exist. A code of child protection was promulgated by President Faustin-Archange Touadéra in June 2020, for example.⁹³ CAR also ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in 2017,⁹⁴ which criminalizes the recruitment of children by armed groups,⁹⁵ and recognizes child combatants themselves as victims, not perpetrators, of crimes and offences committed under the influence of armed groups, in accordance with the 2007 Paris Principles, to which CAR is a party.⁹⁶ On their part, armed-group signatories of the 2019 Peace Agreement committed to "put an immediate end to all forms of recruitment into armed groups, including the recruitment of

89 Interview with UN official, June 11, 2020.

90 Interview with UN official, June 3, 2020.

91 Political Agreement for Peace and Reconciliation in the Central African Republic, February 2019, https://reliefweb.int/sites/reliefweb.int/files/resources/S_2019_145_E.pdf

92 UNICEF, "One Year on from Peace Agreement, Millions of Children in the Central African Republic Remain at Risk," Statement Attributable to UNICEF's Representative in CAR, Christine Muhigana, February 5, 2020.

93 Watchlist on Children and Armed Conflict, "Children and Armed Conflict: Recommendations to the Security Council: Central African Republic," July 2020.

94 OSRSG for Children and Armed Conflict, "CAR: SRSR for Children and Armed Conflict Welcomes Signing of Optional Protocol on the Involvement of Children in Armed Conflict," September 21, 2017.

95 Article 4, Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.

96 See UN Office of the High Commissioner for Human Rights, "Letter regarding the Universal Periodic Review of the Central African Republic," April 29, 2019, https://lib.ohchr.org/HRBodies/UPR/Documents/Session31/CF/LetterCAF_EN.pdf

children and foreigners.”⁹⁷ Nonetheless, recent UNICEF reports still spotlight grave violations against children, including killing and maiming, recruitment and use, sexual violence, attacks on schools and hospitals, abduction, and denial of humanitarian access.⁹⁸ Children as young as six were recruited by armed groups, including through so-called “vaccination campaigns,”⁹⁹ false promises of integration into the Central African Armed Forces, or abduction.¹⁰⁰

As a result of years of conflict, many young people “lost their bearings and landmarks.”¹⁰¹ Some lost all their family members to enforced disappearance or found themselves alone in an IDP or refugee camp. Many were manipulated into joining armed groups or joined as a way to gain status or to make a living. They may have committed violations mainly for economic, not ideological, reasons. Most of the young people who joined the Séléka groups, for example, did so as a result of exclusion. In many cases, they were illegally asked to pay approximately USD \$9.00 (5,000 XFA) to join the official CAR army;¹⁰² thousands of young people paid, but only about 10 percent were accepted. Many rejected recruits then joined the Séléka forces to overthrow Bozizé.¹⁰³

For many in CAR, being part of an armed group is a means of economic survival, “of getting out of it,” by having access to food and enjoying some kind of physical protection. “It also has a community aspect, as members commit to protect the group through very strong indoctrination. It’s a way not to just starve.”¹⁰⁴ According to a young victim:

In Bambarie, there are many children who joined armed groups, others have lost their parents and do not have the means to move around. They sleep on tables in the market . . . work in the markets to live. These children have no future . . . we must support them in their studies and provide them with training to help them cope.¹⁰⁵

Child victims also include those who were orphaned when their parents were killed or forcibly disappeared during the conflict. These children are usually taken care of by family members or a surviving parent, but sometimes they are abandoned when the parent wants to start a new life. One grandmother reported struggling to take care of her grandchild after her son was killed following the events of 2013 and her daughter-in-law remarried.¹⁰⁶

Many children associated with armed groups are in detention in the Central Prison of Bangui on charges of criminal conspiracy, after being arrested in Bangui or in the interior of the country and transferred there. These children have not been tried; some have been in preventive detention for two or three years. Parents are often unaware that their children were arrested and placed in detention, becoming “a little forgotten” according to a leader of an INGO.¹⁰⁷ Activists shared that there is a clear lack of awareness and sensitivity among public actors about the legal status of child combatants, that they should be considered first as victims, not criminals. In this regard, some INGOs have started working to get these children released from prison; however,

97 UN Secretary-General, Letter from the Secretary-General addressed to the President of the Security Council, S/2019/145, February 14, 2019, <https://digitallibrary.un.org/record/3794330>

98 UNICEF situation reports can be consulted online at www.unicef.org/appeals/car/situation-reports

99 UN Security Council, “Children and Armed Conflict in the Central African Republic: Report of the Secretary-General,” S/2019/852, October 30, 2019, <https://undocs.org/en/S/2019/852>

100 Ibid.

101 Interview with UN official, June 10, 2020.

102 These fees were not part of the official recruitment conditions, but were forcibly requested.

103 Interview with young Central African activist, October 23, 2020.

104 Interview with an INGO head of office, September 14, 2020.

105 Interview with 18-year-old young man during a focus group discussion, October 15, 2020.

106 Interview with the mother of a Muslim man killed while trying to leave the country after the events of 2013, October 20, 2020.

107 Interview with INGO head of office, September 14, 2020.

most efforts have been unsuccessful because judicial authorities are unwilling to cooperate. One activist regretted the fact that these children, including those who were forced to join armed groups, are still incarcerated in Ngaragba Central Prison,¹⁰⁸ where children are detained alongside adults in preventive detention for two to three years.¹⁰⁹ Local associations, INGOs, and partners have advocated for the creation of specific detention centers solely for juveniles.

In addition to these violations and hardships, children in CAR often face another huge obstacle that can, in turn, prevent access to justice: lack of access to education. An activist shared that many schools are still occupied by armed groups, and children cannot access them: "Many armed groups have turned schools into military bases, which constitutes a violation of children's rights and compromises their future. The future of children is in doubt."¹¹⁰ In addition to the negative role played by armed groups, access to education is also limited by its prohibitive cost. Victims reported that they struggled to enroll their children in public schools because of the required fees.¹¹¹ A young 39-year-old female victim said:

There is no work, no help . . . I have fallen ill several times because I couldn't handle certain things. I had depression. I was admitted for psychiatric care more than five times because I thought about all that I had lost . . . I lost my money, my degree, and I have children who go to school . . . When the school year starts, I will worry about it, and if I have no solution, I will have to go to psychiatry again.¹¹²

According to a leader of a victim group, "Schooling does not exist in this country. Survival comes before education and school. The priority is to survive."¹¹³

Corruption has also infiltrated the educational system. "We ask fifth- and sixth-grade school-children to pay to get a good grade on a presentation," explained an EU official. "The college's baccalaureate and certificate exam is no longer anonymized and everyone knows that there are two opportunities to get rich in the CAR, elections and the baccalaureate, because we buy the baccalaureate. There are Central Africans who save to ensure the baccalaureate for their children because they know that they have to pay 120,000 or 150,000 XFA."¹¹⁴

The lack of access to education, in addition to being a heavy burden on parents, further victimizes children because education is often a prerequisite for knowing one's rights. Official UN Educational, Scientific and Cultural Organization (UNESCO) statistics and UNICEF reports confirm that, despite all efforts to the contrary, young people in CAR are at risk of being limited in their future roles by illiteracy.¹¹⁵ Young people are looking for justice, but, according to most interviewees, they do not know where to start, who to go through, or what to do. "Illiteracy has impacted their access to justice. The latter presupposes access to education, access to an understanding of one's rights, access to a sense of self-realization, access to a sense of the future."¹¹⁶

Projects for youth mainly aim to help them to engage in income-generating activities and avoid returning to armed groups or delinquency, but they rarely address issues of justice or

108 A national prison for men in Bangui notorious for its poor conditions.

109 Interview with activist, October 23, 2020.

110 Interview with activist, October 23, 2020.

111 Comments collected during a focus group discussion, October 15, 2020.

112 Comments collected from female victim, aged 39, during a focus group discussion, October 15, 2020.

113 Interview with a victims' group leader, October 26, 2020.

114 Interview with EU Officer, February 4, 2021.

115 See UNESCO, "Central African Republic," <http://uis.unesco.org/country/CF>

116 Interview with expert in transitional justice, July 16, 2020.

reparations. When local efforts are made to raise young people's awareness of existing justice mechanisms, it is unclear whether they fully understand what they are being exposed to or the language it is presented in, at least in part because of illiteracy and being uprooted. According to a UN official:

It is not a thirty-minute or one-hour awareness session in a village that will allow young people to understand the way forward, limitations, and opportunities as well as what to ask, what not to ask, and how to do it. They can ask for justice and reparations, but if we push the discussion with them, they no longer know what to say, which sometimes makes us misunderstand their real needs and expectations.¹¹⁷

Nevertheless, some young activists in CAR are trying to change this situation. Excluded from public institutions, they have turned to other venues for political expression, mainly civil society and the media. Many young people criticize the government for excluding them from public positions where they could have more influence and play a transformative role in the country. Certain positions, like in the Senate, set a minimum age of 35.¹¹⁸ The law establishing the TJRRC similarly requires a commissioner to be at least 35 years old,¹¹⁹ although young activists advocated to change the law before it was adopted. The National Youth Council sent a letter to the committee of selection of the commissioners criticizing what it deemed an "express exclusion" of the Central African youth from the process of setting up the TJRRC, considering it "a discriminatory measure based on the [commissioner] age criterion."¹²⁰

Because young people are excluded from most decision-making positions, "which hinders their participation and their ability to anticipate the future and to develop a long-term vision,"¹²¹ activism, art, and online journalism are the main ways for them to protest the status quo and spread their message. The Central African Blogger Association, a community of journalists, bloggers, web activists, committed artists, and users of social networks from the Central African Republic, for example, allows young journalists, and non-journalists, to express themselves and make their voices heard. Both the elite youth of Bangui and young victims affiliated with victims' groups have organized awareness raising campaigns for young people, especially in rural areas, where the situation is completely different and where access to education is not ensured. According to a young victim active in a victim group, "The role of young people is to make their peers aware of the culture of nonviolence, to love peace, to forgive, and to love their neighbor. With our limited resources, we tried to sensitize our young people and talk to them about nonviolence and justice."¹²² Activists and victims have criticized the lack of state resources and support for young people, which some find difficult to understand given the high percentage of young people in CAR. Developing and supporting alternative forms of youth action and expression, especially for young victims and youth associated with victims' groups, would be an important mechanism for contributing to and shaping transitional justice processes in concrete and inclusive ways.

117 Interview with UN official, June 10, 2020.

118 According to Article 153 of Law n°19-0011 of August 20, 2019, on the Electoral Code of the Central African Republic, in order to be eligible for election to the Senate, a candidate has to "be at least thirty-five years old on the day of submission of the application file." Membership in the National Authority of Elections is also restricted to those over age 35.

119 Article 10, Law n°20.009 of April 7, 2020, Establishing The Truth, Justice, Reparation and Reconciliation Commission (TJRRC).

120 Letter dated September 11, 2020, shared with ICTJ researchers.

121 Interview with INGO head of office, September 14, 2020.

122 Focus group discussion with victims, October 15, 2020.

A Multitude of Measures for a Glimpse of Justice

CAR is one of the poorest and most fragile countries in the world. It has had to deal with a continuous cycle of violent conflicts that have weakened the state and its capacity to function. To deal with past and ongoing human rights violations, justice mechanisms and measures, including transitional justice, do exist or are in the process of being established. These include the national judicial system, the SCC, the ICC, and other bodies, such as UMIRR and the TJRRC, as well as informal or traditional justice processes that play an important role in resolving disputes at the local level.

Existing Justice Mechanisms and Institutions¹²³

To deal with human rights violations committed during the conflict, national courts are competent via three Courts of Appeal, which are based in Bambari, Bangui, and Bouar. Theoretically, criminal sessions are supposed to be held twice a year, according to the Central African Code of Criminal Procedure. The criminal court has handed down some emblematic decisions, like those relating to the 2017 Bangassou massacre.¹²⁴ In these decisions, rendered in 2020, the defendants were found guilty of war crimes, crimes against humanity, assault against internationally protected persons, criminal conspiracy, and illegal possession of weapons and munitions of war and assassination. They were sentenced to life imprisonment and forced labor.

Nevertheless, given the gravity of crimes, the ongoing violence in the country, and the weakness of the state, national courts face enormous difficulties in trying alleged crimes committed during the conflict. This is why the SCC was created within the Central African judicial system by law in 2015.¹²⁵ The SCC is competent to try serious violations of international humanitarian and human rights law committed in CAR since January 1, 2003, as defined by the Central African Penal Code and by virtue of the country's international obligations under international law, in particular, the crime of genocide, crimes against humanity, and war crimes.¹²⁶ The SCC had to wait until 2018 to begin operations. Integrated into the national justice system and using both international law and national legislations, the SCC has concurrent jurisdictions with domestic courts to try serious crimes of international concern. But the SCC takes precedence

123 This report only discusses mechanisms mentioned by the interviewees.

124 On May 13, 2017, pro-Christian militiamen attacked Muslim civilians who had taken refuge in a mosque in the Tokoyo district of Bangassou. The attack left dozens of civilians dead and even a few casualties in the ranks of MINUSCA peacekeepers.

125 Law 15/003 of June 3, 2015, Establishing the Organization and Functioning of the Special Criminal Court.

126 Article 3, Law 15/003 of June 3, 2015, Establishing the Organization and Functioning of the Special Criminal Court.

over national courts; in the event of a conflict of jurisdiction, the national courts must relinquish jurisdiction in favor of the SCC.

Since CAR ratified the Rome Statute on October 3, 2001, and sent a referral to the ICC of the situation in its territory since July 1, 2002, the ICC may exercise jurisdiction over crimes listed in the Rome Statute committed on the territory of CAR or by its nationals from July 1, 2002 onwards.¹²⁷ One ongoing case at the ICC includes charges against Patrice-Edouard Ngaissona and Alfred Yekatom for war crimes and crimes against humanity committed in various parts of CAR.¹²⁸ One of the most famous ICC cases related to CAR was against Jean-Pierre Bemba, the acting military commander of the Mouvement de libération du Congo (MLC).¹²⁹ Based on documents shared by the CAR government describing crimes committed from 2002–2003, the ICC decided to open an investigation against Bemba in 2007 for crimes against humanity (murder and rape) and war crimes (murder, rape and pillaging) committed by MLC troops from on or about October 26, 2002, to March 15, 2003. Bemba was arrested by the Belgian authorities and transferred to the ICC in 2008, further to a new warrant of arrest that added to the counts against him the charge of murder, constituting both a war crime and a crime against humanity.¹³⁰ Bemba was acquitted in June 2018 by the Appeals Chamber of the ICC,¹³¹ after which he made a claim for compensation and damages. As one interviewee put it, “With the Bemba case, the ICC has shown that it could work more than 10 years on a case to achieve nothing: neither a conviction, nor reparations for victims.”¹³²

In addition to these criminal justice institutions, the TJRRC was created by law n°20.009 of April 7, 2020,¹³³ to investigate and establish the truth about serious national events from 1959 until December 31, 2019, in order to seek justice and restore the dignity of victims and thereby achieve national reconciliation. A presidential decree creating the selection committee for the members of the future TJRRC was signed on July 30, 2020. This committee selected the truth commission’s 11 members, and President Touadéra formalized the decision by presidential decree on December 30, 2020.

Informal justice mechanisms also exist at the community level to resolve disputes and provide justice, including for conflict-related violations and sometimes SGBV. As a concept, informal justice brings together reconciliation, mediation, and arbitration among conflicting parties. In practice, these mechanisms exercise this function on a continuous basis and are socially recognized as such.¹³⁴

A panoply of tools and institutions, from the ICC to informal justice processes with national courts in between, are in theory mobilized to provide justice to conflict-related victims. Nevertheless, the question remains: To what extent can these instruments be effective in a context of state fragility?

127 ICC, “Situation in the Central African Republic,” <https://www.icc-cpi.int/car>

128 ICC, “ICC Pre-Trial Chamber II joins Yekatom and Ngaissona Cases,” February 20, 2019.

129 ICC, “Case Information Sheet: Situation in the Central African Republic: The Prosecutor v. Jean-Pierre Bemba Gombo,” March 2019.

130 Ibid.

131 ICC, “ICC Appeals Chamber Acquits Mr Bemba from Charges of War Crimes and Crimes against Humanity,” June 8, 2018.

132 Interview with international journalist, April 24, 2020.

133 See Law n°20.009 of April 7, 2020, Establishing The Truth, Justice, Reparation and Reconciliation Commission (TJRRC), https://cps-rca.cf/documents/Loi_du_CVJRR_du_07_avril_20203990_002_.pdf

134 See Central African Republic, Ministry of Justice and Human Rights, “Study on Informal Justice Mechanisms and Actors in the Central African Republic,” July 2008, 12.

A Dysfunctional System, Little Access to Justice

Central Africans face huge obstacles to accessing justice. The first is the centralization and limited reach of the justice system. “When you go outside of Bangui, where most people live,” said a UN official, “people don’t have access to anything.”¹³⁵ Most of the country is under the control of armed groups, and the level of violence remains very high, which negatively impacts the functioning of the justice system. According to interviewees, most of the courts outside of the capital are not functional, with prosecutors generally living in Bangui. For security reasons, civil servants do not want to be deployed outside of the capital, and when they are nominated to serve in the prefectures, they simply end up not going. It was also only very recently that the International Security Forces (gendarmes and police) were deployed to the prefectures. Until early 2020, only one third of the country had state authorities. “In a large prefecture, you might have only 10 police officers, which does not provide any [real security], and they don’t have the means to do their work properly.”¹³⁶

Victims highlight the slow pace of the justice process, with little progress made toward tangible results in the country, despite all of the existing institutions. One victim said, “What we deplore is the slowness of the courts that have been put in place. The SCC was set up about four years ago, but so far no judgment has been given and everything is delayed.”¹³⁷ The problem is not just the pace of justice itself, whether in the form of reparations or other types of redress, but also the fact that victims are dying while waiting for justice. “Slowness and insecurity are the main issues,” explained a victim. “Many victims lost their lives. They lost their parents, their property, some got sick and died before anything happened, some are old . . . Help us so that the SCC and the ICC do their job quickly. A manager and advisor from the Association of Victims of Events has died, for example . . . If we start to count them all, it would take hours. There are so many [passing away].”¹³⁸ Another victim said, “The SCC continues to crawl along and drag on . . . I submitted a complaint in 2014, it was transferred to the SCC but . . . still nothing has happened.”¹³⁹

As mentioned above, justice in CAR is a very expensive process and several fees have to be paid even when submitting a simple complaint at a police station. In a country where the population struggles to earn a livelihood, these costs discourage people from venturing into a process that promises only uncertain and unforeseeable results. According to a member of a youth organization, “Just to open a file, approximately 500,000 XFA [USD \$900] is needed. For a victim who has nothing, this is a huge sum.”¹⁴⁰ INGOs try to support victims to cover the cost of pursuing cases,¹⁴¹ but it can become expensive even for them.¹⁴² For example, five victims’ associations, with the support of Cordaid and CAHRO, worked together to select 20 files of victims of the conflict and launched a civil action on September 14, 2020, against elements of the Séléka and Anti-Balaka militias for assassination, gunshot wounds, theft, looting, acts of vandalism, and destruction of property belonging to others. The goal was to trigger criminal proceedings against the perpetrators and accomplices and secure compensation. Based on article 59 of the Penal Procedure Code, however, the required deposit was 500,000 XFA [USD \$900] per file—

135 Interview with UN official, June 11, 2020.

136 Ibid.

137 Deputy secretary-general of a victims’ group, focus group discussion, October 15, 2020.

138 Male victim, aged 39, focus group discussion, October 15, 2020.

139 Interview with female victim, October 20, 2020.

140 Interview with secretary-general of a youth organization, October 20, 2020.

141 Ibid.

142 Interview with INGO official, October 19, 2020.

or 10 million XFA [USD \$18,000] total—to cover the costs of the procedure.¹⁴³ “Those funds could be used to build 10 to 20 houses for victims,” according to a victim.¹⁴⁴ “Even if we work in the public service, we do not have the money to pay the deposit fees.”¹⁴⁵

The Central Africans interviewed for this report also complained about corruption in a judicial system marked by nepotism and unqualified personnel. “If we want fair justice, we must start with fair recruitment,” said an EU official, referring to the EU Restoration of the Justice and Police Sectors program that supported the recruitment of the last cohort of magistrates in 2015. “For the first time, magistrates were recruited on the basis of an anonymous competition with equal opportunities. The result is that there had never been so many women who had passed the competition (4 women out of 21 successful magistrates). Our technical assistants have been threatened. They took refuge in their homes with the copies. The only hope is to recruit magistrates on the basis of merit and not nepotism.”¹⁴⁶

Qualification is not the only requirement to work in the public service; there are “strong suspicions that the executive government promotes judges that are linked to circles of power that are useful to it (ethnic groups, political groups, etc.).”¹⁴⁷ According to the head of a youth organization, “When you don’t have the financial means to pursue charges against a person who has the means, it’s a waste of time.”¹⁴⁸ An expert on CAR agreed, “The person with more money wins the case.”¹⁴⁹ According to CSOs representatives, “The public prosecutor, who represents the state, may refuse to pursue a case against a person close to power,”¹⁵⁰ claiming it is interference by the judicial branch in the executive branch. The separation of powers and independence of the judiciary are ensured by the Central African constitution: According to article 107 of the Constitution,¹⁵¹ “Judges are independent.” However, article 109 stipulates that the president of the country is the “guarantor of the independence of the judiciary,” meaning that the system that nominates judges is linked to the will of the executive power. Furthermore, the internal control system of the judiciary does not work. Judges are not subject to internal investigations or internal sanctions.¹⁵²

The judicial system also suffers from a lack of capacity, resources, and will. For instance, prosecutors and investigative judges do not cooperate on cases that require them to work together. As a consequence, cases do not reach trial or are so weak that they are often requalified as misdemeanors, at the expense of victims. Moreover, the government does not fund the judiciary adequately. A UN official confirmed that the 2019 CAR criminal session was financed by international actors (mainly the United Nations).¹⁵³ The office of the UN SRSG also funded a Bangui Court of Appeal criminal session focused on cases of sexual violence. As a result, the government does not take ownership of the organization of these court sessions, instead delegating this responsibility to international actors and, as one UN official stated, “show[ing] a real lack of dedication toward the judicial process, in general.”¹⁵⁴ Interviewees also called for the criminal procedure chain to be strengthened and, above all, for court decisions to be carried

143 “Order Fixing the Amount of the Deposit on Complaint with the Constitution of Civil Party,” September 17, 2020 (document shared by the vice-president of the OCDH, October 23, 2020).

144 Interview with female victim, October 20, 2020.

145 Ibid.

146 Interview with EU Officer, February 4, 2021.

147 Interview with UN official, April 14, 2020.

148 Interview with secretary-general of a youth organization, October 20, 2020.

149 Interview with expert on CAR, April 21, 2020.

150 Interview with secretary-general of a local CSO, July 7, 2020.

151 Constitution of the Central African Republic of March 30, 2016, JORCA/ES N°03.

152 Interview with UN official, April 14, 2020.

153 Ibid.

154 Interview with UN official, April 14, 2020.

out. Certain court decisions rendered in criminal matters often go unexecuted, mainly because the convict has connections in the upper levels of the judicial hierarchy, who release them after the criminal sentence is handed down. This problem has long existed in CAR but has worsened considerably during the current crisis.¹⁵⁵

Conflicting or Complementary Mechanisms?

Since the 2015 Bangui Forum, serious efforts to fight impunity and provide relief to victims have been initiated. Many interviewees, nevertheless, insist that Central Africans “are in an almost judicial desert. The few drops of justice that are distributed create a lot of hope, but only a few drops remain.”¹⁵⁶ Lack of coordination is a main feature of these efforts, significantly influencing the way that institutions work, including their efficiency.

The Bangui Forum, which was based on wide public consultations, called for the effective establishment and reinforcement of the SCC. Many people had very high expectations for the SCC—“much too high,”¹⁵⁷ according to some. Five years on, disappointed by the lack of progress in achieving criminal accountability, a new set of voices calling for support for national courts and building the capacity of local judges to try conflict-related crimes has emerged. The Bangassou trial in the CAR domestic courts nurtured these views.¹⁵⁸ In that case, the Court of Appeal was able to organize a criminal session with funding from MINUSCA/UN Development Programme (UNDP). According to an interviewee, by holding trials for international crimes, the Bangui Court of Appeal attempted to demonstrate that the SCC is unnecessary and that ordinary courts can handle these cases.¹⁵⁹ The slowness of the SCC has also succeeded in influencing public opinion, as reflected in interviews with Central Africans: “We are paying a court millions when we should put that money in ordinary jurisdictions,”¹⁶⁰ and “The SCC is not the answer,”¹⁶¹ while calling for the support of national jurisdictions.

According to an INGO official, “The Bangui Court of Appeal is in serious competition with the SCC.”¹⁶² The case involving crimes committed during the recent massacres in Ndélé reflects this.¹⁶³ The General Prosecutor of the Court of Appeal went directly to Ndélé without forensic staff to secure the evidence, in order “to demonstrate to everyone that he was proactive and could take control of the case.”¹⁶⁴ In early May, however, the case was transferred to the SCC. The Office of the Special Prosecutor had requested the withdrawal of the case in favor of the Special Criminal Court, “whose mandate is precisely to investigate, instruct, and judge those responsible for serious violations of human rights and international humanitarian law in CAR since 2003 with primacy over the Central African criminal courts of common law and in addition to the procedures conducted by the International Criminal Court (‘ICC’).”¹⁶⁵

155 Interview with a magistrate, former Minister of Justice, June 24, 2020.

156 Interview with journalist, April 24, 2020.

157 Interview with UN official, June 11, 2020.

158 See supra, footnote no. 5.

159 Interview with INGO official, September 14, 2020.

160 A comment made by several interviewees, including victims, local CSO representatives, and internationals.

161 Interview with activist, October 23, 2020.

162 Interview with INGO official, September 14, 2020.

163 On April 29, 28 people, including at least 21 civilians, were killed in Ndélé during fighting between two factions from the Popular Front for the Renaissance of the Central African Republic, one of the country's main armed groups.

164 Interview with INGO official, September 14, 2020.

165 Special Criminal Court, “Press Release from the Office of the Special Prosecutor at the Special Criminal Court,” May 8, 2020, available online in French at <https://cps-rca.cf/actualites/Communique-De-Presse-Du-Bureau-Du-Procureur-Special-Pres-La-Cour-Penale-Speciale/43/>

This lack of coordination leaves victims perplexed about the best mechanism through which to seek justice. As a victim said, “We do not trust the national justice system because it is not impartial. We trust the SCC, but they don’t work.”¹⁶⁶ Moreover, several interviewees fear that if more cases are brought before both the SCC and the national courts, it will result in differences in the treatment of victims and witnesses, creating new frustrations. “We will have two-tier justice,” said one INGO official.¹⁶⁷ This would cause problems not only among victims but also magistrates of ordinary courts, who know that SCC magistrates are paid three to four times as much as them and are provided with more security. According to an EU official, the budget of the SCC exceeds the budget of the entire Ministry of Justice.¹⁶⁸ The magistrates “ask themselves, why don’t we have the same protections, security, finances, etc., while we run the same risks.”¹⁶⁹ For victims, “It can also rekindle tensions and interreligious conflicts, because Muslim victims will likely go through the SCC.”¹⁷⁰ Indeed, there will be a protection system in place for victims and witnesses with cases before the SCC but not the Court of Appeal. There is also the risk that the two courts could produce dramatically different compensation and reparations programs.

Is Informal or Traditional Justice the Solution?

Limited access and the dysfunction of the formal justice system have pushed Central Africans to turn to traditional or informal justice systems, in particular customary chiefs (group leaders, religious leaders, traditional chiefs), called “palaver tree.”¹⁷¹ Traditional justice has played a role in settling cases before, during, and after the conflict, with traditional chiefs consulted on questions related to inclusion and peace in the country. The 2015 Bangui Forum insisted on “strengthening the role of local, traditional and customary authorities in order to take into account the need for social cohesion and inclusion.”¹⁷² The Sectoral Policy of Justice (2020–2024) found that traditional justice is a mechanism widely used by the population, especially outside of Bangui, where justice institutions are absent and people have limited options.¹⁷³ The slow pace of the ordinary courts and the prohibitive costs encourage people to turn to ordinary chiefs as respected actors.

Traditional justice has also been used to address conflict-related displacement. Some mayors have played a mediation role between those who were forced to flee their houses and those who later occupied them. Some form of compensation is usually granted to those who inhabited the home on the assumption that they had taken care of it. “Thus, everyone comes out of it satisfied, with their dignity preserved,” according to a journalist who was interviewed for this report.¹⁷⁴ Further, this form of justice is seen to be “essential for dealing with minor disputes, with a view to relieving the congestion in the courts,” which “struggle to function well.”¹⁷⁵ For example, a CSO spokesperson observed that certain disputes related to adultery or theft

166 Interview with female victim, October 20, 2020.

167 Interview with INGO official, September 14, 2020.

168 Interview with EU Officer, February 4, 2021.

169 Interview with INGO official, September 14, 2020.

170 Ibid.

171 Central African Republic, Ministry of Justice and Human Rights, “Study on Informal Justice Mechanisms and Actors in the Central African Republic,” Bangui, July, 2018.

172 Republican Pact for Peace, National Reconciliation and Reconstruction in the Central African Republic, May 2105, www.hdcentre.org/wp-content/uploads/2016/06/The-Republican-Pact-May-2015.pdf

173 Sectoral Policy of Justice 2020–2024.

174 Interview with journalist, April 24, 2020.

175 Interview with the Head of local CSO, June 7, 2020.

of cattle are handled by customary chiefs and that parties have been able to find ground for “agreement.”¹⁷⁶

Nevertheless, traditional justice faces problems related to implementation and the legal norms used to resolve disputes. In certain contexts, traditional justice’s ability to meet victims’ expectations depends on having homogeneous communities who adhere to the same informal mechanisms for settling disputes. CAR is particular, however, in that it is a multiethnic society with a precolonial influence, which means that, apart from areas that have been influenced by Muslim culture and religion, there is no real consolidated mechanism for resolving conflicts that can serve as a normative tool. According to a UN official:

When we talk about traditional mechanisms, they are only nonformal mechanisms because they are postcolonial. There are no orders or decrees that give power to district or village heads to regulate certain situations. They do so without basing their authority or decisions on common standards, traditions, or customs or on the basis of cultural values. It is justice done on the basis of the power granted to them as the head of a village or district; whereas among Muslims, their authority is based on Shari’a [Islamic law].¹⁷⁷

The absence of a uniform legal framework leads to arbitrary decisions made on the basis of the chief’s personal beliefs or position. Yet, with the ongoing crisis and the absence of formal justice services, these chiefs have been called on to deal with not just civil but also criminal disputes, despite all of the legal limitations. A study published by the Ministry of Justice in 2018 emphasizes that “neighborhood leaders and religious leaders tend to guide conflict resolution processes in order to maintain their interests and the status quo within communities. There is a wide variety of profiles within the two groups of actors.”¹⁷⁸

Further, gender experts discourage the use of traditional justice to resolve cases related to sexual violence and rape.¹⁷⁹ When a rape is committed and brought before a traditional justice system, mediation typically results in compensation being granted to the victim or her family as a form of reparation.¹⁸⁰ “Notions of lack of consent, forced sexual intercourse, and the use of force do not always seem to be understood and united under the same term of rape.”¹⁸¹ Traditional justice can be also a selective form of justice, depending on the identity of the perpetrator, posing challenges when cases involve members of armed groups, who do not always accept the decisions against them.¹⁸²

The TJRRC: Just One More Institution?

Interviewees’ opinions on the TJRRC were mixed, ranging from those who are waiting for the commission to those who consider it just “one more institution” among the numerous responses already in place.¹⁸³ One victim expected the TJRRC to reveal “the truth about what has happened since independence.”¹⁸⁴ Another said that it “allows those who cannot be brought before

¹⁷⁶ While adultery is decriminalized in CAR, in some villages it continues to be criminalized. Interview with CSO spokesperson, June 25, 2020.

¹⁷⁷ Interview with UN official, June 10, 2020.

¹⁷⁸ Central African Republic, Ministry of Justice and Human Rights, “Informal Justice in the Central African Republic: A Field that Requires a Priority Commitment,” July 2018, 33.

¹⁷⁹ Interview with UN official, June 11, 2020.

¹⁸⁰ Read more on this in the sub-section titled, “Social Norms and Gender Justice.”

¹⁸¹ Central African Republic, Ministry of Justice and Human Rights, “Informal Justice in the Central African Republic,” 38.

¹⁸² Read more on this in the subsection titled “Ongoing Conflict and Fragility.”

¹⁸³ Interview with activist, October 23, 2020.

¹⁸⁴ Male victim, age 51, focus group discussion with victims, October 15, 2020.

ordinary or international justice to be tried. It will give us answers and set an example, to deter others.”¹⁸⁵ Several victims said they were waiting for the TJRRC to be established, stating that it would satisfy their “thirst for justice” that institutions already in place have not been able to satisfy.¹⁸⁶

The concerns and pessimism about the TJRRC expressed by some interviewees were aimed at the process that led to its creation and the country’s history with truth commissions. In fact, “under pressure from the international community to legitimize his seizure of power,”¹⁸⁷ Bozizé initiated a national dialogue in 2003, creating a preparatory committee for the National Dialogue and appointed its members by decree. A “Truth and Reconciliation” working committee made several recommendations aimed at establishing a precise account of the problems that had plagued Central African society since 1960.¹⁸⁸ In two weeks, the members of the commission diagnosed the causes of the country’s problems and the responsibilities of each head of state since independence and proposed solutions.¹⁸⁹ This committee did not meet expectations because it did not investigate human rights violations; it was seen simply as a tool to legitimize Bozizé’s power in the region and in the eyes of international donors.¹⁹⁰

At the same time, the TJRRC’s mandate is very ambitious. Comparative experiences show that even in contexts where conflict has ended and functional institutions exist, broad mandates pose several challenges.¹⁹¹ Indeed, while mandates to investigate longer periods of time provide an opportunity to identify historical patterns of violence and an analysis of the conflict’s root causes,¹⁹² such investigations can be complex because they pose functional challenges in accessing archives and information, some victims and witnesses would have passed away, and even if the commission tries, it will not be able to investigate each and every case, instead providing a general historical truth based on historical patterns. It also poses operational challenges related to financing the commission, which will need to work for a longer time. The TJRRC will operate for four years (that could be renewed up to one year),¹⁹³ in a difficult political context where uncertainty and insecurity are the main features. Thus, political and public support for a truth-seeking process might change at any moment,¹⁹⁴ potentially leading to the isolation of the commission, creating numerous obstacles to achieving its objectives, or affecting its independence.

Several interviewees were also concerned by the fact that the TJRRC is a nonjudicial mechanism. Although the Steering Committee for setting up the TJRRC was created by decree n° 17.323 of September 11, 2017, some people still consider the commission to be an outcome of the February 2019 peace agreement,¹⁹⁵ which many organizations in CAR denounce as an

185 Ibid.

186 Interview with female victim, October 20, 2020.

187 Enrica Picco, “Can the Central African Republic Truth Commission Escape Bad Omens?” JusticeInfo, February 27, 2020.

188 See Arnaud Yaliki, “Quelle Justice pour une Réconciliation Nationale? Cas de la République Centrafricaine et de la République de Côte d’Ivoire. Droit.” Université Paris-Est, 2018. Français. NNT : 2018PESCo046, 262.

189 Ibid.

190 Picco, “Can the Central African Republic Truth Commission Escape Bad Omens?”

191 The recent Tunisian Truth and Dignity Commission, which shared similarities with the TJRRC, faced numerous challenges to “reveal the truth about the violations committed between July 1955 and December 2013 during also four years of work.” Government of Tunisia, Organic law 2013-53 of 24 December 2013, Establishing and Organizing Transitional Justice.

192 Eduardo González and Howard Varney, eds., “Truth Seeking: Elements of Creating an Effective Truth Commission,” ICTJ, 2013.

193 Article 4, Law n°20.009 of April 7, 2020, Establishing The Truth, Justice, Reparation and Reconciliation Commission (TJRRC).

194 Post-presidential election violence and insecurity might create a hostile environment for accountability and influence the work of the TJRRC.

195 Article 9, Political Agreement for Peace and Reconciliation in the Central African Republic, signed in Bangui on February 6, 2019: “They further agree to accelerate the establishment of the Commission on Truth, Justice, Reparation and Reconciliation with the aim of promoting truth, justice, reparation, national reconciliation and forgiveness.”

agreement favorable to armed groups and known killers. Even now, the signatories of the peace agreement continue to hold arms and include those who are guilty of human rights violations. During the peace negotiations in Khartoum that led to the agreement, one UN official claimed that “those who fought the most to talk about a truth and reconciliation commission were especially those who had things to be ashamed of.”¹⁹⁶ While it is a legitimate concern if truth commissions are seen as an alternative to criminal justice, they can represent a form of accountability in themselves. They can provide historical truth, shed light on the root causes of violence, foster reconciliation, and facilitate suitable measures of guarantees of nonrepetition. As articulated by an expert on CAR:

We must not underestimate the need in CAR for any mechanism that allows for the restitution of the facts and speaks (openly) of the successive periods of violence that have characterized the country. The country has a very, very long history of repressive governance, beginning very soon after independence and continuing from regime to regime until the 2013 crisis, which finally woke up the world to the evil that the country was experiencing. If the TJRRC, at least officially, offers the chance to formalize this account of Central African history, that would be something important for the country's future, especially if the goal is a state that respects fundamental freedoms.¹⁹⁷

¹⁹⁶ Interview with UN official, June 10, 2020.

¹⁹⁷ Expert on CAR, via email exchange, November 6, 2020.

Toward Responding to Victims' Needs

In an insecure and fragile context like CAR, where “there is potentially a very large gap between what can be accomplished and what is expected by victims,”¹⁹⁸ it is extremely difficult to operate on the ground, especially when transitional justice initiatives are not designed based on victims' needs, participation is centralized, and there is little communication and outreach.

“Victims, First!”¹⁹⁹

Victims are at the center of transitional justice processes. In a country like CAR, issues related to identity, inequality, and poverty have to be taken into account when designing justice initiatives. It is very important to reflect victims' needs. Yet, a victim who was interviewed warned, “We impose measures that do not fit with our reality.”²⁰⁰ A UN official also described “the lack of will to take into account the real needs of the victims.”²⁰¹

Victims' Demands for Criminal Accountability

“We want to turn the page but not at the cost of justice.”²⁰²

Interviewed victims of all religions and affiliations insisted on the need for criminal accountability first. Indeed, in divided societies like CAR, where serious violations and atrocities have been committed, justice is often seen as a necessary precondition for reconciliation between groups. “Without justice, we cannot be reconciled,” said one Central African victim.²⁰³ For victims, accountability has a preventive element: “[It is] important to prosecute and punish crimes in order to prevent the victims of today from becoming the perpetrators of tomorrow.”²⁰⁴ The number of conflicts and peace agreements that have been signed in CAR suggests the high cost of impunity for conflict and post-conflict societies, especially divided ones, and how impunity “provide[s] fertile ground for future returns to conflict.”²⁰⁵ As stated by a UN official,

198 Interview with UN official, June 10, 2020.

199 Motto of the Association of Victims of Events from 2012 to 2014 (AVED), which was repeated during the focus group discussion held on October 15, 2020.

200 Interview with male victim in Alindao, July 17, 2020.

201 Interview with UN official, May 27, 2020.

202 Repeated comments during focus group discussion with victims, June 25, 2020. “Justice” is used here to express criminal accountability through a judicial process.

203 Male victim, age 51, focus group discussion, October 15, 2020.

204 Interview with a victims' group president in Bangui, June 25, 2020.

205 Nevin T. Aiken, *Identity, Reconciliation and Transitional Justice, Overcoming Intractability in Divided Societies* (Routledge, 2013), 40.

We are in a society where there is a tendency to seek revenge, whether by institutional or private means. This tendency is strong. We are in a society where there is intolerance. Usually crimes occur when intolerance or frustration has reached a level at which people think there is no more room to tolerate the intolerable. In these conditions, establishing the criminal responsibility of perpetrators is a primary way to meet the expectations of victims.²⁰⁶

Victims seek the recognition of their status as victims through legal proceedings and the sentences against perpetrators. “If we opt for this type of justice, even if in the background, [and] they do not receive the material reparation to which they aspire,” said a UN official, “the victims would have achieved a certain level of satisfaction from the simple fact of criminal responsibility being recognized.”²⁰⁷ Unfortunately, justice has so far failed Central Africans. There is a common feeling among victims that they are simply forgotten. “The government gives positions to perpetrators, it gives them money . . . while we are abandoned, left to ourselves . . . We have to take care of ourselves.”²⁰⁸ The lack of justice has reached the level where two interviewed Muslim victims asserted that many Muslim victims look to religion instead of the justice system. “Everything that God has done is good. There is no point in continuing despite injustice,” said one.²⁰⁹ “They prefer to pray and put their faith in God,” said another.²¹⁰

Victims’ Demands for Reparations

“We want fair justice.”²¹¹

What is “fair justice”? On January 4, 2019, six victims’ groups submitted a memorandum to the African Panel Group for Peace and Reconciliation in CAR to advocate for the improvement of the situation for victims.²¹² Of nine requests made to the panel, five related to reparations:

- Compensation for victims because the perpetrators have DDRR
- Compensation for victims or their dependents to promote living together
- Support for victims and relatives of victims in their professional reintegration through income-generating activities
- Adoption of a law/decreed from the Ministry of Health to support free or almost free health care for victims of the military-political crisis in CAR
- Adoption of a law establishing a compensation fund for victims of multiple crises in CAR.

These requests are based on the everyday life and suffering of victims. “We have lost everything” was a statement repeated by all the victims who participated in this study when talking about being left impoverished by recurring violence. “I was shot, my right arm is broken,” said one man. “I have been suffering for seven years, since December 25, 2013 . . . If justice is not car-

206 Interview with UN official, June 10, 2020.

207 Ibid.

208 Male victim, age 39, focus group discussion, October 15, 2020.

209 Interview with female Muslim victim and male Muslim victim, October 2020.

210 Interview with male Muslim victim, October 26, 2020.

211 Male victim, age 51, focus group discussion, October 15, 2020.

212 Memorandum from Association of the Victims of the Events of 29 October 2015 and following events (ASVI), Association of Victims of Events from 2012 to 2014 (AVED), National Support Association for Women, Free Young Girls and Orphans Victims of Violence in Distress (NSAW), Association of Mutual Aid to Victims of Events (AMAVE), Association des victimes de la LRA en Centrafrique (AVLRAC), and the Association of United Victims of the Central African Republic (AUVIC) to advocate for the improvement of victims’ situation and respond to their demands.

ried out, I will not be at peace. I am a father. After I lost my hand, who will give me something to eat? I do not work.”²¹³

The situation for victims is worse outside of Bangui. In Alindao, where almost 20 victims were interviewed, including 5 women, the type of justice that people prioritize is reparation for the moral, material, and financial damages they have suffered. Many have lost everything and are still living in IDP camps, where living conditions are deplorable. Collective reparations were mentioned through requests to rebuild the country's basic social service infrastructure (hospitals and schools, etc.) that was destroyed by armed groups.

The ICC's Trust Fund for Victims recently launched an Assistance Pilot Project in CAR to support victims and their families in Bangui living in precarious conditions and suffering long-term harm as a result of conflict-related sexual violence.²¹⁴ This project will precede the launch of a full assistance program. The board of directors of the Trust Fund for Victims has filed an application to Pre-Trial Chamber II with the objective to provide material support and physical and psychological rehabilitation to victims of crimes (and their families) committed in CAR falling under the jurisdiction of the ICC.²¹⁵ Pending a comprehensive reparations program that may potentially result from the TJRRC, which will propose the creation of a special victim reparation fund,²¹⁶ the assistance program of the Trust Fund for Victims is a positive first step toward responding to the urgent needs of victims.

The following views shared by victims in interviews reveal the conflict's impact on their lives and express their expectations and aspirations for a long-awaited justice process:

Since the outbreak of the crisis, I have lost everything. I had 14 children, but the Séléka killed 7; they destroyed my house and all my belongings. I have nothing ... I have nothing and I live at the IDP camp in extremely difficult conditions. At my age, I can do nothing. I ask for help to survive, to eat, so that my children can also go to school . . . I do not expect much in regards to justice.²¹⁷

Before the war, I was a trader, but I lost everything, movable and other property. My house was destroyed. My family and I are seriously suffering. I ask for help because every second that passes is a real struggle for me. To relieve my suffering, I ask for financial and material support, to rebuild my life to where it was before. I know nothing can make up for what I have lost, but . . . help me to get well. There is no justice.²¹⁸

The whole (region of) Basse-Kotto is forgotten. There are no roads, no schools, and no hospitals capable of taking care of us and our children. All the basic social services no longer exist, like in other places. We want all these social services to be rebuilt for us, to recognize our humanity.²¹⁹

While victims in the capital are also suffering, and many of them had to flee their homes to escape the violence, living in Bangui provides at least the possibility of participating in policy-making processes.

213 Male victim, age 51, focus group discussion, October 15, 2020.

214 ICC, "The Trust Fund for Victims Launches Assistance Pilot Project in Central African Republic," October 8, 2020.

215 ICC, "Situation in the Central African Republic I," October 7, 2020, www.icc-cpi.int/CourtRecords/CR2020_05577.PDF

216 Article 6, Law n°20.009 of April 7, 2020, Establishing The Truth, Justice, Reparation and Reconciliation Commission (TJRRC).

217 Interview with male victim, age 51, in Alindao, July 17, 2020.

218 Interview with female victim in Alindao, July 20, 2020.

219 Interview with victim in Alindao, July 19, 2020.

Ensuring Meaningful Participation

Participation is a key element of the legitimacy of public institutions and justice initiatives. Since the Bangui Forum, a modest level of participation has been established. Several victims' groups and CSOs, for example, have reported that they were consulted about initiatives related to victims and that the process was inclusive. This participation has also been hailed by members of the international community, who anticipated that it would give legitimacy to and facilitate the implementation of state initiatives and policies.

The head of a women's organization stated that processes were participatory, highlighting the latest national consultation for the TJRRC.²²⁰ Similarly, the president of a victims' group based in Bangui considered the national consultations to be very inclusive, providing a platform for the meaningful participation of victims. According to him, it was "a grassroots popular consultation where everyone was involved, victims, victims' organizations, CSOs, neighborhood leaders, etc."²²¹ He also confirmed that, since the Bangui Forum, victims had been consulted as a matter of practice: "Thanks to support and capacity building provided by international organizations like Cordaid, we could advocate for our rights and have access to policy makers. We even met the president of the republic in January 2019 and shared with him the findings of a study on victims."²²²

Victims' groups underlined the fact that their positions were taken into account during discussions about the latest peace agreement, signed in 2019. Indeed, the memorandum submitted by victims' groups to the African Panel Group for Peace and Reconciliation in CAR advocating for security, justice, and disarmament highlights victims' demands.²²³ It stresses the need for the participation of victims in national consultations and calls for the panel to "pay attention to the question of the involvement of representatives of officially recognized victims' organizations in the major negotiations of peace agreements in CAR."²²⁴

From June 20 to July 2, 2019, a "national popular consultation on the process of setting up the TJRRC" was organized in seven regions of the country. A total of 1,977 participants took part in activities;²²⁵ 37 percent were women and only 16 percent were victims. According to the general report of the National Consultation Process, "This consultation gave the victims an exceptional opportunity to give expression to their experiences, expectations, and recommendations concerning the creation of the TJRRC, but also the search for peace, national reconciliation, and social cohesion."²²⁶ This positive perspective was not shared by all interviewees, however. One UN official stated: "Inclusiveness is a term that I like and that we use a lot, but, in the end, we never agree on how we perceive inclusiveness, depending on whether we are from UNDP, MINUSCA, or the government."²²⁷

While the general report claims that the process met the criterion of inclusive heterogeneity in taking into account minorities and different religious denominations, a Muslim victim insisted that "the process was not comprehensive because local authorities had chosen the participants and many people were excluded."²²⁸ In addition, refugees, who represent a high proportion of

220 Interview with head of a women's CSO in Bangui, June 3, 2020.

221 Interview with president of a victims' group in Bangui, October 6, 2020.

222 Ibid. PowerPoint presentation shared with the researchers after an interview, October 6, 2020.

223 Memorandum from ASVI, AVED, NSAW, AMAVE, AVLRAC, AUVC to advocate for the improvement of victims' situation and respond to their demands.

224 Ibid.

225 Approximately 2,400 were invited, resulting in an 82 percent participation rate for invitees.

226 "General Report of the National Popular Consultation on the Process of Setting Up the TJRRC," 13.

227 Interview with UN official, May 27, 2020.

228 Interview with Muslim victim, October 26, 2020.

the Central African population, were not consulted, even though their exclusion was pointed out to the international community. This led some victims to conclude that the consultations were meaningless and that their views were not taken into account.²²⁹

Further, the meaningfulness of victim participation was also criticized by youth who felt that they were not considered as real actors in the process. Criticizing the effectiveness of the consultation itself and the ability of young people to meaningfully influence the process, a young activist said, "Young people were consulted, but when the law [creating the TJRRC] was passed, it set a minimum age of 35 to become a member of the TJRRC. It is a discriminatory law that excludes young people."²³⁰ One victim refused to be a part of a nominal consultation that would be used by authorities to legitimate the upcoming TJRRC, saying: "I will not play the role of the walk-on actor."²³¹

Representatives of the international community were skeptical of the degree of participation of victims and CSOs, especially given that civil society is young and does not have a long history of advocacy.²³² "The involvement of victims has never had any real impact or scope. While there have been some commendable ad hoc activities, victims' groups have very little capacity. Civil society is already weak, and the victims even more so."²³³ Despite this limited capacity and knowledge about transitional justice, only the facilitators of the consultation who went to the field were trained in the methodology of engaging in dialogue with local populations, the concept of transitional justice, particularly that of the TJRRC, and the use of data collection tools,²³⁴ but there are participants, including victims, who know nothing about transitional justice.²³⁵ These representatives stressed that the input of the United Nations and other partners provided in questionnaires were not taken into account.²³⁶

Geographically, consultations were carried out only in a very limited part of the territory, with a high concentration in Bangui and its surroundings and in a single city, Bria, which is under the control of armed groups. The north and east of the country remain under the control of the ex-Séléka.²³⁷ Outside of Bangui, participation is viewed quite differently. Indeed, those interviewed in Alindao felt that the peace process as a whole was not inclusive, because they "were not involved."²³⁸ As a victim interviewed in Alindao stated, "Often initiatives are undertaken, but we are not even consulted. We do not even know what is happening in Bangui." Another person in Alindao added that "the government does not give priority to the inhabitants of Alindao like it does to other regions," concluding that "the city of Alindao is forgotten, left to the mercy of rebel groups, which hold the power of life and death over the population."²³⁹

A Unifying and Impactful Outreach and Communication Strategy

Communication and outreach are key elements in determining the success of transitional justice measures. Besides operating in highly political environments, these processes aim to engage populations that experienced multiple violent conflicts and are still dealing with issues of

229 Ibid.

230 Interview with secretary-general of the National Council of Central African Youth, October 20, 2020.

231 Interview with Muslim victim, October 26, 2020.

232 Interview with expert on CAR, April 21, 2020.

233 Interview with UN official, May 27, 2020.

234 "General Report of the National Popular Consultation on the Process of Setting Up the TJRRC," 7–8.

235 Interview with leader of a victims' group, October 26, 2020.

236 Interview with UN official, May 27, 2020.

237 Comments provided by expert on CAR, via email exchange, February 18, 2020.

238 Interviews with victims in Alindao, July 17, 2020.

239 Ibid.

identity, polarization, and hostility. Several issues raised by interviewees for this report related to their expectations for justice and lack of understanding that could have been managed differently if information had been provided to them—and provided in the right way.

First, victims' expectations for justice were raised to an unattainable level that resulted in high levels of frustration. Victims often expected that alleged perpetrators would be held criminally accountable and that their individual cases would be examined. A specialist in CAR explained that such high expectations resulted from the narrative and messaging promoted by the United Nations and adopted by the Central African political elite: "Justice for Everybody."²⁴⁰ "At a certain point, this became the perfect message for everyone (the United Nations, the INGOs, the elite, etc.), which led to a high level of expectation that could not be fulfilled, which was counterproductive."²⁴¹ Another interviewee explained that victims did not receive the right information: "Nobody told them how long a judicial process takes, the risk of losing, and why there is value in building up a judicial system, that by simply having a system you are making life easier for your children and grandchildren. No one told them there was a value in [pursuing] justice."²⁴² The EU officer said that "a huge amount of work has to be done to recreate faith in justice."²⁴³ Outreach and awareness-raising campaigns do exist, but they are not adapted to a context of high illiteracy. One interviewee criticized the long, detailed brochures explaining the phases of the process in Sangho and French. "Although these women were illiterate, they were not stupid. They were interested in justice and appropriately angry about the situation, but the material was not adapted to them."²⁴⁴

As for the SCC, since the first phases of its establishment, with the support of the international community, significant importance was given to its communication and outreach, in order to inform the public about the court's objectives and mandate, but also to manage public expectations. The communication strategy called for the creation of a website and an awareness campaign in the provinces that included a play followed by a movie.²⁴⁵ The play, titled in Sangho "*Kota dati Ngbanga*" ("A Great [or Important] House of Justice"), was performed 80 times across the country to 82,000 spectators. Several trainings were also provided to journalists, and a radio campaign was organized. The UN agencies based in CAR produced a guide for CSOs,²⁴⁶ describing the SCC and the role that those raising awareness would play as a vital part of the SCC's outreach strategy. The guide compares these CSO activists to "a conveyor belt between the SCC and the Central Africans."²⁴⁷ This campaign sought to inform the public but also "to push the SCC magistrates to work and deliver results."²⁴⁸ The campaign created hope for justice.

Most of the people interviewed, however, do not know anything about the SCC's work, and while they were all "thirsty" for it to provide justice, they were also disappointed by its slowness. Several interviewees simply thought that the court was not operating. During the SRSG's mission to CAR in May 2019, UN officials met with local organizations that provide support to survivors of conflict-related SGBV and reported:

240 Interview with expert on CAR, April 21, 2020.

241 Ibid.

242 Interview with filmmaker, September, 2020.

243 Interview with EU Officer, February 5, 2021.

244 Ibid.

245 Interview with journalist, April 24, 2020.

246 Jocelyn Ngoumbango, Jules Soh, and Franck Petit, "Guide de Sensibilisation à l'Usage des Organisations de la Société Civile - 1," UNDP, MINUSCA, et al, 2017. Available online in French at www.justiceinfo.net/media/k2/attachments/RCA/GuideOSC_CPS_1.pdf

247 Ibid.

248 Interview with EU Officer, February 4, 2021.

It was shocking how little these organizations based in Bangui and the women they met knew about the court. They saw it as a very distant institution. All of them said that they did not feel the court was a mechanism that tried to answer their needs. So, it was surprising, as they talked about organizations that were maybe two blocks away from the court itself, and they did not know how it functions or how it could be helpful to the people they were trying to assist.²⁴⁹

Another official added, "The SCC has been established and there is a building that people can identify. People recognize it. People know the court is not delivering, which creates a problem. There is very little communication about what they are doing."²⁵⁰ An INGO staff member said that local partners do great work to document conflict-related cases but do not know how to reach out to the court or the procedures to submit a complaint.²⁵¹ This information is provided by the official court website, which explains how to contact the SCC, describes procedures before the court, and offers a FAQ section that provides simple answers to typical questions. Still, site statistics show that only nine people had viewed the page dealing with the procedures before the court,²⁵² which is not surprising in a country where internet connection is not widespread and where people often cannot afford to buy and use technology.²⁵³

Communication and outreach have not helped the SCC to create a sense of public ownership of the process and may even risk further dividing an already polarized society. As mentioned previously, one Muslim victim was concerned that the SCC would not provide justice to Muslims because "Muslim candidates [for judges] were ruled out."²⁵⁴ The SCC website does not explain the process used to select the current judges. In these types of contexts, institutions like the SCC, in addition to providing criminal accountability, work toward the long-term objective to promote social learning between communities and trust between groups.²⁵⁵ For minorities that have long been discriminated against and oppressed, trust can be strengthened or weakened by perceptions of representation and inclusion, which can be affected by representation of groups in the appointment of judges. A recent report sheds light on the challenges that the SCC faced in recruiting international judges and staff:²⁵⁶ Because states must submit applications and are responsible for funding these positions, some states withdrew their candidates because they could not afford the secondment.²⁵⁷ Explaining these challenges to Central Africans would have helped to correct misperceptions that that court discriminates against some groups. The same transparency and inclusion concerns will apply to the TJRRC in its selection of commissioners.

249 Interview with UN official, April 14, 2020.

250 Ibid.

251 Interview with INGO staff member, September 14, 2020.

252 Palais de Justice de Bangui, "La Procédure Devant la Cour Pénale Spéciale," <https://cps-rca.cf/interne.php?page=interne.php&idsmenu=267&idssmenu=19>

253 For this study, researchers faced difficulties conducting online interviews, including with UN and INGO officials, because of internet connectivity problems. A victim contacted via WhatsApp said she was reachable because she had paid for one week of internet connection so that her son could send emails to universities outside of CAR.

254 Interview with Muslim victim, October 26, 2020.

255 Paige Arthur, "'Fear of the Future, Lived through the Past': Pursuing Transitional Justice in the Wake of Ethnic Conflict" in *Identities in Transition: Challenges for Transitional Justice in Divided Societies*, ed. Paige Arthur (New York: Cambridge University Press, 2011), 300.

256 Amnesty International, "On Trial, These Warlords Lowered Their Eyes: The Central African Republic's Challenging Pursuit Of Justice," October 2020.

257 Ibid., at 20 and 21.

Conclusions and Recommendations

This report examines the notion of justice and its feasibility from the perspective of a victim-centered approach in a context of profound fragility and extreme poverty. It highlights a panoply of justice measures, institutions, and initiatives that were supposed to address Central African victims' needs but have not for several reasons, related mainly to two axes: security and development. Indeed, the fragility of the context, ongoing violations, and instability have affected the government's legitimacy and, at the same time, the trustworthiness of its institutions. Exclusion and polarization, on the one hand, and socio-economic situations and illiteracy rates, on the other, have impacted access to justice for Central Africans and conflict-related victims. In many contexts, victims are among the most marginalized, excluded, and poorest of society, but in the context of CAR, the six-decade-long conflict has weakened the whole population's access to services and justice. Corruption, high judicial service fees, and the absence of state services outside of the capital are all grievances that contribute to a justice gap.

Given these factors, it is very difficult for justice initiatives to be transformative if they are not based on victims' needs. Interviews show that victims' needs and their perceptions of justice change over time and differ between those in the capital—where everything is centralized, notably information and institutions—and those in rural areas—where even when information is available, daily struggles discourage victims from advocating for their rights. In rural areas, compensation and reparations are among the first and most urgent needs to be addressed by the state, along with memorialization. In rural areas, not everyone has access to information or knows about ongoing justice processes in the capital and the surrounding areas. In Bangui, victims are more likely to be informed about transitional justice as a comprehensive approach that may help to strengthen the rule of law and prevent the recurrence of violence.

Transitional justice does not have to start with criminal accountability or a truth commission. Practice has, on the contrary, shown that it should be strategically planned as part of a long-term transformative process that leads to change by addressing the legacy of the past. The SCC, for example, is an important achievement and a step toward ending impunity, but it has had to deal with challenges that slowed its actual start. Five years after its establishment, it has only just started dealing with cases. This has led to persistent frustrations among victims. In fact, even if the court were to start working efficiently and resolve all of the difficulties it faces, it can ultimately only address a relatively small number of the total violations committed in CAR. This reality highlights the importance of managing victims' and the public's expectations and not perpetuating the unrealistic message that all wounds will be healed.

This report does not attempt or claim to give all of the answers. It does acknowledge the challenges that stakeholders and, more importantly, Central Africans face. The report tries, rather, to shed light on different innovative angles of transitional justice to be explored. Transitional justice measures implemented in CAR have tried to respond to victims' needs, but political dynamics and the reality of the conflict have prioritized some measures over others. Transitional justice, when leading to reconciliation, reparation and rehabilitation, and institutional reform and guarantees of non-recurrence, will benefit the whole of Central African society. When achieving these goals, justice will be more tangible and not just an aspiration.

Recommendations

The following recommendations are based on the report's findings and aim to help fight impunity and pave the way for an inclusive and victim-centered transitional justice process in CAR.

To the Government of CAR:

1. Reinforce and accelerate the implementation of the mechanisms of Organic Law n°20.005 on the Organisation of Legal Aid in CAR. Review the high fees victims and Central Africans, in general, have to pay when trying to access justice services (from the police station to the courts) and establish special reduced fees to conflict related victims and cases.
2. Avoid limiting youth participation to consultative stages only and review conditions related to age in decision-making positions, allowing better and more meaningful youth participation and ensuring that the views and perspectives of the largest portion of the population and the future leaders of CAR are well reflected.
3. Prioritize a reparations program not related to prosecutions and court decisions but rather based on wide consultations with victims in order to design a comprehensive policy on reparations; start by providing urgent and specific reparations measures and compensations to victims.
4. Review education fees and ensure free public education as a way to prevent inequality and provide scholarships to the children of victims of the conflict.
5. Work towards putting an end to child recruitment in armed groups by providing ways of survival and protection, especially for orphans and children of enforced disappearances and victims of the conflict.
6. Recognize children previously associated with armed groups as victims. Separate incarcerated children from adults and release those who have been detained for years without trial.

To all stakeholders:

1. Ensuring meaningful participation and representation of victims in transitional justice processes through:
 - Informing victims about their rights, justice mechanisms and institutions, and possible alternatives so their participation is real and not nominal.
 - Guaranteeing the participation of marginalized groups, minorities, diaspora, and refugees in the design and implementation of justice processes.

- Ensuring wide consultations that cover all victims in all regions of the country and not just the capital Bangui and surrounding towns.
2. Promote interaction between different groups and communities in order to create solidarity between victims' groups based on their shared experiences, fight against impunity, and journey to ensure their rights instead of based on political, religious, and ethnic affiliation.
 3. Develop a victim-oriented outreach strategy that effectively manages public expectations from the start with the participation of victims' groups to ensure victims are well informed.
 4. Conduct more culturally sensitive and intersectional studies about gender and social norms, which would lead to more adapted responses to SGBV and highlight how the banalization of SGBV against women and men contributes to its persistence before, during, and after conflict.
 5. Ensure alternative forms of youth participation as a way to contribute to transitional justice processes via other forms of expressions as ways for them to play a positive participatory role in the transition but also an integration of their voices into the process of the country's development.
 6. Unify communication approaches and adapt them to the context and level of education, and, above all, do not create high expectations among victims looking for justice.
 7. Use the framework of the 2030 Sustainable Development Agenda to emphasize the importance of providing justice for victims of human rights violations to SDG16 on peace, justice, and inclusive societies as well as other SDGs such as those on gender, inequality, and education.

Epilogue

As this report was being finalized, the CAR Constitutional Court issued decision n°26/CC/20 of December 3, 2020, settling the final list of candidates for the presidential election of December 20, 2020. The court vetted all 22 candidates, including President Faustin Touadera, and disqualified five candidates, including former President François Bozizé, mainly for reasons related to questions of morality.²⁵⁸ This was historic, not just because it excluded Bozizé. Clearly, the current executive had tried through different maneuvers—that failed—to exclude opposition candidates,²⁵⁹ especially Bozizé, who was considered Touadera's strongest opponent. The decision was historic in the sense that the disqualification happened through legal channels, setting a precedent and strengthening the rule of law and potentially building trust in the judiciary or, at least, in the constitutional court. It was also historic because it acknowledged the suffering inflicted on victims by candidates whose bids for office were invalidated and acted as a form of indirect accountability for the violations they committed.

Out of the five invalidated candidacies, three were particularly significant: Jean-Michel Mandaba's due to allegations of corruption, Ningaloloum-Sayo Armel's because he headed the armed group "Revolution-Justice – Sayo wing," and François Bozizé's because he "is subject to an international arrest warrant from the Dean of Investigating Judges of the Bangui Tribunal de Grande Instance issued against him on March 31, 2014."²⁶⁰ Even though this decision did not lead to Bozizé's arrest, it constitutes a different form of accountability, a reparation for victims, and an acknowledgement of what has happened in the country. It also reflects a will, even if still very weak, to transform CAR. Bozizé accepted the decision of the court and called on the opposition to unite behind a single candidate to beat Touadéra.

President Touadera won a new term in office after a relatively calm election day. But, unfortunately, tensions rose again and the opposition called for annulling the vote. Rebel groups surrounded the capital after seizing control of Bangassou. After the Central African Constitutional Court confirmed the elections results, President Touadera called for national reconciliation.²⁶¹

258 The Constitutional Court issued decision n°26/CC/20 of December 3, 2020, settling on the final list of candidates for the presidential election of December 20, 2020.

259 It failed to amend the electoral code or postpone the elections under the cover of the COVID-19 pandemic.

260 Bozizé is wanted for assassinations; arrests, forcible confinements, arbitrary detentions and torture; destruction and burning of houses; kidnappings and summary and extrajudicial executions; and embezzlement of public funds. In addition, under the terms of UN Security Council Resolution 2127 (2013), "the candidate is subject to sanctions."

261 *France 24*, "Central African Republic's Touadéra Calls for National Reconciliation as Re-election Upheld," January 18, 2021, www.france24.com/en/africa/20210118-central-african-republic-s-touad%C3%A9ra-calls-for-national-reconciliation-as-re-election-upheld

A few days later, CAR authorities handed Mahamat Said Abdel Kani, a Séléka commander responsible for human rights violations, over to the ICC.²⁶²

²⁶² ICC, "Situation in Central African Republic II: Mahamat Said Abdel Kani Surrendered to the ICC for Crimes Against Humanity and War Crimes," press release, January 24, 2021, www.icc-cpi.int/Pages/item.aspx?name=pr1559

Annex

Interviews conducted by phone, using online tools (ie, Skype, Microsoft Teams, Zoom), or through email

	Organization / Institution / Title	Date
1	SRSB Team of Experts	April 14, 2020
2	SRSB Team of Experts	April 14, 2020
3	Expert on CAR	April 21, 2020
4	Journalist (international)	April 24, 2020
5	UNDP	May 27, 2020
6	UNDP	May 27, 2020
7	UNDP (Justice and Correction)	June 2, 2020
8	UNDP gender expert	June 3, 2020
9	Association of Women Lawyers of Central Africa (AWLC)	June 6, 2020
10	Judicial and Penitentiary Affairs Section (MINUSCA)	June 10, 2020
11	CRSV Section – Office of the Deputy Special Representative of the Secretary-General of the United Nations (MINUSCA)	June 11, 2020
12	Expert on CAR and transitional justice	July 16, 2020
13	Expert on CAR	September 9, 2020 (email exchange)
14	Filmmaker	September 22, 2020
15	AVED	October 6, 2020
16	Focus group discussion with 13 victims	October 15, 2020
17	Cordaid	October 19, 2020
18	Youth National Council	October 20, 2020
19	Association of Muslim Women Supporting Development	October 20, 2020
20	Conflict Related Lawyer and Representative Central African Human Rights Observatory (CAHRO)	October 23, 2020
21	Journalist (local)	October 23, 2020
22	Coordination of Muslim Organizations in the Central African Republic (CMOCAR)	October 26, 2020
23	Expert on CAR	November 6, 2020 (email exchange)
24	EU Officer	February 4, 2021
25	EU Officer	February 5, 2021

Interviews conducted in person in Bangui:

	Organization / Role	Date
1	AVED	June 23, 2020
2	AVED	June 23, 2020
3	NSAW	June 23, 2020
4	Association of United Victims of the Central African Republic (AUVIC)	June 24, 2020
5	Magistrate, Former Minister of Justice	June 24, 2020
6	Dean of the Faculty of Law of Bangui	June 24, 2020
7	ASVI	June 25, 2020
8	ASVI	June 25, 2020
9	President of the Constitutional Court	June 25, 2020
10	Uru	June 26, 2020
11	Central African Observatory for Human Rights	June 26, 2020
12	Civil Society Working Group	June 26, 2020
13	Lawyer and Victims Representative before the ICC	June 26, 2020
14	Justice and Peace Commission	June 27, 2020
15	Minister, Advisor to the President in charge of DDRR	June 29, 2020
16	Coordination of Muslim Organizations in the Central African Republic	June 29, 2020
17	Youth National Council	July 2, 2020
18	Civil Society Working Group	July 2, 2020
19	Association of Women Lawyers of Central Africa (AWLC)	July 7, 2020
20	AWLC	July 7, 2020
21	Vicar General of Alindao Sacré-Coeur Catholic Cathedral	July 16, 2020
22	Alindao Women's Association for the Fight Against Poverty and HIV / AIDS (AWAFPH)	July 16, 2020
23	AWAPH	July 16, 2020
24	Catholic IDP site	July 17, 2020
25	IDP	July 17, 2020
26	Elim IDP site	July 17, 2020
27	AWAPH	July 17, 2020
28	AWAPH	July 17, 2020
29	Focal point victim	July 18, 2020
30	Mayor of Alindao	July 18, 2020
31	Victim	July 18, 2020
32	AWAPH	July 18, 2020
33	AWAPH	July 18, 2020
34	AWAPH	July 20, 2020
35	Deputy village chief	July 20, 2020
36	Victim	July 20, 2020
37	Victim	July 20, 2020
38	Victim	July 20, 2020
39	Catholic IDP site	July 21, 2020
40	Catholic IDP site	July 21, 2020
41	Catholic IDP site	July 21, 2020
42	Catholic lay leader serving IDPs	July 21, 2020
43	AWAPH	July 21, 2020

ICTJ

Justice
Truth
Dignity

Cordaid  BUILDING FLOURISHING COMMUNITIES

ICTJ New York
50 Broadway, 23rd Floor
New York, NY 10004
Tel +1 917 637 3800
Fax +1 917 637 3900
www.ictj.org