



Executive summary

FIACAT and ACAT CAR report for the 3rd UPR of Central African Republic

I. Right to life

A. The death penalty

The new Criminal Code from 2010 maintains the death penalty but it has not been executed since 1981. The last death penalty sentence dates back from 2015 but a commutation of the death sentences occurred in 2015 so there is no more detainee sentenced to death in the CAR. A Bill on the abolition of the death penalty was drafted in 2012 but was not introduced to the National Assembly because of the rebellion by the Seleka coalition. Despite several commitments for the abolition from the government (vote in favor of the resolution on a universal moratorium, Code of military justice from 2017 that does not include the death penalty and various public statements), the death penalty still exists in the CAR.

Recommendation:

- Abolish the death penalty and ratify the Second Optional Protocol to the International Covenant on civil and political rights.

B. Extrajudicial killings

Extrajudicial killing keep being committed by members of the Seleka and anti-Balaka rebel groups. Also, several summary executions of persons accused of witchcraft have been documented (witchcraft is also criminalised in the Criminal Code).

Recommendations:

- Conduct prompt and impartial investigations on allegations of extrajudicial killings, prosecute the authors of such acts and sentence them proportionally to the gravity of those acts;
- Amend the Criminal Code to remove the offence of witchcraft.

C. Enforced disappearances

The Central African Republic acceded to the International Convention for the Protection of all Persons from enforced disappearances on 11th October 2016. Despite this, allegations of enforced disappearances continue to be made. Because of the security context, it is very difficult to investigate on those cases. Moreover, there are autonomous criminalization of enforced disappearances in the Criminal Code.

Recommendation:

- Ensure that all allegations of enforced disappearances are thoroughly and independently investigated, that the authors of such acts are prosecuted and sentenced proportionally to the gravity of those acts and criminalize enforced disappearances in domestic law.

II. Prohibition of torture

The CAR ratified the Convention against torture in October 2016 and criminalized torture in article 118 to 120 of its Criminal Code. However, this criminalization does not provide a definition of

torture and for the non-applicability of statutes of limitation. Cases of torture by law enforcement officials and rebel groups continue to be perpetrated and victims rarely file a complaint.

Recommendations:

- Ensure that all allegations of torture are thoroughly and independently investigated and that the authors of such acts are prosecuted and sentenced proportionally to the gravity of such acts;
- Amend the Criminal Code to expressly define torture in conformity with the Convention against torture without application of statute of limitations and ensure that those provisions are disseminated to law enforcement officers, judges and the population.

III. Impunity and National Human Rights Institution

The fight against impunity was one of the recommendations that came out of the Bangui Forum in 2015. Several steps were taken in that direction including the creation and operationalization of the Special Criminal Court and the National Human Rights and Fundamental Freedoms Commission. However, this last Commission has not yet been allocated the necessary means for its functioning. Moreover, the Truth, Justice, Reparation and Reconciliation Commission does not exist yet despite the establishment of a steering committee. There are concerns that impunity might prevail since some rebel groups' leaders have been offered a position within the government. It is imperative that amnesties are not given to the authors of the most serious crime in order to fight against impunity and put an end to the current crisis.

Recommendations:

- Pursue and strengthen the efforts to fight against impunity by ensuring that the authors of serious human rights violations are being prosecuted and sentenced and that victims obtain reparation;
- Give the National Human Rights and Fundamental Freedoms Commission an headquarter and the financial and human resources necessary to its functioning and ensure the creation of its branches in all regions of the country.

IV. Deprivation of liberty

A. Custody and pre-trial detention

The time limit for custody is of 72h renewable once. However, it can last up to 8 days if there is no judge in that location. In reality, those times limits are not respected and detention conditions in custody cells are terrible. Regarding pre-trial detention, time limits (4 months renewable once for 2 months for ordinary crimes and 1 years renewable once for 4 months for serious crimes) are not respected in practice, particularly because Bangui prisons hosts nearly all offenders.

Recommendations:

- Improve detention conditions in custody cells, ensure in practice the respect of the time limits to custody and pre-trial detention and prioritize alternatives to detention.

B. Detention

Only 9 prison establishments are working in the CAR and face several issues in terms of separation of pre-trial and sentenced detainees, food and access to healthcare. Moreover, some alleged offenders are admitted in prison without detention warrant. Regarding prison monitoring, the CAR

ratified the OPCAT in October 2016 but has still not established an NPM and access to prison by civil society remains difficult.

Recommendations:

- Improve detention conditions by ensuring the separation of pre-trial and sentenced detainees and by ensuring access to sufficient, quantitatively and qualitatively, food and adequate healthcare;
- Establish a national preventive mechanism in conformity with the Optional Protocol to the Convention against Torture and authorize access to places of deprivation of liberty by civil society organisations.

V. Administration of justice

The Judiciary in the CAR is not completely independent and the Executive still interfere in some cases or sentence execution and there are high suspicions of corruption. Moreover, judges are not in sufficient number and, in the zones controlled by rebel groups, there is no judges or courts.

Recommendation:

- Strengthen the Judiciary in particular by fighting against corruption, organizing training session of judges to increase their number and by creation local courts.

VI. Human Rights Defenders

Human Rights Defenders carry out their activities in very difficult conditions and without any legal framework to protect them. In the zones under the control of rebel groups, there are forced to work clandestinely. A Bill on the protection of Human Rights Defenders is currently being discussed and civil society was consulted in September 2018.

Recommendation:

- Ensure a safe environment for human rights defenders, journalists and other civil society actors in particular by adopting by the Bill on the protection of human rights defenders.