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الاتحاد الأفريقي African Commission on Human & Peoples' Rights		UNIÃO AFRICANA Commission Africaine des Droits de l'Homme & des Peuples
No. 31 Bijilo Annex Lay-out, Kombo North District, Western Region, P. O. Box 673, Banjul, The Gambia Tel: (220) (220) 441 05 05 / 441 05 06, Fax: (220) 441 05 04 E-mail: <a href="mailto:au-banjul@africa-union.org">au-banjul@africa-union.org</a> , <a href="http://www.achpr.org">www.achpr.org</a>		

# REPORT ON THE HUMAN RIGHTS PROMOTION MISSION TO THE CENTRAL AFRICAN REPUBLIC

BY

COMMISSIONERS BECHIR KHALFALLAH AND LUCY ASUAGBOR

(6 - 16 June, 2011)

## ACKNOWLEDGEMENTS

The African Commission on Human and Peoples' Rights (the African Commission) hereby wishes to express its gratitude to the Government and the highest authorities of the Central African Republic (CAR) for willingly accepting to host a promotion mission to the country from 6 to 16 June, 2011.

The African Commission especially thanks **H.E. Antoine Gambi**, Minister of Foreign Affairs, and citizens of the Central African Republic living Abroad, whose personal involvement in organizing various meetings largely contributed to the success of the mission.

The African Commission also thanks Madam **Dorothee Malenzapa**, Minister of International Cooperation, Regional Integration and Francophonie for having made the necessary facilities available to the delegation for the smooth conduct of the mission.

The African Commission also wishes to thank Madam **Hawa Ahmed Youssouf**, Special Representative of the President of the African Union Commission in CAR. Special acknowledgement goes to Mr. **Russel Mezeme Mba**, Policy Adviser to the Liaison Office of the African Union (AU) in the CAR, who facilitated the conduct of the mission and accompanied the delegation in its rounds.

## I- INTRODUCTION

1. The African Charter on Human and Peoples' Rights (the African Charter or the Charter), adopted on 21 June, 1981 by the Assembly of Heads of State and Government in Nairobi Kenya, came into effect on 21 October, 1986. In Article 30 and subsequent articles, it establishes the African Commission on Human and People's Rights (the African Commission or the Commission), which to date, is the principal body tasked with promoting and protecting human rights of the African Union (UA).
2. Under the African Charter, the African Commission has, among others, been tasked with promoting human rights and fundamental freedoms guaranteed by the African Charter; ensuring their protection; ensuring the monitoring of the implementation of the Charter; interpreting its provisions; and providing legal advice upon the request of the Assembly of Heads of State and Government.
3. Article 45 of the African Charter tasks the African Commission with the promotion of human and peoples' rights, notably through research, studies and undertaking visits to States Parties in order to gather information on the implementation of the provisions of the Charter and to formulate principles and rules likely to serve as the basis for the formulation of human rights laws and policies.
4. The Central African Republic (CAR) ratified the African Charter on 26 April, 1986 and, therefore, undertook to cooperate fully with the African

Commission, particularly within the framework of its promotion missions. The State has also complied with its obligation in respect of Article 62 of the African Charter by presenting its combined initial report during the 39<sup>th</sup> Ordinary Session of the African Commission held from 11 to 25 May, 2006, in Banjul, The Gambia.

5. The human rights promotion mission conducted in the CAR from 6 to 16 June, 2011 therefore took place after the CAR had presented its initial report in 2006.
6. This mission of the African Commission took place after the presidential elections of 23 January, 2011.
7. It is, therefore, by virtue of the mandate conferred on it by Article 45 of the Charter that the African Commission embarked on this promotion mission to the CAR to find out progress made in the area of the protection of the rights guaranteed under the African Charter. This also testifies to the importance the African Commission attaches to dialogue with the Government of the Central African Republic and with the other civil society stakeholders.
8. The mission provided the opportunity for the Commission to collect information on the status of human and peoples' rights in the CAR and to disseminate the instruments and documentation of the African Commission adopted by the African Union (AU) as well as the other relevant international human rights instruments. It also afforded the opportunity for the African Commission to properly sensitize all State and non-State actors on its work and to enhance its visibility to local Non-Governmental Organizations (NGOs).

## II. TERMS OF REFERENCE OF THE MISSION

9. The objectives of the mission was to:

- Initiate dialogue with the Government of the Central African Republic on legislative measures and other decisions to give full effect to the provisions of the African Charter, its related Protocols and other duly ratified instruments;
- Hold discussions with the Government of the CAR on the challenges it faces as far as the enjoyment of human rights by its citizens is concerned ;
- Meet institutions of the State and all other stakeholders involved in human rights promotion in order to discuss ongoing policies and programmes as well as their appreciation of the human rights situation in the country;
- Disseminate the African Charter, the Maputo Protocol, the Resolution on the granting of observer status to NGOs and other relevant legal instruments of the African human rights system;
- Promote the African Charter by drawing from the experiences and best practices of other African States in the area of the promotion and protection of human rights;
- Assess and gather information on the level of realization of social, economic and cultural rights by the Central African government;
- Assess the situation of human rights defenders in terms of the level of enjoyment of the rights guaranteed by the African Charter and other relevant human rights instruments ;

- Obtain up-to-date information on the status of women in the CAR, in relation to the implementation of the Protocol to the African Charter on the Rights of Women (the Maputo Protocol);
- Visit the major prisons and meet the prison authorities and all relevant stakeholders, to discuss issues related to detention and to propose strategies and solutions for the implementation of the Robben Island Guidelines;
- Popularize the subsidiary mechanisms of the African Commission, through their composition and mandate by highlighting the importance of establishing a stronger synergy between these mechanisms and human rights defence NGOs ;
- Discuss the status of implementation of the recommendations made by the African Commission during the presentation of the cumulative periodic report at the 39<sup>th</sup> Ordinary Session held from 11 to 15 May, 2006 in Banjul, The Gambia.

### III.COMPOSITION OF THE DELEGATION

10. The African Commission's delegation to the CAR was made up of Commissioners **Béchir Khalfallah**, Commissioner responsible for the promotion of human rights in the CAR, Chairman of the Working group on economic, social and cultural rights and head of delegation, and Commissioner **Lucy Asuagbor**, Special Rapporteur on the situation of human rights defenders in Africa.

11. Miss **Irene Désirée Mbengue Eleke** and Mr. **Lassana Koné**, legal officers at the Secretariat of the African Commission assisted the delegation during the mission.

## IV- PRESENTATION AND GENERAL BACKGROUND TO THE CAR

### Geographical Background

12. The Central African Republic is a landlocked country that shares a common border with the Republic of Chad to the north, the Republic of Sudan to the East, the Republic of Cameroon to the West, the Democratic Republic of Congo to the South-east and the Republic of Congo to the South-west. It has a land surface of area 623.000km<sup>2</sup> of which 3.2% is used for farming, 4.8% for grazing, 57.5% is covered by forest and 34.5% is used for housing and other purposes<sup>1</sup>.
13. The relief of the Central African Republic is characterized by plains in the centre and to the south, plateaus in the West and two major highlands (the Fertit to the Nord-east and the Yadé to the North-west). The peak of the group of mountains is Mount Ngaoui to the North-west, with an altitude of 1420m<sup>2</sup>.
14. The Central African landscape is made up of an elevated median compartment or the Central African ridge and two low compartments: the Chad basin to the North and the Congo basin to the South. The two basins constitute the source of the country's water system. The water bodies of the two basins that divide the CAR provide significant supplies to the country in opposite directions. The Chari River to the North with its tributaries and the Oubangui to the South with its tributaries have a very simple regime. The rise in water levels is associated with the rainy season.

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<sup>1</sup> Initial and cumulative report of the Central African Republic on the African Charter on Human and Peoples' Right, January, 2006.

<sup>2</sup> Idem.

River Chari is navigable from Batangafo and Oubangui, with the upper flow cut by rapids to the East from Bangui<sup>3</sup>.

### **Administrative Divisions**

15. The Central African Republic is divided into sixteen Prefectures, which are in turn sub-divided into seventy-one (71) sub-prefectures, two (2) administrative control points (PCA), one hundred and seventy-one (171) communes and nine thousand (9000) villages. As part of the regionalization policy, the prefectures are organized into six (6) regions, each of them consists of between two and three Prefectures. The seventh region is made up of the eight arrondissements (sub-districts) that make up the capital, Bangui. The main Administrative Departments are found in each region: Military region, Health region, Academic Inspectorates, Labour Inspectorates, the Regional Services Directorates and soon the Regional Directorates of Human Rights and Good Governance<sup>4</sup>.

16. *Sango* and French are the official languages of the CAR.

### **Economy**

17. More than 70% of the inhabitants of the Central African Republic are employed in agriculture and forestry. Timber accounts for 16% of total exports of the country, while the diamond industry represents 54%. Economic development is hampered by the lack of roads and the land-locked nature of the country, the lack of skilled manpower and by the effect of past economic decisions. Political instability continues to overburden the country's economy. In 2003, the rate of inflation was 4.2%, while the unemployment rate was 8%.

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<sup>3</sup> Idem.

<sup>4</sup> Idem.



18. **Agriculture** accounts for 55% of GDP. The main crops are manioc (cassava), banana, maize, coffee, cotton and tobacco. The north-eastern and central regions of the country are an important agricultural basin for the production of cotton and sugar cane. However, a weak infrastructural base and little support for agriculture, which remains extensive for the most part, severely affect yields which are very low compared to those of the neighbouring countries. The land-locked nature of the country remains a major handicap and river transport is very crucial for the economy. Moreover, these geographical constraints (limiting collections), coupled with the wide fluctuations (falling prices) of these commodities on the international market have led farmers to turn away from these crops they could no longer to sell. Since 2003, there has been a massive return to simple subsistence crops meant for family use and local consumption.
19. The development of agriculture is only beneficial to large scale farmers, with untrained farmers still using “old” methods, with no mechanization or animal traction. Yields are low and the quality is just about average. It is, therefore, very significant that very large tracts of fruit tree plantations are attacked by bacteria and parasites, thus reducing the quantity and quality of yield.
20. **Forestry** makes a huge contribution to GDP, with significant tropical forest resources. Right from the advent of colonization, rubber was cultivated because of its latex, and today, its species are more diversified. The poor quality species are processed locally by a small plywood industry, while the most valuable ones are exported in their unprocessed state in the form of logs.
21. **Mining** (gold and diamonds) is the other important resource of the Central African Republic in terms of export earnings: official production –

mainly small-scale – of very good quality alluvial diamonds (gem-quality diamonds) is estimated at about 500,000 carats per year. Actual production is estimated at about double this figure. There is, therefore, a significant parallel economy in this sector. Production, trade as well as the cutting of diamonds are activities that have always been targeted under plans for nationalization or, on the contrary, liberalization.

22. **The Industrial sector**, which has never been well developed compared to certain African countries, has suffered successive military and political upheavals and is virtually non-existent today. A few industries developed in the 1970s (light agro-business industries, fabric and shoe manufacturing plants, etc.) have disappeared. A local beer production and an aluminium processing industry have survived these. The private sector employs about 11,000 workers.
23. **Public utilities** (water, electricity, landline telephones...) which are a State monopoly, are in dire financial straits and the equipment are largely outmoded, due to lack of maintenance and investment, leading to very frequent failure in the provision of services. The huge debt burden of the national budget and the low level of internally generated resources make it difficult to run the State machinery (public service salary arrears, strikes and social unrest) and contribute to the fragility of State institutions.
24. The economy of the Central African Republic is characterized by an anachronistic, ill-adapted and randomly applied legislative framework as well as a strong involvement of the State in the productive sectors.
25. Central African Republic boasts of highly diversified flora and fauna, particularly, an African forest elephant population seen in herds of several dozens, especially in the salinas. This situation is still very fragile due to poaching for ivory and the high consumption of game, but the potential

for hunting and ecotourism is good. Tourism is still insignificant, due to the lack of accommodation and transport infrastructure as well as the insecurity prevailing in the country.

26. Growth stood at 2% in 2005. Unfortunately, it can be said for now that this growth benefits only Bangui, the capital, so far, which continues to attract rural populations in quest of greener pastures, and who are ready to do anything to enjoy the current job "boom".

27. The economy of the CAR, weakened by the Bokassa regime, entered a new phase of recession at the end of the 1980s. It remains one of the poorest countries in the world, despite efforts at recovery. With a human development index of 0.37, the CAR ranks 179<sup>th</sup> out of 182 countries as contained in the 2009 Human Development Index report of the UNDP. Life expectancy among the 4.4 million inhabitants is 45 years. Population growth is 1.8% per annum. The GDP per capita is 410 US dollars, with the external debt standing at 57.2% of the gross domestic product. The rate of primary school enrolment is 56.2%.

28. The CAR is a member of the Central African Customs Union which is headquartered in Bangui. It is a Member State of the CEMAC and CEN-SAD regional economic communities.

#### **List of major international treaties and instruments ratified by the CAR**

29. The commitment of the CAR to human rights has translated into its ratification of several international and regional instruments on human rights:

- The Universal Declaration of Human Rights;
- The International Convention on the Elimination of all forms of Racial Discrimination, ratified on 16 March, 1971;

- The International Covenant on Civil and Political Rights, ratified on 08 May, 1981;
- The International Covenant on Economic, Social and Cultural Rights, ratified on 08 May 1981;
- The Optional Protocol on Civil and Political Rights, ratified on 08 May, 1981;
- The African Charter on Human and Peoples' Rights, ratified on 26 April, 1986;
- The International Convention on the Elimination of All forms of Discrimination Against Women, ratified on 21 June, 1991;
- The Convention on the Rights of the Child, ratified on 23 April, 1992;
- The Statute of the International Criminal Court, ratified on 03 October, 2001;
- The Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, ratified on 03 July, 2002.

## **V- METHODOLOGY AND CONDUCT OF THE MISSION**

30. The mission was conducted through interviews, discussions and working sessions with the highest Authorities of the CAR, as well as stakeholders involved in the promotion and protection of human rights in the CAR, including visits to certain sites (to some prisons, for instance).
31. Each of the meetings started with a brief presentation by the delegation on the objectives of the promotion mission to the CAR and a short presentation of the African Commission, particularly on its organization, composition, mandate, functioning as well as its subsidiary or special mechanisms. The discussions also touched on progress made by the African Commission since its establishment, the challenges confronting it as well as the need to

develop better collaboration with the CAR, with a view to engaging the latter to favourably address human rights protection on the continent.

**MEETING WITH THE H.E. MR. FIRMIN FINDIRO, MINISTER OF  
JUSTICE AND MORAL EDUCATION AND KEEPER OF THE SEALS**

32. After the Honourable Minister, H.E. Mr. Firmin Findiro, had welcomed the delegation from the African Commission, Commissioner Béchir Khalfallah, on behalf of the delegation, thanked him for the warm welcome and went on to make a brief presentation of the African Commission as well as the composition of the mission. He added that the African Commission is the main organ for the promotion and protection of human and peoples' rights on the continent. He particularly emphasized the experience that the Commission has been able to gather over the last 25 years, and from which the CAR could draw for the formulation and implementation of programmes and innovative strategies for the enhanced protection of the rights of its citizens.
33. The delegation then explained the objectives of the promotion mission which seek, among others, to strengthen the constructive dialogue the African Commission has with the States Parties and to provide greater visibility for the work of the Commission and its mechanisms which are still not well known by the authorities and African populations in general, and Central African actors, in particular.
34. The delegation expressed the desire to meet with representatives of Government and State institutions and to have discussions with all the other civil society actors to learn about progress made in the promotion and protection of human rights in the CAR, and about the challenges still encountered by them in the effective implementation of the rights and

freedoms guaranteed by the African Charter on Human and Peoples' Rights and the other relevant legal instruments ratified by the CAR.

35. The delegation indicated that the promotion mission also sought to pursue the dialogue initiated with the CAR government in 2006, during the presentation of its report. The delegation immediately expressed concern about the independence of the judiciary, access to justice and the fight against impunity. The delegation also touched on a list of treaties and Protocols that it would like the CAR to ratify. These include, among others, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (hereinafter referred to as the Maputo Protocol)<sup>5</sup>, the Protocol relating to the African Charter on Human and Peoples' Rights on the establishment of the African Court of Human and Peoples' Rights<sup>6</sup>, the African Charter on the rights and well-being of the child<sup>7</sup>; the African Charter on Democracy, Elections and Governance<sup>8</sup>, The African Union (AU) Convention for the Protection and Assistance to Internally Displaced Persons (hereinafter referred to as the Kampala Convention)<sup>9</sup>; as well as the AU Convention on Prevention and Combating Corruption.
36. Furthermore, the delegation sought to know about prison conditions in the CAR as well as up-to-date statistics on preventive detention. It also sought to know whether there were measures in place to separate minors from adults. It also expressed concern about the fate of Human Rights Defenders (HRDs) and legislative measures taken at the national level to ensure their protection.

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<sup>5</sup> Adopted in Maputo, Mozambique, on 11 July, 2003 and came into force on 25 November, 2005.

<sup>6</sup> Adopted in Addis Ababa, Ethiopia, on 10 June, 1998 and came into force on 25 January, 2004.

<sup>7</sup> Adopted in Addis Ababa, Ethiopia, on 11 July, 1990 and came into force on 29 November, 1999.

<sup>8</sup> Adopted in Addis Ababa, Ethiopia, on 30 January, 2007.

<sup>9</sup> Adopted during the special African Union Summit in Kampala, Uganda, on 23 October, 2009. This is the first international Treaty dealing with Internally Displaced Persons.

37. In the face of all these concerns raised, the Minister, in his response, said that given the commitments made, dialogue and cooperation between the African Commission and the CAR has never been in doubt. At the outset, he mentioned the existence of the High Commission on Human Rights which is responsible for drafting State reports to be submitted in accordance with Article 62 of the African Charter<sup>10</sup>. Moreover, he indicated that the constitution expressly reaffirms the independence of the judiciary, but acknowledged that there are still major challenges relating primarily to the difficult working conditions of judges, who still have needs to be catered for. The total number of judges for the entire country is estimated at 160, for a population of four (4) million inhabitants, with about 15 of them being women.
38. On access to justice, the Minister indicated that a review of the Criminal Procedure Code was underway. Regarding legal assistance, he informed the delegation that the State bears the cost of criminal procedures for persons who cannot afford the fees. This facility is available at all regional courts. However, the plaintiff bears the cost in the event that they lose the case. The legal assistance Committee is chaired by the Attorney General. The minister also talked about a project popularly called ‘houses of law’ where people employed as lawyers provide legal counsel free of charge to the most deprived.
39. On prisons, Mr. Alain Gbazialé, Director of Criminal Affairs and Pardon, indicated that with the support of development partners, the government of the CAR plans to reform the prisons system. The reform envisages the resolution of certain issues regarding the demilitarization of prisons. Several prisons are also being renovated or rebuilt. The European Union

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<sup>10</sup> In line with article 62 of the African Charter, each State undertakes to submit, every two years (...) a report on legislative or other measures taken to give effect to the rights recognized and guaranteed by the Charter.

Aid Fund has, for instance, been used to renovate the female prison. There are also plans for the separation of minors from adults, as well as the separation of male cells from female ones. However, the minister admitted that overcrowding of inmates is not characteristic of prisons in the CAR. The reform also aims at ensuring security at the prisons. Plans are also afoot to build a rehabilitation centre for children who have a brush with the law. Another fundamental aspect of the on-going prison system reform is to gradually institute alternatives to imprisonment such as community service. According to the minister, alternative sentences are justified by the fact that imprisonment comes at a cost.

40. With reference to the anti-corruption crusade, the minister informed the delegation that the Ministry of Justice has had a moral education wing added to it. On the ratification of regional and international instruments, the minister pledged to continue advocacy among parliamentarians. He also informed the delegation that a Committee had just been set up to prepare the periodic report of the CAR.
41. According to the minister, the death penalty, which is still in force in the country, has not been invoked since 1981.
42. The minister also intimated that a text is currently under consideration by the National Assembly for the institution of a National Commission on Human Rights. Meanwhile, the High Commission on Human Rights currently serves as a regulatory body for the promotion and protection of human rights in the CAR. The body is a department under the Ministry of Justice. The delegation took the opportunity to inform the Minister of Justice about the existence of the 1998 United Nations Declaration on the Protection of Human Rights Defenders (HRDs) from arbitrary and unannounced searches as well as harassment and assassinations. On this issue, the minister pointed to the excellent cooperation they have with



NGOs. He stressed that there is not a single HRD in prison in the CAR as a result of their activism.

### **MEETING WITH OPPOSITION POLITICAL PARTIES.**

43. Following the speech to welcome the delegation, the political parties met immediately denounced the democratic deficit which is characteristic of the RCA. To prove this, they mentioned the last presidential elections in 2011 which were marred by massive fraud and described by all the international observers as lacking in credibility and transparency.
44. According to these opposition parties, such manipulations largely tarnished the credibility of the last presidential polls. In the face of such electoral masquerading, the opposition decided to boycott the legislative elections, so that today, we have a National Assembly which is dominated by the party of President Bozizé, KNK, which occupies 90% of the seats in the Assembly.
45. Moreover, the opposition said that the irregularities of the last presidential and legislative elections created a real crisis of legitimacy for the government. Hence, the opposition political parties, in a bid to restore the popular will, came together as one front called "Front for the Annulment and Reorganization of the 2011 Elections (with the acronym, FARE 2011). This grouping is justified by the outright refusal of the opposition to resort to arms to have their voices heard. It has, therefore, decided to exhaust all available channels for redress. However, the Constitutional Court threw out their petition on grounds of lack of a substantiated memorandum. As at now, the opposition believes that it has exhausted all available means of redress, and all that is left is a political solution.

46. Following the presentation on the political situation in the CAR by the representative of the opposition, the delegation brought back the debate to the specific context of their mission. In this regard, the delegation wanted to know whether the CAR has ratified the African Charter on Democracy, Elections and Governance. Speaking on this topic, Mr. Russel Mezeme Mba, Policy Advisor at the African Union's Liaison Office in Bangui, stated that advocacy was underway for the text to be adopted. According to him the only problem is that the content was poorly explained to the Government.
47. **Inmates of Bossembele Prison:** It was stressed that about a dozen members of the opposition and other personalities have been detained for more than a year without trial at the Bossembele prison, which is 180 km away from the capital, Bangui. This is the case, for example, of the wife of the former President of the Bar Association, Lawyer Symphorien Balemby, who is currently in exile, as well as the staff of her chambers.
48. **Decriminalization of press offences:** the opposition further decried the recurrent arrests of journalists for press offences. According to Lawyer Taingaye, this is the case, for instance, of Mr. Bambou Faustin, Managing Editor of the daily "Collines du Bas Oubangui" accused of libel for writing an article on the prolonged absence of the Minister of Defence. The opposition, therefore, strongly recommended the passage of a law decriminalizing press offences.
49. **Quota/Parity:** the opposition also expressed disappointment at the poor representation of women in political parties and at decision-making levels. No woman contested the presidential elections, and the rate of participation of women in the last legislative elections in January, 2011 was 8%.

50. Concluding this meeting, the delegation indicated that it is difficult to conceive a democracy without pluralism. That is why it promised that during its various interactions with the Highest Authorities of the CAR, it would call for and sensitize the people on inclusive dialogue and reconciliation among all the sons and daughters of the CAR.

#### **MEETING WITH MR. JOSEPH BINDOUMI, PRESIDENT OF THE CENTRAL AFRICAN HUMAN RIGHTS LEAGUE**

51. The President of the Central African Human Rights League (CAHRL) kick-started the meeting by recalling the general context of the African Commission's mission to the CAR. Thus, he pointed out that the CAR went through a turbulent period in the aftermath of the last elections. At the national level, the human rights situation is still precarious, particularly due to the presence of foreign troops on Central African soil. A case in point is Joseph Kony's Lord's Resistance Army (LRA) fighters. The presence of these foreign troops is one of the reasons accounting for the persistent problem of internally-displaced persons (IDPs). Due to the refusal of some armed groups to join the Disarmament, Demobilization and Reintegration (DDR) process, this process has not produced the expected results.

52. **Protection of HRDs:** The delegation inquired about the legal framework for human rights promotion in the CAR, and whether there is a special text on the protection of HRDs. On this issue, Mr. Bindoumi acknowledged insecure working conditions worsened by repeated threats and restrictions to the freedom of association. In the light of all these challenges, the delegation recommended to the President of the LCDH to ensure that the State, which has the primary duty to protect its citizens, lives up to its responsibilities. Thus, the delegation recommended that the

government should always be informed about alleged cases of human rights violations. In the event that the government refuses to address the situation, other available means of redress should be sought. In this regard, the delegation informed the other party of the complaints procedure available at the African Commission. The delegation also recommended that HRDs always invoke international legal instruments before the national courts.

**53. Partnership between Government and NGOs:** Regarding collaboration with the Ministry of Justice, Mr. Bindoumi admitted that the situation is good. He enumerated workshops and seminars organized in conjunction with the Ministry. He however expressed regret that the State does not involve civil society in the preparation of periodic reports. He intimated that the NGO status is currently granted by the Ministry of Planning because of financing issues. He expressed the hope that this task would be taken over by the Ministry of Justice or better still by the High Commission for Human Rights as pertains in most of the other countries.

#### **MEETING WITH THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS**

54. In the absence of the High Commissioner, who was away in Chad, the delegation was received by a team made up of the Director General, Mr. Bandjo Nkali Blaise, and his main colleagues. He indicated that the mission of the Office of the High Commissioner for human rights in the CAR is to promote human rights. Thus, he made it known that following the advocacy initiated by the Office of the High Commissioner, the government recently ratified Convention 169 of the International Labour Organization (ILO) on indigenous and tribal populations in independent States<sup>11</sup>. In the same vein, he noted that the Office of the High

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<sup>11</sup> Adopted by the ILO General Conference during its seventy-sixth session in Geneva, on 27 June, 1989. It came into force on 5 September, 1991.

Commissioner has resolutely started to draft a text on **internally displaced persons**, since the issue is of grave concern to the CAR Government. A committee for the assessment of the humanitarian needs of internally-displaced persons has been formed with the support of the Office of the United Nations High Commissioner for Refugees (UNHCR)

55. He further indicated that the Poverty Reduction Strategy Paper (PRSP) has been included in the human rights promotion matrix of his institution. The delegation was also happy about the announcement of the criminalization of torture in the CAR as well as the decriminalization of press offences.

56. **Training:** On the issue of training raised by the delegation, Mr. Bandjo indicated that several seminars were organized in 2004 for law enforcement Agents (security forces). On this particular point, the delegation urged the Office of the High Commissioner to, as often as possible, seek the expertise of the Committee for the Prevention of Torture in Africa in order to organize training sessions for the police. He rightly called on the Office of the High Commissioner to work in partnership with civil society. Where civil society is characterized by protests, the Office of the High Commissioner stands out for the need for appeasement. He however indicated that one of the foremost difficulties is still non-existent or **inadequate financial resources**. He admitted that economic and financial constraints, as well as security challenges are undermining human rights protection in the CAR. He also deplored the fragmentation of human rights activities in the various ministries, a situation which makes coordination difficult for the Office the High Commissioner. He mentioned the protection of women as an example, which is within the remit of the Ministry of Social Affairs. To conclude, the delegation expressed satisfaction at the presence 6 six women in the 34-member

government but still encouraged the government of President Bozizé to do more.

57. **Project for the establishment of the National Human Rights Commission (NHRC):** Mr. Bandjo revealed the implementation of the project for the establishment of the NHRC in accordance with the Paris Principles, where its independence and financial autonomy are concerned.

**MEETING WITH H.E. MADAM GISELE ANNIE NAM, MINISTER  
FOR PRIMARY, SECONDARY EDUCATION AND LITERACY**

58. The delegation was received at the headquarters of the Ministry by Madam Gisèle Annie Nam, assisted by her Policy Officer, Mr. Inousse.

59. After the usual introduction of the members of the mission and the presentation of its objectives, the delegation requested information on:

- The total number of children enrolled and their distribution according to gender at the primary, secondary and higher education levels;
- The pass rates at the three levels ;
- Whether the education is free;
- Whether there are teacher training institutions ;
- Ancillary works: sports, sewing (for girls), etc.

60. After welcoming the delegation, the minister indicated that 500,000 children are in a position to enter primary school. She said that the rate of enrollment is 85%, while the budget for education by the State is 12%. She then revealed that 2005-2006 was marked by the revival of the partnership with the outside world which was characterized by a substantial increase in the intake capacity of schools, which had declined considerably. She acknowledged existing disparities and discrimination regarding girl-child education. Several on-going measures and programmes supported mainly

by UNICEF target the massive enrolment of girls with a view to restoring parity between boys and girls in school. UNICEF has thus mobilized funds for districts where female enrolment is very low.

61. **Free education:** According to the Minister, the government has, since 1994, initiated an educational partnership which is a recommendation of the 1994 General Conference on Education as well as Policy Act of 1994. Under this partnership, parents of pupils participate in the management of schools at the local level. To this end, they make contributions to the Parent - Teacher Management Committees (COGES). However, the minister stated that education is generally free and compulsory up to age 16.

62. To conclude this discussion, the delegation thanked the Minister for receiving them and informed her about the recent adoption by the African Commission of the Principles and Guidelines on the implementation of Economic, Social and Cultural Rights in the African Charter of Human and Peoples' Rights<sup>12</sup> as well as the Guidelines on the Reports of States Parties on Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights<sup>13</sup> (Tunis Guidelines).

63. The delegation explained that these principles and guidelines on economic, social and cultural rights in the African Charter on Human and Peoples' Rights are intended to help States Parties to honour their obligations under the African Charter, including the right to education.

#### **MEETING WITH HONOURABLE ANTOINE GAMBI, MINISTER OF FOREIGN AFFAIRS AND CENTRAL AFRICANS ABROAD**

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<sup>12</sup> Adopted on 26 May, 2010 during the 47th Ordinary Session of the African Commission, held in Banjul, The Gambia.

<sup>13</sup> Idem

64. After briefly presenting the purpose of the meeting, the delegation expressed the need for the government of the CAR to ratify a number of relevant regional instruments such as the African Charter on Democracy, Elections and Governance<sup>14</sup>, the Protocol to the African Charter on Human and Peoples' Rights on the rights of Women in Africa (hereinafter referred to as the Maputo Protocol)<sup>15</sup>, the AU Convention for Protection and Assistance to Internally Displaced Persons (hereinafter referred to as the Kampala Convention )<sup>16</sup> ; the AU Convention for the Prevention and Fight against Corruption<sup>17</sup>, as well as the Optional Protocol to the Convention against Torture<sup>18</sup>.

65. In his welcome remarks, the Honourable Antoine Gambi recalled the difficult political and military situation of the CAR. According to him, for close to ten years now, considerable efforts have been deployed to improve the human rights situation. The country has certainly come a long way, but it is on the right track. He thanked the delegation for their advocacy for the ratification of the aforementioned regional instruments, and indicated that the CAR government fully abides by these texts and will make all efforts to ratify them as soon as possible.

66. On the last elections, he recalled that they took place in the best conditions and without any incident. He also intimated that the concept of democracy has to be adapted to the specific realities of each country.

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<sup>14</sup> Adopted in Addis Ababa, Ethiopia, on 30 January, 2007.

<sup>15</sup> Adopted in Maputo, Mozambique, on 11 July, 2003 and came into effect on 25 November, 2005.

<sup>16</sup> Adopted during the African Union special Summit in Kampala, Uganda, on 23 October, 2009. It was the first international Treaty on IDPs.

<sup>17</sup> Adopted in Maputo, Mozambique, on 11 July, 2003 and came into effect on 5 August, 2006. The Consultative Bureau on Corruption of the African Union, in accordance with Article 22 of the Convention, held its first meeting in May, 2009.

<sup>18</sup> Adopted on 18 December, 2002 by the United Nations General Assembly in New York.



**MEETING WITH THE HONOURABLE MADAM DOROTHEE  
MALENZAPA, MINISTER FOR INTERNATIONAL COOPERATION,  
REGIONAL INTEGRATION AND FRANCOPHONIE**

67. In her welcome speech, the Minister recalled the difficult period that the CAR has been through. According to her, women and children were the primary victims of the military-cum-political crises. Cognizant of its international commitments, the government has appointed six (6) women to serve in government. She added that it is the first time that a woman has been assigned responsibility for a ministry as important as the ministry as the ministry of cooperation.

68. The delegation, in its turn, congratulated the Minister on the responsibilities assigned to her within the government. The delegation also urged the CAR government, through the minister for cooperation, to truly avail itself of the promotion mission of the African Commission, which they said, was an official Afro-African mission intended to assist our governments in the implementation of the African Charter. The delegation mentioned the example of the DRC, where during a promotion visit by an African Commission delegation, the government adopted the law criminalizing torture which had been left in abeyance for two (2) years.

**MEETING WITH HONOURABLE MADAM MARGUERITE PETRO-  
KONI-ZEZE née ZARAMBAUD, MINISTER FOR SOCIAL AFFAIRS,  
NATIONAL SOLIDARITY AND GENDER PROMOTION**

69. Madam Zarambaud stated that she herself was a member of the FWL and mentioned the existence of several challenges facing the promotion of gender and social affairs. According to her, the government of the CAR is promoting a national policy focused on equality and equity. She indicated that illiteracy which is still the main challenge in the CAR affects most

women. Hence, a functional literacy policy has been initiated in collaboration with the Ministry of Education.

70. **The aged, physically challenged, minorities and vulnerable groups:** The Minister went on to say that her government, despite being resource-constrained, is working to take care of older persons, people with disabilities, minorities as well as vulnerable groups. She said that following the release of funds by the French Embassy, people with disabilities were able to acquire two (2) structures in the countryside where they produce prostheses on their own. The minister acknowledged that there are no adequate legislations or regulatory measures to protect this category of persons. She, however, mentioned two bills being considered by the National Assembly, particularly the disability protection bill and the bill on the « national policy on care for older persons ». With support from the African Development Bank (ADB) and the World Bank, the Ministry has initiated a training programme for community development officials.
71. **Children in conflict with the law** are handled by the Children's Tribunal, a specialized judicial institution. There are plans for the construction of quarters for children in prison. On the issue of social reintegration, the delegation said it is a responsibility that should not be left to civil society organizations alone. They also recommended the setting up of a National Committee for the fight against obnoxious practices, such as early marriages or female genital mutilation.
72. **Indigenous populations:** An inter-departmental Committee has been working on the issue of assistance to indigenous populations since the end of the Ifundo conference in Brazzaville. An increasing number of pygmy children are getting education.

73. **War on violence against women:** She recalled that through a law passed in 2005<sup>19</sup>, the government of the CAR has been resolutely engaged in a war on violence against women.

74. **Microfinance:** The Minister, Madam Zarambaud, decried the limited number of microfinance institutions, which are exclusively based in Bangui. It is necessary to spread these institutions throughout the country, she said. NGOs certainly have a role to play in such an endeavour. Indeed, they need to help women in the creation of income generating activities as well as access to microfinance. They also need to be trained in management systems.

#### **MEETING WITH MR. JOSUE BINOVA, MINISTER FOR TERRITORIAL ADMINISTRATION AND DECENTRALIZATION**

75. The delegation kick-started this discussion by presenting the objectives of the mission to the CAR. They recalled that during the missions of the African Commission, it is the custom for a member of the government (focal point) to accompany the delegation to the various meetings. This, however, has not been the case with the CAR government so far, despite repeated appeals by the delegation.

76. The delegation then requested information on the law governing associations in the CAR, the number of political parties and the involvement of NGOs in the organization of elections. In conclusion, the delegation indicated that this visit seeks, first and foremost, to institute dialogue between the African Commission and the Central African government.

77. After the introductory remarks of the delegation, the minister, in his reaction, indicated that economic and social rights are a priority to him. In

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<sup>19</sup> Law No. 32/05 of December, 2005.

his view, human rights issues require a dialectical approach which also includes the fight against poverty. He wondered the role the African Commission would play to support such initiatives and expressed regret that innovation is lacking in this direction. He indicated that he was personally interested in economic rights, since the GDP of his country is very unattractive and he was not proud to say so. He, therefore, believes that political parties must develop alternative policies and not call for a change of government. He also expressed displeasure that the Commission is interested in the number of registered political parties in the CAR. He asked what the delegation was going to do with the number of political parties. Regarding the remit of his ministry, he said that his outfit, among other things, is in charge of the preparation, organization and management of elections.

78. Following the statements of Honourable Binoua, the delegation intimated that its primary responsibility of embarking on country visits was to institute a frank and constructive dialogue with the government. The delegation expressed its surprise at the critical nature of the Honourable Binoua's words and attacks on the African Commission.

79. Honourable Binoua, in turn, very quickly reacted to the response of the delegation, stating that he would never allow them to describe his intervention as being critical when he is talking about his country. On this note, he ended the meeting with the delegation.

#### **MEETING WITH HUMAN RIGHTS NGOs**

80. The delegation played host to the coalition of NGOs at the headquarters of the AU's Liaison Office in the CAR. In its introductory remarks, the delegation presented the objective of the visit to the CAR as well as the role and terms of reference of the African Commission. The delegation

explained that the meeting with the NGOs was born out of the desire of the Commission to hear the concerns of the various stakeholders involved in the promotion and protection of human rights.

81. Mr. Bruno Hyacinthe Gbiegba, Deputy Coordinator of the Central African Coalition for the International Criminal Court (ICC) began this meeting with a powerfully emotive indictment of the African Commission which he accused of lack of visibility. He, however, regretted the fact that human rights NGOs in the CAR continue to work under precarious and difficult conditions. He indicated with some amount of bitterness that in the understanding of those in power, the act of exposing human rights violations is enough for one to be classified as being on the side of the opposition. He felt that in this fight, Central African NGOs are not being helped by international organizations, let alone by the African Commission. He also welcomed the initiative of the African Commission to come to meet the NGOs because it gives them the opportunity to express all their concerns regarding financial and institutional support, and also in terms of capacity building.

82. For her part, Madam Yawet-Kengueleoua Sylvia Pauline of the League of Human Rights bemoaned the absence of a legal framework for the protection of HRDs in the CAR. NGOs also strongly denounced the repeated incursions of the LRA into the Central African Republic.

83. NGOs also raised the case of the former President of the Bar, Barrister Symphorien Balembi, who is now in exile, and whose wife was reportedly detained arbitrarily in the Bossembele<sup>20</sup> prison. Given this situation, NGOs strongly denounced the illegal searches and repeated violations of the Lawyer's chambers. They also deplored the obstructions and restrictions on visits to detainees. They also decried the violation of the

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<sup>20</sup> Mr. Symphorien Balembi's wife, an employee at the chambers of the barrister, was arrested there together with several other employees.

secrecy of communication because conversations with detainees are held in the presence of soldiers. According to the NGOs, the Head of State of the Central African Republic is personally involved in the obstructions to the enjoyment and access to equal justice in the CAR.

84. Responding to these concerns, the delegation first wanted to provide some clarification on the issue of the visibility of the African Commission. The delegation compared the situation of HRDs to that of a soldier going to war. And to go to war, there is the need for a minimum of equipment. For HRDs, this equipment should consist of the African Charter, the relevant international instruments, and the special mechanisms of the African Commission which are thirteen (13) in number. In addition, the delegation indicated that the website ([www.achpr.org](http://www.achpr.org)) of the Commission is open to the public. On the issue of visibility, the delegation rather deplored the fact that NGOs prefer to turn to international organizations such as the Observatory, the World Organization against Torture (OMCT) or the International Federation of Human Rights Leagues (FIDH) rather than the African Commission. The delegation also recommended that NGOs in the Central African Republic should apply to the Commission for observer status with the Commission which will entitle them to make statements during sessions of the African Commission<sup>21</sup>. The delegation indicated that organizations enjoying observer status undertake to establish close relations of co-operation with the African Commission and to have regular consultations with it on all matters of common interest<sup>22</sup>. The delegation also educated the NGOs on the need to develop alternative reports during the presentation of periodic reports by the CAR.

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<sup>21</sup> Under Article 68 of the Rules of Procedure of the African Commission, observer status with the African Commission can be granted to NGOs working in the field of human rights in Africa.

<sup>22</sup> Resolution on criteria for granting and enjoying observer status to non-governmental human rights organizations with the African Commission on Human and Peoples' Rights.

85. The delegation then briefly recalled the communications procedure and the possibility for NGOs to submit complaints to the Secretariat of the Commission in Banjul. They also spoke about the procedure for urgent appeals made by special Rapporteurs in case of threats to HRDs<sup>23</sup> or in case of arrest of journalists<sup>24</sup>. The delegation recalled that neither the State, let alone NGOs have a monopoly on human rights. The two entities must therefore work in continuous harmony and in perfect synergy to achieve the effective promotion and protection of human and citizens' rights in the CAR.

### MEETING WITH WOMEN'S ASSOCIATIONS

86. This meeting, which was held at the Head Office of the AU Liaison Office in Bangui, was attended by Madam Ngaïdama Léa, President of the Association of Women in Central Africa for the Fight against Illiteracy (AFCLA), nominee for the 2011 Nobel Peace Prize, Madam Dacko-Mazoundama Corine Fabiola, President of the Dorcas Esperance NGO, and Madam Léa Koyassoum Doumta, Ambassador for the Campaign for the Fast-tracking of the Reduction of Maternal Mortality in Africa (CARMMA).

87. In her opening remarks, Madam Léa Koyassoum, immediately lamented the high rate of illiteracy in the CAR, particularly among women, causing enormous development challenges because they generally have no knowledge of human rights. The number of girls dropping out of the school system has reached unprecedented proportions, mainly due to early marriages. 80% of illiterate women are in the hinterland. To resolve this problem, Madam Léa Ngaïdama, President of AFCLA, announced that her organization had just started a training course for 46 literacy workers who will be distributed among 23 Centres. This method is called functional literacy.

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<sup>23</sup> Special Rapporteur on the situation of HRDs in Africa

<sup>24</sup> Special Rapporteur on the freedom of expression in Africa.

88. **Maternal and Infant Mortality:** there has been a marked improvement in the reduction of maternal mortality, compared to the 2003 indicators. Women's associations are making a lot of efforts at promoting maternal health. Regrettably, however, the practice of female circumcision still persists. Abortion and poverty are the major causes of infant mortality.
89. **Income-Generating Activities for young girls:** With support from development partners, women's associations are establishing sewing and hairdressing centres.
90. **Listening Centres:** the Association of Women Lawyers (AFJ) in the CAR has set up listening and counselling centres in order to effectively address violence against women which occurs on daily basis. This form of legal assistance mainly takes place in Bangui and a few towns in the hinterland. The AFJ also provides assistance to women in prison.
91. **Witchcraft:** The women's associations also deplored the fact that older women are often rightly or wrongly accused of practising witchcraft<sup>25</sup>. There is no protection whatsoever for such old women who are most often exposed to public condemnation.
92. The delegation first of all informed the Women NGOs that Madam Commissioner Maiga, Special Rapporteur on the Rights of Women in Africa, was expected to be part of the mission. Unfortunately, for health reasons, she could not join the delegation and they promised to communicate the request of the NGOs to meet her in the CAR.
93. However, the delegation urged the women's rights defence associations to become more involved in the advocacy for the ratification of the Maputo

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<sup>25</sup> Witchcraft in the CAR, while not formally recognized by law, is a practice accepted by both the people and the judiciary. Proof in such cases is derived from the confession of the suspect.



Protocol by the Government. In addition, the delegation sensitized them on the need for training and capacity building. To this end, the delegation informed them of the possibility of using the subsidiary mechanisms <sup>26</sup> of the African Commission to solicit either financial support or institutional support for capacity building. The delegation also encouraged them to apply to the African Commission for observer status.

**AUDIENCE WITH H.E. MR. FRANÇOIS BOZIZE, PRESIDENT OF  
THE REPUBLIC AND HEAD OF STATE.**

94. The delegation was welcomed by H.E. Mr. François Bozize, the President of the Republic, at the Presidential Palace in Bangui in the afternoon of Saturday, June 11, 2011, at 5.00 p.m. Seated next to the Head of State was Madam Hawa Ahmed Youssouf, Special Representative of the President of the African Union Commission (AUC).

95. After the introductory remarks of the delegation in which they recalled the context and objectives of the mission, the President of the Central African Republic said that since the change on March 15, 2003, much has been done by his government to promote and achieve human rights in the CAR. He said that for a country which has experienced so many ups and downs, the assessment is altogether positive. However, the successful outcome of the HRD process remains a concern, as it is the only way the issue of insecurity could be resolved. According to him, securing the entire territory remains an enterprise which is intrinsically linked to the

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<sup>26</sup> The subsidiary mechanisms of the African Commission include: Special Rapporteur on prisons and conditions of detention in Africa ; Special Rapporteur on the rights of women in Africa ; Special Rapporteur on freedom of expression and access to information in Africa ; Special Rapporteur on the situation of HRDs in Africa ; Special Rapporteur on summary, arbitrary and extra-judiciary executions, in Africa ; Special Rapporteur on refugees, asylum seekers and displaced persons in Africa ; the Committee on the prevention of torture in Africa ; Working Group on indigenous populations/communities in Africa ; Working Group on economic, social and cultural rights in Africa ; Working Group on the death penalty ; Working Group on extractive industries, environment and human rights violations ; Working Group on communications ; and the Committee on the protection of persons living with HIV/AIDS, those at risk, the vulnerable and infected with HIV.

achievement of human rights. He deplored the fact that civil society uses the theme of human rights as a weapon to undermine the reputation of his government. The Head of State availed himself of the opportunity of this courtesy visit of the delegation to ask them to convey his sincere thanks to Dr. Jean Ping, President of the AUC, for his commitment to the CAR.

96. The delegation thereafter thanked the Head of State for receiving them and indicated that they were aware of the difficulties faced by the CAR, but took note of the government's desire for reconciliation and the attainment of its development objectives as well as the achievement of human rights. The delegation promised to support the President of the Republic in his efforts towards national reconciliation, restoration of security and achievement of human rights. For this reason, the delegation informed the Head of State that a mission report would be presented at the end of the mission, which report would include recommendations in response to the areas of concern observed during this mission.

**MEETING WITH MR. ARNAUD DJOUBAYE ABAZENE, FIRST DEPUTY PUBLIC PROSECUTOR AT THE DISTRICT COURT OF BANGUI**

97. The Deputy Public Prosecutor revealed in his opening remarks that the Public Prosecutor's Department in Bangui focuses more and more on alternative sentences for freedom, particularly community service. He said that such an option aims at exploring the prospects of resocialization of the offender. He further stated that the Criminal Procedure Code provides for the notification of arrests or charges and that failure to comply with that formality will invalidate the court action. The Public Prosecutor's Department is trying as much as possible to avoid long periods of hearing. For example, a hearing should not last more than an hour. He pointed out that police custody is 72 hours, and may be renewable once. The investigating judges are on the bench.

98. **Retroactivity:** According to the Deputy Public Prosecutor, the substantive criminal law cannot have retroactive effect in essence, while criminal law under the old law may have retroactive effect if it is more lenient.

99. **Main challenges associated with the implementation of the Civil Procedure Code:** According to Mr. Arnaud Djoubaye Abazene, there is a problem of human resources **at the level of preliminary investigation**. In addition, the number of Police Officers in the Criminal Investigation Department (CID) is grossly inadequate. The lack of teaching aids, absence of office supplies as well as outdated equipment are challenges faced by the Public Prosecutor's Department. This situation results in the extension of the time spent in custody. At the Public Prosecutor's Department, there is a shortage of Magistrates.

100.

#### **Main**

**sentences:** With regard to criminal cases, the main penalties are the death penalty and life imprisonment. Articles 17 and following of the Criminal Code provide for alternative penalties or measures such as forced labour. Regarding misdemeanours, note is made of community service which often varies between 35 and 420 hours. **Female circumcision** is a practice criminalized by the Penal Code. Special laws on the protection of women are all contained in the Penal Code.

101.

#### **The powers**

**of the High Judicial Council (CSM):** The CSM is an organ for the control and administration of the careers of magistrates. The new statutes of the judiciary adopted in 1997 provides for the protection of judges not only in terms of needs but also arbitrary sanctions. Magistrates must have a free hand to carry out their duties in absolute independence. According to the

Deputy Public Prosecutor, Arnaud Djoubaye Abazene, the magistrate is among the highest paid officials of the CAR.

**MEETING WITH MADAM NANARE SESSOU DAMIENNE, VICE-  
PRESIDENT OF THE CONSTITUTIONAL COURT**

102.

Madam

Nanare Sessou Damienne, after her welcome remarks, recalled the **electoral dispute** that ensued after the last elections in the CAR. According to her, the proceedings before the Constitutional Court are a written procedure. This justifies the fact that petitions must be accompanied by an statement of claim. Once the petition is submitted to the Independent National Electoral Commission (CEI), the latter is duty-bound to respond. Once the decision of notification is communicated to the applicant, the latter has ten (10) days to respond.

103.

Reacting to

the issue raised by the delegation on monitoring the constitutionality of laws, Madam Sessou said the Constitutional Court declared the law on the CSM unconstitutional<sup>27</sup>. Consequently, the Executive had to review the law which Parliament then adopted, in line with the decision of the Constitutional Court. She also added that some existing provisions of the Electoral Code should be reviewed because they were unconstitutional. She further indicated that the Constitution does not expressly empower the Court do deal with human rights issues. However, it may derive such jurisdiction by interpretation. Thus, any person who feels aggrieved may appeal to the Constitutional Court.

**MEETING WITH RT. HON. MR. CELESTIN LEROY GAOMBALET,  
SPEAKER OF PARLIAMENT**

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<sup>27</sup> Decision No. 002/CC/09, July 17, 2009

104. The delegation was welcomed to Parliament by Rt. Hon Mr. Célestin Leroy Gaombalet who was assisted by his Deputy Speaker, Mr. Laurent Ngon Baba. In his welcome address, the Speaker recalled that the achievement of human rights is a process which the CAR has resolutely subscribed to. According to him, there is no country where human rights are fully achieved.

105. On the Presidential majority in Parliament, he said that it is a plural majority in which the party of the Head of State has joined forces with other parties. Besides the presidential majority, there are also some opposition members but they are not too many. With regard to the protection of goods and free movement of persons, he indicated that there is no restriction whatsoever. However, he stated that in exceptional circumstances, the government could impose restrictions to control departures from the country. The National Assembly has 91 members, 13 of whom are women, while 15 seats are still unoccupied because of disputes with the opposition.

106. The Speaker of Parliament said that his institution has eight (8) Standing Committees, including a Gender Committee and another responsible for promoting human rights. He recalled that Parliament has an obligation to assist the Executive to implement its international commitments. In this regard, he pointed out that Parliament regularly challenges the government on its actions. Thus, he mentioned the adoption of two (2) laws on the fight against sexual<sup>28</sup> violence and on maternal <sup>29</sup> health.

107. Finally, the delegation thanked Rt. Hon. Mr. Célestin L. Gaombalet for the warm welcome and took the opportunity to reiterate their plea for the ratification

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<sup>28</sup> Law No. 06/032 dated December 15, 2006 on the protection of women against acts of violence in the Central African Republic.

<sup>29</sup> Law No. 06/005 dated June 20, 2006 on reproductive health.

of some African instruments such as the Maputo Protocol, the African Charter on elections, democracy and governance in Africa, the African Union Convention on Combating Corruption and the African Charter on the Rights and Welfare of the Child. However, the delegation noted with satisfaction, the political will shown by all the stakeholders and institutions involved in the promotion and protection of the human rights of the citizens of the Central African Republic.

### VISIT TO THE NGARAGBA CENTRAL PRISON

108. The delegation was welcomed at the NGaragha Prison by Commander Mbele Leonard, the Director.

**Date of establishment:** 1947

**Prison capacity:** 358

**Total number of detainees:** 233

**Minors:** 2

**Convicts:** 85

**Accused persons:** 148

**On temporary assignment:** 7

**Authorized absence :** 4

109. According to Commander Mbele, 131 prisoners benefited from a Presidential pardon on December 31, 2010. He said that several detainees accused of practising witchcraft have benefited from this reprieve. He indicated that the prison has become a refuge for persons accused of witchcraft because they are victims of mob justice and are subjected to reprisals. He further stated that no death sentence has been executed to date.

110. **Military and Civilian detainees:** He intimated that there are no specific prisons for military and civilian prisoners, which means they are all put in the same prisons. The prison has 5 soldiers (including a Chadian) and 2 gendarmes. Since 2009, there has been no session of the Permanent Military Tribunal. He also revealed that the cells are distributed according to the types of sentences. However, due to inadequate infrastructure, habitual offenders are kept in the same cells with other inmates.

111. **Budget and daily allowance per inmate:** Commander Mbele revealed that the weekly budget of the Ngaragba prison amounts to 1,900,000 CFA Francs for the two prisons, while the daily food ration for each inmate is 1,000 CFA Francs. Inmates are allowed two meals a day which are served once. The daily ration consists of cassava ball with peanut paste, two pieces of meat and vegetables for those on diet. The prisoners do the cooking themselves, because they complained of the quality of food for a long time. Hence, the decision to allow them to do the cooking.

112. The delegation was able to visit several district prisons including the one commonly known as **the white house**, which houses mainly prisoners sentenced for offences against national security. The prison has 8 cells with 4 inmates each. Every inmate has a mattress. In this prison, the detainees denounced their precarious living conditions, characterized by the flow of water when it rains. The delegation was also able to visit the prison called **Golo-Waka** reserved for common law prisoners, where they observed the existence of a football field, a park as well as 6 unhealthy latrines. At Golo-Waka, inmates are accommodated in groups of 15 in cells of about 35 m<sup>2</sup>, with no electricity. Inmates are entitled to a daily food ration at 2:00 p.m.

113. **HIV/AIDS and other diseases:** The Director revealed the presence of several

prisoners with HIV/AIDS. In addition, 2 mental patients benefited from a release arrangement for them to go for treatment. He also mentioned the existence of two cases of epilepsy. Promiscuity promotes the risk of infection among inmates. The delegation also noted the presence of a prisoner suffering from syphilis.

114. **Infirmary:**

The delegation visited the small infirmary which had some antibiotics. The room did not have an air-conditioner or hospital beds.

115. **Procedural**

**irregularities and abnormally prolonged detention:** Mr. Ndangba Jean Joseph, who was accused of misappropriation of public funds, said he had been detained for three (3) years without trial. He claimed he had never appeared before an investigating judge. In addition, Mr. Bambou Faustin, Director of *Les Collines de l'Oubangui*, a daily newspaper, said he was abducted by military men on May 27, 2011 without a warrant or summons. At the time of the visit, he claimed to have already spent ten (10) days in detention without due process. Some young prisoners, who are members of the Convention of Patriots for Justice and Peace (CPJP), raised questions about the actual scope of the agreement recently signed with the powers that be, given that they are still in custody.

### **VISIT TO BIMBO PRISON (WOMEN'S PRISON)**

116. The delegation was welcomed to the Bimbo prison by the Chief Superintendent of Prisons, Roger N'gaka-Passi, who, in his opening remarks, indicated that the prison had been renovated thanks to assistance from the UNDP under a project referred to as the Rule of Law Consolidation Project (PRED).

#### **Prison status**

Capacity: 50



Detainees: **35**

Convicts: **20**

Suspects: **15**

**Nature of offences for suspects**

Misappropriation of public funds (MPF): 4 cases

Complicity, association with criminal intent: 1 case

Fatal blows: 1 case

Rebellion: 1 case

Practice of witchcraft: 5 cases

Assault and battery: 4 cases

Sequestration: 1 case

Fraud: 1 case

**Nature of the offences for the convicts**

Practice of witchcraft leading to death: 1 case

MPF: 1 case

Simple witchcraft: 7 cases

Forgery and falsification of records: 1 case

Breach of trust: 1 case

Fraud: 2 cases

Assault and battery: 3 cases

Child trafficking: 1 case

Destruction of property belonging to other persons: 1 case

**Health and Hygiene:** During the visit, the delegation was able to see reasonably clean premises, but lamented the stagnation of water in the middle of the yard. The kitchen has five taps in good condition. The prison has four (4) latrines and showers for use by all cells.

**The Case of Dame Zambo and three others:** Dame Zambo and three others accused of MPF claim to have waited for three years without trial. Only one of them could go on trial. Claiming to have been wrongfully convicted, she says she has appealed.

**Pathology:** The delegation deplored the presence of an inmate with cancer of the cervix that bleeds constantly, according to her fellow prisoners.

**Food:** Inmates said they did the cooking themselves. They receive the ingredients and cook what they like. According to them, they do the cooking by rotation of rooms. They say the food is varied. It consists of fresh or smoked fish, ¼ beef/day. However, they do not have breakfast. Each prisoner is entitled to a piece of meat and a bone per day.

**Distribution of cells:** Inmates are divided into three cells based on the offences committed. Cell 1 is made up of cases of fighting as well as assault and battery; cell 2 is made up of cases of witchcraft, while cell 3 is for cases of MPF.

**DEBRIEFING SESSION WITH H.E. MR. JEAN WILLYBIRO SAKO,  
MINISTER OF STATE, MINISTER OF HIGHER EDUCATION AND  
ACTING PRIME MINISTER**

117.

The

delegation was welcomed at the premises of the Ministry of Higher Education by the Minister of State, Jean Willybiro Sako, who was acting as Prime Minister. They reiterated their sincere thanks for the warm welcome and hospitality accorded them throughout the mission. The delegation indicated that the promotion mission is a first step in a continuing dialogue with the Central African government. They further stated that the mission had enabled them to observe the challenges faced by the CAR in meeting the basic needs of the people and that it was also a follow-up to

the implementation of recommendations made in 2006, when the CAR presented its combined periodic report.

118. The Minister, for his part, reiterated that achieving human rights in the CAR is an on-going process. This is why the government continues its efforts to ensure that human rights are an integral part of Central African society/culture. He recalled the constant challenges associated with the presence of the LRA on Central African territory. In this regard, the government is continuing its efforts, with support from France and Germany, to ensure the reform of the security system. The UNDP, for its part, supports the reform of the prison system, particularly through the reconstruction of some prisons. He expressed satisfaction about the fact that the teaching of human rights has now become part of the training programme for children. As such, he reiterated that the Children's Parliament plays an essential role in society. He, in turn, deplored the decay of state structures and the increasing impoverishment that has hit the vast majority of the citizens.

## OBSERVATIONS AND ANALYSIS

119. In this section, the African Commission analyzes the human rights situation in the CAR, based on information gathered during discussions and meetings the delegation had with the leadership of the various institutions visited and the other actors involved in the promotion and protection of human rights.
120. It should be noted that meetings with national and local human rights leaders, as well as meetings with civil society organizations and the various stakeholders of the public and private sectors are the primary source of information for the compilation of this report. This report is a first step towards the restoration of dialogue between the CAR and the African Commission as well as an essential tool for the evaluation and consolidation of human rights in the Central African Republic. These remarks or observations relate to the implementation of all human rights enshrined in the African Charter, with a special focus on specific themes related to the achievement of economic, social and cultural rights; the situation of HRDs; the situation of women's rights ; the situation of prisons and torture in the CAR ; the management of extractive industries as well as the issue of refugees and internally displaced persons due to human rights abuses perpetrated by armed Central African<sup>30</sup> opposition groups as well as those committed by the LRA.
121. Finally, it should be recalled that the mission to the CAR was carried out in a post-election context, where there are necessarily challenges in terms of the effective implementation of election promises. That is why through this report, the African Commission makes relevant

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<sup>30</sup> These include the Convention of Patriots for Justice and Peace (CPJP), The People's Army for the Restoration of Democracy (APRD) and a faction of the Movement of the Central African Liberators for Justice (MCLJ)

recommendations to the Highest Central African Authorities to explore all windows of opportunities offered by the relevant international and regional instruments as well as the Constitution of the Republic for an effective implementation of the rights guaranteed under the African Charter. It also seeks to open an inclusive and permanent dialogue with all stakeholders involved in the national development process, including civil society, the press, the opposition or even the Bar.

122. The African Commission is conscious of the chequered history of the CAR which has gone through serious upheavals both inside and outside its territory. It believes that the AU reacted appropriately by instituting a permanent delegation to assist the country to regain peace and understanding. This is because without peace, there will be no development. The African Commission has not forgotten that since its independence on 13 August 1960, this country has witnessed :

- Close to 20 coups d'état or attempted coup d'état;
- Seven (7) constitutions: 1958, 1964, 1976, 1981, 1986, 1995 and 2004;
- 20 Governments and 450 ministers.

123. The report identifies the positive factors noted in the implementation of human rights in the CAR, catalogues the main challenges or areas of concern and makes relevant recommendations to the Central African Government. In short, it is a strong advocacy by the African Commission for a renewed commitment by the Government to ensure that the African Charter is effectively implemented in the CAR.

### **POSITIVE FACTORS**

The African Commission is pleased with:

124. The political will demonstrated and efforts made despite the economic difficulties in the implementation of the various rights on which the discussions focused;
125. The adoption of the law on the decriminalization of press offences
126. The political will to increase women's participation in decision-making bodies;
127. The adoption by the Government of Law No. 06/032 of December 15, 2006 on the protection of women against violence in the Central African Republic as well as Law No. 06/005 dated June 20, 2006 on reproductive health;
128. The establishment by the Association of Women Lawyers of listening centres to effectively address the daily acts of violence perpetrated against women;
129. Measures aimed at the massive education of girls and civil society initiatives with a focus on reducing the illiteracy rate;
130. The establishment of the High Commission for Human Rights to oversee the general situation of human rights in the country and the reforms under way for the establishment of a National Commission on Human Rights ;
131. The desire for reconciliation of the Central African Government as well as the signing on June 13, 2011 of a cease-fire agreement between the government and the Convention of Patriots for Justice and Peace (CPJP) ;
132. Overcrowding is not a feature of prisons in the CAR ;
133. Rehabilitation and reconstruction of some prisons ;
134. The proposed construction of quarters for children in the prisons ;
135. The setting up of the Committee to assess the humanitarian needs of internally displaced persons, established with support from UNHCR;
136. The adoption of a law criminalizing the act of torture in the CAR;
137. The criminalization of female genital mutilation;
138. Ensuring that the CAR abides by the moratorium.

## AREAS OF CONCERN

Despite the progress made, the African Commission notes that many challenges remain to be overcome, including especially:

139. The persistence of several challenges associated particularly with the absence of a legal framework for the protection of Human Rights Defenders;
140. Retention of the death penalty in the legal arsenal of the Central African Republic;
141. The existence of economic and financial constraints that hinder the achievement of economic, social and cultural rights in the CAR ;
142. Inadequate micro-finance agencies as the facility is limited exclusively to Bangui;
143. Inadequacy of the number of judges across the country as well as their difficult living and working conditions;
144. Inadequate number of Police Officers at the Criminal Investigation Department (CID), a situation which causes problems in preliminary investigations;
145. The lack of teaching aids, office supplies and obsolete equipment at the Public Prosecution Department;
146. The situation of men, women and children detained under precarious conditions in prisons and other detention facilities in the CAR;
147. The detention of civilians and soldiers in the same prisons;
148. The considerable number of prisoners awaiting trial;
149. The low enrollment rate in general, and more particularly that of girls;
150. The high illiteracy rate in the CAR, especially among women;
151. The continued practice of female genital circumcision as well as early and forced marriages;

152. Older women are most often wrongly or rightly accused of practising witchcraft and subjected to public condemnation;
153. The low representation of women in political parties and decision-making bodies;
154. Despite the law decriminalizing press offences, some journalists continue to be arrested and subjected to threats and restrictions in the discharge of their duties;
155. The prolonged detention of Mr. Faustin Bambou, Managing Editor of the daily *Collines du Bas Oubangui* who is accused of libel;
156. The attacks on freedom of expression as well restrictions to the freedom of movement;
157. The illegal and arbitrary detention of some political opponents and other personalities in the Bossembele prison;
158. The human rights abuses perpetrated by armed Central African opposition groups as well as the LRA;
159. The refusal of some armed groups to join the HRD process;
160. The predominance of the presidential party in Parliament (90% of seats), risks affecting national reconciliation if an inclusive dialogue involving the opposition and all national stakeholders is not initiated;
161. The poor level of participation of the opposition parties in the Legislature;

## **RECOMMENDATIONS**

162. Considering the challenges observed, the African Commission makes the following recommendations:

### **To the Government**

- i. Continue the reform aimed at instituting a National Commission on Human Rights that is consistent with the Paris Principles, with adequate human and material resources to



- guarantee its independence and to enable it to fulfil its mission;
- ii. Continue the debate in Parliament for the adoption, as soon as possible, of the two bills concerning the protection of persons with disabilities and the national support policy for older persons ;
  - iii. Increase the budget allocated to the educational sector and take appropriate measures to introduce education on human rights at all the educational levels;
  - iv. Ensure that all children enjoy their right to a free and compulsory primary education;
  - v. Adopt special measures to ensure that children belonging to disadvantaged or vulnerable groups enjoy free education at all levels;
  - vi. Adopt a law on specific and administrative quota in order to increase the participation of women in decision-making bodies;
  - vii. Ensure the adoption of the law on female genital mutilation and sexual violence;
  - viii. Take the appropriate measures to reduce the rate of maternal and infant mortality;
  - ix. Develop a “national public health policy framework” to guide and support the appropriate responses to the health needs of the people;
  - x. Establish a national mechanism to respond to epidemic, endemic, occupational and other diseases, including, in particular, malaria, HIV/AIDS, tuberculosis, neglected tropical diseases and the other infectious diseases to ensure a coordinated, participatory, transparent and accountable response;

- xi. Recruit new judges and ensure the improvement of their living and working conditions;
- xii. Guarantee the respect of the freedom of the press and of expression;
- xiii. Guarantee the respect of the freedom of association;
- xiv. Strengthen the economic fabric and ensure equitable distribution of national resources for the benefit of all Central African citizens;
- xv. Increase the number of micro-finance institutions throughout the national territory;
- xvi. Protect the rights of the people from the potential abuses linked to the operations of extractive industries;
- xvii. Continue advocacy and discussions in Parliament in order to achieve the ratification of relevant international and regional instruments such as the Protocol to the African Charter on the Rights of Women (Maputo Protocol), the African Charter on the Rights and Welfare of Children, the Protocol to the African Charter on Human and People's Rights establishing the African Court and make the declaration under Article 34 (6), the African Charter on Elections, Democracy and Governance and the Optional Protocol to the Convention against Torture;
- xviii. Regularly submit Periodic Report in accordance with Article 62 of the African Charter, noting the challenges encountered and implement the recommendations made by the African Commission during the presentation of its cumulated periodic report in 2006;
- xix. Investigate, prosecute and try perpetrators of massive and systematic human rights violations committed by the various actors in the CAR;

- xx. Implement the principles contained in the UN Declaration on Human Rights Defenders, the Declaration of Principles on the Freedom of Expression in Africa, and the Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter;
- xxi. Continue the dialogue with the African Commission and civil society organizations;
- xxii. Take the necessary measures to ensure appropriate judicial treatment of the case of the wife of the former President of the Bar, Symphorien Balembi;
- xxiii. Guarantee publicity for hearings and information on legal proceedings concerning all those arrested in the case of the fire in the supermarket, including the wife of the former President of the Bar Association, Symphorien Balembi, and guarantee the right of prisoners to a fair trial;
- xxiv. Guarantee the impartiality of judicial bodies;
- xxv. Ensure adequate instruction and training for judges to ensure that they are aware of the constitutional and regulatory protections of the rights of defendants, victims and other parties, as well as human rights and fundamental freedoms recognized by national and international legislation;
- xxvi. Guarantee the right of all Central African citizens to an effective remedy before the courts of competent jurisdiction;
- xxvii. Ensure the separation of juvenile prisoners from adults, as well as the separation of persons detained for minor offences from those convicted of serious crimes;
- xxviii. Begin as soon as possible an inclusive dialogue with the civil and armed opposition as well as other actors in national politics to establish a permanent framework for dialogue and conflict prevention;

- xxix. Add a recommendation on the abolition of the death penalty in the CAR;
- xxx. Accelerate the process of the decriminalization of press offences, and
- xxxi. Accelerate the process of the establishment of the National Committee to combat harmful practices against children.

**To the international community**

- xxxii. Provide support towards the Central African government's efforts at promoting human rights and consolidating democracy;
- xxxiii. Encourage the international community to continue its activities in the CAR;
- xxxiv. Urgently provide the necessary human and material resources, especially human rights experts and the protection of civilians, to implement and supervise measures to protect civilians in the CAR. If the LRA is rightly seen as a major priority, it is equally important to try to end human rights infringements and violations of international humanitarian law committed by the other armed political groups as well as the Central African<sup>31</sup> security forces;
- xxxv. Develop, direct and coordinate a strategy involving the various national and international stakeholders in the Central African Republic, including foreign governments and intergovernmental organizations, intended to develop a coordinated response to prevent war crimes, crimes against

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<sup>31</sup> Amnesty International, *“Central African Republic: After decades of violence, it is time to take action”*, AFR 19/001/2011, 2011.

humanity and the other human rights violations and investigate those that were committed<sup>32</sup>;

**To the African Union Commission**

- xxxvi. Provide institutional support and help to build the capacity of Central African NGOs;
- xxxvii. Maintain and represent the African Union as long as peace has not been restored;

**To the NGOs**

- xxxviii. Continue the dialogue and good relations with the State;
- xxxix. Open up to the subsidiary mechanisms of the African Commission and apply to the Commission for observer status to be granted, and
- xl. Participate more actively in the overall development of the country in its multi-sectorial projects.

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<sup>32</sup> Idem