



General Assembly

Distr.
GENERAL

A/HRC/8/3/Add.5
2 June 2008

ENGLISH AND FRENCH ONLY

Human Rights Council
Eighth session
Agenda item 3

PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

**Preliminary note by the Special Rapporteur on extrajudicial, summary or arbitrary
executions, Philip Alston**

Addendum

MISSION TO THE CENTRAL AFRICAN REPUBLIC
(31 January – 7 February 2008)

I. Introduction

1. I visited the Central African Republic from 31 January to 7 February 2008. I met with key officials including the President, the Prime Minister, the minister reporting to the Minister for Defence, the Chief of Staff of the Armed Forces, the Director of the Office Central pour la répression du banditisme, and other officials, including judges, magistrates, prosecutors, gendarmes and police officers. In addition to Bangui, I traveled to Bossangoa and Paoua. In all three cities, I received detailed briefings from a wide range of civil society representatives, victims, witnesses and the families of people who had been killed.

2. I am grateful to the Government for the full cooperation it extended to me. I am also grateful to United Nations Peacebuilding Support Office in the Central African Republic (BONUCA) and the Special Representative of the Secretary-General, Ambassador François Fall, for having facilitated my mission. I received helpful briefings from the United Nations country team, the diplomatic community and others.

3. Up until very recently, Government forces were burning entire villages to the ground and summarily executing large numbers of people. Today, these abuses have fallen dramatically. While President Bozizé has shown that he has the power to prevent the military from committing human rights abuses, however, it is still too early to conclude that the Government has definitively turned a new page. The key finding of my mission is that, to ensure that the near future does not reprise the nightmare of the recent past, the Government must extend and institutionalize its efforts to respect human rights and to eliminate impunity.

II. Typology of killings

A. Killings by the military

4. The purpose of my visit was to inquire into extrajudicial executions of all kinds, including but not limited to the widely reported and often very detailed allegations of such killings by government security forces in the north-west and north-east of the country. In one such report, Human Rights Watch documented 119 extrajudicial executions, mostly in the north-west.¹ of those, 51 have occurred since late 2005 and been attributed to the Presidential Guard unit based in Bossangoa.

5. The number of extrajudicial executions carried out by the armed forces in the north has fallen dramatically since the summer of 2007. This assessment is based upon witness interviews, documented cases and the estimates of informed interlocutors. This is not to say that all executions have ceased. However, despite continuing problems, which I shall detail in my final report, there has been a genuine, significant and encouraging improvement in the situation with respect to extrajudicial executions.

6. What accounts for this dramatic decrease in extrajudicial executions related to the armed conflicts in the north? First, most of the fighting has ceased. In the north-east, the ceasefire

¹ Human Rights Watch, "State of anarchy: rebellion and abuses against civilians" (September 2007).

provided for in the Birao accord has largely held even as the Government has failed to fulfil its other obligations. In the north-west, a de facto ceasefire prevails in many areas, with Government and forces of the Popular Army for the Restoration of the Republic and Democracy (APRD) generally avoiding movement into each other's areas of control. Second, President François Bozizé has taken significant steps to end abuses by his troops. After visiting the north-west in person and witnessing the villages that his troops had burned to the ground, he ordered that such scorched-earth tactics must end. He told both his regular troops and the Republican Guard that attacks on civilians would not be tolerated, and withdrew the Republican Guard from the north-west after reports of brutality. While the Republican Guard has resumed periodic operations in the north-west, past levels of human rights abuse have not returned.

B. Other killings

7. While there has been a dramatic decline in executions related to armed conflicts in the north, individual soldiers have not been prosecuted. It is not unsurprising, then, that this impunity has allowed soldiers to continue to use lethal violence for a range of personal and corrupt ends. I received a range of reports of killings by members of the Republican Guard and the Central African Armed Forces (FACA) that appear to have been committed in the context of efforts to extort or steal, to avenge a personal grievance or to carry out 'private justice'. The problem of security officials of various kinds extorting money from the public at legal and illegal checkpoints and elsewhere has reached major proportions. The consequences are grave. People's free movement is obstructed, commerce is undermined and the Government is deeply resented. The confrontations inevitably produce a significant risk of executions.

8. I received credible reports from civil society, officials and detainees that torture and extrajudicial executions occur on a regular basis while suspects are in police custody or detention facilities. I have received a range of detailed accounts of prison guards, gendarmes and soldiers beating or torturing inmates to death. In other cases, detention facility officials fail to intervene to prevent inmates from killing each other. Too often those who are able to afford a bribe are released while others are killed. When there is a death in custody, it is simply reported that the prisoner died of an illness. Only in exceptional cases does a genuine investigation follow.

9. There is a particular problem with the killing of those accused of witchcraft ('sorcery' or 'charlatanism'). In some instances, Government forces have accepted payment to carry out such killings. In other instances, the criminal justice system — police, gendarmes and prosecutors — has failed to respond to cases in which private citizens have killed persons purported to have practiced witchcraft.

III. The way forward: change of perspective and approach

10. I met with various officials who are clearly trying very hard to put an end to abuses and to ensure that the limited infrastructure that exists is effective in at least some cases. Their hands need to be strengthened. This requires several initial steps.

A. Developing a human rights consciousness

11. When confronted with allegations of serious human rights violations, many interlocutors have responded by suggesting that the Central African Republic is too poor, too beset by rebellions from within and external aggression from without, and generally facing too many social and economic challenges to be held to human rights standards. In response, I must emphasize that the relevant standards are African as much as international. The Central African Republic has ratified both United Nations and African Union treaties, as well as the universally accepted Geneva Conventions. In terms of results, the fight against the rebels is greatly undermined when the military alienates the population by committing atrocities. Furthermore, it is a misunderstanding of human rights law to think that it poses an obstacle to providing security to the people. Indeed, human rights law requires Governments to protect individuals from murderers and other criminals just as it prohibits Governments from allowing their own forces to kill unlawfully. The right to life must be both respected and protected, and the two obligations are not incompatible. The Governments that drafted the relevant treaties faced a range of economic, social and security challenges, yet they recognized that these fundamental rights could and must be fulfilled by all Governments claiming legitimacy.

B. Official acknowledgement of killings

12. While the President has taken some important steps and even issued a limited apology, the Government as a whole has generally been in denial about killings by security forces. In my discussions with them, official after official has acknowledged only that mistakes occasionally happen but has categorically rejected the well-documented allegations contained in a series of damning human rights reports covering the period from 2005 through the first half of 2007. I repeatedly pressed officials to respond to the allegations in particular terms; none were willing to do so. This leaves both the people of the Central African Republic and the international community with the sense that, while there has been a lull in hostilities, human rights policies have not changed fundamentally. To dispel this impression the Government should publicly acknowledge the State's responsibility for past abuses.

C. Ending impunity

13. The Government must also begin to prosecute those who bear individual criminal responsibility for killings. At present, soldiers know that if they kill someone, they will almost certainly not be prosecuted. While there is a permanent military tribunal, it has dealt with a very limited number of cases and, as far as I have been informed, with none of the most prominent cases of extrajudicial executions.

14. To take one notable example, although there are literally scores of credible allegations of killings by Lieutenant Eugène Ngaïkossé or those under his command, he continues to command troops and to lead Republican Guard operations throughout the north-west. The populations of entire towns evacuate to the bush upon news of his impending arrival, and they do so with good reason.

IV. Broader reform challenges: building institutions to protect human rights

A. Security sector reform

15. It is also crucial to meaningfully reform the security sector — including FACA, the Republican Guard, the Gendarmerie and the Police — and regain the trust of the population. None of the rebel movements has a separatist or even revolutionary agenda. Most of their members are principally interested in development opportunities, in greater representation in Government and in defending their communities against the bandits (*coupeurs de route*), who routinely kidnap and ransom travellers and herders, destroying the possibilities of commerce and causing people to live in constant fear. Indeed, a key demand of rebel groups has been that the Government provide real security to the communities from which their members are drawn. While they rightly distrust the current armed forces, they desperately want the presence of disciplined and accountable security forces. What is needed is real security sector reform that is not only purely technical but that also reflects the concerns and interests that can only be discovered and clarified in the course of meaningful political dialogue.

B. Economic reform

16. Some Government officials with whom I spoke suggested that the country simply lacks the resources to put in place security forces that protect and respect the human rights of the people. Indeed, in 2007, the Central African Republic ranked 171 out of 177 countries on the human development index. In fact, one of the key underlying problems, in terms of both the Government's inability to protect and promote human rights and its failure to provide the essential security and social sector support to the population, is the chronic lack of resources. This can be only remedied through a mix of internal and external measures. Internally, there is a need for fiscal reforms and, particularly, for measures to track revenues and expenditures in the natural resources sector. In the past, the diamond industry generated significant revenue for the nation. In order to return to that situation, the Government must follow through on its commitment to implement the Extractive Industries Transparency Initiative and to undertake an audit of the mining sector (with World Bank support). A total of 17 other African countries, including Cameroon, Chad, Democratic Republic of the Congo (DRC), Equatorial Guinea, Gabon, and Guinea, and have committed to pursue the Initiative. The advantage is that investment, both domestic and foreign, will be easier to attract, a positive signal will be sent to international financial and development assistance agencies, and the amount of money available for development and security sector reform will be significantly increased. The problem of corruption needs to be discussed openly. Journalists who address public concerns must not be punished for doing so.

C. Human rights monitoring

17. The lack of reliable and systematic information in the public domain about human rights violations makes it difficult for the Government itself to know exactly what is going on. In addition, international agencies and sources of development assistance are deterred from expanding their support for the Government by their inability to verify that the human rights situation is being improved in a systematic and deliberate manner. It is especially unfortunate

that, as a result of the absence of public monitoring, even the improvements of the past six months have not been widely documented.

18. BONUCA has a vital role to play, and the current Special Representative of the Secretary-General is clearly a very positive force in the country. Nevertheless, the human rights office of BONUCA is widely considered to have been ineffectual. In the Central African Republic, there is an urgent need for the United Nations to take steps to establish a more effective human rights monitoring and assistance presence. In my view, this can only be achieved if the Office of the United Nations High Commissioner for Human Rights establishes an office in the country.

19. It is also essential that a national human rights commission be established. Existing arrangements are unsatisfactory, in large part because they lack the necessary independence from other organs of Government. They are also radically under-resourced and unable to carry out almost any human rights functions effectively.

V. Interim recommendations

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

21. **Soldiers should be instructed that they must obey international human rights and humanitarian law and that they have the obligation to disobey manifestly illegal orders and that they will be prosecuted otherwise. Commanders should be instructed that they are criminally responsible when they know or have reason to know that their subordinates are going to commit crimes and do not take all reasonable and necessary measures to prevent and punish those crimes.**

22. **The Government should effectively investigate the range of serious allegations of human rights abuse that have been made regarding the conduct of its security forces and provide a detailed public response, acknowledging abuses and identifying errors.**

23. **All members of the security forces implicated in human rights and humanitarian law violations must be suspended from duty, investigated and prosecuted.**

24. **The Government should begin the effort to end impunity by investigating and prosecuting Lieutenant Eugène Ngaïkossé for his individual actions as well as for the actions of subordinates for which he has command responsibility.**

25. **Donors should continue to provide assistance to increase the effectiveness of the security sector. It should be accompanied, however, by efforts to provide human rights training, ensure effective monitoring, promote respect for human rights and respond to violations. Security sector reform also needs to be premised on a system of democratic accountability and regularized command and control.**

26. In the context of national dialogue and in consultation with communities in the north-east and the north-west, the Government must develop arrangements to deploy security forces that have the trust of the people and that will effectively protect them from bandits, cross-border raids and other threats to their lives and livelihoods.

27. The current arrangement for international human rights monitoring and assistance is unsatisfactory. The Office of the United Nations High Commissioner for Human Rights should open an office in the Central African Republic.

28. The Government should establish a national human rights commission that is independent and that fully complies with all relevant international standards, including the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (the Paris Principles). Such a commission should also be a priority for development assistance agencies.

29. The Penal Code should be amended to abolish the criminalization of witchcraft. Educational efforts should be made to ensure that those accused of witchcraft are not victimized or killed.

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