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Technical assistance and capacity-building

Situation of human rights in the Central African Republic

Report of the United Nations High Commissioner for Human Rights*

Summary

In its resolution 23/18, the Human Rights Council requested the United Nations High Commissioner for Human Rights to submit to the Council, at its twenty-fourth session, an interim report on the situation of human rights in the Central African Republic. In response to that request, the High Commissioner deployed, from 20 June to 11 July 2013, a fact-finding mission to the Central African Republic to collect information on human rights violations committed in Bangui and other localities between December 2012 and 11 July 2013.

The fact-finding mission collected credible, reliable and corroborated information from victims, their families, witnesses, as well as various reliable sources in Bangui and several localities in Lobaye, Kémo, Ombella M'Poko and Nana-Gribizi prefectures where human rights violations had been reported. The mission faced considerable challenges and limitations owing not only to the constraints imposed by security requirements and logistics but also to the reluctance of victims and witnesses to testify due to their fear of reprisals, and was sometimes only able to obtain estimates on the number of violations reported.

The mission examined allegations of violations of international human rights and humanitarian law committed by the former Bozizé regime and the non-State armed group, the Séléka coalition, during the armed conflict from 10 December 2012 to 23 March 2013. It also reviewed allegations of human rights violations committed after the Séléka seized power on 24 March 2013.

* Late submission.

The mission concluded that, during the conflict, both parties had engaged in summary executions and extrajudicial killings, enforced disappearances, torture and looting of private and public property. The Séléka also engaged in sexual violence and grave violations against children. On the basis of the information collected by the mission, those acts constitute gross human rights violations and may amount to war crimes.

After 24 March 2013, gross violations of international human rights law, such as summary executions, sexual violence, recruitment of children and looting of property, including hospitals, schools and churches, committed by the Séléka continued unabated.

On the basis of the findings of the mission and on the current situation in the Central African Republic, the High Commissioner is gravely concerned at the gravity and intensity of human rights violations in the country and at the persistent and prevailing legal and security vacuum in which these crimes are committed. The High Commissioner addresses recommendations to the transitional government, the international community and the Human Rights Council to resolve the crisis, address insecurity, protect human rights, fight impunity and promote national reconciliation.

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I. Introduction

1. In its resolution 23/18, the Human Rights Council condemned the serious human rights violations perpetrated against the civilian population in the Central African Republic, and requested the United Nations High Commissioner for Human Rights to submit to the Council, at its twenty-fourth session, an interim report on the situation of human rights in the Central African Republic.

2. Pursuant to resolution 23/18, the High Commissioner deployed a fact-finding mission to the Central African Republic to collect information on the human rights violations committed in Bangui and other localities from 10 December 2012, when the Séléka offensive was launched, to 11 July 2013, when the mission left the country. It should be noted that the Assistant Secretary-General for Human Rights visited the Central African Republic from 29 July to 2 August 2013 in an effort to support efforts led by the United Nations to promote and protect human rights in the Central African Republic.

II. Methodology

3. From 20 June to 11 July 2013, the mission visited Bangui and undertook visits to Damara (Ombella M'Poko Prefecture), Mbaïki (Lobaye Prefecture), Kaga-Bandoro (Nana-Gribizi Prefecture) and Sibut (Kémo Prefecture). These localities were identified on the basis of reports of alleged human rights violations, as well as logistics and security constraints. Although the mission had planned to visit Bria (Haute-Kotto Prefecture) and Bambari (Ouaka Prefecture), it was unable to do so for security reasons.

4. The mission carried out its activities in an extremely challenging environment, which included tight security and logistics constraints. In addition, owing to the fact that many victims and witnesses feared reprisals and were reluctant to testify, the mission was sometimes only able to obtain estimates of the number of violations reported.

5. The mission interviewed more than 235 people, including victims, their families and witnesses, as well as representatives of the National Transitional Council, the interim Government, the military, the judiciary, civil society, international protection partners, the United Nations system, the diplomatic community and the Mission for the Consolidation of Peace in the Central African Republic (MICOPAX).¹

6. The mission also analysed numerous documents, such as reports of the Human Rights and Justice Section of the United Nations Integrated Peacebuilding Office in the Central African Republic (BINUCA) and of the Joint Investigation Mission, comprising the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) and BINUCA, deployed in the Equateur Province of the Democratic Republic of the Congo between May and June 2013.

7. In the present report, the mission summarizes its findings with regard to the situation of human rights in the Central African Republic and the nature and extent of human rights violations committed by all parties from December 2012 to 11 July 2013.

¹ Established by the Economic Community of Central African States in 2008, MICOPAX has been deployed in the Central African Republic since 2009.

III. Context

A. Political situation

8. In December 2012, the Séléka, a coalition of rebel groups,² launched an offensive in the north of the Central African Republic. The groups claimed that President François Bozizé had failed to uphold the terms of the peace agreements signed in 2007, 2008 and 2011. Peace talks between the Séléka and the Bozizé Government, held in Libreville under the auspices of the Economic Community of Central African States (ECCAS), resulted in the signing, on 11 January 2013, of the Libreville Agreements, which provided for transitional and power-sharing measures.

9. In March 2013, the Séléka, claiming that the Government had not fulfilled its obligations under the Libreville Agreements, resumed fighting and, on 24 March 2013, seized the capital, Bangui, forcing President Bozizé to flee the country. The leader of the Séléka, Michel Djotodia – who had been appointed in February 2013 by President Bozizé as first Deputy Prime Minister and Minister for National Defence of the Government of National Unity established following the Libreville Agreements of January 2013 – proclaimed himself President, suspended the Constitution, dissolved the Government of National Unity, the National Assembly and the Constitutional Court, and commenced to rule by decree. Mr. Djotodia reappointed Nicolas Tiangaye as interim Prime Minister of the transitional arrangement put in place.

10. On 13 April, the National Transitional Council was established, electing Mr. Djotodia, the only candidate, as Head of the transition. The National Transitional Council was expanded on 12 May to comprise 135 members, and a new 34-member Government of National Unity was formed on 13 June 2013. Mr. Djotodia became Minister for Defence in the interim Government, while remaining President of the National Transitional Council. Mr. Djotodia was officially sworn in as Head of State of the Transition on 18 August 2013.

B. Response of the international community

11. The United Nations Security Council, on 25 March 2013, and the African Union Peace and Security Council, on 16 April 2013, condemned the unconstitutional seizure of power by the Séléka.

12. ECCAS took the lead in defining new transitional arrangements and increased the size of its peace mission, MICOPAX, to 2,000 troops. On 19 July 2013, the African Union Peace and Security Council established the African-led International Support Mission for the Central African Republic,³ comprising the contingents serving under MICOPAX⁴ and reinforced by those provided by other Member States.

² Comprising the Union des forces démocratiques pour le rassemblement (UFDR), the Convention patriotique du salut du Kodro (CPSK), the Convention des patriotes pour la justice et la paix (CPJP – Fondamentale) and the Union des forces républicaines (UFR).

³ The Mission has an authorized total strength of 3,652, including 3,500 uniformed personnel (2,475 for the military component and 1,025 for the police component) and 152 civilians.

⁴ The transition from MICOPAX to the International Support Mission for the Central African Republic took effect on 1 August 2013.

C. Breakdown in law and order

13. Following the beginning of the Séléka offensive and the subsequent fall of Bangui, the Central African Republic witnessed a rapid breakdown in law and order resulting from the absence of civilian administration and of defence and police forces across the country. Between 24 March and 24 April 2013, at least 835 individuals were reportedly admitted to a Bangui hospital, including some 403 persons with bullet wounds. Despite the cantonment of Séléka soldiers and the collection of weapons, which began on 1 July 2013, insecurity continues to prevail throughout the country.

14. The breakdown in law and order has favoured a rise in cross-border criminal activities, the circulation of small arms, rampant criminality the illegal exploitation of minerals and poaching for ivory. In addition, the power vacuum has allowed the Ugandan rebel group, the Lord's Resistance Army (LRA), to spread to new areas in Haut Mbomou Prefecture.

D. Rule of law and administration of justice

15. Following the Séléka offensive of 10 December 2012, judicial personnel fled their jurisdictions, after which Séléka soldiers reportedly looted and occupied courts, taking the place of judges and prosecutors in a number of prefectures. In Bangui, the mission received reports of attacks against magistrates and lawyers by the Séléka in retaliation for past verdicts and lawsuits.

16. As a result of the collapse of the judiciary, the administration of justice is ineffective and perpetrators of human rights violations enjoy impunity. In most of the cases of gross human rights violations reported to the mission, no investigations or prosecutions have ensued.

E. Humanitarian situation

17. The current crisis in the Central African Republic has worsened an already precarious economic and humanitarian situation. As at June 2013, there were 206,000 internally displaced persons living in extremely precarious conditions, often in the bush, where they are exposed to health hazards, including epidemic diseases. In addition, according to the Office of the United Nations High Commissioner for Refugees, since the Séléka offensive in December 2012, more than 58,000 people have fled to neighbouring countries, including more than 40,000 to the Democratic Republic of the Congo.⁵

18. The collapse of the State since December 2012 has had a disastrous impact on the already weak social services. Access to health and education facilities has been hindered by looting and the destruction or occupation by armed forces of health centres and schools. Access to health services outside Bangui essentially depends on the presence of international humanitarian actors, even though the prevailing insecurity limits access to the populations in need. According to the Office for the Coordination of Humanitarian Affairs,

⁵ Fact sheet on the operations of the Office of the United Nations High Commissioner for Refugees in the Central African Republic, 30 June 2013. Available from http://reliefweb.int/sites/reliefweb.int/files/resources/UNHCR_Factsheet_30_June_2013.pdf.

in August 2013, some 484,000 people were vulnerable to food insecurity in the country, in particular internally displaced persons.⁶

IV. International legal framework

19. In legal terms, the mission differentiated two distinct periods since December 2012: (a) from the offensive of the Séléka coalition on 10 December 2012 to the takeover of Bangui on 24 March 2013; and (b) from the seizure of power of the Séléka on 24 March 2013 and the self-declaration of Mr. Djotodia as President of the National Transitional Council until the end of the period under review.

20. The mission noted the existence of a non-international armed conflict during the initial period.⁷ This implies that international humanitarian law was applicable from 10 December 2012 until the takeover by the Séléka of Bangui, on 24 March 2013. The Central African Republic is a party to the four Geneva Conventions of 1949 and to Additional Protocol II, on the protection of victims of non-international armed conflicts. Both the State armed forces and the Séléka, as parties to the conflict, were thus bound by the provisions of the treaties as well as by customary international humanitarian law.

21. International human rights law is applicable in peacetime and in armed conflict situations. The Central African Republic is a party to six major United Nations human rights treaties⁸ and two optional protocols thereto,⁹ as well as to the core human rights instruments of the African Union. It is, therefore, under a clear obligation to respect international human rights law.

22. Moreover, it is increasingly accepted that a non-State armed group, such as the Séléka before taking power in the Central African Republic, must respect and ensure respect for human rights in the territory it controls.¹⁰

23. The Central African Republic became a party to the Rome Statute of the International Criminal Court in 2001. As a consequence, allegations of international crimes (war crimes, crimes against humanity and genocide) committed in the territory of the

⁶ Office for the Coordination of Humanitarian Affairs, Situation Report No. 25, 23 August 2013.

Available from http://reliefweb.int/sites/reliefweb.int/files/resources/Situation%20Report%2025_EN.pdf.

⁷ In its annual report for 2012 (available from www.icrc.org/eng/assets/files/annual-report/icrc-annual-report-2012.pdf), the International Committee of the Red Cross stated that, in December, “the Séléka, an alliance of armed groups, took control of the north and centre of the country. The non-international armed conflict led to casualties, looting, further displacement and the temporary evacuation of most humanitarian workers” (p. 111).

⁸ The International Covenant on Economic, Social and Cultural Rights (ratified in 1981), the International Covenant on Civil and Political Rights (ratified in 1981), the International Convention on the Elimination of All Forms of Racial Discrimination (ratified in 1971), the Convention on the Elimination of Discrimination against Women (ratified in 1991) and the Convention on the Rights of Child (ratified in 1992).

⁹ The Optional Protocol to the International Covenant on Civil and Political Rights (ratified in 1981), and the Optional Protocol to the convention on the Rights of the Child on the sale of children, child prostitution and child pornography (ratified in 2012).

¹⁰ In the context of the conflict in the Democratic Republic of the Congo, the Security Council affirmed that all parties, including non-State armed groups, must abide by the international humanitarian standards and ensure respect for human rights in the sectors they control (S/PRST/2002/27). In her report on the situation of human rights in Mali (A/HRC/22/33), the United Nations High Commissioner for Human Rights also made extensive reference to human rights violations by non-State armed groups, including violations of the right to health, culture, education and freedom of religion.

Central African Republic may fall under the jurisdiction of the Court. Indeed, on 22 May 2007, the Court prosecutor opened an investigation into serious crimes allegedly committed in the Central African Republic, in particular during the armed conflict of 2002-2003.¹¹

24. International human rights law was still applicable when the Séléka seized power on 24 March 2013. The interim Government therefore has full responsibility for the protection of human rights contained in the treaties ratified by the Central African Republic.

25. In addition, in accordance with article 10 of the draft articles on Responsibility of States for Internationally Wrongful Acts,¹² the Séléka, after it seized power, engaged the State responsibility of the Central African Republic for all violations committed by Séléka members in the country during the armed conflict.

26. Given the complexity of the legal implications during the period under review, the events that occurred from 10 December 2012 to 23 March 2013, when both international human rights law and international humanitarian law were applicable for the former governmental authorities and the non-State armed group, the Séléka, will be examined first. The alleged violations of international human rights law committed by the interim Government formed after the seizure of power by the Séléka, on 24 March, until the end of the period under review will then be assessed.

V. Violations of international law committed from 10 December 2012 to 23 March 2013

A. Violations by the former governmental authorities

1. Summary executions and extrajudicial killings

27. The mission collected credible information regarding the killing of several people perceived to be supporters of the Séléka between January and February 2013 by the Presidential Guard and the Forces armées centrafricaines (FACA), as well as by militias referred to as the Young Patriots (the Comité d'organisation des actions citoyennes and the Coalition citoyenne contre les rébellions armées). Mass graves of opponents to the former Bozizé regime in Bossembélé (Ombella M'Poko) were reported to the mission, which however was not given access to these locations to verify the information for security reasons.

2. Enforced and involuntary disappearances

28. The mission received corroborated information concerning dozens of cases of enforced disappearances of rebels, their families or suspected supporters committed by former regime forces from 10 December 2012 to 23 March 2013. Cases included civilians arrested by the FACA in the eighth District of Bangui, including family members of the President of the National Transitional Council. These persons subsequently disappeared.

¹¹ The former Vice-President of the Democratic Republic of the Congo, Jean-Pierre Bemba Gombo, who has been charged with crimes against humanity (rape and murder) and war crimes (rape, murder and pillaging), is the first person to face trial for alleged crimes committed in the Central African Republic.

¹² *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 10 (A/56/10)*.

3. Torture, ill-treatment, arbitrary arrest and detention

29. The mission received testimonies and reports of torture and ill-treatment perpetrated by former regime forces against detainees suspected of being supporters of the Séléka, from December 2012 until the fall of the Bozizé regime.

30. The mission received extensive information that, until 23 March 2013, armed forces, including the FACA, the Presidential Guard and the Young Patriots, carried out arbitrary arrests and detentions of political opponents and perceived supporters of the rebellion, including from specific ethnic communities.¹³ In Bangui, dozens of arbitrary arrests and detentions were reportedly carried out targeting individuals presumed to be supportive of the rebellion. Some were released during the seizure of the capital, while others remain unaccounted for. The mission received reliable information that at least 200 political opponents of Bozizé were unlawfully detained in Bossembélé Prison.

31. In several provinces, the mission received reports that, while the Séléka was advancing, forces of the former regime arbitrarily arrested and detained dozens of individuals when retreating to Bangui, subjecting them to ill-treatment and summary executions.

4. Looting of public and private property

32. The mission received consistent reports of looting by members of the former regime forces in Lobaye, Sangha-Mbaéré and Mambéré-Kadéï prefectures before the fall of the regime. In addition, it was informed that the premises of a number of humanitarian organizations, including hospitals and medical facilities, and warehouses where the organizations had stored food supplies and non-food items, were reportedly looted by the FACA and Presidential Guard soldiers.

5. Freedom of expression and freedom of movement

33. Under the Bozizé regime, freedom of expression was curtailed by the use of threats, including death threats, against journalists and others critical of the regime. Some media outlets were attacked by pro-government militias. In addition, control was exercised over the media through denial of funding, as subsidies to media outlets were not disbursed by the executive, despite having been approved by Parliament.

34. Following the Séléka offensive of December 2012, President Bozizé and members of his party, the National Convergence Kwa Na Kwa party, delivered hate speeches targeting rebel groups and associated ethnic groups from northern-central African Republic. Pro-government militias roamed the city of Bangui and set up numerous checkpoints to identify those aligned with the rebellion, severely restricting freedom of movement.

B. Violations by the non-State armed group Séléka

1. Summary executions and attacks on civilians

35. Reports indicate that Séléka soldiers were involved in summary executions of members of the security forces of the former Government since the beginning of the rebel offensive on 10 December 2012. In addition, civilians were reportedly targeted and killed, some of them because of their known or suspected support for former President Bozizé. Other civilians were killed while resisting looting of their property.

¹³ Including the Goula, Rounga, Youlou, Kara, Sara and Hausa communities.

36. During its visits to Sibut, Damara, Mbaiki and Kaga-Bandoro, the mission was unable to collect testimonies on cases of summary executions perpetrated by the Séléka owing to the atmosphere of fear among the population, most of whom were still in hiding in the bush. For security reasons, the mission was unable to visit Bambari and Bria to conduct further investigations on the existence of mass graves in these areas and to establish responsibilities.

2. Torture and ill-treatment

37. The Séléka reportedly tortured and ill-treated civilians at checkpoints, in illegal detention centres and in other places, in order to obtain information on the location of weapons, money and belongings. In Kaga-Bandoro, the mission interviewed a woman who had been victim of severe torture committed by Séléka members on 7 March 2013. The victim reported that she had been arrested by at least 16 Séléka soldiers. She was tortured for hours, beaten with weapons, kicked with boots, dragged and slapped. She was also subjected to mock executions. She was evacuated to Bangui, where she was admitted to a hospital for two months.

38. In many reported cases, torture and ill-treatment led to the death of the victim. On 13 March 2013, one person died in the village of Vangué, near Damara, after being tied up and beaten severely by Séléka soldiers a few days before their withdrawal to Sibut.

3. Sexual and gender-based violence

39. Information collected from protection actors suggests that sexual violence was committed by the Séléka in the country, including against children, from 10 December 2012 to 23 March 2013. It was, however, difficult for the mission to obtain testimonies from victims of sexual and gender-based violence or witnesses mainly because of their fear of stigmatization.

40. The city of Bangui registered the largest number of rape cases, as many victims left the provinces for the capital, where they reported the cases allegedly committed by the Séléka. The mission received credible and corroborated information of hundreds of cases of rape, including at least 250 registered in Bangui alone between January and June 2013, of which 140 were perpetrated by armed men reportedly belonging to the Séléka. One credible non-governmental organization documented 106 cases of rape committed by the Séléka in Bangui from December 2012 to April 2013.

41. Dozens of cases committed between 10 December 2012 and March 2013 were reported to the mission in Basse Kotto and Haute Kotto prefectures, and during field visits to Damara, Sibut and Kaga-Bandoro.

4. Grave violations committed against children

(a) Sexual violence involving children

42. The majority of counterparts interviewed reported cases of sexual violence against children and the use of girls as sexual slaves. The mission itself received isolated information on alleged cases of sexual slavery.

(b) Recruitment of children

43. Interviews conducted with children formerly associated with the Séléka coalition also confirmed allegations on the recruitment of children by the coalition between 10

December 2012 and 23 March 2013, in particular by the Convention des patriotes pour la justice et la paix, in breach of their commitment to the action plan¹⁴ signed with the United Nations in November 2011. The recruitment of children was reported during the progression of Séléka forces to Kaga-Bandoro, Sibut and Damara, from where the attack on Bangui was launched. Some of the children recruited were reported to be from Chad and the Sudan.

44. The mission also received reliable information that the Séléka had used recruited children as human shields, more particularly during the battle opposing them in Damara to the South African contingent in their progression to take Bangui, on 23 and 24 March 2013.

(c) *Attacks on hospitals and schools*

45. The already limited provision of basic services was severely affected by the conflict. Schools and hospitals were systematically looted or occupied for military purposes across the country as the Séléka took control of such major cities as Ndelé (Bamingui-Bangoran Prefecture) and Kaga-Bandoro, in December 2012, and progressed towards Bangui.

46. In Kanga-Bandoro, for instance, the mission was informed that the Séléka had occupied the primary school between December 2012 and January 2013, and had removed all the doors, windows and roofing metal sheets before leaving. Primary schools in Sibut were similarly occupied by the Séléka.

5. Looting of public and private property

47. The mission received information on hundreds of cases of looting of public and private property committed in a systematic or widespread manner across the country. It was informed of hundreds of cases of houses being burned down, including at least 900 houses when the Séléka entered Bangassou (Mbomou Prefecture) on 11 March. A large number of interviewees spoke of livestock looting and crops being destroyed by cattle herders believed to support the Séléka. The mission also received reports of three radio stations – two in Bangui and one in Ouaka Prefecture – that were looted by the Séléka after 24 March 2013.

48. The mission also received credible reports, supported by photographs, that a significant number of churches were damaged and looted by Séléka soldiers. Among the many incidents documented was the targeting of the Catholic church of Basse Kotto Prefecture, in late January 2013, reportedly in reprisal for reporting on Séléka activities. On 9 February 2013, the Catholic church of Mobaye was significantly damaged and looted by Séléka rebels when they invaded the city.

49. Between January and April 2013, a significant number of offices and warehouses of non-governmental organizations were looted in the localities of Ndelé (Bamingui-Bangoran Prefecture), Batangafo (Ouham Prefecture), Paoua (Ouham-Pendé Prefecture), Kaga-Bandoro (Nana-Gribizi Prefecture), Bambari (Ouaka Prefecture) and Bria (Haute-Kotto). In some instances, the security and access of personnel had to be negotiated with the Séléka to allow them to continue their activities.

6. Freedom of movement

50. From 10 December 2012 to 23 March 2013, while taking control of the territory on its way to Bangui, the Séléka established illegal checkpoints to collect funds from the

¹⁴ Framework established by the Security Council in its resolution 1612 (2005) to oversee the separation of children associated with armed groups

population. These checkpoints constituted a serious impediment to the free movement of goods and persons.

VI. Violations of international law committed from 24 March to 11 July 2013

51. During the period under review, the former regime's armed forces, the FACA, had not been dismantled, and Séléka soldiers had not yet participated in a disarmament, demobilization and reintegration process (which explains why they are still referred to in the present report as "the FACA" and "the Séléka"). Since 24 March 2013, however, Séléka soldiers have taken on the role of a national defence and security force under the command of the President and the Minister for Defence of the Central African Republic, Mr. Djotodia. All acts and decisions of civil authorities and of the Séléka therefore engage the responsibility of the State.

A. Summary executions and extrajudicial killings

52. Several witnesses accused the Séléka of committing summary executions and extrajudicial killings. Some killings targeted soldiers from the FACA and the Presidential Guard, while others were committed in retaliation against perceived resistance from civilians. On 13 April 2013, in Ngaragba vicinity (7th district of Bangui), a Séléka vehicle struck and injured three individuals during a funeral procession, prompting residents to stage a protest. Soldiers surrounded the area and shot at protesters, killing two. On 15 April, the Séléka shot and killed, in the 4th district of Bangui, two motorcycle taxi drivers who had refused to surrender their vehicles. Some killings were committed without motive, such as the killing, in April 2013, in Ngouma (80 km from Mbaïki) of a pygmy father and his two young sons, and of three other pygmies in Ndongo and Mangongi regions.

B. Enforced and involuntary disappearances

53. The mission received information on a number of cases involving the disappearance of soldiers of the FACA and the Presidential Guard, as well as individuals in many towns and villages across the country, after they were arrested in streets, at their homes or at random checkpoints.

54. Consistent and corroborated information received by the mission indicates that persons were arrested on the basis of information on the victims' financial situation or political and ethnic affiliation provided to the Séléka by informants. The Séléka reportedly targeted neighbourhoods viewed as pro-Bozizé, particularly Boy-Rabe and Fouh neighbourhoods in Bangui, where a significant number of disappearances were reported.

55. The Séléka reportedly orchestrated scenarios to arrest people. Family members of victims interviewed by the mission stated that victims would usually receive a telephone call from a friend or acquaintance that they went to meet before disappearing.

C. Arbitrary arrest and detention

56. The mission conducted dozens of interviews, including with detainees, their families and witnesses in Bangui and several prefectures who reported cases of arbitrary arrest and detention by the Séléka during the seizure of Bangui, which escalated in the following weeks and continued. Victims included judges, lawyers, members of the FACA, former

regime officials and persons associated with (or perceived to be part of) the Bozizé regime in what appears to have been retaliatory operations. A prominent case of arbitrary arrest and detention was that of Mohamed Moussa Dhaffan, former Minister for Forestry, Water, Hunting and Fishing and his brother, Colonel Ahmed Dhaffan, who have been arbitrarily detained since 29 June 2013.

57. The mission received reports indicating that people had been sentenced by Séléka soldiers, even though they are not authorized by law to exercise judicial power. Reported forms of punishment varied from imprisonment to fines.

58. Some detainees were reportedly kept in homes, on governmental premises or in military camps. In one reported case, several people arrested by the Séléka were put in an empty petrol container in Bambari, resulting in at least one man dying due to gas inhalation. Despite repeated requests, the mission was not granted access to military camps where conflict-related detainees were believed to be held.

59. The mission was, however, allowed to visit two detention facilities, where it interviewed at least 50 detainees, including three children, in the Office central de répression contre le banditisme and in the Section recherche et investigation. On the premises of both places, penitentiary authorities failed to provide the mission with registration records for persons deprived of their liberty or to respond to basic due process enquiries. The detainees interviewed told the mission that they had not been informed at the time of their arrest of charges against them, or brought promptly before a judge or any other officer authorized by law to exercise judicial power.

D. Torture and ill-treatment

60. The mission interviewed, in the course of its field visits, victims of torture and ill-treatment, including detainees, witnesses and family members. In many reported cases, torture led to the death of victims. In one reported case, the victim, a 32-year-old man from Gbangoro was kidnapped on 2 June 2013, when the Séléka targeted the axis Tale-Nana Markounda (Ouham Prefecture). Séléka members beat the man to death, then dumped his body on the side of the road later that day.

61. The mission received reports of cases of torture and ill-treatment committed by the Séléka of former regime officials, including prominent public figures, civil servants and members of their families. In May 2013, the Séléka raided the houses of a former member of the National Assembly and of the former Vice-President and his wife, and ill-treated them while trying to obtain information.

62. Cases of reprisals against FACA members, including those who responded to the call of the interim President to report for duty, were reported to the mission. Reprisals consisted of torture and ill-treatment with a view to extort information. Following the seizure of Bangui, at least 400 people, including FACA officials and their families, took refuge with MICOPAX and BINUCA for fear of arrest and reprisals. Some 100 were still with MICOPAX at the end of the period under review.

63. Armed personnel in uniform believed to belong to the Séléka also reportedly practiced torture and ill-treatment in night raids involving robbing, looting and terrorizing the population, including the pygmy minority. Such cases were documented in Bangui on 11 April, in Lobaye Prefecture on 17 April and 20 April, prompting a large number of people, including pygmies, to flee to the bush.

E. Sexual and gender-based violence

64. The mission heard accounts from victims, witnesses and family members and received reports from reliable non-governmental organizations and medical sources that indicated that the Séléka committed sexual violence, both in Bangui and in some provinces, after they seized power.

65. The mission had the opportunity to meet with two medical sources in Bangui. One of them had registered 79 cases of rape mainly by the Séléka after 24 March 2013, including children between 5 and 8 years of age. Around 60 per cent of victims were raped in Bangui and 40 per cent around the village of Damara and on the axis Damara-Boali. According to another medical source in Bangui, 38 women treated in the health centre, including three children, had allegedly been raped by members of the Séléka between February and the beginning of July 2013.

66. In Bangui alone, the mission received 29 testimonies and reports of rape by the Séléka committed in eight different neighbourhoods. Different sources reported that, between 13 and 16 April 2013, several women, including girls aged between 12 and 14 years, were raped in the neighbourhood of Boy-Rabe known to be pro-Bozizé. One source referred to the alleged rape of seven women, while another reported a case of rape of four women, on 14 April, and of a 12-year old girl, on 15 April. The mission interviewed a woman raped in the same neighbourhood on 17 April. It also received information on cases of rape during its field visits to the villages of Mbaïki, Damara, Kaga-Bandoro and Sibut.

67. The mission was aware that the cases reported represented only a fraction of actual cases of sexual violence, since many victims do not report these crimes for fear of retaliation or stigmatization. Many victims of sexual or gender-based violence who consequently sought medical treatment required surgery. Several of them became pregnant, suffered a miscarriage or contracted sexually-transmitted diseases, including HIV/AIDS, as a result of sexual violence.

F. Grave violations committed against children

1. Killings involving children

68. Information received by the mission suggested that many children had been killed or maimed by the Séléka. The mission documented several cases of summary execution. In one particular case, the victim, a 14-year old boy arrested on 22 June 2013 and tortured at the Bataillon de soutien et de service, was found dead among other victims in the M'Poko River two days later.

69. In Bangui alone, the mission was informed by medical sources that about 84 injured children had been admitted to hospital from March to June 2013. The causes of injuries varied from road accidents caused by the Séléka, stray bullets, shelling, grenades or, in most cases, deliberate attempts to kill the children. Some victims were forced to undergo amputation as a result of their injuries.

70. The events in Boy-Rabe on 14 April 2013, when two rockets hit the Eglise évangélique des Frères de Cité Jean XXIII, killing seven people and injuring 35 others, were documented by BINUCA. The mission was able to collect additional testimonies from medical sources and victims. Of the 35 injured, four children aged 5 or 6 years had to undergo amputation; three of one leg, and one of both legs.

2. Sexual violence involving children

71. Protection partners caring for girls who had separated from the Séléka reported that a large number of victims of sexual violence committed by the Séléka are children, ranging from 2 to 17 years of age. In addition, findings from interviews conducted by the Joint MONUSCO/BINUCA Investigation Mission with Central African refugees in the Democratic Republic of the Congo, between 22 May and 5 June 2013, revealed that many reported cases of rape of women and girls had been committed by the Séléka.

3. Recruitment of children

72. During the period under review, the United Nations Children's Fund (UNICEF) assisted 149 children (134 boys and 15 girls) aged between 12 and 17 years who had been recruited by the Séléka. Fifty five of the children were personally handed over to UNICEF by the President of the National Transitional Council between 27 and 30 June. Access to military camps and barracks, including camp Béal, the largest in Bangui, and Camp de Roux, which also serves as the presidential office, is restricted and protection actors could not undertake systematic screening activities.

73. The mission witnessed the presence of many children among the Séléka in pick-up vehicles during patrols, at the Office central de répression contre le banditisme and the Section recherche et investigation in Bangui, as well as in Damara, Sibut, Mbaïki and Kaga-Bandoro. At the Office central de répression, the team observed the presence of five children, including two girls, among the guards; at the Section recherche et investigation, four children were sighted among the Séléka, and had visibly been instructed to claim to be adults.

4. Attacks on hospitals and schools

74. Hospitals have been looted, ransacked or occupied by the Séléka throughout the country since 24 March 2013, seriously affecting access to health, with particularly grave consequences for children and pregnant women. In Bangui, the maternity hospital of the gendarmerie was looted and destroyed on 25 March. The national laboratory, the only facility carrying out specific biomedical analysis, was also looted on 25 and 26 March. Hospitals across the country are thought to be functioning at 20 per cent of their usual capacity, and only with the assistance of international relief agencies.

75. Only very few private schools are currently open. Public schools remain closed, which affects more than 800,000 children from elementary to secondary school. Teachers and civil servants who sought refuge in Bangui at the outbreak of hostilities are unlikely to return to the provinces in the near future owing to the volatile security situation.

G. Violations of property rights and economic, social and cultural rights

76. During and following the capture of Bangui, Séléka soldiers engaged in organized and systematic looting of hundreds of private homes and shops, such as in the town of Rafai or in the Fouh neighbourhood of Bangui, where former regime officials reside.

77. Séléka soldiers also ransacked public buildings. The mission was informed that, of the cases reported, Séléka soldiers had looted on 31 March 2013 the premises of the gendarmerie, the police, the Customs Office and other administrative buildings in Berbérati. On 5 April, Séléka soldiers also looted the offices of the Public Prosecutor at the Court of First Instance of Bangui, taking away documents, computers and hard drives before setting fire to the archives.

78. In addition, the Séléka attacked and looted numerous places of worship, mostly churches, including in Bambari, Markounda, Bangui and Boali. The mission interviewed Muslim leaders who confirmed that mosques had not been attacked. In an attempt to contain religious tensions emanating from deliberate attacks against churches, a platform for dialogue was established in December 2012 by Catholic, Protestant and Muslim leaders across the Central African Republic.

79. Nearly all offices and warehouses of the United Nations and international humanitarian organizations were found to have been either looted or robbed. Humanitarian workers also suffered from road ambushes and vehicle hijacking perpetrated by the Séléka.

H. Freedom of expression and freedom of movement

80. The mission received alarming reports regarding the rights and safety of human rights defenders, journalists and members of civil society organizations under the current regime. Several leaders of human rights organizations have gone into hiding and others have fled the country after they received death threats from Séléka soldiers. Human rights defenders have been issuing press releases under the Human Rights Network in an attempt to prevent the identification of their authors.

81. Journalists, editors-in-chief and media directors who expose human rights violations or criticize the new Government have been threatened by the Séléka, despite reassurances by the President of the National Transitional Council that freedom of expression would be respected. On 29 April 2013, journalists and media workers observed a “day without the media” to protest against the threats and intimidation to which they are subjected by the Séléka. The State media boycotted the initiative.

82. Following the capture on 24 March 2013 of Bangui, Séléka members continued to set up checkpoints across the country where they collect fees, impeding the free movement of citizens.

VII. Measures taken by the new authorities

83. The transitional Government acknowledged that the collapse of the State had led to a security vacuum resulting in lawlessness, including widespread violence and serious human rights violations committed by uncontrolled Séléka soldiers and unidentified armed groups.¹⁵ Several ministers, in discussions with the mission, blamed “uncontrollable” militia members for such violations.

1. Joint National Commission of Inquiry

84. On 20 May 2013, the interim Government issued a decree establishing the Joint National Commission of Inquiry (Commission nationale mixte d’enquête) with a mandate to investigate human rights violations committed in the Central African Republic since 2004, to establish facts and circumstances of violations, and to identify perpetrators, collaborators, accomplices and victims. The Commission comprises 10 members: a chairperson, who is a magistrate; two vice-presidents; and seven police and gendarmerie officers. Civil society is represented by one of the vice-presidents, who is the head of a local non-governmental organization.

¹⁵ Statement made by the Prime Minister of the Central African Republic, Nicolas Tiangaye, to the Security Council on 15 May 2013.

85. While the establishment of such a commission is encouraging, its current mandate, composition and functioning are not compliant with international standards, which compromises its independence, credibility, impartiality and transparency. The mission was informed that the findings of the Commission would not be followed up on by the judiciary; instead, the Commission is expected to report to the President of the National Transitional Council. The mission also found that its members do not have the required expertise in international human rights law, international humanitarian law, sexual and gender-based violence, and investigation techniques. Also, several members had been designated by the President of the National Transitional Council.

86. For the above reasons, the Commission, unless its mandate and functioning are strengthened in compliance with relevant international standards, will not be able to address impunity by ensuring that perpetrators of human rights abuses are brought to justice.

2. National commission for human rights and fundamental freedoms

87. The bill establishing a national commission for human rights and fundamental freedoms (Commission nationale des droits de l'homme et des libertés fondamentales) was pending before Parliament in December 2012, when the conflict started. The commission has yet to be established.

88. While the Ministry for Human Rights and the Coordination of Humanitarian Action was established in June 2013, it does not have the human and financial resources necessary to be operational.

3. Collection of weapons and cantonment of armed persons

89. On 1 July 2013, the transitional Government, with the support of MICOPAX, launched the disarmament and cantonment of Séléka soldiers with a view to re-establishing security and public order in the country. While a number of camps in Bangui, including the Béal and Berengoto camps, served for the cantonment of Séléka soldiers, the mission was not given access to the camps and was unable to obtain from the authorities information on the exact number of Séléka soldiers disarmed and cantoned in these camps. In parallel to the cantonment of Séléka soldiers, the transitional Government is proceeding with the so-called "regroupment" of soldiers from the FACA.

90. At present, no screening of Séléka members has been conducted under international guidance to exclude all perpetrators of violations of international human rights law and international humanitarian law, which is a core element of the disarmament, demobilization and reintegration process and security sector reform, to ensure that the security and defence forces of the transitional authority are credible and legitimate.¹⁶

VIII. Conclusions and recommendations

A. Conclusions

91. The fact-finding mission was able to collect credible, reliable and corroborated information indicating that both the forces of the former Government and the non-State armed group Séléka committed serious violations of international humanitarian

¹⁶ The establishment of the Armée républicaine de Centrafrique, new Central African army, was announced on 27 July 2013 by the President of the National Transitional Council, after the mission had left the Central African Republic.

law and international human rights law during the conflict, from 10 December 2012 to 23 March 2013, with the majority of violations and abuses committed by Séléka members.

92. The violations committed during the conflict included summary executions and extrajudicial killings, enforced disappearances, attacks on civilians, sexual and gender-based violence, and grave violations against children, which constitute war crimes notably under the Rome Statute, in addition to being gross human rights violations. Other serious violations of international human rights law included arbitrary arrests and detention, retaliation and intimidation measures against all those identified or considered supporters of the opposition, and widespread looting of property, including hospitals, schools and places of worship.

93. Following its seizure of power on 24 March 2013, the Séléka assumed civil and military responsibilities. Gross violations of international human rights law committed by the Séléka have continued unabated and engage the responsibility of the State.

B. Recommendations

94. On the basis of the above conclusions, the High Commissioner makes the recommendations below.

1. Transitional Government

95. The High Commissioner recommends that the transitional Government:

(a) Take urgent measures to restore security, democratic governance and constitutional order throughout the country, including by ensuring the functioning of effective and accountable security and judicial institutions, in full compliance with international human rights norms;

(b) Facilitate humanitarian access to all people and ensure that human rights actors are able to monitor, investigate and report on human rights violations without fear of reprisal, with a view to allowing effective, adequate and timely responses;

(c) Ensure the separation and reintegration of children associated with the Séléka in coordination with the United Nations-led task force on the Monitoring and Reporting Mechanism on grave violations committed against children, and give unimpeded access to military barracks for screening purposes;

(d) Ensure the screening and vetting of FACA and Séléka members, under international guidance, throughout the disarmament, demobilization and reintegration process, to exclude perpetrators of violations of international human rights and humanitarian law in the national security and defence forces;

(e) Restore and strengthen the justice system to protect human rights and fight impunity by ensuring that exhaustive, impartial and transparent investigations into all abuses and violations of both domestic and international law committed by any group or individuals, including Séléka soldiers, are conducted with full respect for judicial guarantees, and that perpetrators of human rights violations are brought to justice;

(f) Strengthen the Ministry for Human Rights and the Coordination of Humanitarian Action, accelerate the creation of a national commission for human rights and fundamental freedoms, and ensure that it has the capacity to be fully operational;

(g) Review and strengthen the mandate and functioning of the Joint National Commission of Inquiry to ensure that it is independent and impartial;

(h) Adopt legal reforms to combat sexual and gender-based violence by introducing new criminal offences and increased penalties, and expand the scope of protection of and support for victims of sexual and gender-based violence;

(i) Ratify all pending international human rights treaties, in particular the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto, and the International Convention for the Protection of All Persons from Enforced Disappearance;

(j) Implement all recommendations of international human rights mechanisms, including the Human Rights Council and treaty-based bodies, and facilitate visits of human rights special procedures mandate holders;

(k) Ensure free, full and unrestricted access to all places of detention, including military camps, to humanitarian and human rights organizations, and release, unconditionally and immediately, all those who are being arbitrarily detained;

(l) Organize free, fair, credible and transparent presidential and legislative elections following an inclusive and transparent consultation process, without any discrimination based on ethnicity, religion or political affiliation; and enhance the participation of women in the electoral process and at the decision-making level;

(m) Support initiatives fostering the peaceful coexistence of communities, such as the platform for dialogue established by Christian and Muslim religious leaders.

2. International community

95. The High Commissioner recommends that the international community:

(a) Ensure broad support to restore and maintain stability in the Central African Republic by means of coordinated actions to strengthen security, good governance, the protection of human rights and national reconciliation;

(b) Ensure that any peace support mission deployed in the Central African Republic has a strong mandate to protect civilians and to restore security and public order;

(c) Strengthen the mandate of the United Nations Integrated Office in the Central African Republic, provide adequate financial and human resources to ensure that it has the capacity to monitor, investigate and report on human rights violations, and provide technical support to the national institutions mandated to promote and protect human rights, fight impunity and support national reconciliation;

(d) Mobilize donors to fund emergency relief, protection and development activities, which are interrelated and urgently needed to support the peacebuilding process.

3. Human Rights Council

96. The High Commissioner recommends that the Human Rights Council appoint a special procedure on the situation of human rights in the Central African Republic to ensure accountability for serious crimes, by means of referral to justice, possibly to the International Criminal Court.