

**War crimes in the Central African Republic**  
**When the elephants fight, the grass suffers**

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**REPORT**

**International investigative mission**

**War crimes**  
**in the Central African Republic**

**“When the elephants fight, the grass suffers”**

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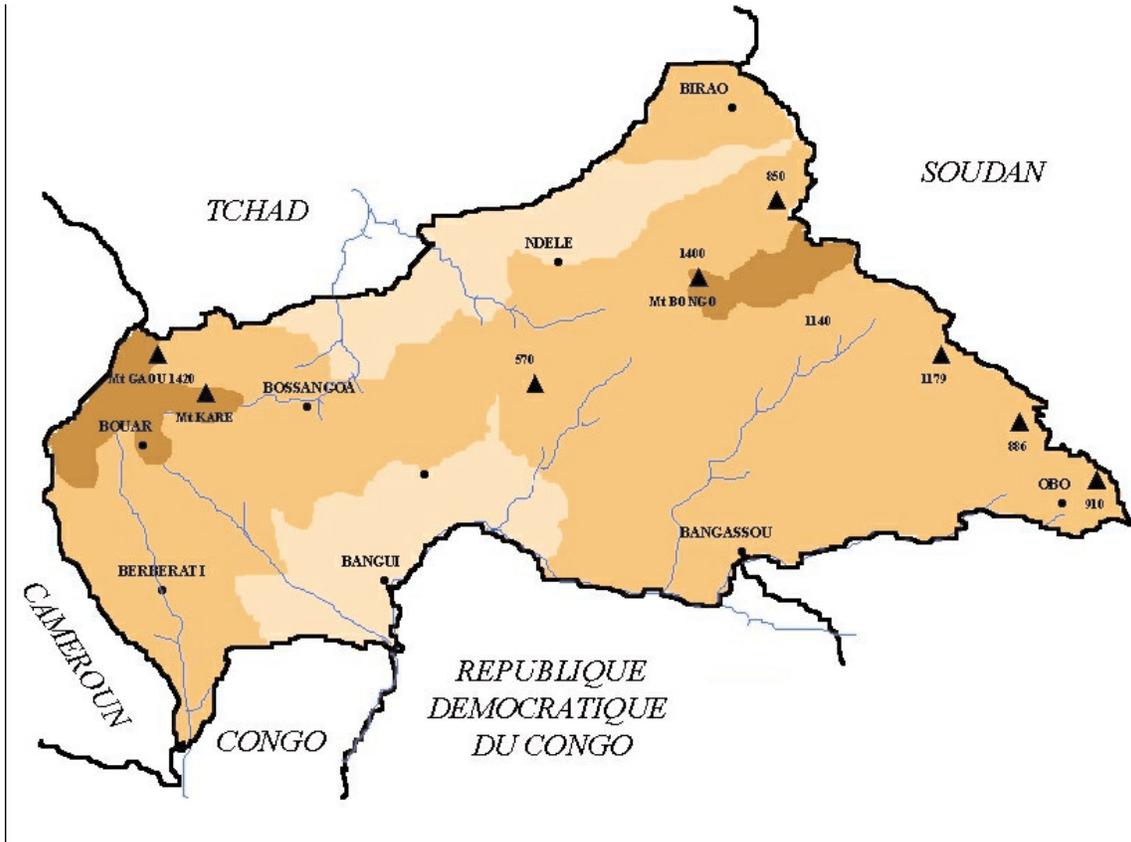
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“I told her again that the government troops were now rebels and the rebel forces were now the government troops. She knew as well as I did that it did not make any difference to us. All the troops said they were fighting for the people, so the people paid the price for those who won the battle and for those who lost. But the people were us.”

Emmanuel Dongala, author of *Johnny chien méchant*  
Edition 'Le Serpent à plumes,' 2002

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**GLOSSARY OF ACRONYMS**

<b>BONUCA</b>	UN Peace-building Support Office in the Central African Republic (known by its French acronym, for <i>Bureau des Nations Unies pour la Centrafrique</i> )
<b>CAR</b>	Central African Republic
<b>CEMAC</b>	Economic Community of Central African States (known by its French acronym, for <i>Communauté Economique et Monétaire de l'Afrique</i> )
<b>CEN-SAD</b>	Community of Sahel-Saharan States
<b>DRC</b>	Democratic Republic of Congo
<b>FACA</b>	Central African Armed Forces (known by its French acronym, for <i>Forces Armées Centrafricaines</i> )
<b>FIDH</b>	International Federation for Human Rights (known by its French acronym, for <i>Fédération Internationale des Ligues des Droits de l'Homme</i> )
<b>ICC</b>	International Criminal Court
<b>LCDH</b>	Central African League for Human Rights (known by its French acronym, for <i>Ligue Centrafricaine des Droits de l'Homme</i> )
<b>MLC</b>	Movement for the Liberation of Congo (known by its French acronym, for <i>Mouvement de Libération du Congo</i> )
<b>MLPC</b>	Movement for the Liberation of the Central African People (known by its French acronym, for <i>Mouvement de Libération du Peuple Centrafricain</i> )
<b>MSF</b>	Doctors Without Borders (known by its French acronym, for <i>Médecins Sans Frontières</i> )
<b>NGO</b>	Non-governmental organization
<b>RFI</b>	Radio France International
<b>UNHCR</b>	United Nations High Commission for Refugees
<b>UNICEF</b>	United Nations Fund for Children
<b>UNDP</b>	United Nations Development Program
<b>USP</b>	Presidential Security Unit (known by its French acronym, for <i>Unité de la Sécurité Présidentielle</i> )
<b>WFP</b>	World Food Program

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## **I – INTRODUCTION**

President Ange-Félix Patassé, who survived two attempted coups on May 28 and November 2, 2001, waited exactly one month before addressing the nation after the third coup attempt in less than seventeen months: “Yes! Dear compatriots, at about 14:30 on 25 October, 2002, scores of mercenaries from the Republic of Chad, having traveled more than 600 kms, attacked Bangui, the capital of our large and beautiful country, and killed innocent civilians. Their main objective was to assassinate me and take over the powers of the State.” President Patassé continued in Sango, the local Central African language, stating that Idriss Déby, the President of Chad, wanted to become the President of the Central African Republic (CAR).<sup>1</sup>

The democratically elected president had been weakened militarily by the previous attempted coups. When former President Kolingba fled in early June 2001, he took a number of troops of the Armed Forces of Central Africa (known by its French acronym FACA, for *Forces Armées Centrafricaines*) with him. Patassé’s dismissal of his Chief of Staff, François Bozizé, on 26 October 2001, also cost the president several hundred soldiers.

President Patassé remained cloistered in his bunker in Bangui protected by a small number of well-armed Libyans. The attempted coup by his former Chief of Staff, François Bozizé, highlighted that this level of protection was inadequate. Following the military offensive on October 25, 2002, Patassé told his citizens: “I said no and immediately asked my son, Bemba, to send his men to help our soldiers. That is why they came. I know that certain things happened. I said OK! I will establish a commission of inquiry to investigate what happened.”<sup>2</sup>

Ange-Félix Patassé, who was aware of the acts committed by Jean-Pierre Bemba, his ally and a presidential candidate in the neighboring Democratic Republic of Congo (DRC), brought in another player, Martin Koumtan Madji alias Abdoulaye Miskine. Miskine was decorated with the commander insignia of the Central African Order of Merit just before his forced departure for Togo as stipulated in the Libreville Accords signed on October 2, 2002, between Chad and the CAR.<sup>3</sup> Miskine is a soldier suspected of having personally summarily executed scores of persons.

Ange-Félix Patassé presides over a potentially rich country but it is plagued by corruption. In addition, Patassé is cut off from his people, and the country’s civil servants have not been paid for over two years. He managed to temporarily remove his former Chief of Staff from Bangui and resorted to paying private armies — from Libya and mercenaries led by a rebel commander from the DRC. The colorful Captain Paul Barril,

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<sup>1</sup> The daily newspaper ‘Le Citoyen’ published the two speeches of President Patassé delivered in French and in Sango on November 25, 2002 (editions 1503 and 1504 of 26 and 27 November, 2002 respectively). See Appendix 2 for these speeches in full.

<sup>2</sup> *Ibid.*

<sup>3</sup> See Appendix 3 for the Libreville Accords signed on October 2, 2002.

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who provided security to a former French Head of State, is responsible for the personal protection of President Patassé and his family.

Given the Central African regional dimensions of Patassé's latest crisis, numerous international interlocutors became involved, including the United Nations Peace-building Support Office in the Central African Republic (known by its French acronym BONUCA, for *Bureau des Nations Unies pour la Centrafrique*) and the good offices of Gabon's Head of State, Bongo, with the aim of smoothing over the misunderstanding between Bangui and N'Djamena. To date, no political solution has been found for the most recent coup attempt.

This latest wave of violence against Central African citizens is undermining the country's fragile foundations of democracy, which the citizens fought hard for. The violence also gave rise to crimes which have yet to be punished.

### **1. Objectives of the FIDH mission**

The International Federation for Human Rights (known by its French acronym FIDH, for *Fédération Internationale des Ligues des Droits de l'Homme*) mission delegates were: Bochra Beladjamida, a Tunisian lawyer; Eric Plouvier, a lawyer from the Paris bar, and Marceau Sivieude who works in the Africa division of FIDH's International Secretariat. The mission conducted research in Bangui from November 25 to December 1, 2002 with the support of the Central African League for Human Rights (known by its French acronym LCDH, for *Ligue Centrafricaine des Droits de l'Homme*), an organization affiliated with FIDH.

The objective of the mission was firstly to identify those responsible for the killing, wounding, looting and rape of hundreds or perhaps even thousands of civilians since the attempted coup on October 25, 2002.

In addition, the mission investigated whether there was any possibility of judicial redress in the CAR, with the aim of informing the International Criminal Court (ICC) of the war crimes detailed below, if it was established that the Central African courts were unable to try the individuals responsible for these crimes. War crimes fall within the ICC's jurisdiction.

During its mission, FIDH met with Central African authorities, representatives of international and non-governmental organizations (NGOs), and medical personnel as well as interviewing scores of victims.<sup>4</sup>

### **2. The jurisdiction of the International Criminal Court**

The CAR ratified the Statute of the ICC (Rome Statute) on October 3, 2001.<sup>5</sup> According to Article 11 of the Rome Statute, "[t]he Court has jurisdiction only with respect to crimes committed after the entry into force of this Statute." The Statute entered into force

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<sup>4</sup> See Appendix 1 for a list of persons interviewed by FIDH in the CAR.

<sup>5</sup> The Rome Statute at [http://www.icc-cpi.int/library/about/officialjournal/Rome\\_Statute\\_120704-EN.pdf](http://www.icc-cpi.int/library/about/officialjournal/Rome_Statute_120704-EN.pdf).

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on July 1, 2002, after the sixtieth ratification of the Rome Statute as provided for under Article 126.

Under Article 5 of the Rome Statute, “the jurisdiction of the Court shall be limited to the most serious crimes of concern to the international community as a whole,” which “in accordance with this present Statute” are “crimes of genocide, crimes against humanity and war crimes.”<sup>6</sup>

Article 12 of the Rome Statute provides that the Court may exercise its jurisdiction with respect to these crimes if these crimes were committed on the territory of a State Party or these crimes were committed by a national of a State Party.<sup>7</sup>

The Court can therefore exercise its jurisdiction with regards to the crimes enumerated in its Statute committed by individuals in the CAR after July 1, 2002, irrespective of their nationality.

It is important to note that the ICC exercises complementary jurisdiction to national criminal jurisdictions. This means that the Central African judicial authorities have the right and obligation in the first instance to investigate and prosecute the alleged perpetrators of the crimes outlined in this report.

Established to put an end to impunity for the most serious crimes, the ICC has precedence over national jurisdictions under Article 17 of its Statute when the State, “which has jurisdiction over the case” is “unwilling or unable genuinely to carry out the investigation or prosecution.”<sup>8</sup>

This report therefore includes an overview of existing judicial mechanisms in the CAR and makes recommendations with the aim of ensuring that the victims of the crimes committed in the CAR benefit from justice and reparations in the near future.

**Authors’ note:**

The identity of the victims and witnesses interviewed by FIDH has been withheld for their security. The identity of these persons as well as sensitive documents will be provided to the Prosecutor of the ICC, if required.

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<sup>6</sup> Article 5(1) of the Rome Statute.

<sup>7</sup> Article 12(a) and (b) of the Rome Statute.

<sup>8</sup> Article 17(1)(a) of the Rome Statute.

## **II – GENERAL BOZIZÉ’S ATTEMPTED COUP PLUNGES THE CIVILIAN POPULATION INTO A DEADLY CONFLICT**

### **1. The attempted coup by General Bozizé**

On October 25, 2002, rebel forces attacked the northern neighborhoods of the capital, Bangui. Witnesses interviewed by FIDH stated that the rebels gained control of the towns of Kabo, Batangafo and Bogangolo on October 24, 2002. The rebels intended to take over the power of the State by force.

After a bloody fight, the rebels also surrounded the following neighborhoods: Boyrabe; Fou; Combattant; Galabadja 1, 2, 3; Miskine; Malimaka; Gobongo; and the Avenue des Martyrs between PK 4 and PK 12.<sup>9</sup> The rebels reached the main road leading to the residences of the President and of the Prime Minister as well as to the headquarters of the party in power, the Movement for the Liberation of the Central African People (known by the French acronym MLPC, for *Mouvement de Libération du Peuple Centrafricain*). The rebels seemed to have targeted certain people close to those in power. Charles Beninga, President Patassé’s nephew, was killed. Prosper N’Douba, the presidential spokesperson, was taken prisoner.<sup>10</sup> For six days, the capital resounded with heavy gunfire.

#### **a) The Bozizé “affair”**

François Bozizé left Paris for N’Djamena on Saturday evening, October 26, 2002, “to make contact with his supporters,” as he announced the following day on Radio France International (RFI). He explained his involvement in the attempted coup on air: “The coup has been in the making for a long time ... I was forced to lead the operations (...) President Patassé must agree to hold talks with the opposition. If not, we will simply demand that he leave and install a transitional government.”

The former general of the FACA was fired on October 26, 2001, by presidential decree for complicity in the attempted coup against Kolingba in May 2001. This deeply humiliated Bozizé, who refused to comply with the arrest warrant shown to him on November 3, 2001, and put up armed resistance after he had withdrawn to PK 11. Taking advantage of the mediation efforts of General Cissé, the Representative of the United Nations Secretary-General in the CAR, the loyal government forces with the support of the Libyans launched an offensive against Bozizé and his troops. Bozizé and about one hundred of his men withdrew to the town of Sarh in southern Chad.

From his base in Sahr, Bozizé formed an army of about 300 troops by recruiting additional men. His troops consisted predominantly of Central African soldiers who had deserted the regular army with him or former President Kolingba as well as Chadians (the presidency claims to have proof of Chadian involvement based on identity cards retrieved

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<sup>9</sup> See Appendix 4 for a map of Bangui.

<sup>10</sup> He was brought back to Bangui on December 2, 2002 by Peter Fluege, the head of the International Committee of the Red Cross Central African delegation.

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from dead combatants).<sup>11</sup> It has not yet been proven that members of the Republic of Chad's armed forces were involved with the putschists.<sup>12</sup> But this allegation serves Patassé's crumbling regime, as it tries to maneuver its way out of an internal crisis by using Chad as a scapegoat for all its ills.

**b) Mediation attempts**

Attempts by Libya and Gabon to pressurize President Patassé to grant amnesty to "the May 2001 putschists" as a step towards durable peace in the CAR were unsuccessful. The summits held in Khartoum (December 2-3, 2001) and in Libreville (December 4-5, 2001) failed to change the position of the Head of State. Chad refused to comply with the CAR's request to arrest and extradite General Bozizé and his men based on the right to political asylum. Tension between the two states increased, and they accused each other of troop movement along their respective borders.

Finally Libya, relying on its privileged relationship with Chad, assured the CAR that it would maintain its military presence in Bangui to protect the regime. About 100 men with heavy weaponry guarded the presidential residence. Libya's commitments induced President Patassé to change his mind and he finally agreed to the compromises that had been put to him, resulting in the Public Prosecutor of the Court of Appeal in Bangui declaring that the proceedings against General Bozizé were "inopportune." In addition, the individuals arrested during the clashes in November 2001 were released. But Patassé, in the hope that General Bozizé would return, reserved the right to prosecute him, "if he makes another mistake." The General was naturally concerned about this discretionary right and only agreed to return to the CAR if the Libyan troops left but Patassé refused this request.

**c) Confrontations on the Chad-Central African border in August 2002**

During the night of August 5-6, 2002, there were more armed confrontations on the border between Chad and the CAR. One attack was orchestrated by the troops of Abdoulaye Miskine, providing back-up to the CAR army and under orders by President Patassé to secure the border with Chad. The fighting spilled over into Chad near the town of Sido, causing the death of numerous persons. In retaliation, the regular Chadian army crossed 15 km into CAR territory. General Bozizé and his men profited from this breach and occupied this zone after the soldiers of the Chadian President Idriss Déby had retreated.

It was from this strategic position that Bozizé's men prepared to stage a coup against the regime in Bangui in October 2002.

On November 2, 2002, the Heads of States of Central Africa proposed a road map to resolve the crisis between Bangui and N'Djamena during their summit in Libreville.<sup>13</sup>

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<sup>11</sup> See Appendix 5 for the identification documents of two of Bozizé's combatants retrieved by the Central African authorities, which were given to FIDH by Mr. Bindoumi, the Public Prosecutor of Bangui's Court of Appeal.

<sup>12</sup> See Appendix 6 for the BONUCA report which discusses these allegations.

<sup>13</sup> See Appendix 3 for the Libreville Accords signed on October 2, 2002.

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This accord called for the unconditional departure of General Bozizé from Chad to Paris – Bozizé went to Paris – while the unconditional departure of Abdoulaye Miskine to Togo was not to occur “until practical arrangements had been made” by Bangui. This differential treatment stung Bozizé’s men.

**d) October 25-30, 2002: 6 days of violent combat in the capital**

The six days of fighting in the capital were bloody. On Sunday, October 27, 2002, about 1500 loyal FACA troops launched a robust counter-attack to dislodge the 600-strong rebel forces from the northern neighborhoods of the capital. The loyal troops were reinforced by about 100 Libyan soldiers, approximately 500 of Miskine’s fighters as well as around 1000 of Jean-Pierre Bemba’s Congolese mercenaries brought in by President Patassé.<sup>14</sup> The rebel positions came under intense shelling from the Libyans’ heavy weapons fired from their base in the presidential residence. Two Libyan planes, which were apparently piloted by Central Africans, flew over the city and indiscriminately bombed the neighborhoods of Gobongo, Boyrabe, Combattants and Cité Jean 23 from high altitude. These neighborhoods are all located to the north of the Friendship Hospital.

After a break of 24 hours, the fighting started up again on Wednesday, October 30, 2002. The arrival of about 500 of Bemba’s mercenaries who crossed over the Oubangui River and the artillery fire of the Libyan soldiers forced the rebels to retreat. The Presidential Security Unit (known by its French acronym USP, for *Unité de la Sécurité Présidentielle*) and Bemba’s “Congolese” took control of Bangui’s northern neighborhoods, as General Bozizé’s rebels withdrew.

**e) The encirclement strategy**

The victory of the loyal troops, however, was only partial. The rebels formed a front at Damara, 70 kilometers from the capital on the highway heading north, which threatened the capital. By November 26, 2002, Bozizé’s troops had formed a front running east to west from the towns of Botembele – Damara – Sibut – Bambari to Bangossou.<sup>15</sup> Their objective was to encircle Bangui to cut it off from food supplies: Bozizé’s men were able to encircle the town thanks to numerous cars they had stolen from civilians during the fighting. The roads leading to Chad and Sudan were already cut off. The Bouar road leading to Cameroon became the battle zone between the rebels and the loyal forces, in particular the “Congolese.” In early December, Patassé’s troops took back the town of Bossembélé but the fighting continued in the north of the country.

The encirclement strategy paid off: prices in Bangui increased by 20 to 30 percent. The World Food Program (WFP) had to bring in 800 tons of food supplies to prevent a serious food shortage. The lack of fuel also started to affect the loyal troops. Only the DRC, particularly its airport in Zongo, saved Bangui from being completely cut off.

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<sup>14</sup> Central Africans calls the mercenaries from the DRC Banyamulengues.

<sup>15</sup> See page 2 for a map of the CAR.

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**f) Political intervention**

On Friday, November 22, 2002, the deputies of the Central African National Assembly rejected by 54 to 22 votes a motion by the opposition coalition demanding that President Patassé appear before the Supreme Court to respond to charges of “treason and abuse of office” in connection with the attempted coup of October 25.<sup>16</sup> The parliamentary opposition group of the PUN/Civic Forum accused the Head of State of having violated the Constitution by failing to consult with the presidents of the National Assembly and of the Constitutional Court before ordering the military counter-offensive and bringing in paid foreign troops (i.e. Jean-Pierre Bemba’s troops) to support the FACA.

On the same day, the National Assembly passed a resolution condemning General Bozizé’s attempted coup and calling for a national dialogue in an effort to reconcile the Central African population.<sup>17</sup> The resolution also called for the installation of a “crisis government” as well as the intervention of international donors to help the CAR. The resolution authorized the Prime Minister, Martin Ziguélé, to head an inter-ministerial commission of inquiry into the damages caused by the attempted coup. Furthermore, the resolution condemned Chad for having allegedly supported General Bozizé’s attack and requested that France prevent Central African politicians in France from organizing any actions that could destabilize the current regime.

**2. Legal classification of the conflict**

It is necessary to legally define the nature of confrontations that took place in the CAR since October 25, 2002, before turning to the question of alleged perpetrators and the classification of the crimes committed, including the killing, wounding, pillaging and raping of hundreds of thousands of civilians.

**a) Armed conflict**

The combat that followed the attempted coup on October 25, 2002, and the confrontations in the north of the country between the loyal forces and Bozizé’s rebels, can be characterized as an armed conflict.

The Appeals Chamber of the International Criminal Court for the former Yugoslavia (ICTY) ruled in the *Tadic* judgement on the issue of jurisdiction that:

an armed conflict exists whenever there is [...] protracted armed violence between governmental authorities and organized armed groups or between such groups within a State. International humanitarian law applies from the initiation of such armed conflicts and extends beyond the cessation of hostilities until [...], in the case of internal armed conflicts, until a peace settlement is reached.<sup>18</sup>

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<sup>16</sup> See Appendix 7 for the motion put forward by the opposition, which was reproduced in the daily private newspaper ‘Le Citoyen.’

<sup>17</sup> See Appendix 8 for the National Assembly’s Resolution on the crisis situation following the attempted coup and aggression of October 25, 2002.

<sup>18</sup> *The Prosecutor v. Dusko Tadic a/k/a ‘Dule’* (IT-94-1-AR72), Appeals Chamber Decision on the defence motion for interlocutory appeal on jurisdiction, October 2, 1995, para. 70 at <http://www.un.org/icty/tadic/appeal/decision-e/51002.htm>

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The aforementioned constituent elements serve to distinguish genuine armed conflicts from mere acts of banditry or unorganized and short-lived insurrections.

The term ‘armed conflict’ in itself suggests the existence of hostilities between armed forces organized to a greater or lesser extent,” but is not applicable to internal disturbances and tensions.<sup>19</sup>

For a finding to be made on the existence of an armed conflict:

the armed forces opposing the government must be under responsible command, which entails a degree of organization within the armed group or dissident armed forces. This degree of organization should be such so as to enable the armed group or dissident forces to plan and carry out concerted military operations, and to impose discipline in the name of a *de facto* authority. Further, the armed forces must be able to dominate a sufficiently large enough part of the territory so as to maintain sustained and concerted military operations.... The territory in their control is usually that which eluded the control of the government forces.<sup>20</sup>

In light of the international criminal jurisprudence from the two *ad hoc* international criminal tribunals, the attempted coup on October 25 and the subsequent clashes clearly fall within the definition of an armed conflict. They went beyond an unorganized insurrection: there were clashes between the government armed forces supported by foreign mercenaries and an organized armed dissident group under the command of General Bozizé. The latter dominated a sufficiently large enough part of the territory to conduct continuous military operations, which were sustained and concerted. The two parties therefore were obliged to adhere to the 1949 Geneva Conventions and their 1977 Protocol II.<sup>21</sup>

The duty to abide by these obligations applies from the onset of the armed conflict and remains in force beyond the cessation of the hostilities until a settlement has been achieved:

Until that moment, international humanitarian law continues to apply ... in the whole of the territory under the control of a party whether or not actual combat takes place there.<sup>22</sup>

**b) The nature of the armed conflict**

It is difficult to classify the nature of the ongoing conflict in the CAR according to international law principles.

The ICTY stated in its *Tadic* judgement that “... an internal armed conflict, breaking out on the territory of a State,” which is therefore *prima facie* internal, “... may become

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<sup>19</sup> *The Prosecutor v. Jean Paul Akayesu* (ICTR-96-4-T), Judgement, September 2, 1998, para. 620 at <http://65.18.216.88/default.htm>.

<sup>20</sup> *Ibid*, para. 626.

<sup>21</sup> The CAR ratified the Geneva Conventions on August 1, 1966 and their two Additional Protocols on July 17, 1984.

<sup>22</sup> *The Prosecutor v. Dusko Tadic a/k/a 'Dule,'* para. 70.

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international ... if another State intervenes through its troops, or alternatively, ... if some of the participants in the internal armed conflict act on behalf of that other State.”<sup>23</sup> The intervention of a foreign State can be factually proven but the analysis of the second scenario is more complex. It requires examining the legal criteria that determine when “armed forces may be regarded as acting on behalf of a foreign power,” thereby rendering an international character to a *prima facie* internal armed conflict.<sup>24</sup>

The *Akayesu* judgement underscores that:

[i]t should be stressed that the ascertainment of the intensity of a non-international conflict does not depend on the subjective judgment of the parties to the conflict. It should be recalled that the four Geneva Conventions, as well as the two Protocols, were adopted primarily to protect the victims, as well as potential victims, of armed conflicts. If the application of international humanitarian law depended solely on the discretionary judgment of the parties to the conflict, in most cases there would be the tendency for the conflict to be minimized by the parties thereto. Thus, on the basis of objective criteria, both Common Article 3 and Additional Protocol II will apply once it has been established there exists an internal armed conflict which fulfills their respective pre-determined criteria.<sup>25</sup>

The introductory paragraph to the constituent elements of war crimes adopted by the Assembly of State Parties to the Rome Statute in September 2002 stipulates that:

there is no requirement for a legal evaluation by the perpetrator [of war crimes] as to the existence of an armed conflict or its character as international or non-international.<sup>26</sup>

The issue of Chad’s direct involvement in the conflict

On Thursday, November 21, the Central African Minister of Foreign Affairs, Agba Otikpo Mézodé, informed the ambassadors in Bangui that the Prime Minister, Martin Ziguélé, had written to the Secretary-General of the United Nations requesting that he refer the matter of the attempted coup to the Security Council. The issue of Chad’s involvement in the coup on October 25 as perceived by the Central African government was mentioned in the letter with the request that “the international community insists that Chad withdraws its horde of killers and looters.” The letter further stated that “the Chadian troops have remained on Central African territory” until this day. In his long-winded speech delivered in Sango, President Patassé himself put the following question to his people: “Why did Déby ask his soldiers to kill Christians? Why? Why? Why?”<sup>27</sup>

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<sup>23</sup> *The Prosecutor v. Dusko Tadic a/k/a ‘Dule’* (IT-94-1-AR72), Appeals Chamber, Judgement, 15 July 1999, para. 84 at <http://www.un.org/icty/tadic/trialc2/judgement/tad-ts70507JT2-e.pdf>.

<sup>24</sup> *Ibid*, para. 90.

<sup>25</sup> *The Prosecutor v. Jean Paul Akayesu*, para. 603. See Article 1 (Material field of application) of Additional Protocol II and International Committee of the Red Cross Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949, para. 4438.

<sup>26</sup> See the Official Records of the Assembly of State Parties to the Rome Statute of the International Criminal Court at [http://www.un.org/law/icc/asp/1stsession/report/english/part\\_ii\\_b\\_e.pdf](http://www.un.org/law/icc/asp/1stsession/report/english/part_ii_b_e.pdf).

<sup>27</sup> See Appendix 2 for President Patassé’s speeches reprinted in ‘Le Citoyen.’

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The Central African government will show the identity cards retrieved from the combat zones or from the bodies of rebels killed in the capital to attest to the Chadian nationality of the combatants to anyone who wants to view them.<sup>28</sup> Some of these documents also prove the presence of members of the Chadian army. Although these documents have not been verified, it is impossible to deny that some rebels are Chadian. Bozizé's presence in southern Chad also raises the possibility that he recruited men there who were willing to fight in the CAR.

Did the Chadian government finance the rebels or supply weapons? To date, no proof has been found to substantiate this support. Bozizé apparently acquired a considerable amount of money while he was serving in the FACA as a result of his corrupt practices. Some sources maintain that the Yakoma diaspora (the ethnic group of former President Kolingba who staged the May 2001 coup attempt) helped to finance the rebels. It is clear that Chad, beleaguered by Libyan elements on its northern borders, wanted to protect its southern flank, which is rich in natural resources. It did so by neutralizing Miskine's troops, as evidenced by the attacks of Chad's regular troops in the CAR in August 2002. Chad's direct involvement in the current conflict, however, has not been proven, notwithstanding the alleged presence of members of the Chadian regular army fighting with the rebels.

The issue of Chad's indirect involvement in the conflict

The indirect involvement of Chad in the conflict in the CAR, which would impact the legal classification of the conflict, is also difficult to prove. The *Tadic* judgement concludes that the necessary degree of involvement of other States varies:

Where the question at issue is whether a *single* private individual or a *group that is not militarily organized* has acted as a *de facto* State organ when performing a specific act, it is necessary to ascertain whether specific instructions concerning the commission of that particular act had been issued by that State to the individual or group in question; alternatively, it must be established whether the unlawful act had been publicly endorsed or approved *ex post facto* by the State at issue.... Acts performed by the group or members thereof may be regarded as acts of *de facto* State organs regardless of any specific instructions by the controlling State concerning the commission of each of those acts.<sup>29</sup>

These criteria do not seem relevant in the present case.

The Central African government wants this conflict to be defined an international one in order to garner the support of the international community, including the intervention of an international peace-keeping force.

But their desire to have the conflict classified as an international conflict has at times been taken too far. When FIDH was in the CAR, an official announcement was made

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<sup>28</sup> See Appendix 5 for the identity documents of two of Bozizé's combatants retrieved by the Central African authorities.

<sup>29</sup> *The Prosecutor v. Dusko Tadic a/k/a 'Dule,'* para. 137.

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concerning French mercenaries fighting with the rebels. Their alleged presence was premised on the discovery of a French identity card found in Bossembélé after this town had been taken back by the loyal forces. The day after the loyal forces had taken back the town, a French development worker announced on national Central African radio that the French identity card was his, but that it had been stolen a few weeks earlier by the Banyamulengues when they broke into his house. This was confirmed by his police statement made at the Central Police station in Bangui the day after his card was stolen.

Chad denies having any involvement in the conflict. Instead it accuses the loyal Central African troops of having killed several Chadian nationals north of Bangui, shortly after the fighting ended in the Central African capital.

Although there is no proof regarding the direct or indirect involvement of Chad or other States in the conflict in the CAR, foreign forces were clearly present in the CAR.

In addition to the Chadians allegedly fighting with the rebels, the loyal forces were supported by the Congolese “Banyamulengues,” the Libyans, the Chadians under Abdoulaye Miskine’s command and Captain Barril’s bodyguards who protected President Patassé.

Notwithstanding the numerous nationalities involved in the military confrontations, the nature of the conflict seems to be of a non-international character.

### **3. Civilians hit hard by the fighting**

During the armed conflict, the medical units in Bangui were much in demand. It proved, however, difficult to treat civilians, as the Central African Red Cross was not able to establish any protected or neutralized zones. The authorities in Bangui were not able to precisely define the areas of combat and maintained that there was no one on the enemy side with whom they could negotiate the protection of emergency services. Four public institutions provided medical treatment: the Community Hospital, particularly its emergency department; the Friendship Hospital; the pediatric ward; and the Castor Center, which has an operating theatre.

After the fighting started on October 25, the Friendship Hospital registered 56 wounded. Eleven of these patients required major surgery (removal of bullets, amputation) while the other patients required less serious medical interventions. Two persons died shortly after being admitted and 12 corpses were taken directly to the hospital’s morgue.<sup>30</sup> The hospital director told FIDH that after October 30, patients mainly came from PK 13. This indicates that they were most likely victims of Jean-Pierre Bemba’s mercenaries who occupied this zone after Bozizé’s rebels had retreated.

FIDH also interviewed wounded civilians in the Community Hospital whose injuries were such that they were still hospitalized one month after they had been wounded. The Community Hospital is located near the main combat zone of the October 25 attempted coup.

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<sup>30</sup> Dr. Ngaerio, the Director of the Friendship Hospital, provided FIDH with this information.

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The first injured were admitted on October 25 and were predominantly civilians. Only 10 soldiers (5 “Congolese,” one USP soldier and 4 FACA soldiers) were on the list of 98 injured compiled by the military administration of this hospital.<sup>31</sup> Most of the injured were brought in on rickshaws. According to the directors of the Central African Red Cross, they were not able to provide any transport, although they were willing to do so, because their only ambulance had been stolen during the attempted coup in May 2001. The hospital administration noted that many victims came from the zone located between PK 12 and PK 22, which was occupied by Bemba’s mercenaries.

Of the 98 persons registered by the Community Hospital, 5 died because of their wounds. Six were not admitted, as they died before reaching the hospital.

The following list includes 23 women and 9 children aged between 3 and 14 years old:

- 14 years old. Sango neighborhood. Serious bullet wound in thigh.
- 11 years old. Cité Jean 23. Serious bullet wound in left thorax.
- 13 years old. Gbakondja neighborhood. Serious bullet wound in the stomach with evisceration.
- 3 years old (female). Ngou-Ciment neighborhood. Serious bullet wound in left knee.
- 14 years old. Miskine neighborhood. Serious shrapnel wound in pubis and thighs.
- 11 years old. Gasatala neighborhood. Serious bullet wound that penetrated his left side.
- 3 years old. Ouallingba neighborhood. Serious shrapnel wound in left thigh.
- 9 years old (female). Fou neighborhood. Minor bullet wound in left leg.
- 8 years old. Fou neighborhood. Minor shrapnel wound in left buttock.

The other wounded were males aged over 16 years old.

**a) Testimonies collected by FIDH**

FIDH interviewed several wounded civilians in the Community Hospital on November 26 and 28, 2002, who talked about the violence inflicted on the residents of Bangui during the attempted coup.

A is a 23-year old college student studying accounting. He lives in Boyrabe and when asked what his ethnic group is, declares himself to be a Muslim. During the morning of October 28, he was at home with his family in their house located in the Miskine neighborhood. At 11:00 he left his house and as he went to shut the gate he felt an intense pain in his right leg. On his hospital bed, he shows us the sharp-edged pieces of shrapnel measuring about 30 cm in length and 10 cm in diameter, which he took from his backpack. He found these pieces next to his foot which had been blown to pieces and had carefully saved them. He lost his foot. He states:

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<sup>31</sup> Witnesses MP and VP provided FIDH with this information.

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I think that the shell was fired from the presidential sector but I do not know who fired it. On October 28, they tried to take me to the Friendship Hospital but the aerial bombing prevented us from going. I was finally taken to this hospital on a rickshaw at 15:00 where they amputated my foot. I am still here because the wound became infected and they had to amputate me again just above my knee. People say that the Libyans fired the shell but I have no proof.

GD is 22 years old and is studying jewelry-making. He is a Zandé and lives in the Moustapha neighborhood of Bangui:

I was hungry at around 14:00 on October 29 so I went to my parents' house in Yaci Mendi to eat. When I arrived, the meal was not ready so I told them that I will come back at around 18:00. We heard shots. People were fleeing. I was relieving myself outside when I suddenly noticed blood running down my right calf and my back hurt. Friends took me to my place on a rickshaw. I did not have any money to pay for medical treatment so I stayed home for two weeks. Then I learnt that MSF was treating people for free so I went to the Castor Center, where they x-rayed me. They found 4 pieces of shrapnel in my calf, which is why I was transferred here so that they could operate on me. All I know about those who wounded me are that there were Banyamulengues in my neighborhood on October 29.

AGS is an 11-year old schoolboy. He lives in Cité Jean 23 located in Boyrabe. "I was wounded on my way home on October 25." A nurse's aid sits him upright to show us his back. He says that he was hit by a projectile in his thorax at lung-level. The projectile has not been removed because such a difficult operation cannot be performed in the CAR. His injury had paralyzed his legs. He has not been treated for thirty-two days and is waiting to be evacuated to a French or South African hospital. The local NGOs, although attentive to his plight, cannot do anything for him.

JG is only 3 years old. His brother, SM, who is at his side, explains to us that they were in their house located in Walinba on October 26 when a shell exploded. The shell killed his other brother, 2-year old W, instantaneously. His aunt Félicité was wounded in her arm by shrapnel. X-rays show that small pieces of shrapnel penetrated JG's left tibia and femur as well as his abdomen.

BM is 5 years old. On October 26, she was hit by a bullet in her feet, causing her to break her femur.

MB is 40 years old and a guard at the main office of the Central Security Company. He lives in Gbakoundja. He was sitting in front of his house at the end of the morning of October 26. A shell, which had been fired from the offices of the Economic Community of Central African States (known by its French acronym CEMAC, for *Communauté Économique et Monétaire de l'Afrique Centrale*), fell about 5 meters from him. His left leg was torn off and his right leg was hit by shrapnel. His younger brother, 37-year old K, is hospitalized in the same room. He was also hit by shrapnel. He has wounds on his left leg, which was also broken. His 27-year-old cousin, SZ, sustained head injuries, as did a girl, who died in the hospital. "I do not know if the shell was fired from the ground or from a plane. There were no combatants in my neighborhood."

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**b) Civilians suffered both during and after the attempted coup**

NGOs on the ground resumed operations after October 30. They treated several hundred wounded whose injuries not only reveal the intensity of the fighting but also the type of weapons used and the alleged perpetrators.

One of these NGOs calculated that of the 400 persons it treated, 40 percent had bullet wounds, and 13 percent had shrapnel wounds. Seven percent presented with knife wounds, mainly caused by bayonets. Other persons had injuries caused by physical violence, such as beatings. The dates on which the injuries were sustained indicate the most intense days of combat and more importantly the identity of the combatants responsible for these injuries. Thirty percent of the 400 patients treated were wounded before General Bozizé's troops withdrew from Bangui, while the remaining 70 percent were injured after their retreat or during the period when Bangui was under the control of "Congolese" mercenaries commanded by Jean-Pierre Bemba.

**c) Displacement and targeted persecution of civilians**

In addition to the large number of civilians killed and injured, civilians were displaced during and after Bangui was attacked by Bozizé's troops following his attempted coup. The residents of Bangui fled towards the countryside in the north. The United Nations High Commissioner for Refugees (UNHCR) estimates that about 20,000 civilians were displaced. In late November, entire families, except the heads of households, had chosen to stay in the bush, as they felt that Bangui was still insecure.

Following the attempted coup in May 28, 2001, Yakomas were persecuted.<sup>32</sup> The conflict in October 2002 led to similar persecutions against Congolese living in the CAR, as they were associated with Bemba's mercenaries.<sup>33</sup> Ten thousand of the 60,000 Congolese estimated to be living in Bangui have refugee status. When Central African civilians started beating and otherwise physically harming Congolese civilians, UNHCR repatriated Congolese to the Congo. On November 4 and 9, 400 and 1,177 Congolese respectively were repatriated. On November 26, 2002, 600 Congolese who had sought refuge at the Embassy of Congo were waiting to cross the Oubangui River, the border between the two countries.

The Ambassador of Chad in the CAR explained to FIDH that Chadian nationals had been threatened and discriminated against by the Banyamulengues since the attempted coup. On November 26, 2002, 167 women accused of being associated with Bozizé's Chadian fighters sought refuge at the Embassy at the request of their husbands.<sup>34</sup> The Ambassador explained to FIDH that, after consultation with NGOs based in Bangui, the WFP and BONUCA, he asked his fellow Chadians to leave PK 12 and seek refuge in PK 5 where they could be accommodated by a large community of Chadians. PK 12 was controlled by the Banyamulengues and Abdoulaye Miskine's men.

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<sup>32</sup> Yakomas are from the same ethnic group as that of the putschist, the former President Kolingba.

<sup>33</sup> See Appendix 9 for the newspaper article published by the daily 'Le Citoyen.'

<sup>34</sup> See Appendix 10 for a document entitled "Census of Chadian nationals living in the PK 12 zone" given to FIDH by the Ambassador of Chad in the CAR.

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**4. Legal qualification of the facts: application of Article 8 of the Rome Statute**

Having concluded that the conflict following Bozizé's attempted coup of October 25 can be defined as an internal armed conflict, the testimonies collected by FIDH support the finding that war crimes were committed against the civilian population.

War crimes are defined under Article 8 of the Rome Statute. Article 8(2)(c) and (e) of the Rome Statute define the existence of war crimes when the conduct takes place "in the context of and [is] associated with an armed conflict not of an international character" and against persons taking no active part in the hostilities.<sup>35</sup>

In light of the testimonies collected by FIDH, acts prohibited under Article 8 of the Rome Statute, Article 3 common to the Geneva Conventions and other law and customs applicable to internal conflicts, such as killing and violence to life and person, were committed during the fighting in the capital. These acts were perpetrated by both the loyal forces and Bozizé's troops against persons taking no active part in the hostilities between October 25 and 31, 2002.

Although Article 8(1) of the Rome Statute does not require a finding that war crimes were committed on a large scale, FIDH's statistical analysis reveals the scope of the crimes committed.<sup>36</sup>

The war crimes committed during the fighting in the capital do not appear to have been committed based on a deliberate decision by the parties to attack the civilian population. However, the negligence of the combatants as well as the military tactics used (indiscriminate bombing) raises questions about the responsibility of all the armed forces involved in the conflict. The issue of responsibility is also relevant with respect to the situation in the north of the country, where the ongoing fighting between the two sides seems to be as lethal for the civilian population.<sup>37</sup>

The testimonies and documents collected by FIDH establish the individual criminal responsibility of some of the most highly placed players, namely Jean-Pierre Bemba, Abdoulaye Miskine and Ange-Félix Patassé.

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<sup>35</sup> Knut Dörman with contributions by Louise Doswald-Beck and Robert Kolb, *Elements of War Crimes under the Rome Statute of the International Criminal Court: Sources and Commentary* (Cambridge, Cambridge University Press, 2003), p. 383.

<sup>36</sup> Article 8(1) of the Rome Statute provides that: "The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes," at [http://www.icc-cpi.int/library/about/officialjournal/Rome\\_Statute\\_120704-EN.pdf](http://www.icc-cpi.int/library/about/officialjournal/Rome_Statute_120704-EN.pdf).

<sup>37</sup> See Appendix 6 for the BONUS report.

### **III – RAPE, PILLAGE AND KILLINGS COMMITTED BY THE “BANYAMULENGUES”/INTERNATIONAL CRIMINAL RESPONSIBILITY OF JEAN-PIERRE BEMBA FOR WAR CRIMES**

#### **1. The Banyamulengues under Jean-Pierre Bemba’s command**

Jean-Pierre Bemba is the national president of the Movement for the Liberation of Congo (known by its French acronym MLC, for *Mouvement de Libération du Congo*) and at one point was considered to be the main candidate for the post of Prime Minister of the DRC. He is also a signatory to the Lusaka Accords and for several years has been associated with the military of the CAR.

Jean-Pierre Bemba played a contradictory role during the attempted coup in May 2001, because although his men supported the government against the rebels, he helped the main instigator of the coup, the former Central African President André Kolingba, flee.

The territory of Central Africa is of economic importance to the “Big Man of the equator.” The natural resources of Congo (diamonds, wood, copper, etc.) are exported through Bangui.

Patassé needs to maintain the good relationship he has with Bemba not only to ensure a stable zone in southern CAR, where any military unrest could be fatal to him, but also to encourage the free movement of people and goods in the zone controlled by the MLC.

The day after Bozizé’s attempted coup, President Patassé, who did not trust the regular FACA troops, made a deal with Jean-Pierre Bemba. The latter was to provide him with Banyamulengues troops or mercenaries (child soldiers, women, men of Congolese origin and apparently also Rwandans and Ugandans) in exchange for a reported 5 billion FCFA, possibly payable in diamonds.

The local population identified the Banyamulengues by their foot wear (sneakers or rubber boots), their language (Lingala), their combat uniforms and Kalashnikovs. The local population was quick to transpose their hatred and fear of the Banyamulengues to Congolese living in the CAR. The worst crimes (killing, rape and looting) were allegedly committed by the Banyamulengues after they had crossed the Oubangui River on October 28.

Some sources maintain that members of the USP and of the regular FACA supported Bemba’s troops. The Banyamulengues first gained notoriety in the capital for humiliating high-ranking officials and their family members (the Deputy Minister of Education and his wife, the son of the Minister of Defense, etc.). Others maintained that President Patassé had ordered that certain persons be humiliated, because he suspected the FACA of treason following the attempted coup in May 2001.

The Banyamulengues took advantage of the confusion in the capital following the attempted coup and in the areas they took back from the rebels. Small groups of

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Banyamulengues formed, allegedly killing civilians and then systematically looting and extorting from civilians. They spread terror in their wake by firing their guns and making threats.

On November 26, they were still in the capital, and a certain Colonel Mustapha manned a check point for them at PK 12, which marked the border to the combat zone. The Banyamulengues fought against Bozizé's troops in the north of the country, where they reportedly committed abuses against the civilian population. When the Prime Minister, Martin Zinguélé, went to Bossembélé to verify the recent victory of the loyal troops, civilians came out of their hiding places in the bush and begged him to deploy FACA troops in the village to protect them against the Banyamulengues, who raped and looted in the area.

These foreign mercenaries, about 1000 troops, constituted the core of President Patassé's forces. Other Banyamulengues apparently continued to cross over the river into the CAR. The fruits of their looting were periodically transported to the DRC despite the FACA's efforts to stop them from doing so.

## **2. Facts imputable to the Banyamulengues**

### **a) Killing – Cruel treatment – Outrages upon personal dignity – Torture**

#### **Testimonies collected by FIDH:**

Mr. ZD was interviewed by FIDH on November 26, 2002:

On Friday, October 25, 2002, I got ready to leave for the weekend and took the road to Damara. When I got to PK 12 where I was waiting for someone, I noticed a low flying plane. The people were frightened and running in all directions. Shortly thereafter I saw about ten pick-ups coming from the north, driving towards Bangui. There were between 10 and 20 men in these pick-ups. They were dressed in combat or in civilian clothes, all were armed and had yellow headbands tied around their foreheads. I learnt later that they were Bozizé's troops. When they reached PK 12, these men fired in the air to clear the road. A man in one of the first cars, but I do not know exactly which car, shot a police officer who happened to be there. The police man collapsed on the road and I think he died. It was calm on October 25, 26 and 27. I did not go away for the weekend. I could hear shots in the distance. Bozizé seemed to be in control of the area. Cars were constantly coming and going. During these three days, the civilian population was able to leave their houses to do their shopping and was not harassed.

At 13:00 on October 27, the same type of plane that I had seen two days earlier dropped a bomb about 30 meters from my house. Three civilians, two Muslims and one Central African, were killed. After that incident, I remained in my home and witnessed the aerial ballet in the sky and the coming and going of Bozizé's cars.

On October 28, a rumor spread like wild fire among the civilian population that troops hostile to Bozizé were about to arrive. I later identified these troops as JP Bemba's Congolese mercenaries. The civilian population fled when they

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heard this rumor. They fled towards PK 13 and beyond to get away from Bangui. I stayed in my house.

At about 15:00 on October 29, Bozizé's pick-ups left in same direction they had come from on October 25. Their departure seemed disorganized. Some soldiers had stolen cars belonging to civilians to make their escape. Others who had no car left on foot in a chaotic fashion.

On October 30, at about 6:00 in the morning, I went to my fields located at PK 13. I walked, as I did not want my car to get stolen. Someone on the main road told me that JP Bemba's troops were coming. And indeed between 6:30 and 7:00, I saw his soldiers, all wearing combat, walking in a straight line. Some appeared to be very young - 15 years old. I think there were about 300 soldiers. I went to my field and between 8:30 and 9:00 heard shots, which I think came from PK 22.

I was worried so I left my work in the field and returned to PK 12. I came across more of Bemba's mercenaries who were heading north. They were walking at a quicker pace than the ones I had seen two hours earlier. I think that there had been some confrontations and the men were going to reinforce the others. One of them stole my hat.

At PK 12, the situation was calm during the night of October 30-31, but you could hear shots, which I think were coming from PK 22.

The worst day was on October 31. The Congolese mercenaries returning to the center of Bangui via PK 12 were pushing carts full of stolen goods. They robbed the houses. Mine was not spared. During this single day, they came to my house about 20 times in groups of about 10 soldiers. They were very determined. I think I owe my life to the fact that I let them rob me of my belongings. You should know that to the best of my knowledge there were no deaths in PK 12. Given how they took over the two rows of houses bordering each side of the road, it seemed to me that they made a kind of base for themselves, a base that extended from PK 12 to PK 15. It is difficult for me to evaluate my own prejudice. They took everything from me. I have not been paid for 20 months, so I live off my crops and the money that the government pays me from time to time. There was no electricity in PK 12 after October 28 and I was told that many rapes took place here.

On November 2, JP Bemba came to address his troops in Lingala. They enthusiastically applauded him.

FV is a 27-year old trader who sells drinks. He is a Zakala and his family comes from Banyassour:

On October 28, I decided to send my wife and children to PK 5 for their own security. My mother and I stayed in Bainzville to guard the bar called "Cave Espace Samito." On October 29 at about 16:00, a rumor about the imminent arrival of the Congolese in our neighborhood made its rounds. I think they came from MLPC's headquarters. I had locked the door but they fired into it, breaking the lock. They entered the house. There were four of them. They were Banyamulengues, short, about my age, even a bit younger. They were wearing green combat uniforms, canvas hiking boots and red headbands. They did not say anything to me. They suddenly started firing. My mother died instantaneously. Her name was LS and she was 45 years old. She was shot in

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her right breast and in her thigh. They pushed me outside and also brought out my mother. They took all my merchandise, the drinks, and destroyed everything in the house. I think that they had taken drugs. They knew exactly what they wanted to do. I left my mother and sought refuge in a nearby house which was under construction. I was wounded. I remember that it was raining. They shot me in my leg with an A-52. They had to amputate my left leg below the knee. My mother's body was transported to the hospital morgue. She was buried today.

FIDH went to the house where the FV and his mother were attacked and noted that there were bullet holes in the walls and in the wooden bar stools. JMS, FV's 38-year old uncle, corroborated what FV told us and showed us a pair of green rubber boots left by one of the attackers who had stolen FV's sneakers.

Twenty-eight-year old MCS was admitted to the Community Hospital on November 1 where FIDH interviewed her on November 28, 2002. A nurse was present to explain her medical condition: both feet are bandaged and three toes had been amputated from her right foot.<sup>38</sup> MCS explained what happened to her:

I was in PK 22. Bemba's men arrived there at 11:00 in the morning of October 31, 2002. There were four of them. They asked me for money. When I replied that I had no money, one of them shot me in my feet. Then they took my 7-month old baby, RC, away until 13:00. When they brought him back, he had malaria. He was hospitalized in the children's hospital. The Banyamulengues looted the house. They took our belongings, including my father's hunting rifles. They were Congolese. They spoke Lingala and not Sango. They told us, 'The president ordered us to kill you. But we do not want to kill you, we only want money.'

MLY is 45 years old and hospitalized in the Community Hospital. A nurse explained that her left leg was set in hard plaster and that a bullet had penetrated her bone. Another bullet had been fired point-blank into her right pelvis. MLY explained how she sustained these injuries:

At 11:00 on November 1, 2002, I was at home in PK 22 with my 9 children. The men had left as they knew that the attackers were on their way. I hid the children under the beds and covered them with bags. I hid with them under one of the beds. The attackers fired into the door to open it. That was when I was hit in my left leg. When they entered, they told me: 'If you do not have any money, we will kill you.' When I refused to hand over any money, one of them fired point-blank at my pelvis. So I was forced to give them all the money I had. Then the attackers killed the dog and put the dead dog on my stomach. They stole everything, even cooking utensils. They fired at the objects that they did not like...

EM is 29 years old and lives next to VN in PK 12:

The looting started at 5:00 in the morning on November 1, 2002. They arrived in groups. There were 5 in the first group. The other groups were larger. I saw

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<sup>38</sup> See Appendix 15 for photos of MCS.

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a total of 5 groups. They were all armed and in combat uniform. They shouted in broken French, 'Money, jewelry or diamonds.' They broke the main door, the door to the living room and the door to my father's room. My father has been paralyzed for 17 years. They took everything. Everything that was easily transportable: clothes, shoes, electronic equipment. They broke the windows. They left their old shoes and took others which were in better condition. Some had backpacks to carry the stolen goods. They spoke mainly in Lingala and sometimes in French and in Sango but with a bad accent. Before entering the house, they had killed the dog. They asked me to leave the house. One of them pointed his gun at me. He told me to turn my head. 'I want to kill you. We have never seen anyone felled by bullets here. We will see what happens.' My husband's other wife arrived at that moment with the baby and intervened, saying 'You will not kill us.' They did not leave until midday. The calmest among them asked me to tidy the house and to take my paralyzed father far from here.

FM:

I live in Boyrabe. The incident started at 13:00 on October 28, 2002 and lasted until 11:00 the following day. Three groups came. The first group came at 13:00. There were 15 persons in that group. I was at home with my sister, my brother, the son of a Minister. They searched me and took all the money. The second group came at 17:00. They searched everything. They hit us with their rifle butts. They fired into the walls and the roof. In the meantime, a third group had arrived. The two groups argued among themselves in Lingala. As the third group was very large, we were forced to spend the night on the ground on the hill in single file. They left at 11:00 in the morning.

K, B, K are 3 persons who were in the same house when they were attacked by the Banyamulengues. B begins to explain what happened:

It was 13:00. I was in my house with my nephew and the rest of the family. There were 26 of us in total. We were together because we lost our brother last August. We heard knocking on the door. I went to open the door with my nephew. There were armed men at the door who took the watches and rings we were wearing from us. They had pushed us up against the wall. They told us: 'You are rebels.' They spoke in French, English and Lingala.

The owner of the house, the widow of the aforementioned man, interrupted B to explain that the attackers had tortured them: "They took everything and broke the things they could not take with them. Look at the television and the leather chairs. They are torn."

B continued:

One of the attackers found what he first thought was perfume but then realized that it was insecticide. He forced me to open my mouth and sprayed me in my mouth and then my eyes. He was small. If he had not been armed, I could easily have crushed him. They then forced me and my children to kneel down until 15:00. Then they asked us to leave the house barefoot. There was a body in front of the concession. They asked us if we had ever seen a dead body. They forced the women and children to look at it and told them, 'You will die like that.' When we reached the "Notre Dame d'Afrique" Church, we met

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their commander who asked us why we were barefoot. We told him that his men had forced us to go barefoot. He told us to go home but we fled.

**b) Rape**

An NGO based in Bangui specifically examined rape victims who sought medical care almost one month after the incidents took place claiming that they had been raped. The medical personnel who examined the women could not conduct probative examinations given how much time had lapsed but stressed that the individual testimonies were very credible.

The time period during which these rapes were committed largely corresponds with the retreat of Bozizé's troops. Of the 79 women who were reportedly raped, 16 did not remember the date; 2 said that they had been raped on October 29; 9 on October 30; 35 on October 31; and 17 after November 1, 2002.

According to the 79 rape victims, the rapes were committed in the following locations: 27 rapes were committed between PK 12 and Boua-Rabe, and 37 at PK 22, particularly in a small village called Liton, where sexual violence was very widespread. Shame and societal taboos prevented very young women from providing detailed testimonies, however, first-hand testimonies revealed that 22 percent of the rape victims were young girls of about 15 years old. The youngest victim was 12 years old.

No male rapes, except one involving a 9-month old baby boy, were reported. The testimonies reveal a standard *modus operandi*: forced entry into the dwelling, extortion of money, sporadic shots fired to instill fear and then gang rape. On November 5, 2002, an unknown number of young girls were reportedly locked in a school near the health center in PK 12 and raped. Some victims were digitally raped when the attackers searched them for money.

The above-mentioned data and the testimonies of the victims identify the perpetrators as the Congolese troops of Jean-Pierre Bemba who came to the CAR at the invitation of President Patassé.

**Testimonies collected by FIDH:**

EG explained how she and her sister were raped:

I am 15 years old and live at PK 12. On Friday November 1, 2002, armed men in combat uniform came to our house. I was sleeping in my room with my sister. After one go at the door, they broke it. They asked us for money, jewelry and gold. My sister said that we had no money. They did not understand. Then they asked us where the room of my father, my uncle, who has been paralyzed for the last 17 years, is. We went to the room with my cousins, A, NA and E. One of the men dragged my sister into the shower. She started to cry. We ran towards her.

The man pointed his gun at us while he was on top of my sister. He ordered us to go back to the living room which we did because we were afraid. Then a large young man who was tall turned to me. He dragged me to the freezer and

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tried to take off my *pagne*.<sup>39</sup> I fought back but he tore my panties. He threw me onto the floor and took off his trousers. He penetrated me vaginally. He hurt me a lot. I saw a lot of blood on my *pagne*. My lower abdomen still hurts. This man spoke Lingala and very poor French. The people from MSF came to see me and took blood from me. They gave me medicine. I am afraid when I see men. I am afraid that they will return. And I am afraid of being sick.

ED had a foreign object inserted into her vagina and was gang raped:

I am 17 years old. I live behind the Total gas station in Bangui. Between 13:00 and 15:00 on October 30, 2002, they invaded our house. I was there as were numerous other persons. There were 26 of us in total. We were at my aunt's house. Her husband died last August. All the family was reunited. One of the attackers asked me in Lingala for jewelry. I said that I did not have any. I was very afraid. I thought that maybe if I tell him that I had a child, it might protect me so I told him. He took a wooden rod and penetrated me, shoved it in my vagina. He twisted it then he stopped. Then 3 other men raped me, one after the other, on the floor of the girls' room. I was crying. I was in pain and was bleeding. I still feel pain today. All my family members were present but could not do anything because the Congolese were armed. I did not want to lodge a complaint. I am not well. I do not want to talk. The first person I told you about was tall and thin. The 3 others were smaller. They were young. I will not be able to recognize them.

MA is 42 years old and lives in Boua Rabe neighborhood:

It all started from 13:00 onwards on October 28, 2002. The first Congolese stole 5,000 FCFA. They searched my father. There were 15 of them in total. There were 3 persons in the second group. They were armed. They searched us and hit us with their rifle butts on our sides and on our heads. They also slapped me in my face to get me to give them money. I cried. I told them that I was a widow and that my husband's family had ostracized me. They continued to harass me. One took me into the bedroom. He put his gun to my temple to force me to take off my *pagne*. Because I had money in my panties, he also forced me to take them off. He inserted his hand in my vagina and because he did not find anything, he hit me again. I was in pain for several weeks. He was slim, slender and black. I will not be able to recognize him. They all look alike. He spoke Lingala.

MLY explains that she was digitally raped and her daughter gang raped:

Then one of them inserted his finger in my vagina. He twisted it in all directions which hurt me. They took my daughter and took her outside. They stayed with her for a long time but I cannot tell exactly how long. When the seven attackers in the house joined the large group of other attackers who had stayed outside, I told the children to flee. I dragged myself to the reserve.

One of the attackers found me there. He violently pulled my tongue while pressing his knee into my throat, which suffocated me. After he heard me moaning, I pretended to be dead. He then left me. When my friends and some family members came to take me to the hospital, I recognized the man who had attacked me at PK 12. I pointed him out. He laughed at me.

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<sup>39</sup> Translator's note: a *pagne* is a piece of material that women wrap around their waists like a skirt.

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The following day, my daughter also admitted, after her brother insisted on knowing the truth, that she had been gang raped. She treated herself with a warm water bath. I will be able to recognize some of the attackers. The one who sexually assaulted me is short. All the attackers were Congolese and they all spoke Lingala.

The testimonies gathered by FIDH illustrate the crimes of sexual violence committed by Jean-Pierre Bemba's men against women and girls. These rapes represent but a small percentage of the abuses committed by the Banyamulenges against the civilian population.

MP categorically summarizes what his patients said about the perpetrators: "They all said they were victims of Bemba's troops." With regards to the voluntary nature of the shots fired at the civilian population, the witness mentions the woman who was shot in her feet (see MCS's testimony) and concludes, "This was no accident." As a member of the military himself, he asserts that the troops clearly had little instruction about the rules that govern an armed crisis, adding that he does not understand why it is not possible to contain troops on the ground once excesses have been reported. He continues saying that it shows a "lack of leadership" and wonders about "the real authority and JP Bemba's instructions." Having witnessed the 3 crises, MP attests that the third mutiny (November 2001) was like a general looting spree and it was difficult to control the acts of violence. He adds that the second crisis on May 28, 2001 caused the population to lodge complaints about the intervention of Bemba's troops. He maintains that the October 25 crisis had the same level of violence as the second one, but that the focal point of the most recent crisis had shifted from Bangui and its suburbs to the northern provinces, whose population had been spared up to that point. Angered, he regrets that the FACA are no longer a real element of the Central African public force: "I recognize that my boss (President Patassé) no longer has any confidence in me but he remains the big boss and I obey my boss."

Although some Central African officials acknowledge that rape was committed, they do not acknowledge how widespread it was. The information collected by national and international organizations in Bangui during the attempted coup confirm that scores of rapes, if not hundreds, were committed. A high-ranking Central African official thinks as many as 500 rapes were committed and without any hesitation holds the Congolese responsible. But he adds, "Not all the rapes were committed by soldiers. Some civilians also committed rape to settle old scores."

The President of the Central African National Assembly was reportedly shocked by the testimonies of rape reported on the radio, stating that "if the regular army had done its part, these incidents of sexual violence would not have happened because we would not have brought in the Congolese."

A project supported by the United Nations Development Program (UNDP) and the United Nations Fund for Children (UNICEF) has established "a humanitarian assistance commission for girls and women subjected to rape and violence related to the October 25,

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2002 conflict.” The Minister of Social Affairs is the president of this commission. The aim of this project is to provide the victims with legal advice and medical support. The steering committee, which was nominated in late November, has already verified several rape cases. FIDH feels that, although this commission can play a very important role, it will be difficult for the commission to achieve their desired results based on interviews it had with some of the commission members and a meeting with the full committee. The psychological support provided to date does not seem to correspond with what female victims of sexual violence require. In addition, many women who have been heard by the commission have repeatedly said that they do not wish to lodge a complaint with the national courts, because they fear retaliation and are not able to identify the perpetrators who raped them.

### **3. Legal qualification of the facts**

#### **a) Classification of the crimes**

Article 8 of the Rome Statute, in relevant part, provides that:

2. For the purpose of this Statute, “war crimes” means:
  - (a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:
    - (i) Wilful killing;
    - (ii) Torture or inhuman treatment, including biological experiments;
    - (iii) Wilfully causing great suffering, or serious injury to body or health;
    - (iv) Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
  - (c) In the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause:
    - (i) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
    - (ii) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
  - (e) Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:
    - (i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
    - (v) Pillaging a town or place, even when taken by assault;
    - (vi) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, and any other form of sexual violence also constituting a serious violation of article 3 common to the four Geneva Conventions;<sup>40</sup>

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<sup>40</sup> See Appendix 11 for Article 8 of the Rome Statute, which defines war crimes.

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The testimonies collected by FIDH illustrate that the Banyamulengues committed war crimes after October 25, 2002. The civilian population was subjected to violence to life and person, rape, and pillage, and their property was destroyed. These acts are grave violations of the Geneva Conventions and the laws and customs of law, and as such fall under Article 8.

Article 8(1) of the Rome Statute provides that:

The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.

The number of testimonies collected by FIDH and the data gathered by several organizations and hospital administrations during and after the attempted coup on October 25, 2002, highlight that the Banyamulengues committed war crimes on a large scale. As this report was sent to press, the Banyamulengues remained in control of the area beyond PK 12, which could lead to the further commission of war crimes by Bemba's troops.

**b) Individual criminal responsibility of Jean-Pierre Bemba**

Article 25 of the Rome Statute, which is entitled "Individual criminal responsibility," provides in relevant part that:

1. The Court shall have jurisdiction over natural persons pursuant to this Statute.
2. A person who commits a crime within the jurisdiction of the Court shall be individually responsible and liable for punishment in accordance with this Statute.

Although Jean-Pierre Bemba visited the Republic of Central Africa several times both during and after the attempted coup on October 25, 2002, and held meetings with some of his troops, there is no evidence to prove that Jean-Pierre Bemba directly participated in the commission of war crimes.

However, Article 28 of the Rome Statute, which is entitled "Responsibility of commanders and other superiors" provides that:

In addition to other grounds of criminal responsibility under this Statute for crimes within the jurisdiction of the Court:

- (a) A military commander or person effectively acting as a military commander shall be criminally responsible for crimes within the jurisdiction of the Court committed by forces under his or her effective command and control, or effective authority and control as the case may be, as a result of his or her failure to exercise control properly over such forces, where:
  - (i) That military commander or person either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes; and

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(ii) That military commander or person failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

(b) With respect to superior and subordinate relationships not described in paragraph (a), a superior shall be criminally responsible for crimes within the jurisdiction of the Court committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:

(i) The superior either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes;

(ii) The crimes concerned activities that were within the effective responsibility and control of the superior; and

(iii) The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

These important provisions, which are also included in the Statutes of the two *ad hoc* international criminal tribunals, raise questions about the direct responsibility of Jean-Pierre Bemba for crimes committed by his subordinates.

The ICTY's *Celebici* judgement introduces the notion of command responsibility as follows:

That military commanders and other persons occupying positions of superior authority may be held criminally responsible for the unlawful conduct of their subordinates is a well-established norm of customary and conventional international law. This criminal liability may arise out of the positive acts of the superior (sometimes referred to as the "direct" command responsibility) or from his culpable omissions ("indirect" command responsibility or command responsibility *strictu sensu*). Thus, a superior may be held criminally responsible not only for ordering, instigating or planning criminal acts carried out by his subordinates, but also for failing to take measures to prevent or repress the unlawful conduct of his subordinates. As noted in the Report of the Secretary-General [of the United Nations] on the establishment of the International Tribunal [for the former Yugoslavia]:

All persons in a position of superior authority should, therefore, be held individually responsible for giving the unlawful order to commit a crime under the present statute. But he should also be held responsible for failure to prevent a crime or to deter the unlawful behavior of his subordinates. This imputed responsibility or criminal negligence is engaged if the person in superior authority knew, or had reason to know, that his subordinates were about to commit or had committed crimes and yet failed to take the necessary and reasonable steps to prevent or repress the commission of such crimes or to punish those that committed them."<sup>41</sup>

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<sup>41</sup> ICTY, *The Prosecutor v. Zejnil Mucic also known as 'Pavo', Hazim Delic, Esad Landzo also known as 'Zenga'* Trial Chamber II, Judgement (*Celebici* judgement) on November 16, 1998, para. 333 at <http://www.un.org/icty/celebici/trialc2/judgement/index.htm>.

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In the same judgement, the Trial Chamber added:

The distinct legal character of the two types of superior authority must be noted. While the criminal liability of a superior based on positive acts follows from general principles of accomplice liability, as set out in the discussion of Article 7(1) above, the criminal responsibility of superiors for failing to take measures to prevent or repress the unlawful conduct of their subordinates is best understood when seen against the principle that criminal responsibility for omissions is incurred only where there exists a legal obligation to act. As is most clearly evidenced in the case of military commanders by article 87 of Additional Protocol I, international law imposes an affirmative duty on superiors to prevent persons under their control for committing violations of international humanitarian law, and it is ultimately this duty that provides the basis for, and defines the contours of, the imputed criminal responsibility under Article 7(3) of the Statute [of the ICTY].<sup>42</sup>

The constituent elements of command responsibility are as follows:

**i) The concept of superior: *de jure* and *de facto* control**

The notion of command responsibility rests on the hierarchical relationship between the superior and the subordinate. In the *Celebici* judgement, the Chamber sets out the applicable principle by stating that: “The doctrine of command responsibility is ultimately predicated upon the power of the superior to control the acts of his subordinates.”<sup>43</sup> The Chamber then comments on this principle, in particular drawing attention to the fact that:

... the Trial Chamber must at all times be alive to the realities of any given situation and be prepared to pierce such veils of formalism that may shield those individuals carrying the greatest responsibility for heinous acts ...<sup>44</sup>

The Trial Chamber in the *Celebici* case therefore holds the view that:

... in order for the principle of superior responsibility to be applicable, it is necessary that the superior have effective control over the persons committing the underlying violations of international humanitarian law, in the sense of having the material ability to prevent and to punish the commission of these offences. With the caveat that such authority can have a *de facto* as well as a *de jure* character, the Trial Chamber accordingly shares the view expressed by the International Law Commission that the doctrine of superior responsibility extends to civilian superiors only to the extent that they exercise a degree of control over their subordinates which is similar to that of military commanders.<sup>45</sup>

In light of this jurisprudence, it is clear that Jean-Pierre Bemba had at least *de facto* control over the Banyamulengues who violated international law. As the military commander of his men, he has the power and the ability to sanction these violations. As

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<sup>42</sup> *Ibid*, para. 334.

<sup>43</sup> *Ibid*, para. 377.

<sup>44</sup> *Ibid*.

<sup>45</sup> *Ibid*, para. 378.

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already mentioned, Jean-Pierre Bemba visited the CAR several times, including the locations where violations were committed. He reportedly held meetings with his troops. He was their commander and could have sanctioned them.

**ii) Knowledge of subordinates' actions**

Command responsibility is shown when the superior "... knew or had reason to know [that his subordinate was about to commit these acts or had already committed them] and [the superior] "... failed to prevent or punish the commission of the crimes if he did not in fact order them."<sup>46</sup>

On this point, the Trial Chamber of the ICTR adds that:

...the distinction between military commanders and other superiors embodied in the Rome Statute [is] an instructive one. In the case of the former it imposes a more active duty upon the superior to inform himself of the activities of his subordinates when he, "knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes." This is juxtaposed with the *mens rea* element demanded of all other superiors who must have, "[known], or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes."<sup>47</sup>

The Trial Chamber agrees with this view insofar that it does not demand a *prima facie* duty upon a non-military commander to be seized of every activity of all persons under his or her control.<sup>48</sup>

Jean-Pierre Bemba knew about the crimes committed by his subordinates. Following his visits to the CAR, especially to the places where the crimes were committed, he must have known of or at least heard about these violations of the Geneva Conventions committed by the Banyamulengues. The violations were well-known in Bangui. Almost all officials acknowledged that crimes had been committed, including the Head of State. Patassé implicitly referred to the crimes in his speech to the nation. Bemba himself declared on RFI that he was aware of these crimes and that he was ready to sanction them. He has not yet transformed his words into action.

**iii) Effective control: failure to prevent or punish a crime**

The Trial Chamber of the ICTR added that:

This material ability to control the actions of subordinates is the touchstone of individual responsibility under Article 6(3). The International Law Commission in its Draft Code went so far as to suggest that for a superior to incur criminal responsibility, he must have, "the legal competence to take measures to prevent or repress the crime *and* the material possibility to take such measures."<sup>49</sup>

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<sup>46</sup> ICTR, *The Prosecutor v. Clément Kayishema and Obed Ruzindana*, Judgement, May 21, 1999, para. 223 at <http://65.18.216.88/default.htm>.

<sup>47</sup> *Ibid*, para. 227.

<sup>48</sup> *Ibid*, para. 228.

<sup>49</sup> *Ibid*, para. 229.

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As stated in the ICTY's *Celebici* judgement:

... it is necessary that the superior have effective control over the persons committing the underlying violations of international humanitarian law, in the sense of having the material ability to prevent and to punish the commission of these offences. With the caveat that such authority can have a *de facto* as well as a *de jure* character, ...<sup>50</sup>

The Trial Chamber of the ICTR found: "Accordingly, the ability to prevent and punish a crime is a question that is inherently linked with the given factual situation."<sup>51</sup>

As already mentioned, although Jean-Pierre Bemba expressed his willingness to punish the perpetrators of the crimes, there is no evidence to show that punishment has been meted out. Nor have any steps been taken to prevent such conduct. The Banyamulengues continued to commit crimes even though Jean-Pierre Bemba met with his troops in the CAR on several occasions.

**iv) His subordinates are responsible for committing war crimes**

Based on victims interviewed by FIDH and the data collected by the NGOs and hospital administrations, war crimes were committed and may continue to be committed by the Banyamulengues against the Central African civilian population. Objective findings of facts support the culpability of Bemba's men: the language spoken by them, their uniforms as well as the locations and time frame in which the crimes were committed – after the retreat of Bozizé's troops and in the areas controlled by the Banyamulengues.

**c) Conclusion**

The following excerpt from the ICTY's *Celebici* judgement discusses the principle of command responsibility:<sup>52</sup>

In a number of cases against German and Japanese war criminals following the Second World War, beginning with the trial of the Japanese General Tomoyuki Yamashita before a United States Military Commission in Manila,<sup>53</sup> the principle of command responsibility for failure to act was relied upon by military courts and tribunals as a valid basis for placing individual criminal responsibility on superiors for the criminal acts of their subordinates. Thus, the United States Supreme Court, in its well-known holding in *Re Yamashita*, answered in the affirmative the question of whether the law of war imposed on an army commander a duty to take the appropriate measures within his power to control the troops under his command for the prevention of acts in violation of the laws of war, and whether he may be charged with personal responsibility for failure to take such measures when violations result.<sup>54</sup> Similarly, the United States Military Tribunal at Nürnberg, in *United*

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<sup>50</sup> ICTY, *Celebici* judgement, para. 378.

<sup>51</sup> ICTR, *The Prosecutor v. Clément Kayishema and Obed Ruzindana*, para. 231.

<sup>52</sup> ICTY, *Celebici* judgement, para. 338.

<sup>53</sup> See Vol. V, Law Reports, p. 1.

<sup>54</sup> In *Re Yamashita*, 327 US 1, 14-16 (1945). This case was brought before the Supreme Court on petition for writ of *habeas corpus*, and presented the Court with the limited issue of whether the Military Commission in Manila possessed lawful jurisdiction to try Yamashita. It was alleged that such jurisdiction

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*States v. Karl Brandt and others* (hereafter “*Medical Case*”), declared that “the law of war imposes on a military officer in a position of command an affirmative duty to take such steps as are within his power and appropriate to the circumstances to control those under his command for the prevention of acts which are violations of the law of war.”<sup>55</sup> Likewise, in *United States v. Wilhelm List et al.* (hereafter “*Hostage Case*”), it was held that “a corps commander must be held responsible for the acts of his subordinate commanders in carrying out his orders and for acts which the corps commander knew or ought to have known about.”<sup>56</sup> Again, in *United States v. Wilhelm von Leeb et al.* (hereafter “*High Command Case*”), the tribunal declared:

[u]nder basic principles of command authority and responsibility, an officer who merely stands by while his subordinates execute a criminal order of his superiors which he knows is criminal violates a moral obligation under international law. By doing nothing, he can not wash his hands of international responsibility.”<sup>57</sup>

In light of the above, Jean-Pierre Bemba must be considered criminally and individually responsible through omission for the criminal conduct of his men, the Banyamulengues, given his superior authority. Bemba violated his obligation to take such steps as are within his power and appropriate to the circumstances to control his troops and prevent them from violating the laws of war.

Therefore Jean-Pierre Bemba, in accordance with Article 28 of the Rome Statute and international criminal jurisprudence, must answer for allegations of war crimes.

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was lacking, *inter alia*, on the ground that the charges preferred against Yamashita failed to allege a violation of the laws of war. In rejecting this contention the Court described “the gist of the charge” against Yamashita as one of an unlawful breach of duty as an army commander to control the operations of his command by permitting them to commit a number of atrocities.

<sup>55</sup> *United States v. Karl Brandt et al.*, Vol. II, Trials of War Criminals before the Nürnberg Military Tribunals under Control Council Law No. 10 (U.S. Govt. Printing Office: Washington 1950), 186 (hereafter TWC) p. 212 (relating to the criminal responsibility of the accused Schroeder). *See also* the tribunal’s finding in relation to the accused Handloser, *ibid.*, p. 207.

<sup>56</sup> *United States v. Wilhem List and al.*, Vol. XI, TWC, 1230, 1303.

<sup>57</sup> *United States v. Wilhem von Leeb and al.*, Vol. XI, TWC, 462, 512.

## **IV – THE MASSACRE AT THE CATTLE MARKET/INTERNATIONAL CRIMINAL RESPONSIBILITY OF ABDOULAYE MISKINE (USP) FOR WAR CRIMES**

### **1. The “Chadian” in the CAR**

#### **a) Chadians in the CAR**

According to the 1999 census conducted by the Embassy of Chad, there were 40,000 Chadian nationals living in the CAR. Twenty-five percent of these Chadians resided in Bangui, predominantly in the PK 5 neighborhood. The other Chadians congregated in the towns of Berberati, Bossangua and Kaga Bandoro. According to UNHCR, about 2000 of these Chadians had been granted refugee status. The different political crises that had shaken Chad had caused entire families to flee to the neighboring CAR.

The friendly relations between the Chadian Idriss Déby and his “big brother Patassé” experienced their first crisis in 2001. During the attempted coup led by Kolingba in May 2001, Patassé had asked the Chadian government for bilateral aid in the form of military troops and material to ensure his security and put down the rebellion. Idriss Déby refused Patassé’s request on the basis that that he would not be able to provide bilateral aid outside of a United Nations or international framework. During the 1996 and 1997 mutinies, however, the Chadian government had sent reinforcement troops to help secure the Central African regime, at President Patassé’s request, as part of an Organization of the African Union and a United Nations mission.

Déby subsequently asked Patassé to reach out to the putschists for the sake of national reconciliation. Patassé did not appreciate Déby’s request, and relations between the two governments deteriorated.

#### **b) Abdoulaye Miskine’s Chadians**

Following Déby’s refusal to send reinforcements, President Patassé, who did not trust the FACA or General Bozizé, his then Chief of Staff of the Central African army, recruited about 300 Chadian mercenaries. President Patassé put Abdoulaye Miskine, whom he trusted, in charge of these men. Abdoulaye Miskine is Chadian: he is an orphan but both his mother and father are Chadian, and he was born in the Chadian town of Ndinada. Idriss Déby had tried on several occasions to dissuade Patassé from recruiting Chadians for his security.

The mercenaries were a mixed bunch: some had links to the former dictator Hissène Habré, to Goukouni Oueiddeye, to CODO (Chadian rebels during Hissène Habré’s regime), while others had nothing else to do. They were kitted out and armed by the Libyan forces. At the time of the coup in May 2001, 300 Chadian mercenaries constituted about 80 percent of Miskine’s troops. Miskine’s troops in turn constituted about 10 percent of all of the FACA troops. After about 1500 FACA soldiers fled with André Kolingba following his failed coup attempt, Miskine’s troops constituted about 20 percent of all of the FACA troops and were responsible for presidential security. With the

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additional men he had recruited, Miskine commanded an estimated 600 individuals by late November 2002.

After the attempted coup in May 2001, President Patassé ordered Miskine's troops to fight banditry, especially in the border areas with Chad. Miskine established a base in the town of Kabo, where he sought to enrich himself, with President Patassé's backing. Several witnesses<sup>58</sup> and a complaint lodged before the courts by a victim are proof that Miskine and his men robbed and even killed Chadian cattle breeders traveling between Chad and the CAR to sell their cattle. According to the Ambassador of Chad in the CAR, Miskine's troops killed 180 Chadians. The Ambassador informed FIDH that he had personally written to President Patassé about the situation. President Patassé's response, communicated through the intermediary of his Minister of Foreign Affairs, was that the tone used by the Ambassador was too forceful and that he should moderate his language. Miskine responded to the accusation by stating, "I am only accountable to the Head of State."

During this period, Bozizé's mercenaries, who had been accused of taking part in the attempted coup in May 2001, had sought refuge in Chad. They made their first incursion into the CAR in early August 2001. Miskine's troops pushed the attackers back across the border, going as far as the town of Moyon-Cidou on Chadian territory on August 6, 2002. Déby's government ordered the Chadian armed forces to retaliate against this foreign incursion into Chadian territory, forcing Miskine's mercenaries to retreat 15 kilometers into the interior of the CAR. Bozizé profited from this breach to return to the CAR and to occupy the base at Kabo on August 10, 2002 after the Chadian army had left.

**c) The Miskine "affair"**

Relations between Chad and the CAR deteriorated further. Under pressure from the international community, the two countries signed the final communiqué of the Libreville Accords on October 2, 2002. On the political front, these Accords called for, "the immediate removal of Koumtan Madji Martin alias Aboulaye Miskine and of François Bozizé from the CAR and Chad as well as all other elements hostile to the two countries." If Bozizé seeks refuge in Chad, Miskine stays in the CAR. On the security and military front, Chad and the CAR decided to deploy their regular army along their respective border with joint patrols. The Accords also called for the deployment of troops from the Economic Community of Central African States (known by its French acronym CEMAC, for *Communauté Economique et Monétaire de l'Afrique Centrale*). This contingent, mandated to restructure the FACA, was to deploy a special company to protect the CAR's Head of State. By late November 2002, these Accords seemed defunct because the Central African army no longer had access to its border with Chad.

**2. The massacre at the cattle market**

FIDH was told about killings committed on October 30 and 31, 2002, following the attempted coup. The killings had taken place at the cattle market at PK 13, which is located to the north of Bangui on the Bouali road.

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<sup>58</sup> See Appendix 12 for an article published in the Chadian newspaper 'Le Progrès' on January 14, 2002 and the AFP wire released on January 2, 2002.

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*The official positions*

The public disclosure of what happened at the cattle market on October 31, 2002 haunted Patassé's government. Patassé tried to stop the persistent rumors by visiting the scene of the alleged crimes accompanied by a large number of ambassadors and journalists on November 3. One of the Ambassadors confirmed that he did not see "any earth that looked like it had recently been dug up or any cartridge cases," although he acknowledged that the official visit was supervised and that he had had no contact with the local population.

The Minister of Justice, Marcel Metefara, and the president of the National Assembly, Luc Appolinaire Dondon Konamabaye, did not dispute that the violent killings at the cattle market had taken place when interviewed by FIDH.

The Minister of Justice explained to FIDH that the general inquiry into the situation after the attempted coup "had been delayed for security reasons", although the Public Prosecutor's office in Bangui had in principle dealt with it quickly. Commenting on the perpetrators and victims, he added:

We do not know who the perpetrators are, whether it was Bemba, the USP or the FACA. We do not know if these Chadians were complicit with the attackers who in their flight tried to blend in with the Chadian population in the CAR.

The Ambassador of Chad in the CAR told FIDH that he had not been invited to join the diplomatic convoy and did not visit the site. He maintains that, "150 Chadians were executed over a two-day period in waves." Given that the victims were civilians the crimes are particularly serious.

**2.1. Facts imputable to Miskine and his USP troops**

**a) Testimony collected by FIDH**

A witness with official territorial responsibilities who was interviewed by FIDH on November 29, 2002, recounted the following:

Towards the end of the morning of October 27, 2002, after having worked, I went home and scolded my wife because she had not finished preparing my meal. Suddenly 3 armed men in jeans and wearing jean jackets entered my house. They had come on foot. They pointed their guns at me and asked for the keys of a car which is used by the community. They told me that they did not want to scare the population but that they needed the car to accomplish their mission. I am sure that they were Bozizé's men. Because the driver of the car had left with the key, they took an axe and managed to start the car by breaking the window. I heard heavy artillery shots later and saw villagers fleeing. I asked my wife and children to go to the fields for security reasons. They are still there because the situation remains uncertain.

On October 31, 2002, I saw a military truck on the road to St. Charles school, where it stopped. Sixteen Fullahs were on the truck and a soldier who ordered them to get down from the truck. They were many armed soldiers present. I recognized Miskine. He shouted at these soldiers, ordering them to take the

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road home in Fullah. I was on the side of the road at a coffee seller's place and less than 50 meters away from the truck. The Fullahs were not wearing shirts, they wore shoes and were not tied up. The soldiers then repeatedly shot them in their backs. The men fell to the ground. The soldiers got back into the truck and did a U-turn. I think it was about midday. I immediately went over to the bodies. Fifteen men were dead.

I saw bullet wounds in their necks, heads and throats. The sixteenth man had survived but was injured and could not talk. He seemed to have been shot in his shoulder. He was lifted onto a rickshaw and transported to the cattle market. I was later told that he died. Many other people, Arabs, Fullahs and even an Imam, came to see what had happened. I remember that an Imam prayed for the dead and sprinkled some water over them. I wanted the dead to be buried as quickly as possible as is the Muslim tradition. The relatives of the victims persuaded me to wait until the Ambassador from Chad could come and see what had happened.

I protested at first but I eventually agreed with them so the bodies were left there in the open air for 48 hours. I then went to see the Imam to tell him that dogs were starting to devour the bodies although I had instructed the youths to chase the dogs away, and that the situation was becoming untenable. The next day, a grave was dug between two trees. The funeral took place in the presence of the Imam and about 30 persons. I do not know the names of the dead but judging by their appearance they must have been shepherds or cattle traders.

**b) Grave sites visited by FIDH**

FIDH went to the grave sites, which are located along the Bouali road. Just after PK 13, FIDH turned left onto the lane leading to Saint Charles school. There is a sign, which says "Baptist Church, Olympique Toungougara village." On the right side of this lane about 100 meters after passing a small house on the left, the grass on the lower side looks like it has been burnt over an area measuring about 5 meters. FIDH noticed that human remains were scattered in the grass: tufts of black frizzy hair as well as two green plastic shoes bearing the Olympique brand name. FIDH also noticed a Nissan mud guard in the same location and that the earth in the orchard located about 10 meters from the road and covering an area measuring 15 to 20 square meters had recently been dug up.<sup>59</sup>

On the road to Bouali, which goes to the cattle market, FIDH took the fork to the left between PK 12 and PK 13, just before the lane leading to Saint Charles school. At the beginning of the lane, there is a sign which reads "CARUD, community center." Several hundred meters on the left is the house of a driver.<sup>60</sup> Another 8 persons were killed and wounded between the house and the road. FIDH did not find any pieces of evidence except two green shoes bearing the Olympic brand name, commonly known to be worn by herders. A group of 3 men approached the FIDH mission delegates. One of them said he was an eyewitness to the executions. However, because he was afraid of any legal proceedings or retaliation, he decided he could not to speak to FIDH, not even on the condition of anonymity. A boy of about 10 to 12 years old who was also there insisted that the first man should speak: "You must tell them what they did to us." He added:

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<sup>59</sup> See Appendix 5. for photographs of these sites.

<sup>60</sup> See Appendix 14 for a list of those killed and injured at the cattle market.

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My father is one of the victims. He is in the Community Hospital. They cut both his legs. It was Miskine. I recognized him. He is small, fat and has scars on his cheeks that look like scarifications.

At the cattle market, there are wooden stalls used by the traders that spread out over more than 100 meters. There is a vast muddy area on the right where the cows for sale are kept. Further to the right, FIDH noticed that there were 4 areas where the earth had recently been dug up. FIDH was told that these were the grave sites. One of these sites measures about 2 by 4 meters and the 13 Fullahs killed on Thursday, October 31 were buried here on Sunday, November 3. The other 3 graves, located less than 2 meters from the first one, each measure about 2 by 1 meter. The body of a soldier who was in the presidential guard and civilians killed during the same period are buried in these graves. No additional information is available.

FIDH also went to the center of the market to see the place of prayer (masjid) located on the main street in the market. It is a large room covered in carpets but without a minaret. On the same day, 3 men were reportedly injured on the main street, of which two fatally, when they left the masjid.

**c) Other testimonies collected by FIDH**

HA is a cattle trader:

Several of us left PK 12 at 6:00 on Thursday morning on October 31 to go to the cattle market at PK 13. We stayed at the market until about 10:00. Then a group of us made our way back to PK 12 with the intention of returning to the market a little later in the afternoon.

On our way back, after about 500 meters, we heard gun shots. I remember that we had previously seen two military cars belonging to the presidential security unit coming the other way. I recognized Miskine in one of these cars. I recognized him because I lived with him for one year in 2000.

We quickly made our way to the market. We saw the two dead bodies and the injured man in front of the masjid. We were told that there were more bodies and indeed we saw another 15 dead bodies further up. Three of the dead bodies were lying very close to each other. Two other bodies were also lying very close to each other. The other bodies were spread out over an area measuring about 10 meters. We were afraid that the military would return so we went home.

In the afternoon, at about 16:00, we sprayed water over the bodies and said a prayer. We did not bury the bodies. We left the bodies where they were because we did not want to hide these dead from others. The bodies were buried on the Sunday. I was there as were the imam and other persons. The 15 men were buried in the cattle market in one grave. The 10 others, 8 killed in one location and 2 in another, were buried near the cattle market in 2 graves dug next to each other. There were 5 bodies in each grave, which were one meter deep. We put grass and branches over the bodies in these graves. Then we covered them with soil. I think Central African police attended the funeral at the cattle market. The Sudanese consul was also there. I can give you the

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list of the wounded and killed and tell you exactly where each person is buried.<sup>61</sup>

An imam added the following:

I was in the masjid. I heard the gun shots. I did not witness anything. But I left the masjid shortly after the killing. The soldiers had already left. I saw Haj Eki and Khaled Yahano who were dead. The third man lying on the ground was Hosman Dalogi.

MS is Chadian and a little over 25 years old. He is a cattle breeder in Am-Timan. FIDH interviewed him on November 28 in the Community Hospital where he had been since November 25. He explained that he had brought 35 cattle from Chad to the central market in PK 12. He was accompanied by EHAM, AKS and Y. He arrived at the cattle market after 20 days on the road:

There were many people at the market. I managed to sell 5 cows in the morning for 100,000 FCFA each. In the afternoon, we went with other cowherds to graze our animals. Everything happened very quickly. I was arrested with 4 of my friends and grouped with 11 other persons. They took off our clothes. We were naked. Miskine was there with the soldiers. Then they shot us. I am the sole survivor. I was shot in my right buttock, but the bullet exited again because of the hatred. I was also hit in my right side just above my armpit. The bullet exited through my chest. I fainted. Some people brought me to the house we had rented. Then MSF treated me.<sup>62</sup>

The Embassy of Chad in Bangui had located MS and attested to his identity and the circumstances of the massacre. The Embassy provided FIDH with a 'Declaration made by a relative of victims of the massacre that took place at PK 13 on 31/10/2002,' which stated that:

OAH who was born around 1959 and resides in Fatima neighborhood in Bangui attests that his cousins IH and AS had brought 40 cattle from Bamabari to sell at the market at PK 13. On October 25, 2002, Abdoulaye Miskine, accompanied by his close guardsmen, took IH and AS several hundred meters from there together with 14 other Chadian nationals to "gun them down." This happened at about 10:00 on October 31, 2002. The two victims "were summarily buried in a location which I can point out," and were also robbed of their money – 4000,000 FCFA earned by selling cattle.

The Embassy showed the identity cards of these two Chadians, found on their persons, to FIDH.

An opposition party compiled an inquiry report and gave a copy to FIDH. The report confirms that the massacre at the cattle market took place and includes a list of the names of witnesses interviewed, of persons killed and of those injured, raped and robbed.<sup>63</sup>

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<sup>61</sup> See Appendix 14 for the list of wounded and dead together with their grave sites given to FIDH by HA.

<sup>62</sup> See Appendix 15 for a photograph of MS' injuries.

<sup>63</sup> FIDH is willing to show this report to anyone who wants to see it.

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An imam, who has been in the CAR for 21 years, told FIDH that he did not witness the “massacre of Chadians” at the cattle market in Bangui at PK 13. He heard about it from witnesses who were sent to the massacre sites and saw the dead. Fifteen bodies were piled up and had bullet wounds in their neck and other parts of their body. Ten other bodies were dispersed in other locations. The imam did not say anything else but explained that some police had come looking for him and had reproached him for giving out information about the events at PK 13.

BA is Chadian and supplies meat to the director general of the military Supply Corps. On October 31, the army asked BA to purchase a large quantity of meat worth 1.2 million FCFA. BA, however, did not go to cattle market to buy the meat because of the attempted coup.

On November 2, the Supply Office asked him again to purchase the meat so he phoned a trader at the cattle market. The latter reportedly told him, “I have no meat, no live animals. There are only dead bodies here.” The supplier said that he was arrested on the same day and detained for five days because they suspected him of informing the Ambassador of Chad about the massacre. He emphasized that he had not been beaten.

FIDH believes it has proof based on what it was told by witnesses who corroborated each other and material findings, which confirm that killings took place at three different locations in the cattle market on October 31, 2002. The victims of these killings were most likely civilians and the perpetrators are most likely men under Abdoulaye Miskine’s command. It is unfortunate that the Central African government and the international institutions have not taken the necessary steps, particularly in terms providing support to the police, to properly investigate the killings. Despite assurances made by the Central African authorities, FIDH is not aware of any steps that the government has taken to investigate these alleged crimes, which must not go unpunished.

## **2.2. Legal qualification of the facts**

Article 8 of the Rome Statute in relevant part provides that:

2. For the purpose of this Statute, “war crimes” means:
  - (a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:
    - (i) Wilful killing;
  - (c) In the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause:
    - (i) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

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(e) Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:

(i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;

The crimes committed at the cattle market can be defined as war crimes as provided for under Article 8 of the Rome Statute. They can be classified under different categories:

**a) Wilful killing**

The crimes firstly can be classified as wilful killing as defined by the constituent elements of the crimes provided for under the Rome Statute. These were elaborated on by the Preparatory Commissions to the ICC and adopted during the first session of the Assembly of State Parties in September 2002, such as the fact of causing death to one or more persons. As the facts analyzed above are sufficiently explicit, there is no need for a more detailed discussion on this legal classification.

**b) Murder**

The crimes can also be classified as murder under Article 8(2)(c). The constituent elements of these crimes under the Rome Statute are described as follows:

1. The perpetrator killed one or more persons.<sup>64</sup>

FIDH established that at least 25 Chadians were killed during the massacre at the cattle market. Some witnesses maintain that the number of persons killed was higher.

2. Such person or persons were either *hors de combat*, or were civilians, medical personnel, or religious personnel<sup>65</sup> taking no active part in the hostilities.
3. The perpetrator was aware of factual circumstances that established this status.<sup>66</sup>

The crimes committed at the cattle market were perpetrated against persons protected by the Geneva Conventions, i.e. civilians and traders of Chadian nationality who were at the market to sell their cattle.

Although certain officials, such as the Minister of Justice, wondered about the victims killed at PK 13 and thought that they could have been Bozizé's men hiding amongst the civilian population to escape retaliation, members of the armed forces who have laid down their arms are also protected by the Geneva Conventions.<sup>67</sup>

4. The conduct took place in the context of and was associated with an armed conflict not of an international character.

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<sup>64</sup> Knut Dörman, p. 394 for the elements of murder.

<sup>65</sup> The term 'religious personnel' includes those non-confessional non-combatant military personnel carrying out a similar function.

<sup>66</sup> Knut Dörman, p. 394 for the elements of murder.

<sup>67</sup> Article 8(2)(c) of the Rome Statute.

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5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.<sup>68</sup>

These crimes were not only committed on a large scale but also in the context of an armed conflict and were associated with the armed conflict.

It is important to remember that the armed conflict in the CAR, which broke out following the rebel attack on the town of Bangui on October 25, 2002, persists until a settlement has been reached. International humanitarian law therefore remains applicable in the whole of the territory under the domination of one Party whether actual fighting is taking place or not and all the Parties to the conflict, including Miskine's USP men, must abide by international humanitarian law.

**c) Attacking civilians**

The constituent elements of the war crime of attacking civilians are defined as follows:

1. The perpetrator directed an attack.
2. The object of the attack was a civilian population as such or individual civilians not taking active part in the hostilities.
3. The perpetrator intended the civilian population as such or individual civilians not taking direct part in the hostilities to be the object of the attack.
4. The conduct took place in the context of and was associated with an armed conflict not of an international character.
5. The perpetrator was aware of factual circumstances that established the existence of an armed conflict.<sup>69</sup>

The intention of Miskine and his men (i.e. *mens rea*) to attack the civilian population in a determined manner seems based on the fact that they deliberately attacked Chadian nationals, who are known to frequent the cattle market. The perpetrators of the killings considered the latter to be complicit with the rebels on the basis of their shared nationality. The perpetrators therefore appear to have selected their targets in advance.

The nexus between this conduct and the existence of an armed conflict has already been established.

**2.3. Individual criminal responsibility of Abdoulaye Miskine**

**a) Direct responsibility**

Article 25(2) of the Rome Statute stipulates that:

A person who commits a crime within the jurisdiction of the Court shall be individually responsible and liable for punishment in accordance with this Statute.

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<sup>68</sup> Knut Dörman, p. 394 for the elements of murder.

<sup>69</sup> *Ibid*, p. 443 for the elements of attacking civilians.

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According to witnesses interviewed by FIDH, Miskine was personally present during the killings at the cattle market. He was not only seen in one of the cars with USP elements but also at the sites where the crimes were committed (i.e. in front of the driver's house and on the lane leading to the school).

Although FIDH has no proof that Miskine himself fired at the Chadians, this possibility should not be ruled out.

Article 25(3) of the Rome Statute states that:

In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person:

- (a) Commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;
- (b) Orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;

Given Miskine's command responsibility over his men and his presence at the crime sites, it is probable that he ordered or at least solicited or induced the killings even if he did not directly kill any of the Chadian victims. This conduct makes Miskine directly criminally responsible as the perpetrator or accomplice to the crimes perpetrated at the cattle market.

**b) Command responsibility**

Miskine's individual criminal responsibility for crimes committed by his subordinates at the cattle market is established by applying the legal argumentation mentioned above in the section on Article 28 of the Rome Statute, which deals with the responsibility of military commanders and other superiors.

As stated in the *Celebici* judgement:

... for the principle of command responsibility to be applicable, it is necessary that the superior have effective control over the persons committing the underlying violations of international humanitarian law, in the sense of having the material ability to prevent and punish the commission of the offences.<sup>70</sup>

Abdoulaye Miskine is the commander of the USP and as such is a high-ranking officer within the Central African military hierarchy. He therefore has *de jure* control over the conduct of his subordinates.

According to international criminal jurisprudence, Miskine is criminally responsible for war crimes committed by his men if it is proven that he knew of these crimes and did nothing to prevent or sanction them.

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<sup>70</sup> ICTY, *Celebici* judgement, para. 378.

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Miskine was present at the crime sites and participated in the commission of these crimes. He knows who the perpetrators are. He not only failed to prevent these crimes from being committed but ordered or instigated them. Nor were his men punished for these crimes.

Miskine is therefore individually criminally responsible for the killings at the cattle market: directly as co-perpetrator as provided for by Article 25 of the Rome Statute but also indirectly on the basis of command responsibility as provided for by Article 28 of the same Statute.

## **V – INTERNATIONAL INDIVIDUAL CRIMINAL RESPONSIBILITY OF PRESIDENT PATASSÉ**

### **1. Command responsibility of Ange-Félix Patassé, President of the Central African Republic and Commander in Chief**

According to Article 21 of the CAR's constitution, Patassé is the supreme commander of the army. He calls and chairs the meetings of the Superior Council of National Defense. He therefore has command responsibility over the armed forces under his control, including the regular army as well as the mercenaries he brought in to fight against the rebels.

President Patassé therefore has *de jure* and *de facto* command responsibility over Miskine, the head of the USP, which is a legal branch of the FACA, and over Jean-Pierre Bemba's men.

Although President Patassé remained cloistered in his presidential residence for his protection after the fighting broke out on October 25, 2002, as the Head of State and the Commander in Chief, he must have been briefed on the hostilities. He was also made aware of the crimes his men committed against the civilian population by the government press and independent media.<sup>71</sup> His ministers do not deny the commission of these crimes. President Patassé even acknowledged "that things happened" during the long-winded speech he made to his people on November 25, 2002. In the same speech he announced that he would establish "a commission of inquiry to evaluate all the things that had happened."

The President did nothing to prevent the commission of war crimes. On the contrary, he continued to solicit reinforcements by allowing Bemba's men to cross the river and exercise full control on Central African soil. On November 5, 2002, he even honored his "brother," Miskine, bestowing the commander insignia of the Central African Order of Merit on him before his forced departure to Togo. It seems therefore that neither Miskine nor Bemba, who were so crucial for protecting President Patassé from the rebel attacks, were threatened with sanctions by the Head of State. Patassé is therefore culpable by omission, as he contravened his obligation to deal with the crimes that were committed but also to prevent any future violations.

As provided for by Article 28 of the Rome Statute, Ange-Felix Patassé should be held individually criminally responsible on the basis of command responsibility for the war crimes committed by Miskine and Jean-Pierre Bemba, his subordinates.<sup>72</sup>

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<sup>71</sup> See Appendix 13 for the article published in 'Le Citoyen' on November 6, 2002.

<sup>72</sup> In *The Prosecutor v. Jean Kambanda* (ICTR-97-23-S) September 4, 1998, Jean Kambanda, the Prime Minister of the interim government in Rwanda during the 1994 genocide, was tried. His case is illustrative of *de facto* and *de jure* control by a civilian authority. The judges underscored that Kambanda "exercised *de jure* and *de facto* authority ... over senior officers in the army," para. 39(ii). The judges added that in his capacity as Prime Minister, he was responsible for maintaining peace and security in Rwanda and that "he abused this authority and the trust of the civilian population ... He failed to take necessary and reasonable

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**2. Irrelevance of official capacity**

Article 27 of the Rome Statute, which is entitled “Irrelevance of official capacity” provides that:

1. This Statute shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as a Head of State or Government, a member of a Government or parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility under this Statute, nor shall it, in and of itself, constitute a ground for reduction of sentence.
2. Immunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the Court from exercising its jurisdiction over such a person.

This article, which is self-explanatory, rules out criminal immunity of a Head of State for his responsibility for war crimes perpetrated by his military subordinates.

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steps to prevent his subordinates from committing crimes against the population. Abuse of positions of power or trust is generally considered an aggravating factor,” para. 44.

## **VI – INTERNATIONAL CRIMINAL COURT/ANALYSIS OF THE APPLICATION OF THE PRINCIPLE OF COMPLEMENTARITY BY THE CAR**

### **1. The Rome Statute**

The first article of the Rome Statute, in relevant part, states that:

An International Criminal Court (“the Court”) is hereby established. It shall be a permanent institution and shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern, as referred to in this Statute, and shall be complementary to national criminal jurisdictions....<sup>73</sup>

The Preamble of the Rome Statute affirms that:

the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation.<sup>74</sup>

The Preamble thus recalls “that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes.”<sup>75</sup>

For State Parties to be able to exercise their criminal jurisdiction, they must ensure that their national legislation allows them to try individuals who have committed offences that fall under the Court’s competence.

State Parties must adopt the implementing legislation of Rome Statute to facilitate cooperation between state institutions and organs of the Court (in accordance with Part IX of the Rome Statute) as well as to integrate the definitions of international crimes and relevant general principles of international criminal law into their domestic legal systems.<sup>76</sup>

Many State Parties, such as Germany and South Africa, have already fully adapted their domestic laws to the Rome Statute, while others, like France, have only done so partially. Other states are still in the process of amending their laws.

### **2. The CAR’s primacy of jurisdiction to try perpetrators of international crimes**

#### **a) Gaps in the CAR’s domestic legal system**

Since the CAR ratified the Rome Statute on October 3, 2001, the government has taken no steps to integrate the provisions of the Statute into their domestic legal system. During

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<sup>73</sup> Article 1 of the Rome Statute.

<sup>74</sup> Preamble of the Rome Statute.

<sup>75</sup> *Ibid.*

<sup>76</sup> Of the 87 State Parties to the Rome Statute, about 15 have enacted the ICC’s implementing legislation. See the legislative drafts and implementing legislation on the website of the International Coalition for the International Criminal Court at <http://www.iccnw.org/resourcestools/ratimptoolkit/nationalregionaltools/legislationdebates.html>.

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a human rights training seminar in Bangui organized by FIDH and the Central African League for Human Rights (known by its French acronym, LCDH, for *Ligue Centrafricaine des Droits de l'Homme*) in May 2002, Mr. Serekoisse, the Public Prosecutor of the Court of Appeal and the CAR's representative to the Preparatory Commissions for the ICC, admitted that no working group had been established to draft the implementing legislation.

This delay in harmonizing its domestic law with its international obligations is regrettable, because Central African criminal law does not recognize any of the crimes within the ICC's jurisdiction. Its domestic legal system does not provide for crimes of genocide, crimes against humanity and war crimes or even for certain general principles of international criminal law provided for under the Rome Statute. This means that the CAR's courts cannot prosecute war crimes.

Therefore even if the CAR wished to apply the principle of complementarity with the ICC to investigate and to prosecute the alleged perpetrators of the crimes mentioned in this report, its courts lack the legal capacity.

**b) Political and legal obstacles**

Article 17 of the Rome Statute, which is entitled "Issues of admissibility," provides that:

1. Having regard to paragraph 10 of the Preamble and article 1, the Court shall determine that a case is inadmissible where:
  - (a) The case is being investigated or prosecuted by a State which has jurisdiction over it, unless the State is unwilling or unable genuinely to carry out the investigation or prosecution;
  - (b) The case has been investigated by a State which has jurisdiction over it and the State has decided not to prosecute the person concerned, unless the decision resulted from the unwillingness or inability of the State genuinely to prosecute;
  - (c) The person concerned has already been tried for conduct which is the subject of the complaint, and a trial by the Court is not permitted under article 20, paragraph 3;
  - (d) The case is not of sufficient gravity to justify further action by the Court.
  
2. In order to determine unwillingness in a particular case, the Court shall consider, having regard to the principles of due process recognized by international law, whether one or more of the following exist, as applicable:
  - (a) The proceedings were or are being undertaken or the national decision was made for the purpose of shielding the person concerned from criminal responsibility for crimes within the jurisdiction of the Court referred to in article 5;
  - (b) There has been an unjustified delay in the proceedings which in the circumstances is inconsistent with an intent to bring the person concerned to justice;
  - (c) The proceedings were not or are not being conducted independently or impartially, and they were or are being conducted in a manner which, in the circumstances, is inconsistent with an intent to bring the person concerned to justice.
  
3. In order to determine inability in a particular case, the Court shall consider

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whether, due to a total or substantial collapse or unavailability of its national judicial system, the State is unable to obtain the accused or the necessary evidence and testimony or otherwise unable to carry out its proceedings.

The Central African Public Prosecutor's office has not yet taken any steps to investigate A. Miskine, J.P. Bemba, the President of the Republic, Patassé, or any other alleged perpetrator or bring legal proceedings against them. Nor has a commission of inquiry been established to shed light on the violations, notwithstanding the promise made by the President himself.

The ongoing armed conflict clearly explains this inaction. It is unlikely that any action will be undertaken, while President Patassé, the one most concerned, remains the Head of State. The limited independence of the judiciary is another contributing factor to this lack of action.<sup>77</sup> If any judicial action were undertaken, it is unlikely that the proceedings would be conducted in an independent or impartial manner. The proceedings would likely be conducted in a way that is incompatible with the aim of delivering justice to the persons concerned.

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<sup>77</sup> See the FIDH report, n° 324, February 2002, 'Droits de l'Homme en République Centrafricaine, Discours et réalité : un fossé béant,' at <http://www.fidh.org> (Translator's note: this report is only available in French).

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**VIII — CONCLUSION AND RECOMMENDATIONS**

Based on the interviews, observations and legal analysis undertaken in the Central African Republic from November 25 to December 1, 2002, FIDH concludes the following:

- There is sufficient evidence to prove that war crimes, as defined by Article 8 of the Rome Statute, were committed during the conflict that took place from October 25 to November 1, 2002, between the loyal forces and the rebels in the capital, Bangui, following the attempted coup.
- There is sufficient evidence to establish the international individual criminal responsibility of Jean-Pierre Bemba based on the principle of command responsibility, as defined in Article 8 and the application of Articles 25 and 28 of the Rome Statute, for war crimes committed by his subordinates.
- There is sufficient evidence to establish the international individual criminal responsibility of Abdoulaye Miskine for war crimes, as defined in Article 8 and the application of Articles 25 and 28 of the Rome Statute, on the basis of joint and command responsibility.
- The individual international criminal responsibility of Ange-Félix Patassé, President of the Central African Republic, has been established, as defined in Article 8 and the application of Articles 25, 27 and 28 of the Rome Statute, based on his command responsibility for war crimes committed by Jean-Pierre Bemba's Banyamulengués as well as by Abdoulaye Miskine and his troops.

FIDH therefore requests that:

- **the competent Central African courts**, in accordance with the principle of complementarity provided for under Article 1 of the Rome Statute, initiate an inquiry with the aim of prosecuting those responsible for war crimes committed following the attempted coup on October 25, 2002;
- **the CAR** urgently incorporate the Rome Statute into their domestic criminal law to enable it to fulfill its obligations under international law in terms of cooperating with the Court and integrating the definition of international crimes and the general principles of international criminal law into their domestic legal system;
- **the CAR** invite the United Nations Special Rapporteurs for Summary Executions, Violence against Women, and Torture as well as the Rapporteur of the African Commission for Human and Peoples' Rights for Violence against Women.

**FIDH will, in accordance with Article 15(1) of the Rome Statute, inform the ICC's Prosecutor of its findings and present the evidence collected. The findings support the commission of war crimes in the CAR, which fall within the Court's jurisdiction.**

## **APPENDICES**

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**APPENDIX 1: LIST OF PERSONS AND ORGANIZATIONS THAT FIDH MET WITH**

**NGO member of FIDH:**

- LCDH

**International organizations/NGOs:**

- Representative of the Secretary-General of the United Nations in Bangui, BONUCA, General Cissé
- UNHCR delegate for the CAR and Chad, Emile Segbor
- International Committee of the Red Cross (ICRC), Communications delegate, Peter Fluege
- Médecins Sans Frontières/Doctors without Borders, Raquel Ayora
- President of the Central African Red Cross, François Farra-Frond

**Diplomatic corps:**

- Ambassador of France in the CAR, Dominique Boche
- Ambassador of Chad in the CAR, Maitine Djombe

**Central African officials:**

- Minister of Justice, Marcel Metefara
- President of the National Assembly, Luc Appolinaire Dondon Konamabaye
- Deputy of the political party *Front Patriotique pour le Progrès* (FPP), former senator of the French Union and first president of the provisional government of the CAR, Abel Goumba
- Deputy of the political party MPLC, Jean Serge Wafio,
- Public Prosecutor of the Court of Appeal in Bangui, M. Bindoumi

**Medical personnel:**

- Director of the Community Hospital, Colonel Michel Poukara
- Head nurse of the Community Hospital
- Director of the Friendship Hospital, Dr. Ngaerio
  
- Journalist for BBC Africa and AP, Joseph Benamse

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**APPENDIX 2: PATASSÉ'S SPEECH TO THE NATION (FRENCH VERSION)**  
**'LE CITOYEN' N° 1503 TUESDAY, NOVEMBER 26, 2002**

**PATASSÉ ADDRESSES THE NATION**

Victory, Central Africans! Victory, Central Africans! Victory, Central Africans!

Dear Central Africans, dear compatriots,

At this very moment our brave troops are fighting the Chadians aggressors in Bossembélé. These aggressors are being chased out of the CAR, as I speak. So again victory Central Africans!

Anyone from nearby or from far away who was not aware of the grave danger that threatened our country must face the facts, or otherwise be complicit.

Yes! Dear compatriots, at about 14:30 on October 25, 2002 while you were working, scores of mercenaries armed to their teeth crossed over from the Republic of Chad. They traveled for more than 600 km and attacked Bangui, the capital of our large and beautiful country, killing innocent civilians.

The main objective of this operation was to assassinate me and take over the powers of State in flagrant violation of the Constitution of January 14, 1995.

Article 18 of our Constitution states that: "The principle underpinning the Republic is the government of the people by the people and for the people. National sovereignty belongs to the people who exercise their power directly by means of referendums or indirectly through elected representatives. No fraction or any individual can take away this right. The usurpation of national sovereignty by coups or by any other means constitutes an imprescriptible crime against the sovereign people. Any person or third state that commits such an act declares war on the Central African people."

The determined effort of our armed forces with the military support of armed friends has prevented the worst from happening to our Central African nation and our young democracy, which has been severely tested.

Since October 25, a date, which will never be forgotten, the Central African nation has experienced some moments of distress, because the specter of civil war and its attendant horrors invaded our spirits, our hearts, our families, our towns and our countryside.

Because of these events, we have regrettably lost some of our brave sons and daughters who were not able to make their full contribution to building our society, which strives to be modern, democratic and just.

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In the name of the Central African Republic, I wish to solemnly salute the memory of these martyrs tragically taken from us during these events. I express my sincerest condolences to their families in this message.

I also wish to take the opportunity to say that my heart goes out to the families in Bangui and in the provinces who have been subjected to all kinds of suffering following the coup.

Dear fellow Central Africans, dear compatriots,

Since the Central Africa Republic rejoined the assembly of democratic nations, we have experienced several military and political crises. We experienced a similar crisis in 1996-97 and in 2001-02. This is why, in the overriding interest of the nation and to preserve peace, democracy and national unity, I have always favored a negotiated settlement approach. This approach underpins the Political Protocol of the Government of National Unity, the Minimum Common Program, the different amnesty laws, the General Meeting on National Defense, and the National Reconciliation Conference held in Bangui from February 26 to March 5, 1998.

Following these actions, the Central African people in 1998 voted, peacefully, in free, transparent and multi-party parliamentary elections.

In 1999, the Central African people showed their confidence in me as Head of State by re-electing me during the presidential elections. If the country had not suffered financial difficulties of all kinds, the municipal and regional elections, for which preparations are currently being made, would have already been held. These elections are the final steps to establishing our democratic institutions.

Dear compatriots,

During the democratic consultation process, the daughters and sons of the Central African Republic uniformly confirmed their overwhelming support for democracy. We are committed to reducing poverty in our country.

Sadly, our national unity has been shaken three times – on May 28, 2001, on November 2, 2001 and on October 25, 2002 – by a few compatriots driven by egotistical and harmful intentions, manipulated by remote control and the enemies of our country.

This last coup attempt, which has harmed the future of the Central African people, has once again caused havoc with our economy and our dealings with our development partners, including the Bretton Woods institutions. The Central African government had renewed its contact with the latter and was ready to make major sacrifices.

The repeated crises have, inevitably, negatively impacted our country on the human, political, economic, social and cultural front. Confronted with such a situation, every responsible Head of State would in accordance with his constitutional obligations defend

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the integrity of his country, its independence as well as protect the civilian population. No matter what it takes.

Central Africans, dear compatriots,

Since you have conferred the destiny of our country on me, I have never closed the door to dialogue although some of you may think I have. I am and remain convinced that dialogue is crucial to gaining an understanding of what we think are the key issues facing our country.

That is why political dialogue, which is indispensable to national unity, must be improved. Improved political dialogue will enable all the active forces of the nation with their different perspectives to work together on the key issues facing our country.

I note the resolution passed by the National Assembly following the rich and instructive debates about what happened during the attempted coup on October 25, 2002.

I will meet with the leaders of the political parties and civil society in the near future.

I appeal again to those soldiers who followed André Kolingba in his adventure in May 2001 and those who followed François Bozizé in November 2001 and October 2002 to return home and their respective families. I guarantee their security.

I am very pleased with the decision the government took to establish a commission of inquiry to evaluate the damages caused by the recent events.

I also promise that the government will respect existing laws governing political parties on the one hand and freedom of expression on the other hand as well as the laws concerning the High Council of Communication, while waiting for the National Assembly to adopt the laws that are currently being amended.

Likewise, I instruct the government to immediately table the Bill on the status of the opposition as well as the Bill amending the law on political parties.

In addition to remaining in contact with our social partners, the government must renew its contact with the International Monetary Fund and the World Bank to find a solution that will ensure our country will not suffer from any more repercussions.

Central Africans, dear compatriots,

These measures indicate my desire to preserve national unity. I therefore invite each of you to be aware of this and work with me towards this goal.

These measures will not serve any purpose if we, the politicians and civil society, do not solemnly commit ourselves, before the people and the international community, to work towards dialogue and peace by overcoming our antagonisms.

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Our sense of duty and honor demand this of us. The conference that we are all clamoring for will be held before the end of December 2002. I ask the international community to assist us with the necessary support for these meetings, because every attempt to resolve these crises will be in vain if we do not purge the demons of hatred, tribalism and exclusion from our hearts.

It will be a meeting of the truth. I said, it will be a meeting of the truth because only the truth sets you free. It will be a meeting of the truth and of reconciliation. Peace has no price.

Let's overcome our fears and our transgressions to act in the overriding interest of the nation, because we will be judged by history and future generations. This is why I have chosen to resolve the conflict we have with the Republic of Chad through the application of international law and the establishment of a large mixed commission.

The long-standing brotherly links between our two countries demand that we commit ourselves to additional actions on the diplomat front.

I therefore invite all Central Africans to continue to live in perfect harmony with all the foreign communities living in the Central Africa Republic, particularly the Chadian and Congolese civilians residing here, because the tradition of hospitality is and remains sacred.

Foreigners, who live with us and respect our Constitution, our laws and our rules, are welcome. All Central Africans should see to it that they are made to feel welcome.

Central Africans, dear compatriots,

I would like to take this opportunity to address our armed forces.

During the events of October 25 and the days that followed, many of our brave soldiers in our army and security forces were killed in action. This is my opportunity as Commander in Chief of the armies to pay an emotive tribute in the name of the Republic and to offer my sincere condolences to their families.

I also want to extend my congratulations to the armed forces and encourage all those who continue to defend our country.

I renew my appeal to the whole of the international community with respects to the commitments made before other Nations.

United and in the process of restructuring our military and security forces.

I also congratulate our partners in the private sector who notwithstanding the precarious situation nobly battle to maintain their production levels, the only weapon against poverty

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and one that will contribute to the humane and sustainable development of the Republic of Central Africa.

To this end, I urge the government to do everything it can to improve their working conditions and to avoid imposing any unnecessary bureaucratic measures, which are prejudicial to investment.

Lastly, before I finish my talk, I would like to thank all of the countries who are friends of the Central African Republic for their precious help in solving the latest crisis. The United Nations and in particular His Excellency, Mr. Kofi Annan, its Secretary-General, for his clear standpoints and moral support; the African Union, for having responded to the Central African crisis by dispatching an information gathering mission to our country. The Economic Community of Central African States (CEMAC) and particularly, President Bongo of Gabon and Biya of Cameroon, for their very important contribution to settling this crisis. The States of the Community of Sahel-Saharan States (CEN-SAD), particularly the Leader of the Libyan Revolution for the special attention he paid to our requests. France, our historic partner, who quickly took a position in favor of legality to reverse the course of events. Mr. Jean-Pierre Bemba, President of the Movement of Liberation of Congo (MLC), for his indispensable and beneficial support. All those who from close by or from afar helped to resolve this crisis in multifarious ways.

Central Africans,

Thank you for remaining calm during this difficult period.

Let us remain united to defend our beautiful country.

Lastly, I ask you to read Psalm 74 with me followed by the prayer 'Our Father who art in heaven' three times and three 'Hail Mary's' because the Republic of Central Africa is a country blessed by God and the Central African people are his people. Have faith because we are sure of our victory of the forces of evil, the satanic forces.

I thank you.

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**PATASSÉ'S SPEECH TO THE NATION**  
**(VERSION IN SANGO TRANSLATED BY 'LE CITOYEN')**

**Déby said: "I will become the President of Chad and of Central Africa."**

Victory, Central Africans. Victory, Central Africans. Victory, Central Africans.

Barthélemy Boganda, the big son of Central Africa. If your blood had been not spilt for this country, other countries would occupy your country, Central Africa, to which you gave your life.

Fayama, Kangala, martyrs of Central Africa, you who gave your lives for independence, for liberty, for democracy. If your spilt blood for this country is in vain, Chad will truly take over the Central African Republic.

The children of Central Africa who fought for democracy on Central African soil, if we had refused to take up arms, as a way to gain power, now we say that each son of Central Africa should turn to the ballot boxes which we all embrace.

Sadly, you see, some of our sons who have been indoctrinated and deceived by the devil caused blood to run unnecessarily in Central Africa. What happened?

I will not talk for long, because the National Assembly recently questioned the government about the current crisis. And the Prime Minister answered the deputies' questions. I imagine that you are satisfied with the answers.

Then there was the big democratic debate that we all supported. The deputies asked that I be brought before the Supreme Court. Why? Because they think that when the Chadians came to Bangui, the latter killed our children, our fathers, our mothers and our wives. What did they want me to do?

The other day, on the Friday afternoon, the Chadians came to Bangui and occupied the town. They started killing many people. Did the deputies want me to do nothing and let them kill all Central Africans, including myself?

I said: "No!" I immediately asked my son Bemba to send his men to help our soldiers. That is why they came. I know that things happened. I said: "OK! We will establish a commission of inquiry to evaluate what happened."

The Chadians left their country with a handful of Central Africans to conquer the Republic of Central Africa because Déby said: "I will become the President of Chad and of Central Africa." But God denied him this. God denied him this. But what happened over these last three days? What happened in Bossangoa?

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This morning, our army clashed with the Chadians. As God was on our side, our armed forces and Bemba's troops are chasing the Chadians, as I speak to you. I waited until now to address you. Do you know why Chad wants to conquer Central Africa?

The president of the National Assembly explained why. So did the Prime Minister. They want our oil! It is our oil! It is our oil. It is our oil that drives Chad's expansionist desires.

Every time I speak to Central Africans, some of our sons say that Patassé only talks nonsense, that I lie. But why would I lie to them? I know what flows under the ground. Because it is God who wanted me to do what I did.

A long time ago, God said to Moses: "Take the sons of Israel away from Egypt." Moses took them away. What happened when they reached the desert? The sons of Israel started to grossly insult both Moses and God. Then God said: "I will prove to you that I am your God." When they cried with hunger, he sent them manna which nourished them. They were thirsty. God said to Moses: "Take this stick and beat the rock with it. Water will flow from the rock which will quench the thirst of the sons of Israel." Moses did what the Lord wanted, water flowed from the rock and quenched their thirst. But when Moses climbed the mountain to receive the Ten Commandments from God, the Israelites, men of little faith, began to worship idols and you know the rest of the story.

But I want you to know that God gave me positive power. If I hold onto this power, the oil will nourish my people. And I am working hard to hold on to it. Today big American and European companies are interested in my explorations, which they think are viable. But who is interested in Chadian oil? Why is Chad interested in our oil, our manna, which can be exploited to help the Central African people?

As I have always said, Central Africa is the new Israel and Bangui, the new Jerusalem. God said: "Central Africa is the country of milk and honey." Some people with bad intentions, however, say that I talk nonsense and tell lies. But they are confused. It is not a lie, sons of Central Africa. It is the truth.

To prove it: can anyone think of a single moment that Chad came to fight us? We have always considered the Chadians as our brothers. It was, however, only Déby who discretely sent his soldiers to our country. But we will see. We leave it in the hands of God. We are not stupid. God gave us a good heart, not only towards Central Africa, but towards Africa and the whole world. That is why God always blesses Central Africa.

**Let no one deceive you. Patassé will not resign. Patassé will not resign. I will finish my term.**

With regards to what happened, 90 percent of the rebels were Chadians. Western mercenaries were also present during the clashes this morning in Bossembélé. I asked our armed forces to do everything to catch these white mercenaries. They are being hunted down now. If God so desires, we will catch them and show them to the national and international press.

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What makes me sad is the fact that they deceived the sons of our country and they took up arms to kill their brothers and children. Is that the right thing to do, Central Africans?

Recently, I asked those who followed Kolingba to return to home because I suffered a lot when I was in exile. That is why I decided that no Central African should go into exile. I am sincere. Because I spent twelve years in exile. Some listened to me and came home but most did not and will be judged *in absentia*.

I asked the Minister of Justice and the Public Prosecutor to study the procedure for their return. Because once we take this route, justice must be done. So I want to reassure those who wish to return that I am personally involved in their case.

I also asked those who followed Bozizé to return and some did. Others were too afraid although I asked them not to hide but to show themselves. Sadly, they are afraid. I repeat the same message today so that they return and overcome their fear. I guarantee their security.

With regards to those who only wanted war to loot and kill, they will face the law. But I am their father. We have laws and the Constitution. The laws and the Constitution of our country must be respected.

Dear compatriots, I also want to remind you that when the Chadians came last Friday afternoon and invaded our country, I asked my son, Bemba, to come to our rescue, some political parties said: “Patassé is a traitor, he should be brought before the Supreme Court.” Well!

Our deputies debated this issue and rejected the resolution that would have resulted with me being brought before the Supreme Court because I did not betray the country.

But as the Constitution states every attempted coup or every civilian or military coup is an imprescriptible crime. If today, I, Patassé, I were to resign, the opposition deputies will prosecute me for treason. This is why, even if my heart tells me to resign, I am bound to respect the judiciary. If they judge me, I will see. While waiting, apart from the problem of Bozizé and his officers.... As for you, my children starving in the bush, I ask you to return to your homes. Let no one deceive you. Patassé will NOT resign. Patassé will not resign. I will complete my term. Nothing will happen to me because power is a gift from God. It is God who bestows this gift. God told me he has chosen me to do this work. When I have accomplished my mission, I will leave. But in the meantime I will do my job because you do not know me. Who am I? Where do I come from? Why have ten attempted coups failed?

Please read Esau 54! What did God say? God said, “You will be a slave to justice. Do not be afraid, you will be strengthened by justice. If someone plots against you, it will not be me (God says this, not me). Whosoever conspires against you will succumb to your

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power. Any army that fights you will not win. Anyone who brings a case against you, you will condemn.” An Oracle of the Lord.

This is why I want you to know, dear friends and dear compatriots, that we are on the right track. God loves us deeply, God loves us deeply, but it is us, with our black hearts, who want God to be a bit angry with us. But I regularly pray to God our Father to plead that we are only 3.5 million persons. If there are 100,000 of the 3.5 million who believe in you, forgive your people, open yourself up to him. And God answered my prayer.

We negotiated with the World Bank and the IMF. France helped us, as did some African countries, particularly Gabon, to obtain a loan from the IMF. There were only ten days to go before signing the deal with the IMF. Suddenly the devil who entered the heart of our brother Bozizé arrived on the scene and gave him weapons. He left Paris to fight in Bangui. But it was nothing because God said, “You are my children. I will give you victory.” And indeed we won. Jesus is dead but risen from the dead to liberate us. Resurrected, he gave us our victory. Therefore we are also the sons of the victory.

Sons of Central Africa, let us love one another. Please love one another! Love one another. Do not follow the devil.

Central Africans, we are very rich. We are very rich. People want to invest in our country.

Have I not promoted openness more so than Mandaba’s government or Dologué’s? Did I not hold talks? Why would I therefore not hold talks today? The people love me and delegated their power to me, so why would I be afraid of my brothers? Why would I be afraid of them? Why? I am not afraid. Never. The people love me.

**Why did Déby ask his soldiers to kill the Christians? Why? Why? Why?**

My people love me so I must hold talks with my brothers. But my brothers must be sincere. We will hold talks and see what happens. We will hold talks. We must tell the truth because Central Africans love to lie. Central Africans tell many lies, too many lies. I have always said: “Lies run quickly, quickly, quickly, but the truth moves slowly, slowly, slowly, find the lies, punch them and they fall to the ground. The truth takes hold of a chair and sits on it.” And that is what happened. You witnessed it.

So I asked the government to prepare to these talks, the meeting with the unions because I support unions. Yes, to hold talks with the women and the youth, that is what we must do. But when we hold talks, it must go beyond mere words, everyone should be able to follow them.

Several leaders were part of Kolingba’s and Bozizé’s coups. But I said no, I do not want to talk about this matter, because I want reconciliation that is why I do not talk about this issue. That is why I support talks, which must be held soon.

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I instigated talks with the Assembly. The deputies are talking. Why do I always congratulate our Assembly? Why? Why? Because the majority and the opposition talk for our country. They discuss draft laws. They vote on these laws which I then proclaim. I am very proud of our Assembly. It is our contribution through the MLPC. Which country broadcasts Assembly debates live on radio? Where? Because I said that the people should know what is happening. The power belongs to the people. We are there to look after the power of the people. We should not hide anything. How can we hide anything from the people?

Mr. Prime Minister, what is being done about corruption?

If I, Patassé, President of the Central Africa Republic, steal state funds, lodge a complaint against me. Yes, that is it, respect for public goods. I also want to say that Patassé is not a thief. I am not a thief. My father did not teach me to steal. I worked. When I earned money, it was the fruit of my labor. Yes, I also help the State. But I repeat I do not steal from the State. I have not stolen money from the State. I cannot steal money.

That is why, Mr. Prime Minister, if I have stolen money from the State.... Where is the Minister of Justice? The Minister is not here...?

Mr. Minister of Justice, if Patassé has stolen one franc from the State, lodge a complaint against me. Yes. That is it. I am not joking. That it was why I have decided that we should hold talks. I am serious. I will hold talks. I am not afraid. Why would I be afraid?

On the contrary, we should meet, we should talk about our country in harmony and joy but not with black hearts. God does not like that. With regards to what happened, the magistrates, in addition to the people, suffered a lot during the events of October 25. The magistrates suffered a lot. Their property was destroyed and they were chased from their homes. They took their gowns and dragged them on the floor. The magistrates could only hide. Why?

You, Central Africans, who are citizens, how can you not respect the magistrates? Now the magistrates are afraid. How can they judge? The lawyers are afraid. The representatives of the law also. We say, however, that we are a State governed by the law. What can we do with our State of law when the judges are afraid? How will they deliver justice? That is why, Central Africans, you must respect the judges, the magistrates, the representatives of justice, the lawyers. They are the symbols of a State of law, otherwise we are not a State of law.

Secondly, what do we see? The situation of the priests. They also suffered a lot. They were chased. Their property was destroyed. They wanted to kill certain priests. But why?

The men of God suffered gratuitously. Simply because the Chadians came, they said that they did not want to know anything about the Christians. The Christians had to be killed. This is not normal.

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I say that there is no discrimination in Central Africa. To say “Ah! We are Catholics,” “Ah! We are Protestants,” “Ah! We are Muslims” does not happen in our country. We do everything for ecumenicalism to become a reality in Central Africa. The proof: when there is a demonstration, the Catholics, the Protestants and the Muslims act like members of a big family. But why? Why did Déby ask his soldiers to kill Christians? Why? Why? Why?

He tells lies in his country in my name, saying that I am against Muslims. But as you know ...we are at the cross roads of the Christian world and the Muslim world.

But I realize now that we were stupid. We were stupid. We thought that the people who came were at home in our country but they used the opportunity to hide weapons under their large boubous. They took us for imbeciles. I do not reject the Chadians, they are our brothers. But if you are a Chadian in Central Africa, you must respect the law of our country. That is why I say that the leaders of the neighborhoods should take down the names of those who have been here for three years, so that we will know if they came here in good faith or if they are Déby’s soldiers whose mission is to kill Central Africans. I want to know. That is why I tell the leaders of the neighborhoods, at the town councils, that I want a census of all the Chadians who live in their neighborhood. I want to know.

However, I say, “Look, do not harm the Chadians. Do not harm them, they are our relatives. I only want to know who is on our side and who is against us. That is all.”

Thirdly, they said that the MPLC officials should be killed. Why Bozizé, my little brother? Why? It is the MLPC who fought for change. You wanted to join the MLPC and I did not stop you. I said, “Come.” Because you wanted to head the MLPC and you knew that it would not work out, you wanted to kill the MLPC. But as you know nothing about the MLPC, which is a very big political party, you wasted your time. If today I order the MLPC, ask it to rise up, who can stop it? Who? Who? That is what is happening now. That is it!

Dear compatriots, our country is a very beautiful country.

I thank you. Keep the peace. May God keep you safe for the large forum of national unity, national solidarity and the talks. I thank you very much. May God bless Central Africa. Thank you.

### **APPENDIX 3: LIBREVILLE ACCORDS, OCTOBER 2, 2002**

#### **CEMAC – Libreville Summit**

#### **Final communiqué of the Summit of Heads of State and of the Delegation of the Economic Community of Central African States (CEMAC)**

At the invitation of His Excellency El Hadj Omar Bongo President of the Republic of Gabon,

Their Excellences:

- El Hadj Omar BONGO, President of the Republic of Gabon;
- Obiang NGUEMA MBASOGO, President of Equatorial Guinea;
- Idriss DÉBY , President of the Republic of Chad;
- Ange-Félix PATASSÉ, President of the Central African Republic;
- Denis SASSOU NGUESSO, President of the Republic of the Congo;
- Amadou Toumani TOURÉ, President of the Republic of Mali;
- Laurent ESSO, Minister delegated by the Presidency, responsible for Defense, representing S.E.M. Paul BIYA, President of the Republic of Cameroon;
- Amara ESSY, Interim Chairperson of the Commission of the African Union (A.U.);
- General Lamine CISSÉ, Special Representative of the Secretary-General of the United Nations in the Central Africa Republic;

Met in Libreville on October 2, 2002, in the framework of the Economic Community of Central African States (CEMAC) to examine the situation between the Republic of Central Africa and the Republic of Chad.

Having examined the report of the Commission of Verification and Evaluation and the observations of Presidents Idriss DÉBY and Ange-Félix PATASSÉ, the Heads of State have decided the following:

#### **1- On the political front**

The immediate removal of Martin Koutan-Madji alias Abdoulaye Miskine and François Bozizé from the Central African territory as well as all the other elements hostile to the two countries.

#### **2 – On the security and military front**

The Republic of Chad and the Republic of Central Africa will deploy their regular troops on their respective sides of the border, along the shared border between the two countries, and will undertake mixed patrols.

The corridors allowing the seasonal movement of cattle will be updated or if necessary determined by a common accord.

The Heads of State and of the Delegation have decided to deploy a contingent of 300-350 troops in the Central African Republic within a month and for a six-month period, which

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may be extended. The troops will be made up of Gabonese, Congolese, Cameroonian, Equato-Guinean and Malian soldiers. This contingent will take part in the restructuring of the Central African Armed Forces (FACA).

A special company will be responsible for protecting the Central African Head of State.

Observers will monitor and secure the border between Chad and the Republic of Central Africa.

**3 - Cooperation**

The Republic of Central Africa and the Republic of Chad commit themselves to cooperate and reactivate all existing commissions: the Large Mixed Commission; the Bilateral Commission for the northern border; the Tripartite Commission for the northeastern border.

The Heads of State authorize President Bongo to coordinate between CENSAD and CEMAC.

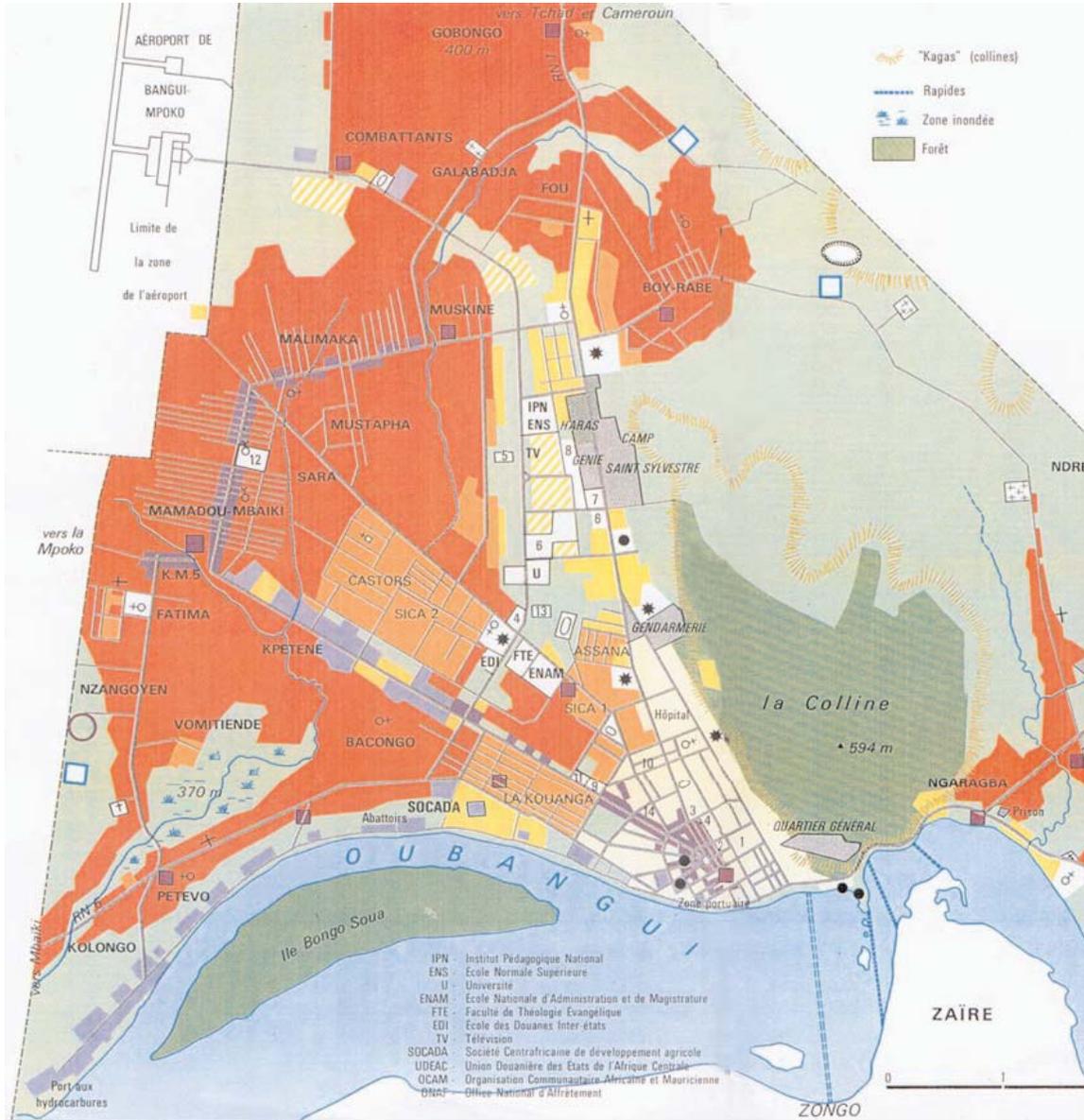
The Heads of State and of the Delegation, determined to further consolidate the friendship and brotherhood between their peoples, to safeguard friendly neighborly relations, peace and cooperation between their States, are very pleased with the general feeling of understanding that underpinned these meetings.

At the close of their meetings, they sincerely thanked His Excellency El Hadj Omar BONGO as well as the Government and People of Gabon for the brotherly welcome and hospitality they enjoyed during their stay in Libreville.

Concluded in Libreville on October 2, 2002.

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**APPENDIX 4: MAP OF BANGUI**



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**APPENDIX 5: IDENTITY CARDS OF TWO OF GENERAL BOZIZE'S  
COMBATANTS RETRIEVED BY THE CENTRAL AFRICAN AUTHORITIES**

Sarh, le 19/12/2002

REPUBLIQUE DU TCHAD  
MINISTRE DE LA DEFENSE NATIONALE  
ET DE LA MOBILISATION  
ETAT-MAJOR GENERAL DES ARMES  
ETAT-MAJOR DE L'ARMEE DE TERRE  
REGION MILITAIRE N° 9 SARH  
N° 22 /ANT/RM9/2002

**AUTORISATION DE DEPLACEMENT**

Le Colonel, Commandant de Région Militaire N° 9 Sarh.

Autorisé : BOZIZE Jean-François  
Grade : Colonel N°            Id.             
En service : à la Région Militaire N° 9 Sarh  
De se rendre de : Sarh à : N'Djaména  
Date de départ : 19/12/2002  
Accompagné de : seul  
Moyen de déplacement : voiture terrestre  
Itinéraire :           

NOTIF : Mission administrative

Il est demandé aux autorités civiles et militaires de faciliter le déplacement de l'intéressé.

Colonel, Commandant de Région Militaire N° 9 Sarh.



1. Nom et Prénoms : **BOZIZE Jean-François**

2. Nationalité : **Française**

3. Date de naissance / Date of birth : **19 FEB. 1970**

4. Sexe : **M**

5. Lieu de naissance / Place of birth : **BANGUI CENTRAFRICAINE**

6. Date d'expiration / Date of expiry : **23 OCT. 2001**

7. Date de délivrance / Date of issue : **24 OCT. 1996**

8. Autorité / Authority : **Le Sous-Préfet**

9. Nationalité : **NOIR**

10. La validité du présent passeport est prorogée jusqu'à l'expiration du présent passeport.



**RÉPUBLIQUE DU TCHAD  
PRÉSIDENTIE DE LA RÉPUBLIQUE**

**Col. DAOUD SOUMAIN KHALIL**  
Chef d'Etat-Major Particulier  
du Président de la République

Tél. B. 52 04 65  
D. 53 10 19  
53 08 40  
Fax : 51 45 01  
Portable : 29 15 66

B.P. 74  
N'Djaména  
Rép. du Tchad



**APPENDIX 6: EXCERPTS OF THE REPORT OF THE SECRETARY GENERAL OF THE UNITED NATIONS ON THE SITUATION IN THE CENTRAL AFRICAN REPUBLIC<sup>78</sup>**  
**JANUARY 3, 2003**

**United Nations S/2003/5**  
**Security Council**

**The situation in the Central African Republic and the activities of the United Nations Peace-building Support Office in the Central African Republic (BONUCA)**

**Report of the Secretary-General**

**Security and military situation**

9. The consequences of these clashes (Editor's note: the coup attempt of October 25, 2002) have yet to be determined; however official sources report 105 dead and 329 wounded. On 28 October 2002, I issued a strong condemnation of this attempt to take power by force of arms (see SG/SM/8460-AFR/502) as did the Security Council, which on 8 November 2002 reiterated its support to the Central African authorities and stressed the need for implementation without delay of the steps decided at the Libreville summit (see SC/7566-AFR/511).

**Human rights situation**

18. During the period under review, some cases of extrajudicial executions and disappearances were reported, particularly after the events of 25 October 2002. These violations of the right to life affected primarily innocent civilians, some of whom were also victims of looting committed both by Bozizé's men and by Jean-Pierre Bemba's soldiers. Numerous instances of rape perpetrated by Bemba's men were reported in several districts of Bangui. It has not been officially determined that Bozizé's followers were involved in atrocities, including looting, in Bangui. However, residents of towns occupied by his men were indeed the victims of such acts. BONUCA, in close collaboration with non-governmental organizations, is in the process of tallying the human rights violations committed during the armed conflict of the end of October 2002.

**Relations between the Central African Republic and Chad**

24. Relations between the Central African Republic and Chad have severely deteriorated as a result of the events in Bangui of 25 October 2002. The Central African authorities claim to have evidence that Chad was involved in the attack on Bangui. They have shown the international community in the Central African Republic the Chadian prisoners taken at the time of the uprising, the documents confiscated from the attackers and the supplies

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<sup>78</sup> See United Nations, *Report of the Secretary-General concerning the situation in the Central African Republic and activities of the United Nations Peace-building Support Office in the Central African Republic (BONUCA)*, UN doc. S/2003/5, January 3, 2003 at <http://daccessdds.un.org/doc/UNDOC/GEN/N03/201/29/PDF/N0320129.pdf?OpenElement> for full report.

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and equipment recovered after the attack. The Central African authorities have demanded the immediate withdrawal of the Chadians from their territory.

25. The Chadian nationals who supported François Bozizé's troops could have been recruited either in Chad or in the Central African Republic, which has a large Chadian community, some members of which serve in the Central African armed forces and the Presidential Security Unit. While it is hardly conceivable that forces of the regular Chadian army should have participated in the attack on Bangui, the Government in N'djaména could not have been unaware of the preparations being made on its borders for a military offensive against towns in the Central African Republic.

26. Chad has rejected the Central African accusations outright. It maintains that the problem in the Central African Republic is an internal one and that the Bangui Government is looking for a scapegoat for the internal crisis the Central African Republic is undergoing. The Government of Chad has accused the Central African authorities of having had 150 Chadian nationals massacred in Bangui. The Central African Government has vigorously denied these allegations. Chad has called for an international commission of inquiry. The Central African Republic does not object but is demanding that the inquiry also look into "Chad's aggression against the Central African Republic."

**Observations**

30. The current situation in the Central African Republic continues to be a source of concern. The relative stability and gradual easing of tension that had become evident have recently been compromised by the attempted takeover by the partisans of François Bozizé at the end of October 2002. The social peace that had prevailed until then has been disturbed in recent weeks by labour stoppages. The uncertain prospects of an economic and financial agreement with the Bretton Woods institutions serve to undermine an already tenuous social situation even further. The presence of an armed rebellion in the northern part of the country, together with the insecurity and the deprivations suffered by the local populations and displaced populations, are also major destabilizing factors.

**APPENDIX 7: THE DEPUTIES ATTEMPT TO SUMMON PATASSÉ BEFORE THE SUPREME COURT**

**Resolution presented by the parliamentary group PUN/FC/IND which was voted down.**

**Resolution**

**Object: Appearance of the Head of State before the Supreme Court**

In conformity with the Preamble of the Constitution and the solemn oath, which stipulate:

- Convinced of the pressing need to preserve unity and peace, the most important contributing factors toward economic and social progress;
- Driven by the concern to ensure human dignity in accordance with the principle of “ZO KWE ZO” formulated by the founder of the Central African Republic, Barthélémy BOGANDA;
- Determined to build a State of law, founded on a truly pluralist democracy, which protects the security of persons, property, the weakest, particularly vulnerable persons, the minorities, and enables citizens to exercise their freedoms and fundamental rights;
- Reaffirming its commitment to the Universal Declaration of Human Rights of December 10, 1948, the International Covenants on Economic, Social and Cultural Rights as well as on Civil and Political Rights of December 16, 1966 and the African Charter of Human and Peoples’ Rights and other treaties the CAR has ratified;
- Opposing all means of gaining power by civilian or military force as well as all forms of dictatorship.

“I swear to scrupulously adhere to the Constitution, to guarantee the independence and the continuity of the Republic; to safeguard the integrity of the Territory; to preserve peace; to consolidate national unity; to ensure the well-being of the Central African people; to conscientiously carry out the tasks assigned to me without any ethnic or regional bias; to never use the powers devolved to me under the Constitution for personal ends and to only be guided by national interest and the dignity of Central Africans.

Considering that all political and military acts by the Head of State, in flagrant violation of the Constitution caused degradation, humiliation, destroyed property, considerable loss of human life as well as rape and pillage, which were perpetrated by irregular troops, and constitute crimes of high treason and abuse of authority.

Therefore

DECIDES

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That the Head of State be brought before the Supreme Court in accordance with Article 93 of the Constitution.

Concluded in Bangui on November 13, 2002

**War crimes in the Central African Republic**  
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**APPENDIX 8: RESOLUTION ON THE CRISIS SITUATION RESULTING FROM THE ATTEMPTED COUP AND THE ATTACK ON OCTOBER 25, 2002**

The National Assembly of the Republic of Central Africa met on November 15 and 16, 2002 in Bangui.

Considering that on October 25, 2002, former soldiers who fled with the former Chief of Staff of the Central African army, François Bozizé, in November 2001 to Chad and with the support of Chadian officers and soldiers, tried to overthrow the legitimate regime of the Central African Republic;

Considering that Chad played a role in the planning and execution of this attack in addition to providing support, as explained by the Prime Minister, the Head of the Government and proven by the capture of certain soldiers and confiscation of military vehicles;

In light of the documents seized from attackers by the Central African Armed Forces on October 25 and subsequent days;

Considering the suffering inflicted on the peaceful populations of Bangui and the interior;

Considering that certain Central African politicians and opinion leaders based in France actively contributed to the conception, preparation and execution of the armed coup on October 25, 2002;

Convinced of the Government of the Republic's negligence given that the heavily armed attackers traversed more than 600 km in their attempt to assassinate the Head of State and destabilize the Republic's institutions, without the armed and security forces being informed of their progress or meeting any opposition;

Supporting the almost unanimous wish of Central African politicians and the international community to hold talks in the near future between the country's active forces in order to bring peace to the country and reconcile all Central Africans;

Convinced that the arrears in salaries, scholarships and pensions substantially contribute to the recurring crises in the Central African Republic:

1) Strongly condemn the attempted coup of October 25, 2002 which is a flagrant violation of Article 18 (1), (2), (3), (4) of the Constitution of January 14, 1995.

2) Condemn the vague annexionist impulses of Chad that gave rise to this aggression, which is a serious violation of the international laws and customs and the sacrosanct principle of the inviolability of borders inherited from colonization and a deliberate attack against the territorial integrity of the Republic of Central Africa.

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- 3) Request that the French government prevent Central African politicians based in France seeking to destabilize the Republic of Central Africa without any qualms from leaving its territory.
- 4) Express the need for talks between all the active forces of the nation to reconcile all Central Africans.
- 5) Recommend the rapid establishment of a crisis government to effectively manage this situation, which endangers our country and seriously undermines national unity.
- 6) Invite the Prime Minister, the Head of the Government, to establish an inter-ministerial commission of inquiry to evaluate the damages caused by the events of October 25.
- 7) Invite the military leaders to do all they can to speedily restore security and peace throughout the whole of the country.
- 8) Appeal to donors and the international community to assist the Central African Republic in dealing with this extremely serious situation.
- 9) Request that the President of the National Assembly transmit this resolution to the Government of the Republic.

Concluded in Bangui, November 22, 2002

The National Assembly

**APPENDIX 9: THE REPATRIATION OF CONGOLESE TO THE DRC: A UNDIGNIFIED SPECTACLE FOR THE COUNTRY OF “ZO-KWE-ZO” SHAME! (‘LE CITOYEN’ N°1492 MONDAY NOVEMBER 11, 2002)**

Jean-Pierre Bemba’s brutal troops shortened the stay of peaceful Congolese who left their country during Mobutu’s regime to “survive” in Bangui. But the war crimes committed by Bemba’s troops in the northern neighborhoods of Bangui and the looting spree they subjected the civilian population to following the retreat of Bozizé’s men created a lot of waves in the capital. And the people are fed up.

Congolese living in Bangui, where they work as shoe-shiners, palm wine collectors, sellers of cold water, Cola, yoghurt, rickshaw pushers, servants ... have paid the price in certain neighborhoods for the last week or so. During this period, several hundred Congolese have been set upon, chased from their homes, subjected to heinous acts and have sought refuge in the womb of the Embassy of the Democratic Congo, their country, located on Avenue Boganda, opposite the Apostolic Church at PK 3. Some Congolese were not harassed because residents of the southern neighborhoods helped them.

In addition, to avoid the worst, those who sought refuge in the Embassy of the DRC in Bangui were repatriated by the UNHCR, the WFP and COOPI.

Men, women and children with their belongings were repatriated last Saturday in the drizzle. Four Mercedes-type trucks specially chartered were parked right in front of the Embassy. When their names were called out, the Congolese heading home, exited via the open gate and rushed to the trucks. Each truck transported 80 persons to the port so that they could cross the river. A sad spectacle, unworthy of the Central African Republic, the country of “Zo Kwé Zo.”

It was very sad to these predominantly young people and minors held by their hands or sitting on another’s lap in the cold. Many said that they had been in Bangui since the times of Bokassa, Dacko and Kolingba and did not understand what had happened to them. Some were ready to forgive the Central Africans for taking their wrath out on them instead of on Bemba, his troops and their ally, Patassé. Others promised to take revenge by joining the rebellion. But all were afraid of finding themselves dispossessed by their compatriots after crossing the Oubangui River.

Clearly, the authorities in Bangui, starting with the Head of State, preferred the humiliation of the departure of Congolese civilians over that of the MLC criminals who still control the northern neighborhoods.

In any case, this new act warrants some reflection. It signifies, on the one hand, that if the residents of the seventh district with their collateral relations in the second and sixth neighborhoods “swallowed” the humiliation they were subjected to the day after May 28, 2001, the residents in the northern neighborhoods who have hot blood can swallow this “Patassian” pill.

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Although the Central Africans committed war crimes in Ouango in 2001, the conduct of the Banyamulengues in the northern neighborhoods was the last straw. And if we do not watch out, if the “Banditmulengues” are not removed, the long-standing relations between the two peoples (Congolese and Central African) is likely to deteriorate, as has happened in the Ivory Coast and Burkina Faso, thanks to Patassé et Bemba.

For pity’s sake, let’s do something about this very real problem. The Banyamulengues, the current masters of Bangui, should be sent home immediately.

All the same, I wish our Zico friends who are going back home, all the best upon their return and we should protect those who remain here and have nothing to do with the rapes, looting or other abuses inflicted on helpless people.

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**APPENDIX 10: CENSUS OF CHADIAN NATIONALS WHO LIVE IN THE PK 12 AREA, ACTIVITY REPORT NOVEMBER 18-22, 2002**

Between November 18 and 19, 2002, 167 Chadian women went to the Embassy of Chad in the Central African Republic to request protection for their families and to be repatriated to Chad. After meeting with the Embassy of Chad twice, representatives of United Nations agencies and COOPI decided to conduct a census of the Chadians living in the PK 12 area. COOPI put together a team consisting of a supervisor, two community outreach workers and two assistants. The census was conducted from November 19 to November 22, 2002.

After meeting with the Chadian population near the mosque in PK 12, it became clear that the census had to be done on a household basis by going door-to-door, as it was too dangerous to assemble a crowd for long periods and because of the large number of soldiers in the neighborhoods to be surveyed. Chadians residing near the cattle market were not part of the census, as that area was too insecure. In addition, many people had hidden in the bush and did not gather until the Tuesday. The very poor security conditions and the constant threat that the residents of the neighborhoods surveyed were under should be highlighted. One of the assistants had a gun pointed at him during the census.

The census reveals the following:

Neighborhood	Adults			Children			Persons in charge	Total
	M	F	Total	0-5	6 - <	Total		
Yembi 1	120	153	273	448	239	687	565	1525
Yembi 2	46	164	210	91	117	208	177	595
Begoua Centre 1	45	68	113	135	147	282	185	580
Begoua Center 2	37	36	73	54	78	132	133	338
<b>TOTAL</b>	<b>248</b>	<b>421</b>	<b>669</b>	<b>728</b>	<b>581</b>	<b>1309</b>	<b>1060</b>	<b>3038</b>

Neighborhood	Total	Persons requesting to leave	%
Yembi 1	1525	788	51.7
Yembi 2	595	175	29.4
Begoua Center 1	580	313	54
Begoua Center 2	338	30	8.9
<b>TOTAL</b>	<b>3038</b>	<b>1306</b>	<b>43</b>

Neighborhood	Persons who lost household goods	Amount of money stolen (FCFA)	Persons subjected to violence
Yembi 1	1377	42 887 750	23
Yembi 2	481	4 940 000	10
Begoua Center 1	510	10 185 000	4
Begoua Center 2	318	7 683000	2
<b>TOTAL</b>	<b>2686</b>	<b>65 695 750</b>	<b>39</b>

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**APPENDIX 11: ARTICLE 8 OF THE ROME STATUTE**

**Article 8**  
**War crimes**

1. The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.

2. For the purpose of this Statute, “war crimes” means:

(a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

- (i) Wilful killing;
- (ii) Torture or inhuman treatment, including biological experiments;
- (iii) Wilfully causing great suffering, or serious injury to body or health;
- (iv) Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
- (v) Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;
- (vi) Wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
- (vii) Unlawful deportation or transfer or unlawful confinement;
- (viii) Taking of hostages.

(b) Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:

- (i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- (ii) Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
- (iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
- (iv) Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;
- (v) Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
- (vi) Killing or wounding a combatant who, having laid down his arms or having no longer means of defence, has surrendered at discretion;
- (vii) Making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;
- (viii) The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;
- (ix) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
- (x) Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
- (xi) Killing or wounding treacherously individuals belonging to the hostile nation or army;

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- (xii) Declaring that no quarter will be given;
  - (xiii) Destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war;
  - (xiv) Declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;
  - (xv) Compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;
  - (xvi) Pillaging a town or place, even when taken by assault;
  - (xvii) Employing poison or poisoned weapons;
  - (xviii) Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
  - (xix) Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;
  - (xx) Employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons, projectiles and material and methods of warfare are the subject of a comprehensive prohibition and are included in an annex to this Statute, by an amendment in accordance with the relevant provisions set forth in articles 121 and 123;
  - (xxi) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
  - (xxii) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;
  - (xxiii) Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;
  - (xxiv) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
  - (xxv) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions;
  - (xxvi) Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.
- (c) In the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause:
- (i) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
  - (ii) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
  - (iii) Taking of hostages;
  - (iv) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.
- (d) Paragraph 2 (c) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.
- (e) Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:

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- (i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
  - (ii) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
  - (iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
  - (iv) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
  - (v) Pillaging a town or place, even when taken by assault;
  - (vi) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, and any other form of sexual violence also constituting a serious violation of article 3 common to the four Geneva Conventions;
  - (vii) Conscription or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities;
  - (viii) Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;
  - (ix) Killing or wounding treacherously a combatant adversary;
  - (x) Declaring that no quarter will be given;
  - (xi) Subjecting persons who are in the power of another party to the conflict to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
  - (xii) Destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict;
- (f) Paragraph 2 (e) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature. It applies to armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups.
3. Nothing in paragraph 2 (c) and (e) shall affect the responsibility of a Government to maintain or re-establish law and order in the State or to defend the unity and territorial integrity of the State, by all legitimate means.

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**APPENDIX 12: CENTRAL AFRICAN SOLDIERS KILL FOUR PERSONS IN CHAD (AFP, N'DJAMENA, JANUARY 2, 2002 – 18:47/'LE PROGRÈS' 14/01/2002)**

On Wednesday, official Chadian and Central African military sources said that Central African soldiers had killed four Chadians and taken eight prisoners in southern Chad on December 29 and 31 before withdrawing to the Central African Republic (CAR).

According to a Central African military source who desires to remain anonymous, the soldiers were under the command of Abdoulaye Miskine, a Chadian national recruited by the Central African army. Miskine was formerly associated with the Chadian rebel leader, Laokein Bardé who was assassinated.

An official Chadian source in Sahr (south) contacted by AFP said that these Central African soldiers first killed two Chadians and took five prisoners in a village located seven kilometers from the border town of Sido in southern Chad on December 29.

During their second incursion on December 31, the soldiers searched a car before killing two of the passengers and taking four others as prisoners. The victims were all Chadian nationals. One managed to escape and return to Chad.

Central African and Chadian sources said that the remaining eight prisoners were tortured in the Central African town of Kabo (north). The motive behind these acts remains unclear and neither the CAR nor Chad have officially commented on these events.

These were the first border incidents since N'Djamena and Bangui agreed in late December to improve their strained relations caused by the presence of the former Central African Chief of Staff, François Bozizé, in southern Chad.

As a token of appeasement, the Central African judiciary announced in late December that they had dropped legal proceedings against Mr. Bozizé and his fighters, whom Bangui has accused of having attempted to overthrow the government since early November.

This decision was welcomed by N'Djamena who refused to hand over Mr. Bozizé to the CAR and has always advocated for a negotiated settlement between Central Africans.

This decision was made following confrontations between the Central African soldiers and Bozizé's troops in northern CAR. Tensions rose drastically as the two countries accused each other of troop movements on their border.

The eight Chadians who were accused of having set up checkpoints (persons manning checkpoints are known locally as "zaraguina"), were tortured in Kabo by their compatriots employed in the Central African security forces. One of them died as the result of the torture. The seven others (El Hadj Hisseine Acyl, Mourmine Annour, Izedine

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Mahamat, Abdérahim Outhman, Bichara Asrat, Mahamat and Issa Adoum Issa), who survived the torture, were detained for over a week in the CAR. They were repatriated on Saturday January 12, 2002 at the request of the Chadian government. The presidential plane flew them back from Bangui. The Chadians who were suspected of being “zaraguina” were in fact peaceful cattle breeders.

One night at the beginning of the second week of January 2002, Central African security elements visited the village of Zemabaï in Chad. The cattle breeders thought that it was a routine patrol. “We welcomed them as well as fed and accommodated them. We bitterly regretted our hospitality the next morning. The soldiers opened fire, killing three persons on the spot, as well as four horses and cattle. They even stole our money. Eight persons were then taken to Kabo. We were subjected to torture in this town,” declared the head of the village, El Hadj Hisseine Acyl.

Photo 1. Mr. Maïtine Djombé, the Ambassador of Chad in the CAR in the foreground. The cattle breeders who were tortured in the background; Photos 2 and 3. Scars caused by the torture on the stomach of the head of the village; Photo 4. Scars caused by the torture on the back of another person.



**APPENDIX 13: PK 13 CATTLE MARKET: MASSACRE OR NOT: TESTIMONY  
(‘LE CITOYEN’ N°1489, OCTOBER 6, 2002)**

It was 10:00 in the morning on Friday, November 1, All Saints’ Day. I refused to commemorate the dead. I preferred to visit my mother and my two-year-old sister who escaped death, as they were not able to leave PK 12 on time. The hostilities took almost everybody by surprise on Friday, October 25.

There was no public transport between Km 5 and PK 12. So a friend and I decided to overcome our fear which gnawed at our stomach to walk there and back. There were only a few other pedestrians whose anxiety showed on their faces. They did not walk side by side but in single file, which was strange. The few taxis that had braved the streets did not go beyond the Ben-Zvi-Koudoukou intersection. Just before the intersection where the MLPC headquarters are based, there was a very bad smell and everyone covered their nose with a handkerchief, their shirt or simply with their hands.

We were told that there was a decomposing body in the vicinity. We saw the second body with our own eyes, which horrified us. It was on the left corner of the Avenues Koudoukou-Martyrs intersection near the MPLC headquarters. The deceased had fallen on his stomach, he was naked, which was strange, except for his black underpants, and exposed to the sun. He was also in an advanced state of putrefaction and covered in thousands of black flies...

So we crossed the street and a little later found ourselves in the Fou neighborhood, not far from the re-education center for the handicapped. A large German shepherd, riddled with bullets, was lying on the ground. Its face was covered with thousands of buzzing black flies.

In Gobongo, we passed through the first check point controlled by men in uniform. They did not ask us anything. Just before the police training center, we smelt another bad smell. The corpse of a uniformed man lay at the foot of the flagpole. He was lying face up and his decomposing body was bloated. We were still in shock when our attention was drawn to the noise caused by a convoy of government cars, including military cars, and those of ambassadors accredited to our country. They sped past us. We saw the Prime Minister, the Head of the Government in his car, the star-spangled banner of the USA, the flags of the United Nations, of Chad, etc. fluttering on each car...

A woman on a push chair was rushed to the Friendship Hospital by a young muscular man. Two bullets had been fired into the soles of her feet, causing serious damage. She lived in PK 12 and had protested when the Banyamulengues had stolen her shoes. We saw two other wounded, youths whose feet had been broken by firearms and were dragging themselves along the ground near the ILO office.

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I almost turned back so close to our destination, as I did not have the same determination as my friend, good God! Everyone was talking about the Banyamulengues the closer we got to the checkpoint...

In the distance, the convoy stopped before setting off again, turning left onto the road to Boali. There were groups of Banyamulengues more than 500 meters before the checkpoint, all along the road, stinking of alcohol and cigarettes, smoking marihuana without any shame. Obviously they were all wearing new combat uniforms, red berets pulled down over their faces, their clothes were too large for them. Assault weapons were slung across their shoulders. As we had recently learnt from the trial of the putschists, they spoke loudly in Lingala and in another incomprehensible dialect. All these high flyers were young, some were children aged from 12 to 19 and young adults, disguised or not. Some had boots that were too large for them or Palladium boots, their sandals tied to their belts. Other trigger-happy men arrogantly wore new shoes stolen from traders or passer-byers.

The most stubborn of the dispossessed were shot in their legs, their stomach or lost their lives while witnessing these two young men and this lady. Women and girls who were crying had been raped by the conquerors just before we reached the checkpoint.

All the women were automatically searched by the Banyamulengues. When we reached the checkpoint, the presence of the Prime Minister calmed them down a bit, enabling us to pass through the checkpoint without the Banyamulengues who conquered the brigade in PK 12 without lifting a finger calling us back or extorting money from us. But for how much longer would this calm last....

Abdoulaye Miskine, who was with his men, was holding an animated discussion near the barrier with someone who might have been the head of this unit of Banyamulengues. Nobody, at least not the brave civilians like us, could approach them to hear what they were saying. Were they dreaming up another attack? Did they want to ask their boss to try to contain his troops? ...

One hundred meters from the barrier, a group of eight individuals called out to us. Oddly enough the USP on the veranda opposite the brigade indicated that we should keep on walking and ignore those who wanted to provoke us. After another hundred meters, another group of Banyamulengues called us by whistling. As a measure of precaution, some persons went with us and eight of us approached them. The most important among them displayed his wealth ostentatiously on his person: three gold chains were draped around his neck. He also had five cell phones, two attached to his chest pockets. He held the other three cell phones in his left hand and a Kalashnikov in his right.

In Lingala he ordered: "Bo fukama. Bo zali na soda ten a mboka na binon wana, mukolo mboka moto a lobi boye. Bo pesa mbongo, bo longola sapa. To na bilamba, soki boye te took beta bino massasii." This means: "Kneel down, you no longer have any soldiers in your country. It is your big somebody who said so. Give us your money, take off your shoes and clothes otherwise we will kill you!" Thank God, they did not notice that I

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understood their language by kneeling down in front of everyone. The USP troops who do not normally let anyone off lightly became the guardian angels of this murderous population. They suddenly appeared and told all of us to get up and leave without any further to-do. Phew! After we had walked several meters, the cars of the officials who had just passed us pulled up and parked near the school of Bégoua. We were told that they had come to see if there had been any killings...

It was 13:50 when the convoy of the Prime Minister and the diplomats returned to Bangui. I arrived at my destination and kissed my mother and sister who were apparently worried by the ongoing shooting. My mother had come from Lando, which is another name for the cattle market. She was there on Thursday when a grey Land Rover-type pick-up, full of heavily armed troops had arrived on the scene, sowing panic and chaos among everybody. Then gun shots were heard and eye witnesses confirmed that several butchers were shot yesterday in the area where the Chadian herders normally graze their cattle.

She saw four dead bodies in front of the mosque. The head of the first one was all mashed up. The second one had been shot in the stomach and his intestines were exposed. The eyes of the third individual were rolled upwards and each time he tried to move, he bled from his nose, one of his ears and his mouth. The automatic gunfire of the killers had blown away the back of the fourth. Some people said that 30 others had been killed. Others said more had been killed.... All these men were Chadian traders who had lived in the country for a long time and had gone about their trade without any problem until that day. The witnesses knew Abdoulaye Miskine well because he used to buy beef from the Chadian breeders and was friendly to them. The breeders considered him as their brother and were proud of him.

One of my cousins told us he had fled from PK 12 and sought refuge a few kilometers along the road to Damara had to flee again after Miskine's men killed about fifteen "Bororos" herders.

The neighborhood is full of deep holes dug by the Banyamulengues who occasionally go down into the holes in plain sight of everyone and take up their positions like they are in training before going to battle. From where we stood, I, like everyone else, looked dumbfounded at the Banyamulengues carrying off looted goods... The residents of the Gbanou district in PK 12 did not let themselves be looted; they armed themselves with guns, iron bars, stones and their bare hands to chase away the migrating crickets or the Banyamulengues.

It is 16:00, time to return to KM 5. At the checkpoint at PK 12, we did not notice when we left that all the little kiosks near the brigade of PK12 had been destroyed and looted by you know who. At PK 10, the dead body is still lying beneath the flagpole in the police training center. The German shepherd near the rehabilitation center has been burnt probably to prevent it from polluting the air. The body of the man at the intersection of the Avenues is also still there.

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At KM 5, no Muslim traders traded today, because of the massacre of their compatriots at PK 13, the cattle market on the road to Boali and at PK 15 on the road to Damara ...

A reader

**APPENDIX 14: NON-EXHAUSTIVE LIST OF DEAD AND INJURED AT THE CATTLE MARKET BASED ON FIDH INTERVIEWS WITH WITNESSES**

**First grave located in the cattle market**

- Haj Eke (killed in front of the masjid)
- Khaled Yanou (killed in front of masjid)
- Abdala Seini (killed in front of the driver's house)
- Abderrahim Mohammed (killed in front of the driver's house)
- Hothman Bouba (killed in front of the driver's house)

**Second grave located in the cattle market (all killed in front of the driver's house)**

- Daoud Abou Cheb
- Brahim Mohammed
- Giga, the driver
- Yahia Hassen
- Ahmed, 30 years old, Chadian

**Third grave in the lane leading to St. Charles school**

- Ousman Bacharia
- Zakaria Kacem
- Youssef Adam
- Abdel Karim Dakharou
- Ellamine Moussa
- Younes Marioud
- Dris Brahim
- Omar Maina
- Ahmed Medebou
- Ahmed Sakia
- Essafi Koundji
- Ahmed Koundji
- Ali Jibril
- Abdadala Souleiman
- Abdelkarrim Ismain

**Wounded in the Community Hospital**

- Abdennebi
- Sair
- Osman
- Dalongo
- Mahammed Ismail
- Yahia Issa
- Brahim
- Adam Hassine

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**APPENDIX 15: PHOTOGRAPHS**

House in PK 12 looted by the Banyamulengues



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(see testimony of MCS) (see testimony of MLY)  
Women shot in their feet by Banyamulengues



Survivor of the massacre in the cattle market  
(see testimony of MS)



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First mass grave on the lane leading to St. Charles School (photographed by FIDH)



Traces of human remains (tufts of curly hair) found at the site of the first mass grave



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Second mass grave near the cattle market in which 15 bodies were buried (photographed by FIDH)



# FIDH represents 141 Human Rights organisations

## 141 organisations

**Albania**-Albanian Human Rights Group  
**Algeria**-Ligue algérienne de défense des droits de l'Homme  
**Algeria**-Ligue algérienne des droits de l'Homme  
**Argentina**-Centro de Estudios Legales y Sociales  
**Argentina**-Comite de Accion Juridica  
**Argentina**-Liga Argentina por los Derechos del Hombre  
**Austria**-Österreichische Liga für Menschenrechte  
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**Bahrain**-Bahrain Human Rights Society  
**Bangladesh**-Odhikar  
**Belarus**-Human Rights Center Viasna  
**Belgium**-Liga Voor Menschenrechten  
**Belgium**-Ligue des droits de l'Homme  
**Benin**-Ligue pour la défense des droits de l'Homme au Bénin  
**Bhutan**-People's Forum for Human Rights in Bhutan (Nepal)  
**Bolivia**-Asamblea Permanente de los Derechos Humanos de Bolivia  
**Brazil**-Centro de Justicia Global  
**Brazil**-Movimento Nacional de Direitos Humanos  
**Burkina Faso**-Mouvement burkinabé des droits de l'Homme & des peuples  
**Burundi**-Ligue burundaise des droits de l'Homme  
**Cambodia**-Cambodian Human Rights and Development Association  
**Cambodia**-Ligue cambodgienne de défense des droits de l'Homme  
**Cameroon**-Maison des droits de l'Homme  
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**Congo Brazzaville**-Observatoire congolais des droits de l'Homme  
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**Czech Republic**-Human Rights League  
**Cuba**-Comisión Cubana de Derechos Humanos y Reconciliación National  
**Democratic Republic of Congo**-Ligue des Électeurs  
**Democratic Republic of Congo**-Association africaine des droits de l'Homme  
**Democratic Republic of Congo**-Groupe Lotus  
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**Ecuador**-Comisión Ecuemenica de Derechos Humanos  
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**French Polynesia**-Ligue polynésienne des droits humains  
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**Germany**-Internationale Liga für Menschenrechte  
**Greece**-Ligue hellénique des droits de l'Homme  
**Guatemala**-Centro Para la Accion Legal en Derechos Humanos  
**Guatemala**-Comisión de Derechos Humanos de Guatemala

**Guinea**-Organisation guinéenne pour la défense des droits de l'Homme  
**Guinea Bissau**-Liga Guineense dos Direitos do Homen  
**Iran**-Centre des défenseurs des droits de l'Homme en Iran  
**Iran (France)**-Ligue de défense des droits de l'Homme en Iran  
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**Israel**-Association for Civil Rights in Israel  
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**Israel**-Public Committee Against Torture in Israel  
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**Kyrgyzstan**-Kyrgyz Committee for Human Rights  
**Laos**-Mouvement lao pour les droits de l'Homme (France)  
**Latvia**-Latvian Human Rights Committee  
**Lebanon**-Association libanaise des droits de l'Homme  
**Lebanon**-Foundation for Human and Humanitarian Rights in Lebanon  
**Lebanon**-Palestinian Human Rights Organization  
**Liberia**-Liberia Watch for Human Rights  
**Libya**-Libyan League for Human Rights (Switzerland)  
**Lithuania**-Lithuanian Human Rights Association  
**Malaysia**-Suaram  
**Mali**-Association malienne des droits de l'Homme

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**Nigeria**-Civil Liberties Organisation  
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**Palestine**-Palestinian Centre for Human Rights  
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**Peru**-Asociación Pro Derechos Humanos  
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**Rwanda**-Ligue rwandaise pour la promotion et la défense des droits de l'Homme

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**Senegal**-Rencontre africaine pour la défense des droits de l'Homme  
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**Spain**-Federación de Asociaciones de Defensa y Promoción de los Derechos Humanos  
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**Uzbekistan**-Legal Aid Society  
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**Yemen**-Sisters' Arabic Forum for Human Rights  
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