

Why a Special Criminal Court for the Central African Republic Deserves Your Support

(Bangui) – The interim parliament for the Central African Republic is about to consider a bill to establish a Special Criminal Court to complement the work of the International Criminal Court in the country and speed up justice for victims of atrocities since the current conflict began three years ago. This is why the bill needs and deserves support from members of the transition parliament.

The Special Criminal Court would be an efficient tool for fighting impunity and consolidating sustainable peace in the Central African Republic.

1. Since 2012, extremely serious crimes have been committed in the Central African Republic, constituting war crimes and crimes against humanity. They include murders – including some that were politically and ethnically motivated, massive displacement of the population, and the looting and wide-scale burning of villages. **The authorities of the Central African Republic are legally obligated to bring those responsible for these serious violations of international law to justice.**
2. **Seeing justice done for serious crimes is essential for the success of the political transition and to achieve a truly sustainable peace in the Central African Republic.** Impunity, which has prevailed in the country for several decades, has allowed and emboldened the commission of new crimes. Fair and credible trials would not only provide a measure of justice for the victims of these crimes but would also send a strong message that atrocities will no longer be tolerated. Catherine Samba-Panza, the interim president, has repeatedly underscored the importance of justice as a key element of the transition and supports the establishment of the Special Criminal Court (SCC).
3. **The Central African judicial system is suffering the consequences of several conflicts that have ravaged the country.** It has limited capacity in terms of staff and material resources. The security situation is difficult, particularly for investigating complex crimes involving armed groups that are still active. The creation of a Special Investigation Cell by presidential decree in April 2014 was a major initiative but to operate effectively, this unit needs to be part of a more comprehensive effort, such as under the proposed Special Criminal Court.
4. **The Special Criminal Court will provide the Central African authorities with an efficient tool integrated into the national judicial system to prosecute those responsible for serious crimes.** With a five-year renewable mandate, the Special Criminal Court would focus exclusively on the most serious crimes, such as war crimes and crimes against humanity. It would attract international funding and the expertise necessary to investigate complex crimes successfully.
5. **By proposing the establishment of the Special Criminal Court, the Central African Republic's government would provide leadership on the fight against impunity and**

join a wider movement to establish national specialized jurisdictions. Many countries have indeed recognized that the procedures needed to bring justice for international crimes are particularly difficult and have set up war crimes units or special chambers to deal with them specifically. South Africa, Uganda, the Ivory Coast and Senegal are among these countries on the African continent. By combining a referral to the International Criminal Court (ICC) and the establishment of a specific, reinforced national mechanism, the Central African Republic is showing the way in the fight against impunity.

The court would have a majority of Central African judges.

6. **The draft law provides for Central Africans to make up a majority of the 27 judges, including the court's president and the heads of each of its chambers, for indictment, first-instance trials and appeals.** Under the Memorandum of Understanding signed with the UN mission in August 2014, the court would include judges and other experts from other countries, possibly other African countries, to provide proven expertise in the prosecution of international crimes. They will bring their experience in complex fields such as specialized investigations and the protection of victims and witnesses.
7. The presence of international staff in the office of the prosecutor, among investigative judges and in the various chambers of the court will also contribute to improving security for national staff. By working together with the international experts, the national staff will be able to strengthen their skills in the new field of international criminal justice.

The maximum sentence of life imprisonment under the law would help bring about international support for the Special Criminal Court and be a logical step for the Central African Republic away from the death penalty.

8. **This step forward toward the definitive abolition of the death penalty would be in accordance with the position taken by Central African authorities for the last several years.** The Central African government indeed voted in favor of United Nations General Assembly resolution 69/186, adopted on December 18, 2014, calling for a universal moratorium on the death penalty. In addition, the fact that the death penalty has not been applied in the country since 1981 shows that it is clearly subscribing to an international trend against this cruel and degrading punishment. The draft law on the Special Criminal Court also refers to article 77 of the International Criminal Court Statute, which the Central African Republic has ratified, concerning applicable sentences, which does not include the death penalty.

The International Criminal Court and the Special Criminal Court will combine their efforts to increase justice in the Central African Republic.

9. **Close and efficient cooperation between the ICC and the Special Criminal Court will be essential and is envisaged in the draft law.** On September 24, 2014, the ICC Prosecutor opened a second investigation in the country concerning crimes under its jurisdiction committed since 2012. However, the ICC will only be able to bring charges against a limited number of suspects responsible for the most serious crimes. The Special Criminal Court will enable the Central African Republic to strengthen the capacity of the national judicial system to prosecute efficiently others who are responsible for serious crimes.

The National Transition Council should hear the call for justice from victims and immediately vote in favor of the draft law to establish the Special Criminal Court.

10. Adoption of this draft law has some urgency because **the UN mission and the Central African government have already arrested several warlords involved in the violence since the beginning of 2012, who must now be tried. Numerous victims are also waiting to see justice done.**

Signed by :

Action des Chrétiens pour l'Abolition de la Torture et la Peine de Mort (ACAT/RCA)

Association des Femmes Juristes de Centrafrique (AFJC)

Avocats Sans Frontières Centrafrique (ASF/RCA)

Bureau Information des Droits de l'Homme (BIDH)

Civisme et Démocratie (CIDEM)

Commission Episcopale Justice et Paix (CEJP)

Enfants Sans Frontières (ESF)

Fédération internationale des ligues des droits de l'Homme (FIDH)

Femme Action et Développement en Centrafrique (FADEC)

Human Rights Watch

Initiative pour le Développement de Centrafrique (IDC)

Lead Centrafrique (Lead)

Ligue Centrafricaine des Droits de l'Homme (LCDH)

Mouvement des Droits de l'Homme et Action Humanitaire (MDDH)

Observatoire Centrafricain des Droits de l'Homme (OCDH)

Observatoire pour la Promotion de l'Etat de Droit (OPED)

Observatoire Centrafricain pour les Elections et la Démocratie (OCED)

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