



COMPARATIVE STUDY OF TRANSITIONAL JUSTICE IN AFRICA

CENTRAL AFRICAN REPUBLIC

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African Comparative Transitional Justice the Central African Republic

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African Comparative Transitional Justice in the Central African Republic

Introduction

The Oubangui Chari province was part of French Equatorial Africa (AEF). After the proclamation of independence in 1960, this territory became the Central African Republic (CAR). The CAR – 622.984 km² and four and a half million inhabitants- is bordered by Chad to the north, Sudan and South Sudan to the north and east, the Democratic Republic of the Congo (Kinshasa) and the Republic of the Congo (Brazzaville) to the south, and Cameroon to the west.

After the death of Barthélemy Boganda, considered as the father of the nation, five different presidents succeeded one another¹ including Emperor Bokassa who renamed the country as the Central African Empire under his rule. Following those periods of dictatorial government, characterized by dozens of attempted coups d'état, the CAR embraced democracy with the election of Ange-Felix Patassé in 1993. However, pursuing the same kind of politics based on exclusion and ethnicity as his predecessor, President Patassé slowly embarked his country in a civil war, which involved forces from neighbouring countries. President François Bozizé, elected after having overthrown President Patassé in 2003.² From independence, and in particular during the 2001-2011 period under consideration in this research, CAR's politics was dominated by shifting allegiances among the power elite but also by massive abuses and violations of human rights: massive and individual crimes (including against humanity) were perpetrated by different actors (forces under command of former President Ange-Félix Patassé, rebels and then state military forces led by President François Bozizé's troops, troops of the Congolese leader Jean-Pierre Bemba, and combatants from the different rebel movements operating in the countryside.³

No reconciliation/truth Commission, compensation schemes or equivalent measures were established to deal with past and current horrors and traumas.⁴ However, different types of Transitional Justice (TJ) mechanisms were employed in the CAR to address such abuses: an amnesty law adopted in 2008 ; prosecutions launched by the International Criminal Court ; National consultations (such as the 2003 National Dialogue and the 2008 All-Inclusive Political Dialogue) as well as the États Généraux de la Justice (in 2007), a DDR processes (Disarmament, Demobilisation, Reintegration conducted from 2004 to 2007 and then from 2009 to 2011 and finally a Security Sector Reform (SSR) process () tentatively conducted from 2008 to 2011. More often than not, such TJ mechanisms were used and manipulated by the political elite (both within governmental and rebellion circles) to promote and serve their own interest.

1. Colonial factors

From pre-colonial and colonial times, difficulties in controlling all the country-side, economic prevalence of populations from Oubangui River, exploitation via slavery (before colonisation) and forced labour (under French rule) have characterised governance within the territory of present day CAR.

¹ One of them, David Dacko made two mandates in 14 years interval.

² Bagayoko, N. (2012) Multilevel Governance and Security: Security Sector Reform in the Central African Republic. IDS Bulletin 43(4): 20-34 : <https://opendocs.ids.ac.uk/opendocs/handle/123456789/7502>

³ Thomas E. O'Toole, Jan S.F. van Hoogstraten, Tamara Lynn Giles-Vernick, « Central African Republic, Encyclopedia Britannica, <https://www.britannica.com/place/Central-African-Republic>

⁴ <http://www.bti2010.bertelsmann-transformation-index.de/en/bti/country-reports/laendergutachten/western-and-central-africa/central-african-republic/>

1.1 Pre-colonial society

In the region, many of the inhabitants lived in small isolated settlements which anthropologists consider as "societies without State". The earliest populations seemed to be the ancestors of today's Aka ethnic group, more famously known as Pygmy⁵. Over time, the territory was populated by more than 90 cultural groups which can be sub-divided into ten different communities, located as follows⁶:

- In the Centre, the West and the North, the most important ethnics were the Banda; the Gbaya (sharing the same language); the Mboms, the Nilo-Saharians (Peulhs Mbororo and Gulas); the Kaba-Sara. Those populations were the most important from a demographic perspective;
- On the Oubangui River banks (South and South-East of the territory), were living the Oubanguiens (which include the Ngbaka/Mbaka and the Gbanziri), the Ngbandi (which includes the Yakoma and Sango groups), the Nzakara-Zandé. Those populations have historically been dominant from an economic perspective;
- In forested areas in the South and the West of the country, were living the Pygmys and the Bantu people.



Source : <https://centralafricanrepublicnews.wordpress.com/2017/04/30/centrafrique-population-et-differentes-langues-parlees/>⁷

The existence of kingdoms and traditional chieftaincies goes back to several centuries, the most influential of them being the different Sultanates on the one hand and the "lamidos" (Fulani traditional chiefs) on the other hand⁸ who used to play a diplomatic role to solve disputes between different communities.

⁵ See Saulnier Pierre, *Le Centrafrique : Entre mythe et réalité, Études africaines*, 1998 ; Pierre Saulnier, *La République centrafricaine : Géographie, Histoire*, 2005.

⁶<https://centralafricanrepublicnews.wordpress.com/2017/04/30/centrafrique-population-et-differentes-langues-parlees/>; see also: "Centrafrique: l'aménagement linguistique dans le monde" <http://www.axl.cefan.ulaval.ca/afrique/centrafrique.htm>

⁷ See also <https://www.gitpa.org/Autochtone%20GITPA%20300/gitpa300-16-61rca.htm>

⁸ Kalck Pierre, *Histoire centrafricaine. Des origines à 1966*, Paris, L'Harmattan, 1992, 353p. Et aussi : Nzabakomada-Yakoma Raphaël, *L'Afrique centrale insurgée. La guerre du Kongo-Wara 1928-1931*, Paris, L'Harmattan, 1986, 190 p.

Mostly isolated until the 17th century, the region connected to external commercial routes via slavery operated by Arabic traders from Sahara and Nile River. Since then, enslavement was an important feature of CAR's pre-colonial society.⁹

- in the mid 19th century, the people from the Ubangi River area had become major slave traders, raided the nearby Gbaya peoples for captives.
- The muslim-ruled kingdom of Dar al-Kuti (1830-1912)¹⁰, which occupied the northern part of the country, was also a slave state. On 28 August 1897, Muhammad al-Sanusi, the Sultan of Dar Al Kuti accepted a French protectorate over the kingdom¹¹ but Dar al-Kuti maintained self-rule until the death of al-Sanusi in 1911¹².

The slave trade depopulated the region whilst communities were dislocated and the economic activities (in particular the tradition of handmade items as well as agrarian practices) were disrupted. In the Northern part of the current CAR, Muslim slave raids caused major displacements of population, some communities then having joined Sudan to escape slavery: the collective memory still remember their epic journey¹³.

This broad overview of the CAR's pre-colonial history puts the stress on the following path dependencies:

- First, it is worth noting that there has always been in the country a lack of formal state structure over the entire territory. During pre-colonial times, what later became the CAR was an area with a tradition of diffused control of the territory.
- Second, violence between different communities, especially due to the large scale of enslavement, has been endemic and created deep tensions between ethnic groups

1.2. Colonial society: The Oubangui-Chari Province of French Equatorial Africa (AEF)

The penetration of the Europeans into what is today known as the Central African Republic began in the late 19th century during the Scramble for Africa when Belgium, Great Britain, Germany and France competed to control Equatorial Africa. Ultimately, the French were successful. They first named the region "French Congo", and later "French Equatorial Africa", with its capital at Brazzaville. French Equatorial Africa included the following French colonies: the Oubangui-Chari which later became the Central African Republic¹⁴, Chad, Gabon, and the Middle Congo (which became the Republic of the Congo).

The various regions of the Oubangui-Chari were initially brought under French colonial protectorate late in the 19th century (*see above the case of Dar al Kuti*) but Oubangui-Chari only formally became a colony in 1903. In total, the country was colonized by France for 71 years, from 1889 to 1960. Bangui, the capital city, was founded as a French trading post in 1889, on the banks of the Ubangi River in a very inauspicious

⁹ Slave captives were sold to countries such as Egypt and Turkey or sent to the Americas. [Thomas E. O'Toole, Jan S.F. van Hoogstraten, Tamara Lynn Giles-Vernick](#), « Central African Republic, Encyclopedia Britannica, <https://www.britannica.com/place/Central-African-Republic>

¹⁰ Dar al-Kuti was a tribute-paying province of its northern neighbour, Dar Runga, itself belonging to the Wadai's empire. In 1830, Banda peoples, known as Marba, joined Wadai warriors in helping an exiled Bagirmi (Baguirmi) emir establish the vassal **kingdom of Dar al-Kuti**. See Cordell D. D., **Dar al-Kuti and the Last Years of the Trans-Saharan Slave Trade**, Madison, University of Wisconsin Press, 1985; Bradshaw Richard A and Juan Fandos Rius, Africa: The Sultanate of Dar al-Kuti, 15 December 2007 http://www.historyfiles.co.uk/FeaturesAfrica/AfricaCAR_Dar-al-Kuti01.htm. However, Dar al-Kuti did not really come into existence as such until Sanusi in the 1890.

¹¹ The convention was revised twice (on 18 February 1903 and again on 26 January 1908) to broaden French authority in the country. See *Traité de commerce et d'alliance entre cheik Mohammed-es-Senoussi et la France –représenté par l'administrateur Gentil ; Traité entre le sultan Senoussi et la France complétant le traité signé le 24 août 1897; Traité révisant le traité passé le 18 février 1903, traité signé par le Capitaine Mangin, représentant le Lt-Colonel Largeau, et Mohamed-es-Senoussi.*

¹² The name Dar al-Kuti was used thereafter as a colonial administrative division corresponding to the former sultanate. Since 1946 the region has been renamed three times as follows: the Autonomous District of N'Délé (1946-1961), the Autonomous Subprefecture of N'Délé (1961-1964), and the Prefecture of Bamingui-Bangoran since 1964.

¹³ Cordell D. D., « Des réfugiés dans l'Afrique précoloniale ? L'exemple de la Centrafrique, 1850-1910 », *Politique africaine*, n° 85, mars 2002, p. 16-28.

¹⁴ Boulvert Y., « Le dernier grand blanc de la carte d'Afrique : premières approches de l'Oubangui-Chari ou Centrafrique à la fin du XIX^e siècle », in D. Lecoq et A. Chambard (dir.), *Terre à découvrir, terres à parcourir*, Paris, Université Paris 7-Denis Diderot, 1996, p. 299-312.

environment with difficult living conditions. A system of indirect rule was established but the European presence in Oubangui-Chari was always modest, amounting to 80 expatriates in 1900; 163 (including 130 French) in 1915; 1,932 in 1921; and 4,696 in 1931¹⁵.

Economic exploitation

In order to avoid paying for the development of its Central African possessions, the French government released large tracts of land to lucrative exploitation by private companies exercising only a little control on their activities. “The parastatal amalgamation, so characteristic of French mercantilism, was made official on 19 March 1903, in a circular from Commissioner General Emile Gentil informing the colonial administrators they would henceforth be graded on the basis of how much head tax they collected, payable in rubber by the “indigenous people”.¹⁶ From then, the state and the companies owning concessions were inextricably linked: whilst the colonial administration was very weak, the role of private companies was central in the administration of the country: In exchange for an annual rent, seventeen companies were particularly powerful over half the territory : they exploited the lands and used indigenous people (both men and women) as virtual slaves by forcing them to collect rubber vine, to work on plantations or to hunt animals for ivory and skins. The exploitation of the Oubangui-Chari resources was almost exclusively based on forced labour. More generally, colonial rule was almost exclusively driven by private business interests¹⁷.

Defining characteristics of CAR's colonial experiences

As regards the relations between French rule, local leadership structures and different identity groups, colonial administrators did promote and favour some ethnic groups among their Central African subjects over others, resulting in political rivalries that persisted after independence in 1960. Drawing from economically dominating populations of southern riverine, people such as the Ngbaka (Mbaka), Yakoma, and Oubanguiens (who originally served as interpreters and porters for the French), the French created an elite group, at the expense of non-riverine Central Africans yet far more numerous. It is important to note that this indigenous ruling group which then emerged, held most of political ruling positions from the independence to Patassé's election (as shown below). Non-riverine people tended to resent this situation. Language is another important legacy of the colonial rule. In the 1940's and 1950's, French Christian missionaries simplified and disseminated throughout the country as vehicular language the “Sango”, originally the language of Ngbandi and Yakoma peoples from the Ubangi River region who were chosen as ruling elites as indicated. Even if Central Africans currently speak a wide variety of languages, including Baya (Gbaya), Banda, Ngbaka, Sara, Mbum, Kare, and Mandjia, Sango has become the vernacular spoken by nearly nine-tenth of the population¹⁸. Today, French and Sango are the official languages of the CAR.

Religious divide is another important legacy of the colonial era. Whilst Islam has remained dominant in the Northern part of the country, French missionaries have disseminated and popularized Christianity in the rest of the country where populations used to be animists. Today, roughly four-fifths of the population profess Christianity: Roman Catholics, Protestants/independents and a sizable minority of unaffiliated Christians, constitute the majority. Muslims still constitutes the majority in the North and traditional animist elements have kept strong into faith practices.

Violence under colonial rule

¹⁵ ICG, Central African Republic: Anatomy of a Phantom-state”, 2007, <https://kenopalo.files.wordpress.com/2010/11/central-african-republic-anatomy-of-a-phantom-state-ashx1.pdf>

¹⁶ Idem.

¹⁷ Mollion Pierre, *Sur les pistes de l'Oubangui-Chari au Tchad*, Collection Racines du Présent, l'Harmattan, 1992.

¹⁸ Diki Kidiri M., « Le Sango dans la formation de la Nation centrafricaine », *Politique africaine*, n°23 « Des Langues et des États, Paris, Karthala, 1986, <http://www.politique-africaine.com/numeros/pdf/023083.pdf>

Following the establishment of the Oubangui-Chari colony, many Central Africans began resisting French rule, in particular to protest against economic exploitation. To cope with them, military expeditions were launched by the French to crush the opposition, for instance during the famous Kongo-Wara rebellion (1928–1931), also known as the War of the Hoe Handle¹⁹. This long-lasting insurrection was caused by the massive number of deaths among the native population as a result of awful working conditions²⁰ Even if unsuccessful, this anticolonial and rural uprising was widespread in the western and southwestern parts of the colony. When under control²¹, its leaders were imprisoned and executed. In addition, local populations were forcibly relocated to colonially designated villages where they could be more easily supervised. In 1928, the murder of a local chief, Barka Ngainombey, provoked another uprising among the Gbaya, and the Mbaka, in north west of OubanguiChari.

Spectacular punishment were also widespread under French rule:

- Sanctions were inflicted on chiefs incapable of supplying the required number of porters: In 1901, a circular ordered the construction of hostage camps, hidden in the forest. Chiefs were arrested; the women and children of their village were taken prisoner and kept hostage until the porters returned. Punitive expeditions were also organised against recalcitrant villages, which were burned down and their inhabitants killed²².
- In 1905, two colonial officials were reported to have blown up a black African²³ with dynamite at Fort-Crampel to celebrate 14 July (French National Day). Those two French civil servants were simply sentenced by the Brazzaville courts to five years in prison.
- in 1906, the commissioner of native affairs ordered that 58 women and 10 children be stuffed into a tiny house with only small air holes. 3 children and 45 women died. The persons responsible for such a massacre were not punished. On the contrary, the military doctor who reported the incident to his superiors was sentenced²⁴.
- On 29 March 1951, the nationalist leader Barthélemy Boganda (*see below*) was sentenced to two months in prison following his arrest on 10 January for "endangering the peace" after intervening in a local market dispute (the so-called "Bokanga incident") in Lobaye (South-West of the country). In April 1954, a white public works agent, who had recently been reprimanded for his brutality towards Africans, announced that his cook and the cook's wife had died. A riot broke out and the governor sent in parachutists while armoured vehicles patrolled the streets. Boganda declared before the rioters that justice would be the same for blacks and whites. Upon hearing Boganda's words, the crowd became calm and dispersed.²⁵
- It is also worth mentioning that Barthélemy Boganda and Jean-Bédél Bokassa –two major nationalist political figures (*see below*) – both became orphaned after their fathers were killed by the colonial authorities.²⁶

These examples are illustrative of the complete lack of consideration showed by the colonial authorities to the local population who are mostly seen as inferior in essence. Such abuses are a clear indication of the very essence of the colonial projects which tended to treat non-European people as subjects, whose human

¹⁹ Giles-Vernick, T. (2002), *Cutting the Vines of the Past: Environmental Histories of the Central African Rain Forest*, Charlottesville: University of Virginia Press.

²⁰ Ubaku, Kelechi Chika, Emeh, Chikezie Anyalewachi, Okoro, Kelechi Collins, "Imperialism and Underdevelopment in Post-Independence Africa: Focus on Central African Republic", *International Journal of Humanities Social Sciences and Education (IJHSSE)*, Volume 2, Issue 6, June 2015, PP 1-9 <https://www.arcjournals.org/pdfs/ijhsse/v2-i6/1.pdf>

²¹ This insurrection mobilised about 50,000 supporters against 1,000 infantry and regional guards, plus 3,000 auxiliaries, scouts and porters

²² See ICG, *Anatomy of a Phantom State* (op. cit.)

²³ The young Black man had deserted from the army. See ICG, *Anatomy of a Phantom State* (op. cit.)

²⁴ ICG, *Central African Republic: Anatomy of a Phantom-state*, *op. cit.*

²⁵ Kalck, Pierre (1971). *Central African Republic: A Failure in De-Colonisation*. translated by Barbara Thomson. [London: Pall Mall](#)

²⁶ Bokassa's father was beaten to death publicly after he refused to round up forced labourers for the Colonial authorities.

nature could be simply denied when protests against exploitation occurred – mostly seen as attacks against the very idea of colonialism²⁷.

Justice under colonial rule

Central Africa lived a very wide part of the colonial period under the rule of the Constitution of the Third Republic and was administered under the direct and personal responsibility of the Head of State, the President of the French Republic who cumulated the executive and legislative powers in those remote territories. Central Africa was therefore regulated in a derogatory way to the rule of law in metropolitan France, according to a dualistic judicial organization which resulted in a distinction between French law and local/customary law²⁸:

- The so-called “indigénat”²⁹ regime for the native population which gave the colonial administration a strengthened disciplinary power and awarded it the right to strike local subjects of penalties without proving they were guilty before a judicial authority ;
- The application of a common law based on “custom”³⁰ by the colonial administrator to regulate some native jurisdictions such as Sultanate and Lamidos aforementioned.

In addition, during the colonial period in French Equatorial Africa³¹, justice was popularized: not only colonial officers but any “European” was empowered to enforce the law and inflict punishment. Concession agents from private companies often had militias and other armed guards to perform this role³². In the Oubangui-Chari itself, the legal code governing “indigènes” contained 23 offences, including offences such as ‘refusal to accept payment’: *“Many Africans had no interest in the payment the Europeans offered (cheap beads and poor-quality cloth), but the Europeans required their labour. Thus, the Europeans would force them to work and then require them to accept the payment offered – a sophistry that allowed the Europeans to avoid seeing themselves as slavers. The list was so broad and public scrutiny of such proceedings so minimal that any European could effectively punish any African for any reason. The only debatable point was whether private actors had power to execute Africans. In effect, they did; their fear of rebellion could turn any insubordination into grounds for a murder in ‘legitimate self-defence’, particularly for those in remote areas.”*³³.

1.3 End of colonisation: 1960

The independence of the Oubangui Chari province of French Equatorial Africa (AEF) was proclaimed in 1960. During World War II French Gen. Charles de Gaulle called on the residents of the colonial territories to help fight the Germans: 3,000 responded from Central Africa. They had been promised self-rule should they assist France in fighting. After the war, de Gaulle organized the “French Union” (Union française) based on new local assemblies in each colonial territory — made of French colonists and some well-educated Africans—with regional political representatives at the French Parliament in accordance with the French constitution of 1946. Some reforms were crucial in the completion of independence for the French territories, including granting French citizenship to the inhabitants of the colonies, elimination of voting inequalities, and opportunities for the formation of self-government in each of the territories.

In November 1946. Barthélemy Boganda became the first Central African elected to the French National Assembly. Of Ngbaka origin, Boganda was a former Roman Catholic priest, who had formed the Social Evolution Movement of Black Africa (Mouvement pour l’Évolution Sociale de l’Afrique Noire; MESAN).

²⁷ HUMAN RIGHTS (Western Colonialism): <http://what-when-how.com/western-colonialism/human-rights-western-colonialism/>

²⁸ Jocelyn Ngoumbango Kohetto. L'accès au droit et `a la justice des citoyens en R´epublique centrafricaine. Droit. Université de Bourgogne, 2013. <https://halshs.archives-ouvertes.fr/tel-00987518/document>

²⁹ LE ROY (É.) et KUYU (C.), La politique française de coopération judiciaire, (

³⁰ PIE (F.), Les politiques pénales en Afrique noire francophone(ref) ; RAYNAL (M.), Justice traditionnelle, Justice moderne, le devin, le juge, le sorcier, Paris, L’Harmattan, 1994

³¹ <https://www.theguardian.com/world/2015/apr/29/france-poisoned-legacy-central-african-republic>

³² See Lombard Louisa and alt (“Violence, popular punishment, and War in the central African Republic”), and ICG, Anatomy of a Phantom State (op. cit.)

³³ Lombard et alt, Violence, popular punishment, and War in the central African Republic, op. cit., p. 59.

Boganda was instrumental in getting compulsory labour outlawed in 1946. MESAN gained control of the Territorial Assembly in 1957: Boganda became President of the Grand Council of French Equatorial Africa and in May was appointed vice-president of the Oubangui-Chari Government Council. The French governor was still its president however.

In September 1958, the French Equatorial Africa was officially dissolved. On 8 December 1958, the CAR's first government came into being with Boganda as prime minister; a French governor remained in the country : even if now called high commissioner, he continued to softly exercise power. Boganda hoped that the French territories of Chad, Gabon, Congo, and Oubangui-Chari could form a single nation. When the other countries rejected such a unification plan, Boganda reluctantly accepted the new constitution offered by France and modelled on the French one. This Constitution was approved by the territorial Assembly on 16 February 1959. Boganda was poised to become the first president of the independent CAR when his aircraft exploded in mid air over sub-prefecture of Boda , killing all passengers and crew. No clear cause has ever been ascertained for the mysterious crash and no commission of inquiry was ever formed; sabotage by the French (eventually with the complicity of Boganda's wife) was widely suspected however.

Abel Goumba, the vice-premier and finance minister was seen as Boganda's logical successor.³⁴ However, the then Minister of Interior David Dacko³⁵, belonging to the Mbaka ethnic group, was supported by the French high commissioner, Colonel Roger Barberot as well as by the Chamber of commerce. Oubangui-Chari, renamed the Central African Republic, was granted independence on August 13, 1960 and Dacko became the first president of the country under very peculiar circumstances: a group of pygmies armed with poison arrows, supporters of David Dacko, surrounded the National Parliament and forced the deputies to elect him as president. ³⁶ Dacko made MESAN the only legal national political party in 1962. He thus ran unopposed in the elections of early 1964 and was formally elected president. David Dacko adopted a series of laws to repress disobedience or resistance, repeating the colonial era. Trade unions, associations and political parties were forbidden without any opposition from the former colonial power, still very influential within the country.

1.4 Path dependencies

As stated by Lombard and Batianga-Kinzi, the CAR is a telling example of what Mamdani called the 'minimal' approach to post-colonial legal reform³⁷. The events after Boganda's death are strongly evocative of French efforts to maintain economic and indirect political domination by ensuring that compliant leaders came to power in its former colonies: David Dacko permitted the French to provide the new country with assistance in the areas of trade, defence, and foreign relations. Indeed, alongside the other ex-territories of French Equatorial Africa, France signed agreements with the country on financial, technical, and military assistance whose primary purpose was ensuring maximum protection of French interest in the Central African Republic³⁸.

Justice system after the independence

After the independence, the Central African Republic undertook to standardize and harmonize the justice system until then dualistic. This organization was a carbon copy of France's which inspired, stimulated and directed the African writers of the judicial reforms, themselves formed in the western universities. The CAR - just like the other independent African States - reproduced systematically the legal system of the former

³⁴ Titley, Brian (1997). *Dark Age: The Political Odyssey of Emperor Bokassa*. Montreal: McGill-Queen's University Press.

³⁵ <https://www.arcjournals.org/pdfs/ijhsse/v2-i6/1.pdf>

³⁶ Dacko then decided an extension to the deputies' term in office, without any obligation for them to be re-elected. See https://fr.wikipedia.org/wiki/Barth%C3%A9lemy_Boganda

³⁷ See Lombard, L., Batianga-Kinzi S. (2015), « Violence, Popular Punishment, and War in the Central African Republic », *African Affairs*, vol. 11debo4, n°454, pp. 52-71, quoting Mahmood Mamdani, *Citizen and subject: Contemporary Africa and the legacy of late colonialism*, Princeton University Press, Princeton, NJ, 1998.

³⁸ <https://www.arcjournals.org/pdfs/ijhsse/v2-i6/1.pdf>

colonial power. From the independence, the state justice system in CAR has been based on the principle of dual jurisdictions, namely the judicial (civil and criminal) and the administrative³⁹.

Despite a dire lack of resources, after the independence, there was a system of tribunals that heard disputes and punished law breakers until the 1980s. In addition, due to the resistance of the local populations attached to their traditions, traditional courts (sultanates, lamidos) survived, alongside the modern jurisdictions.

It is important however to stress the fact that neither of those two justice systems (legal and customary) addressed the crimes perpetrated during the colonial period: no transitional measures were introduced to deal with colonial era abuses and impunity has been the normal mode in the country. Furthermore, extra-judicial or privatized means for resolving disputes remained prevalent.

Nationalism after the independence

Barthélémy Boganda is not only considered the hero and father of his nation but also as one of the great leaders of decolonization in Africa: political historian Gérard Prunier called him "probably the most gifted and most inventive of French Africa's decolonization generation of politicians."⁴⁰ Boganda is one in a long line of African political leaders who, in an attempt to develop specifically national political cultures, were presented (or presented themselves) as the great national leader, glorified and sometimes nearly deified: more than just a charismatic political leader, he was seen as the "black Christ", a great religious figure endowed with extraordinary powers.⁴¹

After his death, the Boganda myth has continued (and still continues) to exercise a strong hold on many Central African. It has also frequently been used by his successors in their appeals for national unity : most of them have tried to capture some of his aura and use it to their advantage, even if tenuously tied to him, like : Bokassa⁴² justified his coup using Boganda's name and created a cult of Boganda as founder of the Central African State state⁴³ ; David Dacko posed as the ideological successor of Boganda by championing for "national reconciliation" during the 1981 election.

State building after independence

It is important to mention the fact that after independence, the CAR underwent only very limited experiences of state building as such all over its territory : as an institution, the independent Central African state was almost exclusively built in the capital Bangui, the rest of the country – the hinterland⁴⁴ - being neglected in a large extent. There was in fact a continuation of the situations described above which prevailed both under the pre-colonial and the colonial period and resulted in an almost total lack of formal state structures on the major part of the territory. During the colonial period, the administration experienced a

³⁹ The judiciary consisted of the Highest Courts (Constitutional Court, Court of Cession, The State Council and the Court of Auditors) and Ordinary courts (Courts of Appeal, High Courts, Labour Court, Juvenile Court, Commercial Courts and Administrative Courts and Magistrate Courts). There also has been special jurisdictions including the military. Courts of Appeal across CAR have been responsible for hearing criminal cases, in Bangui, in Bambari and in Bouar. Twenty-four High Courts (*Tribunaux de Grande Instance*) across CAR hear civil and commercial cases. Amnesty International, CAR - The long wait for justice ENGLISH -, 2017, <https://www.amnesty.org/.../AFR1954252017ENGLISH.PDF>

⁴⁰ Prunier, Gérard (2009). *Africa's World War: Congo, the Rwandan Genocide, and the Making of a Continental Catastrophe*. Oxford: Oxford University Press.

⁴¹ Boganda did little to discourage wide circulation of tales about his supernatural powers, putative invulnerability and even immortality. See Le Vine, Victor T. (2004). *Politics in Francophone Africa: The States of West and Equatorial Africa*. Boulder: Lynne Rienner Publishers.

⁴² Bokassa was from the same village and minority ethnic group and was the son of Boganda mother's uncle,

⁴³ Titley, Brian (1997). *Dark Age: The Political Odyssey of Emperor Bokassa*. Montreal: McGill-Queen's University Press.

⁴⁴ See B. Berman et J. Lonsdale, *Unhappy Valley: Conflict in Kenya and Africa*, Londres, James Currey, 1992 who are making a distinction between "state building" and « state formation»; Achille Bembe uses the concept of "buffer zone" to qualify territories without any kind of state presence (see A. Mbembe, « At the Edge of the World : Boundaries, Territoriality, and Sovereignty in Africa », *Public Culture*, vol. 12, n° 1, 2000). For a good synthesis of this approaches, see Lombard Louisa, « Rébellion et limites de la consolidation de la paix en République centrafricaine », *Politique africaine*, 2012/1 (N° 125), p. 189-208. DOI : 10.3917/polaf.125.0189. URL : <https://www.cairn.info/revue-politique-africaine-2012-1-page-189.htm>

lot of difficulties to control the population as well as the territory. The authority of traditional leaders was scarcely expanding beyond their own villages. After independence, such a loose territorial control was perpetuated, and only limited state-like functions were exercised outside of the capital. Some regions were simply abandoned by the central state (specifically the North, the Northwest, the East and the Northeast). In particular, in the sparsely populated region of the Vakaga, located in the extreme northeastern part of the Central African Republic and where many inhabitants belong to the Gula ethnic group, there has never been any roads, nor schools or sanitary infrastructure. Vakaga's inhabitants traditionally turned to Abéché, in Chad, and to Nyala, the capital of the Sudanese province of Darfur, to which the local leaders traditionally lent allegiance. Such trends are very important to understand governance as well as coercion in modern CAR, where power and authority have been far from centralized and hierarchical, with huge remoted zones uncontrolled.⁴⁵ *"There has never been a state monopoly on the use of force. The Central African Republic is the epitome of an artificial state, from its purely geographical designation as a state to its uncontrolled borders and decades of overwhelming intervention by its former colonial ruler, France, to the complete lack of government presence outside the capital"*⁴⁶. Such a lack of central authority was combined with an absence of monopoly on the use of force by the state authorities which were never able to put on their feet strong defence and security forces. On another note, it is also important to recognize that physical violence has long been an important element of the governing repertoire in the CAR, including at the level of social groups.⁴⁷ In addition, although people living in the country's northern and central regions have later gained more political power since independence, southern peoples have remained an important presence in national politics. Gulas, Fulani and Pygmies have remained excluded from economic and policy making centres. It is important to note that interestingly, it was after independence (and not under the colonisation) that a division was introduced by national political elites, particularly under President Kolingba rule⁴⁸ (see below), between;

- Les « gens du fleuve » (people of the river) which includes the Oubanguiens (Gbanziri and Ngbaka), the Ngbandi (which includes the Yakoma and Sango groups), the Nzakara-Zandé (including the Sabanga);
- Les « gens de la savane » (people of the savanna) :the Banda; the Gbaya⁴⁹ ; les Mboms, the Peulhs Mobaroro, the Gula, the Sara;
- "les gens de la forêt" (people of the forest): Pygmies and Bantus

Economy after the independance

From the 1970's, the Central African economy has been rated among the poorest in the world. Agriculture has been just sufficient to ensure subsistence. Cotton and coffee crops, main product for exportation, were marginal. Due to the lack or deterioration of roads, the state had to import products such as mangos from neighbouring countries whilst they are growing in abundance in the country.

The industrial structure was never very developed. Forestry companies (in particular specialised in timber industry) all belonged to foreigners, (French but also Lebanese and Chinese) and employed local workers. The mining sector, based on gold and diamonds resources, suffered from a total lack of transparency in the allocation of concessions (including the royalties received by the state).

From 1989, three structural adjustment programmes were conducted in the country by the World Bank and the IMF⁵⁰.

⁴⁵ For instance, initiation ceremonies (during which young people could be beaten by elders) often entailed physical violence. See Lombard Louisa, « Rébellion et limites de la consolidation de la paix en République centrafricaine », *Politique africaine*, 2012/1 (N° 125), p. 189-208. DOI : 10.3917/polaf.125.0189. URL : <https://www.cairn.info/revue-politique-africaine-2012-1-page-189.htm>

⁴⁶ BTI 2010, Central African Republic Country Report, <http://www.bti2010.bertelsmann-transformation-index.de/en/bti/country-reports/laendergutachten/western-and-central-africa/central-african-republic/>

⁴⁷ Lombard Louisa, quoting Tamara Giles-Vernick, 'Na lege ti guiriri (On the road of history): Mapping out past and present in M'Bres region, Central African Republic', *Ethnohistory* 43, 12 (1996), pp. 245–75.

⁴⁸ <https://centralafricanrepublicnews.wordpress.com/2017/04/30/centrafrique-population-et-differentes-langues-parlees/>

⁴⁹ Together, Gbays and Bandas are representing half of the Central African population.

⁵⁰ <http://www.bti2010.bertelsmann-transformation-index.de/en/bti/country-reports/laendergutachten/western-and-central-africa/central-african-republic/>

2. Conflict factors:

Overview of the CAR political history (1960-2011)

51 Years since the Independence

36 Years of Military Regime

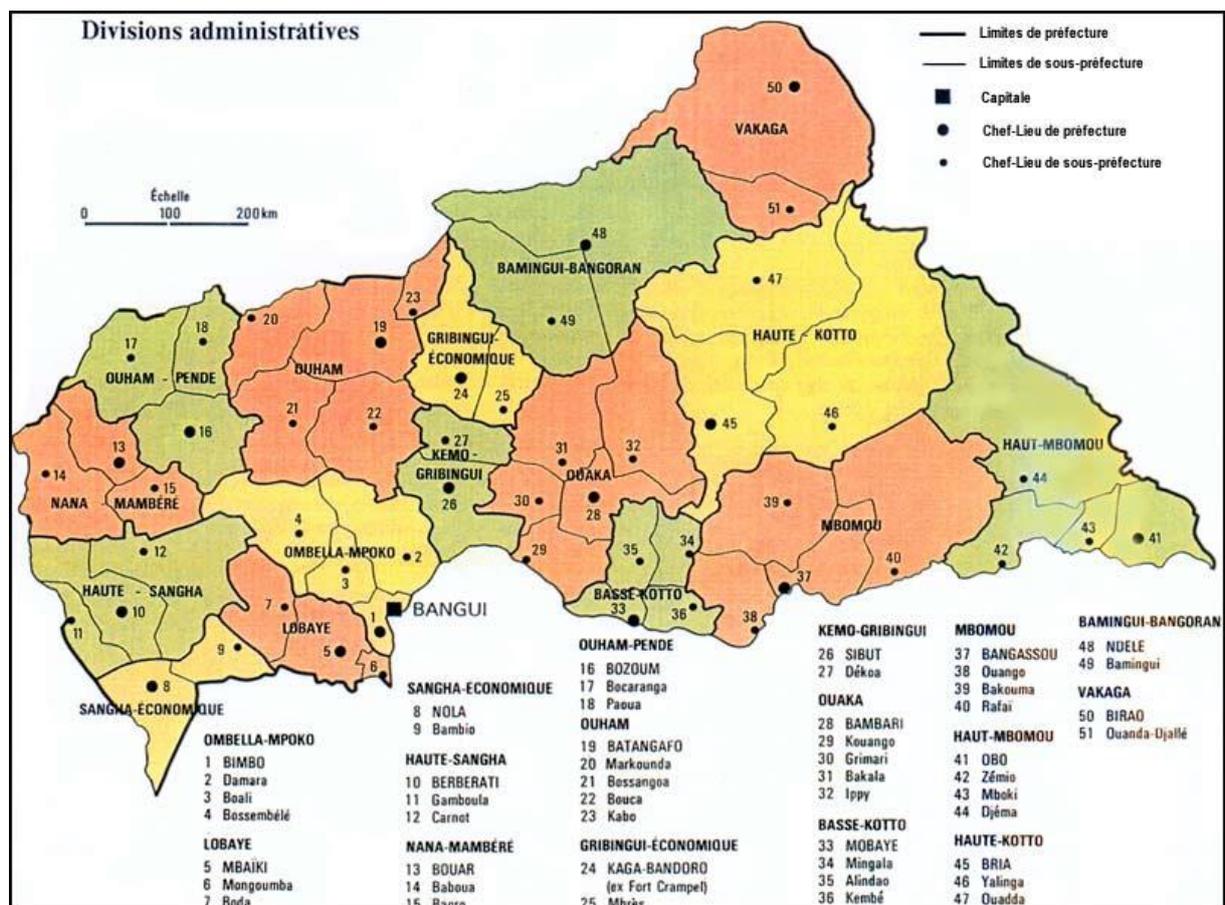
4 Republics

1 Empire

5 transitions

8 Presidents (including three military officers)

14 Rebellions



<http://franck.salva.free.fr/rca/cartes.htm>

2.1. CAR's main conflicts since independence

It is extremely important to mention the fact that the same political actors of the Central African political scene have, during decades, played a leading role: most of them occupied the highest functions within the government or the administration before seizing power by force, as shown in the table below.

President	Term	Ethnic group	Post occupied before entering the function	Reason connected to the loss of function
David Dacko	1960-1965	Ngbaka	Secretary of Home Affairs, the economy and the finances before the death of the Independence Leader B. Boganda	Coup (on December 31st, 1965)
Jean-Bedel Bokassa	1966-1979	Ngbaka	Chief of Army Staff	Dismissed in his absence by the French troops (in September 21st, 1979)
David Dacko	1979-1981	Ngbaka	Advisor to Bokassa's staff	Coup (on September 1st, 1981)
Andre Kolingba	1981-1993	Yakoma	Chief of Army Staff	Defeat at the elections (in September 19th, 1993)
Ange-Félix Patassé	1993-2003	Sara	Former Prime Minister and Head of the first Imperial Government of Bokassa	Coup (on March 15th, 2003)
François Bozizé	2003-2013	Gbaya	Former Chief of Army Staff	

Source: Berman Eric, *The Central African Republic: a case study on the light weapons and the conflicts*, the Special report of Small arms survey with the support of the PNUD, Institute of the high international studies, in June, 2006, p. 10.

No conflict as such broke out in the CAR until 2001. However, predation and criminalisation of the economy under Dacko and Bokassa, then ethnicization, militarization and “privatisation/militianisation” of the political competition under Kolingba and Patassé were the main drivers of the crisis which the country entered into gradually after the independence. The role of the former colonial power was still central during this period.

Predation and criminalisation of state (Dacko-Bokassa - Dacko)

David Dacko's first term in office was characterized by predation practices which almost led the country to bankruptcy and provoked a nationwide strike. On 31st December 1965, the commander of the army, Jean-Bédél Bokassa, replaced Dacko in a staged coup with the blessing of France.

The so-called “Operation Bokassa, launched by the new President to improve the economy and particularly the situation of the peasants was a total failure. President Bokassa quickly abandoned its projects for the national economy and established a criminal state, based on social and economic rights violations, furthermore giving priority to his coronation in 1977 whose cost amounted to the equivalent of CAR national budget. Bokassa's regime was also guilty of serious human rights abuses: for instance in January

1979, when student protests in the Bangui were bloodily repressed or few months later when 250 young people were beaten up and then jailed at Ngaragba prison where dozens of them died, mostly from suffocation due to the exiguity of the cells (an awful reminder of 1906 dramatic incident mentioned above). Finally, the French decided to put an end to Bokassa's megalomaniac rule and sent troops to reinstall David Dacko as a President. After two years in power, David Dacko was overthrown by his own Chief of Staff, André Kolingba, in a bloodless coup. Political activities were forbidden in the country after André Kolingba set up a Military Committee for National Reconstruction. Kolingba ruled the country as a military dictator, under the tutelage of French adviser Colonel Manton, before being elected as President in 1986⁵¹.

The ethnicization of the State and of the military

From the 1980's, the Central African State has been characterized by the ethnicisation of its politics:

- President André Kolingba particularly favoured his family and his ethnic group, the Yakoma, which is a minority ethnic group from the Oubangui River banks that represents less than 5 % of the population. To punish Ange-Félix Patassé, his own chief of staff, for having stirred up a coup attempt with the help of a few military officers among which General François Bozizé, General Kolingba ordered punitive expeditions in the Kaba-Sara ethnic fiefdom of the putschist, particularly in the regions of Paoua (Patasse's home town) and Markounda. A lot of people were massacred which created a long-lived hatred of Kaba-Sara against Yakoma. Kolingba thus inaugurated the instrumentalisation of the ethnic membership for political purposes. It is within the army and, in particular, within the presidential guard, that Kolingba's ethnic policy was the most obvious. In 1993, at the end of his mandate, 70 % of the FACA (Forces armées centrafricaines – the Central Africa armed forces) belonged to the minority ethnic group of the Yakoma⁵².
- Having failed to seize power via a military coup, Ange-Félix Patassé was finally elected as President of the CAR. Ange-Félix Patassé had previously occupied fourteen positions as a Minister under Bokassa's rule, including the Prime minister one's. After three presidents who had their origins in the South (David Dacko and Jean Bedel Bokassa both Ngbaka and André Kolingba, Yakoma), Patassé was the first president who came from the North. In fact, the new Head of State widely aggravated the divisions between Northerners and Southerners, by continuing to oppose as his predecessor the "*people of the savanna to people of the rivers*". Patassé largely distrusted the army, particularly the presidential guard, which was seen as Kolingba's personal militia. He tried to guarantee his own personal safety by putting the presidential guard, Yakoma, back into the ranks of the FACA (Forces armées centrafricaine). Having been privileged under the previous regime, the Yakoma then sunk into dissatisfaction. The new presidential guard also turned out to be a tribal militia, this time quasi-exclusively constituted by Kaba-Sara, Patassé's northern-ethnic group. Furthermore, under the presidency of Ange-Félix Patassé, militias and non-governmental armed groups proliferated. In particular, President Patassé created a militia affiliated to his political party, the Movement of Liberation of the Central African people (MLPC). Moreover, he hired thirty or so private agents in the Central African Company of Protection and Surveillance (SCPS)⁵³ and, not being able to increase the presidential guard's manpower any more, he also financed several personal militias, in the various districts of Bangui, known under the names of Karakos, Balawas and Sarawis. Finally, President Patassé established another militia known under the name of its leader, Abdulaye Miskine, which was meant to pacify the North (*see below*). These non-state armed groups were generally better armed and better equipped than the governmental forces - with the exception of the presidential guard. The rivalries between this presidential guard and the FACA worsened; the FACA having been more and more neglected: such dissatisfactions are: largely the originators of the mutinies of 1996-1997. Indeed, in 1996 and 1997, three mutinies burst to protest against the non-payment of salaries and the deterioration of the living conditions of the FACA.

⁵¹ See Smith Stephen W., "CAR's History: The Past of a Tense Present", in Carayannis Tatiana and Lombard Louisa, *Making Sense of the Central African Republic*, ZED, July 2015.

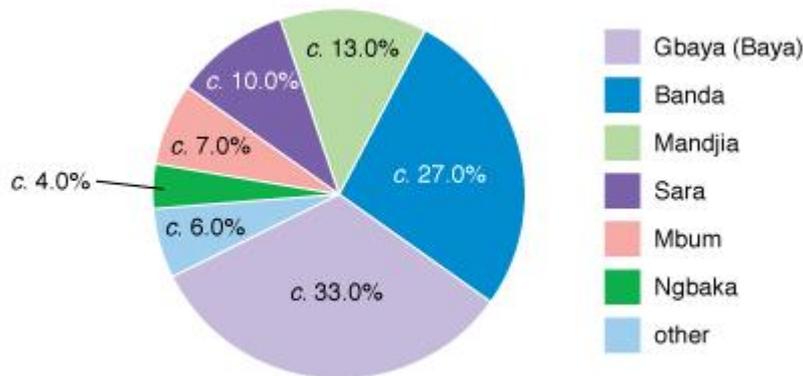
⁵² Bagayoko, N. (2012) Multilevel Governance and Security: Security Sector Reform in the Central African Republic. IDS Bulletin 43(4): 20-34 : <https://opendocs.ids.ac.uk/opendocs/handle/123456789/7502>

⁵³ The members of this private force, meant to ensure Patassé's own personal security were identified via Captain Paul Barril, the former number two of the Élysée anti-terrorist unit,

Fifty people were reported dead. Following these mutinies, France decided to put an end to its permanent military presence in the country⁵⁴. Nevertheless, on 19 September 1999, Ange-Félix Patassé won the presidential election in the first round, with 51.63 per cent of the votes – a result disputed by the opposition.

Ethnic composition of the CAR population in 2004

Ethnolinguistic composition (2004)



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International interventions: The MISAB, the MINURCA and the BONUCA

Following the 1996-1997 mutinies, six African countries - Burkina Faso, Gabon, Mali, Senegal, Chad and Togo - supported by France, agreed to send troops under an inter-African peacekeeping force, the MISAB. 750 African soldiers were deployed in Bangui. On April 15th, 1998, the MISAB handed over to the MINURCA, (Mission of United Nations for the Central African Republic) who were 1350 strong⁵⁵. On April 1st, 2000, the MINURCA ended, leaving their remit to the Office of the United Nations for the Consolidation of Peace in the CAR (BONUCA), established on February 10th, 2000, initially for a period of one year but whose mandate was extended for a longer period⁵⁶. The UNDP programme had been present in the Central African Republic since 1976 and got more involved in promotion of good governance; prevention of crises and post-conflict recovery⁵⁷.

2.2. Conflict under consideration: the cycle of violence between 2001 and 2011

From 2001 to 2011, the country was supposed to be democratically governed: however, even if election after a ballot considered as rather fair, the heads of states who succeeded one another (namely Ange-Félix-

⁵⁴ On 31 July 1997, the French minister of defence, the socialist Alain Richard, travelled to Bangui to inform Ange-Félix Patassé about the withdrawal of French forces within one year (the so-called “Operation Stork”). .

⁵⁵ France covered most of the cost of this operation (the equivalent of €610,000 per month) as well as the logistics on the ground.

⁵⁶ According to its mandate, the BONUCA had to support the efforts of the government in strengthening peace and national reconciliation, strengthen democratic institutions, and facilitate the mobilization of resources to support national reconstruction and economic recovery, of the country. The Office was also in charge of disseminating Human rights within the country and tasked to follow up reforms in the security sector, operating training programmes.

⁵⁷ Bagayoko, Niagalé (2010), Multi-level Governance and Security: The Security Sector Reform Process in the Central African Republic, IDS Working Paper 351, Publisher IDS: <https://www.ids.ac.uk/files/dmfile/Wp351.pdf>; Bagayoko-Penone, N. (2010), 'Multi-level Governance and Security: The Security Sector Reform Process in the Central African Republic', IDS Research Summary of IDS Working Paper 351, Publisher IDS, <https://www.ids.ac.uk/go/idspublication/multi-level-governance-and-security-the-security-sector-reform-process-in-the-central-african-republic-rs>

Patassé and François Bozizé) have exercised very authoritarian and abusive rules which resulted in a multidimensional civil war and in attempted coups, fed by political rivalries between a range of leaders who used to be alternatively allies and then foes, government officials and then rebels who pursued the instrumentalisation of identity prevailing previously.

During this period, systematic violence against civilians was perpetrated both by the state security forces manipulated by the government, by rebel groups and by road bandits (called zaraguinas).

Category:	Period:	Approx. Size:
National Armed groups	2001-2011	Hundreds of persons in each group
Military instrumentalized by the ruling elite	2001-2011	Almost the entire ruling classe
Foreign governmental forces (tchadian; libyan)	2001-2005	Hundred of combatants
Foreign armed groups (MLC from the DRC; LRA from Uganda)	2001-2005	hundreds
Zaraguinas	2001-2011	hundreds

The coup attempt of May 2001

On May 28th, 2001, a commando equipped with heavy weapons attacked the residence of President Patassé. Although General Kolingba had - confusedly – claimed the overthrow attempt on national radio, President Patassé quickly suspected that it was its own Minister of Defence, Jean-Jacques Demafouth, who had plotted the coup⁵⁸. Demafouth was then dismissed and arrested. The case of Jean-Jacques Demafouth was finally settled by the Central African justice department, after Patassé identified a new actor (who had been previously hidden from the overthrow) in the person of General Bozizé, his chief of Staff (and former complicit of his failed coup attempt against Kolingba in in the 1980's), who was then dismissed.

In violation of the agreement negotiated with General Lamine Cissé, head of the BONUSA, Ange-Félix Patassé tried to seize François Bozizé, but Bozize succeeded in fleeing to Chad, and then went on to France. After the coup attempt, Patassé launched a hunt in Bangui for Yakoma, which ended with 300 deaths, and the flight of 50.000 inhabitants from the capital.

Bozizé's seizure of power and elections (2003-2005)

Bozizé's partisans – in particular opposition in exile who had lined up behind General Bozizé and had joined Chad - launched a new raid on Bangui in October, 2002. On March 15th, 2003, General Bozizé arrived in Bangui and seized power, with troops consisting of 80 % Chadians. The FACA did not react to the offensive (led whilst President Patassé was abroad) whereas the force of the CEMAC received instructions not to oppose the arrival of the rebels⁵⁹.

In 2005, Bozizé stood in the presidential elections, but Patassé was excluded from standing. This triggered widespread discontent and rebellion among Patassé's followers. In May 2005, President Bozizé won the

⁵⁸ Furthermore, one of the most important Minister of Bokassa, Jean-Jacques Démafouth (who afterwards set up a rebellion group), was alleged to have committed crimes in the Kembé region.

⁵⁹ ICG, Central African Republic: Anatomy of a Phantom-state", 2007, *op. cit.* ; See also Debos Marielle, « Les limites de l'accumulation par les armes. Itinéraires d'ex-combattants au Tchad », *Politique africaine*, n°109, mars 2008, pp. 167-181

presidential elections⁶⁰, by a ballot judged as fair by the observers. At the same time, organized general elections offered him a relative majority to the Parliament. Some partisans of Patassé were included in Bozizé's government, but the general Patassé camp remained excluded.

Influence of the regional actors

The CAR crisis is mainly rooted internal, and results from endogenous dynamics. However, a number of regional actors got involved in CAR politics to different extents, which contributed to worsening the internal crisis.

On the one hand, the Libyan forces lent assistance to Patassé in order to repel the assaults of Bozizé's rebellion. It is thanks to the intervention of hundreds of Libyan soldiers, sent by Colonel Kadhafi, that Ange-Félix Patassé managed to save his power after the coup attempt in May 2001. However, under the pressure of France and its regional allies (Chad, Gabon and both Congos), Colonel Kadhafi finally removed his troops in December 2002. President Patassé then appealed to Jean-Pierre Bemba⁶¹'s Congolese Movement of Liberation (MLC). These Congolese forces were guilty of numerous abuses in the CAR: During an unsuccessful five-month operation in the CAR, MLC fighters went on a rampage of murder, rape and pillaging against civilians throughout the CAR.

On the other hand, General Bozize benefited from an alliance of the regional leaders against Patassé⁶²: In fact, the 2003 coup can also be seen as the result of a kind of a "*gentleman's agreement*" which involved all the governments in the region tired with the personal rule of Patassé⁶³.

- President Deby, who had just launched a counter-offensive of the governmental forces in the North of the Central African Republic against Chadian rebels, provided Bozizé with soldiers of his presidential guard;
- President Joseph Kabila of the DRC sent armaments that had been requested;
- President Denis Sassou-Nguesso of Congo Brazzaville financed the operation;
- President Bongo of Gabon gave his blessing;
- France sent 300 men to protect its nationals. But, as it transpired, in fact, this intervention, called Operation Boali, was then transformed into DIO (Detachment of Operational Instruction), which helped to stabilize the new regime.

The "liberating" forces mostly dispersed within a few months after the coup. However, after seizing power in 2003, François Bozizé made an appeal to Idriss Deby who then sent another 500 Chadian soldiers to restore order in the capital. The Chadian elements were guilty of numerous acts of plunder in Bangui. The military influence of Chad was very tangible. The personal security of President Bozizé⁶⁴ was ensured by the presence of 80 Chadian servicemen, who stemmed from the same ethnic group as Idriss Deby - the Zaghawas. However, the Chadian influence in the Central African Republic has increasingly been less and less tangible over the years, even if Central African anger at Chadian meddling has grown.

Emergence of Central African rebel groups

⁶⁰ Ex-President Patassé was not authorized to run for the presidential elections of 2005.

⁶¹ Prior to his arrest and surrender to the ICC in 2008 (see below), Bemba served as vice president of the Democratic Republic of Congo.

⁶² Marchal Roland, « Aux marges du monde, Afrique centrale ... », Les études du CERI, 2009, http://www.sciencespo.fr/ceri/sites/sciencespo.fr/ceri/files/etude153_154.pdf

⁶³ Debos Marielle, 'Fluid loyalties in a regional crisis: Chadian ex-liberators in the Central African Republic', African Affairs

107, 427 (2008), pp. 225–41.

⁶⁴ Furthermore, in 2007, at President Bozizé's request, President Thabo Mbeki agreed to bring in support for the Central African capacities of defence, particularly in the fields of the engineering, military medicine, and command. The South Africans also participated directly in security and have moved closer to President Bozizé. The agreement of cooperation concerned was over a period of three years.

The emergence of rebel groups in CAR was sequential. Most of them announced their status officially from 2005 onwards. However, that is not to say rebel groups did not exist earlier. Due to chronic instability (especially outside of the capital and in the north) self-defence groups gradually emerged. The Central African Republic's rebel movements only benefited from limited outside support, and their grievances were generally mostly internal⁶⁵.

- The Northwest rebellion - called the Armée populaire pour la restauration de la démocratie (APRD) - appeared as an attempt at revenge led by the previous holders of power. It had for core the members of the former presidential guard of Ange-Félix Patassé. The APRD has mainly been active in the provinces of Ouham, Ouham-Pende and Nana-Grebizi. It could only count on one thousand badly equipped fighters. These rebels asserted that their intention was not to knock down the power, but to open a dialogue aimed to solve the problem of the political exclusion of Patassé, as well as solving the security situation in the northwest, which had been seriously disturbed by the "zaraguinas" (see below). Serious violence was exercised by the armed forces in the northwest: the members of the Presidential Guard, who came directly under the President's jurisdiction were those who were primarily questioned (see below). In rebel-controlled areas like Ouham-Pende and Nana-Grebizi prefectures, the APRD, after having signed a peace agreement with the government in 2008⁶⁶, continued until 2011 to handle all major crimes – including witchcraft, theft, and murder.
- Other movements were also active in the North-West, especially the Patriotic Movement for the Restoration of the Central African Republic (Mouvement patriotique pour la restauration de la République centrafricaine/MPRC) and, above all, the Democratic Front for the Central African People (Front Démocratique du peuple centrafricain/FDPC), which was steered by the former leader of President Patassé's special unit, Abdoulaye Miskine. However, in January 2007, Abdoulaye Miskine joined President Bozizé and was finally appointed as a special councillor, in spite of his indictment by the International Criminal Court (see below) for the abuses committed by his militia in 2002 and 2003 in the North of the country. This appointment followed the signature of the Syrte agreement which included the immediate cessation of hostilities, the stationing of the rebel forces prior to their integration into the national army, and the insurgents of the FDPC benefiting from a general amnesty (see below). Colonel Miskine has been accused, in particular by the FIDH, of having been involved in numerous massacre of civilians.
- In the Vakaga, elements of the Gula ethnic group - among which many received military training within poaching units - were at the heart of another rebellion. They undertook a grievance to the State for discriminating against their predominantly Muslim community, and, more widely, for abandoning their province. Furthermore, the cohabitation between the Sudanese and the Central Africans turned out to be a difficulty. The tensions between the inhabitants (sedentary farmers) and the Sudanese nomads, who brought their people and cattle in the CAR, reached their height in 2002, after the murder of an important spiritual leader, Yaya Ramadan, by the Sudanese. In Birao, the administrative centre of Vakaga, 63 Sudanese nomads were massacred in reprisals. The money paid by the Sudanese authorities to finance social programs to compensate for the murder of Ramadan were diverted and never reached the Gula, Ramadan's ethnic group. As the violence continued, an anti-Gula feeling developed within governmental circles, the armed forces, and the population in general. As a consequence, the local population fled from zones that were under governmental control for fear of reprisals. In this context, the arrival of Bozizé's former companions (the so-called "ex-liberators"), who felt excluded from the sharing of power, were able to contribute to the militarization of the prevailing dissatisfaction. These former partisans of General Bozizé gathered within the UFRD (Union des forces démocratiques pour le

⁶⁵ This section only focuses on political-military entrepreneurs themselves and not their intermediaries. However, rebel groups are of course far from monolithics in organizing violence as shown by Themnér's analytical division of armed groups into three levels:

- politico-military entrepreneurs who organize and fund;
- intermediaries who mobilize fighters and interface with the entrepreneurs,
- the fighters themselves.

See Anders Themnér, *Violence in post-conflict societies: Remarginalization, remobilization and relationships*, Routledge, Oxford, 2011.

⁶⁶ The signature of an agreement with the APRD was one of the major stakes of the All Inclusive Political Dialogue (see below).

rassemblement/Union for the democratic forces assembly)⁶⁷. The UFDR⁶⁸ was a coalition of three armed groups :

- Movement of Central African Liberators for Justice (MLJC) led by captain Abakar Sabone;
- the Group of Patriotic Action for Liberation of the Central African Republic (GAPLC) of Michel Djotodia;
- the Central African Democratic Front (FDC) headed by Major Hasan Justin, who used to be a member of Patassé's presidential guard. This movement had a common cause with Gulas⁶⁹.

In the Vakaga, the Central African government led reprisals against the local population which were considered complicit. On April 13th, 2007, the operational command of the UFDR signed a peace agreement with General Bozizé, under the aegis of Omar Bongo, but without the agreement of Abakar Sabone. This text was similar to the Syrthe agreements that had been concluded two months earlier with Abdoulaye Miskine, and invites the UFDR to participate in government.

The Lord's Resistance Army (LRA) in the CAR

The Lord's Resistance Army (LRA), one of the bloodiest and cruellest armed groups in the Central African region, has been very active on the territory of the CAR where it committed attacks as well as atrocities⁷⁰. After having been forced out of Uganda, the LRA spilled across the CAR (as well as in the neighbouring DRC). The leader of the LRA Joseph Kony might have been hiding in the CAR's territory whilst dozens of small groups from the movement committed beatings, killings, looting and abduction in the countryside, particularly in the north.

Internal insecurity : The "zaraguinas"

The so-called zaraguinas consisted of Central Africans and nationals of neighbouring countries, particularly the Chadians, who mainly attacked travellers on roads, and tended to widen their raids to villages, taking advantage of the quasi-absence of security authorities in the Northern regions. In 2003, some of Bozize's former companions-in-arms joined the zaraguinas. They traditionally ranged in the North of the country (operating particularly in the border zones of the CAR, Cameroon and Chad), but their action tended to be more widespread within the entire CAR territory. They particularly targeted the herders, mainly from the Peulh nomadic communities, whom they forced to sell their cattle to pay as ransom in exchange for their children who they hold as hostages: indeed, the Zaraguina inflicted extreme violence on the population, in particular, by abducting hundreds of children from the Fulani (Peulh) community. They committed sexual violence against children they held in captivity, killed or maimed captives, those for whom no ransom was paid. Human rights organisations accused the zaraguinas of proceeding to summary executions, while the local populations blame the FACA for not defending them. To flee from the zaraguinas, many communities abandoned their villages and were forced to camp in the jungle. The attacks of the zaraguinas forced some communities to set up self-defence units within their villages. By 2008, 45,000 victims, mainly from Fulani communities had fled the zaraguina raids to seek refuge in Cameroon or Chad.

⁶⁷ Contrary to the widely spread idea according to which the CAR crisis was closely linked to the Darfur crisis, it is widely erroneous to assert that Sudan is the main supporter of Central African rebel movements of the northeast. The impact of the Darfur humanitarian crisis in the CAR was in fact very limited (in August 2007, only 4244 Sudanese refugees were registered in the CAR). Sudanese supported Chadian rebels established in Vakaga to fight against Idriss Deby and such a support was extended to the UFDR rebels who had been provided with weapons and military training. However, this support was not conclusive.

⁶⁸ In comparison with the APDR, the UFDR were shown as being a better-equipped movement, in addition to having a more centralized military structure.

⁶⁹ In October 2006, the city of Birao was attacked by the UFDR rebels who also seized the cities of Ouanda Djalle, Sam Ouandja and Ndele. The FACA launched a counter-offensive at the end of November 2006, and reinstated Ndele and Birao, and then two other cities. France then settled in Birao a DAO (Detachment of Operational Assistance). In March 2007, the rebels of the UFDR attacked Birao again, but the city was conquered again thanks, in particular, to the support of the French forces, who had previously stationed 150 men there.

⁷⁰ <https://www.theguardian.com/world/2009/sep/14/lords-resistance-army-terrorises-congo>

The Central African Armed forces

The FACA (Forces armées centrafricaines) has never had many members. It was under Jean-Bedel Bokassa that they reached their height, with a strength of 7500 men. Since Bokassa's fall and until their retreat in 1997, the French troops contributed widely to ensure the security of the country which, as a consequence, contributed to the reduction in the numbers of the FACA, which was made up of no more than approximately 3750 soldiers in 1996. After the mutinies which occurred the same year, they were no longer the object of attention. In 2000, 500 new recruits were added to this workforce, as well as several hundred members of the presidential guard, who brought the FACA workforce up to more than 4000.

The Presidential Guard (GP) was created in 1981. Traditionally, this unit, the role of which was to ensure the security of the President, had been - by comparison - much better staffed, better equipped, and better treated by those in power. It is President Kolingba who inaugurated the ethnicisation of this force, almost exclusively consisting of Yakoma from his original ethnic group as aforementioned. When he took up office, Patassé placed the Yakoma workforce guard back into the FACA and appointed members of his own ethnic group, Sara- Kaba. The rivalry between the FACA, which were neglected, and this guard, highly privileged in terms of the workforce, equipment and treatment, was greatly involved in the origins of the mutinies of 1996-1997⁷¹. In 1998 President Patassé finally transformed the GP into a special force. In reality, this new force, called FORSDIR (Force spéciale de défense des institutions républicaines), kept the same organization, the same characteristics, and the same missions as the GP⁷². In 2000, under international pressure, President Patassé transformed the FORSDIR into the Unity of Presidential Security (USP) and integrated it into the FACA. Nevertheless, although supposed to act under the authority of the armed forces' Chief of Staff, and to be accountable to the Minister of Defence, this unit continued to depend directly on the President, from whom it directly received orders. Sadly the USP was almost known for its abuses and its summary executions, particularly after the failure of the coup of May 28th, 2001.

When General Bozize came to power, he gave up leading a witch-hunt against the FACA as a whole, and kept the armed forces that were bequeathed to him by previous regimes but concentrated his attention on the Presidential Guard. President Bozizé dissolved the USP in 2003. Many former members of Patasse's Presidential Guard, which had been abolished by Bozizé, then swelled the ranks of the rebellion in the northwest. Bozizé renamed the Presidential Guard as "Republican Guard" and created within it the Battalion of Protection, and Security of the Institutions (BPSI)⁷³. Many abuses against civilians reported by the NGOs were attributed to the Presidential Guard, more precisely to the BPSI, which largely consisted of ex-liberators. Like the USP before, the BPSI was managed as the personal militia of the Head of State. The fact that the GP acted only on the orders of the President was very well known and, as a consequence, General Bozizé can directly be blamed for the abuses committed by the GP.

Finally, it is important to mention the fact that sharing of responsibilities between the internal security forces (the Gendarmerie and the police forces), and the forces of defence (FACA and presidential guard) appeared as a major challenge during the crisis. The situation on the ground was characterized by the constant interventions of the defence forces in police missions which yet were institutionally entrusted to the internal security forces. The defence forces were used to intervene in the field of internal security by using their own methods, and often by making themselves guilty of abuses, due to the disproportionate use of force. The government deliberately gave priority to the defence forces and to militarily controlled security under all its auspices, mostly in defiance of the constitutional separation of powers. The Gendarmerie, and the police even more so, were relegated to a second-class role.

Gender dimensions of violations

⁷¹ In 1997, France had decided to remove 24 technical advisers training the Guard, because of President Patassé's refusal to conform to the Bangui Agreements, which had notably foreseen the trimming of the Presidential Guard's workforce, and its integration into the FACA.

⁷² At the end of 1999, the FORSDIR included approximately 1300 persons (the regime claimed that the FORSDIR officially counted 672 members), distributed between two battalions, one in Bangui, and the other in the provinces.

⁷³ Until June 2007, the French military cooperation was in charge of the training the BPSI. But the decision was taken to put an end to this cooperation, following the abuses perpetrated by the BPSI's members. General Bozizé then requested that the South Africans took over.

In addition to the rape and sexual abuses committed from 2001 and mentioned above, according to the FIDH⁷⁴ and the United Nations, over 15% of women and young girls were victims of sexual violence in the northern parts of the Central African Republic from 2007-2008. "Sexual violence is a disturbingly common feature of the insecurity in the north of the Central African Republic"⁷⁵, as stated by the Office for the Coordination of Humanitarian Affairs (OCHA). There were cases of violence against young girls of 12 to 13 years old. Sexual crimes had already been committed systematically and on a massive scale during the conflict of 2002-2003.

Regional and international interventions

In 2002, the Member States of the CEMAC (Communauté économique et monétaire d'Afrique centrale) decided to set up a force of 380 soldiers in the Central African Republic, the FOMUC (Force Multinationale de la CEMAC), made of contingents from Chad, Gabon and Congo. This force replaced the MINURCA, the mandate of which had come to an end in 2000 (see above). The FOMUC was deployed in November 2002. Its mandate was initially to ensure the security of President Ange-Félix Patassé, and to contribute to the reorganization of the Central African armed forces, as well as to monitor mixed patrols along the border with Chad.

The mandate of the FOMUC was extended and adapted after the eviction of President Patassé by General Bozizé⁷⁶. The FOMUC was entrusted a mandate to accompany the process of stabilization by supporting the normalization of the institutions. From July 12th, 2008, the FOMUC passed under the command of the CEEAC (Communauté économique des Etats d'Afrique centrale) to become FOMAC. A Cameroonian contingent joined those from Chad, Gabon and Congo. The aforementioned Boali French detachment supported the FOMUC, supplying an expertise in instruction as well as in logistic backup. The mandate of the FOMUC was initially foreseen to last between 2003 and 2006, but was prolonged to allow its personnel to work on the reorganization of the national army⁷⁷, and on the transfer of the responsibilities towards the FACA.

On September 12th, 2007, the Council of the European Union approved a European mission in Chad, and in the Central African Republic. On September 25th, 2007, the Security Council voted for resolution 1778 to carry out the creation of a multidimensional presence⁷⁸. The military operation - a military operation of transition in the Republic of Chad and in the Central African Republic, called EUFOR Chad / the CAR - was entrusted to the European Union, with France undertaking to supply half of the workforce.

Bozizé reelection (2011)

General elections were held in the CAR on 23 January 2011 to elect both the President and National Assembly, having been postponed numerous times. Ultimately, five candidates registered for the presidential elections:^[20]

- incumbent president François Bozizé (National Convergence "Kwa Na Kwa")
- former President Ange-Félix Patassé (independent)
- former defence minister Jean-Jacques Démafourth (New Alliance for Progress, former political leader of the People's Army for the Restoration of Democracy)
- former Prime Minister Martin Ziguélé (Movement for the Liberation of the Central African People)
- Emile Gros Raymond Nakombo (Central African Democratic Rally)

⁷⁴ <https://www.fidh.org/IMG/pdf/RCA513a2009.pdf>

⁷⁵ See UN News Centre briefing: "CAR: the UN is preoccupied by the prevalence of sexual violence in the north", 22 February 2008:

⁷⁶ The main part of the force was financed by France (12 million euros, mainly in materials) and by the European Union (10 million euros). The CEMAC itself contributed at the level of 250.000 euros.

⁷⁷ The main successes of the FOMUC's forces were the reassurance of the capital Bangui and its surroundings and their contribution to the fight against zaraguinas.

⁷⁸ The EU, beyond this military intervention, was one of the most important donors and partners in CAR during the period under consideration.

Most of those candidates have been accused to have been involved, directly or indirectly, to some extent in serious human right violations.

François Bozizé was re-elected in the first round of voting with 66% of the vote. The Constitution Court (headed by Bozizé's close relative) upheld Bozizé's victory on 12 February 2011, rejecting the opposition appeals. The election of Parliamentarians was held on 27 March 2011. The presidential party, the National Convergence "Kwa Na Kwa" won 61 of the 100 seats in the National Assembly. Most of international observers (from the EU in particular) denounced the "massive fraud" and irregularities noted during those ballots.

2.3 Path dependencies

Social and societal grievances

To understand the cycle of conflicts which happened for decades in the CAR, there is need not to focus exclusively on state violence or on armed groups as structures of violent mobilization, but also to identify the popular forms and practices of violence in Central African society. The place of violence also has to be contextualized in relation with Central African social practices. To understand the scope and scale of conflicts in the Central African Republic, Louisa Lombard and Batianga-Kinzi⁷⁹ have argued that the recurrent violence must be understood in the context of social practices of violence that long predate the war, especially in the light of the diffused and non-centralized mode of organization through which the war has played out. In their views: "*the delinquency of the CAR state over the past several decades was accompanied by the popularization of punishment and the entrenchment of vengeance as a tool for the management of threats*".

As demonstrated by the authors, such popular punishments - from the intra-family level to that of the crowd and *quartier* [neighbourhood], in both rural and urban areas - have long histories as elements of statecraft in the CAR and are based on people's conceptions of the practical and symbolic efficacy of vengeance as elements of politics and management of threats.

Furthermore, some part of the population both have often been perpetrators as well as victims, due to a climate of widely participatory violent vigilantism (especially in cases of theft and witchcraft which are among the most commonly reported crimes in the CAR): the mutilation of the corpses or the execution of a 'criminal' has more often than not been a spectacular and horrific ceremonial act both in rural areas or in Bangui⁸⁰.

State, conflicts and hybridity

To analyse the conflicts dramatically experienced by the CAR since its independence, it is important to analyse the peculiarities of Central African statehood. Central African conflicts as well as public policies, including TJ ones, can hardly be captured and properly understood via a monolithic approach to the state itself. What is the state? Who is the State? Such questions do particularly matter in the CAR context.

As stated by the "Hybridity concept"⁸¹, it is very important not to overemphasise the Westphalian(externally) and Weberian (internally) notions of the state characterized by legal-rational norms and institutions. The CAR context – as many other African settings - underlies realities, where many political and social transactions take place in the context of informal norms and systems, and where a wide array of institutions operate not only alongside but also within nominally formal political institutions⁸². Although

⁷⁹ Lombard, L., Batianga-Kinzi S. (2015), « *Violence, Popular Punishment, and War in the Central African Republic* », op. cit.

⁸⁰ Idem.

⁸¹ Boege, V., A. Brown, K. Clements and A. Nolan, 2008. *On Hybrid Political Orders and Emerging States: State Formation in the Context of Fragility*. Berghof Research Center for Constructive Conflict Management. Available at: http://www.berghof-foundation.org/fileadmin/redaktion/Publications/Handbook/Articles/boege_etal_handbook.pdf [Accessed 16 December 2015].

Boege, V., A. Brown, K. Clements and A. Nolan, 2009. 'Hybrid Political Orders, Not Fragile States'. *Peace Review* 21(1), 13–21.

⁸² Bagayoko Niagale, Hutchful Eboe & Luckham Robin (2016), Hybrid security governance in Africa: rethinking the foundations of security, justice and legitimate public authority, *Conflict, Security & Development*, 16:1, 1-32, DOI:

understanding the state dimension remains essential, the complexity of the Central African environment calls inseparably for a deep understanding of societal realities, often informal, within which governance is rooted: in fact, formal and informal systems tend to overlap, interrelate, and interpenetrate at complex levels and states and non-state actors (as well as informal networks) are not mutually exclusive but should rather be seen as embedded in each other. In particular, informal norms, solidarities and networks are embedded in the official state institutions, including the security and justice ones.

First of all, in the CAR setting, the political elite cannot be assimilated to the state apparatus itself. For instance, rebel group leaders are clearly members of the so-called “political elite” in the CAR. It is crucial to understand that most of the actors who joined the ranks of different rebellions during the conflict under consideration were previously members of the government or of the administration and have again been part of them after having left the bush. In fact, there is an intermingling between CAR’s political actors which have both endorsed the role of government officials (or of high ranking civil servants or military officers) and of rebels/combatants. From this perspective, the very notion of a “political elite” ruling the state can hardly be considered as relevant in the case of the CAR: the same political actors have been successively (and even in some cases concurrently) promoting their own interests outside and within Weberian-style legally-established institutions (not only in the executive but also in the legislative sphere). Both within and outside institutions, the political elite has thus been undermining or more directly fighting the state. In any case, such a political elite cannot be seen as coinciding with the state itself.

Second, it is important to measure the importance of kinship relations and networks in the CAR. An interesting example is the composition of the National Assembly elected in 2011. At least 20 members of the new Parliament then elected had family ties with President Bozize (his own wife, his sons, his nephews and his cousins)⁸³. Furthermore, some of the Parliamentarians elected under an “independent” banner - which might suggest that a political opposition did exist within the Parliament - were in fact also affiliated to the President, as Socrate Bozizé, one of the President’s sons, making the executive branch control over the legislative one much larger than it appeared at first glance⁸⁴.

There is also a need to analyse in a very detailed way decision-making processes beyond the formal institutional architecture. From this perspective, familial relationships are key to understand the way in which the military and defence sector was functioning during the period at stake. After General Bozizé’s seized power in 2003, the chain of responsibility in the defence sector was as follows: General Bozizé, Head of State, was according to the Constitution Commander-in-Chief of the armed forces but also acted as Minister of Defence – which was exaggerated regarding the constitutional provisions; the Minister of State for Defence (acting as a delegate to the Minister of Defence) was Francis Bozizé, other General Bozizé’s son; General Ouende, Chief of Staff (CEMA) as well as the General Commandant of the National Gendarmerie force had in fact almost no authority over the FACA and absolutely no control over the “Republican Guard” and its BPSI (see above). Here, it is important to also state that the military cannot be considered in the CAR as an elite as such. It has tended to be over the years an instrument in the hands of the President himself (under Kolingba, Patassé and Bozize). The military as such has tended to be in fact a very weak actor (except the Presidential Guard) .

Thirdly, the blurred distinction between state and non-state actors is crucial as well. In fact, there often was an overlap, if not an amalgam between state, private and informal security actors as the creation of private security groups and ethnic militias by President Patassé shows.

Fourthly, whilst political parties have been mushrooming over the last 15 past years, ones can hardly differentiate them in terms of programmes or vision for the country. They have been exclusively machines

10.1080/14678802.2016.1136137. See also Bagayoko Niagalé, “

Learning Lab on Security Sector Governance in Africa, organised by the African Security Sector Network, the Geneva Centre for the Democratic Control of the Armed Forces and the Open Society Foundation, Dakar, 26-27 April 2016

⁸³ Voir *La Lettre du Continent* «Centrafrique : La famille Bozizé à l’Assemblée nationale », 14/02/2011 <http://centrafrique-presse.over-blog.com/article-centrafrique-la-famille-bozize-a-l-assemblee-nationale-67187929.html>

⁸⁴ La famille Bozizé à l’Assemblée nationale : <http://www.journaldebangui.com/article.php?aid=829>

(often very weakly structured) used to access power and not to promote the interests of the populations. They also generally have only a few members

Finally, it is important to avoid embracing in a too simplistic way the “governance” concept, which advances outreach to a circle of stakeholders beyond the state, in particular “civil societies” and within it women associations or groups. “Civil society” is a concept inspired mostly from American and European models built around associations. In the CAR’s environment, it is crucial not to idealize civil society nor to consider it as a monolithic actor, in particular because some civil society organisations have been very close to the ruling elite, once again often via kinship and familial networks. As an example, Monique Bozizé, the President’s wife, was the President of the Fondation "Femme - Enfant - Solidarité" (Foundation Women – Children -Solidarity”). Furthermore, many Central African CSOs have been what is called in other contexts “*briefcase CSOs*”⁸⁵ – basically one person and a briefcase trying to get funding from abroad.

Continuities and discontinuities with the colonial experience

From the independence, France played a major role both from a political perspective – being deeply involved in the management of state affairs, de facto co-opting the different head of states, and dismissing them when unsatisfied with their performances or behaviour – and from a military perspective with troops (the “*Elements français d’Assistance Opérationnelle*”/EFAO) permanently stationed in the country: such a military presence partly explains the reason why until 1997 no strong national security apparatus was put on its feet. French interests also remained important in the central African economy: France has been the most important investor in the country since the independence and a few French companies have kept important positions in sectors such as telecoms, transports, distribution of oil and timber.

Under Kolingba’s rule, the influence of France was particularly significant: Jean-Claude Manton, a former officer from the French external intelligence service, the Direction générale de la Sécurité extérieure/DGSE, was appointed by the French authorities as Special Counsellor to President Kolingba head of the Presidential Guard, from 1981 to 1993⁸⁶ and was seen as the de facto ruler of the CAR. Both President Patassé and François Bozizé were assisted by high level French Special adviser, in particular in the Defence sector. France also played a major role in financially supporting and technically assisting the African multilateral forces which were deployed in the country (FOMUC; FOMAC) via the Boali Operation as well as the European force (EUFOR CHAD/CAR).

Such a continued presence was supposed to protect some French economic interests in the country but also the influence of France in the Central Africa region as a whole, which at the end of the 1990’s seemed to be endangered by the growing influence of Anglo- Saxon interests, (especially in Rwanda after the 1994 genocide but also in the DRC where Presidents Kabila (father and sons) initially appeared eager to become closer to the United States.

3. Transitional and societal factors

The different central African political actors, rather than the state itself (government officials as well as leaders from rebels groups), used different strategies to consolidate their power or to access to high level positions via the promotion of TJ measures. International actors were very active in supporting some mechanisms meant to promote the interests of the victims of past abuses like some civil society organisations, despite a global weakness of those stakeholders.

⁸⁵ [Richard Holloway](#), *Towards Financial Self-reliance: A Handbook of Approaches to Resource Mobilization for Citizens' Organizations*, Paperback February 1, 2001

⁸⁶ “Quand le Colonel Manton régnait sur la Centrafrique » : <https://cerclevictorbiakaboda.blogspot.kr/2013/12/quand-le-lieutenant-colonel-manton.html>

3.1. Political settlement

No real framework for transitional justice in the Central African Republic was developed in the course of efforts to reach solutions to the country's crisis. However, since the 1980, series of measures were regularly taken to address the roots of conflicts and find solutions to solve them. The most important initiatives were :

- the National Seminar (le Séminaire National) in December 1980 ;
- the Great National Debate (Grand Débat National) in 1992;
- the series of meetings meant to implement the Protocol of the Political agreement and the joint minimal programme (Réunions pour la mise en place du Protocole d' Accord Politique et du Programme Minimum Commun) in 1996;
- the meeting of the Committee on Dialogue and Concertation (Réunion du Comité de concertation et de Dialogue) in January 1997 ;
- the Conference on Reconciliation (Conférence de Réconciliation) in 1998.
- The Political Agreement preparatory to the formation of the National Union Government (Protocole d'Accord Politique préalable à la formation du Gouvernement d'Union Nationale).

As stated in 2008 by an FIDH report⁸⁷, a very similar set of actions were implemented to address the 2001-2011 wave of conflict, according to the “scenario of peace agreement (2007-2008) – amnesty (2008) and political dialogue (2003, 2008)”.

The National Dialogue (Dialogue national) : 2003

In 2003, a National dialogue was organised to discuss political and security situation.⁸⁸ This National Dialogue was a six-week conference held from September-October 2003, primarily financed⁸⁹ by the President of Gabon⁹⁰, one of the closest allies to the French and the elder chief of state of the region at this time (a status which conferred on him a lot of legitimacy to act as a mediator). A first phase of the dialogue was even announced in Rome under the auspices of the Sant'Egidio Catholic Community, which has always played an important role in mediation activities in the CAR⁹¹:

The event was planned by a Preparatory Committee⁹², divided into six thematic commissions: 1/ truth and reconciliation; 2/ politics and diplomacy; 3/ defence and security; 4/ economy and finance; 5/ education, culture, youth and sport; 6/ organisation and logistics.

Around 350 participants – from political parties, government, security sector agencies, CSOs, the provinces, the private sector, as well as from regional and international institutions and donors - attended the National Dialogue. Former President André Kolingba was invited to attend. In 2003, most of the rebel groups had not officially formed at the time of the conference which explains the fact that there were no representatives attending on behalf of armed rebel groups. Importantly, former president Patassé⁹³ and his former defence minister were not invited: the state prosecutor of Bangui had issued an international warrant for the arrest of former President Ange-Felix Patasse, then in exile in Togo. As indicated by the prosecutor Firmin

⁸⁷ <https://www.fidh.org/IMG/pdf/RCA513a2009.pdf>

⁸⁸ <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/CAR%20S2003661.pdf>

⁸⁹ Irin (2003). République Centrafricaine: Le budget pour le dialogue national estimé à 1,2 million de dollars. Relief Web, 4 February 2003. <http://reliefweb.int/report/central-african-republic/r%C3%A9publique-centrafricaine-le-budget-pour-ledialogue-national-estim%C3%A9>

⁹⁰ Sián Herbert, Nathalia Dukhan, and Marielle Debos, « State fragility in the Central African Republic: What prompted the 2013 coup?»: Rapid literature review July 2013, http://www.gsdrc.org/docs/open/car_gsdrc2013.pdf .

⁹¹ The National Dialogue website (<http://dialogue.national.free.fr/dn.htm>) contains useful information about the conference, including analysis of the causes of conflict in CAR (http://dialogue.national.free.fr/dn_commissions_defsecu_diag1.htm) and suggested solutions (http://dialogue.national.free.fr/dn_commissions_defsecu_recom_rfds.htm).

⁹² This Committee was made up of 49 representatives from the government, from each political party, from each security sector agency, from CSOs, and from the private sector.

⁹³ https://www.sangonet.com/ActualiteC17/mandat-arret_C-Patasse-au03.html

Feindiro, the warrant emanated from the work of a joint judicial commission set up on 1 August 2003 to investigate embezzlement and corruption under Patasse's administration. The National Transitional Council, the country's law advisory body, voted against Patasse's participation to the National Dialogue. The Council also justified its decision saying that Patasse had to answer for alleged human rights violations before the International Criminal Court, where a French-based rights body, the Federation Internationale des Droits de l'Homme (FIDH), had already filed a complaint.

The major output of the National Dialogue was a final report⁹⁴ which made a long list of recommendations divided by the thematic commissions. Some of the key recommendations included:

- the establishment of a permanent truth and reconciliation commission. More specifically, the final report recommended such a Commission to “Receive the complaints from the victims; Audition the main political and administrative persons in charge as well as the authors and the witnesses of the CAR’s history;° Look for the funding necessary to repair the damages undergone by the victims of the military-political crises; pass an amnesty law relative to the abuses committed since the 1960s until 2003 in order to reconcile the Central Africans. In the annexes, the report made by experts from the BONUCA had recommended to set up a so-called “reparation Commission” responsible for addressing both individual and collective reparations and which should take into account all violations of human rights but also economic crimes committed in the country since independence. Most importantly, the responsibilities of all the different regimes, including those of the colonial rule, were clearly mentioned among the root causes of the multiple crises.
- the adoption of a new constitution;
- the reform of the electoral code;
- the restoration of security across the country;
- and the creation of an autonomous committee - the Comité de Suivi des Actes du Dialogue National (CSADN) - to monitor and follow-up the recommendations⁹⁵.

Reconciliation was a key discussion at this 2003 National Dialogue, and many prominent leaders made declarations of reconciliation and forgiveness for past violence⁹⁶ : in particular, in addition to asking the nation to pardon the Emperor Bokassa’s children, the National dialogue was notable for the historic reconciliation between Abel Goumba and David Dacko (who died soon after, on 20 November 2003).

In terms of impact, one of the main outcomes of the National Dialogue was the legitimising of Bozizé⁹⁷, within the country and externally. The permanent truth and reconciliation commission was never set up. In fact, as analysed by international Human Rights NGO such as the International Federation for Human Rights⁹⁸ and summarized in a GSDR⁹⁹ report, “Bozizé used the National Dialogue as a way to absolve his troops of human rights violations without using judicial mechanisms”¹⁰⁰.

The DDR processes

⁹⁴ http://www.cf.undp.org/p_ala_une.htm : unfortunately, this report is no longer available online.

⁹⁵ These recommendations were divided into two categories, short, medium and long term, but otherwise were not prioritised.

⁹⁶ UN Security Council. (2003). Report of the Secretary-General on the situation in the Central African Republic and the activities of the United Nations Peace-building Support Office in the Central African Republic (S/2003/1209). New York: UN. Retrieved from: <http://reliefweb.int/report/central-african-republic/reportsecretary-general-situation-central-african-republic-and-0>

⁹⁷ Mehler, A. (2009). Reshaping political space: the impact of armed insurgency in CAR. Working papers, No. 116. Hamburg: GIGA Institute of African Affairs. Retrieved from: http://repec.gigahamburg.de/pdf/giga_09_wp116_mehler.pdf

⁹⁸ Fédération Internationale des Ligues des Droits de l'Homme (FIDH) (2004) Rapport, mission d'enquête internationale: République Centrafricaine, Quelle justice pour les victimes de crime de guerre? No. 382, février. Paris: FIDH. Retrieved from: <http://www.fidh.org/IMG/pdf/Rca382f.pdf>

⁹⁹ GSDR = Global Sustainable Development Report.

¹⁰⁰ http://www.gsdr.org/docs/open/car_gsdr2013.pdf

Following the 2003 National Dialogue¹⁰¹, a multi-donor \$13 million DDR project for CAR was approved¹⁰². The new 'transition government' led by Bozizé wrote a 'DDR Policy Letter' requesting assistance from the MDRP¹⁰³ and the World Bank (MDRP 2004). One year later, a three year DDR project was approved – the Ex-Combatant Reintegration and Community Support Special Program (known also by its French initials PRAC¹⁰⁴). The PRAC was a Multi-Country Demobilization and Reintegration Program (MDRP) initiative, funded by the World Bank, UNDP and other donors, and implemented by the UNDP¹⁰⁵ which ran from 2004 to 2007¹⁰⁶. All of the funding for DDR processes have been provided by external actors – predominantly multilateral donors, including some regional multilaterals.

In terms of actual outputs, in the first phase of SSR and DDR, the MDRP reported that it met its targets by providing reintegration support to 7,565 ex-combatants, 'reintegration kits' and training for all beneficiaries (MDRP 2009). However, a final evaluation report by the MDRP¹⁰⁷ recognized that the process of DDR had been disappointing. In fact, an important number of projects never came to fruition', in particular as regards community and economic reintegration of demobilised combatants'.

A second phase of DDR was launched between 2009-2012, again under the aegis of the international community, in accordance with the terms of the Comprehensive Peace Agreement and the Framework Document on DDR signed in Libreville on 21 June and 20 November 2008. A so-called Steering Committee was set up, comprising the representatives of Government, the political-military movements signatories to the Comprehensive Peace Agreement, UNDP, the United Nations Peace-building Office in the CAR (BONUCA), the Economic Community of Central African States (ECCAS) Mission for the Consolidation of Peace in the CAR (MICOPAX), France, the European Commission, AU and the World Bank¹⁰⁸. This programme failed as the PRAC did however¹⁰⁹.

The « Etats généraux de la Justice » (2007)

Even if seldom mentioned, an important conference the "Etats généraux de la Justice"¹¹⁰ was organized in 2007¹¹¹ following one of the recommendations of the 2003 national Dialogue, and thanks to the support of the UNDP and the International Organization of la Francophonie (OIF)¹¹². The objective of this conference was to identify the weaknesses of the judicial branch and to assess its needs and required reforms.

¹⁰¹ A first DDR programme, the National Programme on Disarmament and Reintegration (PRDR) conducted in 2002-2003, had failed previously. This programme aimed to offer livelihoods training to 2,000 people and to recover 10,000 small arms and light weapons.

¹⁰² Multi-Country Demobilization and Reintegration Program (MDRP). (2009). MDRP-Supported Activities in Central African Republic. Washington, DC: MDRP Retrieved from: http://www.mdrp.org/PDFs/MDRP_CAR_FS_0309.pdf

¹⁰³ The MDRP is a multi-agency effort that operated from 2002 to 2009 to support the demobilization and reintegration of ex-combatants in seven countries in the greater Great Lakes region of Central Africa. See: <http://www.mdrp.org/index.htm>

¹⁰⁴ PRAC = Programme de réinsertion et d'appui aux communautés.

¹⁰⁵ UNDP project summary:

http://www.mdrp.org/PDFs/Country_PDFs/CARDoc_PRAC%20Prgrm.pdf

¹⁰⁶ The next phase of DDR was initiated by three key events: (1) the National Seminar on SSR (April 2008);⁴⁵ (2) the signing of the Libreville Comprehensive Peace Agreement (May 2008); and (3) the Inclusive Political Dialogue (December 2008) (*see below*). CAR also became eligible for UN Peacebuilding Commission (PBC) funding in June 2008, which included SSR and DDR projects (UN 2009). UNDP lead and implemented these interventions, with funds from PBC, UNDP, CEMAC and ECCAS.

¹⁰⁷ Multi-Country Demobilization and Reintegration Program (MDRP). (2009). MDRP-Supported Activities in Central African Republic. Washington, DC: MDRP Retrieved from: http://www.mdrp.org/PDFs/MDRP_CAR_FS_0309.pdf

¹⁰⁸ <http://www.peaceau.org/uploads/report-car.pdf> and https://openknowledge.worldbank.org/bitstream/handle/10986/27276/714820WP0Infor00Box370075B00PUBLI_C0.pdf?sequence=1&isAllowed=y

¹⁰⁹ See Lombard Louisa, « Chapter 5 : DDR And The Frustration of Desires For Entitlement », *State of Rebellion: Violence and Intervention in the Central African Republic* by Louisa Lombard London: Zed Books, 2016.

¹¹⁰ http://www.undp.org/content/dam/car/docs/gouvernance/rcafb_notedepatique-pred2008-2011.pdf

¹¹¹ Ministry of Justice, *Etats Generaux de la Justice Report*, October 2007

¹¹² http://www.acap.cf/Centrafrigue-Societe-fin-a-Bangui-des-Etats-Generaux-de-la-justice-centrafricaine_a742.html

Members of the government, magistrates, lawyers, civil society representatives, international partners attended this Forum. The most important recommendations were the following ones:

- guarantee the independence and the responsibility of the justice sector;
- improve access to justice, in particular for women and children;
- protect and promote human rights;
- modernize the justice sector;
- set up new courts (especially new “Tribunaux de Grande Instance”);
- better integration of the CAR into the regional justice system (CEMAC, de la CIMA, de l’OHADA, de la COBAC etc).

There was no real mention of transitional justice during those “Etats généraux de la Justice”. Most of the recommendations of the Conference were never implemented¹¹³.

The National Seminar on security sector reform/SSR (April 2008)

It is first important to note that contrary to DDR, Security Sector Reform (SSR) processes, should not be seen as TJ mechanisms. Promoting and establishing Democratic Security Sector Governance (DSSG) is the goal of security sector reform (SSR) which is the political and technical process of improving state and human security by making more effective and accountable security provision, management and oversight by all state and non-state actors¹¹⁴. SSR must to be seen as a continuing process relevant in any environment including stable and democratic ones. Only some specific SSR measures should be considered as TJ mechanisms, especially: improvement of military justice to sanction human rights abuses; reinforcement of internal inspections; training in Human rights; oversights of the armed forces by Human Rights institutions. However, beyond such very specific measures, improving the democratic governance of the security sector can contribute to preventing major violations of human dignity and human rights by the armed and security forces.

In April 2008 a National seminar on SSR was organized¹¹⁵ to discuss the reforms needed in the security sector as a whole, including the armed forces and the gendarmerie, the national police, the judicial and penitentiary systems, the intelligence services and private security forces. A detailed action plan for reform was prepared (mostly by experts from the European Union) and adopted during the seminar.

SSR – as DDR - reforms in CAR have been significantly driven and financed by external actors: bilateral (France) and multilateral partners (United Nations and European Union) supported the Government in the implementation of the most technical and operational reform, essentially focused on “train and equip programmes” rather than on initiatives meant to improve the accountability and the governance of the security sector. Restructuring rather than reform of the security sector was seen as top priority by the Government, eager to improve the readiness and efficiency of the armed forces on the ground¹¹⁶. Little

¹¹³ This section cannot be expanded upon due to inadequate information.

¹¹⁴ Bagayoko Niagalé, “I

Multistakeholder dialogue on contemporary challenges in security sector governance in Europe Brussels, 10-12 April 2017. As stated in this paper, “*Democratic Security Sector governance is a normative concept aimed to improve state and human security by strengthening democratic civilian control, within a framework of rule of law and respect for human rights by state and non-state security providers within a national setting. It does share with the concept of human security a special focus on the safety and welfare of individuals, communities and population at large, including legal protection of citizens’ rights and personal safety as well as independence and fairness in judiciary procedures. Democratic SSG is not referring to a specific institutional model but embraces the following series of core principles, which may apply differently in each national environment - no country in the world matching them entirely.*”

¹¹⁵ It was the UNDP which financed the seminar on Security Sector Reform in the Central African Republic, held in Bangui between April 14th and April 17th, 2008 (see below)

¹¹⁶ Bagayoko-Penone, N. (2010). Multi-level Governance and Security: The Security Sector Reform Process in the Central African Republic. San Domenico di Fiesole: European University Institute. Retrieved from: http://cadmus.eui.eu/bitstream/handle/1814/14044/RSCAS_2010_47.pdf;jsessionid=B44580086C4C261601AC33C460952CB3?sequence=1

effort was made on the part of the Bozizé government to implement any SSR reforms. As argued by N'Diaye “at the highest level of the executive branch there (was) a disturbing tendency to continue to view SSR in its most minimalist meaning (...) which certainly (did) not include a genuine redistribution of power in the security area. As a consequence, at lower levels no efforts “were” made to implement even the most modest reforms.¹¹⁷”.

The very limited progresses achieved under the SSR process unravelled with the recurrence of violence and human rights violations in February 2009. None of the specific measures aforementioned likely to cope with human rights violations by the defence and security forces via sanctions (military justice) and control (inspections, external supervision) was ever adopted.

Libreville Comprehensive Peace Agreement (2008)

The Bozizé government accepted to broker bilateral peace agreements with the different rebel groups:

- First was an agreement with Abdoulaye Miskine’s Democratic Front for the Central African People (Front démocratique pour le peuple centrafricain, FDPC), signed in Libya on 2 February 2007. The agreement provided for the immediate end of hostilities and confinement of FDPC troops into Central African territory to be integrated into the defence and security forces or into civilian life.
- second was with the Union of Democratic Forces for Unity (Union des forces démocratiques pour le rassemblement, UFDR) on 13 April 2007. This second peace agreement was signed in Birao (CAR) with Damané Zakaria, UFDR chief-of-staff, without the approval of the leaders of the rebel movement¹¹⁸.
- and third with Jean-Jacques Demafouth’s Army for the Restoration of Democracy (Armée pour la restauration de la démocratie, or “APRD”) signed in Gabon in May 2008.

Yet, following pressures from the international community, the government agreed to negotiate a single peace agreement involving all groups together. Omar Bongo Odimba, President of Gabon, acted as the mediator. Such an overall peace agreement was meant to reinforce the commitments already made in the separate deals which had provided for an end to the fighting as well as the assembly of rebel forces in containment centres to benefit from the DDR programme. The Libreville Comprehensive Peace Agreement¹¹⁹ (see Annex) was signed in June 2008 between the government and two of the rebel groups, APRD and UFDR, in Libreville Gabon. The third most important group FDPC did not sign the agreement¹²⁰ which was also rejected by parts of the exiled UFDR leadership¹²¹. The APRD warned that if the forthcoming Inclusive Political Dialogue (*see below*) did not lead to significant change, it would return to using violence¹²²

The Libreville comprehensive Agreement included nine commitments among which :

- a complete ceasefire;
- the release of prisoners (combatants);
- the integration of rebels into the national army,

¹¹⁷ N’Diaye, B. (2009.) Security Sector Reform in the Central African Republic. In Born, H. and Schnabel, A. (eds) Security Sector Reform in Challenging Environments: Insights from Comparative Analysis. Geneva: Geneva Centre for the Democratic Control of Armed Forces (DCAF). Retrieved from: <http://tinyurl.com/nxbow3b> ;

¹¹⁸ in spite of the appointment of the two rebel leaders, Abdoulaye Miskine of FDPC and Zakaria Damane of UFDR, as advisers to the President, sporadic actions by the Democratic Front of Central African People (FDPC), UFDR and APRD continued in northern localities.

¹¹⁹ See the Libreville Comprehensive Peace Agreement (2008): http://reliefweb.int/sites/reliefweb.int/files/resources/A18A0936ED8044A7852575D90078F063-Rapport_complet.pdf

¹²⁰ Its leader Abdoulaye Miskine was fearing a possible arrest warrant from the International Criminal Court (ICC), did not want to leave Libya, where he lives in exile.

¹²¹ Mehler, A. (2009). Reshaping political space: the impact of armed insurgency in CAR. Working papers, No. 116. Hamburg: GIGA Institute of African Affairs. Retrieved from: http://repec.gigahamburg.de/pdf/giga_09_wp116_mehler.pdf

¹²² Spittaels, S. & Hilgert, F. (2009). Mapping Conflict Motives: Central African Republic. Antwerpen: IPIS. Retrieved from: http://www.ipisresearch.be/maps/CAR/20090217_Mapping_CAR.pdf

- The launch of a new DDR programme supported by the international community¹²³;
- And more importantly for the issue here at stake a general amnesty.

However, fighting erupted just two months later in August 2008 and ended the peace process: the rebels broke the ceasefire due to the government's draft of the new amnesty law¹²⁴ – the rebels argued that various clauses disadvantaged the rebels, compared to the staff of the security forces, and would make it impossible for many of the rebels to benefit from the amnesty.

As stated by the FIDH, the Libreville Agreement is a telling example of “Peace agreements (which) are detrimental to victims¹²⁵”.

The amnesty law of October 2008

In accordance with the provisions of the peace agreements, the Central African government presented three draft general amnesty laws¹²⁶ before the Central African Republic National Assembly at its session on 1 August 2008. Those laws were presented as a means of working towards national reconciliation and enabling all the protagonists in the conflict to take part in the political dialogue. One of the pre-requisite for the All-Inclusive Political Dialogue (*see below*) to take place was indeed a general amnesty, to allow all the politico-military movements to take part in the debates without fear of official action against them.

On 13 October 2008, President Bozizé promulgated an amnesty law¹²⁷ which had been previously adopted by the ruling coalition in parliament on 29 September, despite an almost unanimous opposition by the opposition parties and rebel forces. This amnesty law had been promised however by all the peace agreements signed with the rebels since 2007.

The amnesty provided¹²⁸ :

- both the government army and the Presidential Guard with impunity – except for “crimes of genocide, crimes against humanity and war crimes” or any crime “falling under the jurisdiction of the International Criminal Court”, in spite of several reports indicating that the Guard was guilty of some of the worst human rights violations in the conflict zones. The law also stipulated that amnesty was granted for “all offences committed by members of the defence and security forces and the civil and military authorities as part of their operations to maintain order and defend national territory” from 15 March 2003 (overthrow of former President Patassé) to the date of promulgation of the present law¹²⁹ ;
- The provisions also gave impunity for the crimes carried out by the foreign combatants (the so-called “ former liberators” (ex-libérateurs) who brought General Bozizé to power on 15 March 2003;

¹²³ UN. (2009). Peacebuilding in the Central African Republic: The Case for Increased Donor Engagement. New York: UN. Retrieved from: http://www.un.org/en/peacebuilding/cscs/car/key_docs/car_briefing_paper_090327.pdf

¹²⁴ ICG, Central African Republic: Untangling the Political Dialogue, *Briefing 55*, *AFRICA* 9 DECEMBER 2008, <https://www.crisisgroup.org/africa/central-africa/central-african-republic/central-african-republic-untangling-political-dialogue>

¹²⁵ FIDH, “ Central African Republic Déjà-vu Peace (dis)agreements that are detrimental to victims”, n°513a December 2008, <https://www.fidh.org/IMG/pdf/RCA513a2009.pdf>

¹²⁶ It is worth mentioning that none of those laws covered the crimes that were allegedly committed prior to Patassé's overthrow and which had been committed by some of the protagonists of the current conflict, including Abdoulaye Miskine, Jean-Jacques Demafouth and Ange-Félix Patassé.

¹²⁷ <https://reliefweb.int/report/central-african-republic/central-african-republic-news-bulletin-no-80-06-13-oct-2008>
¹²⁸ <https://d2071andvip0wj.cloudfront.net/b55-central-african-republic-untangling-the-political-dialogue.pdf>

¹²⁹ See FIDH press release dated 01/08/2008: “Projets de lois d’amnistie en République centrafricaine - Quand les victimes sont une nouvelle fois méprisées par le gouvernement centrafricain”. <http://www.fidh.org/spip.php?article5763> 21. See UFDR public statement dated 10/08/08: <http://centrafrique-presse.over-blog.com/article-22030402.html> FIDH. Central African Republic - Déjà-vu. Peace (dis)agreements that are detrimental to victims/32 FIDH. Central African Republic - Déjà-vu. Peace (dis)agreements that are detrimental to victims/33

- The rebels benefited from the law's exoneration for "the leaders and members of politico-military groups situated in national territory or in exile". The law enacted on 13 October 2008 specifically named some prominent individuals who had to benefit from the amnesty – the former President Ange-Félix Patassé, his former minister of Defence and APRD leader Jean-Jacques Demafouth, as well as Colonel Abdoulaye Miskine. They were also assured of impunity for the embezzlement of public money and complicity in killings ;
- However, article 8 of the law stated that "beneficiaries of the amnesty who remain in contact with a rebel group will be banned from all political activity for a period of 10 years". Furthermore, article 6 of the law set them a 60-day deadline "to end violence and adopt an immediate and unconditional ceasefire". By the same deadline the former insurgents should submit to arrangements for "gathering in assembly areas, for disarmament and reconversion"; failure to comply would cost them their right to impunity. The rebel movements considered such a timetable as unrealistic; In fact, as denounced by rebel leaders and many in the opposition, such provisions were implicitly meant to deprive whole groups from the benefits of the amnesty¹³⁰.
- Despite this article 8, all the protagonists of the conflicts in CAR since 1999 were granted full amnesty although some of them could have been held responsible for hundreds of summary executions, killings, destruction of thousands of dwellings, looting, rapes, etc. The amnesty law induced the remission of all main, accessory and complementary sentences and all disqualifications or forfeitures (Article 3). Impunity for crimes committed since 2001 in the country seemed to be ensured again and victims remained unheard and ignored by national courts.¹³¹

All-Inclusive Political Dialogue (Dialogue politique inclusive) : Décembre 2008)¹³²

In 2007, President Francois Bozizé promoted an All-Inclusive Political Dialogue (AIPD)¹³³ process officially to reconcile political and armed entities throughout the country¹³⁴. In 2007, the political situation in the Central African Republic was basically characterized by attempts to organize this Inclusive Political Dialogue¹³⁵ to promote reconciliation¹³⁶ among all national political stakeholders in the country¹³⁷.

A key objective of the 2008 Inclusive Political Dialogue was to start a process and design a plan of action to implement the 2008 Libreville peace agreement; two other rebel groups having also signed peace pacts¹³⁸.

¹³⁰ Furthermore, a very controversial reorganisation of the Higher Judiciary Council was decided by the government on 23 October 2008.

¹³¹ <https://www.fidh.org/IMG/pdf/RCA513a2009.pdf>

¹³² Related documents in Annexes:

- [Discours de clôture du DPI – President Buyoya – 22 December 2008](#)
- [Rapport final du dialogue politique inclusif – 20 Dec 2008](#)
- [Décret N°08.392 – Creation Comité d'organisation du Dialogue Politique Inclusif – 8 Nov 2008](#)
- [Report of Chairperson of Commission on the Situation in CAR – 29 May 2008](#)

¹³³ The final report can be found following the link below: http://www.hdcentre.org/fileadmin/user_upload/Our_work/Peacemaking/Central_African_Republic/Supporting_documents/RAPPORT-FINAL-DU-DIALOGUE-POLITIQUE-INCLUSIF- PART-I_20-Dec-2008.pdf

¹³⁴ <https://www.hdcentre.org/activities/central-african-republic-2/>

¹³⁵ Negotiations were held between the government, the rebel groups and the Mediator (Omar Bongo) to decide on the composition of the Preparatory Committee, one year in advance.

¹³⁶ Following an assessment in July 2007, and the outcome of a 'Réunion de Concertation' chaired by "Humanitarian Dialogue" in August 2007 in Bangui, the President requested HD 's help in organising the AIPD process and in tackling political, economic and social conditions in the country as a whole.

¹³⁷ https://www.un.org/en/peacebuilding/cscs/car/key_docs/inclusive_political_dialogue.pdf

¹³⁸ The day before the Dialogue started in December 2008, another rebel group – the MLCJ– also signed the peace agreement, thereby officially joining the peace process. A few days later, another group – the UFR, even if interestingly not previously active in the conflict – also signed up..

The conference was supposed to be inclusive with rebel group members taking part in both the Preparatory Committee and the Conference itself. However, rebels held only 3 of 23 positions in the Preparatory Committee¹³⁹.

The 13 October 2008 amnesty had initially not opened the door to participation in this All-Inclusive Political Dialogue either for the leader of the APRD or for ex-President Patassé, under a dual threat from both the national justice system and the International Criminal Court. Nevertheless, Patassé and his group, unlike in 2003 were finally included; former president Kolingba also attended.

In total, international observers as well as 200 national participants – representing the following six national entities: the presidential majority (as represented in the national assembly), rebel movements, opposition parties, non-aligned parties¹⁴⁰, the civil service¹⁴¹ and civil society - attended the shorter two-week conference during which President Bozizé agreed to :

- form an inclusive consensus government;
- hold free and transparent elections;
- install a follow up committee;
- and create a Truth and reconciliation commission.

In addition, this All-Inclusive National Dialogue **endorsed a new DDR programme meant to put an end to the rebellions in the north**. An agreed framework for implementing DDR was developed at Libreville in Gabon on 29 January 2009, followed by the establishment of a steering committee in Bangui on 9 February 2009. A time chart for implementing DDR was developed and executed with the assistance of the rebel movements.

3.2. Role of the international community in the transition

The ICC in the CAR

The Central African Republic became a state party to the Rome Statute of the International Criminal Court by signing the treaty on December 7, 1999 and ratifying it on October 3, 2001. Consequently, the ICC can have jurisdiction over war crimes, crimes against humanity, and genocide committed on the CAR's territory only after July 1, 2002 – the date the Rome Statute took effect¹⁴².

On 22 December 2004, President François Bozizé invited the International Criminal Court to enquire into crimes falling under the jurisdiction of the Court which may have been committed since 2 July 2002 at any place in the Central African Republic¹⁴³. In reality, such a request was a means of targeting his predecessor, Ange-Félix Patassé, who was still president of the CAR during the period at stake.

Consequently, on 22 May 2007, the prosecutor of the ICC, Luis Moreno-Ocampo, did indeed decide to open an investigation in the CAR, but stated that this would also “monitor the current situation in the Central African Republic” because of “worrying reports of violence and crimes being committed in the northern areas of the country bordering Chad and Sudan”. In September 2007, the ICC opened a permanent office in Bangui.

¹³⁹ Mehler (2009), art. cit.

¹⁴⁰ The “opposition parties” were gathering in the Union of Living Forces of the Nation (Union des forces vives de la nation, UFVN); the “non-aligned parties” was an alliance of parties which officially aligned with neither the presidential majority nor with the UFVN,

¹⁴¹ Far from representing the interests of the administration and civil servants affiliated to it, this “civil service group” was in fact another representation of Bozizé's regime since each service was represented by a Minister previously designated by Bozizé's himself.

¹⁴² <https://www.ijmonitor.org/jean-pierre-bemba-gombo-background/>

¹⁴³ <https://www.globalpolicy.org/international-justice/the-international-criminal-court/icc-investigations/central-african-republic.html>

In a letter dated 1st August 2008, President Bozizé asked United Nations Secretary-General Ban Ki-moon “to intercede with the United Nations Security Council, to secure the adoption of a resolution stating that the Central African judicial system retains jurisdiction over events taking place in the periods covered by the amnesty laws”, knowing that the ICC can only have jurisdiction when national authorities are unwilling or not in capacity to investigate and prosecute war crimes, genocide and crimes against humanity. Invoking Article 16 of the Rome Statute¹⁴⁴, the letter also pointed out that “the Central African Republic has not so far been officially declared to be unable to rule judicially on events relating to 2005”, adding that “on the contrary, the Permanent Military Tribunal (was) ready to get to work – a point that can be confirmed by consulting the records of this judicial authority”. The president finally argued that the national reconciliation process could be endangered by the ICC intervention: “If the terms set out in the letter from the Prosecutor of the International Criminal Court are carried out in full, and one of the parties to the conflict was arrested under these potential indictments, the survival of the overall peace accord would be put at risk”¹⁴⁵.

By such a letter, President Bozizé was asking for the Security Council to suspend the ICC investigation which he had himself triggered. Both the incumbent regime and its critics – armed and unarmed – tried to use the ICC as a tool for influencing the control of power

After the CAR’s highest court ruled in April 2006 that “the national justice system was incapable of carrying out proceedings to address crimes under the Rome Statute”¹⁴⁶ and pursuant to the referral initially made by the Central African government to the Prosecutor of the ICC¹⁴⁷, the Court opened a first investigation pertaining to the events of 2002 to 2003 which involved the Congolese rebel leader Jean-Pierre Bemba, as former commander-in-chief of the MLC (Mouvement de Libération du Congo) ¹⁴⁸. The ICC issued an arrest warrant for Bemba in May 2008. Bemba was prosecuted for : three counts of crimes against humanity, including rape, torture and murder; five counts of war crimes, including rape, torture, murder, committing outrages upon personal dignity, and pillaging a town or place¹⁴⁹. A particular focus was thus put by the ICC on SGBV as war arms whilst the regional dimension of the CAR conflicts and the role of foreign forces was acknowledged at the same time, which potentially paved the way for further investigations involving other foreign forces (such as Chadians or Libyans).

The CAR and the Peacebuilding Commission

The UN were not only involved in the CAR via the BONUCA or the MINURCA. In 2008, the Government of the Central African Republic and the UN Peacebuilding Commission (PBC) ¹⁵⁰ agreed on the following priorities for peacebuilding in the country, thank to funding from the Peacebuilding Fund allocated to CAR: (I) Security Sector Reform, including DDR: with target areas identified during the National Seminar on SSR (April 2008), including reform in the police and penal administration; cantonment and disarmament of ex-combatants, demobilization and reintegration; and redeployment of security forces outside the capital. (II) Good Governance, in particular support to democratization, enhanced inclusiveness of the population in the administration, and local development via the promotion of decentralization (III) Revitalization of Communities affected by Conflict, for the reinforcement of intercommunity social cohesion; the resettlement of Internally Displaced Persons (IDPs) and refugees; and the promotion of youth employment. However, PBC’s projects only had minimal impact and very little visibility.

¹⁴⁴ Article 16 of the Rome Statute states that “No investigation may be commenced or proceeded with under this Statute for a period of 12 months after the Security Council, in a resolution adopted under Chapter VII of the Charter of the United Nations, has requested the Court to that effect; that request may be renewed by the Council under the same conditions”.

¹⁴⁵ <https://d2071andvip0wj.cloudfront.net/b55-central-african-republic-untangling-the-political-dialogue.pdf>

¹⁴⁶ <https://www.ijmonitor.org/jean-pierre-bemba-gombo-background/>

¹⁴⁷ A second investigation was made in 2012, which is ongoing and pertains to the situation that has prevailed since August 2012 and is consequently not included in the present research.

¹⁴⁸ Jean-Pierre Bemba was arrested in 2008 and the trial began in 2010.

¹⁴⁹ International Centre for Transitional justice, Jean-Pierre Bemba at the International Criminal Court, January 2009, <https://www.ictj.org/sites/default/files/ICTJ-CAR-Bemba-Facts-2009-English.pdf>

¹⁵⁰ https://www.un.org/en/peacebuilding/csccs/car/key_docs/mapping_car_221208.pdf

The European Union

The Central African Government, with the support of the European Union Commission, dedicated a major section of its poverty reduction strategy to regional development aimed at revitalizing local economies and restoring the authority of the State. This policy was meant to be implemented in 10 pilot sites with the help of European financial support.

More importantly for the topic addressed in this research, the EU has been the most important funder of the SSR, DDR and Justice reform processes.

3.4 Economic performances

In 2006, the UNDP Report on Human Development ranked the CAR 172nd out of 177 countries. The average income was estimated to amount to less than one dollar a day for 67% of the population¹⁵¹. The timber industry, even if owned by foreign companies (French, Libanese and Chinese), provided around 18% of state revenues¹⁵². On the contrary, over the period, the mining sector experienced a dramatic decrease in its official production, due to massive smuggling: the production of diamonds is said to have been twice or three times more than officially declared¹⁵³. Government officials as well as rebel groups had been involved in such traffics. The role of François Bozizé's relatives in the management of the mining sector, in particular the role of Lieutenant-Colonel Sylvain Ndoutingai, the then mines minister and nephew of the President, was central during the period. Economic and political elites (belonging both to government circles and to rebellion as explained above) have tended to overlap in the country.

More generally, the CAR used to be a predatory state immediately after the independence (David Dacko) and then became a criminal state under the rule of President/Empereur Bokassa. Those two tendencies have continued under Kolingba, Patassé and Bozizé rule. The regime of President François Bozizé became more and more patrimonial¹⁵⁴. Such practices have dramatically hindered improvement of the economic situation.

3.5. Strength and role of civil society

It is important to mention the fact that civil society organisations have been established rather easily in the CAR since the 1990's. Yet, many Civil Society Organisations (CSOs) emerged in 2003, spurred by the coup and the incapacity of the state to respond to the basic needs of the population in terms of social services¹⁵⁵. This increase was also driven by the rise of international/Western funding. National CSOs often provided consultancy services to international non-governmental agencies (NGOs) but little support has been offered in terms of capacity building¹⁵⁶. As stated by the International Dialogue for Statebuilding and Peacebuilding *“state-centric and capital-centric approaches to peacebuilding and statebuilding promoted by national and international partners did not help to create space for civil society. (...) meaningful participation (was)...difficult in a context where a culture of participation has never developed and where the presence of the state is still very weak”*.

The Bozizé regime was reluctant to include CSOs in political affairs, thus limiting their engagement in peace talks. CSOs were included in the National Dialogue, and some played important roles chairing sessions and

¹⁵¹ See <http://hcpt.jot.Com>

¹⁵² <https://d2071andvip0wj.cloudfront.net/central-african-republic-anatomy-of-a-phantom-state.pdf>

¹⁵³ “La République Centrafricaine entre richesse et misère. L' impact politico-économique de la mondialisation” , Written by [Inspire](#). Posted in [Approfondimenti](#) : <http://www.rivistapolitica.eu/la-republique-centrafricaine-entre-richeesse-et-misere-limpact-politico-economique-de-la-mondialisation/>

¹⁵⁴ The distinction between predatory, criminal and patrimonial state is made in the report : <https://d2071andvip0wj.cloudfront.net/central-african-republic-anatomy-of-a-phantom-state.pdf>

¹⁵⁵ Floridi, M. Corella, B. S. & Koyandondri, L. (2008). Etude relative a l'évaluation des actions des organisations non gouvernementales intervenant en République Centrafricaine dans l'optique d'un renforcement de leurs Capacites d'intervention. Utrecht : Berenschot International Solutions.

¹⁵⁶ http://www.gsdr.org/docs/open/car_gsdr2013.pdf

acting as rapporteurs. However, CSOs claim to have been ‘systematically excluded from decision-making organs’, with prior inclusion being a token for the international donors. More generally, the role and impact of civil society organisations have been limited during the period at stake. In particular, political leaders or rebel groups have been dominant during the National and the All- inclusive Political Dialogue, whilst civil society have had little political voice during those so-called consultative processes.

3.6. Role of women in the transitional process

Women have been associated with TJ processes. In particular, they were well represented during the National Conferences. Women have also been rather well represented in Bozize’s different governments as well as in the National Assembly.

3.7. International Human Rights Convention in the CAR at the beginning of the transition

The CAR had ratified several important human rights conventions (see appendix 1) but they were evenly applied in practice. The most important international human rights treaties as well as the international humanitarian law and international criminal law treaties were ratified by the Central African Republic before 2001 and are therefore applicable throughout the period under consideration¹⁵⁷. More specifically, the Conventions or Treaties applicable to the abuses and violations committed between 2001 and 2011 are the following ones¹⁵⁸:

- The Convention related to the Status of Refugees (ratified in 1962);
- The 1949 Geneva Conventions on the protection of victims of armed conflicts (ratified in 1966) as well as the 1977 Additional Protocol I to the Geneva Conventions (ratified in 1984) and Additional Protocol II to the Geneva Conventions (both ratified in 1984)
- The Convention Governing the Specific Aspects of Refugee Problems in Africa (ratified in 1970) ;
- The International Convention on the Elimination of All Forms of Racial Discrimination (ratified in 1971).
- The International Covenant on Civil and Political Rights as well as the Optional Protocol relating to it (ratified in 1981)
- The International Covenant on Economic, Social and Cultural Rights (ratified in 1981);
- The African Charter on Human and Peoples’ Rights (ratified in 1986) ;
- The Convention on the Elimination of All Forms of Discrimination against Women (ratified in 1991);
- The Convention on the Rights of the Child (ratified in 1992)
- - The Rome Statute of the International Criminal Court (ratified in 2001);
- The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (2010).

3.8. National legal framework

¹⁵⁷ Other international human rights treaties such as the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment were only ratified by the Central African Republic in late 2016 and are therefore not applicable to the period at stake. It is also important to indicate that the CAR is yet to ratify the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide.

¹⁵⁸ The information below summarizes data from the UN Human Right Office of the High Commissioner in the CAR: <http://www.ohchr.org/EN/Countries/AfricaRegion/Pages/CARProjetMapping2003-2015.aspx>

During the period under consideration, the national legal framework (both the successive constitutions and the criminal law after 2010) contained provisions guaranteeing fundamental human rights. However, such provisions have been systematically ignored facilitating the perpetuation of human rights abuses.

Constitutional provisions

During the period at stake, the CAR was governed by two different Constitutions:

- the Constitution of 14 January 1995, which was in force until 15 March 2003;
- the Constitution of 27 December 2004, which was in force until 24 March 2013.

Their preambles reiterated the commitment to international human rights principles and to international and regional obligations, namely the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the African Charter on Human and Peoples' Rights). The first chapter of these constitutions enunciated human rights protection under the Title: 'Fundamental Principles of Society'. More specifically, the Constitution of 27 December 2004 enshrined: In Article 3, paragraph 1 the right to life and to physical integrity ; In Article 3, paragraph 2, freedom from rape, torture, cruel, inhuman and degrading treatment, and the punishment of all persons, including State entities or agents, responsible for their commission ; In Article 3, paragraph 3, freedom from arbitrary arrest and detention ; In Article 5, equality before the law ; In Article 8, freedom of conscience and religion and prohibition of religious fundamentalism and intolerance ; In Article 14, protection of the right to property; In Article 17, the right to reparation for victims of violations of any of the above-mentioned constitutionally protected rights¹⁵⁹.

National criminal law:

During the period under consideration, two successive Penal Codes were in force in the country:

- First, from 1 January 2001 until 5 January 2010, the criminal law in force was the Penal Code of 1961, enacted by Law No. 61.239 of 18 July 1961 and which criminalized substantive offences such as murder, fatal wounding, malicious wounding, arbitrary arrest, rape, pillaging and destruction of property. However, this law did not contain provisions incorporating the international law crimes of genocide, crimes against humanity and war crimes into national law.
- Second, the new Penal code, enacted by Law No. 10.001 of 6 January 2010 introduced in the domestic law the definitions of international crimes (genocide, war crimes and crimes against humanity) but with some variances from international law definitions.

The adoption of this new penal code has not prevented the continuation and the aggravation of human rights violations.

3.9. Intra and inter-group relationships and State or nation-building

Beyond putting an end to the civil war and to the proliferation of armed groups in the countryside, the TJ measures were supposed to facilitate the emergence of a shared vision for the central African nation. This objective clearly failed from 2011/12 onwards. President Bozizé bears heavy responsibility for the general deterioration of the political situation in the CAR and in the monopolisation of power on a strongly ethnic basis, but as did his predecessors Patassé and Kolingba. Exclusion in politics was the rule all over the period

¹⁵⁹ <http://www.ohchr.org/EN/Countries/AfricaRegion/Pages/CARProjetMapping2003-2015.aspx>

under consideration. Exclusionary politics accentuated group divisions, which correlated with regional and ethnic divisions.

More broadly however, monopoly over the security apparatus and its control by exclusive ethnic or familial groups was seen as the most powerful resource by the different political actors, rather than an agenda aimed to promote nation building. Likewise, decentralisation of peacebuilding and statebuilding efforts beyond Bangui as well as the need to broaden support to state institutions other than the executive branch— in particular, the judicial branch - were not seen as a top priority during the period at stake.

As in the previous periods, only limited security functions have been exercised outside of the capital, and impunity remained the rule for significant areas of the country.

3.10. Pre-transition and post-transition political elites

Before and during the transition, there was no major shift within the ruling elite. From 1993 to 2003, President Ange-Felix Patassé, from the minority Kaba-Sara ethnic group (North-West of the CAR) ruled the country. From 2003 to 2011, President François Bozizé, from the Gbaya ethnic group (the most important group in the country from a demographic perspective, located in the centre of the country), was the head of state. However, the politics of exclusion which predated Patassé's regime were at the core of the governance and security practices. In reality, as suggested in section 2, political elites even if competing have been closely intermingling, beyond ethnic belonging. As an example, Bozizé rose to become a high-ranking army officer in the 1970s, under the rule of Jean-Bédél Bokassa. After Bokassa was ousted, Bozizé served in the government as Minister of Defense from 1979 to 1981 and as Minister of Information from 1981 to 1982. He participated in a failed coup attempt against President André Kolingba in 1982 and subsequently fled the country. Years later, he served as Army Chief of Staff under President Ange-Félix Patassé, (who himself was the former prime Minister of Bokassa) but he began a rebellion against Patassé in 2001. It is therefore difficult to consider that significant shift occurred among the CAR political elite. Such a high elite overlap in the CAR was coupled with structural factors related to the nature of the state on the one hand and to the nature of the regime on the other hand:

- The Central African state can be characterised as highly dysfunctional : as indicated above, the Central African state has been unable to exercise a total monopoly on the use of force and perform a minimal administration all over its alleged jurisdictions;
- The successive political regimes can be characterised as “*elected ethno-nationalist authoritarian regimes*” : it is important to stress the fact that both Patassé and Bozizé were democratically elected (even after leading a rebellion as regards the latter) but that they both exercised power in an ethno-nationalist manner growingly authoritarian. In addition, Patassé like Bozizé had very low international legitimacy among the international/western international community; yet, they used to at some point have strong support from regional hegemonic powers even if such a support has been shifting over time.

4. Choices in Transitional Justice

As described in the section above, the TJ process in the CAR during the period 2001-2011 was mostly articulated around national consultations (national dialogue in 2003 and all-inclusive political dialogue in 2008), the peace agreements of 2007-2008 followed by the amnesty law the same year, and the investigations conducted by the ICC. However, the outcomes and impact of TJ processes were very weak in terms of state as well as human security, power sharing, and reform. None of the outcomes of these mechanisms – included the “2007 Etats généraux de la Justice “has directly affected ‘justice’ for victims of past human rights abuses. The choices and options for TJ have been highly influenced and constrained by the interests of the different stake-holders.

4.1. Policy considerations

The promises made during the 2003 and 2008 National Conferences, by the peace agreements and through the DDR and SSR programmes raised a lot of expectations among the rebel groups and the population at large as well as among international partners. Yet, by committing to such processes, the different national actors were hoping to gain some legitimacy in the eyes of the international community. The National consultations (National dialogue in 2003; All-Inclusive Political Dialogue in 2008) were mostly semblance of reconciliation, hiding second political calculations and thoughts, even if their recommendations as well as the debates seemed to address the root causes of the crises, including impunity. Over the course of the years, such TJ initiatives mostly resulted in consolidating the Presidents' power rather than in greater inclusiveness. More specifically, the 2008 All-Inclusive Political Dialogue and the peace agreements mainly contributed to legitimise – both within the country and externally – President Bozizé, and to a lesser extent the rebel groups. Despite a situation largely favourable to him, President Bozizé proved reluctant to implement the provisions and recommendations likely to favour his political or military opponents as well.

In fact, President Bozizé's unwillingness to comply with various aspects of those commitments explain in large part the degeneration of the situation. Bozizé's regime fostered a system of impunity. In fact, as stated by ICG (2008), Bozizé's intention was to use the Dialogue and the amnesty agreed as a result of the peace agreements to protect his allies, rather than to broker a peace deal for the country. It appeared that President Bozizé set up the Inclusive Political Dialogue with the goal of normalising the political and security situation of the country in view of the 2010 presidential elections. The President might have officially agreed to form inclusive governments. On the contrary, Bozizé perpetuated and worsened low standards of democracy and continued to violate human rights. He only supported a few reforms, the most congruent with his interests: for instance, as regards SSR-related matters, only "train and equip" programmes likely to improve the defence forces' effectiveness were promoted whilst democratically governed-oriented security reforms were disregarded or ignored. The 2008 amnesty law was enacted in Bozizé's interest to protect his troops against human rights prosecutions. Similarly, the group meant to represent the "civil service" during the 2008 Dialogue was simply made of Ministers coming from parties supporting Bozizé's, in charge of promoting the President's interests rather than those of the state administration per se: such a calculation shows once again that the state and the political elite definitely cannot be considered as amounting one to each other. This situation fed grievances emanating both from the population at large and from rebel groups. However, responsibilities must be shared.

None of the four rebels groups which were represented at the All-Inclusive Political Dialogue had been able to seize Bangui and consequently were not attending in a strong position. Yet, rebel leaders were only ready to disarm in return for access to state functions : they were prominently motivated by the perspective to be appointed to high level positions (as Ministers or ambassadors) or in a number of cases, to return to power (like Jean-Jacques Demafouth) whilst grass-root combatants were mostly interested in funding via DDR programmes.

The international actors, which had strongly encouraged and supported nation-wide consultations as well as DDR, SSR and Justice reforms also bear responsibility. On the whole, peace negotiations and political processes seem to have been mostly treated as technocratic 'tick box' exercises by most of international actors and donors (see below, Section 6).

4.2. Policy mechanisms

As explained, three kinds of TJ mechanism have been deployed in the CAR between 2001 and 2011:

- National Forums have been organised under the pressure of the international community but were also compliant with a national way to address disputes and conflicts. Indeed, national wide consultative processes is a peculiarity of the CAR politics, even if also used previously in other francophone African countries, in particular during the so-called "National conferences" supposed

to lead to democratization in the 1990's. Such wide consultations – in terms of categories represented rather in number of persons effectively attending them - have been used repeatedly in the CAR even if they proved to be short of results. The role of the international community was also key because it prominently funded those mechanisms. The All-Inclusive National Dialogue was chaired by Pierre Buyoya, former President of Burundi. The Follow-up Committee, responsible for monitoring the implementation of the recommendations, officially became operational in February 2009. It was composed of the representatives from each of the six entities represented during the National Dialogue as well as with representatives from seven international regional organisations (the UN, the European Union, International Organisation of La Francophonie, the African Union, the ECCAS, the Community of Saharan-Sahel States (CEN-SAD) and the CEMAC). This Committee only had power to name and shame uncooperative ministries and consequently had only a very limited impact. As a result, only few recommendations were actually implemented: for instance, two ministries were given to rebel or opposition leaders but they were powerless and had no funding (ecology and housing). Here, we should be reminded of the fact that both in 2003 and 2008 the National Conferences (National Dialogue and the All-Inclusive political dialogue) had included into their final recommendations, the creation of a Truth and Reconciliation Commission which was never set up.

- SSR and DDR were clearly mechanisms internationally-driven and almost exclusively based on very normative and prescriptive concepts which direly lacked any context and grass-root level approaches. SSR and DDR programmes have largely been based on a “one size fits all” approach, inspired by ideal-type ideas of the state which had little relevance in a country with tradition of limited presence or history of state building outside of Bangui. In particular, as Lombard¹⁶⁰ argues DDR has been based on a faulty assumption that if the state regained its monopoly on violence, it would secure peace, despite the fact that the state has never held such a monopoly in the CAR as indicated earlier. SSR and DDR were almost exclusively funded by the international community. However, the government has kept a close eye on their implementation. Indeed, both DDR and SSR processes were also meeting the expectations of the political elite (both with governmental circles and rebellions) which had historically much more relied on military instruments to keep or seize power than on justice mechanisms in order to promote reconciliation and nation-building measures. Rather than transitional justice mechanisms such as truth Commissions or reparations, SSR and DDR processes were at the centre of policy discussions and programming over the decade and were tentatively used by different actors to gain more power; the government in particular signed up to very operational SSR initiatives (mostly focused on training and equipment programmes for the defence forces at the expense of programmes targeting the police forces or aiming to reinforce oversight by rule of law institutions), and tried to monopolise power through the security services ; but measures not seen as likely to empower the government were repeatedly delayed as shown by the two-year gap between the writing of the SSR framework law and its adoption. At the same time, rebel groups and ex-combatants were mostly looking for rewarding dividends through the DDR process¹⁶¹. Furthermore, the compensation and DDR projects that many ex-combatants were expecting, were repeatedly delayed.
- The 2008 Amnesty law was primarily supposed to serve the interests of President Bozizé partisans but also served the interests of the other armed groups. By giving absolution to Bozizé's supporters involved in human rights abuses and violations since 2003 (that is before the different rebellions appeared), the amnesty law was also seen as a strategic instrument to ensure the president's re-election. Systematic impunity for human rights violators, especially those in the state security forces, means that citizen trust in the state has been more than low.
- ICC's investigations: when President Bozizé asked the ICC to investigate what happened in the CAR between 2001 and 2003 he was in fact trying to instrumentalize the ICC in order to dismiss his predecessor Patassé and his partisans. But the ICC extended its mandate to also investigate crimes which were committed by Bozizé's rebellion and then when he ruled the country. The procedure

¹⁶⁰ (2012)

¹⁶¹ In spite of financial and training benefits which incentivised a wave of recruitment among rebel groups, the DDR process as a whole did not meet many ex-combatants' expectations. Furthermore, illegitimate ex-combatants were allowed to benefit from the scheme, and the delinking of the disarmament process (aimed at collecting arms) from the demobilization and the reintegration process meant that many weapons were left in circulation.

launched by the ICC was the most empowered in essence: the ICC was entitled to search and seize documents, to reveal names; to hear people testify and to publish its findings.

4.3. Critiques from civil society and political opponents and media coverage

While significant efforts were made at both dialogues in 2003 and 2008 to include a broad range of civil society actors, civil society organisations (CSOs) accused the government of systematically excluding them from any actual decision-making. Inclusion in dialogue processes had in fact no correlation with effective power.

In addition, Glasius argues that the role of CAR civil society organizations, civil society figures and victims' associations in the opening of the investigations conducted by the ICC were crucial. In his views, contrary to other situations such as DRC, Sudan and Uganda, the ICC's involvement in the CAR was instigated by local civil society figures¹⁶². Such an analysis is only partly true however as indicated by the instrumental request initially formulated by President Bozizé and described above.

Furthermore, the rise of the armed groups has seen political parties lose out in the peace and dialogue processes – as political parties were no longer seen as the main actors by international partners. The UFVN (coalition of opposition parties) found it difficult to promote its views.

Finally, a huge amount of attention was given to all the TJ mechanisms aforementioned by the media. However, it is important to note how weak the media is in the CAR. In 2008, the country was ranked 132nd out of 195 by the Freedom House Global Press Freedom Survey 2008, meaning that the media could not be considered as free. The most influential of them has been Radio Ndeke Luka, (co-sponsored by the United Nations and by the Swiss Hirondelle Foundation), and Radio Notre Dame, (supported by the Catholic church). All of the 30 existing newspapers were only printed occasionally and hardly distributed outside of Bangui¹⁶³. In fact, most of the country never heard about the running TJ processes, community radios widespread in the countryside mostly dealing with very local topics.

4.4 TJ Policy implementation

On the whole, TJ mechanisms promoted in the CAR have encouraged resilience and impunity:

- Nationwide consultations have in fact been dominated by resilience which transpired via a “culture of forgiveness” which have been used as an informal TJ mechanism all over the period under consideration. Reconciliation was indeed a key discussion at the National Dialogue, and many prominent leaders made declarations of forgiveness for past violence : in particular, in addition to asking the nation to pardon the Emperor Bokassa's children, the National Dialogue was notable for the historic reconciliation between independence leader Abel Goumba and former President David Dacko. During the All-inclusive Political Dialogue, Ange-Felix Patassé publicly apologised for his misconduct and acknowledged Bozizé as president, asking for an absolution.
- Impunity remained the norm. There were no effective investigations of those suspected of human rights abuses – be they belonging to governmental circles, to the military or to the rebel groups. No comprehensive list of suspected perpetrators was drawn and most of them remained free.

With the exception of the procedure launched by the ICC, none of the TJ mechanisms was victim-centred, not responsive to the victims' needs. None of them was restorative in essence: the victims and the communities they were belonging to were not involved in most of the processes. The mechanisms were not retributive neither, during the period under consideration: only the prosecution launched against Jean-Pierre Bemba by the ICC finally resulted in a punishment which was only sentenced years after.

¹⁶² See Glasius Marlies, “We Ourselves, We Are Part Of The Functioning”: The ICC, Victims, And Civil Society In The Central African Republic”, *African Affairs*, 2008, volume, 108/430, pp. 49–67

¹⁶³ Furthermore, it is common for journalists to write articles for pay, and/or to write under pseudonyms, with absolutely no accountability.

Finally, the “hybrid political order in the CAR” may well account for many of the limitations of efforts to promote TJ. The efficiency of TJ policies conducted in the Central African Republic often turned out to be limited because they tend to formally focus mostly on state institutions, governmental established stakeholders, legal frameworks and codified standards. Yet, rather than the State as such, it was a political elite – exercising its rule via informal ethnic and kinship networks over only a very limited part of the country’s territory – which was responsible for the implementation of transitional justice measures (in particular amnesty), some of them in connection (if not complicity) with non-state actors (mainly armed groups) or in concertation with some civil society organisations.

5. Determinant of TJ Policies

5.1. Institutions already in place

In the CAR, almost none of the national institutions had the capacity to play a central role in transitional justice processes. Since the pre-colonial period, as demonstrated above, there has been no precedent of institutional responses to human rights abuses. Both the state and the customary justice systems were too weak to initiate and conduct such processes. In fact, the twofold justice system inherited from the colonial period has been very dysfunctional, both state justice institutions and customary ones.

A destroyed judicial system

All over its multiple crisis cycle, the Central African judicial system was in a state of decay¹⁶⁴ due, in particular but not exclusively, to many years of conflict: very low salaries¹⁶⁵, lack of infrastructure, limited access to justice if any for victims, corruption, lack of independence of judicial actors, conditions of detention contrary to international norms, etc. The majority of tribunals of first instance were not operational¹⁶⁶, particularly in the north because judges appointed to this region did not return there due to the lack of security. Financial resources allocated to the judiciary were clearly insufficient and its territorial penetration simply residual. Additionally, violence and insecurity have also impeded the deployment of judges all over the territory.

Even more importantly, the independence of magistrates was highly questionable. Most of the judges were unable to sustain or implement judicial decisions¹⁶⁷. In 2003, after having condemned the serious human rights violations committed by all the belligerents during the coup d’Etat by General Bozizé (from October 2002 to March 2003), the FIDH concluded after an examination of the proceedings undertaken before the national courts, that the latter had neither the will nor the ability to investigate these crimes, nor pursue their perpetrators. In fact, according to Article 2 of the amnesty law adopted by the National Assembly in September 2008, the perpetrators of new crimes may not benefit from amnesty. It was therefore still possible, for the Central African courts to be referred or to defer themselves with the situation of the most serious crimes committed since 2005, if they considered that such offences constitute crimes under the jurisdiction of the court¹⁶⁸. However, none did so.

On 25 July 2006, the UN Human Rights Committee responsible for ensuring that States Parties observe the provisions of the International Covenant on Civil and Political Rights voiced its concern over the justice situation in CAR: in its concluding observations, it stated that the independence of the judiciary was not respected in the country and set out, in this connection, the following recommendations: "The State Party

¹⁶⁴ <https://www.amnesty.org/download/Documents/AFR1954252017FRENCH.PDF>

¹⁶⁵ The magistrates met by the FIDH in November 2003 mission complained of low salaries (from 189.000 FCFA to 660.000 FCFA). Like all the other agents of the state, they had not been paid since September 2003.

¹⁶⁶ <https://www.fidh.org/IMG/pdf/CPIaffbamba502ang2008.pdf>

¹⁶⁷ <http://www.bti2010.bertelsmann-transformation-index.de/en/bti/country-reports/laendergutachten/western-and-central-africa/central-african-republic/>

¹⁶⁸ FIDH. Central African Republic - Déjà-vu. Peace (dis)agreements that are detrimental to victims/34 FIDH, art. cit.

should endeavour to suppress corrupt practices in the judiciary. It should also recruit and train a sufficient number of judges in order to ensure adequate administration of justice throughout the country and to combat crime and impunity. Sufficient budgetary resources should be allocated for the administration of justice."¹⁶⁹

Delegitimized traditional authorities and leaders

During the crisis under consideration, traditional authorities – Sultans (located in the south-east, the north east and the north (next to Chad and Sudan) and Lamidos (mostly in the western part of the country next to the Cameroonian frontier) - were still existent and were even officially recognized by the Constitutions. Alongside such traditional authorities co-opted according to a dynastic principle, the Constitutions had additionally established the so-called “chefs de quartiers et de villages” which were supposed to be elected but were in fact purely nominated by the government or by its representative in the different provinces (prefectures).

However, those two kind of local authorities have lost both power and legitimacy over the years, particularly during the civil war period: a significant number of them were killed or abused during the period under consideration.¹⁷⁰

5.2. Economic constraints on TJ policy choices and international pressure

One of the poorest counties in the world as described above, the central African state could hardly fund by itself any of the TJ mechanisms which was set up: 2003 and 2008 National Conferences, the Etats généraux de la justice as well as the SSR and DDR processes, prosecutions by the ICC were almost exclusively funded by international donors. However, a certain amount of “fatigue” became evident among international actors which have growingly appeared as reluctant to finance public policies in the CAR : when Bozize’s began to show less and less willingness in implementing the recommendations of the All-Inclusive National Dialogue as well as the programmes of the SSR process likely to endanger his control over some elements of the FAC such as the BPSI (between 2008 and 2011), most of the international partners decided to step back from the CAR. Rather than insisting on the importance of TJ measures, the international community mostly put pressure on Bozize’s government via major cuts in trade as well as security and development assistance – unsuccessfully - for him to organize fair and transparent elections in 2010.

5.3. Political threats

The Truth and Reconciliation Commission as recommended by both the 2003 and the 2008 National Conferences were supposed to address individual as well as collective reparations. They were also supposed to take into consideration all violations of human rights but also economic crimes committed in the country since the independence.

5.4. Reference to pre-colonial and colonial history

As during the colonial and post-colonial period, “the space mapped as constituting the CAR still includes two territorial and governance trends clearly different: a capital, Bangui, where the leaders compete to access the benefits associated with the control of the administrative structures of the State; a vast hinterland not claimed by centralist structures but used on the contrary as reservoir of resources by the “bandits” of the whole region”.¹⁷¹ Such a lack of control over the territory of the Central African State was also an important determinant to explain the limited impact of TJ measures such as SSR, DDR, or National Conferences.

¹⁶⁹ <https://www.fidh.org/IMG/pdf/CPIaiffbemba502ang2008.pdf>

¹⁷⁰ Bangui Thierry, *Les chefs de quartiers, de villages et les chefferies traditionnelles en République Centrafricaine*, ASA, ASSN, Novembre 2016

¹⁷¹ Lombard Louisa, « Rébellion et limites de la consolidation de la paix en République centrafricaine », *Politique africaine*, 2012/1 (N° 125), p. 189-208, art. cit. : <https://www.cairn.info/revue-politique-africaine-2012-1-page-189.htm>

6. Effectiveness of Implemented transitional justice policies

To assess the longer-term impact of TJ processes- which can be indirect in essence and only come to fruition at a later stage, this section first considers the effectiveness of TJ measures from 2011 to 2017 and then discuss the reason why most of TJ measures seem to have failed over the years.

Impact of TJ measures after 2011

The impact of some TJ policies implemented in the CAR was less than significant. This is in particular the case of the broad national consultations such as the 2003 National Dialogue and 2008 All-Inclusive dialogue whose recommendations related to transitional justice were never implemented. Worse still, just after the period under consideration in this research (2001-2011), a new cycle of conflict has outbroken with much horrific abuses and violations of human rights. In fact, it clearly appears that the tentative and somewhat shy TJ measures adopted in the CAR have been unable to mitigate the high level of violence experienced by the country since the end of the 1990's. On the contrary, violence has increasingly become more normalised in addressing collective grievances, as shown by the emergence of the Seleka - the rebel group coming from the North and , made of former rebels groups such as the FRC /UPC (), the FPRC (), UFDR (among which an important number of Muslim combatants both Central African and Chadian) and led by Michel Djotodia who ousted François Bozizé and seized power in 2013. One of the main grievance of the Seleka –was the total lack of respect shown by President Bozizé to the 2008 Peace agreement. The Séléka also denounced the massive violations of human rights committed by Bozizé's regime and demanded the conduct of new criminal investigations. Among the most notable grievances were the disappearance of the ex-leader of the CPJP, Charles Massi, and the violence exercised by Bozizé Presidential Guard in Gula villages in the prefecture of Vakaga, in 2006. However, rapidly, after seizing power, the Seleka also committed abuses and atrocities against population, particularly when trying to expand its influence beyond Bangui, to the Western part of the country.

In fact, after 2011, the human rights situation in the CAR has been worryingly worsening, even after the transition led under the leadership of Mrs Catherine Samba Panza, and since the election of Faustin Archange Touadera, a former Prime Minister of François Bozizé¹⁷². Violations and abuses have particularly increased since September 2016 as a result of violent confrontations between armed groups. The ex-Séléka (new name of the initial movement which was disbanded) and anti-Balaka factions (christian militias) were the main perpetrators of human rights violations and abuses which included extra-judicial killings; cruel, inhumane and degrading treatments; sexual violence; arbitrary arrests and detentions; extortion; pillaging; as well as destruction of property. The LRA also continued to commit widespread abuses against civilians, in the South-East of the country. Since SGBV was not addressed until 2011, it is not a surprise that sexual crimes have also dramatically increased in the country and are still going on.

Such a dramatic situation can partly but directly be attributed to the blanket amnesty which was signed in 2008 by all the parties involved in the conflict. Such a blanket amnesty has in fact paved the way for a widespread culture of impunity. Consequently, far from improving, the human rights situation has dangerously worsened in the country until today.

Furthermore, the 2017 situation first shows that even if democracy can be considered as having improved at first glance, after the fair and transparent presidential and legislative elections held in 2016, regular occurrence of elections is not a good benchmark to measure the effectiveness of democratization in the CAR. Elections (both presidential and legislative) have been regularly organised in the country since the 1990's, often under the pressure of the international community (France, European Union, United Nations

¹⁷² Faustin Archange Touadera, formelly professor of mathematics at the University of Bangui, was first appointed by President Bozizé as Prime minister on 22 January 2008 and then reappointed on 18 January 2009 after his first government had been disbanded.

in particular) which almost entirely funded them. Some of the ballots have been considered as fair and transparent by international observers (in particular in 2016 and in 2005), others have been highly criticised (particularly in 2011 when François Bozize was re-elected). However, those electoral consultations have more often than not resulted in the legitimization of perpetrators of abuses and human rights violations (ex: Bozizé); in addition, they neither have prevented the country to fall down repeatedly into new cycles of violence (as shown since the elections of Faustin Archange Touadera in 2016). Such a reality might be related to what has been called the “Bangui Carousel”, to describe the recycling of Central African political elites - who have positions in one government after another : “*successive rulers in CAR have maintained authority largely by centralizing control where possible, and extended personal rule by dispensing patronage in return for political support, in particular by personally appointing to senior posts those who served in previous governments or trusted family members. This system has fostered division between the capital and the countryside, incubated the grievances of armed groups, and above all, created significant incentives to hijack the state through violence. This occurs as groups have competed for control of the state to access resources and privileges, instead of to benefit Central Africans. This elite recycling is a key component of (...) the “Bangui Carousel” to reflect the many people who rotate through the country’s regimes, time and again.*”¹⁷³.

During the last electoral campaign in 2016, past human rights abuses have featured importantly in debates and campaigns. All parties were free to campaign without fear of violence and women were rather well represented within political parties. Yet, such criteria are irrelevant to capture one of the major problems of Central African politics which is the lack of any significant programmatic difference between the different parties. Furthermore, as mentioned previously, political parties in the CAR can hardly be seen as opponent forces with alternative national and long-term vision for the country. Such a political landscape was in fact not drastically different during the 2005 election. Vote and election are often mostly influenced by the charisma of the candidates and by their ‘clients’. Parliament until now has not been a key political actor: both under Bozizé and Patassé, it was only a systematic supporter of the executive branch and was almost exclusively compounded of members affiliated to their parties.

Another major feature of the CAR’ environment is that the TJ measures which were implemented have proved unable to put an end to the ethnicization of politics. Today, political divisions/oppositions are still mainly framed in terms of identity and increasingly in terms of citizenship. In reality, the politicisation of identity, already at stake in the 2001-2011 conflictual period, has dramatically worsened. Furthermore, whilst the cycle of conflicts considered in this research was articulated around the instrumentalization of ethnic and cultural identity, religious identity (Muslims versus Christians), which used not to be prominent until 2011, has become a central factor in shaping conflict as well as political mobilisation since 2013. Ethnic identity has continued to play a central role in the CAR’s politics as has been the case since André Kolingba regime (1981-1993), but religious affiliation of political leaders has increasingly become central in driving political alliances and mobilising supporters. There has been greater overlap of political party support and identity group but also between armed groups and religious identity. Rebel groups (initially the Seleka and now its numerous avatars of muslim obedience) as well as militias (Christian anti-balaka militias) clearly and loudly claim for their religious obedience¹⁷⁴. The emergence of vigilante groups as well as militias, mostly organized around religious identities like the “anti-balaka” is a telling example of the way in which violence has been seen as an efficient and common form of collective expression by the society. In addition, Muslims of Chadian origins as well as Fulani are increasingly denied their Central African citizenship. Nationalism/citizenship is now a major driver of the Central African ongoing conflict: the tension is increasingly about who is properly Central African – and who therefore can lay claim to privileges and entitlements associated with the Central African citizenship.

Beyond the failure (or semi-failure) of TJ measures, such a trend is in continuity with spectacular punishment were so widespread under French rule (see part 1 above) as well as with the social practices of violence at the community level (via “*the popularization of punishment and the entrenchment of vengeance as a tool for the management of threats*” described by Louisa Lombard and Sylvain Batianga-Kinzi) which predate the different cycles of conflicts. Furthermore, both resilience and culture of forgiveness described above are deeply rooted in

¹⁷³ Day Christopher and Enough Project team, *The Bangui Carousel How the recycling of political elites reinforces instability and violence in the Central African Republic*, August 2016 <https://enoughproject.org/reports/bangui-carousel-how-recycling-political-elites-reinforces-instability-and-violence-central-a>

¹⁷⁴ See Yannick Weyns, Lotte Hoex, Filip Hilgert & Steven Spittaels, *Cartographie des motivations derrière les conflits : la République centrafricaine*, Anvers, novembre 2014 <http://ipisresearch.be/w: p-content/uploads/2014/11/IPIS-RCA-Carto-Conflict-Novembre-2014.pdf>

religion which seems to have been left as a unique way to cope with the massive abuses the populations have had to suffer from. It is consequently not very surprising that religious affiliations have growingly been seen as a means to protect oneself.

Finally, even if the Seleka itself has disbanded, such a dislocation has resulted in the mushrooming of new rebel groups very active all over the CAR's territory (in particular in its Northern and Central part) which is still uncontrolled by the Central African government and the armed forces (still in a rebuilding process).

However, despite such a large amount of failures, it is important to note that on the longer term, the impact of TJ measures, even if indirect, might be seen as more positive. Even if most of the TJ measures have initially had a negative impact (amnesty) or a very limited effectiveness (National Conferences, ICC investigations, SSR and DDR processes), it is also possible to assess their impact over the longer-term. In fact, some TJ measures supposed to – at least partly - address human rights violations have indirectly resulted in the adoption of new provisions, the setting up of new state bodies, the growing involvement of civil society organisations to promote human rights:

- For instance, almost nothing was done to address SGBV between 2001 and 2011 ; but this crucial matter was more seriously addressed during the Bangui Forum in 2015, another National Conference on national reconciliation organized in May 2015 by the transitional authorities.
- The very limited progresses achieved under the SSR process launched in 2008 (mostly externally-driven and financed by external actors whilst little efforts were made on the part of the Bozizé government to implement SSR reforms other than “train and equip” in essence) unravelled with the restarting of violence and human rights violations. Another SSR process was launched in the country in 2016, with the support of the MINUSCA and of the European Union. This new attempt must be seen as a potential significant measure to reform a key state institution which has been responsible for decades for committing abuses and atrocities. However, as mentioned above, it is important not to consider SSR itself as a TJ policy per se. Changing leadership position, reforming recruitment and advancement procedures, providing new training and education curricula to the armed forces (the military, the police, the gendarmerie, ...), submitting them as well as the executive organs which control them to the public control of civil society and the media and to the oversight of the Parliament and of the rule of law institutions in order to guarantee they are responsive and accountable is simply what should be done continuously in any country democratically-governed. What is crucial in linking TJ and SSR in particular settings such as post-conflict or post-authoritarian environments is to ensure that specific measures to address and prevent human rights abuses are taken, which means that a special focus should be put on the following measures: developing specific training curricula to promote human rights (beyond traditional trainings focused on international humanitarian law) and provisions related to international and national prosecutions to be applied in case of grave human rights violations ; deeply reforming military justice and more broadly sanctions mechanisms within the armed forces; reinforcing the role played by internal inspections; improving the resources of the actors involved in the criminal chain (from the criminal police to the justice and corrections systems); submitting the armed forces to the independent control of a Human Rights Commission.
- There were no human rights institutions at all in the CAR until 2016. The creation of a Human Rights Commission was decided by the 2015 Bangui Forum. Today, the MINUSCA (United Nations Peacekeeping Mission in the CAR) provides support to the Government for the establishment of a National Commission for Human Rights and Fundamental Freedoms (NCHRFF) via its Human Rights Division which has been organising consultations to review the law creating the Commission¹⁷⁵. Such a Commission is expected to play a leading role to plead in favour of the ratification of treaties, to write reports on human rights, to apply and harmonize national and international human rights standards, to collaborate with the national, regional and

¹⁷⁵ Interview de Musa Y. Gassama, Directeur de la Division des Droits de l'Homme de la MINUSCA, “DROITS DE L'HOMME ET LUTTE CONTRE L'IMPUNITÉ : L' « COMMISSION NATIONALE DES DROITS DE L'HOMME » E SON IMPACT SUR LES DROITS DE L'HOMME EN RCA », Bulletin décembre 2016, p. 3 : https://minusca.unmissions.org/sites/default/files/infos_ddh_digital.pdf. Such a support is directly deriving from the UN Resolution n 2301/2016 point 33-b, iii, stating that the mandate of MINUSCA shall include “To assist the CAR authorities in their efforts to protect and promote human rights and prevent violations and abuses, including through the establishment of a national human rights commission and to strengthen the capacity of civil society organizations

international mechanisms of human rights. It could also receive and handle individual complaints concerning the violations of human rights. To fight impunity, the Commission could also give advice and to make recommendations to the government.

- But the major indirect outcome at the national level of TJ measures such as the different National Conferences is undoubtedly the creation of the “Cour pénale spéciale” (Special Criminal Court/SCC). Like the 2003 and the 2008 National Dialogues, the conclusions of the Bangui Forum recommended the establishment of transitional justice initiatives. To follow-up on such a recommendation, an international seminar was jointly organized in September 2015 by the CAR national authorities, the OHCHR and the MINUSCA¹⁷⁶. The decision was finally taken by the Central African Republic government in 2015 to create this Special Criminal Court in charge to prosecute crimes committed during the different cycles of conflict. According to the legislation establishing the SCC, it will have jurisdiction over serious violations of human rights and international humanitarian law as defined in the 2010 Penal Code and under international treaty instruments ratified by the Central African Republic (Article 3.1). Such a SCC seems to offer the promise of long-delayed justice¹⁷⁷.
- Despite the ongoing conflictual environment, it appears that the Central African civil society is becoming more vibrant. Even if, as indicated above, civil society previously had had access to state forums and platforms and had been able to advance HR concerns, in particular during National Conferences (2003; 2008 and 2015), their views were then hardly taken into consideration. Whilst associated with most of the national consultative processes, civil society was not strong enough nor sufficiently well organized to efficiently push for the implementation of TJ measures such as the creation of a Truth and Reconciliation Commission, as stated in the recommendations of the 2003 and 2008 Dialogues. Presently, an increasing influence of civil society organisations, in particular the growing role played by associations of victims, like the “Association des Victimes des Evènements de 2012-2014 (AVED)” or human rights organisations like the “Réseau des Journalistes des Droits Humains (RJDH)” is evident. Even if, women have always been very present in civil society, women leadership in civil society has also been getting stronger as shown by the rising role of the “Réseau de Soutien au Leadership Politique des Femmes Centrafricaines (RESOLEP-FC)”, the “Réseau des femmes ministres et parlementaires de la République Centrafricaine (Refamp –Rca)», l’Association des femmes juristes centrafricaines/ National Women Jurists Association (AFJC)”. More generally, it appears that the different NGOs which used to work in a very segmented way are currently much well organised to promote human rights. The Central African Human Rights League (Ligue Centrafricaine des Droits de l’Homme, LCDH and the « Reseau Des Ong De Promotion Et De Defense Des Droits De L’homme » are playing an important role in this regard.¹⁷⁸ Interestingly, some youth organisations like the association

¹⁷⁶¹⁷⁶ A UN Mapping based on the mandate provided by the U.N. Security Council Resolution 2301 of 26 July 2016 enjoined the MINUSCA to “*monitor (...) violations of international humanitarian law and (...) violations and abuses of human rights committed throughout the CAR, including undertaking a mapping of such violations and abuses since 2003 to inform efforts to fight impunity*”. In particular, the objectives of the mapping were:

- To identify the serious violations of human rights and international humanitarian law committed from 1 January 2003 to 31 December 2015;
- To identify existing transitional justice mechanisms, and to propose a strategy for the possible development of mechanisms for establishing the truth, reparations and guarantees of non-repetition;

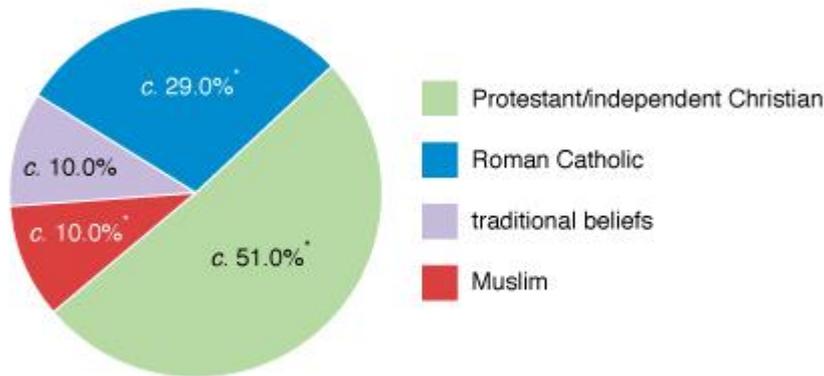
To propose priority areas for future investigations by the Special Criminal Court on the basis of this mapping, and to contribute to the preparation of a prosecutorial strategy for the Special Criminal Court. The UN Mapping report finds its origin in the recommendations of this seminar; <http://www.ohchr.org/Documents/Countries/CF/Mapping2003-2015/Factsheet2-EN.pdf> ;

¹⁷⁷Arnoult Valérie, The uncertain promise of hybrid justice in the Central African Republic, <http://www.egmontinstitute.be/content/uploads/2015/09/APB14.pdf?type=pdf>

¹⁷⁸ This network is made of the following organisations: Action des Chrétiens pour l’Abolition de la Torture et la Peine de Mort en Centrafrique (ACAT-RCA), Association des Femmes Juriste de Centrafrique (AFJC), Avocats Sans Frontières Centrafrique (ASF/RCA), Civisme et Démocratie (CIDEM), Commission Episcopale Justice et Paix (CEJP), Ligue Centrafricaine des Droits de l’Homme (LCDH), Lead Centrafrique pour le Développement Durable (Lead Centrafrique), 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). See

« Jeunesse unie pour la protection de l'environnement et du développement communautaire (JUPEDEC) » or URU (meaning “take off” in Sango) whose initial focus was not on human rights are getting more and more involved in related-matters. Finally, it is worth mentioning the fact that civil society in the CAR is also growingly organised around religious lines: the influence of Christians as well as Muslim associations is increasingly important.

Religious affiliation (2005)



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* Adherents may also incorporate traditional beliefs.

On the same note, there is also a need to stress the important role played by religious leaders in the CAR. Here again, it is very important not to consider religious leaders as monolithic actors. Some of those actors are playing a key role in promoting inter-religious dialogue in order to cope with the ongoing conflict in the CAR. For instance, the new archbishop of Bangui, Monseigneur Dieudonné Nzapalainga, is working closely with the Imam Omar Kobine Layamaxiv and the Reverend Minister Pasteur Nicolas Guérékoyame-Gbangoux, within a platform gathering the different religious confessions, to promote peace, reconciliation and the social cohesion in CAR¹⁷⁹. However, a significant number of other religious leaders are promoting hatred.

TJ measures in CAR between extraversion and instrumentalization

Despite the few indirect outputs aforementioned, it clearly appears that most of the TJ measures promoted in the CAR have overwhelmingly failed. This may well account for the kind of interactions at work between Central African elites and donor officials, which the concept of “extraversion” can help to explain. The concept of “extraversion” was coined by Jean-François Bayart to describe how African actors tend to turn their dependency to international partners into a source of rent: according to Bayart, “*the leading actors in Sub-saharan societies have tended to compensate their difficulties in the autonomization of their power and in intensifying the exploitation of their dependants by the deliberate recourse to the strategies of extraversion mobilizing resources deriving from their (possibly unequal) relationship with the external environment. (...) the paradigm of the strategy extraversion is [at the heart] of the creation and the capture of a rent generated by dependency and which function as a historical matrix of inequality, political centralization and social struggle*”¹⁸⁰. As demonstrated in this research, there have been in fact *no* Central African-led justice initiatives during the period under consideration. All the TJ measures have been primarily designed by international partners, and then in appearance bought-in by the Central African elites, both

Reseau Des Ong De Promotion Et De Defense Des Droits De L'homme : <https://rongdhrca.wordpress.com/a-propos/>

¹⁷⁹ Bangui Thierry « La communauté musulmane de la République Centrafricaine », *Cartographie institutionnelle n° 11*, ASSN/ASA, février 2017 : <http://africansecuritynetwork.org/assn/la-communaute-musulmane-en-republique-centrafricaine/>.

¹⁸⁰ Bayart, Jean-François, “Africa in the World: a History of Extraversion”, *African Affairs*, 2000, Volume 99, pp. 217-267.

within and outside governmental circles, but in reality only when such measures were congruent with their own interests. TJ measures promoted by international partners – mainly the United Nations, the European Union, the ICC, France, Belgium, have more often than not been instrumentalized by the Central African stakeholders who either stalled (as in the case of Truth and Reconciliation Commissions both under Patassé and Bozizé) or went through the motions when a political benefit or gain in power (or resources) could be expected from them (including the elimination of political competitors). Such an extraversion can also be noted in the number of treaties the CAR has signed and ratified of which most provisions have never been implemented. Such an incredibly extensive extraversion is one of the peculiarities of the Central African case study.

It is also worth mentioning the fact that the Central African case has also been instrumental for the international actors as well. This is particularly the case as regards France's support to TJ measures which might have been seen as a way to perpetuate the French historical presence in the country via indirect means: the 2008 SSR process – which was mainly conducted by French experts under the banner of the UNDP and the EU is a good example of such a tendency. *“The French security policy in CAR is a perfect example of the process through which French security policy has been modified and adapted to fit into the system of liberal security governance promoted at the EU level. The SSR paradigm as promoted by the EU has given a new legitimacy to the traditional French security policy, especially to the ‘military and technical permanent assistance’. Indeed, French security cooperation is now meant to pave the way for good governance and development. In fact, the integration of French assistance into the EU-led SSR process allows France to remain involved in the governance of the CAR’s security sector whilst blunting accusations of neo-colonialism”*¹⁸¹. The same kind of instrumental analysis can also be done as regards the ICC. Internal politics at the ICC headquarters in the Hague does matter *“former DR Congolese rebel leader and vice-President Jean-Pierre Bemba Gombo ha[d] moved from arrest to Belgian jail to the custody of the International Criminal Court (ICC), his case proceeding uncharacteristically quickly. Because it serve[ed] a number of political motives without ruffling too many feathers, his trial [came] to set some of the precedents the fledgling Court needs to establish”*¹⁸². Whilst the newly established ICC staff was looking for a case that would help them build precedent, Jean-Pierre Bemba, who had no more powerful allies, seemed like a good case to prosecute.

Finally, another way to explain the failures of TJ measures adopted in the CAR relates to the very low level of confidence in justice shown by much of Central Africa, even though the expectation that the state *should* be the one to provide justice is high, as demonstrated by a field mapping conducted in 2011 of how the population is handling issues of justice at the local level¹⁸³. The study has observed the very limited outreach of the formal justice system outside of the largest cities in CAR as well as the overall weakness of the traditional customary justice system. TJ measures appear as having had a very similar limited outreach in the country as a whole. Overall, the CAR case study demonstrates that TJ measures have not been really about Central Africans themselves and their sense of need for justice. Central Africans' rights have continuously been trampled upon during the period at stake in this research. Central African citizens have hardly seen any direct benefit from the TJ measures which have been promoted, both from a restorative and retributive perspective. There has been no kind of compensation for their losses and suffering.

Conclusion:

During the period under consideration (2001-2011), Central African political elites (both in government circles in rebellion ranks) have not endorsed meaningful transitional justice mechanisms - such as truth-seeking, reparations, guarantees of non-repetition - to establish a full historical record and responsibility for atrocities committed by Patassé, Bozizé, and their supporters. The lack of effectiveness and impact of the

¹⁸¹ Bagayoko Niagalé, (2010), Multi-level Governance and Security: The Security Sector Reform Process in the Central African Republic, IDS Working Paper 351, Publisher IDS: <https://www.ids.ac.uk/files/dmfile/Wp351.pdf>;

¹⁸² Lombard Louisa, <http://africanarguments.org/2008/08/20/justice-for-whom-the-icc-in-the-central-african-republic/>.

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https://www.academia.edu/29738150/UNDERSTANDING_ACCESS_TO_JUSTICE_AND_CONFLICT_RESOLUTION_AT_THE_LOCAL_LEVEL_IN_THE_CENTRAL_AFRICAN_REPUBLIC_CAR

few TJ measures adopted in the CAR (blank amnesty, SSR and DDR Processes, National Dialogues) has denied justice to thousands of victims of human rights abuses. It has also fuelled further violence and new cycles of conflicts. Previously unaddressed violence, impunity and lack of accountability for previous human rights violations have been key drivers of grievances and violence.

Important progress has been made, since the 2015 Bangui Forum whose major outcome has been the creation of the Special Criminal Court (SCC). One of the major challenges of this new organ, as well as of the new National Human Rights Commission recently set up, will be in fact to negotiate effective, inclusive and accountable transitional justice measures in the context of hybridity and informality which characterizes the Central African Republic.

However, more importantly, there is a dire need to thoroughly capture and clearly understand how Central Africans themselves feel and think about transitional justice. Unfortunately, it has not been possible to conduct field research on what they do think about what they would count on as some kind of redress. Such an analysis will be crucial to guide the forthcoming transitional justice policies to be implemented in CAR whose efficiency will be indispensable to build a new social contract likely to establish a longstanding peace in this continuously war-torn country.

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