

**Peacebuilding Commission**  
**Country-Specific Configuration on Central African Republic**

**Rule of Law and Good Governance in the Central African Republic**

**Introduction**

1. The analysis of the Central African law reveals that from a point of view of the provisions in terms of Rule of Law, Human Rights, and Good governance, the Central African Republic has little to envy from other democratic countries. However, a clear contrast can be seen between the available provisions and practical reality.

2. From the point of view of the Rule of Law, the current Central African constitution (27 December 2004) is based on the principle of hierarchy of the norms, and organizes the control of legality by setting up jurisdictions to that effect. With regard to Human Rights, the constitution is also very clear. The preamble “reaffirms the country’s adherence to the Charter of the United Nations, the Universal Declaration of Human Rights of 10 December 1948, the international pacts of 16 December 1966 relative to the economic, social and cultural rights on the one hand, and the civil and political rights on the other hand; it also reaffirms the country’s commitment to the African Charter of the Human rights and rights of the people of 21 June 1981, reaffirms its commitment to all the international conventions which have been ratified, notably those related to the elimination of all forms of discrimination against women, as well as those related to the protection of children.

3. The operational part of the Constitution opens with a chapter entitled “Fundamental bases of society”. While proclaiming that Human Rights are the basis of all human societies, the Constitution also proclaims the sacred and inviolable character of the human person. This provision is reinforced by laws protecting the Human and freedom rights. It should be mentioned that the CAR has ratified a large number of conventions related to Human Rights, notably the Rome Statute of the International Criminal Court.

4. Since the middle of the ’90, national efforts have aimed at establishing modern judicial institutions, even though the conditions for their proper functioning have not yet been assembled.

5. With respect to the administrative organization, a regionalization law was promulgated in 1996. Following the promulgation of the Constitution in December 2004, a new electoral code was adopted. At present, the penal code, the penal procedure code, the military justice code, are being rewritten to incorporate the norms of the international penal law and international humanitarian law.

6. In the context of political governance, the constitution makes specific reference to transparency affirming that «relentless work and the rigorous and transparent conduct of the public office and of the environment can ensure harmonious, rational and sustainable development”. As regards decentralized governance, the Central African Constitution states that “territorial communities administer themselves

freely through their elected organs”. This disposition is complemented by two ordinances on decentralization and deconcentration.

7. However, the formal enunciation of constitutional provisions and the important judicial arsenal related to it does not hide the fact that the implementation remains contrasted and at times incomplete.

### **Key challenges to good governance and human rights.**

8. The analysis of the crises CAR has gone through demonstrates that they originate with shortfalls in governance, notably in the areas of management of public finances, increased abject poverty, corruption, uneven distribution of wealth, overall malfunctioning of the security and justice sectors, and the tensed and violent climate in the sub-region. This analysis has led to the identification a number of key challenges in need of urgent measures and profound reforms to escape this vicious circle of politico-military conflicts and the use of force as a common means to accede to power.

9. **Human Rights.** Numerous observers, civil and human rights organizations, and certain political parties have stressed that civil and political rights remain of high concern in CAR, despite the existence of a High Commission for Human Rights. As a matter of fact, repeated allegations made by national and international organizations have highlighted acts of violence committed by government forces, and by rebel movements operating in the North of the country (APRD, FDRP, FDPC). Furthermore, the absence of disciplinary sanctions towards law enforcement personnel remains one of the main issues to be addressed. It would also be necessary to create and/or strengthen institutional capacity to produce periodic reports on the Human Rights situation in the country, and to lead the fight against impunity. BONUCA, in collaboration with the UNHCHR, is currently assisting CAR in setting up a National Commission for the Promotion of Human Rights in conformity with universal principles. This Commission is expected to be up and running in early 2009.

10. The enjoyment of economic, social and cultural rights by the whole of the population remains wishful thinking. On a daily basis, the Central African population does not manage to enjoy these rights. From a socioeconomic point of view, important disparities remain within the society, with a large number of citizens not being able to satisfy their basic needs, notably in the area of education, sanitation and food. It has been said that the non-fulfillment of the economic and social rights of the population is the consequence of bad governance, which has led to sociopolitical instability. The weakness of the promotion of economic, social and cultural rights should be noted.

11. With respect to the promotion of women, gender and gender balance, and despite commendable efforts, much remains to be done, notably as relates to the juridical statues of women, their access to justice, resources, their participation at decision-making levels, as well as the integration of a gender dimension in development policies and programs. To that effect, efforts should be made to speed up the implementation of a national gender policy, and to ensure the effectiveness of the rights of women through implementation of the laws.

12. **Constitutional democracy.** The Central African electoral system is not exempt from suspicions and has been the object of much controversy, as far as its

ability to ensure just and fair competition in the context of free and transparent elections. In the future, efforts will be needed to ensure that questions such as funding for political parties, the legal status of the opposition, the reliability of electoral lists, and access by parties to public media, do not endanger the burgeoning Central African democracy and the underlying electoral competition. The next elections are scheduled to take place in 2010.

13. Separation of power: the principle of the separation of power is embedded in the constitution. However, and despite these legal provisions, the question of the effectiveness of the separation of power and of the relevant control mechanisms needs to be asked, in particular in the context of the weakness of the bodies of balancing powers alongside the Executive power. In particular, the independence of the legal system versus the Executive and the autonomy of the judiciary need to be strengthened since they constitute a guarantee for the rights and freedom of the citizens. The recent crises surrounding the work of the Constitutional Court and the Superior Council of the Magistrature clearly showcase the weaknesses of this independence. Furthermore, to be efficient, the independence needs to be supported by the necessary and appropriate means to ensure autonomy.

14. Access to justice is also a major challenge for democratic development and for the social balance in the CAR, and the effectiveness of the measures to promote and protect Human Rights depends of it. The importance of impunity in the Central African socio-political context has further exacerbated the feeling of frustration amongst the hardest hit elements of the population. The population has lost confidence in the institution, which have become interlocutors not to be trusted, since they lack the motivation and the means to play their roles. In addition, the continued criminalization of witchcraft and of HIV-AIDS, despite ongoing adaptation of the penal laws is incomprehensible. National authorities could consider abrogating such laws. In the field of justice, the recommendations emanating from the 2007 *Etats Généraux*, could provide a good basis for reflection on reforms to be undertaken in the future.

15. **Reform and modernization of the State.** Since the '90, the Central African Government has considered the reform of the administration as one of its priorities, including the dimension of good governance. However, public administration is characterized by weaknesses, notably as they relate to certain basic principles such as accountability, transparency, efficiency and effectiveness, satisfying the needs of the citizen, participation and the primary importance of the law. To that effect, the promotion of the development of a new administrative culture must be promoted, which would be centered around ethical work values, merit, respect for the public service, as well as systematic control at all levels of the administrative management, publishing accounts, and the obligation to provide results and sanctions (both positive and negative).

16. **Deconcentration, decentralization and local governance.** Despite the high priority given to decentralization, the Central African administration remains strongly centralized, with an uneven distribution of public services throughout the country, resulting in inefficient functioning. In this context, it should be noted that national authorities have committed themselves to local democracy, and proximity administration, notably in the existing 174 communes and 7 regions in addition to Bangui (local authorities will be designated by the Executive, pending the organization

of local elections), in addition to the establishment of development poles. The existence of a High Commission for Decentralization and Regionalization, located in the Prime Minister's office, should also be noted, with the aim of speeding up the implementation of decentralization.

17. Corruption has affected to an alarming degree the functioning of Public Administration in all sectors, most notably in the financial field. However, besides the some high public figures (President, Ministers, etc.) as per legal provisions, as a sign of political good will, the Government has set up a mechanism to fight corruption: the National Commission for the Fight against Corruption. This commission is an important element, which, in the long term, will contribute substantially to reestablishing State authority. This will only be possible, if the said Commission is given the material means to function properly. In addition, the quasi-total absence of a democratic control (throughout Parliament and in civil society) of decision making processes in the management and governmental action is a serious gap, hampering the implementation of accountability and transparency. This explains the importance of proposed measures in the context of the reform of the security sector.

### **Efforts by the Government and International Partners**

18. The March 2003 political changes were followed by a transition period, which allowed for (i) the organization in September 2003 of a political dialogue amongst all political parties and civil society organizations, (ii) the adoption, by referendum, of the December 2004 Constitution, (iii) the holding of legislative and presidential elections in march and may 2005, and (iv) the setting up of democratic institutions (Parliament, Constitutional Court, State Council, Court of Appeals, Conflict Tribunal, Court of Auditors, High Council for Communication, the Mediator's Office, etc...)

19. The acceptance of the results of these elections by all stakeholders and the transfer of power to elected institutions, have promoted an evolution towards a more peaceful socio-political context, and the strengthening of democracy. More recently, to finalize the establishment of the republican institutions in conformity with the recommendations of the National Dialogue, A Economic and Social Council and a Commission for the fights against corruption were established.

20. In November 2006, and in light of the security situation a « Groupe des Sages » started a series of consultations with national political parties, syndicates, civil society organizations, the diplomatic corps, and armed opposition. These consultations resulted in a set of recommendations in light of the holding of a inclusive political dialogue, which is currently being prepared. Despite the commitment of all stakeholders in favor of holding the political dialogue, it has been hampered by numerous problems, which the Government is attempting to overcome, notably on reaching consensus on legal and security measures (draft amnesty laws). Nevertheless, the inclusive political dialogue remains a crucial element of the peacebuilding strategy in the Central African Republic. The Peacebuilding Fund has already allocated US\$ 802,000 from its emergency window in support of the dialogue.

21. The *Etats Généraux de la Defense*, in 1996, followed by the National Dialogue in 2003, had highlighted the issue of the reform of the security and defense

forces in CAR. This forum had stressed the importance of setting-up of professional defense and security forces, in line with rule of law standards, respecting human rights, and capable of addressing threats, with a view o promoting national stability, social and economic development, and national and regional security.

22. France and BONUCA initiatives in the field of training of police and security forces, and respect for human rights in the exercise of their functions, are aimed precisely at that goal. Other international partners such as the European Union and the UNDP have supported the strengthening of the judiciary, notably in the conflict zones, and strengthening of the defense and security forces in the context of the Security Sector Reform. Recent UNDP projects such as “Security for Development” (PRASEJ II) and “Strengthening of the Rule of Law in CAR through the reform of the Justice and Security institutions” aim towards that goal.

23. In the specific areas of justice and human rights, a number of initiatives have been taken in cooperation with partners. In particular, as mentioned before, the *Etats Généraux de la Justice*, in October 2007, which resulted in a set of recommendations which need to be updated and implemented. The International Criminal Court opened an office in Bangui in 2007.

24. Much remains to be done on good economic governance, despite a number of reform initiatives by the Government, with the support of IMF and the World Bank, in the area of public finance, and the establishment of a mechanism to fight corruption, with the support of UNDP. However, the international community, acting in a concerted effort, is more than ever determined to bring their support.

25. CAR is a country left to its own devise. The number of donor is low and limited to traditional partners, such as the United Nations, France, and the European Union. The Peacebuilding Commission will increase the interest by the international community, which could result in sustainable solutions. In addition, the PBC will be able, thanks to its advocacy role, and its relation with the Peacebuilding Fund, generate additional resources, which the country desperately needs to concretize its peacebuilding programs.