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Second periodic report

CENTRAL AFRICAN REPUBLIC*

[3 June 2005]

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I. GENERAL OVERVIEW OF THE CENTRAL AFRICAN REPUBLIC

1. The Central African Republic, formerly Ubangi-Chari (a former French colony), is a landlocked country situated in the heart of Africa. It has several notable features.

A. Geography

2. The Central African Republic is a continental country bordered to the north by the Republic of Chad, to the east by the Republic of the Sudan, to the west by the Republic of Cameroon, to the south-east by the Democratic Republic of the Congo and to the south-west by the Republic of the Congo. It has an area of 623,000 square kilometres, of which 3.2 per cent is devoted to agriculture, 4.8 per cent to pasturage, 57.5 per cent consists of forest and 34.5 per cent is occupied by dwellings, etc.

3. The relief of the Central African Republic is characterized by plains in the centre and the south, plateaux in the west and two large massifs (the Fertit Hills in the north-east and the Yadé Massif in the north-west). The highest point is Mount Ngaoui in the north-west, which rises to 1,420 metres.

4. The landscape comprises a raised central section, the backbone of the Central African Republic, and two depressions: the Chad basin in the north and the Congo basin in the south. The two basins form the basis of the country's hydrological system. Between them, the watercourses of these two basins supply the country in opposing directions. The Chari and its tributaries in the north and the Ubangi and its tributaries in the south have a very simple flow pattern: their waters rise during the rainy season. The Chari is navigable from Batangafo onwards and the Ubangi, the upper course of which has many rapids, is navigable from Bangui onwards.

B. Climate

5. There are three types of climate:

- The Guinean forest or equatorial climate in the south;
- The Sudano-Guinean or intertropical climate in the centre;
- The Sudano-Sahelian or south-Sahelian climate in the north.

6. Each climate type has sub-climates determined by the pattern of precipitation and the length of the rainy season. There are two main seasons in the Central African Republic: the rainy season, which runs from May to October, and the dry season, which lasts from November to April.

7. The country's climate is also affected by two large high-pressure systems which determine climatic conditions throughout central and west Africa, namely, the Libyan anticyclone, over north and north-east Africa, and the St. Helena anticyclone, centred over the Atlantic to the south-west of the African continent.

8. Average annual temperatures range from 23.4° C in the west (Bouar) to 26.5° C in the north-east (Birao). Most of the Central African Republic has more than 1,220 millimetres of rainfall per year. Only the sub-Saharan region of Birao has less than a metre of rainfall per year.

C. Vegetation

9. With its high levels of rainfall, the Central African climate produces vegetation consisting of a wide variety of dense forests in the south and west of the country, wooded and grassy savannahs in the north, a patchwork of dry forests and savannahs, and steppe land in the far north-east of the country.

10. The varied vegetation, resulting in a varied climate, is home to a significant and very diverse range of fauna: mammals (gorillas, elephants, rhinoceroses, hippopotami, giraffes, antelopes), reptiles (vipers, crocodiles and caimans) and all kinds of birds. As for aquatic fauna, fish are found in abundance.

11. With a view to managing and protecting fauna, the Central African Republic has three national parks, the two largest of which are Awakaba Park, in Bamingui-Bangoran in the north-east of the country, and Dzangha-Sangha Park, in the prefecture of Sangha-Mbaéré in the west.

12. The country's fauna, combined with its varied vegetation, hydrology and climate, makes the Central African Republic an outstanding tourist destination. However, this wealth also makes it a magnet for poachers, who are decimating its elephant and rhinoceros herds.

D. Administrative divisions

13. The Central African Republic is divided into 16 prefectures, which are further subdivided into 71 subprefectures and 2 administrative control areas. It has a total of 9,000 villages.

14. Under the regionalization policy, the prefectures are organized into six regions, each consisting of two or three prefectures. The seventh region comprises the eight *arrondissements* of the capital, Bangui.

15. Each region has its own administrative structure: a military authority, a health authority, school inspectorates, labour inspectorates, regional government offices and, in the near future, regional human rights departments.

16. All the cities in the country are linked by unpaved roads, except for the Bangui road: the Bangui-Mbaiki, Bangui-Sibut and Bangui-Bossembélé-Garouamboulaye roads, the last of these still under construction.

17. The roads between the different cities are passable. During the rainy season, driving is made difficult by the very poor state of the roads. The city of Birao, in the far north of the country, is completely cut off during the rains, owing to flooding and the absence of civil engineering works (bridges).

18. In addition to the Bangui/M'poko international airport, the country has airfields in every prefecture. Two river ports, one at Bangui and the other at Salo in the prefecture of Sangha-Mbaéré, serve as hubs for river traffic.

19. With a view to improving access to the outside world, particular attention is being paid to the development of telecommunications networks, which are gradually being installed in the country's cities.

E. Population

20. According to the most recent general census, conducted in 2004, the population stands at 3,150,000. In 1988, the population was 2,500,000. This means that the Central African population has increased by 650,000 in the space of 16 years, an annual growth rate of 1.29 per cent

21. The Central African population is made up of a variety of ethnic groupings: the Gbaya in the west and north of the country, with the Ali, Gbaka-mandjia, Mandjia and Gbanou subgroups in the centre and the Banda in the centre and east of the country; the Zandé, Yakoma and Nzakara in the east of the country; and the Mboum, Kare, Kaba and Dagba in the north. In addition, there are pygmy minorities in Lobaye and Sangha-Mbaéré: the Ndri in the subprefecture of Boali and the Peuhl in stock-raising areas.

22. This mosaic of different populations communicates in Sango, a language that is spoken and understood throughout the country. Although Sango has become an official language, French remains the language of instruction and the working language for administrative purposes.

23. The population is unevenly distributed throughout the country. It is also unevenly distributed by sex, as the recent 2004 census shows:

- Males: 1,569,446
- Females: 1,581,626

24. The population is also heavily concentrated in cities with high rates of socio-professional activity:

- Bangui: 531,763
- Berbérati: 59,414
- Carnot: 37,339
- Bambari: 33,273
- Bouar: 29,753
- Bria: 28,364
- Bossangoa: 27,930
- Nola: 25,187
- Bangassou: 24,447

F. Economic and social situation

25. The Central African economy is based essentially on the export of agricultural, mining and forestry products.

26. There is very little industrial activity, although the tertiary sector was doing very well before the crisis period of 1996 to 2003.

27. The brief indicators below may give some idea of the human development problems with which Central Africa has to contend.

1. Primary sector

28. The Central African Republic exports six main products: coffee, cotton, tobacco, timber, diamonds and gold.

29. Aside from timber, gold and diamonds, agricultural products are subject to climatic uncertainties and fluctuations in world commodity prices.

Coffee

30. Optimistic initial forecasts estimated that coffee output for the 2001/02 growing season would be between 8,000 and 10,000 tonnes, taking account of the favourable weather conditions up to the end of 2002. However, the volume of coffee recorded by the Office for Regulation of the Marketing and Control of the Packaging of Agricultural Products (ORCPPA) was 4,487.7 tonnes, compared with 8,536 tonnes the previous year, a steep fall of 47.5 per cent.

31. This fall in recorded output was largely the result of depressed world prices. Difficulties of access to production areas, owing to the poor condition of rural roads and security problems in the hinterland, also adversely affected export production.

Cotton

32. At the close of the 2001/02 cotton-growing season, cotton seed output totalled 32,859 tonnes, up 34.2 per cent from the 24,487 tonnes produced during the previous season.

33. Fibre output amounted to 13,333 tonnes, an increase of 32.6 per cent over the 2001 figure of 10,055 tonnes.

Tobacco

34. During the 2001/02 season, tobacco output fell from 239 tonnes in 2001 to 172 tonnes a year later (130 tonnes of tobacco leaf and 42 tonnes of cut tobacco), a reduction of 28 per cent. This reduction was the result of a voluntary policy adopted by the Central African Tobacco Company (CETAC) of focusing on quality rather than quantity.

Forestry

35. Since 2001, forestry has become one of the Central African Republic's main growth areas, accounting for 4.2 per cent of gross domestic product (GDP) in 2002, as against 3.2 per cent in 1997.

36. At the end of December 2002, forestry output showed mixed results, while exploitation activities showed a marked improvement. At 737,544 m³, total output was down 6.1 per cent from the previous year's figure of 782,342 m³. This fall in output affected both logging (-3.3 per cent) and sawn wood production (-27.4 per cent), whereas plywood production increased by 11.9 per cent.

Food crop production

37. The principal component of the Central African Republic's GDP (32.2 per cent in 2002), the highly diversified food crop sector, is potentially the economy's main area of growth and competitiveness, provided that productivity, processing and export measures are put in place.

38. The main food crops are cassava, millet, sorghum, maize, potatoes, taros, plantains, yams, peanuts, rice, marrows, pulses and sesame.

Stock raising

39. In the Central African Republic, stock raising accounts for a significant proportion of GDP (10.4 per cent in 2002).

40. The livestock authorities estimate that the country had 11,736,000 head of cattle in 2002, as compared with 11,293,000 in 2001, an increase of 4 per cent.

41. Despite the Government's efforts to help the sector, the same difficulties remain. They come down to:

- A national shortage of livestock, which leads to overpricing;
- A lack of appropriate technical backstopping;
- The total absence of means of transport for following up activities on the ground;
- Fraud and clandestine slaughtering, which result in a loss of earnings.

42. The primary sector owes its dynamism to the cash crop, stock-raising and seed forest subsectors. Its performance is explained by the presence of incentives: rising producer prices and the increasing prices which these products fetch on international markets. However, performance seems to have been adversely affected by the social unrest experienced by the country.

2. Secondary sector

43. The main industrial activities in the Central African Republic are: brewing, oil, soap and sugar production, coffee roasting, cotton ginning, sawmills, and gas (oxygen, acetylene) and paint production.

44. In 2002, gross electricity output contracted by 1.4 per cent, falling from 121,139,700 kWh as at 31 December 2001 to 119,466,000 kWh at the end of 2002.

45. In the mining sector, the country's extraction industries used to be based mainly on two products: diamonds and gold. Since 2002, hopes of diversifying mining production have gradually taken shape, with seismic research by a United States company pointing to the existence of major oil and gas fields.

46. Other ores are calcium, uranium, lignite and copper.

3. Tertiary sector

47. This sector covers trade, transport, transit traffic and telecommunications.

48. In 2002, the commercial sector was badly affected by the repercussions of the socio-political unrest of the previous two years.

49. With regard to transport, in 2002 the sector saw a revival of river transport and a marked increase in road freight, while air freight, which had been declining for several years, continued its downward trend owing to its prohibitive cost, weak purchasing power and a sluggish domestic economy.

50. Transit traffic remained stable following the events of October 2002, which prompted operators to adopt a wait-and-see policy.

51. Lastly, the telecommunications sector, which consists of four companies, namely, SOCATEL, which runs the network carrying traffic between the Central African Republic and abroad, and TELECEL, TELECOM PLUS and NATION LINK, which provide mobile telephone coverage in conjunction with their foreign parent companies, did brisk trade which had a knock-on effect on turnover.

52. Public finances are characterized by a steady decline in State revenue, which is derived almost exclusively from fiscal and customs revenue. Recent events have, at best, considerably weakened the financial position of commercial companies and businesses, if not put many of the State's sources of financing out of action.

53. These three sectors combined illustrate the overall development context in the Central African Republic, which is one of extreme poverty and bad governance.

Extreme poverty

54. The military and political crises which rocked the country throughout the 1990s and at the very beginning of the twenty-first century are largely responsible for the impoverishment and growing vulnerability of a large cross-section of the population.

55. In the *Human Development Report 2003*, the country ranked 168th out of 173 countries, while in 2004, it ranked 169th out of 177 countries, with a human development index of 0.363 in 2001 and 0.361 in 2002 and some of the lowest social indicators in the world.

56. More than 66.6 per cent of the 3,150,000 Central Africans live on less than US\$ 1 a day. Life expectancy at birth, which for a Central African in the 1980s was 49 years, was 40.4 years in 2001 and 39.8 in 2002. Although the under-five mortality rate has decreased from 248 to 180 per 1,000 live births, the Central African Republic still has the highest ratio of women dying in childbirth (1,100 women per 100,000 live births). The poverty rate rose from 62 per cent in 1992 to 75 per cent in 2003 as a result of the steady decline in national income.

57. Per capita GDP fell from US\$ 349 in 1995 to US\$ 255 in 2001. The population groups worst affected by poverty include women, children, the populations of the remote regions of the west and the north, disabled persons and older persons. Civil servants and State employees also fall into this category, since they have over 30 months of accumulated unpaid salary arrears.

Bad governance

58. The combination of these factors is behind the grave crises which have afflicted the country, generating political instability followed by insecurity. The humanitarian consequences of this situation prompted the United Nations to launch an emergency appeal for the Central African Republic in April 2003.

59. One consequence of the poverty perpetuated by bad governance is the high prevalence of HIV/AIDS. With a rate of 15 per cent, the Central African Republic is among the most infected countries in the world and ranks first among countries in the Central African subregion.

60. However, real political will is evidenced in the establishment of a programme giving access to antiretrovirals (Decision No. 094/MSPP/CAB of 23 August 2004 establishing the national antiretroviral treatment programme).

61. This programme is intended to help improve the quality of life of people living with HIV/AIDS in the Central African Republic.

G. Education

62. In the field of education, the number of pupils enrolled in primary education, and later in secondary education, increased spectacularly in the years following independence.

63. This was undoubtedly due to both the soaring population growth rate and the policy of democratization of education. The table below gives figures for primary education.

Year	Pupils	Schools	Classrooms	Teachers
1960	61 428	340	840	1 040
1970	170 000	778	1 164	2 169
1980	243 419	812	3 117	4 010
1988	286 422	1 014	3 665	4 563
2002	368 027	1 493	5 421	4 824

64. Unfortunately, however, it has to be stressed that the increase in enrolment was accompanied by a decline in the quality of instruction, largely due to a lack of material and financial resources, the absence of a well-planned human resources management policy and the failure to pay salaries regularly, which in turn led to whole academic years being lost and to numerous strikes.

65. Awareness of this decline led to the holding of a national seminar on education and training in 1982, with the support of the United Nations Educational, Scientific and Cultural Organization (UNESCO), the outcome of which was a five-point plan for the overall reform of the Central African education system.

66. Despite the plan and the efforts made, the state of education in the Central African Republic remains very worrying. In these first years of the twenty-first century, the country has only one university and one technical high school. In some parts of the country, there is a dire shortage of schools or if schools exist there are no teachers. The results of this situation are as follows:

67. There is a very high teacher/pupil ratio (1/120), which is hardly conducive to good teaching and learning.

68. The number of children of school age, particularly girls, who are not enrolled in school is high.

69. School dropout rates are high.

70. All these factors combined contribute to illiteracy, which severely undermines the country's development.

H. History

71. Throughout its history, the Central African Republic, a former French colony, has experienced major social movements to which human beings, in all their complexity, have been central.

72. Commitment of the Central African Republic to human rights.

73. The Central African Republic made a commitment to human rights over a decade ago, when it acceded to a number of universal, international and regional human rights instruments.

These instruments are the following:

- The International Covenant on Civil and Political Rights, signed on 3 April 1980;
- The International Covenant on Economic, Social and Cultural Rights, signed on 3 April 1980;
- The Optional Protocol to the International Covenant on Civil and Political Rights, signed on 3 April 1980;
- The International Convention on the Elimination of All Forms of Racial Discrimination, signed on 16 March 1971;
- The Convention on the Elimination of All Forms of Discrimination against Women, signed on 21 June 1991;
- The Convention on the Rights of the Child, signed on 23 April 1992;
- The Statute of the International Criminal Court.

74. The foregoing general overview of the Central African Republic shows that the country has major, significant assets for providing the Central African people with the material conditions required to improve their living standards and satisfy their basic needs.

75. However, with each passing day and year, these assets are being eclipsed by constraints caused largely by ignorance and lack of will at all levels of Central African society. Naturally, this dilutes, if not hinders, efforts to recognize and achieve human rights.

76. The detailed information provided below will make it possible to gauge the country's efforts, under the International Covenant on Civil and Political Rights, to overcome the obstacles encountered and identify possible solutions, the crux of which seems to be the need for intensive socio-educational activities.

II. POLITICAL REGIMES PRE- AND POST-INDEPENDENCE

77. Even before the rise of independence movements, the Ubangians, today's Central Africans, fought against slavery and the inhumane treatment inflicted upon them by colonists, the 1928-1931 Kongo-Wara war being one example.

78. With the independence movement, founding father Barthélemy Boganda, raised national awareness through his battles of ideas based on human rights. The inscription "*Zo Kwe Zo*", meaning the human person is sacred, on the national coat of arms and the currency sums up all the basic human rights principles, namely, "Unity-Dignity-Work".

79. Since Barthélemy Boganda's death on 29 March 1959 and the proclamation of independence on 13 August 1960 by President David Dacko, who governed the country until the first coup d'état, the Central African Republic has been run by a succession of political regimes which came to power by means of the bullet or the ballot.

80. On 1 January 1966, Colonel John Bedel Bokassa seized power by force of arms and in 1976 he proclaimed the country to be an empire; he remained in power until 1979. His rule was characterized by grave human rights violations, including assassination, arbitrary arrest and rape.

81. On 21 September 1979, following the emergence of insurrectionist movements opposed to the Bokassa regime, President David Dacko took power again by force of arms, thanks to Operation Barracuda.

82. In March 1981, following pluralist elections won by President Dacko, a democratic Government was installed on the basis of the 1981 Constitution.

83. On 21 September 1981, following political protests compounded by social unrest, André Kolingba, an army general overthrew the democratic regime by force of arms. Five years later, on 21 November 1986, Kolingba had a Constitution adopted on the basis of which he was elected President of the Republic.

84. In 1993, under pressure from successive social movements and the advent of multiparty democracy, free elections were held, bringing President Ange Félix Patassé to power. President Patassé won a second mandate in the 1999 elections and continued to rule until March 2003. However, it should be stressed that his regime was responsible for grave violations of human rights, including:

- Summary execution, abduction, crimes against humanity, genocide, extermination, covert contacts with irregular forces, corruption, impunity, non-payment of salaries (35 months), creation of internal divisions, and “ethnicization” of the army and civil service. All of this led to mutinies and social tensions.

85. On 15 March 2003, General François Bozizé overthrew the (democratic) regime of Ange Félix Patassé in a coup d’état which enjoyed the full backing of the by now dehumanized Central African population. Although accepted by the population, however, the new regime committed many serious human rights violations. An agreed transition programme was put in place, with a transitional government, a national transition council and the holding of a national dialogue which permitted national reconciliation and the establishment of the Independent Joint Electoral Commission (CEMI). On 27 December 2004, the people endorsed a new Constitution, which provided for the establishment of a constitutional court. The first round of legislative and presidential elections was held on 13 March 2005 and the second round was scheduled for 8 May 2005.

86. The instability of the country’s political regimes, characterized by the alternation between coups and elections, is indicative of underdevelopment as well as of the absence of a truly national political programme. This absence, compounded by the advent of a multiparty system without any prior education or training and with at least 46 political parties, is a hindrance to any sustainable development initiative.

A. Historical context

87. The Central African Republic, formerly Ubangi-Chari, was an integral part of the French colonial empire under the Fourth Republic. It became a French overseas territory with the promulgation of the Constitution of 27 October 1946.

88. This overseas territory was given a territorial assembly pursuant to the framework law of 23 June 1956, known as the Defferre Act; the assembly had deliberative powers.

89. This reform introduced a parliamentary system modelled on the political functioning of metropolitan institutions.

90. For the first time, universal suffrage was introduced in the colonies, including in Ubangi-Chari, and the double-ballot system was abolished.

91. On 17 May 1957, the first Government Council began its work and on 23 March 1957 the Territorial Assembly was elected. It was at this time that the beginnings of an administrative structure took shape in Ubangi-Chari.

92. With the promulgation of the French Constitution of 1958 under General de Gaulle, the colonial territories were given the chance to embark on the process that would eventually lead them to independence.

93. On 1 December 1958, the Ubangi-Chari Territorial Assembly proclaimed the establishment of the Central African Republic. On 8 December, the Government Council became a provisional government headed by Barthélemy Boganda.

94. This Government was entrusted with drafting the first Central African Constitution, which was promulgated on 16 February 1959.

95. Thereafter, political instability would result in a succession of constitutions and constitutional acts in the Central African Republic.

96. The 1986 Constitution saved the Central African Republic from that instability by launching a process of democratization.

97. However, violations of that Constitution and of civil service laws and regulations sparked further political instability caused by social, military and political unrest.

98. Another Constitution was promulgated on 14 January 1995, only to be suspended and superseded by Constitutional Acts Nos. 1 and 2 of 15 March 2003 and No. 3 of 12 December 2003.

99. A new Constitution has just been adopted by referendum and was promulgated on 27 December 2004.

100. These Constitutions and constitutional acts gave rise to the adoption of laws and administrative decisions recognizing human rights.

101. It was thus that the Central African Republic ratified the two International Covenants on Human Rights of 16 December 1966.

102. In the light of the Constitutions and laws enacted by the Central African Republic, we shall analyse the way in which our country has implemented article 25 of the International Covenant on Civil and Political Rights.

B. Legal framework

103. The Constitutions and organic laws adopted by the different regimes that have governed the Central African Republic affirm the country's attachment to the Universal Declaration of Human Rights of 10 December 1948 and to the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights of 16 December 1966.

104. These same domestic legal instruments affirm that universal suffrage is the sole source of legitimacy of the political authorities.

105. They recognize that all human beings are equal before the law and have equal employment opportunities, without distinction as to race, ethnic origin, regional origin, sex or religion.

106. They also recognize the right to vote and to be elected, to have access to public service and to take part in the conduct of public affairs, without restrictions other than those authorized by law.

1. Constitutions

107. The Constitution of 1959:

- Under this Constitution, executive power was held by the head of Government, invested by the Legislative Assembly for a period of five years;
- The Legislative Assembly was elected on the basis of regional voting lists.

108. The 1964 Constitution established universal suffrage for the election of the President of the Republic in a single round of voting, whereas the National Assembly was elected on the basis of a single national list put forward by the Mouvement d'Evolution Sociale de l'Afrique Noire (MESAN).

109. The Constitution of 4 December 1977:

- The Head of State was proclaimed Emperor by the Special Congress of MESAN, while the National Assembly was made up of elected deputies who enjoyed full immunity.

110. The Constitution of 1 February 1981 re-established universal suffrage for the election of the President of the Republic, deputies and their alternates.

111. The mandate of the President of the Republic was six years, renewable once, whereas deputies and their alternates were elected for five years.

112. The Constitution of 26 November 1986 extended direct universal suffrage for the election of the President of the Republic for a six-year term, with no limits on re-election.

113. The Parliament consisted of two chambers: the National Assembly, made up of deputies elected by universal suffrage, and the Economic and Social Council, half of whose members were elected while the other half were government appointees; their term of office was five years.

114. The Constitution of 14 January 1995:

- This Constitution, which remained in force until 15 March 2003, confirmed in its preamble that universal suffrage was the sole source of legitimacy of the political authorities.

115. The Constitution of 27 December 2004:

- In this Constitution, the Republic reaffirms its attachment to the Universal Declaration of Human Rights, the International Human Rights Covenants, the African Charter on Human and Peoples' Rights of 27 June 1981 and duly ratified international conventions.

116. Article 5 of the Constitution affirms the equality of all human beings before the law, without any distinction, and the equality of men and women in all areas.

117. It also stipulates that, in the Central African Republic, no right or privilege attaches to place of birth, identity or descent.

118. Article 9 guarantees all citizens the right to work, rest and the satisfaction of their needs, subject to the requirements of national development. It also guarantees citizens conditions favourable to their personal development, through an efficient employment policy. All citizens enjoy equal employment opportunities and no one may suffer prejudice at work or in employment on account of his or her origins, sex, opinions or beliefs.

119. All workers participate, through their representatives, in determining their working conditions.

120. With regard to the executive branch, article 20 of the Constitution provides that the Central African people shall elect the President of the Republic by direct universal suffrage.

121. With regard to the judiciary, article 75 of the Constitution stipulates that the judiciary shall be independent of the legislative and executive branches.

122. With regard to the legislative branch, article 46 provides that the Central African people shall elect by direct suffrage the citizens who constitute the Parliament and bear the title of "deputy".

2. Constitutional acts

123. Constitutional acts were passed in 1966, 1979, 1981, 1985 and 2003:

- Constitutional Act No. 1 of 1 January 1966 repealed the 1964 Constitution;
- Constitutional Act No. 2 of 8 January 1966 established a transitional government.

124. Under article 19, the President of the Republic assumed full executive powers and legislated by decree:

- The Constitutional Act of 21 September 1979 restored the Republic.

125. The President of the Republic, assisted by a Vice-President, assumed full powers:

- The Constitutional Act of 1 September 1981 established a Military Committee for National Recovery (CMRN), which was given executive and legislative powers; the powers of head of State were vested in the Head of the Committee;
- Constitutional Act No. 1 of 1985 dissolved the Military Committee for National Recovery and vested in the Head of the Committee the functions of head of State and Government, thereby assigning him full executive powers;
- Constitutional Act No. 1 of 15 March 2003 suspended the 1995 Constitution, dissolved the National Assembly by constitutional means and abolished the powers of the President of the Republic and the Government.

126. The leader of the coup d'état became President of the Republic and head of State and legislated by decree in the Council of Ministers:

- Constitutional Act No. 2 of 15 March 2003 established a transitional government;
- Constitutional Act No. 3 of 12 December 2003 created the post of Vice-President of the Republic.

127. In short, the effect of constitutional acts is simply to upset the constitutional order by repealing the Constitution, dissolving the National Assembly and putting in place a transitional government by stripping the democratically elected head of State of his powers.

3. Laws and regulations

128. Article 1 of Act No. 61/221 on the Labour Code of the Central African Republic states that the concept of “worker” is essential and that it makes no distinction on grounds of sex or nationality.

The Code applies to workers in the private and semi-public sectors.

As far as civil servants are concerned:

- State employees are accorded basic guarantees under Act No. 61, as amended and supplemented by Ordinance No. 93.008 of 14 June 1993 on the Civil Service Regulations.

129. Article 4 of the Ordinance stipulates that no distinction shall be made on the ground of sex and that the Ordinance shall apply to all without distinction on grounds of ethnic or regional origin or political or religious beliefs.

130. Any prejudicial act taken on the basis of such distinction shall be deemed null and void.

131. Decree No. 94.041 of 2 February 1994 enforced this Ordinance:

- Act No. 99.016 of 16 July 1999 amended and supplemented some provisions of the Ordinance;
- However, article 4 of the Act reproduced the other provisions of Ordinance No. 93.008 of 14 June 1993.

132. Decree No. 00.172 of 10 July 2000 lays down the conditions for implementing Act No. 99.016: Article 3 of the Decree stipulates that access to public employment is open to all Central Africans without discrimination, in accordance with the conditions set out in article 4 of Act No. 99.016 of 16 July 1999:

- These are the provisions governing public and private employment.

133. Participation in the conduct of public affairs, whether directly or through freely chosen representatives, is governed by the following provisions.

134. Article 1 of Act No. 98.004 of 27 March 1998 on the Electoral Code of the Central African Republic provides that elections are the choice made by the people by means of suffrage:

- With a view to appointing citizens to conduct the public affairs of the nation and of local authorities;
- With a view to referendums.

135. Elections are held by direct or indirect, equal, secret, universal suffrage (art. 2).

136. For the purposes of article 4, voters are Central African nationals of either sex, aged 18 or over, who are entitled to exercise their civic rights and duly registered on the electoral rolls.

137. Article 7 of the Electoral Code establishes an Independent Joint Electoral Commission to prepare, organize, oversee and monitor presidential, legislative, regional and municipal elections and also referendums.

138. The Commission organized the 1998 legislative elections and the 1999 presidential election.

139. To be able to vote, voters must be registered on the electoral roll for their electoral district and must have a voting card (art. 9).

140. In order to avoid electoral fraud, article 10 of the Code provides that no one may be registered on more than one electoral roll.

141. To be eligible for election, all candidates must put together a candidate's file in accordance with article 29 of the Code and provide proof of nationality. They must pay a deposit, the amount of which varies according to the office sought.

142. The above constitutional and legal provisions show that the Central African Republic has adopted legal instruments in conformity with article 25 of the International Covenant on Civil and Political Rights:

- However, a number of shortcomings have been noted in their implementation.

4. Shortcomings noted

143. With regard to access to public service and employment:

- Between 1960 (Independence) and 1983, recruitment to the Central African Civil Service and appointments to political office and senior administrative and technical posts were effected without any discrimination or distinction on ethnic, tribal, regional or political grounds.

144. With the advent of a multiparty system, and particularly during the period 1983 to 2003, divisions and discrimination appeared in the Central African Civil Service.

145. Certain expressions, such as “the Great East” or “the Great North”, began to gain currency.

146. Competitive examinations for admission to vocational education institutions, recruitment to the civil service, appointments to positions of responsibility and access to government posts were conducted on the basis of ethnic, tribal, regional, religious or political affiliation.

147. Some senior officials were dismissed because of their political views or ethnic or tribal origin, in what was effectively a witch-hunt.

148. A quota system was also introduced for recruiting graduates into the civil service.

149. Instead of recruiting all graduates from the same intake year, each ministerial department was assigned a quota. A limited number of young graduates were recruited, while others had to wait several more years.

150. Sometimes, new graduates were recruited before older ones.

151. The whole system engendered discrimination, which is prohibited by law.

152. In addition, junior personnel were appointed on the basis of ethnic or political affiliation to senior positions of authority over high-ranking civil servants, creating tensions in the civil service.

153. As for the election of citizens to take part in the conduct of public affairs, the provisions of constitutions and laws are frequently violated.

154. The seizure of power by force (coup d'état) is one of the most frequent violations in the Central African Republic, the coups of 1966, 1979, 1981 and 2003 being striking examples.

155. The laws governing local authorities are often infringed. Municipal councillors and local mayors are not elected in accordance with the law, but appointed by presidential decree.

III. MEASURES TAKEN TO IMPLEMENT THE PROVISIONS OF THE COVENANT RELATING TO CIVIL AND POLITICAL RIGHTS

A. Civil rights

156. The Central African Republic has always expressed its political will to promote and protect civil rights and has demonstrated that will regularly.

1. Right to equality (article 3 of the Covenant)

157. In the interests of ensuring human dignity, the founding father of the Central African Republic, Barthélemy Boganda, enunciated the principle of "*Zo Kwe Zo*".

158. Article 1 of the repealed Constitution of 14 January 1995 and article 6 of Constitutional Act No. 1 provide that: "All Central Africans are born and remain free and equal in rights and obligations. All discrimination on grounds of social origin, colour, language, race, sex, religion and political opinion is prohibited."

159. This provision establishes formal equality between men and women. A proactive policy can be observed in this area: there is a ministry specifically responsible for the advancement of women, children and the family.

160. Despite such progress, gaps remain, such as inheritance laws and the failure to observe the 30 per cent quota for women in positions of responsibility (less than 5 per cent). However, laws are being drafted with the participation of all those concerned to ensure that there is legislation based on consensus, in accordance with the proceedings of the national dialogue held from 15 to 27 September 2003.

161. These laws will take into account the provisions of the various international legal instruments aimed at establishing equality of rights between men and women.

162. To this end, the Central African Republic has undertaken a review of its legislation: the Constitution, the Criminal Code, the Code of Criminal Procedure, the Electoral Code, the Military Code, the Labour Code, the Act on the criminal responsibility of minors and the establishment of juvenile courts and the Ordinance regulating political parties.

163. Thus, any person who considers he or she has suffered injury as a result of action taken by the State or one of its agencies may challenge such action in a court of law or administrative tribunal. In the Central African Republic, the State enjoys no immunity for cases involving human rights violations.

164. For this reason, anyone residing in the country, whether Central African or alien is, unless there are legal provisions to the contrary, equal before the law and has the right, without distinction, to the equal protection of the law. The right to go to court is also guaranteed.

(a) Equality before the courts and tribunals (articles 14 and 26 of the Covenant)

165. Equality before the law is a general principle of law that has constitutional value (Constitutional Act of 15 March 2003) and is explicitly referred to in the Code of Criminal Procedure, the Code of Civil Procedure and the Code of the Organization for the Harmonization of Business Law in Africa (OHADA).

166. Judgements rendered in criminal and civil cases are made public, except as otherwise required in the interests of minors (proceedings before juvenile courts) or if the case concerns matrimonial disputes or the guardianship of children.

167. According to article 1 of the Constitution of 14 January 1995, “Everyone charged with an offence shall be presumed innocent until proved guilty by the competent court. The right to defence, including the right to be assisted by counsel of one’s own choosing, shall be guaranteed”, except during the pretrial investigation.

168. However, when the draft amendments to the Code of Criminal Procedure were given a second reading, provision was made for counsel to be involved from the pretrial investigation onwards. Thus, the accused is informed promptly of the nature and cause of the charge against him or her. Counsel may be assigned without payment in criminal cases if the accused does not have sufficient means to pay for it. He or she may have the free assistance of an interpreter and may not be compelled to confess guilt.

169. Everyone convicted of a crime may use the available remedies to appeal against the decision rendered.

(b) Legal assistance (article 14, paragraph 3, of the Covenant)

170. Parties are free to choose their counsel, either to represent or to assist them, depending on what is allowed or required by law.

171. Representation in court involves the power and the duty to carry out proceedings on behalf of the represented party. Assistance in court involves the power and the duty to advise the assisted party and to present his or her defence, but without compelling the party. Representation involves the provision of assistance unless otherwise stipulated or agreed. A party may not be represented by more than one of the natural or legal persons authorized by law.

172. The judge must be notified of the name and status of the representative by means of a statement to the office of the clerk of the court. Anyone intending to represent or assist a party must provide evidence that he or she has been appointed to or entrusted with the task. Legal assistance may be granted, in any event, to all persons, and to private charitable associations that have legal personality, where they do not have sufficient means to exercise their rights in court as either plaintiffs or defendants. It should be noted, however, that legal assistance is granted to poor people who have a certificate of poverty duly issued by the mayor.

173. Legal assistance is available in all lawsuits before the ordinary and administrative courts. It automatically extends to enforcement measures and procedures pursuant to the decisions in respect of which it was granted.

174. It may also be granted for all enforcement measures and procedures pursuant to decisions obtained without the benefit of such assistance and for all procedures, even those based on agreements, where the party pursuing enforcement does not have sufficient means.

175. Eligibility for legal assistance is determined by a panel set up in the court of first instance or the district court with extended jurisdiction. The panel consists of:

- A representative of the prosecution service;
- A representative of the executive council of the Bar Association;
- A representative of the mayor's office.

176. Anyone claiming assistance must submit his or her application, together with documentary evidence, either in writing or in person to the public prosecutor's department of the place where his or her local legal assistance panel is based. The panel, which must take a decision promptly, examines the applicant's financial circumstances and grants or turns down the application for assistance. Legal assistance is granted automatically to anyone charged before an assize court and to all minors. However, this assistance is rarely sought in civil matters because of widespread ignorance of the relevant legislation and because the relevant structures do not function properly.

2. Right to non-discrimination (article 2 of the Covenant)

177. The Constitution of 14 January 1995, the Criminal Code and Constitutional Act No. 1 of 15 March 2003 provide that: "Any statement or act which could create or give rise to racial or ethnic discrimination, any statement or act aimed at provoking or maintaining regionalist propaganda, any news propaganda detrimental to the unity of the nation or the reputation of the State and any manifestation contrary to freedom of conscience and freedom of worship that is likely to bring citizens into conflict with each other shall be punished."

178. Article 5 of the new Constitution of 27 December 2004 also provides that: "All human beings are equal before the law, without distinction as to race, sex, religion, political affiliation or social position."

(a) Condemnation of all racial propaganda and of organizations that engage in it (article 20 of the Covenant)

179. In accordance with the provisions of articles 1 and 2 of the International Convention on the Elimination of All Forms of Racial Discrimination, article 77 of the Criminal Code lays down penalties for racist behaviour.

180. The Central African Republic ratified the Convention on the Elimination of All Forms of Discrimination against Women by Act No. 88.021 of 6 December 1988. Since then, efforts have been made in the area of legislation, but discrimination continues to exist in practice, for instance, the barring of access to certain occupations such as building and mechanics.

(b) Aliens residing in the Central African Republic (article 2 of the Covenant)

181. According to Central African legislation, an alien is a person of foreign nationality but also a person without a nationality (stateless person).

182. The rights granted to aliens living in the Central African Republic fall under both public and private law.

(i) Rights under public law

183. We shall confine ourselves to political rights and civil liberties.

184. Aliens cannot be granted political rights entailing some form of direct participation in the activities of the State Government and its administration. Aliens residing in the Central African Republic do not have the right to vote, to be elected to the National Assembly or to hold elected office. They cannot be appointed to public service, nor are they subject to the public duties that such rights entail, such as military service. However, they are subject to conscription in an emergency or in wartime and are subject to taxes unconnected with citizenship.

185. Aliens do have access to public freedoms and public services since these are rights which meet basic human needs.

186. Freedom of association and freedom of expression are limited to the obligation of secrecy or neutrality. As far as public services are concerned, aliens have access to education, health care and social welfare.

(ii) Rights under private law

187. As a rule, aliens enjoy any rights that are not specifically denied them. These rights may be non-property, property or professional rights.

188. With regard to non-property rights, aliens have the right to marry even if they are temporary residents. They may also go to court to defend their interests.

189. With regard to property rights, aliens may acquire immovable and movable property and carry out all transactions relating to such property. As for literary and artistic copyright, the principle of the Berne Convention for the Protection of Literary and Artistic Works of 1886 and

the Universal Copyright Convention of 1952 applies, namely, that works published on the territory of a contracting State are treated in the same way as works published in a State in which protection is sought.

190. It is in the area of professional rights that most restrictions apply, since limiting access to many professions clearly removes the fear of aliens exerting too great an influence, being incompetent or simply competing with nationals.

191. Once an alien becomes ordinarily resident in the country, he or she can be an employee or even an employer, provided that he or she obtains the approval of the Ministry of Commerce and Industry and holds a trader's operating licence.

192. Nonetheless, article 26 of Ordinance No. 85.017 of 26 June 1985 prohibits aliens from performing functions or exercising professions, except with prior authorization, such as customs officer, transit officer, transport agent, immigration/emigration officer, ship's broker and shipping agent, employment agency manager, ship supplier, public transport operator, licensed grocer, money changer, newsagent, arms and ammunition trader, manufacturer or retailer of radio equipment and spare parts, petrol station operator, business agent, travel organizer for pilgrims or tourists, intelligence agent, public letter-writer, awarder of public service, mining or hydroelectric power concessions and mining prospector.

193. This list is not exhaustive and may be expanded. On the other hand, once foreign employers and workers have settled in the country, they are treated as nationals.

(c) Expulsion from the territory (article 13 of the Covenant)

194. It is important to define the category of persons subject to expulsion before describing the procedure for and the consequences of this measure.

(i) Persons subject to expulsion

195. Aliens whose presence constitutes a threat to public order will be expelled if they have been convicted of a crime or an offence. However, article 27 of Ordinance No. 85.017, which establishes this measure, does not specify a minimum sentence below which expulsion would not be considered, nor the conditions of the sentence, namely, whether or not it is a suspended sentence.

196. Aliens who have infringed article 8 of the same Ordinance are also subject to expulsion. This article imposes on aliens an obligation of secrecy and prohibits them from engaging in political activities or interfering in the internal affairs of the State. In this case, even if the alien is not convicted in a criminal court, he or she will be expelled.

(ii) Procedure for expulsion

197. Expulsion is always ordered by the Minister of the Interior, whose order clearly spells out the reasons for the decision.

198. The alien is notified promptly of the order. Under article 28 of the same Ordinance, an appeal may be lodged with the administrative courts within 48 hours of such notification. The appeal lodged with the administrative courts may be one of the following.

199. An appeal of illegality, if the person concerned can prove that he or she is Central African or complains of a procedural error.

200. An appeal against abuse of power, where, for example, there has been a clear error of judgement.

201. Such an error may result in a stay of execution of the ministerial expulsion order or its repeal by the Minister of the Interior.

(iii) Consequences of expulsion

202. Where there is no error attached to the expulsion order or where it is not appealed in court, the alien is obliged to leave the country and not to return without prior written authorization from the Minister of the Interior.

203. Thus, an alien who evaded that obligation would be in the same situation as a person who entered the territory illegally and might be subject to the penalties laid down in article 29 of Ordinance No. 85.017. In most cases, the authorities enforce expulsion orders automatically. In other words, the person to be expelled is escorted to the border after being held on police or gendarmerie premises. However, the expulsion order may be downgraded and replaced by house arrest, for instance, when it is impossible for the alien to leave the country. In this case, the alien is confined to a specified place and must report regularly to the police or the gendarmerie. He or she may not leave that place without authorization, subject to the same penalties as for infringement of an expulsion order.

3. Right to life and to protection of the human person (articles 6, 7 and 8 of the Covenant)

204. According to articles 1 and 3 of Title I of the Constitution of 27 December 2004: “The human person is sacred and inviolable. Everyone has the right to life and to physical integrity.” This right is protected by Act No. 62.239 of 18 July 1961 establishing the Central African Criminal Code and Act No. 61 establishing the Code of Criminal Procedure and subsequent amendments.

205. Articles 2, 3 and 5 of the suspended Constitution and Constitutional Act No. 1 of 15 March 2003 also provide guarantees against arbitrary arrest and detention, torture and other cruel, inhuman or degrading treatment.

206. These constitutional provisions are based on the Universal Declaration of Human Rights, the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the African Charter on Human and Peoples’ Rights, ratified by the Central African Republic.

207. Accordingly, anyone arrested or imprisoned must be treated in such a way as to preserve his or her dignity and guarantee his or her physical and mental integrity.

208. The Code of Criminal Procedure stipulates that the criminal investigation department, which is responsible for verifying criminal offences, gathering evidence and trying to find the perpetrators, shall operate under the direction of the public prosecutor, the supervision of the State prosecutor and the scrutiny of the indictment division.

209. The criminal investigation department is made up of duly authorized police inspectors and detectives (article 11 of the Code of Criminal Procedure).

210. For the purposes of investigation, the Code authorizes police inspectors to keep any person, other than a minor, in their custody for 48 hours. This period of custody may be extended by 24 hours upon written authorization of the public prosecutor.

211. Whatever the case, all suspected, prosecuted or charged persons are presumed innocent until proven guilty. They have the right to be informed of the charges against them and to be assisted by counsel of their own choosing.

212. In this respect, it should be pointed out that the Minister of Justice has issued express instructions to State prosecutors, public prosecutors and district judges systematically to subject the police, gendarmerie and prison services to strict supervision in order to put an immediate stop to all forms of human rights abuses.

213. With regard to ordinary or more serious offences, the investigating judge may remand the accused in custody by means of a substantiated order or place him or her in judicial custody.

214. In the latter case, the order does not need to be substantiated and is not subject to appeal.

215. Whatever the offence and at any stage of the proceedings, release, whether or not into judicial custody, may be ordered by the investigating judge either at the request of the public prosecutor's office or automatically.

216. In judicial or administrative proceedings, everyone has the right to a fair hearing and to be tried without undue delay by a competent, independent and impartial tribunal established by law. It should be noted, however, that in the Central African Republic there is a criminal investigation department, known as the Central Office for the Prevention of Banditry, which systematically carries out summary and extrajudicial executions of bandits with complete impunity.

4. The death penalty (article 6, paragraphs 2 and 4, of the Covenant)

217. The death penalty is part of the range of penalties that exist in the Central African Republic, but it should be pointed out that no judicial executions have been carried out in the country since 1981.

218. The new Criminal Code to be adopted shortly no longer imposes the death penalty for offences against public property, which is a significant step forward.

219. Moreover, anyone sentenced to death has the right to apply for a pardon or commutation of sentence. As a result, some death sentences have been commuted to life or fixed-term imprisonment by the head of State, availing himself of his prerogative to grant pardons.

5. Right to work (article 8 of the Covenant)

220. The job market in the Central African Republic is on the whole very weak. At present, there are approximately 70,000 payroll jobs in the formal sector and more than three quarters of the economically active population works in agriculture.

221. Following independence, the job market was in full expansion, with the establishment of several companies automatically resulting in the creation of thousands of jobs. It was during this period that graduates were systematically recruited into the civil service.

222. The global economic crisis which worsened in the 1970s had repercussions for the Central African economy and caused the closure of several companies, with the result that many workers lost their jobs. The ensuing social and political crises in the country, the devaluation of the CFA franc and the rapid expansion of the labour force owing to high rates of population growth exacerbated employment problems in the country, resulting in a sharp increase in unemployment and in underemployment among young graduates.

223. The national policy pursued to date focuses on the Central Africanization of jobs and is basically intended to correct imbalances in the ethnic structure of employment by gradually replacing aliens with nationals.

224. This policy was launched in 1964 with Act No. 04/39 of 26 November 1964 introducing controls on the employment of foreign workers. The Act provides that: "all employers established in the Central African Republic shall by 31 December 1964 provide a list of the foreign staff on their payroll".

225. Act No. 64/69 made the hiring of foreign salaried staff subject to the prior authorization of the Minister of Labour, in consultation with the Minister for the National Economy.

226. This policy continued in 1974 with the adoption of Ordinance No. 71/087 of 6 April 1971 regulating the conditions for the exercise of managerial and supervisory functions in private companies established in the Central African Republic.

227. Under article 1 of the Ordinance, private companies established in the Central African Republic are required to train Central African managers.

228. Article 2 prohibits aliens from holding posts as directors, heads of department or office, or foremen or as assistants to any of the foregoing. However, exceptions are made for authorized representatives, delegates and agents.

229. The implementing decree passed in 1974 lifted this prohibition, but made it a requirement for companies to appoint a Central African as an assistant to every foreign worker holding one of the above-mentioned positions of responsibility. It stipulates that “foreign workers to whom Central Africans are appointed as assistants shall train them methodically and fully, under the supervision of the authorized representative, delegate or agent of the company”.

230. A second ordinance was passed in 1976 to regulate the recruitment of foreign workers. As underlined in the introduction, the policy of Central Africanization of jobs was successful in the civil service but not in the private sector, where the number of aliens is still high owing to gaps in domestic legislation relating to the entry, residence and recruitment of aliens.

231. An examination of the employment situation in the Central African Republic shows that, on the whole, it has deteriorated considerably over the past 20 years in the modern sector of the economy giving way to the informal sector, which absorbs the majority of new and old workers into low productivity activities. This sad fact demands that the Government define a new employment policy that will lead to full productive employment.

National employment regulations

232. The following legislation regulates employment in the Central African Republic:

- Act No. 61/221 establishing the Labour Code;
- Act No. 64/39 of 26 November 1964 introducing controls on the employment of aliens;
- Ordinance No. 71/087 of 6 August 1971 regulating the conditions for the exercise of managerial and supervisory functions in private companies in the Central African Republic;
- Ordinance No. 73/095 of 9 November 1973 regulating manpower recruitment in the Central African Republic;
- Ordinance No. 76/02 of 22 January 1976 regulating the recruitment of foreign workers;
- Decree No. 72/154 of 12 May 1972 establishing a joint committee for the Central Africanization of the staff of private companies;
- Decree No. 85/203 of 26 June 1985 amending and supplementing the provisions of Decree No. 72/154 of 12 May 1972;
- Order No. 002/MFPTSS/DGTE/DSTRE of 3 November 1983 regulating temporary employment.

233. Order No. 006/MFPTSS/CAB/DGTE/DESTRE of 21 May 1986 established employment conditions for young workers, as well as stipulating the nature of the work and the types of companies banned for young persons within the age group to which the ban applies.

234. In the interests of promoting full employment, the National Manpower Office and the National Interprofessional Organization for Vocational and Advanced Training, the implementing agencies in matters of employment and vocational training, were merged to form the Central African Agency for Vocational Training and Employment.

235. Article 9 of the repealed Constitution of 14 January 1995 and Constitutional Act No. 1 of 15 March 2003 deal with work and rest. Forced labour, understood as a form of punishment not performed of the person's own free will, does not exist in the country.

236. This is because the Central African Republic, immediately upon attaining national sovereignty, ratified the main International Labour Organization (ILO) conventions on forced labour (Forced Labour Convention, 1930 (No. 29) and Abolition of Forced Labour Convention, 1957 (No. 105)). These provisions are supplemented by the Act establishing the Central African Labour Code (Act No. 61/221) of 2 June 1961, the Civil Service Regulations (Act No. 99/016) and collective agreements.

6. Freedoms (article 9 of the Covenant)

237. According to article 3 of the repealed Constitution and article 6 of Constitutional Act No. 1: "Everyone has the right to life ... liberty of person is inviolable ..." Thus, in the Central African Republic "no one may be prosecuted, arrested or charged except under a law enacted prior to the acts of which he or she is accused. Everyone charged with an offence shall be presumed innocent until proved guilty by the competent court". The right to be assisted by counsel of one's own choosing from the pretrial investigation stage onwards arises from the draft amendments to the Code of Criminal Procedure, which has yet to be adopted and is therefore not applicable. The repealed Constitution of 14 January 1995 also provides for the presumption of innocence by listing it among the guiding principles of criminal proceedings and guides the legislative branch in any policy to amend criminal law.

238. According to article 3 of the new Constitution of 27 December 2004: "Everyone has the right to life and to physical integrity ... These rights may be infringed only pursuant to a law.

239. No one shall be subjected to torture, rape, ill treatment or cruel, inhuman, degrading or humiliating treatment."

240. Under the provisions of the Code of Criminal Procedure, the legal time limit for custody is set at 48 hours, but this period may be extended to 72 hours upon written authorization from the public prosecutor.

241. In the Central African Republic, however, this principle is sometimes flouted and the above-mentioned time limits extended in cases of flagrante delicto. In the event of unlawful detention, there is no automatic compensation mechanism other than the possibility for the victim of filing a complaint against the person responsible.

(a) Freedom of movement (article 12 of the Covenant)

242. According to article 4 of the new Constitution: “liberty of person is inviolable. The freedom to come and go, to live and to settle throughout the national territory is guaranteed to all on the conditions established by law”.

243. The principle of freedom to come and go is not absolute and may be waived.

(i) The principle: free movement

244. First of all, freedom of movement, or freedom to come and go, has a constitutional value. It is a general principle of law.

245. According to article 9, paragraph 1, of Ordinance No. 85.017: “Aliens are free to move throughout the territory of the Central African Republic without any restriction, once they have satisfied the conditions of entry and residence.”

246. The principle of free movement of persons is based on international, regional, subregional and bilateral agreements. However, the free movement granted to aliens is not absolute. While article 9 mentioned above lays down that principle, it places restrictions on it at the same time. For this reason, it can be said that the freedom in question is not unlimited and that it is regulated.

(ii) Restrictions on the free movement of aliens

247. The first restrictions arise from failure to observe the conditions of entry and residence, at least if one keeps to the letter and the spirit of article 9, paragraph 1, of the above-mentioned Ordinance.

248. Thus, an alien wishing to enjoy his or her freedom to come and go on the territory of the Central African Republic should first comply with the formal requirements by observing very scrupulously the conditions prescribed for entry and residence.

249. The second restriction is justified by the concern to preserve public security. In this connection, article 9 provides that: “However, for reasons of security, public order or protection of the economic interests of the nation, the movement of aliens may be regulated by either collective or individual measures; in the case of an individual measure, residence in certain areas may be prohibited by decree or order.”

250. Collective measures are published in the Official Gazette and brought to the attention of aliens by the press, whereas notice of an individual measure is given to the person concerned and mentioned on his or her residence permit.

(b) Freedom of thought, conscience and religion (article 18 of the Covenant)

251. The Central African Republic is a secular republic in which several ethnic groups and religions coexist peacefully. The most widespread religion is Christianity, followed by Islam and animism.

252. All are practised freely in accordance with their various rites and ceremonies, teachings and forms of worship.

253. Harmony has prevailed essentially because the followers of the various religions and beliefs realized very early on that civic rights are based on citizenship and not on race or religion.

254. For that reason, there is no mention of religion or race on the birth certificates, identity papers and travel documents of Central African citizens.

255. Furthermore, article 58 of the Criminal Code prohibits all acts that infringe freedom of thought, conscience and religion.

256. Children are brought up according to their parents' religious and moral beliefs.

(c) Freedom of expression (article 19 of the Covenant)

257. Article 13, paragraph 1, of the new Constitution provides that: "Freedom to inform and to express and impart opinions orally, in writing and in pictures, subject to respect for the rights of others, is guaranteed."

(d) Freedom of the press (article 19 of the Covenant)

258. Article 103 of the Constitution of 27 December 2004 provides for the establishment of the Higher Council for Communication, which is responsible for ensuring freedom of expression and equal access for all to State media, in compliance with the laws in force. The Higher Council is independent of all political authorities, political parties or pressure groups of any kind and has regulatory and decision-making powers. It was established by Decree No. 05.040 of 22 February 2005 and has been operational since 25 February 2005.

259. It should be noted that the Central African media environment has been flourishing, with the emergence of numerous newspapers and radio stations.

260. The Central African State no longer holds a monopoly on communication. It shares the press sector with private companies. The Central African Republic currently has around a dozen independent newspapers and several free FM radio stations.

(e) Right of assembly (article 21 of the Covenant)

261. The rights to freedom of assembly and to take part in marches or demonstrations are also in effect in the Central African Republic. They are guaranteed by article 8 of the repealed Constitution of 14 January 1995 and the Constitutional Act of 15 March 2003.

262. The restrictions placed on freedom to demonstrate basically respond to the concern to preserve public order.

263. Mayors, prefects, deputy prefects and, in the last resort, the Minister of the Interior and Public Security may prohibit a demonstration when it is liable to disturb public order.

264. The administrative authorities thus have the power to put an end to any procession, march or rally on the public thoroughfare and in public places if this is necessary for the maintenance of public order. It may, after a warning, intervene to disperse and prohibit any demonstration that gets out of control. Warnings are not required, however, in the event of violence or attacks against the police or if the police are unable properly to defend the terrain they occupy or the positions for which they are responsible.

**(f) Freedom of association, right to form and join trade unions and right to strike
(article 22 of the Covenant)**

265. Article 10 of the Constitution of 27 December 2004 provides that: “The right to form and join trade unions is guaranteed and shall be exercised freely under the laws governing this right. All workers may join the trade union of their choosing and defend their rights and interests through union action.”

266. The various texts governing working conditions are:

- Act No. 88/09 of 15 May 1988 concerning freedom of association and protection of the right to form and join trade unions in the Central African Republic;
- ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), ratified on 17 October 1960 in accordance with its provisions; the formation of trade unions is not subject to any prior administrative authorization.

267. The exercise of the right of civil servants to form and join trade unions is recognized under Act No. 99/016 on the Civil Service Regulations.

268. Article 41 of Decree No. 00.172 establishing implementing rules for Act No. 99/016 provides that: “Subject to compliance with the conditions of the legislation in force governing their profession, civil servants are permitted to exercise their right to form and join trade unions and their right to strike in defence of their moral and material interests.”

269. The organization and functioning of professional trade unions are defined in article 23 of Act No. 99/016. In the Central African Republic, professional trade unions have legal personality; they have the right to go to court and to hold meetings. Political meetings, however, are strictly prohibited.

270. Measures to ensure the free exercise of the right to form and join trade unions can be found in title II of Act No. 61/221 establishing the Labour Code of the Central African Republic and Act No. 88/009 concerning freedom of association and protection of the right to form and join trade unions.

271. The armed forces, however, do not have the right to form and join trade unions, although the police benefit from the provisions of article 14 of Act No. 61/232 of 2 June 1961 permitting the creation of a police union. The guarantees which this legislation provides apply exclusively to the police and to the civilian personnel of the armed forces.

272. This favourable legal environment has enabled numerous other trade unions to emerge alongside the Central African Workers' Union (USTC) in both the public and the private sector, namely, OSLP, UGTC, CCCTC, CSTC and CNTC, and to engage freely in their activities. Six national trade unions are in existence today.

273. In the Central African Republic, there are no obstacles to freedom of association. For this reason, there is an abundance of duly recognized associations and non-governmental organizations, numbering some 3,000 and operating in various spheres. The new Constitution, to be promulgated shortly by the head of State following the 5 December 2004 referendum, stipulates in article 12 that "all citizens have the right freely to form associations, groups, societies and public service institutions, provided that they conform to the laws and regulations".

274. Although, in the interim, it was the Ministry of the Interior with responsibility for the administration of the territory which handled the procedure for the recognition of an association, the national dialogue process, whose recommendations are enforceable, has now proposed that prefects or heads of local authorities should be able to initiate this procedure. Obtaining acknowledgement of receipt, however, is subject to only three basic conditions:

- The secular nature of the association's objectives;
- The non-tribal nature of the association;
- The secular nature of the association.

275. Act No. 02.04 of 21 May 2002 governs the functioning of associations and non-governmental organizations in the Central African Republic.

276. Freedom of association is guaranteed under the Constitution of 27 December 2004, article 10 of which provides: "The right to form and join trade unions is guaranteed and shall be exercised freely under the laws governing this right. All workers may join the trade union of their choosing and defend their rights and interests through union action. The right to strike is guaranteed and shall be exercised under the laws that govern it. In no circumstances may it impair the freedom of the worker or the free exercise of the right to own property."

277. The Central African Republic, as a party to ILO Convention No. 87 on freedom of association, recognizes that the formation of trade unions is not subject to any prior administrative authorization. This restriction applies only when the basic texts governing the trade union are deposited with the competent administrative authority.

278. It is for this reason that quite a number of trade union federations have emerged, including:

- The Central African Workers' Union;
- The National Coordinating Office of Trade Union Federations, alongside, independent unions, such as the postal workers' union, the transport workers' union, etc.

279. The principal demand of trade union federations continues to be the timely payment of salaries and wages and the settlement of salary arrears in a country that is experiencing serious financial difficulties.

280. Although the right to strike is recognized and several provisions of the Labour Code are aimed at its protection, it is nevertheless the case that Central African workers encounter difficulties for the reasons indicated above.

281. The Central African Republic is a country in which the primary sector, with more than 90 per cent of the economically active population, dominates and the secondary sector, with only 2.5 per cent, has collapsed as a result of recurrent military and political crises that have destroyed an extremely fragile economic fabric.

282. This leaves a large tertiary sector, with 7.5 per cent, but it is in a poor state because of the informal sector.

283. The Central African authorities are making every effort to absorb unemployment. Recently, the civil service, the biggest employer, recruited 1,300 young people to managerial positions.

284. Where political parties are concerned, the Central African Republic is a sovereign, indivisible, secular and democratic State governed by the rule of law. The Constitution and the other laws in force recognize and guarantee political rights.

285. The founding principle of the Republic is government of the people by the people for the people.

286. Article 19, paragraph 2, of the Constitution of 27 December 2004 provides that: "Sovereignty belongs to the people, who shall exercise it by referendum or through their representatives."

287. Article 19 of the same Constitution sets out clearly the role of political parties, their mission and the conditions for their formation.

288. It should be noted that with the advent of multi-party politics in 1990, the Central African Republic saw the birth of an unprecedented number of political parties. There are now 46 political parties for a population that numbered 3,151,072 inhabitants at the most recent general population census in 2003 and for only 32 companies or enterprises.

289. One could say that in the Central African Republic, political parties do not come into being in order to play their traditional role of expressing the right to vote, still less to stimulate political, economic and social life, but above all as a vehicle for seeking appointments and pursuing selfish personal interests.

290. In order to put an end to the growth and proliferation of political parties, and in particular to prevent political tourism on the part of political leaders, the national dialogue process, whose recommendations are enforceable, has defined a number of criteria for the existence and

formation of political parties. In particular, in order for a political party, once established, to be legally recognized it must collect at least 200 signatures in 9 of the Central African Republic's 16 prefectures.

7. Recognition of national languages (article 27 of the Covenant)

291. In accordance with article 18, paragraph 5, of the Constitution of 27 December 2004, the Central African Republic has two official languages, Sango and French. Even since independence, Sango has been the only national language spoken throughout the territory of the Central African Republic. It is described in phonetic, phonological, morphological and morpho-syntactical terms. It has rules of spelling, spelling lists, a basic lexicon and a variety of texts (oral tradition, texts providing basic information on agricultural techniques, health, etc.).

292. These two languages are used as mediums and taught as subjects in formal and non-formal education.

293. For instance, the national public and private media reserve daily slots for news broadcasting in the national languages and for programmes on the country's cultural and artistic heritage.

294. Sango is also taught to students in the Department of Modern Languages of the Arts Faculty of the University of Bangui.

8. Family rights (articles 23 and 24 of the Covenant)

295. In the Constitution of 27 December 2004, the Central African Republic subscribes to the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the different Covenants, instruments recognizing the legal personality of all individuals. In implementing these instruments, national legislation protects the individual against arbitrary or unlawful interference in his or her privacy, family, home or correspondence. It also protects the individual against unlawful attacks on his or her honour and reputation by providing appropriate penalties in the Criminal Code.

296. The various legal texts listed below testify to the goodwill of the Central African Republic:

- The Constitution of 14 January 1995, repealed by Constitutional Act No. 1 of 15 January 2003;
- Act No. 61.212 of 20 April 1961 on the Nationality Code;
- Act No. 63.406 establishing the nationality of children born to a Central African mother where the parents have not contracted a lawful civil marriage;
- Act No. 64.54 amending articles 6, 7 and 10 of Act No. 61.212 of 20 April 1961 on the Central African Nationality Code and its subsequent amendments;

- Act No. 97.013 of 11 November 1997 on the Family Code, article 209 of which provides that: “No one may contract marriage before the age of 18 years, unless a dispensation is granted by the public prosecutor on serious grounds at the request of the person concerned. The marriageable age for claiming the right to marry and to found a family is 18 years.” Article 210 of the same text states that no marriage shall be entered into without the consent of the intending spouses. Consent is expressed when the marriage is celebrated;
- Article 6, paragraph 1, of the Constitution of 27 December 2004 provides that: “Marriage and the family constitute the natural and moral basis of the human community. They are placed under the protection of the State.”

297. Appropriate steps to ensure equality of rights and responsibilities of spouses during marriage and at its dissolution were formalized in articles 251 to 275 of the Code.

298. In the case of dissolution, the Code makes provision for the necessary protection of any children (arts. 305 to 311).

299. The Central African Republic, which has ratified the Convention on the Rights of the Child, gave expression to the principle contained in article 12 of the Convention when it set up a children’s parliament in 1996; the ages of its members range from 10 to 18 years.

300. In ratifying the above texts, the Central African Republic undertook to promote these rights and accordingly adapted its national legislation in order to punish all forms of exploitation and abuse of children.

301. According to article 134 of the Family Code: “Registration of birth shall take place in the month following the birth. When a birth has not been registered within the legal deadline, the registrar may record it in the register only following a judgement handed down by the regional court with jurisdiction in the area where the child was born ...”

302. Under Act No. 64.54 amending the article of Act No. 61.212 on the Nationality Code: “Anyone born of a Central African parent shall be Central African, regardless of place of birth.”

303. Lastly, it should be mentioned that human rights education is in the process of being incorporated into the basic education curriculum.

304. The Central African Republic is one of the States in the world that recognizes and proclaims political freedoms. Since its creation on 1 December 1958, different successive regimes have always recognized political freedoms. Article 1, paragraph 3, of the 1995 Constitution gives them pride of place.

305. Political rights, including, freedom of opinion and expression, freedom of association, freedom of assembly and freedom to hold public demonstrations and the right to take part in the conduct of public affairs are guaranteed by the various Constitutions that the Central African Republic has had over the years.

B. Freedom of opinion and expression

306. Freedom of opinion and freedom of expression have their origins in the French Revolution and the Declaration of the Rights of Man and of the Citizen of 26 August 1789. These concepts were reaffirmed on 10 December 1948 in article 1 of the Universal Declaration of Human Rights.

307. As a member of the United Nations ever since its independence, the Central African Republic has embodied these principles in its basic laws and regulations.

1. Constitutions, acts, decrees and orders brought into line with article 19 of the Covenant

(a) Laws and regulations

308. The Central African Republic ratified the International Covenant on Civil and Political Rights in 1996. Since then, various laws have been brought into line with it and guarantee freedom of opinion and expression in the country.

(i) Constitutions

309. Several Constitutions have been repealed, redrafted or even suspended: All of them, however, have had the merit of recognizing and guaranteeing the freedoms expressed as follows: “Freedom to inform and to express and impart opinions orally, in writing and in pictures, subject to respect for copyright, is guaranteed. (...) Freedom of the press is recognized and is exercised under the conditions laid down by law.”

310. Article 13 of the Constitution of 27 December 2004 provides that freedom to inform, express and impart opinions orally, in writing and in pictures, subject to respect for the rights of others, is guaranteed.

311. Freedom of the press is recognized and is exercised under the conditions laid down by law.

312. Freedom of intellectual creation is recognized and guaranteed under the conditions laid down by law.

313. The Government’s political will in this regard is also expressed in legislation and regulations, through the laws, decrees and orders it has issued.

(ii) Laws

314. In 1998, two acts regulating the communication sector were voted by the National Assembly. These were Acts Nos. 98.005 and 98.006 of 27 May 1998 on the establishment, organization and functioning of the Higher Council for Communication. The two texts were later edited but kept the same titles. Numbered 03.002 and 03.003, respectively, they were signed on 14 January 2003.

315. On 31 December 2004, the Government enacted Ordinance No. 04.020 on the establishment, organization and functioning of the Higher Council for Communication. This Ordinance was substantially amended by Ordinance No. 05.002 of 22 February 2005 on freedom of communication.

(iii) Decrees

316. In order to regulate the communication sector and the access of political parties to the State media, the Government issued Decrees Nos. 03.002 and 03.003.

(iv) Orders

317. In 1997, Order No. 02.003 of 15 May 1997 amended Order No. 003.92/MCAC/CAB/SG of 2 September 1992, introducing the granting of broadcasting slots in the State media for legally recognized political parties. However, these orders are viewed as very repressive for the media and there is also the problem of the responsibility of journalists, who sometimes have very little training, for how the news is presented. These problems cause difficulties for the application of the basic principles in question in the Central African Republic.

(b) Application of the principles of freedom of opinion and expression in respect of laws and regulations brought into line with article 19 of the Covenant

(i) With respect to laws and regulations

318. Order No. 04.020 of 31 December 2004 on the establishment, organization and functioning of the Higher Council for Communication was enacted by the Government and took effect with the promulgation of Decree No. 05-040 of 22 February 2005 endorsing the election of the members of the Higher Council for Communication.

319. Simultaneously, Decree No. 50 of 25 February 2005 confirmed the election of the members of the Bureau of the Higher Council for Communication.

320. The Council is not yet operational. The Government is going to take steps, through the Department of Communication, to put in place this self-regulating body. To that end, a draft decree establishes the conditions for the election of communication professionals to the Higher Council.

321. Order No. 002.03 on the appointment of members of the Preparatory Committee for the election of communication professionals to the Higher Council for Communication was enacted on 23 January 2003.

322. A call for candidates was prepared and/or signed on 23 January 2003 for the implementation of these measures. The events of 15 March 2003, however, caused their implementation to be deferred.

(ii) With respect to the administration of justice

323. With the effective establishment of the Higher Council for Communication, Ordinance No. 05-002 of 22 February 2005 on freedom of communication decriminalized press offences.

324. The Council ensures that information is balanced and pluralistic, bearing in mind the various political, economic, social and cultural sensitivities of the Central African Republic.

C. Political rights

Implementation in the Central African Republic of article 25 of the Covenant

Provisions of article 25

325. Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public service in his country.

326. Since the advent of democracy in the Central African Republic in the 1990s, political parties have been governed by Act No. 91.004 of 4 July 1991.

327. The Government recently submitted to the National Transition Council a political parties bill that has not yet been enacted or published.

IV. FUTURE PROSPECTS

328. The new Constitution of 27 December 2004 grants citizens all the rights listed in the Universal Declaration of Human Rights of 1948, the International Covenants on Human Rights and the African Charter on Human and Peoples' Rights of 27 June 1981:

- The right to work and equal employment opportunities are guaranteed (art. 9);
- The right to vote and to be elected is guaranteed by article 19, which specifies that the usurpation of sovereignty by a coup d'état or any other means is an imprescriptible crime against the Central African people.

329. Article 21 provides that the President of the Republic shall be elected by direct universal suffrage by the Central African people.

330. Article 49 applies the same provision to representatives of the people, known as deputies of the nation.

331. The shortcomings noted in the implementation of constitutional and legal provisions are not, however, due to the absence of legal instruments, but rather to a lack of rigour in applying them.

332. The new Constitution requires the President of the Republic to take an oath on his investiture by the Constitutional Court (art. 25). The text of the oath stipulates, inter alia, that the President must swear before God and the nation scrupulously to respect the Constitution ... conscientiously to fulfil his duties without any ethnic, regional or religious considerations ... to be guided in all matters only by the national interest and the dignity of the Central African people.

333. Such a commitment calls for rigour in the application of laws and regulations in order to prevent their infringement.

334. The authority and scope of the bodies responsible for ensuring respect for human rights should also be reinforced, in particular the Office of the High Commissioner for Human Rights and non-governmental human rights organizations.

335. The international community has the duty to impose sanctions on States which flout human rights.

336. A State can develop only in a context of respect for the rights granted to its citizens in the economic, social, cultural, civil and political spheres. The Central African Republic must henceforth follow this path for its development.

337. The fresh prospects opened up by the provisions of the new Constitution will enable the implementation of the international human rights instruments to be reinforced. However, all protagonists in the political life of the nation will have to apply legal provisions strictly.

V. CONCLUSION

338. The exercise of the principles of freedom of opinion and expression is effectively recognized and guaranteed in the Central African Republic through the many laws and regulations to which we have referred.

339. With the effective establishment of the Higher Council for Communication, Ordinance No. 05-002 of 22 February 2005 on freedom of communication decriminalized press offences. The Council ensures that information is balanced and pluralistic, bearing in mind the various political, economic, social and cultural sensitivities of the Central African Republic.

340. The Government of the Central African Republic, in its concern for human rights, considers that the implementation of the provisions of the International Covenant on Civil and Political Rights is a necessity and an ongoing obligation.

341. Thanks to the support of its partners and the mobilization of non-governmental human rights organizations, the Central African Republic has equipped itself with an important range of legal instruments that will enable it to progress towards democracy, good governance and the rule of law, which are guarantees of lasting peace and prerequisites for harmonious, sustainable development.
