



## ● Violations of economic and social rights:

the report reveals that successive periods of conflict in the CAR were marked not only by serious violations of civil and political rights (such as the right to life, to physical integrity, and freedom of expression) but also by large-scale violations of economic and social rights (such as the rights to health, education, and housing). **Disregard for objects that are specifically protected under the laws of war by parties to the conflicts in the CAR**, hinders the realization of economic and social rights of the population (such as the rights to education and health).

Intentionally directing attacks against 'buildings dedicated to religion, **education**, art, science or charitable purposes, historic monuments, **hospitals** and places where the sick and wounded are collected', is a war crime.<sup>1</sup>

## ● Impact:

violations of these rights have a particularly serious impact in the CAR because the country is one of the least developed in the world:

in 2016, it ranked **last** in the U.N.'s Human Development Index, a tool which measures development indicators among **188 countries** in the world.

**Economic, social and cultural rights** are fundamental entitlements that are protected under international law. The CAR is a party to the International Covenant on Economic and Social Rights since 1981. Some of the economic and social rights protected by this treaty which were repeatedly violated in the CAR are the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing (article 11), right of everyone to the enjoyment of the highest attainable standard of physical and mental health (article 12), and the right of everyone to education (article 13). International human rights standards are applicable at all times – that is, in times of peace and during armed conflict.

**The Guidance Note of the Secretary General: United Nations Approach to Transitional Justice (2010)** highlights that violations of economic, social and cultural rights exacerbate or spark social or political tensions resulting in conflict or repression, and that conflict or repression in turn, often precipitate further violations of these rights. Successful transitional justice necessitates taking account of the root causes of conflict or repressive rule, and must seek to address the related violations of all rights, including economic, social, and cultural rights (e.g. loss or deprivation of property rights). In 2014, OHCHR released a publication which explores in greater depth the ways in which transitional justice processes have addressed violations of economic, social and cultural rights, that provides recommendations for stakeholders.<sup>2</sup>

**Land, housing, and property restitution for refugees and internally displaced persons**, in a context where individuals were forced away from their usual places of residence, may become a crucial area in which a human rights response is needed. Whether they fled due to general violence, or due to violence targeting them on account of their religion or ethnicity, persons who fled into internal displacement within the country or as refugees, often left behind land, housing and other property and assets. Attacks against civilians were often accompanied by usurpation of land, looting and theft of property. The CAR's National Reconciliation Strategy adopted in November 2014 outlined the intention to safeguard such property rights, and to invalidate the usurpation of law and grabbing of property of persons who fled.

## ● Acts of pillage:

In addition to being violations of human rights law, certain acts which violate economic, social and cultural rights may also constitute crimes. If such acts are investigated and prosecuted, this will help to highlight the gravity of these violations.

The Mapping Report notes that during multiple armed conflicts in the CAR, **acts of pillage** were particularly prevalent. It notes that such illegal takings of property for private use by parties to the conflicts were widespread in the CAR. Large-scale pillage in the CAR was notably recognized by the International Criminal Court, which sentenced Jean-Pierre Bemba to 18 years imprisonment on the basis of his command responsibility for murder and rape as war crimes and crimes against humanity, as well as for the war crime of pillage.

<sup>1</sup> ICC Rome Statute, Article 8.2 (e) (iv).

<sup>2</sup> See OHCHR publication on « transitional justice and economic, social and cultural rights », 2014 (<http://www.ohchr.org/Documents/Publications/HR-PUB-13-05.pdf>)



**The war crime of pillage under international law** consists of the taking of property, with the intention to deprive the owner of the property and to appropriate it for private or personal use, in the context of an armed conflict.<sup>3</sup> Where such taking is justified for military necessity, it does not constitute the crime of pillaging.

It is essential to determine the use to which the property taken is put: where property is taken on a large-scale for the private or personal use of members of an armed group or force, the defence of military necessity does not apply.

The war crime of pillage is different from the common law crime of theft, as it requires that there should be an armed conflict in existence, which facilitated the takings of property.

## ● Conclusion

The report finds that most parties to armed conflicts in the CAR often deliberately conducted war in a manner that resulted in a systematic denial of economic and social rights of the population. Some incidents documented in the report which entail denial of economic and social rights could, if proven in Court, constitute serious crimes (the war crimes of pillage, of attacks directed at protected objects, and the crime against humanity of persecution).

<sup>3</sup> ICC Rome Statute, Article 8.2 (e) (v).