



The Mapping Report and the Special Criminal Court: main recommendations

The Special Criminal Court is one of the main mechanisms to address accountability for serious violations of international human rights law and international humanitarian law committed in the Central African Republic. It has been established as part of the national judicial system, with its seat in Bangui, and the possibility of holding hearings elsewhere in the country, where exceptional circumstances or its work imperatives so require.

● Jurisdiction:

Under Article 3 of its statute, the Court has jurisdiction to: “try serious violations of human rights law and serious violations of international humanitarian law committed on the territory of the Central African Republic since 1 January 2003, as defined by the Central African Republic Penal Code, and under the international obligations entered into by the Central African Republic in the field of international law, in particular the crime of genocide, crimes against humanity and war crimes.”

● A prosecutorial strategy that is communicated to the public and victim-centred:

The scale and widespread nature of violations committed in the CAR presents a real challenge for bringing the perpetrators to justice. Even with the combined efforts of the various prosecution mechanisms in the Central African Republic, it will be impossible to bring all the perpetrators to justice. There is therefore a need to develop a prosecution strategy. When such a strategy is responsive to the needs of victims, it has the highest potential to be transformative and have the most impact. Public communication of the prosecutorial strategy will be critical to ensure that CAR citizens, notably the numerous victims, understand the rationale for prioritizing cases for prosecution.

● Priority areas for investigation:

In accordance with the mandate of the Mapping Project, a number of priority areas for investigation were identified which may guide the work of the Prosecutor of the Special Criminal Court. These are presented below:

To identify the individuals who bear the greatest responsibility for the crimes committed since 2003. Consideration might however also be given to investigating and prosecuting a number of mid-level perpetrators, especially at the regional level, who may provide key elements regarding the chain of command.

The systematic participation of State institutions in the commission of serious violations. Such investigations would examine how State institutions were diverted from their constitutionally mandated functions, and used to commit serious violations against civilians.

Specific waves of violence, such as the scorched earth campaign by Government troops during the armed conflict in the northwest of the country from 2006. These incidents are of particular concern due to the magnitude of the destruction of civilian property, the flagrant disregard for the humanitarian law principle of distinction between civilians and combatants, and the principle of humanity, which requires that belligerents avoid inflicting unnecessary suffering on the population.

Attacks targeting persons on the basis of their religion or ethnicity, by investigating emblematic cases of forcible transfers of population, and violations of the freedom of movement, notably of people confined in enclaves. Persecution on the basis of religious affiliation was an extreme form of violation associated with the conflict and left a major scar on society. It will therefore be important to identify the planners and organizers of such acts.

Sexual violence in all forms. Sexual violence, in particular rape, sexual assaults and sexual slavery, were committed during all conflicts covered by the report. The commission of these acts by multiple parties to these conflicts, including extreme forms of sexual violence, will require a concerted investigation effort in order to combat impunity for sexual violence and ensure adequate protection measures for the victims.

Recruitment of children by all parties to the conflict. Investigating those violations is of extreme importance, notably because, despite some efforts to stop and prevent the recruitment and use of children, many armed groups continue to have children in their ranks, and have at times, re-recruited children who had been demobilized.



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Extensive campaigns of pillage by armed groups, including attacks on schools, hospitals and health centres. Extensive attacks aimed at appropriating or destroying valuable resources at the expense of already impoverished communities had major repercussions as they deprived civilians of the enjoyment of fundamental economic and social rights.

Attacks on fundamental public freedoms, including but not limited to freedom of expression and freedom of the media. Addressing the repressive environment which enabled violations to take place, and reprisals against individuals who spoke out against violations, can make an important contribution to understanding the mechanisms of repression in the Central African society.

Attacks on international peacekeepers and on staff members of humanitarian organizations. These attacks against peacekeepers and humanitarian personnel are grave in their own right.

Strategic litigation through prosecutions. Such litigation seeks to break criminal patterns and structures that have permeated the State or society. Its aim is to strengthen the justice system and the rule of law. It therefore focuses on cases that are representative and reveal systematic patterns of human rights violations. Through strategic litigation, the judicial process could have impacts on the wider society beyond the end results of the specific cases tried, by achieving regulatory, legislative, institutional and cultural changes.

● Recommendations on the inclusion of sexual gender-based violence in the work of the Special Criminal Court

The Rules and Procedures of the Special Criminal Court should provide that no corroboration of the victim's testimony is required in case of conflict-related sexual violence. The Rules should also prohibit the defence from eliciting evidence of consent if the victim was subjected to, threatened with, or had reason to fear violence, duress, detention or psychological oppression. The Rules and Procedures should also provide that evidence of prior sexual conduct of the victim should not be admitted.

Proactive recruitment strategies should be put in place to ensure gender parity in the staffing at all levels in the Special Criminal Court, and appointing advisers on conflict-related sexual violence: the Office of the Prosecutor should appoint senior gender advisers, ensuring that their work is integrated into all key processes of the Office.

Developing and implementing gender policies and operational guidelines for crimes of sexual violence. A comprehensive gender policy should be developed from the beginning of the work of the office of the Prosecutor to overcome misconceptions and other barriers concerning sexual violence.

Training all staff members of the Special Criminal Court on conflict-related sexual violence and on how to integrate a gender perspective in their daily work. This includes mandatory trainings delivered by practitioners with extensive experience working on conflict-related sexual violence cases, and ensuring that managers are accountable for implementing gender policies and guidelines on conflict-related sexual violence.

Crimes of sexual violence should be prosecuted both as "stand alone" crimes (such as rape) and as the actus reus for other crimes (such as torture, enslavement, persecution) in appropriate cases. To convict for sexual violence as a crime against humanity, it is sufficient to show that an act of sexual violence formed part of a widespread or systematic attack against the civilian population. It is not necessary to show the commission of multiple acts of sexual violence.

The Special Criminal Court should adopt a victim and witness-centred approach to create an enabling environment for victims of sexual violence to provide the best evidence possible. To this end, provision should also be made to appoint relevant experts to provide psycho-social support to victims/witnesses before, during and after the trials.