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Central African Republic

Government tramples on the basic rights of detainees

1. Introduction

In March 2006, Amnesty International started receiving reports of a number of arrests of people suspected of supporting armed groups opposed to the government of President François Bozizé.¹ Relatives of those arrested and local human rights organizations expressed fears that the detainees were being ill-treated and that they were being denied visits by their relatives and access to legal counsel. Some of the detainees were reported to be in ill health but not receiving necessary medical treatment.

In May 2006, three Amnesty International delegates visited the Central African Republic (CAR) to gather information about these arrests and other human rights concerns in the country. By the time the delegation arrived in the capital, Bangui, more than 40 men and women accused of collusion with armed groups were already in custody. The delegation initially met some of the detainees' relatives and representatives of local human rights groups, who expressed concern at the harsh detention conditions and the refusal by the authorities to allow the detainees to have access to legal counsel. Legal experts in the country also expressed serious concern that virtually all the detainees were not being held on grounds and according to procedures established by law. Several weeks after their arrest, most of the detainees were still being held incommunicado, without charge, and without access to their families, lawyers and doctors. Many of these detainees were subsequently charged with endangering the internal security of the state and other offences related to armed group activities. The trial of about 25 of them took place in August and September 2006. About 20 of them were acquitted and released (see Section 4 below).

During their visit, the Amnesty International delegates sought to meet the detainees, most of whom were being held at the National Gendarmerie's Research and Investigation Department, (*Section de recherche et d'investigation*, SRI). However, for much of the time, the authorities failed to give the delegates the authorization to meet the detainees. The authorization was finally granted by the Procurator of Bangui's High Court on the eve of the delegates' end of their visit. The delegates took this opportunity and visited the SRI and several other detention centres on 27 May 2006.

During the visits to the detention centres, including Ngaragba central prison for males and Bimbo central prison for females, both in Bangui, the delegates were concerned at the harsh detention conditions, which may amount to cruel, inhuman or degrading treatment. The delegates also established that more than 40 detainees were being held at the SRI in connection with their alleged support for, or association with, armed groups. According to

¹ President Bozizé is a former army Chief of Staff who led an armed group that overthrew the government of former President Ange-Félix Patassé in March 2003.

reports, several detainees had been arrested simply because of family or ethnic connections with members of armed groups. Many had been arrested in the capital, Bangui, while others had been arrested in the north of the country. Some of those arrested were reported to be held in a prison in the northern town of Bossangoa, the capital of Ouham province (*préfecture*). Owing to the danger of travelling on the road between Bangui and the north of the country, the Amnesty International delegates were unable to visit Bossangoa and other areas in the north.

The Amnesty International delegates discovered systematic violations of international law and standards on the right to liberty and security of the person,² the right to a fair trial,³ the right to humane conditions of detention,⁴ the right to freedom from torture and other cruel, inhuman and degrading treatment or punishment,⁵ the right to the best attainable standard of physical and mental health,⁶ and the right to food.⁷ During discussions with detainees, especially those held at the SRI, the Amnesty International delegates were concerned that some of them had been detained without charge or trial for several weeks. They had not appeared before an independent and impartial judge to challenge the basis for their arrest and continued detention. Under international law and standards, pre-trial detention should be the exception rather than the general rule:⁸ prolonged detention without charge should not occur. Amnesty International considers that those detainees who were held without charge or trial, and without access to their families, doctors and lawyers, were detained incommunicado. Detention without any legal basis (e.g. where a prisoner has completed his or her sentence, or where a defendant has been acquitted of all offences) is arbitrary detention.⁹

A number of the detainees were in ill health and had no access to medical care. Several of the detainees were suffering from the effects of ill-treatment at the time of their arrest and while in custody. Others were suffering from illnesses they had contracted before their arrest or while in custody. Some of the detainees told the Amnesty International delegates that they had been denied access to medical care, even when they or their relatives were prepared to pay for it. In virtually all cases, detainees and prisoners in the CAR or their relatives pay for their own medical care. This violates international standards on humane conditions of detention, which require the state to give detainees access to the medical services available in the country without discrimination;¹⁰ and to provide medical

² International Covenant on Civil and Political Rights (ICCPR), Article 9; African Charter on Human and Peoples' Rights (African Charter), Article 6

³ ICCPR, Article 14; African Charter, Article 7(1); African Union Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa

⁴ ICCPR Article 10

⁵ ICCPR Article 7; African Charter, Article 5

⁶ International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 12

⁷ ICESCR, Article 11

⁸ ICCPR, Article 9(3)

⁹ See the methods of work of the UN Working Group of Arbitrary Detention (WGAD), available at: <http://www.ohchr.org/english/issues/detention/index.htm>

¹⁰ Basic Principles for the Treatment of Prisoners, Principle 9

examinations and necessary treatment from a qualified medical officer.¹¹ The authorities also fail to respect, protect and ensure detainees' right to food, which is part of their obligation to provide humane conditions of detention.¹² Families have to provide food for detainees and prisoners in the CAR, as the authorities do not provide adequate nutrition.

During meetings with the authorities, the Amnesty International delegates expressed concern about the harsh detention conditions and failure by the authorities to respect the detainees' legal rights. The delegates urged the authorities to ensure adherence to national and international law and standards relating to arrests, detentions and fair trial. By June 2006, many of the detainees had been charged with endangering the internal security of the state and were transferred to Ngaragba and Bimbo prisons. However, the vast majority of the detainees remained held without charge or trial at the SRI and other detention centres, such as the Camp de Roux military barracks in Bangui. Detainees held at the Camp de Roux were reportedly denied visits by their relatives and access to legal counsel.

During the August to September 2006 session of the Criminal Court (*Cour criminelle*), more than 20 detainees charged with endangering the internal security of the state were brought to trial. Most of them were acquitted. However, the government prevented the release of those acquitted on 12 September 2006. On 13 September, members of the Republican Guard removed them from Ngaragba prison and transferred them to a detention centre whose name the authorities refused to disclose to the detainees' defence lawyers and relatives. It was later established that on leaving Ngaragba, the detainees had been transferred to Bossembélé prison in Ombella-Mpoko province. The refusal to release the detainees and their transfer from Ngaragba prison had not been authorized by a judicial official. Continued detention of acquitted defendants is a violation of Articles 64 and 65 of the CAR's Organic Law number 95.0011 of 23 December 1995 relating to the organization and functioning of the Cassation Court, which states that an appeal against a ruling of the Criminal Court must not be prejudicial to the acquitted defendant.

Amnesty International is publishing this report to inform the CAR authorities and the international community of its concerns regarding the violation of the detainees' rights which are enshrined in both national laws and international law and standards. In this report, Amnesty International urges the CAR authorities to ensure that the detainees' rights are respected. In particular, the authorities must ensure that the detainees are treated humanely, and released if they are not charged or if they are acquitted by a competent court after a trial that accords with international fair trial standards.

¹¹ Standard Minimum Rules for the Treatment of Prisoners, Rules 22-26; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principles 24-26

¹² Human Rights Committee, *Kelly v. Jamaica*, (253/1987), 8 April 1991, (A/46/40), 1991, paragraph 5; Standard Minimum Rules for the Treatment of Prisoners, Rule 20

2. Background

In the second round of presidential elections in May 2005, President Bozizé defeated former Prime Minister Martin Ziguélé. In June 2005, François Bozizé was sworn in as President. Soon after the elections, there were reports of attacks on government forces by unidentified armed groups. The media and government critics said that a nascent armed group had been launched in northern CAR. The government persistently denied the existence of any armed group anywhere in the CAR and blamed the attacks on highway robbers known locally as *Zaraguinas*.

In subsequent months, further attacks continued to be reported. During the same period, there were reports of hundreds of civilians fleeing the region to southern Chad. The refugees reported that they were being attacked by both armed groups and by government forces.

On 29 January 2006, an armed group attacked posts of the security forces in the town of Paoua¹³ in Ouham-Pende province in the north of the country. According to political opposition and civil society sources in the CAR, the attackers included men, women and young people, armed with rudimentary weapons, hunting rifles and automatic weapons. The attacks were claimed by an armed group known as the Union of Republican Forces, (*Union des forces républicaines*, UFR). The UFR is led by former army lieutenant Florian N'Djader Bedaya.¹⁴ Former government minister and presidential candidate, Jean-Jacques Demafouth, who lives in exile, was also accused by the CAR government of being a leader of the UFR. Jean-Jacques Demafouth denied any association with the armed group.

At least 80 civilians,¹⁵ many of them unarmed, were reportedly killed by government forces during a counter-attack. Many of the victims are reported to have been extra-judicially executed by members of the Republican Guard under the guise of a counter-insurgency operation. Fearing these attacks by government forces, at least 7,000 people were reported by humanitarian organizations to have fled from Ouham-Pende province to neighbouring Chad and joined more than 40,000 other CAR refugees who had fled during previous armed conflicts, especially in late 2002 and early 2003. According to humanitarian organizations, an estimated 50,000 more were displaced inside the CAR, with little or no access to humanitarian assistance. According to local human rights organizations, some displaced people hiding from government forces are reported to have died from wounds they had sustained during attacks, from snake bites and from illnesses such as malaria for which they could not access medical care. Humanitarian organizations reported seeing people running

¹³ Paoua is located close to the CAR's border with neighbouring Chad.

¹⁴ Florian N'Djader is the son of former gendarmerie general François N'Djader Bedaya who was killed during General François Bozizé's first attempt in 2001 to overthrow former president Ange-Félix Patassé.

¹⁵ Some sources in the CAR say that more than 100 unarmed civilians were killed.

away on hearing the sound of vehicles, mistakenly believing that they carried government forces.

In February 2006, former army lieutenant Jean-Jacques Larmassoum was arrested on the outskirts of Bangui. Before his arrest, it had been widely reported that he was the leader of an armed group known as the Army for the Restoration of the Republic and Democracy, (*Armée pour la restauration de la République et la démocratie*, APRD). According to sources in Bangui, Jean-Jacques Larmassoum reportedly told the security forces that he had been in Bangui to collect financial and other assistance from his supporters. This sparked off a wave of arrests of people suspected by the government of being supporters of armed groups. More than 40 alleged armed group supporters – most of them civilians - had been arrested by the start of May 2006. They were all accused of endangering the internal security of the state, but only a few had been formally charged by the start of June of the same year. All the detainees whom Amnesty International met in May 2006 denied any involvement in armed activities. Many of them were members or supporters of former President Ange-Félix Patassé's Movement for the Liberation of the Central African People, (*Mouvement de libération du peuple centrafricain*, MLPC). A significant number of those arrested came from the same Kaba ethnic group as Ange-Félix Patassé. Others were relatives or personal friends of government opponents living abroad.

3. Arrests of alleged supporters of armed groups

More than 40 people accused by the government of supporting armed groups were arrested between February and May 2006. Many of those detained had personal and/or political links with known or suspected leaders of armed groups (see background above). They were accused of endangering the internal security of the state and some of them were formally charged. Under Articles 70 to 76 of the CAR Penal Code, people found guilty of endangering the internal security of the state can be given prison sentences of between one year and life imprisonment or can be sentenced to death. However, there have been no executions in the CAR since 1981.

One of those arrested in April 2006 was Claude Yabanda, a 50-year-old electronics engineer. For several years he had been a Chief of Protocol for Abel Goumba,¹⁶ who until July 2006 was the president of a legally recognized political party known as the Patriotic Front for Progress (*Front patriotique pour le progrès*, FPP).

Claude Yabanda informed Amnesty International delegates that on the morning of 29 April 2006 about eight gendarmes arrived at his house in Bangui. They asked him to confirm his identity and proceeded to search his house. He asked them what they were searching for and they replied that they would tell him after the search. Onlookers and Claude

¹⁶ Abel Goumba was replaced in July 2006 by his son, Alexander Goumba, as President of the FPP.

Yabanda's relatives who had come to see what was happening were ordered away by the gendarmes. After the search, Claude Yabanda was taken away by the gendarmes who also took his mobile phone, a laptop computer and an unspecified number of documents. He was first detained at the National Gendarmerie headquarters before being transferred to the SRI. While in custody at the SRI, Claude Yabanda told Amnesty International delegates that he was initially not told the reasons for his arrest. He later learned from the gendarmerie that he was suspected of colluding with leaders of armed groups.

During interrogation by the judicial authorities, Claude Yabanda was asked if he knew Jean-Jacques Demafouth and Cyriaque Mboumi and replied that the two men were his cousins. Cyriaque Mboumi was already in custody following his arrest on 27 April 2006 and had been forcibly taken by the gendarmes to show them the location of Claude Yabanda's house. Claude Yabanda also admitted to having frequent telephone conversations with Cyriaque Mboumi and to having given him 250,000 CFA Francs (equivalent to approximately US\$500). The contact between Claude Yabanda and Cyriaque Mboumi was reportedly interpreted by the authorities as evidence of their support for armed groups. During the interrogation, Claude Yabanda reportedly admitted to receiving money from his sister in Côte d'Ivoire but denied the accusation that the money was intended to finance armed groups. Claude Yabanda was charged in June 2006 with endangering the internal security of the state.

Those who appeared to have been arrested on account of their previous association with former President Ange-Félix Patassé included the Protestant pastor Abel Mongaï, who was known to be a spiritual advisor to the former president. Abel Mongaï was arrested on 17 March 2006 and detained at the SRI. He was released without charge towards the end of May. The authorities did not make public the reasons for his release.

Several women were among the people detained on suspicion of supporting armed groups. They included Lydie Florence Ndouba and Clotilde Gamo. Lydie Florence Ndouba, a director of Social Affairs at the Ministry of Internal Affairs, was arrested on 28 February 2006 at her place of work. She is the sister of Christophe Ndouba, a member of the CAR National Assembly for Paoua II constituency in Ouham-Pende province, and of Prosper Ndouba, a former spokesperson for former president Ange-Félix Patassé. Lydie Florence Ndouba told Amnesty International that after her arrest, the security officers took her to Christophe Ndouba's home. They searched the house but reportedly found nothing incriminating. On 22 March 2006, Lydie Florence Ndouba and another detainee, Sosthene Djilamkoro Guetel, were taken to Bossembélé for cross-examination along with Jean-Jacques Larmassoum, who was being held there. Jean-Jacques Larmassoum had reportedly implicated the two detainees in rebel activities, an accusation they both denied. It was widely believed that Lydie Florence Ndouba was arrested because she is the sister of two prominent politicians who are very critical of the government. Human rights defenders interviewed by Amnesty International delegates in the CAR believed that Christophe Ndouba had been able to avoid arrest because of his parliamentary immunity. Prosper Ndouba has lived in exile since the overthrow of former president Ange-Félix Patassé in March 2003. Lydie Florence Ndouba was held about

for two-and-a-half months without charge. She was formally charged on 11 May 2006 with endangering the security of the state. She was tried in August 2006 and acquitted (see Section 4 below).

Clotilde Gamo, a police officer, was arrested in mid-March 2006. She told Amnesty International delegates that she was arrested when she responded to a telephone summons by the Bangui High Court Prosecutor. The authorities reportedly became suspicious after she had written a note to a colleague to help a man seeking assistance to trace a person who had failed to pay a debt. The man was reportedly arrested at a military checkpoint with the note, which was apparently interpreted as a request for assistance for a member of an armed group. She was charged on 12 May 2006 with endangering the internal security of the state. According to Clotilde Gamo, her husband was assaulted by members of the security forces and accused of collaborating with armed groups. For example, on 12 April 2006 after visiting Clotilde Gamo at the SRI, members of the Central African Office for the Repression of Banditry (*Office centrafricain de repression du banditisme*, OCRB),¹⁷ reportedly beat him up. The beating stopped after a senior police officer intervened.

Some of the detainees accused of endangering the internal security of the state are reported to have been threatened with death. For example, Pascal Ngakoutou Beninga, a teacher of mathematics at Bangui University, told Amnesty International delegates that he was taken to a wood and threatened with extrajudicial execution after his arrest on 25 March 2006 by members of the Republican Guard. He was accused of having provided accommodation to 26 armed men and of possessing weapons with a view to overthrowing the government. Members of the security forces searched his house but, according to Pascal Ngakoutou Beninga, found nothing incriminating.

Two other people told Amnesty International delegates that they were arrested on the same day as Pascal Ngakoutou Beninga. Justin Dingamnai Wala, a Chadian student who had recently arrived from Chad to begin studies at the University of Bangui, said he was arrested when he was found at the house of Pascal Ngakoutou Beninga. Aubin Ngueitan was reportedly arrested because he belonged to the same ethnic group as Martin Koumtamadji¹⁸ – also known as Abdoulaye Miskine – a former commander of President Ange-Félix Patassé's Republican Guard. In June 2006, all the three detainees were released without charge or trial.

By the end of May 2006, only four of the more than 40 detainees accused of endangering the internal security of the state had been formally charged. Those charged were Raymond Behourou, Clotilde Gamo, Lydie Florence Ndouba and Marcel Mornadji, a police

¹⁷ The OCRB is a branch of the police set up to fight violent crime. It has been accused of carrying out serious human rights violations, including extrajudicial executions and torture of suspects, with almost total impunity.

¹⁸ Martin Koumtamadji fled the CAR after the overthrow of former president Ange-Félix Patassé; both of them have been living in exile in Togo.

officer (*gardien de la paix*). Local human rights defenders informed Amnesty International that more than 20 others were charged in June 2006.

Following armed group attacks on government forces in January and February 2006 in northern CAR, several local government officials were arrested, reportedly on suspicion of collaborating with armed groups. Those arrested and believed to be still held in November 2006 include Moussa Fotor, the mayor of Ouandjia in Vakanga province, northeastern CAR. A source in Bangui informed Amnesty International in October 2006 that Moussa Fotor was being held at Ngaragba prison. It was still unclear at the start of November whether he had been charged with any offence.

Raymond Behourou, an administrator (*Préfet*) of Haute-Kotto province at the time of his arrest, was arrested on 4 April 2006. He was reportedly arrested on suspicion of supporting an armed group linked to former president Ange-Félix Patassé. Raymond Behourou said the authorities accused him of giving money to relatives, who they alleged were members of an armed group. He told Amnesty International that two of his relatives visited him and he gave 5,000 CFA Francs (equivalent to approximately US\$10) to each of them as they left. He said he had no reason to suspect that either of them was a member of an armed group as suspected by the authorities. He was charged on 12 May 2006 with endangering the internal security of the state. He was tried and acquitted of the charge in September 2006, but he and at least 13 other acquitted defendants were detained again (see Section 4 below).

Nelson N'Djader, the 17-year-old brother of Florian N'Djader, was arrested on 18 May 2006. He told Amnesty International, while in custody in the *Commissariat du Port* detention centre, that he had been arrested because his brother was the leader of an armed group. This was backed up by various sources in Bangui.

Nelson N'Djader said that prior to his arrest he had received numerous death threats - some by telephone and others in person - from members of the Republican Guard, who accused him of collaborating with his brother. He told Amnesty International that a member of the Republican Guard once threatened him with a gun. On another occasion, another member of the Republican Guard assaulted him and took away his mobile phone. Because of these threats Nelson N'Djader tried to flee the country. On 17 May 2006 he applied for a visa at the embassy of the Democratic Republic of Congo, his mother's country of origin. The embassy staff told him to return the following day to collect the visa. When he returned to the embassy, officials told him that they could not grant him a visa, and as he was leaving the embassy premises he was seized by several security men who bundled him into a car and took him to the *Commissariat du Port*.

When Amnesty International delegates interviewed him on 27 May 2006, he had not been charged with any offence. He said that members of the security forces who interrogated him about his brother's whereabouts told him that he had been arrested on suspicion of trying

to join his brother's armed group. He denied having any contact with his brother or any interest in joining an armed group. It appears he was detained solely on account of his brother being a leader of an armed group, rather than his own involvement in armed insurrection. In October 2006, Amnesty International was informed that Nelson N'Djader had been released at an unspecified date, but that he was required to report regularly to the Procuracy.

According to local human rights defenders, other detainees, apparently arrested because they were related to leaders of armed groups, include Elie Tandum, a fisherman from Ouham province, who was arrested in May 2006. Elie Tandum was apparently a relative of Martin Koumtamadji, who is reportedly the military commander of an armed group known as the National High Council of the Revolution (*Haut conseil national de la revolution*, HCNR). Before the overthrow of President Ange-Félix Patassé, Martin Koumtamadji was the commander of the Republican Guard which was widely accused by local and international human rights organizations of committing serious human rights violations during the war that culminated in the overthrow of former president Ange-Félix Patassé and his replacement by François Bozizé. According to information received in late October 2006 from sources in Bangui, Elie Tandum was still being held in a prison in Bossangoa, the capital of Ouham province.

Another detainee being held because he is apparently related to Martin Koumtamadji is Guy Ndo, aged 16. Several detainees who were being held at the SRI in May 2006 told Amnesty International delegates that Guy Ndo was arrested in early 2005 on arrival in Bangui from Togo and is believed to have been detained at the headquarters of the National Gendarmerie without charge or trial ever since. International law and standards provide that the detention of juveniles (under 18-year-olds) should be as a last resort, and for the shortest possible period of time.¹⁹ Under 18-year-olds should be held separately from adults, except where this would not be in their best interests.²⁰ Suspicions against Guy Ndo appeared to arise from his being the brother-in-law of Martin Koumtamadji, who has been living in Togo since March 2003. Amnesty International was concerned that Guy Ndo, along with many of the individuals listed here, may have been arbitrarily detained, in violation of Article 9 of the International Covenant on Civil and Political Rights (ICCPR) and Article 37(b) of the Convention on the Rights of the Child. In October 2006, sources in Bangui informed Amnesty International that Guy Ndo had been released, reportedly without charge or trial.

Joseph Houlifanya, a farmer living in Bangui, was among the first political detainees to be transferred from the OCRB detention centre to Ngaragba prison. He told Amnesty International delegates that he and his son, Robert Houldoin, aged 32, were arrested on 18 May 2006 and accused of involvement in a plot against the government. Joseph Houlifanya

¹⁹ Convention on the Rights of the Child, Article 37(b); UN Rules for the Protection of Juveniles Deprived of their Liberty, Rule 1

²⁰ ICCPR, Article 10(2)(b); Convention on the Rights of the Child, Article 37(c); UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), Rule 13.4; UN Rules for the Protection of Juveniles Deprived of their Liberty, Rule 29

believed that they were arrested because they originated from Ouham-Pende province, where armed groups had attacked government forces. Sources in Bangui informed Amnesty International in October 2006 that Joseph Houlifanya and Robert Houldoin had been released, apparently without charge or trial.

Although most of those detained for allegedly endangering the internal security of the state were civilians, some of them were serving or former members of the Central African Armed Forces (*Forces armées centrafricaines*, FACA), while others were members of the police force. Some soldiers and police officers were accused of colluding with armed groups prior to or during attacks on government installations. Others were soldiers accused of desertion during counter-insurgency operations.

Pierre-Ruffin Gouyas, aged 45, a soldier and Baptist chaplain of the FACA, told Amnesty International delegates that he was arrested in August 2005. At the time of his arrest he had been administering religious teachings to soldiers in Bossembele military barracks near Bossangoa. He was transferred to the SRI on 5 September 2005 and to Ngaragba prison on 26 September. He was still being held at Ngaragba prison without charge or trial at the start of November 2006.

Mahamat Hamat Tahir, a former soldier, was arrested and released several times without charge or trial before February 2006. A local human rights defender told Amnesty International that Mahamat Hamat Tahir was arrested again on the night of 22 February 2006 and accused of involvement in subversive activities. In May 2006, he was reportedly being held at the Camp de Roux military barracks, where he was reported to have been tortured in a special cell known as the “*porte numérotée*”. Sources in Bangui informed Amnesty International that Mahamat Hamat Tahir had subsequently been transferred to Ngaragba prison, where he was still being held at the start of November 2006.

Members of the security forces arrested include Marcel Mornandji, a police officer who had been posted in Béal, near the border with Chad. He told Amnesty International delegates that he was arrested on 3 April 2006 on the orders of the Bangui High Court Prosecutor who had summoned him to Bangui. Marcel Mornandji’s arrest was reportedly linked to his abduction earlier in the year by members of an armed group in northern CAR. He said that he was arrested after he escaped from his abductors and summoned to Bangui, ostensibly to explain to the authorities the circumstances of his abduction. He and a number of other defendants were brought to trial in August 2006. The Criminal Court concluded that the prosecution had failed to prove the case against him of complicity in endangering the internal security of the state and other related charges. He was acquitted and released.

Eddy Bossoua, who lived in Kaga-Bandoro, was arrested in Bangui on 5 May 2006 reportedly on suspicion of collaborating with Jean-Jacques Demafouth (see above). His personal friend in Bangui told Amnesty International that he was accused of subversive activities by a person whom he was pursuing for failing to repay a debt of 4 million CFA

Francs (equivalent to approximately US\$8,000). At the start of November 2006, Eddy Bossoua was still being held in Bossangoa prison. It was unclear whether he had been formally charged with any offence. His cousin, Claude Ouena, who was arrested on 9 May 2006, was also still being held in the same prison. It was unclear whether either of them had been charged with any offence. Other detainees reported by a human rights defender to be detained in Bossangoa prison at the start of November include Takum Madji, Issa Mahaï, Zakaria Tidjani, and Abakar Décor. Others were Aisha Kaltuma and seven other members of her family – whose names were not known to Amnesty International or its sources in the CAR - who were reportedly arrested around February 2006.

Other civilians accused of having connections with armed groups and still detained at Ngaragba prison at the start of November 2006 include Clément Nene Kakouaka, Mahamat Tidjiant, Koudar Mahamat and Denim Mamoud. Clément Nene Kakouaka had first been detained at the SRI, while Mahamat Tidjiant, Koudar Mahamat and Denim Mamoud were first detained at the OCBR headquarters. It was unclear whether they had been charged with any offences.

In May 2006, Amnesty International delegates met a number of soldiers who were being detained at the SRI after they allegedly refused to fight in northern CAR. The authorities accused them of desertion but they said that they had come to Bangui to collect their allowances which they had not received for several months. They had been detained on 22 May 2006. Those detained included Warrant Officer Sylvain Yogossa, Sergeants Christian Gueret, Patrick Konzapa, Jean-Michel Sana de Yamissi, Ali Hugareo Mbemba, Daniel Mandazou and Alain Dede. Others were Bienvenu Moïnga Ze, Zephirin Namkoïna, Olympio Mbimba and Elvis Wilita, all corporals. Zephirin Namkoïna had been wounded in the leg during a military operation and had not received any treatment while in custody. According to local human rights defenders, about 40 other soldiers - whom Amnesty International delegates were unable to meet - were reported to be held at the Kassai barracks on the outskirts of Bangui. Others being held there reportedly included Service Sanodjo, Malick Tocki Bemadje and Médard Maleyombo. Sources in Bangui informed Amnesty International in October 2006 that all the soldiers had either been released or transferred from detention centres in Bangui. Their whereabouts were unknown.

4. Trials of alleged rebel supporters begin

The 2006 session of the Bangui Criminal Court opened in August. Most of the cases brought before the court concerned people charged with economic and political offences. Defendants included former President Ange-Félix Patassé and several of his aides. Ange-Félix Patassé and his co-defendants, who were tried in absentia, were found guilty of embezzling public funds and were sentenced to up to 20 years' imprisonment. Ange-Félix Patassé's former economic advisor, Simon Kouloumba, who appeared before the court, was cleared of the charges and released. He had been awaiting trial since his arrest in 2003.

Those on trial for political offences had been charged with endangering the internal security of the state and other offences related to the armed rebellion. If found guilty of the charge, under Articles 72 and 73 of the CAR Penal Code, they were liable to being sentenced to death. The last known executions ordered by the courts of law in the CAR took place in 1981, although there has been no official moratorium against executions in the country.

The main defendant to be brought to trial was Jean-Jacques Larmassoum, self-confessed leader of the APRD. When he appeared before the Criminal Court on 16 August 2006, he reportedly admitted that he was a leader of the APRD and that at the time of his arrest he was in Bangui to collect 40 million CFA Francs (equivalent to approximately US\$75,000) that he said had been promised to him by Ange-Félix Patassé. He reportedly said that he had agreed to lead the APRD after Ange-Félix Patassé promised him a military position of his choice after the overthrow of President Bozizé.

While reportedly admitting that the APRD had launched attacks in parts of northern CAR, Jean-Jacques Larmassoum said that his fighters had not been involved in attacks on unarmed civilians. He blamed government forces for attacks on and killings of unarmed civilians. At the end of the hearing, Jean-Jacques Larmassoum reportedly appealed for clemency from President Bozizé. He was found guilty of endangering the internal security of the state, plotting an armed rebellion, aggravated theft, wilful assault and grievous bodily harm, wilful destruction of property, looting, unlawful possession of war weapons and munitions, and desertion. He was sentenced to life imprisonment.

On trial with Jean-Jacques Larmassoum were François Benanou, Alain Siabé and Bonaventure Kalbadji. They were found guilty of conspiracy, looting, aggravated theft, wilful assault and grievous bodily harm and sentenced to 10 years' imprisonment. Jean-Jacques Larmassoum and the three convicted co-defendants were given three days to appeal against the court's verdicts and sentences. It was not clear by the start of November 2006 whether they had lodged an appeal against the convictions or sentences.

Sosthène Djilamkoro Guetel, Second Vice-President of the Movement for the Liberation of the Central African People, is reported to have told the Criminal Court that after his arrest on 7 March 2006 he was asked about his links to his younger brother, Magloire Guetel, who had joined an armed group. Sosthène Djilamkoro Guetel reportedly admitted that he had had a telephone conversation with his brother but denied collaborating with him on rebel activities. The Criminal Court acquitted him of all charges and he was released.

Lydie Florence Ndouba (see above) told the Criminal Court that she had been ill-treated in custody. She reportedly said that Jean-Jacques Larmassoum, who had implicated her in rebel activities, was being used by the government to victimize her because of her brother, Prosper Ndouba. She reportedly admitted that she had been asked by Prosper Ndouba to give money to a man she did not personally know. She told the court that she never met Jean-Jacques Larmassoum, and that she had given the money to two women who passed it on

to him. On 18 August 2006, the Criminal Court concluded that the prosecution had failed to prove her guilt and released her. The Court also acquitted and released Martial Kéita Manguelé, Frédéric Thierry Notoloum and Marcel Mornadji.

In early September 2006, 16 people appeared before the Criminal Court on the charge of endangering the internal security of the state and other related charges. They were Raymond Béhourou, Marcel Bagaza, Barthélemy Boguina, Tom Mahamat, Roger Yamokoa, Joseph Kada, Georges Djungon, Elysée Doléance Tamkimadji, Serge Radas Dilkake, Honoré Mberna, Clémenceau Dorkem, Jacques Mobeang, Aimé Natayo, Moïse Raïkina Mamadou, Clotilde Gamo and Michel Piko.

On 12 September 2006, 15 of the defendants, including Clotilde Gamo, the only woman co-defendant among the group, were acquitted by the Criminal Court of charges related to endangering the internal security of the state, and should have been freed. Several defence lawyers and human rights defenders informed Amnesty International that only Michel Piko was found guilty of assisting a detainee to escape and was sentenced to three months' imprisonment. These sources said that those acquitted should have been freed, but the government sent members of the Republican Guard to prevent their release. Their defence lawyers demanded that the Procuracy issue release papers for their clients. The Procuracy told the lawyers that the papers would be issued on 13 September 2006 but this did not happen. At 5pm on 13 September, members of the Republican Guard removed the detainees from Ngaragba prison and took them to an unknown destination. The lawyers and the detainees' relatives were concerned for the safety of the detainees because of reports that a military commander, who had been suspected of extrajudicial executions and other serious human rights violations, was reportedly in charge of the unit that took the detainees away.

Clotilde Gamo had been released before Republican Guard personnel arrived at Bimbo prison. The prosecutor in the trial had told the court that she had no case to answer. However, she went into hiding after she learned that she was being sought by the security forces.

The Republican Guard is directly responsible to President Bozizé, who is also the Minister of Defence. It is unlikely that they would have acted without his orders or knowledge. The removal of acquitted detainees from a gazetted prison, and their subsequent detention without authorization by a judge and in an undisclosed location, violates national and international law. People held in secret detention are in danger of "disappearance", torture and ill-treatment.

There is no legal basis under CAR legislation on which the government could refuse to release the acquitted detainees. They were not charged with any new offences. Furthermore, an appeal against the Criminal Court's ruling could not be a basis for their continued

detention. Article 64 of Organic Law number 95.0011 of 23 December 1995 relating to the organization and functioning of the Cassation Court²¹ states, in part:

“Notwithstanding the appeal, a defendant who has been released or absolved or sentenced to either a suspended prison term or a fine, must be immediately released”²²

Article 65 of the same law states that acquittal decisions made by the Criminal Court can only be the subject of an appeal regarding the verdict’s conformity to the law but without prejudice to the acquitted party. Moreover, the government did not inform the acquitted detainees or their lawyers that it had appealed against the court’s acquittal. Their arrest and detention after acquittal were therefore arbitrary and unlawful.

Members of the CAR Bar Association (including the detainees’ defence lawyers) went on strike and refused to represent defendants in the courts unless the 14 acquitted detainees were released. Media in the CAR and local human rights organizations criticized the government’s violation of national and international laws relating to the treatment of detainees acquitted by the courts. A government spokesperson is reported to have told journalists in Bangui that the 14 detainees had been detained again and transferred from Ngaragba prison for their own security. He did not disclose any details on why the authorities believed the detainees’ security to be at risk.

After pressure from lawyers and human rights organizations, including Amnesty International,²³ the detainees were returned to Bangui and released on 25 September 2006. Clotilde Gamo is also reported to have come out of hiding and it is not believed that she is now being sought by the authorities.

One of the released detainees told Amnesty International that they had been taken to Bossembélé civilian prison in Ombella-Mpoko province. The prison provided no bedding or food for the detainees, who remained hungry for nearly three days. This violated the right of all detainees to be treated with humanity and respect for the inherent dignity of the human person. On the third day, the detainees’ relatives learned of their whereabouts and brought them food. The former detainee said they had not been physically ill-treated. At 6am on the day of their release, a prison official informed the detainees that they were to be returned to Bangui. From Bossembélé, the detainees were escorted by members of the Republican Guard. On arrival in Bangui they were briefly held at the SRI. They were then taken to Ngaragba prison where they were issued with release certificates. They were taken to the Procuracy and

²¹ Loi organique numéro 95.0011 portant organisation et fonctionnement de la Cour de cassation

²² “Est, nonobstat le pourvoi, mis en liberté immédiatement après l’arrêt, le prévenu qui a été relaxé ou absous ou condamné, soit à l’emprisonnement assorti du sursis, soit à l’amende”.

²³ See Amnesty International’s Urgent Action number 249/06, AI Index: AFR 19/005/2006, published on 15 September 2006.

then released. While in custody in Bossembélé, the detainees were not informed of the reasons for their continued detention, in violation of international law and standards.²⁴ They were not informed either of the reasons for their release on 25 September 2006.

While welcoming the detainees' release, Amnesty International was concerned about reports that some of the defence lawyers and human rights defenders who opposed the continued detention of acquitted defendants had received threats from members of the security forces. Amnesty International was further concerned that the authorities had not taken any action against the security forces and other authorities responsible for the arbitrary arrest and unlawful detention of the acquitted detainees.

Arbitrary arrest or an 'arbitrary act attacking individual freedom' by a public official is prohibited by Article 82 of the CAR Penal Code, which states in part:

When a public official, agent or employee of the government orders or carries out an arbitrary act attacking individual freedom, civil rights of one or several citizens, or the Constitution, he will be sentenced to between two months and two years' imprisonment [...].²⁵

Members of the Republican Guard, as well as any judicial and government officials who colluded with them, violated CAR law when they arbitrarily arrested and unlawfully detained the 14 acquitted defendants between 12 and 25 September 2006.

Article 83 of the CAR Penal Code provides for payment of damages of not less than 500 francs (approximately one US dollar) per person for each day of illegal and arbitrary detention. Members of the Republican Guard and other members of the security forces accused of violating Article 82 of the Penal Code should be brought to justice, and persons who have been illegally detained should be paid adequate compensation.

5. Conditions of detention

At the end of their visit to the CAR in May 2006, the Amnesty International delegates visited several detention centres in Bangui. The prisons visited were Ngaragba prison and Bimbo prison. The delegates also visited the SRI, the Port Police Station and a detention centre of the OCRB. In virtually all of them, conditions were noticeably harsh and even life-threatening. In

²⁴ ICCPR Article 9(2); Body of Principles, Principle 10; African Union Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, Principle M (2) (a)

²⁵ Lorsqu'un fonctionnaire public, un agent ou un préposé du Gouvernement aura ordonné ou fait quelque acte arbitraire ou attentatoire soit à la liberté individuelle, soit aux droits civiques d'un ou plusieurs citoyens, soit à la Constitution, il sera condamné à une peine de deux mois à deux ans de prison [...].

all detention centres in the CAR, minors are held together with adults, in violation of Article 10(2)(b) of the ICCPR and Article 37(b) of the Convention on the Rights of the Child. Detainees on remand stay in the same cells as convicted prisoners, in violation of Article 10(2)(a) of the ICCPR and international standards for the protection of detainees. Information gathered by Amnesty International from human rights and other organizations in Bangui suggest that conditions in detention centres outside Bangui – where males and females are usually not separated – were far worse. The Government of the CAR must prevent, investigate and punish all acts of violence against women detainees; the separation of males and females in places of detention and imprisonment would help to prevent rape and other forms of violence against women.

Except for Ngaragba prison and Bimbo prison, detainees in police, gendarmerie and other detention centres do not receive food from the government, in violation of international law and standards for the protection of detainees. In particular, detainees are required, without exception, to be fed by their friends or relatives. Those whose families are either too destitute to bring them food, or have no relatives in or near Bangui, survive on the kindness of fellow inmates who share their food with them. Detainees complained of not having enough to eat or suffering from malnutrition. CAR has acceded to the ICCPR and the International Covenant on Economic, Social and Cultural Rights (ICESCR), which provide respectively for the right of all detainees to be treated with humanity and respect for the inherent dignity of the human person (Article 10 of the ICCPR) and the right to food as a component of the right to an adequate standard of living (Article 11 of the ICESCR). Detainees should not be discriminated against in the distribution of food. Under the UN Standard Minimum Rules for the Treatment of Prisoners, the state is obliged to provide every detained and imprisoned person 'at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served'.²⁶ Drinking water should be available to every detained or imprisoned person whenever he or she needs it.²⁷

The detaining authorities do not provide medical care to inmates. Amnesty International delegates interviewed a number of detainees and convicted prisoners who had been ill for many months without access to medical treatment. Several political detainees had been denied permission to consult a doctor, thus putting their lives at risk and contributing to their ill health. In extreme cases, the denial of medical treatment may result in a violation of the right to life, or may constitute the severe mental or physical suffering which constitutes inhuman and degrading treatment or punishment or torture. In March 2006, Lydie Florence Ndouba was prescribed medical tests which could only be carried out in a medical facility outside the SRI detention centre where she was being held. At the end of May 2006, she had not been authorized to undergo the tests. Amnesty International subsequently learned that she had had a miscarriage while in custody. Although the authorities said that a government doctor visited detention centres once a week, many detainees told Amnesty International delegates that they had not seen a doctor for several weeks. Even when sick detainees were

²⁶ Standard Minimum Rules, Rule 20(1)

²⁷ Standard Minimum Rules, Rule 20(2)

examined by a doctor, their illnesses remained untreated because they did not have the money to pay for the treatment - medication or surgical operations - they required.

Bimbo prison has a corrugated iron roof and consists of three cells, housing approximately 20 remand and convicted female prisoners each. The majority of the women interviewed by Amnesty International delegates were on remand or had been found guilty of common assault. At least 10 of them were accused of practising witchcraft, leading to death in some cases.²⁸ Soon after the visit by the Amnesty International delegates, several women – including Lydie-Florence Ndouba and Clotilde Gamon – accused of endangering the internal security of the state, were transferred from the SRI to Bimbo prison. Some of the women have children ranging from a few months to five years old. The prison does not provide sleeping facilities, and most of the women, including those with babies, slept on mats, while a few had mattresses. The women complained that the thin mats were insufficient to protect them from a cold cement floor, especially at night. Inmates faced the risk of catching malaria, as mosquitoes were able to enter the cells and the prison does not provide nets. There had been three deaths from undisclosed illnesses between January and May 2006.

A prison official told the Amnesty International delegates that when an inmate fell ill, the authorities informed her relatives in order for them to take care of her treatment. This violates international law and standards on the right to medical treatment in detention, part of the broader right of detainees to be treated with humanity and respect for the dignity of the human person.

Poor sanitation at Bimbo prison exposed inmates to potential outbreak of disease. Although inmates clearly kept their cells fairly clean, the toilets were filling up with human waste and had no flushing facilities. Individual toilet cubicles had no doors and therefore the users had no privacy. At the time of the visit by Amnesty International, the shower had not been working for several weeks and, according to the prison authorities, there were no plans to repair it. The UN Human Rights Committee has found a violation of Article 10(1) in cases where unsanitary, overcrowded detention conditions expose detainees to the risk of disease.²⁹

Detainees suffering from infectious illnesses share cells with apparently healthy ones, increasing the risk of contagion. For example, Abdoulaye Manou, who was suffering from tuberculosis, was being held together with other detainees at the SRI. He was also suffering from a hernia. When Amnesty International delegates met him at the SRI in May 2006, he had been held for nearly two months, without access to medical care. He was arrested on suspicion of being an accomplice of highway robbers (*Zaraguinas*) but had not been charged with any specific offence. He first received a visit from his relatives towards the end of May 2006. Amnesty International is concerned that Abdoulaye Manou was not being given access

²⁸ According to Article 162 of the Penal Code, as well as being punishable by from five to 10 years' imprisonment, witchcraft occasioning death is punishable by the death penalty.

²⁹ *Griffin v. Spain*, (493/1992), UN Doc. CCPR/C/57/1, 23 August 1996, p. 52, paragraphs 3.1 and 9.2

to appropriate medical care and that other detainees were at risk of catching tuberculosis from him. Some detainees at the SRI alleged that detention officials had demanded a 500,000 CFA franc (equivalent to approximately US\$ 1,000) bribe to release him. It is unclear whether and where he was still being held by November 2006.

The SRI is composed of four cells. Two of the cells have doors and windows that cannot be closed. During storms, which are frequent during the rainy season, the cells get flooded. The third cell has a locked door with bars and no windows. The fourth cell is approximately 5m², with two tiny windows near the roof. When Amnesty International delegates visited the SRI, it housed 12 detained soldiers. The cell smelt of human waste and there were bottles containing urine by the door. Each cell housed at least 12 detainees.

At the Port Police Station, the Amnesty International delegates noted that the cell was filthy and emitted a strong stench of human waste. The only source of light was the doorway and it had no sleeping facilities. One of the detainees, Mohammed Diakité, a Malian, had been detained there for two months. He looked about 16 years old, had mental illness and was virtually unable to communicate. The limited information the delegates obtained about him was from fellow inmates. He was so ill that he urinated in his clothes. He was being held for alleged illegal entry into the CAR but had not been seen by a judge. He clearly should have been in a mental health centre or hospital and not in a detention centre without any psychiatric or other medical care facilities. Rule 22(1) of the Standard Minimum Rules for the Treatment of Prisoners states that the medical officer available in places of detention must have some knowledge of psychiatry. Rule 25(2) provides for the medical officer to report to the director whenever he considers that a prisoner's mental or physical health would be endangered by further detention or imprisonment.

Another detainee, Amadou Youssouf Konaté, was also being held for his alleged illegal stay in the country. He said that his father was from Côte D'Ivoire and his mother from the CAR and that he was married with two children. He insisted that he was a citizen of the CAR because of his mother's nationality. The Amnesty International delegates did not have sufficient time to verify his legal status and his claims that members of the security forces who arrested him had taken away his identity papers. It is not known whether the CAR authorities have informed the Ivorian government about his detention.

Ngaragba prison is composed of five units known as Goulowa, Irak, Couloir, DDP and Maison Blanche. The units are sub-divided into communal cells. Although Ngaragba prison is not as bad as other detention centres visited by the Amnesty International delegates, the conditions there are also life-threatening. Of these, Maison Blanche is better catered for and organized. It houses educated detainees who are generally accused of political or white collar offences, such as embezzlement. It has electricity and virtually all the inmates had mosquito nets supplied by themselves over their beds.

Some of the detainees in other units sleep on mats while many others sleep on a bare concrete floor. A few have mattresses brought by their relatives. Most of the inmates did not

have blankets to protect them from the cold and none had mosquito nets or insect repellent in a mosquito-infested area. As in other detention centres, inmates face the constant torment of mosquito bites and the risk of catching malaria.

The communal cells have toilets but they are not in working condition due to lack of water and blocked drainage. Inmates urinate in bottles and defecate in plastic bags. After use, the detainees throw the plastic bags into drainage channels at the back of the cells. There is a strong smell of human waste in and around the cells, and there is a potential for an outbreak of water-borne diseases, such as cholera. Several small buildings – apparently used as punishment cells – smelt of human waste and at least one of them was used by some inmates as a bathroom. These conditions clearly violate detainees' right to humane treatment, as guaranteed by Article 10 of the ICCPR. In extreme cases, such detention conditions may violate the international law prohibition on torture and ill-treatment.³⁰

The Amnesty International delegates were informed by detainees and officials at Ngaragba prison that a medical doctor is supposed to visit once a week, but sometimes does not appear for several weeks. Detainees can obtain treatment only if they or their relatives can pay for it. A number of detainees seen by the Amnesty International delegates complained that they were suffering from potentially life-threatening illnesses, such as hernia and fevers. For example, Parfait Biamba, aged 60, who was found guilty of practising witchcraft in August 2005, said he had been suffering from a hernia for many months but had no prospect of finding the money to pay for an operation. Evariste Mayo, aged 34, had been suffering from fever and general body aches for two weeks without access to any treatment. Joseph Ngandoko, aged 67, said he had suffered from a hernia and diabetes for two years without any treatment. He was awaiting trial on charges of embezzlement and receiving money under false pretences allegedly brought by the French Embassy in Bangui. Other illnesses prevalent in the prison included tuberculosis and meningitis, both highly contagious. There were no mortality figures available from these and other illnesses.

At the OCRB headquarters in central Bangui, several women and men accused of assault and other minor offences were being held in an open hangar. As many as 46 male detainees³¹ accused of more serious offences, such as armed robbery, were being held in a windowless cell measuring approximately 20m². The Amnesty International delegates were informed that, shortly before their arrival at the OCRB, as many as 13 detainees had been released on the orders of the Prosecutor.

Although members of the OCRB told Amnesty International that detainees are held there for a few days before being transferred to prison, a number of detainees said that they had been held there without charge or even access to a judicial official for several weeks or

³⁰ See *inter alia*, the judgments of the European Commission on Human Rights in the *Greek Case* (Yearbook 12, 1969); and *Cyprus v Turkey* (Commission Report of 10 July 1976)

³¹ It was difficult to determine the number of detainees due to overcrowding and insufficient light in the cell.

even months. One detainee, Arthur Nyendo, said he had been held there since 5 September 2005 in connection with an alleged armed robbery. He said that he was due to have his first interrogation by the Bangui High Court Prosecutor on 29 May 2006. However, his whereabouts and legal status were unknown to Amnesty International at the start of November 2006.

For several years, members of the OCRB have been accused of serious human rights violations, including extrajudicial executions and torture, with virtual impunity. A few days before their visit, the Amnesty International delegates had learned that the director of the OCRB had severely assaulted a pastor who had asked for the release of a detainee. The detainee had been arrested after the pastor accused him of stealing a camera.

Detainees that Amnesty International delegates spoke to at the OCRB included Paul Kamkiam, a Chadian refugee. He told the delegates that he had been recognized as a refugee by the UN High Commissioner for Refugees. He was arrested on 11 December 2005 by members of the CAR security forces in Bangui, who accused him of involvement in subversive activities. He was not sure whether he was suspected of subversion against the Chadian or the CAR government, and denied involvement in any subversive activities.

Most detainees sat or lay on a bare concrete floor and a few had mats. There was no lamp and there was insufficient natural light in the cell. A toilet and a shower room were located outside the cell. Some detainees said that their relatives had to pay the guards for them to be allowed to have a shower or receive the food brought to them.

Detainees at the OCRB were responsible, along with their relatives, for their own feeding and other forms of welfare. Detainees told the Amnesty International delegates that on Sundays they received food from church organizations.

In June 2006, several local human rights organizations issued a joint public statement protesting against the appalling detention conditions in the CAR, as well as long-term detention without trial after arbitrary arrests. Instead of responding to the concerns highlighted by the organizations, the Bangui High Court Procurator accused the organizations of indulging in making false allegations and sensationalism.

6. Violations of national and international law and standards

During discussions in May 2006 with the Minister of Justice and other senior government officials, the Amnesty International delegates expressed concern that the rights of detainees to legal counsel and to be given an opportunity to challenge the basis for their arrest before a competent, independent and impartial judicial official had been violated. Information obtained by the delegates from many of the political detainees, their relatives or human rights

organizations suggested that virtually all those accused of endangering the internal security of the state had been denied these rights.

Many of the detainees claimed to be prisoners of conscience, arrested on account of their known or suspected family connections with opponents of the government. Whereas Amnesty International could not confirm that all the detainees who claimed to be prisoners of conscience had not been involved in recognizably criminal activities, the organization was nevertheless concerned that for several months the detainees had been denied their right to be brought promptly before a judge or other official authorized by law to exercise judicial power. The Amnesty International delegates urged the authorities to take immediate measures to ensure that the rights of all political detainees are respected, including the right not to be detained without charge or trial. Detainees should be tried within a reasonable time or released, as provided by Article 9(3) of the ICCPR.

Amnesty International was told that the only person with the authority to respond to their concerns and to authorize their delegates to meet the detainees was the High Court Prosecutor. A meeting with the Prosecutor failed to take place, although he subsequently gave an authorization by telephone to the delegates to meet the detainees (See Section 5 above).

Officials at the Ministry of Justice informed the Amnesty International delegates that the detainees would all be formally charged with criminal offences and would be tried during the forthcoming session of the Bangui Criminal Court. However, the authorities added that due to insecurity and lack of resources, the start of the session could not yet be determined. The session started on 7 August and ended on 13 September 2006. The country's other two criminal courts in Bambari and Berberati had not functioned for three years and detainees in the respective provinces of Ouaka and Haute Sangha continue to be held without trial.³²

Judicial officials failed to formally charge most of the detainees within the time frame of 48 hours as stipulated by the CAR Code of Penal Procedure. The officials repeatedly told the delegates that the Prosecutor could not reveal information about the reasons for the arrests because he was bound by the confidentiality of investigations.

After the arrests of people accused of endangering the internal security of state started, the government set up a commission of inquiry headed by the Bangui High Court Prosecutor, Firmin Feindiro. Other members of the commission of inquiry were Gendarmerie Warrant Officer Joseph Feindiro, Warrant Officer Dieudonné Zebay and Sergeant Serge Kossi. Others were OCRB officers Sylvain Mborobona, Yves Gbeyero and Alexix Bourangoro. Amnesty International has initial concerns about the independence and impartiality of this commission of inquiry, but despite numerous requests, the Amnesty International delegates could not obtain a legal document establishing the commission of inquiry or specifying its functions. However, sources among local civil society organizations said the commission of inquiry had

³² Amnesty International delegates were unable to verify if any of the detainees awaiting trial by the criminal courts, in Bambari and Berberati, were accused of political offences.

been established to order and/or oversee the arrests of people suspected of involvement in supporting armed groups. None of the detainees met by the Amnesty International delegates had appeared before the commission to be formally questioned about their alleged role in supporting armed groups, thus denying them the opportunity to contest the allegations.

The right not to be subjected to arbitrary arrest or detention

The right to liberty and security of the person and the prohibition of arbitrary or unlawful arrest or detention are enshrined in the ICCPR and in the African Charter on Human and Peoples' Rights (African Charter). The CAR is a state party to both treaties, and is bound by them.

Article 9, paragraph 1 of the ICCPR states that:

“Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”

Article 6 of the African Charter similarly prohibits arbitrary or unlawful arrest or detention.

The right to be informed immediately of the reasons for arrest or detention and of the charges against the person

Article 9, paragraph 2 of the ICCPR states:

“Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.”

In May 2003 the African Commission on Human and Peoples' Rights adopted the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, outlining safeguards that governments should put in place to ensure the right to a fair trial. Principle M(2)(a) provides that “anyone who is arrested shall be informed, at the time of arrest, of the reasons for his or her arrest and shall be promptly informed, in a language he or she understands, of any charges against him or her.”

These principles and guidelines were not adhered to in the majority of the cases referred to in this report. All detainees interviewed by Amnesty International said that they had been held for several weeks or even months without being formally notified of the reasons for their arrest.

The right to be brought before a judge or other judicial officer

Article 9, paragraph 3 of the ICCPR states:

“Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release.”

Article 35 of the CAR Code of Penal Procedure states that in remote areas with communication difficulties, a Judicial Police Officer may detain a suspect for up to 15 days. However, the officer must provide justification for prolonging the detention without referral to a magistrate³³.

In all the cases highlighted in this report, detainees were held for many weeks or even months without charge. There is no legal justification for this delay because in almost all the cases the arrests were ordered by the Procurator and there was therefore no justification for their being held without charge for such a lengthy period.

The right to challenge the lawfulness of detention

Article 9, paragraph 4, of the ICCPR states:

“Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

This provision is also reflected in the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa (see Principle M(4))

The enforceable right to compensation for victims of unlawful arrest or detention

Article 9, paragraph 5 of the ICCPR provides for an enforceable right to compensation for anyone who has been the victim of an unlawful arrest or detention.

The right to be treated with humanity and with respect for the inherent dignity of the human person

Article 10 of the ICCPR provides for the right of all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person. This

³³ Article 35: b) Dans tous les autres lieux où, en raison d'éloignement ou des difficultés de communication, il n'est pas possible de conduire immédiatement le prévenu devant le Magistrat compétent, l'Officier de police judiciaire pourra décerner un ordre d'écrou dont la validité sera de 15 jours au maximum renouvelable une fois en cas d'impérieuse nécessité dont il devra être justifié; [...].

right includes the separation of juveniles from adults; the separation of convicted prisoners from those on remand; and sets certain standards for the conditions of detention, medical care and nutrition.

The right of detainees to have access to their family and doctors

Individuals held in pre-trial detention have the right to be given all reasonable facilities to communicate with family and friends and to receive visits from them, according to Principle 19 of the Body of Principles as well as Principle M(2)(g) of the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa.

Detainees also have the right to be examined by a doctor as promptly as possible after detention, and thereafter medical care and treatment shall be provided whenever necessary (Principle 24 of the Body of Principles).

Amnesty International is concerned that a number of detainees, including those accused of endangering the internal security of the state, had not had access to a medical examination. In the case of Lydie Florence Ndouba, she was denied the right to have the medical tests that she required. Many detainees in various detention centres had not been provided with treatment for life-threatening illnesses.

The right to legal counsel before trial

Article 14 (3)(b) of the ICCPR provides for any defendant to have 'adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing'. This right is echoed by Principle 17 of the United Nations' Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles), which states:

"A detained person shall be entitled to have the assistance of a legal counsel. He shall be informed of his right by the competent authority promptly after arrest and shall be provided with reasonable facilities for exercising it."

The Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa provides that anyone who is arrested shall be informed upon arrest of the right to legal representation (see Principle M(2)(b)) and shall have prompt access to a lawyer (see Principle M(2)(f)). Furthermore, the right to legal counsel expressly applies "during all stages of any criminal prosecution, including preliminary investigations in which evidence is taken, periods of administrative detention, trial and appeal proceedings" (See Principle N(2)).

Under Article 65 of the CAR Code of Penal Procedure, a defendant has a right to have access to legal counsel after the initial interrogation. Thereafter, a lawyer cannot under any circumstances be prevented from having access to a defendant he or she represents.

Article 67 gives a lawyer the right to be present during the interrogation of a defendant. A lawyer must also be given prior notice of the date, time and place of the interrogation.

All the defendants arrested on suspicion of endangering the internal security of the state were denied access to legal counsel for up to several months; this was clearly a violation of their rights under Central African Republic's own laws. According to article 188 of the Code of Penal Procedure, the presiding judge of the Criminal Court is required to appoint legal counsel for a defendant who does not have or cannot afford one. Many defendants awaiting trial on the charge of endangering the internal security of the state did not have legal counsel, in violation of this provision of the laws of the CAR.

The right to trial within a reasonable time or to release from detention

Article 9(3) of the ICCPR provides for the right to trial within a reasonable time or to release; Article 14(3)(c) provides a minimum guarantee of trial without undue delay. Article 7(1)(d) of the African Charter on Human and Peoples' Rights recognizes, *inter alia*, the right "to be tried within a reasonable time by an impartial court or tribunal."

Article 81 of the CAR Code of Penal Procedure states that provisional release can be demanded at any time from the examining magistrate by a defendant or the Procuracy. The examining magistrate must respond within five days of the application for provisional release. Article 91 states that if evidence is insufficient to substantiate charges, the examining magistrate must order the release of a suspect.

Article 98 of the CAR Code of Penal Procedure states that an examining magistrate must inform the Procurator of the progress of investigations. If investigations exceed three months, the examining magistrate must notify the reasons for the delay in completing the investigations. From this, it is reasonable to conclude that trials should under normal circumstances start within three months of the arrest of a suspect. Some of the suspects highlighted in this report were brought to trial in August and September 2006 after their arrest. Many of the defendants arrested at the start of 2006 were still awaiting trial when the 2006 session of the Criminal Court ended on 13 September. The authorities did not indicate when the court's next session would begin or what would happen to those detainees who had not been tried.

Defendants charged with endangering the internal security of the state of the CAR are tried by the Criminal Court. Indeed, more than 20 were brought to trial in August and September 2006 (see Section 4 above). According to Article 187 of the Code of Penal Procedure, dates of sessions of the Criminal Court are fixed according to necessity by the Minister of Justice. An unspecified number of detainees, including Claude Yabanda, had not been brought to trial when the session of the Criminal Court closed on 13 September 2006. The authorities did not reveal why that session of the Criminal Court could not be extended to

ensure that all defendants enjoyed the right to be tried promptly. Amnesty International is concerned that the provision that sessions of the Criminal Court are determined by a political official is open to abuse, especially in political cases where the government has a stake in the outcome of a trial.

7. Conclusion

The CAR government has violated its own country's laws and international human rights law and standards by arbitrarily arresting individuals and detaining them for several months without charge, and up to six or more months without trial.

Amnesty International urges the CAR government to respect its own laws and abide by international human rights standards that the CAR has ratified. The authorities should ensure that detainees' rights to a fair trial are fully protected, including the right to be informed promptly of any charges, to legal counsel before trial, to be brought promptly before a judge, and the right to be tried within a reasonable time or otherwise to be released from detention. Any trial of detainees must be carried out in accordance with international and regional fair trial standards.

8. Recommendations

Amnesty International urges the CAR government to:

- (a) Ensure that all people in custody are treated in accordance with national laws and international human rights treaties to which the CAR is a state party, by promptly releasing detainees who have been acquitted by the courts, unless they have been charged with other offences as stipulated by law;
- (b) Ensure that all individuals still detained without charge are charged promptly with a recognizable criminal offence or otherwise released;
- (c) Ensure that detainees are tried within a reasonable time or are released pending trial;
- (d) Ensure that detainees are allowed to take proceedings before an independent court to challenge the lawfulness of their detention. Courts examining the lawfulness of the detention should be empowered to order the release of detainees if their detention is deemed unlawful;
- (e) Ensure that the lawfulness and the necessity of pre-trial detention is periodically reviewed by the competent judicial authorities;

(f) Take immediate measures to ensure that detainees are held in sanitary and humane conditions that ensure the physical integrity of all detainees in prisons and detention centres.

(g) Urgently ensure that all detainees have access to legal counsel, professional medical care, adequate food and visits from family members;

(h) Ensure that those who may be found guilty of endangering the internal security of the state are given a genuinely fair trial and not sentenced to death. In the event that some are sentenced to death, the government should maintain its 25-year-old moratorium on the death penalty and commute all death sentences to alternative punishment.

GLOSSARY OF ACRONYMS

APRD:	Armée pour la restauration de la République et la démocratie (Army for the Restoration of the Republic and Democracy)
CAR:	Central African Republic (République centrafricaine)
DRC:	Democratic Republic of Congo (République démocratique du Congo)
FACA:	Forces armées centrafricaines (Central African Armed Forces)
FPP:	Front patriotique pour le progress (Patriotic Front for Progress)
HCNR:	Haut conseil national de la révolution (National High Council of the Revolution)
ICCPR:	International Covenant on Civil and Political Rights
ICESCR:	International Covenant on Economic, Social and Cultural Rights
UFR:	Union des forces républicaines (Union of Republican Forces)
MLPC:	Mouvement de la libération du peuple centrafricain (Movement for the Liberation of Central African People)
OCRB:	Office centrafricain de repression du banditisme (Central African Office for the Repression of Banditry)

AMNESTY INTERNATIONAL'S REQUEST

Dear concerned member of the international community,

After reading the concerns around the cases highlighted in this report, Amnesty International requests you to participate in its action to ensure that the CAR Government respects the rights of its citizens and takes concrete measures to promote and protect rights. The organization's success on behalf of victims of human rights abuses around the world over more than 40 years and in more than 100 countries is based on individual actions like yours, as well as collective ones. The following is what you can do to alleviate the plight of the victims of human rights violations mentioned in this report.

Letter-writing

Write a polite letter (or a petition if more than one person), preferably in French, but also in English or your own language, to the CAR authorities listed below. In the letter (or petition):

- Say that you have read Amnesty International's report on the situation of more than 40 arrested in early 2005 and charged with endangering the internal security of the state and other offences related to their suspected support for armed political groups. Give brief details of the cases, including names of some of the detainees;
- Express concern that the detainees were arbitrarily arrested and unlawfully detained for several months in harsh detention conditions without charge;
- Welcome the fact that many of them were tried and acquitted by the Criminal Court in August and September 2006;
- Condemn the unlawful detention for a further 13 days of the 14 defendants who had been acquitted on 12 September in violation of CAR laws and international human rights law and standards;
- Urge the government to abide by CAR laws and bring to justice members of the Republican Guard who carried out the unlawful detention of acquitted defendants;
- Request the government to publicly condemn all illegal acts by members of the security forces and make it clear to them that human rights violations, including arbitrary arrests and unlawful detentions will not be tolerated;
- Express concern that many other detainees (naming some) accused of endangering the internal security of the state and other related offences continue to be detained without trial;

- Urge the government to ensure that detainees are tried without further delay or are released pending trial, if the charges are not dropped;
- Request that the detainees be given access to legal counsel, professional medical care, adequate food and visits from family members;
- Demand that the government ensures that conditions in prisons and other detention centres in the CAR are sanitary and humane, and that detainees are afforded medical care and adequate nutrition;
- Urge the government to ensure that any government officials or members of the security forces accused or suspected of carrying out, ordering or tolerating torture and other forms of ill-treatment of detainees are brought to justice and victims compensated in accordance with CAR laws and international standards.
- Request the government to publicly undertake to promote and protect human rights and make it clear that judicial and administrative action will be taken against any government or security officials involved in human rights violations.

SEND APPEALS TO:

President

Son Excellence
Monsieur François BOZIZE
Président de la République
Palais de la Renaissance,
BANGUI,
République centrafricaine
Fax: +236 617508
Salutations: Dear President / Monsieur le Président de la République

Minister of Justice

Monsieur Paul OTTO
Ministre de la Justice, Garde des sceaux,
Ministère de la Justice
BP 732,
BANGUI,
République centrafricaine
Fax : +236 61 1579 61 / 61 3198
Email: paulotto@yahoo.fr
Salutations: Dear Minister / Monsieur le Ministre

Minister in charge of Human Rights

Monsieur Abdou Karim MECKASSOUA
Ministre de la Communication, de la Réconciliation nationale, de la Culture Démocratique et
de la Promotion des Droits de l'homme
Ministère de la Communication
BP 1290,
BANGUI,
République centrafricaine
Fax: + 236 615985
Salutations: Dear Minister / Monsieur le Ministre

Minister of Foreign Affairs

Monsieur Côme ZOUMARA
Ministre des Affaires étrangères, de l' Intégration Régionale et de la Francophonie
Ministère des Affaires étrangères,
BP 930,
BANGUI,
République centrafricaine
Fax: +236 613965
Salutations: Dear Minister / Monsieur le Ministre

Prosecutor

Monsieur Firmin FEINDIRO
Procureur de la République
Parquet de Bangui
BP 2891
BANGUI
République centrafricaine
Fax : +236 61 44 78
Email : ffeindiro@yahoo.fr
Salutations: Dear Procurator / Monsieur le Procureur de la République

UN Secretary General's Representative to the CAR

Général Lamine Cissé
Représentant du Secrétaire général des Nations unies,
Bureau de l'ONU en Centrafrique
BP 3338, BANGUI,
République centrafricaine
Fax: +236 617187
Email: Cisse@un.org
Salutations: Dear Representative / Monsieur le Représentant

Lobbying

- Individually or in a group, ask to meet or write a letter to the diplomatic representative of the CAR to your country. Give a copy of this report to the representative and highlight Amnesty International's concerns and seek assurances that the recommendations will be considered for implementation.
- In a meeting or a letter bring the concerns and recommendations in this report to the attention of your country's Ministry of Foreign Affairs. Ask that your government uses its good offices to urge the CAR Government to abide by its own laws and international treaties and standards.

Media work

Avail a copy of this report to the media (newspapers, radios, television, etc) in your country. Request news and feature editors of these media to give coverage to the concerns and recommendations in this report. The media may also interview the CAR diplomatic representative accredited to your country about the human rights situation in the CAR.

Thank you for taking part in this action on behalf of victims of human rights violations in the CAR.