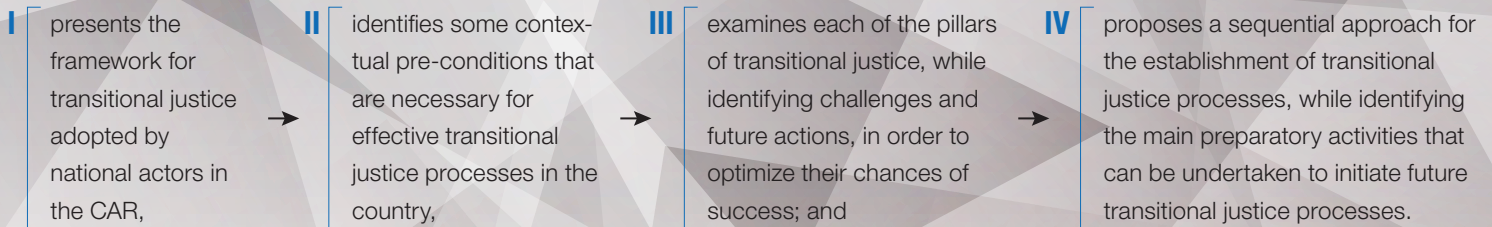




## ● The report:



## ● Definition:

Transitional justice refers to the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice, and achieve reconciliation. It is grounded on the fundamental rights of the victims of human rights violations, namely the right to an effective remedy, the right to know what occurred during conflict or repressive periods (the right to truth), the right to reparation and the right to protection from the recurrence of future violations.

**The transitional justice framework for the CAR:** this framework has been developed in the course of efforts to reach solutions to the country's most recent crisis. After the establishment of a Transitional Government on 20 January 2014, efforts were made to mediate between the ex-Séléka and the anti-Balaka, and to end hostilities, marked by cycles of killings and reprisals.

### This framework includes:

- I) the National Reconciliation Strategy (2014),
- II) the Republican Pact for Peace, National Reconciliation and Reconstruction adopted at the Bangui Forum (2015),
- III) the Organic Law No. 15-003 of 3 June 2015, on the establishment, organisation, and functioning of the Special Criminal Court (SCC),
- IV) the Agreement on Principles of DDRR and on Integration into the Security and Defence Forces of the Bangui Forum (2015),
- V) and the Principal Recommendations and Decisions on justice and reconciliation of the Bangui Forum (2015).

## ● Transitional justice components in the Central African Republic

### Justice and Prosecutions:

Criminal justice can play an important role in holding those responsible for violations accountable, aiding reconciliation, providing a remedy for the victims and deterring future violations and abuses, particularly in situations where impunity has prevailed for decades. A key feature of the recent conflict was the tendency to collectivize responsibility by associating entire communities (Muslims or Christians) with those who perpetrated attack. This perception of the collective responsibility of the 'other' community dramatically expanded the toll of the conflict on civilians. Prosecuting those responsible for the most serious abuses and violations would help establish individual responsibility, and reduce the dangerous collectivization of responsibility based on religious or ethnic identity.

The Special Criminal Court (and other Central African jurisdictions trying international crimes) should draw on positive lessons learned from other countries where efforts have been made to prosecute serious crimes at national level. An unflinching commitment on the part of the national authorities and support from international partners will be necessary for the Special Criminal Court (SCC) to accomplish its mandate. Prosecuting alleged perpetrators of serious violations of human rights law and international humanitarian law committed during conflicts in the CAR will involve the ICC, the SCC, other CAR national courts, and courts of foreign countries, under the principle of universal jurisdiction. This underscores the need for complementarity between national courts and the ICC, jurisdiction-sharing among national courts, and cooperation with foreign national courts that have universal jurisdiction.



**Truth-seeking:** Truth-seeking mechanisms help to create an understanding of the root causes of a past period of conflict or misrule. They are often the main transitional justice mechanism that gives a voice to victims. They are also well-placed to make forward looking recommendations to governments and policy-makers.

**A truth-seeking mechanism for the CAR:**

- I) should have a broad and core mandate to establish the facts and identify the root causes of the conflicts and what transpired during them, and to provide an impartial historical record,
- II) could contribute to national reconciliation through its work, but should refrain from direct political mediation between parties still engaging in residual or on-going conflict, and
- III) could help identify the main form of harm suffered by victims, and make proposals for repairing such harm, but not administer a reparations program by itself.

**Reparations:** Reparations are material and non-material measures taken in order to repair the harm caused to victims of human rights violations, and may take the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-recurrence. The large number of victims in the CAR constitutes a challenge in repairing the harms caused. Another challenge is the restitution of land, housing, and property, following the forced displacement or forcible transfer of persons. U.N. Principles in this area recognize the right to restitution as a preferred remedy for displacement. However, refugees and displaced persons shall not be coerced to return to their former homes or lands, but should have **durable solutions** to displacement other than return, without prejudice to their right to the restitution of their housing, land and property.

Regarding **measures of satisfaction for victims**, the CAR authorities established a National Day for the Remembrance of victims of conflict, on 11 May 2016. Considering the socially divisive nature of the recent conflict, in particular attacks against entire communities based on religion and ethnicity, it will be important that memorialization and commemorative events be appropriately framed and transformative. A significant number of victims of the conflict are in need of specific **medical, social, legal and psychological support** services in order to begin to rebuild their lives. Additional measures are therefore required, under the aegis of government authorities, to integrate **rehabilitation** as part of a national reparations programme.

**Guarantees of non-repetition, especially vetting of defence and security forces:**

These are measures intended to prevent the recurrence of human rights violations in the future. In contexts such as the CAR, reform of the military, law enforcement, intelligence, anti-crime and judicial institutions, is of paramount importance. A critical element of the reform of these institutions is vetting of their personnel, that is, ensuring that State employees who are personally responsible for gross violations of human rights do not remain in their functions within State institutions, and that applicants for positions in such institutions have their human rights records verified. An immediate priority task should be the development of a nationally owned vetting process that includes human rights vetting, including in the context of integration of de-mobilized armed group elements.

## ● Transitional justice strategy:

- Significant improvements are needed in security conditions for transitional justice processes to take place serenely.
- Consideration should also be given to how persons who fled as refugees or IDPs may participate in transitional justice processes.
- A phased approach is recommended, with criminal prosecutions and vetting of the security forces being the first mechanisms to be established.
- The following are proposed as preparatory activities for future transitional justice processes:
  - › strengthening documentation and archives,
  - › supporting victims' organizations to advocate for transitional justice,
  - › strengthening the capacity of civil society organizations,
  - › developing a victim and witness protection program and,
  - › ensuring national consultation and sensitization on transitional justice.
- Specific consideration would need to be given to effective inclusion of the fight against sexual and gender based violence in transitional justice efforts.