

**XXXIV**

**TECMUN**

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International Criminal  
Court

"Con todo y nuestros defectos, a pesar de nuestras limitaciones y falibilidades, nosotros los humanos somos capaces de grandeza."

-Carl Sagan

Delegados, embajadores, ministros y jueces:

Bienvenidos al XXXIV TECMUN, el último TECMUN para mí.

Finalmente ha llegado esta fecha en la cual empiezan los 3 mejores días de mi semestre. Una fecha en la cual llevo pensando varios meses. Hoy inician los últimos 3 días en los que podré disfrutar de lo que más me apasiona y amo, TECMUN. El camino que he recorrido para poder haber llegado a donde estoy actualmente ha sido maravilloso e inolvidable. Un camino lleno de risas, felicidad, estrés, enojo, tristeza, llanto, amigos, juntas, debates, cubos y prismas rectangulares, una familia. Honestamente no sé qué habría sido de mí si no hubiera descubierto TECMUN. Esta organización ha tenido un gran impacto en mi vida y le debo demasiado a todas las personas que me han acompañado a lo largo de este camino.

Yo comencé este viaje de la misma manera en la que ustedes lo están haciendo, debatiendo. Al igual que la mayoría, en mi primer TECMUN me encontraba asustado y con muchas inseguridades. Sin embargo, mientras iban pasando las sesiones sentía que el miedo se iba desvaneciendo. Poco a poco me iba expresando con más facilidad, el miedo de hablar en público ya no era tan agobiante como al principio. Al finalizar el tercer día, sentía que había cambiado por completo. Espero con ansias que en la última sesión ustedes también noten algún cambio positivo y espero que TECMUN cumpla con su propósito y los ayude a crecer como persona.

Actualmente vivimos en una época difícil. Vivimos en una sociedad donde hay machismo, discriminación, violencia, desigualdad, pobreza y muchos problemas más. Y lo que más me entristece es que existe gente que no se informa o simplemente no le importa lo que está sucediendo. Sin embargo, ustedes son la diferencia. Participar en TECMUN te ayuda a darte cuenta de la situación en la que vivimos, te ayuda a desarrollar empatía y buscar soluciones mediante el diálogo. Me gustaría que aplicaran estas herramientas en su vida diaria y no sólo en modelos, ya que el mundo necesita gente así, gente como ustedes.

Delegados, por favor den lo mejor de ustedes durante estos 3 días. El Secretariado se ha preparado durante más de 5 meses para poder realizar este evento. Sus mesas están completamente capacitadas y recuerden que estarán ahí para ayudarlos y guiarlos, no duden en pedir ayuda y acercarse a ellos. Estoy completamente seguro de que harán un excelente papel representando a su delegación, sólo es cosa de que ustedes también se lo crean.

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Mauro Rentería González  
Subsecretario General de las Agencias Especializadas y Organismos Regionales  
XXXIV TECMUN

*"Tell me your story. I want to hear your voice,  
and I want to hear your conviction.  
Find your name, find your voice by speaking yourself."*

-Kim Namjoon at the United Nations  
for UNICEF's "Generation Unlimited" launch.

Dear judges:

To begin this letter, I would like to warmly welcome you to this court and thank you for letting yourself take upon a challenge like this. It is most definitely not easy to stand in front of unknown faces to defend a point of view, much less in a context of a trial. I can only hope these three days will teach you a little more about international law, defending humanity and the importance of justice.

But beyond that I hope this model can teach you how to find your voice.  
I hope that you notice how much of an impact it can have if you use it well.  
I hope that you will always stand up for your hopes and dreams of a better world.  
I hope that you shut out the voices of others and listen to yours instead.  
Because your voice is what defines you today and will continue to define you for the rest of your life.  
Because having a voice is what makes you stand out from the overwhelming indifference we live in.

I for one know that this model gave me the chance to speak freely and therefore have the sense of belonging somewhere. This particular edition is my very last one, after three years of belonging here. This is the last time I will write a letter in hopes of inspiring you to take something from this model. This is the last time I will open a session in hopes of you growing throughout it. This is the last time I will see a collective endeavor to change the world in you and everyone else who participates here.

After these three days are over, I will say goodbye to this experience for good.  
But I will never say goodbye to my confidence to speak.  
I will never say goodbye to my vow to use my voice in the best way that I can.  
And I hope that you won't either.

I hope that even in this cruel and vast world, we all make ourselves be heard.  
Even if it means we have to scream.

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Adriana Lucía Carrillo Padilla  
President of the International Criminal Court  
XXXIV TECMUN

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# Outline of the International Criminal Court

The International Criminal Court (hereinafter referred to as ICC) is a permanent international judicial body to try individuals for genocide, crimes against humanity and war crimes. Created to substitute the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda, the ICC was formed under an international treaty, the Rome Statute, established in 1998, voted and adopted by 120 states. The ICC may conduct all crimes presented to it under the Statute of Rome committed after the 1<sup>st</sup> of July, 2002, date when the Rome Statute entered into force after the ratification of 60 states. Under the principle of complementarity in the Rome Statute the ICC is not a substitute for National Courts and may only intervene when a State is unable to proceed with the investigation. By fairly and impartially adjudicating the most serious international crimes and bringing justice to victims, the ICC contributes to the advancement of the rule of law and stable, peaceful societies.

# Topic A

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The prosecution of Javier Duarte de Ochoa for crimes against humanity during his term as governor of the state of Veracruz, Mexico

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## ***Outline***

In May 2014, an independent, digital Mexican journal called *Animal Político*, published an investigation that shed a light on the irregularities presented in the management of public resources in the state of Veracruz, whose head at the moment was Javier Duarte de Ochoa. Along with a non-profit civil organization called *Mexicans Against Corruption and Impunity* (MCCI by its initials in Spanish), the investigation unveiled 73 contracts among 21 enterprises and 4 government dependencies for the acquisition and distribution of resources theoretically meant for vulnerable groups within the region that were instead used to disappear at least 645 millions of Mexican pesos (MXN) in the time lapse of the years 2012 to 2013. Likewise, beginning the year 2017, the successor of Duarte as governor of the State of Veracruz, Miguel Ángel Yunes, denounced that during Duarte's administration an inert component similar to distilled water was given to cancer patients instead of chemotherapy, a common treatment against cancer. Yunes also affirmed that 70,000 AIDS tests were purchased, but they turned out to be useless and gave out fake results to those taking them. Furthermore, elements of the government dependency, *Public Security Secretary* (SSP by its initials in Spanish) are allegedly implicated in at least 15 cases of torture and eventual enforced disappearances during the year 2013, under Duarte's command. His term was too characterized by the violent censorship of journalists and their right to free speech as they criticized his government.

## ***Mexico and Veracruz's economic, social and political context***

Mexico's economic history has been characterized since the colonial era by resource extraction, agriculture, and a relatively underdeveloped industrial sector. Veracruz is one of the 31 states that, along with the Federal District, comprise the 32 federative entities of Mexico. Veracruz has one of Mexico's leading economies, based on agriculture and petroleum. The assumption that Mexico's informal economy is 30% constant of total activity at the local level. In the past, programs that could shift the economic activity from the informal sector to the formal sector have not been successful, suggesting that public finance problems, such as tax evasion, will continue to plague the state with low government revenues. In the past, about ten years ago, Veracruz had a stable and growing economy. Though, since 2013, the Gross Domestic Product of Veracruz sustained a systematic decline with negative growth rates. While for 2016 the state economy prolongs its agony due to the fact that during the first quarter the state GDP increased only 0.3%, which places it in 27th place nationwide. Javier Duarte de Ochoa, former governor of Veracruz, did not elaborate a strategy of economic development that would allow the structural transformation and state

modernization of the state, otherwise, left the state with a public debt amounting 170,000 millions pesos that derives from a disorderly and corrupt administration, in which there was mismanagement of the public resource.

Furthermore, Duarte's administration of Veracruz, left the State with a legacy of grave violence, organized crime, impunity, and an evident abuse of power. Poverty and social backwardness increased drastically. The *Social Development Secretary* (SEDESOL by its initials in Spanish) calculated more than 5 million people were suffering poverty in the region as of 2016, which represents the 62.5% of the total population of the state of Veracruz and an increase of 13.9% of the population in state of moderated poverty. Regarding efforts in education, the government of Veracruz did not address the social deficiencies properly, in consequence, 25.7% remained the general percentage of "veracruzanos", citizens of the state of Veracruz, with educational shortcomings.

Moreover, insecurity, direct product of violence and a trust-crisis to government institutions, has also plagued the state. Veracruz's "privileged" geographical location has attracted at least 4 criminal groups who contest for the commercial port and highways that reside inside the state. Since 2011, in the administration of Duarte, National Armed Forces have tried to combat organized crime in Veracruz but instead of diminishing the violence it has accumulated and reached dangerous new levels. The alarming numbers of total homicides reached 4,555, with the highest year being 2012 with a total amount of 968 homicides, in accordance with the *Executive Secretariat of the National Public Security System* (SNSP by its initials in Spanish).

### ***Diversion of resources in Veracruz through government dependencies and creation of ghost companies***

According to the *Attorney General's Office* (PGR by its initials in Spanish), there is an investigation into the diversion of at least 35,421 million pesos of resources from state and federal funds in Veracruz between December 2010 and October 2016, when the former demanded a license to the position, to later disappear. After the flight of Duarte, the calculations of the *Superior Audit of the Federation* (ASF by its initials in Spanish) showed that the 60 complaints that had presented to the PGR for the alleged diversion of federal public resources exceeded 60,000 million pesos (MXN) , according to Animal Político.

Javier Duarte de Ochoa, as one of the ways to get wealthy by illegal means, participated in the mismanagement of the *National System for the Integral Development of the Family* (DIF by its initials in Spanish), which is a decentralized public organization that his wife, Karime

Macías, presided over. During his administration he appointed Miguel Ángel Ortiz Romero, Director of Finance and Administration of Veracruz DIF, who performed the illicit transactions. Between 2011 and 2016, the DIF delivered more than 415 million pesos in contracts with 33 ghost companies. In total, the Veracruz DIF signed 119 contracts with groups of ghost companies during Duarte's governorship.

Through *Secretary of Public Education* (SEP by its initials in Spanish) the government of Javier Duarte withdrew 483 million 734 thousand pesos only in 2015 that were intended to pay state teachers and improve public education through the *Fund of Contributions for Payroll and Educational Expenditure* (FONE by its initials in Spanish). According to data from the ASF, the SEP administration made payments to people who were not locatable or were not teachers, as well as acquiring resources that were not verified. According to the review, backpacks that were purchased for 15 million pesos with the logo of the "Government of the State of Veracruz," but most were never delivered. There also was a diversion of millions of pesos to "Operating Expenses", that in none of the cases had the supporting documentation and were delivered to non-existent companies.

A quantity of approximately \$38,235,000.00 of pesos was the amount that Civil Protection of the State of Veracruz deviated from the public herald through false contracts with ghost companies. It was assumed that this agency should occupy its budget to help the recovery of some areas affected by natural disasters or other phenomena in Veracruz. Effectively this budget was intended to purchase products such as: pantries, sheets, blankets, mats or kits cleaning, but these were acquired by Civil Protection through ghost companies. Therefore, there is no receipt or proof that these products were delivered to the victims.

During the government of Javier Duarte at least 645 million pesos (MXN) of public funds were diverted by the creation of ghost companies; companies that were supposedly hired to provide a service or be suppliers of the government, the diversion of these funds is made through various contracts to these companies by the aforementioned government dependencies. According to the records of *Public Registries of Commerce* (RPC by its initials in Spanish), these enterprises were created on the same year with many similarities on it such as the owner, partners and location. Of the total contracts, seven were direct awards from the Veracruz Ministry of Education, nine correspond to direct awards from the Civil Protection Secretariat, and 57 are simplified tenders (direct invitations from the agency to at least three companies) of the SEDESOL and the local DIF.

According to the research carried out by Animal Político and MCCI, there is a network of 400 ghost companies, of which 21 have been directly linked with public dependencies or



public officials of the government of Veracruz during the mandate of Javier Duarte. Each of the contracts come from the four public agencies. Examples of these ghost companies is Grupo Balcano SA de CV, who were suppliers of building blocks for SEDESOL, Comersil SA de CV with teaching materials for the SEP, Marvercarr SA de CV with cleaning kits for Proteccion Civil and Pefraco SA de CV with backpacks for the DIF of Veracruz among others. Based on different investigations, it is believed that there are more public agencies involved in the hiring of the different embezzling enterprises that make up this network.

### ***Irregularities in the health sector***

According to a public account report of 2015, in Javier Duarte's administration, embezzlement and irregularities in the inversion of health services in Veracruz were detected. Over 2.338 billions 304 thousand pesos assigned by the federal government for the *Contributions Fund for Health Services* (FASS by its initials in Spanish), *Public Insurance and Support Program to Strengthen the Quality of Health Services and the Component of Health* were embezzled. According to the audit made in 2015 by the FASS, there were irregularities in the administration of 137 million 608 thousand 800 pesos. The ASF determined that 109 million 247 thousand pesos corresponding to medical resources, were given to *Secretary of Finance and State Planning* (SEFIPLAN by its initials in Spanish) and they never reached the *Health Services of Veracruz* (Sesver by its initials in Spanish). Another 72 thousand 767 pesos were used to pay the salary of only one single person, without documentation, as well as 139 thousand 223 pesos that corresponded to tickets because of the breach of the contracts, were not paid.

During the mandate of Javier Duarte, the Secretary of Health of the state of Veracruz purchased apocryphal medicine intended for the treatment of cancer patients, which were purchased from the companies Especialidades Médicas del Sureste (Medical Specialties of the Southeast), Oncopharma and Bedus Grupo Farmacéutico (Bedus Pharmaceutical Group), all of which were vinculated to the deputy for Veracruz, Jorge Carvallo Delfín. The successor of Duarte as governor of the state of Veracruz, Miguel Ángel Yunes, stated in a press conference in January 16, 2017, that said product, which was an inert component similar to distilled water, was administered to children in place of chemotherapy. In a separate interview with Radio Fórmula, a Mexican radio network, he affirmed that the purchase of fake or cloned medicine for cancer treatment dated back to the the antecesor of Duarte as governor of Veracruz, Fidel Herrera, in 2010. In May 2011, when Duarte's mandate had already begun the pharmaceutical enterprise, Roche, warned the administration about a study's results that said the items were

indeed fake and not from their production, as the packaging showed. Nevertheless, the government continued to buy the medical product, called Avastín, to the aforementioned enterprises up until 2013.

The irregularities weren't given only in false oncological medicine, but in the field of the Human immunodeficiency virus infection and acquired immune deficiency syndrome (HIV/AIDS), as the Secretary of Health of Veracruz bought a batch of 70 thousand fast tests to determine if an individual was a carrier of the infection. Said tests turned out being fake or flawed, as it was reported that they gave false positive and negative results to the users. 9 million pesos were spent in these tests, and its application was suspended as soon as the authorities found out the results they gave were not correct. The irregularities were denounced to the PGR by the then secretary of health, Juan Antonio Nemi, as it compromised federal resources. The General Contralory of the State was notified as well of the facts, and in their investigation it was too pointed out that the batch was bought in a public licitation to the enterprise Comercio y Servicios Administrativos del Golfo (Commerce and Administrative Services of the Gulf). They only simulated to change the product, but left the same false tests with a different packaging, as confirmed by the batch number.

In addition, by the end of July 2016, there was an alleged attempt to incinerate expired medical products, such as syrups, tablets, pills, antibiotic substances by pulling them out of storages and transporting them to sparsely populated areas.

### ***Repression and censorship of journalists***

Journalism is one of the most common professions that currently causes controversies with social and political problems all around the Mexican states, due to the fact that the freedom of expressions is strongly supported nowadays by social movements and even the Universal Declaration of Human Rights, specifically in Article 19. Nevertheless, it continues to be a high risk career because of the governments that are not benefited by mentioned laws and movements. Unfortunately, Mexico is among the world's most dangerous countries for journalists, and the state of Veracruz is one of the most insecure states to work as one.

Between December 1, 2011 and October 12, 2016, during Javier Duarte de Ochoa's term as governor, 18 journalist were brutally murdered and 3 more disappeared. It is said that their deaths had a possible relation with the articles who talked about Duarte and his cabinet's acts, treatments and lifestyle. An example was the death of the young journalist Regina Martinez of the magazine Proceso, who was performing an investigation about alleged nexuses between public functionaries and drug dealers. Likewise, on August 1st, 2015, the mexican

photographer Rubén Espinosa Becerril, who worked at the magazine *Proceso* too, was murdered with four other journalist in Mexico's capital. A few months before, he declared in an interview his insecurities about working as a journalist in Veracruz, additionally he accused Duarte's government of having the media submitted. Nadia Vera, one of the victims who was murdered together with Rubén Espinosa, blamed Javier Duarte and his cabinet about having made threats to all the journalist who were working on his investigations as a corrupt.

Although Javier Duarte proposed the creation of the Committee to Protect Journalists of Veracruz on July 5th, 2012, it was popularly assumed he only did his to cover up his recent acts. Nevertheless the request was approved and mentioned committee was effectively established. *Red Veracruzana de Periodistas*, which is backed up by organizations of different regions and countries, demanded General Prosecutor's Office of the State, and the PGR, that Javier Duarte had to be investigated, due to the fact that he was allegedly responsible for the murder and disappearance of them. In accordance with international organizations defenders of the liberty expression, the term of Javier Duarte de Ochoa was one of the most dangerous for journalist, as well as one were liberty of expression was oppressed the most.

### ***The role of the Public Security Secretary in torture and enforced disappearances***

The Public Security Secretary executed the operation called "Tiro de Gracia", which permitted to accomplish 19 arrest warrants against ex-mandataries of the Secretary of Public Security during Javier Duarte de Ochoa's government since they were allegedly involved in at least 15 enforced disappearances in 2013.

Furthermore, this ex mandataries were responsible for implementing an illegal policy known as Detention Policy which consisted in detecting, stopping, torturing and forcibly disappearing people without someone who could defend them. In order to be able to perform this illegal policy, the Secretary of Public Security during Duarte's government had the support of two organized groups which were under the rule Bermudez Zurita.

The first group known as *Reaction Force of the State Police Division* was the one in charge of carrying out the alleged arrests towards people they considered suspicious with the purpose of obtaining information based on torture and even sexual abuse. Subsequently, this Reaction Force delivered those who were arrested to the second group called *Special Force of the Ministry of Public Security* which was mostly composed of ex-military. They received the victims and transported them to the State Police Academy, located in Lencero, where the ex-military tortured them, extracted information and then disappeared them. Such is the case of the 15 victims between April and October of 2013. Nevertheless the Prosecution Office

investigated the enforced disappearance of at least 100 people during Duarte's term as a governor.

### ***International Criminal Court on the Case***

Mexico is a State Party to the Rome Statute of the International Criminal Court since 1 January 2006, after the senate of the country approved the ratification of the Rome Statute, signed in the year of 2000. The voting took place in 2005, with 78 votes in favor and 1 against the ratification, and it was published on June 20, 2005 in the *Official Journal of the Federation*.

In September 2018, the Senate of the Mexican Republic unanimously approved an agreement point that exhorted the International Criminal Court to investigate the criminal responsibility of Javier Duarte de Ochoa in the act of the distribution of unfit AIDS tests and apocryphal cancer treatment medicines. In said point it was stated that due to the nature of the crimes, Mexican people deserve superior and definite justice that can be brought to them through the laws and international treaties Mexico is subject to.

### ***Currently Accused***

- Javier Duarte de Ochoa
- Javier Duarte de Ochoa was born on 19 September 1973 in Veracruz, Mexico.

He won the elections as governor of the state of Veracruz in July 4 2010, as the candidate of the Mexican party, Institutional Revolutionary Party (PRI by its initials in Spanish), and acted as such up until the year 2016. He is a lawyer, with a master's degree in Law, Economy & Public Policies and Applied Public Management, and a PhD in Economy and Institutions.

Prior to his charge as governor of Veracruz, since 1997 he performed administrative duties in governmental projects, commissions, committees and secretaries, as well as political duties as the undersecretary of finances of the PRI in Veracruz in 2004 and as the national political counselor of the PRI (2008-2011). He fled the state of Veracruz in 2016 and was a fugitive until six months later, when he was arrested in Guatemala and hereinafter extradited back to Mexico.

### ***Charges Submitted***

Javier Duarte de Ochoa is accused of:

-Crimes		Against		Humanity
●	Torture		(article	7(1)(f))
●	Enforced disappearance	of	persons (article	7(1)(f))

- Corruption (article 7(1)(k))
- Embezzlement (article 7(1)(k))
- Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health. (article 7(1)(k))

### ***Conclusion***

Over 90% of Mexican citizens consider that the state and federal government are deeply corrupt, according to the the Mexican National Institute of Statistics and Geography (INEGI by its initials in Spanish) in a 2017 study. The only more worrying fact is that the figure only seems to go higher as time passes, given that in the 2015 study, the percentage was lower by 2.6%, showing the insignificant efforts that have been made towards fighting this problem by the federal, statal and even municipal or delegational administrations.

Javier Duarte's case as a corrupt governor of a Mexican state is only one of the many recent cases that have made headlines across the world given the exaggerated numbers of money embezzled and the consequences their actions have brought upon the people of their individual states. But this behavior of political leaders has been a well-known trait of the hegemonic political party of Mexico for most of the 20th century and part of the modern days; the PRI. Even in the short transition from 2000 to 2012, with the National Action Party (PAN by its initials in Spanish) in the federal government, the PRI's most damaging legacy remained to be the deeply rooted corruption at all levels.

Addressing the rampant problem of violence, repression and corruption in Mexico has never been so vital for the nation's development, and part of compelling the authorities to respond for what was done wrong is by eradicating the impunity they have enjoyed thus far. For them to answer back to the people, fair trials must begin to be held against them. Holding every government official accountable for what is done during their administration is the beginning to a long overdue transition into real democracy and rule of law for the Mexican people who were victims, and for the Mexican people who deserve a better place to call home.

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## *Glossary*

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### **A**

**Apocryphal:** Of doubtful authenticity, although widely circulated as being true.

**Appoint:** Assign a job or role to someone.

### **B**

**Backwardness:** The state of having made less progress than is normal or expected.

**Budget:** an estimate of income and expenditure for a set period of time.

### **C**

**Censorship:** The suppression or prohibition of any parts of books, films, news, etc. that are considered obscene, politically unacceptable, or a threat to security.

**Chemotherapy:** The treatment of disease by the use of chemical substances, especially the treatment of cancer by cytotoxic and other drugs.

**Compel:** Force or oblige someone to do something.

### **D**

**Decentralize:** Transfer authority from central to local government.

**Distilled water:** Water that has been boiled into vapor and condensed back into liquid in a separate container.

**Deputy:** a person whose immediate superior is a senior figure within an organization and who is empowered to act as a substitute for this superior.

### **E**

**Embezzlement:** Theft or misappropriation of funds placed in one's trust or belonging to one's employer.

**Enforced disappearances:** Occurs when a person is secretly abducted or imprisoned by a state or political organization.

## G

**GDP:** Gross domestic product (GDP) is the monetary value of all the finished goods and services produced within a country's borders in a specific time period.

**Ghost company:** a company that serves as a vehicle for different business operations without having itself significant assets or own operations. Ghost companies are not illegal per se, and may have legitimate business objectives

## I

**Inert:** Substances that do not produce a chemical reaction when another substance is added.

**Immunodeficiency virus:** a chronic, potentially life-threatening condition caused by the human immunodeficiency virus (HIV).

## N

**Nationwide:** Extending or reaching throughout a whole nation.

**Non-profit:** Not making or conducted primarily to make a profit.

## O

**Oncology:** The study and treatment of tumours.

## P

**Phenomena:** a fact or situation that is observed to exist or happen, especially one whose cause or explanation is in question

## R

**Revenue:** Income, especially when of an organization and of a substantial nature.

## S

**Shortcoming:** A fault or failure to meet a certain standard, typically in a person's character, a plan, or a system.

**Sparse:** Thinly dispersed or scattered.

## R

**Rampant:** Flourishing or spreading unchecked, especially of something unwelcome.

**Ratification:** the action of signing or giving formal consent to a treaty, contract, or agreement, making it officially valid.

## U

**Unveil:** to show or make it known for the first time.

## W

**Warrants:** securities that give the holder the right, but not the obligation, to buy a certain number of securities

## Topic B

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The prosecution of Alfred Yekatom during the Anti-Balaka movement in the Central African Republic

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## ***Outline***

Since August 2013, a conflict between an armed group of muslims, named Seleka, and a christian group called Anti-Balaka, who were the countermovement for the Seleka, hit the territory of the Central African Republic, hereinafter referred to as CAR, where more than 70% of the population practice the Christian religion. It is understood that the latter were formed spontaneously in reaction to the widespread violence committed by Seleka fighters after they seized power of Bangui, , the capital of the CAR, and toppled President François Bozizé in March 2013. Each group was seen as the protector of their respective ethno-religious community, due to the increasing threat of violence generated by both of the aforementioned armed groups, since they were convinced that fighting was a mean of self-preservation.

Thousands died and one fifth of the 4.5 million inhabitants of the Central African Republic fled their homes during the conflict that broke out after the Seleka rebels toppled President François Bozize in 2013. It got to a point in which the United Nations' Security Council by its resolution 2149 (2104), established the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), in efforts to stabilize the country. The conflict ended only in the later part of the year 2014 when the Seleka and Anti-Balaka signed a ceasefire agreement.

## ***Central African Republic's social, political and economic background***

The former French colony of Ubangi-Shari became the Central African Republic after independence in 1960. After three decades of unstable governments, mostly by military regimes, a civil government was established in 1993. The government still lacked control in the years after that, although many others took office. Changes in them occurred in recent years by three methods: negotiations, elections and violence. This led to several rebel groups joining in early December 2012 to launch a series of attacks that left them in control of numerous cities in the country. In March 2013, the Muslim rebels from the Seleka group took the capital and overthrew the government.

The conflict between the Seleka and the Anti-Balaka fighters affected the quality of life in the Central African Republic through the outbreaks of violence that worsened the stability of the population, causing millions to search a safe haven, but with a shortage of basic resources to survive. The CAR is now known as one of the poorest and most unstable countries, where more than half of the population needs humanitarian aid urgently, more than two million people have difficulty finding enough food to eat, 65% of the population lacks access to water that is suitable for consumption, and more than 800,000 people have been forced to leave their

homes and are either internally displaced within their own country or refugees in neighbouring countries. Since the political crisis that resulted in the March 2013 coup approximately 370,000 people have fled to Chad, the Democratic Republic of the Congo (DRC) and other neighboring countries. The UN has urged countries to refrain from repatriating refugees from the Central African Republic in the midst of increased illegality.

On the other hand, the economy does not benefit the country since the per capita income is approximately \$400 per year, one of the lowest in the world. Diamonds, gold, oil, uranium and agriculture mostly generate the income, but their mines and mineral deposits are underexploited. Diamonds are the most imported in the country, as they represent between 40% and 55% of export revenues, but it is estimated that between 30% and 50% of those leave the country clandestinely. The annual growth rate of real GDP is just over 3%.

### ***2013 Coup D'Etat in the Central African Republic***

Military *coup d'états* had been a common form of regime change in the CAR, since the independence from France in 1960. The stability of the CAR has repeatedly been disturbed by five successful military coups, already including the one made by the Seleka rebel coalition, who began overtaking different regions of the country.

By the end of November 2012, the Seleka overran the north and the centre of the CAR. As a result of the increase of power and territory, the Seleka rebel group organized a seizure within the state apparatus, also known as *coup d'etat*, on March 2013 in the Central African Region by conquering the capital. The reason for this coup was the government's failure to abide by the peace agreement the Selekas made with President François Bozizé in 2007, during the Central African Republic Bush War and one made in January 2013 where they agreed to ceasefire and a power-sharing deal that addressed several rebel demands, such as the release of prisoners, the withdrawal of foreign troops in the country and the agreement to include Muslim members in the CAR government. As part of the agreement, Bozizé named Nicolas Tiangaye, a lawyer supported by both the opposition and Seleka, as prime minister. The Selekas in exchange vowed to let the Bozize period end until the next election in 2016, if their demands were met.

The fall of Bangui, the capital of the CAR, on March 23 was considered to be the culminating point of the rebellion. The process to get there successfully was by taking over neighboring cities, such as Boali. The aforementioned city also had the electricity station that provided for Bangui, and the rebels used that to their advantage. By turning off the power, the

capital was left in the dark for the rest of the night and they pushed forwards towards the presidential palace.

At first, the administration affirmed everything was under control. Government spokesman Crepin Mbolli-Goumba said "President Bozize is still in power". Nevertheless the next morning the President Bozize fled from the country to the Democratic Republic of Congo, letting the leader of Seleka, Michel Djotodia, take control of the presidential palace, dissolve the parliament and suspend the constitution. Consequently, on August 2013, Michel Djotodia was sworn in as interim president. "We are not there to take power by force. We'll put in place a transitional authority of 18 months then go to elections," said Nelson Ndjadder, spokesman for Seleka, and they added that the Prime Minister Nicolas Tiangaye would still be the head of the government until said elections took place.

International reactions included that of the Chadian president, who recognized the Seleka were in power and called for power sharing until elections took place, as well as for peacekeepers to help in restoring security in the country. In addition, the African Union condemned the coup, and stated they would suspend the body within the region and sanction Seleka. The office of the UN Secretary-General at the time, Ban Ki-moon, issued a statement, saying "he is deeply concerned by reports of serious violations of human rights" as well as affirming that those responsible for them would be held accountable, and lastly called "the swift restoration of constitutional order". The discontent that the *coup d'état* established in the population gave as a result the creation of retaliation groups, such as the the Anti-Balaka group.

### ***The Seleka***

Seleka (meaning 'alliance' in the local Sango language) is the name that identifies fighters from muslim groups; the Union of Democratic Forces for Unity (UFDR), the Union of Republican Forces (UFR), the Kodro Patriotic Health Convention (CPSK) and the Convention of Patriots for Justice and Peace (CPJP), who came together to start a rebellion in the Central African Republic territory. The Seleka evolved from rebel forces during the 2004-2007 CAR Bush War, but the official molding of this rebel group was on August 2012, sharing the objective of the effective implementation of the 2007 and 2008 peace agreements with the government of the CAR. Due to their first victories in the northeast of the territory, the movement became radicalised and transformed into a genuine rebellion, with its aim being to

overthrow President François Bozizé given that he failed accomplishing the proposals he made in 2007.

Since December 2012, the group strengthened. Upon arrival in Bangui, the group entered into a negotiation with the Bozizé since the president broke some clauses of the agreement reached in January 2013. The Seleka gave an ultimatum for Bozizé and despite some last-minute concessions from the president, the group resumed hostilities a few days later. On March 23rd 2013 seized power in Bangui. Michel Djotodia, a Seleka leader, claimed to be the de facto head of state and initially promised to uphold the terms of the January power-sharing agreement. After Bozizé escaped, the interim government struggled to restore order and perform the normal functions of state. On December 5 the UN Security Council voted to authorize the deployment of an African-led peacekeeping force that would incorporate ECCAS troops already in the country, as well as the deployment of additional French troops to augment the country's existing military presence there, in an effort to protect the civilian population.

### ***The Anti-Balaka***

Anti-Balaka, which in Sango means "Anti-Machete", alluding to a typical Seleka weapon, is an armed group that emerged as a counter-movement to the rebel group, Seleka. There are records, such the "Ouest France" diary that affirms the fact that Anti-Balaka was created as one of the several defense groups by the ex president Bozizé to protect the country from bandits that lurked it, even before than Seleka was created in 2013.

The group is mostly formed by people who profess the Christian religion, hence why they are also named "the Christian militia". Before the Anti-Balaka group was consolidated, each of the villages and communities in the CAR had their own militia, in charge of carrying out the incarcerations and persecutions of the bandits in their communities. Jean-Marius Toussaint Zoumalde, a priest of the region states that this groups emerged given that the police and the army were unable to control crime, and by the end of 2013 the old village self-defense groups restructured themselves to fight the Seleka as part of the Anti-Balaka.

Consequently, in November 2016 the Anti-Balaka group began the attacks against different villages in the country as well as the village of Liotto where the Seleka group had settled down their militia base. The methods used by Anti-Balaka to attack the different villages begin by planning the attack and asking the young people of the area to join them. Many refuse to do so, turning them in the main military objectives. They proceed to attack the village by making use of cold steel weapons, such as machetes, axes and sticks and even firearms; these attacks have the aim to create confrontations between the two groups.



At first it was a self-defense group, but later on they began to attack Muslim civilians and members of the Seleka systematically. In July 2013, the United Nations Human Rights Council (UNHRC) reported that the Anti-Balaka groups had attacked any individuals allegedly part of the Seleka, and the casualties included civilians who had no relation to the aforementioned group. The Anti Balaka are responsible for the violence against the Muslim population, which they consider an accomplice of the former Seleka rebels which has unleashed terrible violence, causing a humanitarian catastrophe, which has even been defined as pre-genocidal against muslim civilians.

### ***Systematic and widespread attacks against the Muslim civilian population***

From at least September 2013 until at least December 2014, Anti-Balaka groups conducted a series of attacks against the Muslim civilian population, who were often superficially perceived to be “foreigners”, complicit with or supportive of the Seleka. These attacks across western CAR followed a consistent pattern of violence, including forcible displacement, killings, torture, forms of deprivation of physical liberty, enforced disappearance, looting of Muslim homes and businesses and destruction of mosques. The command structures of the Anti-Balaka groups were also known for using violent and rhetoric, as well as for issuing orders to the subordinates such as: “kill Selekas and Muslims”, “destroy the Muslims houses so they will go back to their country”.

Hostilities between the rival rebel groups culminated in an attack on Bangui on 5 December 2013, where various Anti-Balaka groups attacked the capital from different directions, using heavy weapons, assault rifles and machetes. Although the attack was not immediately successful, it sparked a cycle of violent reprisals by the Seleka and Anti-Balaka in various neighbourhoods in Bangui and throughout western CAR against civilians perceived as supporting the other side. An estimated 1,000 persons were murdered in Bangui alone after the first attack.

### ***United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA)***

The Security Council, by its resolution 2149 (2104) established the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), where it was decided that the operation would comprise up to 10,000 military personnel who would perform different duties such as military observers, staff officers and police personnel. The council also authorized, according to Chapter VII of the Charter of the

United Nations, for MINUSCA to use all necessary means to carry out its objectives and mandates within their capabilities. The resolution also authorized French Forces, within the limits of their capacities and areas of deployment, to use all necessary means to provide operational support to elements of MINUSCA while it is in force at the request of the Secretary-General at the time.

The mandate of MINUSCA, as recommended by the Secretary-General include, among others, the protection of civilians, United Nations personnel, installations and equipment, the creation of security conditions leading to the delivery of humanitarian assistance, the promotion and protection of human rights and a national dialogue, mediation and reconciliation, support for the disarmament, demobilization and reintegration of former armed elements, and community violence-reduction programmes. Additional tasks would include the overall support for a stabilization and recovery of the country in terms of democracy, security, weapon control, economy and resource management.

Several countries have contributed on this mission over the past year with police and military forces. Rwanda, Pakistan, Egypt, Bangladesh, Zambia, Cameroon, Burundi, Morocco, Mauritania, Gabon, Senegal, Jordan, Congo, Tunisia and Burkina Faso are the top countries that have had contributed the most in 2018, making possible that over 12.870 members contribute to the objective of the MINUSCA. France is involved with the MINUSCA by the Sangaris operation, which was established in December of 2013, whose principal priority is to bring support to the MINUSCA and it counts with an army of over 2000 soldiers in Bangui. The international support of the forces deployed in Bangui have achieved a temporal upgrade on the security of the zone, nevertheless the conflict has left multiple casualties behind from either sides.

### ***International Criminal Court on the case***

On 30 May 2014, the CAR authorities referred a situation of crimes allegedly committed in their nation since August 2012 to the Prosecutor, who followed to open investigations on September of that same year that led to the conclusion that there were several grounds to believe crimes under the jurisdiction of the ICC were committed in the western CAR between December 2013 to December 2014, and on October 2018 submitted an application for the issuance of a warrant of arrest for Yekatom for crimes. The warrant was unsealed a month later and Yekatom was surrendered to the ICC by the authorities of the Central African Republic and transferred to the ICC detention centre.

### ***Currently Accused***

- Alfred “Rambo” Yekatom

Alfred Yekatom was born on 23 January 1975 in Bimbo, Central African Republic. He is the alleged former commander of the Anti-Balaka movement during the widespread, systematic attack against the Muslim population in the years of 2013 and 2014. He is believed to have led the rebel group into several attacks in Bangui, Boeing, and Cattin, where they used firearms, grenades and machetes to terrorize and kill the population in them, as well as forcing them to flee to other parts of the CAR or out of the country. He also ordered the destruction of several Muslim homes and mosques in Boeing and Mbaiki. The latter city was also believed to have been left almost completely uninhabited after those living in it were threatened by Yekatom and his subordinates. In addition, he also enlisted boys under the age of 15 in the group who were stationed at the Yamwara School and other bases and checkpoints controlled by Yekatom, including in Sekia and Pissa.

### ***Crimes Submitted***

Alfred Yekatom is accused of:

#### - Crimes against humanity

- Murder (article 7(1)(a))
- Deportation or forcible transfer of population (article 7(1)(d))
- Imprisonment or other severe deprivation of physical liberty (article 7(1)(e))
- Torture (article 7(1)(f))
- Persecution (article 7(1)(h))
- Enforced disappearance (article 7(1)(i))

#### - War Crimes

- Mutilation (article 8(2)(c)(i))
- Torture and cruel treatment (article 8(2)(c)(i))
- Intentional attack against the civilian population (article 8(2)(e)(i))
- Intentional attack against buildings dedicated to religion (article 8(2)(e)(iv))
- Enlistment of children under the age of 15 years and their use to participate actively in hostilities (article 8(2)(e)(vii))
- Displacement of the civilian population (article 8(2)(e)(viii))
- Destruction of the adversary's property (article 8(2)(e)(xii))

### ***Conclusion***

As it tends to happen with African countries who previously were colonies, the Central African Republic has barely known stability and a true rule of law in its territory ever since they gained independence from France. The insurgence of different rebel groups and each government's incapacity to recover the country in the various aspects it is lacking in, led to this conflict and the unacceptable means each party used to achieve their ends.

The importance of reaching a fair verdict in this case lies both in the accountability of the leaders and instigators of violent acts against civilian population, and the justice said population deserves. Citizens of countries like the CRA deserve a long awaited instauration of a helpful government, and by beginning to shed a light on the problem in an international tribunal and judging those responsible for the lack of peace, the process can properly begin.

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## *Glossary*

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### **A**

**Accomplice:** A person who helps another commit a crime.

**Aforementioned:** Denoting a thing or person previously mentioned.

### **C**

**Ceasefire:** A temporary suspension of fighting, typically one during which peace talks take place; a truce.

**Clandestine:** Kept secret or done secretly, especially because illicit.

**Concession:** A thing that is granted, especially in response to demands; a thing conceded.

**Consumption:** The using up of a resource.

**Countermovement:** A movement or other action made in opposition to another.

**Coup:** A sudden, violent, and illegal seizure of power from a government.

### **D**

**Demobilize:** Cease military operations.

### **F**

**Flee:** to quickly go to another country in order to escape from something or someone.

### **L**

**Lurk:** Be or remain hidden so as to wait in ambush for someone or something.

### **M**



**Mosque:** A Muslim place of worship; consist of an area reserved for communal prayers, frequently in a domed building with a minaret, and with a niche or other structure indicating the direction of Mecca.

## **R**

**Radicalize:** cause (someone) to adopt radical positions on political or social issues.

**Repatriate:** send or bring (something, especially money) back to one's own country.

## **T**

**Topple:** to remove a person or organization from a position of power

## **U**

**Underexploited:** Not exploited to any great extent; not used to full advantage.