

ADVOCACY NOTE



SECURING HOUSING, LAND AND PROPERTY RIGHTS IN CONFLICT-AFFECTED CENTRAL AFRICAN REPUBLIC

SUMMARY

This note presents the main findings and recommendations of research conducted by the Norwegian Refugee Council (NRC) in the Central African Republic (CAR) in order to understand the main challenges facing internally displaced people (IDPs) and returnees in exercising their housing, land and property (HLP) rights during displacement, local integration, resettlement and return.

After more than a year of armed conflict, political strife and unprecedented upheaval, CAR is still struggling to find peace. Despite the signing of a cessation of hostilities agreement in July, 2014 and the presence of some 8,000 UN peacekeepers², many areas remain insecure. Acts of violence, including human rights violations, are being perpetrated by all parties to the conflict.

The crisis that is engulfing CAR started when several armed movements regrouped in the north-east and coalesced into a mainly-Muslim coalition called Séléka which overthrew President Bozize on 24 March 2013, replacing him with Michel Djotodia. Séléka corruption, violence and human rights violations sparked creation of self-defence militias, mainly Christian, known as the anti-balaka who deliberately targeted and killed Muslim civilians. The crisis worsened in December 2013 when fighting between rival armed groups in the capital, Bangui, left at least 1,000 people dead. Increased international pressure ultimately led to Djotodia's resignation in January 2014. A new transitional government was inaugurated, led by the former mayor of Bangui, Catherine Samba-Panza.

The conflict has also led to numerous violations of HLP rights. Existing HLP challenges have been exacerbated by the destruction and pillaging of homes in many areas and massive population movements. Some houses have been destroyed and pillaged as a targeted violation directed at one specific group, other have been randomly selected for destruction or looting. In both cases they have been stripped of all their furniture, set alight or damaged. Crops and granaries have also been looted or destroyed. In and around Sibut (Kemo prefecture) town alone, NRC identified 500 burned houses.

Nearly 440,000 people remain internally displaced, having found shelter in religious sites, host families, rented or abandoned housing and in the bush. Pillaging, burning, destruction and degradation of housing and land currently pose serious obstacles for the return of IDPs, who have often lost all their sources of income. Secondary occupation of

1 Cover Picture: Vincent Tremeau. Internally displaced people in Carnot, Mambere-Kadei, CAR, November, 2014

2 On 5th December 2013, the UN Security Council (UNSC) passed Resolution 2127 mandating a 1.600 strong French military contingent ('Sangaris') to disarm armed groups and protect civilians. The French troops were deployed to CAR to work alongside the African-led International Support Mission in the CAR (MISCA) operating under the same UN mandate. On 15th September 2014, MISCA transferred authority to a UN Multidimensional Integrated Stabilization Mission in CAR (known as MINUSCA), authorised by the UNSC Resolution 2149 (April 2014), under Chapter VII of the UN Charter.

abandoned housing, lack of HLP documents and illegal sales of housing also hinder realisation of HLP rights.

Violations of political and civil rights are often prioritised in peace processes. Experience has shown that addressing violations of social and economic rights, such as HLP rights, is also a key ingredient of an effective process to build sustainable peace. There are multiple likely consequences of not addressing the HLP challenges. These include deteriorating living conditions, growth of slums and informal settlements, forced evictions, growing unaffordability of housing and land, lack of secure tenure, livelihood options and access to basic services, inability of displaced to return home and discrimination against minorities in the house and land sectors. If CAR were to find peace without having adequately addressed such challenges, they are likely to contribute to renewed instability. The Bangui Forum, scheduled for March 2015, provides an important opportunity to address causes of ongoing violence and make recommendations for meaningful reconciliation. HLP issues should be included in the discussions.

INTRODUCTION

This note is a summary of a comprehensive report by NRC's Information, Counselling and Legal Assistance (ICLA) project in CAR, which has collected information since the startup of the project in June 2014. The research methodology combined literature review with field research in CAR over a period of four weeks from August to September, 2014. Information was gathered using qualitative methods: 21 focus group discussions, 55 key informant interview and observations from visits to neighbourhood, villages and displacement.³ Information was collected from displacement-affected populations, national and local authorities, community leaders, local and international non-governmental organisations, UN agencies and other relevant actors. The field research was conducted in three areas: Bangui (including the adjacent *communes* of Bimbo and Begoua; the prefectures of Kémo (mainly Sibut and surrounding villages) and Mambéré-Kadeï (mainly Carnot and surrounding villages).

This research has been funded by the Office of the United Nations High Commissioner for Refugees (UNHCR). The contents of this publication are the sole responsibility of NRC.

3 A total of 128 IDPs, returnees and host community members participated in focus group discussions of whom 65 were women and 63 men.

HOUSE, LAND AND PROPERTY RIGHTS IN CAR

HLP rights are widely recognised in international human rights law. CAR has ratified key human rights conventions as well as an impressive array of additional international instruments that outline the government's obligations in situations of displacement and violations of human rights, including HLP rights. An effort to domesticate these international instruments has recently been resumed.

Land tenure in CAR is principally governed by the Land Code of 1964. However, this legislative framework is outdated and provides for all land that has not been legally registered to be considered as belonging to the state. The registration process is centralised, cumbersome, costly and thus most people in CAR have not registered the plot of land on which they are settled. This results in the absence of title deeds and proof of legal occupation for the majority of the population. Only 0.1 per cent of land has been registered and between 1899, when the title deed was introduced, and July 2012, only 8,579 title deeds were issued. As a result of weak land management and administration, most Central Africans access land via inheritance or the *chief* of their locality. Like in many other developing countries, women's access to HLP in CAR is very much dependent on their relationship with a man. Women suffer from discriminatory inheritance practices, which often result in the eviction of a woman by the family of her deceased husband/partner.

KEY HOUSE, LAND AND PROPERTY'S CHALLENGES

IN THE CONTEXT OF DISPLACEMENT

Conflict has led to massive displacement both within and outside the country. Those who have not crossed cross borders have sought refuge in camp-like and spontaneous displacement sites, with host families or in the bush. They have also opted to settle in abandoned houses or rented housing. IDPs face different HLP challenges according to their situation.

DIFFERENT DISPLACEMENT PATTERNS, DIFFERENT HLP CHALLENGES

In sites challenges are well known and include poor shelter facilities, lack of hygiene, and absence of sleeping and other materials. In sites that used to function as educational facilities, some IDPs reported pressure to leave and threats of eviction. Muslim IDPs living in sites are trapped in enclaves and have limited or no freedom of movement. For instance, in Carnot, some 600 Muslim IDPs have been confined in the Catholic mission since February 2014 and are unable to leave as they fear being attacked by anti-balaka fighters if they move outside.

“ I used to make and sell yogurt in small bags before the crisis. With the savings, I had bought a fridge for 10,000 FCFA (17 USD), but on December, 5th, 2013 I had to leave with my kids, empty-handed. We came to sleep here [Don Bosco], under the rain. ”

Young woman, Don Bosco IDPs site, Bangui, CAR, December 2014

IDPs who have opted to stay with families report tensions with their hosts, such as scuffles between children and women over partition of food or water. In Sibut more serious tensions were reported, with some IDPs indicating that they were looking for other settlement options.

Sixty per cent of the IDPs interviewed in Carnot and Sibut reported having sought shelter in the bush at some point during their displacement. The temporary relocation from village to the bush is not a new phenomenon in CAR and it has been employed as a mechanism of protection against banditry as well as environmental hazards for decades. Families are generally able to survive under bush conditions for short periods. The current crisis, however, has often led to prolonged stays in the bush where shelter and hygiene conditions are inadequate.

The majority of IDPs in rental housing in Bangui, Sibut and Carnot had first sought shelter in an IDP site or a host family. None of them had any type of written contract and all explained their stay to be based on a verbal agreement. Unsurprisingly, the main challenge for this group was the inability to pay rent, having lost their livelihoods. The consequences of rental arrears depend on the attitude of the landlord, as well as the involvement of the local chef.⁴ In several instances IDPs reported that their forced eviction was prevented following an intervention by the chef of the locality. In a significant number of cases, however, IDPs reported having moved out of a rental property into another one, only to face the same problem.

In all three surveyed zones, IDPs have taken up shelter in housing left behind primarily by Muslims. Most of the abandoned houses have been subjected to pillaging, burning and destruction and therefore do not provide even minimal protection. In Carnot many IDPs in abandoned houses are at risk of being evicted from the property unless their stay is regulated with the office of the mayor.

“ Once here [Sibut], we have taken over some abandoned houses and settled in. It has now been three months since we started living here. Before reaching Sibut we spent three months in the bush. We are not the only ones to have occupied an abandoned house. If those who used to live in this house come back, we'll be forced to pack our bags and leave, sleep again in the bush or wander, like animals. ”

Man, 46 years-old, Sibut, Kemo, CAR, November 2014

⁴ The *Chef de Village* (in rural areas) or *Chef de Quartier* (in urban areas) are elected local government officials who report to the mayor of the area and the Ministry of Territorial Administration, Decentralisation and Regionalisation. Often mistakenly considered as part of a customary system, chefs are often the sole providers of administration and dispute resolution services.

IN THE CONTEXT OF RETURN

Damage to HLP

Pillaging, burning, total or partial destruction of housing, crops and granaries have been widespread since the start of the crisis. Both randomly selected and targeted houses have been stripped of all furniture, seeds, tools and any other items deemed valuable. In many cases the pillaging included doors, windows and even roofs. These items have reportedly been used as fuel in camps used by armed groups or have been sold locally.

Many houses were also set alight after having been pillaged. This tactic appears to have been most frequently adopted during the advance and retreat of ex-Séléka elements in villages located along the various roads in and around Sibut and Carnot. There is no comprehensive overview of looted, burned and destroyed houses in any of the three surveyed zones. Some inventories were undertaken locally at the initiative of authorities or NGOs. For instance, in and around Sibut and Carnot towns, NRC identified respectively 500 and 400 burned houses. In Begoua, north of Bangui, the UN Office for the Coordination of Humanitarian Affairs (OCHA) estimated that 800 houses have been partially or completely destroyed. Finally, prolonged absence has led to significant damage to houses left behind that were otherwise not affected.

Challenges in regaining housing

A trend was observed in all three areas where NRC operates: the 'return' of IDPs to their fields, districts or villages of origin without actually taking up residence in their houses, as these were severely damaged and/or because IDPs have lacked the means to rehabilitate them, even when damage was minimal. Consequently, they have sought alternative shelter. Many have rented a house close to their original home, other have moved to their fields while some have been welcomed by relatives. In Bangui and Sibut, a significant number of IDPs that used to rent housing prior to displacement explained that even if they were to find the means to cover rent they would still not be able to regain the house because the landlord demanded the payment of rent from the moment they had fled or because he was holding on to the deposit or items left behind to ensure payment of arrears.

“ We'll never be able to return home. We had to run off and leave all we had behind. I used to have a field to grow bananas and cassava, but the armed groups came and destroyed and looted. Now everything is gone, devastated. ”

Man, Carnot, Mambere-Kadei, CAR, November 2014

Lack of HLP documents

Approximately 80 per cent of IDPs interviewed in urban areas in Bangui, Carnot and Sibut, who confirmed they possessed a sale contract (*attestation de Vente AdV*) or something similar prior to their displacement, lost these documents during their flight. All interviewees

count on the chef in their locality to back up their ownership claim in case this is contested.

Secondary occupation

Secondary occupation of housing has taken various forms and it is challenging to draw meaningful generalisations on the phenomenon, although it is safe to say that predominantly housing left behind by Muslims have been occupied. Houses belonging to non-minority groups are often not considered for temporary occupation and remain empty. The study has observed the occupation of abandoned housing by IDPs in Carnot and Sibut, and to a lesser extent in Bangui. In Carnot the local authorities have tried to provide written authorisation. They have also encouraged local government officials to take up vacant housing. In Sibut and Bangui most IDPs occupy housing without authorisation or with verbal authorisation. In Bangui and Sibut there have been reports of abandoned housing that has been taken up by armed elements. Abandoned housing occupied by neighbours and acquaintances was observed in Bangui and Carnot.

“ Before this conflict, there was no problem between Christians and Muslims. We used to live side by side like brothers. However, since some Muslims took up arms and fought along the Seleka, the youngsters of the area also joined the ranks of the anti-balaka. Fighting, violence and kidnappings followed. Prior to the troubles, there were some hundred Muslims here, but today they're all gone. Some of their houses have been destroyed, others have been occupied by the natives of the village. The house where I'm currently staying belongs to a Muslim. ”

Chef de quartier, Sibut, Kemo, CAR, November 2014

Construction on abandoned plots and forced or illegal sales

In Bangui the construction of houses on plots abandoned by Muslim residents has been observed in at least one district. In all cases, it concerned structures erected after the pre-existing house had been completely destroyed. The occurrence of this appears to depend on the level of authority asserted by the chef of the quartier: one chef explained he was unable to prevent people from erecting a structure on a plot with a destroyed house whereas another noted that he simply prohibited it. NRC also spoke with two chefs in Bangui who reported attempts by armed and criminal elements to force them to formalise an AdV for an abandoned house.

Other obstacles to return

In Bangui, Carnot and Sibut interviewed IDPs indicated their desire to integrate in the area of displacement or resettle elsewhere as a result of having experienced harrowing events in their homes. Whereas such trauma is an obvious consequence of violence, it would appear that the unwillingness to return is also informed by certain cultural restrictions. For instance, in Carnot members of the Gbaya community highlighted *fioboro*, a belief that prevents people from returning to a home where a family member was killed lest they themselves die.

INTEGRATION AND RESETTLEMENT

In light of the conflict dynamics in CAR, it can be expected that a number of IDPs (and refugees) will opt to locally integrate or resettle in another location. Approximately a fifth of IDPs interviewed by NRC indicated their preference for local integration or resettlement. As for returnees, the most frequently anticipated challenges for integrated or resettled IDPs concern lack of means to rent, construct or purchase housing. Generally IDPs planning to integrate or resettle in a rural area did not expect problems to gain access to a plot.

HLP DISPUTES

HLP-related disputes can occur during all phases of displacement but the return of IDPs to their communities of origin is likely to result in most disputing claims over HLP assets. In light of the limited return movement at the time of this research, very few actual disputes over HLP assets were encountered. For instance, in Sibut a chef was trying to resolve a dispute between an IDP occupying the house of his deceased father and his brother, who was currently displaced in a site. In Bangui NRC met a Muslim IDP who had asked a neighbour to take care of his property before his flight to an IDP site in another part of the city. Several weeks later, the IDP contacted the caretaker only to learn that the person had undertaken some construction in the house and now claims ownership.

OVERVIEW OF ONGOING EFFORTS

Ongoing insecurity, poor infrastructure, weak government capacity and limited funding has forced the transitional authorities, humanitarian community and other international actors to focus on addressing the most basic needs of displacement affected communities, through the provision of food, water and shelter. As a result, a response to HLP challenges has been minimal.

TRANSITIONAL AUTHORITIES

While transitional authorities acknowledge the numerous challenges in relation to HLP issues, it would appear that relevant ministries have not yet collectively reflected on and come up with a joint action plan to address urgent HLP needs beyond provision of shelter for IDPs in sites. The March 2014 roadmap of the transitional government⁵ outlines its priorities until February 2015 but does not make any reference to HLP challenges and related responses.

5 Feuille de route du Gouvernement de Transition de la République Centrafricaine, Mars, 2014.

CAR has signed an impressive array of international instruments that outline the government's obligations in situations of displacement and violations of HLP rights. In 2011 the CAR government, with support from the UN, commissioned a legal audit to examine the conformity of the country's national legislation with the international instruments on displacement related matters that it has ratified. The status of the required follow-up is unclear. In August 2014, the Ministries of Health and Humanitarian Action, with support from the UN Refugee Agency (UNHCR), established a working group to look into the development of national legislation on internal displacement. This would hopefully draw attention to the government's obligations with regards to restoring HLP rights.

THE HUMANITARIAN COMMUNITY

Humanitarian organisations have been assisting the transitional government with the provision of shelter for IDPs. An overview of the needs of IDPs in site in Bangui is regularly circulated by the CCCM cluster. The humanitarian community, however, struggles to address these needs in the face of a limited number of camp management actors and funding shortages. Addressing concerns in IDP sites is further hindered by the lack of reliable data on sites outside Bangui. Lack of data on IDPs who chose other flight options (such as renting, staying with host families, living in abandoned housing or taking to the bush) also impedes addressing their needs. Assistance to IDPs in these various situations in all three surveyed zones depended on how active the local *chef* had been in collecting information on IDPs, and transmitting this to the authorities or humanitarians, as well as the level of organisation among IDPs. In most observed cases IDPs outside sites had not received any assistance.

The transitional government appears to prefer that IDPs return to their areas of origin. Even though no national durable solutions strategy has been adopted, most humanitarian actors have been encouraged to concentrate on preparations for return movements.

Given the lack of inventories of damaged/destroyed housing, as well as the absence of many homeowners, a careful balancing is required. IDPs should not feel obliged to return because of possible assistance, while humanitarian organisations need some guarantee that owners will return to a rehabilitated house. Locating the whereabouts of Muslim homeowners, who remain displaced in and outside CAR, is challenging. Many organisations struggle to verify whether they are dealing with the rightful owners of a damaged home during their rehabilitation efforts.

RECOMMENDATIONS

PROVIDE FIGURES OF IDPS AND RETURNEES

- The Ministry of Humanitarian Action, and relevant international organisations, especially the Commission on Population Movements, should provide more information on the numbers and needs of IDPs in sites outside Bangui, in rented housing, staying with host families, living in abandoned housing or sheltering in the bush both in and outside Bangui as well as the situation of returnees. The donor community should provide more funding for on-going data collection efforts.

COMMIT TO ADDRESS HLP CHALLENGES

- The Ministries of Housing, Urbanism and Territorial Administration, with support from relevant humanitarian organisations, should undertake a preliminary HLP assessment, focusing on damaged, destroyed, abandoned and occupied housing.
- The transitional government should adopt a preliminary HLP policy confirming its commitment to the international instruments it has ratified, such as the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)⁶.
- The donor community should regard responses to HLP challenges as integral to the humanitarian phase, and not merely to recovery or development efforts, and provide funding.

FOCUS ON DURABLE SOLUTIONS

- The transitional authorities, with support from the humanitarian community represented by the Humanitarian Country Team (HCT), should speed up finalisation and adoption of a national durable solutions strategy
- The donor community should provide funding for the maintenance of IDP sites, as well as the creation of conditions conducive for the achievement of durable solutions.

EXPAND ASSISTANCE OUTSIDE OF IDP SITES

- The Ministry of Humanitarian Action and the humanitarian community should ensure assistance is provided to IDPs in rented housing and host families to improve security of tenure. Donors should provide more funding for these endeavours.

FACILITATE THE REGAINING OF HOUSING

- The Shelter Cluster should continue efforts to extend assistance to IDPs that used to rent housing prior to displacement. They should complement rehabilitation of housing with distribution of utensil kits or cash to increase occupancy rate of rehabilitated housing.
- The Shelter Cluster should ensure that efforts to facilitate the regaining

⁶ The *Kampala Convention* (formally known as the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa) sets out the obligations of signatory states and other actors for the protection of and assistance to IDPs during all phases of displacement. CAR has ratified the Convention and is therefore legally bound by its provisions. <http://www.brookings.edu/~media/projects/idp/kampala/kampalamapaujuly2014.jpg>

of housing are rights-based so that all returning communities have the right to the same type of assistance.

PROTECT ABANDONED HOUSING AND LAND

- The transitional government, with support from MINUSCA, should ensure the physical protection of abandoned property, and issue a directive prohibiting the destruction/occupation of abandoned housing, the construction on abandoned parcels or parcels of destroyed housing.
- The Ministries of Urbanism and Territorial Administration should suspend the issuing and validation of sale contracts by chefs in areas where armed elements are present.

REGULATE ON-GOING SECONDARY OCCUPATION

- Local authorities, with support from the Shelter Cluster, should provide alternative shelter for IDPs occupying the property of others who have legitimate shelter concerns, and/or regulate the occupation
- The transitional government, with support from the humanitarian community, should prepare a contingency plan to address the shelter needs of IDPs occupying properties in case return movements increase and restitution programmes commence.

PREPARE FOR AN INCREASE IN HLP DISPUTES

- The Ministries of Urbanism, Housing and Justice, with support from MINUSCA, humanitarian and development actors, should prepare for an increase in HLP-related disputes, including through simplified judicial procedures, mobile courts and community-based dispute resolution mechanisms.
- The Ministry of Reconciliation should continue its efforts to understand the impact of conflict on the country's social fabric. Such analysis should inform policy aimed at rebuilding the state and comprehensively promoting reconciliation.

ADDRESS EVICTIONS OF WOMEN

- The Ministry of Humanitarian Action and its Directorate on the Promotion of Women should undertake a study on the challenges facing IDP and returnee women in exercising their HLP rights and conduct awareness-raising activities on the equal rights of men and women, including in the domain of HLP rights. These activities should be supported by MINUSCA's Gender Unit, UN Women, the UN Population Fund (UNFPA), the HLP Working Group and other relevant organisations.

PREPARE FOR VOLUNTARY RETURNS AND HLP RESTITUTION

- On-going efforts should consider HLP issues as they may undermine lasting peace if left unaddressed. The Ministries of Urbanism, Housing, Territorial Administration and Justice should subsequently lead efforts to develop appropriate HLP restitution and compensation programmes. With the support of the humanitarian community they should ensure that target groups are sensitised about their HLP rights.

