



DISPLACEMENT AND HOUSING, LAND AND PROPERTY RIGHTS IN THE CENTRAL AFRICAN REPUBLIC

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ACRONYMS

AdV	Sales contract/ <i>Attestation de Vente</i>
AFJC	<i>Association des Femmes Juristes de Centrafrique</i>
CAR	Central African Republic
CCCM	Camp Coordination and Camp Management
DRC	Democratic Republic of the Congo
DTM	Displacement Tracking Mechanism
ECCAS	Economic Community of Central African States
HLP	Housing, Land and Property
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICLA	Information, Counseling and Legal Assistance
IDP	Internally Displaced Person
ICGLR	International Conference on the Great Lakes Region
IOM	International Organization for Migration
LRA	Lord's Resistance Army
MINUSCA	United Nations Multidimensional Integrated Stabilisation Mission in the Central African Republic/ <i>Mission multidimensionnelle intégrée des Nations Unies pour la stabilisation en République centrafricaine</i>
MISCA	International Support Mission in the Central African Republic/ <i>Mission Internationale de Soutien à la Centrafrique</i>
NRC	Norwegian Refugee Council
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDP	UN Development Programme
UNFPA	UN Population Fund
UNHCR	UN Refugee Agency
USAID	United States Agency for International Development

EXECUTIVE SUMMARY

Since the end of 2012, the Central African Republic (CAR) has been facing an increasingly complex political and humanitarian crisis. Intensified armed opposition to the central government by a coalition of armed movements called Séléka resulted in a coup d'état in March 2013, which was accompanied by numerous human rights violations. Subsequent armed resistance to the Séléka regime and revenge-motivated violence, often of an inter-communal nature, led to more violations of human rights and displacement. Despite the signing of a ceasefire agreement in July 2014 and the deployment of United Nations (UN) peacekeepers, the prospects for peace remain grim. As of December 2014, more than 420,000 Central Africans continued to seek safety in neighbouring countries, mostly Cameroon and Chad. An estimated 430,000 Central Africans are internally displaced persons (IDPs). For many IDPs full details of their displacement situation are not available.

In addition to extrajudicial killings, enforced disappearances, torture and sexual violence, the crisis has also led to numerous violations of housing, land and property (HLP) rights. In the context of on-going displacement, the greatest challenges are the poor living conditions in many IDP sites and restricted freedom of movement, especially for those belonging to minority groups. IDPs staying in rented or abandoned housing, the bush or with host families often have limited access to humanitarian assistance, which has mostly focussed on those staying in displacement sites. Many IDPs sheltering in abandoned housing live in uncertainty, as their

stay is often not regulated. Pillaging, burning and destruction of housing poses a serious obstacle for return as most returnees struggle to find the means to replace stolen items and rehabilitate their homes, having lost their entire livelihoods. Full information on HLP concerns of displaced Central Africans is in Part 4 of the report.

The crisis has seriously affected the state's already weak capacity to provide governance. A recent study by the UN Development Programme indicated that only nine per cent of government officials are presently deployed to their designated places of work (compared with 60 per cent before December 2012). Attempts to restore HLP rights are further complicated by CAR's outdated and incomplete legal framework on land tenure and an extremely weak HLP administration and management system. Probably because of the country's abundant land and low population pressure, successive governments have never prioritised development of HLP legislation and its transparent enforcement.

Thus many Central Africans – especially those living outside the capital, Bangui or other large urban areas – do not have valid documents to prove ownership of their land or dwellings. Most obtain land via inheritance or from the *Chef de Quartier/Village* of their locality. It is often unclear whether they have only use rights or have purchased the land. Women suffer from discriminatory inheritance practices that often result in their eviction from the marital home following the death of their husband or partner.

KEY RECOMMENDATIONS

Action is needed to progressively restore the HLP rights of affected populations and address the needs of those without them. Violations of political and civil rights are often prioritised in peace processes but experience has shown that addressing violations of social and economic rights (such as HLP rights) is also a key ingredient of any form of sustainable peace.

Primary responsibility for restoring and enforcing HLP rights rests with the government. CAR has ratified key human rights conventions as well as an impressive array of additional international instruments. These outline the government's obligations in situations of displacement and violations of human rights, including HLP rights.

It is important for the CAR authorities – with the support of national and international humanitarian organisations the UN, the African Union and the diplomatic community – to act upon these obligations and to urgently:

1. expand data collection efforts to obtain information on the needs of IDPs in sites outside Bangui, of those seeking safety outside formal displacement sites (i.e. those in rented and abandoned housing, living with host families or sheltering in the bush) and the needs of those IDPs who have left displacement sites but who may not yet have been able to return to their communities
2. expand aid to IDPs seeking safety outside displacement sites by providing rental subsidies, domestic utensils or basic livelihoods assets, improving shelter and ensuring security of tenure
3. enable IDPs and refugees to make an informed, timely and voluntary decision on the best way to achieve a durable solution to their displacement
4. urgently adopt a comprehensive durable solutions strategy – not simply a strategy to facilitate return.

In order to create the conditions for the achievement

of durable solutions, it is important to:

1. undertake assessments in areas presently accessible to get a clearer picture of the scale of damaged, destroyed, abandoned and occupied housing. Availability of such data would also assist in preventing future destruction and occupation.
2. ensure that on-going efforts to assist IDPs/returnees to regain their home include those who used to rent housing prior to their displacement
3. provide alternative shelter for IDPs seeking shelter in abandoned housing or regulate their occupation and improve their security of tenure
4. plan how to end occupation of property by people without legitimate humanitarian needs
5. develop strategies to address the likely increase in disputes over HLP assets. This may entail simplified judicial and administrative responses, mobile courts and alternative or community-based dispute resolution mechanisms.
6. identify credible and unbiased local authorities and other structures for capacity building in HLP rights and dispute resolution skills
7. recognise the likelihood of an increasing rate of eviction of women and accordingly organise awareness-raising activities on the equal rights of men and women.

INTRODUCTION

This report discusses the main findings of a research project commissioned by the Information, Counseling and Legal Assistance (ICLA) project of the Norwegian Refugee Council (NRC) in the Central African Republic (CAR). NRC's ICLA project aims to enable beneficiaries in forced displacement contexts to access mechanisms to claim and exercise their rights. This is not only important to prevent primary or secondary displacement, but also to protect rights during displacement and to achieve durable solutions. ICLA aims to achieve its objectives through provision of information, counseling, legal assistance, collaborative dispute resolution, capacity building and advocacy. While the project generally focuses on several thematic areas,¹ ICLA in CAR has mostly focused on housing, land and property (HLP) rights. This reflects the scale and nature of displacement following the outbreak of renewed hostilities at the end of 2012, widespread damage to HLP assets and the resultant actual and potential challenges for the protection of HLP rights.

The importance of addressing HLP issues during emergencies and recovery efforts cannot be overstated. Ensuring access to HLP during an emergency can provide food, shelter and access to humanitarian assistance. These are basic needs for survival, especially for people forced to leave their homes. Many humanitarian interventions impact HLP issues, such as the distribution of seeds and tools to increase food security and assistance with return and resettlement to achieve durable solutions. Protecting HLP rights also contributes to poverty reduction, sustainable development and gender equality. Last but not least, efforts to resolve HLP disputes and facilitate restitution or compensation where possible or through adequate access to secure tenure of HLP can greatly contribute to peace and reconciliation processes.²

Building on the information collected since the start of the ICLA project in CAR in June 2014, the primary objective of the research was to identify specific challenges facing IDPs, repatriated

refugees and IDP returnees in exercising their HLP rights. A better understanding of their challenges during displacement, local integration/resettlement and return would allow the ICLA project and similar interventions to improve their responses. It would also contribute towards anticipating, and possibly preventing, future obstacles for the achievement of durable solutions.

The research methodology combined literature review with field research in CAR over a period of four weeks in August-September 2014. A desk study reviewed relevant information, mostly contextual, and analysed available legislation of importance (see Annex A for an overview of reviewed documents). This was complemented by field research during which information was gathered using several qualitative methods to allow triangulation and ensure accuracy. These included focus group discussions (21³), key informant interviews (55) and observations through neighbourhood and village tours and other relevant site visits. Information, views and recommendations were collected from IDPs, returnees, integrated and resettled IDPs, host families, host communities, local authorities, central authorities, community leaders, staff of local and international non-governmental organisations, United Nations (UN) agencies and other relevant actors (see Annex B for a list of interviews).

The location of the field research was limited to the three very different areas where ICLA operates:

- ▶ the eight *arrondissements* (hereafter referred to as districts) of the capital, Bangui, including the adjacent *communes* of Bimbo and Begoua
- ▶ the prefecture of Kémo (mostly in and around Sibut town)
- ▶ the prefecture of Mambéré-Kadéï (mostly in and around Carnot town).

¹ More information on ICLA as well as other NRC programmes is available at https://www.nrc.no/arch/_img/9155647.pdf.

² Cunial L 2011, Housing, Land and Property Training Manual, Norwegian Refugee Council, pp.13-15.

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



This report therefore does not provide nationally representative results, but, rather, context-specific information on the HLP-related challenges identified in the research locations, without claiming to present an exhaustive overview of challenges in each area. In light of the wide focus of the research, sensitivity of some of the issues, political and security fluidity and limited available statistical data, this report should be considered as the starting point of a discussion on displacement and HLP rights in CAR. It highlights several issues encountered during the course of this research that warrant comprehensive study so as to better inform appropriate responses.

From the onset of this research it was evident that certain issues, such as challenges around the loss of commercial properties and pastoralism, could not be included. Another serious shortcoming of this research concerns the exclusion of Central African refugees in neighbouring countries, mostly Chad and Cameroon. Unfortunately time, funding and logistical constraints did not allow for the expansion of the geographical focus of the research to these locations. Security challenges in Bangui and Sibut also prevented the researcher from looking into several issues that would have otherwise been included.

1 BACKGROUND AND CONTEXT

CAR is a land-locked country divided into 16 prefectures with its capital, Bangui, located in the southeast, near the border with the Democratic Republic of Congo (DRC). With an estimated population of 4.6 million⁴ spread over a land mass of 623,000 square kilometres, the country has a relatively low population density. Besides abundant land, CAR is well endowed with natural resources such as timber, gold and diamonds. In 2008, 61 per cent of CAR's population was rural with 39 per cent living in urban areas. Eighty per cent of Central Africans live off subsistence farming and livestock. While approximately 33 per cent of CAR's land is suitable for cultivation, only three per cent is estimated to be used for farming activities. Almost 50 per cent of the country's land is suitable for grazing yet only 15 per cent is being used for this purpose.⁵

CAR is a culturally diverse country, with more than 80 ethnic groups, the biggest groups being the Gbaya (33 per cent), Banda (27 per cent) and Mandjia (13 per cent).⁶ The two official languages are French and Sango.⁷ Arabic is widely spoken in the north-east.⁸ Prior to the current crisis, 35 per cent of Central Africans were estimated to have indigenous beliefs, 25 per cent to be Catholic, 25 per cent Protestant and 15 per cent Muslim. Animistic beliefs and practices are said to strongly influence the Christian population.⁹ Muslims live throughout the country, but are generally concentrated in the northeast. Muslims are "overrepresented among market traders, but members of the Christian majority have long dominated politics."¹⁰

Recent tragic events have often been explained by a so-called pre-existing religious divide. However, it is important to note that CAR has struggled with a lack of cohesion among communities in general.

This is caused by a history of violence that has undermined peoples' trust, both in people noticeably 'different' from the majority in any community and, most importantly, in the state.¹¹

Prior to the current crisis, CAR already performed poorly on development indicators. Sixty two per cent of the population lived below the poverty line. Life expectancy at birth had dropped from 52 in 1988 to 42.7 in 2003, mostly due to a high infant mortality rate and HIV. Annual population growth rate was 2.5 per cent and total fertility was high, 5.1 children per woman.¹²

1.1 TURBULENT HISTORY AND PREVIOUS ARMED OPPOSITION

CAR's lack of development can be explained by its volatile past. Its history is one of political and social turmoil. The slave trade heavily impacted the area presently known as CAR and the colonial administration was brutal, providing minimal services.¹³ Since its independence from France in 1960, most political changes have resulted from, mainly violent, coups d'état (1965, 1979, 1981, 2003 and 2013). Even though the country held elections in 1960, 1993, 2005 and 2011, Central Africans suffered a serious governance deficit characterised by human rights violations, lack of development, limited freedom of political expression and marginalisation or underrepresentation of certain communities, including Muslims and other minorities. In this context corruption, nepotism, plundering of natural resources, foreign interference and criminal elements have flourished.¹⁴ Since 2008, the Lord's Resistance Army (LRA) has been actively present in the south-east.

Armed opposition to the government of Francois Bozizé, who had seized the presidency in a coup

4 UNFPA, Final Country Programme Document for the Central African Republic, 29 September 2011, p.1.

5 USAID 2010, Country Profile, Property Rights and Resource Governance, Central African Republic, p.3.

6 *Ibid.*, p.4.

7 Charte Constitutionnelle de Transition, article 19.

8 International Criminal Court 2014, Situation in the Central African Republic II: Article 53(1) Report, p.17.

9 CIA World Factbook.

10 de Waal, A 2013, Playing the Genocide Card, The New York Times, 18 December, p.2.

11 Marc, A 2012, Understanding Access to Justice and Conflict Resolution at the Local Level in the Central African Republic, World Bank, Washington D.C., 24 February, p.11.

12 UNFPA, *op. cit.*, p.2.

13 Marc, *op. cit.*, p.13.

14 UN 2014, Report of the Secretary-General on the Central African Republic, 3 March 2014, p.6 and UN 2014, Preliminary Report of the International Commission of Inquiry on the Central African Republic, 26 June 2014, p.11-12.

d'état in 2003, intensified following elections in 2005. Many political actors deemed the polls fraudulent and armed movements sprung up in the north-east, a geographically remote area that had been neglected by the central government for years.¹⁵ Due to its remoteness and low population density the north-east had been designated an autonomous district during colonial times. To this day its mainly Muslim population is often referred to as foreigners, despite the fact that they have lived in the country for generations.¹⁶ Discrimination has led many Muslims to take on a Christian name.¹⁷

Several rounds of peace talks were organised between 2007 and 2011 but subsequent agreements were never properly implemented as Bozizé reportedly lacked genuine willingness and the international community failed to exert pressure. Following controversial elections in 2011 that extended Bozizé's rule, several armed movements regrouped in the north-east and eventually coalesced into a coalition called Séléka¹⁸ towards the end of 2012.¹⁹ Principally motivated by the possible financial benefits of joining the armed opposition, many Chadians and Sudanese (mostly from Darfur) joined the coalition. Séléka thus started as a diverse group of Central African and foreign combatants, the majority of whom were Muslim.²⁰ Its agenda was purely political: removing and avenging the Bozizé regime and its beneficiaries, most of whom were Christians, given the country's religious make-up at the time.²¹

By the end of 2012, which is considered the start of the current crisis, there were already around 132,000 IDPs. The primary causes of displacement were the internal armed conflict between 2005 and 2008, subsequent fighting between armed opposition groups and government forces, clashes between cattle herders and farmers and attacks by criminal elements and the LRA.²²

1.2 CURRENT CRISIS

Séléka launched an offensive against the central government in December 2012. Despite the signing of agreements on 11 January 2013 in Libreville,²³ Séléka resumed its violent offensive and ended the country's coup-free decade by overthrowing Bozizé on 24 March 2013. He was replaced by the leader of the coalition, Michel Djotodia. Bozizé's ousting initially triggered euphoria among the majority fed up with his dictatorship. Séléka welcomed many new recruits in its ranks, mostly young Christians from Bangui.²⁴ However, the new president was unable to control the various Séléka elements that continued to pillage and burn houses, kill and rape.²⁵ Muslim communities were often less likely to be targeted by Séléka,²⁶ adding to a growing anti-Muslim sentiment among the majority Christian population. Séléka were officially disbanded in September 2013 (its elements therefore from then on referred to as ex-Séléka) although this did not bring an end to their human rights violations.²⁷

This triggered the resurrection of the anti-balaka,²⁸ a combination of local defence groups and remnants of the Central African Armed Forces, made up of mostly, but not exclusively, young men with Christian and/or animist beliefs.²⁹ They intensified their attacks on ex-Séléka elements towards the end of 2013, with an escalation of the situation in the capital on 5 December, characterised by revenge-motivated violence targeting members of the Muslim community. This included killings and the pillage and destruction of houses, reportedly aimed at removing Muslims from the country.³⁰ The retreat of ex-Séléka was as violent as their arrival. On 5 December 2013 the UN Security Council authorised the deployment of an International Support Mission in the Central African Republic (MISCA) of the African Union for a period of twelve months. It also authorised the French forces in CAR (referred to as Sangaris) to temporarily support MISCA.³¹ Both forces were unable to bring an end to the violence.

15 Spittaels, S and Hilgert, F 2009, Mapping Conflict Motives: Central African Republic, pp.7-11.

16 Lombard, L. 2014, Genocide-mongering does nothing to help us understand the messy dynamics of conflict in CAR, p.2.

17 Lombard, *op. cit.*, p.2 and de Waal, *op. cit.*, p.2.

18 Séléka is Sango for coalition.

19 UN International Commission of Enquiry Report, *op. cit.*, p12.

20 International Crisis Group, "Central African Republic: Priorities of the Transition", Crisis Group Africa Report No203, 11 June 2013, pp.7-8.

21 Marchal, R. 2013, "Central African Republic: Back to War Again?" The Global Observatory, p.1.

22 IDMC, Central African Republic: Internal Displacement in brief, as of December 2013, p.1.

23 UN Security Council, Department of Public Information. Agreements signed today in Libreville, 11 January 2013, p.1.

24 Lombard, *op. cit.*, p.1.

25 UN International Commission of Inquiry on CAR, *op. cit.*, p.18-20.

26 Marchal, *op. cit.*, p.1.

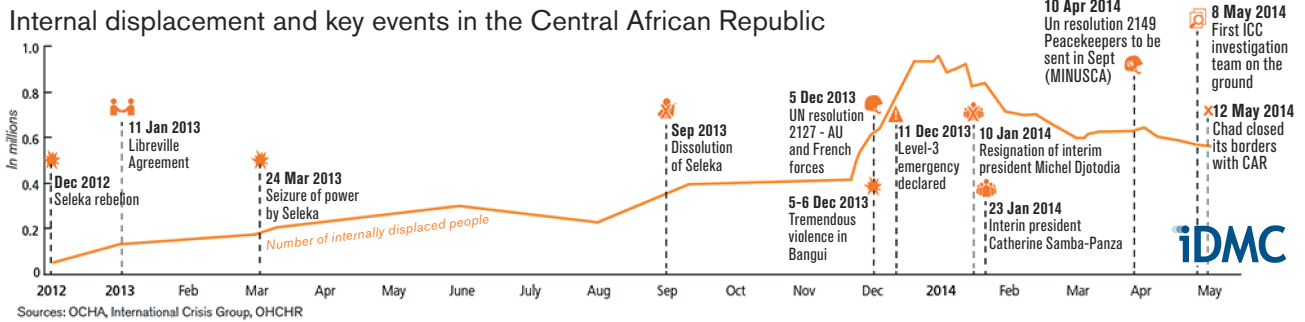
27 International Crisis Group, "Central African Republic: Better Late Than Never", Crisis Group Africa Briefing No96, 2 December 2013, p.3.

28 The word balaka means machete in Sango, although some explain the group's name by the French word for an AK-47 bullet (balle AK).

29 IRIN, Briefing: Who are the anti-balaka of CAR? 12 February 2014, p.2.

30 UN International Commission of Inquiry on CAR, *op. cit.*, p.21.

31 UN Security Council Resolution 2127, 5 December 2013, p.7 and p.9.



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. Efforts to end hostilities culminated in the Brazzaville cease-fire agreement of 23 July 2014. The resultant reshuffled government included representatives of ex-Séléka and anti-balaka elements as well as a Muslim Prime Minister.³² While violent confrontations between ex-Séléka, Muslim youth self-defence groups and anti-balaka elements continued, there was a slight improvement in the security situation in certain parts of the country and some returns of IDPs (mostly non-Muslims) were observed.

On 15 September, MISCA's mandate was transferred to the UN Multidimensional Integrated Stabilisation Mission in the Central African Republic (MINUSCA). Besides a focus on the protection of civilians, the mission is also expected to prepare for elections.³³ In October 2014, Bangui witnessed a serious upsurge in violence, resulting in numerous deaths and causing fresh displacement. This triggered violence in other parts of the country.³⁴

1.3 COMPLEX HUMANITARIAN EMERGENCY

By December 2014, one year after the largest wave of displacement, 423,757 Central Africans were seeking refuge in neighbouring countries, Cameroon (240,918), Chad (93,120), DRC (68,165) and Republic of the Congo (21,554). More than 130,000 third-country nationals and returning migrants had been evacuated to Chad (107,536), Cameroon (17,675) and other countries (6,268). At

the same time, CAR's IDP population was estimated at 430,000, down from almost a million at the peak of the crisis in January 2014. Of the remaining IDPs, 166,045 were displaced in sites (61,244 in Bangui) and 264,000 were estimated to be seeking refuge with host families or in the bush.³⁵ In Bangui, the biggest IDP sites are managed by international humanitarian organisations. Many smaller sites have been set up by religious institutions or organisations, often located in educational facilities.

At the time of this research there was only detailed information on needs and return intentions for IDPs staying in sites in Bangui. Lack of more information prevents an understanding of needs upon return and possible secondary displacement trends. In September 2014, information on the number of IDPs in sites outside Bangui became available. However, besides statistical details, there was no information on their needs, with the exception of some IDP sites in places such as Boda and Kabo managed by the International Organization for Migration (IOM) and other agencies. There was also no collated data on IDPs staying with host families or seeking shelter in abandoned or rented housing in Bangui or elsewhere.³⁶

The presence of authorities in areas outside Bangui had always been fairly limited. Following the events of March and December 2013, numerous urban areas have been without any administration or services. A study by the UN Development Programme (UNDP) indicates that while more than 60 per cent of government officials were present at their designated posts before December 2012, by mid-2014 this was a mere nine per cent.³⁷ Ex-Séléka perform limited administrative and other

32 Jeune Afrique, Fiches Pays: République Centrafricaine, 25 August 2014.

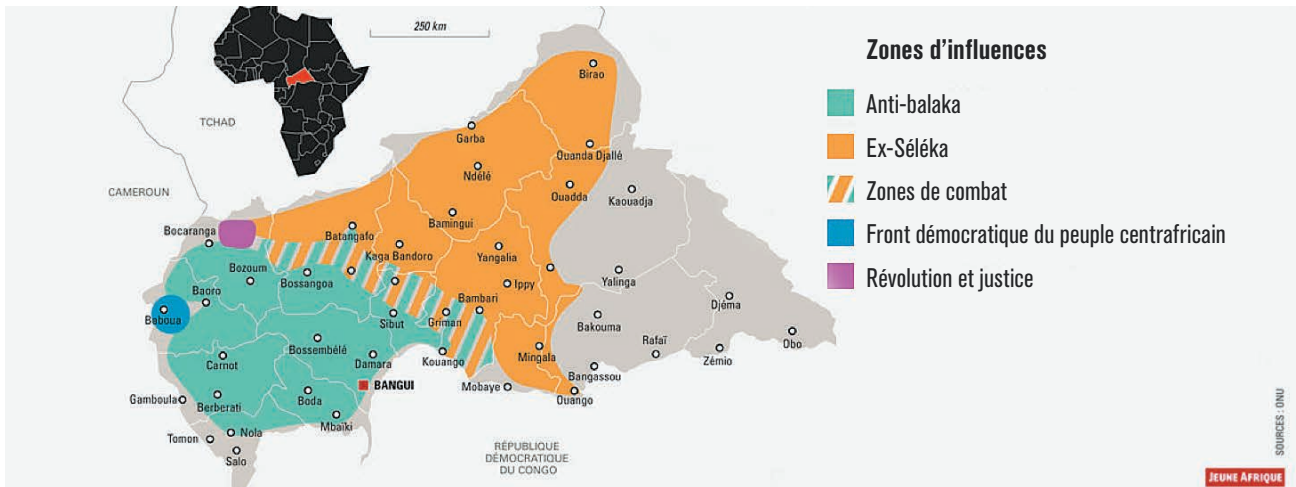
33 UN Security Council Resolution 2149, 10 April 2014, pp.9-10.

34 OCHA, Central African Republic: Overview of the Situation in Bangui from 7-19 October, 19 October 2014, p.1.

35 OCHA, Central African Crisis: Snapshot (as of 8 December 2014).

36 Lack of such data was confirmed with actors such as UNHCR, CCCM and IOM during interviews in Bangui, September and October 2014.

37 UN Development Programme, Enquête Nationale pour l'Evaluation Rapide des Besoins en Redéploiement de l'Administration Préfectorale et Services sociaux de Base - Rapport Final, July-August 2014, p.2.



state duties in the eight prefectures under their control.³⁸ The crisis has also seriously affected CAR's already weak economy as the extractive resource sector has come to a complete stop and many traders have fled the country. Coupled with the ongoing insecurity and displacement, this has triggered an unprecedented and complex humanitarian crisis. By December 2014, 2.5 million people were deemed in need of humanitarian assistance, 1.6 million people to be food insecure and 2.6 million in need of water and sanitation.³⁹ CAR ranks 185 out of 187 countries on UNDP's 2014 Human Development Index, having in recent years already been among the countries at the very bottom.⁴⁰

1.4 VARYING REALITIES IN THE THREE RESEARCH LOCATIONS

1.4.1 BANGUI

Bangui's eight districts are each subdivided into quartiers⁴¹ (each district has approximately 20 quartiers). While technically falling outside of the city of Bangui, the communes of Begoua (north of the city) and Bimbo (to the south-east) should be included in any discussions on the situation in Bangui, as dynamics in these two areas influence events in Bangui and vice versa. The largest IDP site, located at the airport, officially falls within the boundaries of Bimbo.

Like most parts of the country, Bangui generally experienced two waves of violence. Killings and pillaging characterised Séléka's arrival in March 2013 and human rights abuses continued in the following months. The second wave occurred as the anti-balaka increased its attacks toward the end of the year. Violence continued as ex-Séléka forces retreated and President Djotodia resigned in January 2014. Each district in Bangui has its own dynamics, which explains their different levels of violence, destruction of HLP assets and displacement. Under Bozizé's rule, the 4th district was considered the home of a large number of mid- to high-level government officials as well as military leaders and was therefore targeted by Séléka, causing significant displacement. The area is currently known to have a strong anti-balaka presence. The 3rd and 5th districts used to have a large Muslim population. Many Muslims residents remained in or fled to the 3rd district and the destruction of property and some mosques in parts of this area was prevented. Other parts of the 3rd district and the 5th district have witnessed a high level of destruction and remain insecure.

As of September 2014 there were 37 sites in Bangui, housing approximately 65,024 IDPs.⁴² Most Muslims had fled the city for neighbouring countries or areas near the borders with Cameroon and Chad. Others had been relocated to the north with support from the international community. Those remaining in Bangui were confined to certain areas, mostly in the 3rd and 5th districts. Despite occasional security incidents, most local authorities had resumed their duties, there was no fresh displacement and return movement among non-Muslim IDPs continued.

38 UN, 2014, Report of the Secretary-General on the situation in the Central African Republic, 1 August 2014, p.6.

39 OCHA, CAR: Humanitarian Dashboard (as of 8 December 2014).

40 UN Development Programme, Human Development Index 2014.

41 Technically districts are divided into groups before a division into quartiers, but reference to this administrative unit is only occasionally made. Quartiers and villages are the smallest administrative units. Village is applied in rural areas and quartier in urban areas.

42 OCHA, Central African Republic: Snapshot (as of 10 September 2014).



1.4.2 CARNOT

The town of Carnot is located in the western prefecture of Mambéré-Kadeï, near the Cameroonian border. The region is known for its diamond deposits and artisanal mining activities. At the end of March 2013 Carnot was taken over by Séléka rebels who then subjected the population to various human rights abuses. Several villages along the major roads around Carnot witnessed pillaging and burning of houses, sometimes resulting in the emptying of entire villages. Most villagers fled to the bush, Carnot town or surrounding villages. IDPs were either staying in the bush or with host families, renting housing or occupying abandoned homes. No data on their total numbers or settlement option was available. Most authorities fled the town and public infrastructure was severely damaged. During the intensification of attacks by anti-balaka and the retreat of ex-Séléka towards the end of 2013, more violence, pillaging and destruction ensued. The remaining authorities were able to prevent the large-scale destruction of houses experienced in most parts of the country. Muslims residents, mostly Peulh herders, fled to Cameroon although approximately 500 sought safety at a makeshift site at the Catholic mission in Carnot, which is the only IDP site in Carnot and which is permanently protected by MINUSCA peacekeepers.

By September 2014, return movements were slowly starting among non-Muslim IDPs and there were no reports of fresh displacement. Most authorities had resumed their duties, with only the court remaining defunct as its building was badly damaged during the conflict.

1.4.3 SIBUT

Sibut is the capital of the central prefecture of Kémo. Located on the principal road to Bangui from the north, the city was taken over by Séléka rebels en route to the capital in March 2013. Their arrival brought serious human rights abuses, characterised by killings, pillaging and burning of housing, especially in villages located along the main roads around the town. Most people fled to the bush, some to nearby towns. Most authorities fled and public infrastructure was severely damaged. As the anti-balaka stepped up its attacks on ex-Séléka elements towards the end of 2013, violence in the town, especially revenge-motivated violence against Muslims, spiralled out of control. Many Muslim residents were forced to leave and their houses were destroyed or occupied.

By September 2014, all Muslims residents had fled the town. The return of non-Muslim IDPs originally from Sibut had started in March. Sibut continued to welcome new IDPs, mostly from Bambari and Dekoua, as it is located near the front-line of the ongoing conflict between ex-Séléka elements and anti-balaka. The town had no IDP sites. Most IDPs were living with host families, renting housing or occupying abandoned houses. Like in Carnot, no statistics on their exact number or settlement option was available. Local authorities were slowly returning: the mayor, police and gendarmerie had taken up their posts while the court, the cadastre and some other government departments remained non-functional.

HOUSING, LAND AND PROPERTY INTERNATIONAL LEGAL FRAMEWORK AND PRINCIPLES

2.1 GENERAL HUMAN RIGHTS FRAMEWORK IN RELATION TO HLP

International human rights law provides the basis for the HLP concept. HLP encompasses a wide variety of rights and refers to, among others, owners, tenants, cooperative dwellers, customary land tenure users and owners and squatters without security of tenure.⁴³ One can obtain HLP rights through such means as sale, inheritance, gift, grant from the state, adverse possession⁴⁴ and customary use right. HLP rights apply in situations of peace as well as conflict.⁴⁵

2.1.1 HOUSING RIGHTS

Housing was recognised as a prerequisite for an adequate standard of living in the Universal Declaration of Human Rights (UDHR) and has become a universally accepted human right. The right to housing goes beyond having a roof over one's head as it provides security, privacy, personal space and, in many instances, enables the undertaking of economic activities. In its comment on the right to adequate housing, the UN Committee on Economic, Social and Cultural Rights has noted seven criteria for 'adequate' housing: legal security of tenure, availability of services, affordability, habitability, accessibility, location and cultural adequacy.

⁴³ Security of tenure refers to the level of protection against violations of a person's HLP rights, such as forced displacement and evictions, harassments and other threats. Security of tenure is not limited to ownership of HLP only, but includes all forms of tenure arrangements such as tenants, customary land tenure owners and users. Generally, security of tenure can be obtained through recognition of HLP rights by the local community, political recognition of squatter settlements and slums and a country's legal system and regulatory framework. Cunial, *op. cit.*, pp.17-18.

⁴⁴ This refers to the acquisition of land from an owner through the open use of it by a person. The different requirements (duration of open use and possible exceptions) for this type of acquisition are regulated by national laws. *Ibid.*, p.11.

⁴⁵ *Ibid.*

The committee has also provided more specific information on forced evictions, including a stringent set of requirements that need to be fulfilled to allow forced evictions as a last resort.⁴⁶ Annex C provides the full text of the most important international housing rights provisions.

2.1.2 LAND RIGHTS

This right signifies the right to land and other natural resources and may be held statutorily or customarily. There are various forms of land rights and more than one person may hold a right over a plot of land. In general, however, land and natural resource rights can be divided into three main types:

Use right:	the right to use the land for grazing, agricultural activities and collecting forestry and other natural products, for an easement or for a right of way
Control right:	the right to make decisions about how the land should be used and how benefits should be allocated
Transfer right:	the right to sell or mortgage land, convey land to others, transmit the land through inheritance and reallocate use and control rights.

Even though international human rights law does not make explicit reference to the right to land, land rights are increasingly acknowledged as being fundamental for economic and social well-being. While land rights may not be specifically defined, they are, nevertheless, invoked in a number of key areas (housing, food and water rights) that imply their relevance in the achievement of these rights.⁴⁷

⁴⁶ *Ibid.*, p.11 and pp.28-32.

⁴⁷ *Ibid.*, p.11-12 and p.32-34.

2.1.3 PROPERTY RIGHTS

There are two types of property, real property and personal property.⁴⁸ Property is held by a private party (individual, married couple, group of people or a corporate body such as commercial entity or non-profit organisation) either statutorily or customarily. The UDHR provides the only formulation of the right to property. It notes that property may be owned individually or collectively and protects against arbitrary deprivation. However, during the drafting of the *International Covenant on Civil and Political Rights* (ICCPR) and *International Covenant on Economic, Social and Cultural Rights* (ICESCR) states were unable to come to an agreement on the protection of property rights and accordingly neither makes any reference to this right.⁴⁹

2.2 RELEVANT INTERNATIONAL AND REGIONAL INSTRUMENTS FOR THE PROTECTION OF HLP RIGHTS IN THE CONTEXT OF DISPLACEMENT

There are several international and regional instruments that provide guidance to or set out obligations for governments with regards to the protection and restoration of HLP rights in the context of displacement.

2.2.1 GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT

This document draws on general human rights and humanitarian law to provide a protective framework that addresses the needs of IDPs worldwide. Emphasising the fact that IDPs enjoy the same rights as any other person in their country, it provides guidance to governments with regards to adequate standards of living during displacement (principle 18) and protection of property and possessions (principle 21). Principle 29(2) stipulates that governments “have the duty to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind

48 Real property is land and ordinarily anything erected on, growing on, or affixed to it, including buildings and crops and excluding anything that may be severed without injury to the land. Real property can be corporeal (soil and buildings) or incorporeal (easement). Personal property is any kind of property that can be the subject of ownership, including stocks, money, patents and copyrights, as well as intangible property. *Ibid.*, p.12.

49 *Ibid.*, p.12 and pp.34-35.

or were dispossessed of upon their displacement.” Arrangements for appropriate compensation or another form of reparation should be made in case recovery is not possible. As this article confirms, recovery, compensation or reparation should be made available to all IDPs, regardless of the durable solution option (return, local integration or resettlement) they have chosen. The *Principles* are not legally binding.⁵⁰ See Annex C for the full text of the relevant principles.

2.2.2 PRINCIPLES ON HOUSING AND PROPERTY RESTITUTION FOR REFUGEES AND DISPLACED PERSONS (PINHEIRO PRINCIPLES)

The key objective of the Pinheiro Principles⁵¹ is to assist relevant national and international actors to adequately address the legal and technical issues related to the restitution of HLP assets in the aftermath of displacement during which IDPs and refugees were deprived of such assets. The Pinheiro Principles broadened the scope of property and possessions (as applied by the Guiding Principles) to HLP. Principle 16, for instance, defines the rights of tenants and other non-owners whereas Principle 17 describes the protection needs of secondary occupants. More generally, Principle 8 confirms the right to adequate housing. The right to freedom of movement is defined in Principle 9. The Pinheiro Principles are not legally binding but have persuasive authority and are explicitly based on existing international, regional and national laws.⁵²

2.2.3 AFRICAN UNION CONVENTION FOR THE PROTECTION AND ASSISTANCE OF INTERNALLY DISPLACED PERSONS IN AFRICA (KAMPALA CONVENTION)

The *Kampala Convention*⁵³ sets out the obligations of signatory states and other relevant actors for

50 Noteworthy in this regard is Chapter 6 of the Protocol on the Protection and Assistance to IDPs of the Pact on Security, Stability and Development in the Great Lakes Region adopted by the International Conference on the Great Lakes Region (see section 2.4.4). Article six(3) of this Protocol stipulates that member states “shall ratify the present Protocol and shall also enact national legislation to domesticate the Guiding Principles fully and to provide a legal framework for the implementation within national legal systems.”

51 Principles on Housing and Property Restitution for Refugees and Displaced Persons, Adopted without a vote on 11 August 2005 in resolution 2005/21 by the UN Sub-Commission on Protection and Promotion of Human Rights, Geneva.

52 Cunial, L 2011, *op. cit.*, p.36.

53 African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), Adopted by the Special Summit of the Union held in Kampala, Uganda, 23rd October 2009.



the protection of and assistance to IDPs during all phases of displacement. With regards to HLP rights, article 9(2)(a) requires governments to ensure that IDPs live in satisfactory conditions of safety, dignity and security. Article 9(2)(i) obliges government to protect property left behind by IDPs. In facilitating durable solutions, governments are required to ensure that IDPs have access to simplified procedures to resolve property related disputes as well as effective remedies (articles 11 and 12). CAR has ratified the *Kampala Convention* and is therefore legally bound by its provisions.⁵⁴ See Annex C for the full text of the relevant provisions of the *Convention*.

2.2.4 PROTOCOL ON THE PROPERTY RIGHTS OF RETURNING PERSONS OF THE INTERNATIONAL CONFERENCE ON THE GREAT LAKES REGION

CAR is a member of the International Conference on the Great Lakes Region (ICGLR) that has

adopted a Pact on Security, Stability and Development in the Great Lakes Region and ten protocols, including a Protocol on the Protection and Assistance to IDPs. Recognising the importance of addressing HLP issues in the aftermath of a crisis for the achievement of durable solutions and prevention of renewed conflict, ICGLR also included a protocol dedicated to the property rights of returning persons.⁵⁵ The ICGLR Property Protocol obliges signatory states to protect the property of IDPs, refugees and returnees as well as to assist with the recovery and restoration of abandoned or dispossessed property to the extent possible. Articles 5 and 6 are dedicated to the protection of property of returning spouses, children and orphans. Article 8 discusses the modalities on compensation for the loss of property. The Pact and its protocols are legally binding on ICGLR member states and entered into force in June 2008.⁵⁶

⁵⁴ IDMC, 2012, *Kampala Convention: Who's in?*

⁵⁵ International Conference on the Great Lakes Region, *Protocol on the Property Rights of Returning Persons*, 30 November 2006.

⁵⁶ See <http://www.icglr.org/index.php/en/the-pact>.

2.3 INTERNATIONAL LEGAL PROTECTION OF WOMEN'S HLP RIGHTS

Despite the fact that many national laws provide guarantees for equality and non-discrimination, women generally have less access to HLP than men. Often their access is determined by their relationship with a man. In case of divorce, for instance, they may lose access to the marital house or land. In addition, inheritance is fundamental for the accumulation of assets but women and girls often have less inheritance rights than men and boys. This situation is exacerbated by conflict, which generally causes demographic changes resulting in higher numbers of single women and female-headed households.⁵⁷

Ensuring that men and women enjoy equal access to HLP rights is fundamental to achieving gender

equality and alleviating poverty. Lack of access to HLP can increase women's vulnerability to violence as they lack basic physical security. It can also reduce a women's political, social or economic status. For instance, access to land may ensure a woman's participation in community affairs or increase a woman's chances to access credit.⁵⁸

In addition to the human rights instruments mentioned above, there are numerous additional provisions that provide the framework for the promotion of women's rights and gender equality. For instance, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) explicitly protects women from discrimination with regards to HLP. Article 26 of the ICCPR is a broad anti-discrimination provision indicating that any law, regardless of its subject matter, which discriminates on the basis of sex thus contravenes the ICCPR. See Annex C for the full text of the most relevant provisions.

Box 1: Overview of international instruments ratified or acceded to by CAR⁵⁹

INTERNATIONAL INSTRUMENT	DATE
International Covenant on Economic, Social and Cultural Rights	8 May 1981
International Covenant on Civil and Political Rights	8 May 1981
Convention on the Elimination of All Forms of Discrimination against Women	21 June 1991
African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)	20 December 2010
ICGLR Protocol on the Protection and Assistance to Internally Displaced Persons	December 2006 (adoption)
ICGLR Protocol on the Property Rights of Returning Persons	December 2006 (adoption)

⁵⁷ Sanchez Bermudez, M, Cunial, L and Farmer, K, 2014 Life Can Change: Securing housing, land and property rights for displaced women, Norwegian Refugee Council, p.20.

⁵⁸ Cunial, L. 2011, *op. cit.*, pp.61-68.

⁵⁹ See the UN Treaty Collection (<https://treaties.un.org/pages/ParticipationStatus.aspx>), the International Conference of the Great Lakes Region (<http://www.icglr.org/index.php/en/the-pact>) and OAU/AU Treaties, Conventions, Protocols and Charters (<http://www.au.int/en/treaties>).

HOUSING, LAND AND PROPERTY RIGHTS IN THE CENTRAL AFRICAN REPUBLIC

3.1 LEGAL FRAMEWORK

CAR's legal system is based on the French civil law system. As with other branches of government in CAR, the judiciary suffered from decades of insecurity and poor governance. Prior to the current crisis, several key legislative documents, such as the Family Law (Code de la Famille) and the 1964 Land Code, were under revision. Due to the events of late 2012 and early 2013, these review processes have not been concluded. This section briefly discusses the legal documents of relevance for HLP rights in the country.

3.1.1 CONSTITUTIONAL CHARTER OF THE TRANSITION

Following the overthrow of Bozizé in March 2013, President Djotodia suspended the 2004 Constitution. On 18 July he promulgated the Constitutional Charter of the Transition, which, at the time of this research, continued to be applicable.⁶⁰ Noteworthy is article 97 (previously article 72) that stipulates that ratified or approved treaties and agreements have a superior authority over laws. This means that in theory the international instruments discussed in the preceding section take precedence over national laws. Article 15 (previously article 14) notes that every person has the right to property and no one may be deprived of their property except in cases of legally determined reasons of public use and on the condition of fair compensation. Property and possessions of individuals as well as the state are inviolable and central, regional and local authorities and citizens are obliged to protect them. Article 18 (previously article 17) stipulates that any victim of a violation of the right to property (as well as the other rights noted in articles 4 to 18) has the right to reparation.

3.1.2 LAND CODE OF 1964

Land tenure is principally governed by Law Number

63.441 of 9 January 1964 (hereafter the 1964 Land Code) which annulled land tenure legislation adopted a few years earlier (Law Number 60.136 of 27 May 1960). Although the 1964 Land Code refers to complementary legislation, no additional laws were adopted.⁶¹

Key legal provisions

The 1964 Land Code classifies land as being either within the public or the private domain of the state. The public domain is defined as all natural and artificial resources that, by their very nature, should be publicly managed for the benefit of the population. They are inalienable and cannot be traded commercially, like for instance waterways, classified parks, lakes and railways.⁶² The private domain of the state is defined as all unregistered land, landholdings acquired by the state and the exercise of eminent domain.⁶³ Obtaining ownership rights over land in the private domain of the state is possible. This requires it, however, to be registered (and in most cases developed).⁶⁴

The process for registering private property, culminating in the attainment of a title deed, is considered costly and time consuming. This as well as the government's weak land administration and management capacity in most parts of the country explains the fact that only 0.1 per cent of land has

61 USAID, 2010, *op. cit.*, p.5.

62 ARD, Policy Review: Statutory Property Rights to Land and National Resources in the Central African Republic (final version), 31 August 2007, p.3 and 1964 Land Code, articles 1-2.

63 Eminent domain refers to the power of a government to take private property for public use.

64 This actually means that there is a third domain, although this is not reflected in the 1964 Land Code. As noted earlier and as pointed out by ARD, additional laws were expected to complement the 1964 Land Code. Article 30, for instance, refers to a law on land tenure. 1964 Land Code, *op. cit.* and ARD, 2007, *op. cit.*, p.3. It is assumed that such legislation would have clarified the status of rights over land obtained in the private domain of the state.

60 International Criminal Court, 2014, *op. cit.*, p.82.

Box 2: Customary law in CAR

Remarkably few references were made to customary law (or something that could be considered a description thereof) during interviews for this study. Generally unfamiliar with statutory laws, local authorities would still not refer to something that can be considered as customary law when asked what informs their decision-making process. It would appear that social upheavals have led to a collapse of customary rules and laws. As noted by a World Bank study:

... partly as a result of its violent history over the past several centuries, the realm of the customary is ill-defined in CAR. That is, rather than drawing on a more-or-less distinct body of 'customary' norms (even if those norms are recognised as changing), in CAR people draw on repertoires that are ad hoc and situational, and that make use of religious tenets and other community values without being formalised into rules that can be summarised in order to generalize about practices. To a certain extent, this owes to the particularly un-institutionalised colonial experience in CAR. Whereas elsewhere colonial authorities enshrined the customary as the appropriate mode of justice for 'natives' (Mamdani 1996), in CAR the French never had sufficient funds or interest in administration to launch such a system in a comprehensive way"⁷⁰

been registered.⁶⁵ The inclusion of unregistered land in the private domain of the state is therefore a very significant feature of CAR's land tenure system. The registration process can be divided into an informal and formal phase and will be discussed in detail in section 3.2.3. Ownership of registered property can be transferred via purchase, inheritance and lease.⁶⁶

Another noteworthy feature of the 1964 Land Code concerns its relation to customary rights to land. Notwithstanding the rather uncertain state of customary law in the country (see box 2), the 1964 Land Code recognises customary land rights in both the public and private domains of the state.⁶⁷ However, this recognition is limited to use rights only.⁶⁸ It has been argued that:

limiting customary rights to the category of use rights means that the property rights of local populations are not sufficiently robust to control access to land resources by excluding others from using the same land resources. This encourages anarchic

*land settlement, occupation and use.*⁶⁹

Two interesting contradictions should be pointed out. As will be discussed in section 3.1.1, *Chefs de Village* (and in some cases *Chefs de Quartier*), who are part of the formal local governance system, allocate and manage land in rural areas,⁷¹ although they do not have a clear legal mandate to do so.⁷² However, their involvement in land allocation and management is generally accepted as it is considered part of the 'customary' land tenure system that dominates in CAR.⁷³ Secondly, while many observers agree that 'customary' land tenure dominates in CAR, the 1964 Land Code only defines the public and private domain of the state and asserts government ownership. Even though it is possible to acquire ownership over land in the private domain of the state, the process for this is complicated and hardly ever followed through. This as well as general lack of awareness has resulted in the popular but vague belief that "all land belongs to the state." When people share this belief, it often comes with some reservations, as most local authorities and communities are conscious of their authority over and use of land, seemingly in some cases

65 USAID, 2010 *op. cit.*, p.9, ARD, 2007 *op. cit.*, p.6, and interviews with officials at the Ministry of Urbanism in Bangui, August and September 2014.

66 USAID, 2010, *op. cit.*, p.6.

67 Articles 3 and 38 and ARD, 2007, *op. cit.*, p.5. As noted by ARD, the 1960 land code actually included a third domain, namely registered customary property rights, but in line with an apparent trend at the time towards strengthening the state's property rights, the 1964 code excluded this domain. ARD, 2007, *op. cit.*, p.2.

68 As noted by ARD, "[c]ustomary use rights traditionally exercised in areas within the natural public domain are recognized and protected by article 3. Article 38 states that use rights are granted to inhabitants of the lands of the private domain of the state based on existing land use patterns and rights." ARD, 2007, *op. cit.*, p.5.

69 Konzi-Sarambo quoted in ARD, 2007, *op. cit.*, p.5.

70 Marc, A, 2012, *op. cit.*, p.50.

71 Interviews with chefs in Bangui, Carnot and Sibut in August and September and officials from regional and central cadastres in Carnot and Bangui, August and September.

72 ARD, 2007, *op. cit.*, p.6. and Ordinance No 88/006 relative à l'organisation des Collectivités et des Circonscriptions Administratives, 12 February 1988.

73 Interviews with officials from the Ministry of Urbanism, regional and central Cadastre in Bangui and Carnot, August and September 2014 and ARD, 2007, *op. cit.*, p.6.

contradicting their earlier statement that the state owns all land.⁷⁴ But the vagueness of the notion causes it to be frequently abused. For instance, during discussions on the fate of the houses abandoned by Muslims in Sibut (see section 4.2.5), local authorities explained that because “all land belongs to the state” it is simply up to them to decide what to do with these properties, regardless of whether they were registered or not.⁷⁵

Revision of the 1964 Land Code

Unsurprisingly, a common feature during discussions with government officials on CAR’s land tenure legislation is the recognition that the 1964 Land Code is incomplete, confusing and requires a thorough revision.⁷⁶ In 2012, an official at the Ministry of Agriculture and Rural Development acknowledged the obstacles presented by the current law when acquiring land in rural areas and highlighted challenges related to the increasingly weak ‘customary’ systems that, nevertheless, remain the most commonly used means of land provision. The inability of the rural population to cover the costs related to obtaining a title deed was also recognised.⁷⁷

CAR probably never prioritised the passing of adequate legislation as a result of the abundant availability of land and low population pressure.⁷⁸ An attempt by the government in 1986 to revise relevant legislation failed as a result of insufficient political support and lack of consensus.⁷⁹ Another effort commenced in 2007/2008. Country-wide surveys and consultations resulted in the recommendation to decentralise land tenure management as well as recognise customary property rights. The Ministry of Urbanism led the ensuing revision process and a draft of the revised code was discussed at a ‘validation workshop’ at the end of 2011 and two subsequent workshops in early 2012.⁸⁰ In recognition

of the inter-connectedness of legislation on land, mining and forests, two inter-ministerial committees were established in September 2012 to look into the harmonisation of all land-related legislation.⁸¹ Events later that year interrupted the process. Although acknowledged as an effort that needs to be resumed, no plan of action had been defined at the time of this research.⁸²

3.1.3 CODE DE LA FAMILLE

The Code de la Famille of 1997 stipulates that the husband is the head of the household. Wives are expected to contribute to the moral and material well-being of the family as well as the children’s upbringing. The wife replaces her husband as head of the family in case he is incapacitated, absent, separated from his family or has voluntarily abandoned family life.⁸³ The family residence is selected by the husband.⁸⁴ The law allows polygamy.⁸⁵

The law includes detailed provisions on marital property and inheritance issues. In case a couple is legally married without a prenuptial agreement then the legal regime of *la communauté réduite aux acquêts* applies.⁸⁶ In 2010, it was estimated that 95 per cent of legally married couples did not have an official prenuptial agreement.⁸⁷ Under this marriage settlement, property acquired during a marriage is considered to belong to both spouses (with a few exceptions⁸⁸) and the wife or husband has the right to half of the estate of the deceased spouse. Any possessions acquired before the marriage (or the aforementioned exceptions) belong to the respective owning spouse. In the division of these possessions (and succession in general), the surviving wife or husband is third in line (after the children and parents). No distinction is made between sons and daughters in the question of

74 Interviews with chefs, host communities, officials of Ministry of Urbanism and regional and central Cadastres and ARD, 2007, *op. cit.*, p.7.

75 Interviews with chefs and notables (traditional leaders or eminent persons) in Sibut town, August 2014.

76 Interviews with officials of the Ministries of Accommodation and Housing, Urbanism and Territorial Administration in Bangui, August, September and October 2014.

77 Tetra Tech ARD, Property Rights and Artisanal Diamond Development (PRADD), Consultant mission to Central African Republic, Mission Dates: June 20 – July 12, 2012, p.5.

78 ARD, 2007, *op. cit.*, p.2.

79 USAID, 2010, *op. cit.*, p.8.

80 Tetra Tech ARD, 2012, *op. cit.*, pp.4-5.

81 Arrête portant creation et fonctionnement du comité technique interministeriel chargé de l’harmonisation des intruments juridiques relatifs au foncier centrafricain, No 12 of 21 September 2012 and Arrête portant creation et fonctionnement du comité interministeriel chargé de l’harmonisation des intruments juridiques relatifs au foncier centrafricain, No 13 of 21 September 2012.

82 Interviews with officials of the Ministries of Urbanism, Accommodation and Housing and Territorial Administration in Bangui, August-October 2014.

83 Article 254.

84 Article 255.

85 Articles 216 and 230.

86 Article 360.

87 Report on the Pre-Validation Workshop on the revised provisions of the Code de la Famille from 30 September to 1 October 2010 in Bangui, p. 5.

88 Articles 365 – 381.

succession and inheritance.⁸⁹ Article 780 confirms the right of the surviving spouse to stay in the main residence for at least two years from the day of the death of the deceased spouse until succession arrangements have been finalised. The last section of the Code de la Famille is dedicated to the rights of widows. Article 1059 stipulates that a surviving spouse is not obliged to marry a member of the deceased spouse's family. Furthermore, it confirms that the surviving spouse is the legal guardian of the couple's under aged children.

In 2010 the Ministry of Social Affairs, National Solidarity and Family initiated a process to compare the Code de la Famille with relevant national and international legislation and highlight possible contradictory or discriminatory provisions. Several challenges were identified and discussed at two workshops in Bangui. The legality of polygamy was discussed at length and legal amendments were proposed. Provisions on succession and inheritance were not deemed to be discriminatory against women. The high number of co-habiting couples in CAR and the lack of legal protection of partners was also highlighted as of concern (see section 4.5.2).⁹⁰ The status of the proposed amendments to the law is unclear.⁹¹

3.1.4 CODE PÉNAL

The penal code of 2010⁹² includes a section on crimes against women. Article 113 stipulates the punishment for someone who confiscates the personal possessions of a widow. Section V is dedicated to crimes against possessions in general.

3.2 GOVERNANCE AND ADMINISTRATIVE FRAMEWORK

3.2.1 CENTRAL AUTHORITIES

At the time of this research, CAR had just witnessed the inauguration of a new government and one

of the changes of relevance to this study was the splitting of the Ministry of the Reconstruction of Public Infrastructure, Urbanism and Housing into the Ministry of Urbanism and Public Infrastructure (hereafter the Ministry of Urbanism) and the Ministry of Accommodation and Housing (hereafter the Ministry of Housing). Mandates for the reorganised ministries were under review. This, coupled with the general difficulty in obtaining validated information on the mandates and plans of the various relevant ministries, points to one of the complexities of working on HLP related matters in CAR. This section is therefore not a complete review but, rather, a brief discussion on the ministries likely to play key roles in addressing HLP challenges in the near future.

The decree explaining the organisation and functioning of the Ministry of Housing stipulates the construction, management, and promotion of administrative housing as its main mission.⁹³ However, having only recently become a separate ministry, several of its officials explained that their mandate would soon be revised to cover all accommodation and housing issues. Other officials indicated that the focus on housing provided for civil servants would remain.⁹⁴ At the time of research it was difficult to explore details of the ministry's exact mandate.

The Ministry of Urbanism allocates and manages CAR's land. It allocates land, to, for instance, private parties but also to bigger projects such as housing schemes. The ministry also manages the country's cadastre, a department which provides technical expertise to assess and demarcate land, determines criteria for the development of land and issues construction permits and title deeds.⁹⁵

The technical aspect of the cadastre is complemented by the Ministry of Finance and Budget, which takes care of the financial side of land registration. It also houses the land registration office (known as the office of *domaines*). This means that once the cadastre has issued a title deed, the related files are transferred to and stored at the Ministry of Finance and Budget.⁹⁶ It should be

89 Articles 745 – 789 and 939 and interview with staff of the Association des Femmes Juristes de Centrafrique (AFJC) in Bangui in September 2014 and Pre-Validation Workshop Report, 2010, *op. cit.*, p.5.

90 Pre-Validation Workshop Report, *op. cit.* and Report on the National Validation Workshop on the revised provisions of the Code de la Famille on 23 November 2010 in Bangui.

91 Interviews with officials of the Ministry of Social Affairs and Humanitarian Action and AFJC in Bangui, September 2014.

92 Loi No 10.001 du 06 Janvier 2010 portant Code Pénal Centrafricain.

93 Decree No. 09.120 Portant Organisation et Fonctionnement du Ministère de l'Habitat et du Logement et Fixant les Attributions du Ministre of 28 April 2009.

94 Interviews with officials of the Ministry of Accommodation and Housing and NRC staff in Bangui, September 2014.

95 Interviews with officials of the Ministry of Urbanism in Bangui, August-October 2014.

96 *Ibid.*



noted that the aforementioned reform process of the 1964 Land Code included the transfer of the land registration office from its current location to the Ministry of Urbanism in order to simplify the process of obtaining a title deed. However, this change was reportedly a serious point of contention at the time.⁹⁷ It is unclear if the proposal will be pursued during renewed revision efforts.⁹⁸

The Ministry of Territorial Administration, Decentralisation and Regionalisation (hereafter Ministry of Territorial Administration) is of relevance as *Chefs de Village* and *Chefs de Quartier* and mayors officially report to it.⁹⁹ The Ministry of Agriculture does not appear on the list of ministries under the new government. Instead there is a Ministry of Rural Development,¹⁰⁰ which may need to be considered during programming on HLP rights.

3.2.2 LOCAL AUTHORITIES

97 ARD, 2012 *op. cit.*, p.6.

98 Interview with officials from the Ministry of Urbanism in Bangui, October 2014.

99 Interview with an official of the Ministry of Territorial Administration in Bangui, September 2014.

100 Jeune Afrique, *op. cit.*

Chef de Village and Chef de Quartier

Often mistakenly considered as part of a 'traditional' or 'customary' system, Chefs de Village or Chefs de Quartier (hereafter referred to as chefs) were first introduced by the French colonisers to extend their rule. Nowadays, chefs (called makunji in Sango) derive their authority and responsibilities from an order that was passed in 1988. They report to the mayors of the locality¹⁰¹ and fall under the Ministry of Territorial Administration. The importance of the chef in the management of community affairs was one of the few points of agreement amongst interviewees in all three research locations. In light of the limited and weak presence of state authorities outside Bangui, the consistent presence of a chef in almost every village or quartier in the country is remarkable. They often, in effect, fill gaps due to the weakness of the state.

The order of 1988 stipulates that chefs are elected by the residents of the village or quartier for a period of ten years.¹⁰² It appears that such an election often only consists of an informal community gathering during which residents are asked if they accept

101 Ordinance 1988, *op.cit.*, article 3.

102 *Ibid.*

the nominated candidate. Often the candidate was a member of the chef's council, community leader or relative, such as a brother or a son.¹⁰³ The ten-year limit to a mandate does not always appear to be respected. In addition, even though article 13 of the order of 1988 discusses accountability, there appears to be little knowledge of and experience with the procedures to sanction, suspend or dismiss a chef.¹⁰⁴ The order stipulates a monthly payment for each chef.¹⁰⁵ However, none of the chefs interviewed for this research had ever received such amount.¹⁰⁶ In fact, several chefs considered their role to be a voluntary one.¹⁰⁷

A chef's principal role is to implement decisions by the administrative and local authorities.¹⁰⁸ The effectiveness of this role greatly depends on the presence or capacity of such authorities. In remote villages or in the absence of state institutions, chefs appear to often implement their own decisions.¹⁰⁹ As a result, the reality in one village or quartier may vary significantly from another. The chef is also expected to notify relevant authorities within stipulated timeframes of deaths, births, marriages and other relevant events in his community.¹¹⁰ Article 11 obliges chefs to support the application of rules and regulations with regard to agricultural activities and development plans prepared by the authorities. With assistance from the mayor, the chef will undertake measures to prevent livestock from causing damage to land under cultivation.

Land-related tasks and responsibilities

Two HLP-related duties frequently performed by chefs have been observed in the course of this research. Neither are explicitly defined in the order of 1988.

The first concerns the chef's involvement in the

documentation and validation of property sales in his community. This is considered part of the informal land registration process and will be discussed in more detail in section 3.2.3. Secondly, while chefs do not have a clear legal mandate to allocate and manage land, local populations in rural areas (and some urban areas) almost exclusively access land via them. This reality is acknowledged by the regional cadastre in Carnot and the central cadastre in Bangui. However, the procedures to acquire land, modalities for its use and other related issues may vary significantly from one village to another.

Dispute resolution

The order of 1988 gives chefs the authority to intervene in civil and commercial justice matters after taking an oath before the judge and in the presence of the village council.¹¹¹ No further details on this task, such as procedures, appeal options, enforcement mechanisms, administrative fees, are provided. Generally, people pay the chef 1,000 Central African Francs (XAF) (\$2) to bring disputing parties to appear before him and his team. After introductory statements by both parties, often made publicly, the chef and his team deliberate behind closed doors on the best solution. They then announce their final decision to the community. While members of the chef's team offer their views, ultimately it is the chef who has final decision-making authority. It is unclear on what basis such a decision is made.¹¹² According to a World Bank study, chefs often "refer to local norms and/or religious texts (primarily the Bible or Koran)."¹¹³ Although the use of the word '(re)concile' in the order of 1988 would imply that the chef is mandated to mediate between disputing parties, an analysis of the process most frequently described by chefs, team members and community members points to the chef playing the role of judge.¹¹⁴

As noted, the order of 1988 does not define the options to appeal the chef's decision. It appears that cases in which one or both parties do not agree or fail to adhere to the decision by the chef (since

103 The World Bank study found that in 45% of their cases a Chef had taken over the post from his father. Marc, *op. cit.*, p.39.

104 Interviews with community members, chefs, mayors and the Ministry of Territorial Administration in Bangui, Carnot and Sibut, August and September 2014.

105 Ordonnance 1988, article 14.

106 Interviews with chefs in Bangui, Carnot and Sibut, August and September 2014. This is in line with the findings of the World Bank study. Marc, *op. cit.*, pp. 23-24.

107 Interviews with chefs in Bangui, Carnot and Sibut, August and September 2014.

108 *Ibid.*, article 9.

109 Interviews with community members, chefs and mayors in Bangui, Carnot and Sibut, August and September 2014.

110 Ordonnance 1988, *op. cit.*, article 10.

111 *Ibid.*, article 12.

112 Interviews with community members and chefs in Bangui, Carnot and Sibut, August and September 2014.

113 Marc, A, 2012, *op. cit.*, p.39.

114 Interviews with community members, chefs, mayors and the Ministry of Territorial Administration in Bangui, Carnot and Sibut, August and September 2014. This observation is in line with the conclusion by the World Bank study on this matter: "... there is currently a major lack of clarity over whether chiefs serve as "conciliator" or "judges." Marc, A, 2012, *op. cit.*, p.22.

the Chef does not have any means to enforce his decision) are often referred to the police, gendarmerie or the office of the mayor.¹¹⁵

Mayors

Article 50 of the 1988 order stipulates that mayors are to be elected by a Municipal Council. In practice, however, mayors are appointed by the central government.¹¹⁶ Mayors are tasked with management of revenue and execution of decisions by the Municipal Council. They are also involved in sale contracts, as discussed in section 3.2.3. Chefs report to mayors and often refer to them unresolved disputes or matters outside their jurisdiction. The relation between chefs and mayors and the involvement of mayors in town affairs varies greatly from one locality to another, depending on personalities, geographical location and the means at the disposal of the mayor's office to maintain regular contact with chefs in distant villages. Mayors were often among Séléka's first targets and some have been displaced to Bangui or nearby towns for long periods.¹¹⁷

Police and gendarmerie

Chefs refer criminal matters or unresolved disputes to the police or gendarmerie. In Carnot, it would appear that both structures often attempt to mediate or render judgment on cases referred to them while they only have investigative functions and are supposed to transfer cases to court.¹¹⁸ The World Bank study confirms that this phenomenon is not limited to Carnot only and there are reports that law enforcement officials receive a payment for their 'service'.¹¹⁹

3.2.3 REGISTRATION OF HOUSING AND LAND

It might be argued that the process of registering property is divided into an informal and formal phase. The former commences with an agreement between a seller and a buyer. Once they have agreed on the modalities of the sale, chefs prepare an *Attestation de Vente* (AdV), which is signed by

both the selling and buying party. The chef formalises the sale contract by signing and stamping it. The fee requested by most chefs is around 2000 XAF (\$4).¹²⁰ Most homeowners do not go beyond this step, although the subsequent phase of the 'informal' process requires the homeowner to get the AdV 'legalised' at the office of the mayor on payment of an administrative fee.¹²¹

Every owner is required to register his or her property with the cadastre. This formal phase of the registration process can be divided into three stages. The first is to apply for an *Arrêté Provisoire* (signed by the Minister of Urbanism) upon presentation of a legalised AdV at the local cadastre. After applying for this document, the cadastre embarks on a fairly complicated and lengthy process that involves twelve different tasks and various fees to be paid by the owner. If granted, the owner is informed about the requirements to develop (*mise en valeur*) the acquired plot, usually in the form of an amount stipulating the required value of a future structure. In case the sale involves a plot on which a structure was already built, the cadastre determines if the existing structure meets the standards set for the area. Owners in urban areas are given a four-year deadline for the development of the property and owners in rural areas an extra year. In order to develop the property owners are required to obtain a construction permit from the cadastre. Upon completion of the development of the plot in accordance with the *Arrêté Provisoire* the owner is given an *Arrêté Definitif* (signed by the Minister of Urbanism). In case they fail to meet the deadline, they may ask for an extension. In case the plot remains undeveloped, the property may be 'recalled' (*retour aux domaines*). The final stage concerns the application for the *titre de propriété* or *titre foncier* (both terms are being used interchangeably and can be translated as 'title deed'). Officially, the same procedures apply to plots intended for agricultural purposes, although it appears that very few agricultural plots are registered with the cadastre.¹²²

In theory, the entire registration process is supposed to take 75 days and the total related costs equal 18.5 per cent of the value of the

115 Interviews with community members, chefs, mayors, police and gendarmerie in Bangui, Carnot and Sibut, August and September 2014.

116 ARD, 2012 *op. cit.*, p.25. According to the Mayor of Carnot, mayors are appointed by presidential decrees.

117 Interviews with chefs and mayors in Bangui, Carnot and Sibut, August and September 2014.

118 Interviews with officials of the police and gendarmerie in Carnot, September 2014.

119 Marc, A, 2012, *op. cit.*, p.41.

120 Interviews with chefs in Bangui, Carnot and Sibut, August and September 2014.

121 Interview with officials of the regional cadastres in Carnot, September 2014.

122 Interviews with officials of central and regional cadastres and document entitled *Procédure d'Obtention du Titre de Propriété en République Centrafricaine*, undated.

property.¹²³ This explains the low percentage of registered land in CAR. Between 1899, when the title deed was introduced, and July 2012 only 8,579 title deeds had been issued according to the land registry at the Ministry of Finance, the majority of which were for properties in Bangui and other urban areas.¹²⁴ Obtaining an AdV (and to a lesser degree a legalised version at the office of the mayor) also appears to be limited to homeowners in urban areas. Homeowners in rural areas frequently only entered into verbal agreements regarding their ownership, often with involvement of the chef. All homeowners interviewed in the course of this research who had been in possession of some type of ownership document (most having lost them during flight, as discussed in section 4.2.3) confirmed that these documents bore the name of the male head of the household, except for one case involving a Muslim convert who used to have an AdV in her former Christian name. Others had or used to have an ownership document in the name of an uncle, grandfather or other, often male, relative.¹²⁵

3.2.4 HLP DISPUTE RESOLUTION

Although not a focus of this study, it would appear that prior to the current crisis CAR generally witnessed relatively few HLP related disputes. In urban areas disputes would be caused by disagreements among neighbours over plot boundaries. As in many other countries with weak land administration systems this is partly the result of the lack of formal demarcation of plots that is often based on verbal agreements passed on from one generation to another. Disputes over land could develop, for instance, as a result of an owner's protracted absence and the chef's decision to allocate the land to someone else.¹²⁶

As with other types of disputes, people's most frequent first port of call in case of an HLP dispute is the chef who with his team either mediates or, more frequently, renders judgment on these matters. In the case of HLP disputes in urban areas, most chefs noted that they would call upon (the local office of) the cadastre to assist with more complicated HLP disputes. The central cadastre in Bangui

has a dedicated department dealing with claims (which may also be summoned by courts/tribunals to inform a judgment in a HLP case). In the case of the regional cadastres, the head of the service performs this task. The officials of the cadastre are asked to apply their technical expertise to determine boundaries or other related issues. The cadastre is also involved in case of disputes over non-registered land or housing.¹²⁷ In the case of disputes over land, chefs may call upon assistance from officials of the Ministry of Agriculture (if functional in their area). In Carnot it would appear that chefs even refer cases to the regional office of the Ministry of Agriculture.¹²⁸ As with other types of conflict, in case a party does not agree with the outcome of the process managed by the chef or in case a party does not respect the chef's decision, cases are referred to the police, gendarmerie or the office of the mayor.

123 World Bank Doing Business Survey quoted in USAID, 2010 *op. cit.*, p.6.

124 ARD, 2012 *op. cit.*, p.6 (footnote 6).

125 Interviews with IDPs, returnees, resettled IDPs, host families and communities in Bangui, Carnot and Sibut in August and September 2014.

126 Interviews with chefs in Carnot and Sibut, August and September 2014 and an official of the regional office of the Ministry of Agriculture in Carnot, September 2014 and Marc, A, 2012 *op. cit.*, p.47.

127 Interviews with chefs, community members and officials of the cadastres in Bangui and Carnot, August and September 2014.

128 Interview with an official of the Ministry of Agriculture in Carnot, September 2014.

KEY HOUSING LAND AND PROPERTY CHALLENGES

Recent events have resulted in serious violations of human rights, including HLP rights. In many (post-)conflict settings, humanitarian needs and a narrow perception of what constitutes HLP rights have often resulted in a response limited to the provision of shelter or plastic sheeting and rehabilitation and restitution of housing. Although these indeed address common HLP needs, there are often numerous other issues that require attention in order to comprehensively and sustainably resolve HLP challenges. Part 4 presents the main challenges facing IDPs and returnees in exercising their HLP rights that were identified during the research. Given the scarcity of statistics and information, research focused on challenges on which limited information was available or previously unidentified challenges. Part 4 is divided into challenges experienced during displacement and during return, integration and resettlement. It should be noted that return, integration and resettlement were occurring on a fairly limited scale at the time of this research. Dedicated research on the specific vulnerabilities of displaced women in exercising their HLP rights is recommended. Section 4.5 highlights some issues of concern noted during the research.

4.1 DURING DISPLACEMENT

4.1.1 CONDITIONS IN IDP SITES

Several challenges with regards to the HLP rights of IDPs in formal and managed sites were identified and these are generally well-known. Most interviewed IDPs complained about the living conditions in the sites, especially the fact that the rainy season had seriously damaged shelter structures and saturated the land. Many IDPs complained that they were sleeping on the ground, in the absence of sleeping mats.¹²⁹ In two instances, IDPs were reported to be sleeping in the open, as there was a shortage of plastic sheeting to build additional shelter structures.¹³⁰ According to a survey

conducted in IDP sites in Bangui, 81 per cent of respondents noted general living conditions as their main challenge. Twenty one per cent of respondents reported having separated from their family as a survival mechanism.¹³¹

Some IDPs in several smaller sites noted pressure to leave. Further inquiry distinguished perceived from actual threats of evictions and the latter was mostly the case in sites that normally functioned as educational facilities. Pressure on IDPs to leave the sites appeared to be principally motivated by the approaching start of the new school year in November.¹³²

Lack of freedom of movement is a serious issue for Muslim IDPs. Only women at the MINUSCA protected IDP site at the Catholic mission in Carnot are able to leave the sites as it is deemed too unsafe for men to do so. For Muslim IDPs in one of the sites in the 3rd district, only limited movement within the district was reported possible. Ongoing tensions with surrounding communities present a serious security concern.¹³³

4.1.2 CONDITIONS WITH HOST FAMILIES

A significant number of IDPs have opted to seek shelter with host families, although, as noted, their exact number is unknown. Often referred to as *parents*, host families may be close family but could also be distant relatives who once lived in the IDPs' village or quartier of origin. Reported challenges in relations with hosts varied significantly from one area to another. In Bangui, while tensions over partition of food and scuffles among children were reported, IDPs appeared generally confident that they would remain with their host. In Sibut however, more serious tensions were reported, with some IDPs indicating that they were looking for other transitional settlement options. This can probably

129 Interviews with IDPs in sites in Carnot and Bangui, August and September 2014.

130 Interviews with IDPs in sites in Bangui, August and September 2014.

131 IOM Displacement Tracking Mechanism (DTM) Report September 2014, p.9.

132 Interviews with IDPs in sites and staff of humanitarian organisations in Bangui, August and September 2014.

133 Interviews with IDPs in sites in Bangui and Carnot, August and September 2014.



be explained by pre-existing community relations in these areas, which requires separate research. Other reported challenges include lack of space (and in some cases resultant separation of families) and lack of sleeping materials.¹³⁴

4.1.3 CHALLENGES WITH RENTAL HOUSING

Statistics on the number of IDPs in rented housing is also unknown. The researcher had little difficulty identifying such IDPs in each research location and their number appears substantial. Approximately 70 per cent of the interviewed IDPs in rented accommodation in Bangui had moved into a rented house after having left an IDP site or host family. In the case of Carnot and Sibut, most IDPs had lived with host families prior to renting a house. None of the IDPs in rental housing had any type of written contract. All explained that their stay in the rental house was based on a verbal agreement. This appears to already have been the case for rental arrangements of smaller rental housing prior to the crisis.

Unsurprisingly, the main challenge for this group of IDPs was the inability to pay rent, having lost their livelihoods. In Carnot and Sibut the monthly rent varied between 500 – 3,500 XAF (\$1-7) while in Bangui this could be anything between 5,000 – 20,000 XAF (\$10-40), depending on the size of the house. The consequences of rental arrears vary significantly and mostly depend on the attitude of the landlord as well as the involvement of the local chef. In several instances IDPs reported that their forced eviction was temporarily prevented following an intervention by the chef. Others felt confident that they would be given time to pay their rent. In a significant number of cases, however, IDPs reported having had to move out of rented property into

another one, only to face the same problem.¹³⁵

Although it was beyond the scope of this research to assess possible increase in rents as a result of the crisis (likely reduction of housing stock), obtained information seems to indicate that prices have significantly increased in some areas, especially in Bangui. Dedicated research is required to provide precise data.

4.1.4 CONDITIONS IN ABANDONED HOUSING

In all three NRC operational areas IDPs have taken up shelter in housing left behind primarily by Muslims. Research revealed two major challenges facing such IDPs. Most abandoned houses have been subjected to pillaging, burning and destruction and therefore often do not provide minimally required protection. In Carnot many IDPs seeking shelter in abandoned houses were at risk of being evicted from the property unless their stay is regulated with the office of the mayor. In Sibut, several IDPs reported being unsure how long they would be allowed to remain in abandoned property. This corresponds with the unclear position of local authorities with regard to the occupation of abandoned houses in the area.¹³⁶ The issue of secondary occupation will be discussed in more detail in section 4.2.5.

4.1.5 CONDITIONS IN THE BUSH

A worrying number of IDPs in Carnot and Sibut interviewed for this study reported seeking shelter in the brousse (bush) at some point during their displacement. The exact meaning of bush is unclear. In some cases IDPs would refer to their fields, while in other cases IDPs have actually located to a

¹³⁴ Interviews with IDPs and host families in Bangui, Carnot and Sibut, August and September 2014.

¹³⁵ Interviews with IDPs and chefs in Bangui, Carnot and Sibut, August and September 2014.

¹³⁶ *Ibid.*

random bush area deemed safe and erected temporary huts. In both Sibut and Carnot many IDPs had commenced their displacement in the bush, expecting to soon return home. However, when the situation remained insecure they had moved to another temporary settlement option. Some, however, as in Sibut, reported protracted stays in the bush due to a lack of other options.¹³⁷

The temporary relocation from village to field is not a new phenomenon in CAR. It has been employed as a mechanism of protection against banditry and other insecurity as well as environmental hazards for decades. Families are generally able to survive under bush conditions for short periods of time without facing starvation or desperation.¹³⁸ However, the current crisis has often led to prolonged stays in the bush. As there is very limited information available on the number of IDPs remaining in the bush and the conditions in these areas, it is difficult to determine their needs.

4.1.6 ACCESS TO LAND

The majority of interviewed IDPs in Carnot and Sibut were farmers prior to their displacement and have made attempts to access land during their displacement. The results of these attempts vary significantly. In Sibut town, some IDPs have managed to find land that they could rent for one or two seasons. The price for one season varied from 10-15,000 XAF (\$20-30). Others were unaware of the possibility to rent land. In Carnot town, most IDPs have been able to access land via their host family, receiving plot for an indeterminate period. Others indicated they worked on land of acquaintances as daily labourers. It would appear that in urban areas, access to land has very much depended on relations with host families or ability to rent a plot.¹³⁹ IDPs in Bangui less often cultivated land prior to their displacement¹⁴⁰ and therefore they did not prioritise this issue during interviews. IDPs seeking shelter in rural areas generally reported no problems with temporary access to land allocated by the chef.¹⁴¹

137 Interviews with IDPs in Carnot and Sibut, August and September 2014.

138 IOM, Migration Dimensions of the Crisis in the Central African Republic, Short, Medium and Long-Term Considerations, Working Paper, August 2014, p.22.

139 Interviews with IDPs in Carnot and Sibut, August and September 2014.

140 In IDP sites in Bangui, most residents were involved in the retail of food items prior to the crisis, although a significant number also appears to have been involved in agricultural activity. IOM DTM Report September *op. cit.*, p.17.

141 Interviews with IDPs in Carnot and Sibut, August and September 2014.

4.2 IN THE CONTEXT OF RETURN

4.2.1 DAMAGE TO HLP

Pillaging of housing and fields

The pillaging of housing has been widespread since the start of the crisis at the end of 2012. It entails emptying a house, either randomly selected or targeted because of its owners, of furniture, seeds, tools and any other items deemed valuable. The items stolen have reportedly been taken to Chad following the withdrawal of ex-Séléka elements or put up for sale locally by the anti-balaka or criminal elements. In many cases pillaging has not been limited to household goods. Houses were often stripped of doors, windows and even roofs (iron sheeting). These items have reportedly been used as firewood for cooking purposes in camps used by state or non-state armed actors or were sold locally. Many IDPs also reported the destruction of their crops and granaries.¹⁴²

There are no statistics on the number of affected houses in any of the three zones. According to a survey undertaken by IOM among IDPs in sites in Bangui, 78 per cent noted the looting of their belongings as one of the principal reasons for their displacement.¹⁴³ Seventy one per cent noted that the loss of belongings has been the primary obstacle for their return.¹⁴⁴

Burning of housing

Arson has also been commonplace. Affected houses appear to have been randomly targeted. Most often houses were set alight after having been pillaged, although in some cases houses were burned down with all of their contents intact. It would appear that this tactic was most frequently adopted during the advance and retreat of (ex-) Séléka elements in villages located along roads in and around Sibut and Carnot and, to a slightly lesser extent, around Bangui. Most torched houses had straw roofs, although there have also been some houses with iron sheeting roofs that were set alight.¹⁴⁵

142 Interviews with IDPs, chefs, shelter actors and NRC staff in Bangui, Carnot and Sibut in August and September 2014.

143 IOM DTM Report September 2014 *op. cit.*, p.8.

144 *Ibid.*, p.2.

145 Interviews with IDPs, chefs, shelter actors and NRC staff in Bangui, Carnot and Sibut in August and September 2014.

In and around Sibut town alone, NRC identified 500 burned houses. In Carnot, the nearby villages of Irma baron, Gadzi and Gueng were hit hardest, although it is unclear exactly how many houses are affected.¹⁴⁶ The number of burned houses in Bangui is also unknown. Unfortunately, as is the case for pillaged houses, no comprehensive inventory has been done. IOM evidence collected from IDPs in sites in Bangui provides some idea of the extent of the problem: 51 per cent of the IDPs noted that a burned down or damaged house was among the principal causes of their displacement.¹⁴⁷

Partial or complete destruction of housing

Unlike in Carnot where only a few houses were affected, several areas in Sibut and Bangui witnessed significant destruction of housing, mostly as part of revenge-motivated violence targeting Muslim communities in December 2013 and January 2014. Partial destruction varied from minor damage to doorposts, windows and roofs to significant damage including of walls. A considerable number of houses have been completely destroyed, leaving only traces of the pre-existing house.¹⁴⁸ As with cases of pillage and arson, there is no comprehensive overview of destroyed houses. Some inventories have been undertaken locally at the initiative of authorities or humanitarian organisations. The Shelter Cluster estimates that at least 170 houses in Bangui's 8th district and 900 in the 5th district have been partially or completely destroyed since December 2013.¹⁴⁹ In Begoua, just north of Bangui, an estimated 800 houses have been partially or completely destroyed.¹⁵⁰ It is estimated that 100 houses were partially or completely destroyed in Sibut town.¹⁵¹

Dilapidated housing

The prolonged absence of owners has led to significant damage to houses left behind that were otherwise not affected by conflict. In all observed cases, damage due to lack of maintenance was to



an extent that made the house inhabitable.¹⁵²

4.2.2 RETURN WITHOUT REGAINING HOUSING

Related to the issue of damaged HLP assets is a trend that was observed in all three areas – the return of IDPs to their fields and quartier or village of origin without actually taking up residence in their houses as these were severely damaged. Some returns have been motivated by push factors (deteriorating conditions in an IDP site or with a host family), others by pull factors (improved security in their area of origin or expectation of assistance from humanitarian organisations). However, as IDPs have lacked the means to rehabilitate their homes, they have been forced to seek alternative shelter in the vicinity in the meantime. Many 'returned' families have rented a house nearby their original home. A significant number of other families have moved to their fields while some were welcomed by relatives. Many such IDPs faced similar challenges as discussed in sections 4.1.2, 4.1.3 and 4.1.5.¹⁵³ Being back in their community enables IDPs to gradually rehabilitate their homes, especially with the advent of the dry season and with the assistance of community members. They, nevertheless, remain vulnerable.

146 NRC Central African Republic, Report on the Multi-Sectorial Assessment in Carnot, August 2014.

147 IOM DTM Report September 2014 *op. cit.*, p.8.

148 Visits to affected quartiers in Bangui and Sibut in August and September 2014.

149 Shelter Cluster, Central African Republic, Assessment Results of 10 March 2014.

150 OCHA, Central African Republic: Situation Report No. 21 (as of 16 April 2014), p.3.

151 Interview with NRC staff in Sibut, August 2014.

152 Interviews with IDPs and chefs in Carnot and Sibut, August and September 2014.

153 Interviews with 'returnees' and chefs in Bangui, Carnot and Sibut in August and September 2014.

4.2.3 LACK OF HLP DOCUMENTS

Interviews with IDPs habitually residing in urban areas confirmed that the majority possessed a sale contract (AdV) or something similar prior to their displacement. Approximately 80 per cent 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.¹⁵⁴

4.2.4 INABILITY TO RESTART LIVELIHOOD ACTIVITIES

Although the loss of livelihood opportunities is beyond the scope of this research, one recurrent challenge should be noted. Several IDPs interviewed in all zones reported that security had returned to their area of origin and their houses were either only minimally damaged or already rehabilitated. However, they did not return to their original homes as they lack the means to replace household items, such as beds and kitchen items, which had been stolen. They explained that they would first look for means to restart their professional activity and as soon as they had regular income they would prepare to return to their original home.¹⁵⁵

4.2.4 DIFFICULTIES IN REGAINING OR OBTAINING RENTAL PROPERTY

The exact number of IDPs that used to rent housing prior to their displacement is unknown. The only statistic available is limited to IDPs in sites in Bangui: 33 per cent of respondents in a survey used to be renters, against 58 per cent that used to be homeowners.¹⁵⁶ Interviews with IDPs in Bangui and Sibut provided information on the challenges related to regaining rental property or entering into new rental agreements. While some IDPs explained that the house they used to rent was significantly damaged, others confirmed that theirs was still intact but they would, nevertheless, be unable to reoccupy it due to their inability to cover rent.

In addition, a significant number of IDPs in Bangui and Sibut explained that even if they were to find the means to cover the rent, they would still not be able to regain the house. They had been in touch with their landlord who demanded the payment of

rent arrears from the moment they had fled. In some cases, the landlord was holding on to the deposit or items left behind in the house to ensure rental arrears are paid. It should be noted that none of the interviewed IDPs that used to rent prior to their displacement had ever entered into a written agreement. Only in a few cases there had been a cahier de décharge, a booklet in which monthly rental payments were noted.¹⁵⁷

4.2.5 SECONDARY OCCUPATION¹⁵⁸

Countries going through conflict often experience at least some degree of occupation of HLP assets and CAR is no exception. The observed trends of secondary occupation, mostly of housing, have taken various forms and their complexity varies from one zone to another. Though hard to generalise, one could say that predominantly it is housing left behind by Muslims communities that has been occupied. In cases where abandoned houses belong to non-minority groups, these are often not considered for temporary occupation and remain empty. The scale of secondary occupation of these houses depends on the scale of destruction of housing belonging to Muslim communities in the locality. The scale of destruction of houses belonging to Muslims residents of Carnot was limited, whereas in Bangui and Sibut a significant number of houses have been destroyed. Another differentiating factor concerns the level of involvement of the authorities.¹⁵⁹

The following are examples of the most frequently observed occupation trends during this research. In Carnot and Sibut, and to a lesser extent Bangui, IDPs have taken up shelter in abandoned housing. In Carnot the local authorities have tried to regulate this trend, by providing written authorisation. They have also encouraged local government officials to take up vacant housing. In Sibut and Bangui most IDPs occupy housing without formal authorisation or with only verbal permission. In Bangui and Sibut there have been reports of abandoned housing that has been taken over by armed elements or community members, in clear cases of opportunism. Abandoned housing occupied by neighbours and acquaintances was observed in Bangui and Carnot. Often, but not always, they occupied the housing

154 Interviews with IDPs in Bangui, Carnot and Sibut, August and September 2014.

155 Interviews with IDPs in Bangui, Carnot and Sibut, August and September 2014.

156 IOM, Displacement Tracking Mechanism Report, September 2014, p.2.

157 Interviews with IDPs in Bangui and Sibut, August and September 2014.

158 For more information on the secondary occupation trends see NRC brief Displacement and housing, land and property rights in the Central African Republic: A focus on secondary occupation (forthcoming).

159 Interviews with IDPs, community members, chefs and mayors in Bangui, Carnot and Sibut.

Box 3: Overview of secondary occupation trends in the three research locations

OCCUPATION METHOD / ZONE OF INTERVENTION	Bangui	Carnot	Sibut
By force	Armed elements		Community members Armed elements
Without authorisation		IDPs Unknown Former owners	
Tacit authorisation			Community members IDPs
Informal (verbal) authorisation	IDPs Tenants	IDPs Resettled IDPs	Community members IDPs
Formal (in writing) authorisation		IDPs Government officials	
Upon request of owners	Relatives, neighbours or acquaintances	Neighbours or acquaintances	Unknown

upon request of the owners.¹⁶⁰ Box 3 presents further details on secondary occupation trends.

4.2.6 CONSTRUCTION ON ABANDONED PLOTS

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 on a plot after the pre-existing house had been completely destroyed.¹⁶¹ Given the sensitivity of the issue, it was rather challenging to gather detailed information. The scale of the phenomenon appears to significantly 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 the plot of a destroyed house whereas another noted that he simply prohibited this.¹⁶²

It has been extremely challenging to determine the legal consequences of a situation in which one person may be the legitimate owner of the plot and someone else technically the owner of the new structure. In many countries, the legality of such construction would depend on whether or not the person responsible was aware that the plot belonged to someone else. An official at the Ministry

¹⁶⁰ *Ibid.*

¹⁶¹ Visits to affected quartiers in Bangui, August and September 2014. This act has also been observed by the UN International Commission of Inquiry on CAR, *op. cit.*, p.23.

¹⁶² Interviews with chefs in Bangui, August and September 2014.

of Housing explained that the new structure would have to be evaluated and the first owner given the possibility of buying it from the second. An official at the Ministry of Urbanism explained that the second owner has no rights at all.¹⁶³

4.2.7 FORCED OR ILLEGAL SALES

Two chefs in Bangui reported attempts by armed and criminal elements to force them to prepare and formalise an AdV for an abandoned house.¹⁶⁴ The issue of forced and illegal sales in Bangui came up in many discussions. Time constraints, as well as the sensitivity of the issue, prevented a more detailed examination. It requires further investigation.

4.2.8 OTHER OBSTACLES TO RETURN

In all three areas the researcher encountered IDPs who indicated their desire to integrate in the area of displacement or resettle elsewhere as a result of having experienced harrowing events. 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 the issue of *fioboro* – a belief that prevents people from returning to a home where a family member was killed, lest they themselves

¹⁶³ Interviews with officials of the Ministry of Urbanism and Ministry of Housing in Bangui, September 2014.

¹⁶⁴ Interviews with chefs in Bangui, August and September 2014.

meet death. Another similar cultural restriction was observed in Bangui. During the events of December 2013, the bodies of victims of violence were often randomly disposed of or buried. In Begoua, a chef explained that several homeowners are unable to return because bodies of non-family members were found on their plot. This makes it culturally impossible for them to resume residence in their homes.¹⁶⁵

4.3 INTEGRATION AND RESETTLEMENT

It can be expected that a number of IDPs (and repatriating refugees) will opt to locally integrate or resettle in another location. Even though this would further contribute to the permanent alteration of the country's demographics, IDPs and refugees are guaranteed this voluntary choice. Approximately 20 per cent of IDPs interviewed in the course of this research indicated their preference for local integration or resettlement. As for returnees, the most frequently anticipated challenges for integrated or resettled IDPs concerns lack of means to rent, construct or purchase housing. Generally IDPs planning to integrate or resettle in a rural area did not expect problems gaining access to land.¹⁶⁶

Only one group of resettled IDPs was identified during this research. This group fled a village approximately 150 kilometres from Carnot town for another village nearer to the city centre. It was, however, difficult to identify the specific challenges facing this group in comparison with returnees in this village, both groups having lost everything. The only difference concerned access to land which was resolved after the chef allocated the resettled IDPs both residential and agricultural land.¹⁶⁷

4.4 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 during this study.

¹⁶⁵ Interviews with IDPs and chefs in Bangui and Carnot, August and September 2014.

¹⁶⁶ Interviews with IDPs in Bangui, Carnot and Sibut, August and September 2014.

¹⁶⁷ Interview with resettled IDPs in Carnot, September 2014.

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 to a formal IDP site.¹⁶⁸ In Bangui a chef struggled to resolve a dispute over the house of an IDP who had died while displaced. He had fathered children with three women, who all claimed ownership over the principal residence upon their return in the absence of the parents of the man.¹⁶⁹ Another conflict concerned a Muslim IDP in Bangui who had asked a neighbourhood acquaintance to take care of his property right 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.¹⁷⁰

4.5 WOMEN'S HLP RIGHTS¹⁷¹

4.5.1 GENERAL CHALLENGES

Like in many other developing countries, women's access to HLP in CAR is limited and often depends on their relationship with a man. The husband is legally allowed to decide on the family's residence and wives often have little say on any HLP-related issue. If ownership documentation exists, it is often in the name of the husband or a male relative. Even though interviewed chefs indicated that single, divorced or widowed women could be allocated land for residential or agricultural purposes, it would seem that if this is indeed the case that they are often regarded as land users only.¹⁷² The United States Agency for International Development reported that in the 1990s 86 per cent of the female labour force worked in agriculture, often without having ownership rights of the land they farm.¹⁷³

The challenges facing women in exercising their HLP rights have been exacerbated by the crisis. Although exact data on female-headed households is not available, there is likely to be a high

¹⁶⁸ Interview with a chef in Sibut, August 2014.

¹⁶⁹ Interview with a chef in Bangui, September 2014.

¹⁷⁰ Interview with NRC staff in Bangui, September 2014.

¹⁷¹ For more information on women's HLP rights in CAR, with a specific focus on the issue of eviction, please see NRC brief *Consequences of Evicting Widows: Displacement and women's housing, land and property rights in the Central African Republic* (forthcoming).

¹⁷² Interviews with community members and chefs in Sibut and Carnot, August and September 2014.

¹⁷³ USAID, 2010 *op. cit.*, p.7 and Toure Z 2011, *Profil Genre de la République centrafricaine*, African Development Bank, p.36.



number of women with a missing or deceased husband/partner. This research has encountered several female-headed households as a result of the conflict. Some displaced women, regardless of their transitional settlement option, highlighted concerns over their physical safety in the absence of the protection of a male. Some returnee women, especially those without adolescent children, explained that they were limited in rehabilitating a severely damaged house as a result of physical constraints.¹⁷⁴ A comprehensive assessment is recommended to gather more information on the impact of the crisis on women's access to HLP rights.

4.5.2 DISCRIMINATORY INHERITANCE PRACTICES: EVICTION OF WIDOWS

As in many other developing countries, inheritance is an important, and often the only, method to accumulate HLP assets. Despite the fact that the Code de la Famille does not discriminate against women with regards to inheritance rights, serious concerns remain. Eviction of wives/partners from the marital home upon the death of her spouse was one of the most frequently raised issues during discussions on women's HLP rights in all three research locations. Experts interviewed for this research confirmed that this is a nation-wide occurrence, although the dynamics around the practice appear to vary significantly. Previous studies¹⁷⁵ have also referred to the 'traditional' practice whereby the family of a deceased husband would evict his widow, and in some cases also their children, from the marital house. The widow is expected to return to her parents or other remaining family.

174 Interviews with IDPs, community members and chefs in Bangui, Carnot and Sibut, August and September 2014.

175 USAID, 2010 *op. cit.*, p.7 and Mercy Corps 2009, *Fighting for their homes*.

Various factors appear to be taken into consideration when deciding the fate of the wife/partner. It should be noted that the nature of the couple's relationship (legal marriage, customary/traditional marriage or co-habitation) was hardly raised as a consideration. This can be explained by the low number of legal marriages in CAR (only ten per cent of couples are estimated to be legally married).¹⁷⁶ Most important determining factors appear to be whether the couple had children, the duration of couple's relationship, the age of the wife/partner and the relationship between the wife/partner and parents-in-law.¹⁷⁷

In terms of recourse options, the chef of the locality is generally accepted as the authority for disputes of a civil nature. Interviewees confirmed that evicted women or those at risk of eviction sometimes approach their chef to intervene. The response to such a complaint was reported to vary significantly, depending on the chef's personal opinion.¹⁷⁸ In the case of a customary/traditional marriage or co-habitation the recourse options for a wife/partner would in most cases be limited to filing a complaint with the local chef. Customary/traditional marriages and co-habitation in CAR are not recognised by law, making it extremely difficult to claim any rights over property that is frequently purchased by the husband or built by the couple but generally considered the property of the husband. A legally married woman facing eviction threats or other violations of her right to inheritance, as per the Code de la Famille, has the option to take the matter to court, although she is likely to face several obstacles.¹⁷⁹

Further research is required to confirm how these types of evictions take place. It can be expected that CAR will witness an increase in the number of evictions as a result of the additional number of female-headed households caused by the crisis. No cases of actual evicted returnee women were encountered during this research, partly because returns were only slowly increasing.

176 Interviews with staff of AFJC and Ministry of Social Affairs and Humanitarian Action (Department for the Promotion of Gender) in Bangui in September and October 2014.

177 Interviews with evicted wives/partners, community members, IDPs, returnees, chefs and staff of AFJC, Department for the Promotion of Gender and UNFPA in Bangui, Carnot and Sibut in August, September and October 2014.

178 Interviews with evicted wives/partners, community members and chefs in Bangui, Carnot and Sibut in August and September 2014.

179 Interview with staff of AFJC in Bangui, September 2014.

RESPONSES TO HOUSING LAND AND PROPERTY CHALLENGES

Ongoing insecurity, poor infrastructure, weak government capacity and limited funding have forced the transitional authorities and the humanitarian community 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.

5.1 TRANSITIONAL GOVERNMENT

The central authorities in Bangui, mostly through the Ministry of Humanitarian Action, have mainly focused on the provision of shelter for IDPs. However, in light of its weak capacity this assistance has been very limited and heavily dependent on support from humanitarian organisations. The authorities, the UN Refugee Agency (UNHCR), IOM and camp management organisations make up the Camp Coordination and Camp Management (CCCM) Cluster. The Shelter Cluster, which is led by the authorities and UNHCR, coordinates humanitarian efforts to provide adequate shelter for IDPs.

While they acknowledge the numerous challenges in relation to HLP issues, it would appear that relevant ministries have not yet collectively reflected on responses going beyond the provision of shelter. They have not, for example, created an inventory of damaged, abandoned and occupied housing or the protection of abandoned property.¹⁸⁰ The March 2014 roadmap of the transitional government outlines its priorities until February 2015 but does not make any reference to HLP challenges and related responses.¹⁸¹

CAR has signed an impressive array of international instruments that outline the government's obligations in situations of displacement and violations of

human rights, including HLP rights. Others provide guidance and describe the short, medium and long-term actions that could be taken by authorities facing the kind of HLP situation observed in CAR. In 2011, the government, with support from the UN, commissioned a legal audit to examine the conformity of the country's national legislation with the various international instruments on displacement related matters that it has ratified.¹⁸² The status of the required follow-up is unclear. In August 2014, the Ministry of Health and Ministry of Humanitarian Action with support from UNHCR established a technical working group to look into the development of national legislation on internal displacement.¹⁸³ This will, hopefully, draw attention to the government's obligations with regards to restoring HLP rights.

The absence of a unified position by the transitional government on HLP issues can be explained by its general lack of capacity and ministerial reorganisation. As for local authorities, responses vary significantly in the three areas studied in the absence of clear directives from the central government.

5.2 THE HUMANITARIAN COMMUNITY

5.2.1 ON-GOING DISPLACEMENT

The humanitarian community, both national and international organisations, has been assisting the transitional government to provide shelter for IDPs. Informants acknowledged challenges with regard to identification of needs in IDP sites in Bangui and other urban areas. An overview of the identified needs in the main IDP sites is regularly circulated

180 Interviews with officials of the Ministry of Urbanism, Ministry of Housing and Ministry of Territorial Administration in Bangui, August and September 2014.

181 Transitional Government of the Central African Republic, Feuille de Route du Gouvernement de Transition, March 2014.

182 See Mooney, E 2011, Examen du Cadre Normatif de la République Centrafricaine Relatif à la Protection des Personnes Déplacées à l'Interieur de Leur Propre Pays, Brookings Institution - University of Bern: Project on Internal Displacement.

183 Email correspondence from UNHCR, August 2014.

among relevant actors.¹⁸⁴ The humanitarian community struggles to address these needs in the face of a limited number of camp management actors and serious funding shortages. For instance, at the time of this research, the CCCM Cluster had received none of the required funding submitted under the Strategic Response Plan for 2014 while the Shelter Cluster had received a mere 15 per cent.¹⁸⁵ Addressing concerns in IDP sites is further hindered by the lack of reliable data on sites outside Bangui.

Lack of data on other transitional settlement options such as renting, staying with host families, living in abandoned housing or taking to the bush also impedes humanitarian response. Assistance to IDPs who choose these options in all three areas depended on how active the local chef had been in collecting relevant information and transmitting it to the authorities or humanitarian organisations as well as the level of organisation among IDPs themselves. In most observed cases IDPs outside sites had not received any type of assistance.

At the time of this research there appeared to be a preference among authorities for IDPs to return to their respective areas of origin, especially in Bangui. Even though no return (durable solutions) strategy had been adopted, most actors were encouraged to concentrate on preparations for return movements.¹⁸⁶ As noted, this can be partly explained by the oncoming school year, which commenced in November. The CCCM Cluster has been instrumental in balancing the need to use education facilities with the need to respect the right of IDPs to voluntarily select a solution most suitable to their displacement situation. Bangui witnessed a stark reduction in the number of IDPs and the subsequent closure of several sites in August and September.¹⁸⁷ As the humanitarian community lacks the means to track people leaving sites it is uncertain how many IDPs actually return to their communities, what their needs are or how many IDPs chose another transitional settlement option such as renting or staying

with host families, while still intending to return home.

5.2.2 REHABILITATION EFFORTS

The humanitarian community has commenced housing rehabilitation efforts in Bangui and several other areas. Limited by funding, shelter actors are forced to focus on the most vulnerable IDPs and returnees only. Most organisations use an auto-construction method that involves the provision of materials and tools so that owners themselves undertake the rehabilitation. Vulnerable IDPs and returnees are assisted with rehabilitation.¹⁸⁸

Other restraining factors concern the lack of inventories of damaged housing as well as the absence of a large number of homeowners. Humanitarian organisations work with local authorities and community committees to identify damaged housing as well as the location of the owners.¹⁸⁹ This requires a careful balancing act since IDPs should not feel obliged to return because of possible assistance while at the same time humanitarian organisations require some sort of guarantee that owners will return to a rehabilitated house. Locating the whereabouts of Muslim homeowners who remain displaced in remote parts of the country or in neighbouring countries is extremely challenging. Getting in touch with Muslim homeowners who have sought shelter in an IDP site, often located near their area of origin, is possible but ongoing tensions and insecurity makes their return situation, as well as that of Muslims displaced elsewhere, uncertain.

Faced with secondary occupation, construction on abandoned plots and lack of ownership documents, many organisations struggle to verify whether they are assisting the rightful owners of a damaged home. Several humanitarian organisations have devised a form in which witnesses such as neighbours or chefs attest to an IDP or returnee's claim to a damaged house. The claimant homeowner also signs the form, on which is noted that the document is neither a title deed nor legally binding. It also stipulates that the claimant cannot derive any ownership rights from his or her involvement in rehabilitation efforts in case the claim turns out to be fraudulent.¹⁹⁰ At the time of this research the Shelter

184 For instance, IOM sent an email to partners on 2 September with an overview of needs in IDP sites in Bangui, Kabo and Sido Moyen between 25 – 29 August 2014.

185 OCHA, Central African Republic: Humanitarian Dashboard (as of 11 September 2014), p.1.

186 Interviews with NRC staff and international organisations in Bangui, September 2014.

187 OCHA reported a number of 103,400 IDPs over 41 sites in Bangui as of 24 July 2014. By 10 September, this number had been reduced to 65,024 IDPs over 37 sites in Bangui. See OCHA, Central African Republic: Regional Humanitarian Snapshot (as of 24 July 2014) and OCHA, Central African Republic: Snapshot (as of 10 September 2014) respectively.

188 Interviews with shelter actors in Bangui, Carnot and Sibut, August and September 2014.

189 *Ibid.*

190 *Ibid.*



Cluster was coordinating the development of a standard form to be used by all actors undertaking housing rehabilitation efforts.¹⁹¹

Another challenge concerns the occupancy rate of rehabilitated houses. Rehabilitation efforts are still ongoing and post-intervention monitoring is expected to address challenges that prevent IDPs and returnees from moving into their rehabilitated houses. Lack of means to replace stolen household items such as beds and kitchen items has already been identified as an obstacle for IDPs and returnees to move into their rehabilitated homes. At the time of this research the Shelter Cluster was therefore coordinating a response to include utensils kits or cash vouchers in rehabilitation assistance packages.¹⁹²

Assistance to IDPs who used to rent housing prior to their displacement has been fairly limited. It has mostly been confined to supporting a homeowner with the rehabilitation of the house s/he used to let to IDPs or returnees.¹⁹³ Shelter Cluster informants confirmed that options for more direct assistance, such as provision of rental subsidies, were being explored.¹⁹⁴

191 Interview with staff of the Shelter Cluster in Bangui, September 2014.

192 Interview with staff of the Shelter Cluster in Bangui and email correspondence, September 2014.

193 Interviews with shelter actors in Bangui, September 2014.

194 Interview with staff of the Shelter Cluster in Bangui, September 2014.

5.2.3 COORDINATION, SENSITISATION AND CAPACITY BUILDING ON HLP RIGHTS

NRC is currently leading the HLP Working Group, which is part of the Protection Cluster. This working group, which meets bi-monthly in Bangui, aims to strengthen coordination and information sharing between actors working to protect HLP rights.

In response to the general lack of awareness of HLP rights (and other basic human rights), NRC's ICLA project has undertaken various HLP sensitisation activities in Bangui, Carnot and Sibut, targeting IDPs, returnees, members of host communities and local and central authorities. These activities consist of community gatherings, theatre pieces and meetings with chefs. It is hoped that increased awareness among both rights holders and duty bearers will contribute to a reduction in ongoing violations of HLP rights as well as start restoring them.

To complement these efforts, ICLA has also organised numerous training events on HLP rights for local and central authorities. These capacity building activities discuss HLP issues in more detail, especially the government's obligations, promote dialogue and coordination among stakeholders and allow for an examination of specific challenges



facing central or local authorities. Recognising that the complexity of HLP issues in CAR could possibly undermine rehabilitation efforts and other related assistance by humanitarian actors, ICLA has also provided HLP training for staff of organisations active in this field.

5.3 UNITED NATIONS

In light of the extremely limited capacity of the transitional government, the newly established UN peacekeeping mission is an important actor in resolving the current crisis. Although the mission's mandate does not include any reference to HLP-related tasks, it does include several other priorities of relevance.

As part of its mandate to promote and protect human rights MINUSCA has a role to monitor, investigate and report on human rights violations and contribute to the prevention of further violations. It is also specifically tasked to support the International Commission of Enquiry and the implementation of its recommendations.¹⁹⁵ In its preliminary report of June 2014, the Commission discussed evidence of violations of the right to property as well as

allegations of 'ethnic cleansing'.¹⁹⁶ In addition, MINUSCA is mandated to build the capacity of the national judicial system¹⁹⁷ and may adopt urgent temporary measures to maintain basic law and order.¹⁹⁸ A UN assessment found:

*an almost total lack of capacity of national counterparts in the areas of police, justice and corrections ... and no guarantees that national magistrates can render justice in an impartial manner and without fear of political interference or physical violence.*¹⁹⁹

The report recommended that international personnel, exceptionally, take over certain roles and functions.²⁰⁰ In light of the fact that approximately 70 per cent of the country and more than half of the population are not currently covered by any media, MINUSCA is planning to establish a UN radio network that will cover the entire country.²⁰¹ This would greatly facilitate awareness-raising activities.

195 UN Security Council Resolution 2149, *op. cit.*, p.10.

196 UN International Commission of Enquiry, *op. cit.*, p.18, 23 and 24.

197 UN Security Council Resolution 2149 *op. cit.*, p.10.

198 *Ibid.*, pp.12-13.

199 UN Secretary General Report of August 2014, *op. cit.*, p.12.

200 *Ibid.*, p.12.

201 *Ibid.*, p.10.

KEY ISSUES AND RECOMMENDATIONS

Following an overview of the principal HLP challenges observed during this study and the main efforts already ongoing to address such challenges, this part discusses the key outstanding issues. Divided into concerns that require immediate attention (short-term issues) and those that should be addressed in the coming six months (medium-term issues), this part also suggests several action points for relevant stakeholders that could possibly help resolve outstanding issues.

6.1 SHORT-TERM ISSUES

Need for additional data on numbers and needs of IDPs and returnees

As noted, there is a lack of information on IDPs staying outside of displacement sites and there is no mechanism to track IDPs leaving sites or returnees in general. Without more detailed information, it is simply impossible to provide basic humanitarian assistance and to start addressing possible HLP challenges. Article 5(5) of the Kampala Convention obliges states to “assess or facilitate the assessment of needs and vulnerabilities of IDPs and of host communities.” Article 13(1) requires the creation and maintenance of an up-dated register of all IDPs. The transitional government’s roadmap notes the organisation of a census of IDPs as one of its priorities²⁰² but at the time of this research such data was not yet forthcoming.

Recommendations:

1. The Ministry of Humanitarian Action and relevant international organisations, especially the Commission on Population Movements, should expand data collection efforts to include more detailed information on:
 - a. the needs of IDPs in sites outside of Bangui
 - b. the number and needs IDPs seeking safety outside of IDP sites (rented housing, host

families, abandoned housing and the bush) in Bangui and the rest of the country

- c. the number and needs of IDPs having left IDP sites who may or may not have returned to their respective communities and returnees in general
2. The donor community should provide more funding for the expansion of data collection efforts.

Need for an overview of HLP challenges and a commitment to address these challenges

The number of damaged, destroyed, abandoned and occupied houses (and to a lesser degree land) in most parts of the country is currently unknown. This makes efforts to properly address HLP challenges nearly impossible. There is a need for an assessment or data collection exercise to fill the information gap. Admittedly a complex and sensitive endeavour, information gathering could initially focus on the most pertinent information and on accessible areas. This information would enable authorities to prevent a further deterioration of the situation as well as lay the foundation for certain medium- and long-term responses. Without leadership, coordination and commitment by the authorities, however, any effort is likely to fail.

Recommendations:

1. Relevant ministries, especially the Ministry of Housing, Ministry of Urbanism and the Ministry of Territorial Administration, should undertake a preliminary HLP assessment, focussing on damaged, destroyed, abandoned and occupied housing and land. Success of this exercise depends on the involvement of local authorities such as chefs and mayors. The aforementioned HLP Working Group should support such an undertaking by providing technical expertise, capacity building and possibly tools and other material support.
2. The transitional government should set up an

202 Feuille de Route du Gouvernement de Transition, *op. cit.*, p.6.

HLP committee composed of representatives of the various ministries involved in HLP matters, including representatives of chefs and mayors, that would be the focal point for future planning and responses to HLP challenges. This HLP committee would also ensure relevant stakeholders are consulted on HLP challenges and possible responses.

3. The transitional government (through the recommended HLP committee) should adopt a preliminary HLP policy that confirms its commitment to the various international instruments it has ratified, such as the *Kampala Convention* and *ICGLR Protocol on the Property Rights of Returning Persons*. It should explicitly declare its position on issues such as the protection of abandoned property and other short-term HLP concerns.
4. The transitional government (through the recommended HLP committee) should coordinate a review of the existing national legal framework on HLP issues – including regarding abandoned land – vis-à-vis the international instruments it has ratified and adopt relevant legislation as required. The HLP committee should work closely with the aforementioned technical working group set up by the Ministry of Health and the Ministry of Humanitarian Action that is tasked with domesticating relevant international instruments on internal displacement that CAR has ratified. Relevant humanitarian and development organisations should offer technical and financial support.
5. The humanitarian community and development actors should continue with capacity building activities on HLP matters, such as training on HLP rights and technical assistance.
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 required funding.

Need to focus on durable solutions as opposed to return only

Many IDPs seeking refuge in sites live in deplorable conditions, which is mostly due to a lack of funding. This as well as the need to vacate educational facilities used to shelter IDPs has led to an apparent preference among authorities for IDPs to return to their communities, especially in Bangui. Article 6 of the Guiding Principles on Internal Displacement notes that “displacement shall last no longer than

required by the circumstance.” While the apparent preference of authorities for return is understandable, it should be emphasised that the right to return is not an obligation to return. CAR requires a delicate balancing act not unusual in displacement crises: addressing the needs of IDPs (and refugees) without creating pull or push factors (such as only providing assistance in areas of return or limiting assistance in area of displacement). As opposed to assuming that returning to one’s community of origin is the only way forward for IDPs (and refugees), efforts should aim both to ensure they are in a position to make an informed and voluntary decision (without forcing them to make such a decision) on the best way to achieve a durable solution²⁰³ to their displacement and also to create conditions for the achievement of these solutions. The latter includes ensuring the availability of basic services, such as access to water and education and health facilities, besides access to housing and land.

Recommendations:

1. The CCCM and Shelter Cluster should ensure that living conditions in IDP sites meet basic standards.
2. The Ministry of Humanitarian Action, with support from UNHCR, humanitarian actors focussing on displacement and other relevant actors, should adopt a durable solutions strategy (not merely a returns strategy) based on key humanitarian principles. This strategy should envisage the various scenarios that the country may experience in the coming year. These may involve continuing the status quo, increased displacement, voluntary returns to areas not meeting basic conditions, voluntary returns to areas meeting basic conditions, resettlement and integration. The strategy should also note appropriate responses for each scenario.
3. The Ministry of Humanitarian Actors, with support from UNHCR and humanitarian actors focussing on displacement, should ensure that IDPs and refugees have access to information on their

203 The Inter-Agency Standing Committee’s Framework on durable solutions for internally displaced persons explains that a durable solution is achieved when IDPs no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination on account of their displacement. It can be achieved through: 1) sustainable reintegration at the place of origin (return); 2) sustainable local integration in areas where IDPs take refuge (local integration) and 3) sustainable integration in another part of the country (settlement). See the Framework’s Quick Reference Guide.

rights and conditions in their communities of origin.

4. The donor community should make available funding for the maintenance of IDP sites as well as the creation of conditions for the achievement of durable solutions.

Need to expand assistance to IDPs outside of displacement sites

A large number of IDPs have sought shelter outside displacement sites and lack of information on their exact numbers and needs has resulted in many of them failing to obtain required humanitarian assistance. The recommended expansion of on-going data collection efforts would provide more precise information on remaining gaps in the humanitarian response, especially to the needs of IDPs seeking refuge in bush areas. The results of this study could be considered as an indication of likely HLP-related needs.

Recommendations:

1. The Ministry of Housing should assess the availability of rental housing and possible exploitative increases in monthly rents. In case the ministry is unable to undertake such an assessment, the Shelter Cluster should do so on its behalf.
2. The Shelter Cluster should ensure assistance is provided to IDPs in rented housing, such as the provision of rental subsidies (or something similar), domestic utensils and basic livelihood assets. They should also act to prevent exploitative rent increases and regulate or improve security of tenure.
3. The Shelter Cluster should provide assistance to IDPs in host families, such as the improvement of housing, provision of utensils, basic livelihood assets and help to improve security of tenure.
4. The Shelter Cluster should provide assistance to IDPs in abandoned housing, starting with regulating security of tenure and possibly involving improvement of housing, provision of utensils and basic livelihood assets.
5. The Shelter Cluster should provide assistance to IDPs in bush areas, the exact nature of which will be determined by the results of an assessment.
6. The donor community should provide more

funding for humanitarian assistance to IDPs who have chosen refuge outside IDP sites.

Need to expand on-going efforts to facilitate the regaining of housing

Efforts thus far have concentrated on home owning IDPs and the rehabilitation of their damaged houses. To some extent IDPs that used to rent prior to their displacement have benefited from such interventions through rehabilitation of their former rented homes. However, unlike homeowners, returnees who rent are required to commence payment of rents, which is often challenging for those who have lost their sources of income as a result of their displacement. In addition, there are a number of remaining IDPs that used to rent housing that may have not necessarily become inhabitable but who cannot return because they are being asked by their landlord to pay rent from the moment they fled. There also appears to have been a greater focus on pillaged and burned housing and less attention to houses that may have become inhabitable as a result of prolonged absence of the owners and lack of maintenance.

Most such efforts presently benefit mainly non-Muslim communities. Unlike assistance to IDPs, which includes both Muslim and non-Muslim communities, rehabilitation and related efforts are confronted by the limited return movement among Muslim communities to date as a result of on-going insecurity or community tensions in several parts of the country. It is hoped on-going political dialogue will lead to improvements in the security situation and promote inter-communal reconciliation. This will allow everyone wishing to return to their communities, including Muslims, to do so. In the meantime humanitarian actors should ensure that this arguably 'one-sided' assistance is not misunderstood.

Recommendations:

1. The Shelter Cluster should continue its efforts to improve security of tenure for returnees who have regained their rehabilitated formerly rented home.
2. The Shelter Cluster should continue its efforts to extend assistance to IDPs who used to rent housing prior to their displacement, including those facing claims to pay rent from the moment they fled.
3. The Shelter Cluster should expand its rehabilitation efforts to include damaged housing as a

result of the prolonged absence of owners.

4. The Shelter Cluster (possibly with the involvement of the Livelihood and Community Stabilisation Cluster) should continue its efforts to complement rehabilitation of housing with utensil kits or basic livelihood assets to increase the occupancy rate of rehabilitated houses.
5. The Shelter Cluster should ensure that any effort to facilitate the regaining of housing is accompanied by sensitisation on its rights-based approach. This approach means that all returning communities, including Muslims, have the right to the same type of assistance.

Need to protect abandoned housing and land

While a significant number of abandoned houses have been destroyed or occupied, many others remain unaffected and without protection. Article 9(2)(i) of the *Kampala Convention* obliges states to take necessary measures to protect individual, collective and cultural property left behind by IDPs. Article 3(2) and (3) of the *ICGLR Property Protocol* stipulates that property left behind by IDPs and refugees should be protected against pillaging, destruction and arbitrary and illegal appropriation and occupation. The central authorities have not issued any instructions with regard to abandoned property. Efforts to prevent future destruction and occupation would avoid a further deterioration and complication of the HLP situation. Protection of cultural property, such as mosques, could prevent the radicalisation of youth and other groups. Another threat to abandoned property is caused by illegal sales, often involving armed and criminal groups. Seemingly considered a private undertaking between a buyer and seller,²⁰⁴ the chef, who is part of the statutory system, prepares and validates the sale contract. In accordance with *Pinheiro Principle 15(8)*, any sale transactions made under duress or coerced and forced transactions should not be recognised as valid.

A related issue regards the deadlines for the development (*mise en valeur*) of residential and agricultural land. A possible consequence of the displacement crisis is the failure to develop a plot within set deadlines and subsequent withdrawal of permission to do so by the cadastre. Although only one such

case was observed during this research²⁰⁵ and government officials indicated that they would revise the set timeframes in light of the crisis,²⁰⁶ the issue warrants a proper response.

Recommendations:

1. The transitional government (through the recommended HLP committee), with support from MINUSCA, should take measures to ensure the physical protection of abandoned property.
2. The transitional government (through the recommended HLP committee) should issue a clear directive that prohibits the destruction and occupation of abandoned housing as well as construction on abandoned plots or those with destroyed housing.
3. The Ministry of Urbanism and the Ministry of Territorial Administration should consider suspending the issuing and validation of sale contracts by chefs in areas known to have a significant presence of armed and criminal elements.
4. The Ministry of Urbanism should consider revising deadlines for the development of residential and agricultural land in areas affected by displacement.

6.2 MEDIUM-TERM ISSUES

Need to regulate on-going secondary occupation

Occupation by opportunistic, armed or criminal elements has to be addressed despite the sensitivities involved. The timing and manner of removal/eviction efforts should be carefully considered. The secondary occupation of abandoned housing by IDPs could be a legitimate humanitarian concern, especially when there is a shortage of alternative shelter options. At the same time, secondary occupation by IDPs otherwise without shelter could be part of an effort to solidify alterations in the religious and/or ethnic make-up of a certain area. Other types of secondary occupation, as when neighbours and acquaintances move into abandoned housing to protect it from outsiders, are not necessarily

²⁰⁵ As reported by NRC ICCLA staff in the commune of Bimbo.

²⁰⁶ Interviews with officials of the Ministry of Urbanism and Ministry of Housing in Bangui, September and October 2014.

²⁰⁴ As explained by a government official.

problematic if they are properly discussed and organised. Genuinely humanitarian secondary occupation will eventually also need to be resolved, especially as return movements pick up and preparations for restitution programmes commence. In the meantime, the issue of secondary occupation needs to be addressed, especially in light of the fact that many secondary occupants presently face threats of eviction, like in Carnot and Bangui for instance.

Recommendations:

1. The transitional government (through the recommended HLP committee) with support from MINUSCA should plan to end occupation of abandoned housing by opportunistic, armed and criminal elements.
2. The transitional government (through the recommended HLP committee) should investigate occupation of abandoned housing by government officials and other people without legitimate humanitarian shelter needs and decide to either regulate such occupation or prepare to end them. The owners of these houses should be included in decision-making processes.
3. The Shelter Cluster should provide alternative shelter for occupying IDPs with legitimate shelter concerns. In case alternative shelter is not possible, this type of occupation should be regulated by clarifying the duration of their stay (which could possibly be extended) and setting a time-frame of notice to vacate the property (at least one month).
4. The Shelter Cluster should prepare a contingency plan to address the shelter needs of occupying IDPs (either in their location of origin or during continued displacement) in case return movements increase and HLP rights programmes commence.

Need to prepare for an increase in HLP related disputes

As noted, the number of HLP-related disputes is likely to increase as a result of the current crisis, but especially as return movements gather pace. Besides the disputing claims already observed during the course of this research, there is likely to be an increase in disputes as a result of secondary occupation, loss of ownership documents, illegal or forced sales and requests to reimburse costs of repairs of abandoned housing by occupants. The

capacity of CAR's judicial system is extremely weak. Although many HLP-related disputes used to be locally resolved, the current crisis is likely to have had long-term impacts. For instance, numerous chefs (and in some cases even mayors) have lost considerable authority due to the presence of armed elements in their communities. Some chefs have lost credibility in the eyes of certain segments of the population as they are perceived to have taken sides during the conflict. This issue is especially important in light of the large number of ownership documents that have been lost and reliance on chefs as primary witnesses to confirm someone's ownership. Some chefs may believe certain community members have lost their right of return. In other cases chefs may simply lack capacity to address the often extremely complex HLP challenges facing their community.

Article 11(4) of the *Kampala Convention* obliges states to establish appropriate mechanisms or simplified procedures to resolve HLP-related disputes in the context of durable solutions. Ensuring that affected parties have access to assistance would ensure that they do not express their frustration violently or take matters into their own hands.

Recommendations:

1. The transitional government (through the recommended HLP committee) with support from MINUSCA, the HLP Working Group and development actors should prepare a comprehensive response to the increase of HLP-related disputes. This could include simplified judicial and administrative procedures, mobile courts and alternative or community-based dispute resolution mechanisms.
2. Relevant ministries, especially the Ministry of Territorial Administration, Ministry of Housing and Ministry of Urbanism, with support from the HLP Working Group and development actors should identify unbiased local authorities and other structures for capacity building in HLP rights and dispute resolution skills.
3. The Ministry of Reconciliation and Political Dialogue, with support from MINUSCA, the humanitarian community and development actors, should continue efforts to promote social cohesion and build capacity in non-violent resolution of disputes.

Need to address the likely increase in evictions of women with deceased or missing husbands/partners

The practice of evicting women from their homes upon the death of their husband/partner is extremely worrying. Many women have lost their husbands/partners and are likely to face similar challenges upon their return. The crisis may also contribute to a breakdown in social values/family relations, thus increasing tensions/evictions/disputes. Often having lost their entire support structure, this becomes even more difficult to cope with for women than under normal circumstances. Article 5 on the protection of the property of returning spouses of the ICGLR Property Protocol requires states to eliminate gender-based discrimination against women.

Recommendations:

1. The Ministry of Humanitarian Action (specifically the Directorate on the Promotion of Women) and the Ministry of Justice should undertake a study on the challenges displaced women face in exercising their HLP rights. This should be supported by MINUSCA (Gender Unit), UN Women, UN Population Fund (UNFPA), HLP Working Group and other relevant organisations.
2. The Ministry of Humanitarian Action (specifically the Directorate on the Promotion of Gender), MINUSCA (Gender Unit), UN Women, UNPFA, HLP Working Group and other relevant organisations should undertake awareness-raising activities on the equal rights of men and women, including in the domain of HLP rights.
3. Legal assistance should also be made available to IDP and returnee women (and women generally affected by displacement) to increase their access to collaborative dispute resolution mechanisms and statutory and traditional processes in order to be able to claim their HLP rights and seek redress when evicted.
4. The Ministry of Humanitarian Action (specifically the Directorate on the Promotion of Gender), MINUSCA (Gender Unit) and other relevant organisations should carry forward momentum and discussions that commenced in 2010 on the prevalence of traditional/customary marriages and co-habitation, its consequences and possible solutions.

Need to prepare for voluntary returns and promotion of HLP rights

It is hoped that on-going peace efforts will soon lead to an improved security situation and start a process to address the underlying causes of the current crisis. The voluntary return of a large number of IDPs and refugees is both an anticipated result and an integral part of a sustainable peace process. A study conducted among Central African refugees in eastern Cameroon found that the vast majority of respondents has a strong intention to return to CAR.²⁰⁷ However, several communities encountered during this research considered the return of certain groups, especially Muslims, as impossible in the near future. Others have simply accepted the displacement of Muslim communities as permanent. In Sibut for instance, the Muslim name of at least one quartier normally home to a large number of Muslims has already been changed as their return is simply not considered an option.

Article 4(1) and (2) of the *ICGLR Property Protocol* requires states to assist IDPs, refugees and resettled IDPs to recover their property and possessions or provide appropriate compensation if recovery is not possible. Thus, restitution is the preferred remedy and compensation is only considered an acceptable alternative when certain key conditions have been met.²⁰⁸ For instance, the complete destruction of housing does not automatically mean that compensation may replace restitution, but rather requires the need for a broad and flexible interpretation of restitution remedies.²⁰⁹ It is also important to note that local integration or resettlement does not invalidate a restitution claim.²¹⁰ As confirmed by *Pinheiro Principle 16*, restitution programmes should not ignore the rights of tenants and others without ownership rights. It should be noted that restitution and compensation programmes have often proved to be extremely difficult to implement, especially in contexts of weak and informal HLP administration and management systems. In case CAR experiences similar challenges, focus should be, at the very least, on ensuring adequate access to secure tenure of housing and land. Efforts to promote HLP rights should also

207 Huser C 2014, *CAR Refugees in East Cameroon: A snapshot of their perceptions through a protection lens*, November 2014, Study commissions by the Danish Refugee Council – Central African Republic, p.1.

208 *Handbook on Housing and Property Restitution for Refugees and Displaced Persons – Implementing the ‘Pinheiro Principles’* March 2007, p.25.

209 *Ibid.*, p.94.

210 *Ibid.*, p.28.

consider possible pre-existing discriminatory practices in the housing and land sectors. If these exist, simply returning to the pre-conflict status quo may undermine efforts to promote HLP rights.

Recommendations:

1. The Economic Community of Central African States (ECCAS) and diplomatic actors involved in peace efforts should ensure that these efforts consider the need to address HLP issues as they may undermine lasting peace if left unaddressed.
2. The transitional government (through the recommended HLP committee) should set up an appropriate and comprehensive programme to promote HLP rights.
3. The transitional government (through the recommended HLP committee) and the humanitarian community should ensure that communities displaced, integrated or resettled in remote parts of the country or even in neighbouring countries are able to access such programmes.
4. The transitional government (through the recommended HLP committee), the humanitarian community and development actors should expand on-going efforts to sensitise IDPs, returnees, resettled IDPs, local authorities and other relevant stakeholders on the right to return and HLP rights.
5. The transitional government (through the recommended HLP committee), the humanitarian community and development actors should ensure target groups have increased access to HLP programmes through the provision of legal aid and other related assistance. The donor community should provide funding for such programmes.



CONCLUSION

This report has attempted to provide an overview of the most recurrent challenges faced by IDPs and returnees in exercising their HLP rights in areas of CAR where NRC works. These challenges are substantial but definitely not insurmountable. The recommended short-term and medium-term actions to address key outstanding HLP issues will ensure that the HLP rights of affected populations are progressively restored. Violations of political and civil rights are often prioritised in peace processes but 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.²¹¹ Deteriorating living conditions of thousands of people, the growth of slums and informal settlements, large-scale relocations and evictions, growing unaffordability of housing and land, lack of secure tenure, lack of livelihood options, lack of access to basic services, the inability of refugees and IDPs to return home, discrimination against minorities in access to housing and land, grievances over lost HLP assets and disputing claims over HLP assets are some of the likely consequences of not addressing HLP challenges. If CAR were to find peace without having adequately addressed HLP issues, they are likely to contribute to renewed instability.

Besides funding, the implementation of these recommended actions require an end to the insecurity in many parts of the country as well as long-term commitment from international actors to accompany CAR on the road to recovery. The fact that CAR has gone through several peace processes and post-conflict reconstruction programmes and hosted at least six peacekeeping missions since 1997 will hopefully convince the international community that a quick fix to the CAR crisis is simply impossible. It is hoped that ongoing peace efforts will soon result in an end to violence. The Bangui Forum scheduled for March 2015 provides an important opportunity to address causes of ongoing violence. The international community can use the forum to reaffirm its commitment to CAR.

When CAR is finally on the road to sustainable peace, HLP-related assistance should continue to develop the country's weak land administration and management system, including by introducing comprehensive HLP legislation and policies.

²¹¹ Leckie, S undated, *Housing, Land and Property Rights and the Quest for Peace: Guidance for Peace Mediators, Displacement Solutions*, p.5.

ANNEXES

ANNEX A: DOCUMENTS REVIEWED

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ANNEX B: OVERVIEW OF INTERVIEWS CONDUCTED

Bangui	Carnot	Sibut
<ul style="list-style-type: none"> ▶ Ministry of Urbanism and Public Infrastructure ▶ Various departments of the Cadastre ▶ Ministry of Territorial Administration, Decentralisation and Regionalisation ▶ Ministry of Accommodation and Housing ▶ Ministry of Social Affairs, Promotion of Gender and Humanitarian Action ▶ Mayor of the 8th district ▶ Mayor of the 3rd district ▶ Chefs in the 8th district ▶ Chefs in the 7th district ▶ Chefs in the 4th district ▶ Chefs in the 3rd district ▶ Chefs in Begoua ▶ Deputy chefs and notables in several districts ▶ Religious leaders ▶ UNDP ▶ UNPFA ▶ CCCM Cluster ▶ Shelter Cluster ▶ Protection Cluster ▶ IOM ▶ ACTED ▶ Mercy Corps ▶ Association de Femmes Juristes Centrafricaine ▶ Yamacuir ▶ IDPs in sites ▶ IDPs in host families ▶ IDPs in rental housing ▶ Returnees ▶ Host families and communities ▶ NRC staff 	<ul style="list-style-type: none"> ▶ Mayor of Carnot ▶ Chefs in various quartiers and villages ▶ Deputy Chefs and other notables in various quartiers and villages ▶ Religious leaders ▶ Ministry of Agriculture ▶ Cadastre ▶ Sous-Préfet ▶ Commissariat de la Police ▶ Gendarmerie ▶ Association de Femmes Juristes Centrafricaine ▶ Croix Rouge ▶ Conseil de Sages ▶ IDPs in site ▶ IDPs in host families ▶ IDPs in rental housing ▶ IDPs in abandoned houses ▶ Returnees ▶ Host families and communities ▶ NRC Staff 	<ul style="list-style-type: none"> ▶ Counsellors in the office of the Mayor of Sibut ▶ Chefs in various quartiers and villages ▶ Deputy Chefs and other notables in various quartiers and villages ▶ CARITAS ▶ IDPs in host families ▶ IDPs in rental housing ▶ IDPs in abandoned houses ▶ Returnees ▶ Host families and communities ▶ NRC staff

ANNEX C: TEXT OF RELEVANT INTERNATIONAL HLP STANDARDS AND PRINCIPLES

1. HOUSING RIGHTS

Universal Declaration of Human Rights, Article 25(1):

Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

International Covenant on Economic, Social and Cultural Rights, Article 11(1):

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international cooperation based on free consent.

Committee on Economic, Social and Cultural Rights general comment 4 on the Right to Adequate Housing specified the standard of adequate as:

- a. Legal security of tenure. Tenure takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups;
- b. Availability of services, materials, facilities and infrastructure. An adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services;
- c. Affordability. Personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised. Steps should be taken by States parties to ensure that the percentage of housing-related costs is, in general, commensurate with income levels. States parties should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance which adequately reflect housing needs. In accordance with the principle of affordability, tenants should be protected by appropriate means against unreasonable rent levels or rent increases. In societies where natural materials constitute the chief sources of building materials for housing, steps should be taken by States parties to ensure the availability of such materials;
- d. Habitability. Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors. The physical safety of occupants must be guaranteed as well. The Committee encourages States parties to comprehensively apply the Health Principles of Housing prepared by WHO which view housing as the environmental factor most frequently associated with conditions for disease in epidemiological analyses; i.e. inadequate and deficient housing and living conditions are invariably associated with higher mortality and morbidity rates;

- e. **Accessibility.** Adequate housing must be accessible to those entitled to it. Disadvantaged groups must be accorded full and sustainable access to adequate housing resources. Thus, such disadvantaged groups as the elderly, children, the physically disabled, the terminally ill, HIV-positive individuals, persons with persistent medical problems, the mentally ill, victims of natural disasters, people living in disaster-prone areas and other groups should be ensured some degree of priority consideration in the housing sphere. Both housing law and policy should take fully into account the special housing needs of these groups. Within many States parties increasing access to land by landless or impoverished segments of the society should constitute a central policy goal. Discernible governmental obligations need to be developed aiming to substantiate the right of all to a secure place to live in peace and dignity, including access to land as an entitlement;
- f. **Location.** Adequate housing must be in a location which allows access to employment options, health-care services, schools, child-care centres and other social facilities. This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households. Similarly, housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants;
- g. **Cultural adequacy.** The way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity of housing. Activities geared towards development or modernization in the housing sphere should ensure that the cultural dimensions of housing are not sacrificed, and that, inter alia, modern technological facilities, as appropriate are also ensured.

International Covenant on Civil and Political Rights, Article 17:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

2. HLP RIGHTS AND DISPLACEMENT

Guiding Principles on Internal Displacement

Principle 18

1. All internally displaced persons have the right to an adequate standard of living.
2. At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:
 - a. Essential food and potable water;
 - b. Basic shelter and housing;
 - c. Appropriate clothing; and
 - d. Essential medical services and sanitation.
3. Special efforts should be made to ensure the full participation of women in the planning and distribution of these basic supplies.

Principle 21

1. No one shall be arbitrarily deprived of property and possessions.
2. The property and possessions of internally displaced persons shall in all circumstances be protected, in particular, against the following acts:
 - a. Pillage;
 - b. Direct or indiscriminate attacks or other acts of violence;
 - c. Being used to shield military operations or objectives;
 - d. Being made the object of reprisal; and
 - e. Being destroyed or appropriated as a form of collective punishment.
3. Property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use.

Principle 29

1. Internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.
2. Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

Kampala Convention

Article 4: Obligations of State Parties relating to Protection from Internal Displacement

4. All persons have the right to be protected against arbitrary displacement. The prohibited categories of arbitrary displacement include but are not limited to:
 - a. Displacement based on policies of racial discrimination or other similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the population.
5. State Parties shall endeavor to protect communities with special attachment to, and dependency, on land due to their particular culture and spiritual values from being displaced from such lands, except for compelling and overriding public interests.

Article 9: Obligations of State Parties Relating to Protection and Assistance during Internal Displacement

2. States Parties shall:

- a. Take necessary measures to ensure that internally displaced persons are received, without discrimination of any kind and live in satisfactory conditions of safety, dignity and security
- b. Provide internally displaced persons to the fullest extent practicable and with the least possible delay, with adequate humanitarian assistance, which shall include food, water, shelter, medical care and other health services, sanitation, education, and any other necessary social services, and where appropriate, extend such assistance to local and host communities.
- i. Take necessary measures to protect individual, collective and cultural property left behind by displaced persons as well as in areas where internally displaced persons are located, either within the jurisdiction of the State Parties, or in areas under their effective control.

Article 11 Obligations of State Parties relating to Sustainable Return, Local Integration or Relocation

4. States Parties shall establish appropriate mechanisms providing for simplified procedures where necessary, for resolving disputes relating to the property of internally displaced persons.
5. States Parties shall take all appropriate measures, whenever possible, to restore the lands of communities with special dependency and attachment to such lands upon the communities' return, reintegration, and reinsertion.

Article 12: Compensation

2. States Parties shall establish an effective legal framework to provide just and fair compensation and other forms of reparations, where appropriate, to internally displaced persons for damage incurred as a result of displacement, in accordance with international standards.

3. WOMEN'S HLP RIGHTS

Convention on the Elimination of All Forms of Discrimination against Women

Article 14(2)(h):

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
 - h. To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

Article 15:

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.

4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16:

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

(c) The same rights and responsibilities during marriage and at its dissolution;

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

International Covenant on Civil and Political Rights, Article 26:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.



Handwritten graffiti on the wall, including the words "STREET" and "WALL" in large letters, and several lines of cursive text below them.