

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	163
Land:	Elfenbenskysten
Kilde:	Human Rights Watch
Titel:	That Land Is My Family's Wealth - Addressing Land Dispossession after Cote d'Ivoires Post-Election Conflict
Udgivet:	11. oktober 2013
Optaget på baggrundsmaterialet:	7. august 2014



HUMAN
RIGHTS
WATCH

“That Land Is My Family’s Wealth”

Addressing Land Dispossession after Côte d’Ivoire’s Post-Election Conflict





“That Land Is My Family’s Wealth”

Addressing Land Dispossession after Côte d’Ivoire’s
Post-Election Conflict

Copyright © 2013 Human Rights Watch

All rights reserved.

Printed in the United States of America

ISBN: 978-1-62313-0602

Cover design by Rafael Jimenez

Human Rights Watch is dedicated to protecting the human rights of people around the world. We stand with victims and activists to prevent discrimination, to uphold political freedom, to protect people from inhumane conduct in wartime, and to bring offenders to justice. We investigate and expose human rights violations and hold abusers accountable. We challenge governments and those who hold power to end abusive practices and respect international human rights law. We enlist the public and the international community to support the cause of human rights for all.

Human Rights Watch is an international organization with staff in more than 40 countries, and offices in Amsterdam, Beirut, Berlin, Brussels, Chicago, Geneva, Goma, Johannesburg, London, Los Angeles, Moscow, Nairobi, New York, Paris, San Francisco, Sydney, Tokyo, Toronto, Tunis, Washington DC, and Zurich.

For more information, please visit our website: <http://www.hrw.org>



OCTOBER 2013

978-1-62313-0602

“That Land Is My Family’s Wealth”

Addressing Land Dispossession after Côte d’Ivoire’s Post-Election Conflict

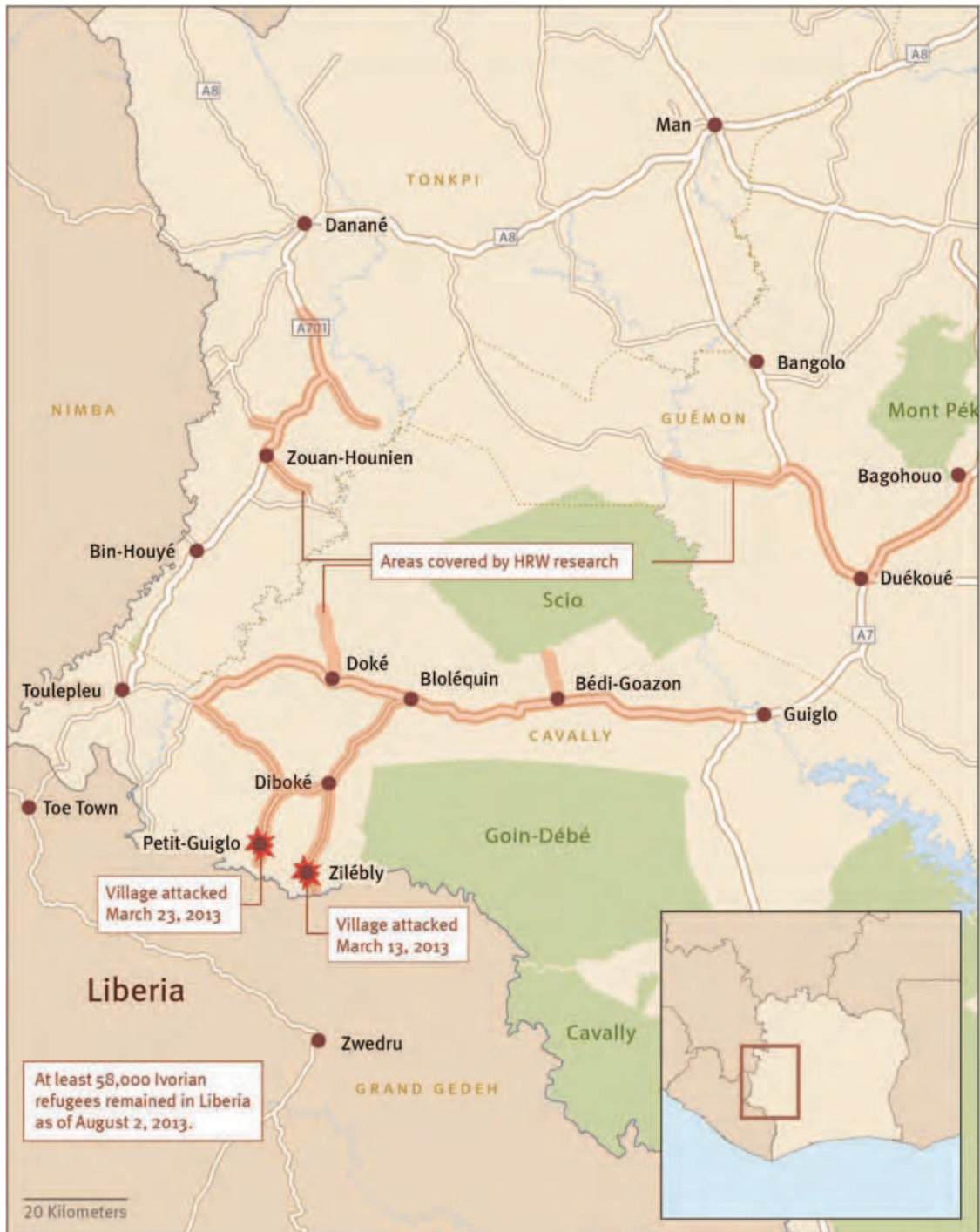
Maps.....	i
Summary	1
Recommendations.....	7
To the President, Prime Minister, and National Assembly	7
To the Ministers of Interior, Justice, and Agriculture.....	8
To the Minister of Agriculture	9
To the Minister of Defense and the Authority for Disarmament, Demobilization, and Reinsertion (ADDR)	9
To the National Assembly	10
To Donors, including the European Union, France, and the United States.....	10
Methodology.....	11
I. Background.....	14
Law and Politics of Land in Côte d’Ivoire	14
Displacement of Migrant Populations by the 2002-2003 Armed Conflict	20
Post-Election Crisis	22
Reform to Land Tenure and Nationality Laws in 2013	26
II. Land Dispossession after the Post-Election Conflict.....	28
Illegal Sales by Other Guérés	32
Refusal to Pay Rent	38
Illegal Extension of Acquired Parcels.....	39
Occupation by Force	44
Destruction or Occupation of Sacred Sites	48
Impact on Food Security, Livelihoods	49
Cause of Cross-Border Attacks, Rising Tensions	51
Cause of Continued Displacement	56

III. State Action Taken and Needed	62
Resolution at the Village Level	64
Inclusive vs. Divisive Land Committees.....	65
Lack of Enforcement, Difficulty Finding Consensus.....	68
Politics, Corruption, and Competing Claims to Authority	70
Local Government Officials	73
Lack of Financial Support from Government.....	74
Excessive Cost	75
Lack of Will, Power to Enforce Decisions	77
Pressure to Accept Potentially Unsustainable Decisions	80
Lack of Boundary Lines	84
No Sanctions for Illegal Sales	87
IV. Legal Protection for Land Rights of Refugees and Displaced Persons	91
Rights of Returning Refugees and Displaced Persons	91
Civil and Economic Rights Related to Property.....	93
Communal and Religious Rights.....	94
Acknowledgments.....	96
Annex I: Human Rights Watch Letter to the Ivorian Government	97
Annex II: Response from the Ivorian Government.....	102

Maps



Côte d'Ivoire. © 2013 John Emerson / Human Rights Watch



Western Côte d'Ivoire. © 2013 John Emerson / Human Rights Watch

Summary

What's happening angers us a lot, as the land is our inheritance. If the authorities don't act quickly, things will get dangerous. For right now, we're avoiding making war against the [illegal sellers and buyers]. But if we lose our inheritance, what are we going to eat, how will we stay in the village? Things could quickly fall apart.... If we continue to see the illegal occupation of land in our region ... it could become another war.

—Alleged victim of land dispossession while displaced by conflict, June 2013

Land and ethnocentric politics have proven an explosive cocktail over the last 15 years in Côte d'Ivoire, particularly in the country's volatile west. As the economy recessed and productive land grew scarce as a result of rising populations, Ivorian politicians exploited the resulting tensions between ethnic groups "native" to the west and "non-native" migrants who had come from neighboring countries and other regions of Côte d'Ivoire to work the region's cocoa and coffee fields. When armed conflicts erupted from 2002-2003 and again from 2010-2011, deep inter-communal tensions linked to land were one factor in why western Côte d'Ivoire played host to many of the worst atrocities. The government of President Alassane Ouattara has said that resolving land conflict is a major priority. The actions it takes could determine whether western Côte d'Ivoire moves toward reconciliation or is stuck in a cycle of violence and instability.

By the end of the 2010-2011 conflict, around 200,000 people had fled to neighboring Liberia; hundreds of thousands more were displaced internally. While displacement occurred throughout the country, western Côte d'Ivoire experienced the greatest population movements. The Guéré ethnic group native to much of the region fled en masse from their villages as pro-Ouattara forces advanced toward Abidjan, where they would arrest former President Gbagbo on April 11, 2011, five months after he refused to accept electoral defeat to Ouattara. Guérés have tended to be some of the strongest political supporters of Gbagbo, and western-based pro-Gbagbo militia groups that committed egregious crimes against perceived Ouattara supporters during the post-election crisis included many Guérés. Both Guéré militiamen and civilians fled in fear of reprisals—fears that were often substantiated. Some Guérés were displaced for several months during and

after the crisis. Others remained displaced for more than a year, with some 58,000 registered refugees still in Liberia as of August 2013. After returning home from displacement, many allege that their land has been overrun by non-native populations, particularly immigrants from Burkina Faso.

One story is commonly told by Guéré refugees in Liberia and pro-Gbagbo militants in Abidjan. They say that “non-natives”—meaning West African immigrants and Ivorians from ethnic groups native to other regions of Côte d’Ivoire—seized vast amounts of land that belongs to Guéré “natives” displaced by the crisis. They say that non-natives—implicating Burkinabé migrants, above all—are armed and ready to commit violence to protect their occupation of this land, and that these groups are supported by the Ivorian military. Another story is commonly told by the non-native populations in western Côte d’Ivoire, including Burkinabés. They say that the Guérés are lazy and dishonest and have repeatedly tried to seize back land that non-natives acquired legitimately. They say the Guérés have spent years terrorizing non-natives, particularly West African immigrants, trying to chase them away from the land.

As with many stories in a country that remains deeply divided on political and ethnic lines, the reality exists far from either extreme, though both sides present elements of the truth. Hundreds of Guérés have returned from being displaced to find someone occupying a parcel of land the Guéré landowner never sold or ceded. Many of those still in Liberia will face the same fate upon returning. Yet in the vast majority of cases documented by Human Rights Watch, land dispossession resulted from illegal sales of Guéré land by other Guérés, not a hostile takeover by armed Burkinabés. When Guérés were displaced during the conflict, Guérés from neighboring villages or even the same family pretended they were the real owners and sold the land, most often to Burkinabé migrants.

Although this reality is far less sinister than the oft-recited depiction of widespread, violent takeover of natives’ land, it is generally no less problematic for—and no less a violation of the rights of—the true landowners. The United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons, better known as the Pinheiro Principles, focus on the rights of returning refugees and displaced persons. The Pinheiro Principles state that “[a]ll refugees and displaced persons have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived.” The African Union Convention for the Protection and Assistance of Internally Displaced

Persons in Africa (“Kampala Convention”) and the African Charter on Human and People’s Rights likewise protect property rights—including land that was owned according to customary rights. These rights have been violated in cases of illegal sales.

To investigate land conflict related to the post-election crisis, Human Rights Watch undertook a week-long mission to Liberia in December 2012 to speak with Ivorian refugees; and two three-week missions to Côte d’Ivoire, in February and June 2013. Human Rights Watch visited 49 towns and villages in Côte d’Ivoire’s western administrative regions of Guémon, Cavally, and Tonkpi and interviewed 168 people involved in land conflicts related to the post-election crisis—seeking out evidence from the various ethnic and immigrant populations involved in land disputes. Human Rights Watch confirmed many of its observations in dozens of additional interviews with people working closely on land issues in the West, including customary authorities and local government officials involved in resolving land disputes; and representatives of humanitarian organizations and the United Nations peacekeeping mission in Côte d’Ivoire.

In the 1960s and 1970s, President Houphouët-Boigny favored policies that promoted large-scale migration from neighboring countries and northern and central Côte d’Ivoire to the country’s lush western forest regions—where cocoa and coffee production helped create what became known as the “Ivorian miracle” of strong economic growth and political stability. An economic downturn in the 1980s and 1990s, combined with quickly diminishing cultivable land, led to a change in politics that focused on Ivorian nationality, culminating in a 1998 land law that said only Ivorian citizens could own rural land. Encouraged by certain politicians, some Guérés in western Côte d’Ivoire used this as a license to try to seize plantations that they had sold or ceded to West African immigrants; immigrants, for their part, were outraged that transactions they believed were outright land sales—sometimes reasonably, sometimes not—were now characterized as long-term leases or rental agreements. Rising land tensions in subsequent years played a role in the political and military violence that would follow, culminating in the post-election crisis.

The massive displacement in western Côte d’Ivoire caused by the post-election crisis ushered in chaos around land rights and acquisition. Some Guérés who returned while a true landowner remained displaced sold land fraudulently that they had no claim to, often including enormous amounts of virgin forest, particularly around Bloléquin. While some Burkinabé buyers purchased in good faith, others were complicit—clandestinely buying

large parcels of land from young Guérés whose ownership claim would be questioned by any reasonable person, and doing so without involving local customary leaders who by practice normally witness such sales. Both the fraudulent seller and the bad-faith buyer benefited greatly, with no fear of sanctions, while the true landowner—displaced within Côte d’Ivoire or to Liberia—returned home to find his land sold and occupied.

In addition to illegal land sales, Human Rights Watch documented some cases of more hostile land takeovers. Some non-natives no longer honor longstanding rent agreements, under which they previously paid a part of the harvest to the Guéré landowner. Other non-natives used the landowners’ absence to illegally enlarge their holdings; for example, a two-hectare purchase was at times extended to three hectares after the owner fled internally or to Liberia. In four further cases, all located in a particular area south of Bloléquin, Human Rights Watch documented occupation by force, in which dozens of Burkinabés have moved onto a Guéré’s land, saying it was their “reward” for having fought with pro-Ouattara forces during the crisis. Finally, non-natives have destroyed or occupied sacred Guéré land in several villages, escalating tensions there and potentially violating their rights to free practice of religion.

The illegal sale or seizure of land has serious consequences on people’s livelihoods, making the failure of the Ivorian government to ensure timely land restitution a potential violation of the rights to food and livelihood. Many Guérés fled the crisis with only the barest of possessions and returned to find that their houses had been pillaged and burned. But land dispossession is seen as a far more existential threat, likely to provoke inter-communal violence, as it imperils livelihoods both present and future. Human Rights Watch documented dozens of cases in which occupants have seized or destroyed crops that owners had formerly planted. Virgin forest that landowners planned to leave to future generations as inheritance is now being cut down and planted on. Without the ability to grow cash crops or foodstuffs, those who lost their land while displaced face a “poverty that we don’t even know how to describe,” in the words of one Guéré. Land dispossession, and the economic consequences it entails, is one of the main reasons some refugees in Liberia said they do not feel able to return home.

Land dispossession linked to the post-election crisis is already fueling small-scale violence. Two cross-border attacks in March 2013 appear directly related to land conflicts in the area hit hardest by illegal occupations. Attackers killed at least nine civilians in two

border villages south of Bloléquin on March 13 and 23 and destroyed dozens of homes. Land sale documents seen by Human Rights Watch indicate that attackers appear to have targeted some victims for their perceived role in allegedly illegal land transactions. There have also been several inter-communal clashes in 2013—with Guérés from two villages fighting each other over allegations of fraudulent land sales. Fiery rhetoric is recurrent in many villages, and tensions threaten to erupt into additional clashes.

The dispossession of Guéré land in the aftermath of the post-election crisis must be seen in the context of what happened in western Côte d'Ivoire after the 2002-2003 armed conflict. Then, the non-native population was forced to flee as they were targeted by pro-Gbagbo forces for serious crimes; many were unable to return for four years. Some Guéré landowners imposed extortionate conditions on the non-natives' return, taking back parts of previously ceded land or demanding money to recover a person's own property. Other Guérés illegally sold or re-sold land during non-natives' displacement. Burkinabé leaders in western Côte d'Ivoire described some of the recent seizures as "recovering" this land. That likely has occurred, though illegal sales and seizures have undoubtedly gone well beyond re-acquisitions. The tit-for-tat nature of land dispossession in western Côte d'Ivoire is one of the many forms of vigilante justice practiced there over the last decade. It will likely continue until Ivorian authorities are able to establish confidence in the rule of law as the way to resolve disputes, including over land.

Under the Pinheiro Principles, states "should establish and support" through "adequate financial, human and other resources ... equitable, timely, independent, transparent and non-discriminatory ... mechanisms to assess and enforce ... land and property restitution claims." To date, the Ivorian government has largely failed to meet that responsibility, although the opening of a new tribunal in Guiglo in June 2013 should increase the access to the justice system for people living in far western Côte d'Ivoire.

Customary and administrative mechanisms dealing with land conflicts are often overwhelmed with claims in western Côte d'Ivoire, particularly related to the post-election crisis. In western Côte d'Ivoire, village chiefs and sub-prefects, the main customary and administrative officials responsible for resolving land conflicts, collectively have thousands of cases before them. Yet they have received remarkably little financial support from the national government—often either crippling their ability to investigate and resolve

disputes, or obliging them to charge exorbitant sums to accept cases from people who have lost everything and are unable to access their land.

In addition, successive Ivorian governments have promised to demarcate boundaries between villages. No Ivorian government yet has. The lack of village boundaries has helped create the free-for-all in which people can easily cross into another village and sell land they have no claim to. Officials in the Ouattara government have promised that demarcating village boundaries is a priority, but little concrete action has been taken. Donor help could be crucial both financially and technically.

Finally, there is total impunity for those involved in fraudulent land sales. Customary and administrative officials could not point to a single case in which sanctions had been imposed—even when an illegal land seller's acts amounted to theft and fraud. Indeed, many of the customary and administrative officials interviewed by Human Rights Watch said they actively avoided implicating the gendarmerie and judicial authorities, saying it would harm reconciliation. Residents around western Côte d'Ivoire repeatedly expressed otherwise, saying that penal sanctions—whether fines or imprisonment—were crucial to stop fraudulent sales, the root of so many land conflicts.

In August 2013, the Ivorian government undertook modest reforms to the country's nationality law and the 1998 law on rural land tenure. However, the land law still has provisions that the government needs to clarify in a way that conforms to international human rights law and the rights of returning refugees. Moreover, national land reform will not be a panacea for the conflicts that plague western Côte d'Ivoire. There, claims for restitution related to land dispossession during displacement must be addressed individually—and urgently. Every day, people are permanently changing land that they acquired illegally. Trees from previously virgin forests are being cut down, cocoa plants and rubber trees planted instead. Each day that happens, the anger and hatred mounts among those who have been dispossessed.

Land has been one of the root causes of Côte d'Ivoire's decade lost to violence and grave human rights abuses. The Ivorian government's efforts to ensure land restitution in western Côte d'Ivoire will help determine whether land will remain a potential spark for conflict or become a source of local development that alleviates inter-communal tensions.

Recommendations

To the President, Prime Minister, and National Assembly

- Consult with local populations around Côte d'Ivoire, through a formal process, before further modifying laws or drafting decrees related to the reform of land tenure. Ensure that all political and ethnic groups, women, and youth are included in consultations.
- Recognize that the August 2013 reforms to laws on nationality and rural land tenure will not resolve the thousands of land conflicts caused by the post-election crisis, and commit publicly to ensure restitution for refugees and displaced persons whose land was illegally sold or seized during their displacement.
 - Prioritize restitution in the form of people returning to their own land, in accordance with the Pinheiro Principles.
- Support with adequate financial, human, and other resources existing customary, administrative, and judicial mechanisms involved in resolving claims of land dispossession linked to the crisis, to better facilitate just and timely restitution.
- Ensure that a legal mechanism is in place to effectively resolve land ownership claims and disputes and to assist landowners in registering their property with the cadastre and in obtaining the demarcation of their property lines. This may involve modifying or better supporting the current administrative mechanisms, particularly the sub-prefectural land committees, or may require creating a new mechanism.
 - Ensure that any legal mechanism for resolving land ownership claims and disputes is accessible to local populations.
 - Consider examining the experience of other countries, including Bosnia, that have had success in determining property ownership in the aftermath of mass displacement during an armed conflict.
- Ensure by law or decree that people can appeal to the court system decisions made by a sub-prefectural land committee or other administrative body, particularly in regards to disputes over land ownership.
- Issue a decree or pass a law clarifying that displacement as a result of inter-communal violence or armed conflict does not negate a person's ability to

establish “continuous and peaceful existence of customary rights” to their land, as required by the 1998 law on rural land tenure.

- Clarify by decree or law whether and how informal papers (*petits papiers*, in French) related to land transactions will be used to determine land ownership or rental agreements.
- Ensure, in accordance with the Ivorian constitution and international human rights law, that women and men have equal rights in terms of access to land and that there is no discrimination against women, in law or in practice, in regards to the ability to formalize land ownership rights under the 1998 rural land law.

To the Ministers of Interior, Justice, and Agriculture

- Instruct the sub-prefects, police, judicial police, and prosecutors to work together to undertake investigations and prosecutions when land sales appear to have been fraudulent, namely when people sell land to which they have no reasonable claim to ownership. Penalties should ensure, at a minimum, that the bad-faith seller does not retain a profit from his fraud.
- Ensure that customary and administrative mechanisms involved in resolving land disputes in western Côte d’Ivoire act in accordance with international human rights and humanitarian law and standards.
- Support financially and through adequate staffing the village and sub-prefectural committees involved in resolving land conflicts related to displacement, with a view to eliminate or at least greatly reduce the fees some customary and administrative authorities now charge people to file land complaints, call witnesses, and perform field investigations.
 - Ensure, at a minimum, that the sub-prefectural committees waive fees in cases where a party can demonstrate financial hardship.
- Investigate claims related to the destruction or occupation of sacred areas and remove people illegally occupying sacred land. Ensure that Ivorian law grants full protection to such land.
- Create a mechanism to allow people displaced within Côte d’Ivoire to travel to their home village to see if their land is occupied illegally and to bring a complaint if necessary.

- Ensure that village land committees include representatives from all communities, including immigrant populations, non-native Ivorian ethnic groups, women, and youth.

To the Minister of Agriculture

- Undertake promptly the demarcation of village boundaries. Prioritize areas where land and inter-communal conflict are closely linked, including in western Côte d'Ivoire.
- Consider reducing the fees associated with obtaining a land certificate (*certificat foncier*) and registering land ownership in the cadastre, to better ensure that these processes are accessible to everyone.
- Ensure that, throughout the country, local offices of the agriculture ministry are adequately staffed and supported to provide guidance, assistance, and all necessary paperwork related to the various steps of the process to formalize customary rights to land.
- Ensure through assistance or alternative means of completing paperwork that people who are illiterate are not discriminated against in formalizing their customary claims to land.
- Take steps to increase the pool of qualified experts who can determine and demarcate rural land boundaries, in an effort to accelerate the process and to reduce costs for landowners trying to register their land with the cadastre. Consider whether trained experts from other professional fields could assist in the demarcation process and, if appropriate, modify relevant laws and decrees that have granted the Order of Expert Surveyors a monopoly on performing these tasks.

To the Minister of Defense and the Authority for Disarmament, Demobilization, and Reinsertion (ADDR)

- Accelerate efforts to disarm former combatants who fought on both sides of the politico-military crisis, as the presence of armed men has emboldened fraudulent activity and intimidated some people trying to return to their land or to file claims related to land dispossession.

To the National Assembly

- Ratify the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa and harmonize Ivorian law with its provisions.
- Create a special technical committee, in accordance with the National Assembly bylaws, responsible for examining the root causes of and necessary legislative actions to address land conflict, including land conflict linked to displacement.
 - Conduct public hearings on the links between land conflict, displacement, and violence and call to testify, among others, experts on rural land tenure, representatives from various ethnic and immigrant populations, customary leaders, local government officials, representatives from civil society, and surveyors.

To Donors, including the European Union, France, and the United States

- Provide financial and technical assistance to customary and administrative mechanisms in western Côte d'Ivoire involved in resolving claims of land dispossession associated with the post-election crisis.
- Fund capacity building for customary and administrative officials involved in resolving land conflicts in western Côte d'Ivoire. Such capacity building should help promote the mechanisms' ability to act in accordance with international human rights, refugee, and humanitarian law standards.
- Provide financial and technical assistance to the Ivorian government in its efforts to demarcate village boundaries. Assist the Agriculture Ministry in increasing its pool of surveyors, through trainings and by embedding experts.

Methodology

This report is based on three research missions to Côte d'Ivoire and Liberia. In December 2012, Human Rights Watch spent a week in Grand Gedeh, Liberia, where tens of thousands of Ivorian refugees remain after fleeing western Côte d'Ivoire during the 2010-2011 conflict. Human Rights Watch also undertook two missions to Côte d'Ivoire of around three weeks each, in February and June 2013, spending a total of four weeks in western Côte d'Ivoire and two weeks in Abidjan.

While land disputes exist throughout Côte d'Ivoire, this report focuses on land conflict and dispossession related to the displacement caused by the 2010-2011 post-election crisis. Western Côte d'Ivoire experienced the heaviest displacement, both in terms of people displaced within Côte d'Ivoire and people who fled to neighboring Liberia as refugees. Land conflict has also long been linked to politico-military violence and grave human rights abuses in that region.

During its field work, Human Rights Watch visited 49 towns and villages in the western administrative regions of Guémon, Cavally, and Tonkpi. In particular, Human Rights Watch conducted interviews in following towns and villages:

- In Guémon: Duékoué, Bagohouo, Yrouzon, Guinglo-Zia, Blody, Toa-Zéo, Kahin-Zarabaon, Séhoun-Guiglo, Fengolo, and Diahouin;
- In Cavally: Guiglo, Domobly, Guinkin, Kaadé, Ziglo, Bédi-Goazon, Douedy-Guézon, Ladjikro (*campement*)¹, Béoué, Guibobly, Guéya, Diouya-Dokin, Bloléquin, Goya, Pohan-Badouebly, Doké, Bloc (*campement*), Doké II (also known as Laïpleu), Zomplou, Diéya, Diahibly, Glacon-Bloc, Médibly, Diboké, Zilébly, Oulaïtaïbly, Tinhou, Dedjéan, Petit-Guiglo, Koadé-Guézon (KDZ), and Denan;
- In Tonkpi: Danané, Zouan-Hounien, Ouyatouo, Gbontegleu, Batéapleu, Zéalé, Téapleu, and Bounta.

¹ A *campement* is a group of houses built within or close to the forests in which people work. Villages in western Côte d'Ivoire tend to exist along the main roads running through the region. The land on which people plant cash crops is often 5, 10, or even 20 kilometers from the village, so they have built *campements* to live in while working the land. The *campements* are technically part of the village, but are physically distinct.

Human Rights Watch interviewed more than 230 people in total, including 117 alleged victims of displacement-related land dispossession. These victims come from the Guéré ethnic group, which tends to support former President Gbagbo and is “native” (the *autochtones*, in French) to much of Guémon and Cavally regions. In order to ensure the representation of all viewpoints, Human Rights Watch also interviewed individuals from other ethnic and immigrant populations involved in land conflicts in western Côte d’Ivoire, including 32 Burkinabés and Malians, the predominant immigrant populations (*allogènes*) in western Côte d’Ivoire; 26 members of Ivorian populations not native to western Côte d’Ivoire (*allochtones*), including Baoulés, Malinkés, Senoufos, and Lobis; and 19 Yacoubas, the natives in most of Tonkpi region. In addition, Human Rights Watch interviewed customary and traditional leaders from the various ethnic and immigrant groups; local government officials involved in resolving land disputes; leaders from Ivorian civil society; representatives from humanitarian organizations; representatives from the United Nations peacekeeping mission in Côte d’Ivoire; diplomats in Abidjan and Europe; and journalists.

Human Rights Watch generally interviewed people involved in land disputes in their home village. Most interviews were conducted individually, with a few focus groups at the early stage of research to help identify particular regions of tension and issues for deeper exploration. Complete privacy is often difficult in small villages, where people quickly crowd around, eager to see why an outsider has arrived. Human Rights Watch generally explained its presence to everyone interested, and then tried to interview in privacy individuals who had personal stories of land conflict related to the post-election crisis. On occasion, people preferred that others—usually family members or community leaders—were also present at the interview. Victims were identified through community leaders, local activists, and other victims. Human Rights Watch did not offer interviewees any incentive for speaking, and they were able to end the interview at any time.

Human Rights Watch has withheld names and identifying information of people involved in land disputes in order to protect their privacy and security. Most spoke on the condition of anonymity, out of fear of reprisal.

Throughout the research, Human Rights Watch shared its findings with the Ivorian government, including in meetings with Interior Minister Hamed Bakayoko; the Minister of Justice, Human Rights, and Public Liberties, Gnénéma Coulibaly; Agriculture Minister Mamadou Coulibaly; President Ouattara’s advisor on human rights and humanitarian

affairs, Mamadou Diané; and the Prime Minister's special advisor on rule of law, Vincent Sedalo. Human Rights Watch appreciates the government's consistent willingness to meet on human rights issues.

Human Rights Watch also wrote to Prime Minister Daniel Kablan Duncan on August 21, detailing the report's main findings and asking for an official government response (see Annex I). On September 13, Justice Minister Gnénéma Coulibaly responded on behalf of the government. Human Rights Watch has incorporated many of the government's answers into the report body and has included the entire response in Annex II.

I. Background

[Land] tensions, exploited and exaggerated into a form of xenophobic hatred by politicians at the highest level, hold the key both to the country's destruction and, if properly addressed, its possible reconstruction.

—Global IDP Project, November 2005²

Land, politics, and violence have been closely linked in Côte d'Ivoire for the last two decades, culminating in a rebellion launched in 2002 and an armed conflict in 2010-2011 following contested presidential elections. Many of the worst crimes during both armed conflicts occurred in western Côte d'Ivoire, where tension and land conflict between “native” and “non-native” populations are particularly acute. Hundreds of thousands of people were displaced during the conflicts, and many returned to find that their land had been illegally seized by someone from another community.

President Alassane Ouattara has said that resolving the problems around land tenure is one of his highest priorities. To put an end to the land conflict in western Côte d'Ivoire that has helped fuel massive human rights abuses, the Ouattara government will have to ensure the restitution of land seized from people displaced by conflict and address the problems that have encouraged fraudulent land sales and confusion over land ownership.

Law and Politics of Land in Côte d'Ivoire

From the country's independence in 1960 to the early 1980s, Côte d'Ivoire prospered economically, becoming a world leader in cocoa and coffee production. Félix Houphouët-Boigny, president from 1960 to his death in 1993, oversaw an open-door immigration policy, which, coupled with the rapid growth of the Ivorian economy, attracted migrant workers from neighboring countries, who grew to about one-quarter of the population.³ The country's western part, with land ideal for cocoa and coffee production, was a popular

² Global IDP Project and the Norwegian Refugee Council, “Internal displacement in Côte d'Ivoire: a protection crisis,” November 7, 2005, p. 4, [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/5A52907CED1EE83D802570B900651D30/\\$file/CDI_indepth_report7Nov05.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/5A52907CED1EE83D802570B900651D30/$file/CDI_indepth_report7Nov05.pdf) (accessed August 28, 2013).

³ Nordiska Afrikainstitutet, “The Roots of the Military-Political Crises in Côte d'Ivoire,” report no. 128, 2004, p. 10 (noting also that just over 50 percent of immigrants came from Burkina Faso).

destination for both immigrants and migrant workers from northern and central Côte d'Ivoire—who by 1998 together outnumbered the native populations in the region.⁴

In the 1980s, cocoa and coffee prices plummeted on international markets which, along with other factors, helped lead to a sharp economic recession. An increasing number of educated youth were unable to find employment in Abidjan and returned to their villages, including in the country's west.⁵ They found that during their absence their parents had rented or ceded much of the land to migrants, creating inter-generational conflicts among the native population and inter-communal conflicts between the natives and migrants.⁶

In the political vacuum left by Houphouët-Boigny's death in 1993, politicians increasingly looked to build support through ethnic blocs. Several politicians employed the rhetoric of "*Ivoirité*," or "Ivorianness"—an ultranationalist discourse focusing on Ivorian identity that marginalized immigrants and northern Ivorians, groups that tended to support then-Prime Minister Ouattara.⁷ While the discourse was predominantly about politics and nationality—used to bar Ouattara from contesting the 1995 and 2000 elections⁸—it also related to land issues, challenging non-Ivorians' ability to have significant property rights.⁹

On December 23, 1998, the National Assembly unanimously passed Law No. 98-750, the "Law on Rural Land Tenure," which sought to transition land tenure from customary land claims to private, individual ownership backed by land titles filed with the state cadastral

⁴ Jean-Pierre Chauveau and Koffi Samuel Bobo, "La crise de la ruralité en Côte d'Ivoire forestière: Ethnicisation des tensions foncières, conflits entre générations et politique de libéralisation," in *Frontières de la citoyenneté et violence politique en Côte d'Ivoire*, 2008, pp. 105-123.

⁵ See Richard Banégas, "Côte d'Ivoire: Patriotism, ethnonationalism and other African modes of self-writing," *African Affairs*, 105/421 (2006), p. 539; and Jean-Pierre Chauveau, "Question foncière et construction nationale en Côte d'Ivoire," *Politique africaine*, no. 78, June 2000.

⁶ See Internal Displacement Monitoring Centre and the Norwegian Refugee Council (IDMC and NRC), "Whose land is this? Land disputes and forced displacement in the western forest area of Côte d'Ivoire," October 2009, p. 10, http://www.internal-displacement.org/countries/cotedivoire/reports/CDI_SCR_Novo9.pdf (accessed August 28, 2013); and Jean-Pierre Chauveau and Paul Richards, "West African Insurgencies in Agrarian Perspective: Côte d'Ivoire and Sierra Leone Compared," *Journal of Agrarian Change*, vol. 8(4), October 2008, pp. 525, 531.

⁷ A succinct review of this period can be found in Thomas Hofnung, *La Crise Ivoirienne: Dix clés pour comprendre* (Paris: La Découverte, 2005), pp. 29-31. See also International Crisis Group, "Côte d'Ivoire: 'The War is Not Yet Over,'" Africa Report No. 72, November 28, 2003, <http://www.crisisgroup.org/en/regions/africa/west-africa/cote-divoire/072-cote-divoire-the-war-is-not-yet-over.aspx> (accessed August 28, 2013), pp. 2-3.

⁸ Daniel Schwartz, "Alassane Ouattara: Inaugurated as Ivory Coast president after long standoff with former leader," CBC News, May 21, 2011; and Human Rights Watch, *The New Racism: The Political Manipulation of Ethnicity in Côte d'Ivoire*, vol. 13, no.6(A), August 2001, <http://www.hrw.org/reports/2001/08/28/new-racism>.

⁹ IDMC and NRC, "Whose land is this?" October 2009, p. 11.

registry.¹⁰ A comprehensive review of the law is beyond this report's scope and has been well covered by others.¹¹ However, several components are crucial to understand subsequent conflict over land.

Prior to the 1998 land law, there was great confusion about rural land ownership rights. From 1935 to 1998, land transactions based on custom had no legal authority, as the law required people to register their land through land titles and to involve a notary in land transactions.¹² Yet this formal system ignored a reality in which “the management of 98 percent of rural land is customary, with only one or two per cent of land held under title deed.”¹³ The various laws and decrees leading up to the 1998 land law were therefore never implemented or enforced, including in western Côte d'Ivoire.

Custom in Côte d'Ivoire makes “a clear distinction between the ownership of the soil—which belongs to the community (family, lineage or village) and cannot be sold under any circumstances—and the right of use of the soil, which may be transferred or sold.”¹⁴ Ownership of the soil under this custom generally belongs to those who first arrived to the area; in western Côte d'Ivoire, this often means the families that founded a village.¹⁵ These families almost never obtained land titles, as village and individual family boundaries remained governed by custom. Under custom, these guardians of the land, or *tuteurs*, could not sell “ownership of the soil,” but they could cede or sell rights of use in the land.¹⁶ When virgin forest was plentiful in western Côte d'Ivoire in the 1960s and

¹⁰ Loi n° 98-750 du 23 décembre 1998 modifiée par la loi du 28 juillet 2004 (Rural Land Law, amended), http://www.droit-afrique.com/images/textes/Cote_Ivoire/RCI%20-%20Domaine%20foncier%20rural.pdf (accessed August 28, 2013).

¹¹ See IDMC and NRC, “Whose land is this?” October 2009; ONUCI Rule of Law, *Le Domaine Foncier Rural et la Loi n° 98-750 du 23 décembre 1998* (internal UN report obtained by Human Rights Watch); Jean-Pierre Chauveau, “Question foncière et construction nationale en Côte d'Ivoire. Les enjeux silencieux d'un coup d'État,” *Politique africaine*, 17 (2000), pp. 94-125; Institut Africain pour le Développement Économique et Social (INADES), *Regards sur ... Le Foncier Rural en Côte d'Ivoire* (Abidjan: Les Éditions du CERAP, 2003); United States Agency for International Development (USAID), “Côte d'Ivoire: Property Rights and Resource Governance,” May 2013, http://usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Cote_d%27Ivoire_Profile.pdf (accessed August 28, 2013).

¹² IDMC and NRC, “Whose land is this?” October 2009, pp. 13, 16.

¹³ Ibid., p. 13.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ For a discussion of the institution of land guardianship, or *tutorat*, see Chauveau and Richards, “West African Insurgencies in Agrarian Perspective,” *Journal of Agrarian Change*, p. 525 (“The *tutorat*, commonly found in rural societies in West Africa, is an agrarian institutional device for regulating first come-late come relations.... A key point to underline is that land transfers and the socio-political dimensions of the *tutorat* are intimately entangled; as a social institution, the *tutorat* regulates both the transfer of land rights and the incorporation of the ‘strangers’ in the local community.”); and Jean-Pierre Chauveau, “How Does an Institution Evolve? Land, Politics, Intergenerational Relations and the Institution of the *Tutorat* between Autochthons and Migrant Farmers in the Gban

1970s, migrants often had only to provide an offering of a drink or small gifts in return for receiving one or more hectares of land on which to plant cash crops and foodstuffs.¹⁷ Over time, as land became more scarce, “land transfers started to involve money, and sometimes large amounts,” creating “confus[ion] as to whether the right of use was being sold, or the ownership of the land. This confusion was knowingly upheld, both by the state—notably by way of ex-president Houphouët-Boigny’s famous slogan ‘The land belongs to those who put it to good use’ ... and by certain local owners who used this notion to demand larger amounts of money.”¹⁸

On the eve of the 1998 land reform, there thus existed two deep tensions:

- Between a reality dominated by customary land management, and a legal framework that gave customary rights no value; and
- Between a reality in which land had been sold or ceded on a large scale, often in ways that suggested selling ownership of the soil, and a custom that forbade the sale of anything more than a right of use.

On the first issue, the 1998 land law broke ground in recognizing customary rights as a basis for claiming land ownership during a transitional period.¹⁹ The law gave everyone 10 years to transform customary rights into a system of private ownership. People asserting land rights were to initiate a procedure after which, if local authorities confirmed their customary-based claims, they would obtain a state-issued land certificate (*certificat foncier*). People then had three additional years to register their parcel of land in the state’s land registry, or cadastre.²⁰ In part due to the subsequent decade-long politico-military crisis and in part because of poor dissemination of the law, the government issued extremely few land certificates by the end of the 10 year deadline.²¹ On August 23, 2013, the National Assembly passed a law giving people an additional 10 years to formalize

Region (Côte d’Ivoire),” in Richard Kuba and Carola Lentz, eds., *Land and the Politics of Belonging in West Africa* (Leiden: Brill, 2006), pp. 213-240.

¹⁷ Human Rights Watch interviews with village elders, western Côte d’Ivoire, February and June 2013. See also IDMC and NRC, “Whose land is this?” October 2009, p. 13.

¹⁸ IDMC and NRC, “Whose land is this?” October 2009, p. 14. See also Chauveau and Richards, “West African Insurgencies in Agrarian Perspective,” *Journal of Agrarian Change*, p. 529 (noting that “the tendency to increase and monetize social obligations in return for access to land encouraged the idea among settlers that they had engaged in a purchase-sale transaction.”).

¹⁹ Loi n° 98-750 du 23 décembre 1998 modifiée par la loi du 28 juillet 2004, arts. 2-4, 6-8.

²⁰ Ibid, art. 4.

²¹ IDMC and NRC, “Whose land is this?” October 2009, p. 6.

their customary rights.²² At the end of the period, all legal land transactions will ostensibly involve the transfer of land title registered in the cadastre.

As to the second tension noted above, the 1998 land law incorporated the ideals of *Ivoirité*, stating that, for rural land, “only the government, public authorities, and Ivorian citizens are permitted to be landowners.”²³ Anyone without Ivorian citizenship could not own land; their rights appear restricted to rental agreements or long-term leases, which can run for up to 99 years and be passed to heirs.²⁴ Thus, many non-Ivorians who paid significant sums of money to acquire land prior to the 1998 law appear unable to transform their purchases into a land title. According to a 2009 report, “At best, [the non-Ivorian] can expect to obtain a long-term lease with favorable conditions, but which still imposes the payment of rent for land that he considers his own.”²⁵ Almost every pre-1998 transaction occurred outside the written law—based on custom, not a transfer of land title—so it is difficult to say that it annulled “legal” sales. But the 1998 law certainly changed the type of property rights that some non-Ivorians believed, often reasonably, that they had acquired when purchasing and investing for years in parcels of land.

Under the 1972 nationality code, citizenship comes primarily from *jus sanguinis* (right of blood) rather than *jus soli* (right of the soil). A child born in Côte d’Ivoire is only conferred Ivorian nationality if born to at least one Ivorian parent.²⁶ Thus, as many as half the foreign migrants in Côte d’Ivoire were born and raised in the country, yet are not citizens.²⁷

The 1998 law on rural land tenure further raised tensions between immigrants and natives in western Côte d’Ivoire, leading to several deadly clashes in 1999 in the center-west and south-west parts of the country.²⁸ Many immigrants in western Côte d’Ivoire believed that

²² Ange Aboa, “Ivory Coast lawmakers pass critical land, nationality laws,” Reuters, August 23, 2013, <http://www.reuters.com/article/2013/08/23/us-ivorycoast-laws-idUSBRE97MoY120130823> (accessed September 19, 2013). Human Rights Watch has a copy of the draft law passed by the National Assembly, entitled *Projet de loi relative au délai accordé pour la constatation des droits coutumiers sur les terres du domaine coutumier et portant modification de l'article 6 de la loi n° 98-750 du 23 décembre 1998 relative au domaine foncier rural, telle que modifiée par la loi n° 2005-412 du 14 août 2004*.

²³ Loi n° 98-750 du 23 décembre 1998 modifiée par la loi du 28 juillet 2004, art. 1.

²⁴ IDMC and NRC, “Whose land is this?” October 2009, p. 17.

²⁵ Ibid.

²⁶ Loi n° 61-415 du 14 décembre 1961 portant Code de la Nationalité Ivoirienne, modifiée par la loi n° 72-852 du 21 décembre 1972, arts. 6-7.

²⁷ IDMC and NRC, “Whose land is this?” October 2009, p. 18.

²⁸ Alfred Babo, “The Crisis of Public Policies in Côte d’Ivoire: Land Law and the Nationality Trap in Tabou’s Rural Communities,” *Africa: The Journal of the International African Institute*, vol. 83(1), February 2013, p. 107.

their pre-1998 transactions had been for land ownership, yet the law appeared to bar such a claim. Natives, particularly youth, saw the law as a license to take back land their elders had sold or ceded to immigrants in prior decades. Politicians, particularly Gbagbo's political party, promoted this belief, as described by a scholar on Ivorian land issues:

During the 1990 and 1995 elections, politicians' speeches encouraged indigenous people from the forest regions to believe that the rise to power of the opposition leader Gbagbo would lead to the expropriation of land from non-native and non-indigenous peoples and its subsequent reallocation. By taking up the 'land for indigenous people' slogan incorporated in the Land Act on the eve of the 2000 presidential, legislative and municipal elections, politicians aimed to attract voters while reinforcing the principle of reclaiming land....²⁹



A cocoa farmer spreads cocoa beans that will dry under the sun in the village of Cantondougou, 360 kilometers west of Abidjan, April 23, 2009. © 2009 AFP Photo/Kambou Sia

²⁹ Ibid.

Conflict over land—while certainly not the only, or even the most important factor—would play a prominent role in Côte d’Ivoire’s plunge toward a decade of violence and grave human rights abuses. This was particularly true in the country’s west.

Displacement of Migrant Populations by the 2002-2003 Armed Conflict

On September 19, 2002, rebels from the Patriotic Movement of Côte d’Ivoire (*Mouvement Patriotique de Côte d’Ivoire*, MPCl) attacked strategic targets in Abidjan along with the northern towns of Bouaké and Korhogo. Although it did not succeed in taking Abidjan, the MPCl, soon joined by two western-based rebel factions, quickly controlled the northern half of Côte d’Ivoire. The three rebel groups formed a political-military alliance called the *Forces Nouvelles*, which sought to end political exclusion and discrimination against northern Ivorians and to remove the president, Laurent Gbagbo, who they perceived as illegitimate due to flaws in the 2000 elections.³⁰ Fighting was particularly intense in the country’s west, where both sides recruited Liberian mercenaries and targeted mostly civilians. Human Rights Watch documented grave crimes committed by both sides, including summary executions, massacres, and targeted sexual violence.³¹

Facing targeted abuses by pro-Gbagbo forces for their perceived support for the rebellion, immigrants and Ivorians from northern and central ethnic groups fled en masse from the southern half of western Côte d’Ivoire.³² Many had lived and worked on plantations there for decades, even generations.³³ The displacement of migrant populations was particularly acute along the Guiglo-Toulepleu axis, where there was a heavy concentration of pro-Gbagbo militia groups. Many immigrants and non-native Ivorians fled to the northern half of the country, controlled by the *Forces Nouvelles*, while around 7,000 went to a displaced persons camp in Guiglo.³⁴ Four years after the conflict, more than 5,000 displaced persons,

³⁰ Human Rights Watch, *Trapped Between Two Wars: Violence Against Civilians in Western Côte d’Ivoire*, vol. 15, no. 14(A), August 2003, <http://www.hrw.org/reports/2003/08/05/trapped-between-two-wars>, pp. 9-12. For a discussion of Gbagbo-led policies that discriminated against northern Ivorians and immigrants, see International Crisis Group, “Côte d’Ivoire: ‘The War is Not Yet Over,’” pp. 7-8.

³¹ Human Rights Watch, *Trapped Between Two Wars*; and Human Rights Watch, *Youth, Poverty and Blood: The Lethal Legacy of West Africa’s Regional Warriors*, vol. 17, no. 5(A), April 2005, <http://www.hrw.org/reports/2005/04/13/youth-poverty-and-blood>. See also International Crisis Group, “Côte d’Ivoire: ‘The War is Not Yet Over,’” pp. 21-25.

³² Human Rights Watch interviews with Burkinabé immigrants, western Côte d’Ivoire, February and June 2013.

³³ Human Rights Watch interviews with Burkinabé immigrants, western Côte d’Ivoire, February and June 2013. See also “Increased Returns of Internally Displaced Persons Require More Funding,” International Organization for Migration (IOM) press release, May 9, 2007, <http://allafrica.com/stories/200705080563.html> (accessed August 29, 2013).

³⁴ Global IDP Project and NRC, “Internal displacement in Côte d’Ivoire,” November 2005, p. 11.

the overwhelming majority Burkinabé and Malian immigrants, remained at the Guiglo camp³⁵—unable to return to their homes and land because of threats from pro-Gbagbo forces and some members of population native to the region.³⁶

During the forced displacement of immigrants and non-native Ivorians, some Guérés—the main population native to the region—retook land that they had previously sold or ceded to those who fled.³⁷ Non-natives began returning to villages in Guiglo department³⁸ in 2005.³⁹ In Bloléquin department, most non-natives could not start returning until 2007 or 2008.⁴⁰ Burkinabés from several villages in western Côte d'Ivoire told Human Rights Watch that, after reconciliation ceremonies involving native and non-native populations, they were able to regain without difficulty any land that Guérés had taken over. But in other villages, some Guérés, backed by the Gbagbo government, imposed extortionate conditions before permitting the return of displaced non-natives; these varied from village to village, or even *tuteur* to *tuteur*. In some villages, some Guérés demanded that immigrants and non-native Ivorians give back part of the parcel previously sold or ceded in order to be able to return to the village. Other Guérés demanded money from displaced non-natives before allowing them to return to the village or reacquire their land. Some Guérés even resold the person's parcel while he was displaced.⁴¹

In Bloléquin department, where anti-immigrant hostility appeared particularly severe, the Ivorian government, humanitarian organizations, and the opposed communities came to an agreement at a February 2008 workshop aimed at permitting the remaining displaced

³⁵ "Increased Returns of Internally Displaced Persons Require More Funding," IOM, May 9, 2007.

³⁶ Human Rights Watch interviews with Burkinabé immigrants, western Côte d'Ivoire, February and June 2013.

³⁷ Human Rights Watch interviews with Burkinabé immigrants, western Côte d'Ivoire, February and June 2013; and with humanitarian officials, Abidjan and western Côte d'Ivoire, February and June 2013. See also Interpeace, "Dynamiques et Capacités de Gestion des Conflits à l'Ouest de la Côte d'Ivoire: Le cas des Régions du Cavally et du Guémon," January 2013, <http://www.ci.undp.org/publication/Ivoire%20-%20March2013.pdf> (accessed August 29, 2013), p. 33.

³⁸ A department in Côte d'Ivoire is an administrative area overseen by a prefect. It generally comprises several smaller administrative areas known as sub-prefectures, which are in turn overseen by a sub-prefect. Prefects and sub-prefects are the Executive's representatives for their particular area. See Ordonnance n° 2011-262 du 28 septembre 2011 portant orientation de l'organisation générale de l'Administration Territoriale de l'Etat, <http://www.dgddl.interieur.gouv.ci/?page=cadre&cat=ordonnances> (accessed September 3, 2013).

³⁹ Human Rights Watch interviews with Burkinabé immigrants, western Côte d'Ivoire, February and June 2013.

⁴⁰ Human Rights Watch interviews with Burkinabé immigrants, western Côte d'Ivoire, February and June 2013; and with humanitarian officials, Abidjan and western Côte d'Ivoire, February and June 2013.

⁴¹ Human Rights Watch interviews with Burkinabé immigrants, western Côte d'Ivoire, February and June 2013; and with humanitarian officials, Abidjan and western Côte d'Ivoire, February and June 2013.

persons to return to their land.⁴² Known as the Bloléquin Accord, non-native leaders accepted that their communities would renegotiate rental agreements with the native landowners, regardless of their previous terms of individual agreements.⁴³ A Burkinabé leader in Bloléquin told Human Rights Watch: “People didn’t have any money [after being displaced for four years], so they had to accept any condition to get back to their land.... The [native population] took advantage [of our situation].”⁴⁴ While outside the zone of the Bloléquin Accord, a Malian community leader in Duékoué said similarly: “Between 2002 and 2010, we couldn’t say anything. We had to pay whatever they demanded.”⁴⁵

Through the November 2010 presidential elections, immigrant populations in western Côte d’Ivoire continued to suffer regular abuses at the hands of pro-Gbagbo security forces and militia groups.⁴⁶ A Burkinabé leader in Bloléquin believed that the actions taken by native, typically pro-Gbagbo populations after the 2002-2003 armed conflict contributed to the severity of the post-election crisis in western Côte d’Ivoire:

Reconciliation was poorly done after the first crisis. It was not easy for Burkinabés [and other immigrant populations] to return to their homes and to their land.... If it had been better done, if the reconciliation had been genuine, the post-election crisis would not have hit here so hard.⁴⁷

Post-Election Crisis

After five years of postponing presidential elections, Ivorians went to the polls on November 28, 2010 to vote in a run-off between incumbent President Laurent Gbagbo and former Prime Minister Alassane Ouattara. After the Independent Electoral Commission

⁴² Interpeace, “Dynamiques et Capacités de Gestion des Conflits à l’Ouest de la Côte d’Ivoire,” January 2013, p. 33.

⁴³ Ibid. The agreement also called on non-natives to live in the village with the Guérés, rather than in surrounding *campements*; and to do a 2/3-1/3 split with the native population of land that they had held inside protected forests. Given that it is illegal to hold or own land in protected forests, which are government-owned land, this provision was odd in that it formalized and officially recognized what amounted to a crime. It also directly contradicted the Pinheiro Principles in that Guérés seized 1/3 of these holdings of non-natives without any restitution. See IDMC and NRC, “Whose land is this?” October 2009, p. 29.

⁴⁴ Human Rights Watch interview with Burkinabé community leader, Bloléquin, June 8, 2013.

⁴⁵ Human Rights Watch interview with Malian community leader, Duékoué, February 6, 2013.

⁴⁶ Human Rights Watch, *Afraid and Forgotten: Lawlessness, Rape, and Impunity in Western Côte d’Ivoire*, October 22, 2010, <http://www.hrw.org/reports/2010/10/22/afraid-and-forgotten-o>; and Human Rights Watch, *“They Killed Them Like It Was Nothing”: The Need for Justice for Côte d’Ivoire’s Post-Election Crimes*, October 5, 2011, <http://www.hrw.org/reports/2011/10/05/they-killed-them-it-was-nothing>.

⁴⁷ Human Rights Watch interview with Burkinabé community leader, Bloléquin, June 8, 2013.

announced Ouattara the winner with 54.1 percent of the vote—a result certified by the UN Operation in Côte d'Ivoire (UNOCI) and endorsed by regional bodies and countries around the world—Gbagbo refused to step down.⁴⁸ Six months of violence followed, in which at least 3,000 civilians were killed and more than 150 women raped, often in attacks perpetrated along political, ethnic, and religious lines.⁴⁹

By conflict's end in May 2011, armed forces on both sides of the politico-military divide had committed war crimes and likely crimes against humanity, as documented by a national commission of inquiry created by President Ouattara, a UN-mandated international commission of inquiry, and human rights organizations.⁵⁰ The most serious crimes occurred in two areas: Abidjan, where the struggle for political and economic control centered; and western Côte d'Ivoire, beset by longstanding communal tensions and where pro-Ouattara forces launched their military offensive in March 2011 to take control of the country.⁵¹

The human rights division of UNOCI reported in May 2011 that it had documented 1,012 crisis-related killings in western Côte d'Ivoire, including at least 505 deaths in Duékoué alone.⁵² Among those identifiable, UNOCI documented at least 341 Guéré victims, the native population that tends to support Gbagbo; and, on the typically pro-Ouattara side,

⁴⁸ The basis of Gbagbo's claim rested with the December 3, 2010 decision of the Constitutional Council, led by Paul Yao N'Dre, a close ally of Gbagbo, to overturn the electoral commission's results and to proclaim Gbagbo the victor. The Council annulled hundreds of thousands of ballots from northern regions, where Ouattara drew significant support, based on alleged voting irregularities. When the UN Special Representative of the Secretary-General for Côte d'Ivoire certified the electoral commission's results, he also "certified that the Constitutional Council's proclamation [that Gbagbo won] was not based on facts." Y.J. Choi, "Statement on the second round of the presidential election held on 28 November 2010," December 8, 2010, http://www.un.org/en/peacekeeping/missions/unoci/documents/unoci_pr_elections08122010.pdf (accessed August 29, 2013), paras. 11-15.

⁴⁹ Human Rights Watch, "They Killed Them Like It Was Nothing."

⁵⁰ Commission nationale d'enquête (CNE), Rapport d'enquête sur les violations des droits de l'homme et du droit international humanitaire survenues dans la période du 31 octobre 2010 au 15 mai 2011, July 2012, http://www.fidh.org/IMG/pdf/cne_resume_rapport_d_enquete.pdf (accessed August 29, 2013); UN Human Rights Council, Rapport de la Commission d'enquête internationale indépendante sur la Côte d'Ivoire, U.N. Doc. A/HRC/17/48, July 1, 2011, <http://www.refworld.org/docid/4ee05cdf2.html> (accessed August 29, 2013); Human Rights Watch, "They Killed Them Like It Was Nothing"; Amnesty International, "They looked at his identity card and shot him dead": Six Months of Post-Electoral Violence in Côte d'Ivoire," AI Index: AFR 31/002/2011, May 25, 2011, <http://www.amnesty.org/en/library/info/AFR31/002/2011/en> (accessed August 29, 2013); ONUCI Human Rights Division, "Rapport sur les violations des droits de l'homme et du droit international humanitaire commises à l'Ouest de la Côte d'Ivoire," May 10, 2011, UNOCI/HRD/2011/02 http://reliefweb.int/sites/reliefweb.int/files/resources/Rapport_sur_les_violations_des_droits_de_l_homme_a_l_Ouest.pdf (accessed August 29, 2013).

⁵¹ Ibid.

⁵² ONUCI Human Rights Division, "Rapport sur les violations des droits de l'homme et du droit international humanitaire commises à l'Ouest de la Côte d'Ivoire," May 10, 2011, p. i.

159 Burkinabé, 100 Malinké, 68 Malian, 30 Baoulés, 6 Guinean, and 5 Béninois victims, among others.⁵³ Several of the worst atrocities committed by forces on both sides occurred in western Côte d'Ivoire, including the March 25 massacre by pro-Gbagbo militia groups and mercenaries of at least 70 northern Ivorians and immigrants, including men, women, and children, who had taken refuge in the Bloléquin prefecture; and the March 29 massacre of several hundred mostly Guérés by pro-Ouattara forces in Duékoué.⁵⁴

Faced with intense fighting and grave human rights violations by armed forces on both sides, around 200,000 people fled to Liberia during the crisis,⁵⁵ primarily from western Côte d'Ivoire. A majority of these refugees either supported or were from ethnic groups which largely supported Gbagbo during the 2010 election.⁵⁶ Hundreds of thousands more people were displaced internally within Côte d'Ivoire; the United Nations High Commissioner for Refugees (UNHCR) reported in June 2011 that the greatest concentration of internally displaced persons (IDPs) was in western Côte d'Ivoire.⁵⁷

This report focuses on what happened to the land of people in western Côte d'Ivoire displaced by the post-election crisis. Many remained displaced for months after the conflict's May 2011 end, with at least 58,000 registered refugees in Liberia as of August 2, 2013.⁵⁸ In interviews with Human Rights Watch, they expressed concern for their security and livelihoods should they return to Côte d'Ivoire.⁵⁹ These concerns have been amplified by the sporadic targeting of typically pro-Gbagbo populations for abuses even after the conflict, primarily by the country's military, the Republican Forces of Côte d'Ivoire (FRCI), and allied fighters.⁶⁰ In a particularly egregious example, some FRCI

⁵³ Ibid.

⁵⁴ Human Rights Watch, *"They Killed Them Like It Was Nothing"*, pp. 62-63, 87-90.

⁵⁵ See UN OCHA, "Mid-Year Review of the Consolidated Appeal for Liberia 2012," July 12, 2012, <http://www.unocha.org/cap/appeals/mid-year-review-consolidated-appeal-liberia-2012> (accessed August 29, 2013), p. 1.

⁵⁶ Human Rights Watch interviews with humanitarian officials, Grand Gedeh County, Liberia, April 2011 and December 2012.

⁵⁷ "More than 300,000 still displaced in Côte d'Ivoire; 200,000 remain overseas," *UNHCR News Stories*, June 14, 2011, <http://www.unhcr.org/4df7786d6.html> (accessed August 29, 2013) (reporting 132,188 IDPs in western Côte d'Ivoire).

⁵⁸ UNHCR, "Refugees in Liberia: Information Sharing Portal," <http://data.unhcr.org/liberia/regional.php> (accessed August 29, 2013).

⁵⁹ Human Rights Watch interviews, Grand Gedeh County, December 2012.

⁶⁰ See Human Rights Watch, *"A Long Way From Reconciliation": Abusive Military Crackdown in Response to Security Threats in Côte d'Ivoire*, November 19, 2012, <http://www.hrw.org/reports/2012/11/18/long-way-reconciliation>; Amnesty International, "Côte d'Ivoire: The Victors' Law: The human rights situation two years after the post-electoral crisis," AI Index: AFR 31/001/2013, February 26, 2013, <http://www.amnesty.org/en/library/info/AFR31/001/2013/en> (accessed August 29, 2013); and UNOCI, "Summary of UNOCI weekly press conference (11 August 2011),"

soldiers and allied forces burned to the ground the Nahibly IDP camp in July 2012, which housed around 4,500 people still displaced after the crisis.⁶¹ The International Federation for Human Rights (FIDH) has reported verifying at least six summary executions by FRCI soldiers and the “disappearance of dozens of displaced persons.”⁶² FIDH said that there may be up to 13 mass graves linked to the Nahibly attack, including a well in which six bodies were found in October 2012.⁶³



A UN peacekeeper stands near the destroyed Nahibly displaced persons camp near Duékoué, July 22, 2012. On July 20, members of the Ivorian military and allied forces burned down the camp, which then housed around 4,500 people, and summarily executed or disappeared some people who fled. © 2012 AFP PHOTO/ SIA KAMBOU

http://www.onuci.org/IMG/article_PDF/article_6266.pdf (accessed August 29, 2013), p. 2 (documenting “26 cases of summary executions [and] 85 cases of arbitrary arrests and illegal detention” between July 11 and August 10, 2011).

⁶¹ Amnesty International, “Côte d’Ivoire: The Victors’ Law,” pp. 42-56.

⁶² FIDH, “Ivory Coast: Justice to combat human rights violations and insecurity,” March 28, 2013, <http://www.fidh.org/Ivory-Coast-Justice-to-combat-12371> (accessed August 29, 2013).

⁶³ “Ivory Coast: little judicial progress made on the case of the attack of Nahibly camp,” FIDH press release, March 28, 2013, <http://www.fidh.org/Ivory-Coast-little-judicial-progress-made-on-the-case-of-the-attack-of-13109> (accessed August 29, 2013). See also “Côte d’Ivoire: ouverture d’une enquête sur les morts de la fosse commune de Duékoué,” *Radio France Internationale*, October 13, 2012, <http://www.rfi.fr/afrique/20121013-cote-ivoire-morts-fosse-commune-duekoue-nahibly-disparus-enquete> (accessed August 28, 2013).



President Alassane Ouattara (center) looks at a stand of cocoa during the 2012 World Cocoa Conference in Abidjan. President Ouattara has said that resolving conflicts related to land tenure is a key priority for his government. © 2012 AFP Photo/Sia Kambou

Reform to Land Tenure and Nationality Laws in 2013

In May 2013, President Ouattara committed to reevaluate and reinforce the 1998 law on rural land tenure, rightly linking both land and nationality issues to Côte d'Ivoire's descent into politico-military violence.⁶⁴ During a special legislative session, the National Assembly passed laws on both subjects on August 23. For rural land tenure, the National Assembly extended for another 10 years the period during which people can transform customary-based claims to land into private, state-backed land ownership.⁶⁵ On the issue of nationality, the new law re-opens⁶⁶ Ivorian citizenship to foreign-born

⁶⁴ Zoumana Coulibaly and Raoul Sainfort, "Conférence de presse bilan du chef de l'état : Alassane Ouattara : 'Nous avons déployé des moyens importants pour sécuriser l'Ouest,'" *Le Patriote*, May 6, 2013, <http://news.abidjan.net/h/458845.html> (accessed August 29, 2013) ; and "Côte d'Ivoire: le foncier et la nationalité au cœur de la réforme du président Ouattara," *Radio France Internationale*, May 6, 2013, <http://www.rfi.fr/afrique/20130506-cote-ivoire-foncier-nationalite-deux-axes-reforme-president-ouattara> (August 29, 2013).

⁶⁵ Ange Aboa, "Ivory Coast lawmakers pass critical land, nationality laws," Reuters, August 23, 2013.

⁶⁶ At various times in Côte d'Ivoire's history—including between 1961 and 1973, and from 2005-2006—the ability to obtain citizenship was open to the same groups of people subject to the 2013 laws. This was a key point of the 2003 Linas-

residents who have lived in Côte d'Ivoire since before independence, as well as to their descendants; and to people born to foreign nationals in Côte d'Ivoire between December 1961 and January 1973, as well as to their descendants.⁶⁷ The law also allows these people to make their claim for Ivorian citizenship through a declaration, rather than the normal naturalization process.⁶⁸

The political opposition and at least some civil society groups expressed frustration over the lack of consultation with relevant stakeholders before the National Assembly debated and passed the laws.⁶⁹ According to its letter response to Human Rights Watch, the Ivorian government does not currently have plans for additional reforms to the 1998 law on rural land tenure.⁷⁰ A potentially divisive question will be how citizenship conferred under the new nationality law impacts previous acquisitions of land, since only Ivorian nationals can own land under the 1998 law. That question is outside the scope of this report.

With this report, Human Rights Watch aims to capture the prevailing situation of land conflict in western Côte d'Ivoire and to offer recommendations for sustainable solutions to those conflicts, grounded in the equal protection of land and property rights. Western Côte d'Ivoire has experienced some of the country's worst atrocities over the last decade and could prove host to more atrocities if land issues are not resolved. Reducing tensions in western Côte d'Ivoire will require significant work at the local level to address complaints related to illegal land seizures that occurred while people were displaced by the post-election crisis.

Marcoussis peace agreement. See Texte de l'Accord de Linas-Marcoussis, January 24, 2003, <http://www.diplomatie.gouv.fr/fr/dossiers-pays/cote-d-ivoire/colonne-droite-1347/documents-de-reference/article/accord-de-linas-marcoussis> (accessed August 30, 2013), annexe, paras. 1-3. For a July 2005 decree from President Gbagbo that opened up the naturalization process for one year, see Décision n° 2005-04/PR du 15 juillet 2005 portant dispositions spéciales en matière de naturalisation, <http://www.refworld.org/docid/452511b84.html> (accessed August 30, 2013). Whether due to poor dissemination of the relevant laws, the difficulty of the naturalization process, barriers erected by government officials, or lack of interest from the relevant populations, few potential beneficiaries went through the process.

⁶⁷ Loi portant dispositions particulières en matière d'acquisition de la nationalité par déclaration, <http://www.assnat.ci/sites/default/files/PROJET%20DE%20LOI%20ACQUISITION%20DE%20LA%20NATIONALITE.pdf> (accessed September 19, 2013); Ange Aboa, "Ivory Coast lawmakers pass critical land, nationality laws," Reuters, August 23, 2013.

⁶⁸ Loi portant dispositions particulières en matière d'acquisition de la nationalité par déclaration, arts. 3-7.

⁶⁹ See "La CSCI et SOS Exclusion demandent le report du vote de la loi sur l'apatridie," Agence Ivoirienne de Presse, August 11, 2013, <http://news.abidjan.net/h/467649.html> (accessed August 29, 2013); "Côte d'Ivoire: lois sur la nationalité, 'une bombe à retardement' (opposant)," Agence France-Presse, August 26, 2013, <http://news.abidjan.net/h/469998.html> (accessed August 29, 2013); and "Projets de lois sur la nationalité et le Foncier rural: Voici la position du MFA," *Le Démocrate*, August 16, 2013, <http://news.abidjan.net/h/468971.html> (accessed August 29, 2013).

⁷⁰ Letter from Gnénéma Coulibaly, minister of justice, human rights, and public liberties, to Human Rights Watch, September 13, 2013, p. 9.

II. Land Dispossession after the Post-Election Conflict

After the crisis, the region has known complete disorder and anarchy in terms of land.

—Burkinabé community leader in western Côte d'Ivoire, June 2013⁷¹

In western Côte d'Ivoire, there are thousands of complaints by the native, mostly Guéré, population of alleged land dispossession linked to displacement caused by the 2010-2011 conflict. One sub-prefect, a local government official who oversees an administrative area comprising a number of villages, told Human Rights Watch that he alone had received more than 800 complaints related to land since the crisis.⁷² Another sub-prefect said he deals with between four to eight cases a day, four days a week.⁷³ In the area examined by Human Rights Watch, there are seven different sub-prefectures dealing with at least scores, and often hundreds, of these cases.⁷⁴ And cases that reach the sub-prefect are generally those that village chiefs feel unable to resolve or have tried to resolve but one party refuses to accept the ruling. The chief of a village between Guiglo and Bloléquin told Human Rights Watch that he had over 40 remaining unresolved cases.⁷⁵ Another village chief, when asked how many cases he had, picked up his notebook and showed page after page of registered complaints. "We're overwhelmed," he said.⁷⁶ While land dispossession linked to the post-election crisis exists throughout the regions of Guémon and Cavally, the areas with the most acute problems appear to be in the department of Bloléquin.⁷⁷

The dominant story told by Gbagbo supporters in Liberia and Abidjan is that armed Burkinabés, aided by the Ivorian security forces, have forcibly seized land belonging to the Guérés and other typically pro-Gbagbo ethnic groups.⁷⁸ In the locations investigated, Human Rights Watch found little evidence of such acts on a widespread scale. However, the less hostile forms of land dispossession that have occurred on a large scale in western Côte d'Ivoire

⁷¹ Human Rights Watch interview with Burkinabé community leader, Guiglo, June 1, 2013.

⁷² Human Rights Watch interview with sub-prefect in western Côte d'Ivoire, location withheld, June 2013.

⁷³ Human Rights Watch interview with sub-prefect in western Côte d'Ivoire, location withheld, February 2013.

⁷⁴ The seven sub-prefectures are: Duékoué, Guiglo, Bloléquin, Bagohouo, Doké, Zéaglo, and Péhé.

⁷⁵ Human Rights Watch interview with village chief, village between Guiglo and Bloléquin, June 2, 2013.

⁷⁶ Human Rights Watch interview with village chief, village between Bloléquin and Péhé, February 11, 2013.

⁷⁷ For a description of the different types of administrative areas in Côte d'Ivoire, including departments, see footnote 38, *supra*.

⁷⁸ Human Rights Watch interviews, Abidjan, February 2013; and with Ivorian refugees, Grand Gedeh, Liberia, December 2012.

raise similar problems for the original landowners. In the vast majority of cases documented by Human Rights Watch, land dispossession linked to the crisis is rooted in illegal land sales: When Guérés were displaced by the conflict, other Guérés—from neighboring villages, or even the same family—came in behind and sold land that did not belong to them, most often to recent arrivals of Burkinabé migrants. The seller, who often engaged in theft and fraud, gets off scot free. While some Burkinabé buyers purchased in good faith, others were complicit, clandestinely buying enormous parcels of land from young Guérés whose legal authority to sell such land would have been questioned by any reasonable person. The guilty parties benefit, without fear of sanctions, while the true landowner suffers greatly.

In a minority of the cases documented by Human Rights Watch, land dispossession has occurred by force, rather than by illegal sale. Some non-natives used a landowner's absence to increase their landholdings, for example when a person who purchased and confined himself to two hectares before the crisis seized and planted on additional hectares, to which he has no claim, while the owner was displaced. Finally, in a very small number of cases, groups of non-natives have wholesale commandeered land. These cases appear confined to forest areas that are located near government-owned protected forests, particularly the protected forest of Goin-Débé. Perhaps thinking that they were installing themselves in the protected forest, these groups occupied areas in the immediate vicinity, but on land owned privately by people displaced by the conflict.

In all cases of land dispossession linked to displacement, the Ivorian government has failed to fulfill its responsibilities under the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), which requires states to “take necessary measures to protect individual, collective and cultural property left behind by displaced persons”⁷⁹; and the United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons, better known as the Pinheiro Principles.⁸⁰ The Pinheiro Principles, which draw from the rights to property, home, and housing, as well as the recognized right to a remedy for human rights violations,⁸¹ state that “[a]ll refugees and

⁷⁹ African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), entered into force December 6, 2012, art. 9(2)(i).

⁸⁰ United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons (hereinafter Pinheiro Principles), U.N. Doc. E/CN.4/Sub.2/2005/17 (2005), *endorsed* Sub-Com. res. 2005/21, U.N. Doc. E/CN.4/2006/2 at 39 (2006).

⁸¹ For a good discussion on the history and foundation of the Pinheiro Principles, as well as a guide for their implementation, see FAO, IDMC, OCHA, OHCHR, UN-Habitat, and UNCHR, *Housing and Property Restitution for Refugees and Displaced Persons: Implementing the ‘Pinheiro Principles’*, March 2007, <http://www.refworld.org/docid/4693432c2.html> (accessed September 20, 2013).

displaced persons have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived.”⁸²

Land dispossession linked to the crisis has devastating consequences on livelihoods and food security, as people are unable to access land where they grew food and cash crops. Given the longstanding tension over land in western Côte d’Ivoire and land’s significance for livelihoods, land conflicts created by the crisis bring the potential for inter-communal violence should the government fail to take measures to ensure restitution. Several cross-border attacks from Liberia in March 2013 appear directly related to land conflict.

In response to Human Rights Watch’s findings that the current victims of land dispossession in western Côte d’Ivoire come overwhelmingly from the Guéré ethnic group, which largely supported Gbagbo, the Ivorian government said any such ethnic element to land dispossession was not the result of government policy or the “indifference of the current authorities.”⁸³ It stated further:

The government would like to point out that, in any event, land conflicts in the West are not the result of any policy of colonizing land to the detriment of the “native” ethnic group. Moreover, certain illegal or illicit land occupations by other ethnic communities should not be seen as “collective punishment.”⁸⁴

Human Rights Watch did not find evidence suggesting that land dispossession in western Côte d’Ivoire was a result of a state-organized policy or that local authorities were discriminating against Guérés in resolving land conflicts. As discussed in Section III, the Ivorian government’s breach of its human rights obligations comes primarily from the lack of support it has provided to ensure land restitution for victims, not from overseeing the confiscation of Guéré land.

However, the Ivorian government would be remiss if it were to deny or pretend away the ethnic and political nature of the land dispossession. The reality is that the victims of land dispossession in the region of western Côte d’Ivoire examined by Human Rights Watch

⁸² Pinheiro Principles, principle 2.

⁸³ Letter from Gnénéma Mamadou Coulibaly, minister of justice, human rights, and public liberties, to Human Rights Watch, September 13, 2013, p. 5.

⁸⁴ Ibid., p. 6.

overwhelmingly come from an ethnic group that widely supported Gbagbo. By ensuring the swift and fair resolution of their claims for land restitution, the Ivorian government could demonstrate that it represents and protects the rights of all residents in Côte d'Ivoire.

Land Transactions in Western Côte d'Ivoire

Almost every land transaction in rural Côte d'Ivoire occurs outside of the system established by Ivorian law. As discussed in the Background, after a transition period that allows people to formalize their customary rights, the 1998 rural land law will only recognize land sales that occur through the transfer of a land title registered in the state cadastre. Rural land transactions with non-Ivorians, including long-term leases or rental agreements, should also occur through formal written documents registered with the cadastre. Yet these procedures are almost never followed, and in practice, custom remains the basis for land transactions. Indeed, almost no one in western Côte d'Ivoire has started, much less finalized, the process to register their land ownership.⁸⁵ People reported several barriers to formalizing land rights, including expenses associated with the process of obtaining a land certificate; the poor promulgation of the 1998 law; and the fact that private, individual land ownership runs counter to centuries of customary practice.⁸⁶

In western Côte d'Ivoire, many land transactions occur orally. Other transactions are written down and signed on *petits papiers* (literally, “small papers”), essentially anything that is available, from notebooks to rice sacks. Customary authorities—including the village and land chief—often act as witnesses to oral and informal written agreements. Ivorian law gives *petits papiers* no legal authority,⁸⁷ though in resolving disputes they could provide crucial evidence in terms of the area and nature of the transaction, for example a sale versus a rental agreement. Due to the widespread destruction and burning of houses in western Côte d'Ivoire during the conflicts, many *petits papiers* from previous transactions no longer exist. In such cases, people adjudicating disputes rely on, for example, the testimony of witnesses to the original agreement; a determination of how the land has been used since the agreement; and the knowledge of village experts, including the land chief.

⁸⁵ Human Rights Watch encountered only one rural landowner who had a land certificate, which she obtained following the crisis, and customary and administrative officials said that less than 1 percent of the people in their areas have registered their property with the land registry. Human Rights Watch interviews, February and June 2013.

⁸⁶ Human Rights Watch interviews, February and June 2013.

⁸⁷ IDMC and NRC, “Whose land is this?” October 2009, p. 22 & fn 19.

Fraudulent land transactions that occurred while the landowner was displaced by the crisis look much like regular land transactions, as they are done orally or in informal written agreements. One common difference, however, is in the involvement of customary authorities. Most, though not all, land transactions rooted in custom include witnesses, particularly from the customary authorities. However, fraudulent land transactions, including those that have marred western Côte d'Ivoire in the aftermath of the post-election crisis, tend to occur clandestinely—without family, community, or customary leaders to point out that the seller has no right to the land he is offering.

Illegal Sales by Other Guérés

In almost all of the 27 villages visited between Guiglo and Toulepleu, Human Rights Watch documented cases of land dispossession that were rooted in illegal land sales while the landowner was displaced by the post-election crisis. Indeed, 72 of the 117 cases of alleged land dispossession documented by Human Rights Watch were related to illegal land sales—with members of the Guéré “native” population taking advantage of another Guéré’s displacement to illegally sell the person’s land to a “non-native,” generally a Burkinabé. Illegal sales involved both virgin forest and land already in production—with buyers either ripping up the owner’s old crops or appropriating them.

The vast majority of Guéré community leaders in western Côte d'Ivoire interviewed by Human Rights Watch said that illegal sales by their compatriots are the biggest source of illegal occupation linked to the crisis. Many such sales involve land to which the seller had no known link. Sellers who hold themselves out as the rightful owner while knowing this to be false commit crimes, including fraud and theft. The chief of a village between Bloléquin and Zomplou said:

There have always been land conflicts, but after the crisis, it's a whole new world.... I haven't had any cases of occupation by force [in my village]. The conflicts are from illegal sales, often by youth. The buyers are new Burkinabé [migrants], not the ones who lived with us before the crisis.... Someone comes back from Liberia and sees Burkinabés on his land, and

they tell him so and so installed them. That person had no claim to the land, but now drives around on a nice motorbike.⁸⁸

A village chief on the Bloléquin-Tinhou axis likewise told Human Rights Watch:

For the most part, it's not occupation by force. It's illegal sale. [Other Guérés] sold our forests while people were displaced. The non-natives didn't just occupy the forest on their own.... You come back [from being displaced], go into your forest, and find a non-native there, and he says X sold him the land—though that person had no right to that land!⁸⁹

Leaders from non-native communities describe a similar problem. A Burkinabé leader in Guiglo said that “the natives who remained in the area or who returned quickly from being displaced profited greatly from their compatriots’ absence to sell land to non-native Ivorians and immigrants. The real owner returns to see his plantation has been taken over.... We’ve been inundated with these problems.”⁹⁰ A non-native community leader on the Duékoué sub-prefecture’s land committee (see Section III) likewise said that most crisis-related cases they receive “are from Guérés who return to see that their plantation has been sold. We don’t really see cases where a non-native just went and occupied a forest. It’s almost always based on a sale, an illegal sale, from another Guéré.”⁹¹

Most cases documented by Human Rights Watch involved fraudulent sellers with no family relation to the true owner, often from a neighboring village. Many dispossessed Guéré landowners voiced anger primarily at the illegal seller, though the transaction also pits them against the buyer, generally an immigrant. A Guéré in Pohan-Badouebly described his situation, which was representative of many others:

When I came back from Liberia [in late 2011], a youth Guéré from Blédi [the next village] had sold more than 10 hectares of my family’s land. Everything is taken—the 1 ½ hectares where we’d planted cocoa, and land that used to

⁸⁸ Human Rights Watch interview with village chief, western Côte d’Ivoire, February 11, 2013.

⁸⁹ Human Rights Watch interview with village chief, western Côte d’Ivoire, February 12, 2013.

⁹⁰ Human Rights Watch interview with Burkinabé community leader, Guiglo, June 1, 2013.

⁹¹ Human Rights Watch interview with community leader on the Duékoué land committee, Duékoué, February 4, 2013.

be virgin forest.... There are at least 13 Burkinabés in my forest. When I found them there, they told me that they bought it from [name omitted] for more than 100,000 CFA (US\$200) per hectare.... They've cut down much of the forest and are planting cocoa.

The Blédi youth never said that it was his land before the [2010-2011] war. My grandfather, [who died before I was born], worked that land. That land is where I was brought into this world.... We've never sold it, that land is my family's wealth. Now it's been destroyed. Where we grew food before, they've even pulled that up to plant cocoa.... I can't access my forest, I can't feed my children. We just grow a little rice and manioc by the village to survive. It really angers me.

I've filed a complaint with the local authorities, but the Blédi youth never comes when the canton chief [a traditional leader] summons him.... I don't even have the 1,000 CFA (\$2) to go to Bloléquin to bring the case to the sub-prefect.... I don't have any problems with the Burkinabés there. They're honest with me, they told me who sold them the land. It's the Guéré in Blédi who I have a problem with. We have so many cases like this. The [youth] sell land that's not theirs and then go buy a motorbike.⁹²

A 68-year-old man from Douedy-Guézon likewise described how separate Guéré sellers from a neighboring village fraudulently sold his land while he was displaced:

I've been working my family's land since 1969. To my great surprise, after the crisis, my entire parcel had been sold, right up to the door to my hut in the *campement*.... I returned from exile in January 2012. When I returned, I saw that my forest had been cleared. I found Burkinabés on the land, three different buyers who have brought other non-natives to work with them. I'd never seen these Burkinabés before, they weren't ones who lived with us before the crisis.... When I asked them who had given them this land, they told me [names omitted], Guérés from Bédi-Goazon. I have to be clear, the Burkinabés didn't install themselves on my land....

⁹² Human Rights Watch interview with alleged victim of land dispossession by illegal sale, Pohan-Badouebly, February 11, 2013.

The Guéré [sellers] aren't even neighbors of mine. They're from the same area, but we don't share boundaries. Never before had they stepped foot on my land, made any claim to it. Since 1969, I've planted rubber trees, coffee, and cocoa. I had a hectare of rubber trees that I was planning to extend [into my virgin forest] ... and five hectares of cocoa, but they've taken that all over. Some of it was already in production. How can you sell someone's land that's already producing?

All of my land is taken, I don't know how I will get money this year. I don't even know where I can plant rice to sustain my family.... I brought a complaint against one seller to the village chiefs [of Douedy-Guézon and Bédi-Goazon] and against the other seller to the sub-prefect, though he sent me back to the village chiefs. They've tried twice to summon one of the sellers for a meeting, but he doesn't show up. It's been since January 2012, and I still can't access my land.⁹³

In some cases documented by Human Rights Watch, it was another family member who illegally sold the land. For example, a 58-year-old man in Tinhou said that his nephew, in his 30s, sold the man's land while he was a refugee in Liberia: "The youth recognizes that he did it, that he had no right to the land. We're trying to resolve this within the family for now, not involve the authorities. He sold two hectares to a Burkinabé family. I told them to leave, but they said they gave money for the land. They're putting down cocoa."⁹⁴

Throughout western Côte d'Ivoire, customary leaders and victims of land dispossession said that many of the illegal land sellers were young men "flouting the family hierarchy or just looking to make quick money off of a neighbor's land they know they have no right to."⁹⁵ One Guéré interviewed fled Koadé-Guézon in March 2011 and returned in March 2012 to discover that his 20-year-old cousin had sold 12 hectares of the man's land. The illegal seller promptly left the area and was no longer reachable at his former phone number. "He sold my land and then left," the victim told Human Rights Watch. "It was virgin forest

⁹³ Human Rights Watch interview with 68-year-old alleged victim of land dispossession by illegal sale, Douedy-Guézon, June 7, 2013.

⁹⁴ Human Rights Watch interview with alleged victim of land dispossession by illegal sale, Tinhou, February 11, 2013.

⁹⁵ Human Rights Watch interview with village elder, Fengolo, February 10, 2013.

before, and now the Burkinabé [buyers] have cut down trees to start planting. I recently filed a complaint, but it hasn't yet been heard.”⁹⁶

Human Rights Watch documented cases involving illegal land sales by people as young as 17 years old. Guéré land is often considered owned by families, rather than individuals, which means few youth of that age have the right to sell land without the head of family agreeing.⁹⁷ In cases like this, many community leaders and victims of land dispossession felt that both the buyer and illegal seller were to blame. A village chief involved in resolving land disputes in a village between Guiglo and Bloléquin said:

We have to stop illegal buying and selling, clandestine buying and selling. That's what causes all of these problems.... The illegal sellers are often less than 25 years old, that's why I blame the buyers too. A little kid of 18, 19 years old says he's selling you 5, 10, even 20 hectares of land, and you don't think about perhaps checking with the head of family, or village authorities, or even the head of your [non-native] community? [The buyer] knows what he is doing [is wrong].⁹⁸

In examining and resolving land dispossession in western Côte d'Ivoire linked to the post-election crisis, it is therefore appropriate to distinguish between good-faith Guéré sellers, who reasonably believe they have a claim to the land, and bad-faith Guéré sellers, who knowingly engage in theft and fraud. It is likewise appropriate to distinguish between good-faith non-native buyers, who pass through local authorities when making a purchase, and bad-faith non-native buyers, who take advantage of the anarchy to buy land from someone whose ownership claim would be questioned by any reasonable person. Guérés in western Côte d'Ivoire, particularly around Bloléquin, felt that many problems arose when a flood of new Burkinabé migrants arrived after the crisis. A Burkinabé leader in Bloléquin admitted that they had problems controlling some of the new migrants:

Some of our brothers who come, they don't present themselves to the village chief or even the Burkinabé chief in that village. They go into the forest and

⁹⁶ Human Rights Watch interview with alleged victim of land dispossession by illegal sale, Koadé-Guézon, June 8, 2013.

⁹⁷ Human Rights Watch interviews with village elders, community leaders, and local government officials, western Côte d'Ivoire, February and June 2013.

⁹⁸ Human Rights Watch interview with village chief, western Côte d'Ivoire, February 9, 2013.

buy land clandestinely. I have to admit it's a problem. It tarnishes the image [of all Burkinabés in the region]. We've tried to sensitize, the sub-prefect here has also tried to sensitize, but people don't listen—some Guérés still sell clandestinely, and some Burkinabés still buy clandestinely.⁹⁹

A Burkinabé leader in Guiglo said similarly:

The new migrants are causing problems. They have come [generally from elsewhere in Côte d'Ivoire, particularly around Soubré and San Pedro] with a lot of money in their pockets. They are buying up huge areas of land, and then they quickly have problems in terms of who is the rightful owner and where the correct boundaries are.¹⁰⁰

The problem of illegal land sales is comparatively less severe in villages around Duékoué, an older cocoa growing region where there is little remaining virgin forest. Beginning in Guiglo, the problems grow more and more severe the further west one moves, becoming the most extreme after the town of Bloléquin, before arriving in the department of Toulepleu. The sub-prefect in Doké told Human Rights Watch:

Before the crisis, it was almost all virgin forest here. People who live west of Bloléquin hadn't ceded their forests [like the Guérés elsewhere]. Since the crisis, non-natives, [mostly Burkinabés] are coming in from Soubré, Bangolo, San Pedro that have never been here before. They are buying massive amounts of land—sometimes as much as by the [square] kilometer [100 hectares], even two [square] kilometers.¹⁰¹

As discussed in Section IV, the failure of the Ivorian government to prevent land dispossession while people were displaced or to ensure victims obtain swift and effective redress violates their rights as set out in the Kampala Convention and the Pinheiro Principles.¹⁰² It also deprives

⁹⁹ Human Rights Watch interview with Burkinabé community leader, Bloléquin, June 8, 2013.

¹⁰⁰ Human Rights Watch interview with Burkinabé community leader, Guiglo, June 1, 2013.

¹⁰¹ Human Rights Watch interview with Doké sub-prefect, Doké, February 11, 2013.

¹⁰² Kampala Convention, art. 9(2); Pinheiro Principles.

them of their right to property guaranteed by article 14 of the African Charter on Human and Peoples' Rights.¹⁰³

Refusal to Pay Rent

Many Guérés in western Côte d'Ivoire have historically entered into rent agreements with non-natives, a practice commonly referred to as "*travail partagé*." This roughly translates as "shared work," though the system might be more accurately described as the "shared fruits of the non-native's work." Some Guérés interviewed by Human Rights Watch said that, after the crisis, non-natives who work for them no longer abide by the former rent agreement. Human Rights Watch primarily documented these cases in villages around Duékoué, a region where most land was already in use prior to the crisis.

There are two predominant kinds of *travail partagé* arrangements. In both, the Guéré *tuteur* provides a parcel of land to a migrant, who works the land. In the first type of arrangement, the landowner and renter split the crop for the entire area ceded to the renter—with each party then responsible for selling his portion. In the second type of arrangement, the landowner and renter split the money from the sold crop.

A Guéré man from Diahouin, a village north of Duékoué, described how a Burkinabé who had worked on his land for more than 15 years no longer followed their agreement:

I fled in 2011 when the [FRCI] were coming toward Duékoué and didn't come back until after [the July 2012 Nahibly IDP camp attack]. Before the crisis, we shared the cocoa revenue. I gave him two hectares on which to plant, and we agreed to do *travail partagé*. It happened every year, until the crisis. Now, he shares it with himself. After this harvest, he went and sold the cocoa without even calling me, and when I confronted him about it, he said there was no money for me. Before, if we sold 100,000 CFA (\$200) of cocoa, he took 50,000 CFA, I took 40,000 CFA, and 10,000 CFA went to treat the fields. Now, I get nothing.... Since the crisis, they are the bosses.¹⁰⁴

¹⁰³ African [Banjul] Charter on Human and Peoples' Rights (ACHPR), adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force October 21, 1986, acceded to by Côte d'Ivoire on January 6, 1992, art. 14.

¹⁰⁴ Human Rights Watch interview with alleged victim of breach of rent agreement, Diahouin, February 10, 2013.

Human Rights Watch documented two cases involving Guéré women who said that, since inheriting land, the renter had refused to continue paying rent paid when the woman's father or husband, respectively, was alive.¹⁰⁵ One of the cases originated with the crisis, during which the 52-year-old woman's husband died:

My husband [separately] installed three Baoulés [years ago], who planted cocoa. [The cocoa] has been in production for several years. Two of them were just workers, but one had a rent agreement with my husband.... My husband died in February 2011, and I fled in March when the war arrived. I was [displaced] at the Catholic mission [in Duékoué]. Since coming back to the village, the Baoulé has not paid rent. In 2012, I received nothing. So far in 2013, nothing.... I've tried to call him to the village to resolve this, but he doesn't come.... Nobody responds to me. For me as a woman, it's not easy to go into the bush after them.¹⁰⁶

The claims related to rent can be difficult to assess. Most Guérés who complained about non-natives' refusal after the crisis to continue honoring rent agreements said the contract had been oral. Others said there had been a written agreement on informal papers, but those had been destroyed along with people's homes during the crisis. In such cases, authorities would likely need to establish that both parties had accepted and carried out the division every year—or with every cocoa harvest—prior to the crisis, demonstrating that such an agreement existed.

In cases where there was an agreement to pay annual or seasonal rent, the failure to do so as a result of a person's displacement would, like an illegal sale, violate the right to property under the African Charter.

Illegal Extension of Acquired Parcels

In some villages, Human Rights Watch documented cases where non-natives who previously acquired some of an owner's land appear to have illegally extended their holdings while the owner was displaced. Assessing these claims' credibility is again

¹⁰⁵ Human Rights Watch interview with alleged victim of breach of rent agreement, Fengolo, February 10, 2013; and with alleged victim of breach of rent agreement, Oulaïtaïbly, June 6, 2013.

¹⁰⁶ Human Rights Watch interview with alleged victim of breach of rent agreement, Fengolo, February 10, 2013.

complicated by the fact that parties often carried out the original land transaction orally or on informal papers that were never filed with local authorities and were then destroyed during the crisis when armed forces burned homes.

A Guéré man in Guinkin said that, decades before the crisis, his uncle ceded to a Burkinabé family a hectare of land and a plot to build their home. When the Guéré returned from being displaced by the crisis, he found that the Burkinabé had planted rubber trees on several additional hectares that the Burkinabé had never received or made claim to. The Guéré told Human Rights Watch: “I can’t stop him from working the land my uncle ceded to him, but he can’t take the rest of my family’s forest. I asked him why he had planted there, and he said he thought everyone [in my family] had died during the crisis.”¹⁰⁷ The man said he was trying to resolve the dispute through customary leaders and with the help of a humanitarian organization, but would file a complaint with the court system if they did not quickly succeed in removing the Burkinabé from the additional land.¹⁰⁸

A Guéré in Petit-Guiglo described another such case:

When I came back from Liberia in late 2012, I saw that Burkinabés who work for me had taken over land I never sold to them. There were five Burkinabés on my land before the crisis, on five hectares total.... There are now seven Burkinabés, and they are working on 12 total hectares. Before, the other seven hectares was virgin forest, I never sold it. I went to them and said who gave this to you, why are you on this land. And one said, “[Name omitted], you weren’t here.” I’m not fine with them taking this land. This is for my children, for future generations.

About a month ago I brought a complaint to the sub-prefect, who said he would come to Petit-Guiglo, but he hasn’t yet.... This really angers me, but I don’t want a fight, that’s why I haven’t chased them off the land. For now, I am waiting for the sub-prefect to come. If I push them off the land, tomorrow they’ll say that the population of Petit-Guiglo doesn’t accept

¹⁰⁷ Human Rights Watch interview with alleged victim of land dispossession by an illegal extension from previously owned land, Guinkin, February 7, 2013.

¹⁰⁸ Ibid.

foreigners. I have no problem with them working the [original] five hectares, but they can't just take the rest of my land.¹⁰⁹

At times, the illegal extension runs into the land of a neighboring owner, as described by a resident of Dedjéan village:

I returned from Liberia in January 2013 and found that the little land I own had been taken over by a Burkinabé. I went into the bush and said, "Why are you on my plantation?" I saw that he was losing his temper, so I returned to the village. I was scared.... He isn't a new migrant. Since well before the [2002-2003] crisis, he worked for a Guéré whose land borders my own. When I was in Liberia, the Burkinabé crossed into my land. He had never done so before, never made any claim to it. Maybe he thought I wouldn't return. But he has cut down [part of] my forest and planted cocoa.

The owner of the neighboring parcel returned to the village during the regional elections [in April 2013] and told the Burkinabé to leave my land, that it's not part of what [that owner] ceded to him. But the Burkinabé refuses. He says that he should be compensated before leaving. Compensated for what, he's a thief!¹¹⁰

An elderly Guéré from Petit-Guiglo described a similar case:

When I returned from Liberia in August 2011, a Malian had already started cutting down three hectares of my forest. He works for a Guéré who owns the land next to mine. He crossed into my forest while I was gone and put down cocoa. His *tuteur* [the owner of the adjacent parcel, who ceded land to the Malian] has told him in front of me that the portion does not belong to him, it belongs to me. The last time was in January 2013. But the Malian refuses to leave.... This really angers me. I have nothing. I

¹⁰⁹ Human Rights Watch interview with alleged victim of land dispossession by an illegal extension from previously owned land, Petit-Guiglo, June 5, 2013.

¹¹⁰ Human Rights Watch interview with 54-year-old alleged victim of land dispossession by an illegal extension from previously owned land, Dedjéan, June 5, 2013.

don't even have the means to go to Bloléquin to bring a complaint to the sub-prefect.¹¹¹

Burkinabé leaders in many villages denied that their community members had extended into land they had no claim to (see text box below).¹¹² However, a Burkinabé leader in Bloléquin said it was “distinctly possible” that illegal extensions happened in some cases, while warning that some Guérés were likely lying to try to get back land they had sold or ceded, taking advantage of the fact that many informal papers used to describe land sales were burned during the crisis.¹¹³ He also said that most crisis-related land conflicts in the area originate in illegal sales by other Guérés.¹¹⁴

In cases where illegal extensions occurred while people were displaced internally or as refugees, the authorities' failure to address the dispossession violates the landowners' rights under the African Charter and as set out in the Kampala Convention and the Pinheiro Principles.¹¹⁵ International law says that a landowner should have the right to restitution, including, where possible, the specific right to return to his land.¹¹⁶

Tit for Tat: Re-Seizures of Land Stolen After the First Ivorian Crisis

As discussed in the Background, pro-Gbagbo forces and some Guérés forcibly displaced immigrants and Ivorians from northern and central ethnic groups during the 2002-2003 conflict. During this displacement, some Guérés illegally seized land that they had ceded or sold to these migrants years or even decades before.¹¹⁷ Many immigrants and non-native Ivorians were unable to return to their land until 2008, and some Guérés imposed conditions

¹¹¹ Human Rights Watch interview with alleged victim of land dispossession by an illegal extension from previously owned land, Petit-Guiglo, June 5, 2013.

¹¹² Human Rights Watch interviews with Burkinabé leader, Petit-Guiglo, June 5, 2013; with Burkinabé leader, Dedjéan, June 5, 2013; and with Burkinabé leader, Ladjikro, June 2, 2013.

¹¹³ Human Rights Watch interview with Burkinabé community leader, Bloléquin, June 8, 2013.

¹¹⁴ Ibid. The majority of cases of land dispossession documented by Human Rights Watch were indeed rooted in land sales by a Guéré who was not the landowner.

¹¹⁵ Kampala Convention, art. 9(2); Pinheiro Principles; ACHPR, art. 14.

¹¹⁶ Ibid.

¹¹⁷ Human Rights Watch interviews with Burkinabé immigrants, western Côte d'Ivoire, February and June 2013; and with humanitarian officials, Abidjan and western Côte d'Ivoire, February and June 2013.

on the return that deprived these populations of the ability to recuperate their entire property.¹¹⁸ This situation, a mirror image of the events following the post-election crisis, violated immigrants' and non-native Ivorians' rights under the African Charter and as set out in the Kampala Convention and the Pinheiro Principles.

When Guérés were forced to flee during the post-election crisis, some immigrants and non-native Ivorians saw it as an opportunity to reclaim their original plantations. A Burkinabé leader in Bloléquin told Human Rights Watch: "It wasn't until the post-election crisis that [all Burkinabés] were able to get their entire plantations back.... There was no longer anyone to oppose them, so they were able to recuperate the plantations they'd lost."¹¹⁹

A humanitarian official in western Côte d'Ivoire who works on land issues likewise said: "When there was a reversal in who had power, the Burkinabés recuperated their old parcels."¹²⁰ Yet the humanitarian official said that some appeared to have gone further, passing the pre-2002 limits of their land.¹²¹

Customary, administrative, and judicial authorities dealing with cases of illegal extensions should consider and nullify any illegal seizures by Guérés while immigrants and non-native Ivorians were displaced by the 2002-2003 conflict. However, where non-natives have now passed these limits—or, as in several cases described above, even extended into land owned by another Guéré, generally a neighbor—the seizures violate rights under human rights law and the rightful owner should be accorded restitution.

Above all, the tit-for-tat illegal land seizures demonstrate the inadequacy of existing mechanisms in determining rightful owners as well as people's lack of confidence in the capacity of law enforcement, local authorities, and the judicial system to investigate and resolve conflicts. Over the last 13 years, people in western Côte d'Ivoire have repeatedly resorted to vigilante justice in conflicts over land, power, and politics. The cycle will continue to repeat until the Ivorian government is able to establish trust in the rule of law and to end the impunity for those who engage in fraud to illegally sell land.

¹¹⁸ Ibid. See also Interpeace, "Dynamiques et Capacités de Gestion des Conflits à l'Ouest de la Côte d'Ivoire," January 2013, p. 33; and IDMC and NRC, "Whose land is this?" October 2009, p. 29.

¹¹⁹ Human Rights Watch interview with Burkinabé community leader, Bloléquin, June 8, 2013.

¹²⁰ Human Rights Watch interview with humanitarian official, western Côte d'Ivoire, February 12, 2013.

¹²¹ Ibid.

Occupation by Force

While the vast majority of cases of illegal occupation appear rooted in fraudulent sales or the extension of existing plots, Human Rights Watch documented four cases of more hostile land takeovers. The victims in each such case said that the occupiers made reference to having fought with pro-Ouattara forces during the crisis. All four cases transpired in villages south of Bloléquin that border the protected forest of Goin-Débé, which appeared to play a role in the occurrence and nature of these occupations.

A resident of Diboké who had fled to Liberia described his problem:

On April 15, 2012, I returned home and found that Burkinabés had taken over everything: my *campement*, my family's forest, everything. There are dozens of them, maybe up to 100. I asked them who sent them, who gave them this land, and they said that it was their "reward" for having fought during the crisis.... They said that even the cocoa I planted on two hectares [before the crisis], which is in production, is theirs now. And they have cut down hectares and hectares of my family's virgin forest, where they're planting rubber trees and cocoa.

They gave me the number of their "boss", a Burkinabé from San Pedro. I spoke with him by phone, and he said he would give me 6 million CFA (\$12,000) for all of the land. I said no, this is my land. He then came in person, about four months ago, and offered the same thing. I again said no. He told me that he thought my land was protected forest, and that his men had installed themselves as their "reward" for fighting during the crisis.... It's not protected forest, it's my land.... My land borders another *campement*, which borders the protected forest.

The guys say they're going to keep working so long as their boss tells them to.... I brought a complaint to the sub-prefect about a month ago. The sub-prefect gave me a summons to give to the Burkinabés, but when I tried to give it to them they said they weren't going.... I have to survive on foodstuffs that I plant around the village, even though my father left me a

large forest.... This really angers me, often I wonder why I came back to Côte d'Ivoire. People say the war is over, but I can't even return to my land.¹²²

Each time the man had gone to speak with the occupants, he brought several members of the Ivorian military with him for protection, believing the Burkinabés are armed. He paid the soldiers a small sum to accompany him, as well as gas for their motorbikes.¹²³ On the one hand, it showed the improving relations between the Guérés community and the military (see text box below). But it also demonstrated the deep distrust that remains between some Guérés and Burkinabés in the region.

Human Rights Watch documented several similar cases in Médibly village, with the Guérés involved in the disputes also claiming that the Burkinabés referred to their illegal land occupation as a “reward” for having fought during the crisis. The French word “*récompense*” (reward) was cited independently by each of the Guérés involved in these four cases. One Médibly victim told Human Rights Watch that the sub-prefect in Bloléquin had tried to resolve the dispute, but the Burkinabés remained on the land:

When we came out of the bush when the war was finished, I found that my land had been invaded by Burkinabés.... When I asked them why they were there, they said their “boss” had told them to install themselves there, that it was their “reward” for making war. One of them referred to himself as a “chef de guerre.” ... I said it was my land, and they said they thought it was protected forest. My *campement* is six kilometers from the village, and the protected forest [of Goin-Débé] is just beyond it.

What they took was my family's virgin forest. My father died during the crisis, and my brother is still in Liberia, so I am the eldest here.... There are so many Burkinabés [in my forest]; I couldn't tell you the number. [Dozens], at least. They are clearing out area, hectare by hectare, and planting cocoa.... I brought a complaint to the sub-prefect. He told them to leave the land, but they didn't. He even sent two members of the security

¹²² Human Rights Watch interview with Diboké resident whose land was allegedly taken by force by armed Burkinabés, Diboké, June 6, 2013.

¹²³ Ibid.

forces in 2012—who told them to leave. [The Burkinabés] left for a couple days, but by a week later, they were working in my forest again. The sub-prefect has helped us a lot, but the guys there don't want to leave.¹²⁴

Illegal occupation of land by force while people were displaced within Côte d'Ivoire or as refugees violates the landowners' rights as set out in international law.¹²⁵ Allegations that the illegal occupants fought alongside pro-Ouattara forces during the crisis makes even more urgent the obligation on the Ivorian government to remove and, where appropriate, ensure the criminal investigation of the illegal occupants. The failure to do so risks stoking further conflict by fostering the perception that those who fought with pro-Ouattara forces can act with total impunity.

Better Security Force Behavior, though Security Concerns Remain

Throughout western Côte d'Ivoire, the general human rights situation appears to be slowly improving. Even between Human Rights Watch's February and June 2013 missions, improvements were evident, often manifested in Guéré residents saying that they were more at ease and less restricted by security or human rights concerns.

Outside of extortion and racketeering, which affects all communities,¹²⁶ the Guéré population generally voiced few complaints during the time of the research about the security forces, including the military, known as the Republican Forces (or FRCI). In a region where members of the FRCI committed some of their worst crimes during the crisis, largely against the Guérés,¹²⁷ and played a role in the July 2012 destruction of an IDP camp housing mostly Guérés,¹²⁸ the reduction in serious security force abuses has helped rebuild at least some confidence with the Guéré population. Guérés throughout the region described feeling increasingly comfortable leaving their villages to work in their *campements*—which, out of fear of reprisals, many Guérés had avoided for

¹²⁴ Human Rights Watch interview with Médibly resident whose land was allegedly taken by force by Burkinabé former combatants, Médibly, February 12, 2013.

¹²⁵ Kampala Convention, art. 9(2); Pinheiro Principles; ACHPR, art. 14.

¹²⁶ See "Côte d'Ivoire: Security Force Extortion," Human Rights Watch news release, July 1, 2013, <http://www.hrw.org/news/2013/07/01/cote-d-ivoire-security-force-extortion>.

¹²⁷ See Human Rights Watch, "They Killed Them Like It Was Nothing," pp. 74-90.

¹²⁸ Amnesty International, "Côte d'Ivoire: The Victors' Law"; FIDH, "Ivory Coast: Justice to combat human rights violations and insecurity," March 28, 2013.

months even after returning from being displaced.

Residents of western Côte d'Ivoire told Human Rights Watch that soldiers are generally playing a neutral and detached role in land disputes.¹²⁹ Human Rights Watch documented only one case of alleged land dispossession that implicated a member of the FRCI.¹³⁰ Moreover, several Guérés described FRCI soldiers rebuffing Burkinabés when they tried to involve the soldiers in a village land dispute. They described the soldiers telling the parties to go to the sub-prefecture¹³¹—perhaps the ideal response, along with contacting the gendarmerie in cases of fraud. Indeed, several Guérés told Human Rights Watch that they had brought FRCI soldiers for protection when going to confront those allegedly occupying their land illegally.¹³²

However, some Guérés in western Côte d'Ivoire said they remain afraid of “armed Burkinabés,” who Guéré residents say arrived right after the crisis, as well as the *Dozos*, a group of traditional hunters who fought with pro-Ouattara forces during the crisis and were implicated in serious crimes. In about half of the villages visited by Human Rights Watch around Duékoué and along the Guiglo-Toulepleu axis, some Guéré residents said they continue to sleep in the village and travel out each day to their *campement*—often up to 10 kilometers each way—to work in the fields, returning before sundown each evening.¹³³ They attributed their reluctance to sleep in the *campement* to the burning down of their houses there during the crisis and to fears that they might be targeted for violence if they remained in the forest overnight—particularly if they were in the midst of a land conflict.

Human Rights Watch only documented two cases in 2013 in which a Guéré suffered an attack while traveling to or staying at their *campement*.¹³⁴ In some dozen other cases, Guérés reported threats from those who they said were illegally occupying their land.¹³⁵ More often, they said their fear was rooted in the continued omnipresence of arms and that progress in disarmament would greatly improve their sense of security.

¹²⁹ Human Rights Watch interviews, western Côte d'Ivoire, February and June 2013.

¹³⁰ Human Rights Watch interview with alleged victim of land dispossession by an illegal extension from previously owned land, Diahouin, February 12, 2013.

¹³¹ Human Rights Watch interviews, western Côte d'Ivoire, June 2013.

¹³² For example, Human Rights Watch interview with Diboké resident whose land was allegedly taken by force by armed Burkinabés, Diboké, June 6, 2013.

¹³³ Human Rights Watch interviews, western Côte d'Ivoire, February and June 2013.

¹³⁴ Human Rights Watch interview with victim of attack when returning from *campement*, Diahouin, February 12, 2013; and interview with victim of attack while at *campement*, Diboké, June 6, 2013.

¹³⁵ Human Rights Watch interviews, western Côte d'Ivoire, February and June 2013.

Destruction or Occupation of Sacred Sites

In most Guéré villages, there are sacred sites—specific parts of the forest, or part of a small body of water—that hold spiritual significance and are used for traditional ceremonies.¹³⁶ Guéré residents in several villages claimed that non-natives were destroying or occupying this sacred land. This potentially violates their rights to free practice of religion and could become a source of inter-communal conflict.

A Guéré resident of Dedjéan described the community's anger over the destruction of their sacred sites:

When the crisis arrived, we all fled to Liberia.... By the time we returned, all of our sacred forest had been destroyed, had been burned. They also destroyed our fetishes and other sacred things.... When we saw this, we felt anger in our hearts. But we also know that we're not many [because people are still in Liberia], and there are hundreds of new Burkinabés here since the crisis. So we have let it go for the moment.¹³⁷

Several residents of Petit-Guiglo told Human Rights Watch that a Malian had started planting cocoa in an area the community considers to be a sacred forest and that other non-natives had started clearing land to plant cocoa in an area considered by the local Guérés to be sacred waters.¹³⁸

A Guéré resident of Diahouin said that Burkinabés there have built houses in an area that surrounds the local sacred forest and were creeping toward the village cemetery, also considered a sacred site. He said, "This threatens to provoke incidents. We have summoned them to discuss it, but they ignore the calls, they don't come. In the past the village chief would have sent people to make them come, but after the crisis, we're worried that will lead to a clash."¹³⁹

¹³⁶ Human Rights Watch interviews with Guéré residents, western Côte d'Ivoire, February and June 2013.

¹³⁷ Human Rights Watch interview with resident, Dedjéan, June 5, 2013.

¹³⁸ Human Rights Watch interviews with residents, Petit-Guiglo, June 5, 2013.

¹³⁹ Human Rights Watch interview with resident, Diahouin, February 13, 2013.

Article 8 of the African Charter on Human and People's Rights (ACHPR) guarantees the "free practice of religion,"¹⁴⁰ which the African Commission has said includes animist "spiritual beliefs and ceremonial practices."¹⁴¹ In a case involving a community in Kenya, the Commission ruled that the eviction from ancestral land including "sacred grounds essential to the practice of their religion" was a violation of their article 8 rights.¹⁴² The forests and waters held sacred by Guéré communities and used for religious or ceremonial practices would arguably likewise be protected by the African Charter. Unlike in the Kenya case, the Ivorian government has not been involved in the de facto evictions related to the post-election crisis. However, the Ivorian government still has obligations to protect—both in law and in practice—sacred land from being destroyed or occupied by non-state actors. When sacred land has been seized, violating the local community's rights, the Ivorian government should take steps to return the land to that community.

Impact on Food Security, Livelihoods

Land dispossession has serious consequences on the livelihoods and food security of those who have lost their land. Problems are particularly acute in western Côte d'Ivoire, where the conflict displaced hundreds of thousands of people and involved the burning or destruction of thousands of homes. When people returned, they often had few possessions left and had been unable to profit from cash crops or stockpile food crops while displaced. Many expressed grave concern about sustained food insecurity should they continue to be unable to access land now occupied illegally.

A Guéré from Goya, just outside Boléquin, said that three hectares of his land had been illegally sold while he was a refugee in Liberia, between March and May 2011. He had only been able to file a complaint against "X," saying that the Burkinabés had refused to tell him who sold them the land. He described the difficulties caused by being unable to access his land for at least 19 months:

[The occupation of my land] has aggravated my situation from the crisis. My house, my *campement*, everything was burned and destroyed during the

¹⁴⁰ ACHPR, art. 8.

¹⁴¹ African Commission on Human and People's Rights, *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya*, Communication 276/2003, adopted by the African Union on February 4, 2010, para. 168 ("*Endorois Welfare Council v Kenya*").

¹⁴² *Ibid.*, para. 173.

war. Now my plantation is occupied too. It makes life really difficult. The food situation gets worse every day. It has plunged us into a poverty that we don't even know how to describe.¹⁴³

A 65-year-old Guéré from Douedy-Guézon, whose nephew, a youth, took advantage of his displacement to sell land the man inherited from his parents, described what happened and the consequences for his livelihood:

The youth sold my land to a Burkinabé, a new immigrant [to the village]. It was 2 ½ hectares [he sold] without permission.... A Baoulé that has long lived and worked with us on another parcel saw the Burkinabé clearing the land and asked him who gave it to him, and he responded that it was [name omitted, the man's nephew]. The Baoulé told him to stop, that [the Baoulé] had been with the family for a long time and it wasn't the youth's land, but the Burkinabé has continued ... planting cocoa.

It's this land that feeds my family—the coffee plants that my father sowed and I now harvest. Because the Burkinabé is on my land, I couldn't do the coffee harvest [which runs from December to February] this year.... Everything was destroyed during the crisis, I left for Liberia with nothing. Now I have returned and can't make any money. The problems this year are going to be severe; I don't know what my family will do.¹⁴⁴

Residents of Pohan-Badouebly said the village is suffering from a severe food shortage as a result of many of their plantations being allegedly occupied through fraudulent sales.¹⁴⁵ They said humanitarian organizations stopped food distributions in late 2012, an understandable decision given the return to relative security in western Côte d'Ivoire and the period of time removed from the crisis. But continued land dispossession may threaten some people's ability to grow adequate food on their own.

¹⁴³ Human Rights Watch interview with alleged victim of land dispossession by illegal sale, Goya, February 11, 2013.

¹⁴⁴ Human Rights Watch interview with 65-year-old alleged victim of land dispossession by illegal sale, Douedy-Guézon, June 7, 2013.

¹⁴⁵ Human Rights Watch interviews, Pohan-Badeoubly, February 11 and June 3, 2013.

For example, a 60-year-old Guéré from Guinkin said that the Burkinabés on his land through an alleged illegal sale pulled up the manioc and other food crops he had planted prior to the crisis. He said: “As long as we can’t get access to our plantations, what will we have to feed ourselves?”¹⁴⁶

A Guéré from Dedjéan, who alleged that someone from neighboring Tinhou profited from his displacement to illegally sell his land to Burkinabés, now planting cocoa, described similar concerns:

Even to do small rice fields, we don’t know where to go. I grew foodstuffs before in my *campement*, but that’s been taken over. It’s difficult now to even find food. I’m growing what little rice I can right next to the village. And without money from [cash crops], it’s going to be difficult to pay for my children’s education, to pay for medical care.¹⁴⁷

Article 11 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) provides for the rights to food and an adequate standard of living.¹⁴⁸ As a state party, Côte d’Ivoire’s general obligation is to progressively realize these rights; however, at all times state parties have a minimum obligation to not negatively impact people’s access to food and a livelihood.¹⁴⁹ The Ivorian government’s failure to take adequate measures to protect people from land dispossession or to resolve disputes in a timely fashion may make it in breach of this obligation.

Cause of Cross-Border Attacks, Rising Tensions

Tension over land dispossession is mounting in western Côte d’Ivoire, with residents often referring to it as a “bomb” that may explode if the government does not quickly take action to ensure restitution to rightful owners. Some people who have lost land direct their anger toward the fraudulent sellers, who tend to be from the same ethnic

¹⁴⁶ Human Rights Watch interview with 60-year-old alleged victim of land dispossession by illegal sale, Guinkin, February 7, 2013.

¹⁴⁷ Human Rights Watch interview with 47-year-old alleged victim of land dispossession by illegal sale, Dedjéan, June 5, 2013.

¹⁴⁸ International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, acceded to by Côte d’Ivoire on March 26, 1992.

¹⁴⁹ UN Committee on Economic, Social and Cultural Rights, General Comment No. 3, The nature of States parties’ obligations (Fifth session, 1990), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6, p. 14 (2003).

group; other people direct their anger toward the occupants, generally recent Burkinabé migrants. Two deadly cross-border attacks from Liberia in March 2013, as well as several recent inter-communal clashes within western Côte d'Ivoire, appear directly related to land conflict and signal the possible consequences of continued inaction.

A resident of Pohan-Badoubly who has struggled for almost eighteen months to recover land he claims was sold illegally during the crisis described the rising tension:

What's happening angers us a lot, as the land is our inheritance. If the authorities don't act quickly, things will get dangerous. For right now, we're avoiding making war against the [illegal sellers and buyers]. But if we lose our inheritance, what are we going to eat, how will we stay in the village? Things could quickly fall apart, it could become another war.... If we continue to see the illegal occupation of land in our region, it's going to become another Duékoué.¹⁵⁰

At least three other people in villages around Bloléquin similarly expressed a fear that the region could become “the next Duékoué”¹⁵¹—the region host to some of Côte d'Ivoire's most horrific violence and human rights abuses since the 2002-2003 civil war, with tension there between Guéré and non-native populations driven in part by land conflict.¹⁵² Dozens of other Guérés alleging land dispossession used the common Ivorian phrase, “*Trop, c'est trop*,” meaning “enough is enough,” before saying that violence was inevitable if land issues were not resolved.

Two examples illuminate these fears. On March 13 and 23, 2013, attackers crossed from Liberia to the border villages of Ziléby and Petit-Guiglo, respectively. They were led by Oulaï Tako,¹⁵³ a well-known pro-Gbagbo militiaman implicated in serious crimes in western Côte d'Ivoire during both armed conflicts.¹⁵⁴ Tako's home village is Oulaïtäibly, which borders Ziléby, the site of the March 13 attack. In June 2012, Human Rights Watch

¹⁵⁰ Human Rights Watch interview with alleged victim of land dispossession by illegal sale, Pohan-Badoubly, June 3, 2013.

¹⁵¹ Human Rights Watch interviews, villages in Bloléquin department, June 2013.

¹⁵² See Human Rights Watch, “*They Killed Them Like It Was Nothing*.”

¹⁵³ According to residents of Ziléby, his actual name is Oulaï Anderson Kohou, but he is widely known and referred to as Oulaï Tako.

¹⁵⁴ Human Rights Watch interviews with victims and witnesses to crimes committed by Tako and his men, villages in Bloléquin department, June 2013.

documented how Tako was among the militant pro-Gbagbo fighters in Liberia involved in recruiting and planning for future cross-border attacks.¹⁵⁵ But while there may have been political motives, the March attacks appear primarily provoked by land issues linked to the crisis. Radio France Internationale (RFI) reported at the time:

The investigation points toward a settling of scores linked to land conflict. According to local authorities, natives, complaining that their land had been sold by their neighbors while they were displaced by the crisis, have threatened these villagers with reprisals.... During the attack, the assailants burned houses of [Guéré landowners] and executed four Burkinabés. The bodies of these Burkinabés ... were mutilated.¹⁵⁶



A burnt house in Ziléby village, which was attacked on March 13, 2013 by people who crossed over from Liberia. The attackers appeared to target people who were seen as associated with allegedly illegal land sales that stripped refugees of their land. April 26, 2013. © 2013 Tamasin Ford

¹⁵⁵ "Liberia: Ivorian Government Foes Wage, Plot Attacks," Human Rights Watch news release, June 6, 2012, <http://www.hrw.org/news/2012/06/06/liberia-ivorian-government-foes-wage-plot-attacks>.

¹⁵⁶ "Côte d'Ivoire: sept morts dans des affrontements près de la frontière avec le Liberia," *Radio France Internationale*, March 14, 2013, <http://www.rfi.fr/afrique/20130314-cote-ivoire-sept-morts-affrontements-pres-frontiere-liberia> (accessed August 28, 2013).

Human Rights Watch’s research supports the fact that land was the primary factor driving these attacks. Human Rights Watch was shown a Zilébly land sale document from 2012. According to someone who closely investigated the attack, several of the Burkinabés whose names appear as buyers on that document were among those killed in the Zilébly attack.

Moreover, the attackers burned the houses of the Guéré sellers and co-signers on the document. The person with intimate knowledge said the attack had “without a doubt been motivated by land,” with the attackers “targeting” specific people, including village authorities, who they blamed for illegal occupation.¹⁵⁷

Residents of Petit-Guiglo told Human Rights Watch that the March 23 attack likewise targeted specific immigrant populations and Guérés for either killing or the burning of houses. Attackers killed two Burkinabés, one found with his throat slit and the other shot in the head at point-blank range¹⁵⁸—indicating likely executions. Two Malians were also killed, and the attackers burned houses in the area inhabited by immigrants.¹⁵⁹ In responding to the attack, the FRCI killed several assailants, including Oulaï Tako.¹⁶⁰

Burkinabé residents of villages near where the attacks took place likewise believed they were motivated by land issues. A Burkinabé leader in one village said, “The attacks are to chase us away from the land. And for us, all the Guérés are the same. Those who are attacking are working closely with the *tuteurs* who are here.”¹⁶¹ The Burkinabé leader’s perception also shows the deep distrust between the two communities, who each often lump the other together—generalizing blame or anger onto the entire group. This may have been a cause of reprisals against the Guérés in Diboké after the March 13 attack on Zilébly; at least five Guérés were disappeared.¹⁶²

¹⁵⁷ Human Rights Watch interview, location withheld, June 2013.

¹⁵⁸ Human Rights Watch interviews with Burkinabé residents who had seen the bodies, Petit-Guiglo, June 5, 2013.

¹⁵⁹ Human Rights Watch interviews with Guéré and Burkinabé residents, Petit-Guiglo, June 5, 2013. See also “Bloléquin: Le village de Petit-Guiglo attaqué, un quartier incendié,” Agence Ivoirienne de Presse, March 23, 2013, <http://news.abidjan.net/h/455024.html> (accessed August 28, 2013).

¹⁶⁰ Human Rights Watch interviews with people who had seen the bodies, Petit-Guiglo and Dedjéan, June 5, 2013. See also “Côte d’Ivoire: après l’attaque de Petit-Guiglo, les habitants demandent la protection de l’armée,” *Radio France Internationale*, March 25, 2013, <http://www.rfi.fr/afrique/20130325-cote-ivoire-apres-attaque-petit-guiglo-habitants-demandent-protection-armee> (accessed August 28, 2013).

¹⁶¹ Human Rights Watch interview with Burkinabé leader, village near location of attacks, June 2013.

¹⁶² Human Rights Watch interviews with residents and a witness, Diboké, June 2013.



Houses destroyed in the village of Petit-Guiglo, which came under attack on March 23, 2013. As in Zilébly, the attack appeared to be motivated at least in part by land dispossession linked to the post-election crisis. April 26, 2013. © 2013 Tamasin Ford

In addition to the cross-border attacks from Liberia, Human Rights Watch documented several inter-communal clashes in western Côte d'Ivoire related to land disputes involving formerly displaced persons. In early February 2013, Guéré residents from the neighboring villages of Zomplou and Babli-Vaya skirmished, resulting in several minor injuries and at least one serious injury, when a youth from Babli-Vaya struck a youth from Zomplou with a piece of wood.¹⁶³ Residents of Zomplou allege that youth from Babli-Vaya illegally sold hundreds of hectares of their virgin forest while they were displaced by the crisis. A Zomplou resident who was among those demanding restitution said that more clashes were likely if local authorities do not quickly resolve the dispute:

The sub-prefect demanded that they stop work [in the forest], but they keep going. This is what led us to fight, to pick up machetes.... We have nothing

¹⁶³ Human Rights Watch interviews with residents, Zomplou, February 11, 2013.

against the Burkinabés, they don't know what they're doing; it's the people who sent them [into our forest] that we have a fight with....

We live off of the land. We have never sold our land in this village, it's not for us to sell. To sell our land would be to sell our tradition.... Even if you've done nothing [with your forest], your child can tomorrow. That's how future generations will eat.... Selling forests didn't exist here before the crisis, we don't understand how and why this happened while [we were displaced until late June 2011]. It's a syndrome.... Even if we get our land back now, hectare after hectare has been cleared away. They sold our land by the kilometer.... Psychologically, we are already dead because we've been stripped of our land. We are on the verge of another clash. We've truly been patient waiting for the government [to resolve this], but we won't wait forever.¹⁶⁴

Cause of Continued Displacement

Illegal land occupation in western Côte d'Ivoire is also a key reason why some Ivorian refugees remain in Liberia. Principle 10 of the Pinheiro Principles calls on states to respect refugees' right "to return voluntarily to their former homes, lands or places of habitual residence ... [in] dignity."¹⁶⁵ Concerted action by Ivorian authorities to ensure that refugees and displaced persons have access to their land would go a long way toward building confidence in additional refugee returns.

According to UNHCR, there were more than 58,000 registered Ivorian refugees in Liberia as of August 2, 2013.¹⁶⁶ This includes more than 27,000 in Grand Gedeh County¹⁶⁷—where the overwhelming majority of refugees are Guérés from the region of western Côte d'Ivoire where land conflict predominates. Based on Human Rights Watch's observations and interviews with village leaders about remaining refugee populations, villages along the axis from Bloléquin to Tinhou and down to the Liberian border have particularly low rates of return. These villages have some of the most severe problems of land dispossession.

¹⁶⁴ Human Rights Watch interview, Zomplou, February 11, 2013.

¹⁶⁵ Pinheiro Principles, principle 10.

¹⁶⁶ UNHCR, "Refugees in Liberia: Information Sharing Portal," <http://data.unhcr.org/liberia/regional.php> (accessed August 29, 2013).

¹⁶⁷ Ibid.



Children walk in an Ivorian refugee camp, commonly known as PTP camp, in Grand Gedeh County, eastern Liberia, on May 22, 2012. More than 58,000 Ivorian refugees remain in Liberia as of August 2013, including more than 11,000 at PTP camp. © 2012 REUTERS/Thierry Gouegnon

Most of the several dozen Ivorian refugees interviewed in Liberia in December 2012 cited land dispossession as among the main reasons why they feel unable to return to Côte d'Ivoire. Other reasons included what they perceived to be a lack of security for pro-Gbagbo supporters and, relatedly, the lack of progress on disarmament. A Liberian refugee official in Zwedru similarly told Human Rights Watch that refugees cited two main reasons for not returning to Côte d'Ivoire: first, security; and second, because of the alleged occupation of their land.¹⁶⁸

During field work in western Côte d'Ivoire in February and June 2013, Human Rights Watch documented few targeted abuses by security forces against perceived Gbagbo supporters. Many residents, including Guérés, told Human Rights Watch that the security situation had improved significantly compared to 12 months ago. However, the

¹⁶⁸ Human Rights Watch interview with Liberian refugee official, Zwedru, Liberia, December 4, 2012. In December 2012, the Norwegian Refugee Council (NRC), which manages several Ivorian refugee camps in Liberia, reported that "30% of the refugees interviewed in Liberia stated that one reason that they were not returning to their communities of origin was because their house or their land was occupied and 45% stated that general security concerns prevented them from returning." NRC, "Land Conflict and Food Security in the Liberian-Ivorian Border Region," http://www.nrc.no/arch/_img/9672311.pdf (accessed September 2, 2013), p. 19.

complaints about illegal occupation of land were supported, even if, as described above, illegal occupation occurs predominantly as a result of fraudulent sales by other Guérés.

A 52 year-old man from Diboké said he had tried to return to Côte d'Ivoire in mid-2012, after being a refugee in Liberia since late March 2011. He described why he fled back to Liberia after a week:

I went out to my land and saw that it had been completely taken over by Burkinabés. I told them it was my family's land, but they said it had been sold to them by [name omitted]. I was alone. The rest of my family was still in Liberia, and I decided [the Burkinabés] could do something bad to me.... In my life, I didn't have the chance to go to school, I don't have anything but my land. So long as it's occupied, I have nothing to return to, I can't work. So I came back to Liberia.... Politics aren't my concern; he who is the president is the president. What we're asking of the President is that these people leave the land that does not belong to them.¹⁶⁹

Another refugee said similarly:

I went back to my village [Tuambly] in March 2012 and saw that my land was occupied. [The Burkinabés] told me that youth [Guérés] from Tinhou, which has forest that borders mine, sold them my land.... The occupation of my forest is my biggest problem. I spent three weeks in the village rehabilitating my house, but there weren't many natives around and [I didn't think] it was a good idea to go alone to the *campement* [to try to resolve the dispute].... I don't feel at ease when I'm just sitting around, so I came back to Liberia.... What we need is the liberation of our forests and disarmament. If that's done, we can go back without a problem.¹⁷⁰

Many people who have returned to Côte d'Ivoire and allege that their land is illegally occupied also said that the remaining refugees are closely watching the evolution of land conflicts. A resident of Dedjéan, near the Liberian border, said simply: "If the land

¹⁶⁹ Human Rights Watch interview with Ivorian refugee from Diboké, Zwedru, Liberia, December 5, 2012.

¹⁷⁰ Human Rights Watch interview with Ivorian refugee from Tuambly, Zwedru, Liberia, December 5, 2012.

problems are resolved, you'll see everyone return from Liberia. But when you see that your land has been taken over, and there is nothing to eat, some people prefer to stay, where there is at least some food at the [refugee] camps.”¹⁷¹

Many residents and community leaders in western Côte d'Ivoire said that while the problem of land conflict was already serious, it would become even more so when those who were still in Liberia returned. The chief of a village between Guiglo and Boléquin said in February that about 40 percent of his Guéré population remained in Liberia: “There are those who are in Liberia who when they return, there won't even be a single hectare of their land left to cultivate. They'll find their forest completely occupied, and they won't be able to eat. That's how violence starts.”¹⁷² After Human Rights Watch interviewed six Guérés with claims of land dispossession in a village south of Boléquin, the village chief said similarly: “We're only scratching the surface with what you heard today. When the refugees come back tomorrow, there are going to be lots of problems. [Much of] their land is gone. These last [cross-border] attacks are all about land. This has to be fixed.”¹⁷³

Among the Ivorian refugee population in Liberia, there remain hardcore pro-Gbagbo militants who refuse to accept the legitimacy of the Ouattara government and who are interested in recruiting and waging attacks to destabilize Côte d'Ivoire.¹⁷⁴ But there are also tens of thousands of people who are simply too afraid to return or see little to return to so long as their land is occupied. Many refugees and recent returnees interviewed by Human Rights Watch suggested that addressing claims of land restitution would pave the way for a wave of returns, marginalizing the hardliners in Liberia rather than offering them potential recruits as people grow more and more frustrated.

A local government official in western Côte d'Ivoire said the government's highest priority should be resolving land disputes to encourage the maximum number of refugee returns. He said: “If we do that and see a greater number of returns, things will return to normal here. If we don't, if huge numbers remain in Liberia, there will be more attacks.”¹⁷⁵

¹⁷¹ Human Rights Watch interview with alleged victim of land dispossession by illegal sale, Dédjé, June 7, 2013.

¹⁷² Human Rights Watch interview with village chief, village in Boléquin department, February 9, 2013.

¹⁷³ Human Rights Watch interview with village chief, village in Boléquin department, June 6, 2013.

¹⁷⁴ Human Rights Watch interviews with Ivorian refugee population and with representatives from humanitarian organizations, Grand Gedeh, Liberia, December 2012. See also “Liberia: Ivorian Government Foes Wage, Plot Attacks,” Human Rights Watch news release, June 6, 2012.

¹⁷⁵ Human Rights Watch interview with local government official, western Côte d'Ivoire, June 2013.

Displacement but Little Land Dispossession: Tonkpi Region

Human Rights Watch visited eight villages in Tonkpi region, primarily between Danané and Zouan-Hounien along the Liberian border. Tonkpi borders the regions of Guémon and Cavally, where massive land dispossession occurred following the crisis. Zouan-Hounien, for example, is about 100 miles from Bloléquin, the town around which there exists some of the most longstanding and acute land conflict.

None of those interviewed in the visited villages in Tonkpi reported land conflicts related to the post-election crisis. This region marked the start of the Republican Forces' offensive toward Abidjan. While the fighting and human rights abuses were much less severe than around Duékoué and between Toulepleu and Guiglo, tens of thousands of people were displaced from Tonkpi between December 2010 and mid-2011. Yet, as one village chief said, "The crisis didn't have any consequences on land here."¹⁷⁶

Residents and community leaders cited a number of reasons for the lack of land conflicts linked to the crisis. The dominant ethnic group in Tonkpi is the Yacouba, whose primary political party, the UPDCI, formed part of the Ouattara's coalition. The *Forces Nouvelles* fighters who comprised the majority of the Republican Forces during the crisis had also controlled most of the region since 2002. The Republican Forces committed fewer targeted abuses against the Yacouba population as compared to the Guérés, although they still pillaged many Yacouba villages. Residents of several villages said they were therefore not displaced for long, or moved back and forth from Liberia with ease.¹⁷⁷ In contrast, after the Republican Forces swept through, Guéré villages were often completely emptied of Guérés.

Residents of visited Tonkpi villages also said that their communities have rarely sold or ceded land historically, unlike in other parts of western Côte d'Ivoire.¹⁷⁸ Perhaps related, in villages visited by Human Rights Watch, the immigrant population in the regions of Guémon and Cavally appears to greatly outnumber the immigrant population in Tonkpi

¹⁷⁶ Human Rights Watch interview with village chief, village near Zouan-Hounien, June 9, 2013.

¹⁷⁷ Human Rights Watch interviews with residents of villages in Tonkpi, June 9-11, 2013.

¹⁷⁸ Human Rights Watch interviews with residents of villages in Tonkpi, June 9-11, 2013.

region. But even in some Tonkpi villages where there were substantial non-native populations, there were no reports of illegal land occupation linked to the crisis.

Several Yacouba village elders in Tonkpi believed that the nature of the inter-communal relationships was a key difference in explaining the greater troubles in Guémon and Cavally regions. A village elder in Zéalé said: “Here, the non-natives have been with us for a long time. They live in our village, we intermarry, their children are the village’s children.... It’s not like [around] Guiglo, where they do their own *campement* [outside the village]. Here they live with us.”¹⁷⁹

Indeed, a striking feature of many villages in Cavally and Guémon is the complete separation of communities. There are almost always distinct areas where the Guérés live and where non-natives live. Immigrant *campements* are sometimes adjacent to the village, but often are several kilometers or more into the bush from the Guéré village. The 2008 Boléquin Accord called for all populations to move into the village,¹⁸⁰ but the separation still predominates in many villages, fueling inter-communal suspicion and tension.

¹⁷⁹ Human Rights Watch interview with village elder, Zéalé, June 10, 2013.

¹⁸⁰ IDMC and NRC, “Whose land is this?” October 2009, p. 29.

III. State Action Taken and Needed

There are never any sanctions, the true landowner suffers and pays and pays, while the illegal seller acts with ill-will and faces no consequences. That's why people keep doing it. If there were sanctions, this problem would be over.

—Original landowner, victim of an illegal land sale, February 2013¹⁸¹

While many local government officials and humanitarian actors are trying to find solutions to the land conflicts that plague western Côte d'Ivoire, they find themselves without effective support from the national government.

At the village and sub-prefectural levels, there are formal mechanisms to resolve land conflicts.¹⁸² Generally, a person with a land complaint brings the issue first to the village chief, who in many cases oversees a village committee resolving land disputes.¹⁸³ If the village chief is unable to resolve the dispute, the complaint may then go to the canton chief, a customary leader who oversees an area comprising several villages.¹⁸⁴ If the dispute can still not be resolved, it goes to the sub-prefect, many of whom oversee administrative committees resolving land disputes. The hierarchy is not always followed, as some people go directly to the sub-prefect.¹⁸⁵ A plaintiff could always bring a complaint

¹⁸¹ Human Rights Watch interview with Guéré woman, victim of an illegal sale prior to the crisis, Guiglo, February 7, 2013.

¹⁸² Decrees subsequent to the 1998 land law created committees for rural land management (*comités de gestion foncière rurale*, CGFR), establishing both the CGFR overseen by the sub-prefect and a committee overseen at the village level (*comités villageois de gestion foncière rurale*, CVGFR). See Décret n°99-593 du 13 octobre 1999, Organisation et attributions des comités de gestion foncière-rurale (C.G.F.R), http://www.droit-afrique.com/images/textes/Cote_Ivoire/RCI%20-%20Domaine%20foncier%20rural%20-%20Decret%20application.pdf (accessed September 3, 2013), pp. 1-2; and Décret n°99-594 du 13 octobre 1999, Modalités d'application au domaine foncier rural coutumier, http://www.droit-afrique.com/images/textes/Cote_Ivoire/RCI%20-%20Domaine%20foncier%20rural%20-%20Decret%20application.pdf (accessed September 3, 2013), pp. 3-6. These land committees are tasked primarily with managing the process by which people transform their customary rights into a land certificate. At least in western Côte d'Ivoire, some committees are also involved in resolving land conflicts related to the crisis. However, the committees operate in different ways and even vary in terms of which groups are represented. Some committees' composition does not conform to what is outlined by the 1999 decrees cited above. While the land committees' actions in managing the process of land certificates appears fairly standardized under the 1999 decrees, their involvement in resolving claims of land dispossession—including those linked to the post-election crisis—appears more ad hoc, without consistent rules and procedures.

¹⁸³ If a dispute involves two Guérés from the same family, dispute resolution often starts with the head of family. Since that does not involve any customary or administrative authority linked to the state, Human Rights Watch will not focus on that mechanism in this report.

¹⁸⁴ Canton chiefs typically get involved when a case involves parties from two villages within the canton, for example when a person from one village claims that a person from a neighboring village illegally sold his land. Unlike at the village and sub-prefectural levels, their role is not specifically recognized under Ivorian law, but exists according to custom.

¹⁸⁵ In a 2012 report from the Norwegian Refugee Council, which has worked extensively to help communities in western Côte d'Ivoire resolve land disputes, researchers found that “most community members did not agree about a clear hierarchy or

to the courts, rather than to the customary or administrative mechanisms, though of the 117 victims interviewed by Human Rights Watch, only one had gone to the justice system.

To restore land to people wrongfully dispossessed while displaced, the Pinheiro Principles call on states to “establish and support equitable, timely, independent, transparent and non-discriminatory procedures, institutions and mechanisms to assess and enforce housing, land and property restitution claims.”¹⁸⁶ Moreover, states are to provide “adequate financial, human and other resources” to institutions, agencies, and mechanisms involved in addressing cases of land dispossession in order “to facilitate restitution in a just and timely manner.”¹⁸⁷

In its letter, the Ivorian government said it “shared with [Human Rights Watch] the concern for ensuring restitution for those who were unjustly deprived of their land as a result of their displacement or any other cause.”¹⁸⁸ It further noted the government’s “commitment ... to resolve land problems by the end of 2013 was manifest by the vote of the National Assembly” to extend by 10 years the period for people to formalize their customary claims to land ownership.¹⁸⁹ The government also described its efforts to redeploy law enforcement and judicial officials around the country, highlighting in particular the recent opening of a new tribunal in Guiglo, “not far from Bloléquin, where [Human Rights Watch] notes that there seem to be a number of cases of illegal occupation of land.”¹⁹⁰

Human Rights Watch welcomes the government’s actions to date as well as its shared concern for ensuring land restitution. However, the government should see these actions as first steps, far from resolving the land problems that plague western Côte d’Ivoire. The 1998 law on rural land reform previously gave people 10 years to formalize their customary claims to land rights; due to the lack of implementation and follow through under previous Ivorian governments, land conflicts proliferated, rather than decreased, during that period. Land

appeal system linking dispute resolution mechanisms, creating confusion about who actually had the power to resolve land disputes and where disputants should first bring the case to attempt to resolve it. This creates opportunities for manipulation and forum shopping, where individuals take their disputes to multiple authorities until they receive a result to their dispute in their favor.” NRC, “Land Conflict and Food Security in the Liberian-Ivoirian Border Region,” December 2012, p. 17.

¹⁸⁶ Pinheiro Principles, principle 12(1).

¹⁸⁷ Ibid., principle 12(1,3).

¹⁸⁸ Letter from Gnénéma Mamadou Coulibaly, minister of justice, human rights, and public liberties, to Human Rights Watch, September 13, 2013, p. 7.

¹⁸⁹ Ibid.

¹⁹⁰ Ibid.

conflicts will not disappear simply with the new extension, and it would be imprudent for the government to think that its reforms will “resolve” the problems before the end of 2013.

There has been widespread land dispossession in western Côte d’Ivoire, with devastating consequences on people’s lives. If the government is serious about ensuring land restitution, it must take swift, sustained, and comprehensive action at the local level. People involved in customary and administrative efforts to address land restitution claims told Human Rights Watch that they had received no funding, staffing, or other resources from the national government to support their work. Well-meaning local officials are constrained by this lack of support, impeding their ability to resolve land disputes and severely delaying restitution even when local officials pass judgment on a case. Moreover, the government has yet to begin demarcating village boundaries, which has facilitated people’s ability to fraudulently sell land owned by someone from a neighboring village. Finally, authorities have refused to investigate or apply sanctions even in cases where a seller has engaged in fraud; without any consequences, the practice flourishes.

Resolution at the Village Level

Most people with complaints of land dispossession first bring their case to the village chief, a customary leader and administrative authority recognized by Ivorian law.¹⁹¹ In making decisions on land conflicts, village chiefs act in consultation with other village elders and the village land chief¹⁹²—an elder with an often encyclopedic knowledge of families’ plots. In some villages, representatives from non-native communities and from the women in the village are included on the land committee; in other villages, these groups are marginalized. Particularly for the sensitive cases related to the post-election crisis, the composition of the village authorities resolving land disputes appears to play a key role in their ability to find lasting solutions.

Many village chiefs described being confronted with at least scores of land conflicts related to the crisis. Most work hard to resolve these disputes, though described difficulties on account of the refusal of some illegal sellers and non-native buyers to appear when summoned.

¹⁹¹ See Ordonnance n° 2011-262 du 28 septembre 2011 portant orientation de l’organisation générale de l’Administration Territoriale de l’Etat, <http://www.dgddl.interieur.gouv.ci/?page=cadre&cat=ordonnances> (accessed September 3, 2013).

¹⁹² In some villages, the village chief and the land chief are the same person, but this was rare in the Guéré villages visited by Human Rights Watch.

Village chiefs generally resolve issues through compromise, which can be difficult to find in some cases associated with the post-election crisis, as tensions run high.

Finally, some village chiefs in western Côte d'Ivoire are part of the problem: Tied up in politics or even involved in illegal land sales themselves, they are unable to play the role of a neutral arbiter. There also do not appear to be clear procedures—for example, in how the village land committees take and consider evidence before making their decision—which increases the potential for unjust results when customary authorities are not neutral.



A community meeting in the village of Diouya-Dokin, organized by the Norwegian Refugee Council, to try to find solutions regarding disputed parcels of land. Village authorities play a crucial role in resolving land conflicts in western Côte d'Ivoire. April 25, 2013. © 2013 Tamasin Ford

Inclusive vs. Divisive Land Committees

There are two main archetypes for the village committees managing land disputes in western Côte d'Ivoire: those that give representation and decision-making influence to all affected communities, and those that include only the patriarchy of the native population. Based on Human Rights Watch's observations and interviews, including with humanitarian

officials in western Côte d'Ivoire, inclusive land committees appear far better equipped to adjudicate claims of land dispossession.

A sub-prefect told Human Rights Watch that, even before the crisis, there was a “crisis of confidence” in village chiefs, in part because people no longer saw them as impartial.¹⁹³ The sub-prefect said this was particularly true among non-native populations, causing discord when land disputes involved natives and non-natives.¹⁹⁴ Burkinabés in several villages said that they watched as village chiefs became increasingly politicized between 2002 and 2010, consistently ruling in ways that disfavored non-natives and supporting local pro-Gbagbo militia groups that terrorized immigrant populations.¹⁹⁵

Some villages have attempted to address intra- and inter-communal distrust by including representatives from immigrant, migrant Ivorian, women, and youth populations on their village land committees. In several such villages, there appeared to be fewer land conflicts related to displacement and better ability to resolve such conflicts at the village level. The chief of a village between Duékoué and Bagohouo explained why his community had resolved most land disputes linked to the crisis, while other villages struggled:

We were afraid when we returned after Nahibly and found non-natives occupying our land. We didn't have access to our forests. So we created a committee that was composed of natives, non-native Ivorians, and immigrants. They're also involved in the village chieftaincy. And we started addressing the issues, and the non-natives helped us get our land back.... Each village deals with these problems differently. There are some villages that push aside the non-natives. Then the non-natives get angry, they don't accept the decision. It's not like that here. Everything we decide, we decide together. It's when groups are pushed to the side that problems start.¹⁹⁶

An elder from a village near Bloléquin that likewise had fewer land problems associated with the post-election crisis said:

¹⁹³ Human Rights Watch interview with sub-prefect, western Côte d'Ivoire, February 2013.

¹⁹⁴ Ibid.

¹⁹⁵ Human Rights Watch interviews with Burkinabé residents and community leaders, western Côte d'Ivoire, February and June 2013.

¹⁹⁶ Human Rights Watch interview with village chief, Bagohouo department, February 6, 2013.

In our village committee, we have three Guérés, three Burkinabés, one Baoulé, and one Yacouba. In other villages around here, it's only Guérés. How can we know what [non-natives] are thinking, what they need, without including them? ... It's not easy for a Guéré to tell a Burkinabé, "You're wrong." But if his brother on the committee does so, it goes smoother. It's the same for the Guérés, we can tell them they're wrong.... People are more content [with decisions] this way.¹⁹⁷

Yet in a number of villages where Human Rights Watch asked about the composition of village land committees, the response was some form of, "Why would immigrants be included, we are the guardians of the land."¹⁹⁸ The inflexibility negatively impacts both communities. Non-natives are less likely to appear when summoned and to trust or respect decisions. And Guérés with legitimate claims of land restitution therefore often cannot have their complaint properly heard or enforced.

Some villages likewise refuse to meaningfully include women on land committees, despite their regular involvement in working rural land. Women in western Côte d'Ivoire face particular vulnerabilities in terms of their access to land, magnifying the importance of their participation in resolving land disputes and in debating reforms to laws and decrees on rural land tenure. In 2012, the Norwegian Refugee Council reported finding that:

[W]omen's status in the family, and particularly her marital status, made her vulnerable to land disputes and decreased her land tenure security during the post-election crisis. Our research confirms that women are much less likely than men to have documents for their land on both sides of the [Liberian-Ivorian] border. We find that unmarried women, such as widows, report more land disputes than married women. Widows may be especially vulnerable when it comes to land disputes and, especially in Côte d'Ivoire, they were more likely to state that they feared losing their land in the future during interviews.¹⁹⁹

¹⁹⁷ Human Rights Watch interview with village elder, Bloléquin department, February 9, 2013.

¹⁹⁸ Human Rights Watch interviews with village chiefs, western Côte d'Ivoire, February and June 2013.

¹⁹⁹ NRC, "Land Conflict and Food Security in the Liberian-Ivorian Border Region," December 2012, p. 27.



A woman works on a plantation of rubber seedlings near San Pedro. Despite their regular involvement in working the land in Côte d'Ivoire, many women face discrimination in formalizing their claims to land ownership. March 9, 2012. © 2012 REUTERS/Thierry Gouegnon

Lack of Enforcement, Difficulty Finding Consensus

Many customary authorities involved in resolving land disputes linked to the crisis described difficulties in getting illegal sellers or occupants to accept their authority. The nature of the disputes is also such that the traditional customary solution—a “win-win” compromise—is more difficult to find.

Village chiefs and people with claims of dispossession bemoaned opposing parties’ refusal to appear when customary authorities summoned them to hearings. At times, it is an alleged illegal seller—another Guéré—who refuses to appear; at other times, it is the alleged illegal occupant, a non-native. Some customary authorities told Human Rights Watch they had issued five or even ten summonses, with the party never appearing.²⁰⁰ A summons issued by a village chief does not have the legal power to compel attendance, and village chiefs said that they cannot legally appeal to the

²⁰⁰ Human Rights Watch interviews with village chiefs and elders, western Côte d'Ivoire, February and June 2013.

gendarmerie to enforce their summons.²⁰¹ Residents of western Côte d'Ivoire said that, prior to the post-election crisis, people from native and non-native communities generally honored a summons, based on an accepted social contract for resolving disputes and in recognition of village chiefs' authority. In the rare cases when a non-native refused to appear prior to the crisis, customary authorities reported at times sending youth natives to bring the person before them; this is a poor and never used option now, according to village chiefs and residents, given remaining inter-communal tensions and the proliferation of arms.²⁰²

Village chiefs are thus limited to social pressure in enforcing a summons; while such pressure works in many cases, key parties to other cases of land disputes linked to the crisis routinely defy these summonses. Moreover, village chiefs interviewed by Human Rights Watch appeared reluctant to issue a ruling until all relevant parties appeared and provided their evidence. The result is that a bad-faith party can effectively stall endlessly, continuing to work on—or, in the case of an illegal seller, order non-natives to continue to work on—a contested parcel of land while refusing to respond to a summons. This deprives a person claiming restitution their right under the Pinheiro Principles to a timely resolution.

Land disputes have long existed in Côte d'Ivoire, and the customary grievance mechanism has historically proven effective in addressing many of them. As noted in a 2009 report on land conflict in western Côte d'Ivoire, "The major characteristic of the customary ruling is to seek a compromise between the parties in order that each party derives an advantage from the ruling."²⁰³ Before the politico-military crises, conflicts often meant disputes over the outer limits of people's boundaries or over the use of *bas-fonds* ("lowlands"), land generally used for planting rice or other food crops instead of cash crops.²⁰⁴ In areas where people have illegally sold or seized dozens of hectares of virgin forest while landowners were displaced by the crisis, the magnitude and charged nature of the land problems surpasses the type of cases customary authorities dealt with previously.

²⁰¹ Ibid.

²⁰² For example, Human Rights Watch interviews with residents of Diahouin, February 12, 2013.

²⁰³ IDMC and NRC, "Whose land is this?" October 2009, p. 24.

²⁰⁴ Human Rights Watch interviews with village chiefs, western Côte d'Ivoire, February and June 2013.

Many Guérés are adamant that non-natives must leave all land not acquired from the rightful landowner. Non-natives, for their part, often purchased hectares for several hundred dollars each and have made significant investments when planting cash crops; they will not easily abandon such investment. When both parties are intractable, it may not be realistic to place the burden on customary authorities who have no enforcement power and are guided by consensus. These cases likely require deeper examination, including into whether sellers and buyers acted in good or bad faith.

These problems do not affect customary authorities alone; local government officials also have serious problems in finding sustainable solutions and enforcing decisions related to land dispossession linked to the crisis (see below). However, they appear particularly acute—and, in many ways, unresolvable—at the customary level, as those authorities have no enforcement power beyond consensus. Customary authorities may want to consider relinquishing a case when one or both parties refuse to engage sincerely in the resolution process, otherwise they risk depriving the complainant of effective restitution—as the cutting of forests and planting of crops generally continues. There is an urgency to resolve these claims, as occupants are permanently changing the land in the meantime. The Pinheiro Principles are clear: the illegal deprivation of property during displacement demands restitution, ideally in the ability to return to the land itself.²⁰⁵

Politics, Corruption, and Competing Claims to Authority

Some customary leaders' authority and impartiality is widely respected among both native and non-native populations, facilitating their ability to resolve land disputes. In other villages, however, politics, corruption, and competing claims to authority undermine people's trust in customary leaders.

Several Guéré village chiefs were killed during the conflict; others, often fearing reprisals, remained displaced for extended periods. In several villages, this helped lead to a contest over authority that still existed during the research for this report. Human Rights Watch visited two villages where residents indicated that there were two Guérés claiming to be the village chief, each supported by a faction. A local human rights activist cited at least three different villages in western Côte d'Ivoire, including one of the two identified by

²⁰⁵ Pinheiro Principles, principle 2.

Human Rights Watch, where there were multiple people claiming to be the village chief. In at least one village, the activist said the competing claims were between a Guéré who supported Ouattara and returned quickly from displacement; and a Guéré who supported Gbagbo and returned later.²⁰⁶ In these villages, the lack of clear authority undermines people's ability to bring—and trust any resolution of—land complaints.

Moreover, some villages, particularly around Bloléquin, face a clear political divide in terms of the community leaders who have returned and those who remain displaced. A Burkinabé leader in one village near the Liberian border said: “Those who are still on the other side of the river [in Liberia] are the FPI [Gbagbo's political party], whereas those who are back in the village are RHDP [Ouattara's political coalition].”²⁰⁷ A Burkinabé leader in another village stated similarly, “The bad [Guérés] are still in exile.”²⁰⁸

These political divisions have had repercussions in terms of land conflict. A local government official told Human Rights Watch that the Guéré village chief of a village near the Liberian border was pro-RHDP and had been directly involved in illegal sales of land owned by Guérés linked to the FPI, most of whom remain in exile.²⁰⁹ While politically-tinged fraud appears to have occurred in only a few villages, it is difficult to see how these village chiefs will be able to act as neutral arbiters when remaining displaced persons return home to contest these sales.

Finally, residents of some villages felt their customary authorities were corrupt when dealing with land issues. Although some village chiefs accept complaints at little or no cost, victims of alleged land dispossession in other villages noted exorbitant costs to file complaints or to pay for customary authorities to investigate the parcel of land in question, saying the constant demand for money made them feel that decisions were about who paid, not who was right.²¹⁰ Moreover, residents of several villages said, like in the case cited above, that customary leaders are themselves involved in illegal land sales.²¹¹

²⁰⁶ Human Rights Watch interview with Ivorian human rights activist, Abidjan, June 14, 2013.

²⁰⁷ Human Rights Watch interview with Burkinabé leader, location withheld, June 2013.

²⁰⁸ Human Rights Watch interview with Burkinabé leader, location withheld, June 2013.

²⁰⁹ Human Rights Watch interview with local government official, location and date withheld.

²¹⁰ For example, Human Rights Watch interview with alleged victim of land dispossession, Bédi-Goazon, February 9, 2013.

²¹¹ Human Rights Watch interviews, western Côte d'Ivoire, February and June 2013.

In a village between Tinhou and Péhé, a 25-year-old sold more than 20 hectares of his grandfather's land. The village chief signed the land contract, validating a sale for more than 2 million CFA (US\$4,000). Human Rights Watch interviewed separately a village elder involved in resolving the dispute and one of the grandfather's sons, who found Burkinabés cutting down trees on the land and discovered who sold the land. Both said that the village chief merely asked the youth if the family knew and agreed with the sale; the youth apparently said yes. The grandfather, who is the family head, lives in the village, meaning a quick visit or call could have established whether he had indeed approved the sale. The village chief chose not to do so, leading to a bitter conflict within the family and against the Burkinabés who bought the land. One person involved in the case suggested that the village chief likely received a kickback for approving the sale. The youth that illegally sold the land quickly skipped town, and the family has been unable to reach him.²¹²

Customary authorities are only held to account for corruption in the rarest of circumstances. The sub-prefect in Bloléquin did suspend the former Diboké village chief in early 2012 after it became clear that he was implicated in illegally selling both land owned by other individuals and part of the Goin-Débé protected forest, owned by the government.²¹³ However, no criminal sanctions appear to have been brought, and the current village elders in Diboké told Human Rights Watch that they had asked the former village chief if he would remain involved in the village leadership.²¹⁴ He declined.

Under international law, including as explained in the Pinheiro Principles, mechanisms dealing with land restitution claims are to be “equitable ... independent, transparent and non-discriminatory.”²¹⁵ Many customary leaders work admirably and impartially to resolve land disputes. But in situations in which the village chief's impartiality appears compromised—whether against a “native” or “non-native” party—complainants should be able to bypass the village authorities and go directly to the sub-prefect.

²¹² Human Rights Watch interviews with family member who found the buyers on the land, western Côte d'Ivoire, June 8, 2013; and with a village elder involved in resolution of the dispute, western Côte d'Ivoire, June 8, 2013.

²¹³ Human Rights Watch interviews with residents of Diboké, June 6 and 8, 2013; with a community leader, Diboké, June 8, 2013; and with a representative from a humanitarian organization, Abidjan, June 2013.

²¹⁴ Human Rights Watch interviews with residents of Diboké, June 6 and 8, 2013; and with a community leader, Diboké, June 8, 2013.

²¹⁵ Pinheiro Principles, principle 12.

Local Government Officials

Sub-prefects—administrative authorities under the Interior Ministry responsible for a certain number of villages—help manage the implementation of the 1998 land law. They head sub-prefectural land committees, mandated to resolve individual land conflicts and to oversee investigations when people seek to transform customary-based claims to land ownership into a state-backed land certificate. They also oversee the village chiefs who, as discussed above, are the first point of contact for land conflicts. When customary authorities are unable to resolve a complaint, it is often passed to the sub-prefect.

In western Côte d'Ivoire, many sub-prefects work diligently in directing land committees, dealing with hundreds of land conflicts linked to the post-election crisis alone.²¹⁶ The sub-prefect in Doké said he deals with land issues almost daily, trying to calm disputes while finding a solution that works for all parties. He calls witnesses from the different parties and says he at times finds himself “studying claims to specific land in which each side goes back to [the year] 1700 with their history.”²¹⁷

Many of the residents of western Côte d'Ivoire who spoke to Human Rights Watch expressed great respect for the sub-prefects' work. However, they also raised a number of concerns. First, the national government appears to have provided almost no support for the sub-prefectural land committees' efforts to resolve land disputes, negatively impacting their ability to investigate and make timely rulings. Second, and in part related to the lack of national financing, some of the sub-prefectural committees resolving land disputes charge exorbitant fees to hear complaints, impeding the filing and resolution of restitution claims. Third, sub-prefects often appear to lack the ability or the will to enforce their decisions. There is a general reluctance to involve the gendarmerie or judicial system, even when people refuse to appear for hearings or to accept sub-prefects' decisions. This greatly undermines people's faith in bringing complaints to the administrative authorities. Finally, in the misguided name of social cohesion, some of the sub-prefectural land committees appear to pressure people into “sharing” arrangements that one or both parties is clearly opposed to. The early indication is that such decisions are unlikely to be respected, threatening future conflicts.

²¹⁶ Human Rights Watch interviews with sub-prefects, western Côte d'Ivoire, February and June 2013. Some of the land committees formally include customary authorities as well. In Duékoué, for example, the sub-prefect's land committee includes three Guéré canton chiefs, a Burkinabé chief, a Baoulé chief, and a Senoufo (a northern Ivorian ethnic group) chief.

²¹⁷ Human Rights Watch interview with sub-prefect, Doké, February 11, 2013.

Lack of Financial Support from Government

Several sub-prefects in western Côte d'Ivoire are doing impressive work trying to resolve land disputes, but they are constrained by the lack of financial and technical support from the central government. The result is a serious delay in resolving disputes, increasing the potential for inter-communal clashes and depriving those who suffered land dispossession while displaced the right to regain their property.

Principle 12 of the Pinheiro Principles calls on governments to establish and support—including financially and through personnel—mechanisms working to resolve claims of land and property restitution related to displacement, so that restitution may be done in a “just and timely manner.”²¹⁸ The lack of financing and support for the sub-prefectural land committees puts the government in breach of these Principles.

A sub-prefect interviewed by Human Rights Watch said he had a “problem of lack of equipment and a problem of lack of personnel,” which constrained his ability to resolve disputes in a timely fashion.²¹⁹ Another sub-prefect said there was no government vehicle for him to use to travel to areas of land conflict, so he used his personal car if the village was nearby and borrowed a vehicle from a local cooperative if the village was further away. This left him both beholden to their vehicles’ availability and, as he recognized, “What will happen tomorrow if they’re involved in a land dispute? I will have solicited them for help in the past, and people will say that I’m not independent [in deciding the dispute].”²²⁰

Another local government official involved in resolving land conflicts in western Côte d'Ivoire said that his biggest need was to have one or two motorbikes at his disposal. He was currently using his private car, which could not go to all of the villages and *campements* in the area—particularly during the rainy season, which runs from around April to July and again from October to November. He said: “If I had a motorbike, if there was a village with 5, 6, 7 cases of land conflict, I could resolve all of them in a day or two. I could go out on the ground, visit the forest in question, hear the parties, and fill out the PV (*procès verbal*) that day.”²²¹

²¹⁸ Pinheiro Principles, principle 12.

²¹⁹ Human Rights Watch interview with sub-prefect, western Côte d'Ivoire, date withheld.

²²⁰ Human Rights Watch interview with sub-prefect, western Côte d'Ivoire, date withheld.

²²¹ Human Rights Watch interview with local government official, western Côte d'Ivoire, June 2013.

One sub-prefect indicated that the lack of financial support for other government bodies involved in land issues further affects the ability to make decisions and implement rulings. Sub-prefects sometimes rely on the local office of the agriculture ministry to inspect the land while the case is under consideration. Then, after the sub-prefect issues their official decision, representatives from the agriculture ministry go to the land to establish the landowner's boundaries, paid for by the owner. The sub-prefect said that the agriculture ministry's office in his region was enormously backed up because of its own lack of means:

The [local office] of the agriculture ministry covers three sub-prefectures, all of which have hundreds of these conflicts.... There are dossiers [of cases] I have given them [nine months ago] that they haven't gotten to yet. So the [land] conflicts continue, even though the order has been issued.... [The local agriculture ministry office] has one motorbike to cover all three sub-prefectures. The farthest *campement* for [my sub-prefecture] alone is 50 kilometers from [the main town].... You can see the difficulties.²²²

In his response to Human Rights Watch's letter, Minister Coulibaly said that, "in the course of operations to demarcate village boundaries, the government has decided to provide financial support to village and sub-prefectural land committees."²²³ This commitment of financial support is important, given the crucial role that local land committees play in resolving land disputes, including those linked to the post-election crisis. The government did not indicate precisely how much financial support it will provide, or the timeframe it would do so in. Given the scale and nature of land dispossession in western Côte d'Ivoire—and the potential it has to lead to further inter-communal violence—the government should urgently prioritize such support.

Excessive Cost

The national government's lack of financial support has led some sub-prefectural committees to set and demand often exorbitant fees, creating a barrier to restitution for displaced persons whose land has been illegally seized.

²²² Human Rights Watch interview with sub-prefect, western Côte d'Ivoire, date withheld.

²²³ Letter from Gnénéma Mamadou Coulibaly, minister of justice, human rights, and public liberties, to Human Rights Watch, September 13, 2013, p. 9.

Residents living in areas overseen by the Bloléquin and Doké sub-prefects said that, despite the lack of national government support, their sub-prefects do not charge money in adjudicating land complaints; complainants' primary cost is transport to the sub-prefecture.²²⁴ Several residents said this alone was a barrier to resolving complaints, particularly when the opposing party repeatedly fails to show for a hearing (discussed in more detail below)—requiring the alleged victim of land dispossession to pay again and again in the hope the other party will finally respect a summons.²²⁵

In contrast, residents in villages overseen by the Duékoué sub-prefect's land committee cited high costs at every step of the complaint.²²⁶ A humanitarian official confirmed Human Rights Watch's observations about Bloléquin, Doké, and Duékoué, and noted that the sub-prefecture of Bagohouo likewise demands substantial fees to formalize land sales or adjudicate disputes.²²⁷

Natives and non-natives alike voiced frustration over the costs associated with the Duékoué land committee. A Burkinabé community leader involved in a land dispute with a Guéré said he had to pay 5,000 CFA (\$10) as a party to the case and another 30,000 CFA (\$60) for the committee's "fees" to perform field investigations. He told Human Rights Watch: "I feel that the system is broken, that it's all about money."²²⁸ A Malian, who told Human Rights Watch that people have to pay for each witness called before the land committee, voiced similarly, "I won't go before it anymore. We see the costs as a huge problem. It's not the idea of the land committee that's a problem, it's how this one is run.... We feel it's corrupt."²²⁹

A Guéré from Fengolo involved in a land dispute expressed similar concern and offered suggestions:

If the land committee is just about taking money, that's not going to work....
Why are you fixing a price of 25,000, 30,000 CFA (\$50-60) before going to
the land to consider a dispute? Why not fix the costs after, based on what

²²⁴ Human Rights Watch interviews with residents, western Côte d'Ivoire, February and June 2013.

²²⁵ Human Rights Watch interviews with residents, western Côte d'Ivoire, February and June 2013.

²²⁶ Human Rights Watch interviews with residents, western Côte d'Ivoire, February and June 2013.

²²⁷ Human Rights Watch interview with humanitarian official, location withheld, June 2013.

²²⁸ Human Rights Watch interview with Burkinabé leader involved in a land dispute, Duékoué, February 6, 2013.

²²⁹ Human Rights Watch interview with Malian leader previously involved in a land dispute, Duékoué, February 6, 2013.

you actually had to spend? And why not let the person pay over time? Why require payment up front when you're dealing with someone who was displaced for a year, maybe more, and now can't get to their land? Where are they going to get this money from?²³⁰

Several residents of villages around Duékoué described being unable to pay the fees and therefore unable to seek restitution for a complaint that passed the village committee's authority.²³¹

The sub-prefect in Duékoué disputed that the costs were excessive, saying the committee had “no financing,” so imposed “reasonable costs” on the parties.²³² Another member of the Duékoué land committee said similarly: “We don't have support from NGOs or from the government. So we have to have fees to cover transport to investigate on the ground, to see who the owner is, to see what the boundaries are and how they can be drawn.”²³³

Lack of Will, Power to Enforce Decisions

Local authorities in western Côte d'Ivoire often appear unable or unwilling to enforce their decisions, leading to a growing lack of respect for their authority. Several sub-prefects told Human Rights Watch that they were loath to involve gendarmes or other law enforcement in resolving land disputes, as they feared it might escalate tensions.²³⁴ While that approach may be justified when parties act in good faith, it appears misguided at best when a crime, such as theft or fraud, has occurred. In such cases, the Interior and Defense Ministers need to ensure that their security forces are ready and trained to respond; and the sub-prefect needs to be willing to rely on them.

Human Rights Watch documented dozens of cases where a person alleged to be an illegal seller or buyer refused to appear, despite a summons, before a hearing. A Guéré in Médibly, who alleged that while he was displaced another Guéré illegally sold land that his father

²³⁰ Human Rights Watch interview with Guéré involved in land dispute linked to the crisis, Fengolo, February 10, 2013.

²³¹ Human Rights Watch interviews, western Côte d'Ivoire, February 2013.

²³² Human Rights Watch interview with Abion Yao, sub-prefect, Duékoué, February 5, 2013.

²³³ Human Rights Watch interview with community leader on the Duékoué land committee, Duékoué, February 4, 2013.

²³⁴ Human Rights Watch interviews with local government officials, western Côte d'Ivoire, February and June 2013.

and grandfather had owned and developed, said that the Bloléquin sub-prefect had repeatedly summoned the illegal seller over the course of a year, but he failed to appear.²³⁵

A Guéré man in Guinkin told another representative story. He brought a complaint to the Guiglo sub-prefecture in November 2012, saying another Guéré had illegally sold his land to a Burkinabé. In subsequent months, he had twice received a summons from the sub-prefecture; both times, he paid for transport to travel to Guiglo, ready to adjudicate his complaint. The opposing party, likewise summoned, failed to come either time. There do not appear to have been any consequences, and the alleged landowner told Human Rights Watch he was now waiting for a third summons—though said he would take the matter to the courts if the other party failed to show next time. Meanwhile, he watched as the Burkinabé buyer cut down and burned cocoa trees the man planted years before.²³⁶

In other cases, local authorities issued clear orders that allegedly illegal buyers should discontinue work on the contested land until the authority made a final ruling. Yet these orders, too, are often ignored. Human Rights Watch interviewed a man from Pohan-Badoubly village in both February and June 2013. While displaced during the crisis, a Guéré from a neighboring village sold his land to Burkinabés. He brought a complaint to the village land committee, who ruled in his favor in June 2012.²³⁷ However, what followed demonstrates the local authorities' lack of will or power to enforce decisions:

After the committee said I was right and [issued its official ruling], the Burkinabés kept clearing away the brush to plant cocoa. I went to the sub-prefect, who issued an order [seen by Human Rights Watch] banning anyone from working on the land until he ruled on the case. [The seller had appealed the customary authorities' decision.]... Yet up until now, they continue working. They're still on my land.

I went into the bush to show them the order, and one of them threatened me. He became very aggressive, showing his machete and telling me to leave. I told the sub-prefect about this, and he said [in May 2013] he would

²³⁵ Human Rights Watch interview with alleged victim of land dispossession by illegal sale, Médibly, February 12, 2013.

²³⁶ Human Rights Watch interview with alleged victim of land dispossession by illegal sale, Guinkin, June 2, 2013.

²³⁷ Human Rights Watch saw a copy of the decision.

send an order to the gendarmerie. But still nothing has changed. They are clearing away my forest. If tomorrow my forest is all gone, what will happen to my family? What will happen to future generations? We don't understand why the sub-prefect doesn't follow through with his decisions.²³⁸

Human Rights Watch did not establish whether the sub-prefect had in fact sent an order to the gendarmerie, so it is unclear whether the failure to stop work rested primarily with the sub-prefect or with the gendarmerie.

Several people from Zomplou involved in land disputes likewise said that the Doké sub-prefect had ordered people in April 2013 to stop clearing land or planting rubber trees or cocoa until he ruled on the ownership of a contested area of land. Despite the sub-prefect's statements, Zomplou residents said the Burkinabé buyers continue their work on dozens of hectares of contested land.²³⁹ The failure to enforce this decision is particularly surprising because the land dispute has already led to a February clash between Guéré youth from Zomplou and Babli-Vaya, as described above.²⁴⁰

While many Guérés dispossessed during the crisis expressed respect for their sub-prefect's neutrality in land disputes, they voiced frustration that, at times, there was no follow through to enforce the decisions. One alleged victim said: "The sub-prefect makes a ruling for us, yet we still can't get our land back... We start to question whether the authorities are complicit. While we're waiting, the Burkinabés are cutting down and planting on our land."²⁴¹ The failure of local authorities to enforce decisions risks people or groups engaging in violence to dislodge occupants.

The risk of violence as a result of unenforced decisions is particularly high where, as described above, the occupants are permanently changing land by cutting down virgin forest, pulling up old crops, and planting new cash crops. Throughout western Côte d'Ivoire, customary and local authorities told Human Rights Watch that, when someone invests in the land, even if he bought it from an illegal seller, they preferred to create a relationship between the illegal buyer and the true landowner—allowing the illegal buyer

²³⁸ Human Rights Watch interview with alleged victim of land dispossession by illegal sale, Pohan-Badoubly, June 3, 2013.

²³⁹ Human Rights Watch interviews with alleged victims of land dispossession by illegal sales, Zomplou, June 3, 2013.

²⁴⁰ Human Rights Watch interviews with alleged victims of land dispossession by illegal sales, Zomplou, February 11, 2013.

²⁴¹ Human Rights Watch interview with alleged victim of land dispossession by illegal sale, Pohan-Badoubly, February 11, 2013.

to remain on the land, but perhaps divide the new plantation or split the profits with the real landowner. While perhaps a reasonable solution when the buyer purchased in good faith, local authorities should, at a minimum, ensure that the potentially illegal occupant ceases cutting down forests or planting new cash crops while the case is being decided. Authorities should be ready to implicate the gendarmerie when a party ignores such a ruling. Otherwise, it creates a perverse incentive for those involved in land disputes to clear and plant as much as possible while the case is before the sub-prefectural land committee in order to increase what they will potentially receive at the decision.

Pressure to Accept Potentially Unsustainable Decisions

Human Rights Watch's research raises concerns that some of the sub-prefectural land committees pressure people to accept decisions—generally the division of land between the rightful owner and a buyer who purchased from a fraudulent seller—that may not be sustainable. Both parties generally sign an official statement (*procès-verbal*) accepting the committee's decision, but, despite not being a judicial body, these decisions at times appear compelled, rather than consensual, threatening future conflict.

An activist who has followed some cases before the Guiglo sub-prefecture's land committee described:

Often they take a decision, and it isn't satisfactory to anyone. They conclude that the rightful owner should accept the illegal buyer, who may have planted already, and enter into an agreement where they split the harvest [known as *travail-partagé*]. But the Guéré often doesn't want the Burkinabé to stay on his land, as he didn't sell it to him. And the Burkinabé doesn't want to split the harvest when he paid full price to the [illegal] seller. They're both angry [with the decision]. There's no appeal within the land committee....You could perhaps take your case to the justice system, but they put lots of pressure on you not to, telling you that you need to accept their decision for social cohesion.²⁴²

²⁴² Human Rights Watch interview with activist, Guiglo, February 7, 2013.

Human Rights Watch was able to sit in on several hearings at the land committee overseen by the Duékoué sub-prefect. In general, Human Rights Watch found those on the committee to hold strong convictions about the importance of resolving land conflicts. They spend much of their personal time dealing with these complaints. But the Guiglo activist's concerns were borne out in what Human Rights Watch witnessed. In one case—not related to the Ivorian crisis—a party left in frustration after the committee ruled that the land should be shared, even while acknowledging that the other party had no valid legal claim.²⁴³ During deliberations, a member of the committee said, “This is what the law would tell us to do, but ... let's find a solution from our customs.”²⁴⁴ In another case deliberated before Human Rights Watch, the committee had ruled previously, but the parties were back because one refused to accept the committee's ruling to divide the land—claiming that the entire parcel was rightfully his.²⁴⁵ The committee members put strong pressure on him to accept their decision, with one concluding the discussion by saying, “There is no miracle solution, there is the division of the parcel.”²⁴⁶ The man continued to protest, saying that the way the land was currently constituted, “the division [of the parcel] would create disorder.”²⁴⁷

The morning of deliberations that Human Rights Watch witnessed appeared to represent a broader problem. A UNOCI representative in Duékoué, who has monitored other cases before the sub-prefect's land committee, voiced concern about the implementation of the committee's decisions: “The committee tries to come to a consensual decision. A problem I see is that, when it's before the committee, the situation looks resolved. But when the case goes back to the community, the conflict often restarts. I've seen a number of cases come back to the committee.”²⁴⁸

In both cases witnessed by Human Rights Watch, the land committee appeared to act in good faith in trying to find a solution. Land disputes in western Côte d'Ivoire are often complicated, and the division of land or the sharing of profits may indeed satisfy both parties in many instances. As one sub-prefect told Human Rights Watch, it is difficult to

²⁴³ Human Rights Watch observations of case #1 before the Duékoué land committee, Duékoué, February 8, 2013.

²⁴⁴ Ibid.

²⁴⁵ Human Rights Watch observations of case #2 before the Duékoué land committee, Duékoué, February 8, 2013.

²⁴⁶ Ibid.

²⁴⁷ Ibid.

²⁴⁸ Human Rights Watch interview with UNOCI representative, Duékoué, February 4, 2013.

apply the law in making a decision when almost everything up to that point—the failure to register the land, a clandestine sale—has happened outside of the law. He said: “Really, the best we can do is just try to find a satisfactory solution.”²⁴⁹

Particularly when dealing with claims of illegal occupation related to the crisis, pressuring people to “accept” a decision they consider unfair is unlikely to resolve disputes in a sustainable manner. The committees are administrative bodies based on consensus, not force. If they cannot obtain clear consensus, they should encourage the parties to go to the court system, rather than apply undue pressure on one or both parties to agree to the committee’s ruling. With the opening of the Guiglo tribunal in June 2013, the justice system is more geographically accessible than ever to residents of western Côte d’Ivoire,²⁵⁰ though the government will need to ensure that judicial authorities are trained to deal with the complexities of land disputes, have the resources to perform field investigations, and do not undermine the fairness of proceedings through corrupt practices.

Moreover, the sub-prefectural land committees should consider distinguishing between good-faith and bad-faith land transactions. The victims of the latter—which amount to crimes, including fraud—should likely be referred to the gendarmerie, in order to seek legal redress. A bad-faith buyer should likely have his purchase nullified. When sub-prefectural committees force divisions even when sales and purchases occurred in bad faith, they incentivize the continuation of these destructive practices.

Members of some committees recognize that their decisions are not always fair or just to the individual parties. A community leader on one land committee told Human Rights Watch: “We’re just looking for social cohesion. Sometimes we make false judgments that keep me awake at night. The Guéré representative will put pressure on the Guéré party or the Burkinabé representative will put pressure on the Burkinabé party to accept the decision, even if it’s a bad deal for them. But the decision looks to [broader] social cohesion, and the person [is pressured] to accept it.”²⁵¹ Another community leader on the Duékoué land committee likewise believed the occasional “bad decision” was still the best option available: “Even a bad decision by the committee or a [traditional chief] is

²⁴⁹ Human Rights Watch interview with sub-prefect, western Côte d’Ivoire, February 2013.

²⁵⁰ “Le tribunal de première instance de Guiglo ouvre ses portes,” Agence Ivoirienne de Presse, June 22, 2013, <http://news.abidjan.net/h/463789.html> (accessed August 28, 2013).

²⁵¹ Human Rights Watch interview with community leader on the Duékoué land committee, Duékoué, February 5, 2013.

better than a case going to the justice system. We would prefer a judgment rooted in our customary law than to send someone before the legal system.”²⁵²

International law requires a “fair hearing” for any case involving a person’s “rights and obligations,” which would include a case over land rights.²⁵³ While traditional or administrative mechanisms established by law can be used to resolve such disputes, they must be “competent, independent, and impartial”²⁵⁴—including by giving fair treatment to women. Moreover, people should be able to appeal a decision to a court of law.

“Continuous and Peaceful Existence” in the 1998 Land Law

As described in the Background, the 1998 land law requires everyone to formalize customary rights by filing their property ownership with the state’s land registry, or cadastre. A person initially must take measures to obtain a land certificate (*certificat foncier*) and then, during a second stage, completes the registration with the cadastre.

According to the 1998 law, anyone seeking to complete the first stage and acquire a land certificate must demonstrate the person or group’s “continuous and peaceful existence of customary rights” to the specific area of land.²⁵⁵ If interpreted in a certain way, authorities could abuse this clause to negate the “continuous existence” of customary rights of people displaced by either the 2002-2003 or the 2010-2011 conflicts.

To ensure the land law is implemented in conformity with norms under international human rights law, the President or National Assembly should pass a decree or law, respectively, clarifying that displacement related to conflict or inter-communal violence does not interfere with a person’s ability to establish “continuous and peaceful existence of customary rights.”

²⁵² Human Rights Watch interview with community leader on the Duékoué land committee, Duékoué, February 4, 2013.

²⁵³ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, acceded to by Côte d’Ivoire on March 26, 1998, art. 14.

²⁵⁴ Ibid.

²⁵⁵ Loi n° 98-750 du 23 décembre 1998, art. 8.

Lack of Boundary Lines

The failure to establish boundary lines has fed the problem of widespread illegal land sales. There are two types of boundary lines related to rural land in Côte d'Ivoire: first, the boundaries that demarcate each village, including its forests and *campements*; and second, the boundaries of an individual property owner. The financial responsibility for demarcating the boundaries between villages rests with the Ivorian government, whereas landowners are responsible for paying the costs and fees associated with establishing their individual property lines. The Agriculture Ministry, including its Office of Rural Land and the Rural Land Registry (*Direction du Foncier Rural et du Cadastre Rural*), plays a critical role in overseeing the field investigations to identify and demarcate boundaries and in maintaining the land registry.²⁵⁶

There was widespread agreement from village leaders, victims of land dispossession, and even local government officials that illegal land sales—and the conflicts that result from such sales—would decrease significantly if the Ivorian government were to undertake the long-promised task of establishing boundary lines between villages. The failure to demarcate village boundary lines long predates the Ouattara government. Other than around 100 villages that were part of a World Bank-financed pilot project from 1998-2001²⁵⁷—all in regions outside the area examined for this report—village boundaries essentially do not exist in Côte d'Ivoire. This has facilitated fraudulent sales, including those that occurred while people were displaced.

A village elder from Médibly described:

People from Diboké and Kéibly have sold our land, and it works both ways, [Médibly residents have done the same thing].... I've said this many times to the local authorities, the government has to start demarcating village boundaries. We've been demanding this for 10, 15 years. The government says, "We're coming, we're coming," but they never come.... Every village

²⁵⁶ See Ministère de l'Agriculture, "Foncier Rural," undated, http://www.agriculture.gouv.ci/index.php?option=com_content&view=article&id=124&Itemid=404 (accessed September 3, 2013).

²⁵⁷ World Bank, Report No: ICR00001525: Implementation Completion and Results Report (IDA-No220), February 8, 2011, http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2011/03/30/000333038_20110330000052/Rendered/PDF/ICR15250P001191e0only1910BOX358324B.pdf (accessed August 29, 2013).

needs to know where the boundaries are; there needs to be no confusion. If that's done, we'll be freed of this. If not, there will always be problems.²⁵⁸

A community leader in Toa-Zéo, just outside Duékoué, similarly said: "The government has to act in establishing the boundary lines between villages. If people know where the boundaries are ... if there is no ability to pretend land is yours when it is actually the neighboring village's [land] ... many of these problems will be resolved."²⁵⁹

Even several local government officials expressed frustration with the lack of progress in demarcating village boundaries. One sub-prefect told Human Rights Watch:

Above all, the way to stop these problems is to establish the different village boundaries. We know who a specific *campement* belongs to, but not its precise boundaries. We know who a specific village belongs to, but not its exact limits.... [The government is] always at the stage of proposal, proposal, proposal. This needs to be done ... to avoid conflicts between people in two villages. This alone will solve many problems.²⁶⁰

In addition to concerns about the lack of progress in demarcating village boundaries, landowners in western Côte d'Ivoire, customary authorities, and humanitarian officials all expressed concern about the costs associated with establishing an individual's property lines and registering land ownership. Many landowners said the costs were a barrier to formalizing their customary rights.²⁶¹ These costs include, among other things, repeated transport to the nearest town where the sub-prefecture and local agriculture ministry office are located; the fees to obtain a land certificate and to complete the registration with the cadastre; and the fees for the agriculture ministry to lay down property markers.

In February 2013, Agriculture Minister Mamadou Coulibaly told Human Rights Watch that he had a draft decree ready related to the demarcation of village boundaries and was waiting on the finance ministry to issue the necessary funds. He hoped that, with the timely disbursement of funds, they would be able to demarcate the boundaries of 6,000

²⁵⁸ Human Rights Watch interview with village elder, Médibly, February 12, 2013.

²⁵⁹ Human Rights Watch interview with community leader involved in resolving land conflicts, Toa-Zéo, February 6, 2013.

²⁶⁰ Human Rights Watch interview with sub-prefect, western Côte d'Ivoire, date withheld.

²⁶¹ Human Rights Watch interviews, western Côte d'Ivoire, February and June 2013. See also ONUCI, Rule of Law Division, *Le Domaine Foncier Rural et la Loi n° 98-750 du 23 décembre 1998*, pp. 32-34; and IDMC and NRC, "Whose land is this?" October 2009, p. 21.

villages by the end of 2014. He expressed disappointment, however, that donor interest had slowed—which he felt could allow for greater progress.²⁶²

On May 2, 2013, the Council of Ministers adopted a decree from the Agriculture Minister that proposes to define the procedures for demarcating village boundaries, “hoping to limit disputes between villages and, at the same time, provide a durable solution to land conflicts” that result from disputes between villages over boundaries.²⁶³

In the Ivorian government’s written response to Human Rights Watch, it reiterated its commitment to prioritize the demarcation of village boundaries and also said it would reduce costs associated with the registration of individual landownership. Regarding village boundaries, the response referenced the May decree and noted: “Based on financing already acquired, the delimitation of around 1,300 villages is envisaged over the next three years.”²⁶⁴ Regarding individual property registration, the government’s letter said: “Conscious of the limited means of rural populations, the Government is currently taking appropriate measures to allow these populations to obtain [the necessary] documentation of their land ownership at affordable costs.”²⁶⁵ The government’s letter did not respond to Human Rights Watch’s query about the current costs for individual landowners to get their boundary lines demarcated, nor did it specify what precise measures it was taking or what the relevant costs would be in the future.

In June 2013, an advisor on land issues to the Prime Minister said that the demarcation of village and individual land boundaries was constrained by the country’s lack of qualified land surveyors, more of whom would need to be recruited.²⁶⁶ Like the Agriculture Minister, the Prime Minister’s advisor said that there was a need for donor assistance to speed up the process of demarcating village boundaries.²⁶⁷ A land expert told Human Rights Watch

²⁶² Human Rights Watch interview with Mamadou Sangafowa Coulibaly, minister of agriculture, Abidjan, February 18, 2013.

²⁶³ Communiqué du Conseil des Ministres du Mercredi 02/05/2013, Man, Côte d’Ivoire, May 2, 2013, <http://www.primaturecotedivoire.net/site/suite.php?newsid=2035> (accessed August 30, 2013) (original French: “Le Gouvernement, tout en inscrivant ce décret dans le cadre d’une administration du territoire plus efficace, entend circonscrire les litiges inter villageois, et par la même occasion, apporter une solution durable aux conflits fonciers qui en découlent.”).

²⁶⁴ Letter from Gnénéma Mamadou Coulibaly, minister of justice, human rights, and public liberties, to Human Rights Watch, September 13, 2013, p. 9.

²⁶⁵ *Ibid.*, p. 10.

²⁶⁶ Human Rights Watch interview with Vincent Sedalo, Prime Minister’s advisor on rule of law and land issues, Abidjan, June 11, 2013.

²⁶⁷ Human Rights Watch interview with Vincent Sedalo, Abidjan, June 11, 2013.

that the problem was more complicated than a lack of qualified surveyors, however.²⁶⁸ Under a law passed in 1970 and several implementing decrees passed subsequent to the 1998 land law, the Order of Expert Surveyors (*l'Ordre des Géomètres Experts de Côte d'Ivoire*, or OGE-CI) has a monopoly on performing tasks related to demarcating village and individual property lines.²⁶⁹ According to OGE-CI's website, which may be outdated, it has "authorized" 29 total surveyors, though only one surveyor for the entire area that this report examines.²⁷⁰ The land expert told Human Rights Watch that the Order has lobbied hard to maintain its monopoly, keeping out other potentially qualified people who could perform the relevant tasks.²⁷¹ A wider pool of experts would help accelerate the process of boundary demarcation and likely reduce associated costs for landowners. A 2009 report from the Internal Displacement Monitoring Centre said that the small number of surveyors authorized to demarcate Côte d'Ivoire's approximately 20 million hectares of rural land was a "serious handicap that may slow the implementation of the [1998] land law."²⁷²

No Sanctions for Illegal Sales

Another cause of massive land dispossession after the post-election crisis is the absence of penal sanctions—whether a fine or prison time—for people who engage in illegal sales. This is facilitated by the apparent reluctance of village chiefs, sub-prefects, and some victims to refer cases to the gendarmerie for investigation.

²⁶⁸ Human Rights Watch email correspondence with land expert, location withheld, September 2013.

²⁶⁹ Arrêté n°034 du 04 juillet 2002 fixant les modalités d'inscription sur la liste d'agrément des Opérateurs Techniques pouvant effectuer les opérations de délimitation des biens fonciers du Domaine Foncier Rural, *Journal Officiel N° 33 du jeudi 15 aout 2002*, <http://www.clubua-ci.org/thematique-foncier-rural.php> (accessed September 4, 2013); Décret n°99-595 du 13 octobre 1999 fixant la procédure de consolidation des droits des concessionnaires provisoires de terres du Domaine Foncier Rural, <http://www.droit-afrique.com/> (accessed September 4, 2013), art. 3; and Loi n° 70-487 du 3 Août 1970 instituant l'Ordre des Géomètres-Experts en réglementant le titre et la profession, <http://www.loidici.com/> (accessed September 4, 2013).

²⁷⁰ See L'Ordre des Géomètres Experts de Côte d'Ivoire, "Liste des Géomètres experts agréés," http://geometre-expert.ci/index.php?option=com_content&task=view&id=66&Itemid=85 (accessed September 4, 2013) (listing 29 authorized surveyors); and L'Ordre des Géomètres Experts de Côte d'Ivoire, "Tableau de régionalisation," http://geometre-expert.ci/index.php?option=com_content&task=view&id=63&Itemid=77 (accessed September 4, 2013) (listing one authorized surveyor for the region of Moyen Cavally, the former administrative area which has now been divided into Guémon and Cavally regions).

²⁷¹ Human Rights Watch email correspondence with land expert, location withheld, September 2013.

²⁷² IDMC and NRC, "Whose land is this?" October 2009, p. 20. A report from July 2012 suggests that there were 28 authorized surveyors at that time. Centre de Cartographie et de Télédiction, "Côte d'Ivoire : Etat de la production cartographique et de la gestion des informations géographiques de référence," July 2012, http://ggim.un.org/2nd%20Session/country%20reports/RAPPORT%20PAYS%20DE%20LA%20Cote%20D%20I%20voire_%20BNEDT%20CCT%202012.pdf (accessed August 29, 2013), p. 11.

Criminal sanctions may well be inappropriate when there is a legitimate question over land ownership and a person acts in good faith when entering into a sale. But sellers acting in bad faith—of which there are likely hundreds related to the crisis period in western Côte d’Ivoire alone—are engaging in theft and fraud. Victims of land dispossession, community leaders, and local government officials could not cite to a single case in which such a seller had been subject to criminal sanctions. Indeed, local government authorities said they thought avoiding “the law” was best for reconciliation.²⁷³ This feeling appeared to stem from distrust for the judicial system’s effectiveness and a belief that the security forces, with a reputation more for brute force than skilled investigations, would be more likely to raise than ease tensions.

Many people in western Côte d’Ivoire disagree strongly, and believe that sanctions for illegal sales are the only way to eradicate or at least reduce the problem. The chief of a village between Guiglo and Bloléquin said simply: “The authorities need to say, ‘If you do this, these will be the consequences,’ and then they need to follow through and send illegal sellers to the justice system.”²⁷⁴ Another elder from a village outside of Duékoué said similarly: “The illegal sellers are never punished. They sell, they make their money, and they’re still here [in the community]. So it continues and continues.”²⁷⁵

A woman from a *campement* outside Guiglo told Human Rights Watch that she had been involved in a dispute over an illegal sale since before the post-election crisis. In 2012, the committee in Guiglo for resolving land disputes had ruled in her favor, saying the Guéré man who sold to a Burkinabé and a Baoulé had done so illegally. Yet the woman said that while the illegal seller faced no sanctions—and indeed remained able to enjoy the money earned from the sale—she had to pay around 15,000 CFA (\$30) to file the original complaint, 60,000 CFA (\$120) to obtain an *attestation de propriété* (proof of ownership) after the committee’s ruling, 40,000 CFA (\$80) for a mapping of her land, and

²⁷³ Human Rights Watch interviews with local government officials, western Côte d’Ivoire, February and June 2013. A community leader who sits on the Duékoué sub-prefecture’s land committee told Human Rights Watch that “so that peace goes forward ... we do not issue fines or implicate the authorities, but we warn the [illegal seller] that if this ever happens again, the law will take care of you.” Human Rights Watch interview with community leader on the Duékoué land committee, Duékoué, February 4, 2013. The thought process ignores that sanctions could play an important role in peace and reconciliation, by deterring others from engaging in fraudulent sales. If the perception is that everyone can get off without penalty for their first illegal sale, there is little disincentive—and often great monetary incentive—for people to make fraudulent sales.

²⁷⁴ Human Rights Watch interview with village chief, western Côte d’Ivoire, February 9, 2013.

²⁷⁵ Human Rights Watch interview with village elder, western Côte d’Ivoire, February 10, 2013.

was now trying to come up with around 80,000 CFA (\$160) to pay the local office of the agriculture ministry to lay down boundary markings—“otherwise someone else will come behind you and illegally sell it all over again.”²⁷⁶ She expressed: “There are never any sanctions, the true landowner suffers and pays and pays, while the illegal seller acts with ill-will and faces no consequences. That’s why people keep doing it. If there were sanctions, this problem would be over.”²⁷⁷

People demanded at a minimum that sellers acting in bad faith receive fines that would remove the benefit from their theft and fraud. Others, however, felt strongly that authorities should go further, imprisoning those who profit from wreaking havoc in western Côte d’Ivoire. One of several Guérés in Pohan-Badouebly dealing with a land conflict based on an alleged illegal sale by a youth from neighboring Blédy exclaimed:

The land problems are a catastrophe, and it’s because of the illegal sales. We have gone to the local government officials again and again and said, “You have to put these people in prison.” Up until now, they haven’t done it. How does a youth of 18, 20 years old sell a [square] kilometer [100 hectares] of forest? We have to stop this. Two or three times of putting in jail those who sell land they know they have no claim to, and this will all stop. If not, if this continues, it risks provoking another war.²⁷⁸

In its response to Human Rights Watch, the Ivorian government said that it had “strong reservations” about the research’s findings that local government officials prefer to avoid implicating law enforcement or judicial authorities, even in cases of fraudulent sales. The government continued:

While it may be true that the sensitivity of land issues may lead certain local officials to privilege mediation for land disputes and to place their resolution in the hands of the entire communities, the judiciary, which is the mechanism for regulating social conflicts in a state built on rule of law,

²⁷⁶ Human Rights Watch interview with Guéré woman, victim of an illegal sale prior to the crisis, Guiglo, February 7, 2013.

²⁷⁷ Ibid.

²⁷⁸ Human Rights Watch interview with a Guéré victim of land dispossession by illegal sale, Pohan-Badouebly, February 11, 2013.

would not be put to the side. On the contrary, the Government wants to consolidate the rule of law, of which justice is one of the foundations.²⁷⁹

Human Rights Watch welcomes the government's commitment to the rule of law in the context of land conflict. Its statement is similar to what Human Rights Watch heard from several national government officials during meetings in Abidjan, in which they agreed that penal sanctions should be carried out for bad-faith illegal sellers.²⁸⁰ However, local authorities in western Côte d'Ivoire do not appear to be implementing this policy. They near unanimously told Human Rights Watch that they believed it was better to avoid involving gendarmes and the judicial system in land conflicts. As noted above, local government officials, victims of land dispossession, and others in western Côte d'Ivoire also could not point to a single case in which a person had suffered penal sanctions for engaging in a fraudulent land transaction.

²⁷⁹ Letter from Gnénéma Mamadou Coulibaly, minister of justice, human rights, and public liberties, to Human Rights Watch, September 13, 2013, p. 8.

²⁸⁰ Human Rights Watch interviews with government officials, Abidjan, June 2013.

IV. Legal Protection for Land Rights of Refugees and Displaced Persons

International law places obligations on the Ivorian government to ensure that refugees and displaced persons are able to regain their original homes and land. These rights and responsibilities come from three distinct but related areas of international law: the rights of returning displaced persons; rights related to property; and communal or cultural rights.

Rights of Returning Refugees and Displaced Persons

Article 9(2)(i) of the African Union’s Kampala Convention—which Côte d’Ivoire has signed but not ratified—requires State Parties to “take necessary measures to protect individual, collective and cultural property left behind by displaced persons.”²⁸¹

Moreover, the United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons, better known as the Pinheiro Principles, directly address the right of refugees and displaced persons to return to their original homes and land.²⁸² Although the Pinheiro Principles are “soft law,” not a treaty that governments ratify, they are widely accepted as indicating the extent of the right to restitution after displacement, including as a result of conflict. They reflect a larger body of international law that require states to ensure that refugees and displaced persons can return safely to their homes and land, or receive compensation when property restoration is not possible.²⁸³

Principle 2 of the Pinheiro Principles outlines the right to housing and property restitution:

²⁸¹ Kampala Convention, art. 9(2)(i).

²⁸² Pinheiro Principles.

²⁸³ See European Court of Human Rights, *Doğan and Others v. Turkey* (nos. 8803-8811/02, 8813/02 and 8815-8819/02), Judgment of 29 June 2004, ECHR 2004-VI, www.echr.coe.int, para. 154 (“the authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow the applicants to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country.”); UN Committee on the Elimination of Racial Discrimination, General Recommendation 22, Refugees and displaced persons (Forty-ninth session, 1996), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI\GEN\1\Rev.6 (2003), p. 211, para 2(c) (affirming that all “refugees and displaced persons have, after their return to their homes of origin, the right to have restored to them property of which they were deprived in the course of the conflict and to be compensated appropriately for any such property that cannot be restored to them.”).

All refugees and displaced persons have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land and/ or property that is factually impossible to restore as determined by an independent, impartial tribunal.... States shall demonstrably prioritize the right to restitution as the preferred remedy for displacement and as a key element of restorative justice....²⁸⁴

Principle 10 provides for the “right to voluntary return in safety and dignity.”²⁸⁵ The improved security situation and marked reduction in abuses by security forces against pro-Gbagbo populations in western Côte d’Ivoire demonstrates progress by the Ivorian government in fulfilling its responsibilities under this principle. However, the principle explicitly includes the right of refugees and displaced persons “to return voluntarily to their former homes, lands or places of habitual residence ... [in] dignity.”²⁸⁶ Widespread, illegal occupation of land left by refugees and displaced persons violates this principle.

Principle 12 outlines states’ responsibilities in addressing claims of land restitution:

12.1 States should establish and support equitable, timely, independent, transparent and non-discriminatory procedures, institutions and mechanisms to assess and enforce housing, land and property restitution claims. In cases where existing procedures, institutions and mechanisms can effectively address these issues, adequate financial, human and other resources should be made available to facilitate restitution in a just and timely manner.

...

12.3 States should take all appropriate administrative, legislative and judicial measures to support and facilitate the housing, land and property restitution process. States should provide all relevant agencies with adequate financial, human and other resources to successfully complete their work in a just and timely manner.

²⁸⁴ Pinheiro Principles, principle 2(1-2).

²⁸⁵ Ibid, principle 10.

²⁸⁶ Ibid.

12.4 States should establish guidelines that ensure the effectiveness of all relevant housing, land and property restitution procedures, institutions and mechanisms, including guidelines pertaining to institutional organization, staff training and caseloads, investigation and complaints procedures, verification of property ownership or other rights of possession, as well as decision-making, enforcement and appeals mechanisms. States may integrate alternative or informal dispute resolution mechanisms into these processes, insofar as all such mechanisms act in accordance with international human rights, refugee and humanitarian law and related standards, including the right to be protected from discrimination.²⁸⁷

As discussed in Section III, while some local mechanisms are working to resolve land conflicts in western Côte d'Ivoire, the Ivorian government has inadequately supported them, leading to uneven results. Moreover, the Ivorian government's failure to demarcate village boundaries has facilitated much of the chaos around land sales in western Côte d'Ivoire. While this failure long predates the Ouattara government, current Ivorian authorities need to quickly make a priority of demarcating village boundaries.

Civil and Economic Rights Related to Property

In addition to rights of returning refugees and displaced persons, civil and economic rights guaranteed under both regional and international treaties place an obligation on the Ivorian government to guarantee the protection of property rights, including by ensuring the swift restitution of land and other property seized illegally.

Article 14 of the African Charter on Human and People's Rights, to which Côte d'Ivoire is a state party, guarantees both the individual and collective right to property.²⁸⁸ In all cases of illegal occupation of land in western Côte d'Ivoire—whether the buyer obtained the land through an illegal sale or through force—the rightful owner has been denied this right. Article 11 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR), to which Côte d'Ivoire is a state party, provides for the rights to food and an adequate standard of living.²⁸⁹ In general, states must progressively realize the fulfillment of these

²⁸⁷ Ibid., Principle 12.

²⁸⁸ ACHPR, art. 14.

²⁸⁹ ICESCR, art. 11.

rights; however, state parties have a minimum obligation to not negatively impact people's access to food and a livelihood.²⁹⁰ While land conflicts in western Côte d'Ivoire overwhelmingly involve only non-state actors, the Ivorian government's failure to take adequate measures to control land sales, demarcate village boundaries, hold illegal sellers accountable, and support state institutions involved in resolving disputes has fueled land dispossession. Therefore, in cases where people face food shortages or serious economic consequences as a result of their inability to access land that they rightfully own, the Ivorian government may be in breach of its obligations under the ICESCR.

Communal and Religious Rights

The destruction of and eviction from land that Guéré communities consider sacred implicates communal and religious rights. Article 18 of the International Covenant on Civil and Political Rights (ICCPR) states that “[e]veryone shall have the right to freedom of ... religion.”²⁹¹ The Human Rights Committee, which oversees compliance with the ICCPR, has said that this right “protects theistic, non-theistic and atheistic beliefs.... The terms ‘belief’ and ‘religion’ are to be broadly construed.”²⁹²

Article 8 of the African Charter on Human and People's Rights (ACHPR) likewise guarantees the “free practice of religion.”²⁹³ In *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya*, the African Commission examined the meaning of article 8 in a case involving a group of people, the Endorois, who the Kenyan government had evicted from their traditional land to create several game reserves.²⁹⁴ As part of their complaint, the Endorois alleged that their right to religious practice had been infringed because the land from which they had been evicted included a sacred lake and other spiritual sites.²⁹⁵

²⁹⁰ See UN Committee on Economic, Social and Cultural Rights, General Comment 3, The nature of States parties' obligations (Fifth session, 1990); UN Committee on Economic, Social and Cultural Rights, General Comment 7, Forced evictions, and the right to adequate housing (Sixteenth session, 1997), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6, p. 45 (2003); UN Committee on Economic, Social and Cultural Rights, General Comment 12, Right to adequate food (Twentieth session, 1999), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6, p. 62 (2003).

²⁹¹ ICCPR, art. 18.

²⁹² UN Human Rights Committee, General Comment 22, Article 18 (Forty-eighth session, 1993), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 (1994), p. 35, para. 2.

²⁹³ ACHPR, art. 8.

²⁹⁴ African Commission on Human and People's Rights, *Endorois Welfare Council vs. Kenya*.

²⁹⁵ *Ibid.*, paras. 163-164.

The African Commission ruled that the Endorois’ “spiritual beliefs and ceremonial practices constitute a religion under the African Charter,”²⁹⁶ and the link between those practices and the land meant that the forced eviction violated the Endorois’ article 8 rights:

The Endorois’ forced eviction from their ancestral lands by the Respondent State interfered with the Endorois’ right to religious freedom and removed them from the sacred grounds essential to the practice of their religion, and rendered it virtually impossible for the Community to maintain religious practices central to their culture and religion.²⁹⁷

The forests and waters long held sacred by Guéré communities and used for religious or ceremonial practices would arguably likewise be protected by the African Charter. The land dispossession in western Côte d’Ivoire is distinct from the Endorois case in that it is other private actors, not the Ivorian government, that have de facto evicted some Guérés through illegal occupation. But the Ivorian government does have obligations to guarantee the right to religion, meaning it needs to take action to protect—both in law and in practice—sacred land from being destroyed.

In the Endorois case, the African Commission also held that, under the African Charter, property rights can be communal as well as individual and can be based on customary practice as well as land title.²⁹⁸

²⁹⁶ Ibid., para. 168.

²⁹⁷ Ibid., para. 173.

²⁹⁸ Ibid., para. 196.

Acknowledgments

This report was researched and authored by Matt Wells, West Africa researcher. It was reviewed and edited by Corinne Dufka, senior West Africa researcher; Gerry Simpson, senior researcher and advocate in the refugees program; Clive Baldwin, senior legal advisor; and Babatunde Olugboji, deputy program director. Additional research and editing assistance was provided by Marianna Enamoneta, West Africa associate. The report was translated into French by Sarah Leblois; vetting of the translation was provided by Matt Wells, Marianna Enamoneta, and Peter Huvos, French website editor. John Emerson designed the maps. The report was prepared for publication by Grace Choi, publications director; Kathy Mills, publications specialist; and Fitzroy Hepkins, mail manager.

Human Rights Watch thanks all of the individuals who helped connect its researcher to people involved in land disputes linked to the post-election crisis. Village chiefs and representatives from the various ethnic and immigrant communities in western Côte d'Ivoire were, almost without exception, amazingly generous with their time and wisdom. Local government officials were also incredibly giving with their time and helpful in imparting knowledge. The members of the Duékoué land committee, who allowed Human Rights Watch to sit in on hearings of land disputes, deserve special thanks. Human Rights Watch also deeply appreciates the collaboration on this research project from the *Regroupement des Acteurs Ivoiriens des Droits Humains* (RAIDH).

Human Rights Watch is particularly indebted to the victims of land dispossession—both after the 2002-2003 armed conflict and the 2010-2011 post-election crisis—who were willing to share their stories. They overwhelmingly wanted restitution of their land and justice, not revenge. Should the Ivorian government ensure effective action to address their claims, it could go a long way toward ending the violence that has plagued western Côte d'Ivoire.

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300 ;
917-591-3452

AFRICA DIVISION

Daniel Bekele, *Executive Director*
Rona Peligal, *Deputy Director*
Leslie Lefkowitz, *Deputy Director*
Tiseke Kasambala, *Advocacy Director*
Laetitia Bader, *Researcher*
Valerie Brender, *fellow*
Maria Burnett, *Senior Researcher*
Corinne Dufka, *Senior Researcher*
Eric Guttschuss, *Researcher*
Charlene Harry, *Associate*
Lane Hartill, *Researcher*
Jehanne Henry, *Senior Researcher*
Felix Horne, *Researcher*
Dewa Mavhinga, *Researcher*
Lianna Merner, *Associate*
Lewis Mudge, *Researcher*
Otsieno Namwaya, *Researcher*
Lisa Rimli, *Researcher*
Ida Sawyer, *Researcher*
Carina Tertsakian, *Senior Researcher*
Anneke Van Woudenberg, *Senior Researcher*
Jamie Vernaelde, *Associate*
Matthew Wells, *Researcher*
Skye Wheeler, *Researcher*

ADVISORY COMMITTEE

Jonathan Fanton, *Chair*
Karen Ackman
Daniel Bach
Suliman Baldo
Fareda Banda
Innocent Chukwuma
Wendy Keys
Samuel Murumba
Muna Ndulo
Randy Newcomb
Louis Marie Nindorera
Peter Rosenblum
John Ryle
Ambassador Robin Sanders
Nick Shaxson
Darian Swig
Arnold Tsunga
L. Muthoni Wanyeki
Michela Wrong

HUMAN RIGHTS WATCH

Kenneth Roth, *Executive Director*
Michele Alexander, *Deputy Executive Director, Development and Global Initiatives*
Carroll Bogert, *Deputy Executive Director, External Relations*
Iain Levine, *Deputy Executive Director, Program*
Chuck Lustig, *Deputy Executive Director, Operations*

Walid Ayoub, *Information Technology Director*
Emma Daly, *Communications Director*
Barbara Guglielmo, *Finance and Administration Director*
Peggy Hicks, *Global Advocacy Director*
Babatunde Olugboji, *Deputy Program Director*
Dinah PoKempner, *General Counsel*
Tom Porteous, *Deputy Program Director*
James Ross, *Legal & Policy Director*
Joe Saunders, *Deputy Program Director*
Frances Sinha, *Human Resources Director*
James F. Hoge, Jr., *Chair*

Annex I: Human Rights Watch Letter to the Ivorian Government



Washington, August 21, 2013

Mr. Daniel Kablan Duncan
Prime Minister
Boulevard Angoulvant, Plateau
Abidjan
Côte d'Ivoire

Dear Prime Minister Duncan,

We write to receive the formal response of the Ivorian government in regards to key findings from our research on land conflict in western Côte d'Ivoire. We performed field research in around 50 villages in western Côte d'Ivoire in February and June 2013 and also interviewed Ivorian refugees during a December 2012 mission to Grand Gedeh, Liberia. We hope to include the Ivorian government's responses in a report that will be published in early October.

During the course of our research, we had the pleasure to share some of our preliminary findings with Agriculture Minister Mamadou Coulibaly; Interior Minister Hamed Bakayoko; Justice Minister Gnénéma Coulibaly; and advisors in the presidency and the prime minister's office. We also had the pleasure to speak with several sub-prefects and other local government officials in western Côte d'Ivoire. We continue to appreciate your government's openness to meet on human rights issues and look forward to maintaining this constructive dialogue.

Our research found widespread land dispossession in the regions of Cavally and Guémon linked to the post-election crisis. We documented over 100 cases in these regions in which "native" populations displaced by the conflict returned from either being refugees in Liberia or from being displaced within Côte d'Ivoire to find that some or all of their land was

being occupied illegally by “non-native” populations. Based on interviews with victims, customary leaders, and sub-prefects in western Côte d’Ivoire, we believe the cases we documented represent only a small portion of the total cases of land dispossession that occurred while people were displaced by the conflict. The problems appear particularly acute in the department of Bloléquin. In general, the victims of land dispossession come from ethnic groups that typically supported former president Gbagbo during the elections, notably the Guérés; and the people occupying the land are often immigrants.

We have noticed the discourse of the Ivorian Popular Front (FPI), which has suggested that the land of pro-Gbagbo ethnic groups has been taken over by force by armed Burkinabés, supported by the Republican Forces. The majority of cases that we documented do not fit this description. Instead, the typical case of conflict-related land dispossession that we documented was an illegal sale of a displaced person’s land by another person from the same ethnic group. We documented scores of cases in which a Guéré displaced by the conflict returned to find that another Guéré – often from another village, but at times from his own family – had illegally sold his land to a Burkinabé who arrived in the village right after the post-election crisis. Many of these cases involved clear theft and fraud by the seller, who had no claim to the land, and bad faith on the part of the buyer, who purchased the land under circumstances that should have led a reasonable person to question the seller’s ownership rights. Buyers often purchased from youth and did so clandestinely, not involving customary authorities or even local leaders from the immigrant community. While these cases of fraudulent land sales do not fit the FPI description of illegal occupation by force, they are no less problematic for the true landowner: he does not have access to his land, more than two years after the crisis.

In a minority of cases, we did document more hostile takeovers. In some cases, “non-natives” who were previously sold or ceded several hectares used the owner’s displacement to illegally seize several additional hectares that the owner had never sold or ceded. In four other cases, all near the protected forest of Goin-Débé, we documented seizures in which the occupants claimed to be former fighters with the pro-Ouattara forces and said that their takeover of dozens of hectares of virgin forest was a “reward” for having fought. All of these cases occurred near Goin-Débé but were on privately-owned land, not in the protected forest; our work did not focus on the protected forests, since this is government-owned land.

In general, those we spoke to said that the Republican Forces were playing a neutral role in land disputes. People even from typically pro-Gbagbo ethnic groups said that soldiers in the area did not implicate themselves in land disputes, and when “non-natives” approached soldiers expecting them to favor typically pro-Ouattara groups, soldiers instead said to go to the sub-prefect with any land problems – a neutral and appropriate response. People in western Côte d’Ivoire spoke in general of a decrease in human rights abuses by the Republican Forces, except for the problem of racketeering. Many people, including Guérés, said that the security situation has improved over the last year as human rights abuses

decrease. We welcome these human rights improvements and the Ivorian government's role in them.

However, we are deeply concerned about the human rights implications resulting from large-scale land dispossession linked to displacement. The inability of many Guérés to access their land has serious consequences on their rights to food and livelihood and is a clear violation of their property rights and their rights as returning refugees. Land conflict, as you are well aware, has been a root cause of violence in Côte d'Ivoire, particularly in the West. We documented how the cross-border attacks in March 2013 in Zilebly and Petit-Guiglo are directly related to these land issues, even if there may have been political motives as well. We also documented several inter-communal clashes in 2013 linked to cases of land dispossession during displacement. The land dispossession threatens to fuel additional violence in the future, both between Guéré communities and between the Guérés and "non-native" populations.

We believe that ensuring restitution for claims of land dispossession is essential to end the cycles of violence in western Côte d'Ivoire. We are encouraged by the government's plan to work on rural land reform this year, but we believe the problem of land dispossession in western Côte d'Ivoire will require significant, long-term government support for case-by-case resolution.

We had the pleasure to speak with representatives on village and sub-prefectural committees dealing with land conflicts in western Côte d'Ivoire and are encouraged by the commitment many of these representatives have to resolve disputes. However, many representatives on these committees said they had received little to no assistance from the national government, constraining their ability to effectively resolve restitution claims.

In addition, many people in western Côte d'Ivoire expressed frustration over the lack of progress in demarcating village boundaries. They felt that the government's establishment of clear boundary lines between villages would greatly reduce the problem of fraudulent sales. The failure to take steps to survey and draw boundary lines long predates the Ouattara government, but there appears to have been little progress in the 2 ½ years since the government took power.

People in western Côte d'Ivoire also expressed frustration about the complete impunity for those engaging in fraudulent sales. Many Guérés, for example, demanded that there be penal sanctions for other Guérés who engaged in fraudulent sales. Yet no one interviewed by Human Rights Watch – including victims of land dispossession, customary authorities, and sub-prefects – could identify a single case linked to the crisis in which authorities had imposed a prison sentence or even a fine for a fraudulent sale of land. Indeed, local government officials said they actively tried to avoid implicating the law.

We, and many of the people in western Côte d'Ivoire we interviewed, believe this is short-sighted. Fraudulent sellers and bad-faith buyers profit greatly from their illegal acts and get off scot free; meanwhile, the true landowner pays endlessly to try to get his claim heard. Many still do not have access to their land two years after the conflict. Illegal sales will continue and cause further land conflict so long as this impunity remains.

As noted at the outset, we will be publishing a report in early October. We want to best reflect the government's position, providing it with an opportunity to respond to our main findings, in addition to the responses we received during meetings with government officials.

Due to our publication timeline, we would be grateful for a written response to the below questions **by September 6**.

- How does the government plan to address the widespread claims of land dispossession in western Côte d'Ivoire related to the post-election crisis?
- What steps has the government taken or does the government plan to take in regard to the dispossession of land owned by people who are still refugees in Liberia?
- What consultations have the government taken, or intend to take, before reforming the 1998 law on rural land tenure? Which population groups have been consulted to date and will be consulted in the future?
- What aspects of the 1998 law on rural land tenure does the government believe need reforming, so that the law fully recognizes and protects all forms of land rights, including traditional and collective rights as well as land deemed sacred by local communities?
- What steps has the government taken to begin the process of demarcating village boundaries, including in western Côte d'Ivoire? When does the government expect to have completed this process? What factors, if any, are constraining the government's progress in demarcating village boundaries?
- What financial or technical assistance has the national government provided to village and sub-prefectural land committees working to resolve claims of land dispossession? What factors, if any, are constraining the government's ability to effectively finance and assist these committees' work?
- Does the government see a role for the criminal justice system in cases where someone has acted fraudulently in selling land that they have no claim to? If so, has the government told local authorities that they should be referring cases of potentially fraudulent land sales to the gendarmerie or judicial police? If not, what is the reluctance for involving the criminal justice system in cases of fraud and theft related to land?

- What are the current fees associated with obtaining a land certificate and, ultimately, a land title registered with the cadastre? Has the government considered reducing these fees, so as to make the process for obtaining these documents more affordable for people in rural Côte d'Ivoire?
- What is the government's position on the type of rights held by non-Ivorian nationals who often paid substantial sums of money for land prior to the passage of the 1998 law on rural land tenure? How did the 1998 land law affect the types of land rights that these immigrants have, particularly when they paid per hectare for land? Do they have ownership rights, or a long-term lease or rental agreement?

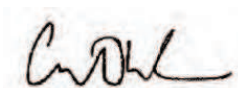
We thank you again for the openness that your government has shown in engaging on human rights issues, and we look forward to your response on the important matters raised in this letter.

If you have any questions, please contact us by email at wellsm@hrw.org or by fax at: +1-212-736-1300. Once again, your response by **September 6** would allow Human Rights Watch to further incorporate the government's perspective into our report. Thank you.

Sincerely,



Matt Wells
West Africa researcher
Human Rights Watch



Corinne Dufka
Director, West Africa
Human Rights Watch

CC – Minister of Interior, Hamed Bakayoko
CC – Minister of Justice, Human Rights, and Public Liberties, Gnénéma Coulibaly
CC – Minister of Agriculture, Mamadou Sangafowa Coulibaly
CC – Chief of Staff to the President, Marcel Amon Tanoh
CC – Advisor in charge of Human Rights and Humanitarian Affairs, Office of the President, Mamadou Diané

Annex II: Response from the Ivorian Government

MINISTERE DE LA JUSTICE DES DROITS DE L'HOMME ET DES LIBERTES PUBLIQUES		REPUBLIQUE DE COTE D'IVOIRE Union-Discipline-Travail
----- LE GARDE DES SCEAUX -----	Abidjan, le	13 SEPT 2013
N°----- 633 -----/MJDHLP/CAB-1		
A		
Monsieur Matt Wells Chercheur sur la Côte d'Ivoire à Human Right Wacth		
Objet : Réponse au courrier de l'ONG Human Rights Watch.		
 Cher Monsieur,		
 Depuis son élection à la tête de la République de Côte d'Ivoire, le Président de la République, SEM. Alassane Ouattara, a mis un point d'honneur à faciliter le travail sur le terrain de toutes les organisations nationales et internationales des droits de l'homme, dont votre prestigieuses, institution Human Right Watch (HRW).		
Le Gouvernement ivoirien reconnaît le rôle positif joué par toutes les organisations de défense et de protection des droits de l'Homme, en dépit de certaines divergences d'appréciation ou d'approche sur certains faits ou constats, toute chose, qui, de toute évidence, constitue une dynamique dans la promotion et protection des droits de l'Homme.		
Le Gouvernement ivoirien, soyez en persuadé, est et restera toujours attentif à toutes critiques et démarches constructives, dans le but d'adapter ses moyens d'action dans l'intérêt de la population ivoirienne dans toutes ses composantes, mais également dans la construction d'un Etat de droit.		
1		



Le Gouvernement ivoirien salue, d'ores et déjà, la démarche consultative de Human Right Watch (HRW) avant la publication de son rapport sur les conflits fonciers dans l'Ouest de la Côte d'Ivoire.

Il se félicite également de l'appréciation positive que votre organisation ne cesse de reconnaître quant aux efforts accomplis par le Gouvernement sous la houlette du Président de la République, SEM. Alassane Ouattara.

A cet égard, je voudrais me permettre de citer Corinne Dufka Directrice, Afrique de l'Ouest et Richard Dicker Directeur, Programme de Justice Internationale, dans leur courrier réponse en date du 17 mai 2013 à la réaction officielle du gouvernement ivoirien à un autre rapport du 4 avril 2013, de HRW intitulé « Transformer les discours en réalité: L'heure de réclamer des comptes pour les crimes internationaux graves perpétrés en Côte d'Ivoire » :

« Nous saluons à nouveau l'esprit d'ouverture manifesté de manière constante par le gouvernement du président Alassane Ouattara vis-à-vis d'organisations de défense des droits humains comme Human Rights Watch, en nous permettant de faire notre travail sans ingérence externe et en menant avec nous des discussions empreintes de franchise au sujet de nos recommandations. Ceci constitue une amélioration notable par rapport à l'époque du gouvernement de Laurent Gbagbo. Human Rights Watch reconnaît également que le gouvernement Ouattara a pris des mesures importantes en faveur de la justice, notamment en augmentant le budget du ministère de la Justice; en créant des institutions comme la Cellule spéciale d'enquête chargée de traiter les crimes commis pendant la crise postélectorale; en ratifiant le Statut de Rome régissant la Cour pénale internationale; et en rejetant l'idée d'une amnistie générale pour les crimes de la période postélectorale, laquelle avait été souvent proposée par des dirigeants du Front populaire ivoirien de Laurent Gbagbo ».



Le Gouvernement, reste conscient qu'après une crise socio-politique de plus d'une décennie et une crise post-électorale sans précédents, les défis à relever en vue de l'instauration d'un Etat de Droit et d'une justice crédible, indépendante et efficace sans lesquels aucune paix durable n'est possible, sont immenses.

C'est pourquoi la réforme du système judiciaire et pénitentiaire a été élevée au rang des priorités gouvernementales avec l'adoption en Conseil des Ministres, le 06 Juin 2013, du Document d'Orientation de la Politique Sectorielle (DOPS) du Ministère de la Justice, des Droits de l'Homme et des Libertés Publiques et d'une matrice d'action 2013-2015 doté d'un financement de 65.522.032.761 F CFA dont les cinq (5) axes majeurs sont les suivants :

- 1- Relèvement du système judiciaire et pénitentiaire
- 2- Promotion d'une justice indépendante et impartiale
- 3- Facilitation de l'accès équitable aux services de la justice pour tous
- 4- Assurer une justice de qualité en améliorant le traitement des personnes vulnérables.
- 5- Moralisation du secteur judiciaire.

Dans la correspondance de HRW en date du 21 Août 2013, sur les conclusions relatives aux enquêtes effectuées dans l'Ouest de la Côte d'Ivoire sur les litiges fonciers qui y ont cours depuis la crise post-électorale de 2010, le Gouvernement voudrait se réjouir d'abord de l'analyse pertinente faite quant à l'amélioration de la situation des droits de l'Homme en Côte d'Ivoire. Le Gouvernement reconnaît que les efforts doivent se poursuivre inlassablement en vue d'une meilleure promotion et protection des droits de l'Homme.

Toutefois, les constats présentés appellent de sa part, des observations avant qu'il ne fournisse des éléments de réponses aux questions formulées par HRW.



I. OBSERVATIONS

Le Gouvernement note avec satisfaction que les responsables de l'ONG Human Rights Watch soulignent que les populations, notamment celles de l'Ouest reconnaissent que la situation sécuritaire s'est considérablement améliorée grâce aux efforts entrepris dans ce domaine par le Gouvernement ivoirien et que les éléments des Forces Républicaines de Côte d'Ivoire (FRCI) font preuve de neutralité face aux conflits fonciers en ne s'y mêlant pas mais en renvoyant plutôt les parties devant l'autorité administrative.

Dans sa correspondance adressée au Gouvernement, Human Rights Watch affirme que ses enquêtes ont établi l'existence de spoliations de terres à grande échelle dans les régions du Cavally et du Guémon consécutivement à la crise postélectorale.

Le Gouvernement, tout en reconnaissant que le retour des réfugiés dans l'Ouest de la Côte d'Ivoire rend urgent le règlement des conflits fonciers à l'égard de tous, estime pour sa part, que le terme de spoliation employé pour désigner un état de fait dont est ou serait victime la communauté autochtone, est de nature à entraîner des confusions et à renvoyer à une idée de dépossession organisée contre ce vaillant peuple de Côte d'Ivoire, ce qui n'est pas le cas.

Votre enquête le démontre assez aisément puisque vous reconnaissez d'une part que ce sont les membres d'une même famille, d'une même communauté ou que ce sont, d'autre part, des villages autochtones qui procèdent aux transactions, quand ces occupations n'ont pas été favorisées par le déplacement des populations.



Le Gouvernement relève également que Human Rights Watch présente les victimes de ces conflits fonciers comme étant proches de l'ancien Président de la République, Laurent Gbagbo en soutenant que des populations exilées ou déplacées du fait de la guerre, auraient découvert à leur retour que leurs terres étaient occupées illégalement par des populations allogènes.

Le Gouvernement fait remarquer que la référence de la supposée proximité de cette ethnie avec l'ancien Président Laurent Gbagbo peut sous-entendre dans votre analyse que cette population est une victime expiatoire ou encore fait l'objet de vengeance politique dans l'indifférence des Autorités actuelles.

A la vérité, le Problème du foncier à l'Ouest de la Côte d'Ivoire n'est pas la conséquence de la crise militaro-politique que la Côte d'Ivoire a connu de 2002 à 2013 encore moins de la crise post-électorale même s'il ne peut être nié que ces événements ont exacerbé et aggravé un conflit déjà existant.

La pression démographique et la saturation foncière associées aux fréquents flux migratoires des allochtones et des allogènes, attirés, soit par le travail dans les plantations soit par la possibilité de devenir eux même planteurs, ont posé des problèmes de disponibilité des terres, ouvrant la porte à des conflits intercommunautaires dans une matière marquée par l'absence de protection juridique du droit coutumier, la gestion collective de droit coutumier et la gestion informelle du domaine foncier rural.

D'une manière générale, dans toutes les régions de la Côte d'Ivoire, les conflits fonciers ont, depuis toujours, existé non seulement à l'intérieur des familles mais également entre villages, communautés ou groupes de personnes se réclamant tous propriétaires des mêmes parcelles de terre.

C'est dans ce contexte qu'est intervenue la réforme foncière en milieu rural de 1998 dont l'objectif est de sécuriser les droits des propriétaires ainsi que des exploitants.



Le Gouvernement tient à préciser qu'en tout état de cause, les conflits fonciers à l'Ouest, ne font l'objet d'aucune politique de colonisation des terres au détriment de l'ethnie autochtone. De même, certaines occupations illicites ou illégales de certaines terres par d'autres communautés ethniques, ne sauraient être vues sous l'angle d'une "punition collective".

Fort justement, après avoir pris note de la position du FPI qui soutenait que les terres des groupes ethniques pro-Gbagbo avaient été confisquées par des Burkinabés armés, soutenus par les Forces Républicaines de Côte d'Ivoire (FRCI), votre enquête a permis d'établir que :

« La majorité des cas que nous avons documentés ne cadrent pas avec cette description. Au contraire, l'exemple typique des cas de spoliation de terres liés à la crise postélectorale semble être, selon les cas que nous avons documentés, la vente illicite des terres d'une personne déplacée, effectuée par une autre personne appartenant au même groupe ethnique. Nous avons documenté de nombreux cas dans lesquels un Guéré déplacé par le conflit était revenu sur ses terres et avait constaté qu'un autre Guéré – souvent originaire d'un autre village mais parfois membre de sa propre famille – les avait vendues illicitement à un Burkinabé arrivé dans le village juste après la crise postélectorale. Beaucoup de ces cas se résument à un vol ou une fraude caractérisée de la part du vendeur, qui n'avait aucun droit sur les terres en question, et à de la mauvaise foi de la part de l'acquéreur, qui a acheté les terres dans des conditions qui auraient dû conduire une personne raisonnable à mettre en doute le droit de propriété du vendeur. Les acheteurs ont souvent acquis les terres auprès de personnes jeunes et l'ont fait clandestinement, en tenant à l'écart les autorités coutumières ou même les responsables locaux de la communauté allogène. Même si ces cas de ventes frauduleuses de terres ne cadrent pas avec la description



d'appropriations par la force faite par le FPI, ils n'en sont pas moins problématiques pour le véritable propriétaire qui n'a plus accès à sa terre, plus de deux ans après la crise ».

Le Gouvernement partage avec vous le souci de rétablir ceux qui ont été injustement privés de leur terre du fait de leur déplacement ou de toute autre cause.

Il s'agit de questions d'ordre social et d'ordre juridique dont le règlement doit intervenir sans passion en raison de la complexité des problèmes soulevés qui très souvent n'ont pu trouver de solution durable dans le mode traditionnel de conciliation (chef coutumier, Sous-Préfet, etc.).

Le Président de la République, loin de croiser les bras et de cautionner ces situations de non Droit décrites dans votre rapport a pris l'engagement lors de sa tournée dans les régions de l'Ouest, de régler la question foncière avant la fin de l'année 2013, ce qui vient de se traduire par le vote à l'Assemblée nationale, le 14 août 2013, de la « loi relative au délai accordé pour la constatation des droits coutumiers sur les terres du domaine coutumier et portant modification de l'article 6 de la loi n° 98-750 du 23 décembre 1998 relative au domaine foncier rural, telle que modifiée par la loi n°2004-412 du 14 août 2004 ».

Au surplus, les questions transversales telles que le redéploiement de l'Administration et des forces de police et de gendarmerie sur toute l'étendue du territoire est effectif, le rapprochement des tribunaux des populations est en cours et une nouvelle carte judiciaire verra bientôt le jour. Sur ce dernier aspect, le Gouvernement souhaite vous faire observer qu'il a entrepris de construire et de mettre en service, le Tribunal de Guiglo, non loin de la localité de Bolequin où votre constat semble dénombrer de nombreux cas d'occupations illégales de terres.

Aussi, l'accessibilité à la justice qui constitue l'une des préoccupations de votre rapport est-elle prise en compte dans le DOPS où un volet entier est dédié à cet



effet, en vue de permettre au justiciable d'accéder sans frais ou à moindre coût à la justice.

Le Gouvernement tient à rappeler que dans le cadre des litiges privés, le service public de la justice en Côte d'Ivoire est à la disposition de tous les citoyens pour faire valoir leurs droits dès qu'ils estiment avoir subi une injustice, un trouble ou une privation de jouissance desdits droits.

La police, la gendarmerie ou le parquet ne peuvent être saisis que lorsqu'une infraction à la loi pénale a été commise, ce qui n'est pas toujours le cas en matière de litige foncier où il est question d'expulsion, de déguerpissement ou d'octroi de dommages-intérêts. Les expulsions, déguerpissements... ne constituent donc pas des infractions.

Le Gouvernement émet de fortes réserves sur l'affirmation faite dans votre rapport selon laquelle « des responsables Gouvernementaux préféreraient éviter le recours à la gendarmerie et aux autorités judiciaires ».

S'il est vrai que la sensibilité de la question foncière a pu amener certains responsables locaux à privilégier la conciliation dans le cadre des litiges fonciers mettant le plus souvent aux prises des communautés entières, la voie judiciaire qui est l'organe de régulation des litiges sociaux dans un Etat de droit, ne saurait être mis de côté. Bien au contraire le Gouvernement entend consolider l'Etat de Droit dont la Justice est l'un des socles.

II. REPONSES

- 1- L'application de la loi sur le foncier rural est la solution aux allégations de spoliation de terres. En effet, la procédure de délivrance de certificat



foncier détermine la personne détentrice des droits coutumiers sur les terres rurales.

- 2- La première mesure à prendre est de faire revenir ces réfugiés en Côte d'Ivoire afin de leur permettre de faire valoir leurs droits en formulant des demandes de certificats fonciers et en sollicitant par la suite l'expulsion des occupants illégaux devant les tribunaux. C'est tout le sens de la démarche entreprise par le Gouvernement ivoirien pour obtenir le retour en Côte d'Ivoire des exilés.
- 3- Le Gouvernement n'envisage pas de processus de réforme de la loi de 1998 relative au foncier rural. L'Assemblée Nationale n'a fait qu'apporter un amendement à l'article 6 de la loi sur le foncier rural et accorder un délai supplémentaire de 10 ans aux détenteurs de droits coutumiers pour se faire délivrer des certificats fonciers. Les droits coutumiers sur les terres rurales sont reconnus par la loi qui les formalise à travers les certificats fonciers qui sont individuels ou collectifs.
- 4- Le Gouvernement ivoirien a entamé des opérations test de délimitation des territoires des villages. Pour ce faire, son Excellence Monsieur le Président de la République a signé un décret pour définir la procédure de délimitation de ces territoires. Sur des financements déjà acquis, il est prévu la délimitation des territoires de 1.300 villages environs sur les trois prochaines années.
- 5- Au cours des opérations de délimitation des territoires des villages, le Gouvernement a décidé d'apporter un appui financier aux comités villageois de gestion foncière rurale et aux comités sous-préfectoraux.



- 6- Conscient de la modicité des moyens des populations rurales, le Gouvernement est en train de prendre les mesures appropriées afin de permettre à ces populations d'obtenir des documents sur leurs terres à coûts abordables.
- 7- L'amendement à la loi de 1998 intervenu en 2004 sauvegarde les droits acquis antérieurs à l'entrée en vigueur de la loi susvisée, de sorte que les droits de tous les citoyens sont garantis.

Veuillez agréer, cher Monsieur, l'expression de ma considération distinguée.



Gnénéma Mamadou COULIBALY



(left) A man picks coffee beans on a coffee and cocoa plantation in Divo, central-western Côte d'Ivoire, October 22, 2010.

(front cover) Cocoa planters near San-Pedro, on the southern coast of Côte d'Ivoire, break open cocoa pod shells on November 29, 2008.

Photos © AFP Photo / Kambou Sia

“That Land Is My Family’s Wealth”

Addressing Land Dispossession after Côte d'Ivoire's Post-Election Conflict

Hundreds of thousands of people were displaced by violence that erupted in the five months after Côte d'Ivoire's disputed November 2010 presidential elections, the majority from the country's West, where armed forces committed some of their worst atrocities. Many of those displaced have returned to their villages with hopes of rebuilding their lives, only to face a new peril: their land—their source of food and livelihood—has been illegally taken over.

Based on three research missions and more than 230 interviews, including with people from some 50 villages and towns in western Côte d'Ivoire, Human Rights Watch documented widespread land dispossession linked to people's displacement by the crisis, as well as the context in which illegal occupations have occurred. Most documented cases of land dispossession were rooted in illegal land sales, in which a person fraudulently sold the land of a displaced person, often to migrant populations.

Two years after the crisis, many landowners still do not have access to their land, leading to rising tensions and several episodes of inter-communal violence. Land dispossession is also a key reason why many Ivorians have decided to remain in Liberia as refugees. The report shows how the Ivorian government has been slow to provide needed support for customary, administrative, and judicial bodies dealing with cases of land dispossession.

“*That Land Is My Family's Wealth*” recommends that the government take swift action to ensure the fair resolution of land restitution claims, to demarcate village boundaries, and to facilitate landowners' ability to register their property rights. Land, politics, and violence have been closely linked for the last two decades. An effective response to land dispossession is needed to ensure that the rich soil in western Côte d'Ivoire is again a source of community development, rather than violence.