



Côte d'Ivoire 

# Whose land is this?

Land disputes and forced displacement  
in the western forest area of Côte d'Ivoire

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Summary and recommendations



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October 2009

**Cover photo:** Village of Yappleu, Moyen Cavally, in the western area of Côte d'Ivoire (Barbara McCallin/IDMC, July 2008).  
**Cover concept:** Laris(s)-a Kuchina, [laris-s-a.com](http://laris-s-a.com)

# Map of internal displacement in Côte d'Ivoire



# Note on the study

The information for this study is drawn from a mission carried out in Côte d'Ivoire by NRC-IDMC from 26 June to 6 July 2008, as well as from field research undertaken in July 2008 by Mr. Théodore Dagrou, President of the Daloa Court of First Instance, recruited as a consultant by the Norwegian Refugee Council office in Côte d'Ivoire. The field research targeted the départements of Man (the villages of Yapleu, Bably and Pinhou), Danane (the city of Zouan-Hounien), Bangolo (the villages of Zou, Guéhouo and Duékpé), Bloléquin (the city of Zéaglo), Guiglo (the villages of Béoué, Zouan, CIB and the city of Guiglo) and Duékoué (the village of Guéhieby and the city of Duékoué). The team used a methodology based on semi-structured interviews with privileged informants (government and partners) and specific groups (women, young people and displaced people). In each village, the team met with the various social groups, including the village chief and the land chief (when the former does not assume both functions), the notables, the President of the Youth Association, members and representatives of indigenous

and migrant groups, women, internally displaced people and/or returnees if they have not been represented by the aforementioned groups.

The interviews were held based on a list of questions dealing with different themes: social and historical composition of the village, description of population movements before, during and after the crisis, types of land disputes before, during and after the crisis, methods of resolution of these disputes before, during and after the crisis, and modes of land transfer. Reliable analysis was made possible by crosschecking with specific documentary research the (sometimes contradictory) information given by the various parties. Even if the analysis takes general considerations as its starting point, the present study focuses on a very specific geographic zone and has benefited from the expertise of NRC field teams in the localities visited. This report, written by NRC/IDMC, used a preliminary report by Mr. Théodore Dagrou as its starting point, and added further documentary research.

## Acknowledgements

This report was developed and written by Barbara McCallin and Marzia Montemurro with the support of the Norwegian Refugee Council (NRC) in Côte d'Ivoire. It may be downloaded at the website: [www.internal-displacement.org](http://www.internal-displacement.org). We especially wish to thank Mr. Théodore Dagrou for his preliminary research and Mr. Jean-Pierre Chauveau, Mr. Jean-Philippe Colin and Mrs. Aline Aka, as well as the Côte d'Ivoire Ministry of Agriculture, for their comments on the first version of this report. We also extend our thanks to Vance Culbert, former NRC Country Director in Côte d'Ivoire, and to all those who provided information or assistance, particularly the internally displaced people and the communities who agreed to answer our questions.

# Summary

Armed conflict broke out in Côte d'Ivoire in 2002, which caused the country to be divided in two: the north under the control of the Forces Nouvelles rebels and the south in the hands of the government. It also caused the mass displacement of hundreds of thousands of people. In the west of the country, and in particular in the two regions of Moyen Cavally and Dix-Huit Montagnes, the crisis provoked a series of successive displacements involving population groups with competing claims over land.

These tensions in the west were among the consequences of a national policy on forest development, which led to significant migration flows in the two regions, particularly from the 1960s and 1970s. Ongoing land disputes in these areas have been exacerbated by the armed conflict, the resulting displacement, and now the return of internally displaced people (IDPs). While people were displaced, many of the plots they had planted were sold or leased by others, so depriving IDPs of their principal means of subsistence on their return and fuelling inter-community tensions. It is feared that the land disputes will multiply as more IDPs return.

Despite the customary principles that hold land as an inalienable asset, new practices have developed which have allowed much of the land to be sold. These practices have followed policies designed to facilitate the access to land of migrants, in order to encourage them to come to exploit the resources of the western forest area by developing agriculture for export. This practice of informal land sale, which is contrary both to custom and to statutory law, has encouraged more or less intentional misunderstandings as to the nature of the land transfer. The buyers assert that they have acquired permanent ownership of the land, whereas the sellers consider that they have only sold a right of use.

Such misunderstandings gave rise to many land disputes when the economic crisis led young people to return from the cities to cultivate their fathers' land, only to find that much of it had been sold to migrants. These people's attempts to recover the right to use the land have led to an increasing number of disputes, with the migrants asserting their ownership rights. Politicians have exploited this situation in such a way as to further fuel the national divide.

Côte d'Ivoire has not developed a system of restitution or compensation for properties which IDPs were forced to abandon due to the conflict. Instead, the government

intends to settle disputes over the ownership of this land through an existing mechanism designed to recognise and formalise customary rights. Before a law on rural land was passed in 1998, no legislation gave customary land transactions any form of legal weight and only transactions witnessed by a notary were recognised. The 1998 law broke new ground by recognising customary rights on a transitional basis, before converting these into formal individual rights. It was particularly ambitious, considering that 98 per cent of rural land is subject to customary management, with only one to two per cent held under title deed in accordance with statutory law. Recognising the role that custom still plays in land transactions, the law confers transitional property rights based on customary rights and transfers, and translates these into title deeds in the case of citizens of Côte d'Ivoire, or into long-term leases for non-Ivorians.

Although the aim of the 1998 law is to reduce tensions over land ownership resulting from the uncertainty of customary transactions, the formalisation of customary rights in the context of displacement complicates land disputes and increases the risk of discord. Effectively, as well as recovering the land they left behind, returnees must also assert their existing customary rights and ensure formal legal recognition of these rights.

Certain provisions of the law that would normally be insignificant have a negative impact on these IDPs, and it is essential to adapt the law to their specific situations, to avoid discrimination. Prerequisites for the recognition of customary land rights, such as the "certified statement of the continuous and peaceful existence of customary rights" could prevent IDPs who have been absent from asserting their rights. One way to avoid this would be for the government to give clear directives for interpretation, emphasising that absence due to conflict cannot be taken into account in determining continuous and peaceful existence.

Similarly, the law provides that the request to formalise ownership must be made at the site where the plot of land is situated, obliging IDPs to undertake costly and potentially difficult or dangerous journeys. In this case, facilitating the transport of displaced people or other applicants could be considered, so that all parties may be heard and represented. Due to the distance of IDPs from their usual place of residence, a system also needs to be set up to inform them of any requests that concern them which are filed in their home villages, so that they can defend their rights.

A general campaign to inform people about the provisions of the 1998 law would enable them to benefit from it. This campaign should, however, be preceded by an effort to clarify certain provisions of the law, as it has some omissions and imprecisions that could easily lead to contradictory and sometimes discriminatory interpretations against migrants from within Côte d'Ivoire or from abroad.

The law only applies to the rural land domain and not to the protected forests benefiting from "forêt classée" status, where many displaced individuals had plantations. Many customary transactions between "autochtones" (indigenous inhabitants) and migrants in these forests were illegal, since the forest code prohibits all private transactions. Thus there is no specific legislative framework to resolve these kinds of land disputes; their great number calls for the implementation of global solutions that take the interests of displaced people and more broadly of migrants into account equitably. These solutions should recognise the years of work invested, by providing restitution of or compensation for their plantations. Beyond ad hoc solutions such as the Bloléquin Agreement on land sharing, it would appear that a global approach is currently being considered.

The crisis has made the existing customary, administrative and judicial mechanisms for managing land disputes less effective. Previously, customary authorities managed almost all land disputes, but their legitimacy has been increasingly called into question since the crisis. Furthermore, the displacement of many customary chiefs has kept them from performing this role. In many villages, customary authorities have also been displaced, carrying with them knowledge of land transactions. This has facilitated the irregular appropriation of land and the proliferation of self-proclaimed leaders who returning autochthones have violently rejected. In other cases, new mechanisms such as "Peace Committees" (Comités de paix) have been set up either alongside or in the place of existing ones, leading to confusion over the role of each in responding to land disputes.

In this context, the mechanisms provided by the 1998 law seem to offer a valid alternative solution, with the state offering, subject to the legal limitations outlined above, a better guarantee of impartiality in the face of the mistrust of migrants towards local customary authorities.

However, there are many obstacles to the implementation of the law, some connected to problems encountered during any programme to register customary land rights, and others connected to the content of the law itself and its imprecisions. The increase in the number of land disputes resulting from the crisis and displacement contribute to these obstacles. The law represents a radi-

cal change for populations who are used to customary management of land and who may be wary of adopting a system that imposes a complex procedure and payment of a land tax, in which they do not necessarily recognise any added value. Migrants may, however, consider the reform positively, and appreciate the chance the law gives them to secure their land rights.

From an institutional point of view, the formalisation programmes require considerable administrative, financial and human capacity in the short term as well as in the long term, and the government does not generally have a strong presence in rural areas. The creation of the Village Land Committees (Comités Villageois de Gestion Foncière), which are tasked under the 1998 law with the formalisation of customary rights, should be accompanied by a significant increase in the number of surveyors to demarcate the plots of land to be formalised; currently only 23 surveyors cover over 20 million hectares of rural land. Due in part to the conflict and these problems of institutional capacity, the law had only been partially implemented more than ten years after its promulgation, with the first land certificates only expected in June 2009.

These constraints call for cooperation between the various institutions, the formal courts and the customary authorities. Although the courts are not obliged to call on the customary authorities to resolve land disputes, they often have recourse to them in order to obtain further information about the nature of the alleged rights. In general, people rarely apply to the courts in the event of land disputes, due to the distance and cost involved and the difficulties involved in enforcing rulings. This is particularly the case in Dix-Huit Montagnes and in parts of Moyen Cavally, where the justice system has yet to be fully restructured following the conflict, complicating the task of establishing facts and enforcing rulings. In many cases, the courts send the plaintiffs back to the customary institutions.

When it does accept land disputes cases, the justice system has demonstrated a pragmatic approach: the Daloa Tribunal, which holds temporary jurisdiction in the areas studied, has notably agreed to take into consideration written notes that attest to customary transactions, even if these have no legal value. To implement the 1998 law, the courts could use the rulings of the Land Committees to better understand land disputes. Similarly, appeals to the customary authorities to facilitate implementation of the 1998 law could certainly make up for the lack of local institutional presence, but would increase the risk of partial rulings. It therefore seems judicious to rely on the Village Land Committee, while strengthening the representation of all members of the population within these committees.

# Recommendations

## For the attention of the Government

### *Concerning the 1998 land law*

1. Define by statutory text or written directive the notion of “continuous and peaceful” occupation with respect to the situation of internal displacement, emphasising that absence due to the conflict cannot be considered as an interruption of continuous and peaceful existence. Thereby avoid discriminating against internally displaced people (IDPs) who have been unable to assert their customary land rights by demonstrating continuous and peaceful occupation.
2. Define by statutory text or written directive the action to be taken where a statement of continuous and peaceful existence of customary rights cannot be made, so that the procedure shall not be interrupted on this basis alone.
3. In the absence of precise statutory texts, clarify with the officials charged with the implementation of the law what the “obligation of lease for the non-proprietor farmer when the latter is of good faith” entails, and define the criteria for establishing good faith.
4. Clarify the value that will be accorded to the many “petits papiers” (small papers) used for sale and right-of-use agreements.
5. Clarify whether non-Ivoriens can own buildings within the rural land domain without being the owners of land, and if they cannot, consider a form of compensation for the building.
6. Clarify whether or not non-Ivoriens have the right to a land certificate, and specify the practical or legislative consequences in either case.
7. Establish affordable long-term leases for farmers who cannot become landowners. This will limit abuses of the system resulting from unequal power relations and will indirectly recognise the value of investments already made.
8. For farmers who cannot become landowners but who have obtained a long-term lease, consider a form of compensation through a deduction in rent corresponding to the lease price. In the absence of “petits papiers” or registers indicating this amount, a sum could be determined in accordance with the size of the plot, the date of sale and the current value of land in the area. Where applicable, a single “lump sum” payment could be considered.
9. Amend the law so that land transactions carried out since the 1998 law came into effect may be recognised and formalised.
10. Amend the legislation to charge to the state the fees related to registrations in the state’s name, instead of to the lessee.
11. During investigations to determine the existence of customary rights, adopt a proactive approach to protecting the land interests of all members of the family, including women, children and those displaced, especially through the work of the village and prefectural land committees (Comités de Gestion Foncière Rurale). Formalise this approach through a decree or directive, in order to limit the risks of exclusion from ownership of the most vulnerable or the least informed people.
12. Ensure and systematically encourage the representation of all the communities and the displaced people within the Village Land Committees (Comités Villageois de Gestion Foncière Rurale), and help representatives to defend their interests effectively by allowing support from a third party mediator or NGO.
13. Facilitate the transport of land committee investigators so that the interests of all parties may be heard.
14. Set up a mechanism to take displaced people to their usual place of residence, to relate and defend their interests during public sessions presenting the results of the land investigation. When insecurity prevents their travel, put in place a form of assistance or legal representation allowing the statements of the displaced people to be recorded and transmitted to the Village Committee.
15. Set up a notification system in addition to the one provided under the law in displaced people’s places of origin, to inform them when requests concerning them are filed so they can defend their rights. Prioritise the dissemination of this information along the axes of displacement.
16. Provide a general information campaign about the provisions of the law to allow the population, and

particularly displaced people, to best benefit from it. Given that the government aims to implement the law quickly, it is important to inform the general public, while simultaneously addressing the problems highlighted in this report.

17. Carry out an information campaign to let displaced populations know where they can find updated information on requests for certificates that have been filed, so that they may check if their land is concerned.
18. Establish a mechanism to survey problems, abuses and good practices that arise during the implementation of the law. The Rural Land Commission (Commission Foncière Rurale), although not yet operational, could play this role in its capacity as the “inter-sectoral body for monitoring the rural land situation and for studying the conditions for optimising land management” and the “permanent consultative body in the domain of rural land”.

#### *In general terms*

19. Initiate a profiling exercise on displaced people, to establish with greater certainty their numbers and the various patterns of displacement and return.
20. Develop a framework defining the terms and conditions for settling land disputes that arise within the protected forests.
21. Ensure the implementation of the legal provisions regulating access to Ivorian citizenship through naturalisation, giving special attention to those people who have already benefited from decrees of naturalisation.
22. Create land and property chambers within the courts, along the same lines as the employment tribunals, presided over by professional magistrates assisted as necessary by assessors who are informed authorities on land issues in the region.

### **For the attention of civil society**

23. Initiate advocacy activities to encourage the adaptation of the 1998 rural land law to the specific needs and constraints of displaced people, and to encourage clarification in cases of contradictory interpretations.
24. At the same time, contribute to raising awareness and disseminating the 1998 land law and subsequent texts in collaboration with the Ministry of Agriculture.
25. Monitor problems, abuses and good practices of implementation of the law, and bring these to the government's attention.

### **For the attention of the United Nations Humanitarian Coordinator**

26. Initiate a discussion within the UN country team regarding the requirements for profiling the displaced population and the options available for launching a concerted process, with the government's support, to establish the number and locations of IDPs, in order to more precisely identify displacement and return movements and so ensure better planning and assistance.
27. Ensure that land issues are considered within any strategy developed by the agencies and international partners of the UN to help IDPs achieve durable solutions.

### **For the attention of agencies and international partners of the United Nations System**

28. Continue to advocate, to the government where necessary, for the adaptation of the 1998 rural land law to the specific needs and constraints of displaced people, and clarify the points of law that give rise to contradictory interpretations.
29. At the same time, contribute to raising awareness and disseminating the 1998 land law and subsequent texts in collaboration with the Ministry of Agriculture.
30. In the interim – while a coordinated, holistic approach is being set up – systematically involve the Ministry of Agriculture, along with the Ministries of National Reconciliation, Relations with Institutions, Solidarity, and War Victims, in reconciliation efforts and activities promoting the return of displaced people.
31. Render the mechanisms and initiatives for settling conflicts and promoting social cohesion consistent in Moyen Cavally and Dix-Huit Montagnes, by coordinating with the Ministry of Agriculture over the management of land disputes.
32. Ensure that specific issues are taken into account regarding the recognition of the land rights of displaced women within any programme supporting durable solutions for displaced people and the implementation of the 1998 law.
33. Support government efforts to facilitate the access of people to the identity papers they require to initiate a request for a land certificate.

## For the attention of donors

34. Encourage the government to adopt corrective measures that take into account the particular difficulties encountered by displaced people with respect to the implementation of the 1998 law, and support it in these efforts.
35. Support government efforts in the implementation of the 1998 law, including activities which may help IDPs take advantage of the law.
36. Provide financial support for initiatives by agencies and international partners of the UN system that aim for a better understanding of the number of IDPs and their patterns of displacement and return, and which guarantee the promotion and respect of the rights of IDPs within the framework of the implementation of the 1998 law, and the possibility of long-term return for those who express a desire to do so (hence the need for profiling, combined with a survey of IDP's intentions regarding durable solutions). This exercise would help to better identify where, and through what activities, the implementation of the 1998 law should target IDPs.

# About the authors

## The Internal Displacement Monitoring Centre

The Internal Displacement Monitoring Centre (IDMC), established in 1998 by the Norwegian Refugee Council (NRC), is the leading international body monitoring conflict-induced internal displacement worldwide.

Through its work, the Centre contributes to improving national and international capacities to protect and assist the millions of people around the globe who have been displaced within their own country as a result of conflicts or human rights violations.

At the request of the United Nations, the Geneva-based IDMC runs an online database providing comprehensive information and analysis on internal displacement in some 50 countries.

Based on its monitoring and data collection activities, the Centre advocates for durable solutions to the plight of the internally displaced in line with international standards. IDMC also carries out training activities to enhance the capacity of local actors to respond to the needs of internally displaced people (IDPs).

For further information, consult the website of the Internal Displacement Monitoring Centre and the database at: [www.internal-displacement.org](http://www.internal-displacement.org).

## The Norwegian Refugee Council in Côte d'Ivoire

The Norwegian Refugee Council (NRC) was established in 1946 under the name Aid to Europe, to assist refugees in Europe after World War II. Today, the NRC is an independent, humanitarian non-governmental organisation which aims to ensure the promotion and protection of people forced to flee their homes within their own country or abroad, irrespective of distinctions of race, religion, nationality or political views.

NRC launched its activities in Côte d'Ivoire in 2005, initially to assist populations affected by the displacement in all of their administrative and judicial procedures with a view to recovering a fundamental right of all individuals: the right to an identity. Currently, NRC is implementing programmes in the sectors of protection, education and rehabilitation. Its programmes provide assistance to over

16,000 people in the west and central-northern regions.

For further information, consult the website: [www.ivorycoast.nrc.no](http://www.ivorycoast.nrc.no).

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