



Everyday Criminal Justice and Civilian Protection in the Central African Republic

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EXECUTIVE SUMMARY

This brief considers the issue of ‘everyday’ criminal justice in the Central African republic (CAR) and reflects on the challenges that low-level crimes present for international actors engaging in civilian protection activities. It focuses on contemporary operational dilemmas faced by international actors in CAR, considering the perspectives of humanitarian actors, actors from the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA), displaced populations, local civil society, and armed actors. This brief may be read alone or alongside a companion brief (Research Brief 1 on CAR).² The field research that generated these findings was conducted by the author during a three-week visit to CAR in April 2019.³

The highlights of the research findings are as follows:

Access to justice in CAR:

Meaningful access to justice for displaced individuals who are victims of crime in CAR is severely constrained. IDPs express feelings of fatalism and futility in the face of criminal threats—such as theft, robbery, assault or sexual violence—in the IDP sites.

Few expect state actors to deal with criminal threats, and interviewees point to a justice vacuum outside Bangui, the capital. While MINUSCA actors might sometimes step in to deal

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² Brief 1 considers actors’ perceptions of who should be considered a civilian within the context of CAR, and international law’s relevance to the work of international actors.

³ Time was spent in both Bangui and Bria, including a visit to the PK3 IDP site. A total of 71 individuals were interviewed, through semi-structured key informant interviews and small focus group discussions. Informed consent was secured in all cases. To protect confidentiality, the names of individual respondents and, in some cases, other identifying information (such as the gender of the speaker) has been withheld.

with criminal threats, 'self-justice' is often the main avenue pursued by displaced populations who have suffered criminal harm (see below).

The relationship between justice and protection:

Displaced populations in CAR tend to think of everyday criminal justice as a protection issue. They define harms expansively to include non-physical threats. They expect international actors to provide both justice and protection on a daily basis, and when MINUSCA does not step in to deal with crime IDPs feel unprotected.

There is a lack of agreement amongst various actors in CAR regarding what constitutes a low-level criminal threat and what is a higher-level crime that might amount to a conflict-related atrocity. Sometimes, a distinction is made between ordinary crime that one might find in any urban environment, and more systematic criminal acts that are targeted at a specific group of victims. Matters are complicated by the fact that it is often the same civilian population suffering harm in both cases – and this is of course the very population MINUSCA is tasked with protecting.

International protection actors are aware that local populations in CAR link concepts of justice and protection. There is no clear agreement, however, on the extent to which MINUSCA should frame access to justice as a protection issue. While mission staff in Bangui propose that the UN's protection of civilians (PoC) agenda cuts across all tasks the mission performs— including everyday justice—some field-based mission actors believe that mission leadership in Bangui wants them to compartmentalize justice and protection.

Challenges in arrest and detention of alleged perpetrators:

Whether or not the PoC agenda is deemed to encompass everyday justice, as an operational matter MINUSCA routinely engages in arresting, detaining, and investigating crimes that it deems serious in the IDP sites. Two serious challenges arise here, both of which risk undermining the mission's legitimacy as an intervening actor in CAR:

- (i) MINUSCA struggles to balance the rights of the accused with its commitment to protecting civilian populations. To maintain its image as a PoC actor, MINUSCA must not allow dangerous criminal elements to circulate amongst displaced civilian populations. Separating accused individuals from the community for a prolonged period of time, however, could violate the accused's rights and undermine MINUSCA's image as a promoter of the rule of law in CAR.
- (ii) Where MINUSCA disproportionately arrests low-level criminals affiliated with certain armed groups (*e.g.* anti-balaka), it faces accusations of bias that could tarnish the mission's legitimacy overall.

Self-justice in CAR and MINUSCA’s response:

Local populations in CAR routinely rely on ‘self-justice’⁴, an expedited form of justice which might involve responses ranging from community mediation to violent vigilantism. MINUSCA has struggled to delineate a definitive position with respect to these practices, and it is not clear which practices, if any, the mission endorses. The brief identifies four main challenges that the mission faces with respect to self-justice in CAR:

- (i) The mission risks spreading itself too thin.
- (ii) Support for self-justice could interfere with the mission’s efforts to extend the reach of national law.
- (iii) The mission might condone justice practices—such as mob violence—that fall afoul of its principles and commitments.
- (iv) The mission might endorse justice meted out by armed groups who are harming local populations under cover of the ‘justice provider’ label.

However fraught such engagement is, the brief cautions that *not* taking a position on self-justice is not a viable option for MINUSCA either. Failing to confront these issues head on may generate serious legitimacy problems for the mission.

Based on the research presented in this brief, three key questions are articulated for policymakers and international actors engaged in CAR to reflect upon:

1. Should concerns of everyday criminal justice fall within MINUSCA’s PoC mandate?

There are many respects in which everyday justice fits naturally within the protection sphere: criminal threats and classic protection threats often overlap, both in the nature of the harm caused and the population that suffers it. Moreover, displaced populations in CAR themselves think of the justice problems they face as protection problems—whether or not they relate to personal physical integrity. Despite this easy alignment between justice and protection, there may be important strategic reasons for giving everyday justice its own sphere outside of the PoC rubric. A point that is hinted at throughout the brief is that there is a danger of PoC expanding so that it means everything to everyone. It merits emphasis that treating justice as a separate matter from protection should not be tantamount to ignoring everyday criminal justice as a problem in its own right.

2. When arresting and detaining accused individuals, how should MINUSCA balance community security with the rights of the accused?

⁴ The terminology of ‘self-justice’ is used here because that was the term employed by the majority of respondents—including civilians, themselves. For the sake of simplicity, the term is employed in this brief loosely and broadly; it captures all informal, community and popular justice practices that take place outside of the state criminal justice system.

MINUSCA staff dealing with processes of arrest and detention appear to be informed of the mission's human rights commitments, and they do not wish to overstep these in their treatment of accused individuals. When such a commitment is paired with an awareness of prison overcrowding problems, however, it may lead to early re-introduction of accused perpetrators into IDP sites. Such practices can seriously undermine the security of IDPs and also their perceptions of whether MINUSCA is a trustworthy protection actor.

3. What kinds of (self-)justice practices by local populations is MINUSCA willing to support? Are there certain practices the mission will not condone?

It seems clear enough that MINUSCA cannot be seen to endorse any justice practices that involve extra-legal violence or physical harm to individuals. Short of this, the mission needs to clarify which forms of self-justice it wishes to support and it must justify the basis upon which this decision is made. International law could offer one useful yardstick in developing appropriate policies on this issue, but, equally, operational and strategic concerns—such as the mission's efforts to bolster national justice institutions in CAR—will need to be factored in.