

Case Study: Central African Republic Timber Study



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I. Case Study Overview¹

Research Question

The Central African Republic (CAR) is a landlocked country in Central Africa, bordered by Chad to the north, Sudan and South Sudan to the east, the Republic of the Congo and the Democratic Republic of Congo to the South, and Cameroon to the west.² CAR's economy is primarily sustained by subsistence agriculture, mining, and forestry;³ the agricultural sector "generates more than half" of the country's GDP, and the country's export earnings are accounted for primarily by diamonds, timber, and cotton.⁴ Indeed, although CAR boasts only 5.4 million hectares of forest, accounting for less than 10% of its total land area, the forest sector contributes around 4% of the GDP and 40% of the country's overall export earnings.⁵

Since 2013, CAR has been mired in an ongoing civil war between the government, the *Séléka* rebel coalition, and the anti-balaka militias.⁶ Unfortunately, this conflict is funded in part by the international hardwood timber logging industry, which reportedly paid nearly €3.4 million (approximately US\$4 million) in security and checkpoint payments to *Séléka* rebels, and €127,000 to anti-balaka militias, in 2013.⁷ As of 2015, the main buyers of timber from CAR were Germany, France, and China;⁸ exported timber is reportedly used for luxury flooring, garden furniture, and musical instruments.⁹

The forests of CAR's southernmost prefectures in Sangha-Mbaéerée and Lobaye, on the border with the Democratic Republic of the Congo (DRC), are among the most attractive for logging. These districts are also the home to some of CAR's most marginalized populations, including the Bayaka or Aka, an indigenous minority. Many members of the Bayaka community live nomadic lifestyles,

¹ The statements and analysis contained within this report are the work of the American Bar Association Rule of Law Initiative, which is solely responsible for its content. The views expressed herein should not be construed as representing the policy of the ABA. This report was funded by a grant from the United States Department of State. The opinions, findings and conclusions stated herein are those of the author[s] and do not necessarily reflect those of the United States Department of State.

² *Central African Republic*, CIA WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/ct.html> (last visited Aug. 6, 2017).

³ *Id.*

⁴ *Id.*

⁵ *Central African Republic*, EUFLEGT FACILITY, <http://www.euflegt.efi.int/car> (last visited Aug. 22, 2017).

⁶ See Emily Mellgard, *What is the Antibalaka?* CTR. ON RELIGION & GEOPOLITICS (Sep. 7, 2016), <http://www.religionandgeopolitics.org/anti-balaka/what-antibalaka> (last visited Aug. 22, 2017).

⁷ Reuters, *Timber Companies Paid CAR Armed Groups Millions, Claims Report*, GUARDIAN (July 15, 2017), <https://www.theguardian.com/global-development/2015/jul/15/central-african-republic-timber-trade-paid-millions-armed-groups> (last visited Aug. 22, 2017).

⁸ *Id.*

⁹ Tom Dale, *Blood Timer: International Logging Firms Worked with Brutal CAR Militias, Says Report*, VICE.COM (July 15, 2015), <https://news.vice.com/article/blood-timber-international-logging-firms-worked-with-brutal-car-militias-says-report> (last visited Aug. 22, 2017).

collecting forest products and hunting wild game to sell in national markets.¹⁰

This case study explores the trafficking risks relating to the timber trade and its impact on the Bayaka and other vulnerable indigenous groups. This examination of trafficking impacts of the timber trade is timely. In 2015, European consumption of lumber from the Central African Republic (CAR) played a significant role in funding the conflict that decimated CAR and left thousands dead and hundreds of thousands displaced from their homes.¹¹ Illicit timber exports attracted militia factions as they sought to extract wealth and fund weapons purchases in a power struggle that led to the collapse of the Central African state. The conflict destroyed state institutions and infrastructure, and the fighting exacerbated social differences that continue to fuel division and continue to erupt into violence today.

Parameters

This case study is based on structured interviews with key individuals in Bangui and Boda that were conducted in May 2016. It considers also materials and reports developed by local and international NGOs and provided during the course of research interviews. Where relevant, it considers human rights reports issued by international non-governmental organizations (INGOs), United Nations (UN) publications, statements made to the U.S. Department of State, and news articles that otherwise touch upon the issues discussed here.

ABA ROLI has not necessarily independently confirmed the contents of any such secondary documents by reference to primary sources within CAR; however, the personal knowledge of the primary researchers has been brought to bear in many instances.

Definition of Trafficking in Persons (TIP)

“Trafficking in persons” is defined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) as the recruitment, transportation, transfer, harboring, or receipt of persons (i.e., the act), by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person (i.e., the means), for the purpose of exploitation. Exploitation includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude, or the removal of organs.¹²

In 2010, CAR passed “The New Penal Code”, which criminalizes the offense of trafficking in persons, and establishes the elements of trafficking as follows:¹³

¹⁰ *Profile: Central African Republic - Aka*, WORLD DIRECTORY OF MINORITIES AND INDIGENOUS PEOPLES, MINORITY RIGHTS GROUP INT’L, <http://minorityrights.org/minorities/aka/> (last visited Aug. 22, 2017).

¹¹ See *Reuters*, *supra* note 7.

¹² UN General Assembly, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crimes, art. 3, 15 November 2000.

¹³ Loi no. 10.001, *portant Code Pénal Centrafricain*, art. 151, available at http://www.wipo.int/wipolex/en/text.jsp?file_id=195086 [hereinafter New Penal Code].

Trafficking in persons is the recruitment, transport, transfer, harboring or reception of persons under the following conditions:

- by force or the threat of force or other forms of coercion;
- by abduction, fraud, deceit, abuse of authority or a situation of vulnerability;
- by the offer or acceptance of payments or benefits to obtain the consent of one person having authority over another for the purpose of exploitation.

Trafficking in persons, when intentionally committed or attempted, is punishable by imprisonment for five to ten years.

Trafficking in persons, when committed for the purpose of exploiting minors under 18 years of age, shall be punished by the prison term at hard labor, irrespective of the use of one of the means mentioned in the first subparagraph of this Article.

The purposes of exploitation include, but are not limited to, the exploitation of the prostitution of another or other forms of sexual exploitation, forced labor or work, slavery or practices similar to slavery, servitude or the removal of organs.¹⁴

The New Penal Code establishes that attempted trafficking must be punished as if the crime had been completed with the successful undertaking of the crime, noting that “manifest[ation] of the commencement of execution, if it has not been suspended or if it has failed in its effect only by circumstances beyond the control of its author,” is regarded the same as the crime itself.¹⁵ The Code metes out an equally harsh punishment for individuals complicit in trafficking.¹⁶ I

In addition, the New Penal Code criminalizes trafficking in migrants, and includes provision for enhanced punishment “when inhuman or degrading treatment is committed.”¹⁷

In addition to its domestic statutes, CAR is a signatory to, and as such bound by, the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the UN Convention Against Corruption. Additionally, CAR is a signatory of both the UN Convention against Transnational Organized Crime and the Palermo Protocol.¹⁸

¹⁴ *Id.*

¹⁵ *Id.* at arts. 3-4.

¹⁶ *Id.* at arts. 11-12.

¹⁷ *Id.* at art. 256(2).

¹⁸ Multilateral Treaties Deposited with the Secretary-General, United Nations Treaty Collection, https://treaties.un.org/Pages/TreatyParticipantSearch.aspx?clang=_en (last visited Aug. 20, 2017) (select “Central African Republic” in the drop-down Participant list to access a full list of international treaties and agreements deposited with the U.N. Secretary-General that Ethiopia has ratified or acceded to).

II. Background and Context

Social and Political Context

In the last half-century, CAR has experienced a cycle of coups, rebellions, and violence, fuelled by autocratic and non-inclusive governments that are not accountable to the nation's citizenry. The latest cycle of violence emerged in 2012, when long-active rebel groups—claiming dissatisfaction with the government's compliance with peace agreements—coalesced to form the *Séléka* alliance.¹⁹ By March 2013, *Séléka* had taken over Bangui, CAR's capital, and forced President François Bozizé to flee the country.²⁰

In a short period of time, what had been a primarily political conflict took on ethno-religious dimensions. *Séléka* forces began to launch attacks upon Christian civilians,²¹ and Anti-Balaka militias began to launch attacks against Muslim civilians.²² These multiplied over the course of 2013, which resulted in thousands of deaths and the forced displacement of hundreds of thousands of civilians.²³ By early 2014, the *Séléka* president, Michel Djotodia, had been pressured to resign; Catherine Samba-Panza was elected as interim president by the National Transitional Council, in order to lead the country to an election process that was set for 2015.

The Brazzaville Peace Accord laid out a road map to peace, and in December 2015 a Constitutional referendum was held and passed with overwhelming support.²⁴ Presidential and legislative elections were held on December 30, 2015; a presidential run-off election took place on February 14, 2016, and former Prime Minister Faustin Archange-Touadera was formally declared president on March 1 of that year.

Despite the relative success of political reform in CAR, the military crisis has had a devastating impact on the country. Clear divisions have arisen between Christian and Muslim populations; most towns appear to be segregated, or even totally emptied of religious minorities. Inter-communal violence erupts regularly, and local armed groups seek to enforce territorial control. Security is always at issue, particularly in parts of the countryside; and large numbers of CAR's population remain displaced, unable to return to their communities due to lingering fears of violence, leaving them

¹⁹ Emily Mellgard, *What is the Seleka?* CTR. FOR RELIGION & GEOPOLITICS, <http://www.religionandgeopolitics.org/s-l-ka/what-seleka> (last visited Aug. 22, 2017).

²⁰ *Id.*

²¹ See, e.g., Sudarsan Raghavan, *Tens of Thousands of Muslims Flee Christian Militias in Central African Republic*, WASHINGTON POST (Feb. 7, 2014), available at https://www.washingtonpost.com/world/africa/tens-of-thousands-of-muslims-flee-christian-militias-in-central-african-republic/2014/02/07/5a1adbb2-9032-11e3-84e1-27626c5ef5fb_story.html?utm_term=.a4c851aa8a4f (last visited Aug. 22, 2017).

²² See, e.g., *Central African Republic: Sectarian Atrocities Escalate*, HUMAN RIGHTS WATCH (Dec. 18, 2013), <https://www.hrw.org/news/2013/12/18/central-african-republic-sectarian-atrocities-escalate> (last visited Aug. 22, 2017).

²³ See, e.g., Melanie Wissing, *Central African Republic: IDPs Face Significant Challenges as Instability and Political Transition Continue*, INTERNAL DISPLACEMENT MONITORING CTR. (May 26, 2015), <http://www.internal-displacement.org/sub-saharan-africa/central-african-republic/2015/central-african-republic-idps-face-significant-challenges-as-instability-and-political-transition-continue> (last visited Aug. 22, 2017).

²⁴ *Central African Republic Holds Constitutional Referendum*, UN DEVELOPMENT PROGRAMME (Dec. 15, 2015), <http://www.undp.org/content/undp/en/home/presscenter/articles/2015/12/14/une-nouvelle-constitution-en-centrafrique.html> (last visited Aug. 22, 2017).

vulnerable to exploitation and susceptible to trafficking.

Legal Context: Laws Regulating Forestry and Land Use in CAR

Timber exploitation in CAR is governed by the laws that govern land ownership and resource exploitation.

Community land ownership is permitted in CAR.²⁵ Traditionally, villages managed land collectively, with the chief and his counsellors and elders apportioning and managing usage. These systems endure today, and while there have been efforts to reform the land registries, no new comprehensive systems have been instituted.²⁶

The passage of the new Constitution in December 2015 resulted in the creation of a High Authority for Good Governance.²⁷ In theory, this poses a significant opportunity to ensure that natural resource exploitation is properly overseen; however, this institution is not yet fully functional as of August 2017.²⁸

The Central African government is a signatory to various international and bilateral agreements concerning resource exploitation. CAR petitioned for membership of the Extractive Industries Transparency Initiative (EITI) in 2008, and was admitted as an EITI compliant country in 2011; however, the civil crisis caused their status to be suspended.²⁹

Since July 2012, CAR has also entered into a Voluntary Partnership Agreement (VPA) with the European Union to control, license, and verify legal timber under the EU's Forestry Law Enforcement, Governance, and Trade program (FLEGT).³⁰ The aim of the VPA is to improve forest sector governance by clarifying and simplifying management rules, ensuring increased transparency and the use of public information, and to respect the rights of indigenous peoples and local resources.³¹

Under CAR's internal timber exploitation protocols, restrictions are placed on the size of trees that can be cut,³² and there are restrictions on the numbers of trees that may be cut in specific zones.

Legal Framework: Laws Regulating the Treatment of Indigenous Communities in CAR

In 2007, CAR voted for the UN Declaration on the Rights of Indigenous Peoples;³³ in 2010, it became the first African state to ratify the International Labour Organization (ILO's) Convention No. 169

²⁵ Interview with Professor Guy Florent Ankogui-M'Poko, Expert in Interface Humans and Environment, University of Bangui, May 2016.

²⁶ *Id.*

²⁷ See *La Haute Autorité pour la Bonne Gouvernance*, <http://www.habg.ci/> (last visited Aug. 22, 2017).

²⁸ Interview with Guy Julien N'Dakouzou, May 2016.

²⁹ *Overview: Central African Republic*, Extractive Industries Transparency Initiative, <https://eiti.org/central-african-republic#implementation> (last visited Aug. 22, 2017).

³⁰ *Central African Republic*, EUFLEGT FACILITY, *supra* note 4.

³¹ *Id.*

³² Interview with M. Joseph M'Bangolo, Permanent Secretary to the Voluntary APV-FLEGT Partnership, Ministry of Water, Forests, Hunting, and Fishing, May 2016.

³³ *Declaration on the Rights of Indigenous Peoples*: OFFICE OF THE HIGH COMMISSIONER OF HUMAN RIGHTS, <http://www.ohchr.org/EN/Issues/IPeoples/Pages/Declaration.aspx> (last visited Aug. 22, 2017).

(concerning Indigenous and Tribal Peoples in Independent Countries).³⁴

In terms of domestic legal protections, CAR has made significant progress to ensure protection for indigenous communities by incorporating protections for minority groups into the national legal framework. For instance, participation in public affairs is affirmed in the Central African Constitution, and includes the rights of indigenous minorities.

In spite of this, the enforcement of laws protecting indigenous peoples is lacking, which has significant impacts on the Bayaka people—a nomadic pygmy people.³⁵ There is no genuine inclusion of the Bayaka in public life.³⁶ The government does not incorporate Bayaka into programs that affect their livelihoods. While it is the case that some Bayaka have been able to establish village committees for forest governance,³⁷ discussions regarding timber exploitation do not generally include their views, despite the fact that they may have a right to have input in such discussions. Bayaka people also do not receive help from health, education, or water services bodies.

In terms of legal personality, the Bayaka are poorly integrated into CAR society. They often lack identity documents, and have a great deal of difficulty when it comes to asserting their rights. Furthermore, Bayaka people are often exploited in domestic labor; such labor is often hidden, and thus hard for the state to effectively address.³⁸

In general, according to Saint-Jerome Sitamom, a founder of the *Maison de l'Enfant et de la Femme Pygmées* (MEFP), an NGO intended to help the Bayaka, “nothing is respected in ([CAR’s]) statutes. While participation in public affairs is guaranteed in the ([Central African]) Constitution, there is no genuine inclusion of (the Bayaka).” In spite of the fact that the CAR National Committee for the UN Program on Reducing Emissions from Deforestation and Forest Degradation (UN-REDD Program) has incorporated two members of the Bayaka community, it is not clear that they have more substantial input with respect to the timber trade.

The overarching challenge with respect to indigenous rights in CAR derives from a disconnect between written legal codes and practice. Laws are routinely disregarded. Concession agreements with companies—which often obligate firms to provide social or community benefit—are also disregarded and not respected.³⁹

³⁴ See *Central African Republic Ratified ILO Convention 169*, WORLD RAINFOREST MOVEMENT, <http://wrm.org.uy/oldsite/bulletin/157/CAR.html> (last visited Aug. 22, 2017).

³⁵ *Profile: Central African Republic - Aka*, *supra* note 9.

³⁶ Interview with Saint-Jerome Sitamom, *Maison de l'Enfant et de la Femme Pygmées* (MEFP), May 2016.

³⁷ Interview with Gary Sekou, *Committee villageois du gouvernance forestier*, May 2016.

³⁸ Interview with Ghislain Gresengué, Public Prosecutor of the Republic, May 2016.

³⁹ Interview with Sitamom, *supra* note 35.

III. Analysis

Introduction

This case study seeks to explore how complex the interplay between global supply chains, industry regulation, conservation and the rights of marginalized populations can be, particularly in the context of a country struggling to emerge from civil conflict.

Timber extraction in CAR has long been a lucrative business, attracting investment from multinational corporations to a poorly regulated industry in which illegal logging is widespread. Exacerbating the situation, large levels of population displacement and poor governance infrastructure leave vulnerable individuals open to exploitation.

The following sections will explore both the legal framework and the on-the-ground realities concerning trafficking in persons, large scale timber exploitation, and the particular case of the Bayaka, an indigenous group directly affected by the timber trade.

Trafficking in Persons Risks

Risk 1: Implementation of CAR's Anti-Trafficking Laws

As noted in the Introduction, a number of factors combine to create heightened TIP vulnerability for a number of Central Africans. Among the effects of lingering conflict are an absence of birth certificates for Central African youth; a lack of parental or familial support for children, particularly among those who may have lost family members or family breadwinners in the conflict; a significant lack of schooling and high levels of illiteracy; porous borders; and the persistent presence of armed groups that conscript young men into their ranks—particularly on frontiers.

Among those interviewed, exploitation was deemed most prevalent in the domains of prostitution and among domestic workers, though high levels in the mining industry were also suspected. Since CAR has high poverty levels, and most citizens are unschooled, there are few segments of CAR's population that are not vulnerable to exploitation. Displaced individuals, who account for nearly a quarter of the population, experience heightened vulnerability and are easily exploited.⁴⁰

CAR has certainly demonstrated its opposition to TIP by criminalizing it in the New Penal Code. However, according to interviewees, the offense is rarely prosecuted. One interviewee within the justice sector observed that while some police “might recognize [TIP as an offense], others [do] not,” because it does not arise often and has not been the focus of much training. As this justice actor stated, “it is not a classic infraction.”⁴¹ To illustrate, one interviewee noted that “in instances of [sex trafficking], the police or justice actors may prosecute rape or another sexual offense, but they [would be] unlikely to pursue the issue as trafficking.”⁴²

In interviews, the Public Prosecutor noted that the prosecution office had previously been involved in programs to prevent child trafficking, but that these programs no longer exist.⁴³ Similarly, an

⁴⁰ Interview with attorney Ruffin Pabingui, ABA ROLI, May 2016.

⁴¹ Interview with Emmanuel Rufin Ndakala, Prosecutor General, Court of Appeals, Bangui, May 2016.

⁴² Interview with Pabingui, *supra* note 39.

⁴³ Interview with Gresenguet, *supra* note 37.

interministerial working group, formed in 2014 with support from the International Partnership for Human Development (IPHD) was created and aspired to coordinate a response to TIP, but due to the crisis, it too disbanded. Prior to its dissolution, however, the working group did effectively advocate for an *Arete* to be issued by the Justice Minister regarding TIP enforcement.⁴⁴

CAR has a continuing need for coordination on TIP, but these efforts have been hampered by the lingering effects of the civil conflict and a purported need to focus on security and humanitarian relief.

Past successes indicate that there remains opportunity for improving TIP prosecution. As recently as 2012, under an IPHD program, 50 complaints were filed against traffickers, and 1 judgment was obtained. Most cases were unsuccessful in obtaining a judgment because perpetrators would flee at the first sign of an investigation.⁴⁵ Civil reparations are possible in CAR, but often perpetrators lack the means to compensate victims.

Risk 2: Lack of Oversight in Timber Industry

Administrative Deficiencies

As with the laws concerning trafficking of persons, CAR does have a legal framework for regulating timber exploitation; nonetheless, challenges arise in giving practical meaning to the legal code, and interviewees largely agreed that control of the timber industry is not effective.

Some interviewees noted that there is a lack of control and a surfeit of corruption. In addition, interviewees complained that resources are wasted, and that some firms, particularly Chinese firms, do not hire Central Africans, thus denying communities one of the few benefits of resource exploitation. In some instances, concession zones actually encompass villages, but the villages still see no benefit from the timber exploitation.⁴⁶

The systems for disbursing state-income from timber exploitation were frequently singled out for criticism. Under previous systems, when revenues were collected, money was conveyed to a central collection office to be administered; as a result, however, it was often not directed back to communities to assist those that were directly impacted by the process of resource extraction.⁴⁷

Artisanal timber exploitation, which occurs on small scales and is often used for burning and work wood, is considered no more effective at compensating communities.⁴⁸ In some instances, when a concession is issued by the government, the community itself may lose its right to enter that forest, and thereby access to fuel wood or food.⁴⁹ As bleak as these circumstances appear, some interviewees observed that circumstances are far worse in the mining sector.⁵⁰

Deficiencies in Enforcement

Despite CAR's seemingly progressive forestry management legal framework, enforcement remains

⁴⁴ See *supra* notes 37, 39.

⁴⁵ See *supra* note 39.

⁴⁶ Interview with Prof. M'Poko, *supra* note 24.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ Interview with Anicet Moussagoué, Réseau des Droits des Hommes (RDH), May 2016.

⁵⁰ Interview with Prof. M'Poko, *supra* note 24.

weak. Best practices for timber extraction require that corporations and individuals seeking to exploit resources take account of communities in the areas of exploitation.⁵¹ Systems to enforce these laws in CAR are ineffective for a variety of reasons.

An oft-cited challenge is a lack of resources to conduct effective compliance monitoring. These limitations on resources and means have an acute impact on transportation and the ability of government workers to visit timber sites. One interviewee recounted that, in at least one instance, a regional director in Zone One was obliged to accept transportation assistance from the same company that he was meant to monitor.⁵² The interviewee noted that such needs can compromise the integrity of oversight efforts.

It was additionally difficult to obtain clear information about the skills and capacity of government monitors. One interviewee noted that there are between 600 and 800 technicians, many of whom were trained in Gabon or Cameroon, who are meant to be capable of monitoring timber exploitation—however, it was not possible to verify the accuracy of these numbers.⁵³

Interviewees described some government measures that in their view were promising for the improvement of monitoring efforts. A mobile brigade under the Minister of Forestry was observed to have previously had effective interventions at concession sites. Additionally, the PARPAF program, which was launched by the Central African government to institute internal timber extraction management controls, received positive reviews. Lastly, the Ministry of Water, Forests, Hunting, and Fishing worked within the European Union Forest Law Enforcement, Governance and Trade (FLEGT) Protocol and both local and international NGOs to establish *committees villagois*, or village committees, which organize local groups to better represent individuals in the decision-making process.⁵⁴

Risk 3: Problems with Labor Inspection Framework

In 2016, the Ministry of Labor became the Ministry of Public Service, Modernization of Administration, Labor, Employment and Social Protection. Despite the broader mandate, the same Ministry continues to oversee the Labor Inspectorate. Activities within the ministry stopped due to the conflict.

Prior to 2013, the Labor Inspectorate was primarily concerned with large business operations and would conduct site visits to verify worker conditions. As with the Ministry of Forestry, access was often limited by a lack of transportation and vehicles. On occasion, employers would provide transportation to bring inspectors to sites. An interviewee observed that, since the crisis, workplace conditions have worsened due to increased pressures on workers leading to excessive work hours and meager compensation.⁵⁵

Risk 4: Effects on Bayaka

⁵¹ Interview with Guy Julien N'Dakouzou, *supra* note 27.

⁵² Interview with Gary Seku, Association Centrafricaine pour la Protection de l'Environnement, May 2016.

⁵³ Interview with M'Bangolo, *supra* note 31.

⁵⁴ *Id.*

⁵⁵ Interview with Jean de Dieu Yongondounga, Inspecteur du Travail, Directeur Général de l'Emploi et de la Formation Professionnelle, Ministère du Travail, May 2016.

The realities described above have a pronounced and concentrated effect on the Bayaka. A legacy of discriminatory treatment, combined with the near absence of protections in work environments and preservation measures within their traditional forest lands, creates a context that threatens to permanently alter the Bayaka's way of life.

Degradation of immediate environment

Unregulated logging threatens the forest-dependent Bayaka's traditional lifestyle in ways that ripple out from the act of timber harvesting itself. In an immediate sense, timber exploitation destroys the habitats for forest products on which the Bayaka rely for their livelihoods; the presence of timber workers then triggers further invasion into the forests, as poorly paid-loggers seek to supplement their wages by plowing fields for farming and hunting game themselves, driving animals further from Bayaka communities.

The introduction of logging camps also often brings improved transportation routes, leading to increased pressure on the Bayaka to produce hunted game. To enable the Bayaka to meet the demand for game, loggers provide better hunting weapons, leading in turn to an overhunting of game and the threat of exhaustion of resources on which Bayaka communities have traditionally relied.⁵⁶ When communities such as the Bayaka are displaced from the forest or no longer able to survive on natural resources, they become vulnerable to exploitation and trafficking as domestic labor. Vulnerability is amplified by past practices of enslavement and their historic treatment as inferiors to other Central African ethnic groups.

Bayaka are often compensated for work at levels below that of other workers.⁵⁷ Bayaka are often hired to undertake initial woodlands exploration, but the compensation they receive for their labor is only a percentage of that paid to other Central Africans. Similar structures have traditionally applied in communities that purchase Bayaka game—chiefs maintain ledgers establishing rates of compensation for different wild game, with lower amounts for game procured by Bayaka. Forest exploitation has also negatively impacted the caterpillar population, the catching and selling of which in national markets is traditionally a significant source of income for the Bayaka.

Traditional relationships between Bayaka and Bantu groups contribute to the Bayaka's exploitation. Relations of domination by Bantu of Bayaka are passed generationally. Bantu houses are constructed in front of the Bayaka houses and the Bantu will assign the Bayaka names. There are some Bayaka communities that have escaped these structures – but those same communities can find themselves pursued by other Bantus. In some instances, dependence upon alcohol and tobacco contributes to these exploitative structures.

One attorney, Ruffin Pabingui, has further explicated on some of the problems that arise between the Bayaka and the Bantu:

There is a tradition among [Bayaka] between them and the Bantu. [Bayaka] are submissive to Bantu and must work for them. Every Bantu in this region has their [Bayaka]. And [Bayaka] recognize them as masters. [Bayaka] must forage in forest to bring goods to their master. With [Bayaka], it is clear they do not respond well or

⁵⁶ Interview with Prof. M'Poko, *supra* note 24.

⁵⁷ Interview with Mbutimaleat Sempise, Chef de contenment Forestier de Boda.

understand the judicial system. [Bayaka] do not like to have to be in contact with a police. I filed a case for a [Bayaka]. But they left their community before the [judicial police] could follow-up. Initially, the [Bayaka] gave their support and information. But they didn't like the procedure and they didn't like contact with the gendarmes.⁵⁸ Often [Bayaka] do not bring cases because they fear intimidation and the response of their masters [the Bantu]. They give up their cases because they lack confidence that the state can protect them.

⁵⁸ Interview with Pabingui, *supra* note 39.

IV. Conclusions

While CAR does have a legal framework to respond to TIP risks, especially in the timber sector, this framework is undermined by a widespread lack of legal enforcement. This can be attributed both to limited enforcement capacity, as well as focus on other competing priorities in the government. Furthermore, the lack of rule of law in CAR also undermines compliance with TIP and timber legal frameworks.

Unfortunately, the ongoing conflict renders addressing ongoing TIP risks a challenge for the immediate future; as a result, vulnerable populations—including those of displaced individuals and the Bayaka—are at high risk of trafficking and exploitation. Furthermore, unchecked natural resource exploitation continues to fuel the conditions that prolong armed conflict, which poses further risks to indigenous populations and the natural environment.