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Who is a Civilian? Perceptions of “Civilianness” in the Central African Republic

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EXECUTIVE SUMMARY

This brief presents the preliminary findings of field research conducted in the Central African Republic (CAR) on how different civilian actors are perceived in the context of the current UN-led mission, MINUSCA. The discussion is based on fieldwork carried out by the author in Bangui and the PK3 Internally Displaced Persons (IDP) site in Bria during a three-week visit in April 2019. The research explores questions such as: who is perceived to be civilian in CAR; the civilian character of CAR’s IDP sites; how international actors—such as those working for MINUSCA or humanitarian organizations—understand the context in which they are operating; and competing views on the relevance of international (humanitarian) law.

The highlights of the research findings are as follows:

Who is a civilian: The concept of the civilian retains considerable currency in CAR. Firstly, there is the question of who can be targeted or attacked with lethal force. Secondly, and of particular importance for this brief, there is the question of who merits protection under MINUSCA’s Protection of Civilians (PoC) mandate. As the findings reveal, international actors widely report the difficulty of discerning just which actors fit into the civilian category and doubt the claims of many actors asserting civilian status. No one interviewed for this study believes that the IDP sites in CAR are of a purely civilian character, though many international actors are committed to ‘maintaining’ the civilian character of the sites.

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Characterising armed elements: A related problem is the lack of agreement amongst international actors on how to categorize armed actors in CAR. It is a live question whether these actors should be thought of as combatants or armed groups, according to provisions in IHL, or instead as criminal gangs more appropriately dealt with through a policing paradigm. Many international actors use vague and fuzzy language when discussing these issues. They move seamlessly between the various paradigms of armed conflict or law enforcement, either for strategic reasons or because they do not grasp the potential contradictions involved in adopting certain frames.

The relevance of international law: There are significant disagreements amongst international humanitarian actors and MINUSCA actors regarding the application of public international law in CAR. This brief focuses on competing views on IHL's application, with some attention to international human rights law (IHRL). International actors disagree on the existence of an ongoing armed conflict (or conflicts) in CAR, as well as whether, when and how IHL applies. While some international actors—humanitarians in particular—believe that clarifying the relevant law is crucial, others question whether it would make a difference for daily operations and engagement with armed elements.

Coping with uncertainty in the law: In the midst of this uncertainty in the governing legal regime, the research uncovers a practice whereby international actors draw on practical reasoning instead of clear legal rules and principles. When entreating armed actors to spare local populations, for example, they will emphasize concerns of reciprocity or accessing the benefits of the peace process - rather than IHL targeting rules such as distinction or precautions in attack.

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

What does it mean for MINUSCA's Protection of Civilians mandate if CAR is a place where everyone, or alternatively no one, is (perceived to be) civilian? This question applies to CAR as a whole, but more specifically to the IDP settings in which MINUSCA and other protection actors understand themselves to be actively engaged in protecting civilian populations.

If international actors are putting the term 'civilian' in quotes, does this erode the sanctity of the civilian category over time? If local populations are spoken about in this way on a daily basis, might it lend credence to allegations of armed actors that everyone is a legitimate target for violence?

What should respective international actors' posture be towards armed elements in CAR? What are the implications of treating these actors as criminal gangs engaged in opportunistic violence, as opposed to (legitimate) armed elements with which one must negotiate issues of security and access?

In the absence of consensus on whether there is a (non-international) armed conflict in CAR, what is an appropriate manner for international actors to engage with IHL?

Is the reliance upon vernacular concepts, such as reciprocity, a practice that all international actors should follow when interacting with actors who use violent means?

If there is not an ongoing in armed conflict in CAR, is the civilian designation a meaningful label?

If CAR is in a peace-time scenario and international human rights law is the governing regime, what are the implications of saying that someone is, or is not, civilian?