



Human Rights Watch
UPR Submission

Côte d'Ivoire
September 2013

Ivorians went to the polls in November 2010 looking to move past a decade of serious human rights abuses and politico-military stalemate. Instead, when incumbent President Laurent Gbagbo refused to accept internationally recognized results that proclaimed Alassane Ouattara the winner, the country descended into a five-month crisis of political violence during which at least 3,000 people were killed and 150 women and girls were raped. Forces loyal to both Gbagbo and Ouattara carried out attacks against civilians along political, ethnic, and religious lines. By the time pro-Ouattara forces arrested Gbagbo on April 11, 2011, fighting had damaged much of the country's infrastructure, including courthouses and prisons.

Although the post-election crisis negatively impacted the Ivorian government's ability to implement commitments made during the 2009 universal periodic review (UPR), there has been some progress in the two and a half years since President Ouattara took power. The Ivorian government has ratified the Rome Statute and increased the judiciary's budget in an effort to improve access to justice. The country's security situation has improved, and while members of the security forces continue to engage in human rights abuses and criminality, these problems appear to have slowly decreased, in part due to efforts by the government. State authority has also returned throughout Côte d'Ivoire for the first time since 2002, and the government, with donor help, has rehabilitated tribunals, prisons, and other rule of law institutions.

However, the Ivorian government has made little progress in addressing root causes of the country's decade of politico-military violence – notably impunity, land conflict, and the proliferation of small arms. While Ivorian authorities have investigated and charged numerous Gbagbo supporters for their role in post-election violence, there has been a complete absence of accountability for serious crimes committed by pro-Ouattara forces during the crisis, continuing the country's dangerous legacy of impunity. The one-sided justice has also undermined much-needed reconciliation efforts. Progress has likewise been slow in dealing with land conflict, disarmament and security sector reform, and sexual violence. If the government does not meaningfully address these issues, violence and serious human rights abuses could again erupt in the near future, including in association with the 2015 elections.

I. Human Rights Issues

A. Justice and Accountability for Post-Election Violence

The 2010-2011 post-election crisis marked the culmination of a decade of politico-ethnic conflict in which security forces, rebel forces, and allied militia groups regularly committed serious crimes with complete impunity. National and international organizations, including Human Rights Watch, documented war crimes and likely crimes against humanity by both pro-Gbagbo and pro-Ouattara forces during the crisis. The Ivorian government, including President Ouattara,

has repeatedly promised fair and impartial justice for these crimes. In an encouraging sign after Ouattara's inauguration, the government established three national justice institutions to deal with these atrocities: a national commission of inquiry; a dialogue, truth, and reconciliation commission; and a special investigative cell. In an August 2012 report, the national commission of inquiry echoed findings from human rights organizations, documenting hundreds of summary executions by forces on both sides – and stressing the need for impartial justice.

Despite the government's rhetoric and creation of national justice institutions, there has been scant progress toward fair and impartial accountability for the massive human rights abuses committed. On the Gbagbo side, Ivorian authorities have notably charged more than 150 civilian and military leaders, including at least 55 with serious violent crimes. However, two and a half years after the crisis, trials have yet to start. Most defendants have languished in pre-trial detention for that entire period, violating their right to a trial within a reasonable time. Ivorian authorities did provisionally release 14 pro-Gbagbo defendants in early August 2013.

Most concerning, Ivorian authorities have failed to undertake credible investigations and prosecutions against members of the pro-Ouattara forces who committed serious crimes during the post-election crisis. No member of the pro-Ouattara forces has been charged for crimes committed during the crisis, and ongoing investigations appear disturbingly one-sided. The UN Secretary General reported in July 2013 that only 3 of the 207 investigations opened following the national commission of inquiry report relate to perpetrators from the pro-Ouattara forces. One-sided justice has undermined reconciliation and the return to rule of law, as victims from the Gbagbo side say they have no access to justice.

On February 15, 2013, Côte d'Ivoire ratified the Rome Statute of the International Criminal Court (ICC), taking a positive step in the country's fight against impunity and implementing a key recommendation from the 2009 UPR. The ICC has unsealed two arrest warrants related to the Côte d'Ivoire situation: one against Laurent Gbagbo, who the Ivorian government transferred to The Hague in November 2011 and now faces a confirmation of charges hearing; and another against Simone Gbagbo, who remains in Ivorian custody facing domestic charges of genocide, among other crimes. Ivorian authorities have yet to respond formally to the ICC arrest warrant against Simone Gbagbo, violating the government's obligation either to transfer her to ICC custody or to formally challenge the admissibility of her case before the ICC on the grounds that Côte d'Ivoire has ongoing proceedings for substantially the same crimes.

B. Security Force Abuses

In spite of having accepted during the 2009 UPR several recommendations to end arbitrary detention and summary executions, security force abuses have continued since the end of the post-election crisis, generally with impunity. In July 2012, members of the Republican Forces and allied militia groups participated in the destruction of the Nahibly internally displaced persons camp near Duékoué, during which some people at the camp were killed or disappeared. Then, in response to a wave of attacks on military installations in August 2012, members of the Republican Forces committed widespread human rights abuses against young men from typically pro-Gbagbo ethnic groups, including mass arbitrary arrests, illegal detention, extortion, cruel and inhuman treatment, and, in some cases, torture. There have been no prosecutions to date for these crimes, although authorities have taken preliminary steps in the Nahibly investigation. The military prosecutor has investigated and prosecuted soldiers in other, less politically-sensitive cases, including for murder and theft. While these prosecutions are important in the fight against impunity, they also suggest that the failure to prosecute in more sensitive cases – including for the post-election crisis and Nahibly – stems from a lack of political will, rather than a lack of capacity.

Members of the Republican Forces have been implicated in widespread extortion and theft at road checkpoints, notably in western Côte d'Ivoire; however, the government has taken some action to reduce the problem, dismantling unauthorized checkpoints and arresting some soldiers operating them in July 2013. In general, the severity and frequency of human rights abuses by the security forces appears to have decreased from 2012 to 2013, though remained a problem.

Côte d'Ivoire has still not signed and ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment (OP-CAT), a recommendation many states made during the 2009 UPR.

C. Rule of Law

In December 2011 and April 2013, Côte d'Ivoire held legislative and local elections, respectively, for the first time in more than a decade. The elections went relatively smoothly, although there were some incidents of violence and intimidation. The reestablishment of legislative, regional, and municipal authorities helped return governance to a sense of normalcy, rather than having all power concentrated in the executive. The Ivorian Popular Front (FPI), Gbagbo's former political party, boycotted both elections.

Since taking power in April 2011, the Ouattara government has restored elements of state authority – including judges, customs officials, and other civil servants – throughout the country, including in northern Côte d'Ivoire, where rebel forces controlled between 2002 and 2010. The government has also made significant progress in rehabilitating courthouses and prisons, many of which were seriously damaged during the conflict. In June 2013, a long-awaited tribunal opened in Guiglo, in western Côte d'Ivoire, potentially improving access to justice in one of the country's most sensitive regions.

However, corruption and lack of independence within the judiciary remain a serious concern, with the one-sided justice for the post-election crisis adding to people's perception that civilian and military officials close to the government remain above the law. The government has also been slow to undertake promised reforms that would better protect defendants' rights.

D. Land Rights

Land, politics, and violence have been closely linked in Côte d'Ivoire for the last two decades, particularly in the country's volatile western region. During the post-election crisis, violence displaced hundreds of thousands of people, either as refugees or internally within Côte d'Ivoire. Many people have returned home to find that their land has been illegally taken over, either through illegal sales or, in some cases, hostile occupations – violating their property rights and rights as returning refugees. Land dispossession has serious consequences on the rights to food and livelihood, and is a driving force behind many refugees' decision to remain in Liberia.

The Ivorian government has failed to adequately support local administrative and judicial mechanisms involved in resolving land conflicts, resulting in many people being unable to access their land more than two years after the post-election crisis. During the 2009 UPR, a key accepted recommendation was the need to swiftly disseminate and implement the country's law on rural land tenure. This remains a pressing need. 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 the government does not ensure the fair resolution of land disputes.

E. Disarmament and Security Sector Reform

The Ivorian government has made uneven progress in disarming and reintegrating former combatants, leaving the country awash in small arms. In August 2012, President Ouattara created the Authority for Disarmament, Demobilization, Reintegration, which helped streamline disarmament efforts that had been spread ineffectively across numerous government ministries and agencies. According to the UN, the government had disarmed and demobilized around 6,000 former combatants as of June 2013 – though there remained tens of thousands of other former fighters left to disarm, including many who have yet to be registered. Some former combatants have been implicated in violent criminality throughout the country, including in road banditry attacks. Other former combatants, frustrated with the slow progress of reintegration programs, have caused disturbances in several towns in 2013. Significant efforts are needed to stem the proliferation of small arms before the 2015 elections.

While there has been some progress in security sector reform since the crisis, significant challenges remain. Several military commanders repeatedly implicated in serious human rights abuses have been promoted to key positions. The UN Group of Experts, appointed by the Security Council to monitor the sanctions regime in Côte d'Ivoire, reported in April 2013 that former rebel warlords – now commanders in the Ivorian military – are plundering millions of dollars from the Ivorian economy through smuggling and a parallel tax system on cocoa, timber, and other export goods. Such corruption has the potential to undermine efforts to improve access to health and education, among other rights.

There has been notable improvement in 2013 in returning basic security functions to the police and gendarmerie, but the military maintains a presence at road checkpoints and in leading the response to internal security threats. Although they are less visibly present than in 2011 and 2012, some military commanders continue to use for security purposes youth and militias who fought with pro-Ouattara forces during the crisis, even when they are not part of the security forces.

F. Sexual Violence

During the post-election crisis, members of the armed forces on both sides committed targeted acts of sexual violence against women perceived as supporters of the other side – continuing a disturbing practice that dates back to the 2002-2003 armed conflict. While Côte d'Ivoire's national commission of inquiry documented 196 cases of sexual violence and noted that rape was used as a weapon of war, there have not been any prosecutions to date for these crimes.

Even after the post-election crisis, sexual violence remains a widespread problem, with authorities often responding ineffectively. The UN mission in Côte d'Ivoire (UNOCI) reported at least 100 cases of sexual violence in the first half of 2013, including many against children. Although not required by Ivorian law, Ivorian authorities often refuse to undertake credible investigations unless the survivor presents a medical certificate confirming rape. These medical certificates remain expensive, hindering the ability of some survivors to pursue charges. The Ivorian government's failure to reform the criminal procedure code also means that, even when charges are brought, authorities usually downgrade rape to *attentat à la pudeur* (indecent assault), which carries significantly less penalties.

With assistance from the UN, the Ivorian government is finalizing a national strategy to combat sexual violence, a recommendation accepted during the 2009 UPR. The government and military have also taken action to reduce sexual violence by the security forces. While these are important steps forward, the Ivorian government needs to address the deficiencies among law enforcement and the judicial system that hinder investigations and prosecutions of sexual

violence cases. In addition, survivors' access to health and psychosocial services remains limited, particularly outside of Abidjan.

II. Recommendations

Regarding accountability at the national level for past abuses:

- Implement the findings and recommendations of the country's national commission of inquiry, including by swiftly investigating and prosecuting members of the pro-Ouattara forces who committed serious crimes.
- Ensure fair and speedy trials for all defendants, including those related to the post-election crisis who have now spent more than two years in pre-trial detention.

Regarding investigations by the International Criminal Court:

- Cooperate fully with the ICC's ongoing investigations and cases in Côte d'Ivoire, including in the Simone Gbagbo case, in compliance with the government's obligations under the Rome Statute.

Regarding ongoing abuses by the country's security forces:

- End the impunity with which the security forces have long operated, by ensuring credible investigations into allegations of abuse and criminal practices.
- Sign and ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment (OP-CAT), and implement the Protocol by establishing an independent national body to carry out regular and ad hoc unannounced visits to all places of detention.
- Continue efforts to eliminate extortion by the security forces at road checkpoints, including by establishing contingents of the anti-racket unit in major cities throughout the country, rather than basing the unit in Abidjan with occasional missions elsewhere.

Regarding the reestablishment of the rule of law:

- Ensure the complete independence of the judiciary, including on sensitive investigations and prosecutions like those related to the post-election crisis. Emphasize that prosecutors and judges will not face negative consequences for pursuing perpetrators linked to the government.
- Consider engaging the mandate of the UN special rapporteur on the independence of judges and lawyers.
- Establish by law and practice a mechanism for witness protection, to better support victims and witnesses in sensitive cases.

Regarding land rights and land conflict:

- Prioritize the prompt resolution of claims of land dispossession linked to the post-election crisis. In accordance with international law, including as set out in the Pinheiro Principles, help ensure that people displaced by the conflict can return to their own land and homes.
- 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.
- Begin the process of demarcating village boundaries, prioritizing regions of the country where land and inter-communal conflict are closely linked.
- Ratify the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa and harmonize Ivorian law with its provisions.

Regarding disarmament and security sector reform:

- Accelerate efforts to disarm and reintegrate former combatants from both sides of the country's politico-military divide.
- End the use of parallel forces – including militia groups and volunteer former fighters – in security functions, including at road checkpoints around the country. Ensure that primary authority for internal security rests with the police and gendarmerie, rather than the military.

Regarding sexual violence:

- End impunity for sexual violence by thoroughly investigating all allegations of sexual violence and prosecuting individuals against whom there is sufficient evidence of such abuses, in compliance with international standards of fair trial.
- Provide free medical certificates to rape survivors and reform the criminal procedure code so that perpetrators of rape can be prosecuted to the full extent of the law.
- Improve legal assistance as well as health and psychosocial services available to survivors of sexual violence. Consult with Ivorian women's rights groups and experts in developing and implementing such programs across the country.