



# CÔTE D'IVOIRE

## AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW

### 33<sup>RD</sup> SESSION OF THE UPR WORKING GROUP, 6-17 MAY 2019

Seven years after the post-election crisis which left 3,000 dead, Côte d'Ivoire is projecting an image of relative stability boosted by an economic growth of 7,8 % in 2017 and a comeback to world politics having secured a seat in the UN Security Council and the presidency of the Economic Community of West African States (ECOWAS) Commission in 2018.

However, the series of mutinies and clashes between the security forces and demobilised soldiers, which left at least 10 people dead in 2017, demonstrate that the situation in Côte d'Ivoire remains fragile. Many of the human rights issues which fuelled the 2010-2011 post-election crisis, including entrenched impunity for human rights violations, crackdown on dissent, the use of torture, and poor prison conditions, have yet to be addressed. With the 2020 presidential elections approaching the human rights situation is likely to deteriorate further in the context of a period of political uncertainty. The simultaneous closure of the United Nations Operation in Côte d'Ivoire (UNOCI) and the end of the mandate of the UN Independent Expert on capacity building and technical cooperation in Côte d'Ivoire in 2017 add to the volatility of the situation and has drastically reduced international support and scrutiny of the human rights situation in Côte d'Ivoire.

## FOLLOW-UP TO THE PREVIOUS REVIEW

### **Protection of human rights defenders**

Côte d'Ivoire accepted a recommendation to "swiftly adopt the law on the protection of human rights defenders by the Ivorian Parliament, and ensure its immediate implementation".<sup>1</sup> Côte d'Ivoire has partly implemented this recommendation, including by adopting a law on the protection of human rights defenders on 20 June 2014 and the decree of its implementation on 22 February 2017.<sup>2</sup> However, as detailed below, human rights defenders in Côte d'Ivoire continue to be subjected to violence, intimidation and harassment, and the authorities have failed to bring the suspected perpetrators to justice.

### **Torture and other ill-treatment**

Côte d'Ivoire committed to take steps to end torture and other ill-treatment, including by criminalising torture and integrating the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in domestic legislation.<sup>3</sup> However, as detailed in the sections below, the legal framework in Côte d'Ivoire is still not in line with the Convention and cases of torture are still being reported, few of which are ever brought to justice. Côte d'Ivoire has also yet to ratify the Optional Protocol to the Convention. Amnesty International continues to document cases of torture, particularly in police custody and at the National Surveillance Directorate (*Direction de la Surveillance du Territoire*, DST).

<sup>1</sup> A/HRC/27/6, recommendation 127.30 (Czech Republic).

<sup>2</sup> Law N°2014-388 of 20 June 2014 on the promotion and protection of human rights defenders and its decree of implementation N°2017-121 adopted on 22 February 2017.

<sup>3</sup> A/HRC/27/6, recommendations 127.15 (Costa Rica), 127.16 (France), 127.17 (Cabo Verde), 127.18 (Belgium), 128.3 (Czech Republic).

### **Prison conditions**

Côte d'Ivoire accepted recommendations to improve prison conditions, including by reducing overcrowding.<sup>4</sup> However, the authorities have failed to take adequate steps to improve prison conditions and, as presented in the sections below, prison overcrowding and deaths in custody remain prevalent.

### **Rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people**

Amnesty International is concerned that Côte d'Ivoire rejected recommendations relating to LGBTI rights, including to take measures to prevent discrimination on the grounds of sexual orientation or gender identity.<sup>5</sup> Four years on, LGBTI people in Côte d'Ivoire continue to be detained and subjected to torture and other ill-treatment on the basis of their sexual orientation or gender identity and the authorities do little to bring the suspected perpetrators to justice.

### **Toxic waste**

Côte d'Ivoire accepted a recommendation to “strengthen monitoring and supervision by relevant environmental agencies to ensure that toxic waste is treated in an environmentally sound manner”.<sup>6</sup>

However, the authorities have still not assessed the long-term health risks to individuals exposed to toxic waste and have not monitored victims' health.<sup>7</sup>

### **Impunity and independence of the judiciary**

At least 25 recommendations made to Côte d'Ivoire aim at combatting impunity and ensuring the independence of the judiciary, particularly in relations to the exercise of judicial functions over human rights violations committed in the context of the 2010-2011 election crisis.<sup>8</sup> Côte d'Ivoire accepted all of them.

Yet, as detailed below, Côte d'Ivoire has failed to bring many suspected perpetrators of human rights violations and abuses to justice, particularly pro-Ouattara supporters.

## **PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND**

### **Freedom of peaceful assembly**

Peaceful assemblies organised by civil society organisations and opposition groups are regularly banned and dispersed with excessive force by the police and gendarmerie, particularly in the context of elections. Since the last review, scores of people have been detained simply for exercising their right to peaceful assembly.

### **Freedom of expression**

The Ivorian authorities continue to use repressive legal provisions to arbitrarily arrest and detain those who express dissent, including journalists and political activists. Since the last review, at least 17 journalists have been detained. The National Council of the Press (*Conseil National de la Presse*, CNP), repeatedly sanctions newspapers, particularly those close to opposition groups, with suspensions and hefty fines.

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<sup>4</sup> A/HRC/27/6, recommendations 127.105 (Spain), 127.106 (Thailand), 127.109 (State of Palestine), 127.132 (Brazil).

<sup>5</sup> A/HRC/27/6, recommendations 128.6 (Switzerland), 129.1 (Netherlands), 129.2 (Slovenia).

<sup>6</sup> A/HRC/27/6, recommendation 127.169 (Egypt).

<sup>7</sup> Amnesty International, *Côte d'Ivoire: A toxic legacy: The case for a medical study of the long-term health impacts of the Trafigura toxic waste dumping* (Index: AFR 31/7594/2018).

<sup>8</sup> A/HRC/27/6, recommendations 127.24 (Liechtenstein), 127.25 (Burkina Faso), 127.26 (Canada), 127.29 (Belgium), 127.113 (Czech Republic), 127.114 (Ireland), 127.115 (Israel), 127.116 (Italy), 127.117 (Mexico), 127.119 (Sierra Leone), 127.120 (Singapore), 127.121 (Switzerland), 127.122 (Argentina), 127.123 (Burkina Faso), 127.133 (Luxembourg), 127.134 (Slovenia), 127.135 (Spain), 127.136 (Sweden), 127.137 (France), 127.138 (Turkey), 127.139 (United Kingdom of Great Britain and Northern Ireland), 127.140 (United Kingdom of Great Britain and Northern Ireland), 127.141 (United States of America), 127.142 (Australia), 127.143 (United States of America).

### **Torture and other ill-treatment**

Amnesty International continues to document cases of torture and other ill-treatment in Côte d'Ivoire, particularly at the National Surveillance Directorate (*Direction de la Surveillance du Territoire*, DST), in police and gendarmerie stations or during demonstrations. No legal proceedings have been brought against the suspected perpetrators of torture and other ill-treatment or their hierarchy. Confessions obtained under duress continue to be used in legal proceedings.

### **Prison conditions and deaths in custody**

Prisons in Côte d'Ivoire remain severely overcrowded and conditions are inhumane, leading to a high number of deaths in custody. As of July 2018, some 16,000 people were detained across 34 prisons in Côte d'Ivoire, with a combined capacity of only 8,639. Some 5,800 of the detainees were held in pre-trial detention. The authorities refuse to share statistics on deaths in custody, however, since August 2014, at least 152 have died in detention.<sup>9</sup>

Despite multiple requests, some as recent as July 2018, Amnesty International has not had access to any of the detention centres in Côte d'Ivoire since 2012.

Some detainees are held in unofficial detention centres, including the DST, for extended periods of time. In July 2018, DST officials interviewed by Amnesty International refused to confirm or deny that the DST premises were being used for detention purposes.

### **Protection of human rights defenders**

Human rights defenders often receive threats and their offices are regularly burgled. Over the last four years, the offices of six of the main human rights organizations, and the office of an independent newspaper, have been ransacked, some more than once.<sup>10</sup> Despite filing complaints to the police, no one has been brought to justice in relation to these crimes.

### **Rights of LGBTI people**

While consensual sexual relations between consenting individuals of the same sex are not criminalised in Côte d'Ivoire, Article 360 of the Criminal Code provides for an aggravation of the minimum penalty prescribed for "gross indecency" when such conduct "consists of an indecent or unnatural act with an individual of the same sex."

LGBTI people continue to be subjected to discriminatory practices and homophobic violence, including by members of the security forces. The suspected perpetrators have not been brought to justice.

### **Forced evictions**

Côte d'Ivoire has failed to provide effective protection against forced evictions, including in Abidjan. The authorities fail to apply crucial safeguards before the eviction, including consultation with affected communities to explore alternatives to eviction and resettlement. They also fail to provide people with information about the reason for an eviction, adequate notice or legal remedies, or adequate housing options for resettlement.

On 2 July 2018, the District of Abidjan proceeded to forcibly evict an estimated 5,772 people living in the neighbourhood known as Port Bouët-Abattoir, with the support of the security forces, and without adequate prior notice.<sup>11</sup>

### **Impunity and administration of justice**

Despite President Ouattara's express commitment to ensure that justice would apply equally under his

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<sup>9</sup> This is a low estimation based on the United States Department of State Human Rights Reports 2014-2017 and interviews with prison administration officials

<sup>10</sup> The targeted human rights organizations and media outlet are : *Coalition Ivoirienne des Défenseurs des Droits Humains* (CIDDH), *Action pour la Protection des Droits Humains en Côte d'Ivoire* (APDH), *Alternative Côte d'Ivoire*, *Club Union Africaine Côte d'Ivoire* (CLUB UA-CI), *Mouvement Ivoirien des Droits Humains* (MIDH), *Réseau d'Action sur les Armes Légères en Afrique de l'Ouest* (RASALO-CI) and *L'Éléphant Déchaîné*

<sup>11</sup> Interviews with members of the community and community leaders, July 2018

presidency, only those suspected of being supporters of former President Laurent Gbagbo have been tried for serious human rights violations committed during and after the 2010 election. Members of the Republican Forces (*Forces Républicaines de Côte d'Ivoire*, FRCI), loyal to President Ouattara have not been prosecuted, despite being suspected of committing serious human rights violations, including the killing of more than 800 people in Duékoué in April 2011, and the killing of 13 people at a camp for internally displaced people in Nahibly in July 2012.<sup>12</sup> Several FRCI officials charged with crimes against humanity retain senior positions within the security forces and some were promoted in January 2017, including Issiaka Ouattara, also known as Wattao, who was appointed commanding officer of the Republican Guards, and Cherif Ousmane, who was appointed commanding officer of the First Battalion of Commandos and Paratroopers.<sup>13</sup>

In May 2017, former First Lady Simone Gbagbo was acquitted of crimes against humanity and war crimes by the Assize Court of Abidjan. Simone Gbagbo is also wanted by the International Criminal Court (ICC) on four counts of crimes against humanity; however, the Ivorian authorities have refused to transfer her to The Hague. In February 2016, President Ouattara publicly stated that he would not “send any more Ivorian nationals to the ICC”.<sup>14</sup>

The recent ordinance adopted by President Ouattara, granting an amnesty to 800 people accused or convicted of crimes relating to the 2010-2011 crisis or to subsequent attacks against the state, including Simone Gbagbo, further violate the rights of victims to truth and justice. Among those amnestied, some are suspected of having committed human rights violations or having been in command when human rights violations were perpetrated. President Ouattara clarified that the amnesty would not apply to 60 members of the military and members of armed groups who committed “blood crimes” during the post-election violence. However, there is no agreed definition of “blood crimes” and it is unclear whether it would cover sexual violence or persons with command responsibility.

## RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

### **Amnesty International calls on the government of Côte d'Ivoire to:**

#### *Freedom of expression*

- Amend provisions in the Criminal Code and the Law on the Press which unduly restrict the right to freedom of expression, in line with international and regional human rights law;
- Revise the mandate of the National Authority of the Press, including how its members are selected, to ensure it can exercise its functions with full independence and is not used to sanction journalists and media-houses.

#### *Freedom of peaceful assembly*

- Amend legislation on the use of force and on assemblies, including the Criminal Code, to bring it in line with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the ACHPR Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa;
- Carry out thorough, independent and impartial investigations into all cases where the security forces have injured or caused death through excessive use of force and impose disciplinary and criminal sanctions, as appropriate, against all those suspected to be responsible, including superior officers.

#### *Protection of human rights defenders*

- Ensure that the protection mechanism established by the decree to implement the 2014 law on the

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<sup>12</sup> Amnesty International, *Côte d'Ivoire: The Victors' Law: Human Rights Situation Two Years After the Post-Electoral Crisis* (Index: AFR 31/001/2013)

<sup>13</sup> Presidency of the Republic, Press-release on nominations in the Armed Forces of Côte d'Ivoire, 26 January 2017.

<sup>14</sup> AFP, Ouattara : «Je n'enverrai plus d'Ivoiriens à la Cour pénale internationale», 4 February 2016

protection of human rights defenders is able to exercise its functions with full independence and impartiality, including by clarifying its role, function and relationship with the National Human Rights Commission and providing it with sufficient resources.

#### *Torture and other ill-treatment*

- Define and criminalize torture in accordance with the definition in the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as Côte d'Ivoire had accepted to do in the 2014 review;<sup>15</sup>
- Ensure that all places of detention, including the National Surveillance Directorate (DST), are accessible to national and international observers, including international NGOs such as Amnesty International;
- Carry out prompt, thorough, independent and impartial investigations into all allegations of torture and other ill-treatment during detention and take immediate legal action, whenever there is sufficient admissible evidence, against all persons suspected of committing torture and other ill-treatment.

#### *Prison conditions*

- Immediately end the practice of detaining people in non-official places of detention, such as the National Surveillance Directorate (DST);
- Reduce overcrowding in prisons, as Côte d'Ivoire had accepted to do in the 2009<sup>16</sup> and 2014<sup>17</sup> reviews, including by substituting detention with non-custodial measures and ensuring that persons do not remain in pre-trial detention beyond the prescribed time limits;
- Ensure that all persons deprived of liberty are held in humane conditions, including in line with the UN Basic Principles for the Treatment of Prisoners, the Standard Minimum Rules for the Treatment of Prisoners, and the Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, and in particular ensure that all detainees have access to sufficient food and drinkable water, adequate sanitary facilities and medical treatment, as Côte d'Ivoire had accepted to do in its 2009<sup>18</sup> and 2014<sup>19</sup> UPR;
- Promptly, thoroughly, independently and impartially investigate all deaths in custody and bring those suspected of responsibility for the deaths, including by negligence, to justice in a fair trial, as Côte d'Ivoire had accepted to do in the 2009 review.<sup>20</sup>

#### *Rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people*

- Publicly reiterate Côte d'Ivoire's commitment to respect, protect and fulfil the human rights of all people without discrimination, including on the basis of sexual orientation or gender identity;
- Amend the provisions of Article 360 of the Criminal Code and any other provision of its criminal legislation that discriminates against persons because of their sexual orientation or gender identity;
- Instruct the police and the judiciary to put an end to arbitrary arrest and detention of people held solely on the basis of their real or perceived sexual orientation or gender identity;
- Promptly, thoroughly, independently and impartially investigate all allegations of attacks, arbitrary arrest and detention of persons on the basis of their real or perceived sexual orientation or gender identity and bring anyone suspected of responsibility to justice in fair trials.

#### *Toxic waste*

- Together with the United Nations Environment Programme and the World Health Organization, promptly

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<sup>15</sup> A/HRC/27/6, recommendation 127.15-18 (Costa Rica, France, Cabo Verde, Belgium).

<sup>16</sup> A/HRC/13/9, recommendation 53 (Slovakia).

<sup>17</sup> A/HRC/27/6, recommendation 127.105 (Spain).

<sup>18</sup> /HRC/13/9, recommendation (Czech Republic).

<sup>19</sup> A/HRC/27/6, recommendation, 127.106 (Thailand).

<sup>20</sup> /HRC/13/9, recommendation 52 (Netherlands).

hold a meeting of public health experts to analyse information on the health impacts of the Trafigura toxic waste dumping;

- Immediately commission a study to comprehensively assess any long-term impact of the Trafigura toxic waste dumping on health and make specific requests for technical and financial assistance from other governments and international organizations where necessary;
- Develop and implement a plan for the long-term monitoring of the health of individuals affected by the Trafigura toxic waste dumping;
- Ensure that accessible, affordable and quality health services are available to address any specific health problems that people affected by the dumping are facing now and in the future.

#### *Forced evictions*

- Adopt a moratorium on forced evictions until adequate legal and procedural safeguards are in place to ensure that all evictions comply with international human rights standards;
- Develop comprehensive guidelines for officials in charge of carrying out evictions, based on the UN Basic Principles and Guidelines on Development-based Evictions and Displacement and other international human rights standards;
- Initiate an independent and impartial investigation into the security forces' involvement in and conduct during forced evictions;
- Immediately provide all necessary support and assistance to those who have been subjected to forced eviction, including adequate temporary housing, water and sanitation, while ensuring effective remedy and reparations.

#### *Impunity and administration of justice*

- Carry out prompt, thorough, independent and impartial investigations into all cases of human rights violations and abuses, including in the context of the 2010-2011 election violence, and bring those suspected of being responsible to justice in fair trials, independently of their political affiliation, as Côte d'Ivoire had accepted to do in its 2014 UPR;<sup>21</sup>
- Exercise strict chain-of-command control over the armed forces and hold to account any member of the armed forces for any actions which constitute violations of human rights or international humanitarian law, or for allowing others to commit such violations;
- Immediately suspend, pending trial, any person in a position of authority who is suspected of committing violations of international humanitarian and human rights law since November 2010, including those committed in the Duékoué region, so that they are not in a position to commit further abuses or to influence trial proceedings;
- Ensure that all persons arrested for endangering the security of the State and related offenses, including former President Laurent Gbagbo's relatives and aides, receive a fair trial in which their right to defence is fully respected;
- Ensure that amnesties, pardons and other measures do not bar the investigation and prosecution of crimes under international law and take steps to ensure that victims have access to truth, justice and adequate reparations;
- Cooperate fully with the International Criminal Court, as Côte d'Ivoire had accepted to do in its 2014 UPR, including by transferring individuals who are wanted by the Court for crimes within its jurisdiction.<sup>22</sup>

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<sup>21</sup> A/HRC/27/6, recommendation 127.134-141 (Slovenia, Spain, Sweden, France, Turkey, United Kingdom of Great Britain and North Ireland, United Kingdom of Great Britain and North Ireland, United States of America).

<sup>22</sup> A/HRC/27/6, recommendation 127.113 (Czech Republic), 127.24 (Liechtenstein), 127.25 (Burkina Faso).