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Technical assistance and capacity-building

Report of the Independent Expert on the situation of human rights in Côte d'Ivoire, Doudou Diène*

Summary

This report is the outcome of the Independent Expert's fourth visit to Côte d'Ivoire, from 28 April to 4 May 2013. Its main aim is to evaluate the implementation of the recommendations made to Côte d'Ivoire by the various United Nations mechanisms, including those made by the 2011 international commission of inquiry. This report also presents an update on the human rights situation in Côte d'Ivoire for the period 13 October 2012 to 31 May 2013.

The Independent Expert's visit coincided with regional and local elections and allowed him to observe the current drive towards democracy. He noted that these elections were largely a technical success, which was testament to the authorities' better use of democratic mechanisms. Nevertheless, the boycott of the elections by opposition parties, particularly the Front Populaire Ivoirien (FPI), weakened the elections' legitimacy.

The Independent Expert observed that opposition parties continue to show mistrust for the Government, despite its calls for dialogue. He calls on the Government to continue this dialogue in a frank and sincere manner, including all political parties in the democratic process in order to encourage more peaceful participation in the next elections in 2015, and to consider the need to reform the Independent Electoral Commission and update the electoral roll.

In terms of security, although the number of attacks originating outside the country decreased significantly between January and April 2013, in the Independent Expert's view the situation remains fragile owing to numerous internal factors, such as the activities of militia in the west of the country and the delays in disarming former fighters. Moreover, the violence committed by the dozos and the Forces Républicaines de Côte d'Ivoire (FRCI) remains a significant internal security threat.

* Late submission.



The Independent Expert draws the authorities' attention to the need to speed up the disarmament, demobilization and reintegration process, carrying it out fairly, dealing with the ex-combatants' frustrations and guaranteeing them a dignified reintegration into society, without letting it become a cover for impunity for perpetrators of serious human rights violations.

During his visit, the Independent Expert noted the Government's efforts to reduce human rights violations, particularly with regard to the violence committed by the FRCI and the dozos. The provisional release of detainees with ties to the old regime has helped calm things down, but the various legal proceedings now under way still give an impression of a two-tier justice system.

Some of the authorities' actions, if not managed and corrected right from the start, could compromise the ongoing process of democratization. This is particularly the case with regard to illegal arrest and detention, bans on opposition rallies and the arrest of journalists for reasons that are sometimes unclear.

The Independent Expert visited Odienné and Bouna and asked about the detention conditions of high-profile detainees such as Simone Gbagbo, Michel Gbagbo and former Prime Minister Pascal Affi N'Guessan. The Independent Expert notes that the transfer of certain detainees to the Sainte Anne-Marie International Polyclinic is an encouraging step towards recognizing their right to health. The same recognition should be extended to their right to be either tried or released.

The Independent Expert emphasizes the sensitive role of the Dialogue, Truth and Reconciliation Commission in repairing the fabric of society, which has been torn apart by 10 years of crisis against a backdrop of worsening ethnic divisions. The Independent Expert believes that the Commission's mandate, which expires in September 2013, should be renewed.

The Independent Expert has noted that the significant increase in the economic growth rate of Côte d'Ivoire is not reflected in the daily lives of Ivoirians.

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I. Introduction

1. This report is submitted in accordance with Human Rights Council resolution 20/19, whereby the Council renewed the Independent Expert's mandate for one year and invited him to present his recommendations at its twenty-third session.
2. This report reviews the numerous recommendations made to Côte d'Ivoire and the international community by the United Nations Security Council, the Human Rights Council and the 2011 international commission of inquiry, as well as the Independent Expert's previous recommendations. It presents a factual update based on the Independent Expert's fourth visit to Côte d'Ivoire from 28 April to 4 May 2013, and also covers the period between October 2012 and May 2013. This report is based on information collected from Government authorities, United Nations agencies, national and international non-governmental organizations, and detainees, and on the recommendations made in the Independent Expert's previous report to the Human Rights Council (A/HRC/22/66). It also contains recommendations, in accordance with Human Rights Council resolution 20/19.
3. The Independent Expert wishes to express his gratitude to the Ivorian Government, which facilitated his stay in the country and his meetings with national and local authorities. He met the Prime Minister; the Minister of Economy and Finance; the Minister of Justice, Human Rights and Public Freedoms; the Minister of State; the Minister of the Interior and Security; and the Minister for defence at the Office of the President.
4. The Independent Expert also met with the Chief of Staff of the Armed Forces, the Chairperson of the Dialogue, Truth and Reconciliation Commission, the investigating judge of the first chamber of the Abidjan military court, magistrates of the special investigation unit, the head of the Disarmament, Demobilization and Reintegration Authority (ADDR) and the head of the Operational Decisions Coordination Centre.
5. The Independent Expert also met with the Deputy Special Representative of the Secretary-General of the United Nations in Côte d'Ivoire and the various departments of the United Nations Operation in Côte d'Ivoire (UNOCI).
6. The Independent Expert expresses his gratitude to the head of the UNOCI Human Rights Division and his team who, in addition to organizing an excellent itinerary for the visit, contributed essential information to this report.
7. The Independent Expert met with the technical and financial partners of Côte d'Ivoire, among them the United Nations system and several diplomatic missions to the country, including those of the African Union, the European Union, Ghana, Canada, France, the United States of America and Senegal.
8. The Independent Expert visited the interior of the country, notably Odienné, where he met with Simone Gbagbo, and Bouna, where he enquired about the detention conditions of around 15 detainees who had been arrested in Liberia. He also met with the former Prime Minister and Secretary-General of the Front Populaire Ivoirien (FPI), Pascal Affi N'Guessan, and the former Minister of Defence, Lida Kouassi. At the National Surveillance Directorate (DST), the Independent Expert met Charles Blé Goudé, leader of the Young Patriots. The Independent Expert also went to the Sainte Anne-Marie International Polyclinic, where he asked about the detention conditions of Simone Gbagbo, Geneviève Yobou Bro-Grebé, Kuyo Téa Narcisse and Michel Gbagbo.
9. This visit, which took place immediately after the regional and local elections of 21 April 2013, allowed the Independent Expert to evaluate the status of the current democratic process, particularly through his meetings with civil society and human rights NGOs. He also met with the leaders of a range of political parties, including the FPI, the Parti

Démocratique de Côte d'Ivoire, the Rassemblement des Républicains de Côte d'Ivoire and Liberté et Démocratie pour la République.

II. Outcome of the International Conference on Impunity and Equitable Justice in Côte d'Ivoire

10. Held in Yamoussoukro from 21 to 23 February 2013 at the initiative of the Independent Expert, the International Conference on Impunity and Equitable Justice in Côte d'Ivoire brought together 42 national and international participants to discuss transitional justice and combating impunity. The conference was organized jointly with the Ivorian Government, the Dialogue Commission, the African Commission on Human and Peoples' Rights and the International Commission of Jurists, with the support of UNOCI and the Office of the United Nations High Commissioner for Human Rights.

11. The participants represented Government bodies responsible for justice and human rights (the Ministry of Justice, Human Rights and Public Freedoms and the Ministry of Defence, represented by the prosecutor of the military court), the Dialogue Commission, civil society actors and international partners such as Human Rights Watch, Amnesty International, the African Commission on Human and Peoples' Rights, the International Commission of Jurists, the International Federation for Human Rights, the Rassemblement africain pour les droits de l'homme, the International Center for Transitional Justice (ICJT) and the International Criminal Court (ICC).

12. The participants examined examples of impunity that have occurred since 1990, including the post-election crisis, and analysed the Government's responses. They also highlighted the most appropriate judicial principles and measures to combat impunity and promote equitable justice, based on Ivorian and international law. The Conference also took on board the lessons learnt in other countries that have faced similar situations, such as Peru, Sierra Leone, Guinea, Liberia, Rwanda, the Democratic Republic of the Congo and Senegal, with the Hissène Habré case.

13. The Independent Expert wishes to thank the following people for their presence at the conference: Albert Gerard Koenders, Special Representative of the Secretary-General for Côte d'Ivoire and head of UNOCI; Gnénéma Mamadou Coulibaly, Minister of Justice, Human Rights and Public Freedoms; and Charles Konan Banny, Chairperson of the Dialogue Commission, head of the Human Rights Division of UNOCI and regional prefect for the Yamoussoukro district.

14. After discussions focused on the situation of victims, recommendations were made to the Government, the Dialogue Commission, civil society, the Security Council and the ICC.

III. Update on the general situation in the country

A. Organization of regional and local elections

15. The organization of the latest local and regional elections by the Ivorian Government, without external assistance, was a technical success free from major incidents, representing significant progress in the country's democratic reconstruction. The Independent Expert noted that the electoral process had three main characteristics: the non-participation of opposition parties, notably the FPI and Liberty and Democracy for the Republic; a high number of independent candidates; and the verbal abuse and physical violence within some parties and particularly within the ruling coalition. The non-

participation of the FPI, in addition to being regrettable in principle, signals an urgent need for an inclusive, democratic multiparty system based on the existence and strength of democratic political parties. Although a number of parties aligned themselves with traditional parties after the results were announced, the rise of the independents at these elections can be considered an indicator of the country's nascent democracy and the dynamic political reconstruction of its political parties. The violence between the coalition parties in power illustrates this political reconstruction, but also the prevalence of a culture of violence that could weaken the gains made in terms of institutional democracy. Partisan interference by some area commanders carrying out the security functions of the State during the election process, although infrequent, illustrates the need for greater vigilance in order to guarantee the political neutrality of the apparatus of State, particularly regarding security.

B. Security situation

16. With the exception of large-scale attacks on State security institutions, the Independent Expert noted a slight improvement in the country's security situation. Acts of violence in Abidjan are generally confined to petty crime. However, attacks on property are increasing in the communes of Cocody and Yopougon, accounting for 50 per cent of robberies in Abidjan, with an average of four or five per day. The murders reported are carried out using combat weapons that probably originated in the post-election conflict.

17. The FRCI continue to engage in activities that should be the preserve of the police and the Gendarmerie, again raising doubts about their training, integration and conversion to a truly republican armed force. The *dozos*, or traditional hunters, remain determined to replace the existing authorities. However, the absence of significant acts of violence by the *dozos* during the regional and local elections shows how much progress has been made through the Government's policy of restoring the *dozos* to their cultural role and traditional territories. This trend should be bolstered not only by prosecuting proven acts of violence but also by a national strategy to make legal provision for traditional cultural institutions. The presence of armed groups in protected forests makes for continuing insecurity. The delicate question of the link between rural land and ethnicity only exacerbates the perception of a lack of security, a perception confirmed by numerous reports received by the Independent Expert regarding the occupation or appropriation of large tracts of land, to the detriment of local communities. This sensitive question should be dealt with urgently in political, legal and cultural circles in accordance with a number of principles, namely the overriding importance of coexistence and reconciliation, the democratic inclusion of the communities concerned and the prosperity of all through the overall growth of the Ivorian economy.

18. The Independent Expert has received information indicating that hold-ups and roadblocks have decreased considerably, but have not been completely eradicated. The risk is greater in some regions of the country, such as the western region near the border with Liberia, which remains a major security challenge for the authorities. However, these threats are no longer likely to destabilize the State.

19. The authorities have informed the Independent Expert of the various measures that are being taken to mitigate the security problem, including the creation of the Security Operations Command Centre, which comprises various security forces (police, gendarmerie and army) and which should help the country to confront its security challenges. The authorities have also announced the installation of security cameras on the capital's main roads, the launch of an anti-racketeering campaign in the security forces, and the eradication of indiscriminate roadblocks.

C. Attempts to restrict public freedoms

20. The Independent Expert notes that recent contradictory decisions and events illustrate the weakness of public freedoms in the country. The arrest of Ousmane Sy Savané, head of a pro-Gbagbo press group, for breaching State security, and his release after more than a year in detention, as well as the decision of the National Press Council to suspend the weekly *Bôl’Kotch* publication for eight editions following its publication of articles hostile to those in power, illustrate the urgent need for national dialogue on the role and responsibilities of the press in the construction of a democratic multiparty system.

21. In some instances, security operations have led to serious human rights violations, notably unlawful detention and inhuman or degrading treatment carried out by some members of the security forces.

22. The decision of the Abidjan prosecutor’s office to refuse the Ivorian Civil Society Federation access to its administrative premises following an internal dispute — despite a court decision — is likely to raise doubts about the willingness in some quarters of government to guarantee freedom of association. Civil society should be strong, independent and have sufficient resources to play a central role in guaranteeing a democratic multiparty system, a role that should have full political recognition and appropriate legal protection.

23. The Independent Expert has been informed of a number of measures likely to restrict political parties’ activities. On several occasions, campaigners have been arrested and then freed, without any charge being made against them, or else accused of the generic offence of breaching State security. In other cases they have been banned from demonstrating, under various pretexts. The most striking example is the Ministry of the Interior ban on the FPI rally planned for 16 March 2013.

IV. Implementation of recommendations made to Côte d’Ivoire and the international community

24. Since the beginning of the post-election crisis, several recommendations have been made to the Ivorian authorities by the Security Council, the Human Rights Council, the 2011 international commission of inquiry and the Independent Expert. These recommendations relate to several areas, including democratic governance and the consolidation of the rule of law; national reconciliation and peacebuilding; and the promotion of economic and social rights.

A. Democratic governance and rule of law

25. Recommendations have been made to the Government concerning the drawing up of a consensual democratic charter and the establishment of independent and impartial institutions and mechanisms in the areas of elections, financing of political parties, equal access to information and communication, and respect for basic freedoms.

1. Political dialogue and electoral process

26. Political dialogue is a fundamental condition for the socioeconomic recovery of Côte d’Ivoire. Its ultimate goals are to make the national democratic framework the only credible forum for political debate, remove all legitimacy from the use of violence and foster a culture of peace. Although the implementation of a permanent framework for dialogue with the participation of most political parties represents a decisive step in this regard, the non-

participation of the main opposition party, the FPI, reflects the extent of the political fragmentation resulting from the protracted political crisis in Côte d'Ivoire. Given their potential for political rebuilding, the regional and local elections are a worrying sign that this fragmentation may turn into political polarization. The election schedule, particularly the 2015 presidential elections, could well encourage political competition rather than political reconciliation and democratic reconstruction, and a return to the political power games of the past, the root causes of the violence and longevity of the crisis. Côte d'Ivoire, and in particular its political classes, is therefore at a crossroads between the acquisition and retention of power by one political party, and reconciliation and prosperity for its people. During his meetings with the main political figures, the Independent Expert noted tensions surrounding these two historic options within each political party. The time has come to take bold initiatives that, by combining an ethical political approach and a vision for the nation, will avoid the repetition of recent history, marked as it has been by conflict and division.

27. The Independent Expert reiterates his concerns regarding two aspects of the electoral process, namely the electoral roll, which has not been updated for more than five years, thus violating the right to vote of more than a million voters who have come of age, and the structure of the Independent Electoral Commission.

28. Some of those whom the Independent Expert met expressed reservations about the Government's real desire to engage in sincere political dialogue. They accuse the authorities of using the subject as bait to win over the international community, without truly intending to comply with Security Council resolution 2062, which calls for enhanced political dialogue and relevant electoral reforms.

29. During his meeting with FPI leaders, the Independent Expert was informed of their concerns regarding electoral violence, the tribalization of the army and the problem of exile return. They also complain that their property has been confiscated and their assets frozen. To date, the FPI claims to have recorded around 668 civil and military prisoners.

30. As prerequisites to dialogue with the Government, the FPI continues to demand a summit meeting between President Alassane Ouattara and former President Laurent Gbagbo, a general amnesty, the holding of peaceful elections and reform of the Independent Electoral Commission.

31. The Independent Expert notes a number of critical issues requiring urgent action: there is no consensual legal framework for the functioning of political parties in Côte d'Ivoire, no agreed status for the opposition and no legislation on the financing of political parties. The recommendation on the drawing up of a consensual democratic charter is particularly pertinent in this context.

2. Administration of justice and combating impunity

32. Côte d'Ivoire has been encouraged to create and restore competent judicial, police and prison administration institutions, provide sufficient human and material resources to the justice system and improve the detention system by releasing perpetrators of minor offences and trying other detainees promptly and in accordance with recognized due process.

33. The Independent Expert recalls that justice is at the heart of democratic reconstruction and reconciliation. Its central role both reflects a return to the rule of law and underpins the public's trust in the legal institutions that are being set up.

34. The Independent Expert notes that judicial institutions are being established. The Ivorian Government has implemented a justice sector policy to strengthen the independence of the judiciary and reform legislation, the Supreme Court, the Supreme Council of Justice

and the administration of justice, as well as to provide material support for registries and introduce a code ethics for judges.

35. Although under Ivorian law witnesses are obliged to cooperate, there is no provision for their protection. The Independent Expert recalls that victims and witness protection is vital to the successful administration of justice.

36. The Independent Expert notes that the special investigation unit is prepared to follow up the report of the national commission of inquiry, in accordance with the recommendations made to the Government. The instigation of legal proceedings against those responsible for human rights and international humanitarian law violations, from across the political spectrum and including individuals seen to be close to those currently in power, is a recommendation made regularly by the Human Rights Council, the 2011 international commission of inquiry and the Independent Expert. The various arrests made following the post-election crisis continue to give the impression of a two-tier justice system. The Independent Expert reiterates that violations were committed by both sides during the Ivorian crisis, and the exhumation of bodies following the post-election crisis marks the start of psychological and non-material reparation for victims. However, the Independent Expert has noted that most of the inquiries commissioned are still at the preliminary stage, particularly those concerning the Nahibly camp and the mass graves at Duékoué.

37. The Independent Expert is concerned by the rotation of judges during the judicial year, which can have considerable consequences for the situation of detainees.

38. The tendency to arrest individuals on the generic charges of breaching State security and later release them may harm the authorities' credibility.

39. The Independent Expert recalls the importance of having a protection mechanism for witnesses and victims during the current legal proceedings and the next public hearings of the Dialogue Commission. The Independent Expert has been informed that the international partners of Côte d'Ivoire are willing to help in this, draw up a strategy and plan for investigations and establish a special registry.

40. The investigating judge of the first chamber of the Abidjan military court indicated that his court, which is also competent to try offences committed by gendarmes and police officers, is currently investigating more than 100 offences committed during the post-election crisis; there are also several cases of violations committed by the Forces Républicaines de Côte d'Ivoire (FRCI). The judge recalls that many of the FRCI members who committed offences do not have identification numbers because of their background (former members of the Forces armées des Forces Nouvelles or ex-militia members). He has therefore decided to prosecute them under article 6 of the Code of Military Procedure as "persons who, while not legally or contractually connected to the Armed Forces, are brought or kept under their control and serve with them".

41. Despite the assurances given by the authorities, the needs relating to military justice are vast. The Ivorian Code of Military Justice does not meet international standards on fair trial, notably as regards the role of the Minister of Defence in proceedings.

3. Situation of detainees

42. It has also been recommended that the Ivorian Government allow detainees to receive visits from organizations responsible for monitoring detention centres and ensuring that the detention conditions for former senior officials and other detainees are brought into line with international standards. The UNOCI Human Rights Division has noted an improvement in the detention conditions at the Campagne territoriale de Korhogo. Nevertheless, two civilians were apparently still being detained there at the time of the

Independent Expert's visit. Detainees at the National Surveillance Directorate are still incommunicado and do not receive visits from their families or lawyers and detentions in FRCI camps continue.

43. The Independent Expert notes that assize courts in Côte d'Ivoire have not been established in accordance with the International Covenant on Civil and Political Rights. Due process, particularly regarding the rights to a defence and appeal, is not properly observed. Judicial authorities therefore face a difficult choice over how to reconcile the need to defuse the explosive situation of prison overcrowding with the fact that the assize courts do not yet meet international standards.

44. In Bouna, the Independent Expert visited around 15 detainees extradited from Liberia who have been detained since June 2012. These detainees complain of poor detention conditions, the absence of defence lawyers and being detained in cells for convicted prisoners.

45. Also in Bouna, the Independent Expert visited former Prime Minister Affi N'Guessan, who condemned the irregular conditions of his unlawful detention, which has lasted two years. He firmly believed that the serious crisis facing Côte d'Ivoire can only be completely resolved with the cooperation of all political forces in the country. The former Minister of Defence, Lida Kouassi, claimed to have been arrested in Togo, beaten and forcibly repatriated. Both of these detainees are forced to use their own resources to obtain food and health care. The Independent Expert believes that the recent decision of the Ivorian Government to allow a delegation of FPI leaders to visit these two detainees in Bouna is a positive step that will encourage political dialogue.

46. At the Sainte Anne-Marie International Polyclinic, the Independent Expert met with Kuyo Téa Narcisse, former chef de cabinet of President Laurent Gbagbo; Michel Gbagbo, son of the former President; Geneviève Yobou Bro-Grebé, former leader of Femmes Patriotes (Women Patriots); and Simone Gbagbo. At the time of the visit, these detainees were receiving treatment for their medical conditions. Kuyo Téa Narcisse claimed to have been transferred to the Polyclinic on 12 April 2013 with bullet wounds and injuries resulting from his mistreatment on arrest. Mr. Téa Narcisse, who apparently is also of French nationality, cannot receive visits from his family or friends. Michel Gbagbo claims that the only reason for his arrest was his relationship to his father. Geneviève Yobou Bro-Grebé condemns the conditions of her detention, which began on 12 April 2011. She was severely beaten during her arrest and requires rehabilitation because of her injuries. The Independent Expert met with Simone Gbagbo for the third time in Odienné, and then again the next day at the Polyclinic, where she had been transferred for medical reasons. Ms. Gbagbo, who said that she was relieved to have been moved to the hospital, claims that her detention, which began two years ago, is illegal and demands to be either tried or released. She is awaiting a decision from the Government on whether she will be tried in Côte d'Ivoire or transferred to the ICC.

47. The Independent Expert believes that the decision to transfer these four detainees to Abidjan for medical care is a conciliatory measure. However, this acknowledgement of their right to health should be followed up by recognition of their right to a defence and trial or release. The accused persons whom the Independent Expert met during this visit claim that they were not informed of the charges made against them.

48. At the National Surveillance Directorate, Charles Blé Goudé told the Independent Expert that he had begun a hunger strike eight days earlier in protest at his detention conditions, which he considers inhumane. He is locked up for 24 hours a day and cannot receive visits of any kind. The Director justified his incommunicado detention, as well as that of Colonel Abbei, as being for their own safety and because of the seriousness of the charges against them. The Directorate is responsible only for the physical detention of these

detainees, who are under the jurisdiction of the public prosecutor's office. The Independent Expert recalls the need to grant full respect for their rights, improve their detention conditions, specify their legal status and try them in accordance with due process.

49. The Independent Expert congratulates the Ivorian authorities for their full and unstinting cooperation in allowing him to access and meet with these detainees.

4. Promotion and protection of human rights

50. The Ivorian Government was asked to develop a human rights promotion, training and awareness-raising programme. Practical efforts have been made to protect human rights, notably in dealing with civilian detainees held in military detention centres. The number of human rights violations attributable to the FRCI, including arrests for crimes against State security, declined considerably from January to April. Clashes with the general public still occur, however, particularly in Nahibly and Port-Bouët, where the FRCI continue to interfere in land disputes. The Independent Expert welcomes the establishment of a joint body by the chief of staff of the Armed Forces and the UNOCI Human Rights Division to monitor FRCI violations.

51. The Independent Expert notes that the vast majority of victims of human rights violations still do not obtain reparation and are not represented by defence lawyers. Nevertheless, he has been informed of several joint initiatives taken by the Government and the country's international partners to strengthen citizens' access to justice, for example by establishing legal clinics in six regions of the country and by training judges.

52. The Independent Expert notes with satisfaction the recent establishment of the National Human Rights Commission, even though it has existed in law since December 2012. The establishment of this institution is important to the credibility of the ongoing democratic reconstruction process. The Commission's balanced membership in terms of institutional representation, gender and areas of expertise in human rights is an encouraging sign that it will function properly.

5. Combating sexual violence

53. It was recommended that the State should provide victims of sexual violence with medical and psychological assistance and means of reparation, and prosecute perpetrators. The Independent Expert notes an increase in acts of sexual violence, particularly gang rapes, rapes of minors and rapes in school. Although rape is classified as an offence in Ivorian legislation, the fact that the assize courts have not been sitting has led the courts to reclassify the offence as "indecent assault", which carries trifling penalties. The need to produce evidence of rape also poses a major obstacle. The Independent Expert wishes to remind the State that, although medical certificates play an important role in the prosecution of rape cases, they are not essential. He deplores the fact that police officers and officers of the criminal investigation service insist on seeing a medical certificate to take victims' complaints. Despite efforts by the judiciary, female genital mutilation still takes place, due to the pervasiveness of cultural attitudes. It appears that no specific training on dealing with cases of sexual violence has been provided to the police, the gendarmerie or the Armed Forces, and that no legal aid has been provided to the victims.

6. International human rights commitments

54. To date, Côte d'Ivoire has signed a large number of relevant human rights instruments, and these are awaiting ratification by parliament. The UNOCI Human Rights Division has informed the Independent Expert that, with parliament, it has developed a strategic plan on ratification. The Independent Expert notes with satisfaction that human rights training has been incorporated into the education system. He now urges the

Government to improve implementation at the national level of rights guaranteed at the international level.

55. In this regard, implementing the recommendation to issue a standing invitation to the Human Rights Council special procedures mandate holders to visit Côte d'Ivoire could send a strong signal about the Government's efforts to promote human rights.

7. Reform of the security sector

56. With regard to security, it was recommended that Côte d'Ivoire should quickly disarm anyone who is not part of the defence and security forces, exclude from those forces anyone responsible for human rights violations, promote human rights training and ensure the punishment of proven human rights violations and the success of the disarmament, demobilization and reintegration process.

57. The Independent Expert recalls that reform of the security sector is not only a precondition for meeting all political, economic and social challenges, but will also be a decisive factor in the renewal of the social contract, which has been profoundly weakened by years of social fragmentation during the protracted crisis. Giving full weight to the significant fact that the FRCI is a combined force made up of two former enemy armies, the National Armed Forces of Côte d'Ivoire and the Forces Nouvelles, the Government should vigorously pursue its efforts to fuse it into a single military entity, notably by thoughtfully and proactively including all ethnic groups, both in recruitment and in promotion.

58. The clarification and sharing of responsibilities among the police and the gendarmerie in matters of public security, and the Armed Forces in matters of defence, must be done on a national basis. In this context, denying legal status to non-legitimate actors and groups, such as the dozos, in matters of security is an important aspect of building security credibility with the general public. The Government should also complete the process of getting the FRCI into barracks.

59. The ultimate goal — a solid guarantee of a peaceful society — is republican, democratic and non-partisan armed forces and security forces that will serve the Ivorian people exclusively. It is critical that politicians show a sense of political ethics and realize what a serious impact of any attempt to exploit the security forces for partisan purposes would have. The Independent Expert notes with interest and hope, however, the far-sightedness of the chief of staff's moves to provide human rights training to the Armed Forces. One notable example is the issuance of certificates by the chief of staff and the director of the UNOCI Human Rights Division to the Ivorian soldiers in the International Support Mission to Mali. The Independent Expert suggested that this human rights training should be supplemented with training in intercultural and interreligious dialogue, particularly in the context of the growing fragmentation and ethnic and religious intolerance in the Sahel-Sahara region. Enrolment in the army and security forces should be an opportunity for soldiers with a background in the rich cultural and ethnic diversity of Côte d'Ivoire to learn about interculturality and multiculturalism. In this regard, the Independent Expert offers to share his own experience as former director of intercultural and interreligious dialogue at UNESCO.

60. On 8 August 2012, the Government of Côte d'Ivoire established the Disarmament, Demobilization and Reintegration Authority to reintegrate approximately 65,000 former combatants. The capacity of the public sector to absorb these former combatants is limited, however. They will be recruited into security-related services, namely water and forest services, customs and prison services. The vast majority should be absorbed by the private sector, and the most highly qualified directed into technical field. There is a risk, therefore, that barely contained frustrations might find an outlet in desperate acts that undermine security. The Independent Expert points out that the reintegration of former combatants

requires a parallel social policy to get young people into the labour market, so that unemployment, which is associated with political tension, does not become a breeding ground for political exploitation.

61. In this regard, the Independent Expert was informed of serious incidents in Bouaké, started by former combatants dissatisfied with their conditions of reintegration and the assistance provided. On 11 April 2013, about 200 of them reportedly blocked the southern entrance to the city for several hours. The Government should give due weight to this serious incident and respond firmly, while at the same time fully recognizing its social dimension and the potential impact on a newly restored but still fragile security situation, the aim being to achieve social calm and provide an object lesson in democracy and respect for human rights. The Independent Expert has received mutually corroborating information about the disappearance — or kidnapping according to some witnesses — of one of the leaders of this demonstration. He hopes that this disappearance can be satisfactorily resolved in a way that will reassure the demonstrators and prevent any taint falling on the process of disarmament, demobilization and reintegration, thereby keeping the private partners so vital to the process on board. The chair of the Disarmament, Demobilization and Reintegration Authority, who is discharging this great responsibility with vision and skill, should continue to have the necessary means to cope with the challenges he is facing. The State of Côte d'Ivoire needs 90 billion CFA francs for the reintegration of demobilized combatants. Furthermore, this process is closely linked with the reform of the security sector.

62. The Independent Expert has received reports of attempts at manipulation that could compromise the process of disarmament, demobilization and reintegration, with former area commanders allegedly showing bias when selecting beneficiaries. The Independent Expert believes that the entire programme needs to be under the direct control and supervision of the Disarmament, Demobilization and Reintegration Authority. The Independent Expert has received reports that former area commanders accused of serious human rights violations have been promoted within the ranks of the army.

63. The Independent Expert notes that the disarmament process is facing many technical and political obstacles, including the traceability of weapons in circulation and the lack of a database on the real situation of former combatants.

B. National reconciliation and peacebuilding

64. Several recommendations have been made to Côte d'Ivoire on national reconciliation, such as incorporating the concept of cultural, ethnic and religious pluralism into the Constitution, implementing a national reconciliation programme, publishing a white paper on human rights violations between 2002 and 2011, identifying memory sites symbolizing the violations committed during the crisis, ensuring the proper functioning of the Dialogue, Truth and Reconciliation Commission and taking due account of the Ivorian people's values of peaceful coexistence in the reconciliation process.

65. The Independent Expert notes that progress has been made in discharging the mandate of the Dialogue, Truth and Reconciliation Commission. About 37 local commissions have been established. With more than 48,000 persons having testified, the quantitative phase is complete and will be followed by the qualitative phase, during which decisions will be taken about what period and what sector of the population to cover. The manner in which the Commission has discharged its mandate in remote areas of the country, working with all sectors of society, shows awareness of the need to restore the peaceful coexistence of the Ivorian people and replace multiculturalism with interculturalism in order to repair the social fabric. Diplomats and civil society

organizations have nevertheless emphasized that more community and religious leaders need to be involved in the reconciliation process.

66. The Dialogue, Truth and Reconciliation Commission has informed the Independent Expert that it has created a reliable database that will make it possible to hold public hearings within the next few months. The Commission is also looking into the root causes of the crisis. The Independent Expert is concerned about the fact that the Commission's mandate will expire in September 2013.

67. The Independent Expert points out that human rights should embrace Ivorian cultural values, which have provided a solid foundation that has kept the Ivorian people from slipping into genocide. There is reportedly a tendency for some religious denominations to preach radical sermons, sometimes discriminating against women, which runs counter to the secular nature of the State of Côte d'Ivoire.

68. The Independent Expert wishes to emphasize the role of children in the reconciliation process, and he agrees with the approach taken by the representative of the United Nations Children's Fund (UNICEF) in Côte d'Ivoire, who suggested that "play areas could become reconciliation areas". Schools should be put to use to help rebuild citizenship.

69. The Independent Expert notes the important fact that exiles whose lands have been transferred to newcomers are trying to return. Although the Government has stressed that soldiers and civilians occupying public buildings and property belonging to exiles are being evicted, the Independent Expert regrets that no far-reaching measures have been taken to allow exiles to return their illegally occupied land, particularly in the western parts of the country, and this constitutes a serious infringement of the right to housing and property. The tension between exiles and new occupants negatively impacts community cohesion and the reintegration of exiles into the social life of the country.

C. Promotion of economic and social rights

70. Recommendations were also made to Côte d'Ivoire with regard to economic and social development, equality among regions and communities, and measures for women and children, the main victims of the crisis.

71. The Independent Expert believes that the promotion of civil and political rights is closely linked with economic and social rights. In his view, Côte d'Ivoire urgently needs to work to achieve stability and social peace in order to foster a climate conducive to investment and economic and social progress, which is essential for meeting the population's basic needs.

72. Côte d'Ivoire has shown a growth rate of more than 8 per cent, but this growth has yet to improve the daily lives of the Ivorian people. According to the World Bank representative in Côte d'Ivoire, this runaway growth, which is driven by public investment in large-scale State infrastructure projects, is far from robust. The private sector appears to be ready to invest in the country but is holding back due to the uncertain security situation. The World Bank representative in Côte d'Ivoire said that the unemployment rate is around 49 per cent. According to the United Nations Development Programme, each year more than 30,000 jobs are created in the formal sector, but more than 200,000 new graduates enter the labour market. This situation raises the key issue of young people's access to employment.

73. Basic social services are still difficult to access. The sustainability and continuity of health services are not guaranteed. The health-care facilities were damaged during political and military clashes after the 2010 elections. The maternal and infant mortality rate is 500

per 100,000 births. Only 10 per cent of Ivorians are covered by social security. As for education, classrooms are overcrowded, holding as many as 120 students. The announcement of budget allocations for specific social needs is an important step but must be put into practice.

74. The Ivorian authorities informed the Independent Expert that a national social development strategy has been established. Nevertheless, Ivorian civil society organizations and development partners are concerned about the centralist nature of the social measures being taken. They report that actions are too heavily focused on the west, when social problems are also evident in the north. A strategic plan at the communal and regional levels could encourage decentralized governance and allow the communities to act as stakeholders in the process; it would also prevent further widening of the disparity between regions, especially in the north and the east of the country. The consequences of the expansion of Abidjan on the population's socioeconomic conditions must be dealt with. There is reportedly noticeable economic and social tension in the northern part of the country, particularly during pastoralists' seasonal migration.

75. The Independent Expert notes the commitments made to Côte d'Ivoire by its economic partners at the meeting held in Paris in December 2012 and believes that those commitments urgently need to be fulfilled in order to foster the economic and social recovery that is essential for sustainable democratic and social reconstruction.

76. The Independent Expert has received reports of illegal exploitation of children, notably in mines. Children returning from asylum countries always have problems with civil registration. As to the education system, school violence persists. The Independent Expert has noted an increase in the number of rapes in school; that leads to teenage pregnancy. Women's participation in the political process remains very low.

77. The Independent Expert notes the process under way to draft a new rural land law to replace that of 1998. Given this issue's central importance in Ivorian society and the serious consequences that follow when it is exploited for political purposes, it should be addressed in a holistic manner, focusing on three major issues: common economic prosperity, coexistence and reconciliation, and democratic reconstruction.

78. The various calls for illegally occupied property to be evacuated have not yet produced the expected results. The abusive exploitation of the country's natural resources and the occupation of sacred forests by armed gangs are likely to have serious ramifications for the environment and ultimately for the exports so necessary to the country's balance of trade, notably cocoa.

D. Specific recommendations to the international community

79. The Independent Expert notes with satisfaction that the international community continues to provide Côte d'Ivoire with substantial assistance in various areas — re-establishment of the rule of law, national reconciliation and economic and social development — in particular by assisting the Dialogue, Truth and Reconciliation Commission, strengthening the judiciary and the security apparatus, promoting human rights and contributing to the country's economic recovery. A stronger commitment from the private sector is particularly needed at this stage. However, the Independent Expert regrets that his many calls to lift the arms embargo on Cote d'Ivoire have gone unheeded.

80. Thus far, the relevant United Nations bodies have not made public the report of the international commission of inquiry established by the Commission on Human Rights in 2004; that report could help in the unbiased search for truth in the ongoing transitional justice process and the fight against impunity.

81. UNOCI, by virtue of its mandate to build peace and support the judiciary and the security sector, is still a key tool for the rebuilding of Côte d'Ivoire. The Independent Expert notes the felicitous intersection of his mandate with that of UNOCI, which, particularly through its Human Rights Division, continues to work with the United Nations system, the Government and civil society in the area of training and capacity-building.

V. Conclusions and recommendations

A. Conclusions

82. **The growing dangers in the Sahel-Sahara region, especially Mali, and the entrenchment of cultural and religious fragmentation and social division throughout the region should impel political players in Ivorian society to take the urgent steps needed to make democratic reconstruction, national reconciliation and economic and social development the best possible defence against these forces.**

83. **Côte d'Ivoire can be considered both a country and a region by virtue of its geography, population, economy and history, and serves as a model country not only because of its economic and social prosperity, but also because of its capacity for national reconciliation and for the pluralistic democratic rebuilding of a society deeply fragmented by a protracted crisis. The institutional bases needed to rebuild a collapsed State are in place, and economic and social recovery is on the horizon, but the problems of deep political fragmentation and weakened security remain. The establishment of an inclusive democracy based on a fair justice system, a human rights culture that influences the whole of society and the renewal of peaceful coexistence are the major challenges that must be met to achieve the necessary national catharsis of consciousness. A national vision focusing on the best interests of the Ivorian people and a new political ethic should prevail over party political power struggles.**

84. **The Independent Expert believes that a political dialogue, which everyone he has consulted considers urgent, could be structured around the following main issues: the legal status of the opposition (financial and material resources, freedom of expression and assembly, etc.), the joint development of a democratic charter, the reform of the Constitutional Court, the reform of the Independent Electoral Commission and the electoral roll and the question of rural landownership. Two major factors give this dialogue particular urgency: the election schedule, and particularly the 2015 presidential elections, and the rising tensions in the Sahel-Sahara region.**

B. Recommendations

85. **The following recommendations made by the Independent Expert are, for the most part, the outcome of the International Conference on Impunity and Equitable Justice in Côte d'Ivoire, held in Yamoussoukro from 21 to 23 February 2013.**

Recommendations to the Government

86. **With regard to national mechanisms on impunity and transitional justice, the Independent Expert recommends that the Government:**

(a) Ensure that mechanisms to combat impunity are in line with international human rights standards and norms, and in practice reflect local specificities;

(b) Ensure efficient and effective collaboration and coordination among the various national bodies responsible for combating impunity and providing transitional justice, without detriment to their individual mandates (the Dialogue, Truth and Reconciliation Commission, the special investigation unit and the military court);

(c) Strengthen the sharing of experiences and information among all national bodies dealing with impunity and transitional justice, including the former national commission of inquiry, and in particular the various investigation reports, the pattern of human rights violations, exhumation work and the national commission's database, while maintaining the confidentiality of the information in question;

(d) Strengthen collaboration among national and international mechanisms to combat impunity and particularly between the International Criminal Court, the special investigation unit and the military court;

(e) Improve communication, information and awareness-raising among the population about the mandates, missions and specific activities of the various national bodies dealing with impunity and transitional justice;

(f) Ensure that the material, temporal and territorial competence of the judicial and extrajudicial transitional justice mechanisms is as broad as possible, so that they may fulfil their mandates effectively and without discrimination, and in particular review the temporal competence of the special investigation unit, whose mandate covers only the post-election period;

(g) Extend the mandate of the Dialogue, Truth and Reconciliation Commission if it has not completed its work by September 2013;

(h) Ensure that the mandates of the Dialogue, Truth and Reconciliation Commission and the new National Programme for Social Cohesion are clearly defined and that their work and resources are coordinated.

87. With regard to legal proceedings, the Independent Expert recommends that the Government:

(a) Make full use of the many reports issued by national and international NGOs and international commissions of inquiry throughout the crisis in order to initiate proceedings to identify the perpetrators of serious human rights violations;

(b) In accordance with international law, either try or release persons who have been detained for more than 2 years since the post-electoral crisis;

(c) Prosecute all perpetrators of serious crimes, regardless of their status or ethnic, religious or political affiliation;

(d) Strengthen the independence of judges and prosecutors and provide the judiciary with the necessary means to effectively carry out its duties;

(e) Rule out the application of general amnesty laws in the fight against impunity, especially for international crimes such as genocide, crimes against humanity and war crimes, which are not subject to statutory limitations, and also for serious human rights violations; in this regard, amend the amnesty ordinance of 2007 to bring it into line with international law;

- (f) Prosecute all violations, including those carried out before the post-electoral crisis, by lifting the restrictions on prosecution by State authorities; in this regard, authorize the special investigation unit to go back to 2002 and deal with the most serious human rights violations;
- (g) Draft and publish a strategy and action plan for the special investigation unit;
- (h) Adopt an open criminal policy for the Ministry of Justice, Human Rights and Public Freedoms as an expression of the State's political will to combat impunity;
- (i) Amend the Criminal Code to ensure that serious crimes against international human rights law and international humanitarian law are not subject to any statute of limitations;
- (j) Establish a mechanism to protect victims, witnesses, judges, lawyers and human rights defenders;
- (k) Bring Ivorian law into line with all the State's obligations under the Rome Statute of the International Criminal Court;
- (l) In accordance with the Rome Statute, fulfil the obligation to cooperate with the International Criminal Court by responding to summonses issued by that court, either by handing over the wanted persons to The Hague or by challenging its competence where the Ivorian judiciary is already seized of cases involving the same crimes and provides all guarantees of a just and fair trial;
- (m) Improve the effectiveness of investigations and prosecutions, particularly by strengthening the capacities of public prosecutor's offices, courts and tribunals and by making the necessary legislative reforms;
- (n) Reform the military justice system so as to bring it into line with international standards, particularly with regard to the independence of prosecutions from the Minister of Defence, civil parties' involvement in proceedings and the competence of the military courts in cases involving human rights violations.

Recommendations to the Dialogue, Truth and Reconciliation Commission

88. The Independent Expert recommends that the Dialogue, Truth and Reconciliation Commission:

- (a) Adopt a holistic approach to the truth that will promote justice based on three broad perspectives: rigorous fact-finding, identification of those responsible and determination of their root causes;
- (b) Speed up national consultations and disseminate information about the work of the Commission in addressing public — and especially victims' — expectations with regard to the search for truth (the period and types of violations to be covered, reparations, and the promotion of a culture of peace in Côte d'Ivoire);
- (c) Enrich the process of lasting reconciliation with the values, mechanisms and traditional practices of peaceful coexistence, linking national unity in with the Ivorian people's heritage of diversity;
- (d) Speed up the truth-seeking phase of its activities;
- (e) Extend the Commission's mandate on the basis of a progress report detailing what has already been accomplished and what remains to be done;

(f) Taking account of the regional impact and scope of the Ivorian crisis, involve regional players and the Ivorian diaspora in the search for truth, the pursuit of justice and the building of reconciliation;

(g) Emphasize the central importance of victims' situation and expectations and encourage the provision of material, social, psychological, medical and legal support for them;

(h) Adopt a collaborative and fundamentally participatory approach, giving priority to continuous interaction so as to ensure that the public and civil society support the process and are genuinely and actively involved in it;

(i) Prioritize human rights education in order to instil a culture of peace, tolerance, non-violence, justice and respect for others, and of coexistence among communities.

89. With regard to the report by the national commission of inquiry, the Independent Expert recommends that the report should be published in its entirety, being careful not to publish the names or personal information of the alleged perpetrators or witnesses.

90. With regard to the central importance of the situation of victims, the Independent Expert recommends:

(a) Building the capacity of the relevant mechanisms to conduct investigations and prosecutions and set up an integrated system to protect witnesses and victims;

(b) Raising awareness among the public, and in forming victims in particular, about the need for the various forms of transitional justice that are planned or have already been established, and about how they can participate in these mechanisms;

(c) Giving visibility and substance to victims' right to an effective and accessible remedy, including reparation for harm suffered, and also to the right of the accused to a just and fair trial.

Recommendations to civil society

91. The Independent Expert recommends that civil society:

(a) Recognize and strengthen the central role and independence of civil society in the fight against impunity and the promotion of an equitable justice system;

(b) Ensure support and protection for civil society, including human rights defenders, victims' associations, members of the legal, medical and social professions and media professionals involved in the various truth and transitional justice mechanisms.

Recommendations to the Security Council

92. The Independent Expert recommends that the Security Council:

(a) Authorize the publication of the report of the international commission of inquiry established in 2004, in accordance with the recommendation made by the international commission of inquiry established in 2011 (A/HRC/17/48, para. 127);

(b) Lift the arms embargo so as to allow Côte d'Ivoire to strengthen its internal security and deal with the destabilizing actions that have followed the crisis in the Sahel-Sahara region.

Recommendations to the International Criminal Court

93. **The Independent Expert recommends that the International Criminal Court:**

(a) **Strengthen the impartiality and fairness of the international justice system by issuing warrants for the arrest of all perpetrators of genocide, crimes against humanity or serious crimes, regardless of their political or religious affiliation or ethnic origin;**

(b) **Speed up the opening of its liaison office in Abidjan, in order to better inform and support victims and other sectors of the population and to make the international justice system more visible and transparent;**

(c) **Develop attitudes and strategies that will encourage accused persons to cooperate;**

(d) **Ensure the effective application of the principle of complementarity between the International Criminal Court and national courts, in a spirit of reciprocity.**
