



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

**REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

Fourteenth periodic reports of States parties due in 1999

Addendum

CÔTE D'IVOIRE*

* This document contains the fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth and fourteenth periodic reports of Côte d'Ivoire, due on 4 January 1982, 1984, 1986, 1988, 1990, 1992, 1994, 1996, 1998 and 2000 respectively, submitted in one document. For the fourth periodic report of Côte d'Ivoire and the summary records of the meetings at which the Committee considered that report, see documents CERD/C/64/Add.2 and CERD/C/SR.510-511. The first part of the report of Côte d'Ivoire to the Committee on the Rights of the Child (CRC/C/8/Add.41 of 27 April 2000) contains basic information which may prove useful. The supporting annexes submitted by Côte d'Ivoire may be consulted in the secretariat's file.

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Part One

General

I. CÔTE D'IVOIRE FROM 1982 TO 2001

A. Demographic situation

1. According to the latest general census, the population of Côte d'Ivoire in 1998 was 15,366,672, and was growing at a rate of 3.3 per cent a year. Accordingly, the population would have been 16,549,342 on 31 December 2001. It is composed of 51 per cent of men and 49 per cent of women, with 57 per cent living in rural areas and 43 per cent in urban areas.
2. Côte d'Ivoire is a multi-ethnic State and experiences a high level of immigration. The indigenous population (74 per cent of the total) is divided into 66 ethnic groups, which may be classified into four main groups: the Akan (42.1 per cent), the Mande (26.5 per cent), the Gur (17.6 per cent) and the Kru (11 per cent). The population of foreign origin, accounting for 26 per cent of the total, stood at 4,000,047 in 1998 compared with 3,039,037 in 1988 - an annual average growth rate of 2.6 per cent. They generally come (95 per cent) from the member countries of the Economic Community of West African States (ECOWAS), 86.8 per cent of them from the States which share a border with Côte d'Ivoire - Burkina Faso (2,238,548), Mali (792,258), Guinea (230,387), Ghana (133,221) and Liberia (78,177). Those from Burkina Faso alone make up 56 per cent of the foreign population, or 15 per cent of the total population of Côte d'Ivoire. It is important to note that 47 per cent of the foreign population is not in fact composed of immigrants, but of persons born in Côte d'Ivoire of immigrant parents.
3. Côte d'Ivoire is a secular State in that there is no State religion. However, there is great religious diversity in the country, with Muslims (38.6 per cent), Catholics (19.4 per cent), animists (11.9 per cent) and Protestants (6.6 per cent). Other spiritual movements coexist with these dominant religions - followers of ECK, Rosicrucians, etc.

B. Political and institutional situation

4. After becoming a sovereign nation in 1960 and for a decade after 1980, Côte d'Ivoire had a presidential system. This regime was notable for the predominance of the executive in relation to the legislature, while the judiciary was relegated to the status of a mere authority. Although the 1960 constitution provided for a multi-party system, in practice a single-party system took shape under the Democratic Party of Côte d'Ivoire (PDCI), whose President, Félix Houphouët-Boigny, was President of the Republic and head of State.
5. In 1990, under the influence of various winds of change in Eastern Europe and pressure from local opinion formers opposed to the regime, the President proclaimed a return to a multi-party system. Côte d'Ivoire then held its first multi-party elections on 28 October 1990. However, major difficulties arose in the functioning of political pluralism after the death of President Houphouët-Boigny in 1993, who was succeeded by the President of the National Assembly, Henri Konan Bédié, culminating in the country's first military coup d'état on 24 December 1999. President Konan Bédié, head of State and President of the PDCI, after

winning the October 1995 presidential elections, which were boycotted by the main opposition parties, the Front Populaire Ivoirien (FPI) and the Rassemblement des Républicains (RDR), grouped together within an alliance known as the Front Républicain, was removed from power and forced into exile.

6. Power was then exercised by General Robert Guéi, President of the National Committee for Public Salvation and head of State. The constitution was suspended and the main institutions of the republic dissolved. However, as a result of pressure from the population and the international community, General Robert Guéi set up a government of transition composed of representatives of the armed forces, the main political parties and civil society. A constitutional and electoral consultative commission was established with the task of drafting a new constitution and electoral code. On 23 and 24 July 2000 the drafts were put to a referendum and approved by a vote of over 86 per cent. The new constitution provides for a presidential system and the separation of powers between the executive, the legislature and the judiciary.

7. General elections were held under the new constitution and electoral law, leading to victory for the FPI in the presidential elections (22 October 2002), the PDCI in the parliamentary elections (17 December 2000) and the RDR in the municipal elections (2 April 2001). The holding of these elections was attended by many difficulties and led to violent and bloody incidents on 24, 25 and 26 October and 4 and 5 December 2000. The Forum of the Nation for National Reconciliation, held from 9 October to 18 December 2001 at the initiative of the new authorities, forms part of an effort to strengthen national unity and peace in society, which were sorely tested during the elections.

C. Economic, social and cultural situation

8. In the economic field, Côte d'Ivoire recorded a relatively high growth rate up to 1980 (7.6 per cent on average between 1960 and 1980). This made the country the powerhouse of the West African subregion and above all an Eldorado for African and even non-African groups seeking to migrate (Vietnamese, Lebanese, Pakistanis, Syrians). But the enthusiasm provoked by these two decades of prosperity in business and farming circles was replaced by uncertainty and disquiet with the arrival of the recession that has affected the country for the past 20 years.

9. The economy, which grew slowly up to 1986, recorded negative growth of -1 per cent in 1990. The 1994 devaluation of the country's currency, the CFA franc, allowed economic growth to resume, with a growth rate rising even beyond 10 per cent. But this boom was to be short-lived. The political crisis which followed the death of President Houphouët-Boigny and the struggle for the succession, culminating in the military coup d'état of 24 December 1999, wiped out all the positive effects of the devaluation and plunged the country into an unprecedented economic slump with explosive social consequences.

10. The rural population, which accounts for over half the total, is facing progressive impoverishment, while the urban sector (43 per cent) is suffering a disproportionate rise in its share of the unemployed: the overall unemployment rate is estimated at 2.9 per cent, varying from one region to another; in Abidjan, for example, the rate stands at 9.1 per cent.

11. Sales of export commodities such as coffee and cocoa, mainstays of the economy, are poor. Small, medium-sized and large enterprises have run out of steam. However, this gloomy prospect has brightened with the resumption of cooperation between Côte d'Ivoire and the international financial institutions (the World Bank and IMF) and the European Union since July 2001, after a complete break dating from the end of 1998 and the beginning of 1999. According to the Côte d'Ivoire authorities and their development partners, economic recovery is expected at the beginning of 2002.

II. CÔTE D'IVOIRE'S POLICY TO COMBAT RACIAL DISCRIMINATION

12. Between the proclamation of its independence and the present day, Côte d'Ivoire has ratified most of the international conventions relating to human rights, both under the auspices of the United Nations and under those of the Organization of African Unity.

13. Reflecting its constant concern to respect the commitments arising from these conventions, it has adopted a steady stream of legislative, administrative and judicial measures to ensure that its domestic legislation is in perfect harmony with international legal instruments in general, and the Convention on the Elimination of All Forms of Racial Discrimination in particular.

14. Côte d'Ivoire thus possesses an adequate legal arsenal to combat all forms of racial discrimination. Moreover, both the authorities and civil society spare no effort to promote the equality of all under and before the law.

15. In the preamble to the August 2000 Constitution, the people of Côte d'Ivoire declared their awareness of the country's ethnic, cultural and religious diversity and set forth their desire to build a united nation. In addition, as they had done in 1960, they proclaimed their attachment to the principles of democracy and human rights, while emphasizing respect for and the protection of fundamental freedoms, both individual and collective.

Part Two

Implementation of the Convention

I. CONDEMNATION OF RACIAL DISCRIMINATION IN CÔTE D'IVOIRE

A. At the constitutional level

16. The campaign against all forms of racial discrimination is visible in Côte d'Ivoire legislation in the form of constitutional acts, penal legislation and general and special civil legislation.

17. On 1 August 2000, Côte d'Ivoire adopted a new constitution designed to improve and clarify certain elements of the Constitution of 3 November 1960. The intentions of the people of Côte d'Ivoire as regards efforts to combat all forms of discrimination are now unequivocal.

Generalities in the preamble to the 1960 Constitution have been replaced by more detailed provisions in the new constitution. The two articles (2 and 6) in the 1960 version have been expanded to six (arts. 2, 7, 10, 13, 17 and 20) in the 2000 Constitution:

(a) Article 2 provides that: “The human person is sacred. All individuals are born free and equal before the law. They enjoy the following inalienable rights: the right to life, to liberty, to personal fulfilment and to respect for their dignity. The rights of the individual are inviolable. The authorities have the obligation to ensure that they are respected, protected and promoted. Any punishment aimed at the taking of human life is forbidden.”;

(b) Article 7 provides that: “Every individual has the right to the development and growth of his or her personality in its material, intellectual and spiritual dimensions. The State shall guarantee all citizens equal access to health, education, culture, information, training and employment. It shall be the duty of the State to safeguard and promote national values of civilization and cultural traditions which are not contrary to the law and morals.”;

(c) Article 13 emphasizes that “political parties and groupings shall be formed and shall pursue their activities freely provided that they respect the laws of the Republic and the principles of national sovereignty and democracy. They shall have equal rights and shall be subject to the same obligations. Political parties and groupings set up on a regional, confessional, tribal, ethnic or racial footing shall be forbidden.”;

(d) Article 17 states that “everyone shall have the right to choose his or her occupation or employment freely. Access to public or private employment shall be equal for all. Any discrimination in access to or the exercise of employment which is based on sex or political, religious or philosophical opinions shall be forbidden.”;

(e) Article 20 provides that: “Everyone shall have the right to free and equal access to justice.”

These provisions are designed to ensure the equality of all citizens in the enjoyment and realization of their rights and freedoms, and in the protection which must be provided by the authorities. For example, article 10 in the first chapter of the Constitution, relating to freedoms and rights, prohibits all propaganda whose aim or effect is the predominance of one social group over another or the encouragement of racial or religious hatred. Article 13 in the same chapter prohibits political parties and groupings set up on a regional, confessional, tribal, ethnic or racial footing.

B. The Penal Code

18. The principles and prohibitions set out in the Constitution give rise to a list of offences which are punishable under various articles of the Penal Code:

(a) Article 137 - This article describes and punishes all acts aimed at the total or partial elimination of a national, ethnic, confessional or political group. These acts comprise the following:

- Murder, serious bodily injury or attacks on the physical or mental health of the members of the group, in whatever form;
- Measures taken to prevent the procreation or the survival of the descendants of members of the group;
- Forced displacement or dispersal of population groups or children or their placing in living conditions such that they must lead to their death or disappearance.

Thus article 137 describes and punishes acts of genocide. Indeed, chapter 1, section 1, title 1 of the Penal Code, of which it is the sole article, is entitled “Genocide”.

(b) Articles 199-201 describe and punish the following acts:

- Defamation, insults or threats against a group of persons who, by virtue of their origin, belong to a specific race, ethnic group or religion (article 199 of the Penal Code). It should be mentioned that the commission of such acts through the written or audio-visual media constitutes an aggravating circumstance which entails a doubling of the applicable punishment;
- Denying a person access to public places or a job or housing on the sole grounds of his or her race, ethnic group or religion;
- Attacks on the physical integrity of a person, in particular in the form of scarification, permanent tattooing, filing of teeth or any other method likely to display his or her membership of an ethnic group or a specific grouping of persons (Penal Code, art. 201).

(c) Article 195 of the Penal Code encompasses violence, assault or threats intended to persuade a person to refrain from practising a religion or to participate in or to cease to participate in an association of a religious nature.

C. Political rights

1. The right to vote

19. The right to vote is governed by article 33 of the Constitution of 1 August 2000, a revised version of article 5 of the former constitution regarding the age requirement: “The vote shall be universal, free and secret. All citizens of Côte d’Ivoire of both sexes aged 18 [or over] who are in full possession of their civic and political rights shall be entitled to vote under the conditions established by law.”

20. The conditions to be met in order to enjoy the right to vote are set out in article 4 of the Electoral Code Act of 1 August 2000, No. 2000-514, which was adopted by referendum, and articles 42 and 43, paragraph 2, of the Nationality Code.

(a) Article 4 of the Electoral Code:

“Persons who are the subject of legal disability or disqualification, such as the following, may not vote:

- “– Persons found guilty of a serious offence;
- “– Persons sentenced to a non-suspended prison term for theft, fraud, breach of trust, misappropriation of public funds, forgery, corruption and influence-peddling or public decency offences;
- “– Undischarged bankrupts;
- “– Persons who have been sentenced in their absence;
- “– Interdicted persons;
- “– Persons who have been deprived of the right to vote by a court, and more broadly those who have been so deprived by virtue of a law.”

(b) Article 42 of the Nationality Code:

“A person acquiring Côte d’Ivoire nationality shall from the date of such acquisition enjoy all the rights attaching to that nationality, subject to the disabilities prescribed in article 43 of this Code or in special statutes.”

(c) Article 43, paragraph 2 of the Nationality Code:

Naturalized aliens are subject to certain disabilities. “During the period of five years following the naturalization decree, he or she may not vote in an election for which only Côte d’Ivoire nationals may be registered as electors.”

Article 5 of the Electoral Code provides that “the status of voter may be confirmed by registration on an electoral roll. This registration is a matter of right”.

2. The right to be a candidate

21. The conditions to be met by persons wishing to be candidates for an election are governed by the Constitution itself, in articles 35 and 65, regarding candidates for presidential elections and elections for the posts of President and first Vice-President of the National Assembly.

22. The conditions to be met in the case of parliamentary, municipal and regional elections are governed by the Electoral Code.

23. Taken together, articles 35 and 65 of the Constitution provide that candidates for the posts of President of the Republic and President or first Vice-President of the National Assembly must:

- “– Be at least 40 and at most 75 years of age;
- “– Be a native of Côte d’Ivoire, born to a father and mother who were themselves natives of Côte d’Ivoire;
- “– Never have renounced Côte d’Ivoire nationality;
- “– Never have taken up another nationality;
- “– Be in complete physical and mental good health;
- “– Be of sound morals and great probity, declare his or her possessions and substantiate their provenance.”

24. For other elections, article 17 of the Electoral Code provides that “Any voter may stand in the elections organized under the present Act (the Electoral Code Act of 1 August 2000, No. 2000-514), subject to any special conditions set for each of them.” These special conditions generally relate to age (minimum age of 25), criminal records and disability.

25. The Constitution of 1 August 2000 and the Electoral Code of the same date were adopted by a vote of over 86 per cent in a referendum after all the political parties called for a “yes” vote by their activists.

3. The right to access to the public service

26. This right is guaranteed to all by law. Naturally, as in any sovereign State, this applies to nationals, as the public service is exclusively national.

27. The only restrictions laid down are those set out in article 17 of the General Civil Service Regulations and articles 42 and 43, paragraph 3 of the Nationality Code.

28. Côte d’Ivoire thus has no restriction on access to State employment of any kind in law or in fact based on race, ethnic group or religion. Indeed, recruitment is carried out by competitive examination and candidates are given full guarantees of anonymity.

D. Civil rights

1. The right to nationality

29. This right is laid down in and governed by the Nationality Code Act of 14 December 1961, No. 61-415, as amended by Act No. 72-852 of 21 December 1972. It follows from the general economy of this instrument that Côte d’Ivoire nationality is attributed at birth or may be acquired.

30. The conditions attaching to Côte d'Ivoire nationality as nationality of origin are set out in articles 6 and 7 of the Nationality Code.

(a) Article 6: “The following shall be Côte d'Ivoire nationals:

“A legitimate or legitimated child born in Côte d'Ivoire, unless both his or her parents are aliens;

“A child born out of wedlock in Côte d'Ivoire, unless his or her filiation is legally proved to both alien parents or to one alien parent.”

(b) Article 7: “The following shall be Côte d'Ivoire nationals:

“A legitimate or legitimated child born outside Côte d'Ivoire of a parent who is a Côte d'Ivoire national;

“A child born out of wedlock outside Côte d'Ivoire whose filiation is legally proved to one Côte d'Ivoire parent.”

31. Nationality may be acquired either by operation of law or in pursuance of a decision of a public authority. Côte d'Ivoire nationality is acquired by operation of law by (a) a child that has been adopted, if at least one of the adoptive parents is a Côte d'Ivoire national (art. 11), (b) an alien woman who marries a Côte d'Ivoire national, upon the celebration of the marriage (art. 12), (c) a legitimated minor whose father or widowed mother acquires Côte d'Ivoire nationality (art. 15), (d) a minor born out of wedlock whose parent exercising parental authority acquires Côte d'Ivoire nationality (art. 45). Côte d'Ivoire nationality may be acquired in pursuance of a decision of a public authority. This decision stems either from naturalization or from recovery of nationality (arts. 24, 25 and 34).

32. Article 42 provides that “a person acquiring Côte d'Ivoire nationality shall from the date of such acquisition enjoy all the rights attaching to that nationality”. He or she is subject to a few disabilities prescribed in article 43, but may be relieved of some or all of them by the naturalization decree in the circumstances set out in article 44.

2. Patrimonial and extrapatrimonial rights

33. Civil rights, whether they are personal or real, and whether they relate to movable or immovable property, are guaranteed under domestic legislation. Almost all of them are governed by the French Civil Code as it applied at the time of Côte d'Ivoire's independence, in accordance with article 76 of the Côte d'Ivoire Constitution of 3 November 1960, and subsequently article 133 of the Constitution of 1 August 2000.

34. The only reservation that should be made with regard to the above relates to property rights in rural land. Article 1 of the Rural Land Act of 23 December 1998, No. 98-750, provides that the national assets constitute all land, whether developed or not, and can be appropriated only by the State, public authorities and individual Côte d'Ivoire nationals.

E. Economic, social and cultural rights

35. Legislation in Côte d'Ivoire regulates and protects all these rights in a general and objective manner, regardless of race or origin, as recommended in article 5 of the Convention.

1. The right to work

36. Article 4 of the Labour Code provides that "... no employer may base his or her decisions regarding such matters as recruitment, conduct and the distribution of work on sex, age, national origin, race, religion, political or religious opinion ...".

37. In pursuance of this article and the requirement of the Convention, the labour market in Côte d'Ivoire is a free one. As much as 59.2 per cent of the working population is to be found in the agriculture sector, 17.3 per cent in trade, 15.1 per cent in services and 6.6 per cent in industry. About 75.3 per cent of alien males in Côte d'Ivoire work in the sectors of agriculture, livestock-raising and fishing. The figure for alien females in these sectors is about 24.7 per cent. The 1998 census notes that "inadequate educational and training opportunities in their countries of origin and a wish to immigrate into Côte d'Ivoire and enjoy better chances of economic and social advancement are also fundamental causes of the substantial presence of aliens in agriculture, especially in coffee and cocoa production". In ethnic terms, the Akan are in a majority at 31.2 per cent of the farming population. Next are the Gur (18.7 per cent), the northern Mande (8.6 per cent), the southern Mande (7.9 per cent) and the Kru (7.5 per cent). In the tertiary sector (trade and services), almost 49.1 per cent of workers are female Côte d'Ivoire nationals. Next come alien males (19.5 per cent) and alien females (12.0 per cent). Aliens make up 31.5 per cent of traders. Generally speaking, there is thus substantial foreign representation in the structure of wage earners in the private sector - 42 per cent of men and 20.4 per cent of women. The 1998 census notes that "in this sector, no restrictions are placed on recruitment in terms of nationality".

2. The right to education

38. According to the 1998 general population and housing census, "of a total of 8,717,378 persons aged 15 or over who reported their literacy status, 63.6 per cent are unable to read or write, compared with 36.4 who are literate". Aliens account for 34.1 per cent of the illiterate population and 14 per cent of the literate. The illiteracy rate among aliens (81 per cent) is generally higher than among Côte d'Ivoire nationals (57 per cent). The census notes that "at the regional level, there are very large disparities between Côte d'Ivoire nationals and aliens: aliens are more affected overall by illiteracy than Côte d'Ivoire nationals". Ethnically, the Kru have the lowest rate of illiteracy (37.7 per cent), followed by the Akan (50.6 per cent), the southern Mande (57.7 per cent), the northern Mande (69.6 per cent) and the Gur (75.5 per cent). The census report explains that "differences as to literacy between ethnic groups are essentially associated with economic factors on the one hand and socio-cultural factors on the other".

39. In pursuance of article 7 of the Constitution, which provides that "the State shall guarantee all citizens equal access to health, education, culture, information, training and employment", the Government is striving to lower the rate of illiteracy in the country and to provide high-quality education for all.

40. The education system in Côte d'Ivoire is based on the cardinal principle of equal access to education for all. The application of this principle, which is also an objective, requires the implementation of measures to combat all forms of discrimination in schools and colleges. Two types of steps are taken: the first is designed to guarantee equal treatment for all within State education, while the second is aimed at combating all obstacles preventing certain groups of the population from enjoying equal access to education.

41. For example, on 12 October 2001 an event was held in Danané to promote awareness of the integration of refugee children in the Côte d'Ivoire education system. The event began with a meeting with the town authorities and all education stakeholders in the department. Exchanges of view took place and documents were distributed. After these formalities, a delegation together with representatives of the authorities met the refugees and representatives from the host villages. After some discussions, the refugees and the local people endorsed the integration policy.

42. Poverty is the principal factor impeding access to education, but its effects can be lessened by means of various measures. For example, the Government has instituted a system of loans of schoolbooks in primary education, and the low charges levied have enabled more than 62 subprefectures - targeted as being in the poorest regions of the country, mainly in the north - to provide the local people with schoolbooks at a reduced cost.

F. Access to justice

43. Free access to justice for all without any discrimination was already the rule under article 6 of the 1960 Constitution, and remains so under article 20 of the 2000 Constitution: "Everyone is entitled to free and equal access to justice".

44. Article 4 of the Code of Civil Procedure, under which non-nationals must deposit a *cautio judicatum solvi* (security to ensure compliance with court judgements), in no way violates the principle of free access to justice. Everyone is entitled to access to justice, and everyone must pay any costs awarded. Any party who is not a national and has no domicile or residence in Côte d'Ivoire must pay this security, which is designed to guarantee the payment of any judicial costs awarded.

G. Judicial remedies

45. In order to safeguard the rights of each party in proceedings, the law contains provision for judicial remedies. These fall into two categories: general remedies and special remedies. General remedies are of two kinds - applications to vacate judgement, and appeals.

1. Applications to vacate judgement

46. Under article 153 of the Code of Civil Procedure, this remedy enables a party that has been sentenced in his or her absence to apply to the court to revoke the judgement it has handed down, after hearing both parties. This procedure thus enables a party which was absent from the proceedings to secure a retrial before the same court which handed down the judgement, with a view to revocation.

2. Appeals

47. In contrast, under article 162 of the Code of Civil Procedure, appeals are the means by which a party applies to the Court of Appeal to vary a ruling handed down by a court of first instance. All rulings handed down at first instance, in adversary proceedings or in default, may be appealed against.

48. In addition to these general remedies, articles 184 to 186 of the Code of Civil Procedure provide for special remedies: interpretation and rectification (arts. 184-186), third-party proceedings (arts. 187-193), applications for judicial review of the facts (arts. 194-203) and applications for judicial review for illegality or error of law or form (arts. 204-214). But here we will deal solely with the last-named.

3. Applications for judicial review for illegality or error of law or form

49. This is a remedy aimed at securing the annulment of the ruling being challenged and returning the parties to the status quo ante. Only rulings handed down without right of appeal may be annulled in pursuance of an application of this type, lodged by the party affected by them, except where expressly forbidden by the law (Code of Civil Procedure, art. 209). Proceedings of this type are initiated only in the following cases:

(a) Violation of the law or error in the application or interpretation of the law;
(b) lack of jurisdiction; (c) illegality; (d) violation of prescribed legal forms resulting in nullity or termination; (e) inconsistent rulings handed down between the same parties in relation to the same subject and on the same arguments; (f) lack of legal foundation as a result of the absence, inadequacy, lack of clarity or inconsistency of grounds; (g) failure to hand down a judgement; (h) ruling *ultra petita*.

All these remedies guarantee each party the right to a fair trial and equal rights for all before the law in the face of any discrimination which they might suffer.

50. Criminal procedure also provides for complaints to the police leading to the initiation of an investigation into the facts as reported and the bringing of proceedings in the correctional court through the public prosecutor. The proceedings instituted in this way initiated enable any victim to defend his or her rights and to seek reparation for any harm suffered.

H. Legal aid

51. Legal aid, which is left to the initiative of Côte d'Ivoire nationals and non-nationals, is provided for in article 27 of the Code of Civil, Commercial and Administrative Procedure, except where it is provided automatically, is designed to enable those lacking adequate funds to exercise their rights before the courts, as plaintiffs or defendants, at no cost. Legal aid may be granted to any individual or to private associations which have juridical personality under civil law and whose purpose is to provide assistance. It is applicable to all disputes heard in all courts. It extends automatically to all proceedings which follow upon an application for any type of remedy, and to enforcement proceedings and actions relating to the judgements for which it was granted.

52. Persons in receipt of legal aid are entitled to such assistance as they may require from all public or ministerial officials. These are designated either by the Chairman of the Legal Aid Office or by the presiding judge of the court of their place of residence, automatically or at the request of the applicant (article 17 of decree No. 75-319 of 9 May 1975 on the application of the Code of Civil, Commercial and Administrative Procedure Act of 21 December 1972, No. 72-833, as regards legal aid).

53. Legal aid covers all costs associated with the courts for which it is granted. The resulting costs are advanced by the Treasury (article 19 of the decree). In this way, legal aid enables the applicant to benefit from the assistance of counsel who can properly defend him or her regardless of the applicant's original nationality. This principle holds when applications are made to courts in Côte d'Ivoire for the defence of a person's rights.

I. Intervention by counsel during preliminary investigations

54. To enhance the protection of litigants against arbitrary detention in breach of their right to liberty and the presumption of innocence as recognized in the Constitution (art. 22), Parliament made provision for counsel to intervene during preliminary investigations. No one may be detained arbitrarily. "All accused persons are presumed innocent until their guilt has been established as the result of a procedure offering them the guarantees necessary for their defence." This provision of article 22 of the Constitution can be properly applied in practice only if counsel have an opportunity to defend litigants from the preliminary investigation onwards.

55. Articles 76-1, 76-2, 76-3, 76-6 and 76-5 of the Code of Penal Procedure (Amendment) Act of 23 December 1998, No. 98-747, provides the solution. Article 76-1 provides that "any person against whom there is serious and consistent evidence of participation in the commission of an offence, or who has been the victim of an offence, or who is called upon to assist in establishing the truth, may arrange to be assisted by counsel during the investigations".

56. Exceptionally, in localities where there are no counsel, the person may be authorized to draw on the assistance of a relative or friend. Judges or officials responsible for initiating proceedings must notify the person of this right. A reference to this notification and, where appropriate, the name of the counsel, relative or friend is noted in the record. Article 76-2 emphasizes that "if the person referred to in the preceding article appears in the company of his or her counsel, the person may be heard only in the presence of the latter. Where the person appears and expresses a wish to be assisted by counsel, the judicial officer sets a deadline, taking into account the requirements of the investigation, in particular in relation to persons held in custody. If a person being held in custody expresses a wish to be assisted by counsel, the judicial officer must immediately notify the latter or authorize the person concerned to do so by any means. This shall be noted in the record".

57. The assistance provided by counsel involves being physically present beside the client, noting any irregularity which the counsel deems likely to prejudice his or her client's rights and ensuring that they are placed on record. If the counsel makes comments, he or she signs the record. This provision of article 76-4 enhances the security of the litigant as regards the protection of his or her rights. All these provisions relate to any person living in Côte d'Ivoire.

II. CONDEMNATION OF RACIAL SEGREGATION AND APARTHEID

58. Racial segregation and apartheid do not exist in Côte d'Ivoire, and would in any case be prohibited under the Constitution. Côte d'Ivoire welcomed the end of the apartheid regime in South Africa, which followed an open dialogue between the parties.

III. OTHER MEASURES TO COMBAT RACIAL DISCRIMINATION AND PROMOTE HUMAN RIGHTS AND CULTURAL DIVERSITY

A. Forum of the Nation for National Reconciliation

59. The Forum of the Nation for National Reconciliation was held in Abidjan from 9 October to 18 December 2001. It was designed to offer a platform to facilitate exchanges of view and discussions on various aspects affecting Côte d'Ivoire today. The country's four major political leaders, as well as many religious leaders and various political parties, addressed the entire nation and the presidium of the Forum in order to voice their opinions and concerns in relation to the current socio-political unrest. The presidium subsequently handed the President of Côte d'Ivoire a report summarizing the proceedings of the Forum as well as 14 resolutions adopted by the presidium. Three of these resolutions are closely related to the Convention on the Elimination of Racial Discrimination.

60. Resolution No. 6, on rural land, notes that recurrent conflicts over land pose a constant threat to social peace and national stability. The members of the presidium therefore suggested the initiation of a campaign to provide information and create awareness among indigenous and non-indigenous population groups and explain more clearly the provisions of the Rural Land Act of 23 December 1998. They also suggested the drafting of the full range of decrees for the application of the Act so as to regularize landowners' rights and users' occupation rights and secure fair pay for the work of those working the land.

61. Resolution No. 8, on immigration, notes that the practice in Côte d'Ivoire in immigration matters has encouraged a large foreign community to settle in the country, a community currently estimated to constitute at least 26 per cent of the total population. According to the members of the presidium, there is therefore a need for this foreign community and Côte d'Ivoire nationals to live together harmoniously - a need which cannot be denied despite the crisis currently affecting the country, and one which does not conflict with the formulation of a national immigration policy based on respect for the status of foreigners living in Côte d'Ivoire. Measures recommended by the presidium include:

- (a) Containing migratory flows within socially tolerable levels;
- (b) Implementing as soon as possible the reform relating to population registration and identification;
- (c) Creating the post of high commissioner for registration and integration, with enhanced operational powers.

62. Resolution No. 14, on national unity and social cohesion, emphasizes the vital need to preserve national unity and social cohesion for the sake of lasting peace in Côte d'Ivoire. The presidium noted that, according to the statements made by the various political and religious stakeholders, witnesses or others familiar with the situation, the conflicts affecting Côte d'Ivoire are supported, sustained, nurtured and magnified by intolerance and lack of understanding of cultural, religious and political differences. Hence the members of the presidium called on the various political, civic and religious stakeholders to draw on physical resources and moral and spiritual values, in the search for a common or shared view of the country, to preserve unity and national cohesion. They also noted that the press in Côte d'Ivoire, because of its professionalism, must feel more concerned by the challenges of national unity and social cohesion; it has a duty to disseminate honest and comprehensive information, to urge the people of Côte d'Ivoire to cultivate tolerance, especially the right to be different, and to encourage social dialogue in the interests of sincere and lasting national reconciliation.

63. At the closing of the Forum, on 18 December 2001, the President of Côte d'Ivoire, His Excellency Laurent Gbagbo, referred to all the resolutions adopted by the presidium. Concerning the resolution on rural land, the President said that the Rural Land Commission had been established at the beginning of December 2001. The Commission would have the task of coordinating the implementation of the Act of 22 December 1998 throughout the country in order to halt the conflicts which were often between Côte d'Ivoire nationals and foreigners, natives and non-natives.

64. Concerning the resolution on immigration, the President noted that the Nationality Code laid down *jus sanguinis* and not *jus soli*. The Code also covered the acquisition of Côte d'Ivoire nationality, and set out procedures to be followed. There was no need to amend the Code, but it should be published and publicized.

65. Concerning the resolution on national unity, the President said: "... our concern to have a permanent forum for coordination and political dialogue should find a place among the Republic's institutions established for that purpose. We have certainly not yet taken the measure of all the relevant possibilities and provisions offered to us by the Constitution of the second Republic. Once again, we must learn to know and appreciate our Constitution better".

B. The National Human Rights Commission

66. The Council of Ministers has approved a bill relating to the creation of a National Human Rights Commission. The bill has been tabled in the National Assembly and should be adopted shortly. This independent body responsible for consultation, observation, evaluation, coordination and drafting of proposals in the field of the promotion and protection of human rights will pursue a number of specific objectives.

67. With regard to the promotion of human rights, the Commission will ensure the dissemination and popularization of the human rights covenants and conventions and will work together with non-governmental organizations whose declared purpose is to work towards the promotion and protection of human rights in Côte d'Ivoire. In addition, it will organize human rights-related meetings, conferences and training seminars.

68. With regard to the protection and defence of human rights, the Commission will work to ensure that everyone has the right to reparation in the courts in cases of racial discrimination or other human rights violations. Article 4 of the bill provides that the Commission shall:

- “– Receive all complaints and denunciations relating to cases of human rights violations;
- “– Open investigations and undertake all necessary inquiries into complaints and denunciations placed before it, and draft a report containing proposals for the attention of the President of Côte d’Ivoire;
- “– Report human rights violations to all authorities and propose all steps designed to put a stop to them;
- “...
“– Serve as a mediator between individuals and the authorities, and in that context receive individual or collective applications ...”.

Hence the National Commission will be the human rights policeman throughout the country, vis-à-vis all public and private authorities, including the President.

69. The Ministry of Justice and Public Liberties recently set up a Directorate of Human Rights and Public Liberties composed of two subdirectorates, one dealing with the protection and the other with the promotion of human rights. The task of the Directorate is to ensure that human rights are respected in Côte d’Ivoire, both by the State and in society in general.

C. Raising awareness among the security forces

70. With the aim of strengthening respect for human rights in the context of law enforcement operations, a training seminar/workshop was held from 4 to 6 October 2001, organized by the Ministry of State for Defence and Civil Protection with logistical support from UNDP. The theme of this seminar, which was targeted at all the elements of the security forces (police, gendarmerie, army, etc.), was “The maintenance of order and human rights”, and the purpose was to create awareness of the need to provide them with human rights training so as to reconcile the imperatives of law enforcement better with those of respect for public freedoms. The three principal sub-themes were: institutional arrangements for law enforcement and those for guaranteeing protection of freedoms, the legal limits inherent in law enforcement under the rule of law, and the punishment of infringements of public freedoms within the context of law enforcement activities. The proceedings culminated in the adoption of recommendations whose proper application will have a qualitative impact on the conduct of the security forces in society, to the benefit of the entire nation.

D. Promotion of multicultural organizations and protection of minority groups

71. Since article 10 of the Constitution prohibits all propaganda whose aim or effect is the predominance of one social group over another or the encouragement of racial or religious hatred, Côte d'Ivoire strives to promote multicultural organizations and movements. Accordingly, the Ministry of Culture has launched a survey of all cultural organizations and associations. There is also a project studies department which provides technical assistance to cultural organizations. Not only has a fund been set up to assist cultural associations, but training seminars have been organized for cultural groups from the world of art and culture, in particular on project organization techniques.

72. With the purpose of ensuring the proper development and the protection of certain ethnic groups and minority groups, the Ministry of Culture and the French-speaking World is undertaking a national survey of cultures and the material and non-material heritage, with a view to instituting a protection policy. This policy will be linked with special legislation for the protection of the cultural values of ethnic groups and minority groups. The Ministry of Culture has also introduced a policy for the promotion of the cultural values of ethnic groups, under which ethnic groups and cultural groups are invited to participate in cultural events, public lectures and seminars are organized and these values are publicized through the media.

E. The role of cultural institutions and associations

73. As the Prime Minister, Pascal Affi N'Guessan, mentioned on 20 October 2001, the very role of the Ministry of Culture and the French-speaking World "is to safeguard our national unity, and culture is a powerful factor working for unity and cohesion". Accordingly, the Ministry of Culture is organizing several institutional or one-off events to combat racism and other forms of discrimination and boost awareness of these phenomena on the part of the population of Côte d'Ivoire. For example, at the institutional level, the Ministry is organizing a festival for peace and national unity and a holiday cultural festival. On 20 October 2001, in conjunction with the Forum on National Reconciliation, the Minister of Culture and the French-speaking World organized a seminar entitled "Alliances between the peoples of Côte d'Ivoire". This symposium, chaired by the Prime Minister and guided by two eminent lecturers, Professors Niangoran Bouah and Zadi Zaourou, urged the need for a return to basics, i.e. to alliances between communities, which were described as calming factors in settling conflicts and as peace treaties among peoples. A film entitled "Côte d'Ivoire, land of hope" was also shown, symbolizing the intermixing of the peoples of Côte d'Ivoire and foreigners. The film was also broadcast on Côte d'Ivoire television to reach a broader audience.

74. In addition, the Forum of the National Commission for UNESCO was held from 25 to 29 September 2001 in Abidjan, with the theme "cities and the intermixing of cultures". Since the city is a venue in which cultures meet and mix, there is a need to identify ways of handling multiculturalism. At the conclusion of the proceedings, the Forum's resolutions recommended the promotion of intermixing in neighbourhoods and participation by mayors in the various activities, the pursuit of peace and constructive dialogue between the various faiths and the authorities, etc.

F. The role of the media

75. An observatory of press freedom, ethics and standards of conduct is responsible for ensuring that the press in Côte d'Ivoire disseminates fair and objective information while respecting the multiethnic and cultural aspects of Côte d'Ivoire. For this purpose it meets twice a month to carry out a critical review of the content of the media in Côte d'Ivoire during the period concerned. It then issues a report in which it condemns articles and periodicals which fail to respect journalistic ethics, either because their reporting could give rise to racial or religious hatred, or for other reasons which run counter to the principles of a neutral and fair-minded press.

76. The Government has recently reopened the Maison de la Presse, which will be an institutional mainstay and a focus of identity for affirming the role of the journalist in Côte d'Ivoire in the interests of a varied and pluralistic press. The Maison de la Presse will also serve as a venue for encounters between the national and international press and top-ranking political leaders, at both African and global levels.

Conclusion

77. Côte d'Ivoire is a country open to all foreign communities. In a concern for its future, it is counting on all those who live within the country to participate in its development. In its new Constitution, it commits itself to combating racial discrimination, racism and xenophobia. As was also demonstrated by its participation in the World Conference against Racism in Durban, South Africa.

78. As a country of peace and freedom, it proves in this way its commitment to the International Convention on the Elimination of All Forms of Racial Discrimination. Despite its relative stability, due to the military transition from 1999 to 2000, it still remains a major focus of immigration and a land of shelter for political refugees of various nationalities who have been forced into exile as a result of persecution. Côte d'Ivoire counts on the support of the international community in pursuing this policy.
