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Report of the independent expert on the situation of human rights in Côte d'Ivoire, Doudou Diène

Summary

The present report is based on two visits by the independent expert to Côte d'Ivoire, from 14 to 25 November and from 7 to 13 December 2011, and is intended to give an overview of the human rights situation in Côte d'Ivoire and related institutional issues as of 26 December 2011.

Since President Alassane Ouattara was sworn into office, the security situation has gradually improved. Nevertheless Côte d'Ivoire has been traumatized by the many crises it has suffered in the past decade and is still recovering.

In this context, the holding on 11 December 2011 of legislative elections judged by all observers to have been well organized from a technical point of view, despite the polarization stemming from the handing over of former president Laurent Gbagbo to the International Criminal Court on 30 November 2011 and the boycott of the elections by his party, was an important step in the country's return to normal. Yet many challenges remain. Some are linked to deep-rooted causes that pre-date the post-election crisis, including the link between access to land and tensions between communities, especially in the country's western part.

The challenges include, among others, restoring security throughout the country and along its borders, reforming the security sector, restoring the rule of law and justice, combating impunity, promoting reconciliation, strengthening social cohesion and the ability to live together, restoring the State's sovereignty and re-establishing its services countrywide, reviving the economy, reducing poverty, and ensuring the protection/return/reintegration of displaced and refugee populations.

In this context the independent expert also wishes to highlight the most significant human rights violations brought to his attention, such as violations of the right to life, acts of torture, degrading and inhuman treatment, arbitrary arrests, rapes, violations of freedom of expression, racketeering and extortion, attacks and violent acts against religious buildings and leaders, and violations of the right to education, health and food. Intercommunity tensions persist in the country's western part and require swift steps by the Government to facilitate peaceful coexistence among communities and

prevent intercommunity violence, which often results in serious human rights violations.

Most human rights violations result less from the State's complicity than from its failure to prevent them, especially because of the difficulty of reforming the security sector and re-establishing the Government's authority over the country's entire territory.

Combating impunity must remain a priority in order to break the vicious circle perpetuated by the repetition of human rights violations in the country since 1999. The current transitional justice processes, including the work of the Dialogue, Truth and Reconciliation Commission, must tackle the underlying causes of the crisis and focus on the victims of human rights violations, respecting their right to receive reparation and not to be subjected to renewed human rights violations.

The impartiality and independence of transitional judicial and non-judicial justice mechanisms must be preserved. In this connection, it is vital to prosecute perpetrators of human rights violations regardless of their political, tribal, regional or religious affiliations.

The deeply rooted culture of coexistence developed over time by the Ivorian people as a whole and based on its rich ethnic, cultural and religious diversity must be strengthened and nourished by respect for human rights and the principles and rules of democracy.

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I. Introduction

1. This report is submitted pursuant to Human Rights Council resolution 17/21, in which the Council established the mandate of independent expert on the human rights situation in Côte d'Ivoire and requested the expert to submit a report on his activities for consideration at its nineteenth session.
2. The report covers the period from 1 November to 26 December 2011. It is based on two visits to Côte d'Ivoire, the first from 14 to 25 November 2011 and the second from 7 to 13 December 2011. It contains a list of recommendations addressed to the Government of Côte d'Ivoire and to the international community.
3. The independent expert would like to thank the Government of Côte d'Ivoire for making it possible for the two missions to be carried out under excellent conditions. During the missions, the independent expert listened to the views of all stakeholders in order to gather their views and opinions on the human rights situation and possible ways of improving it. In this context he met with the country's highest authorities. He is grateful to President Alassane Ouattara for his frank and clear comments.
4. The independent expert met with the Prime Minister, Guillaume Soro, the Minister for Foreign Affairs, the Minister for Human Rights and Civil Liberties, the Minister for Justice, the Minister of the Interior, the Minister for the Family, Women and Social Affairs, the Minister for Veterans and War Victims, and the chief of staff of the Minister of Defence.
5. The expert met with the public prosecutor, the military prosecutor, the head of the national police force, the chief of staff of the Forces Républicaines de Côte d'Ivoire, the president of the Dialogue, Truth and Reconciliation Commission, the members of the National Human Rights Commission, the vice-president of the Independent Electoral Commission, the vice-president of the National Commission of Inquiry and the Special Investigative Unit. The independent expert also met with representatives of political parties, including the former president, Henri Konan Bédié; the president of the Parti Démocratique de Côte d'Ivoire; and leaders of the Front Populaire Ivoirien and Liberté et Démocratie pour la République, including the latter's president, Mamadou Koulibaly.
6. The independent expert met with representatives of civil society, of human rights organizations, of women's organizations and of victims, with religious leaders and with representatives of the brotherhood of traditional hunters (Dozo). He met with representatives of the diplomatic community, including the Special Representative of the African Union for Côte d'Ivoire, and European Union officials. The expert also met with the Special Representative of the Secretary-General of the United Nations and Head of the United Nations Operation in Côte d'Ivoire (UNOCI), Albert Gerard Koenders, and his deputy, Arnaud Akodjenou, who provided key support for his mission.
7. In addition to Abidjan, the independent expert visited Korhogo, where he met with former president Laurent Gbagbo, Odiénné, where he met with Simone Gbagbo, and Boundiali, Bouaké, Daloa, Katiola and Bouna, where close associates of former president Gbagbo are being held. In all those places the expert met with administrative, judicial and security authorities to hear their views on ongoing developments in their areas of activity.
8. The independent expert met with many witnesses and victims of human rights violations in Abidjan and elsewhere in the country and visited places associated with human rights violations, such as the camp for internally displaced persons in Duékoué. The expert would particularly like to thank the Special Representative of the Secretary-General of the United Nations and Head of UNOCI and his deputy, as well as the Acting Director of

the UNOCI Human Rights Division and his staff in Abidjan, Odiénné, Korhogo, Bouaké, Daloa and Duékoué, for their full cooperation in organizing his visits.

II. General situation in the country

A. Political context

9. Côte d'Ivoire, long considered a model of development and stability on the African continent, has for the past decade endured a tragic armed conflict that has left lasting marks in its populations' individual and collective consciences. A year ago the presidential election, which had been expected to close the door on 10 years of conflict, had instead led to a crisis resulting in more than 3,000 deaths, thousands of refugees and internally displaced people, and destruction of property.

10. On 11 December 2011, the country's citizens elected, from a field of 1,157 candidates, 255 representatives for the 2011–2016 legislative term. This was the first election held since the presidential election of November 2010 and the first legislative election since 2000. The Front Populaire Ivoirien was weakened by the post-election crisis after the arrest or exile of its leaders, including Laurent Gbagbo, who is now being held by the International Criminal Court. Despite the call by the Front Populaire Ivoirien to boycott the elections, around ten of its members ran as independent candidates.

11. The independent expert visited several polling stations in Abidjan, accompanied by diplomats and heads of agencies, as part of the observer mission organized by the Special Representative. In the view of regional and international observers, the elections generally proceeded smoothly. Recorded incidents were not such as to call the results into question.

12. On 15 December 2011 the Independent Electoral Commission published the election results, according to which President Ouattara's party, Rassemblement des Républicains, had won 127 seats, or 50 per cent of the total. The other results were as follows: Parti Démocratique de Côte d'Ivoire – 77 seats, or 30.31 per cent; independent candidates – 35 seats, or 13.78 per cent; Union pour la Démocratie et la Paix – 7 seats, or 2.76 per cent; Rassemblement des Houphouëtistes pour la Démocratie et la Paix – 4 seats, or 1.57 per cent; Mouvement des Forces d'Avenir – 3 seats, or 1.18 per cent; and Union pour la Côte d'Ivoire – 1 seat, or 0.39 per cent.

13. According to the Independent Electoral Commission the level of participation was 36.56 per cent. This relatively low level can be explained in particular by the traumatic effect on the population of the violence that followed the most recent presidential election.

14. The independent expert regrets that efforts by the Government and the Special Representative of the United Nations to convince all political parties to participate in the elections were not successful. Their participation could have strengthened national reconciliation and the country's fragile democracy. The leaders of the Front Populaire Ivoirien with whom the independent expert met interpreted the low level of participation in the legislative elections as the population's condemnation of the Government through a boycott, which the Front Populaire Ivoirien had in fact called for. They also complained that their leaders had been detained and their assets frozen.

B. The challenge of identity

15. The crisis in Côte d'Ivoire conceals an important facet of the identity crisis associated with the country's multiculturalism. This identity crisis in turn stems from the

political manipulation of ethnicity, exacerbated by the recurring issue of rural land ownership.

16. In 2004, under his previous mandate as Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the independent expert observed during his visit to Côte d'Ivoire that its society was marked by something he believes is characteristic of all multi-ethnic societies, namely an undercurrent of ethnic and cultural tension, which can be transformed into conflict or coexistence, depending on the ideological or economic context, but ultimately also depending on the moral outlook and practices of political leaders. Against this background of identity-related tension, the Special Rapporteur observed that Côte d'Ivoire was racked by division and discrimination.

17. In the independent expert's view the inter-ethnic fabric has unravelled, especially in the west, where issues relating to land ownership and coffee and cocoa growing have become a focal point for tensions between indigenous and non-indigenous population groups. The independent expert visited Daloa and Duékoué and observed that, despite the seeming calm, tensions between various ethnic and religious groups persist and occasionally lead to serious human rights violations. This situation requires immediate action by the Government and other stakeholders.

18. The independent expert also noted the continued use in certain media, particularly online social networks, of rhetoric advocating tribal and religious hatred. This situation is alarming and may lead to the polarization of the country's society along ethnic, community and religious lines and hinder ongoing efforts to achieve national reconciliation.

C. The challenge of security

19. Security is a key factor in the country's crisis. The Government is making efforts to improve security, which remains a problem in most areas. The country is still fragile, as during convalescence, after a deep and lasting trauma caused by a climate of insecurity affecting the personal, family and professional spheres.

20. Security remains a problem in some parts of Abidjan and in the western part of the country, which has seen the most serious human rights violations of the post-election crisis. The authorities have noted an increase in abuses and serious crime, especially in Abidjan and the west. In Abidjan between June and November 2011 this increase in crime mainly involved car robberies and armed attacks, particularly in the communes of Cocody and Yopougon.

21. The police and the gendarmerie, water, forestry, border-control and justice services have been restored in the central, northern and western areas, which were formerly under the control of the Forces Nouvelles rebels. This vigorous effort by the State to assert its authority throughout the country involves restoring the operational capacity of public authorities by appointing Government representatives for each administrative district. In some areas the process is going smoothly with the cooperation of the Forces Républicaines de Côte d'Ivoire (FRCI), which until now performed key State functions. In other areas, particularly those formerly controlled by the Forces Nouvelles, including the north and west, there are continuing tensions between the new authorities and FRCI commanders.

22. The police and the gendarmerie lack the human and logistical resources needed properly to perform their law-enforcement functions. The police are not fully operational and some police stations are still occupied by FRCI members.

23. The Government has also begun dismantling illegal checkpoints throughout the country to prevent abuses. In this connection, on 5 October 2011 the authorities established a brigade to combat extortion and harassment on the highways. The UNOCI peacekeeping

forces have been redeployed to places in the west such as Bloléquin and Zouan-Hounien, to which large numbers of people are returning. In response to repeated abuses perpetrated against inhabitants by FRCI troops, the President has taken steps to strengthen collective security, which include confining FRCI members to barracks and establishing a military police force.

24. The independent expert has also received information about difficulties encountered in merging the former Forces de Défense et de Sécurité with former Forces Nouvelles rebels in the ranks of the FRCI. The promised creation of a national army reflecting the country's ethnic, religious and cultural diversity has been delayed because those who participated in the rebellion have differing backgrounds and have not all received standard military training. On the other hand, the fact that many former Forces Nouvelles officers are also former members of the national army may facilitate the building of the new, supposedly national army's esprit de corps. Furthermore, there has already been cooperation between the Forces de Défense et de Sécurité and the Forces Nouvelles in the Integrated Command Centre, set up under the Ouagadougou Political Agreement, which could serve as a basis and inspiration for creating a new integrated army.

D. The challenge of economic recovery

25. The protracted crisis in Côte d'Ivoire has deeply shaken the country's economic system because it has lasted so long and been characterized by violent predatory behaviour and social marginalization. In the independent expert's view, the post-election crisis and the sanctions imposed by the international community have negatively affected the country's economy. The country is cash-starved and many financial establishments and companies have closed their doors because of poor security and the suspension of the bank clearing system by the Central Bank of West African States. Owing to the long political and military crisis, the growth rate fell by 5 per cent in 2011, according to the latest estimates by the Bretton Woods institutions, which date from September 2011.

26. The Government has clearly identified economic recovery as a priority in order to increase opportunities for wealth creation and improve people's living conditions. With this in mind, the Government has committed itself to conducting its affairs in an effective, rigorous and transparent manner. The President has also begun holding periodic governmental workshops to ensure better focus and continuous feedback for its action.

27. The independent expert takes note of the Government's resolve to provide employment to former combatants and to young people. He has also learned that a large proportion of robberies and attacks on homes appear to be the work of second-string FRCI members who, knowing they will not be enlisted into the new army, are committing abuses against the population. The independent expert believes that the future of human rights protection in Côte d'Ivoire depends partly on how the Government handles the disarming, demobilization and reintegration of former combatants.

E. The challenge of combating impunity

1. Judicial mechanisms

28. The role of the country's legal system in the post-election crisis has been mixed. An immediate cause of the crisis was the Constitutional Council's controversial decision to invalidate the results of the second round of the presidential elections of November 2010 in certain northern electoral districts that are strongholds of the Rassemblement des Républicains. This idea was expressed forcefully by the president of the Supreme Court on Wednesday, 16 November 2011 in his speech at the ceremonial opening of the 2011–2012

session: “It may seem unseemly to preen in front of the people by showing off statistics on decisions handed down during the year when that people has been deeply wounded by a particularly bloody post-election crisis which it attributes to a court decision.”

29. The independent expert also noted that the violence following the second round of the presidential elections of November 2010 had damaged 17 of 34 courthouses. Twenty-two of 33 prisons were also damaged and looted. On 17 October 2011, the President signed decrees 2011-298 and 2011-299 pertaining to the appointment of 75 judges to the 3 appeals courts and 195 to the country’s 9 higher courts and its 25 lower courts. On 4 November 2011, at the ceremonial opening of the new court session, the President announced that budgetary funding for the judicial system would rise by 2 per cent to 3 per cent and be accompanied by a lump sum of 225 billion CFA francs over a five-year period.

30. The independent expert commends the work done by UNOCI, with donor support, to renovate and furnish the 17 courthouses affected by the crisis. Of the 34 jurisdictions, 32 are now operational, although 25 of the courthouses are not yet properly equipped. In September and October 2011 6 prisons were renovated, bringing the number of working prisons to 10 out of 33.

31. On 24 June 2011 the Government established the Special Investigative Unit at Abidjan’s court of first instance. It has a renewable 12-month mandate to investigate events that occurred in the country on or after 4 December 2010.

32. With regard to legal proceedings under way, the Abidjan public prosecutor informed the independent expert that more than 5,000 individuals had already been questioned, including 78 for financial offences and plundering, and more than 830 persons in the country’s western part. In addition to investigating financial offences that had harmed the State and international organizations, he has initiated an investigation into crimes against State security and certain violent crimes, including the kidnapping of the director of the Novotel Hotel (in connection with which 22 people have been arrested and imprisoned) and the assassination of Colonel Dosso. He added that he had not yet launched an investigation into crimes against the physical integrity and assets of individuals.

33. In response to the independent expert’s question about the detention of the personal physicians of the Gbagbo couple, prosecutor Kouadio said that former president Gbagbo’s doctor was charged with “breach of state security”, and that Ms. Gbagbo’s doctor was caring for her, at her request and for humanitarian reasons. The independent expert especially commends the prosecutor for his candour and for making himself available. The prosecutor acted on his request to have Mr. Gbagbo’s physician transferred from his place of detention at Compagnie territoriale de Korhogo quarters to the Abidjan Detention and Correction Centre. The physician was later provisionally released, along with two journalists imprisoned on the same charges.

34. When asked about the sentiment of victor’s justice apparently felt by some inside and outside the country, prosecutor Kouadio said: “I will, if I am able to, send investigation teams back to the west to look into crimes that were allegedly committed there during the post-election crisis.” The prosecutor described some difficulties with ongoing investigations, including a lack of expertise in forensic science.

35. The military prosecutor has also launched investigations into crimes and other offences committed during the post-election period by officers and members of the armed forces and the police when the former Forces de Défense et de Sécurité were in control.

36. While Côte d’Ivoire is not a party to the Rome Statute, on 18 April 2003 the Government of then-President Laurent Gbagbo recognized the jurisdiction of the International Criminal Court over acts committed on the country’s territory since 19 September 2002. President Alassane Ouattara confirmed acceptance of the Court’s

jurisdiction in two letters to the Court's Prosecutor dated 14 December 2010 and 3 May 2011.

37. On 3 October 2011, Pre-Trial Chamber III authorized the prosecutor to investigate, *proprio motu*, crimes falling under the Court's jurisdiction which had allegedly been committed in Côte d'Ivoire since 28 November 2010, as well as any future crimes that might be committed in the prevailing situation. Former president Laurent Gbagbo was handed over to the International Criminal Court by the Ivorian authorities on 29 November 2011 pursuant to an arrest warrant issued by the Court on 23 November 2011. According to the Court, Laurent Gbagbo bore individual criminal responsibility, as an indirect perpetrator, for four counts of crimes against humanity, involving murder, rape and other sexual violence, acts of persecution and other inhuman acts, which were allegedly committed in the context of post-election violence on the territory of Côte d'Ivoire between 16 December 2010 and 12 April 2011.

38. On 5 December 2011 Pre-Trial Chamber III of the International Criminal Court set 18 June 2012 as the opening date for the confirmation of charges hearing in the case *The Prosecutor v. Laurent Gbagbo*. The decision was announced during Laurent Gbagbo's first appearance before the Court. During the hearing, Pre-Trial Chamber III, in the presence of the prosecution and the defence, ascertained Mr. Gbagbo's identity and ensured that he had been informed of the charges against him and of his rights under the Rome Statute.

39. In response to the independent expert's questions about coordination between domestic prosecution and the International Criminal Court, the Ivorian judicial authorities confirmed that on 18 October 2011 the Government had signed a cooperation agreement with the Court. It was in the framework of that agreement that the Government had helped to enforce the warrant for the former president's arrest. According to the authorities, the transfer of Mr. Gbagbo to The Hague had been carried out in full compliance with the country's laws on judicial cooperation and extradition. The arrest warrant, signed and sealed on 23 November 2011, had been duly served on Mr. Gbagbo's lawyers. He had been informed of his rights and the prosecutor had prepared a report of the hearing to establish identity. The prosecutor had also prepared a report of the arraignment. Mr. Gbagbo's lawyers appeared, at the prosecutor's request, before the court's indictment division, which handed down its decision. Laurent Gbagbo's lawyers contended that the former president's transfer constituted a kidnapping.

2. Non-judicial mechanisms

40. The Dialogue, Truth and Reconciliation Commission was established under order No. 2011-167 of 13 July 2011. Its purpose is to work independently to ascertain the truth about past and recent national socio-political events in order to achieve national reconciliation based on respect for the Ivorian people's differences and coexistence.

41. From 16 to 18 November 2011 the independent expert attended induction training for members of the Dialogue, Truth and Reconciliation Commission that was organized in cooperation with UNOCI and the Office of the United Nations High Commissioner for Human Rights. Former members and experts of the truth and reconciliation commissions of South Africa, Sierra Leone, Ghana and Liberia shared their experiences with the members of the Commission. Members of the diplomatic corps, the Deputy Special Representative of the Secretary-General of the United Nations in Côte d'Ivoire, and representatives of NGOs also participated in the event.

42. On 7 December 2011 the independent expert participated in a conference for stakeholders and partners in the process of transitional justice in Côte d'Ivoire, organized by the UNOCI Human Rights Division, to improve coordination between bilateral and multilateral partners in support of the Dialogue, Truth and Reconciliation Commission.

43. Having held consultations with various stakeholders, the independent expert wishes to stress that the establishment of the Dialogue, Truth and Reconciliation Commission did not follow the usual pattern of such commissions elsewhere in the world. The president of the Commission was appointed before the Commission's terms of reference had been established, and the Commission's legal framework had been adopted without national consultations. From the substantive angle, the order establishing the Commission does not seem to have sufficiently emphasized the role of justice in the Commission's mandate and fails to include all the necessary guarantees of independence and effectiveness.

44. Despite these limitations, the independent expert believes that the Commission's members can fulfil their mission if they receive the necessary support from the Government, the various components of Ivorian society and the international community. All the stakeholders with whom he met acknowledged the crucial role that the Commission could play in the country's return to stability. They nevertheless emphasized that reconciliation would take time, as the wounds were still fresh, so to speak. The establishment and functioning of the Commission should proceed in a deliberate manner, and wide consultations should be held with social groups in order to enhance the Commission's legitimacy and seek the views of various populations on those aspects of its mandate that were not made sufficiently clear at the outset. In developing its rules of procedure and other strategic and operational documents the Commission will have a further opportunity to affirm its independence.

45. The independent expert welcomed the spirit of openness shown by the Commission's president Charles Konan Banny, the commitment of the Commission's members and technical staff and the willingness of technical and financial partners to support the process of transitional justice in Côte d'Ivoire.

46. Decree No. 2011-176 of 20 July 2011 established the National Commission of Inquiry, whose mandate is to investigate violations of human rights and humanitarian law that occurred between the presidential elections of 31 October and 28 November 2010 and 15 May 2011. The commission has a six-month mandate which can be renewed once.

47. The independent expert has determined that Côte d'Ivoire is undergoing a transitional justice process with not only domestic and international judicial aspects but also non-judicial aspects involving several mechanisms such as the National Commission of Inquiry, the Special Investigative Unit, the military prosecutor's investigations, the Dialogue, Truth and Reconciliation Commission and the International Criminal Court. However, coordinating these mechanisms remains a challenge.

48. The independent expert met with members of the National Human Rights Commission, who provided him with a copy of their 2010 report on human rights violations that were observed throughout the election process.

III. Human rights situation

A. Civil and political rights

49. During his visit the independent expert gathered information about violations of the right to life, acts of torture, inhuman and degrading treatment, arbitrary detentions, rapes, violations of the freedom of expression, and attacks and acts of violence against religious buildings and leaders.

50. Non-State actors such as members of the Dozo, a brotherhood of traditional hunters, continue to play an important role in maintaining law and order, especially in the country's west. The independent expert was told of abuses committed by some Dozo and by informal

groups with ties to former president Gbagbo. Many weapons remain in circulation and could be used illegally.

51. There have been at least 15 reported cases of violations of the right to life, of which 9 are attributed to FRCI members and the remaining 6 to intercommunity violence. On 7 December FRCI fighters manning the checkpoint at the entry to the Adjouffou neighbourhood of Port-Bouët in Abidjan opened fire without warning on four young people. Two of the victims died immediately, a third was seriously wounded and a fourth, as yet unidentified person managed to escape. The FRCI members loaded the two corpses and the wounded person onto their vehicle and drove off towards Abidjan. The wounded person allegedly died at the hospital and the three bodies were claimed by the families on 12 December at Treichville University Hospital. The three individuals were Mr. Jean Claude Nahoué, aged 36, a security agent for the Lavergarde company, Mr. Modeste Loto, aged 26, a student and Mr. Guy Maxime Djahi Gnoanlou, aged 35, a nurse.

52. On 17 December a young man named Fofana Adama was arrested by an FRCI patrol and later died at the Vavoua hospital as a result of mistreatment by Government forces. In response the population organized a protest in front of FRCI headquarters, which very quickly became violent. FRCI members then opened fire, causing the death of five people. The population then ransacked all the houses belonging to FRCI. UNOCI and Government authorities intervened to re-establish order in the town. A similar incident was reported that same day at Sangon, not far from Abidjan, where a conflict between the FRCI and local inhabitants left at least one person wounded by gunfire.

53. In a communiqué dated 18 December 2011 General Bakayoko, chief of general staff of FRCI, tried to shed light on these confrontations between armed youths and FRCI fighters, who mortally wounded five youths. A wounded FRCI fighter was evacuated by UNOCI personnel, who also helped restore calm in Vavoua. The communiqué also stated that the President pays tribute to the memory of the dead and presents his sincere condolences to their families. The President instructed the Minister of Defence and the Minister of the Interior to restore calm in Vavoua. According to the communiqué, Corporal Doumbia Amara and the six soldiers who made up the FRCI patrol and were the presumed perpetrators of the incident were handed over to the brigade of the second legion of the Daloa gendarmerie for investigation. The others involved were transferred to Seguela.

54. After this further fatal incident involving FRCI, on Monday, 19 December President Ouattara met with the Minister of the Interior, the Deputy Minister of Defense and military leaders. After the meeting the Deputy Minister of Defense, Paul Koffi Koffi, speaking to the press about the meeting, said that the events at Vavoua had been set off by an unauthorized patrol by unofficial FRCI members and youths who joined them. According to the Deputy Minister of Defense, the President called for “zero tolerance” for “indiscipline”, the establishment of a military police force and the rapid setting up of a unit to disarm such people and integrate them into the regular army.

55. In addition, 27 cases of torture and inhuman and degrading treatment and 22 cases of arbitrary arrest involving FRCI members have been reported. There have also been reports of abuses by the Dozo resulting from their frequent participation in law-enforcement operations. Intercommunity violence, often triggered by murder, adultery, destruction of property or actions by FRCI members or Dozo, has been reported in Tahoubly-Gaé (10 km west of Bangolo), Karabiri (115 km from Odienné) and Bateguedea II (30 km from Daloa). At least six people died in these incidents, many were wounded and 45 houses were destroyed.

56. The independent expert is troubled by reports of attacks and violent acts against religious buildings and leaders. Some 40 attacks against religious buildings and leaders by FRCI members and unidentified armed men have been documented since the end of August

2011. The recurrence and scale of the attacks, the victims and targets chosen and the modus operandi of these armed men suggest that the acts were carefully planned and orchestrated. Priests and laypeople were manhandled, humiliated and stripped naked in the attacks, and a number of ceremonial objects and items belonging to the clergy were removed.

57. Because of this situation, since 17 October 2011 the Archbishop of Abidjan, Jean-Pierre Kutwa, has met with the President and the FRCI leadership and requested and obtained the implementation of security measures to reassure the clergy and Christian worshippers. Police officers and gendarmes have been dispatched to some parishes. Despite these security measures, the attacks have continued.

58. On 24 November 2011, three journalists employed by *Notre Voie*, an opposition newspaper, were arrested for publishing articles criticizing the Government and on the devaluation of the CFA franc. The independent expert wishes to reiterate his commitment to freedom of expression, which is an essential element of democracy. The only exceptions to this freedom are a very limited number of situations involving incitement to ethnic, racial, religious or national hatred, as determined by a competent court. The expert also wishes to stress that media professionals must act in an ethical way.

59. The independent expert has received information about violent acts committed by FRCI members during Front Populaire Ivoirien meetings held in Bounoua on 19 November 2011. Supporters of former president Laurent Gbagbo were arrested, dragged around, humiliated and then beaten. While no gunshot injuries were reported, eight people were reportedly injured in deliberate assaults. A meeting between local authorities and FRCI representatives enabled the planned meeting to be held without further incident at Kadjo Amangoua square in Bonoua, where it was chaired by the acting secretary-general of the Front Populaire Ivoirien.

60. The independent expert draws attention to the fact that maintaining law and order is first and foremost the task of the police, with the gendarmerie playing a secondary role. Military personnel must avoid reacting to provocation.

B. Refugees and internally displaced persons

61. The independent expert travelled to Duékoué in the country's west, where he visited a camp for internally displaced persons occupied mainly by members of the Gueré ethnic group. They are considered to be Gbagbo supporters and fear retaliation by FRCI and the Dozo, who are considered to be Dioula supporters.

62. The displaced persons' representative explained that they could not return to their homes mainly for financial and security reasons and issues involving access to their property. The latter problem, which is exacerbated by ethnic and political considerations, undermines social cohesion and improved relations between communities, especially people from places affected by the phenomenon in the country's western region and in Abidjan.

63. According to humanitarian partners, the number of displaced people has decreased markedly (from 70,000 in June to 18,000 in October 2011, a decrease of 73 per cent). In some places, however, the displaced are threatened with eviction because owners (individuals, associations, religious communities, etc.) are claiming back their property in order to continue their normal activities.

64. On 11 August 2011, the Governments of Liberia and Côte d'Ivoire and the United Nations High Commissioner for Refugees signed a tripartite agreement for the repatriation of Ivorian refugees. At the end of October 2011, Liberia was still hosting the majority of the 187,045 Ivorian refugees living in neighbouring countries, or 85.3 per cent (159,489).

Monitoring of borders and areas of return by teams from the Office of the United Nations High Commissioner for Refugees made it possible to record the spontaneous return, in mid-October 2011, of some 130,000 refugees from camps and border areas.

65. According to information provided by humanitarian actors, an estimated US\$ 291,989,445 is needed to help finance humanitarian response and emergency preparedness efforts. Although donors rapidly provided funding at the start of the humanitarian crisis, the humanitarian emergency action plan is not sufficiently financed. As of November 2011, humanitarian partners had access to only 34 per cent of the required funds, or US\$ 100,543,115. This lack of resources has particularly affected the humanitarian response in the Moyen Cavally region, even though the area between Guiglo and the Liberian border near Toulepleu and Zouan-Hounien was declared an emergency zone in April.

66. The independent expert is concerned that humanitarian actors are not sufficiently present on the spot to facilitate the return of thousands of internally displaced persons and refugees to these same areas and to assist and protect the most vulnerable, contribute to the renovation of thousands of destroyed houses and restore basic social services. A humanitarian response in this region could prevent new intercommunity tensions.

C. Women and children

67. Women and children have suffered greatly from the post-election crisis in Côte d'Ivoire. The independent expert held a meeting with women's representatives who warned of a resurgence of sexual and physical violence against women, especially in the west; there had been 71 alleged cases of rape and 215 cases of physical violence since the end of the post-election crisis. The perpetrators are sometimes men in uniform. The independent expert also received information about eight rapes, some involving girls between the ages of 5 and 14, that were committed in Abidjan, Bouaké, Bondoukou, Issia (40 km from Daloa) and San-Pédro. In Bouaké, the victim was found dead. After these acts, four people were supposedly arrested. The other presumed perpetrators escaped. During his visit to Bouaké, the independent expert was informed about 42 cases of female genital mutilation performed in October 2011 in Kotolo, a village in the commune of Dabakala, including 1 in which a 4-year-old girl died.

68. Despite campaigns by chocolate manufacturers, child labour on the country's cocoa plantations remains a concern. Many children still perform dangerous tasks such as using machetes, spraying pesticides and handling heavy loads. This situation is a violation of children's basic rights. It is important for the Government to recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

69. The Government has examined the issue and steps have been taken to address the problem of child labour in the cocoa sector. In fact, at the extraordinary Council of Ministers session of 3 November 2011, the President signed two decrees establishing, respectively, national and inter-ministerial monitoring committees on child trafficking, exploitation and labour.

D. Prisons

70. The independent expert visited the prisons of Korhogo, Odienné, Boundiali and Katiola, the Abidjan Detention and Correction Centre and the Abidjan military prison, where individuals arrested in connection with the post-election violence are being held. Conditions of detention for the prisoners visited were generally satisfactory. No cases of

torture or inhuman and degrading treatment were pointed out during the visits. Prisoners have access to legal services.

71. However, in Korhogo former president Laurent Gbagbo, who was in a physically weakened state, complained that he was unable to communicate with his family and friends and that it was impossible to exercise in the prison courtyard. Two days before the expert's arrival Laurent Gbagbo had been taken to the Korhogo hospital for an X-ray of his right arm. He also said that a team of doctors sent by the Government had visited him to assess his overall state of health.

72. In Odienné, Ms. Simone Gbagbo acknowledged that her conditions of detention were generally satisfactory. She seemed in good shape despite her diabetes and the lack of appropriate treatment. While she had no contact with her spouse or family, she had access to her legal defence team. She requested that her personal physician, who had been imprisoned without charge, be freed.

73. The independent expert is concerned at the conditions of detention of 27 prisoners, including 23 high-ranking military officials and 4 civilians, who are being held at the Compagnie territoriale de Korhogo in a cell measuring approximately 5m², in unsanitary conditions, without medical care or visits, and who are sometimes deprived of water and electricity for two-week periods.

74. In Boundiali, of the 25 high-ranking individuals initially detained, 15 had been released pending trial. A number of prisoners, such as those in Katiola, say they were mistreated during their arrest by FRCI members and were seriously injured without receiving the necessary treatment.

75. Most of the high-ranking and military officials with whom the independent expert met are charged with undermining State authority, failure to obey instructions, illegal arrests and detentions, killings, misuse of public funds, arms trafficking, illegal possession and sale of arms and munitions, concealment of corpses, and rapes, tribalism and xenophobia. They claim that the accusations against them are false and complain that their property has been plundered and, in most cases, their assets frozen. They said that they were receiving medical care as needed. They would nevertheless like to have more medical care adapted to their specific medical needs. They receive visits, albeit irregularly, from their immediate families and their siblings and parents.

E. Economic, social and cultural rights

76. The independent expert observed that the country's economy is disintegrating because of the post-election crisis and the loss of means of production and subsistence stemming from mass violence and destruction. Supply chains, the banking system and commercial activity have been severely disrupted. As a result, the majority of the population is suffering from the disintegration of the national and local economies and is sinking ever deeper into poverty and precariousness.

77. The independent expert received information on the extortion and harassment to which economic actors were subjected by members of FRCI and unidentified armed groups. This scourge also contributes to rising food prices, putting more pressure on a population that is already severely affected by the post-election crisis. He observed that the Government had begun dismantling unofficial checkpoints throughout the country.

78. The school year started, albeit haltingly, on 24 October 2011 in Côte d'Ivoire, but many students had difficulty returning to school after the post-election violence that had disrupted classes for several months in a number of schools. The post-election crisis had caused the departure of students, teachers and school authorities in some regions, the

closing of schools for several months in most of the country, and more than 200 cases of looting or destruction of schools. At the height of the crisis at least a million children were deprived of schooling, while 150 schools need to be renovated and re-equipped.

79. According to some humanitarian actors, in the country's western region thousands of children are denied their right to education by unsafe conditions and by population movements.

80. The independent expert also noted that many people have lost their identity documents and are consequently unable to access educational services or mechanisms to recover property and obtain compensation for losses. The independent expert has been informed of the large number of children who, because of the crisis, have not been able to obtain birth certificates.

81. Malnutrition remains a problem throughout the country. According to the authorities, more than 30 per cent of the population suffers from malnutrition. In 2000 the level of chronic malnutrition in Côte d'Ivoire was 25.4 per cent. In 2006, with the grave crisis of September 2002, the level rose to 34 per cent. In 2011 the rate reached 27.3 per cent. In some regions, such as the north and west, the level is quite critical. The level in the western region of 37.7 per cent is particularly worrisome. In the west and south-west the area of cultivated land has decreased because of population movements and difficulty getting seeds and other agricultural inputs.

82. The expert notes that the Government's policy whereby public health establishments should provide free care is not always followed in some parts of the country.

83. The issue of land rights in Côte d'Ivoire has been exacerbated by the various crises since 1999 and the resulting population movements and remains a major cause of intracommunity conflict, especially in the west. This situation is a major impediment to achieving peace and stability in the country, as well as to economic and social development, which in turn hinders efforts to reduce extreme poverty and implement sustainable environmental policies.

84. The Rural Land Act, which was passed on 18 December 1998 and promulgated on 23 December 1998, along with the regulations implementing it (3 decrees and 15 implementing orders) form the legal framework which makes it possible to convert customary (unwritten) rights into modern property rights and to secure access to land by those holding rural lands under customary law, as well as those with no access to land ownership.

85. Despite the application of this law, land issues remain a source of conflict. Such conflicts can be viewed as challenges to property rights which hinder social cohesion and result in lower agricultural production and in population movements.

IV. Conclusions and recommendations

A. Conclusions

86. **Despite improved security, Côte d'Ivoire remains a fragile country that is recovering from several successive crises and still faces numerous challenges relating to security reform, economic recovery, peacebuilding and reconciliation.**

87. **In this context, the comprehensive protection and promotion of human rights remains an absolute priority and is a factor in the voluntary and dignified return of internally displaced persons and refugees.**

88. The independent expert wishes to emphasize that efforts to combat impunity through the implementation of transitional justice mechanisms can, provided they are impartial, also contribute to the return of displaced persons and refugees and the strengthening of national cohesion. It is thus essential for the international community to continue to support the Government's efforts to tackle the many challenges associated with the country's rebuilding.

89. The equating of land with ethnicity constitutes a real time bomb in the struggle for political power in post-Houphouët Boigny Côte d'Ivoire. The seriousness of the human rights violations perpetrated after the elections shows that these outbreaks are part of a downward spiral that is destroying the lives, property and basic human values of the Ivorian people. There has been so much violence for so long that a culture of violence is taking root in the people's imagination and collective unconscious.

90. The independent expert nevertheless believes that there is hope for Côte d'Ivoire, whose history, geography and population make it a veritable microcosm of the region in which it lies. The resilience of the Ivorian people, as demonstrated by the democratic processes under way, shows how real and solid is the culture of coexistence, so that in the end all political attempts to divide the people along ethnic, cultural or religious lines have had limited success. Attacks on the national identity have been stymied by the Ivorian people's long and deep-rooted experience of living together. This in turn is based on a peaceful and cordial multiculturalism grounded in intercultural values, mechanisms and practices developed over time by communities that migrations, economic factors, and family and cultural ties have brought together on the territory of Côte d'Ivoire.

B. Recommendations

1. Recommendations to the Government

91. The independent expert recommends that the Government of Côte d'Ivoire focus its efforts on (a) rebuilding democracy and consolidating the State apparatus; (b) promoting democracy and human rights; (c) promoting economic and social development; (d) revitalizing coexistence; and (e) strengthening cooperation and regional and subregional solidarity.

92. Rebuilding democracy should focus on (a) achieving inclusive political pluralism that respects the diversity of the Ivorian people; (b) drafting a consensual democratic charter on ethical principles in politics; and (c) establishing independent institutions and mechanisms with the necessary human and material resources to guarantee the objectivity and impartiality of basic features of democracy such as elections, financing of political parties, equal access to information and communication, and respect for basic freedoms.

93. The independent expert recommends that cultural, ethnic and religious pluralism be enshrined in the Constitution as a basic value of the nation.

94. The Government should work to ensure the success and sustainability of the Dialogue, Truth and Reconciliation Commission, including by: (a) strengthening its mandate, including truth, justice and reconciliation; (b) coordinating the work of the various investigative bodies and mechanisms (National Commission of Inquiry and Special Investigative Unit) with that of the Dialogue, Truth and Reconciliation Commission; and (c) acknowledging the major challenge of uncovering truth by identifying serious human rights violations, their perpetrators and their root causes.

95. The expert also recommends that once it has finished its work, the Dialogue, Truth and Reconciliation Commission prepare and publish a white paper on human rights violations during the period 2002–2011 and on the identification of places that symbolize these violations for all the Ivorian people.

96. In combating impunity the justice system will need to balance the need to punish with the promotion of national reconciliation by impartially and systematically prosecuting all those who committed serious human rights violations between 2002 and 2011.

97. The independent expert recommends that the Government provide the judiciary with the necessary human and material resources, and that it relieve the detention system by freeing those who have committed minor crimes and bringing the remaining prisoners to justice swiftly with due respect for recognized judicial safeguards.

98. The expert recommends that civil and political rights be harmonized with economic, social and cultural rights. In this connection the Government must make every effort to promote the country's economic development and the collective prosperity of the Ivorian people, respecting the equality between regions and communities, including by implementing a socio-economic development and recovery plan for young people and women by establishing a dedicated cross-cutting government entity.

99. The Government should develop a nationwide rural land policy in consultation and cooperation with the concerned communities in order to gain a clear picture of the issue of land and its prosperity, break the link between land and ethnicity and foster cooperation and complementarity in land use for shared prosperity.

100. The implementation of a broad programme to educate people about human rights and their importance, including (a) the active promotion of the traditional values, practices and mechanisms of all the communities in order to foster coexistence and mutual respect; (b) the promotion, throughout the educational system, of a culture of peace, diversity and pluralism; and (c) the delivery of human rights education to all members of the security forces.

101. The expert encourages the Government to promote international regional and subregional cooperation, particularly in the spirit of the joint council of ministers of Côte d'Ivoire and Burkina Faso.

102. The expert also recommends that the Ivorian people's rich cultural and artistic creativity, in particular that of the country's youth, be encouraged not only to express feelings and emotions curbed and stifled by years of crisis but also the positive values of pluralism and coexistence.

2. Recommendations to the international community

103. The international community must increase its involvement in Côte d'Ivoire by (a) steadfastly supporting the ongoing democratic process, in particular the strengthening of political pluralism; (b) providing assistance to the Dialogue, Truth and Reconciliation Commission; (c) strengthening the judiciary and the security apparatus; (d) supporting the promotion of human rights, particularly through education and material support to human rights defence organizations; and (e) strengthening UNOCI, particularly its Human Rights Division.

104. The expert calls on all international and regional financial institutions and bilateral partners to contribute through active cooperation to the economic recovery

of Côte d'Ivoire so that its people may more fully enjoy their economic and social rights.

105. The independent expert recommends that the arms embargo against Côte d'Ivoire be lifted in order to strengthen the effectiveness of the national security system.

Annex

Updated list of persons detained in connection with the post-election crisis (19 December 2011)

A. Detained in a villa in Korhogo since 13 April 2011

1. Laurent Gbagbo (former president), transferred to The Hague during the night of 29 to 30 November 2011

B. Detained in a villa in Odienné since 13 April 2011

1. Simone Gbagbo (former first lady)
2. Eugene Djedje (physician of the former first lady)

C. Placed under house arrest at the Nouvelle Pergola Hotel (Abidjan), then arraigned and transferred to the Boundiali prison as of 9 July 2011

1. Prime Minister Gilbert Aké N'gbo
2. Minister Alcide Djédjé
3. Minister Christine Adjobi
4. Philippe-Henri Dakoury (former governor of the Central Bank of West African States)
5. The Honourable Martin Sokouri Bohui
6. Norbert Gnahoua Zibrabi
7. Minister Désiré-Noel Laurent Dallo
8. Désiré Christophe Secka Obodji
9. Basile Mahan Gahe

D. Detained at the Compagnie Territoriale de Korhogo

1. Brigadier General Bruno Dogbo Blé (former commander of the Republican Guard)
2. Army physician Colonel René Daléba
3. Senior Police Superintendent Denis Mounet
4. Battalion Commander Norbert Dua Kouassi
5. Police Superintendent Guédé Zagahi
6. Police Captain Remi Kobli
7. Second Lieutenant Hervé Zakro
8. Warrant Officer Mathieu Gaucey
9. Warrant Officer Bi Traguié Zokou

10. Warrant Officer Kouakou Kouamé
11. Staff Sergeant Jonas Gnaloko
12. Staff Sergeant Eustache Adon
13. Désiré Amos Loba
14. Staff Sergeant Jean Henry Fêto Kouakou
15. Staff Sergeant Kié Beli
16. Sergeant Paule Sopi Grah
17. Sergeant Laurent Kéné K.
18. Sergeant Fabrice Tchika
19. Sergeant Norbert Niamké Ekolan
20. Mr. Patrice Baï (civilian)
21. Mr. Aimé Djékori (civilian)
22. Mr. Jean Louis Zéza Kaka (civilian)
23. Mr. Ozy Yodé (civilian)
24. Mr. Jean Louis Tiagnere (district head of Yopougon)
25. Senior Superintendent Joachim Robé Gogo
26. Senior Superintendent César Négblé Dogba
27. Senior Superintendent Claude Yoro

E. Transferred to Katiola as of Monday, 24 April 2011

1. Narcisse Kuyo Téa (former chef de cabinet)
2. Minister Jean-Jacques Béchio
3. Minister Geneviève Bro Grébé
4. Inspector General Sangaré Aboudrahamane

F. Transferred to Bouna

1. Pascal Affi Nguessan
2. Michel Gbagbo

G. Army and gendarmerie officers detained at the Abidjan military prison

Gendarmes arrested and detained at Koumassi commando camp, then transferred to the Abidjan military prison on 9 November 2011

1. Sergeant Hugues Patrick Keyou (15/10/11)
2. Staff Sergeant Henry Stephane Anho Logontche (15/10/2011)
3. Staff Sergeant Francois Zeyie Bi Irie (19/10/11)
4. Staff Sergeant Kiyali Ouattara Souleymane

5. Staff Sergeant Guy Bostand Tama-Bi Koffi
6. Staff Sergeant Guy Beugre Lacoste (15/10/11)
7. Sergeant Jean Jaures Aka Anoa
8. Sergeant Dago Gnabro A.H. Brigade Didievi (15/10/11)
9. Staff Sergeant Billy Augustin Djoma (15/10/11)
10. Staff Sergeant Mathias Bede (29/10/11)
11. Staff Sergeant Kouassi Anzona (25/10/11)
12. Sergeant Samson Kotia (25/10/11)
13. Staff Sergeant Germain Kouadio Goran
14. Staff Sergeant Antonio Demisser Kouassi
15. Staff Sergeant Abrogoua Koutouan
16. Sergeant Marc Nguessan
17. Sergeant Sedoué Bah
18. Sergeant Jean Meyan
19. Sergeant Laurent Ninignon
20. Staff Sergeant Akpa Akpes

12 officers detained at the Abidjan military prison

1. Colonel Denis Adou Donga
2. Captain Jean Frank Goue Blepou
3. Captain Rolland Yao Konakou
4. Captain Jean Zoh Loua
5. Lieutenant Rolland N'Guessan
6. Captain Henri Kouadio Pale
7. Captain Jonas Katy
8. Lieutenant Sery
9. Colonel Major Gnahoré
10. Lieutenant Kouyo
11. Second Lieutenant Krapa (arrested on 15 June 2011)
12. Lieutenant Djacko Landry

Army and gendarmerie officers detained at Camp Agban and transferred to the Abidjan military prison on 21 November 2011

1. Sergeant Koré Boumouher
2. Sergeant Michael Amontchi (arrested on 3 September 2011)
3. Corporal Jean Claude Molle (arrested on 3 September 2011)

Republican Guard officers arrested on 2 August 2011 and detained at the 4th arrondissement police station, then transferred to the Abidjan military prison on 22 November 2011

1. Warrant Officer Koffi Bede (arrested on 2 August 2011)
2. Warrant Officer Mathia Okobo Gokou
3. Staff Sergeant Gervais Yaté Ngomon

Member of the army arrested and detained at the 31st arrondissement police station on 15 June 2011, then transferred to the Abidjan military prison on 21 November 2011

Corporal Alain Mabré

Member of the army arrested and detained at Camp Agban on 20 October 2011, then transferred to the Abidjan military prison on 10 November 2011

Corporal David Krah Yao

Army officers detained at the Abidjan Detention and Correction Centre, “Assimilés” building

2. Colonel Jean Aby (former deputy commander of the Republican Guard)
3. General Faussignaux Vagba
4. Colonel Modi
5. Commander Kipré
6. Superintendent Logué Osé
7. Lieutenant Koubi
8. Commander Toli
9. Captain Antoine Kangbe

Civilian detained at the Abidjan Detention and Correction Centre, Building C

Denis Maho Goflei (former militia chief arrested on 5 December 2011 in Guiglo)

Army officer detained in an unknown location since 15 October 2011

Commander Anselme Seka Seka (Ms. Simone Gbagbo’s former aide de camp)
