

HUMAN RIGHTS WATCH

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300 ;
917-591-3452

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May 17, 2013

Mr. Gnénéma Mamadou COULIBALY

Minister of Justice, Human Rights, and Public Liberties
Abidjan

Dear Minister Coulibaly,

On May 3, Human Rights Watch received by fax the “Réaction officielle du gouvernement ivoirien” to our April 4 report, *Turning Rhetoric into Reality: Accountability for Serious International Crimes in Côte d’Ivoire*. We welcome the Ivorian government’s official response, which has been made widely public, in addition to the fruitful meetings we had with you and other high-level government officials prior to our report release.

We commend again the consistent openness of President Ouattara’s government to human rights organizations like Human Rights Watch, in allowing us to do our work without interference and in having frank discussions on recommendations. This represents a marked improvement from the years of Laurent Gbagbo’s government. Human Rights Watch also recognizes important actions the Ouattara government has taken in support of justice, including by increasing the Justice Ministry’s budget; creating institutions like the special investigative cell to handle crimes committed during the post-election crisis; ratifying the Rome Statute to the International Criminal Court; and rejecting a general amnesty for post-election crimes, an idea often proposed by leaders in Gbagbo’s Ivorian Popular Front. We are also encouraged that the “official response” expressed a “convergence of views” between the Ivorian government and Human Rights Watch in regards to many of our report’s recommendations.

However, Human Rights Watch is concerned about several statements made in the government’s response that misrepresent the current situation in regards to the investigation and prosecution of serious international crimes committed during the post-election crisis:

- 1) **The 150 to 0 figure, and Economic Crimes vs. Violent Crimes:** In Human Rights Watch's April report, we stated that while more than 150 individuals from the Gbagbo camp had been charged with crimes committed during the post-election crisis, no member of the Republican Forces has yet been charged with crimes during this period – despite documentation by international organizations and the Ivorian national commission of inquiry that both sides were responsible for serious international crimes.

Your response implies inaccurately that this 150 figure relates to Gbagbo officials who have been charged with economic crimes as opposed to violent crimes. While Ivorian prosecutors have charged some of the 150 people linked to the Gbagbo camp with only economic crimes, dozens of others have been charged with violent crimes including genocide, crimes against the civilian population, murder, and other offenses.

In the January 2013 report from the United Nations Human Rights Council Independent Expert on the situation of human rights in Côte d'Ivoire, the Independent Expert noted that, in relation to the post-election crisis, at least 55 people from the Gbagbo side had been charged with violent crimes, including 48 charged with genocide. By contrast, the Independent Expert, like Human Rights Watch, noted that Ivorian prosecutors had not brought a single case against members of the Republican Forces for crimes committed during the post-election crisis.

According to the government's own announcements, Charles Blé Goudé has been charged with attacks on the civilian population, among other crimes. Members of the Gbagbo inner circle, including Simone Gbagbo, have been charged with genocide, among other crimes. Indeed, it is the existence of these charges of violent crimes that the Ivorian government has referenced in saying that it may not transfer Simone Gbagbo to The Hague, despite the arrest warrant issued by the International Criminal Court. Moreover, the military court of Abidjan has tried and convicted General Dogbo Blé for abduction and murder committed during the post-election crisis.

Thus, the implication in your official response that our figure of 150 to 0 relates only to economic crimes is simply incorrect. We commend the Ivorian authorities for pursuing the prosecution of people in the Gbagbo camp allegedly responsible for serious crimes. However, we remain concerned that while at least 55 people from the Gbagbo camp have been charged with violent crimes committed during the crisis, no member of the Republican Forces has been so charged.

- 2) **Implementation of Human Rights Watch Recommendations:** As noted above, we are encouraged to read that the government agrees with many of our recommendations and is working toward implementation. Our report recognized and examined the efforts to date on many of these recommendations, including the development of a prosecutorial strategy; the reform of the criminal procedure code to protect defendants' rights; witness protection; and the implementation of security for judges, prosecutors, and defense lawyers. As our report discussed, while the government has taken preliminary steps on many of these issues, follow through and implementation are still lacking. Human Rights Watch therefore continues to note that, while the government's promises are welcome, they need to be swiftly translated into action in order to allow prosecutors and judges to move forward with impartial investigations and prosecutions.
- 3) **The Vavoua Prosecution:** In the conclusion to the official response, you point to the recent prosecution of the Republican Forces who opened fire on civilians in the town of Vavoua in December 2011. As you noted, Human Rights Watch welcomed the prosecution in an April 11 press statement. The fact that two of the soldiers have since been sentenced is indeed an important step in Côte d'Ivoire's fight against impunity.

The government, including the military prosecutor, has at times misrepresented the trial as being related to the post-election crisis – in an apparent effort to show that impartial justice is indeed proceeding. However, the facts of the case occurred six months after the post-election crisis's end. Thus, while an important development, it remains the case that there have not been any prosecutions of government soldiers or allied fighters related to politically sensitive cases, including the post-election crisis and the Nahibly camp attack.

- 4) **Patience and Realistic Expectations:** Finally, the official response expresses, as the government has previously, that there needs to be patience and that an evaluation of the government's commitment to impartial justice should be done "at the end and not at the beginning." We fully appreciate that the Ivorian government had to largely rebuild the justice system after the conflict. Throughout Human Rights Watch's report, we also made clear that prosecutions for serious international crimes can be difficult and take time.

However, it has now been two years since the end of the post-election conflict. While we do not expect prosecutions overnight against all members of Republican Forces implicated in serious crimes, based on our research, it is clear that there are a number of challenges facing prosecutors and judges that likely impede their ability to take action. For instance:

- In the two years since the special investigative cell's creation, the cell has not put forward a Justice Ministry-approved prosecutorial strategy. Such a strategy should include, among other things, how the cell plans to investigate crimes committed by the Republican Forces.
- While a working group was established in December to examine the problems related to the *cour d'assises* – problems that undermine the internationally recognized fair trial rights of defendants – its work has still not moved forward.
- There are still no consistent arrangements in place to ensure the protection of judges and prosecutors working on sensitive cases.

Human Rights Watch's report examined the Ivorian government's accountability efforts to date and sought to offer specific, concrete recommendations for how to create an environment in which fair and impartial justice is possible – in line with President Ouattara's strong rhetorical commitments.

Human Rights Watch appreciates the government's close reading of our report and recommendations. We are more than happy to offer additional guidance in terms of our findings and recommendations, and we look forward to continue monitoring the government's progress on impartial justice in the months to come.

Sincerely,



Corinne Dufka
Director, West Africa



Richard Dicker
Director, International Justice Program