Flygtningenævnets baggrundsmateriale

Bilagsnr.:	**58**
Land:	Elfenbenskysten
Kilde:	UNHCR
Titel:	”Update on international protection needs of asylum-seekers from Cöte d’ivoire”
Udgivet:	2007
Optaget på bag-grundsmaterialet:	2007

UPDATE ON INTERNATIONAL PROTECTION NEEDS OF ASYLUM-SEEKERS FROM CÔTE D'IVOIRE[1]

I. INTRODUCTION

Following the crisis which erupted in Côte d'Ivoire on 19 September 2002, causing massive displacement both inside and outside the country, UNHCR issued its "Position on the Return of Rejected Asylum Seekers to Côte d'Ivoire" in January 2004. That document recommended a moratorium on returns to Côte d'Ivoire with the exception of individuals from the economic capital, Abidjan, whose relatives had been contacted in the city prior to their return (in order to avoid creating internal displacement). For asylum-seekers originating from outside Abidjan, but found not to meet the refugee definition set out in Article 1A of the 1951 Convention relating to the Status of Refugees or Article I(1)of the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, the position recommended that they be extended complementary forms of protection.

The January 2004 position relied upon a relatively favourable level of security having been established in Abidjan, in contrast to the presence of armed elements elsewhere in the country which posed a serious threat to both people and property outside Abidjan. Since then, significant developments in Côte d'Ivoire necessitate an update of the position taken by UNHCR in January 2004. This new document thus seeks to provide updated information on relevant developments which impact on the international protection needs of Ivorians abroad, including the implementation of the Peace Agreement[2] and its required legislative reforms, the Disarmament, Demobilization and Reintegration ("DDR") process, progress towards elections, and relevant political, human rights and security developments.

On the basis of the updated developments, the position sets out UNHCR's recommendations in relation to refugee status determination of Ivorians. In summary, UNHCR's previous position with regard to the international protection needs of Ivorians is reaffirmed, and further reinforced by the significant negative developments in the country despite the signing of the Peace Agreement.

---

1 This Position supersedes UNHCR's Position on the Return of Rejected Asylum-Seekers to Côte d'Ivoire dated January 2004 (Refworld 2006, Issue No. 15; also available on UNHCR's website at http://www.unhcr.org/cgi-bin/texis/vtx/rsd/rsddocview.pdf?tbl=RSDLEGAL&id=4020dc034).

2 Due to the difficulties encountered in the implementation of the Linas-Marcoussis Agreement, several subsequent meetings of the parties to the Ivorian crisis were held. These included meetings within Côte d'Ivoire as well as in Accra, Ghana and Pretoria, South Africa. These subsequent meetings resulted in the elaboration of further elements in and instructions on the implementation of the Linas-Marcoussis Peace Agreement and represent enhancements to it. Accordingly, for the purposes of the current position, the term "Peace Agreement" refers to the full body of agreements and instruments governing the Ivorian peace process.

II. UPDATE ON IMPLEMENTATION OF THE PEACE AGREEMENT

On 24 January 2003, the Government and the rebel forces concluded a peace agreement in Linas-Marcoussis (France) which came to be called the Linas-Marcoussis Peace Agreement.[3] The agreement sought to address the underlying causes of the crisis by requiring action in the following key areas:

a) Legislative reform to address nationality issues through amendments to the Nationality Code

Perhaps the single most significant element in the current complex of problems in Côte d'Ivoire is the lack of identity papers for as many as 3.5 million people (approximately half of them of voting age) in the northern and predominantly Muslim part of the country. Many of the undocumented are immigrants or the children of immigrants from Burkina Faso, Mali and Guinea who moved to Côte d'Ivoire at the urging of its founding President, Felix Houphouet Boigny, to participate in the development of the country after its independence from France in 1960.

As described by Véronique Tadjo,[4] the disenfranchisement of Ivorians was begun by Henri Konan Bédié, the Côte d'Ivoirian President who succeeded Felix Houphouet Boigny, following the latter's death in 1993. According to Tadjo and other commentators, Bédié promoted a concept of "Ivoirité" (Ivorian-ness) that sought to distinguish between 'real' Ivorian citizens and foreigners. The new policy coincided with an already established decline in the value of Côte d'Ivoire's principal export, cocoa, which together with a change in French development assistance policies in 1989 deleteriously impacted on the country's economy.

The Ivorian-ness policy was entrenched in national law at the very highest level when in Article 35 of the new Constitution[5], approved by referendum on 23 July 2000, competition for the Presidency was restricted to those whose parents were both themselves Ivorian by birth[6], the result of which was to exclude from contention for the Presidency, Mr. Alassane Dramane Ouattara, a northerner of whom one or both parents may have been born outside Côte d'Ivoire. According to Francis Akindes, the new policy resulted in "… Ivorian Muslims [being] amalgamated with foreign Muslims and people from the North of Ivory Coast [being] amalgamated with foreigners … ."[7]

---

3 The text of the Linas-Marcoussis Agreement is contained in Security Council document S/2003/99 dated 27 January 2003, available at http://www.reliefweb.int/rw/RWB.NSF/db900SID/MHII-62F8MD?OpenDocument.

4 Véronique Tadjo, "The Crisis in Côte d'Ivoire", Global Policy Forum, 16 December 2004, available at http://www.globalpolicy.org/security/issues/ivory/2004/1216unfit.htm.

5 The 2000 Constitution, and several other pieces of legislation from Côte d'Ivoire, is available on Refworld 2006, Issue No. 15, and on the UNHCR website at http://www.unhcr.org/cgi-bin/texis/vtx/rsd?search=legal&source=REFLEG&ISO=CIV.

6 Article 35 also provided that the President must never have renounced Ivorian nationality, must never have used another nationality, must have resided in Côte d'Ivoire for five continuous years preceding the date of the elections and have a total of ten years of effective residence.

7 Francis Akindes, "Côte d'Ivoire: Socio-political Crises, "Ivoirité" and the Course of History", *African Sociological Review*, Vol. 7, No. 2, 2003 (at 1.iii).

According to the Linas-Marcoussis Agreement and subsequent undertakings, notably Accra III[8], the Government was obliged to amend the Nationality Code,[9] which it did on 17 December 2004. Although the amendments were adopted at the ministerial level on 31 May 2006, the implementing decree has not yet been signed by the President.

b) Establishment of an Identification Process

The purpose of the Identification Process provided for by the Peace Agreement is twofold: (i) to clarify the identity of persons for whom the question of identification hitherto has been unclear owing to the absence of birth certificates or other identity documents, with a view to recognizing their Ivorian nationality where warranted and (ii) to facilitate voter registration for the elections scheduled for, but increasingly unlikely to be held in, October 2006.[10]

Institutional structures were put in place when a National Office for Identification was created by a decree on 6 January 2004, to be supervised by the National Commission on Identification. A pilot project of "mobile court" hearings on identification was conducted in seven locations in Côte d'Ivoire from 18 to 27 May 2006. In the ten days of the pilot project, 5,003 decisions were taken, with favourable determinations made for 3,917 of the individuals concerned (i.e. 78% of the cases considered). Those accorded favourable decisions ("*jugements supplétifs*") were issued birth documentation. Out of this group, 3,137 went on to obtain an Ivorian nationality certificate. This represented recognition of nationality for 80% of those receiving a *jugement supplétif*, or just under 63% of the total number of applicants seen by the mobile courts in the pilot.

For the 37% of applications rejected during the pilot, a review process is to be made available during the Identification Process proper, although there is a shortage of judges to carry out this task. According to the Ivorian authorities, the relatively high number of rejected cases in the pilot was due to a variety of factors including fraud, insufficiency of evidence of place of birth or parentage, doubtfulness of witness testimony and similar reasons. To minimize such problems in the Identification Process proper, the Government has created five technical commissions to study and

---

[8] This agreement was signed between the main protagonists of the Ivorian crisis at a meeting mediated by the African Union (AU) in Accra on 30 July 2004 to overcome the stalemate which was hampering the smooth continuation of the Ivorian peace negotiation, and particularly, the implementation of the Linas-Marcoussis Agreement.

[9] The Ivorian nationality code was a composite of two laws dated 14 December 1961 and 21 December 1972. It included provisions – in Articles 6 and 7 – on naturalization rendering such naturalization effectively inaccessible to most applicants.

[10] The Ivorian presidential elections are scheduled to take place by 31 October 2006 at the latest. See Security Council Resolution S/RES/1633 (2005), adopted by the Security Council at its 5288th meeting, on 21 October 2005, in particular paragraphs 3 and 13; available at http://www.un.org/Docs/sc/unsc_resolutions05.htm. The resolution takes notice of the decision of the Peace and Security Council (PSC) of the AU adopted in Addis-Ababa on 6 October 2005 (S/2005/639) to extend the Ivorian transition period by 12 months. Given the progress to date in implementation of the Peace Agreement, it is somewhat unlikely the timeframe remains realistic. Indeed, it has been suggested that the formal postponement of the elections is inevitable (see Securitycouncilreport.org, "Monthly Forecast September 2006 – Côte d'Ivoire", available at http://www.securitycouncilreport.org/atf/cf/{65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9}/Sep%2006%20Forecast.pdf, 31 August 2006, pp. 11-12).

make recommendations for needed changes in the process and subsequent monitoring of that process. It can reasonably be expected that the Identification Process will be a lengthy and costly exercise[11] unlikely to be concluded prior to the currently planned – if increasingly unlikely timeline, i.e. October 2006 – elections.

c) Reform of eligibility criteria for Presidency

As already noted, one of the underlying causes of the Ivorian crisis was the ineligibility to seek the Presidency for persons whose parents are not both Ivorian by birth. The most conspicuous person among those disqualified by the changes to the Constitution was Mr. Alassane Dramane Ouattara[12], a Muslim northerner, former Prime Minister and leader of the *Rassemblement des Républicains* (RDR), one of the four largest opposition political parties.

The Ivorian Peace Agreement provides that Article 35 of the Ivorian Constitution should be amended.[13] This has not yet happened, although President Laurent Gbagbo authorized on 27 April 2005, through exceptional powers conferred on him pursuant to Article 48 of the Ivorian Constitution, all potential candidates from the signatories of the Linas-Marcoussis Agreement, including Mr. Ouattara, to run for the presidency.

d) Reform of land tenure

Another highly contentious issue in the Ivorian crisis is the system of rural land tenure. The relevant Ivorian law of 23 December 1998 provides that foreigners cannot own rural land in Côte d'Ivoire. Thus foreigners cannot transfer rural land to their descendants unless those descendants are Ivorians themselves. Given the effective stripping of nationality due to the changes to Ivorian nationality provisions discussed earlier, the land tenure rules have created conditions of significant uncertainty and hardship for a large number of individuals residing in Côte d'Ivoire, particularly in the western region where migrants from other areas in Côte d'Ivoire have settled for decades.

The Peace Agreement stipulates that the rural land tenure law be amended. No such amendment has yet taken place. The major information campaign intended to accompany the amended law has also not yet begun.

e) Disarmament, Demobilization and Reintegration (DDR)

Côte d'Ivoire's multi-faceted crisis began as a soldier mutiny that rapidly transformed into a full-fledged attempted *coup d'état*. As a consequence of the military crisis that followed, all the belligerents strengthened their fighting forces. Owing to the failure of either side to dominate militarily, two parallel armed forces structures came into being: the *Forces de Défense et de Sécurité* (FDS, loyal to the Côte d'Ivoire Government, and including the *Forces Armées Nationales de Côte d'Ivoire* or FANCI) and the *Forces Armées des Forces Nouvelles* (FAFN, loyal to the opponents

[11] The estimated cost of the Identification Process is 12 billion CFA Francs (approximately USD 24 million).

[12] See also above, under Chapter II (a).

[13] A similar requirement, to amend Article 53 of the Ivorian Nationality Code, which stipulated the conditions of loss of Ivorian nationality, was acted upon in December 2004.

of the Government). Illegal recruitment was resorted to as a means of expanding the various forces,[14] thus leading to the creation of militia. In this context, DDR is noted in the Peace Agreement as well as in various resolutions adopted by the United Nations Security Council (SC), including SC Resolution 1633 (2005)[15], as a crucial element for the success of the peace process.

After several postponements of the DDR process, the parties to the conflict at last agreed to its commencement concurrently with the Identification Process. A DDR plan was prepared in 2003 and an amnesty law adopted on 8 August 2003. The pre-cantonment of the combatants on either side began on 15 May 2006. Officially, the pre-cantonment pilot project was launched on 23 May 2006.

The FDS and the FAFN meanwhile continue to disagree on how the DDR and Identification Process should be run. The FDS is adamant that the identification of the entire population (including former combatants) should be concluded prior to their disarmament. Actions aimed at restructuring the Ivorian army have yet to be taken. There is also a shortage of UN troops to actually conduct the disarmament operations, although this might be resolved through the redeployment of UN forces currently with the United Nations Mission in Liberia (UNMIL) to the United Nations Operation in Côte d'Ivoire (UNOCI).[16]

With respect to dismantling the militias, following extensive consultations between the Government and militia leaders, it was agreed that the dismantling and disarmament of the militias would commence on 8 June 2006. This was postponed to 16 June 2006 to give the respective parties more time to sensitize their followers to the implications of the process. While by the end of June 2006 a sensitization mission to western Côte d'Ivoire had been undertaken by the National Commission for DDR, the modalities for the process had still to be finalized,[17] with the result that disparate armed groups continue to dominate the landscape.

f) Reform of the Electoral Process

UN Security Council Resolution 1603 (2005)[18], dated 3 June 2005, urged the Secretary-General on the basis of the Pretoria Agreement[19] to designate, as an

---

[14] Throughout the crisis in Côte d'Ivoire, human rights monitoring agencies such as Human Rights Watch reported on the massive recruitment of children on both sides of the fighting. See, for instance, Human Rights Watch (HRW) Briefing Paper entitled *Côte d'Ivoire: Accountability for Serious Human Rights Crimes Key to Resolving Crisis*, 7 October 2004, at http://hrw.org/backgrounder/africa/cote1004/accountability.pdf; *Côte d'Ivoire, Ex-Child Soldiers Recruited for War*, HRW, New York, 31 March 2005, at http://hrw.org/english/docs/2005/03/30/cotedi10404.htm. Also see *Côte d'Ivoire: Government Recruits Child Soldiers in Liberia,* HRW, New York, 28 October 2005, at http://hrw.org/english/docs/2005/10/28/cotedi12248.htm.

[15] See above footnote 10.

[16] Reassignment of troops from UNMIL to UNOCI was formally approved by the UN Security Council on 28 September 2006 (S/RES/1712(2006) at para. 2). The same resolution extends UNMIL's mandate in Liberia to 31 March 2007.

[17] See United Nations Security Council, *Ninth progress report of the Secretary-General on the United Nations Operation in Côte d'Ivoire*, S/2006/532, 17 July 2006, para. 17; available at http://www.un.org/Docs/sc/sgrep06.htm (English) and http://www.un.org/french/docs/sc/reports/2006/sgrap06.htm (French).

[18] Available at http://www.un.org/Docs/sc/unsc_resolutions05.htm.

exceptional arrangement, following consultations with the African Union and President Thabo Mbeki of South Africa, a High Representative for the elections in Côte d'Ivoire. In particular, the High Representative was to assist in and verify the work of the Independent Electoral Commission (IEC).[20]

With the launch of both the DDR and the Identification Process, and the appointment by the UN Secretary-General of former Portuguese Foreign Minister Antonio Monteiro in July 2005 as High Representative for Elections[21], it was expected that voter registration would begin soon after the two processes are complete. As the Identification Process in particular is likely to take some time, it is still to be seen whether the October 2006 timeline for elections can be respected. In his Ninth Progress Report on UNOCI, the Secretary-General observed that:

> … the peace process in Côte d'Ivoire is again at crossroads. The consolidation of the fragile gains achieved since the beginning of the year will need the sustained political will and efforts of all Ivorian parties.[22]

At the urging of the International Working Group (IWG)[23] and the UN Security Council, the Government of Côte d'Ivoire adopted on 10 September 2004 a law on political parties as well as measures to guarantee freedom of expression, in particular for the press. At the sixth meeting of the IWG, the President of the Independent Electoral Commission announced that the estimated cost of the electoral process – including the precursor Identification Process – would be 60 billion CFA francs (approximately USD 120 million). Given the fact that the Government of Côte d'Ivoire will only be able to finance part of this amount, this would likely have a negative impact on the peace process.[24]

---

19 The Pretoria Agreement which forms part of the overall legal framework of the Ivorian peace process was signed on 6 April 2005 in Pretoria, South Africa.

20 The High Representative's mandate, per SC Resolution S/RES/1603 (2005), is:
- (i) To verify that all stages of the electoral process provide all the guarantees for the holding of open, free, fair and transparent elections
- (ii) To provide all necessary advice and guidance to the Constitutional Council, the IEC and other relevant agency or institute involved in the electoral process, with a view to avoiding any difficulty which might prevent the holding of open, free, fair and transparent elections.
- (iii) To report to the SC, through the SG and the Mediator of the AU (President Mbeki), any difficulty which may jeopardize the holding of open, free, fair and transparent elections, along with the recommendations he may deem appropriate.
- (iv) To keep the SC, through the SG, and the Mediator of the AU regularly informed of all aspects of his mandate.
- (v) To request and receive information or technical advice from UNOCI or any other sources.

21 See: *Secretary-General appoints Antonio Monteiro of Portugal as High Representative for Elections in Côte d'Ivoire*, UN Press Release SG/A/930, AFR/1213, BIO/3669, 15 July 2005, available at http://www.un.org/News/Press/docs/2005/sga930.doc.htm.

22 See *Ninth Progress Report*, *supra* footnote 17, para. 56.

23 The IWG, a ministerial-level working group created by decision S/2005/639 of the African Union's Peace and Security Council (PSC) on 6 October 2005, is tasked with closely monitoring the implementation of the Ivorian peace process. Its creation was endorsed by SC Resolution S/RES/1633 (2005) of 21 October 2005; *supra* footnote 10.

24 In this regard, the Secretary-General appealed to Member States to provide the resources needed to meet the funding gap identified in his report of 17 July 2006. See SC Resolution S/RES/1633 (2005), *supra* footnote 10, at para. 3.

III. POLITICAL SITUATION

The mandate of President Gbagbo, elected in 2000, expired on 30 October 2005. According to the Ivorian Constitution, presidential elections should have been held by the end of October 2005. Due to the political crisis, however, it was not possible to prepare for open, free and fair elections at the appropriate time. In light of the continuing threat to international peace and security posed by the situation in Côte d'Ivoire, the UN Security Council endorsed the decision of the African Union's Peace and Security Council to extend the mandate of President Gbagbo for a period not exceeding 12 months.[25] A new Prime Minister acceptable to all parties to the conflict was to be identified, appointed and given the powers necessary to lead the country through the transitional year to the holding of open, free and fair elections by 31 October 2006.[26]

Mr. Charles Konan Banny, governor of West Africa's central bank, was appointed as interim Prime Minister on 5 December 2005. A new cabinet comprised of 32 individuals representing all parties to the conflict was sworn in and charged with implementing the road map drafted by the IWG.

Prime Minister Banny formally offered his government's resignation on 7 September 2006 in the wake of fallout from a scandal involving the dumping of toxic waste from the vessel Brobo Koala on eleven sites in Abidjan. A number of persons were allegedly killed after inhaling fumes from the poisonous debris and thousands were injured, overwhelming local health services. Despite his offer to resign, Mr. Banny was called on to form another government.

In terms of the road map, the IWG has expressed its concern about delays in this regard, as has the African Union's Peace and Security Council. The African Union has, moreover, reminded the Ivorian authorities of their obligation to bring to justice perpetrators of violence and requested that the UN Security Council's Sanctions Committee take appropriate action against those who obstruct or intend to obstruct the peace process.[27]

On 5 July 2006, the UN Secretary-General held a high-level meeting[28] with the leaders of the main parties to the conflict in the capital of Côte d'Ivoire,

---

[25] See SC Resolution S/RES/1633 (2005), *supra* footnote 10, para. 3. Notwithstanding this clear delimitation of President Gbagbo's entitlement to exercise Presidential authority (which he has done since the end of October 2005 on the basis of his Presidency of a transitional government), he has indicated an intention to stay on as President until elections are held, even if such elections are postponed until after 31 October 2006.

[26] See SC Resolution S/RES/1633 (2005), *supra* footnote 10, para. 5-10.

[27] The United Nations Sanctions Committee on Côte d'Ivoire was established pursuant to SC Resolution S/RES/1572 (2004) of 15 November 2004, at para. 14, available at http://www.un.org/Docs/sc/unsc_resolutions04.html. See for more information: http://www.un.org/Docs/sc/committees/CITemplate.htm. On 7 February 2006, the Committee issued a list of three individuals subject to measures imposed by paragraphs 9 and 11 of SC Resolution 1572 and advised that the Committee would update the list on a regular basis.

[28] In addition to the relevant Côte d'Ivoire leaders, attendees included high-level representatives from the African Union, the Economic Community of West African States (ECOWAS), Nigeria, South Africa, Mali, Niger, Burkina Faso, the Under-Secretary-General for DPKO, the Special Representative of the Secretary-General for West Africa, the co-chairs of the IWG, Members of the Mediation Group and the High Representative for elections in Côte d'Ivoire.

Yamoussoukro. The meeting reaffirmed the importance of adhering to the agreed timeframe and implementing the contents of the relevant UN resolutions and more particularly:

- Agreed on a timetable for the deployment of mobile courts countrywide and the structure of the Independent Electoral Commission as well as the convening of a donor conference to meet anticipated gaps in the budget for the electoral process;

- Agreed on the modalities for monitoring and on a timetable for the DDR process;

- Urged members of the Côte d'Ivoire media to respect the provisions of the Pretoria and Yamoussoukro agreements stipulating the need for responsible behaviour by journalists, particularly during the election period; and

- Announced a follow-up meeting in mid-September 2006, in the margins of the UN General Assembly, to take stock of the situation and make further determinations as necessary.[29]

IV. SECURITY DEVELOPMENTS

Côte d'Ivoire remains one of the most insecure nations in West Africa. Apart from the two main fighting factions, namely the FDS (government forces) in the south and the FAFN (opponents of the Government) in the north, there are large numbers of militants and uncontrolled armed elements all over the country. International troops are located between the two main areas respectively in the south and the north in the so-called Zone of Confidence (*Zone de confiance*). Despite the presence of the 11,000 strong international force, comprised of UN as well as French forces, the security situation in the country remains unstable and unpredictable with frequent reports of incidents of extreme violence, including looting, extortion, and armed attacks, which occur notably in the Zone of Confidence.

Among the most serious incidents to date was the bombing of Bouaké,[30] the capital city of the FAFN on 4 November 2004. The bombing was allegedly ordered by the President of Côte d'Ivoire, and resulted in the death of nine and injury of 35 French troops stationed in Bouaké. The number of civilian casualties was not clear. In response to the bombing, France ordered the disabling of the Ivorian air force which in turn resulted in huge demonstrations against France by youth from the *Front Populaire Ivoirien* (FPI), President Gbagbo's political party, and the *Jeunes Patriotes*, a pro-government militia, mainly in Abidjan. The demonstrators reportedly targeted French persons and symbols throughout the country and apparently generated such

[29] See for further details: "Letter dated 12 July 2006 addressed to the President of the Security Council by the Secretary-General", S/2006/516, 12 July 2006, available at http://www.un.org/Docs/sc/unsc_presandsg_letters06.htm.

[30] See SC Resolution S/RES/1572 (2004) dated 15 November 2004 (highlighted above in footnote 27), which condemned this "blatant violation of the ceasefire agreement dated 3 May 2003" between the Government of Côte d'Ivoire and the rebels; see para. 1 of the Resolution.

serious insecurity that non-essential staff of diplomatic representations and international organizations, including the UN, were ordered evacuated.

Other security incidents included reported attacks on two villages on the outskirts of the western town of Duékoué by unknown assailants on 31 May 2005.[31] In these attacks, at least 60 civilians of the Guéré ethnic group were hacked or burned to death. In retaliation, many persons perceived to be of foreign descent in the area were targeted and killed and more than 10,000 villagers were displaced.

On 23-24 July 2005, it was reported that unidentified armed elements attacked the town of Agboville, approximately 70 kilometres north of Abidjan, and Anyama, a suburb of Abidjan.[32] At least 24 persons were killed in the attacks and approximately 200 prisoners were set free from the prison at Agboville.

Following the announcement by the IWG that the mandate of the Parliament would not be extended beyond 16 December 2005, thereby contradicting the decision made earlier by President Gbagbo, violent demonstrations by the *Jeunes Patriotes* erupted throughout the country, particularly in the western region and Abidjan. In the western town of Guiglo, the demonstrators attacked the UNOCI base. In response, the peacekeepers fired at the demonstrators, killing four of them.[33] The situation deteriorated with demonstrators then attacking UN personnel and symbols in the area. The premises of humanitarian agencies were burned and looted, and agency and staff vehicles were stolen or destroyed. As a result, the UN and other agencies evacuated the area. The attacks were condemned by the international community, including by the UN Security Council, and the UN and other agencies did not return to this area of western Côte d'Ivoire until mid-April 2006.

V. HUMAN RIGHTS SITUATION

Notwithstanding a number of positive steps by the parties to the peace process, the overall human rights situation in Côte d'Ivoire continues to be characterized by alleged violations by all parties: the FDS, the FAFN and the militias. Abuses are reported to range from extortion to extra-judicial killings, arbitrary detention, sexual violence, child exploitation and inter-community conflict.

One of the recent reports[34] by the Human Rights Division of UNOCI indicates, *inter alia*, that:

(i) Hundreds of Ivorians have been victims of killings, kidnappings, illegal arrests and detentions. Impunity[35] prevails for the perpetrators of these crimes;

---

[31] Opération des Nations Unies en Côte d'Ivoire, Division des Droits de l'Homme, *Rapport sur la situation des Droits de l'Homme en Côte d'Ivoire: Mai – Juin – Juillet 2005*, UNOCI, Octobre 2005, para. 87, available at http://www.onuci.org/pdf_fr/hr/hr2005_3.pdf.

[32] *Ibid.*, para. 74.

[33] Amnesty International, *Côte d'Ivoire – Clashes between peacekeeping forces and civilians: lessons for the future*, AI Index: AFR 31/005/2006, 19 September 2006, available at http://web.amnesty.org/library/Index/ENGAFR310052006.

[34] See above footnote 31.

[35] Such impunity is characterized by the failure to investigate and prosecute abuses and the unwillingness even when the identity of perpetrators is known to institute proceedings against them.

(ii) Inter-community violence was used by political actors to manipulate the population and derail the implementation of the various agreements signed by parties to the conflict; and

(iii) The Zone of Confidence has been transformed into a Zone of Non-law (*non-droit*) and a sanctuary for criminals from both sides. Consistent with the impunity prevailing for abuses outside the Zone of Confidence, witnesses report that even when human rights violators and criminals are apprehended by the impartial forces in the Zone of Confidence and handed over to the authorities on either side, they (the human rights violators and criminals) have been systematically set free.

In the same vein, the Ninth Progress Report by the Secretary-General states that:

> "… the pattern of human rights violations remained the same as in the previous reporting period, with violations being committed by elements of the FDS, elements of the FAFN and members of the FESCI.[36] Violent inter-community clashes occurred in the Zone of Confidence and in the south."[37]

30. A few improvements vis-à-vis human rights in Côte d'Ivoire were noted in the report:

> (i) A declaration of intention on 21 March 2006 by the Minister of Justice and Human Rights to establish a National Human Rights Commission and formulate a human rights action plan aimed at making human rights the cornerstone of the peace and reconciliation process.
>
> (ii) A declaration by the FAFN spokesman on 26 May 2006 that "all elements of the armed forces of the FAFN would henceforth be held accountable for serious human rights violations that they commit and the perpetrators of such violations would remain accountable for their misdeeds even long after the Ivorian war and crisis have ended."[38]
>
> (iii) Issuance of an order for arrest of a prominent militia group leader on 1 June 2006 by a civilian prosecutor – for the first time in western Côte d'Ivoire – for his alleged involvement in the torturing to death of a civilian in the city of Duékoué by six members of his militia.

The overall situation in Côte d'Ivoire remains grave with serious problems in the supply of basic commodities such as water and electricity and with limited access to food, education and health services. The situation is further aggravated by the persistent increase in the number of people living under the poverty line: from 38% in 1999 to 44% in 2006. It is estimated that this figure increases by 2% every year. The situation is aggravated by the absence of identity documents and consequent complications in proving status for a large proportion of the population.

---

[36] FESCI is the acronym for *Fédération Estudiantine et Scolaire de Côte d'Ivoire*. This student group was once headed by Mr. Blé Goudé, the current leader of the *Jeunes Patriotes*. Both the FESCI and *Jeunes Patriotes* are now pro-government militias.

[37] See *Ninth Progress Report*, see above footnote 17, para. 38.

[38] *Ibid.*, para. 40.

The situation is particularly acute in the western region of Côte d'Ivoire, particularly within the Zone of Confidence, as a result of an increase in both inter-ethnic violence and crime.[39]

It is currently estimated that there are roughly 700,000[40] internally displaced persons (IDPs) in Côte d'Ivoire. Most live with host families, which contributes to the impoverishment of the population since survival even without additional dependents is difficult. Professor Walter Kälin, the Secretary-General's Representative on the Human Rights of IDPs, conducted a mission to Côte d'Ivoire from 17 to 24 April 2006. He stated on 25 April 2006 that:

> "Côte d'Ivoire is facing a protection crisis in terms of the human rights of the internally displaced. This is mainly due to the lack of an adequate response to their needs and the lack of knowledge of their rights."[41]

Professor Kälin called on the Government and international organizations "to draft without further delay a comprehensive strategy to address the challenges of internal displacement in the country, as well as a detailed plan of action to improve the current situation of the internally displaced."

VI. REFUGEE STATUS DETERMINATION

In light of the foregoing, it is apparent that Côte d'Ivoire is, for the time being, unstable and unsafe, with the rule of law having broken down, widespread violence, evident inter-communal strife and the Government absent from large parts of the country.

While recognizing that not all asylum-seekers from Côte d'Ivoire may qualify for refugee status under the 1951 Convention, UNHCR recommends that persons fleeing Côte d'Ivoire and seeking asylum abroad should be recognized as in need of international protection. Where such persons are found not to be eligible under the criteria of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, they should be accorded a complementary form of protection unless excluded based on the exclusion clauses of the 1951 Convention. In countries where the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa is applicable, Article I(2) should be applied with regard to those who are not excludable but are not eligible under Article I(1).

More particularly, UNHCR recommends that:

1) All claims should be examined in fair and efficient refugee status determination procedures, on the basis of their individual merits, against the criteria of the 1951

---

[39] *Ibid.*, para. 35.

[40] This figure is based on a study jointly conducted by the Ministry of Solidarity, Social Security and Disabilities and UNFPA in five administrative zones in Côte d'Ivoire (Abidjan, Daloa, Duekoue, Toulepleu and Yamoussoukro). According to the study, there were 709,377 IDPs in the country.

[41] See statement issued by the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, *Côte d'Ivoire Facing Protection Crisis in Terms of Human Rights of Internally Displaced Persons, Expert Says*, 25 April 2006, available at http://www.unhchr.ch/huricane/huricane.nsf/view01/EDDF5BD380E12ADFC125715B00508E85?opendocument.

Convention and/or 1967 Protocol or, where applicable, Article I(1) of the 1969 OAU Convention. Due attention should be paid to possible grounds for exclusion, in accordance with Article 1F of the 1951 Convention or Article I(5) of the 1969 OAU Convention, where applicable.

2) With regard to individuals found not to be eligible for refugee status under the 1951 Convention and/or 1967 Protocol, but the individual is not excluded from international protection, a complementary form of protection should be granted. Similarly, in countries where the 1969 OAU Convention is applicable, the current situation in Côte d'Ivoire warrants favourable consideration of the refugee claim under Article I(2) of the Convention, unless the exclusion clauses are found applicable.

3) No asylum-seeker from Côte d'Ivoire should be forcibly returned until such time as the security and human rights situation in the country has improved sufficiently to justify it.

UNHCR Geneva
October 2006