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*Human Rights Implementation Centre, University of Bristol- individual UPR submission-
Côte d'Ivoire – April/May 2014 (19th session)*

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1. The Human Rights Implementation Centre (HRIC) is a research Centre of the Law School of University of Bristol, established in 2009. It provides an international focus for developing expertise, advice and scholarship on the role of institutions, whether those are at the national, regional or international levels, in the implementation of human rights. These institutions include national governments and non-governmental organisations, but also statutory and constitutional bodies such as national human rights institutions, as well as regional bodies, such as the African Commission on Human and Peoples' Rights, the Council of Europe, the Organisation on Security and Co-operation in Europe, as well as those under the UN, both treaty bodies, the Special Procedures and the OHCHR. The Centre has developed particular expertise *inter alia* in torture prevention and the implementation of the UN Convention against Torture (UNCAT) and its Optional Protocol (OPCAT) which is the basis of the present submission.
2. The present document is the individual submission of the HRIC for the second cycle of the Universal Periodic Review of Côte d'Ivoire and concerns specifically the obligations of the country under Articles 1 and 4 of the UNCAT.
3. Côte d'Ivoire acceded to the UNCAT on the 18 of December 1995 and therefore in accordance with Article 19 of the UNCAT it was due to submit its initial report to the Committee against Torture (CAT) within one year of becoming a party to the instrument. To the date of the present submission however Côte d'Ivoire has failed to submit a single report to the CAT which means that its initial report is outstanding by 15 years.

4. In 2013 Côte d'Ivoire presented its initial report to the Human Rights Committee (HRC), pursuant to the requirements of the International Covenant on Civil and Political Rights (ICCPR) with 19 years delay. The HRC is due to consider this report in its forthcoming sessions. However in this report, Côte d'Ivoire has stated their intention 'to make good on its commitment to submit a report to the Committee against Torture in the near future'.¹
5. Article 4 of the UNCAT obliges States parties to 'ensure that all acts of torture are offences under its criminal law' and to 'make these offences punishable by appropriate penalties'. In its General Comment No 2 the CAT has further clarified that 'States parties must make the offence of torture punishable as an offence under its criminal law, in accordance, at a minimum, with the elements of torture as defined in article 1 of the Convention, and the requirements of article 4'.²
6. Article 1 of the UNCAT is essential in order to ensure the proper implementation of Article 4 as, according to the CAT, while Article 1 does not set out a specific legal obligation to States parties, each State party is required by Article 4 to ensure that all acts of torture, as defined in Article 1, are offences under its domestic criminal law.³
7. Article 1 of the UNCAT sets out the definition of the term 'torture' which is to encompass any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.
8. The Constitution of Côte d'Ivoire contains a general prohibition of torture in Article 3 which reads as follows: 'Slavery, forced labour, inhuman and cruel, degrading and humiliating treatment, physical or mental torture, physical violence and disfigurement and anything that degrades the human being are forbidden and punishable by law'.⁴
9. The Criminal Code of Côte d'Ivoire however does not contain a specific individual offence criminalising acts of torture *per se* nor is there a specific definition of 'torture' in the national legislation. Albeit, in its 2013 report to the HRC Côte d'Ivoire has argued that its Criminal Code does forbid certain acts of torture or inhuman and degrading treatment and punishment via Articles 138, 139, 344 and 374.⁵

¹ Human Rights Committee, Initial reports of States parties due in June 1993. Côte d'Ivoire. UN Doc CCPR/C/CIV/1 (2013); at para 271.

² Committee Against Torture. General Comment No. 2. UN Doc CAT/C/GC/2 (2008), at para 8.

³ See: Committee Against Torture. Consideration of reports submitted by States parties under article 19 of the Convention. Togo. UN Doc CAT/C/TGO/CO/1 (2006), at para 10; Committee Against Torture. Consideration of reports submitted by States parties under article 19 of the Convention. Guatemala. UN Doc CAT/C/GTM/CO/4 (2006), at para 10; Committee Against Torture. Consideration of reports submitted by States parties under article 19 of the Convention. Republic of Korea. UN Doc CAT/C/KOR/CO/2 (2006), at para 4.

⁴ Human Rights Committee, Initial reports of States parties due in June 1993. Côte d'Ivoire. UN Doc CCPR/C/CIV/1 (2013); at para 273.

⁵ *Ibid*, at para 274.

10. However it must be noted that Article 138 prohibits the use or torture against the civilian population during time of war or occupation whilst article 139 prohibits the use of torture against prisoners of war; both are punishable by the death penalty. Article 344 and 374 make punishable by life imprisonment the use of torture in the murder of a victim or the unlawful detention of an individual respectively.⁶
11. Therefore the prohibitions within Côte d'Ivoire Criminal Code, focusing solely on torture committed in times of war and against prisoners of war or in the commission of murder or an unlawful detention, do not cover all aspects of torture as defined in the Article 1 of the UNCAT. The Criminal Code does not cover situations where severe mental or physical suffering is inflicted to obtain a confession, as a punishment or due to discrimination against the individual; nor does the Criminal Code explicitly prohibit any acts of torture to be carried out by or with the acquiescence of a public official or someone acting in an official capacity. This means that there are significant shortcomings with the implementation of Article 4 of the UNCAT in Côte d'Ivoire.
12. It is important to note that the CAT has highlighted the significance of naming and defining the crime of torture with discrepancies in the definition noted as creating 'actual or potential loopholes for impunity'⁷. The Committee has argued that the codification of the crime of torture is also necessary to advance the overall aims of the UNCAT by:
 - ' (...) alerting everyone, including perpetrators, victims, and the public, to the special gravity of the crime of torture. Codifying this crime will also (a) emphasize the need for appropriate punishment that takes into account the gravity of the offence, (b) strengthen the deterrent effect of the prohibition itself, (c) enhance the ability of responsible officials to track the specific crime of torture and (d) enable and empower the public to monitor and, when required, to challenge State action as well as State inaction that violates the Convention'.⁸
13. These deficiencies within the Criminal Code of Côte d'Ivoire are likely to have an impact on the current situation where, according to Côte d'Ivoire itself 'failure to bring charges has made it impossible to prosecute perpetrators of torture in Côte d'Ivoire'.⁹
14. Consequently, the HRIC would like to raise the following issues for the consideration by the UPR:
 1. The lack of a definition of 'torture' compatible with Article 1 of the UNCAT in Côte d'Ivoire legislation;
 2. The failure to criminalise torture as a specific offence in the Criminal Code of Côte d'Ivoire;

⁶ Law No. 1981-640 of July 31, 1981 establishing the Criminal Code (amended by Act No. 1995-522 of July 6, 1995); Articles 138, 139, 344 and 374.

⁷ Committee Against Torture. General Comment No. 2. UN Doc CAT/C/GC/2 (2008), at para 9.

⁸ Ibid, at para 11.

⁹ Human Rights Committee, Initial reports of States parties due in June 1993. Côte d'Ivoire. UN Doc CCPR/C/CIV/1 (2013); at para 277.

3. The 15 year delay on behalf of Côte d'Ivoire to submit its initial report to the CAT.

Sincerely yours,

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