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Justice in Côte d'Ivoire Ouattara's Dilemma

Summary

- Recently, the Ivorian President Alassane Ouattara has been criticized for failing to ensure impartial justice for crimes committed during the 2010/2011 post-election crisis.
- During the crisis, both forces supportive of ex-president Laurent Gbagbo as well as those forces who brought Ouattara to power were responsible for war crimes, but so far only former Gbagbo loyalists have been tried for the atrocities they carried out.
- The international community is right in criticizing Ouattara for his failure to bring his own supporters to court, which constitutes a major stumbling block for the political reconciliation process that remains stalled since Gbagbo's party, the Front Populaire Ivoirien (FPI), boycotted the December 2011 parliamentary elections.
- However, pressure on Ouattara has to be exerted with care because the Ivorian president is facing the difficult challenge of bringing the influential zone commanders (*Com'zones*) to justice; they were responsible for most of the crimes committed by pro-Ouattara forces during the post-election crisis but continue to hold key positions in the Ivorian security forces.

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Introduction

After Alassane Ouattara was sworn in as Ivorian President in May 2011 following the violent post-election crisis between December 2010 and April 2011, he benefitted from unconditional international support. Under Ouattara's leadership, Côte d'Ivoire managed to quickly recover economically, attaining an estimated growth rate of 8.6 percent for the year 2012.¹ To push the recovery of West Africa's second-biggest economy that had suffered severely during the 2010/2011 crisis, the donor community cancelled a large part of the country's debt and provided the Ivorian government with further loans. This was done very quickly and with almost no strings attached.

Recently however, international pressure on Ouattara has been slowly mounting, mainly due to the Ivorian President's controversial handling of the issue of transitional justice. In contradiction to promises Ouattara originally made, the Ivorian judiciary has so far only prosecuted atrocities committed by pro-Gbagbo forces during the post-election crisis but not those crimes Ouattara's own forces were responsible for. This has proven to be a major stumbling block to the political reconciliation process and spurred increasing international criticism in recent months. In early December 2012, for example, U.S. Ambassador to Côte d'Ivoire Phillip Carter III openly expressed worries about this practice and called for an "equitable justice," arguing that all those

who committed crimes during the crisis have to be judged.² This followed statements by various human rights organizations, which have accused the Ivorian government of practicing “victor’s justice.”³

Allegations of “Victor’s Justice”

Shortly after Alassane Ouattara took office, he pledged to ensure impartial justice for war crimes committed during the post-election crisis. In July 2011, a national commission of inquiry was created to investigate wrongdoings by all conflict parties, including the pro-Ouattara camp. In its final report, published in July 2012, the commission concluded that a great number of the killings during the post-election crisis were carried out by forces loyal to Ouattara.⁴ However, in contradiction to the commission’s results, the Ivorian judiciary has so far only tried Gbagbo loyalists for their crimes and spared members of the pro-Ouattara forces from prosecution. In October 2012, the first trial of a leading military officer loyal to Gbagbo led to the sentencing of ex-Republican Guard general Brunot Dogbo Blé to 15 years in prison. This marked the beginning of a series of trials in which about 40 ex-members of Gbagbo-loyalist forces will be judged.

The unfulfilled promise of impartial justice has proven to be a serious stumbling block to reviving the reconciliation process in Côte d'Ivoire that has stalled since Gbagbo’s party, the Front Populaire Ivoirien (FPI), boycotted the parliamentary elections held in December 2011. The FPI, which hasn’t participated in the regular political process ever since, remains hostile to any dialogue with the Ivorian government and has made impartial justice an important condition for its return to the negotiating table. The absence of impartial justice also complicates the establishment of unified security forces, which is essential to bring stability to the country in the long term. The Ivorian security forces continue to be heavily dominated by leading members of the former Forces Armées des Forces Nouvelles (FAFN) that supported Ouattara during the post-election crisis. The fact that some of the leading figures in the country’s security forces are accused of being responsible for killing Gbagbo supporters makes the integration of the remaining armed Gbagbo loyalists highly difficult.⁵

Combined, the existence of an anti-Ouattara opposition refusing dialogue, FAFN-dominated security forces and a large number of active pro-Gbagbo fighters outside of the newly-established security forces recently fueled an upsurge in violence in Côte d'Ivoire. Between June and October 2012, Gbagbo loyalists carried out a number of attacks on security installations on the borders with neighboring Ghana and Liberia as well as in Abidjan, the economic capital of Côte d'Ivoire. These attacks were presumably orchestrated and financed by pro-Gbagbo hardliners who are based in Ghana, since they fled Côte d'Ivoire after Gbagbo was arrested in April 2011.⁶

The Challenge of Dealing with the *Com’zones*

Achieving impartiality in dealing with atrocities carried out during the post-election crisis is a balancing act for Ouattara. The Ivorian president only has limited influence on those of his supporters who were mainly responsible for these crimes. This is especially true with regard to the powerful zone commanders (*Com’zones*), who played a decisive role in the FAFN and hold central positions in the Ivorian security forces. If Ouattara tries to strip them of their positions and power too quickly, there is a risk that they will turn their back against him, which could worsen the security situation instead of improving it.

Four *Com’zones* (Eddie Médi, Fofana Losséni, Chérif Ousmane, and Ousmane Coulibaly) were explicitly identified as “key leaders” in the killings committed by pro-Ouattara forces.⁷ But none of them has been held accountable so far. Fofana Losséni, who was involved in the massacre

in the city of Duékoué (March 2011) during which several hundred largely Gbagbo supporters were killed, was even charged with commanding a surge on pro-Gbagbo fighters in the west of the country in June 2012. Ousmane Coulibaly has been, until September 2012, in command of a military camp in Abidjan's Yopougon neighborhood, where supposed Gbagbo supporters were unlawfully detained and even tortured in reaction to the attacks during summer 2012. In August 2012, he headed a counter-offensive in the city of Dabou, where one of the attacks on the Ivorian security forces was carried out. The offensive was characterized by a great number of arbitrary arrests.⁸

What makes dealing with the *Com'zones* even more delicate for Ouattara is that their loyalty to the president has been limited ever since Ouattara won the presidential election in December 2010. Between 2002 and then, their commander-in-chief was not Ouattara, but Guillaume Soro, former head of the *Forces Nouvelles* (FN) and prime minister under Laurent Gbagbo between 2007 and 2010. Only when Ouattara appointed Soro as his prime and defense minister in March 2011 did the *Com'zones* pledge their full support to Ouattara.⁹ As of today, Guillaume Soro's position on how to deal with the *Com'zones* remains opaque. Soro, who since March 2012 has been president of the National Assembly and remains one of the most powerful political figures in the country, continues to be influential among his former military leaders. It is thus only in close cooperation with him that Ouattara will be able to diminish their prominent position. However, it is not known whether Soro (who as the former FN leader runs the risk of also being targeted by the Ivorian judiciary or the International Criminal Court in the future) may seek to distance himself from the *Com'zones* and support Ouattara in sidelining them. He might instead see it as more beneficial to keep the *Com'zones* in power to maintain his influence inside the security forces.

The Way Ahead

The international community is right in criticizing Ouattara for his failure to ensure impartial justice. Making a real effort to bring the *Com'zones* to Ivorian courts and trying them for crimes they were responsible for during the 2010/2011 post-election crisis remains an important step to find a way out of the deadlocked reconciliation process. Only if Ouattara makes convincing moves in this direction will it be possible to bring the FPI into the peace process in the medium term. It remains to be seen whether the FPI drops its main precondition to returning to the negotiating table: the liberation of Gbagbo, who was transferred to the International Criminal Court (ICC) in November 2011. But this is probably unrealistic and there is a chance that the FPI might change course if the Ivorian government shows itself willing to end its practice of "victor's justice."

However, patience is needed in this regard and pressure on Ouattara should only be exerted with extreme care. Recently, there have been signs that Ouattara might finally start taking on the *Com'zones'* influence. In August 2012, he moved some of the *Com'zones'* to other posts inside the security forces, which could be seen as a demotion (and possibly a first step towards their isolation).

At the same time, others (such as Ousmane Coulibaly for example) were named prefects (regional administrators) of several key provinces of the country, which puts them in even more powerful positions than before. It is thus still not clear which direction Ouattara is heading. But given his very limited room for maneuver, this is hardly surprising.

Notes

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ABOUT THIS BRIEF

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