Country: Ivory Coast

Dialogue, Truth and Reconciliation Commission
2011-2014 (2 years)

A commission set up to examine the causes of the successive crisis that occurred in Ivory Coast and shed more light on the ensuing grave Human Rights violations, from the advent of the multiparty system to the post-electoral violence (1990 - 2011). Death in detention, political assassinations, mob lynching's, enforced disappearances, mass murders, excessive use of force by State’s agents leading to death and torture leading to death.

Time frame of violations: 1990-2011

Background

1. Legal basis

Presidential decree No 2011 – 167

2. Terms of Reference

Developed as part of peace negotiations.
To develop an appropriate classification of the various HR violations that occurred between 1990-2011. To locate and attribute responsibilities on past and recent political events. To give a platform to the victims and their families by proposing means of any kind that may contribute to heal the trauma they suffered. A commission with a truth finding mission that obtains an acknowledgement of facts from the alleged authors and gives recommendations of pardons where appropriate. To identify and propose means to fight injustice, inequality, discrimination and hatred in all their forms. Educating people about peace, contribute to the emergence of national consciousness and social cohesion, respect for diversity and democratic values. To produce a report that examines and classifies the various Human Rights violations that occurred during 1990-2011. The attribution of individual responsibilities on past and recent national socio-political events; A truth seeking platform that is victim oriented and that strengthens the social cohesion and promotes democratic values all across the country.
### 3. Applicable law


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#### Commission of Enquiry (Col)

**General**

1. **Powers of Col**

The commission may undertake all measures of inquiry, including getting an expert's testimony and request any relevant documents in accordance with the legislation.

2. **Independence**

According to the decree, the Commission was created as an independent body with financial autonomy. However funding has been limited and it has been difficult to exert independence.

3. **Impartiality**

The Presidential decree sought to ensure the impartiality of the commissioners by forbidding them to participate in any activity that would compromise their integrity, independence and honour.

4. **Transparency**

Hearings were held in public and journalists and observers could attend, except for those hearings held in camera for public order and security reasons. The archives of the public hearings of the commission are available on the commission’s official website.
5. Invocation of ubuntu/related concept

No mention of an Ubuntu related concept, however there was a reference to the Ivorian cultural identity and principles that require that a wrongdoer, who recognises his wrongs and asks for forgiveness, should be granted pardon. The overarching principles were national reconciliation through dialogue and promotion of social cohesion and democratic values.

6. Gender mainstreaming

7. Interrelationship with other accountability mechanisms

There were prosecutions and some 15 pro-Gbagbo associates have been charged; seven international arrest warrants have been issued; and 15 senior staff from the previous regime are under house detention without charge. A UN Commission of Inquiry report presented to the UN Human Rights Council on 15 June urged impartial and transparent trials of those responsible for “grave crimes”. The Commission has a list of suspects most responsible for post-election crimes, but has chosen to keep it from the public. There have also been international arrest warrants issued by the ICC for certain members of Gbagbos government.

8. International representation

There were commissioners representing the interests of foreigners residing in Ivory Coast and Ivorians residing elsewhere in the world.

9. Adequate staffing

The commission comprised of bodies such as:
- The presidency, the executive committee and the general secretariat.
- The Plenary Assembly.
- The specialized committees such as: the heuristic committee, the hearings and investigations committee, the reparations committee and the memorial committee.
- 37 local committees, one in each capital of the Ivorian regions, tasked with raising awareness among the population to the different phases of the process of transitional justice.
1. **Standard of proof**

No indication of a standard of proof. The commission was only required to gather all the relevant information and make recommendations.

2. **Method of case selection**

The commission's mandate required it to investigate any relevant case pertaining to the events and various crises from 1990 to 2011.

3. **Data collection**

Data was collected through investigations, testimonies, expert opinions and in loco investigations.

4. **Witness participation and protection**

No specific mention thereof.

5. **Special protection and participation measures**

The commission was empowered to hold hearings in camera if it deemed it necessary for security reasons and alleged perpetrators were eligible for pardon if they acknowledged their implication and provided information that would help the commission carry out its truth seeking mission.

6. **Financial resources**

The resources of the CDVR include budget allocations and grants from the State, donations and bequests of national and international origin, consistent with the mission and regulations of the CDVR. The CDVR budget proposals are developed by the Plenary Assembly and forwarded to the Minister of Economy and Finance for their approval and inclusion in the budget of the state. The expenses of the CDVR are planned and evaluated in the annual budget. Their total budget was reported to amount to approximately 15 million US dollars.

7. **Location of hearings**

Abidjan, but empowered to hold hearings anywhere else in the country if the need arose.

**Findings**
1. Norms relied on (re legitimate killing)

no specific mention

2. Challenges

The commission's budget was tight and held to have been misused to the point that the commission could not afford to perform concrete field work. There are two serious concerns with the CDVR: it lacks proper funding and there are insufficient safeguards to ensure the Commission's independence from the government.

3. Findings

The commission identified and classified the Human Rights violations that occurred from 1990 to 2011, a geo-type and precise mapping of human rights violations that occurred in Côte d'Ivoire since 1990 were made. The commission recorded 72,483 victims including 28,064 women and 757 children.

4. Recommendations

The commission recommended speedier prosecutions of the alleged perpetrators. It also proposed National days of memory and forgiveness.

4. Politics of memory

Many who have fled the country are deeply sceptical that such a Commission could be impartial. "You're going to go to talk to a Commission, tell them how your family was killed and you want to forgive, then what?" Barakissa Ouédraogo, one of more than 100,000 Burkinabé who fled Côte d'Ivoire for Burkina Faso, told IRIN. "You return to the street because your home is flattened."

5. Incorporation of local justice mechanisms

There was a specific need to interact with local justice mechanisms as the commission from the outset recognised that the realisation of social cohesion would only be possible if ethnic dissonance was tackled at the grass-root or community level.
1. Availability

The final Report of the commission was officially handed to the President of the republic but as of yet has still not been made available to the public.

2. Impact

The CDVR report led to the creation of the national commission for reconciliation and compensation of victims on March 25th 2015 with a compensation fund of 10 billion Francs CFA.

**Implementation and consequences**

1. Institutional framework for implementation

No specific institutional measures put in place as a result of this commission. There have however been some efforts at implementation.

2. Fulfilment of Mandate

Only supporters of Gbagbo have so far been charged by Ivorian courts.

3. Government response

The report was well received by the government which created a compensation fund of 10 billion CFA Francs for the victims identified.

4. Civil society response

The works and findings of the CDVR was not all around well received with accusations of not being victim oriented and that the victims and their families were not given the platform promised and were not heard. The president of the CDVR Mr Charles Banny was perceived as far from being impartial due to his political affiliations, he was Gbagbo's prime minister and subsequently Ouattara’s advisor during the 2010 presidential elections that lead to the post electoral violence. They felt Banny was using the commission to serve his own political ambitions. The other criticism was that the CDVR had their priorities wrong as they spent too much time analysing the underlying structural causes of the conflict, rather than focusing on seeking the truth about the events that occurred during the crisis and bringing justice and reparations to victims.
5. CSO galvanisation

Civil society has been vocal in calling for the implementation of the recommendations of this report especially as relates to the social cohesion initiatives at a grassroots level. They have also been vocal about the follow-up arrests and prosecutions which only seem to target former Gbagbo allies when both sides of the political divide were responsible for violence in one way or another.