

Cote d'Ivoire's Statelessness Problem: Utilizing Multiple Tools to Support Implementation of Judgments

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In 2015, the African Commission on Human and Peoples' Rights (ACHPR) issued its decision in [*People v. Cote d'Ivoire*](#). This case, which concerns statelessness and the right to citizenship for descendants of historic migrants in Cote d'Ivoire, is a good example of how strategic advocacy that is coordinated with local actors can ensure significant implementation of regional human rights decisions. Such advocacy establishes roles for a broad range of actors: the litigants, the state, the ACHPR, Cote d'Ivoire's own national human rights commission and domestic civil society groups working together in coalition. As a result, the Commission's decision has made a significant contribution towards the country's efforts to address its statelessness problem. This can be attributed to several factors, including critical changes in the political environment in the country post-2010, the specificity of some of the relief ordered by the ACHPR, and the significant and robust advocacy undertaken by the litigants and a local civil society coalition to ensure state compliance. Beyond addressing Cote d'Ivoire's statelessness problem, implementing this decision is also crucial to strengthening regional human rights bodies like the ACHPR.

Brief Background

After gaining its independence from colonial rule in 1960, Côte d'Ivoire pursued, under the leadership of then President Felix Houphouët-Boigny, a policy of broad ethnic tolerance and it welcomed the plantation-worker immigrants from neighboring countries. Following Houphouët-Boigny's death in 1993, however, new citizenship policies were introduced by his successor, former President Henri Konan Bedie, based on the ill-defined and exclusionary concept of "Ivoirité." Individuals from the north of Côte d'Ivoire, people known as "dioulas" -- a term applied to predominantly Muslim groups of various ethnicities -- were the ones primarily affected with their citizenship questioned or their right of access to citizenship obstructed. In addition to having their legal citizenship jeopardized, individuals suffered discrimination based on their names, their accents, or their physical appearance and manner of dress, if these somehow indicated "Northern origin." According to the nationality code (of 1961, subsequently modified in 1972), even those who had previously been citizens became "foreigners" if they did not have one parent who was born in Côte d'Ivoire (or on the territory that became Côte d'Ivoire after independence). A law passed in 1998 (Loi 98-750 du 23/12/1998, relating to rural land) also set out to prohibit "foreigners" from owning land, voting, or running for public office.

In light of the lack of any national-level remedy to this pervasive, structural discrimination, in 2006, the Open Society Justice Initiative (OSJI) filed a case before the ACHPR on behalf of the affected groups in Cote d'Ivoire. The complaint argued that these Ivoirian policies and practices constituted discrimination, violated the right to citizenship and freedom of movement, and denied people the rights to family and development guaranteed in the African Charter on Human and Peoples' Rights. Specifically, the Justice Initiative argued that the manner in which one acquired nationality in Côte d'Ivoire was so vague that it was impossible to apply in a consistent and non-discriminatory fashion and, if not corrected, would continue to permit wide-scale discrimination.

In 2015, after almost a decade, the Commission issued a [landmark decision](#), making critically important findings about the right to nationality that were hitherto not explicit in the African Charter. The decision noted that Côte d'Ivoire's discrimination against "dioulas" is not reflective of the ethnic and cultural diversity that contributed to the formation of the state of Côte d'Ivoire at independence, and that a nationality law that was applied discriminatorily to this group was not only dangerous but failed to appreciate the formation of the country itself. The Commission ordered Cote d'Ivoire to amend its constitution and bring its nationality code in conformity with the African Charter and the [statelessness conventions](#), and put in place – through legislative and administrative means – a simplified declaration procedure that would enable the recognition of Ivoirian nationality to all those affected. The Commission further ordered the state to: (1) improve its birth registration system and ensure that it be administered efficiently and free of discrimination, (2) provide fair and independent courts to hear nationality cases, and (3) introduce sanctions for public officers that discriminatorily or without cause deny access to legal identity documents.

Implementation and Impact

After the ACHPR spoke, OSJI, together with *Le Mouvement Ivoirien des Droits Humains* (MIDH), began working on legal and administrative reforms to Cote d'Ivoire's practices on citizenship that would bring them in line with the Commission's decision. We also sought to inform affected communities about the decision and the issues therein, mobilized a civil society coalition that would support the implementation of the decision, and undertook broader advocacy on issues around statelessness in the country. Several key factors were responsible for the progress that has been made to date.

Transition in Political Environment

Notably, in this case, the ACHPR's judicial decision dovetailed with a changing political environment in Côte d'Ivoire. When the decision was first issued, the government had already introduced a series of reforms and amendments to expand the acquisition of nationality, ratified the Statelessness Conventions, and supported a Protocol to the African Charter on Human and Peoples' Rights on the Right to a Nationality in Africa. The country had also spearheaded a regional discussion on nationality and statelessness by serving as host to the Ministerial Conference on Statelessness in ECOWAS in 2015. These reforms were made possible mainly because President Alassane Ouattara -- who had assumed office in 2010 – was himself a victim of this divisive law as it had barred him from running for the country's highest political office. Having previously served as the country's Prime Minister, it is believed that the nationality law was enacted, in part, to target Ouattara and bar him from running for office after rumors surfaced that his father had been born in neighboring Burkina Faso. He was eventually allowed to run for office, however, and his presidency ushered in much needed reforms for the country's citizenship law. This change in political environment also provided an opportunity for constructive engagement with the government once the ACHPR issued its 2015 decision.

The ACHPR acknowledged these reforms in its decision; however, it noted that they had not yet addressed the problems identified in the original communication, nor addressed the root causes of people without a nationality. Indeed, at the time of the Commission's decision, an estimated

700,000 people remained stateless in Cote d'Ivoire, approximately 300,000 of whom were "foundlings," or children of unknown parentage. To address these gaps – and to ensure that the Commission's decision would be complied with – the Justice Initiative, together with partners, developed a robust advocacy strategy to support implementation of the Commission's decision.

Role of Civil Society

Mobilizing local civil society was important in many respects. The coalition known as Civil Society against Statelessness (CICA) was set up in March 2016 with the support of OSJI and the UNHCR office in Abidjan. It serves as the umbrella organization for individual NGOs and today brings together around 30 leading human rights NGOs in the country. Its mandate is to coordinate interventions on statelessness, interface with the government, and lead strategic advocacy around statelessness in Cote d'Ivoire. CICA holds quarterly coordination meetings involving NGOs, UNHCR, government and certain technical and financial partners. In addition to promoting domestic literacy on statelessness and the ACHPR decision, CICA was therefore in a strong position to support strategic advocacy at national and international level and ensured better coordination of initiatives and pooling of efforts in the fight against statelessness in Côte d'Ivoire.

With the appointment of a government focal point on statelessness within the country's justice ministry, the coalition also ensured better coordination and collaboration with government. When the government pursued efforts to develop and eventually validate a national action plan on eradicating statelessness, for instance, civil society had a seat at the table as a result of the coalition. The government has since engaged CICA as an official partner for implementation of the national action plan. A local civil society constituency like CICA and its members was also in a better position to provide credible feedback on implementation to the ACHPR. For this reason, when Cote d'Ivoire's human rights report was due for review by the ACHPR in 2016, a shadow report and feedback from local civil society proved to be a valuable support to commissioners as they engaged with Ivorian state representatives around the case.

Coordinated Advocacy and the ACHPR's Role

In many cases, ensuring state implementation of regional human rights decisions requires proactive efforts and engagements by the litigants/complainants. It also requires engagement at both national and regional levels to be coordinated. In addition to working with the defendant-state, litigants must always engage the ACHPR and honor their reporting obligations under the Commission's rules of procedure. To that end, within 180 days of the Commission's decision, the Justice Initiative made a submission to the ACHPR opining on what the Ivorian government had (and had not done) to implement the decision. Unlike many other cases, the Ivorian government provided a detailed response to that submission, which then became the basis of a roundtable discussion during the Commission's ordinary session in April 2016. That roundtable event brought together representatives from the Commission, the Ivorian government, civil society, the national human rights commission and the Justice Initiative to discuss what needed to be done to implement the decision.

The role of the Commission, as its rules make clear, is also crucial to supporting state compliance with its decisions. To that end, in addition to engaging government at the national level, it is important to note that litigants and civil society were in a position to provide information to the ACHPR and urge it on the measures it needed to undertake in order to support implementation. During the Commission's promotional visit to Cote d'Ivoire in 2016, for instance, commissioners met with civil society groups, gathered information, and raised issues relation to the decision in meetings with government officials. On that basis it was important that, during the Commission's 2016 session, commissioners could then seek answers from the government delegation on what needed to be done to ensure compliance with the decision. A coordinated feedback loop between national level-advocacy and regionally focused advocacy was therefore critical.

Constructive Dialogue among Stakeholders

Constructive dialogue among various stakeholders is crucial to ensuring compliance. In this case, such dialogue brought various actors including the government, the ACHPR, affected communities, litigants and civil society to discuss the importance of the decision, the challenges the country faced, and opportunities for ensuring implementation. During the April 2016 roundtable dialogue, stakeholders were able to hold a very honest discussion on how to work together to ensure implementation of the decision. Dialogues like this can be rare but are important to foster collaboration among the parties and, as noted, have involvement from the ACHPR itself. That regional-level dialogue was later replicated at the national level when the country's national human rights commission hosted a daylong conference to discuss compliance with the ACHPR decision. The conference provided another opportunity for the human rights commission, government officials and agencies, international organizations, victims, and civil society to discuss implementation of the decision. This was important as it not only provided a forum for local actors to discuss implementation of the decision, but also underscored the crucial role for national human rights commissions in monitoring compliance and in working with various actors (including the government's own focal point on statelessness) to help play a coordinating role for implementation.

Five years after the Commission's decision, it is noteworthy that Cote d'Ivoire has undertaken significant reforms to address its statelessness problem. These include:

1. Conducting a referendum and amending its constitution to eliminate its citizenship discrimination provisions (articles 35 and 65), as recommended by the ACHPR.
2. Becoming a party to the 1954 UN Convention on Stateless Persons as well as the 1961 UN Convention on the Reduction of Statelessness and ratifying the African Charter on the Rights and Welfare of the Child, which contains provisions relating to children's right to nationality.
3. Adopting the Abidjan Declaration, which contains ambitious commitments to address and eradicate statelessness in West Africa, such as ensuring that every child acquires a nationality at birth and that all unaccompanied children ("foundlings") are considered nationals of the state in which they are found. As required by the Abidjan Declaration,

the state began working in 2016 with civil society organizations to develop, by 2024, a “National Action Plan for the Eradication of Statelessness.”

4. Finally, in November 2018, Cote d'Ivoire adopted two new laws to prevent statelessness. The first was the Civil Status law, meant to reform the process of obtaining birth registration documents. With this new law, the once cumbersome process of obtaining birth registration, which excluded thousands of people from the system, has been simplified and decentralized. The second was the Special Law, which restored identity for those who have been without any form of documentation and therefore at risk of statelessness.

The implementation of these two laws -- as well as the process of renewing national identity cards -- began in early 2020. Civil society input, as part of its implementation advocacy, has been crucial to government's efforts to institute these reforms. Cote d'Ivoire now has a dedicated local civil society coalition that has built expertise on the issue of statelessness in Africa, has remained committed to ensuring that the government implements the reforms it has put in place, and is able to share its expertise with counterparts in other African countries. For instance, CICA has now become an active player in broader efforts to see the African Union adopt a “Protocol to the African Charter on the Right to Nationality in Africa.” But working with civil society to support implementation of a decision is not enough. Efforts should also be made to build the capacity of civil society, in order to focused on constituency building and to ensure the sustainability of the gains made.

All of this is a good example of how advocacy not only supports implementation of judgments or ensures legal and administrative reforms, but also works towards other goals in the process – creating a constituency of engaged actors, building skills locally to continue the body of work around the subject matter of the litigation.

Still, significant gaps remain. Many people in Cote d'Ivoire continue to lack documentation, are stateless, or remain at risk of being stateless. Implementing new laws and administrative reforms will require continued work by local civil society, engagement and monitoring by the national human rights commission, ongoing coordination with international partners, and continued commitment from successive Ivorian governments. And, as noted, ongoing engagement by the ACHPR is crucial to ensuring state compliance with its decision as well. While the Commission has had some limited engagement with the government on the need to implement its decision, such engagement has been driven mainly by civil society and litigants. It is important, then, that the Commission uses the provisions of its own rules relating to implementation. such as appointing a rapporteur for specific communications, providing information in its activity report to the African Union on the status of implementation, and requiring information from states on what they have done to ensure implementation of decisions. It is therefore critical for the Commission to engage the Ivorian government on the status of implementation of its decision, especially to identify the gaps that remain at the national level.

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