

October 16, 1999

TO: SENATOR DOLE

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SUBJECT: **BACKGROUND TO YOUR STATE DEPARTMENT SPEECH ON
DISABILITY, OCTOBER 19, 1999**

On Tuesday, October 19th, you will speak at the State Department for National Disability Employment Awareness Month. Your speech discusses your 1993 bill to include people with disabilities in the State Department's annual reports on the human rights worldwide. Your bill was a great signal, although this subject still remains largely undeveloped.

BACKGROUND

In July 1993, you introduced, S. 1256, the "Disability Rights in American Foreign Policy Act." This legislation would have instructed the Secretary of State to report on the situation of people with disabilities in the State Department's annual Country Reports on Human Rights Practices. This annual report describes the human rights situation, country-by-country. These reports are closely read by foreign governments and human rights organizations.

Even before the Senate could take action on your bill, the Secretary of State implemented its purpose. The State Department's 1993 telegram to its human rights officers at U.S. embassies included instructions to report on people with disabilities. That telegram also stated that you were responsible for these instructions.

Six human rights reports have now appeared that include people with disabilities -- 1993 through 1998. Sample 1998 reports from Australia and the Ivory Coast are attached.

DISCUSSION

Two points. First, the reports on people with disabilities usually only describe laws which either discriminate or provide accommodations. These reports should be improved by including more information on the actual situation of people with disabilities.

Second, policy analysts have given the disability section of these Reports little attention. This is another example of the lack of policy work on disability -- as opposed to advocacy. As another example, ADA and other disability issues receive very attention from think tanks and other policy research centers. This kind of work is essential if our disability policies and laws are to be effective. You may want to include this theme in future speeches to business leaders and others -- recommending their support for such work.

state and territorial legislation. The Federal Court and the High Court have very limited roles to play.

The law provides for the right to a fair trial and an independent judiciary vigorously enforces this right.

When trials are conducted in local courts, the magistrates sit alone. In higher courts, namely the state district or county courts and the state or territorial supreme courts, trials are usually conducted before a judge and jury. The jury decides on the facts and verdict after a trial conducted by a judge.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence.—The law prohibits such practices. Government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

Section 2. Respect for Civil Liberties, Including:

a. *Freedom of Speech and Press.*—Although there is no bill of rights, in two decisions the High Court has indicated that freedom of political discourse is implied in the Constitution. The Government respects these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press, including academic freedom.

b. *Freedom of Peaceful Assembly and Association.*—Although these rights are not codified in law, citizens exercise them without government restriction.

c. *Freedom of Religion.*—The Constitution provides for freedom of religion and the Government respects this right in practice. A provision of the Constitution precludes the adoption of a state religion. Minority religions are given equal rights to land, status, and building of places of worship.

d. *Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation.*—The law provides for these rights, and the Government respects them in practice.

The Government encourages migration by skilled migrants, family members, and refugees.

The Government cooperates with the United Nations High Commissioner for Refugees and other humanitarian organizations in assisting refugees. There is no provision for first asylum. However, during the political crisis in Indonesia the Government allowed ethnic Chinese Indonesians to extend their temporary visas in Australia, and granted them, in effect, temporary protected status. In the case of undocumented migrants and asylum seekers, the Government either grants a protection visa, with full residence and employment rights, or refuses it, with no intermediate measures. The Government has continued to repatriate forcibly individuals who it has determined do not have a valid claim to refugee status in accordance with relevant United Nations convention definitions. Human rights and refugee advocacy groups maintain that the Government's refugee and asylum adjudication process is applied inconsistently.

Under the Migration Reform Act of 1994, asylum-seekers, who arrive at the border without prior authorization to enter the country, are automatically detained, but may be released from detention if they meet certain criteria—including age, ill-health, and experiences of torture or other trauma. The majority of asylum seekers are detained for the duration of the often-prolonged asylum process. The detention policy has led to extensive litigation initiated by human rights and refugee advocacy groups, which charge that the sometimes lengthy detentions violate the human rights of the asylum seekers. The United Nations Human Rights Commission (UNHRC) stated in April 1997 that Australia had violated the rights of a boat person by detaining him for more than 4 years while his applications to remain in the country were being considered. The UNHRC stated that his detention was arbitrary, and in violation of the International Covenant on Civil and Political Rights. In an April report to Parliament, the federally funded but independent Australian Human Rights and Equal Opportunity Commission also condemned the Government's treatment of asylum seekers as breaching international treaty obligations.

In 1997-98, Australia accepted 67,100 migrants, with 12,020 admitted under the humanitarian program, which accepts refugees and those in refugee-like situations in urgent need of resettlement. This figure included 1,553 persons already in the country who were granted refugee status.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage and mandatory voting. In October voters elected the Liberal-National Party coalition to a second 3-year term of office.

No legal impediments exist to prevent women and indigenous people from holding public office. However, historical patterns of bias against women have contributed to their underrepresentation in government and politics. Approximately 25 percent of federal parliamentarians are women, an increase from the 22 percent in the last Parliament. The Government and the opposition have both declared their intent to increase the numbers of women elected to public office.

The deleterious effects of poor educational achievement and a generally inferior socioeconomic status have contributed significantly to the underrepresentation of Aboriginals among political leaders. One Aboriginal was elected to the Federal Senate in the October elections; there were no Aboriginals in the previous Parliament.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of human rights groups operate without government restriction (and in some instances with government funding), investigating and publishing their findings on human rights cases. Government officials cooperate and respond to their views. Overall complaints of discrimination dropped from 2,249 in 1996-97 to 1,522 in 1997-98, a 32 percent reduction.

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The law prohibits discrimination based on these factors, and the Government and an independent judiciary vigorously enforce the prohibition.

Women.—Social analysts and commentators estimate that domestic violence may affect as many as one family in three or four. Wife beating is particularly prevalent in certain Aboriginal communities. The Government recognizes that domestic violence and economic discrimination are serious problems and the statutorily independent Sex Discrimination Commissioner actively addresses these and other areas of discrimination. Government statisticians state that, because of underreporting and the lack of an agreed method for collecting statistics, it is impossible to provide an accurate national profile of the number of women who are victims of domestic violence.

Women have equal status under the law, and the law provides for pay equity. There are highly organized and effective private and public women's rights organizations at the federal, state, and local levels. There is a federal-level Office of the Status of Women that monitors women's rights. The federal Sex Discrimination Commissioner receives complaints and attempts to resolve those that are deemed valid. According to government statistics, sex discrimination complaints fell by 37 percent from the previous year. A 1994 U.N. report estimated that women receive approximately 90 percent of wages paid to men for substantially similar work.

Children.—The Government demonstrates its strong commitment to children's rights and welfare through its well-funded systems of public education, day care, and medical care. The Government recently decided to remove subsidies to children under the age of 18.

The federal Human Rights and Equal Opportunity Commission receives complaints and attempts to resolve those it finds valid. Similarly, the six states and two territories investigate complaints of neglect or child abuse and institute practical measures aimed at protecting the child when such complaints prove founded. The Government has enacted strict legislation aimed at restricting the trade in, and possession of, child pornography, and which further allows suspected pedophiles to be tried in Australia regardless of where the crime was committed. There is no societal pattern of abuse.

People With Disabilities.—Legislation prohibits discrimination against disabled persons in employment, education, or other state services. The Disability Discrimination Commissioner promotes compliance with federal laws prohibiting discrimination against disabled persons. The Commissioner also promotes energetic implementation and enforcement of state laws that require equal access and otherwise protect the rights of disabled persons.

There is no federal legislation mandating the uniform provision of accessibility for the disabled. It is lawful to deny employment or services to those with disabilities if there are reasonable grounds for believing that the disabled person would be unable to carry out the work or would require the employer or service provider to furnish services or facilities that could not reasonably be provided.

Indigenous People.—The Racial Discrimination Act of 1975 prohibits discrimination on grounds of race, color, descent, or national or ethnic origin. The Ministry for Aboriginal Affairs, in conjunction with the Aboriginal and Torres Straits Islander Commission (ATSIC), has the main responsibility for initiating, coordinating, and monitoring all governmental efforts to improve the quality of life of indigenous peo-

ments generally must rely on the central Government for much of their revenues, but mayors have autonomy to hire and fire community administrative personnel.

Although there are no legal impediments to women assuming political leadership roles, only 14 of the 175 National Assembly deputies are women. Women hold 3 of the 17 leadership positions in the Assembly. There are 3 women in the 36-member presidential Cabinet named in August, and 3 members of the Supreme Court are women.

There are no legal impediments to the exercise of political rights by any of the more than 60 ethnic groups in the country. However, it is widely believed that the Baoule and other ethnic groups that have tended to support the ruling party are overrepresented in both mid-level and low-level appointed positions throughout the public sector. Since independence Baoules have always held the positions of President and Defense Minister.

Section 4. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The LIDHO, a human rights NGO formed in 1987 and recognized by the Government in 1990, has investigated alleged violations of human rights actively and issued press releases and reports, some critical of the Government. Other groups such as Amnesty International and the International Movement of Democratic Women also monitored government human rights abuses and published press releases critical of them.

The Government has cooperated with international inquiries into its human rights practices, which have been chiefly in the area of prison conditions (see Section 1.c.).

Section 5. Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

Discrimination based on race, ethnicity, national origin, sex, or religion is prohibited by law, but in practice women occupy a subordinate role in society. Muslims complain of governmental discrimination (see Section 2.c.), societal ethnic discrimination is a problem, and the Baoule ethnic group dominates the ruling party and through it, the Government.

Women.—Representatives of the Ivorian Association for the Defense of Women (AIDF) state that spousal abuse (usually wife beating) occurs frequently and often leads to divorce. An AIDF survey found that many women refused to discuss their experience of domestic violence; of women who completed the AIDF interview process, nearly 90 percent had been beaten or struck on at least one occasion. Doctors state that they rarely see the victims of domestic violence. A severe social stigma is attached to such violence, and neighbors often intervene in a domestic quarrel to protect a woman who is the known object of physical abuse. The courts and police view domestic violence as a family problem, unless serious bodily harm is inflicted or the victim lodges a complaint, in which case they may initiate criminal proceedings. Women's advocacy groups have protested the indifference of authorities to female victims of violence and called attention to domestic violence and female genital mutilation. The groups also reported that women who are the victims of rape or domestic violence are often ignored when they attempt to bring the violence to the attention of the police. The Government does not collect statistics on the rape or other physical abuse of women. The Government has no clear policy regarding spouse abuse beyond the strictures against violence in the civil code. In December the National Assembly enacted a Law Concerning Crimes against Women, which forbids and provides criminal penalties for forced or early marriage and sexual harassment, but says nothing about spouse abuse. The AIDF also is active in opposing forced marriage and advancing the rights of female domestic workers.

In rural areas, women and men divide the labor, with men clearing the land and attending to cash crops like cocoa and coffee, while women grow vegetables and other staples and perform most menial household tasks. Government policy encourages full participation by women in social and economic life, but there is considerable informal resistance among employers to hiring women, whom they consider less dependable because of their potential pregnancy. Women are underrepresented in some professions and in the managerial sector as a whole. Some women also encounter difficulty in obtaining loans, as they cannot meet the lending criteria mandated by banks. These criteria include such elements as title to a house and production of profitable cash crops, specifically coffee and cocoa. However, women in the formal sector are paid on an equal scale with men.

Children.—Primary education is compulsory, but this requirement is not enforced effectively. Many children leave school after only a few years. There is a parental preference for educating boys rather than girls, which is noticeable throughout the

country but more pronounced in rural areas. The primary school enrollment rate for girls is increasing in the northern part of the country. In part to combat low enrollment rates for girls, in January the Government instituted new measures against statutory rape of students by school teachers. In January the Minister of National Education stated that almost one-third of the 66 percent primary and secondary school dropout rate was attributable to pregnancies, and that many of the sexual partners of female students were teachers, to whom girls sometimes granted sexual favors in return for good grades or money. During 1990-1996, 79 percent of males and 58 percent of females of primary school age reportedly were enrolled, according to UNICEF statistics.

Students at universities and secondary schools staged many demonstrations and protests about educational issues. In January the Government closed all schools at all levels, including primary school, for 10 days, following particularly widespread demonstrations. However, student protests became less common during the second half of the year, and far fewer school days were lost to protests and demonstrations than during 1997, as the Government developed a working dialog with a new student union, FESCI, which the Government had recognized in late 1997. The Government increased its spending on education, and tried and punished a police sergeant who shot and killed a student demonstrator (see Section 1.a.).

Cities, especially Abidjan, have large populations of street children. Some children are employed as domestics and are subject to sexual abuse, harassment, and other forms of mistreatment by their employers, according to the AIDF and press reports (see Section 6.d.).

In September an Abidjan daily newspaper reported allegations by a 14-year-old boy that he had been sodomized repeatedly over many months by a network of pedophiles that included former Minister of Economic Infrastructure Ezan Akele and a foreign ambassador. Leading human rights organizations, including the LIDHO, demanded that the alleged pedophiles not be shielded from prosecution. As of year's end, no charges had been filed.

At least hundreds and perhaps thousands of Malian children were trafficked and sold into forced labor on Ivorian plantations (see Section 6.c.).

The Ministries of Health and of Employment, Public Service and Social Security seek to safeguard the welfare of children, and the Government also has encouraged the formation of NGO's such as the Abidjan Legal Center for the Defense of Children. In 1996 the Government announced a series of measures aimed at reducing the population of street children. These steps include holding parents legally and financially responsible for their abandoned children and the development of training centers where children can learn a trade. However, no such centers have yet opened.

Female genital mutilation, which is widely condemned by international health experts as damaging to both physical and psychological health, is a serious problem. Until December there was no law that specifically prohibited FGM, which was considered illegal only as a violation of general laws prohibiting crimes against persons. However, the Law Concerning Crimes against Women enacted in December specifically forbids FGM subject to criminal penalties of imprisonment for up to 5 years and a fine of from roughly \$650 to \$3,500 (360,000 to 2 million CFA francs); double penalties apply for medical practitioners. FGM is practiced particularly among the rural population in the north and west. The procedure usually is performed on young girls or at puberty as part of a rite of passage; it is almost always done outside modern medical facilities and techniques and hygiene do not meet modern medical standards. In August a young girl died in Seguela from complications after FGM. According to the World Health Organization, as many as 60 percent of women have undergone FGM.

Women's advocacy organizations have sponsored campaigns against FGM, forced marriage and marriage of minors, patterns of inheritance that exclude women, and other practices considered harmful to women and girls. In 1997 the Ministry of the Family and Women's Affairs organized a seminar on FGM. In some areas traditional authorities, who generally have upheld the practice, began to take part in public demonstrations against FGM.

People With Disabilities.—Until recently there were no laws mandating accessibility to buildings, transportation or other public services by the disabled. However, on October 30, the National Assembly enacted a law, sponsored by the President's wife, that requires the State to educate and train the disabled, to hire them or help them find jobs, to design houses and public facilities for wheelchair access, and to adapt machines, tools, and work spaces for access and use by the disabled. The law covers individuals with physical, mental, visual, auditory, and cerebral motor disabilities. Laws also exist that prohibit the abandonment of the mentally or physically disabled and enjoin acts of violence directed at them. Traditional practices, be-

liefs, and superstitions vary, but infanticide in cases of serious birth disabilities is less common than in the past. Disabled adults are not specific targets of abuse, but they encounter serious difficulties in competing with able-bodied workers. The Government supports special schools, associations, and artisans' cooperatives for the disabled, but crippled persons still beg on urban streets and in commercial zones.

National/Racial/Ethnic Minorities.—The country's population of about 15 million is ethnically diverse. The citizenry—which excludes the large noncitizen part of the population—is made up of five major families of ethnic groups. The Akan family made up more than 40 percent of the citizenry, according to the 1988 census; the largest Akan ethnic group, and the largest ethnic group in the country, was the Baoule, to which perhaps one-fourth of all citizens belong. About 25 percent of citizens belong to the Mande family, of which the Malinke are the largest group. About 15 percent of citizens belong to the Krou family, of which the Bete are the largest group. Slightly more than 15 percent also belong to the Voltaic family, of which the Senoufou are the largest group. Major ethnic groups generally have their own primary languages and their non-urban populations tend to be concentrated regionally.

However, between one-fifth and one-third of the population are Africans, mostly from poorer neighboring countries such as Mali and Burkina Faso, who may not claim citizenship legally. Birth on Ivorian national territory does not confer citizenship. The ethnic composition of the whole population including these non-citizens is quite different from that of the citizenry alone.

Societal discrimination on the basis of ethnicity is sometimes practiced by members of all ethnic groups. Urban neighborhoods still have readily identifiable ethnic characteristics, and major political parties tend to have readily identifiable ethnic and regional bases, although interethnic marriage is increasingly common in urban areas.

Some ethnic groups include many noncitizens, and their share of the electorate would be increased by enfranchising noncitizens. Other ethnic groups—such as the Baoule—include few noncitizens, and their share of the electorate would be decreased by enfranchising non-citizens. There are societal and political tensions between these two sets of ethnic groups. This cleavage corresponds to some extent to regional differences; ethnic groups that include many noncitizens are found chiefly in the north. Members of northern ethnic groups that are found in neighboring countries as well as in Cote d'Ivoire are often required to document their citizenship, whereas members of ethnic groups seldom found in other countries, including the Baoule, reportedly do not have this problem. Police routinely abuse and harass non-citizen Africans residing in the country. Official harassment reflects the frequently encountered conviction that foreigners are responsible for high local crime rates, as well as concern for Ivorian national identity.

Election law changes in 1994 limited presidential candidates to those who could prove that both parents had been born in Cote d'Ivoire. This restriction was incorporated into the Constitution in June. In July the Government tripled the cost of the residence permits that noncitizens whom the Government regards as nationals of other West African countries are required to carry, while greatly reducing the cost of national identification cards for citizens. This discriminatory law tended to perpetuate the political disenfranchisement of noncitizens by making it harder for them to become citizens. It also tended to entrench the electoral power of ethnic groups, such as the Baoule, that include relatively few noncitizens.

Differences between members of the Baoule group and other ethnic groups, especially the Bete, are a major source of political tensions and have repeatedly erupted into violence, most recently in 1997. Many members of the Baoule group, which has long inhabited the east-central region, have settled in towns and on previously uncultivated land in other areas, especially in more westerly regions. In the past, the Government generally has viewed use of land as conferring de facto ownership of land. However, in December, the National Assembly enacted a new Land Use Law that establishes that land title does not transfer from the traditional owner to the user simply by virtue of use.

Members of the Baoule ethnic group dominate the ruling PDCI party, and are widely believed to hold disproportionate numbers of positions in the public sector, including the security forces, the civil service, and state-owned businesses (see Section 3). In September, a non-Baoule army officer complained publicly, in a letter published by a private newspaper, about ethnic discrimination against non-Baoules in the armed forces; he was reprimanded by the Ministry of Defense. Security forces were accused of favoring Baoules in 1997 violence between members of the Baoule and Guere ethnic groups.

In May the Government ordered the Dozos, a traditional group of hunters from the north and northwest regions, to cease activities "outside the geographic and cultural sphere of their origin," and to surrender any modern weapons. Some reports

pointed out that the Government's order came shortly after Dozos, some of whom long had served as bodyguards for ruling party politicians, began to perform security functions for opposition party leaders and rallies. However, government and Dozo spokespersons indicated that the Government's order responded to infiltration of the Dozos by "false Dozos" who had begun to use excessive force in their private security roles.

In July members of the Agni ethnic group burned villages of descendants of Bozo immigrants in a fishing rights dispute and drove many Bozos back to their ancestral areas in Mali.

Section 6. Worker Rights

a. **The Right of Association.**—The law provides workers with the right to form unions. Registration of a new union requires 3 months. For almost 30 years, the government-sponsored labor confederation, the General Union of Workers of Cote d'Ivoire (UGTCI), dominated most union activity. The UGTCI's hold on the labor movement loosened in 1991 when several formerly UGTCI-affiliated unions broke away and became independent. In 1992 11 formerly independent unions joined together to form the Federation of Autonomous Trade Unions of Cote d'Ivoire. There are now also two other registered labor federations not affiliated with the Government.

Although unions are legally free to leave the UGTCI and join another federation, in practice their choice is restricted by anti-competitive official discrimination in favor of the government-affiliated UGTCI. On September 26, after a 3-year struggle and thanks to intervention by the International Labor Organization, labor inspectors were obliged to organize an election of union delegates at the Sip Cata company in San Pedro, and to allow Dignite, an independent federation affiliated with a major opposition party, to compete with the UGTCI. Dignite's candidates won the election, and the union switched its affiliation to Dignite.

The right to strike is provided by the Constitution and by statute. The Labor Code requires a protracted series of negotiations and a 6-day notification period before a strike may take place, effectively making legal strikes difficult to organize. The UGTCI seldom calls strikes, but it is in disagreement with the Government's plan to promote only 5 percent of civil servants, following an 18-year blockage of promotion for all civil servants. Non-UGTCI unions called strikes, although not so frequently as in the past. In September taxi drivers in Abidjan struck to protest the killing of a taxi driver by a policeman (see Section 1.a.).

Thirteen employees of the government broadcast media company, RTI, who had participated in April 1997 in a strike that reportedly caused an interruption of RTI broadcasting, were tried in November and December on charges, filed in May 1997, of disturbing public order, willful destruction of public property, and interfering with public services. They had been detained for 3 months in 1997. The judge had reached no verdict by year's end.

Unions are free to join international bodies.

b. **The Right to Organize and Bargain Collectively.**—The Labor Code grants all citizens, except members of the police and military, the rights to join unions and to bargain collectively. Collective bargaining agreements are in effect in many major business enterprises and sectors of the civil service. In most cases in which wages are not established in direct negotiations between unions and employers, salaries are set by job categories by the Ministry of Employment and Civil Service. Labor inspectors have the responsibility to enforce a law that prohibits antiunion discrimination. There have been no known prosecutions or convictions under this law.

There were no export processing zones.

c. **Prohibition of Forced or Compulsory Labor.**—Forced labor is prohibited by law; however, the International Labor Organization's Committee of Experts in its 1993 annual report questioned a decree that places certain categories of prisoners at the disposal of private enterprises for work assignments without their apparent consent. There has been no change in this decree.

The law prohibits forced and bonded child labor; however, the Government does not enforce that prohibition effectively. In September a private Abidjan daily newspaper exposed the widespread practice of importing and indenturing of Malian boys for field work on Ivorian plantations under abusive conditions. For example, children recruited by Malians in the border town of Skiasse were promised easy and lucrative jobs in Cote D'Ivoire, transported across the border, and then sold to other Malians who dispersed them throughout the plantations of the central region. These children were forced to work 12-hour days in the fields and were locked at night in crowded sheds, with their clothing confiscated. The Governments of Mali and Cote D'Ivoire confirmed the reports. The Government of Mali took steps to halt this trafficking and repatriate the children to Mali. By year's end, about 100 children