



Evolution and Measurement of Formal Institutions in Cote D'Ivoire

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Abstract

This study analyzes the evolution of institutions in Côte d'Ivoire using a new set of data on institutions. Three types of indexes have been constructed: the Property Right Index, the Political Freedoms and Civil Liberties Index and the Political Instability Index. These indicators correlate fairly well with some macroeconomic indicators and with some of the institutional indices produced by the Freedom House. The analysis shows an improvement in political freedom and civil liberties in Côte d'Ivoire over the period 1887-2010. Similarly, following land reforms an increase in the modern property rights index is also observed over the same period. However, the value of the index remained relatively low. On the contrary, the political instability index shows an increased trend in instability in Côte d'Ivoire. These findings show a need to continue fighting against political instability and also undertake reforms in order to better improve political freedom and civil liberties and modern property rights.

Keywords: Institutions, Côte d'Ivoire

1 Introduction

The literature on the determinants of economic growth underlines several factors such as physical (Solow 1956), human capital (Lucas 1988), technology (Aghion and Howitt 1992), and geography and institutions (Sachs and Warner 1997). Institutions, in particular, are recognized as the main cause of economic growth and development differences across countries (Acemoglu and Robinson 2001). Indeed, institutions are the rules of the game in a society or, more formally, are the humanly devised constraints that shape human interaction. In consequence, they structure incentives in human exchange, whether political, social, or economic (North 1990). The literature claims that the enforcement of these rules

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is important to realize the desired economic outcomes (Acemoglu and Robinson 2012; Aron 2000; North 1987).

Although it had been emphasized that, to understand the process of economic development, one must first understand institutions and how they evolve over time (North 1990; North et al. 1971, etc.), there is a paucity of research on the evolution of institutions. This situation is owing to the difficulty of measuring institutions since they encompass both formal and informal constraints (Hodgson 2009; Nelson 2009; North 2006). Moreover, conventional measures of institutions such as the Heritage Foundation Index of Property Rights, the International Country Risk Guide measures of property rights and investors' protection, and Polity IV measures of political institutions have been criticized on the grounds that they measure outcomes and not permanent characteristics of institutions (Glaeser et al. 2004; North 1990).

To fill the existing gap in the literature on the evolution of institutions over time, new indicators on institutions have been constructed following the methodology of Fedderke et al. (2001; Fedderke and Garlick 2010; Gwenhamo et al. 2012; Letete 2015; Zaaruka and Fedderke 2011a, 2011b). In particular, three types of indexes were constructed: the Property Right Index, the Political Freedoms and Civil Liberties Index, and the Political Instability Index. These indicators were used to study the evolution of formal political and economic institutions in several African countries, including Malawi, Namibia, Tanzania, Zimbabwe, and Kenya. The contribution of these studies was to provide long-range times-series data (1884–2010) on institutional indicators that can be used to validate assumptions made in the institutional development literature.

This study constructs similar institutional measures for Côte d'Ivoire and analyzes the evolution of institutions. It is organized as follows: Section 2 presents the methodology used to construct indicators of institutions. Section 3 discusses the evolution of civil liberties using the index of civil liberties. Section 4 studies landownership in Côte d'Ivoire and Section 5 deals with political instability. Section 6 compares indexes and Section 7 concludes.

2 Empirical Method

We adopt the framework used by Fedderke et al. (2001) to construct institutional indicators for Côte d'Ivoire. To minimize perceptual biases associated with the construction of perception-based indexes, we follow the steps proposed by Bollen and Paxton (2000). These steps are: (i) Defining the relevant set of criteria, (ii) Identifying subcomponents, (iii) Setting the rating scales for the subcomponents, (iv) Collection of rating information, (v) Rating of subcomponents using the Delphi technique in which a team of experts assigns scores to each of the subcomponents on an annual basis, and (vi) Presentation of indexes for validation to an independent panel of experts. Following these steps, three types of indexes have been constructed: the Property Right Index, the Political Freedoms and Civil Liberties Index, and the Political Instability Index.

2.1 Property Right Index

Property rights are based on Honore’s (1961) definition of the ideal set of property rights. This ideal set is proposed by Fedderke et al. (2001) and is composed of the following elements: (i) the Right to possess; (ii) the Right to use; (iii) the Right to manage; (iv) the Right to capital; (v) the Right to security; (vi) the Incident of transmissibility; and (vii) Liability to execution.

We use a fine-grained approach to coding, in which we attempt to capture the degree of variation in the strength of a rule by using continuous or graduated scores. The scales used are 0 to 20 for the Rights to possess and 0 to 15 for the Right to use, the Right to manage, the Right to capital, and the Right to security. The last two elements, Incident of transmissibility and Liability to execution, are scored on a 0 to 10 scale. The property rights index is then the total score of all seven subcomponents. Therefore, the scaling for this index is performed on a range from 0 to 100 points.

2.2 Political Freedoms and Civil Liberties Index

The definition of political democracy follows Bollen (1980) who defines political democracy as the extent to which political power of the elites is minimized and that of the nonelites is maximized. Bollen (1986) further shows that political rights and political liberties reflect the political power of these two groups. Sartori (1987) argues that political democracy is a system in which no one can choose himself, no one can invest himself with power to rule, and therefore no one can claim for himself unconditional and unlimited power. The latter definition embraces the notion of limited arbitrary power of the executive.

Based on these definitions, the political rights and civil liberties index is computed by considering the following subcomponents: (1) Voting Rights/Franchise; (2) Freedom of Association; (3) Freedom of Assembly; (4) Freedom of Expression; (5) Extension of Arbitrary Executive Power; (6) Freedom of Movement; (7) Independence of the Judiciary and Legislature; (8) Academic Freedom; (9) Limit of Government Secrecy/Indemnity; (10) Due Process of Law; (11) Freedom of Religion; (12) Others, which is a residual category that captures all rights and freedoms relating to political freedom and rights that cannot be classified under any of the specific dimensions. Similarly, for the political and civil liberties index, scaling is performed on a range from 0 to 100 points, but a slightly different weighing is used. The first eight of the twelve subcomponents are each assigned a weight of 10, and the other four are each assigned a weight of 5. In constructing each index, the subcomponents are then summed up to give the overall status of the quality of the index across time.

2.3 Political Instability Index

Unlike the *de jure* indexes presented earlier, the political instability index is based on actual realizations of rights based on observable data. Political instability captures internal sociopolitical unrest and disturbances. The composite

political instability index is a weighted average of the following subcomponents: (i) Annual number of political fatalities; (ii) War-related fatalities including genocides on general public; (iii) Number of politically motivated arrests; (iv) Number of political detentions; (v) Number of political parties and publications banned; (vi) Number of declarations of state of emergency; (vii) Number of riots, strikes, and demonstrations; and (viii) Number of reported cases of politically related property damages per year. Information on the weight used to compute the political instability index is provided in the appendix.

The constructed institutional indicators were validated by a team of two experts drawn from the faculties of Law and Economics at the University of Felix Houphouët Boigny of Cocody-Abidjan. The purpose of the validation was to check whether the indicators adequately capture the items they are supposed to measure. The comments from these experts were then incorporated accordingly. Using these indicators, we derive some results concerning civil liberties, property rights, and political instability in Côte d'Ivoire in the next sections.

3 Evolution of Civil Liberties in Côte d'Ivoire

The evolution of civil liberties in Côte d'Ivoire is described through the de jure index of political freedom and civil liberties in Côte d'Ivoire. This index is constructed on a scale from 0 to 100 following the methodology presented in Section 2.3 and covers the period 1887–2010. Figure 1 reports the resultant political freedom and civil liberties index. It shows, on average, an improvement in civil liberties between 1887 and 2010. In this improvement, two periods can be distinguished. The first period includes the colonial period, which was marked by the denial of rights and freedoms to indigenous people. The second period corresponds to the postindependence era that witnessed a significant increase in the index of civil liberties. The next subsections provide information on laws and reforms impacting political freedom and civil liberties in each of these periods.

3.1 Civil Liberties in Côte d'Ivoire during the Colonial Period (1893–1960)

Looking at Figure 1, four periods can be distinguished in the evolution of civil liberties in Côte d'Ivoire over the colonial era: 1893–1911, 1912–1924, 1924–1935, and 1935–1960.

The period 1893–1911 coincides with the so-called pacific period of entry. Indeed, the territory of Côte d'Ivoire was declared a French colony by a decree of March 10, 1893. Louis-Gustave Binger became its first governor and he established the town of Grand-Bassam, which would later become the first capital of Côte d'Ivoire. The Colony of Côte d'Ivoire was then integrated into the extensive West African group created by the French settlers and called “French West Africa or FWA.” (Commission Nationale des Droits de l'Homme de Cote D'Ivoire, 2011) A local decree was passed in 1896 to organize the colony of Cote

d'Ivoire into ten administrative districts known as *cercles*. A number of laws, regulations, and ordinances that restrict civil and political rights were also introduced, such as the code for the indigenous population¹ instituted in 1904 and the Order of September 14, 1907 (Decheix, 1959). This order listed special offenses for natives who were not French citizens and falling within the scope of the decree of September 30, 1887. The French subjects were subjected to discriminatory rights and status known as “régime de l'indigénat” (Kouassigan 1974, Ouraga, 1986). Consequently, the value of the index of political freedom and civil liberties remained low from 1893 to 1911.

An increase in the index of civil liberty is observed over the period 1912–1924, characterized by the specification of the offenses of the code of citizenship in the Colony of Côte d'Ivoire (the decrees of May 25, 1912 and August 21, 1921; the Order of April 7, 1918; the decree of November 15, 1924; and the Order of June 20, 1920). In absolute terms, except for a tiny minority, all natives who were not French citizens and were not subjected to French courts were deemed answerable to the French courts.

Following the adoption of restrictive conditions of access to French citizenship and the institution of forced labor over the period 1924–1935, the index of civil liberties decreased. Concerning forced labor, it was issued by the Order of November 10, 1925 to effectively exploit the colonies. This order was followed by the decree of October 22, 1925 that regulated labor in private companies and the decree of the Governor enacted on February 18, 1933 to regulate compulsory public work. The main purpose of the latter decree was to regulate the transportation of personnel and office equipment. This text stipulated that compulsory public work was not allowed unless it was not possible to find voluntary labor for the transportation of staff and office equipment in areas where mechanical means of transport and carrier animals were lacking. Yet, the decree of February 18, 1933 introduced two innovations: it expanded the list of people exempted by the decree of November 10, 1925 and in Article 28 it stipulated that at the end of a period of 6 months of hard labor, workers had the right to remain on the sites as free workers by subscribing to a contract.

In addition to forced labor, several laws had been enacted in the context of the right of access to French citizenship (i.e., the order of May 13, 1928, the decree of April 24, 1928 of the Governor of FWA). These texts considerably restricted the right of access for the natives. The decree of August 21, 1930 regulated the compulsory public works in the colonies, countries and protectorates apart from the West Indies (Recueil Penant 1931, 27). The colonial legislator imposed hard labor on indigenous populations by means of the system of *indigénat*. Moreover, conditions for getting French citizenship were reinforced by the decree of August 21, 1932 (Maureau, 1958). In the decree of August 25, 1935, access to French citizenship was restricted. The new conditions were: (1) the indigenous applicant must be a monogamist and his lifestyle and social habits and his family must be adapted to French civilization; (2) he must have met the requirements of civil status by marriage and the birth of his children; (3) he

¹Decree of November 22, 1904 dealing with denizenship in French West Africa.

must have given his children a French education; (4) he must have fulfilled his military obligations; (5) he must be over 18 years of age.

During the period 1935–1960, several laws promoting civil liberties were adopted. As a result, the index of political freedom and civil liberties increased over this period. More precisely, in 1937, a decree enacted on March 11 regulated the exercising of freedom of association in the colonies. It recognized the right of workers to form trade unions. A new measure was enacted in the same year with conditions for getting French citizenship (decree of July 23, 1937). This decree made the process of acquiring French citizenship more onerous, by adding four new conditions: (1) the indigenous applicant must learn to write and speak the French language; (2) he must have 2 years of consecutive residency in FWA; (3) he must have shown no hostility to France by acts, writings, or words; (4) he must enjoy his civil and political rights.

Moreover, after the French Imperialistic Conference on Africa which took place in Brazzaville from January 30 to February 8, 1944, the order of April 7, 1944 was enacted to regulate freedom of association. On July 17, 1944, the indigenous penal code was established in the colonies of Black Africa. This penal code replaced that of February 11, 1941, which was particularly repressive and inappropriate to the African context. On August 7, 1944, a decree allowed the creation of the first African unions. Of course, this decree did not permanently remove discrimination. But it had the merit of reducing it. Under the terms of Article 5 of this decree, only members of the management of the union must know how to read and write in French and hold at least the Certificate of Primary Education. Finally, the Order of November 24, 1944 suppressed the freedom of press in wartime.

In addition, the order number 45-1874 of August 22, 1945 organized the election of deputies of the Constituent Assembly. With this text, the natives were able to participate, for the first time, in parliamentary elections. However, only a category of citizens had this right. In addition, the decree of December 22, 1945 abolished the penalties under the rights of *indigénat*. Besides the removing of ordinary penalties, the abolition of sentences of the system applicable to native populations of French colonies was enacted by decree of February 20, 1946. The decrees of March 13 and April 16, 1946 were established to regulate the freedom of association. The decree of April 16, 1946 was permitted to generalize the application of the law of June 30, 1881 on the freedom of assembly in colonies. Thanks to the promulgation of the decrees of March 13 and April 16, 1946 concerning freedom of association and the decrees of December 22, 1946 and February 20, 1946 that suppressed *indigénat*, various political parties had been created in Côte d'Ivoire. In April 1946, forced labor was abolished by the Act of April 11. In the same month the decree of April 30, on the abolition of the indigenous justice in criminal matters, was adopted. In addition, the Lamine Gueye Act of May 7, 1946 which allowed natives to be French citizens was adopted. In the same vein, freedom of press was enshrined in the decrees of September 21 and September 27, 1946. The freedom of the press was extended to the overseas territories by the decrees of September 27 and November 21, 1946. The advent of the French Constitution of October 27, 1946 facilitated

the promotion of civil liberties. Indeed, this constitution condemned almost all discrimination based on race, religion, and sex. But curiously, despite the recommendations of the Brazzaville Conference, it maintained in Article 40 restricted suffrage or suffrage with property qualification or for households in the colonies.

The first labor code was adopted in 1950. This code did not contain provisions on the organization and the role of trade unions. It required unions to disclose annually their balance sheets to the Prosecutor of the Republic. This provision was likely intended to undermine the autonomy of trade unions. The Act of December 15, 1952 enshrined the emergence of a real labor code for the overseas territories. This code gave workers the right to form or join unions of their choice (Art. 4), the free exercising of the right of association and freedom of opinion (Art. 74-1), and the principle of equal pay for equal work (Art. 74-7). However, settlers continued to recruit forced labor. In 1956, the parent act was conceived by France in order to safeguard the integration of its colonies of Black Africa in the French Union (Law of June 23, 1956²). The parent act introduced universal suffrage (Art. 10), the constituency (Art. 12), and government councils (Art. 1) in overseas territories and also ensured the accession of natives to public employment (Art. 3 para. 2) and an executive power in the territorial assemblies (Art. 1, para. 3).

A referendum was held on September 28, 1958 and led to the adoption of the French constitution of June 3, 1958 and the creation of the French community. This community was the ultimate attempt by France to keep what remained of the colonial empire and the French Union in their sphere of influence. Côte d'Ivoire supported the community and became a republic with the resolution of December 4, 1958. Unlike France, Côte d'Ivoire had no legal existence internationally. It was a decentralized community enjoying a certain administrative and political autonomy. Côte d'Ivoire enacted its first constitution in March 26, 1959, modeled on the French constitution. It was singularly quiet on the issue of human rights. In its preamble, it simply referred to the declarations of human rights of 1789 and 1948. On August 27, 1959³ a law was adopted to strengthen the protection of public order. Article 1 of this law equated union strikes to political unrest. Therefore, strikers were punishable by criminal penalties. In the same year the law on the state of emergency was adopted (Law of November 7, 1959). Its purpose was the absolute confiscation of civil liberties.

The colonial era ended in 1960. It was marked by the revision of the 1959 constitution. Under the terms of this revision, two legal categories were created: a constitutional community maintaining constitutional links that included the French Republic and autonomous states (Arts. 76 and 86, para. 1) and a conventional community including the French Republic and the former autonomous states that became independent. Côte d'Ivoire became independent on August 7, 1960, and it gained national and international sovereignty.

²Law 56-619 of June 23, 1956.

³Law 59-118 of August 27, 1959.

3.2 Evolution of Civil Liberties in Côte d’Ivoire after Independence (1960–2010)

As shown by Figure 1, two periods can be distinguished in the evolution of civil liberties in Côte d’Ivoire after independence: 1960–1990 and 1990–2010.

From 1960 to 1990, political and administrative life was led by a single party, despite the provisions of the constitution of November 3, 1960 which suggested the conquest of power by emulation of several political parties (Art. 7 of the constitution of 1960). This constitution in its preamble makes the following provision: “people of Côte d’Ivoire proclaim their attachment to the principles of Democracy and Human Rights as they were defined by the declaration of the human and citizen rights of 1789 and the universal declaration of 1948.” However, it was almost silent on civil liberties. In the same year a regulation was introduced for associations. According to this law,⁴ associations formed freely could acquire legal personality following the filing of prior statement by those under their jurisdiction. This explains why the index of political freedom and civil liberty increases in 1960 and remains constant with the successive revision of the constitution in 1963, 1975, 1980, and 1985 which dealt only with the election of the president. For example, according to the text of 1985, the president was elected for 5 years by direct universal suffrage. He could be reelected. The president is elected with an absolute majority in the first round. If this is not achieved, the election should be by plurality in the second round, which would take place 15 days after the proclamation of the results of the first ballot. Moreover, in case of vacancy of the presidency of the Republic because of death, resignation, or absolute impediment, the functions of the president of the Republic are assigned automatically to the president of the National Assembly.

Following the collapse of the Soviet bloc and the fall of the Berlin Wall in 1990, together with popular pressure domestically, the multiparty system was adopted in 1990. As a result, several reforms were adopted to promote political freedom and civil liberties in Côte d’Ivoire over the period 1990–2015. For example, the first regulation on the freedom of the press since independence dated from 1991 (the Act of December 31, 1991), and the first Ivorian electoral code was introduced in 1994 (Act of December 13, 1994). Voting from Ivorians living abroad was now taken into account. The devolution of power in case of vacancy of the presidency was democratically controlled: there was no more succession by the heir apparent. The law provided for an interim president, leading to new elections and in the shortest possible time. It created a jurisdiction, autonomous and independent from the other powers including the judiciary: the Constitutional Council which had the exclusive competence to deal with the dispute of the referendum and the presidential election.

The electoral code was modified in 1999 by law 99-629 and law 99-693. In light of these texts, the major reforms of 1999 were related to the limitation of the age of candidates for presidential election to 75 years; the opening of the referral of the Constitutional Council to parliamentary groups and associations

⁴Law number 60-315 of September 21, 1960 on associations.

of human rights; the creation of a commission⁵ to monitor elections and which included representatives of political parties, civil society, and the administration; and the financing of political parties from public funds.⁶

Moreover, a labor code was instituted by the law of January 12, 1995.⁷ It guaranteed, among others, the rights to strike and freedom of association.

The 1960 constitution and subsequent constitutional and electoral laws were entirely repealed following a coup in 1999. Therefore, the value of the index of political freedom and civil liberties decreased in 1999 (see Figure 1). The ruling junta adopted by referendum in 2000 a new constitution and electoral code. This was the first time since 1960 that the people of Côte d'Ivoire were consulted directly about the future of the nation. Therefore, the texts of August 1, 2000⁸ could be said to be the first free and direct expression of the people. This situation explains why the index of civil liberties increased sharply in 2000.

However, a failed coup in September 2002 turned into a civil war over the period 2002–2007. The score of the index of civil liberties increased following the agreement called “the Linas-Marcoussis Agreement (LMA)”⁹ signed by political parties and rebels in January 2003 in France. This agreement changed the sequencing of the Ivorian legislation on civil liberties. Thus, a new law on the press regime was enacted.¹⁰ Because of this agreement, the conditions of eligibility for the presidential elections provided by the constitution of August 1, 2000 were not applied.¹¹ Furthermore, the LMA led to the creation of an Independent Electoral Commission with the decision of July 15, 2005.¹² In 2008 new provisions were enacted: the text on the adjustment to the electoral code (decision of April 14, 2008) and the rule relating to the adjustment of the electoral law for the general election at the end of the crisis (order of April 14, 2008). A new text was adopted in 2009 to govern the electoral issue (decision of May 14, 2009).

4 Evolution of Landownership and the Land Issue in Côte d'Ivoire

This evolution is described as the evolution of landownership through the de jure index of the modern property rights index. Based on land reforms, this index is constructed on a scale from 0 to 100 following the methodology presented in Section 2.1 and covers the period 1887 to 2010. Figure 2 shows an increase in the modern property rights index from 1887 to 2010. However, a decrease in this

⁵Law number 99-695 on the creation of a national commission to monitor elections.

⁶Law number 99-694 on the financing of parties and political organizations with public funds.

⁷Law number 95-15 of January 12, 1995.

⁸Law number 2000-513 on the Constitution of Côte D'Ivoire.

⁹Linas-Marcoussis is the French town where the agreement was signed.

¹⁰Law number 2004-643 of December 14, 2004.

¹¹Decision number 2005-01/PR of May 5, 2005, relating to the exceptional designation of candidates for the presidential election of October 2005.

¹²Decision number 2005-11/PR of August 29, 2005 relating to the electoral commission.

index is observed over the period 1943–1954. Such a decrease may be explained by the fact that, during this period, the administration was blamed for not applying its decree of 1938. Therefore, in 1954 the assembly intervened to get the respect of that principle. The next two sections provide more information on land reforms during the colonial era and after independence.

4.1 Land Tenure during the Colonial Era (1893–1960) in Côte d’Ivoire

Governor Binger issued an order on September 10, 1893. This decree applied the theory of eminent domain in the Colony of Côte d’Ivoire. According to this theory, African traditional leaders were considered as holders of eminent domain. The French State inherited them by succession. It empowered the administration to grant concessions on all land and judge the validity of objections. The decree of October 1, 1897 underlined the quality of the landowner. According to this text, customary authorities must prove in writing that the lands claimed by the colonial administration belong to them.

Three years later, the decree of August 30, 1900 determined the notion of vacant land with no owner. Through this concept, land regulations were created in Côte d’Ivoire. According to Article 1, vacant and ownerless lands are part of the domain of the State. Land transfer conditions were defined by the law of June 25, 1902. This law concerns the long lease. The lease of real property gave the lessee a real right subject to mortgage. This right may be assigned and entered in the manner prescribed for foreclosure. It must be made for more than 18 years and may not exceed 99 years. It can be extended by tacit agreement.

On October 8, 1925, a decree instituted the mode of observation of the land law for natives in FWA. In view of this text, in FWA, when the soil content did not present all the characteristics of private property as it existed in France and also when these lands were held according to the rules of local customary law, holders are able to find and assert their rights in relation with other people on the basis of the observation of indigenous land law. This was established by custom in general, that is, rights of use or possession exercising on lands belonging to the community.

The decree of September 29, 1928 established the regulation on domain of public utilities and public easements. Two years later, the decree of November 26, 1930 organized eminent domain and the temporary occupation in FWA. According to this decree, the eminent domain occurred in FWA by order of the court. The courts could only pronounce the eminent domain when it was declared and recognized as public utility.

The decree of July 26, 1932 reorganized the system of landownership in FWA. With this decree, the service of landownership and ground law conservation, instituted by the decree of July 24, 1906 in the colonies of FWA, continued to provide the holders the guarantee of real rights they possessed on land subjected to a registration system.

In addition, the decree of November 15, 1935 introduced the regulation of public lands in FWA. This text incorporated lands that had remained undevel-

oped for more than 10 years into the domain of the State. The decree also gave the administration full scope to classify as part of its properties those lands for which customary holders are known. Even for those who might have had written documents of title, given the discretionary power of the administration on the subject, the principle of the integration of land into the State property could be applied at any time, so that the concept of ownership became relative. Owing to the decrees of 1932 and 1935, the administration laid an absolute claim to all land.

In 1943, the decree of April 10 dealt with the creation of an administrative reserve along tracks and roads. For example, Article 2 states that: “No federal or forest land could be granted within at least twelve meters and a half from the axis of roads and tracks in Côte d’Ivoire.”

Faced with a demographic problem, the Territorial Assembly issued a vow in 1948 asking the administration not to grant the long lease for rural land, blaming the administration for not applying its decree of 1938. In 1954, the assembly intervened again to get the respect of that principle.

In 1955, decree number 5-580 of May 20 relative to land and State property reorganization in FWA and French Equatorial Africa was enacted. The uniqueness of this decree is that the responsibility of the proof is reversed. Since the State claims land because it remained unexploited, it must prove that the land belongs to the customary holder. Of course, the State did not have much evidence on what the customary holder previously had. Therefore, the customary holders won. Consequently, during the period 1956–1958, the State solved the problem by not taking the texts on the implementation of the land decree of 1955. In 1959, a regulation on land transactions in Côte d’Ivoire (decree of November 27, 1959) was issued. According to this decree, land transactions, namely the demarcation of plots of land and the provision of plans to be appended to the petitions of registrations and fragmentation, and the operations of exchange and parceling out could validly be carried out by authorized entities only (Nene Bi. 2005).

4.2 Landownership in Côte d’Ivoire since Independence (1960–2015)

The constitutional changes resulting from the proclamation of independence had no influence on existing land tenure. This fact distinctly changed thanks to the decree of April 20, 1962 on the creation of a land registry service. According to this order, the land registry service is under the authority of a head of department assisted by a Secretariat and it includes a land office responsible for centralizing and examining all property documents for the establishment and updating of plans, records, registers, and cadastral files.

In 1964, the decree of April 16 on the ban of private agreement over real estate was enacted. Under this rule, for all facts, agreements, or awards, evidence must be given through a notarial act. In 1965, the law of December 20 established the first Forest Code of the independent Côte d’Ivoire. The decree of September 15, 1966 established the classification procedures and declassification

of state forests. In the light of this text, the classification and declassification of state forests are pronounced by an order of the minister of agriculture. All forest declassification should be subjected to a pilot study carried out by a competent official of the local administration.

Two years after that decree, the Finance Act of December 31, 1968 was adopted. This act concerned the promotion of land registered and protection and conservation of landmarks. Thus, any facts or acts that had the effect of modifying the registration of land must be published by the land registry auditor within 3 months. The owner, assignee, or land transferee is responsible for the conservation of the landmarks delimitating these lands.

In 1970, the registration of public ownership was established by the tax annex to the Finance Act number 70-209 of March 20, 1970. According to this text, public ownership, whether natural or artificial, is registered in the name of the State. During the same year, the annex to the Finance Act No. 70-726 of December 31, 1970 amending Article 82 of the decree of July 26, 1932 on land tenure organized the incorporation of real estate in State properties. Thus, a registered real estate abandoned for ten consecutive years by its legitimate occupants was considered vacant and incorporated into the State properties.

A year later, decree number 71/74 of February 16, 1971 on State and land procedures was implemented. It provided that the rights to land use, known as customary rights, were personal to those who exercised them and could not be transferred for any title. No one could stand as assignee of such rights on the entire territory of the Republic. The same year, decree number 71-339 of July 12, 1971 laying down the procedures for enforcement of decree number 71-338 of July 12, 1971 and law number 71-338 of July 12, 1971 established the rational exploitation of rural land owned outright. According to the decree, the minister of economy and finance and the minister of agriculture pronounced by a joint order the transfer of rural land to State property.

Concerning the law of July 12, 1971, it provided that any owner of rural land is obliged to cultivate and maintain in production condition the integrity of the land, whether the land was used for the exploitation of agricultural products, farming, or industrial use. Rural lands acquired in full ownership for any possible reason and exploitation of which was not assured as provided by this act might return in whole or in part to State ownership.

Decree number 72-116 of February 9, 1972 dealt with the schedule of compensation for crops. This rule provided that in each case, the right to compensation is assessed according to the rules of law in particular as regards responsibility.

Two years after 1972, decree number 74-136 April 12, 1974 laid down the procedure and conditions for granting public land intended for tourism promotion. Thus, any land allocation decision in the public or private property of the State for the creation of a tourism establishment was subject to the procedures defined by this decree. Allocations of land for the creation of tourist accommodation are granted in the form of a 30-year lease, renewable by an order of the minister in charge of tourism and the minister in charge of the concerned State property. Another decree dating from 1978 laid down the procedures of management of the State forest estate. This text provided that the permanent

forest estate of the State was free from all rights of use. The permanent forest estate of the State produced wood and maintained ecological stability.

In 1984, two texts were added to the Ivorian land legislation. These decrees are decree No. 84-123 of April 7, 1984 and the circular number 3680/AGREF/DANI/AT/D. of December 19, 1984. This decree defined the responsibilities of the ministry in charge of agriculture and forest and organized this ministry while the circular gave instructions for the management of rural estate.

In 1998, law number 98-750 of December 23, 1998 established the rural land code. The main objective of this law was to put rural land in order. Thus, this text aimed at: providing land security increasingly demanded by farmers and financial institutions involved in the mechanisms of agricultural credit; providing a clear legal framework for reducing land conflicts by means of a system based on local realities; permitting the use of land property as collateral for loans; securing investment in rural land and thereby contributing to the stabilization and modernization of farms; encouraging youth to stay and manage their family land, which is identified and secured; giving rural land a market value.

In order to implement the 1998 law, decree number 99-594 of October 13, 1999 was enacted. This decree provided the implementing procedures of the 1998 Act of the customary rural land. It stated that any person or informal group of beneficiaries presuming to have customary rights must submit these rights to an official investigation. This survey is conducted by an investigating commissioner. The official inquiry must be approved by a competent village committee in charge of rural land management and validated by the rural land management committee at the sub-prefecture. It led to the issuance of a land certificate signed by the prefect of the department, registered at the Department of agriculture and animal resources and published in the government publication. The land certificate is transferable and transmissible.

The supra-laws also regulated the land issue by means of Articles 15 and 71 of the Constitution of August 1, 2000. Thus, Article 71, which concerned the recognition of customary rights and their harmonization with the modern law, stated that “the law established the rules concerning the procedure by which the customs are recognized and are harmonized with the fundamental principles of the Constitution.”

Finally, Act No. 98-750 of December 23, 1998 reserved rural landownership for Ivorians. It provided for a first phase of 10 years during which any holder of land rights involved in the appropriation of land must have his rights recognized to obtain a land certificate. After this period, the land should be registered in the name of the State and the owner became the tenant. Non-Ivorian farmers could only aspire to a long lease either from the native owners of land certificates, in case the latter are among the “honest occupiers,” or from the State if the land is registered in its name.

In 2001, the law of August 9 on guidance on the general organization of territorial administration was adopted. This law indicated that the State remained the sole owner of rural land. Three years later, the Act of August 14, 2004 amended Article 26 of law number 98-750. This act maintained ownership over rural land acquired prior to 1998. The owners, concerned by this exemption,

were listed by a decree of the Cabinet. During the same year, circular No. 2911 of November 19, 2004 prohibited the issuance of occupation titles of rural land. Another circular prohibited the issuance of temporary occupation titles of rural land (circular No. 489 of November 30, 2005).

In 2013, the land act 1998 was subjected to a further amendment through law number 2013-655 of September 13, 2013. This law extended for a further period of 10 years the time limit given to customary rights holders for the issuance of land certificates. In 2015, again, another decree increased by 10 years the deadline for landowners to register and cultivate their plots.

5 Political Instability in Côte d’Ivoire

Political instability adversely affects the macroeconomic performance. The literature shows that it is a multifaceted phenomenon influenced by multiple variables. Therefore, our political instability index includes the following elements: the number of political assassinations and arrests per year, the number of coups, the number of injuries to private property per year, and the number of prohibited publication annually. The analysis of political instability concerns both the colonial and postcolonial periods.

5.1 Political Instability during the Colonial Era (1893–1960)

The history of Côte d’Ivoire is marked by political instability. The French conquest began in 1892. This conquest was made under the reign of two governors, namely François Joseph Clozel and Gabriel Angoulvant. France established its political hegemony after fighting against the indigenous populations.

The period between 1893 and 1908 is described as the beginning of a peaceful phase. Over this period, French occupation was limited to the north, south-east, and east. The other regions escaped from the authority of France.

The period from 1908 to 1920 was the era of total conquest. This period marked the end of the resistance in the Central-west region, with the domination of the Gagou and Gouro ethnic groups in 1912; the Dida ethnic group in 1913; the Dan, Toura, and Wè ethnic groups in 1913; the Bete ethnic group in 1914; and the Lobi ethnic group in 1920. At the end of the colonial conquest, the entire Ivorian territory was under French domination and that conquest ended in the death of eighty-six soldiers in the colonial army, 349 wounded, between 100,000 and 400,000 Ivoirians killed, and 275 people deported to Congo, Mauritania, Senegal, and Dahomey.

After the colonial conquest, confrontations continued. For example, in 1947 there was a strike of railway workers. On February 6, 1949, a confrontation between members of the PDCI-RDA and supporters of Senator Djaument after the RDA congress appealing to a mobilization against French oppression resulted in one death. On February 7, 1949, eight members of the PDCI-RDA were jailed. In the same year, incidents occurred at Ferkessedougou in the north of

the country and resulted in the death of five people. In the beginning of 1950, 4,000 people were arrested and the colonial administration established an army in various cities (Bouaflé, Dimbokro, and Séguéla) to defend the freedom of trade and to fight against illicit trade practiced by members of the PDCI. This struggle culminated in the death of twenty people. Finally, in October 1959, the general secretary of the General Union of African black workers was arrested. During the same period, after a strike in the public sector, 213 officials were dismissed, 319 of them were suspended, and many arrested. In May 1959 all of Sanwi region was invaded by the military following the secession attempt of Sanwi people. This event caused the death of over 1,000 people and the king was arrested with many of his notables.

5.2 Political Instability since the Accession to Independence (1960–2014)

In 1960, Memel Foté Harris, former president of the association of Ivorian students in France, was sentenced to 1 year in prison for leading subversive activity. In 1962, several leaders of the General Union of Ivorian Students including Francis Wodié and Abdoulaye Fadiga were arrested. On April 13, 1963, sixty-four defendants were sentenced by the Criminal Court.

Two major events occurred in 1964. On April 2, 1964, Ernest Boka, president of the Supreme Court, was arrested because he protested against arbitrary arrest and died in prison on April 6. Moreover, from September 6 to 20, ninety-six defendants (seven ministers and six deputies), were in front of the Criminal Court. On December 31, the Criminal Court pronounced six death sentences, two life sentences, and nineteen sentences of hard labor.

On January 22, 1967, hundreds of students were arrested after demonstrations at the University of Abidjan. In 1968, eighteen students were arrested because they were members of the clandestine opposition parties. In May 1969, a student strike was sparked by the arrest and imprisonment of 400 student leaders in military camps. In February 1969, Kragbé Gnagnbé, leader of the Nationalist Party founded in 1966, was banned from his residence in Abidjan. He went to his native village located in the region of Gagnoa. Faced with the massacre of the Guébié ethnic group in October 1971, the government sent the army to kill Kragbé Gnagnbé militants in the region of Gagnoa.. The intervention of the army led to the death of 4,000 people, 327 imprisonments, and the destruction of more than a hundred villages. Kragbé Gnagnbé was arrested on November 24, 1976 and died in December 1976.

In November 1976 the army arrested more than a hundred people in Aboisso for a second secession attempt in the region of Sanwi. On June 28, 1973, eleven officers and a lance corporal were arrested for attempting a coup. In 1982, hundred students were arrested. This event was followed by a long strike involving school teachers, doctors, pharmacists, and dentists. It began on April 18, 1983 and ended on May 3 after a presidential decree was enacted. In 1985, the labor inspector Robert Gbai was arrested because he created the Republican Party of Côte d'Ivoire. On September 3, 1987, several members of the National Union of

Teachers of the secondary, including their leader, were sentenced to 6 months' imprisonment.

On October 28, 1990 presidential elections took place in an atmosphere of tension in Abidjan. The supporters of the FPI damaged the ballot boxes and a clash ensued with the police. From May 17 to 18, 1991, students were arrested and tortured following an intervention of the army on campus.

On February 18, 1992 a demonstration of the opposition degenerated into violence, causing more than 300 arrests, including that of Laurent Gbagbo, who was sentenced to 2 years in prison with eight other political leaders on March 6. They were released on August 1 of that year. In 1995, ten FPI members were punished for taking part in a demonstration. Six of them spent 6 months in prison. In the same year, a dispute over the provisions of the electoral code relating to candidates for presidential elections led to frequent clashes between September and October 1995. More than twenty people were killed. Therefore, the government banned demonstrations from October to December 1995, the period of the general election. From 1994 to 1995, fifteen journalists were punished.

On October 29, 1999, many leaders of the RDR were arrested after a peaceful demonstration. Ten were sentenced to imprisonment in November. On October 27, 1999 a court decision to annul the candidacy of Alassane Ouattara for the October 2000 presidential elections led to violent clashes between police and opposition in Abidjan. From December 24 to 25, 1999 a mutiny led to a coup d'état. President Konan Bedie was ousted by General Robert Guei, the former chief of staff. On September 2000, General Palenfo and General Coulibaly were excluded from the government after the attack at the residence of President Robert Guei. On September 19, the residence of General Guei was attacked by assailants, which caused at least 10 deaths.

On March 13, 2001, General Palenfo was sentenced to a year in prison. The attempted coup of January 7 to 8 aiming at paralyzing the city of Abidjan and the residence of President Laurent Gbagbo left at least eleven dead. On August 1, 2002, the former minister Balla Keita was assassinated in Ouagadougou. On September 19, the former president Robert Guei and former minister of the interior and decentralization, Boga Doudou, were also murdered during the attempted coup. This date marked the beginning of a military-political crisis, with loyalist forces opposing rebel soldiers.

In 2003, a long curfew was introduced. During the same year a dispute arose between the Abbey and Dioula peoples in the town of Agboville and eighty people were killed. On October 21, 2003 the correspondent of Radio France Internationale (RFI), Jean Hélène, was murdered in Abidjan. From December 1 to 3, the demonstration outside the barracks of the French Army in Abidjan was dispersed by French soldiers. On December 12, at least nineteen people were killed in a clash in the city of Abidjan. The crisis that began in September 2002 caused the death of 1,000 people, the departure of 400,000 Ivorian refugees, and 800,000 internally displaced persons.

On March 25, 2004, the demonstration against the respect of the LMAs caused the death of twenty-five people. On April 16, the French Canadian

journalist Guy-André Kieffer was abducted. On June 7, loyalist soldiers and French forces in peacekeeping were attacked by the rebels in Gohitafla. During this attack, twenty people were killed, including five French soldiers, and two were wounded. Between November 4 and 9, the French army's repression of a demonstration of young "Patriots", who were protesting against the destruction of the Ivorian fleet by the French forces, caused the death of fifty-seven people and wounded fifty-two.

From January to February 2005, thirty people were killed by loyalist soldiers and rebels. In the night of December 24 to 25, eighteen villagers were killed and thirteen injured in a land dispute between natives and non-natives in the prefecture of Gagnoa.

In January 2006, an attack on a military camp by rebels in Abidjan caused three deaths on the side of loyalist soldiers and ten deaths on the side of the rebels. In the same month, the Young Patriots Alliance occupied the streets and attacked stores of foreigners. On March 1, the positions of rebel forces were attacked in Logoualé and more than thirty soldiers were killed. In September 2006, toxic waste was dumped at sites in the city of Abidjan by a ship called "Probo Koala." This waste poisoned 1,500 people and seventeen of them died. On June 29, 2007 the assassination attempt on Prime Minister Guillaume Soro with a rocket while his plane was landing in Bouake caused four deaths and several injuries.

On July 13, 2010, three journalists were jailed for publishing confidential information about the cacao industry. During this period, thirteen publications were banned. From October 31, 2010 to May 15, 2011, the postelectoral violence between pro-Gbagbo and pro-Ouattara soldiers resulted in the death of over 3,000 people, displacement of populations, torture, sexual violence, and destruction of properties. The former president Laurent Gbagbo and his wife Simone Gbagbo were arrested on April 11, 2011. However, the struggle between pro-Gbagbo and the FRCI soldiers continued in Yopougon from April 11 to May 4, 2011.

Despite the end of the postelection crisis in May 2011, the army bases continued to be attacked by pro-Gbagbo forces, who took refuge in Ghana and Liberia. Therefore, the government decided to close the border with Ghana; it was reopened on September 24, 2012. In July 2012, the attack on the refugee camp in Nahibly (Duékoué) by FRCI left at least thirteen dead, sixty injured, and several arrested. Since August, at least twenty-three attacks on military checkpoints in several cities caused more than twenty-three dead and nearly 400 arrests. On the nights of February 22 to 23, 2014, an armed attack committed against FRCI positions in Grabo led to thirteen deaths. The number of publications banned was 106 in 2012, 145 in 2013, and 103 in 2014.

Based on all the above events of instability, the political instability index constructed shows an increased trend in instability in Côte d'Ivoire from 1897 to 2014 (see Figure 3). The value of this index is particularly high for three periods: 1897–1920, 1948–1970, and 1981–2010. The first period corresponds to the period of the total conquest of the country. The second period, 1948–1970, covers the period of the fight for independence (1948–1959) and the postinde-

pendence period (1960–1970), when there were many clashes between the ruling party and the opposition parties and citizens, such as students and teachers. The last period, 1981–2010, encompasses many events reflecting the economic and political crisis, such as coups and armed conflicts.

6 Comparison of Indexes

Following Bollen (1990), the correlations of the constructed indexes with other authors' indicators are computed in order to test their validity. The political freedom and civil liberty index is compared with the Freedom House indexes for political rights and civil liberty. The modern property rights index is compared with the property rights index produced by the Fraser Institute. The political instability index is also compared with all of these indicators. Finally, all indicators are correlated with the GDP per capita and with foreign direct investment (FDI) as a percentage of GDP.

Table 1 reports the correlations, with significances at 5% level shown. It appears that the political freedom and civil liberties index is positively and significantly correlated with the Freedom House political rights index (0.35) but is poorly correlated with the Freedom House civil liberties index (0.12). This result suggests that our political freedom and civil liberties index captures more political freedom than civil liberties. Indeed, as shown in the section dealing with the evolution of civil liberties in Côte d'Ivoire, many of the reforms undertaken by the government after independence were related to political freedom.

Similarly, the modern property rights index is poorly correlated with the Fraser Institute property rights index with a coefficient of -0.20 , which is statistically insignificant. This result might demonstrate the assessment of alternative rights measures based on *de jure* factors as argued by Glaeser et al. (2004).

When comparing the new indexes, there is a positive and significant correlation of 0.32 between the political freedom and civil liberties index and the modern property rights index. This captures the fundamental interdependence between the civil liberties and the property rights underlined by Van Alstyne (1980). The modern property rights index has a weak correlation with political instability, with a coefficient of 0.18, suggesting that political instability is not strongly linked to land reforms in Côte d'Ivoire. This result may be explained by the fact that many events of political instability occurred prior to the major land reforms in 1998.

On the contrary, the political freedom and civil liberties index is positively and significantly correlated with political instability (0.46). Indeed, as shown in Figure 3, the establishment of the multiparty system in 1990 was followed by an increase in instability in Côte d'Ivoire. Consequently, both the political instability and political freedom and the civil liberties indexes are negatively and significantly correlated with GDP per capita. The negative relationship between instability and GDP per capita is in line with the studies on the effect of political instability on economic growth (Alesina et al. 1992). Similarly, the negative relationship between the political freedom and civil liberties index and

GDP per capita is consistent with the controversial literature on democracy and growth. Indeed, a number of studies find a negative effect of democracy on economic growth (Tavares and Wacziarg 2001; Weede 1983).

The modern property rights index is weakly correlated with GDP per capita. This result may be explained by the fact that our property index only captures land reforms. Finally, as expected, FDI is positively and significantly correlated with the political freedom and civil liberties index and the modern property rights index. Yet, there is no correlation between FDI and political instability, and FDI is negatively and significantly correlated with GDP per capita. These results show a need to study not only the short and long-run relationships between political instability and FDI but also the effect of FDI on growth in the primary, manufacturing, and services sectors in Côte d'Ivoire.

7 Conclusion

This study uses a new dataset on institutions to analyze the evolution of institutions in Côte d'Ivoire. This dataset is based on the framework used by Fedderke et al. (2001). To minimize perceptual biases associated with the construction of perception-based indexes, the steps proposed by Bollen and Paxton (2000) were followed. Three types of index have been constructed: the Property Rights Index, the Political Freedoms and Civil Liberties Index, and the Political Instability Index. These indicators correlate fairly well some macroeconomic indicators (GDP per capita and FDI) with some of the institutional indexes produced by the Freedom House.

The analysis shows an improvement in political freedom and civil liberties in Côte d'Ivoire over the period 1887–2010. Similarly, as a result of all the land reforms in Côte d'Ivoire, an increase in the modern property rights index is also observed on average over the period 1887–2010. However, the value of the index remained relatively low. On the contrary, the political instability index shows an increased trend in instability in Côte d'Ivoire. These findings show a need to continue fighting against political instability and to also undertake reforms in order to better improve political freedom and civil liberties and modern property rights.

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Table 1: Correlations Coefficients

	Variables	property rights	Political rights	Civil liberties	Political freedom and civil liberties	Modern property rights	Political instability	GDP per capita	FDI
Fraser Institute	Property rights	1							
Freedom House	Political rights	-0.2198	1						
	Civil liberties	-0.4293*	0.4189*	1					
New indicators	Political freedom and civil liberties	-0.8682*	0.3547*	0.1230	1				
	Modern property rights	-0.2062	-0.0936	-0.2753	0.3176*	1			
	Political instability	-0.4090*	0.1339	0.1306	0.4613*	0.1864	1		
	GDP per capita	0.7064*	-0.2070	0.0277	-0.6358*	0.072	-0.358*	1	
	FDI	-0.1506	0.1040	0.0319	0.4401*	0.4051*	0.0333	-0.311*	1

*Significant at 5% level.

Figure 1: Political Freedoms and Civil Liberties index for Cote d'Ivoire, 1880-2010

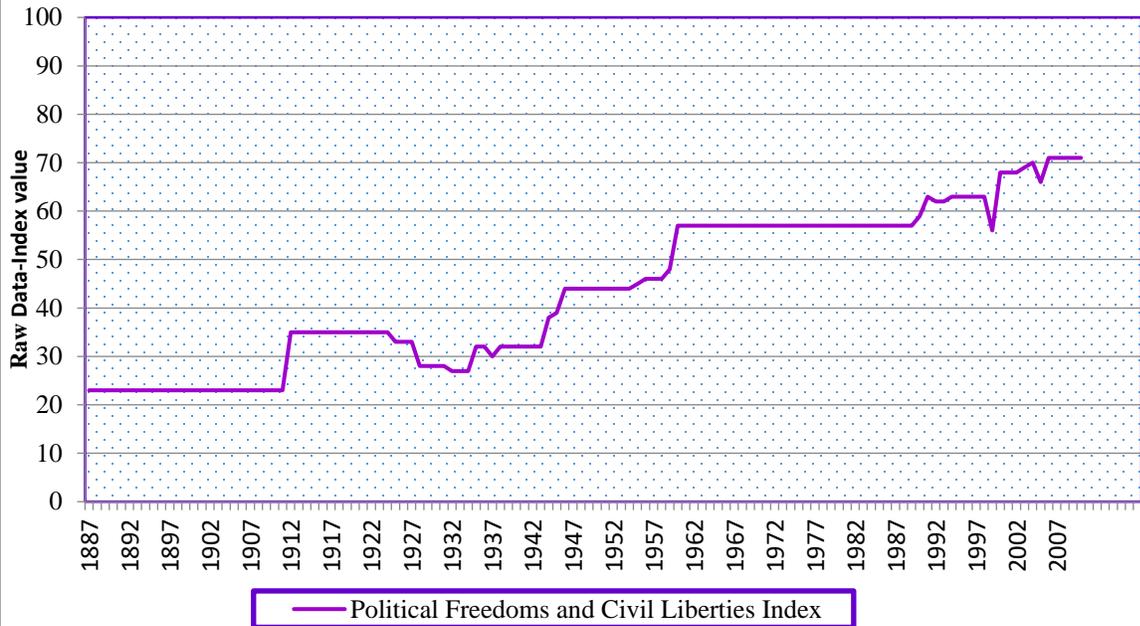


Figure 2: Freehold Property Rights Index for Cote d'Ivoire, 1880-2010

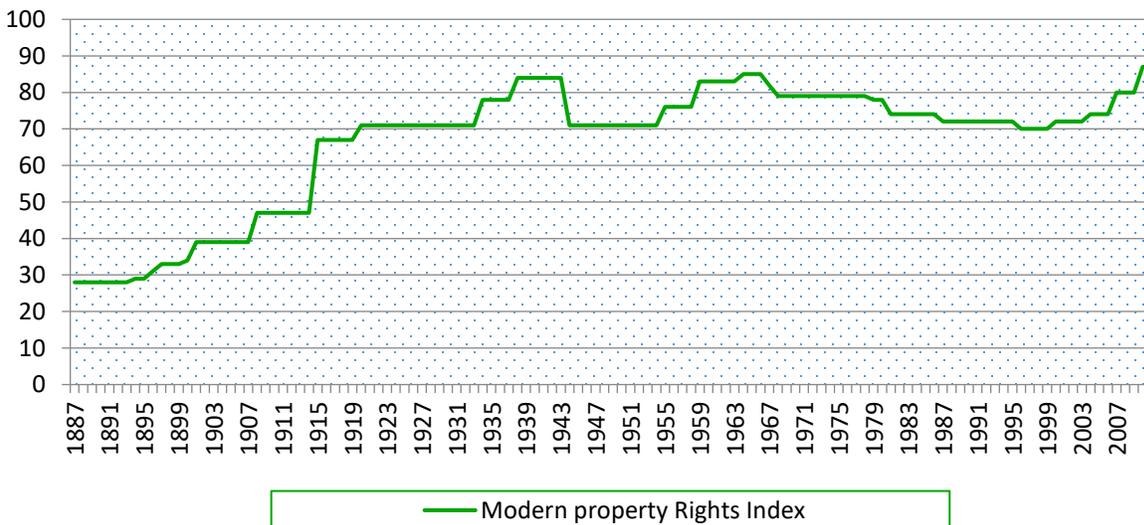


Figure 3: Political Instability Index for Côte d'Ivoire, 1880-2014

