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Guinea Bissau

Submission to the UN Universal Periodic Review

**Eighth session of the UPR Working Group of the
Human Rights Council**

May 2010



Executive summary

In this submission, Amnesty International provides information under sections B, C and D, as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*.¹

- Under section B, Amnesty International raises concern over the failure by Guinea-Bissau to ratify certain international treaties.
- Section C highlights Amnesty International's concerns about human rights violations by the armed forces, specifically unlawful killings, torture and other ill-treatment, arbitrary arrest and detention as well as suppression of freedom of expression.
- In section D, Amnesty International makes a number of recommendations for action by the government in each of the areas of concern.

¹ Contained in Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I adopted 27 September 2007.

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B. Normative and institutional framework of the State

The Constitution of Guinea-Bissau, in force since 1993, guarantees ‘fundamental human rights and freedoms’ and forbids the death penalty. According to the Constitution, all constitutional and legal proceedings related to fundamental human rights must be interpreted in harmony with the Universal Declaration of Human Rights.

The Constitution further defines the Defence and Security Forces as non-partisan, whose mission is the defence of country’s sovereignty and territorial integrity, and forbids them from interfering in political life. Guinea-Bissau has ratified some international human rights treaties, but has yet to ratify several others that it has already signed. Furthermore, it has yet to enact legislation to reflect in national law the provisions of the international treaties to which it is a party.

C. Promotion and protection of human rights on the ground

Introduction

Guinea-Bissau is a volatile country, with a long history of coups and military rebellions. The armed forces have dominated political life in Guinea-Bissau since the country’s independence and have run the country openly or from behind the scenes. They have attributed to themselves powers which violate the country’s Constitution. Since 1998, the armed forces have become a major destabilising factor in the country. Weak institutions and governments have led to the dependence of governments on the support of the armed forces (or certain factions within the armed forces) for their survival. Different factions within the armed forces have supported different governments at various times. In turn, politicians have often played the various factions within the armed forces against each other. Rivalry within the armed forces has resulted in infighting and killings. The military has also been implicated in the drug trafficking trade which threatens to turn the country into a narco-state. Over the years, the armed forces have committed human rights violations with total impunity, including killings, torture and ill-treatment, suppression of freedom of expression, and arbitrary detention. The weakness of the judicial system and other state institutions and the lack of investigations and prosecutions for human rights violations by soldiers have perpetuated the impunity enjoyed by the armed forces.

Unlawful killings

The armed forces are responsible for the killing of both their own officers and civilian politicians. Since 2000, soldiers have killed three Chiefs of Staff of the Armed Forces and other high-ranking officers. No investigations were ever carried out into the killings by soldiers of Brigadier Ansumane Mane, General Veríssimo Correia Seabra and Colonel Domingos de Barros nor into the killing of former Comodore Lamine Sanha, and those responsible have not been brought to justice.

Despite promises by the authorities and by the newly elected President in September 2009, no investigations have been carried out either into the recent killings by soldiers of political figures and armed forces personnel.

President João Bernardo “Nino” Vieira was killed by soldiers in the early hours of 2 March 2009 in an apparent revenge attack. A few hours earlier, the Chief of Staff of the Armed Forces, General Batista Tagme Na Waie, had been killed in a bomb attack in his office in the Armed Forces General Command in Bissau. The soldiers blamed the bomb attack on President Vieira.

Soldiers were also responsible for the killing of four people in the run-up to presidential elections in June 2009. In the early hours of 5 June 2009, members of the Armed Forces killed Hélder Proença, a former Minister of Defence, his driver and bodyguard. The Chief of Staff of the Armed Forces had accused Hélder Proença of masterminding a plot to overthrow the government and to kill him and the Prime Minister. A few hours later, some 13 soldiers broke into the home of Baciro Dabó, a former Minister of the Territorial Administration and a candidate in the presidential elections, and killed him as well. He too was accused of being involved in the alleged coup plot. The deceased were known to be close to the late President Vieira.² To date, no one has been held responsible for these killings.

Torture and other ill-treatment

Torture and other ill-treatment are prohibited by the Constitution and are not widely practised. However, in recent years armed forces personnel have beaten and tortured political activists and other soldiers accused of plotting to overthrow the government; such incidents have occurred in 2001, 2002, 2003 and 2009. The authorities have not investigated these incidents and have not brought to justice those members of the security forces who committed these violations. More recently, the armed forces have tortured and ill-treated critics of the armed forces, particularly those who have suggested the possible involvement of the armed forces in drug trafficking.

In April 2009, Francisco José Fadul, the Audit Court President and former Acting Prime Minister, was beaten by military personnel after he held a press conference calling on the government to hold the military accountable for corruption and other crimes. He received injuries all over his body and had to be hospitalised in intensive care. A week earlier, lawyer Pedro Infanda was arbitrarily arrested and tortured by the military soon after participating in a press conference during which he expressed the opinion of one of his clients, a former head of the navy, that the newly appointed Chief of Staff of the Armed Forces was not competent for this post. He was taken to the Amura military barracks in Bissau, where he was severely beaten with wooden objects for four days. He was denied access to medical treatment, his family and an attorney. No investigations have been carried out into these incidents and those responsible have not been prosecuted.³

Arbitrary arrest and detention

Both the Constitution and national law prohibit arbitrary arrest and detention. Except in cases of *in flagrante delicto*,⁴ arrests may only be carried out by the police, with a warrant issued by a judicial authority. Nevertheless, the security forces often arbitrarily arrest and detain people for exercising their rights to freedom of expression and assembly.

Military authorities do not have the power to arrest civilians, or military personnel except for purely military matters. However, in violation of national and international law, military personnel have been responsible for the arbitrary detention of civilians and of soldiers accused of plotting against the government or military chiefs. Those arrested are often detained in military installations without charge or trial for long periods of time, often months, far exceeding the 48 hours prescribed by law. For instance, in February 2008 seven soldiers were arrested without a warrant by military authorities on suspicion of stealing materials from a

² See Amnesty International Public Statement on Guinea-Bissau: Human rights violations in the run up to presidential elections (AI Index: AFR 30 003/2009) of 11 June 2009.

³ See Amnesty International Press Release: Guinea-Bissau: Military begins crackdown on critics, of 1 April 2009, and Urgent Action 92/09, Guinea-Bissau: Fear for safety/intimidation (AI Index: AFR 30/002/2009) of 2 April 2009

⁴ That is when the person is caught in the act of committing a crime

suspicious aircraft which had landed at Bissau's international airport. They were held without charge for over a month before being released.

In the aftermath of the killings of politicians in June 2009, soldiers arbitrarily arrested and detained other politicians whom they accused of involvement in the alleged plot against the government. They included Faustino Fadut Imbali, a former prime minister; Colonel Antero João Correia, the Director General of the Security of the State; Domingos Brosca; and Yaya Dabó, Baciro Dabó's elder brother. All were arrested without a warrant and detained without charge or trial for several weeks. According to information received by Amnesty International, many of those arrested at this time were tortured while in detention. No one has been brought to justice for these cases of arbitrary detention and torture.⁵

In addition, several politicians and parliamentarians went into hiding or fled the country fearing for their safety, including parliamentarians Conduto Pina, Roberto Cacheu, Marciano Silva Barbeiro, Daniel Gomes, Veríssimo Nacasse "Tchichi" and Tito Danfa. Although the Prosecutor General had ruled in August 2009 that there was no evidence of Conduto Pina's involvement in the alleged plot and absolved him of all responsibility, soldiers attempted to arrest him in the Catholic Mission where he had taken refuge in June 2009. They were prevented from arresting him by the intervention of the Bishop.

Restrictions on the right to freedom of expression

Amnesty International is concerned that although freedom of expression, including freedom of the press, is guaranteed by the Constitution and by national law, the authorities continue to suppress these rights. In the past few years, Radio Bombolom, an independent radio station, has been threatened with closure on several occasions and its journalists have been arrested, beaten and threatened for reporting on the security forces' handling of demonstrations and on the drug trade, as well as for criticising the armed forces.

The military have also been responsible for suppressing freedom of expression by making threats against and beating up those speaking up against them, including journalists, human rights defenders and government officials. In August 2007, four journalists and one human rights defender went into hiding for fear of being arrested and possibly tortured by the military after they publicly implicated high-ranking civil and military officials in drug trafficking. In July 2008, the Attorney General and the Minister of Justice said they had received death threats to force them to stop their investigation into a cocaine haul. Both had also publicly accused high-ranking political, military and security service figures of involvement in the trafficking of drugs, and of obstructing their investigations. In August 2009, the Attorney General reported that he had received anonymous death threats after ruling that there was no evidence of involvement of parliamentarian Conduto Pina in an alleged plot to overthrow the government. In addition, following the killings of President Viera and General Tagme na Waie in March 2009, the President of the Human Rights League of Guinea-Bissau also received threats after he criticised the armed forces.⁶

⁵ See Amnesty International Public Statement Guinea-Bissau: Human rights violations in the run up to presidential elections (AI Index: AFR 30 003/2009) of 11 June 2009.

⁶ See Amnesty International Urgent Action: Fear for safety/fear of torture (AI Index: AFR 30/002/2007) of 15 August 2007 and Urgent Action 92/09, Guinea-Bissau: Fear for safety/intimidation (AI Index: AFR 30/002/2009) of 2 April 2009, and Public Statement: Guinea-Bissau: Intimidation and Harassment of Journalists and Human Rights Defenders Must Stop (AI Index: AFR 30/003/2007) of 16 August 2007.

D. Recommendations for action by the State under review

Amnesty International calls on the government:

Ratification of human rights treaties

- To ratify all outstanding human rights treaties, in particular the International Covenant on Civil and Political Rights and its First and Second Optional Protocols, and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment;
- To ensure that the provisions of all international human rights treaties, once ratified, are incorporated into domestic law.

Unlawful killings

- To send a clear message to the armed forces that human rights violations by any member of the military, regardless of their rank, will not be tolerated and that those responsible for such violations will be brought to justice;
- To ensure immediate, impartial and effective investigations into all cases of unlawful killings and that all those suspected of being responsible are brought to justice in trials that observe international fair trial standards.

Torture and other ill-treatment

- To investigate all reports of torture and ill-treatment by military officials and others, with a view to bringing to justice those officers suspected of responsibility for acts of torture and other ill-treatment, in accordance with international standards for fair trials;
- To ensure that all members of the armed forces and law enforcement officials are aware that obedience to orders will not be accepted as a justification for carrying out torture or other ill-treatment;
- To ensure reparation, including fair and adequate compensation for victims of torture and other ill-treatment inflicted by state agents.

Arbitrary arrests and detentions

- To ensure that nobody is arbitrarily arrested or detained for exercising their right to freedom of expression or other rights and that arrests are carried out in accordance with the law, by law enforcement officials;
- To ensure that detainees are brought before a court to have their detention legalised by a judge within 48 hours, in accordance with the law, or released.

Suppression of the right to freedom of expression

- To ensure that the right to freedom of expression, as enshrined in the Constitution and national law as well as relevant international human rights standards, is fully respected in practice;
- To protect and promote the right to freedom of expression including of those who may wish to express dissenting views and criticism of the armed forces;
- To issue clear guidelines and inform law enforcement personnel, at all levels, of their obligations to respect and protect human rights and to refrain from arresting and beating critics.

Annex: Amnesty International documents for further reference⁷

Guinea-Bissau: Briefing for International Election Observers (AI Index: AFR 30/005/2009) of June 2009

Guinea-Bissau: Human rights violations in the run up to presidential elections (AI Index: AFR 30/003/2009) of 11 June 2009

Guinea-Bissau: Urgent Action 211/07, Fear for safety/intimidation (AI Index: AFR 30/002/2009) of 2 April 2009

Guinea-Bissau: Military begins crackdown on critics, of 1 April 2009

Amnesty International Report 2009, State of the World's Human Rights: Human Rights in the Republic of Guinea-Bissau (AI Index: POL 10/001/2009)

Amnesty International Report 2008, State of the World's Human Rights: Human Rights in the Republic of Guinea-Bissau (AI Index: POL 10/001/2008)

Guinea-Bissau: Intimidation and Harassment of Journalists and Human Rights Defenders Must Stop (AI Index: AFR 30/003/2007) of 16 August 2007

Guinea-Bissau: Urgent Action 92/09, Fear for safety/fear of torture (AI Index: AFR 30/002/2007) of 15 August 2007

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Amnesty International Report 2005, State of the World's Human Rights: Human Rights in the Republic of Guinea-Bissau (AI Index: POL 10/001/2005)

⁷ All these materials can be found at <http://www.amnesty.org/en/region/guinea-bissau>