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Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21

Guinea-Bissau*

The present report is a summary of 2 stakeholders' submissions¹ to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Human Rights Council resolution 16/21, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

* The present document was not edited before being sent to United Nations translation services.



Information provided by stakeholders

A. Background and framework

1. Scope of international obligations

1. JS1 noted that the political and institutional instability faced during the last four years had adversely affected the process of adoption of international legal instruments. Even when conventions were ratified, they were not deposited in accordance with normal procedures for becoming a State-party.²

2. Constitutional and legislative framework

2. JS1 noted that the non-adoption of international instruments cannot serve as justification for human rights violations that have occurred, given that Article 29 of the national Constitution mandates that the human rights norms and practices contained in the international system should be directly applied.³

3. Institutional and human rights infrastructure and policy measures

3. JS1 recalled that during the previous UPR, various delegations had highlighted the need to establish a National Human Rights Commission according to the Paris Principles. However, the current National Commission lacked functional autonomy, and material and financial resources to fulfil its tasks, work plan and programmes.⁴ JS1 recommended restructuring and revitalizing the National Human Rights Commission, endowing it with minimum conditions for carrying out its activities with neutrality and impartiality.⁵

B. Cooperation with human rights mechanisms

4. JS1 recommended the creation of mechanisms to implement and monitor commitments resulting from adherence to international legal instruments that guarantee the participation of civil society organizations, particularly local communities, in their implementation.⁶

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Equality and non-discrimination

5. JS1 noted the creation of a Special Department for Gender issues within the Ministry of Interior; the preparation and adoption, in 2013, of the Strategic Plan for the Eradication of Gender Based Violence and the approval of the National Policy on Gender Equality and Equity.⁷

2. Right to life, liberty and security of the person

6. JS1 observed that the previous report had been submitted in May 2010, one month after the military conducted an attack against the legally constituted power on 1 April 2010, when former Prime Minister, Mr. Carlos Gomes Júnior, had been kidnapped and the Chief of General Staff of the Armed Forces was forcibly withdrawn from his duties. From that date, the relationship between the legitimately established political power and the military began to be marked by military interference in political affairs and even in the justice

system. The wave of human rights violations increased, with kidnappings, beatings and persecution, directed especially against human rights defenders. The situation was aggravated with the death of the President of the Republic, Malam Bacai Sanha, in January of 2012, forcing the country to call for anticipated presidential elections.⁸

7. JS1 recalled that elections had been held in March 2012, but were not concluded because the second round, had been interrupted by a coup d'état led by the military. This in turn, resulted in the establishment of a transition period characterized by the establishment of a government made up of the various political parties and led by a Transitional President of the Republic. The National Popular Assembly (ANP) continued to function, but without the ability to exercise all of its constitutional duties. The Constitution of the Republic was partially suspended, leaving the country to be governed by a transition document and annexed documents.⁹

8. JS1 recommended that Guinea-Bissau: proceed with the most urgent reforms in the defense and security sectors, in order to avoid constant interference of the military in governance affairs; create conditions for governance and institutional stability in order to allow for the implementation of plans and strategies for the medium and long term.¹⁰ JS1 also recommended that the Government improve safety conditions for people and their assets, taking into account that the lack of such conditions is at the root of many conflicts.¹¹

9. JS1 noted that violence against women had its origin mainly within the family or hosting family. Usually, main direct perpetrators, depending on the age and marital status of women, were the parents, siblings, and more often the spouse (67%). The locations of potential aggression were, in addition to home (85%), school and the workplace, and sometimes also the street or public institutions, including the police and even health centres. About 51% of women considered acceptable for their husbands to beat them.¹²

10. JS1 indicated that Sexual and Gender Based Violence (SGBV) also included cultural practices that, in addition to being harmful to the health of women, were performed without taking into account their decision, choice or opinion. This was the case of Female Genital Mutilation (FGM), marriage practices, and succession in cases of separation of spouses. SGBV followed rituals, based on the teaching of submission of women, and includes forms of physical punishment and humiliation. In forced or arranged marriages, exploitation of girls in their husbands' home was common practice, by family members and by the husbands themselves, including rape.¹³

11. JS1 noted that State authorities had adopted a few measures to minimize the effects of such practices and protect women. JS1 noted particularly the establishment of a Guardian ad Litem system (Curadoria de Menores), and of the lower Section for Family and Minors within the Regional Court of Bissau, which had revealed itself to be a good monitoring tool on the rights of women. Additionally, social workers and sociologists to provide support in the court had been hired.¹⁴ JS1 also observed that the recent law on FGM and against domestic violence, the political-institutional and macroeconomic reforms as well as the action plan for the implementation of UN Resolution 1325, were further important instruments that could help restrain SGBV as well as mechanisms established at state and civil society levels, to give visibility to this issue, and better inform the population, especially women, about their rights.¹⁵

12. However, JS1 indicated that serious deficiencies remained in this regard including: legal gaps, shortage of decentralized structures of the mechanisms involved in this field, weak capacity of intervention, and the allocation of greater visibility to certain SGBVs which leave other cases largely forgotten. In addition, there was an obvious lack of access to legal information and existing protection mechanisms.¹⁶

13. Global Initiative to End All Corporal Punishment of Children (GIEACPC) indicated that in Guinea-Bissau, corporal punishment of children was unlawful as a sentence for

crime and possibly in penal institutions and schools but it was not prohibited in the home, alternative care settings and day care.¹⁷

14. GIEACPC noted that according to the Government, the provision in the Civil Code 1884 for parents to “moderately correct their child in the latter’s mistakes” was repealed. However, there was no explicit prohibition of corporal punishment and provisions against violence and abuse in the Penal Code 1993 were not interpreted as prohibiting corporal punishment of children. It noted that UNICEF’s major 2010 analysis of data on child discipline in the home in 2005-2006 found that 82% of 2-14 year olds in Guinea-Bissau were violently “disciplined” (by physical punishment and/or psychological aggression) in the month prior to the survey.¹⁸ GIEACPC also noted that the Committee on the Rights of the Child had twice expressed concern at corporal punishment in the family and other settings in Guinea-Bissau and had recommended prohibition and other measures.¹⁹

15. GIEACPC indicated that in Guinea-Bissau there was an ongoing process of laws being harmonized with the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, and that the drafting of a comprehensive Code on the Protection of Children was planned. It expressed the hope that the Working Group would urge the Government to ensure that the opportunity presented by such reforms to enact prohibition was taken and that corporal punishment be prohibited in all settings, including the home, as a matter of priority.²⁰

16. JS1 indicated child labour was mostly occasional and mainly exercised on an irregular basis to cover family expenses, and was generally regarded as SGBV only when forced.²¹

17. JS1 noted further on child domestic work, that although the country had ratified some international conventions, there are still no national structures and instruments to effectively combat it.²²

18. According to JS1, a recent concern was the sexual exploitation of minors. This phenomenon had increased mainly in tourist areas and in hotels, motivated by the fragility and little presence of state institutions in most parts of the country. Reports of cases where girls were trafficked for sexual exploitation in small bars and restaurants were frequent, although there was no data on the extent of the issue.²³

19. JS1 observed that the phenomenon of children who were sent abroad under the pretext of going to learn the Koran and end up begging on the streets, mostly in the big cities, known as Talibé children, continued to occur. However, it highlighted that the authorities, in particular Migration and Border Services, were now more sensitive to the issue and attempted to fight it more vigorously.²⁴

20. In this respect, JS1 indicated that the adoption in 2011 of the Law against Trafficking in Human Beings, especially children and women, which included Talibé children, had contributed to deter many of those involved in the traffic.²⁵

3. Administration of justice, including impunity, and the rule of law

21. JS1 noted that certain measures had been adopted to combat violence including: the creation of special brigades for vulnerable people within the judiciary police; and the creation of centers of access to justice to support victims of violence. These offices were created by the Government, through the Ministry of Justice under the Reform of the Justice and Security Sector, with the aim to provide legal assistance to the most vulnerable. It noted additionally the approval in 2011, by the Council of Ministers, of a draft law on witness protection in order to ensure greater safety and security for witnesses of various human rights violations, including against women.²⁶

22. Regarding the functioning of the courts, JS1 observed that in the previous reporting period, when the 2010 UPR report had been submitted, 20 Sectoral Courts had been functioning, although 26 were foreseen. However, as of 2014 only 11 such Courts were operating. Most of the judges of these courts did not have legal training, and accumulated functions in two or three courts. Regional courts, which were to be set up in all regions, only functioned in five regions including Bissau, leaving many people, particularly in southern regions, without access to courts.²⁷

23. JS1 observed that Centers of Access to Justice were created to encourage and support the use of formal justice as a way to avoid private justice. However, the lack of sufficient means and legal framework hamper their efficiency.²⁸

24. JS1 added that another obstacle to people's access to the courts were the fees. Since 2011, with the application of Law 8/2010, all persons who cannot afford to pay the initial tillage, had no access to a court. Even the party against whom a complaint is filed, cannot contest a complaint before paying a certain amount to the court, which in some cases exceeds 10% of the costs. Exemption from payment for those who do not have the economic means was also difficult, as proving this condition was costly and time consuming.²⁹

25. JS1 stated that in terms of defending constitutionally established order, cases of corruption and violent crimes, some cases with political connotations, had not been investigated and prosecuted. On the contrary, constitutional order had been subverted through a coup d'état and the suspension of the Constitution. When the Transitional Government took office, the Transitional President of the Republic had not been endowed with effective powers, and could not address acts of torture, corruption and mismanagement.³⁰

26. JS1 recommended that Guinea-Bissau accelerate reforms in the justice sector to ensure access to its services, regardless of economic conditions, gender, social origin or political position.³¹

27. JS1 recommended the country's adherence to practices against corruption and lack of transparency in the management of public institutions, especially concerning natural resources.³²

28. JS1 noted that two prisons had been built with the support of partners. However, detention conditions for all, particularly women and youth, continued to be precarious. Complaints and disciplinary proceedings brought against prison officials and prison guards in 2012 and 2013 by the Ministry of Justice, the entity responsible for prisons issues, showed that something was missing in these institutions in order for them to respect human rights and to act in accordance with the international minimum standards.³³

4. Right to participate in public and political life

29. JS1 stated that gender equality was still far from being a reality and indicated that the Constitutional Government which resulted from the 2014 legislative elections was comprised of 31 members, of which only five ministers were women.³⁴

5. Right to work and to just and favourable conditions of work

30. JS1 observed regarding employment, that even those who manage to have some professional, secondary or higher education faced difficulties in placement due to lack of a national employment policy and encouragement of youth entrepreneurship.³⁵

6. Right to health

31. According to JS1, health services continued to be very expensive for women, as the fees charged in hospitals dissuade patients from seeking appropriate services, making them resort to traditional medicine.³⁶

7. Right to education

32. JS1 noted regarding education, that there was a lack of opportunities, especially for girls, and that recurring strikes motivated by social conflicts between governments and trade unions, have made Guinea-Bissau one of the countries with the lowest school attendance rates.³⁷

33. JS1 recommended that Guinea-Bissau create conditions for the most vulnerable to have access to basic education and health services, and restart the policy of encouraging girls to attend school.³⁸

8. Persons with disabilities

34. JS1 stated that the disabled are the most disadvantaged in all aspects. They suffer within their community and throughout the whole system such as health, education and social protection. The special needs and care of this category were often relegated to the last plan. During the last four years no policies to meet their special needs were adopted, except the signature of the International Convention on the Rights of Persons with Disabilities and its Optional Protocol, which are still to be ratified.³⁹

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.

Civil society

Individual submissions:

GIEACPC Global Initiative to End Corporal Punishment of Children, London (UK);

Joint submissions:

JS1 Joint submission 1 submitted by: (1) Network of Human Rights Defenders of Guinea-Bissau (RDDH-GB); (2) National Network against Child and Gender Based Violence (RENLUV); (3) National Network of Youth Associations (RENAJ); (4) Women's Network for Peace and Security in the ECOWAS Space (REMPSECAO); (5) National Committee for the Abandonment of Harmful Traditional Practices against the Health of Woman and Children (CNAPN); (6) Women's Political Platform (PPM); and (7) Association of Friends of the Child (AMIC).

² JS1, p.5.

³ JS1, p.5.

⁴ JS1, p.6.

⁵ JS1, p.9.

⁶ JS1, p.9.

⁷ JS1, pp. 6-7.

⁸ JS1, p.3.

⁹ JS1, p.3.

¹⁰ JS1, p.9.

¹¹ JS1, p.9.

¹² JS1, p.7.

¹³ JS1, p.7.

¹⁴ JS1, p.7.

¹⁵ JS1, p.7.

¹⁶ JS1, p.8.

¹⁷ GIEACPC, para.2.1.

¹⁸ GIEACPC, para. 2.2.

¹⁹ GIEACPC, para. 3.1.

²⁰ GIEACPC, para. 1.2.

²¹ JS1, p.8.

²² JS1, p.8.

²³ JS1, p.8.

²⁴ JS1, p.8.

²⁵ JS1, p.8.

²⁶ JS1, p.6.

²⁷ JS1, p.6.

²⁸ JS1, p.6.

²⁹ JS1, p.6.

³⁰ JS1, p.5.

³¹ JS1, p.9.

³² JS1, p.9.

³³ JS1, p.6.

³⁴ JS1, p.8.

³⁵ JS1, p.8.

³⁶ JS1, p.8.

³⁷ JS1, p.8.

³⁸ JS1, p.9.

³⁹ JS1, p.9.