

## **A. Information related to the UPR 2015 recommendations**

### **1. Acceptance of international norms**

*Rec 96.1.(Gabon), Rec. 96.7.(Brazil) and 96.8.(Ghana), A/HRC/15/10(para7)*

Guinea-Bissau ratified the CRDP-OP on 22 October 2018, with a declaration not to recognise the competence of the Committee under articles 6 and 7 of CRDP-OP.

⇒ *UNIOGBIS-HRS recommends the State to (i) recognize the competence of the Committee under arts. 6 and 7 of CRPD-OP to conduct inquiries into serious and systematic violations of the Convention (art. 8); (ii) ratify or accede to the ILO Domestic Workers Convention, 2011 (No. 189), to the OP-ICESC (signed in 2009), to the OP-CAT (signed in 2013), OP-CRC on a Communication Procedure (signed in 2013) and to the ICPED (signed in 2013); (iii) to recognize the competence of the HRC to receive communications when a State Party claims that another State Party is not fulfilling its obligations and communications from individuals subject to its jurisdiction to the provisions of the ICCPR-OP2; and to recognize paragraph 1 of article 92 of the ICRMW to which Guinea-Bissau submitted a declaration.*

### **2. Cooperation with treaty bodies**

*Rec. 96.37.(Sierra Leone) and 96.36.(Portugal), A/HRC/29/12/Add.1(para.7)*

Guinea-Bissau is yet to submit overdue reports to treaty bodies. With the support of UNIOGBIS, progress towards the elaboration of a common core document was registered in 2018 and 2019. The Government is yet to take additional steps to engage with treaty bodies through their reporting system.

⇒ *UNIOGBIS/HRS recommends that the Government ensures that the National Commission of Human Rights of the Ministry of Justice and Human Rights is duly resourced to perform its role as the primary human rights advisor to the Ministry of Justice and Human Rights, and through it, to the Government, including for the elaboration of pending reports to international and regional human rights mechanisms.*

### **3. Constitutional and legislative framework**

*Recs. 96.20.(DRC); 96.21.(France); 96.23.(Indonesia); 96.24.(Portugal) and 96.25.(Libya), A/HRC/29/12/Add.1 (para.7)*

Guinea-Bissau is yet to take steps for the establishment of a National Human Rights Institution in compliance with the Paris Principles and/or to review the Statute of the National Human Rights Commission to make it compliant with the Paris Principles. With a view to advocate for the establishment of such institution, and to strengthen the advisory role of the current Commission, UNIOGBIS supported the Ministry of Justice and Human Rights to publish an information and advocacy tool on the matter.

The current National Commission on Human Rights, established by Ministerial Decree 6/2009, has the nature, composition and most of the functions of a national level ad hoc/inter-ministerial Human Rights Commission. The Commission is not independent from the Government as it is under the tutelage of the Ministry of Justice and Human Rights. Excepting the Chair and two administrative assistants, the members of the National Commission on Human Rights do not receive any salary or stipend for their membership to

the Commission. Moreover, the Commission has no budget of its own besides an allocation from the Ministry of Justice and Human Rights to cover the cost of the rent of the Commission where it operates. None of the members of the commission is selected through public processes, with predefined criteria. At least 13 of the commission members are also part of the Government (ministries or State Secretariats) contrasting with the interpretative recommendations by the Global Alliance of National Human Rights Institutions.

⇒ ***UNIOGBIS/HRS recommends that (a) the Government takes the necessary steps to present a bill to the National Assembly to set up a National Human Rights Institution in compliance with the Paris Principles and (b) the Government takes steps to amend the Ministerial Decree 6/2009 to ensure the Government's counts with an expert or an expert body to advice on human rights issues/concerns, elaborate reports to regional and international human rights mechanisms and monitor the implementation of recommendations made by those mechanisms.***

#### **4. Institutions and policies**

***Rec. 96.19.(Gabon); 96.22.(Thailand) and 96.26.(Botswana), A/HRC/29/12/Add.1(para.7)***

No steps were taken to reform the National Human Rights Commission, and to guarantee the implementation of its mandate with neutrality and impartiality, nor to develop a National Human Rights Action Plan.

⇒ ***UNIOGBIS/HRS recommends that Parliamentarians, non-governmental organizations, civil society groups, human rights defenders and advocates, individual citizens and international and regional organizations to raise awareness of the importance of the most prominent national mechanisms for the promotion and protection of human rights and build support for their establishment or strengthening in Guinea-Bissau.***

#### **5. Conditions of detention**

***Rec. 96.50(Djibouti) and 96.51(Rwanda), A/HRC/29/12/Add.1(para.7)***

The conditions in detention facilities do not meet international standards, inter alia as they are often severely overcrowded and minors are detained in the same cells with adults, including adult persons that committed serious crimes. Health and hygiene conditions are alarmingly poor. Most of the detention facilities need renovation, with roofs leaking in several police detention facilities and many police detention cells do not have windows nor electricity and are thus constantly dark, in addition to lacking adequate ventilation leading to humidity, foul smell and excessive heat. The right to adequate food and water and to the highest attainable standard of health are not fully guaranteed for detainees. Capacity-building and material support has been provided by international non-governmental organisations and other organizations.<sup>1</sup>

Due process of law is not followed in many cases. Prolonged and/or arbitrary detention is frequent, the time limit of detention (48 hours) before being presented to an investigative judge as enshrined in Article 40(1) of the Constitution is frequently not respected. For example, in the first half of 2019 UNIOGBIS/HRS conducted 26 visits to prisons and detention facilities, documenting cases of a total of 708 detainees including 9 females, out of which 163 were kept in prolonged detention. Out of these 163 detainees, 141 detainees were released after UNIOGBIS advocacy with the respective Police Commander, Prosecutor of Investigative Judge. Cases that remained unaddressed were due to frequent absence in the regions of the

respective judicial authority to review detention, inter alia because of prolonged strike action during May and June 2019, and/or to file charges in a timely manner.

⇒ *UNIOGBIS/HRS recommends that (i) all authorities with detention powers follow due process of law and present detainees before the competent authority within 48 hours of arrest, (ii) the Government prioritizes reform of the penitentiary system, including with assistance of the international community, (iii) the Government elaborates an Action Plan to Combat Prolonged and Arbitrary Detention with key immediate steps such as the establishment of a functional registry system to keep records in all places of detention and access to legal assistance for all detainees.*

## **6. Right to an effective remedy, impunity**

*Rec. 96.102.(Portugal), A/HRC/29/12/Add.1(para.7)*

The State needs to effectively engage on bringing its legislation in conformity with its human rights obligations and to establish a system for the protection of victims and witnesses and prevention and protection mechanisms regarding early and forced marriage and forced begging.

*Recs. 96.103.(France); 96.104(UK and Northern Ireland) and 96.106 (Argentina), A/HRC/29/12/Add.1 (para.7)*

Guinea-Bissau did not take steps to fight impunity for past gross human rights violations. National authorities have been unable or unwilling to bring the perpetrators of past human rights violations to account. In addition, no progress has been made towards setting up transitional justice and reconciliation mechanisms. The Parliament in July 2019 extended the mandate of the Organizing Committee of the National Conference (OCNC) which is expected to choose the most appropriate mechanism for Guinea-Bissau to deal with serious violations of human rights, in a conference, to be possibly organized in 2020.

Calls made by the Secretary-General and the Security Council to ensure effective and credible investigations in accordance with international standards, are still not addressed by the State, including those linked to the killings of 18 March 2012 and the coup d'état of 12 April of the same year. In view of the lack of progress on this matter and of previous calls by the Secretary-General highlighting the need to take urgent action, with the support of the international community, "to ensure effective, credible investigations in accordance with international standards into the 12 April 2012 coup, the killings of 18 March 2012, the 26 December 2011 and 1 April 2010 military events and March and June 2009 political assassinations and the prosecution of those responsible for criminal acts" and to that end, he suggested that one possible option could be "the establishment of a mixed tribunal in Guinea-Bissau" and the provision of security for its members and witnesses.

*UNIOGBIS/HRS recommends that Guinea-Bissau takes necessary steps to set up transitional justice and reconciliation mechanism with victim-centred approaches in full participation of the victims, witnesses and in line with international standards to fight impunity for past cases of human rights violations It is also recommended that the State expedite the process of enactment of the law on victim and witness protection.*

## **7. Right to health**

*Rec. 96.131.(Angola), A/HRC/29/12/Add.1 (para. 7); Rec. 96.137.(Sudan), A/HRC/29/12/Add. (para.7)*

The full realization of the right to health is challenged by serious multiple obstacles, such as endemic poverty; deficits in access to food, education, safe drinking water and sanitation; limited and inadequate infrastructure as well as other outstanding challenges to the availability, accessibility, acceptability and quality of the health care system (see annex 1 and 2).

⇒ *Main recommendations to the State include, among other, to (i) adopt a basic legal framework on health; (ii) outline a clear policy and plan to achieve universal health coverage; (iii) strengthen efforts to further reduce neonatal, infant and maternal mortality; (iv) develop and make available, throughout the country, a uniform patients' rights charter; (v) adopt and effectively implement accountability tools, which are accessible to all, such as functional national complaints mechanisms; (vi) regulate the supervision of health care professionals and their activities and (vii) ensure that minimum standards of quality care are delivered, including assistance to healthcare professionals, continued education and adequate supervision of their work, adequate allocation of human, financial and technical resources, among others.*<sup>2</sup>

## **8. Right to education**

*Rec. 96.137.(Sudan), Source of position: A/HRC/29/12/Add.1(para.7)*

More than half of the population continues to be illiterate<sup>3</sup> and pervasive challenges remain for the mainstream population to access education. Repeated strikes due to lack of salary payments over the past five years, particularly in the public education sector, have impacted detrimentally the enjoyment of the right to education of the 44 per cent of children that have access to education in Guinea-Bissau.

The Ministry of Education, through its National Institute of Education Development (INDE, acronym in Portuguese), has taken steps towards the institutionalization of human rights education in the context of ongoing curricular reforms.<sup>4</sup>

### ***B. Additional information related to UPR 2010***

*Rec. 65.14.(Spain) A/HRC/15/10*

Several laws continue to be inconsistent with international standards (e.g. the military code, and the draft military code submitted to the President in December 2019<sup>5</sup>).

Steps taken towards constitutional review include the set up/reinvigoration of a Commission under Parliament purview. No chronogram is still established for the finalization of the Constitutional revision. As highlighted in the Public Report annexed to this submission (annex 3), a human rights-sensitive review of the Constitution is necessary to address current human rights concerns.<sup>6</sup>

⇒ UNIOGBIS/HRS recommends that (i) the Parliament revisit the Draft Military Code to align it fully with international standards and (ii) all stakeholders should ensure that ongoing efforts to review the constitution duly address human rights concerns, including those highlighted in the report submitted as annex 3, such as ensuring the full compliance of the future constitution with the ICCPR.

### ***C. Other considerations (not related to specific UPR recommendations)***

#### **1. Outstanding human rights concerns**

Although no gross human rights violations have been reported since general elections in 2014, outstanding human rights concerns that are yet to be addressed systematically and effortlessly by national authorities, include sexual and gender-based violence (SGBV), child labour, exploitation/abuse of domestic workers and human trafficking.

## **2. Regional human rights mechanisms**

The collaboration of Guinea-Bissau with regional human rights mechanisms has enhanced during the reporting period. Although the State is yet to ratify the Protocol to the African Charter establishing the African Court on Human and Peoples' Rights, it expressed an intention to do so in the third quarter of 2017 during a visit of the judges of the African Court on Human and Peoples' Rights to the country. Moreover, on November 2017, Guinea-Bissau submitted its initial report to the African Commission on Human and Peoples' Rights on the implementation of the African Charter on the Rights and Welfare of the Child. The use of the sub-regional legal system for the protection of human rights by civil society also increased. Civil movements filed a lawsuit at the Community Court of Justice of ECOWAS zone in December 2016 as a reaction to a ban on the right to peaceful assembly, the hearings of the case took place on 23 April 2018 in Bamako and on 7 November 2018 in Abuja, with the Court's final judgement outstanding.

## **3. Political and public participation rights**

⇒ *Recommendations for the amendment of the electoral legislation should focus on (i) allowing the enjoyment of active electoral capacity to persons sentenced to prison for intentional crimes, and those suffering physical, or functional limitations as recommended by international human rights mechanisms; (ii) ensuring that electoral information and voting papers are available in a range of accessible formats and languages; (iii) including persons with disabilities and people with reduced mobility in the design and implementation of voting systems in the country; (iv) enlarging the category of authorized election observers to widen civic space.*<sup>7</sup>

## **4. Women's right to participate in public and political life**

A major step was the adoption of the *Law of parity for the participation of women in politics and in the spheres of decision-making* (Law No. 4/2018).<sup>8</sup>

⇒ *It is recommended to the State to (i) adopt concrete measures to prohibit all forms of direct and indirect discrimination against women; (ii) ensure high-quality data disaggregated by sex is collected to elaborate evidence-based public policies to effectively address persistent challenges; (iii) adopt temporary special measures to achieve effective participation of women from all social circles in political life, through meaningful and inclusive consultative processes with relevant communities and their leaders; (iv) promote the implementation of the Parity Law; (v) consider a future review to the Law 4/2018 to include mandatory alternation between women and men in the electoral lists and/or a minimum quota for women in Parliament.*

Out of the 102 seats, 13 won seats in the 2019 legislative elections (12 per cent). However, the final configuration of the Parliament will include approximately 10 women parliamentarians only, due to its reconfiguration following the appointment of the new ministerial cabinet on 3 July 2019. The newly appointed ministerial cabinet includes eight women ministers and three women Secretaries of States and women thus represent 34 per cent of Government officials.<sup>9</sup> For the figures of women representation in the judiciary and military, please consult annex 3, paras. 58-62.

## 5. Right to peaceful assembly

While the Constitution recognizes the right to peaceful assembly, the national law (N. 3/92 of 6 April) sets up restrictions to its exercise, including geographic and time limitations (see annex 4 for detailed analysis). The national law requires four-day prior notice to the Ministry of Interior or the respective Police for assemblies. Despite the Law N. 3/92 not requiring authorization for a peaceful assembly to proceed, there is a pattern on the use of the notification system required by it to operate as a *de facto* requirement for prior authorization of selected demonstrations. Delaying tactics, including the refusal to receive notifications of future assemblies/demonstrations, have also been common in the past three years. Targeted restrictions to the right to peaceful assembly have affected youth and social movements, confederation of associations, various other associations and workers' unions and political coalitions and supporters.<sup>10</sup> When restrictions have been imposed, no option has been provided to the demonstration organizers to seek judicial review and, where relevant, administrative review, that is prompt, competent, independent and impartial.

⇒ ***UNIOGBIS/HRS recommends the Government to ensure that the application of the law is in compliance with the international standards and to apply the same interpretation of the law to all groups.***

⇒ ***It is also recommended to ensure that all the law enforcement officials deployed in the assembly are trained on human rights trainings and others on crowd control and mass demonstrations.***

## 6. Freedom of expression

In the context of electoral processes, there is a need to ensure pluralistic political and media environments and to address the lack of State budget allocated to the functioning of public broadcasters.<sup>11</sup> A positive step was the adoption of a Code of Conduct for Electoral Coverage, on 15 February 2019, signed by media outlet directors.

Concerns are also related to the direct control of the government over media licensing, since there is no legislation establishing licensing procedures. The National Council is the only authority that can give non-binding opinions on the broadcaster's licenses.<sup>12</sup> Political affiliation, influences and differences continue to have a detrimental impact on the independence of State-owned media.

⇒ ***UNIOGBIS/HRS recommends to the National Assembly (i) to enact legislation on the right to information, including to ensure independent, plural media services; (ii) enact or amend legislation governing television and radio broadcasters to ensure that journalists are free to pursue their professional activities, that public broadcasting is independent, and that licensing procedures for broadcasting are issued by an independent body.***

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<sup>1</sup> Progress has been made in raising the awareness of prison guards and on detainees in the human rights areas, including with UNIOGBIS support in 2018 when three separate training sessions for 71 prison guards, including 7 females in November 2018. Human rights campaigns on the rights of the prisoners were also conducted in 2018, attended by 143 prisoners, including 2 female prisoners.

<sup>2</sup> See annex 1: UNIOGBIS/OHCHR Public Report on the Right to Health 2017.

<sup>3</sup> The literacy rate of adults (ages 15 and older) was 45.6% in 2016. See: <http://hdr.undp.org/en/indicators/101406#a>

<sup>4</sup> Capacity-building efforts for human rights education, including trainings on peace, citizenship and human rights for 240 education inspectors, including 44 women were undertaken by the INDE, with the support of UNIOGBIS-HRS in 2018.

<sup>5</sup> For example, the Military Code does not define which offences are of a strictly military nature, contravening the principle that the jurisdiction of military courts should be limited to offences of a strictly military nature committed by military personnel. See, e.g. Commission on Human Rights, Issue of the administration of justice through military tribunal, Principle No. 8, UN Doc. E/CN.4/2006/58.

<sup>6</sup> See paras 20-22 of Annex 3, UNIOGBIS Public Report on the Right to Participate in Political and Public Affairs in Guinea-Bissau, 2019.

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<sup>7</sup> See annex 3: UNIOGBIS Public Report on the Right to Participate in Political and Public Affairs in Guinea-Bissau participation rights, 2019.

<sup>8</sup> In Portuguese “Lei de Paridade para a participação das Mulheres na política e nas esferas de tomada *de decisão*”, promulgated by the President of the Republic on 3 December 2018. The law sets a minimum of 36 per cent of women candidates in all lists for elective positions in the legislature and in municipality assemblies. On 18 February 2019, the National Electoral Commission issued a statement informing that 13 parties failed to comply with the Parity law, and that the list of those parties would be communicated to the Ministry of Economy and Finance and other entities of the tax administration to ensure strict compliance with article 10 of the law, regarding the loss of tax benefits. Eight political parties complied with the Law 4/2018 in the electoral rolls in all constituencies: Democratic Centre Party (PCD); Democratic Party for Development (PDD); African National Congress (CNA); Party for National Unity (PUN); Patriotic Movement (MP); Manifest of People (Manifesto); Union of Guinean Patriots (UPG); and Union for Change (UM).

<sup>9</sup> From November 2016 to April 2018, women constituted only 10 per cent of top Government officials: out of a total of 37, no woman was appointed at the ministerial level, and five women were appointed at the level of Secretary of State. From April 2018 to March 2019, women represented 16 per cent of top Government officials: out of a total of 26 top government officials, three women were appointed at ministerial level, and two at the level of Secretary of State.

<sup>10</sup> For example, in November 2016, the Ministry of Territorial Administration issued a Ministerial Order (2/GMAT/2016) to prohibit indefinitely public demonstrations and rallies all over the country, unless otherwise authorized.

<sup>11</sup> In the past two years, the National Council for Social Communication has issued at least four statements on freedom of expression, including a call urging public authorities, particularly the executive, to refrain from interfering with the media, and urging the national television to stop discriminating in the coverage of political activities and to strictly observe the principles of pluralism and diversity.

<sup>12</sup> Republic of Guinea-Bissau, Law 8/2013, 25 June 2018, art. 4 (f).