

GUINEA-BISSAU

Protecting human rights - a new era?

Introduction

Human rights were a casualty of the conflict in Guinea-Bissau which began on 7 June 1998 and in which the last shots were fired on 3 February 1999. In the years before the war, the government made little effort to develop a culture of accountability or to build institutions for the protection of human rights. Nevertheless, two factors bring hope that in the wake of the conflict a new era may begin - one where human rights are respected and protected. On one hand, the vision and strength of will of non-governmental organizations, religious groups and others working to enhance the range of human rights is strong. On the other, the new Government of National Unity has promised to respect human rights and its plans include important developments in human rights protection.

This report has been prepared for a round-table conference of donors on Guinea-Bissau to be held in Geneva on 4 and 5 May 1999 under the sponsorship of the United Nations Development Programme (UNDP). This is an extremely important opportunity to help to build a new era for human rights in Guinea-Bissau. Donor governments, United Nations (UN) agencies, the World Bank and international and foreign non-governmental organizations can contribute to this by providing resources to establish a culture of accountability, to build institutions of government which respect and protect human rights and to support efforts of civil society working across the whole range of rights.

A new era for human rights in Guinea-Bissau depends on the emergence of a political will to protect human rights and on the development of a criminal justice system capable of combatting corruption and abuse of power and of upholding civil and political as well as other human rights. For the first, it is necessary to acknowledge the human rights violations of the past and those carried out during the war and to decide how to ensure that they will not recur with impunity: this is essential if true national reconciliation is to take place. For the second, the weaknesses of the criminal justice system must be studied and resources found for reform and reconstruction.

The promotion and protection of civil and political rights is not only important in its own right but is essential to ensure participation and accountability in the development process. A lack of participation and accountability in the past has meant that development in Guinea-Bissau has benefited very few people. Protection of human rights, particularly those of freedom of expression and association, are essential to ensure that people participate in and benefit from the development process.

An Amnesty International delegation visited Guinea-Bissau from 8 to 26 March 1999 to gather information about human rights abuses during the war and to assess

prospects for the future protection of human rights. This report makes recommendations for assistance from the international community which is needed immediately to ensure that the forthcoming elections are not distorted by human rights violations and for longer term commitments necessary for rebuilding the institutions which protect human rights.

The war and its effects on human rights

Nearly a third of the country's population of just over a million lived in the capital, Bissau, where the heaviest fighting took place. Most were forced to flee from the city into makeshift camps while those remaining took shelter from the bombardments in trenches or behind sandbags. There were some fierce battles outside the capital but most other towns and villages in Guinea-Bissau were spared the shelling. Instead, they bore the brunt of a huge influx of displaced people, most of whom were given refuge in family homes. All over the country food and medicines were scarce. There were disruptions to the agricultural cycle and threats of epidemics.

There were also violations of civil and political rights and of the laws of war by troops loyal to President Vieira and Senegalese and Republic of Guinea soldiers. The violations included torture, rape and deliberate and arbitrary killing of civilians and soldiers who had laid down arms. There was also evidence of indiscriminate killing of civilians. During the conflict there was no declaration of a state of siege or emergency which would have defined any permissible restriction of rights and freedoms: yet in practice, constitutional human rights were arbitrarily restricted. Civilians were detained in military custody merely for listening to the *Radio Junta Militar* or discussing the political situation. Soldiers and police were detained on the mere suspicion of supporting the *Junta Militar* and many were severely beaten. The police, particularly the security police, were also involved in human rights violations including torture and rape. Amnesty International also received reports of extrajudicial executions carried out by military and security officials. The *Junta Militar* also held and ill-treated civilians. An unanswered question is, what happened to soldiers taken prisoner in battle? Some were released and a few wounded prisoners were taken to hospital but there were also indications, which need to be further investigated, that both sides killed soldiers who had been wounded or captured or who had surrendered. In the coming months more information will emerge about violations of international humanitarian and human rights law during the conflict.

The devastation caused by the war, in addition to hundreds of civilian deaths, included the occupation by soldiers and the looting by both soldiers and civilians of houses and government buildings, and the destruction of hospitals and of the priceless archives of the National Institute of Studies and Research. Banks were closed and salaries stopped. Over 200,000 people were internally displaced and 8,500 sought refuge in other countries. Many of these are skilled workers whose return is vital to the administration of the country.

The state of human rights protection before the war

One of the underlying causes of the conflict was the government's failure to develop a culture of accountability. In the past, principles of good governance and respect for human rights were overturned at the whim and convenience of those in power. Those who violated human rights were seldom brought to justice and little attention was given to ensuring that provisions for the protection of human rights contained in the Constitution were guaranteed in practice by a strong and independent criminal justice system.

The inadequacies in the system which were particularly noted by Amnesty International include:

- a judiciary whose independence has been undermined by flawed practices in the appointment of senior magistrates;
- the absence or inadequacy of the 'organic laws' establishing the structure and functioning of the criminal justice system and of operational regulations - this would apply particularly to laws governing the police;
- the serious lack of resources in the judicial system, including for: a system of funding to provide free legal counsel for defendants unable to afford it; the supervision by the courts of the rights of untried detainees and convicted prisoners; and social assistance for juvenile offenders;
- the conception of the role of the police as a purely repressive agency instead of one which is impartial and respects the presumption of innocence of suspects and which is "representative of and responsive and accountable to the community as a whole"¹;
- the inadequate or flawed recruitment and promotion practices and training of the police;
- the absence or ineffectiveness of procedures for receiving and responding to complaints against police abuse or of systems of police inspection;
- a salary structure which fails to ensure adequate living conditions for magistrates, lawyers, police and prison officials, invites corruption and undermines the criminal justice system;
- a prison system which fails to conform to the UN Standard Minimum Rules for the Treatment of Prisoners.

The Government of National Unity's plans

Amnesty International is encouraged by the plans of the Government of National Unity to increase protection of human rights. It has also welcomed initiatives which have been taken to investigate allegations of human rights violations.

¹ Preamble, United Nations Code of Conduct for Law Enforcement Officials of 17 December 1979.

On 12 April 1999 the Government of National Unity announced a program which includes the following important developments in the protection of human rights:

- strengthening the independence of the judiciary through amendments in the way senior magistrates are elected;
- abolishing the security police and replacing them with a state information service responsible to the Prime Minister via the Minister of Internal Affairs;
- reforming and retraining the police force²;
- promoting the impartiality and independence of government media;
- acceding to all outstanding international human rights treaties.

Prime Minister Francisco Fadul, in announcing these plans, said that acceding to international human rights treaties, in addition to bringing international respect and solidarity, would oblige the state to “reconsider and reorganize itself on the basis of a philosophy which promotes the protection and development of every human being”.

Amnesty International’s recommendations to the Government of National Unity, donor governments and the international community

Amnesty International’s recommendations to the Government of National Unity and the international community focus first on the measures immediately necessary to prevent human rights violations, particularly during the forthcoming election campaign, and secondly on the longer-term development of institutions and practices for the protection of human rights.

Early attention should be given to the following:

- development of a program of civic education in preparation for the election, including about the right to vote and other human rights, which involves civil society organizations and the mass media;
- the return of key trained personnel, particularly judicial and other officials, to ensure access to justice and the rehabilitation of the justice system;
- in cooperation with international organizations which specialize in promoting free and fair elections, the effective training and posting of national and international election observers to oversee the preparation and conduct of elections; this should include monitoring the conduct of those responsible for security, to ensure that there is no intimidation of political opponents, and the conduct of the media, to ensure reporting consistent with free political activity.

In a recent letter to Prime Minister Francisco Fadul, Amnesty International has already recommended that the Government of National Unity should order a thorough

² Amnesty International’s delegates were informed of some of these plans in March 1999. They were also told that the state information service would have no power to detain or question suspects and that police reforms would include the establishment of a complaints mechanism.

study of the criminal justice system as a whole - courts, police and prisons. This should include a review of the current legislation, provisions for the recruitment and training of personnel and a review of systems of inspection and complaints procedures. Such a study would enable the government to identify the immediate priorities and set medium and long-term goals for the development of a criminal justice system which is coherent, efficient, professional and which operates in full conformity with national and international human rights standards.

In the same letter, Amnesty International welcomed the fact that the government had initiated inquiries into certain allegations of extrajudicial executions and torture by security officials and soldiers. The organization considers that a determination to ensure that all allegations of human rights abuse are thoroughly investigated and any perpetrators brought to justice is an essential basis for the development of a judicial system capable of protecting human rights.

The necessary reforms of the criminal justice system include two which the Government of National Unity has already identified: the restructuring and retraining of the police; and guaranteeing the independence of the judiciary.

Other reforms in the criminal justice system should include:

- a review of the organic laws governing the operation of the various parts of the criminal justice system and a review of other relevant legislation with a view to ensuring conformity with international human rights standards;
- the provision of adequate resources to the judiciary, including the systems of juvenile justice and of free legal assistance to the needy;
- promoting the improvement of prison conditions;
- the provision of appropriate professional training³, including training in human rights protection, to those responsible for the administration of justice.

In addition, Amnesty International recommends:

- ensuring that the reunified armed forces are made accountable to civilian authority and that they are thoroughly trained in the observance of human rights and international humanitarian law;

Respect for human rights and government accountability also depends to a large extent on people knowing and demanding their rights. Despite the efforts of non-governmental organizations, there remains a large deficit in public awareness of

³ All training of government officials should conform to Amnesty International's pamphlet: *A 12-Point Guide for Good Practice in the Training and Education for Human Rights of Government Officials* (AI Index: ACT 30/1/98)

human rights. Knowledge and understanding of these rights should be increased by the provision of resources for:

- the effective training of teachers to provide human rights education in schools;
- non-governmental organizations carrying out activities in the community to promote the whole range of human rights;
- the establishment of a human rights resource centre.

Amnesty International urges governments attending the donors' conference in Geneva in May 1999 to promote and provide resources for the rehabilitation and reform of the criminal justice system; measures to make the armed forces accountable to the civilian authority and conform to human rights and humanitarian law; and the promotion of human rights awareness in schools and among the general public.

Amnesty International welcomes the appointment of human rights officers within the UN Post-Conflict Peace-Building Support Office in Guinea-Bissau (UNOGBIS) whose role includes providing support and technical assistance to the government and to non-governmental organizations as well as monitoring the human rights situation.

The organization urges the UNDP and other UN agencies to formulate their strategies for assisting Guinea-Bissau in line with Secretary-General Kofi Annan's policy of ensuring that human rights are central to their work. In particular, the UN Children's Fund (UNICEF) should assist with the development of a comprehensive system of juvenile justice.

In the same vein, Amnesty International calls on international and foreign non-governmental organizations working to promote the enjoyment of economic, social or cultural rights in Guinea-Bissau to consider how they could also support the promotion of awareness and understanding of civil and political rights.

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