



# GUINEA: RED FLAGS AHEAD OF THE 2020 PRESIDENTIAL ELECTION

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC  
REVIEW, 35<sup>TH</sup> SESSION OF THE UPR WORKING GROUP, JANUARY 2020

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# CONTENTS

INTRODUCTION	4
FOLLOW UP TO THE PREVIOUS REVIEW	5
DEATH PENALTY	5
PEACEFUL ASSEMBLY AND USE OF FORCE	6
FREEDOM OF EXPRESSION	6
TORTURE AND OTHER ILL-TREATMENT	6
PRISON CONDITIONS	7
WOMEN'S RIGHTS	7
RIGHTS OF LESBIAN, GAY, BISEXUAL, TRANSGENDER OR INTERSEX (LGBTI) PEOPLE	8
IMPUNITY	9
THE NATIONAL HUMAN RIGHTS FRAMEWORK	10
FREEDOM OF PEACEFUL ASSEMBLY AND USE OF FORCE	10
TORTURE AND OTHER ILL-TREATMENT	11
FREEDOM OF EXPRESSION	11
FREEDOM OF ASSOCIATION	12
IMPUNITY	14
HUMAN RIGHTS SITUATION ON THE GROUND	15
PEACEFUL ASSEMBLY AND USE OF FORCE	15
FREEDOM OF EXPRESSION	16
FREEDOM OF ASSOCIATION	18
TORTURE AND OTHER ILL-TREATMENT	19
PRISON CONDITIONS	20
IMPUNITY	20
RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW	21
ANNEX	26

# INTRODUCTION

Ten years after the repression of a peaceful protest against the military junta on 28 September 2009 in Conakry, during which at least 150 people were killed and more than 100 women were raped and subjected to other forms of sexual violence by members of the security forces, the human rights situation in Guinea remains fragile and is likely to deteriorate as political tensions flare up ahead of the 2020 presidential election.

The government of President Alpha Condé, whose second term is ending in 2020, has made some progress in protecting human rights through legislative reforms, including abolishing the death penalty in 2017, criminalising torture in 2016 and adopting a law on policing assemblies in 2015.

However, the Guinean authorities have largely failed to address the culture of impunity for human rights violations committed by the security forces and continue to repress dissent, including by using excessive force against demonstrators, arresting journalists and human rights defenders, and undermining the activities of human rights groups, particularly in the context of elections. At least 20 people died in protests related to the 2015 presidential elections, with at least 10 killed by the security forces, including a seven-year old child. In 2018, 19 protestors and bystanders died during demonstrations related to the long delayed local elections, with at least 12 killed by the security forces. Two members of the security forces were also killed during these protests. Since November 2018, military units have been deployed on major demonstration sites across Conakry.

This cycle of violence could spiral out of control as political tensions are rising ahead of the 2020 presidential election. President Condé has not ruled out the possibility of amending the Constitution to run for a third term. The legislative elections were originally due in 2018 and have been postponed multiple times, fueling concerns that the presidential election could also be delayed.

In this submission prepared for the Universal Periodic Review (UPR) of Guinea in January 2020, Amnesty International evaluates the implementation of recommendations made to Guinea in its second UPR in 2015, assesses the national human rights framework and the human rights situation on the ground, and makes a number of recommendations to the government to strengthen the protection of human rights and address human rights violations and abuses. The period covered in this report spreads from January 2015 to September 2019.

Since 2015, Amnesty International has conducted four research and advocacy missions to Guinea and interviewed over a hundred individuals, including human rights defenders, representatives of civil society organizations, victims and eyewitnesses to human rights violations and abuses, relatives of victims, lawyers, journalists, United Nations officials, international Non-Governmental Organizations (NGO) representatives, diplomats, opposition members and academics.

Amnesty International has also met with the Guinean authorities, including the Minister of Justice, the Minister of Human Rights, the Director of Cabinet of the Presidency, the Commander of the Gendarmerie, the General Director of the Police Force, the Director of the Prison Administration, the General Prosecutor and the Deputy Director of the Military Tribunal.

Amnesty International was able to visit the Maison Centrale de Conakry, the main prison of Conakry, in 2015, 2016 and 2018.

# FOLLOW UP TO THE PREVIOUS REVIEW

During the UPR of Guinea in 2015, UN member states made 194 recommendations. Guinea accepted 180 recommendations and rejected 14 others.

## DEATH PENALTY

At its 2015 UPR, Guinea accepted some recommendations to abolish the death penalty and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty<sup>1</sup> while rejecting other recommendations related to the death penalty.<sup>2</sup>

In 2017, Guinea became the 20<sup>th</sup> state in sub-Saharan Africa to abolish the death penalty for all crimes. On 31 May 2017, the National Assembly of Guinea adopted a new Code of Military Justice, which removed the death sentence as an applicable penalty; it came into force on 28 December 2017.<sup>3</sup> The new Criminal Code, adopted on 4 July 2016 and promulgated on 26 October 2016, had already removed the death sentence as an applicable penalty for ordinary crimes.<sup>4</sup>

Despite abolishing the death penalty for all crimes Guinea has not commuted existing death sentences. As of December 2018, at least eight prisoners were under the sentence of death.<sup>5</sup> Guinea has also not ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

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<sup>1</sup> Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/29/6, 10 April 2015, recommendations 118.24 (Portugal), 118.42 (Chile).

<sup>2</sup> Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/29/6, 10 April 2015, recommendations 118.4 (United Kingdom of Great Britain and Northern Ireland), 118.5 (Benin), 118.6 (Uruguay), 118.7 (Australia), 118.8 (Italy), 118.9 (Luxembourg), 118.10 (Montenegro), 118.11 (Namibia).

<sup>3</sup> Amnesty International, Death sentences and executions – 2017 (AI Index: ACT 50/7955/2018), p.10.

<sup>4</sup> Amnesty International, Death sentences and executions – 2016 (AI Index: ACT 50/5740/2017), p. 9.

<sup>5</sup> Amnesty International, Death sentences and executions – 2018 (AI Index: ACT 50/9870/2019), p. 39.

## PEACEFUL ASSEMBLY AND USE OF FORCE

During its 2010 and 2015 UPR, Guinea committed to take concrete measures to protect the right to peaceful assembly,<sup>6</sup> including by curbing the use of excessive and arbitrary force during demonstrations<sup>7</sup> and by bringing suspected perpetrators of excessive use of force to account.<sup>8</sup>

Despite these commitments, as detailed in the sections below, the Guinean authorities have failed to address violations of the right to peaceful assembly, to end the entrenched practice of using unnecessary and excessive force by the security forces and to bring perpetrators to justice. The Guinean authorities frequently ban peaceful assemblies in advance and carry out mass arrests during demonstrations, including of human rights defenders and journalists. The National Assembly adopted two contradictory and unsatisfactory laws on policing assemblies in July 2015 and on the use of arms by the gendarmerie in July 2019, respectively. The security forces often use excessive and arbitrary force during protests, including firearms, leading to injuries and deaths. At least 61 people were killed during protests in Guinea since the last review in 2015, the majority of which pointed to members of the security forces as the perpetrators. Two members of the security forces have died during protests over the same period. There is almost complete impunity for killings committed by the security forces.

## FREEDOM OF EXPRESSION

Guinea accepted recommendations to protect the right to freedom of expression during its 2010 and 2015 UPR, including to ensure the safety of journalists.<sup>9</sup>

However, as detailed in the sections below, Guinea has adopted legislation which unduly restricts the right to freedom of expression, including a new Criminal Code adopted on 4 July 2016, the Law on Cyber-Security adopted on 2 June 2016 and the Law on the Prevention and Repression of Terrorism on 4 July 2019. Media outlets have been suspended and dozens of journalists and human rights defenders have been arbitrarily detained since the last review in 2015. Journalists were assaulted by members of the security forces who were not brought to justice.

## TORTURE AND OTHER ILL-TREATMENT

During its 2010 and 2015 UPR, Guinea committed to taking steps to end the use of torture and other ill-treatment, including by ratifying the Optional Protocol to the Convention against Torture

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<sup>6</sup> Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/29/6, 10 April 2015, recommendations 118.161 (Uruguay), 118.164 (France), 118.166 (Ireland).

Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/15/4, 14 June 2010, recommendations 71.60 (Israel), 71.5 (Republic of Korea), 71.81 (Norway), 71.82 (Switzerland).

<sup>7</sup> Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/29/6, 10 April 2015, recommendations 118.101. (Germany), 118.103 (Norway).

Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/15/4, 14 June 2010, recommendations 71.15 (Mexico), 71.35 (Israel).

<sup>8</sup> Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/29/6, 10 April 2015, recommendations 118.148 (Canada), 118.151 (Germany), 118.166 (Ireland).

Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/15/4, 14 June 2010, recommendations 71.35 (Israel), 71.37 (Germany), 71.71 (Sweden).

<sup>9</sup> Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/29/6, 10 April 2015, recommendations 118.161 (Uruguay), 118.163 (Czech Republic), 118.165 (Germany).

Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/15/4, 14 June 2010, recommendations 71.5 (Republic of Korea), 71.60 (Israel), 71.81 (Norway), 71.82 (Switzerland), 71.80 (United Kingdom).

and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT),<sup>10</sup> by criminalising torture in line with international standards,<sup>11</sup> and investigating cases of torture and bringing those suspected of criminal responsibility to justice in fair trials.<sup>12</sup>

In July 2016, the revised Criminal Code criminalized torture and made it punishable by up to 20 years' imprisonment.

However, as detailed in the sections below, the legal framework on torture in Guinea is still not in line with international standards and cases of torture and other ill-treatment are still being reported, few of which are ever brought to justice. Guinea has also yet to ratify OPCAT. Amnesty International continues to document cases of torture and other ill-treatment, particularly in police custody in order to extract confessions.

## PRISON CONDITIONS

During its 2015 UPR, Guinea accepted recommendations to improve prison conditions.<sup>13</sup>

Yet, as detailed below, conditions of detention remain harsh and prisons remain overcrowded, leading to deaths in custody.

## WOMEN'S RIGHTS

In 2015 and 2010, Guinea committed to take measures to protect women's rights, in particular to ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women,<sup>14</sup> eliminate the practice of female genital mutilation,<sup>15</sup> end early and forced

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<sup>10</sup> Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/29/6, 10 April 2015, recommendations 118.12-118.23 (Turkey, Spain, Uruguay, Benin, Togo, Montenegro, Costa Rica, Czech Republic, Denmark, Gabon, Germany and Ghana).

Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/15/4, 14 June 2010, recommendations 71.1-71.4 (Brazil, Spain, United Kingdom and Costa Rica).

<sup>11</sup> Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/29/6, 10 April 2015, recommendations 118.22 (Germany) and 118.38 (Bolivarian Republic of Venezuela).

Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/15/4, 14 June 2010, recommendation 71.34 (Sweden).

<sup>12</sup> Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/29/6, 10 April 2015, recommendations 118.95-118.97 (Chile, Germany and Italy), 118.102 (Ghana), 118.104 (Spain).

Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/15/4, 14 June 2010, recommendations 71.37 (Germany), 71.68 (Switzerland), 71.71 (Sweden).

<sup>13</sup> Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/29/6, 10 April 2015, recommendations 118.105 (Comoros), 118.106 (Senegal), 118.150 (France).

<sup>14</sup> Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/29/6, 10 April 2015, recommendations 118.25 – 118.30 (Portugal, Uruguay, Gabon, Democratic Republic of Congo, Mexico, Rwanda).

Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/15/4, 14 June 2010, recommendations 72.1 – 71.2 (Brazil, Spain).

<sup>15</sup> Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/29/6, 10 April 2015, recommendations 118.85 (Italy), 118.115-118.132 (United States of America, Argentina, Chile, Czech Republic, Ethiopia, France, Ghana, Ireland, Italy, The Netherlands, Norway, Portugal, Republic of Korea, Slovenia, South Africa, Thailand, Togo).

Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/15/4, 14 June 2010, recommendations 71.29 (Japan), 71.42 (Slovenia), 71.43 (The Netherlands), 71.48 (Norway), 71.94 (Argentina), 71.95 (Indonesia), 71.105 (Cote d'Ivoire).

marriage,<sup>16</sup> criminalise marital rape,<sup>17</sup> and overcome stereotypes against women and girls.<sup>18</sup> The government noted that it “remains very concerned about the issue of violence against women” and that “Guinea is committed to do everything in its power to fully implement the principle of gender equality in its education and legal systems and its institutions.”<sup>19</sup>

Guinea confirmed the prohibition of female genital mutilation in the 2016 Criminal Code (Articles 258 – 261). However, the practice remains widespread and few investigations and prosecutions have been undertaken. According to the 2018 Demographic and Health Survey (DHS), 94.5% of women aged 15-49 had been subjected to female genital mutilation.<sup>20</sup> While the prevalence rate is lower than in the 2012 DHS study (96.6%)<sup>21</sup>, it is still extremely high, particularly in younger women (91.7% of women aged 15-19), which shows that the practice is still deeply entrenched. Few cases are prosecuted, with only nine cases recorded in 2017, for example.<sup>22</sup>

The 2016 Criminal Code criminalizes early and forced marriage, raising the legal age for marriage to 18 (Articles 319 - 322). However, ambiguity remains as the Code refers to customary marriages for children aged 16 and, according to women’s rights NGOs, prevalence rate remain high. According to the 2016 Multiple Indicator Cluster Surveys (MICS) study, 54.6% of women aged 20-49 were married before 18 and 21.1% of women aged 15-49 were married before 15.<sup>23</sup> The 2016 Criminal Code fails to criminalize marital rape and the 2019 Civil Code authorizes polygamy (Article 281). Guinea has also failed to ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

## **RIGHTS OF LESBIAN, GAY, BISEXUAL, TRANSGENDER OR INTERSEX (LGBTI) PEOPLE**

In its 2015 UPR, Guinea rejected recommendations to protect the rights of LGBTI people.<sup>24</sup> While recognising that consensual same sex sexual relations are criminalised under the Criminal Code, the Guinean authorities stated in their official response to the UPR report that “this provision has never been applied. The rights of these individuals are therefore tacitly recognised. (...) It is

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<sup>16</sup> Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/29/6, 10 April 2015, recommendations 118.110 (Canada), 118.111 (Sweden).

Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/15/4, 14 June 2010, recommendations 71.29 (Japan), 71.40 (Israel).

<sup>17</sup> Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/29/6, 10 April 2015, recommendations 118.40 (Australia), 118.108 (Chile), 118.128 (Portugal).

Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/15/4, 14 June 2010, recommendations 71.39 – 71.42 (Hungary, Israel, Argentina, Slovenia).

<sup>18</sup> Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/29/6, 10 April 2015, recommendations 118.182 (China), 118.186 (Togo).

Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/15/4, 14 June 2010, recommendations 71.27 (Norway).

<sup>19</sup> Report of the Working Group on the Universal Periodic Review – Guinea – Addendum, A/HRC/29/6/Add.1, 17 June 2015, 118.39.

<sup>20</sup> Institut National de la Statistique (INS) et ICF, Enquête Démographique et de Santé en Guinée 2018 : Indicateurs Clés, 2018, p.55.

<sup>21</sup> Institut National de la Statistique (INS) et ICF, Enquête Démographique et de Santé en Guinée 2012 : Indicateurs Clés, 2012, p. 329.

<sup>22</sup> UNFPA-UNICEF, Joint Evaluation of the UNFPA-UNICEF Joint Programme on the Abandonment of Female Genital Mutilation: Accelerating Change Phase I and II (2008–2017).

<sup>23</sup> Institut National de la Statistique, Enquête par grappes à indicateurs multiples (MICS, 2016), 2017.

<sup>24</sup> Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/29/6, 10 April 2015, recommendations 118.88 – 118.89 (Italy, Argentina).

understood that [Guinea] must do everything in its power to continue not only to protect them but also to decriminalize their life choices.”<sup>25</sup>

Yet, the 2016 Criminal Code retains the criminalisation of “unnatural acts”, with a prison term of up to three years (Article 274) which creates a climate of fear and harassment amongst LGBTI people. Despite the Guinean authorities’ claim, at least five people were arrested on the basis of their real or perceived sexual orientation.<sup>26</sup> Two men were arrested on 22 April 2015 in Conakry and sentenced to three months in prison by the Tribunal of Mafanco in May 2015.<sup>27</sup> Two other men were arrested in Kankan on 18 August 2019 and were facing trial as of September 2019.

## IMPUNITY

During its 2010 and 2015 UPR, Guinea accepted dozens of recommendations to ensure that human rights violations are independently investigated and suspected perpetrators brought to justice. It also accepted many recommendations referring explicitly to the killings and sexual violence which occurred on 28 September 2009 at the Stadium of Conakry and the following days.<sup>28</sup> The government committed “to do everything in its power to shed light on the heinous crimes committed on that date.”<sup>29</sup> It further acknowledged the “need to speed up investigations into acts of torture and other degrading treatments” and reaffirmed “its determination to combat torture and unlawful detentions by toughening penalties (...) and by initiating legal proceedings in every case of alleged human rights violations involving members of the defence and security forces.”<sup>30</sup>

However, as detailed in the sections below, impunity continues to be prevalent in Guinea and the authorities have failed to deliver justice, truth and reparations for most victims of human rights violations, including killings, torture and other ill-treatment. In the case of the 28 September 2009 stadium massacre, the investigating judges announced in November 2017 that the judicial investigation had been completed. Yet, none of the suspected perpetrators have been brought to trial and several people charged in connection with the killings and rapes retain influential positions.

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<sup>25</sup> Report of the Working Group on the Universal Periodic Review – Guinea – Addendum, A/HRC/29/6/Add.1, 17 June 2015, 118.88.

<sup>26</sup> This is a low estimate of cases documented by Amnesty International. It is likely that there were more arrests.

<sup>27</sup> Amnesty International, Annual report – Guinea (AI Index: POL 10/2552/2016).

<sup>28</sup> Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/15/4, 14 June 2010, recommendations 71.35 – 71.37 (Israel, Hungary, United Kingdom), 71.64 – 71.78 (Hungary, Germany, Norway, Republic of Korea, Switzerland, Ghana, Ghana, Sweden, France, Canada, Slovakia, Costa Rica, Brazil, United Kingdom, France), 71.84 (Argentina).

Report of the Working Group on the Universal Periodic Review – Guinea, A/HRC/29/6, 10 April 2015, recommendations 118.95 – 118.97 (Chile, Germany, Italy), 118.100 (France), 118.141-118.142 (United Kingdom, United States), 118.145-118.149 (Australia, Botswana, Canada, Canada, France), 118.151-118.160 (Germany, Germany, Japan, Luxembourg, Luxembourg, Mexico, Norway, Republic of Korea, Spain, Sweden).

<sup>29</sup> Report of the Working Group on the Universal Periodic Review – Guinea – Addendum, A/HRC/29/6/Add.1, 17 June 2015, 118.36.

<sup>30</sup> Report of the Working Group on the Universal Periodic Review – Guinea – Addendum, A/HRC/29/6/Add.1, 17 June 2015, 118.95.

# THE NATIONAL HUMAN RIGHTS FRAMEWORK

## FREEDOM OF PEACEFUL ASSEMBLY AND USE OF FORCE

Guinea has adopted legislation which undermines the right to peaceful assembly and breach international standards on the use of force by law enforcement officials.

Guinea's National Assembly passed a law on the use of arms by the gendarmerie on 25 June 2019. The law sets out several justifications for the use of force – including to defend positions gendarmes occupy (Article 1) – without making clear that firearms can only be used when there is an imminent threat of death or serious injury.<sup>31</sup>

The 2016 revised Criminal Code contains provisions regulating assemblies.<sup>32</sup> Articles 621-623 envisage a prior notification procedure for assemblies in public places and on public highways. However, in practice this system amounts to a requirement for authorization which is contrary to international human rights law and standards.<sup>33</sup> According to Article 621, all assemblies in public places require written prior notification to the local authorities three days in advance, except when they are in line with “local social practices” (for example, religious, sporting and traditional events). Punishments for organizing an assembly that is deemed unlawful under Guinean law or where no prior notification was given include fines of up to one million Guinean francs (around 116 euros) and/or up to one year's imprisonment (Article 637).

The criteria for outlawing assemblies are based on poorly defined grounds that are inadmissible under international law (e.g. “breach of the peace”, under Article 627) and unreasonable provisions such as the notion of improvised weapons (under Article 628, authorities can ban an assembly if “any object, apparent or concealed, having been used as a weapon or brought with a view to being used as a weapon”) and also impose a blanket ban on any public assemblies after 11pm or assemblies in ports, mining sites and any other spaces as determined by the Minister of Defense or the Minister of Territorial Administration (Article 624). These criteria give the authorities a particularly wide margin for interpretation that enable them to suppress peaceful demonstrations.

The revised Criminal Code provides prison sentences for organizers of assemblies that are considered unlawful under Guinean law or who have not submitted notifications in the required manner (Article 637) and also holds these individuals responsible for unlawful acts committed by other demonstrators (Article 625). Finally, provisions on the use of force (Article 628) are not in line with the UN Basic Principles on the Use of Force and Firearms insofar as they authorize the use of force to disperse a crowd after only two warnings or with a view to “holding their ground”. They make no reference to the principles of legality, proportionality, necessity or responsibility as legal guarantees to prevent arbitrary or abusive use of force.

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<sup>31</sup> Amnesty International, Guinea: New law could shield police from prosecution (Press-release, 4 July 2019).

<sup>32</sup> Amnesty International, Guinea. Draft legislation being considered by the National Assembly: major opportunities and threats for protection and respect of human rights (AI Index: AFR29/3894/2016).

<sup>33</sup> Amnesty International, Guinea: Preventing the excessive use of force and respecting freedom of peaceful assembly in the run-up to the 2015 elections and beyond – A Call to Action (AI Index: AFR29/2160/2015).

The Law on Maintaining Public Order, adopted in June 2015, takes some important steps towards bringing Guinean law in line with international law and standards, including by clarifying that maintaining public order is primarily the responsibility of the civilian police, and expressly states that when the armed forces are brought in to police demonstrations they operate under civilian authority (Article 3).<sup>34</sup> It also refers to the principles of proportionality and necessity when using force. However, the Law on Maintaining Public Order does not revise the legal basis for the use of force. The principles of legality, necessity and proportionality in the exercise of force and use of firearms are simply referenced in a general way and no details are given as to what they mean in practice. For instance, Article 45 states that security forces should “give preference” to the use of non-violent means before resorting to the use of force and possibly firearms. This is vague and the law contains no statement of the positive obligation of the security forces not to use force unless non-violent means have proven unsuccessful. Nor does the law contain any provisions reflecting Basic Principle 9, that law enforcement officials must not use firearms except to defend themselves or others against the imminent threat of death or serious injury, or to prevent the perpetration of a particularly serious crime involving grave threat to life, and only when less extreme means are insufficient to achieve these objectives.

## **TORTURE AND OTHER ILL-TREATMENT**

Guinea criminalized torture in the revised Criminal Code adopted in July 2016 (Article 232.1) and made it punishable by up to 20 years’ imprisonment (Article 234).<sup>35</sup>

However, some acts which would fall within the definition of torture under international law are classified in the Criminal Code as “inhuman and cruel” treatment, for which no penalties are specified. These acts include rape, electric shocks, burns, stress positions, sensory deprivation, mock executions and simulated drowning (Article 232.2).

The revised Criminal Code also fails to specify the non-applicability of the statute of limitations to the crime of torture. As a criminal offence, the Code sets the statute of limitation for torture to 20 years (Article 167).

## **FREEDOM OF EXPRESSION**

Since its UPR in 2015, Guinea has adopted legislation which unduly restricts the right to freedom of expression.

The Law on the Prevention and Repression of Terrorism, adopted in July 2019, contains unclear provisions which could be used to criminalize the legitimate exercise of the right to freedom of expression. For instance, the crime of “apology of terrorism”, which carries a prison term of up to 10 years and a fine of up to 50 million Guinean francs (4,858 euros), includes making documents, images, recordings and documents available to the public with the aim of “contesting or justifying the commission of an act of terrorism” (Article 10). “Acts of terrorism” carry a prison term of up to 20 years in prison and include “contributing one’s competence or expertise to a terrorist organization” (Article 6), which could be used against those who work to protect the human rights of individuals suspected of terrorism related offenses. Article 27 provides that the Minister of Security and the Minister of Territorial Administration may temporarily shut down

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<sup>34</sup> Amnesty International, Guinea: Preventing the excessive use of force and respecting freedom of peaceful assembly in the run-up to the 2015 elections and beyond – A Call to Action (AI Index: AFR29/2160/2015).

<sup>35</sup> Amnesty International, Guinea: Draft legislation being considered by the National Assembly: major opportunities and threats for protection and respect of human rights (AI Index: AFR29/3894/2016).

places of worship where “the statements made, theories spread or activities held incite to the commission of terrorism acts or justify such acts”, without any independent judicial oversight.<sup>36</sup>

The revised Criminal Code, adopted in 2016, criminalizes contempt (Articles 658-665), defamation and insult (Articles 363-366), including of public figures, with penalties of up to five years' imprisonment and a fine. Vaguely worded and overly-broad provisions have led to the prosecution of people who express dissent or expose human rights violations, including journalists and human rights defenders.<sup>37</sup>

The Law on Cyber-Security and Personal Data Protection, passed on 2 June 2016, criminalizes cyber-insults (Article 29), the dissemination and communication of "false information" (Article 35) as well as the production, distribution or transfer to third parties of data "likely to disturb law and order or public security or jeopardize human dignity" (Articles 31-32). The law likens the disclosure of data "that should be kept confidential" for national security reasons to the crimes of treason or espionage, making it punishable by life imprisonment (Articles 37-38). This provision could be wrongly used against whistleblowers who disclose information about human rights abuses or other matters of public interest.<sup>38</sup>

## FREEDOM OF ASSOCIATION

In 2019, the Guinean authorities introduced a draft bill on associations which, if adopted, would violate the right to freedom of association and represent a step backwards compared to the current 2005 Law on Associations.

The bill provides unclear definitions of NGOs and associations which would limit their scope of operation. For instance, Articles 1 and 5 state that associations and NGOs should be “apolitical” and Article 9 that they should not be affiliated to political parties. Article 10 stipulates that no association can be created on a basis or for an objective that is “unlawful, disregard laws, good morals or aims at undermining national territorial integrity and the republican nature of the State”. Such provisions could be used to target LGBTI organizations, associations of minority groups, pro-democracy groups expressing opposition to constitutional reforms and associations of victims of human rights violations which feel they were targeted on the basis of their political affiliation.

The bill further provides that NGOs should be “professional” (Article 5), aim at “contributing to development policies” (Article 5) and “undertake activities in the areas of work of their choice while specialising in a specific sector” (Article 26). These provisions could limit the ability of human rights defenders who have not undergone formal professional training to create NGOs and effectively narrow the scope of an NGO's activities, preventing cross-thematic approaches or adaptation to new trends or needs.

The proposed bill maintains a regime of notification for national NGOs (Article 12), but the procedure is so cumbersome that it would amount to a regime of authorisation. In order to get legal personality, associations need a formal registration certificate (Article 13) which requires the organisation to submit an extensive list of documents, including its statute, rules of procedures, list of members, operational plan, resource mobilisation plan and the minutes of its general assembly. After the association has filed its notification, the authorities have 90 days to provide a

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<sup>36</sup> Amnesty International, Analyse du projet de loi portant prévention et répression du terrorisme en République de Guinée (AI Index : AFR 29/0206/2019).

<sup>37</sup> Amnesty International, Guinea. Draft legislation being considered by the National Assembly: major opportunities and threats for protection and respect of human rights (AI Index: AFR29/3894/2016).

Amnesty International, Guinea: New criminal code drops death penalty but fails to tackle impunity and keeps repressive provisions (Press-release, 5 July 2016).

<sup>38</sup> Amnesty International, Guinea. Draft legislation being considered by the National Assembly: major opportunities and threats for protection and respect of human rights (AI Index: AFR29/3894/2016).

receipt which acts as a temporary registration certificate of up to a year, then deliver a 3-year registration certificate renewable once after an “in depth review of the request” and “the technical advice of the relevant sectorial services”. Associations may only apply for a definitive registration certificate once all these steps have been followed (Article 13), meaning that the process may take more than seven years and be contingent upon the technical advice of ill-defined sectorial services based on unclear criteria. The final provisions set out in Article 58 are unclear and there is a concern that associations, including NGOs, which currently have registration certificates under the 2005 Law on Associations may need to re-apply under the new law (Article 58) if it is adopted.

The bill provides strict and intrusive reporting requirements to the administrative authorities, including changes in statutes, logos and addresses, prices for the purchase and sale of premises (Article 21), activity reports, budgets, annual accounts and financial reports. Associations have to comply with a code of deontology of NGOs in Guinea, which contains provisions that could be used to stifle dissent, including the requirement to “respect any democratically elected government in the country” and to refrain “under any circumstances to adopt a politically partisan attitude in their interventions” (Article 10 of the Code).

Associations may be suspended and dissolved on vague grounds and without a court order. The Minister of Territorial Administration may suspend all the activities of an association for up to three months, if the association is “violating Guinean law and regulations and undermining public order” (Article 34). Associations may be dissolved if they take part in “armed protests in the street or provoke them”, “aim at undermining national territorial integrity or undermine by force the republican form of the State” or “instigate or maintain racial, regionalist or religious hatred” (Article 35).

Founders, directors and administrators who ignore dissolution orders and those who continue to facilitate meetings of the association members face up to two years of imprisonment (Article 31). Anyone who continues to administer an association despite the authorities refusing to issue or withdrawing a certificate of notification or issuing a statement of nullity may face up to four years in prison (Article 32).

Loosely defined “foreign associations” require formal authorisation by the Minister of Territorial Administration to undertake activities in Guinea (Article 46). An association or an NGO is considered foreign when it is subject to the law of another state and when its headquarters are situated outside of Guinea (Article 5). Those administering a “foreign association” without authorisation may face up to three years in prison.

The Ministry of National Unity and Citizenship initiated a draft bill on human rights defenders in 2017, which is still under review as of September 2019. The bill upholds the right of human rights defenders to exercise their activities without fears of reprisals. Article 8 provides that human rights defenders “should not be prosecuted, sought by the law, intimidated, arrested, detained or judged” on the basis of their opinions or reports published in the legitimate exercise of their activities (Article 8). It further provides that the premises, domicile and other work spaces of human rights defenders are inviolable (Article 9). It reiterates their rights to receive funding from national and international sources (Article 11) and to seek protection and assistance from diplomatic missions and other institutions (Article 23).

However, other provisions of the bill could be used to muzzle human rights defenders who express dissent or who criticise the authorities, particularly Article 16 which provides that “[t]hrough their activity, human rights defenders must contribute to the preservation and reinforcement of solidarity, national unity, national independence and territorial integrity in conditions determined by law.” Article 14 also stipulates that human rights defenders have a duty to respect laws and regulations, which could undermine the work of women and LGBTI rights

defenders. No independent protection mechanism is created under the bill to monitor its implementation or to provide protection to human rights defenders at risk.

## IMPUNITY

Guinea has adopted laws fuelling the current climate of impunity for crimes under international law and human rights violations committed by members of the security forces.

The 2019 Law on the Use of Arms by the Gendarmerie, in an explanatory note, explicitly highlights the need to protect gendarmes who resort to force from vengeful prosecutions, raising concern that it will be used to prevent judicial oversight of law enforcement.<sup>39</sup>

The 2019 Law on the Prevention and Repression of Terrorism criminalises the identification of individuals involved in combatting terrorism. Article 55 lays down penalties of up to 20 years' imprisonment and fines of up to 100 million Guinean francs (9,474 euros) for "whoever deliberately endangers the life of persons involved in the combatting of terrorist acts, reveals information that might identify them or damages their property". This measure covers magistrates, judicial police officers and officials, intelligence officers and officials, special forces, experts, informers and their families. These provisions could be used against victims or human rights defenders who identify members of the security forces suspected of having committed human rights violations, publish information about them or begin legal proceedings against them.

The 2017 Military Code of Justice contains provisions that could undermine fair trial rights, access to justice and effective remedies, including for crimes under international law. In times of armed conflict, the Code gives military courts jurisdiction over "any offense involving a member of the military" (Article 31) which could include ordinary crimes such as rape, torture and enforced disappearances, but also crimes against humanity and crimes of genocide. The courts' jurisdiction extends to civilians, particularly civilians considered to be the accomplices of military personnel being prosecuted for crimes under military jurisdiction (Article 34). In a clear breach of the principle of independence and impartiality of the judiciary, Article 48 provides that the prosecution of a general officer or a superior officer requires the "express authorization" of the President of the Republic and the Minister of Defense, respectively. At times of armed conflict, the Minister of Defense may suspend the execution of the military court rulings (Article 150). Article 153 clarifies that, following a suspension decision, the time someone is serving in the armed forces is considered time served for the sentence.

The 2016 revised Criminal Code contains vague language around actions justifiable as "self-defense" and "state of necessity" (Article 21), which include "preventing the commission of an offense". Such provisions could be used to shield members of the security forces who cause death or injury through the use of excessive force.<sup>40</sup>

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<sup>39</sup> Guinea: New law could shield police from prosecution (Press-release, 4 July 2019).

<sup>40</sup> Guinea: New criminal code drops death penalty but fails to tackle impunity and keeps repressive provisions (Press-release, 5 July 2016).

# HUMAN RIGHTS SITUATION ON THE GROUND

## PEACEFUL ASSEMBLY AND USE OF FORCE

Peaceful assemblies organized by civil society organizations and opposition groups are regularly banned and dispersed with unnecessary and excessive force by the police and gendarmerie, particularly in the context of elections. Since November 2018, the military has been deployed on major demonstration sites across Conakry. The authorities have refused to share information on the conditions of this deployment, including exact locations, duration, purpose, legal basis and rules of engagement in case of assemblies. Anti-riot vehicles and equipment rarely have tags, number plates or the name of the unit, making it difficult for victims to identify the forces involved and trace suspected perpetrators.

At least 61 protestors and bystanders have died during protests since the last review in 2015, 50 of whom may have been killed by members of the security forces according to the testimony of witnesses, family members or the type of ammunition found in their bodies. Among the victims is a seven-year-old child who was hit by a stray bullet. Two members of the security forces were killed during protests over the same period.

- On 31 May 2019, student Amadou Boukariou Baldé was beaten to death by gendarmes who were deployed to disperse a demonstration at the University of Labé. His relatives filed a complaint to the Prosecutor's office at the Tribunal of Labé on 25 June 2019, including against the Governor of the region and the commanding officer of two gendarmerie units in Labé. On 28 June, the Prosecutor dismissed the case;
- On 7 November 2018, Mamadou Bella Baldé and Mamadou Alimou Bah were shot dead in Wanindara by men in military uniform. The two men were on a moto and were escorting pick-up trucks from the gendarmerie and the Compagnie mobile d'intervention et de sécurité (CMIS) on their way to inspect a blockade on the road a few hundred meters away. They opened fire on the crowd, hitting Mamadou Bella Baldé in the head and Mamadou Alimou Bah on his hip and leg;
- On 9 October 2015, seven-year-old Koromo Condé was fatally shot in the chest by a stray bullet during protests related to the presidential election in Wanindara. The wound described in the autopsy report is consistent with the wounds caused by military grade bullets. His relatives filed a complaint at the Police station of Wanindara. They have received no information on the progress of their complaint.

Hundreds were injured by the security forces, including by live ammunition or tear gas canisters, including dozens of children as young as four years of age.

- On 13 November 2018, 10-year old Mamadou Hady Barry was hit in the back by a bullet as he was returning home from Koranic school in Hamdallaye. He suffered severe injuries which have left him unable to walk. As of September 2019, he is still unwell and has not been able to return to school;
- On 14 April 2015, during presidential election related protests, 12-year-old Aissatou Founé Diallo was shot in her left foot as she was sitting in her family courtyard in Dubréka, Conakry, having lunch with her family, including seven other children. Pick-up trucks full of security forces in anti-riot gear were speeding past the house as a demonstration was taking place a couple of blocks away. The medical team considered

they could not remove the bullet without the risk of causing additional damage. Her family did not file a complaint as they told Amnesty International they could not trust the police or the authorities to follow-up on the complaint.<sup>41</sup>

Dozens of complaints have been filed by victims of excessive use of force or their relatives. Only one case led to a police officer being sentenced, in February 2019, to ten years in prison for assault and battery causing unintentional death, but no one else involved in the case was tried, including those with superior command responsibility.

The number of protests being arbitrarily banned has increased in recent months, in particular protests organized by opposition groups, pro-democracy movements and human rights organizations. The grounds for denying the protests are vague and include motives such as “protecting peace and social tranquility”,<sup>42</sup> the “security situation”,<sup>43</sup> or “the damages that could occur”.<sup>44</sup> On several occasions,<sup>45</sup> local authorities referred to an instruction by the Minister of Territorial Administration to ban all protests on national territory issued on 23 July 2018.<sup>46</sup> In July 2019, Guinean human rights groups filed a complaint to the Supreme Court to challenge the legality of this instruction and its use by local authorities to ban protests. In September 2019, the Administrative Chamber of the Supreme Court dismissed the complaint on procedural grounds arguing that the complaint should have been addressed to the President of the Supreme Court.

## FREEDOM OF EXPRESSION

Human rights defenders, including journalists, trade unionists and civil society activists, continue to be summoned by the police, arbitrarily arrested or detained solely for exercising their right to freedom of expression. The High Authority of Communication have also suspended journalists and media houses.

At least 20 journalists have been summoned, detained or faced judicial proceedings since the last review in 2015.

- Aboubacar Algassimou Diallo, a radio presenter at *Lynx FM*, and Souleymane Diallo, the general administrator of *Le Lynx*, were summoned at the Judicial Police Directorate on 19 and 20 August 2019 after airing an interview with a woman accusing the Minister of Defense of embezzling funds earmarked for Guinean UN peacekeepers deployed in Mali. They were accused of complicity in producing, disseminating and making available to others data undermining public order and public security, and of undermining human dignity with the means of a computer system under the 2015 Law on Cyber-Security and put under judicial control pending trial. The tribunal lifted the court supervision against Souleymane Diallo on 29 August, but Aboubacar Algassimou Diallo still has to report twice a week to the court and is barred from leaving Conakry without court authorization as of September 2019.

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<sup>41</sup> Amnesty International, Guinea: Preventing the excessive use of force and respecting freedom of peaceful assembly in the run-up to the 2015 elections and beyond – A Call to Action (AI Index: AFR29/2160/2015).

<sup>42</sup> Letter of the Mayor of Labé to the National Front for the Defence of the Constitution, N°107/PL/CUL/219, 27 June 2019.

<sup>43</sup> Letter of the Mayor of the Commune of Matam, Conakry, to the Social Forces of Guinea, N°003/M.A.T.D/V.C/C.M/2019, 17 January 2019.

<sup>44</sup> Letter of the Governor of Conakry to the Social Forces of Guinea, N°118/VC/CAB/2018, 13 July 2018.

<sup>45</sup> Letter of the Governor of Conakry to the Social Forces of Guinea, N°131/VC/CAB/2018, 3 August 2018;

Letter of the Mayor of Dixinn to the Social Forces of Guinea, N°009/VC/CD/19.

<sup>46</sup> Despite multiple requests, the local authorities refused to provide a copy of the instruction quoted in their correspondence. Human rights groups eventually found the record of a radio message from the Ministry of Territorial Administration of 23 July 2018, with the reference CLAIR N°138/MATD/CAB/DNAT/2018.

- On 26 March 2019, Lansana Camara, the general administrator of *conakrylive.info* and correspondent of the *Xinhua Chinese news agency*, was arrested after he published an article accusing members of the government of corruption. He was charged with defamation and released on bail on 2 April 2019; however, as of September 2019, he is still facing charges.
- In February 2017, radio *Lynx FM* reporter Mariam Kouyaté was arrested by security agents as she investigated health services at the Ignace Deen Hospital in Conakry. She was questioned at a police station after refusing to hand over her press badge and recording equipment and released the same day without charge.<sup>47</sup>
- On 22 June 2016, the Tribunal of Kankan fined journalist Malick Bouya Kébé with 1 million Guinean francs (approximately 100 euros) for complicity in "contempt of the President" because he did not interrupt a listener who was criticizing the President during a phone-in program. His guest, also a journalist, was sentenced in his absence to one year in prison and a fine of 1.5 million Guinean francs (approximately 150 euros) for "contempt of the President". They were tried without a lawyer.<sup>48</sup>

Several journalists were also assaulted by members of the security forces.

- In May 2017, *Gangan TV* journalist Aboubacar Camara was beaten by gendarmes as he filmed a land dispute in a Conakry suburb where he believed the security forces were using excessive force. The officers forced him into their car, took him to the gendarmerie and released him later the same day after deleting his recordings.<sup>49</sup>
- In June 2016, journalist Malick Diallo was covering a meeting of the ruling party attended by President Condé in Conakry. A presidential guard asked him to hand over his camera. When he refused, he was pushed into a car and taken to the office of the presidential guards where he was beaten and threatened. The guards took his camera and deleted some of the pictures before releasing him. The police refused to record his complaint.<sup>50</sup>
- In May 2015, a group of police officers assaulted three journalists, Cellou Binani Diallo, Ibrahima Sory Diallo and Youssof Bah, who were filming a protest. One of the police officers hit Cellou Binani Diallo with his helmet and four other officers punched and kicked Ibrahima Sory Diallo. The police officers openly threatened the journalists, saying they were "moles" and that next time they would be killed. The Ministry of Security and Civil Protection announced disciplinary measures against two of the police officers involved, including a suspension, although no legal proceedings have been brought against any of the police officers.<sup>51</sup>

Other journalists and media houses have been suspended by the High Authority of Communication.

- On 14 November 2018, following a complaint filed by the Ministry of Defense, the High Authority of Communication revoked the accreditation of *Radio France International* (RFI) journalist Mouctar Bah after RFI reported that the relatives of a man who was shot dead blamed members of the military armed forces wearing red berets. The Authority clarified that Mouctar Bah was not allowed to renew his accreditation until February 2019.

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<sup>47</sup> Amnesty International, Annual Report 2017/2018 – Guinea (AI Index: POL 10/6700/2018).

<sup>48</sup> Amnesty International, Annual Report 2016/2017 – Guinea (AI Index: POL 10/4800/2017).

<sup>49</sup> Amnesty International, Annual Report 2017/2018 – Guinea (AI Index: POL 10/6700/2018).

<sup>50</sup> Amnesty International, Annual Report 2016/2017 (AI Index: POL 10/4800/2017).

<sup>51</sup> Amnesty International, Guinea: Preventing the excessive use of force and respecting freedom of peaceful assembly in the run-up to the 2015 elections and beyond – A Call to Action (AI Index: AFR29/2160/2015).

- In June 2017, the Authority suspended *Espace FM* radio presenter Mohamed Mara for one month on the grounds that he had used “insulting” language during a radio debate on polygamy.<sup>52</sup>
- In November 2017, the Authority ordered that *Espace FM* radio station be taken off air for one week after the station discussed under-resourcing in the army which the authorities claimed could undermine national security and morale among the armed forces.<sup>53</sup>

Dozens of human rights defenders and pro-democracy activists have been arrested for exercising their right to freedom of expression. These arrests have increased over the past year, with pro-democracy movements like the National Front for the Defense of the Constitution, a platform of civil society organisations, trade unionists and political activists, being particularly targeted.

- On 4 May 2019, the police arrested seven members of the National Front for the Defense of the Constitution who organized a protest during an event attended by President Alpha Condé in Kindia. They were wearing t-shirts with the slogan “Don’t touch my constitution”. On 7 May, they were sentenced to three months in prison and a fine of 500,000 Guinean francs (approximately 50 euros) each. They were released on appeal on 13 May 2019.
- On 20 February 2017, the police arrested seven human rights defenders of the Voice of the People movement who had organized a sit-in in Conakry calling for schools to reopen amid a dispute between teachers and the Ministry of Education. They faced charges of “disturbing public order”, later amended to “participating in an unlawful assembly” and were released the same evening. Three days after his release, national television journalist Hassan Sylla – one of the seven – was suspended from his job for six months for gross misconduct; no explanation was given.
- On 22 August 2017, former soldier and trade unionist Jean Dougou Guilavogui was arrested by gendarmes in Matoto, a Conakry neighbourhood, and taken to a gendarmerie detention centre. He was charged with “participating in an unlawful assembly” and held in pre-trial detention at the Maison centrale, Conakry’s main prison, until his release on bail on 21 December 2017.<sup>54</sup> He had previously been arrested on 19 September 2015, ahead of the presidential elections, and sentenced on 24 March 2016, together with four other trade unionists, to six months in prison and ordered to pay damages for defamation and “contempt of the President”. He was released for time served on 25 March 2016 and his colleagues on 8 April 2016.<sup>55</sup>

## FREEDOM OF ASSOCIATION

NGOs and other associations in Guinea continue to face obstacles to legal registration, which affects their ability to seek funds internationally and to engage in legal proceedings. Dozens of associations, including well established national human rights NGOs, have been granted “temporary registration certificates” instead of permanent registration certificates, without any legal basis. This unnecessarily increases the already onerous administrative requirements and forces associations to seek frequent renewals. Several associations have experienced difficulties in the renewal process, including being issued with receipts to serve as temporary certificates for up to a year, having to pay bribes for their applications to be reviewed, or the authorities refusing to respond to their request for renewal.

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<sup>52</sup> Amnesty International, Annual Report 2017/2018 – Guinea (AI Index: POL 10/6700/2018).

<sup>53</sup> Amnesty International, Annual Report 2017/2018 – Guinea (AI Index: POL 10/6700/2018).

<sup>54</sup> Amnesty International, Annual Report 2017/2018 – Guinea (AI Index: POL 10/6700/2018).

<sup>55</sup> Amnesty International, Guinée. La condamnation de cinq syndicalistes est une violation du droit à la liberté d’expression (Press-release, 25 March 2016).

- The NGO *Même Droits pour Tous* (Same Rights for Everyone) provides legal assistance to victims of human rights violations, including victims of forced evictions, torture and extra-judicial executions. They received a three-year temporary registration certificate in 2012. In 2015, they filed a request for renewal and obtained a receipt which served as a temporary authorization certificate, with no time-limit. In 2018, the association was told that they needed to reapply and again received a receipt serving as a temporary authorization for a year;
- The NGO *Ligue Guinéenne des Droits de l'Homme* (Guinean League for Human Rights) provides assistance to individuals in arbitrary detention. They received a three-year temporary registration certificate in 2013. Since 2016, they have applied for their registration certificate to be renewed but have only been granted receipts which serves as a temporary authorization for a year, the most recent one issued in 2018;
- The NGO Women of Africa for Resources and Intercultural Community Advancement Guinea (WAFRICA Guinea) opened its office in Conakry in 2005 and has been leading advocacy work for women's rights and the social-economic integration of young people in Guinea. WAFRICA Guinea was first registered as an international NGO and then granted national NGO status in 2008. Since 2017, when seeking to renew its authorization, WAFRICA Guinea obtained receipts serving as a temporary authorization certificates for a year.

## TORTURE AND OTHER ILL-TREATMENT

Amnesty International continues to document cases of torture and other ill-treatment, particularly during police custody or in the context of demonstrations. This includes beatings, rapes, use of stress positions, burns and sleep deprivation. Confessions obtained under duress continue to be used in legal proceedings. Few legal proceedings have been brought against the suspected perpetrators of torture and other ill-treatment and none involved their superiors.

- On 8 November 2018, following the killing of a police officer during a protest in Wanindara, the *Compagnie Mobile d'Intervention et de Sécurité* (CMIS), a rapid response police unit, looted shops and arrested around twenty individuals, including at least one minor, a woman and a man who appeared to live with a mental illness. Several of the men reported being beaten during their arrest, including on the sole of their feet and on their heads with batons and anti-riot helmets, and being forced to undress and stay in their underwear for days, including during interrogation.
- On 4 March 2016, a man was arrested and taken to the Anti-Crime Brigade in Kipé, a neighborhood of Conakry. The security forces suspended him by his hands and feet from a wooden bar and hit him with rifle butts and wooden sticks over three days, asking him to confess to a robbery. In January 2018, he was sentenced to fifteen years in prison for armed robbery and remains in detention. In February 2017, an Anti-Crime Brigade captain in Kipé, a neighbourhood of Conakry, was arrested and charged for these acts of torture.<sup>56</sup> In February 2019, he was sentenced to six years in prison. At least ten other gendarmes and police officers were suspended over the incident but were not brought to justice.
- On 26 June 2016, Oumar Sylla was arrested by three gendarmes in Conakry who took him to the building where they were posted. They tied his feet and hands behind his back. One of the gendarmes stabbed him in his left side and poured boiling water on his chest. They asked him to confess to stealing a motorbike, which he refused to do. The next day he was taken to the gendarmerie base ECO III and beaten with belts. Fearing for his life, Oumar Sylla confessed and signed a statement he said he did not understand.<sup>57</sup>

<sup>56</sup> Amnesty International, Annual Report 2017/2018 – Guinea (AI Index: POL 10/6700/2018).

<sup>57</sup> Amnesty International, Annual Report 2016/2017 - Guinea (AI Index: POL 10/4800/2017).

## PRISON CONDITIONS

Prisons in Guinea are severely overcrowded and conditions are inhumane. According to the Prison Administration, as of October 2019, some 4,375 people were detained across 33 prisons in Guinea, with a combined capacity of only 2,552. Of these 2,370 detainees were held in pre-trial detention. At the Conakry Central Prison, which has capacity for 500 prisoners, 1,468 people were detained, 1001 of them in pre-trial detention.

The Guinean authorities were unable to share comprehensive statistics on the numbers of deaths in custody since the last UPR cycle in 2015. A conservative estimate is that at least 109 individuals died in detention, although the real number is likely to be higher.<sup>58</sup> According to the prison authorities, most deaths in custody are due to beriberi (a medical condition caused by a vitamin deficiency) and infectious diseases. Several detainees have also died of severe malnutrition and acts of violence.

## IMPUNITY

Impunity continues to rule in Guinea, despite proceedings being brought in a couple of cases.

In February 2019, the conviction of a police captain for the 2016 killing of a man in the context of a demonstration was the first time since 2010 that a member of the security forces was brought to justice for shooting a protester dead. He was sentenced to ten years' imprisonment and ordered to pay 50,000,000 Guinean francs (approximately 4,864 euros) of damages to the family for assault and battery causing unintentional death. His superior officers were not brought to justice and there appears to have been little evidence linking him to the killing.<sup>59</sup>

In February 2017, an Anti-Crime Brigade captain in Kipé, a neighborhood of Conakry, was arrested and charged with torturing a man in police custody in March 2016. At least 10 other gendarmerie and police officers were suspended over the incident but were not brought to justice.<sup>60</sup>

There has been limited progress in the trial proceedings relating to the killing of over 150 peaceful demonstrators and the rape of at least 100 women in the Conakry Stadium in 2009.

In March 2017, Aboubacar Sidiki Diakité was extradited to Guinea from Senegal after being at large for several years and faced charges in connection with the Stadium event. He was the former aide to Moussa Dadis Camara (leader of the military junta between 2008 and 2009). He has been in pretrial detention at the Conakry central prison with four other men who were arrested in 2010, 2011, 2013 and 2015, respectively, in connection with the events of 28 September 2009. Given the 18-month pre-trial detention limit set out under Guinean law for criminal matters,<sup>61</sup> these detentions are unlawful.

In September 2017, a group of victims filed a lawsuit against Sékouba Konaté, who served as Minister of Defence under the military junta, as well as transitional President between 2009 and 2010. In October 2017, a pool of judges issued an order not to investigate Sékouba Konaté on unclear grounds. The group of victims appealed the decision, but as of October 2019, their appeal has not been heard.

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<sup>58</sup> This is a conservative estimate. Real numbers are likely to be much higher. NGOs reported at least seven deaths in custody in 2019. The 2018 US Department of State Country Report on Human Rights Practices in Guinea reported nine deaths in detention at the Conakry Central Prison between January and September; the prison authorities reported seven deaths in detention in 2017, 33 deaths in 2016 and 53 in 2015.

<sup>59</sup> This case is also featured in the section on peaceful assembly and use of force.

<sup>60</sup> This case is also featured in the section on torture and other ill-treatments.

<sup>61</sup> Code de procédure pénale, Article 237.

In December 2017, seven years after its appointment, the pool of judges formally completed the national investigation and rendered its closing order referring the case to trial. It requalified some of the charges brought forward by the prosecution on the basis of the Rome Statute against Moussa Dadis Camara and Aboubacar Sidiki Diakité, as commanders and other superiors to the ordinary crime of complicity. It dismissed the criminal charges against Mathurin Bangoura, a minister at the time of the military junta and now governor of Conakry, and Bienvenue Lamah, who was active in a militia training camp in Kaléyah, on the basis that there was insufficient evidence against them. In their closing order, the pool of judges left out important elements of the victims' complaints, including the efforts by the security forces and government officials to cover-up the events by disposing of the bodies in mass graves and the role and command structure of the militia. In July 2019, the Supreme Court dismissed all the appeals against the end of the investigation, including the appeals of the victims against the dismissal of the charges against Mathurin Bangoura and Bienvenue Lamah and the requalification of the charges.

Moussa Tiégboro Camara, who was a senior official in the military junta at the time of the events and charged in connections with the killings and rapes, retains an influential position in the security services where he is Secretary general in charge of the special services combatting large-scale banditry and organized crime.

There has been no progress in the judicial proceedings against security force members for the human rights violations committed during demonstrations in Conakry between 2011 and 2019, in Zogota in 2012 and during the occupation by the security forces of the village of Womey in 2014.

In April 2018, the ECOWAS Community Court of Justice ruled that Guinea had violated the right to life of Maurice Jallah Cisse, who was killed by police officers in Conakry on 13 August 2011, and the right to justice of his family as it failed to investigate the killing in due time. The Court ordered Guinea to pay 45 million Guinean francs in damages to the family of Maurice Jallah Cisse and to bring the individuals responsible for his killing to court without undue delay. As of September 2019, Guinea had failed to comply with the ruling of the Court.

# RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

## AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF GUINEA TO:

### DEATH PENALTY

- Having already abolished the death penalty for all crimes, commute all death sentences taking into account the number of years already spent in prison;
- Ratify, without making any reservation, the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

## PEACEFUL ASSEMBLY AND USE OF FORCE

- Amend legislation on the use of force and on assemblies, including the Criminal Code, the 2015 Law on Policing Assemblies and the 2019 Law on Use of arms by the Gendarmerie, to bring it in line with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the African Commission on Human and Peoples' Rights Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa;
- Remove military armed forces from demonstration sites and immediately publish information on the conditions of their deployment, including legal basis, duration, location, purpose and rules of engagement in case of assemblies;
- Provide the security forces with sufficient resources and adequate equipment to police large-scale demonstrations and counter-demonstrations, and effective training in the appropriate and differentiated use of force and weapons, including anti-riot equipment;
- Ensure all vehicles and anti-riot gear feature clear identifiable information, including number plates, tags and/or names of units, and ensure failure to feature such information leads to disciplinary sanctions;
- Carry out prompt, thorough, independent and impartial investigations into all cases where the security forces have injured or caused death through unnecessary or excessive use of force and impose disciplinary and criminal sanctions, as appropriate, against all those suspected to be responsible, including superior officers;
- Ensure demonstration observers, including journalists and human rights defenders, are protected and not subjected to arbitrary arrest or violence, including by the security forces.

## TORTURE AND OTHER ILL-TREATMENT

- Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Amend the Criminal Code to bring provisions on torture in line with international human rights law and standards, including the definition of torture and other ill-treatment, and ensure torture and other-ill treatment are not subject to statutory limitations;
- Revise the Criminal Procedure Code to bring it in line with international and regional laws and standards, including by clarifying that any statement obtained under torture or other ill-treatment cannot be invoked as evidence except those brought against suspected perpetrators of such abuse;
- Ensure that trials in which it has been established that statements have been extracted under torture or other ill-treatment are reviewed in order that those convicted can be retried in accordance with international standards of fair trial;
- Ensure that people have unfettered access to a lawyer of their choice as soon as they are deprived of their liberty, particularly during police custody;
- Carry out prompt, thorough, independent and impartial investigations into all allegations of torture and other ill-treatment during detention and take immediate legal action, whenever there is sufficient admissible evidence, against all persons suspected of committing torture and other ill-treatment, including superiors.

## PRISON CONDITIONS

- Take urgent measures to reduce overcrowding in prisons, including by substituting detention with non-custodial measures and ensuring that persons do not remain in pre-trial detention beyond the prescribed time limits;

- Ensure that all persons deprived of liberty are held in humane conditions, in line with the UN Basic Principles for the Treatment of Prisoners, the Standard Minimum Rules for the Treatment of Prisoners, and the Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, and in particular ensure that all detainees have access to sufficient food and drinkable water, adequate sanitary facilities and medical treatment;
- Promptly, thoroughly, independently and impartially investigate all deaths in custody, in line with the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and bring those suspected of responsibility for the deaths, including by negligence, to justice in a fair trial.

#### **FREEDOM OF EXPRESSION AND HUMAN RIGHTS DEFENDERS**

- Amend legislation which unduly restrict the right to freedom of expression, including the Criminal Code, the 2016 Law on Cyber-Security and the 2019 Law on the Prevention and Repression of Terrorism, in line with international and regional human rights law and standards;
- Amend the bill to protect human rights defenders to reflect best practice and international standards, including by removing arbitrary obligations placed on human rights defenders and adding provisions to create an independent and well-resourced protection mechanism, in concertation with human rights defenders, and expedite its adoption;
- Ensure that journalists, opposition leaders, government critics and human rights defenders are able to freely exercise their rights to freedom of expression, association and peaceful assembly without fear of reprisals, arrest, detention, prosecution, intimidation or harassment;
- Carry out thorough, independent and impartial investigations into all cases of arbitrary arrest, torture and other-ill treatment, and harassment of journalists, opposition leaders, government critics and human rights defenders, and impose disciplinary and criminal sanctions, as appropriate, against all those suspected to be responsible, including superior officers.

#### **FREEDOM OF ASSOCIATION**

- Amend the 2005 association law, in consultation with civil society groups, to ensure it complies with international law and standards, including by removing the mandatory authorization requirement for “foreign NGOs”, eliminating undue grounds to not authorize or dissolve associations, including that they “are contrary to morality” or “undermining national territorial integrity and national security”; and ensuring the decision to dissolve an association is taken by a court of law rather than an administrative authority;
- Refrain from adopting the 2019 Bill on Associations unless it is substantially amended to meet international standards;
- Ensure associations who meet the requirements of notification are granted definitive certificates of registration expeditiously in line with the 2005 Law on Associations.

#### **WOMEN'S RIGHTS**

- Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;
- Amend legislation to criminalize marital rape and remove provisions which discriminate against women, including provisions of the Civil Code authorizing polygamy, and exceptions to the prohibition of early and enforced marriage in the Criminal Code;

- Undertake information and education campaigns, in consultation with women rights defenders and gender-based violence survivors, aimed at both women and men to address the cultural and social acceptance of discriminatory practices, including early and enforced marriage and female genital mutilation, including by raising awareness of its harm to the victims and the cost to society;
- Ensure the perpetrators of gender-based violence, including female genital mutilation, early and enforced marriage and rape, are brought to justice in fair trials.

#### RIGHTS OF LESBIAN, GAY, BISEXUAL, TRANSGENDER OR INTERSEX (LGBTI) PEOPLE

- Publicly reiterate Guinea's commitment to respect, protect and fulfil the human rights of all people without discrimination, including on the basis of sexual orientation or gender identity;
- Instruct the police to put an end to arbitrary arrests, detention, harassment and intimidation of people on the basis of their real or perceived sexual orientation or gender identity;
- Repeal the provisions of the Criminal Code which criminalize consensual same-sex sexual conduct;
- Promptly, thoroughly, independently and impartially investigate all allegations of attacks, arbitrary arrest and detention of persons on the basis of their real or perceived sexual orientation or gender identity and expression and bring anyone suspected to be responsible to justice in fair trials.

#### IMPUNITY

- Publicly proclaim support for the immediate commencement of the trial to ensure accountability for the violations committed on 28 September 2009 at the Stadium of Conakry and provide all political, technical, and financial support needed for a credible and fair trial of all those suspected of criminal responsibility, in partnership with international donors;
- Carry out prompt, thorough, independent and impartial investigations into all cases of human rights violations and abuses, including in the context of the 28 September 2009, the demonstrations in Conakry between 2011 and 2019 and in Zogota in 2012 as well as during the occupation by the security forces of the village of Womey in 2014, and bring those suspected of being responsible to justice in fair trials;
- Ensure that all persons arrested in the case of the 28 September 2009 receive a fair trial in which their right to defence is fully respected and can benefit from conditional release pending trial;
- Repeal legislative provisions which may be used to allow suspected perpetrators to evade justice for human rights violations and abuses, including in the Criminal Code, the Military Code of Justice and the Law on the Use of Arms by the Gendarmerie;
- Issue clear public instructions to all security forces to comply with national law and international human rights law and make clear that anyone suspected to be responsible for ordering, carrying out or failing to prevent human rights violations and abuses, especially extrajudicial execution, unlawful killings, enforced disappearances, torture or sexual violence, will be held accountable for their actions;
- Exercise strict chain-of-command control over the armed forces and hold to account any member of the armed forces for any actions which may constitute violations of human rights or international humanitarian law, or for allowing others to commit such violations;
- Immediately suspend, pending trial, any person in a position of authority who is suspected of having committed violations of international humanitarian and human rights law, including in relations to the killings and rape that occurred on 28 September 2009;

- Ensure complaints filed by victims and their relatives are followed-up on and promptly responded to;
- Establish an independent and adequately resourced law enforcement oversight mechanism to review regulations and practices within law enforcement agencies with the powers to conduct investigations and to issue recommendations for prosecutions, disciplinary sanctions and reparations;
- Promptly accede to the International Convention for the Protection of all Persons from Enforced Disappearance, without making any reservation, and implement it fully into national law and recognize the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of victims or other states parties;
- Promptly ratify the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights and, pursuant to Article 34(6) of the Protocol, make a declaration allowing direct access for individuals and NGOs to the Court.

# ANNEX

## AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE<sup>62</sup>

Amnesty International, Analyse du projet de loi portant prévention et répression du terrorisme en République de Guinée (AI Index : AFR 29/0206/2019).

Amnesty International, Guinea: New law could shield police from prosecution (Press-release, 4 July 2019).

Amnesty International, Death sentences and executions – 2018 (AI Index: ACT 50/9870/2019).

Amnesty International, Annual Report 2017/2018 – Guinea (AI Index: POL 10/6700/2018).

Amnesty International, Death sentences and executions – 2017 (AI Index: ACT 50/7955/2018).

Amnesty International, Death sentences and executions – 2016 (AI Index: ACT 50/5740/2017).

Amnesty International, Annual Report 2016/2017 – Guinea (AI Index: POL 10/4800/2017).

Amnesty International, Annual report – Guinea (AI Index: POL 10/2552/2016).

Amnesty International, Guinea: New criminal code drops death penalty but fails to tackle impunity and keeps repressive provisions (Press-release, 5 July 2016).

Amnesty International, Guinea: Draft legislation being considered by the National Assembly: major opportunities and threats for protection and respect of human rights (AI Index: AFR29/3894/2016).

Amnesty International, Guinée. La condamnation de cinq syndicalistes est une violation du droit à la liberté d'expression (Press-release, 25 March 2016).

Amnesty International, Guinea: Preventing the excessive use of force and respecting freedom of peaceful assembly in the run-up to the 2015 elections and beyond – A Call to Action (AI Index: AFR29/2160/2015).

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<sup>62</sup> All these documents are available on Amnesty International's website: [www.amnesty.org](http://www.amnesty.org)

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