



Human Rights Watch

UPR Submission

Guinea

June 2014

Updated version of December 2014 – Updates are in bold

I. Summary

Since coming to power in largely free and fair elections in December 2010, the government of President Alpha Condé has made some progress in addressing the serious governance and human rights problems that characterized Guinea for more than five decades.

Parliamentary elections, not held since 2002, were to have taken place in 2011, but were repeatedly delayed by opposition demands to address technical concerns. The delay exacerbated ethnic tensions, slowed reform efforts, deepened a concentration of power in the executive branch, and led to violent protests which left scores dead. While marred by irregularities, the 2013 completion of the polls helped further consolidate Guinea's transition from authoritarian to democratic rule.

The number of state-sponsored violations has steadily declined since 2010 but inadequate progress on strengthening the judiciary and endemic corruption continue to undermine respect for rule of law and directly lead to violations. Furthermore, the government has made slow progress in tackling the culture of impunity and ensuring accountability for past atrocities, including the 2009 massacre of unarmed demonstrators by security forces.

There have been some efforts to professionalize and reduce the size of the 45,000-strong security sector, which has long been steeped in a culture of indiscipline and impunity. However the security forces often act in a partisan manner, and have been implicated in numerous acts of criminality and excessive use of lethal force when responding to demonstrations. Political and communal violence has since 2010, left several hundred dead and hundreds wounded.

A. Accountability for Grave Crimes and Fight against Impunity

During its previous UPR in 2010, Guinea had accepted all recommendations related to ensuring accountability and bringing to justice alleged perpetrators of grave violations. There has been important, but inadequate progress towards ensuring accountability for both past and ongoing violations by members of the security services. At the same time, while several investigations have been opened, and a few high-level officers indicted, no single member of the security forces has yet to be prosecuted for abuses committed.

Since 2010, the judiciary has opened several investigations into serious violations by state actors including those into the 2012 killing of six men by members of the security forces in a village southeastern Guinea; the 2010 torture of members of the political opposition; the 2009 massacre and rapes of opposition supporters in a Conakry stadium; and the 2007 killing of some 130 unarmed demonstrators. Furthermore, after 12 people were killed during demonstrations by the security forces in May 2013, most by gunshot, President Condé tasked the justice minister with establishing a three-judge panel to investigate and prosecute those responsible for this and other acts of political violence. However, progress in the investigative stage of most of the aforementioned has been severely hampered by the failure on the part of members of the army, gendarmerie and police, to respond to judicial summons.

Justice for the 2009 Stadium Massacre:

More than **five** years on, the domestic investigation into September 2009 massacre of some 150 people and the rape of over 100 women during the military regime of Moussa Dadis Camara has yet to conclude. A 2009 report by the United Nations-led International Commission of Inquiry said that the abuses committed by security forces very likely constituted crimes against humanity.

The panel of judges investigating the massacre has made important strides, having interviewed more than **400** victims and indicted at least 8 suspects including high-level members of the security forces. **Meaningful steps taken in 2014 include the questioning of several key witnesses and accused, and of Dadis Camara himself, who has taken refuge in Burkina Faso. Furthermore, the justice minister has expressed unequivocal commitment to the conclusion of the investigation and trial of the alleged perpetrators.**

However, progress continues to be slow and undermined by the government’s failure to place high-level suspects on leave from their government posts pending investigation, and to ensure that all members of the security forces respond to judicial requests to appear for questioning by the judges. Some suspects have been in pretrial detention longer than the two years Guinean law permits.

B. Conduct of the Security Forces

Guinea had accepted recommendations to “give clear instructions to the security forces to always act in compliance with international human rights law” and to “prosecute and sanction, in line with international standards, armed forces and security staff members who are guilty of grave crimes and human rights violations.”

Since 2010, discipline within and civilian control over the security forces – the army, police and gendarmerie – appears to have improved. The military hierarchy has made considerable progress in ensuring that the army and presidential guard – responsible for the most serious abuses during past periods of political unrest – remain in barracks. Progress was also made in ensuring the forces mandated to respond – the police and gendarmerie – did so proportionately.

However, members of the police and gendarmerie were nevertheless implicated in numerous incidents of excessive use of lethal force and unprofessional conduct as they responded to the often-violent protests and clashes between militants of opposing political parties, and arbitrarily detained and beat others. The security forces have also been implicated in numerous alleged acts of criminality, including extortion, bribe taking, and outright theft and banditry.

Lack of Political Neutrality

There is clear evidence of a partisan response to protests on the part of security forces, who consistently fail to provide protection equally. On many occasions the security forces used ethnic slurs against, and looted and stole property from members of ethnic groups largely supporting the opposition, and collaborated with civilian mobs from ethnic groups that largely supported the ruling party. Furthermore, on numerous occasions in 2013, when political supporters of both the ruling party and opposition were engaged in street battles, the security forces disproportionately and on a few occasions arbitrarily arrested, detained and mistreated, robbed and physically abused opposition supporters. Also, on several occasions, members of the security forces attacked or failed to protect members of the opposition or their family members from violence meted out by ruling party militants.

Security Sector Reform Progress

The Security sector reform process, initiated in 2010, has made some progress including elaboration and implementation of codes of conduct to improve the discipline of security forces and move toward civilian control over the military. Efforts have been made to reduce the size of the military, including the 2010 retirement of some 4,000 soldiers.

Of concern however, is the near-total absence of accountability for serious abuses committed by members of the security forces both in the years before Condé assumed power, and those committed since. The failure to hold members of the security services accountable has contributed to a perception that they are above the law.

C. Judiciary and Detention Conditions

In spite of accepting many recommendations during Guinea's previous UPR in 2010 to ensure that the chronically-neglected judiciary is independent and functioning, there has been inadequate progress towards this end. Decades of neglect of the judiciary has led to striking deficiencies in the sector, allowing perpetrators of abuses to enjoy impunity for crimes. The allocation for the judiciary has for several years stood at around 0.5 percent or less of the national budget. As a result, there continue to be severe shortages of judicial personnel and insufficient infrastructure and resources, which, when coupled with unprofessional and corrupt practices and poor record-keeping, contributed to widespread detention-related abuses.

Prison and detention centers in Guinea are severely overcrowded and operate far below international standards. Inmates and detainees lack adequate nutrition, sanitation, and medical care. However, since 2010, there has been some improvement in malnutrition rates among inmates, healthcare, and in prison administration, including the formation of a prison guard service. The largest detention facility – designed for 300 detainees – accommodates **some 1,200**. An estimated **65 percent** of prisoners in Conakry are held in prolonged pre-trial detention, many longer than five years. The failure of the *Cour d'assises* – which hears matters involving the most serious crimes – to meet regularly contributes to the problem.

D. Legislative and Institutional Framework for Promoting Human Rights

In 2012, President Condé created a Ministry for Human Rights and Civil Liberties, mandated to establish a human rights policy for the country. While the Ministry lacked resources, the Minister has actively advocated for strengthening of the judiciary, an end to impunity for abuses, and respect for freedom of the press. **Furthermore, in 2014, the government established the Superior Council of Judges (*Conseil supérieur de la magistrature*) tasked with discipline, selection, and promotion of judges, following the 2013 passage of a law creating the institution.**

During its previous UPR, Guinea had accepted the recommendation to “establish a national human rights institution in accordance with Paris Principles.” However progress in setting up the independent human rights institution, as mandated by Guinea’s 2010 constitution, was undermined by delays in holding legislative elections; the constitution stipulates that the institution can only be established through a law voted on by the national assembly. With the help of the European Union, several key legal texts including the Penal Code, the Code of Criminal Procedure, and the Military Code of Justice are in the process of being revised.

The “Reflection Commission,” created by presidential decree in June 2011 to promote reconciliation, made no visible progress in fulfilling its mandate. The interim co-presidents appeared to limit its mandate to promoting reconciliation largely through prayer, while local human rights groups pushed for a commission that could meaningfully address impunity. Deepening ethnic tensions, communal violence, as well as concerns about corruption, demonstrated the urgent need for a truth-telling mechanism with the capacity to make recommendations to address Guinea’s human rights challenges.

In contradiction with recommendations accepted during its previous UPR in 2010, Guinea has still not ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment (OP-CAT), or Optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Furthermore, Guinea has yet to codify the CAT into their penal code.

E. Child Labor

During its previous UPR in 2010, Guinea had accepted the recommendation to “punish and prevent

trafficking in children for the purpose of forced labour.” However, significant numbers of children continue to labor in gold and diamond mines and quarries where they perform dangerous work for little pay. Tens of thousands of girls – some trafficked from neighboring countries-work as domestic laborers, often in conditions akin to slavery. They are routinely denied education and healthcare and are forced to work up to 18 hours a day. Beatings, sexual harassment, and rape at the hands of employers are frequent. The government took some steps to combat the problems of child labor and trafficking. In May 2008 the legislature passed The Child Code that contains several enhanced protections for children. A special police unit to investigate child prostitution, trafficking, child labor, and other abuses resulted in few prosecutions.

II. Recommendations

Regarding the fight against impunity the government should:

- Investigate and prosecute, in accordance with international standards, members of the security forces against whom there is evidence of criminal responsibility for past and ongoing-abuses.
- Ensure members of the security forces respond to judicial summons in cases involving human rights violations.
- Ensure judges and other judicial personnel investigating sensitive cases have adequate security at their offices and additional security during non-business hours as needed.
- Place on administrative leave those in government positions who have been identified as implicated in serious crimes including those during the September 2009 violence and are in a position to influence or appear to influence any criminal investigation and prosecution, pending investigation.
- Establish a mechanism for witness protection and support, to better assist victims and witnesses in sensitive cases.
- Press for adoption of laws that implement the International Criminal Court (ICC)’s Rome Statute to make genocide, war crimes, and crimes against humanity consistent with international standards punishable crimes under Guinea’s domestic law.
- Implement into domestic law the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Guinea in 1989, and ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment (OP-CAT).
- Abolish the death penalty.
- Ensure the Revision of the Military Code of Justice complies with international standards and instruments.
- Establish a truth-telling mechanism to expose less well-known atrocities, explore the dynamics that gave rise to and sustained successive authoritarian and abusive regimes, and

make recommendations aimed at ensuring better governance and preventing a repetition of past violations.

- Establish a national human rights institution in accordance with the Paris Principles.

Regarding the Judiciary and detention-related abuses, the Government should:

- Ensure the Ministry of Justice has sufficient support to address deficiencies in the working conditions of judges and other key staff that severely undermine the dispensation of justice and rights of victims and the accused.
- Improve court and caseload management through the prompt establishment of recordkeeping, court reporting, and information control systems.
- Ensure the independence from government control and direction of the Superior Council of Judges (*Conseil supérieur de la Magistrature*).
- Ensure all citizens accused of a crime have access to adequate legal representation regardless of their means.
- Bring to trial or set free all prisoners in prolonged pretrial detention and ensure all such prisoners are brought regularly before a judge to rule on the continued necessity for their detention.
- Improve prison conditions by ensuring adequate nutrition, sanitation, medical care, and educational opportunities.

Regarding child labor and abuse, the government should:

- Enforce the 2008 Children's Code;
- Strengthen child protection systems, including at the local level;
- Investigate and prosecute cases of child labor and abuse.

To Address Endemic Corruption:

- Establish a fully independent, well-funded, anti-corruption body empowered to investigate, subpoena, and indict public officials implicated in corrupt practices.
- Publish the national budget and issue regular updates that accurately detail expenditures. Information on government revenues and expenditures should be made easily accessible and presented in a form that can be understood by the public.