

# UN Contributions<sup>1</sup> to the 2015 Universal Periodic Review of Guinea Bissau by the Human Rights Council

31 July 2014

## 1. Introduction

Guinea Bissau participated in the Universal Periodic Review by the Human Rights Council from 3 to 14 May 2010, and presented a general overview of the human rights situation in the country from independence in 1973 to 2010. The country accepted 101 recommendations and expressed reservations regarding five others. Main UPR recommendations included: (a) strengthening the national human rights protection system and the rule of law, in particular the fight against impunity, gender based violence, child exploitation and abuse; (b) strengthening the role of national human rights institutions and civil society organizations; (c) complying with international human rights standards by ratifying international treaties and domesticating them; and (d) implementing reforms in the security, defence and justice sectors as a corner stone for peace and stability.

## 2. Key achievements since May 2010

There has been significant progress regarding the ratification of key international instruments, legislative review, strengthening of national human rights institutions and civil society organizations, improvement of the population's access to justice, and involvement with the Special Procedures mechanisms of the Human Rights Council. In January 2011 the Government submitted a standing invitation to the Special Procedures mechanisms, inviting all Special Rapporteurs to visit the country at any time. From 24 to 28 February 2012, the Special Rapporteur on Human Rights and Extreme Poverty visited Guinea Bissau, while a visit by the Special Rapporteur on the Independence of Judges and Lawyers had to be postponed. Besides, the Government Plan for 2011, 2012 and 2013 included human rights as one of its priorities.

**UPR recommendations:** In order to implement the 2010 UPR recommendations, the government appointed one human rights focal point within each of eight ministries directly dealing with human rights, namely Health, Education, Women, Foreign Affairs, Presidency of the Council of Ministers, Justice, Interior, and Defence. Partners viewed this as an achievement, taking into account that there is no department or directorate within the government in charge of human rights beyond the Ministry of Justice and the National Human Rights Commission.

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<sup>1</sup> This contribution was prepared by the Integrated United Nations System in Guinea Bissau, including UNCT, namely UNICEF, UNDP, WFP, and UN Women.

Since May 2010, Guinea Bissau ratified the following international human rights treaties: the International Covenant on Civil and Political Rights (ICCPR); the Convention on the Elimination of Racial Discrimination (CERD); the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography; the Convention on Torture, Cruel, Inhuman and Degrading Treatment (CAT); the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts; the Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty; and the Convention on the Prevention and Punishment of the Crime of Genocide. The Convention on the Rights of Persons with Disabilities is currently in the ratification process (deposit).

With regard to reporting obligations, Guinea Bissau submitted its second to fourth periodic reports on the CRC implementation in December 2009, and participated on 7 June 2013 in the dialogue with the Committee on the Rights of the Child in this regard. Committee and delegation members identified progress made in the area of legislation, institutional and policy measures, and bottlenecks hindering the implementation of the convention. The Committee's Concluding Observations have been included in a Manifesto of the rights of the child and youth advocacy movement "*Republica di Mininus Hoje*", which calls on State authorities to adopt a National Agenda for Children, as a roadmap for further harmonization of the national legislative and policy frameworks with international human rights standards.

**Reform of the Justice Sector:** In January 2011 the government adopted a National Policy for the Justice Sector, which foresees the construction / rehabilitation of judicial infrastructures, legislative reform, strengthening institutional capacity, and promoting access to justice. Two courts (Gabu and Bafata) and two prisons (Mansoa and Bafata) have been rehabilitated and five Legal Aid Clinics (so called Access to Justice Centers, CAJs) were established in Bissau, Cacheu, Oio and Bafata Regions to provide free legal aid to the population.

Since their establishment in September 2011, the Access to Justice Centres (CAJs) provided free legal aid, counselling and information to over 5,050 beneficiaries of which about 22 percent were women. The majority of the cases handled was related to land and property, labour law, family issues, domestic violence and abuse of power. As the figures can clearly show, this new public service has been highly welcomed by the population and the continuing raising of the demand it's the main indicator of such positive response by the beneficiaries. However, access to justice cannot be improved if there is no formal justice state present in the targeted regions and for formal justice to function there must be presence of the courts fully operational, duly staffed with skilled judges and prosecutors.

In regard to long term capacity development and institutionalized training for the Judiciary, was established the first National Judicial Training Center (CENFOJ) in the country, an intervention that aimed to strengthen the capacity of the Judiciary in a systematic and structured manner through in country training tailored for magistrates and judiciary personnel. The establishment of the National Judicial Training Center (CENFOJ) contributed to ensure higher transparency and accountability at the access to judicial careers, through a highly competitive process, in order to

acquire the best candidates as future magistrates for Guinea-Bissau. Magistracies, they can now trust on a highly selective and competitive process, based exclusively on merits.

Four laws have been passed to fill important gaps in terms of legal protection and gender equality, namely on Access to Justice (June 2010), Female Genital Mutilation (July 2011), Human Trafficking (July 2011), and Domestic Violence (February 2014). The new law on Female Genital Mutilation has been viewed as a landmark, after two decades of efforts towards its approval. The law criminalizes the practice of FGM and foresees prevention mechanisms as well as legal and medical assistance to victims. The law on Human Trafficking, drafted in accordance with the Palermo Protocol, prohibits and criminalizes all activities related to the recruitment and transportation of persons for the purpose of prostitution, forced marriage, extraction of human organs, slavery and forced labour. As for Domestic Violence, the law focuses on traditional harmful practices, violence against women, and child abuse within the family.

Regarding Justice for Children, the Ministry of Justice held consultations in 2011 and 2013, in cooperation with UNICEF, on strategies to include child protection in the national justice policy, and agreed on the drafting of a Child Protection Code. An assessment of main legislation that needs to be harmonized with the CRC has been undertaken, and a national consultation was conducted to understand community child protection mechanisms and evaluate major obstacles between positive and customary law. Regarding children victims of crime and adolescents in conflict with the law, efforts have been made since 2011 to reinforce the role of the Guardian ad Litem and Prosecutors, and strengthen follow-up and coordination with other judicial institutions and civil society. Juvenile justice is a critical priority area requiring continued policy and legal framework discussions, including on the legislative reform to fill the identified gaps, aligned with the CRC, the Riyadh Guidelines, and the Beijing Rules.

A reform of the justice sector is currently under discussion, and might include a revision of the Constitution, the Penal Code, the Civil Code and their respective Codes of Procedure. Besides, judicial authorities have agreed to include a victim component in the current draft law on witness protection, in order to also protect the right of victims to reparations for any material and/or psychological damage.

**Impunity:** Guinea Bissau has been the first ECOWAS member state to follow up on the recommendations of the Bamako Declaration on Impunity, Justice and Human Rights<sup>[1]</sup>, by holding a national conference on the same topics in July 2013. The Conference proposed the following measures: (a) Reform of the security, defence and justice sectors; (b) establishment of an international commission of inquiry to conduct credible and transparent investigations into drug trafficking, political assassinations and other politically motivated crimes; (c) ratification of the Rome Statute of the International Criminal Court; (d) decentralization of public administration; and (e) promotion of national unity, citizenship and a culture of human rights

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<sup>[1]</sup> In December 2011, a high level delegation made up of government, judicial authorities, national human rights institution, and civil society, participated in an international conference on Impunity, Justice and Human Rights held in Bamako, which issued the Bamako Declaration and Plan of Action for the ECOWAS Region.

respect through a comprehensive human rights education programme at all levels. On this occasion, the Government invited the United Nations Assistant-Secretary General for Human Rights to visit the country and participate in the Conference. The recommendations of the Impunity Conference were expected to provide a basis for a national strategy to address impunity.

**Human Rights Defenders:** In December 2013, a National Human Rights Defenders Network made up of representatives of approximately 20 NGOs, was established, in line with the UN General Assembly Resolution on Human Rights Defenders (A/RES/53/144) and OHCHR policy on the same subject, in collaboration with the ECOWAS Network of Human Rights Defenders. The NGO is currently in the process of legalizing its statute. Another Human Rights NGO has also been recently established. 40 civil society organizations were trained in partnership with the Human Rights League.

**Birth Registration:** Conscious of the fact that both the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of Child recognize birth registration as a right, the State adopted between 2010 and 2013 a National Plan of Action for Birth Registration and established an inter-ministerial committee to follow-up on its implementation. The authorities also strengthened the operational capacities of civil registration offices, while increasing community education on the importance of birth registration to encourage families to register their children.

In rural and urban areas, strategic partnerships between the Ministry of Justice and civil society organizations have enabled the deployment of mobile birth registration teams. As a result, nearly 10,500 children have been registered since 2012 and received a birth certificate. In 2014, the Ministries of Justice and Health signed a protocol to carry out early birth registration at health facilities. Negotiations are underway with the Ministry of Education to facilitate birth registration in schools.

**National Human Rights Institutions:** Since its establishment in 2009 by presidential decree, the National Human Rights Commission has been functioning under the Ministry of Justice. In 2012 the Ministry agreed to revise the statute of the Commission based on the Paris Principles, with technical support from UNIOGBIS, OHCHR, UNDP and the Faculty of Law. The new statute was validated in 2013 and should be adopted by the newly elected Parliament before the end of 2014. The government further supported the functioning of the Commission by providing separate office premises and paying the salaries of the Commissioner and support staff, and the training of members of the National Human Rights Commission on the Paris Principles and international human rights standards in 2011.

**Human Rights Mainstreaming:** In 2011, the Government adopted PRSP II, which integrates a strong and comprehensive human rights and gender dimension in it. This is a significant progress compared to the first PRSP, adopted in 2006, which focused on poverty reduction, income generation, infrastructures and social development, without taking into account the enjoyment of economic, social and cultural rights, gender equality, and social justice.

**Gender Equality and Equity, and SGBV:** progress has also been made regarding political participation of women, particularly during the recent electoral process. Since 2012, a total of 315 women have been trained on political participation and gender equality. UNIOGBIS commissioned a study on the status of women participation in political decision making, which identified challenges and led to an active role played by women during the recent electoral process. With support provided by PBSO, UNIOGBIS, UNDP and UN Women, women played a key role in increasing awareness for transparent, peaceful and fair elections. For the first time ever, women were trained as electoral observers. Besides, a situation room was set up to help monitor, prevent and report possible irregularities, in collaboration with other non-governmental organizations.

The current government has now a total of 31% women appointed as ministers as compared to the last government which had 7.4% in 2012 <sup>[2]</sup>. The new parliament has 14 women instead of 11 during the transitional period. In 2013, after several reflections, the Women Political Platform (WPP) was restructured and legalized, comprising 26 women networks and 13 political parties. Still in 2013, the national Sub-Regional Network for Peace and Security in West Africa (REMPSECAO) was established and legalized. In May 2014 the Government adopted a National Policy on Gender Equality and Equity, drafted in accordance with CEDAW and the Beijing Platform. The document foresees specific measures to fight harmful traditional practices and gender based violence, and incorporates strategies to address inequality between women and men in political decision making and access to economic activities. In 2011, a joint UN programme funded by the PBSO, “Quick and Multilevel Impact for Women’s Economic Empowerment and Improvement of Working Conditions” was approved, with the aim to improve women economic security and contribute to their economic and social empowerment by building the organizational capacity of umbrella institutions and enabling employment and access to credit. The project is coordinated by UN Women and implemented by UNICEF, FAO and two umbrella organizations.

Progress has also been made in the fight against SGBV. The number of reported SGBV cases, particularly rape, domestic violence and abuse of children, increased during the last two years, possibly because of increased awareness among the population and knowledge of fundamental rights. For the first time in Guinea Bissau, social norms have been introduced at community level for the abandonment of FGM and other harmful practices affecting children and women. As a result of a series of intensive sensitization campaigns undertaken countrywide by the National Committee for the Abandonment of Harmful Traditional Practices against Women, an institution within the Ministry of Women, with the support of UNICEF, UNFPA and NGO partners, a total of 166 communities publicly declared to have abandoned FGM. Religious and traditional leaders have also publicly declared delinking FGM from religion, and in February 2013 Muslim religious leaders issued a Fatwa supporting the abandonment of FGM. In addition, 895 local religious leaders publicly declared that there is no linkage between religion and FGM. The national network of religious leaders supporting the abandonment of FGM has been raising

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<sup>[2]</sup> Justice, Defence, Education, Women, Health, and Secretary of State for Treasury.

awareness and promoting debate countrywide, using original ways of addressing the issue, including in Mosques and during other religious events.

The legal framework has also been reinforced as mentioned above. From 2011 to 2013, two laws were adopted with UN support, to prohibit FGM and domestic violence. Other social norms negatively affecting children and women were reviewed banned through the development of new strategies and plans of action for their implementation. The FGM National Strategy and Plan of Action (2010-2015) as well as the Action Plan to prevent and eradicate Gender Based Violence in Guinea-Bissau, are being partly implemented. Judicial officials have been trained on the implementation of new legislation, and civil society organizations briefed on the law and on ways to improve partnership with the justice sector.

**Correction facilities:** Since 2011, the Government has adopted laws to improve the penitentiary system such as: (1) the Organic Law on Prison Facilities (decree 12/2011); (2) the Organic Law of the Ministry of Justice, creating a Directorate General for Prisons within the Ministry; (3) Minimum Rules for the Treatment of Prisoners (decree 13/2011), which guarantees the right of all prisoners to registration, open air physical exercise, health care, complaint, legal counsel, education, private live and image, and stipulates which coercive measures should be applied; and (4) Internal Procedures for Prisons, which is currently being finalized for publication.

Besides, in 2013 judicial authorities took immediate action to address reported cases of SGBV and some forms of abuse of power in the prison of Mansoa, following UN reports. The Ministry of Justice initially suspended the prison Director and 19 guards. Based on the results of an investigation, nine prison guards have been reinstated, while a pregnant and sick victim of rape was released on condition, after having served half of the sentence.

### 3. Challenges

**Administration of justice and the rule of law :** In the Administration of Justice, weaknesses are mostly evident in three major areas: i) very limited access to the justice system by the population, ii) very limited capacity of judicial operators and institutions to provide independent and effective services and iii) weak institutional structures and mechanisms for good governance in the justice sector. The inexistence of allocated budget to the institutions and the generally difficult conditions of service for justice actors, create a fertile environment for bad practices. The limited capacity of the Inspection Services of the Superior Councils to inspect and evaluate performances of the judges further contributes to the lack of accountability. These limitations represent a serious obstacle to the detriment of public authority, state security and a culture of democratic governance based on the principle of respect for the Rule of law.

Since 2010 there have been four Presidents of the Republic, three Prime Ministers, three Ministers of Justice, Foreign Affairs, Interior and Defence, two Presidents of the Supreme Court, three Prosecutors General, and three Directors of the Judiciary Police, as a result of political instability and lack of continuity.

Judicial authorities face a lack of independence as a result of: (a) pressure from political and military authorities; (b) personal security concerns; (c) inadequate working conditions, human and financial resources; (d) inconsistency in complying with instructions from senior leadership; and (e) fear that their action could further increase political instability. The assassinations of March and June 2009, 26 December 2011, 18 March 2012, and 21 October 2012 onwards, have for these reasons not been investigated. Only the assassination of former General Tagme na Waie in March 2009 has been investigated and finalised, but the accused are still to be brought before a court.

Investigations into the killing of a Nigerian and a Mauritanian citizen were carried out. In the first case, 11 suspects were detained, accused of the crime of murder, taken to court and set free while waiting for the trial to continue. As for the Mauritanian, six people were detained in January 2014 and brought before an instruction judge in February. Two of the suspects were released in April due to lack of evidence, two others released in June pursuant to a writ of habeas corpus lodged with the Supreme Court of Justice, and one is still in detention and under investigation.

On 9 September 2014, a Superior Military Court verdict cleared three out of eight military and one civilian accused of treason and possession of prohibited weapons, who had been sentenced to three to five years by the Regional Military Court in April 2013 for having allegedly participated in the 21 October 2012 incidents at Bissalanca Airbase. They were immediately released, and the remaining five military and one civilian have been convicted for the crime of possession of prohibited weapons.

**Access to justice:** Despite the adoption of a National Policy for the Justice Sector, the establishment of a National Judicial Training Center (CENFOJ), and five Access to Justice Centers, the population's access to justice continues to be very limited as a result of: (1) lack of knowledge about their rights and judicial procedures; (2) geographic distance from judicial infrastructures such as police stations and courts; (3) financial resources to pay for the processes; and (4) road conditions and transportation facilities. A study on Access to Justice undertaken in April 2011 identified political leaders, security and defence forces, justice administration officials, economic power holders, traditional and religious leaders, as the immune groups in Guinea Bissau.

**Child protection:** Child protection in general is reflected in the PRSP II and the Government's Priority Action Plan. The programmatic framework comprises four National Action Plans addressing specific issues, but so far there is no policy document providing major strategic guidance. There is a need to adopt a comprehensive National Child Protection Policy and Code, and to develop a strategy for its implementation (CRC Committee recommendations, 2013).

Regarding justice for children, little progress has been achieved over the last years. The legal framework still needs to be updated and harmonized with the CRC and other international standards, and stronger national child protection systems are required to protect children and women from violence, abuse, and exploitation. The persistent fragility of institutions allow transgressions of the law to go unpunished, while in some cases legislative gaps do not allow proper handling of criminal cases against children.

The lack of knowledge amongst populations vis-à-vis their rights, and absence of proactive action of the judicial system, result in limited access to justice both for victims and for those in conflict with the law, affect access to justice, and undermine the credibility of the judicial system as a whole. The country has not yet established dedicated courts and trained staff to handle cases of children in conflict with the law, and there are no statistics in this regard. Because legislation is partly out-dated and inapplicable, the role that individual institutions play in a juvenile justice case is, in many cases, unclear.

**Birth Registration:** Despite ongoing efforts and some progress made, birth registration rates have declined significantly, from 39 per cent in 2006 to 24 per cent by 2013, mostly due to the interruption of the justice sector reform, and to other developments following the 12 April 2012 coup d'état. Routine registration functions poorly, owing to a lack of human resources and investment in the sector. Outreach registration efforts are conducted only with support of UNICEF and other partners of the Ministry of Justice, and mobile units are not fully functional, depriving children in hard-to-reach areas of their right to a name and nationality. Barriers to registration for families include: (1) poor understanding of the importance of birth registration; (2) low awareness of the rights and other benefits of birth registration; and (3) financial cost of registering a child. Although birth registration has been declared free for children under five years, informal charges remain in place.

**Penitentiary system:** Despite the physical rehabilitation of the prisons of Mansoa and Bafata in 2010, new laws, and disciplinary measures taken concerning the prison of Mansoa, there has been no significant improvement in the penitentiary system. The prisons of Mansoa and Bafata were expected to hold 72 and 35 inmates respectively. Already in 2011, they had no more capacity to respond to existing needs, and have been since as overcrowded as the two detention centres in Bissau, which are managed by the Judiciary Police and the Public Order Police. As a result, convicts are in some cases arbitrarily released or sent to Bissau detention centres in order to accommodate new ones. The following constraints have together contributed to make preventive detention the norm instead of a last resort: (1) increasing petty criminality; (2) regular use of detention facilities instead of other preventive or coercive measures; (3) limited cooperation between the Office of the Prosecutor General and the Judiciary Police; (4) arbitrary decisions and disregard of judicial hierarchy; and (5) very poor and in some cases inexistent border control. The Southern Regions of Quinara, Tombali and Bolama-Bijagos have no functioning prisons or holding cells to serve a total population of more than 200,000. According to statistics, the number of cases dealt with by criminal justice authorities per year has been steadily increasing.

None of the existing prisons and police detention facilities in Bissau, Bafata and Gabu, meet basic requirements. Some cells are extremely overcrowded, women and men share the same compound and recreation areas despite being held in separate cells<sup>[3]</sup>, minors are held with adults, and pre-trial detainees with convicts. There are no facilities for feeding mothers to receive their infants, and women are more often than men requested to deliver services (cleaning and cooking). The cells are either humid or wet during the rainy season, dark, and lack ventilation, bedding, sanitary facilities, potable water, food, medical services, education and social reintegration programmes. Cases of ill-treatment by security and defence personnel during arrest have been reported. From 2010 to 2014, six inmates died, five in Bafata prison, and one in the Bissau Judiciary Police detention centre, as a result of lack of access to medical care before and after admission in custody. In Bafata, one prisoner died in 2011, two in 2012<sup>[4]</sup>, and two in 2013. One detainee from the Judiciary Police Detention Centre died in 2013 in Bissau while on compassionate release for health reasons.

Most pre-trial detainees do not have access to legal counsel, and are normally held far beyond the maximum periods established by law. The same is the case of some inmates sentenced with deprivation of liberty, who in some instances remained imprisoned beyond the foreseen period. This is mainly due to a failure of prison services to keep an accurate and comprehensive registration of inmates, and also to limited collaboration between judicial and law enforcement institutions. Besides, the budget attributed to the prisons is far from adequate and affects mainly the right to food, while there is no budget for police cells. Prisoners and pre-trial detainees who have no relatives in the neighbourhood, rely on other inmates' families to feed them.

## **Impunity**

Since independence in 1973, Guinea Bissau has not been able to address recurrent and systematic cases of gross human rights violations. The main reasons are: (a) the justice sector does not function adequately and independently, and is partially replaced by informal, traditional justice; (b) State authority is not decentralized, nor is it fully recognized or accepted in the regions; (c) military and security forces have not submitted to civilian authorities, which contravenes the principle of separation of powers; and (d) both law enforcement officials and the population are not sufficiently knowledgeable about their roles and responsibilities, fundamental human rights and freedoms, and how to defend and demand them.

The adoption of an Amnesty Law in 2008, which covered all crimes committed from independence in 1973 till 2004, was originally viewed as an instrument to promote political stability and prevent retaliations. However, new waves of political instability occurred after the adoption of the law, with the assassination of high ranking politicians and political instability in 2009, 2011 and 2012. In the sequence of contested anticipated presidential elections in March

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<sup>[3]</sup> Male and female cells face each other, only separated by tight corridors and iron bars, with no privacy inside the cells.

<sup>[4]</sup> One of them had been released for medical reasons.

2012, a new coup d'état took place on 12 April 2012. Following an alleged attack to the military Airbase in Bissau on 21 October 2012, a new series of gross human rights violations occurred, with the killing of ten military staff and two civilians in Bissau and Bolama / Bijagos Region, attacks and ill-treatment of two opposition politicians and a former Prosecutor General.

In May 2013, a new debate over a second amnesty law started in the context of a Political Transition Pact signed between politicians and military authorities, which foresaw an amnesty law for all crimes committed in connection with the 12 April 2012 coup d'état until May 2013. The proposed amnesty text, as formulated so far, could cover the 12 October 2012 incident and the gross human rights violations resulting thereof. In 2013, a draft amnesty law was refused twice by Parliament, and participants at a national Conference on Impunity, Justice and Human Rights held by the government in July 2013, advised against an amnesty for politically motivated crimes. As of July 2014, there seemed to be no consensus around a new amnesty law. Investigations carried out by the Ministry of Justice on an incident at the airport of Bissau in December 2013, concluded that the Ministry of Interior was involved in the illegally transport of 74 Syrian citizens from Morocco to Lisbon through Bissau, and proposed the intervention of Interpol.

As stated above, the transitional government (2012 to 2014) requested UN support to hold a national conference on impunity in 2013 to follow-up on the ECOWAS conference on Impunity in 2012 and the Bamako Declaration and Plan of Action on Impunity, Justice and Human Rights. The Bissau impunity Conference came up with relevant recommendations and proposed a plan of action to address impunity, and further suggested that any amnesty law would be detrimental to the fight against impunity. The national authorities will require some time to approve and implement a strategy to address impunity by ensuring that investigations are carried out in a transparent and independent manner, the accused duly tried and sentenced if found guilty, and the victims compensated for psychological and/or material damages. Addressing impunity in a consistent and sustainable manner requires a priori the implementation of the reform of the Security, Defence and Justice Sectors. While first steps have been taken for a future reform of the justice sector, the modalities of a security sector reform are still to be discussed and agreed upon.

### **Implementation of UPR recommendations**

The Government showed willingness in implementing the UPR recommendations and identified socio-economic constraints as well as limited coordination between the executive and other State institutions as the most significant impediments for the State to comply with its international human rights obligations. For this purpose, in 2011 eight ministries agreed to establish an Inter-Ministerial Committee to implement the UPR recommendations, and approved its terms of reference, which included treaty ratification, the drafting of new laws and revision of others, and the formulation of State reports to Treaty Bodies. Each ministry appointed a human rights focal point, who would meet on a regular basis, take decisions on

behalf of the respective Ministries, and propose action for the Council of Ministers<sup>[5]</sup>. The Committee is yet to be officially established due to political instability which started in December 2011 and culminated in the breakdown of constitutional order in April 2012.

### **Talibe children**

The implementation of the law against Human Trafficking in July 2011 has been hindered by the fragility of the justice sector and the limited capacity of law enforcement officials to operationalize its effective application. In November 2013, local authorities in Buba (Quinara Region) intercepted a vehicle carrying 61 children aged 4 to 20 years, having allegedly as final destination the Koranic schools in the Gambia. The suspects, three Guineans and three Gambians, one of them claiming to be a British citizen, were immediately detained at the Buba police station. Following due process, local police authorities triggered the necessary mechanisms and transferred the case to prosecutors. The suspects were then transferred to Bafatá prison, from where they were released two weeks later on bail, without trial.

### **Sexual and Gender Based Violence**

There is still a high prevalence of sexual and gender-based violence in Guinea-Bissau. From 2006 to 2010, a total of 23,193 cases of violence against women were reported to the police, of which 37 per cent in Bissau. However, most cases go unreported, mainly for cultural reasons.

Despite the results of the coordinated efforts to end FGM led by the National Committee for the Abandonment of Harmful Practices located within the Ministry of Women, and supported by UNICEF and UNFPA, Female Genital Mutilation / Cutting (FGM/C) remains prevalent in Guinea Bissau with an increase from 44.5 per cent in 2006 to currently 49.8 per cent of circumcised women aged 14 to 49 years (MICS data). More recent findings indicate that this harmful practice is being practiced on younger children, in some cases below one year of age.

Although the legal framework has been strengthened with the adoption of a law criminalizing FGM/C, law enforcement continues to be a main challenge due to the combined effect of fragility of the justice system and prevailing social norms that condone the practice. In 2013, nine cases of FGM/C performed in children and reported by the National Committee for the Abandonment of Harmful Practices to judicial authorities, have not been taken to court.

Child/early/forced marriage is often associated with the FGM/C and represents another major violation of the rights of the child, due to the combined effects of structural vulnerability, family and child poverty, power relations, and harmful social norms. Girl children forced to marry, often give birth while underage, putting them and their children at life risk or leading to

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<sup>[5]</sup> Foreign Affairs, Justice, Interior, Defence, Health, Education, Presidency of the Council of Ministers, Women, Family and Social Cohesion.

suffering for the rest of their lives. Trends in the education sector show that, despite an increase of access of female children to the first school year, abandonment rates increase as they grow, and many do not manage to complete the first level of basic education, mostly due to imposed marriage. Children who escaped forced marriage and sought assistance at the National Committee against Harmful Practices over the last years, often showed evidence of physical, psychological, emotional, financial and sexual abuse.

### **Economic, social and cultural rights**

**Poverty and social security system:** The Poverty Reduction Strategy Paper (PRSP II) was developed and validated in July 2011. During the last two years, economy decreased to 0.5 per cent, compared to 3.5 per cent in 2011. Absolute poverty increased from 65.2 per cent in 2011 to 90 per cent in 2013, while extreme poverty increased from 20.8 per cent to 33 per cent in 2013. The implementation of the PRSP II has been suspended since April 2012, and instead the government has developed a Priority Plan and a Plan for Economic Recovery, to face the challenges. The cashew nut trade has faced an unprecedented crisis since 2012, which led the population to resort to negative coping strategies such as reducing meals. This situation translates into increasing disparities, women unemployment, reduced access to health and education, and greater difficulties accessing basic social infrastructures.

The Constitution foresees the right of workers to protection, personal safety and hygiene at work, and that the State will gradually be able to guarantee social security at old age, during illness or in case of inability to work. The statute of the National Institute of Social Security (INSS), created in March 1986, was slightly revised in 2011 and enlarged in 2012, to protect workers and their families during sickness, maternity, retirement, disability, and their families after death. Its current priorities are to: (a) disseminate information and raise awareness on risk prevention and occupational diseases; and (b) raise awareness on the legal obligation of enterprises to contribute to social security of their workers. However, the social security system in place is very limited in scope and does not work in practice. There are no provisions for unemployment or sickness benefits, study allowances, rental assistance, or support for the most vulnerable groups.

### **Health:**

There is a prevalence of high maternal and under five morbidity, and mortality rates. The 2013 UN inter-agency report estimated that under-five mortality decreased from 161/1000 in 2011 to 129/1000, but still remains the sixth highest in the world. The main causes of child mortality are neonatal complications, malaria, acute respiratory infections and diarrhoea. Furthermore, malnutrition continues to be one of the main underlying mortality and morbidity contributor and remains a major public health problem in Guinea Bissau.

According to a joint WFP/FAO Assessment in August 2013, food security has deteriorated with only seven per cent of households considered 'food-secure', and an increasing number of

people spending 75 per cent of their income on food. This information correlates with the latest SMART nutrition report (MoH/UNICEF, 2012), which revealed that 27.4 per cent and 6.5 per cent of under-five children suffered from chronic and acute malnutrition respectively, despite a significant improvement in breastfeeding practices (from 38 per cent to 67 per cent between 2010 and 2012, MICS/SMART). The country is still polio free with national integrated campaigns reaching an estimated 287,000 under-five children, and has not reported any cases of measles since 2009. Moreover, in 2013 TNN was declared eradicated in the country. The malaria programme funded through the Global Fund, with support from other partners including UNICEF, has increased the number of children and pregnant women sleeping under an impregnated treated net to levels close to 90 per cent by 2012.

Through the H4+ and PIMI projects, supported by SIDA and the EU respectively, a coordinated effort is underway to develop and ensure critical health services in the country. The projects are implemented by various agencies of the UN system (UNICEF, UNFPA, WHO, UNWOMEN) and several national and international NGOs.

The sanitation coverage is still very low at 18 per cent, with significant disparities between urban and rural areas, which makes the country extremely vulnerable to cholera outbreaks. In 2013, around 470 cases of cholera were registered in the region of Tombali with 30 deaths (6.4 per cent CFR). The halt on the spread of cholera in 2013 was due to a combination of WASH interventions streamlined through the regular programme.

Guinea-Bissau is confronted with a generalized HIV-AIDS epidemic with a prevalence estimated at 5.3 in the general adult population. Women are disproportionately more affected than men, and overall access to treatment is weak. National efforts to address HIV/AIDS were marked by the lack of antiretroviral treatment drugs, due to the suspension of the Global Fund support following the 2012 coup d'état. This added to a stock-out of test kits for almost six months and entailed an alarming reduction of treatment, particularly for the prevention of mother-to-child transmission. Only 17.4 per cent of affected women and 11.7 per cent of children benefited from treatment. The latest prevalence data from young pregnant adolescents/women (15-24 years old) is estimated at 3.3 per cent from sentinel sites (SNLS Report, 2013).

There is a need to adopt a Basic Law on Health, increase the health budget, and reform the health system, in order to significantly improve the delivery of basic services. The second National Health Development Plan for 2008-2017 has not been implemented due to persisting political instability. Besides, public health expenditure has decreased over the last 15 years. In 2010, an estimated 0.9 per cent of the GDP was spent in health, which constitutes the second-lowest health expenditure rate within ECOWAS.

The average annual budget for the health sector for the past five years has been 7.12 per cent, 66 per cent of which originate from international partners. Sixty per cent of the total health budget is spent in personnel, and 25 per cent to deal with emergencies and epidemics such as

HIV/AIDS, malaria, cholera and TB<sup>[6]</sup>. This amount is less than half the 15 per cent recommended by African Union Heads of States during their April 2011 summit. Such a limited budget does not allow for the regular payment of salaries, hiring of specialized health personnel, medicines and equipment. According to national law, health services should be free and granted to all citizens without discrimination. However, patients are fully charged and often overcharged for minimal health services.

### **Education:**

The education sector has faced challenges over the years, including during the reporting period, especially due to recurrent teachers strikes caused by salary arrears. The situation worsened in 2012 and 2013, when teachers went on strike for over a third of the school year, risking the academic year to be “lost” in two consecutive years, violating the child’s right to education. As many schools remained closed after the coup d’état of 12 April 2012, a rapid assessment was conducted by UNICEF in partnership with education sector NGOs in May 2012, which found 62 per cent of the schools – or 93 per cent of public schools and 11 per cent of community schools – closed in mid-May 2012. This situation affected approximately 200,000 pupils and resulted in losing 35 per cent of the total school days due to strikes and political crisis in the 2011/12 school year.

Likewise, three teachers strikes affected the 2012/13 school year, resulting in a loss of 37 per cent of the total school days. The 2013/14 school year has improved slightly with a loss of only 28 per cent, due to UNICEF-led efforts to establish the Social Pact for Education, signed by the Ministers of Education, Finance and Public Function, as well as by the two teachers’ unions and the associations of students and of teachers. This effort was accompanied by the World Bank support to pay six months of teacher salaries. Nevertheless, the root cause of the problem cannot be solved, unless the government allocates sufficient state budget to the education sector, which currently remains around 11 per cent in the past years, compared to the international benchmark of 20 per cent.

**Food security and nutrition** is another critical concern. In Oio, where 100 per cent of the lands is for cashew production, nearly 20 per cent of households are experiencing severe food insecurity. The regions of Quinara, Bafatá and Cacheu also face significant risk, according to the Emergency Food Security Assessment conducted by WFP, FAO, Plan International and government partners in September 2013. Rice production in mangrove areas has recently decreased due to the flooding of 3,350 hectares in Tombali region. Drought, deforestation and pests have further affected the production of cereals, particularly in Gabu, Bafatá and Tombali regions, and resulted in the loss of 15 per cent yields of agricultural fields.

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<sup>[6]</sup> Comparatively, the Ministry of National Defence received an average annual budget of 13.7 per cent. The Ministries of Interior, Finance, Women, Family, Social Cohesion and Poverty have a similar budget.

Poverty and vulnerability exacerbate the nutritional status of children, in particular those under the age of five, nutrition being one of the main causes of child morbidity and mortality. All types of under-nutrition are prevalent in the country, despite improvement of the policy framework, in particular the adoption of a protocol for integrated management of acute mal-nutrition, the efforts to establish nutrition rehabilitation centres, and to train personnel. Stunting is also prevalent, affecting more children among poorer communities. 15 per cent of infants under six months are underweight and 5 per cent are wasted, and by the age of two years 35 per cent are already stunted. Malnutrition at such an early stage points to the negative effects of maternal malnutrition and inappropriate feeding practices. To adequately address child malnutrition in the country, partners led by UNICEF are working to: (1) strengthen the policy framework and human resources; (2) promote exclusive breastfeeding practices; (3) strengthen links between nutrition and other health services including HIV-AIDS; and (4) promote and support salt iodization and national Vitamin A supplementation and deworming.

**Public administration** and basic services continue to be centralized in Bissau, a situation which significantly limits the capacity of State administration in the regions. Absence of law enforcement authorities and judicial personnel in the regions contribute to increase impunity. After 20 years of democracy, no municipal elections have been held, and regional structures are an extension of line ministries without autonomy and regional planning authority. One of the handicaps in the regions is the inability of local communities to sell local products due to lacking infrastructures, including transportation and storage. Besides, the budget allocated for the regions is so small that local administration is not able to deliver basic social services to the population.

At national level, public administration faces similar constraints, which increased after the April 2012 coup, when the State lost capacity to regularly pay salaries. This resulted in repeated civil servant strikes, including a general strike in 2013, demanding salaries and arrears. As of July 2014, all civil servants had six month salary arrears. Constant strikes in the health sector also had severe consequences.

#### **4. Conclusions**

Despite the political instability over the last two years, Guinea Bissau made some progress in the implementation of UPR recommendations with regard to: (a) legislative reform and adherence to key international human rights treaties; (b) filling gaps in national legislation; (c) mainstreaming human rights into national strategies and policies; (d) improving gender equality, addressing discrimination, and criminalizing SGBV; (e) criminalizing child abuse and human trafficking; and (f) engaging with the Special Procedures mechanisms of the Human Rights Council.

However, there are numerous challenges to be addressed, particularly concerning the fight against impunity, strengthening the capacity and independence of magistrates, of the National

Human Rights Commission and civil society organisations, protecting the rights of the child and of persons with disabilities, and implementing women's right to political participation. As for the implementation of the economic, social and cultural rights, there is an extremely urgent need to radically improve access to basic social services, particularly health, potable water, education and food security, in order to reduce prevailing high mortality, morbidity and illiteracy rates. Other urgent priorities should be to improve governance, increase accountability, and generate employment opportunities particularly for women and the youth, with the ultimate goal of eradicating extreme poverty, which is an offence to human dignity.

These priorities could be achieved by reforming the security, defence and justice sectors and taking concrete measures to address impunity, encouraging accountability, and enabling dialogue and national reconciliation. Juvenile justice is a critical priority area requiring continued policy and legal framework discussions, including on mechanisms to move forward with the legislative reform, aligned with the CRC, the Riyadh Guidelines, and the Beijing Rules. Addressing impunity remains the key challenge, given its direct implications on stability, dialogue and reconciliation, and consequently on sustainable development.