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Submission to the Universal Periodic Review of Guinea

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Introduction

The government of President Alpha Condé, who will complete his second term as president in 2020, has made some progress in consolidating the rule of law and improving the conduct of the security forces. However, the government has left largely unfulfilled its commitment to end impunity for security force abuses and has increasingly violated freedoms of assembly and expression.

The National Assembly in July 2016 adopted a new criminal code that abolished the death penalty, criminalized torture and incorporated international crimes, such as crimes against humanity and genocide, into domestic law. A 2015 law on the maintenance of public order also improved civilian oversight and control of the security forces.

Guinea has remained, however, a country driven by political and ethnic tensions, with the 2015 presidential and 2018 local elections marked by both violent protests and the use of excessive force by the security forces. At least 20 people died in the lead up to and following the 2015 presidential elections, with at least 10 killed by the security forces. Further clashes followed February 2018's long-delayed local elections, as well as a series of protests linked to fuel price rises and teachers' strikes, with at least 21 people killed in protest-related deaths, the majority by the security forces. More violent clashes between the protesters and security forces are likely if, as many Guinean groups predict, President Condé organizes a referendum on a new constitution to clear the path to a third term in office. The government in July 2018 implemented an almost complete ban on public protests, threatening freedom of assembly.

Victims are still waiting for justice for past abuses, such as the 2009 stadium massacre, and for more recent unlawful killings by the security forces during protests in 2015 and 2018.

Guinea's mining industry, particularly the bauxite sector, has expanded rapidly since 2015 and has created thousands of jobs, creating tax revenue that, if used appropriately, could improve access to

education and health. Guinea has also begun an ambitious expansion of its hydropower industry. Inadequate supervision of the environmental and human rights impacts of these projects, however, has had widespread consequences, causing tens of thousands of rural farmers to lose land and livelihoods without adequate compensation and threatening communities' access to clean water.

Accountability for Grave Crimes and Fight against Impunity

In its second UPR review in 2015, Guinea accepted all recommendations that it ensure that allegations of human rights abuses by security forces, including unlawful killings and torture, are independently investigated and that perpetrators are held to account. Several of the recommendations specifically asked the government to bring to justice those implicated in the 2009 stadium massacre, in which security forces allegedly killed more than 150 opposition demonstrators and raped dozens of women.

The Guinean justice system has not, however, delivered justice for the most serious violations by state actors committed in the country's recent history. Although Guinean judges closed their investigation into the 2009 stadium massacre in November 2017, no trial date has been announced and the government has too infrequently convened a steering committee tasked with organizing the trial. Those charged over the incident include former president and junta leader Moussa Dadis Camara and high-ranking security officials in President Condé's current administration, who – contrary to a recommendation accepted by Guinea during the 2015 UPR – have not been placed on administrative leave.

There have similarly been no trials for alleged killings of demonstrators by the security forces prior to and following the 2015 presidential elections and the 2013 parliamentary elections, nor for the 2012 killing of six men in the southeastern mining village of Zoghota or the 2007 killing by security forces of some 130 unarmed demonstrators.

Guinea has, in isolated cases, succeeded in holding members of the security forces responsible for serious human rights abuses. In February 2019, a Guinean court sentenced a captain in an elite police unit to six years' imprisonment for the 2016 torture of a detainee that had been filmed on a cellphone and widely publicized. A court in February 2019 also convicted a police captain for the 2016 killing of a demonstrator. A Conakry court in April 2018 began the trial of the former governor of Conakry, Sékou Resco Camara, and the former head of the army, Nouhou Thiam, for the 2010 torture of several opposition detainees, but the trial has since been repeatedly delayed.

Recommendations

- 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;

- Publicly proclaim support for the immediate commencement of the trial of the 2009 stadium massacre, rapes and other abuses, and provide all political, technical, and financial support needed for a credible trial for the crimes, in partnership with international donors;
- Place on administrative leave those in government positions who have been charged with serious crimes, including the September 2009 stadium massacre, and are in a position to influence or appear to influence any criminal investigation and prosecution.

Conduct of the Security Forces

In 2015, Guinea accepted recommendations encouraging it to prevent “the excessive use of force through security forces, especially in the handling of protests and demonstrations,” as well as to ensure that police and gendarmes receive training on, “adequate training in crowd control and the use of force and firearms in line with international standards.”

Discipline within and civilian control over the security forces – the army, police and gendarmerie – has improved, helped by a 2015 law on the maintenance of public order that states that civilian authorities are responsible for initiating and overseeing operations to protect public order.

However, although the 2015 law requires that any use of force by the security forces be necessary and proportionate, members of the police and gendarmerie continued to be implicated in numerous incidents of excessive use of lethal force as they responded to the often-violent street protests.

Human Rights Watch documented 12 fatal shootings of protesters or bystanders in Conakry in 2018, eight of which witnesses alleged involved members of the security forces firing at protesters. Protesters also killed a gendarme and a police officer. At least 12 people were killed, including 6 by firearms, and scores injured prior to and following presidential elections in 2015. The Mobile Intervention and Security Force (Compagnie mobile d’intervention et de sécurité, CMIS), a rapid-response police unit, and the Anti-Criminality Brigade (Brigade anti-criminalité, BAC), a mixed force of police and gendarmes, are the units most frequently implicated by witnesses in abuses. The security forces have also been implicated in numerous alleged acts of criminality, including extortion, bribe taking, and outright theft and banditry.

The continued and almost complete impunity for excessive force and criminality by the security forces is a key driver of ongoing abuses. In the 2015 UPR, Guinea accepted a recommendation that it, “fully respect the right to freedom of peaceful assembly, effectively investigate all allegations of excessive and disproportionate use of force by law enforcement personnel and ensure that all perpetrators are held accountable for their actions.” However, despite dozens of alleged killings by the security forces since 2010, the February 4, 2019 conviction of a police captain for the 2016 killing of a demonstrator was the first conviction of a member of the security forces for shooting a protester dead. Even in that case, there may have been inadequate evidence linking him to the protester’s killing – the prosecutor had in fact asked the court for an acquittal.

Law enforcement and judiciary officials say that the chaotic, violent nature of protests, immediate disturbance of the crime scene, and the lack of trust between the local community and law enforcement make it difficult to investigate deaths during protests. In reality, though, the lack of progress in investigations also reflects the absence of political will to properly investigate and sanction members of the security forces, reflected in a lack of cooperation from the police and gendarmerie with investigating judges.

In June 2019, the National Assembly adopted a law on the use of force by the gendarmerie which could be used to shield gendarmes who use excessive force from prosecution. The law sets out several justifications for the use of force – including to defend positions gendarmes occupy – but fails to make clear that firearms can only be used when there is an imminent threat of death or serious injury.

In May 2013, following a spate of political violence in which at least 12 people were killed – in several cases in shootings by the security forces – President Condé formed a special pool of judges tasked with investigating crimes committed by both protesters and the security forces. Human Rights Watch in April 2019 recommended the revival of a special judicial unit to help ensure that adequate resources are available for investigations, to allow for investment in training and technology; and to establish a separate entity, away from the normal chain of command for the police and gendarmerie, that could help guarantee independence from political pressure.

Consistent with the 2015 law on the maintenance of public order, the army, which was responsible for the most serious human rights abuses prior to 2010, largely remained in their barracks during the violence that followed the 2015 presidential and 2018 local elections. Since November 2018, amid a spate of violent street protests, the Guinean government has permanently deployed army units to key intersections in Conakry. Although the units have not yet played an active role in law enforcement, their deployment is arguably a violation of the 2015 law, which purports to limit the army's deployment to periods when the president has declared a state of emergency.

Recommendations

- Ensure that security forces receive the training and resources that they need to respect international human rights standards on the use of force;
- Amend the law on the maintenance of public order and the law on the use of force by the gendarmerie to bring them in line with international human rights standards, including by making clear that intentional use of lethal force may only be made when strictly unavoidable in order to protect life;
- Establish an independent judicial taskforce, assisted by police and gendarmes, to investigate crimes committed by all those involved in demonstrations, including alleged unlawful killings by the security forces;

- Ensure that, consistent with the 2015 law on public order and Guinea's constitution, members of the army do not participate in domestic law enforcement or public order operations.

Threats to Freedom of Assembly

Guinea in the 2015 UPR accepted several recommendations that it respect the right of freedom of assembly. Guinea's government, from 2015 until 2018, authorized some demonstrations by opposition political parties, while prohibiting others on grounds of public security during periods of high political tensions or where it disagreed with the proposed route.

Since July 2018, however, following frequent and at times violent protests against local elections, a fuel-price increase, and teachers' strikes, Guinean officials have on public security grounds increasingly prohibited public protests by both opposition parties and civil society groups, a violation of freedom of assembly.

Guinea's 2016 criminal code states that there must be a prior declaration with intended route and itinerary for public meetings and demonstrations, presented in writing to the local authorities 3 to 15 days before the planned event. Local authorities can prohibit a peaceful demonstration if there is a "genuine threat to public order." International standards on freedom of assembly suggest that reasonable and proportionate prior notification requirements do not violate this right, but that requiring prior permission from the authorities to hold demonstrations is likely to violate it.

When opposition political parties or other groups have defied prohibitions on protests, security forces have sought to prevent people from assembling or have broken up protests and arrested participants. Guinean civil society and human rights groups worry that, if President Condé's government does organize a referendum on a new or revised constitution, a ban of political protests will be used to prevent people from expressing opposition to the proposed vote, which would violate freedom of assembly.

Recommendations

- Prohibit street protests only if there is no other alternative to protect public security, and set out and publish criteria, consistent with international human rights law, that local officials should use to determine when to prohibit protests;
- Form a working group or national observatory, with key national and local government officials, security force leaders, activists, and political parties, to discuss how to organize and police peaceful demonstrations.

Threats to Freedom of Expression

In 2015, Guinea accepted recommendations to guarantee freedom of expression for journalists and human rights defenders. However, although several newspapers and radio stations are openly critical

of the government, a handful of journalists each year have been arrested and detained, sometimes for several days, for negative coverage of the government. Journalists have also been fined or suspended by the press regulator for critical reporting on the government.

The 2016 Criminal Code criminalized defamation, including of public figures, with penalties of up to five years' imprisonment and a fine. It also included vaguely worded provisions that could enable the prosecution of including journalists and human rights defenders who criticize the government or expose human rights violations.

Recommendations

- Respect freedom of expression by ensuring that journalists are not arrested and detained for negative coverage of the government;
- Amend the criminal code to ensure that defamation and other offenses linked to the publication of media can only be pursued in civil courts and cannot result in imprisonment.

Natural Resources

Guinea possesses the world's largest bauxite reserves, as well large amounts of iron ore, gold and diamonds. Guinea's bauxite sector has grown rapidly since 2015, with Guinea the largest supplier to bauxite to China, the world's largest aluminum producer.

But while Guinea's bauxite boom provides much-needed tax revenue for the government and has created thousands of jobs, the government has failed to adequately regulate the industry and ensure companies respect the environment and the rights of local communities. Mining companies have expropriated ancestral farmlands without adequate compensation, threatening tens of thousands of people's livelihoods. Damage to water sources, as well as increased demand due to population migration to mining sites, has reduced communities' access to water for drinking, washing and cooking. Dust produced by bauxite mining and transport has left families and health workers worried that reduced air quality threatens their health and environment.

Guinea has also, since 2015, begun to more rapidly develop its enormous potential for hydroelectric power, increasing access to electricity but displacing thousands of people in the dams' floodplains. Guinea opened the Kaleta dam in 2015, and in September 2019 will begin filling the reservoir for the nearby Souapiti dam, which will displace 16,000 people. Communities so far displaced for Kaleta and Souapiti have received inadequate compensation for their land and inadequate assistance obtaining alternative livelihoods. Consultations are also underway to construct dams in several other sites.

Recommendations

- Enact detailed legislation to require that mining and hydroelectric companies provide fair compensation for land, including through replacement land where possible, to individuals and communities that lose land to natural resource exploitations;
- Improve the access of affected communities and civil society organizations to environmental and social impact assessments, management plans and other government and company data related to the human rights, social and environmental impacts of mining and other natural resource projects;
- Ensure that government regulators investigate and sanction companies that violate Guinean laws regarding social and environmental management;
- Adopt and fully implement the standards of the Voluntary Principles on Security and Human Rights, a multi-stakeholder initiative by governments, major multinational extractive companies, and NGOs that seek to address the risk of human rights abuses arising from security arrangements in the oil, gas and mining industries.

Forced Evictions

Between February and May 2019, the Guinean government forcibly evicted more than 20,000 people from neighborhoods in Conakry in order to provide land for government ministries, foreign embassies, businesses, and other public works. The government provided inadequate notice to the majority of those evicted and no alternative housing for demolished homes.

Although the government maintains that the evicted areas were state land, many of people said that they had documentary proof that their families had decades-old property rights over the land. The government did not investigate the property claims of those affected before demolishing homes and, in contravention of human rights law, has provided virtually no compensation or humanitarian assistance to those evicted.

Recommendations

- Halt any further evictions until it can guarantee respect for the rights of residents, including adequate notice, and compensation and resettlement prior to evictions;
- Take immediate steps to provide assistance, including alternative accommodation and other remedies, to those affected by forced evictions;
- Provide adequate compensation to all individuals forcibly evicted who have not received such compensation.

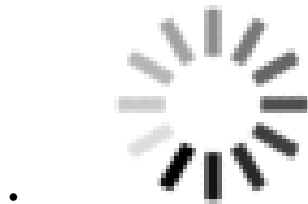
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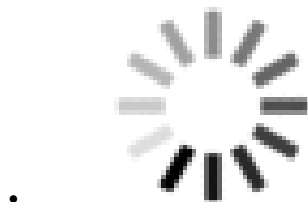
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July 4, 2019 News Release

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June 18, 2019 Video

Video: Draconian Forced Evictions in Guinea**Source URL:** <https://www.hrw.org/news/2019/07/19/submission-universal-periodic-review-guinea>

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