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Analysis: Guinea's halting fight against impunity

CONAKRY, 30 August 2013 (IRIN) - Since 2012, in an unprecedented effort in the country, top security officials in Guinea have been indicted for alleged crimes against civilians. But the indictments have yet to lead to trials or, in most cases, even arrests.

Guinea has seen a string of judicial firsts that sparked hope the country could finally chip away at impunity, including military officials long seen as untouchable being called before a court of law. But they have retained their posts; Col Claude Pivi remains head of presidential security; Lt Col Moussa Tiégboro Camara continues in his role as director of the national anti-drug-trafficking agency; and Sékou Resco Camara is still the Conakry governor.

"Every time there's news of another indictment, [someone on the outside] might think, 'Ah, things are progressing well there', but that's not the case," said Thierno Madjou Sow, long-time human rights activist and head of the Guinean Human Rights Organisation. "Things get started then just stop. Look at Tiégboro, Pivi, and Resco - all still in their government positions."

Pivi and Tiégboro Camara are among eight people indicted to date over the 28 September 2009 stadium attack, in which, according to an international inquiry, soldiers killed, raped, or injured hundreds of people. One gendarme has been arrested and detained on charges of rape in that case. Resco Camara has been indicted for alleged involvement in the torture of civilians by gendarmes in 2010.

Sow and other human rights advocates are quick to say the indictments themselves are significant considering the history of impunity among Guinea's leadership. But the process must continue, they say.

"These indictments do carry some weight. People see that a top military official can be called before a judge - that reassures them," said Hamidou Barry, a Guinean lawyer and the coordinator of the judges investigating stadium attack. "The problem is everything stops there. Guinea's judges are not free and independent."

Doubts about judiciary

The stadium case - the latest but perhaps the most spectacular in a string of military abuses against civilians - is in preliminary examination at the International Criminal Court (ICC), which says the prosecutor has a responsibility to intervene if it becomes clear that national authorities are "unwilling or unable to genuinely carry out the proceedings".

But given what they see as a stalled process, survivors say they wonder what it would take for the ICC to find the Guinean authorities unwilling.

“The international community must understand once and for all that Guinea’s judiciary is not ready to carry this out,” said Asmaou Diallo, head of the Association of Victims, Relatives and Friends of 28 September (AVIPA), which assists survivors of the attack and other human rights abuses.

“The victims are here, the assailants are here,” she said. “It’s possible to hold trials. But the authorities can’t. They don’t dare. And I don’t know at what level things are blocked. Meanwhile as long as impunity reigns in Guinea, the country cannot move forward.”

Survivors and human rights activists in Guinea say coming out more forcefully against impunity exposes them to threats and intimidation by the accused and their supporters. But many say it is worth it.

“Sure, there is a risk. But I think it’s time Guinea’s human rights community assume that risk,” said Mamady Mansare, a journalist who was injured during the stadium attack. “Survivors must denounce the authorities’ unwillingness to arrest suspects and proceed with this.”

Tamar Thiam, who was injured in the stadium attack and fled Guinea after she was threatened for speaking out, said Guineans must push for more pressure to be brought on the government. “We must raise our voices to show the international community that the authorities lack either the means or the will to bring perpetrators to justice,” she told IRIN. “If this drags on for too long, the witnesses will be dead, the assailants will be dead. What good would a trial do then?”

“This case is in the judges’ hands,” said government spokesman Albert Damantang Camara. “The government has never obstructed their work. To date, several high-level officers have been indicted, and the procedure is following its course with absolutely no interference from the government.”

Cautious optimism

International justice experts say, while things are moving slowly in Guinea, there has been progress. The ICC Office of the Prosecutor (OTP) says the indictment of officials in the stadium massacre “is a serious indication that they will be brought to account” and the office expects a trial will take place.

“The competent national authorities have initiated proceedings, as it is their primary responsibility to do,” the OTP told IRIN. “The OTP will continue to encourage their efforts as long as we assess they go in the right direction.”

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Florent Geel, Africa desk director with the International Federation for Human Rights (FIDH), says these cases must not be allowed to drag on for decades, but that considering Guinea's past, the indictment of top military officials within a few years of the alleged crimes is remarkable.

"Guinea's history is 40 to 50 years of impunity, so it's difficult from one day to the next make the justice system function normally," Geel told IRIN. "It's not easy. It's slow. It's complicated, but little by little there are positive moves."

Rights expert Sow said since independence in 1958, Guinea's judiciary has been side-lined by the executive. Geel said he is confident there will be trials in the stadium attack and the 2010 torture case by the end of 2014.

FIDH has called for the suspension of indicted officials, particularly the head of presidential security. "Clearly the accused are innocent until proven guilty. We must respect this principle," Geel said. "But given Pivi's position and the seriousness of the indictment, we think it is reasonable to demand his suspension pending further judicial proceedings."

The ICC prosecutor's office acknowledges that seeing those charged remain in power is a blow to survivors. "The fact that two indicted officials [in the 28 September case] have retained their post in government is undoubtedly shocking and frustrating for the victims," the OTP said. "It is, however, insufficient for the office to determine that the proceedings are not being conducted with the intent to bring to justice the persons bearing responsibility for the crimes committed."

So far in Guinea, "complementarity is working", the prosecutor's office told IRIN, referring to the principle that sees the ICC stepping in only as a last resort, when national jurisdictions fail to address crimes.

FIDH's Geel said it would be best if Guinea's judiciary were to work. "The goal of international justice is to push the national judiciary to prosecute. Otherwise what would ever be changed in the fight against impunity in the country?"

For the four-year commemoration of the stadium massacre, survivors and families of victims hope to hold a rally at the venue of the attack. The past three Septembers, the government denied authorization to do so, said AVIPA's Diallo, whose son was killed in the crackdown.

"We hope this year we can at least go to the stadium and place flowers for our dead and missing."