



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### List of issues prior to submission of the initial report of Guinea-Bissau\*

#### A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please report on the main developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the ratification of the Covenant.

#### B. Specific information on the implementation of articles 1 to 27 of the Covenant

##### Constitutional and legal framework within which the Covenant is implemented (art. 2)

2. In the light of article 29 of the State party's Constitution, please clarify the status of the Covenant within the national legal order, in particular whether its provisions take precedence over national laws and whether provisions of the Covenant are given full effect in the domestic legal order. Please also provide information on the application of the customary legal system and how it complies with the Covenant. Please give examples of cases in which the Covenant has been invoked or applied by national courts and information on the measures taken to raise awareness of the Covenant among judges, prosecutors, lawyers and the public at large.

3. Please provide information on the National Human Rights Commission, including on: (a) whether it is provided with the necessary human and financial resources to fully perform its functions; (b) whether it complies with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles); and (c) its accreditation status with the Global Alliance of National Human Rights Institutions.

##### Anti-corruption measures (arts. 2 and 25)

4. Please provide information on measures taken to prevent and combat corruption, in particular by State officials, which undermines the rule of law and leads to violations of the Covenant. Please provide information on the results achieved with such measures and data on any corruption-related prosecutions and convictions, as well as information on the sanctions imposed and whether there was any recovery of the proceeds of crime. Please also describe all the measures taken to ensure the transparent management of natural resources, in line with the provisions of article 1 (2) of the Covenant.

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\* Adopted by the Committee at its 130th session (12 October–6 November 2020).



**Non-discrimination and equality between men and women (arts. 2–3, 23 and 25–26)**

5. Please report on measures taken to tackle gender inequality, including information on specific legislation in force addressing the issue. Please indicate all the measures taken to ensure in practice that women are represented in elected positions and in political and public life, especially in decision-making positions. In this regard, please report on the implementation of the Law on Parity (Law 4/2018) in respect of the participation of women in politics and decision-making and indicate whether the State party has achieved the quota for the electoral list established by law. Please comment on information received indicating that women are particularly affected by the practice of collective voting by a family or group, imposed by men or traditional leaders. Please indicate any additional measure aimed at increasing the participation of women in public life, including in the private sector, particularly in leadership positions. Please also provide information on the reason for the abolition of the Ministry of Women's Affairs in 2019.

**Violence against women and children, including domestic violence (arts. 2–3, 6–7, 24 and 26)**

6. Please report on measures taken, and their impact, to effectively address the persistence of domestic violence. Please provide information on the implementation of the Law on Domestic Violence (Law No. 6/2014) and indicate whether such legislation is sufficient to tackle all forms of violence against women and children, providing access to justice, means of protection and support for victims and punishment for perpetrators. Please outline the steps taken to address the high level of tolerance of violence against women, as well as the social norms and attitudes condoning gender-based violence and the factors discouraging victims from reporting offences. Please provide information on measures taken to ensure effective access to free legal aid for victims of all forms of violence against women and children, as well as effective and adequately funded victim support services, including shelters and counselling centres.

7. Please indicate the number of specialized judicial institutions that can respond to cases of gender-based violence and whether there are enough of them to cover the entire country, including rural and remote areas. Please comment on information received indicating that most conflicts related to gender-based violence are resolved by traditional institutions or authorities, including families, *tabanka* (community) leaders and/or other traditional, local and religious leaders, and explain how such practice complies with the Covenant.

**Harmful practices and sexual violence (arts. 2–3, 6–7 and 26)**

8. Please describe the measures taken to eliminate harmful traditional practices. Please provide information on the implementation of the Federal Law to Prevent, Fight and Suppress Female Genital Mutilation (Law No. 14/2011) and on the number of complaints registered, prosecutions undertaken and convictions handed down in connection with female genital mutilation. Specifically, please indicate any rehabilitation measures adopted, in particular with regard to physical and mental health care for the victims. Please also clarify the minimum legal age of marriage for boys and girls and the applicable legislation on this matter.

**Maternal and infant mortality and voluntary termination of pregnancy (arts. 3 and 6–7)**

9. In view of the high rates of maternal mortality and early pregnancy, please provide updated statistical data on maternal and infant mortality. Please also provide information on the measures taken to improve access to health services and to information on sexual and reproductive health, for female and male adults and teenagers, particularly for women belonging to ethnic minorities and those living in remote areas. Please clarify whether domestic legislation allows for legal abortion when carrying a pregnancy to term would cause the woman substantial suffering, particularly if the pregnancy is the result of rape or incest or is not viable.

**Right to life and excessive use of force (arts. 3 and 6–7)**

10. Please provide information on the legal standard applied in the State party for appropriate use of force and firearms by law enforcement officials and the source of that standard in domestic law. Please explain what steps the State party has taken to ensure that such standards are respected by law enforcement and security personnel in practice.

11. Please respond to allegations that, despite the existence of domestic legislation protecting the right to life, a number of unlawful and arbitrary killings committed by security forces remain unpunished. In this regard, please provide information on the investigations into the killing of President João Bernardo Vieira in March 2009. Please provide information on investigations and sanctions against those responsible for unlawful and arbitrary killings, and also provide, for the period covering the past five years, the number of complaints filed, investigations and prosecutions undertaken and convictions handed down for unlawful or arbitrary executions.

**Prohibition of torture and of cruel, inhuman or degrading treatment (arts. 6–7)**

12. Please provide information on the legislative framework for preventing and combating torture, including the definition of torture and the penalties stipulated in criminal legislation. What mechanisms are in place that allow for prompt, thorough and impartial investigations into allegations of torture and ill-treatment, particularly where carried out by security forces and in places of detention? What mechanisms are in place to prevent and report torture and ill-treatment, including in prisons and detention centres? Please also provide data on the number of investigations, prosecutions, convictions or acquittals and punishments in such cases, as well as the nature of the sanctions imposed for the act of torture. Please indicate whether the State party intends to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

**Treatment of persons deprived of their liberty (arts. 6–7 and 10)**

13. Please provide information on the number of prisons, the corresponding prison capacity and the number of detainees in the State party, and indicate whether prisons include sections to keep minors separate from adults, women from men and untried detainees from convicted prisoners. Please indicate whether the State party intends to use alternative measures to incarceration, such as suspended sentences for first offenders or for certain minor offences, or bail or release on parole. Please indicate whether the State party's coronavirus disease (COVID-19) response has addressed the risks to detained populations, including the most vulnerable detainees, whether there have been any outbreaks of the virus in the prison system or other places of detention and, if so, what the government response has been.

14. Please provide information on the mechanisms in place to monitor conditions of detention. Please also provide data on the number and content of complaints brought by detainees to the attention of the State party over the past five years. Please describe the measures taken to address the inadequate conditions of detention, in particular in terms of the quality of food and access to health care. Please provide information on the implementation of Decree No. 12/2011 of 13 February 2011 on the establishment of minimum rules for the treatment of prisoners and comment on information received indicating that it has not improved detention conditions, which are degrading and inhuman.

15. Please provide the Committee with information on mental health centres in the State party and data on the number of persons held in such centres. Please indicate the annual budget allocated to the centres and comment on information received about the poor conditions in which persons with mental disabilities are held and indicating that centres are understaffed and ill-equipped.

**Administration of justice (art. 14)**

16. Please provide information on the structure and competencies of the judiciary and the prosecution in the State party. Please comment on information received indicating that access to justice is out of reach for most people, there are no functioning tribunals in many parts of the country and that, for the majority of the population, the distance to the closest tribunal

proves insurmountable. Please also provide information on the steps taken to ensure access to the courts to all throughout the country, in particular for persons who cannot afford legal counsel or court fees. Please comment on information received that the budget allocated to the judicial system has decreased over recent years and is insufficient for the system to perform its functions.

17. Please elaborate on the legislative framework ensuring the independence, impartiality and transparency of the judiciary, the autonomy of public prosecution and effective access to the judicial system. Please comment on the adoption of the organic act on the registry of the judiciary and the prosecutor's office and the statute regarding the remuneration of judges (Law No. 5/2018), which would allow for greater control over the revenues of both the courts and other services provided by the Ministry of Justice. Please provide information on the legislation applied to the appointment, security of tenure, disciplinary proceedings and removal of judges and prosecutors, and indicate whether the current legislation is in line with the Basic Principles on the Independence of the Judiciary and the Guidelines on the Role of Prosecutors.

#### **Persons with disabilities (arts. 2, 7, 9–10 and 26)**

18. Please provide information on the nature and impact of measures adopted to prevent and effectively protect persons with disabilities against discrimination, including on whether domestic legislation prohibits discrimination against persons with physical, sensory, intellectual and mental disabilities. Please provide information on reported cases of violence against children with disabilities, including measures taken to prevent ritual killings of such children. In this respect, please describe the measures adopted to ensure that all complaints of ill-treatment and abuse committed against persons with disabilities are investigated, that the alleged perpetrators are prosecuted and punished, if found guilty, and that the victims receive full compensation. Please also comment on information received about the imposition of restrictions on the right to vote on the grounds of intellectual disability.

#### **Refugees, asylum seekers and displaced persons (arts. 7, 12–13, 16 and 26)**

19. Please indicate the measures taken or envisaged to protect refugees in the State party, and describe the steps taken to ensure that the process for determining refugee status provides guarantees of justice and transparency. Please also describe the procedures in place to ensure respect for the principle of non-refoulement and the measures taken to prevent statelessness.

#### **Trafficking in persons, elimination of slavery and servitude, and domestic workers (arts. 6–8 and 24)**

20. Please provide information on the implementation of the anti-trafficking law (Public Law 12/2011) and measures taken to combat trafficking in persons, including through international cooperation. In this regard, please provide information on the number of victims of trafficking in persons, complaints received concerning such offences, investigations conducted and convictions handed down to perpetrators. Please provide information on measures aimed at: (a) improving the training on combating trafficking in persons given to law enforcement officers, judges and prosecutors; (b) increasing the human and financial resources allocated annually to anti-trafficking measures countrywide; (c) strengthening the processes whereby victims are identified, protected and referred to appropriate services; and (d) improving the collection of updated data and statistics on investigations, prosecutions and the profile of identified victims.

#### **Freedom of expression and the protection of journalists (arts. 6–7 and 18–19)**

21. Please provide information on the legal and regulatory frameworks governing the right to freedom of expression in the State party. Please provide information on steps taken to protect journalists exercising their right to freedom of expression, as explained in the Committee's general comment No. 34 (2011). Please comment on an incident that occurred in August 2018 in which a member of the National Assembly entered the premises of a radio channel as it was broadcasting and tried to physically assault the journalist responsible for the programme. Please provide information on measures taken to ensure that human rights

violations perpetrated against journalists are thoroughly investigated and that those responsible are brought to justice.

22. Please provide information on the legislation regulating media licensing and comment on information received about direct government control over the media. In this regard, please provide information on media coverage during the elections in 2019 and how the State party ensured the full enjoyment of the right to freedom of expression. Please comment on information received that: (a) on 28 January 2019, the national television workers' union suspended the broadcasting of news relating to political parties, arguing lack of conditions for fair and equal treatment of information; and (b) the Union demanded the dismissal of the Editor-in-Chief of the public television broadcaster, who, in the Union's view, was exercising censorship by favouring coverage of some political parties over others.

#### **Freedom of assembly and the protection of human rights defenders (arts. 6–7 and 21)**

23. Please provide information on the legal framework regulating freedom of assembly and on measures taken to protect participants in assemblies against violence. In this regard, please provide information on the 2018 directive issued by the Minister of Territorial Administration and comment on information received that the directive has been used to ban all protests. Please also provide information on the legal requirements for the holding of assemblies established pursuant to the Law on the Right of Assembly and to Demonstrate (Law No. 3/92) and comment on information received that the authorities have systematically obliged the organizers of demonstrations to produce, in advance, an authorization issued by the Office of Land Transport Services, even though this is not a legal requirement. Please also provide information on Ministerial Order 2/GMAT/2016 issued by the Ministry of Territorial Administration in 2016, which established an indefinite prohibition on public demonstrations and rallies all over the country.

24. Please provide information on the operations conducted by the police between 29 January and 1 February 2018 to prevent a quadrennial congress expected to be held by the African Party for the Independence of Guinea and Cape Verde and explain how those operations complied with the Covenant, particularly the rights to political participation, peaceful assembly and freedom of movement. Please comment on allegations of targeted restrictions of the right to peaceful assembly and challenges to the enjoyment of the freedoms of expression during the pre-election process in 2019. Please explain what steps are being taken to prevent the excessive use of force in the dispersal of assemblies and provide information on the investigations into the excessive use of force against protesters.

25. Please describe the measures adopted to effectively protect human rights defenders and provide information on the criminal proceedings initiated against the perpetrators of attacks against them. Please comment on information received indicating that human rights defenders are subjected to discrimination, unequal treatment, harassment and restrictions of political and public participation.

#### **Rights of the child (arts. 7, 9–10, 14, 23–24 and 26)**

26. Please indicate the measures taken to prohibit the use of corporal punishment against children in all situations. Please provide an update regarding the legal framework in place to protect children from corporal punishment. Please provide information on the legal framework for juvenile justice and explain whether there are specialized courts to handle cases relating to the protection or punishment of juveniles.

27. Please elaborate on measures aimed at eliminating and preventing child exploitation, particularly for sexual purposes, for street begging and for child labour, mainly in the agricultural sector. Please comment on the implementation of the General Labour Law and the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism. Please clarify the minimum age for work and whether it is applicable to children working without a labour contract. Please also indicate the types of hazardous work prohibited for children, according to the law.

**Participation in public affairs (arts. 19 and 25)**

28. Please indicate all measures taken to ensure the holding of free, credible and transparent elections. Please comment on the delays in the recent elections, which were first scheduled for November 2018 and were finally held on 10 March 2019, causing insecurity and protests.

**Dissemination of information relating to the Covenant (art. 2)**

29. Please describe steps taken to disseminate information on the Covenant, the list of issues prior to reporting, the periodic report of the State party and its forthcoming examination by the Committee. Please provide detailed information on the participation of representatives of civil society and non-governmental organizations in the preparation of the State party's report.

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