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## HUMAN RIGHTS REPORT

### The Right to Participate in Political and Public Affairs in Guinea-Bissau

#### January 2018 – July 2019

#### Executive summary

This report was prepared by the Human Rights Section of the United Nations Integrated Peace Building Office in Guinea-Bissau (UNIOGBIS) in collaboration with the Office of the High Commissioner for Human Rights (OHCHR). It covers January 2018 to July 2019 and aims at assisting Guinea-Bissau to uphold its obligations to respect, protect and fulfil the rights to participate in political and public affairs. It is based on information gathered through regular human rights monitoring and capacity-building activities and collected in nine human rights assessment missions conducted by the United Nations in the regions of Bafatá, Gabú and Quinara. The report is also based on data gathered through consultations, and additional documentation provided by human rights constituencies, including for the analysis of the implementation of the *Law of parity for the participation of women in politics in the spheres of decision-making* (Law 4/2018) in the 2019 legislative elections.

To put into perspective the theme in focus, the report summarizes the socio-political and security context, and presents the normative, institutional and policy framework governing human rights. The report focuses on the rights to vote and to participate in the conduct of public affairs, with a special focus on women. It highlights that respecting these rights plays a crucial role to advance human rights and to ensure a favorable environment to democratic governance, human development, political stability and sustainable peace.

The report further presents challenges in the exercise of the right to peaceful assembly and the freedoms of expression and opinion, that enable political and public participation. It also refers to the role of civil society organizations and to the challenges faced by human rights defenders to advance the right to participate in political and public affairs. It also summarizes some of the measures taken by the Government and other stakeholders, including the activities of the human rights section of UNIOGBIS. The report concludes that although challenges remain, various achievements and good practices illustrate the commitment of the State and other stakeholders to ensure that the right to participate in political and public affairs are enjoyed by all on an equal basis.

The report recommends a human rights-sensitive review of the national constitution, and the strengthening of the legal, policy and institutional human rights framework in the country. This includes the establishment by law of a National Human Rights Institution, compliant with the Paris Principles, fully independent from the Government, adequately resourced and whose statute foresees public and transparent selection processes based on pre-established criteria that include the skillset and experience required to undertake human rights promotion, protection, investigation and reporting functions, as recommended to Guinea-Bissau in past Universal Periodic Review (UPR) exercises. It also recommends the adoption of additional measures to ensure women's rights to participate in political and public affairs on an equal basis with men, and to guarantee the enjoyment of the right to peaceful assembly, on an equal basis by all.

The report recommends to the Government, *inter alia*, to strengthen the National Commission of Human Rights as its primary human rights advisor within the Ministry of Justice and Human Rights, and to take steps to submit pending reports to international and regional human rights mechanisms. On the basis of the standing invitation of the Government to the Special Procedures of the Human Rights Council, the report encourages various thematic mandate-holders to consider undertaking visits to Guinea-Bissau, including jointly with thematic rapporteurs, committees, and working groups of the African Commission on Human and Peoples' Rights (*e.g.* mandates on the promotion of truth, justice, reparation and guarantees of non-recurrence; on laws that discriminate against women; on the rights to peaceful assembly and of association; and on the right to education).

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# Human Rights Report

## The Rights to Participate in Political and Public Affairs in Guinea-Bissau

### January 2018- July 2019

#### I. Introduction

1. This report aims to support the State of Guinea-Bissau to uphold its obligations to respect, protect and fulfil the rights to participate in political and public affairs, and other human rights that enable political and public participation. It was prepared by the United Nations Integrated Peace Building Office in Guinea-Bissau (UNIOGBIS) in collaboration with the Office of the High Commissioner for Human Rights (OHCHR) and covers January 2018 to July 2019.

2. To put in perspective the theme in-focus, the report summarizes the socio-political and security context, and the normative, institutional and policy framework governing human rights, and focuses on the rights to vote and to participate in the conduct of public affairs, and specifically, on women's rights to participate in political and public affairs.

3. The report further presents challenges in the exercise of the right to peaceful assembly and the freedoms of expression and opinion, which are human rights that enable political and public participation. It also refers to the role of civil society organizations and to the challenges faced by human rights defenders to advance the rights to participate in political and public affairs. It also summarizes some of the measures taken by the Government and other stakeholders in this area, including the activities of the human rights section of UNIOGBIS. The report presents a general conclusion and various recommendations to improve the human rights' situation.

4. The report is based on information gathered during regular human rights monitoring activities, and other human rights initiatives, including stakeholders' consultations during human rights capacity-building initiatives, focused interviews as well as documentation provided by human rights constituencies. The report also builds on the findings of nine human rights assessment missions centered on the rights to participate in political and public affairs in the regions of Bafatá (sectors of Bafatá, Contuboeil and Bambadinca); Gabú (sectors of Gabú, Pirada and Boé) and Quinara (sectors of Buba, Fulacunda and Tite), conducted respectively from 17 to 19 April 2018, 23 to 26 April 2018 and 8 to 10 May 2018. The report is also based on an analysis of information gathered during the pre-electoral and electoral periods, including for the analysis of the implementation of the *Law of parity for the participation of women in politics in the spheres of decision-making* (Law 4/2018) in the 2019 legislative elections.

5. UNIOGBIS expresses its deep appreciation to the Government of Guinea-Bissau, in particular to the Ministry of Justice and Human Rights, the Ministry of the Presidency of the Council of Ministers and other line ministries and State Secretariats for their collaboration in the elaboration of this report. UNIOGBIS also expresses its appreciation to other national authorities, human rights' constituencies and stakeholders and to all those that collaborated directly or indirectly in the collection, analysis and verification of information presented in this report.

#### II. Socio-political and security context<sup>1</sup>

6. The reporting period was characterized by multi-pronged national and international efforts to find a solution to the cyclical governability crises in the country. Various efforts focused on the implementation of the Economic Community of West African States (ECOWAS) Roadmap for the Resolution of the Political Crisis in Guinea-Bissau signed on 10 September 2016 and the Conakry Agreement on its implementation, signed on 14 October 2016.<sup>2</sup>

7. In January 2018, tensions rose significantly in the country. A lack of political will and divergent interpretations of the Conakry Agreement resulted in limited tangible results of the various mediation efforts spearheaded by ECOWAS.<sup>3</sup> On 15 January 2018, the President accepted the resignation of the Prime Minister, and the next day ECOWAS launched a mission to verify progress on the implementation of the Conakry Agreement and a new

<sup>1</sup>United Nations reports on Guinea-Bissau presented to the United Nations Security Council are available at <http://www.securitycouncilreport.org/un-documents/guinea-bissau/>

<sup>2</sup> See S/2017/111, para.4 and 6. The ECOWAS Roadmap was signed by the President of the People's National Assembly, the Prime Minister, the President of African Party for the Independence of Guinea and Cape Verde (PAIGC, its Portuguese acronym), the President of the Party of Social Renewal (PRS, its Portuguese acronym). The Conakry Agreement was signed by the Speaker of the People's National Assembly, the Prime Minister on behalf of the Government and the Presidents of six Political Parties. *Ibid.*, para.6.

<sup>3</sup> See S/2018/110, para. 2.

roadmap presented by the President of the Republic at the ECOWAS Summit of December 2017, which ECOWAS requested to implement within 30 days.

8. Between 29 January and 1 February 2018, the police conducted operations, without a clear legal framework, to prevent a quadrennial congress expected to be held by the African Party for the Independence of Guinea and Cape Verde (PAIGC, its Portuguese acronym). Such police operations resulted in violations of the rights to political participation, peaceful assembly, freedom of expression, freedom of movement, as well as of the rights to physical integrity and to property of the PAIGC. This also prompted the gathering of about 600 persons in front of the main premises of the United Nations on 31 January 2018 requesting protection against the excessive use of force by the Police. During that period, international and regional organizations underscored the need to ensure full respect for human rights and the rule of law, including upholding political participation rights and the right to peaceful assembly.<sup>4</sup>

9. On 31 January 2018, a new Prime Minister was sworn-in in the midst of criticisms by political parties pointing to a breach to the Conakry Agreement that highlights that Bissau-Guinean stakeholders were to agree by consensus on the choice of a Prime Minister who should have the confidence of the President of the Republic and who should remain in office until the 2018 legislative elections.<sup>5</sup> On 4 February 2018, ECOWAS imposed sanctions against 19 individuals considered to be impeding the implementation of the Conakry Agreement.<sup>6</sup>

10. In April 2018, the political situation in Guinea-Bissau witnessed some breakthroughs. These included the appointment, for the first time since the adoption of the Conakry Agreement, of a Prime Minister of consensus, Mr. Aristides Gomes; the setting of 18 November 2018 as the date for legislative elections; the appointment of a ministerial cabinet; and the signature of an “accord of principles” by the two main political parties, under the auspices of ECOWAS.<sup>7</sup> The sanctions against the 19 individuals were lifted by ECOWAS on 31 July 2018.<sup>8</sup>

11. In December 2018, the President of the Republic decreed the postponement of the legislative elections to 10 March 2019, based on delays in the voter’s registration.<sup>9</sup> The context was characterized by growing political instability in which political parties exchanged accusations either of attempting to rig the elections or to deliberately delay the electoral process. However, there were some breakthroughs on 14 February 2019 with the signature of key instruments: a *Pact of Political and Social Stability* was signed by the President of the Republic, the National Assembly, the Government of Guinea-Bissau, legally-established political parties, civil society organizations and religious leaders, and a *Code of Conduct and Ethics for the 2019 legislative elections* was signed by 21 political parties.

12. Legislative elections were held on 10 March 2019 in a calm and peaceful environment. However, targeted restrictions to the right to peaceful assembly and challenges to the enjoyment of the freedoms of expression and association marked the pre-electoral political environment. Moreover, on 18 April 2019, following the swearing-in ceremony of the new members of the National Assembly, new political tensions arose, as political parties with parliamentary seats could not agree on the election of members of the Bureau of the new legislative body. On 29 April, the Movement for Democratic Change (MADEM-G15), the political party that came in second position in legislative elections with 27 seats, challenged before the Supreme Court of Justice the validity of the elections of the bureau of the Parliament, arguing that 4 out of the 5 positions of the Bureau were chosen only from the parliamentary majority led by the PAIGC. Despite calls made by ECOWAS following a high-level delegation visit on 30 April, the current impasse remained unresolved at the time of concluding this report.

13. On 21 May 2019, the National Electoral Commission (CNE, its Portuguese acronym) issued a tentative chronogram for election-related activities and set as indicative dates for the first and second rounds of presidential elections, 3 November, and 8 December 2019, respectively. On 18 June 2019, the President issued a decree setting 24 November 2019 as the date for the first round of Presidential elections.<sup>10</sup> The CNE foresees the date of 29 December 2019 for an eventual second round of presidential elections. The President appointed the Prime Minister on 22 June

<sup>4</sup> See S/2018/110, para. 34. The main international organizations with presence in Guinea-Bissau issued statements on 30 January 2018. An individual statement was issued by ECOWAS on 3 February, available at: <http://www.ecowas.int/press-release-on-the-situation-on-guinea-bissau/>; and a joint statement by the African Union and the United Nations was issued on 3 February 2018, available at: <https://uniogbis.unmissions.org/en/joint-statement-african-union-and-united-nations-guinea-bissau>

<sup>5</sup> See Section II (1) of the Conakry Agreement: “Consensus on the choice of a Prime Minister who has the confidence of the President of the Republic. The Prime Minister should be in office until the 2018 legislative elections.”

<sup>6</sup> See ECOWAS Decision A/Dec.2.01/2018 of 4 February 2018.

<sup>7</sup> See Republic of Guinea-Bissau, Presidential Decrees 6/2018, 7/2018 and 9/2018.

<sup>8</sup> See ECOWAS, Fifty-third Ordinary Session of the ECOWAS Authority of Heads of State and Government, 31 July 2018, Lomé, Togo, para.34.

<sup>9</sup> Republic of Guinea-Bissau, Presidential Decree 20/2018, 20 December 2018.

<sup>10</sup> Republic of Guinea-Bissau, Presidential Decree 05/2019, 18 June 2019.

2019,<sup>11</sup> and the new Government on 3 July 2019,<sup>12</sup> which was approximately three months after the 2019 legislative elections of 10 March.

14. Overall, during the reporting period, the socio-political panorama was mostly characterized by social tensions, inflammatory rhetoric, demonstrations and strikes. Power blackouts and electricity and water shortages in some parts of the capital were frequent, adding to their precarious access.<sup>13</sup> Various strikes of civil servants claiming for salary readjustment, payment of previous salary arrears, enforcement of teacher's career status and pension fund arrangements for public servants, were constant. Financial support to assist the State in the 2019 legislative elections materialized in in-kind contributions as well as a total of USD\$9.9 million mobilized for the Basket Fund administered by the United Nations Development Programme.<sup>14</sup> However, pledges made at the Donor's Round Table in 2015 remained largely unrealized.

### III. General legal, institutional and policy framework governing human rights

15. Guinea-Bissau has ratified or acceded most international human rights' treaties. In 2009 and 2013, two United Nations' treaty bodies have issued Concluding Observations on Guinea-Bissau.<sup>15</sup> In January 2011, the State issued a standing invitation to the Special Procedures of the Human Rights Council, and the Special Rapporteurs on extreme poverty and human rights, and on the Independence of Judges and Lawyers visited the country in 2014 and 2015, respectively.<sup>16</sup> Given the context and current dynamics in the country, visits by thematic special procedures would be of considerable added value, particularly regarding the promotion of truth, justice, reparation and guarantees of non-recurrence; laws that discriminate against women; the rights to peaceful assembly and of association; and the right to education.

16. Guinea-Bissau is a member of the African Union and ratified the African Charter on Human and People's Rights (ACHPR) and most regional human rights treaties.<sup>17</sup> For example, Guinea-Bissau ratified the *African Charter on Democracy, Elections and Governance* in December 2011.<sup>18</sup> The Special Rapporteurs of the African Commission on Human and Peoples' Rights are encouraged to consider undertaking joint thematic visits to Guinea-Bissau with the Special Procedures of the United Nations Human Rights Council.

17. Guinea-Bissau is also a member of ECOWAS, and by virtue of it, of the ECOWAS Community Court of Justice, which has jurisdiction to determine cases of human rights violations that occur in any of the ECOWAS Member States. A decision by the ECOWAS Court on a case of alleged excessive use of force by police officers during a peaceful demonstration in November 2016, is expected in 2019, following hearings in April and November 2018.<sup>19</sup>

18. The Bissau-Guinean Constitution, adopted in 1984 and last amended in 1996, is considered the superior norm of the State to which all sovereign organs are subordinated.<sup>20</sup> International treaties, including human rights treaties, are ratified by the President of the Republic, approved by the National Assembly, and published in the Official Gazette. However, these generally require additional laws to be enforceable at the national level.

19. The Constitution of Guinea-Bissau stipulates that the constitutional and legal provisions relating to fundamental rights shall be interpreted in accordance with the Universal Declaration of Human Rights.<sup>21</sup> Moreover, the Constitution highlights that "laws that restrict rights, freedoms and guarantees are of a general and abstract nature,

<sup>11</sup> Republic of Guinea-Bissau, Presidential Decree 06/2019, 22 June 2019.

<sup>12</sup> Republic of Guinea-Bissau, Presidential Decree 10/2019, 3 July 2019.

<sup>13</sup> Sixteen per cent of the Bissau-Guinean population has access to electricity, compared to 38 per cent in the Least Developed Countries and 90 per cent of the developed countries. See UNCTAD/LDC/2017.

<sup>14</sup> Contributions to the Basket Fund were made by Angola, ECOWAS, Equatorial-Guinea, the European Union, Guinea-Bissau, Italy, Japan, Nigeria, UNDP, the United States of America, and the West African Economic and Monetary Union (UEMOA). In addition, in-kind support was provided by Nigeria, Portugal and Timor Leste.

<sup>15</sup> See CRC/C/GNB/CO/2-4, 8 July 2013; CEDAW/C/GNB/CO/6, 7 August 2009.

<sup>16</sup> See A/HRC/WG.6/21/GNB/1, para.21; A/HRC/29/31/Add.1 (2015); A/HRC/32/34/Add.1 (2016).

<sup>17</sup> Guinea-Bissau ratified the African Charter on Human and People's Rights on 4 December 1985. See:

<http://www.achpr.org/instruments/achpr/ratification/> (last accessed on 24/08/2019)

<sup>18</sup> The list of countries which have signed, ratified/access to the African Charter on Democracy, Elections and Governance updated to 28 June 2019 is available at: <https://au.int/sites/default/files/treaties/36384-sl-AFRICAN%20CHARTER%20ON%20DEMOCRACY%2C%20ELECTIONS%20AND%20GOVERNANCE.PDF> (last accessed on 24/08/2019)

<sup>19</sup> Case ECW/CCJ/APP/45/16 ("Sr. Sana Cante & Outros contra República de Guiné-Bissau & 2 outros").

<sup>20</sup> Constitution of the Republic of Guinea-Bissau, art.59 (2).

<sup>21</sup> *Ibid.*, art.29 (2).



must be limited to what is necessary to safeguard other rights or interests that are protected by the constitution, and cannot have retroactive effects nor reduce the rights' core content".<sup>22</sup>

20. The Constitution recognizes political participation rights including the right to vote to elect the President, the legislature and the municipal assemblies through free, universal, equal, direct, secret and periodic vote by an electorate of registered citizens.<sup>23</sup> The constitution also protects rights that enable public and political participation such as the right to peaceful assembly and the freedoms of expression, opinion and of the press.<sup>24</sup>

21. The Constitution recognizes the equality of "all citizens" before the law,<sup>25</sup> highlighting it is extended to "foreigners, on the basis of reciprocity (...) [and to] stateless persons that reside or are present in Guinea-Bissau, except in relation to political rights, the exercise of public functions and other rights and duties that are explicitly reserved by the law to [Bissau-Guinean] citizens".<sup>26</sup> It should be noted that international human rights law has widely recognized that the clause of reciprocity is not applicable to human rights treaties. Indeed, human rights mechanisms have highlighted that the principle of reciprocity among States is not applicable to human rights treaties as "such treaties are not a web of inter-State exchanges of mutual obligations" since they are related to "the endowment of individuals with rights".<sup>27</sup> Thus, human rights should be ensured not only "to all citizens" but to "all individuals subject to the jurisdiction of the State".<sup>28</sup> The rights to participate in political and public affairs are the exception to this rule as, *in principle*, they are recognized to "all citizens".<sup>29</sup>

22. The Constitution remains silent on the distinction between "a state of siege" and "a state of emergency", the criteria to declare them, and their maximum length. Nevertheless, it does allow for both "a state of siege" or "a state of emergency" to be declared in whole or in part of the territory, in cases of effective or imminent aggression by foreign forces, serious threat or disturbance of the democratic constitutional order or political calamity, during which human rights may be limited or suspended.<sup>30</sup> Regarding the "state of emergency", the Constitution does not specify the rights that might be limited or suspended but clarifies it may be declared by the President of the Republic in accordance with the Constitution and the law.<sup>31</sup> Regarding the "state of siege", the constitution states it may only be declared by the National Assembly, and clarifies that "in no circumstances (...) it ) might affect the rights to life, personal integrity and personal identity, civil capacity and citizenship, the non-retroactivity of criminal law, the right of defense of those accused and the freedom of conscience and religion".<sup>32</sup>

23. It should be noted that the International Covenant on Civil and Political Rights (ICCPR), ratified by Guinea-Bissau on 1 November 2010, establishes that human rights mentioned in its article 4 should not be subject to suspension, limitation or derogation in states of siege, emergency or exception. Such rights are: the right to life (ICCPR, art.6); the prohibition of torture or to cruel, inhuman or degrading treatment or punishment (ICCPR, art.7); the prohibition of slavery and servitude (ICCPR, art.8 (1-2)); the right to be free from imprisonment merely on the ground of inability to fulfil a contractual obligation (ICCPR, art.11); the right to be free from guilty of any criminal offence on account of any act or omission that did not constitute a criminal offence, under national or international law, at the time when it was committed (ICCPR, art.15); the right to be recognized, everywhere, as a person before the law (ICCPR, art.16) and the right to freedom of thought, conscience and religion, without discrimination (ICCPR, art.18). The State should ensure that constitutional provisions governing the suspension of human rights are in full compliance with the ICCPR.

<sup>22</sup> *Ibid.*, art.30 (3).

<sup>23</sup> *Ibid.*, arts.63; 77; 111; 114.

<sup>24</sup> *Ibid.*, arts.51, 54; 56.

<sup>25</sup> Article 24 of the Constitution of Guinea-Bissau: "All citizens are equal before the law, enjoy the same rights and are subject to the same duties, without distinction of race, gender, social, intellectual, cultural, religious belief or philosophical conviction."

<sup>26</sup> Constitution of the Republic of Guinea-Bissau, art. 28.

<sup>27</sup> See CCPR/C/21/Rev.1/Add.6, para.17. In its *General Comment No. 24*, the United Nations Human Rights Committee clarified that the principle of inter-State reciprocity has no place in human rights treaties "save perhaps in the limited context of reservations to declarations on the [Human Rights] Committee's competence under article 41[of the ICCPR]", ratified by Guinea-Bissau on 1 November 2010.

<sup>28</sup> See Universal Declaration of Human Rights (UDHR), art. 2; International Covenant on Civil and Political Rights (ICCPR), art.2 (1) and International Covenant on Economic, Social and Cultural Rights (ICESCR), art.2 (2).

<sup>29</sup> See CCPR/C/21/Rev.1/Add.7, para.3. In its *General Comment No.25*, the Human Rights Committee clarified that "[i]n contrast with other rights and freedoms recognized by the [International] Covenant [on Civil and Political Rights] (which are ensured to all individuals within the territory and subject to the jurisdiction of the State), article 25 protects the rights of "every citizen".

<sup>30</sup> Constitution of the Republic of Guinea-Bissau, art.31.

<sup>31</sup> *Ibid.*, art.30 (2); art.68 (v).

<sup>32</sup> *Ibid.*, art.31 (2).

24. Guinea-Bissau is yet to elaborate, adopt and implement a national action plan for human rights and a policy or action plan on human rights education, transversal to all State Institutions. The State is also yet to establish a national human rights institution, compliant with the Paris Principles, as recommended to the State in past Universal Periodic Review (UPR) exercises.<sup>33</sup> The authoritative interpretation of the Paris Principles stresses that national human rights institutions should be independent from the Government and adequately resourced; their members should not belong to any Governmental Institution and should be selected through public and transparent processes based on pre-established criteria.<sup>34</sup>

25. The Bissau-Guinean National Human Rights Commission (CNDH, its Portuguese acronym), created by Ministerial Decree 6/2009 has the nature and composition of a national level *ad hoc* Human Rights Commission. At the international level, such mechanisms - known as inter-ministerial committees or commissions on human rights - are recognized as key advisory bodies to the Government, including on its engagement with international and regional human rights organizations and mechanisms.<sup>35</sup> This, because the CNDH is structurally attached to the Government,<sup>36</sup> and at least 13 of its 30 members are civil servants of line ministries and State secretariats. The Commission's chair is a public servant of the Ministry of Justice and Human Rights appointed by the Council of Ministers, upon recommendation of the Minister of Justice and Human Rights. The other members are appointed by the institutions they represent, and are therefore, not selected by public processes based on pre-established criteria. With the exception of the Chair, and a few administrative assistants, the members of the CNDH do not receive any salary or stipend for their membership to the Commission. Moreover, the Commission has no budget of its own besides an allocation from the Ministry of Justice and Human Rights to cover administrative expenses.

#### IV. The right to participate in political and public affairs in Guinea-Bissau

26. The effective participation of all individuals and groups in political and public affairs underpins the realization of human rights and forms a central component of rights-based strategies aimed at eradicating discrimination and inequalities.<sup>37</sup> The promotion and protection of participation in public affairs is emphasized by the 2030 Agenda for Sustainable Development as its implementation and monitoring rests on the meaningful participation of all actors in society, particularly those most at risk of discrimination and of being left behind.<sup>38</sup> Moreover, the effective participation of all individuals and groups in political and public affairs is included as target 16.7 of Sustainable Development Goal 16.<sup>39</sup>

27. The rights to participate in political and public affairs are broad in scope and range from the right to vote and to stand for election, to the right to equal access to public service, and to direct and indirect forms of participation in the conduct of public affairs from the local to the international levels.<sup>40</sup> Article 25 of the ICCPR defines the State obligations on the rights to participate in political and public affairs. Other international human rights instruments contain similar provisions.<sup>41</sup> International human rights law allows restrictions on direct and indirect political and public participation when these are objective, reasonable and non-discriminatory.<sup>42</sup> Article 13 of the ACHPR highlights that

<sup>33</sup> See A/HRC/15/10. In this connection, recommendations made to Guinea Bissau in the context of the Universal Periodic Review (UPR), included that the State “considers the possibility of establishing a national body for the promotion and protection of human rights in accordance with the Paris Principles” (recommendations 65.18, 65.20-21) and “continues to seek technical assistance from the international community as well as from the Office of the High Commissioner for Human Rights on the establishment of a national human rights institution in accordance with the Paris Principles” (Recommendation 65.19).

<sup>34</sup> Global Alliance of National Human Rights Institutions (GANHRI), “General Observations of the Sub-committee on Accreditation, adopted by the GANHRI Bureau at its Meeting held in Geneva, Switzerland”, 21 February 2018, pp. 6, 32, 45 ff. The Global Alliance of National Human Rights Institutions (GANHRI) is the international body that provides authoritative interpretations of the Paris Principles. In 2017, the GANHRI adopted a set of General Observations on the interpretation of the Paris Principles. In 2018, the Human Rights Section of UNIOGBIS together with the Office of the High Commissioner for Human Rights published the Portuguese version of the GANHRI General Observations, available at: <https://uniogbis.unmissions.org/publica%C3%A7%C3%B5es-dos-direitos-humanos-0>

<sup>35</sup> See the Compendium on national mechanisms on human rights published in 2018 in Portuguese, available at: [https://uniogbis.unmissions.org/sites/default/files/coletanea\\_vol.2\\_mecanismos\\_nacionais\\_de\\_direitos\\_humanos.pdf](https://uniogbis.unmissions.org/sites/default/files/coletanea_vol.2_mecanismos_nacionais_de_direitos_humanos.pdf)

<sup>36</sup> Republic of Guinea-Bissau, Decree 6/2009 of 15 February 2010 (Statute of the National Commission of Human Rights), in Official Bulletin (*Boletim Oficial*), No.7, 15 February 2010, pp.46-51; arts.9; 30-31. See also art.10 (1,3).

<sup>37</sup> See A/HRC/13/23, para. 28.

<sup>38</sup> See A/HRC/39/28, para. 21.

<sup>39</sup> See ST/ESA/362, page 84 and A/RES/71/313 E/CN.3/2018/2.

<sup>40</sup> See A/HRC/27/29.

<sup>41</sup> See UDHR, art. 21; ICESCR, art. 8; ICERD, art. 5 (c); CEDAW, arts. 7 and 8; CRC, art. 15; CRPD, arts. 4 (3), 29, 33 (3); ICMW, arts. 41- 42; African Charter on Human and People's Rights, art 13(1).

<sup>42</sup> See CCPR/C/21/Rev.1/Add.7, paras. 3-4.

“[e]very citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law”. The Constitution and various laws of Guinea-Bissau also recognize these rights, as highlighted in section III of this report.<sup>43</sup>

#### A. The right to vote

28. Article 25 (b) of the ICCPR, recognizes the right of every citizen “[t]o vote and to be elected at genuine periodic elections, which shall be by universal and equal suffrage”. The Constitution of Guinea-Bissau recognizes the right to vote and to stand for elective office and explicitly mentions that the President of the Republic, parliamentarians and municipality assemblies are elected through free, universal, equal, direct, secret and periodic vote.<sup>44</sup> Active electoral capacity is recognized from age 18 and passive electoral capacity from age 21 for the National Assembly and from age 35 for the position of President of the Republic.<sup>45</sup> The right to vote is optional in Guinea-Bissau.

29. The conduct of elections and referendums is carried out by the National Elections Commission (CNE, its Portuguese acronym), which is an independent body under the tutelage of the National People’s Assembly, also responsible for supervising voter registration and conducting electoral education.<sup>46</sup> The CNE consists of an Executive Secretariat at the central level and nine regional electoral commissions.

30. Voter registration and civic education are the responsibility of the Technical Support Office for Electoral Processes (GTAPE, its Portuguese acronym), under the tutelage of the Ministry of Territorial Administration and Electoral Management.<sup>47</sup> The electoral activities of the diaspora, including voter’s registration and voting processes are the responsibility of the Ministry of Foreign Affairs and Communities. Other institutions, such as the Supreme Court of Justice, are involved in electoral processes, namely in verifying and certifying candidates and in processing judicial redress procedures.

31. Persons lacking legal capacity, including those sentenced to prison for intentional crimes, those suffering serious psychological or mental limitations do not enjoy the right to vote or to be elected in Guinea-Bissau.<sup>48</sup> However, international human rights mechanisms have found that the following constitute unreasonable and discriminatory restrictions on the exercise of the right to participate in political and public affairs: (i) limiting political participation on the grounds of intellectual or psychosocial impairment; (ii) the imposition of linguistic requirements for candidates for public office; (iii) the automatic disenfranchisement of detainees, convicted felons or people under guardianship.<sup>49</sup>

32. According to the constitution, the term of each legislature is of four years and begins with the proclamation of the election results.<sup>50</sup> The legislative elections were initially expected in the first semester of 2018. However, the date of 18 November 2018 was set for legislative elections and the former legislature term was exceptionally extended.<sup>51</sup> Voter registration for the legislative elections commenced on 19 September 2018 for a period of 30 days, and was extended several times, due to technical difficulties and slow pace of voter registration, conflicting with the 60-day timeline established by law for voter registration.<sup>52</sup> Bissau-Guinean political parties repeatedly argued over technical aspects of the electoral census. Some political parties questioned the transparency and credibility of the electoral process and the behavior of political actors and called, at the time, for the Prime Minister’s dismissal.

33. On 18 November 2018, the President of the Republic noted that various reasons prevented legislative elections to take place on the scheduled date and called for public understanding to continue and complete the electoral process in peace and tranquility. Voter registration was suspended on 5 December, following a decision of the Prosecutor-General to instruct security forces to prevent access to the GTAPE headquarters as a precautionary measure in a judicial investigation into alleged irregularities in the compilation of the voters’ registration data on the server at

<sup>43</sup> See Constitution of the Republic of Guinea-Bissau, art.2 (1-2); art.54; arts.63-64; art. 77 and 111. See also Law of International Electoral Observation (Law 4/94); Electoral Law for the President of the Republic and the National Assembly (Law 10/2013); Voter Registration Law (Law 11/2013) and Law of the National Electoral Commission (Law 12/2013).

<sup>44</sup> See Constitution of the Republic of Guinea-Bissau, art.63, art.77 and 111.

<sup>45</sup> Republic of Guinea-Bissau, Law 10/2013, arts. 8, art. 10. For active electoral capacity, age 18 needs to be completed until 23 October in the year of the respective election.

<sup>46</sup> See Republic of Guinea-Bissau, Law 12/2013, art.1.

<sup>47</sup> See Republic of Guinea-Bissau, Law 11/2013, art. 10.

<sup>48</sup> *Ibid.*, art.28.

<sup>49</sup> See Committee on the Rights of Persons with Disabilities, General Comment No. 1; CCPR/C/USA/CO/3 and Rev.1; A/HRC/27/29, para.33.

<sup>50</sup> Constitution of the Republic of Guinea-Bissau, art.79.

<sup>51</sup> Republic of Guinea-Bissau, Presidential Decree 7/2018, 16 April 2018.

<sup>52</sup> Republic of Guinea-Bissau, Law 11/2013, art. 20.



GTAPE headquarters. The Prosecutor-General reversed his decision on 12 December following the deployment of an ECOWAS mission led by the Nigerian Minister of Foreign Affairs. On 9 January 2019, the Regional Court in Bissau declared the decision by the Prosecutor-General to be “null and void”, stating that the Prosecutor-General does not have jurisdiction on electoral matters. Voter registration reassumed on 13 December and concluded on 19 December, when the Government declared its successful completion having captured over 90 per cent of the eligible voter population.

34. On 21 December, the President decreed the date of 10 March 2019 for legislative elections.<sup>53</sup> Later in December 2018, the United Nations Security Council expressed concern on the status of preparations and regretted that legislative elections were not held on 18 November 2018. It also appealed to all Bissau-Guinean actors to work to preserve the fragile stability gains and reaffirmed the importance of holding genuinely free and fair legislative elections on 10 March 2019 and of ensuring women’s full participation.<sup>54</sup>

35. It should be noted that according to international human rights law “the interruption of periodicity [of elections] will, in all but the most exceptional circumstances, violate international standards”.<sup>55</sup> Generally, the postponement of scheduled elections should only exceptionally be permitted in cases of public emergency “in certain limited circumstances, but only if and to the extent strictly required by the exigencies of the situation”.<sup>56</sup> Moreover, “such extraordinary measures must comply with all the rigid international standards for such derogations and must not threaten democracy itself”.<sup>57</sup> This, in line with the Universal Declaration of Human Rights which proclaims that any limitations on the rights and freedoms contained therein must be for the purpose of “meeting the just requirements of morality, public order and the general welfare *in a democratic society*”.<sup>58</sup>

36. In February 2019, consolidated information released by the GTAPE indicated that of a total of 761,676 registered voters in the 2018 electoral census, 394,495 were women, constituting approximately 52 per cent of registered voters. In most constituencies there were generally more women registered to vote than men. Stakeholders highlighted challenges to ensure inclusion and non-discrimination in the electoral census, such as the short and not fully predictable time for voter’s registration in certain neighborhoods and in remote areas. In their view, such challenges were evidenced when comparing figures from 2014 (775,508 registered voters) and 2018 (761,676 registered voters), despite the likely increase in population over a period of four years.

37. Other challenges raised by stakeholders included the lack of electoral information and voting papers in a range of accessible formats and languages, particularly for persons with visual and hearing impairments. The lack of inclusion of persons with disabilities, including those with reduced mobility, in the design and implementation of voting systems in the country was also an overall concern. For most human rights constituencies, these challenges highlight the need to revise electoral laws to effectively incorporate human rights considerations.

38. On 9 March, the pre-election day, clashes between security forces and members of a political party were reported in the sector of Gabú, allegedly as a reaction against attempts by State officials to bribe traditional leaders. The Office of the Prime Minister strongly disputed these allegations in a Press Release. Ten persons were reportedly injured by security forces and UNIOGBIS monitoring confirmed that seven were taken to hospital, including two with serious injuries.

39. The polling day was marked by a peaceful environment. Allegations of violations of the secrecy of the ballot were promptly addressed by national authorities. This included instances where the ballot box was positioned in a way that made the marking of the voting ballot publicly visible. In several constituencies there were priority lines for pregnant women, people with disabilities and elderly people. No incidents were reported regarding freedom of movement, expression or peaceful assembly and no excessive use of force by security forces was observed. Nevertheless, it was reported that in Ganadu (sector of Contuboe in the Bafatá region), the Police Commissioner intervened promptly after law enforcement officials allegedly granted preferential access to the polling station to supporters of a certain political party, while all other voters had to wait in line for their turn. The Electoral Law prescribes that security forces should keep a distance of at least 500 meters from the polling stations.<sup>59</sup>

<sup>53</sup> Republic of Guinea-Bissau, Presidential Decree 20/2018, 20 December 2018.

<sup>54</sup> Security Council Press Statement on Guinea-Bissau, SC/13650, 27 December 2018.

<sup>55</sup> United Nations Centre for Human Rights, *Human Rights and Elections: A Handbook on the Legal, Technical and Human Rights Aspects of Elections*, 1994, para. 73.

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*, referring to article 4 of the ICCPR.

<sup>58</sup> *Ibid.*, citing article 29, para. 2 of the Universal Declaration of Human Rights. *Italics added.*

<sup>59</sup> Republic of Guinea-Bissau, Law No. 10/2013, art. 71.

40. A few days before the elections, the CNE adopted a decision whereby potential voters duly registered and in possession of a voter card but whose names were not included in the CNE's official list of registered voters would not be allowed to vote on 10 March.<sup>60</sup> Such decision detrimentally impacted, two per cent of voters (approximately 14,000 registered voters), according to the CNE. On 17 July 2019, the Ministry of Territorial Administration and Electoral Management announced that corrections to the voter registry will be undertaken from 17 August to 25 September 2019, ahead of the Presidential Elections scheduled for 24 November 2019.<sup>61</sup> No new voters' registration is expected to be conducted for Presidential elections.

41. The preliminary results of legislative elections were published on 13 March. On 15 March, the CNE issued a statement, noting there were no claims to challenge electoral results upon the expiration of 48-hour legal timeframe.<sup>62</sup> It also indicated that the turnout for the 2019 legislative elections was 84.7 per cent: of a total of 761,676 registered voters, 645,085 voted on 10 March. Abstention reached 15.3 per cent, corresponding to 116,591 registered voters. The number of blank votes was 21,877, corresponding to 3.4 per cent of the ballot; the number of null votes was 20,827, corresponding to 3.2 per cent of the ballot; and there were no protest votes.<sup>63</sup> The announcement of the results was peaceful and no post-electoral violence was recorded.

## B. Participation in the conduct of public affairs

42. Article 25 (a) of the ICCPR, recognizes the right of every citizen to "take part in the conduct of public affairs, directly or through freely chosen representatives". International human rights mechanisms have interpreted the "conduct of public affairs" as "a broad concept which relates to the exercise of political power, in particular the exercise of legislative, executive and administrative powers. It covers all aspects of public administration and the formulation and implementation of policy at international, national, regional and local levels".<sup>64</sup> It is increasingly acknowledged that the participation in the conduct of public affairs encompasses the rights to be consulted at each phase of legislative drafting and policymaking, to voice criticism and to submit proposals aimed at improving the functioning and inclusivity of all governmental bodies engaged in the conduct of public affairs.<sup>65</sup>

43. The Constitution recognizes that the State of Guinea-Bissau, as a democracy, is grounded on national unity and on effective popular participation in the performance, control and direction of public activities.<sup>66</sup> Other constitutional provisions and national legislation recognize the right to participate in the conduct of public affairs.

44. The implementation of Article 25 (c) of the ICCPR, which recognizes the right of every citizen "[t]o have access, on general terms of equality, to public service in his country", has proven difficult in Guinea-Bissau. Youth representatives consulted during the 2018 monitoring missions in the regions of Bafatá, Gabú and Quinara pointed to a perceived general lack of transparency in selection processes for public office, which in their view is based on political affiliations, and on a high number of years of prior work experience. They referred to the lack of competitive examinations for entering and progressing in a career in the civil service, which is the main employer in the country. Thus, they felt disempowered and perceived themselves as having a low chance of eligibility for civil servant positions, whilst the private sector does not have the capacity to absorb the potential youth workforce.<sup>67</sup> Overall, the youth referred to deficits in the ability of the State to guarantee equal access to quality education, to the scarcity of vocational trainings, and youth-centered policies, such as access to microcredits to encourage youth entrepreneurship. In their view, these factors contribute to the disengagement by the youth resulting in their subsequent low levels of participation in the conduct of public affairs. The population also indicated that young people tend to be alienated from participating in all spheres of public life due to lack of public policies, such as youth employment policies.

<sup>60</sup> Republic of Guinea-Bissau, CNE Deliberation No. 003/CNE/2019, 06 March 2019.

<sup>61</sup> Republic of Guinea-Bissau, Ministry of Territorial Administration and Electoral Management, Communication No.001/GMATGE/2019.

<sup>62</sup> Following the Legislative elections, the current composition of the ANP is: 47 MPs from PAIGC; 27 from MADEM G-15; 21 from PRS; five from APU-PDGB; one from PND and one from UM, totalizing 102 Parliamentarians, including 13 women.

<sup>63</sup> See National Electoral Commission, "Resultados legislativas 2019" (2019 results of legislative elections). Available at: <http://www.cne.gw/resultados-lg-2019> (Last accessed 20 August 2019).

<sup>64</sup> Human Rights Committee, *General Comment No. 25*, para. 5.

<sup>65</sup> See *generally* the case law of the United Nations Human Rights Committee. See also E/C.12/GC/21, para. 55 (e).

<sup>66</sup> Constitution of the Republic of Guinea-Bissau, art. 3.

<sup>67</sup> The International Labour Organization (ILO) estimates a rate of 6.1 per cent of unemployment in Guinea-Bissau and a rate of 11.6 per cent of youth unemployment. The Official data of youth unemployment in Guinea-Bissau since 1991 and last retrieved in November 2017 is available at: <https://data.worldbank.org/indicator/SL.UEM.1524.ZS?locations=JO-GW> (last accessed on 8 January 2019).

## C. Women's rights to participate in political and public affairs

### 1. Common barriers for women's enjoyment of political and public participation rights

45. Guinea-Bissau is a State party to the main human rights treaties proscribing discrimination against women. The constitution recognizes women and men are equal before the law in "all aspects of political, economic, social and cultural life".<sup>68</sup> Currently there is no consolidated data in Guinea-Bissau on the extent of harmful practices such as female genital mutilation; forced and early marriage, and gender-based violence, including rape and domestic violence.<sup>69</sup> This is compounded by the general dearth of updated and high-quality data disaggregated by sex, which is critical for the elaboration of evidence-based public policies in the country. For example, the Gender Development and Gender Inequality Indexes were not calculated for Guinea-Bissau in the 2016, 2017 and 2018 Human Development Reports due to the dearth of data.<sup>70</sup>

46. Legislative efforts to eliminate gender-based violence and female genital mutilation, and to combat trafficking in persons and prevent domestic violence were undertaken in 2011 and 2014.<sup>71</sup> However, these, and other structural and cultural barriers to the participation of women in political and public life, on an equal basis with men, remain. These include women's economic dependence on men; women's lack of, or very limited, access to social services; patriarchal attitudes towards women and wrongful gender stereotyping against women; and, discriminatory laws and practices against women. Some of those barriers are referred to hereinafter.

#### a) *Gender stereotyping and women's rights to participate in political and public affairs*

47. During stakeholders' consultations, gender stereotyping emerged as an overall challenge compounded by multiple and intersecting forms of discrimination that impact detrimentally on women and girls' right to participate in all spheres of life. Most interlocutors stressed that there was a cultural dimension to the pattern of discrimination against women, which begins with education within the family that in many instances concedes that boys are raised to be heads of household while girls are groomed to be wives.

48. The human rights assessments conducted in the regions of Bafatá, Gabú and Quinara evidenced, especially in remote areas, that remnants of the patriarchal society are still present. Men continue to be considered the head of the family and women continue to be confined to the role of caretaker for their husbands and children. In such scenarios, women reported that they felt disempowered and voiceless as they often require the permission of their husbands to even attend meetings or express their views. This has detrimentally impacted the right of women to express freely and to take part in political and public life: when women participate in the same meetings with men, they often limit themselves to exposing the ideas of men rather than their own ideas. Women also reported that those among them who do challenge their husbands and take part in political activities can face reprisals in the form of domestic violence as a reaction to perceived disobedience.

49. Most communities consulted informed that gender stereotypes relating to the image and the perceived roles and responsibilities attributed to women, are common and perpetuated by local customs and practices and constitute an obstacle for women's effective political and public affairs participation. For example, in the Sector of Boé (Gabú region), women indicated that local customs have often led the community to negatively categorize women who actively engage, or attempt to engage in political activities, portraying them as abandoning their family responsibilities.

#### b) *Access to education and women's rights to participate in political and public affairs*

50. In many families in the regions visited, early forced marriages and the prioritization by parents of involving girls in cashew harvesting during the school calendar are factors that contribute to girls dropping out from the education system, which begins as early as in the fifth grade. This is also a root cause of the low attainment of high levels of education by girls and women with long-term negative consequences on access to equal opportunities and to enjoy their rights to participate in political and public affairs.

<sup>68</sup> Constitution of the Republic of Guinea-Bissau, art.25.

<sup>69</sup> UNDP, *Africa Human Development Report 2016: Accelerating Gender Equality and Women's Empowerment in Africa*, 2016, p. 44.

<sup>70</sup> The Multiple Indicator Cluster Surveys (MICS) is conducted by the Ministry of Economy and Finance, in conjunction with UNICEF every five years and data of the most recent MICS will be released in the last quarter of 2019, at the latest. The 2009 population data is expected to be updated in 2019, with the support of UNFPA and other United Nations agencies.

<sup>71</sup> In 2011, Guinea-Bissau adopted the Law to Prevent, Fight and Suppress Female Genital Mutilation (Law No. 14/2011), and the Law to Prevent and Combat the Traffic of Persons, Particularly Women and Children (Law 12/2011). In 2014, the country adopted the Law against Domestic Violence (Law 6/2014).

51. Stakeholders indicated that harmful practices and persisting wrongful gender stereotypes prevent many girls from exercising their right to education, in a context in which boys are generally given preferential treatment. For example, information received in the sectors of Contuboel, Pirada and Boé indicated that children can only attend class up to sixth grade as there are no high schools in these areas. Students are therefore forced to travel to the main cities, such as Bafatá or Gabú, to pursue their secondary school diploma. In this context, it was reported that families will typically provide more opportunities for boys to study, arguing, for example, that once girls travel to the city, rather than devoting themselves to their studies, they risk to become pregnant, thus bringing an additional burden on their parents. As a result, girls have a lower level of education.

52. The perception that “school is reserved for men because women are given in marriage” or that “girls who receive an education do not accept marriage” is common in the communities. These views are often used to justify the denial of access to education for girls. In the Sector of Buba (Quinara Region), the stakeholders consulted in April 2018, including women groups reported that as a consequence of their lower level of education, women feel disempowered to participate in public events, lacking the confidence to speak in electoral rallies and to express their views in decision-making processes. This disempowerment is, in their view, the result of having been taught to believe that they lack technical and other skills to address complex issues that can only be dealt with by individuals with higher levels of education.

53. Girls’ lack of access to education is further impacted by structural challenges faced in the education system. For example, non-payment of salaries to public school teachers has prompted successive teachers’ strikes, resulting in the programmatic content not being fully taught.

### *c) Women’s participation in economic life*

54. During human rights assessments, many women highlighted that despite their central role in the economic activities of their community, their lack of access to financial resources is a factor that inhibits them to participate in public life. Many women referred to their lack of autonomy to dispose of their own assets without the support of their husbands, and some mentioned that some men wrongfully and forcibly appropriate their wives’ possessions. They also pointed out that even if women contributed more to family-based income-generating activities in the regions visited, they rarely freely enjoyed the income from their work, derived essentially from the production and marketing of farm products such as cashew nuts, peanuts, yams, rice, beans and palm oil. For example, in the Sector of Tite (Quinara Region), the population reported that during the cashew campaign, women actively participate in the cashew harvest, the largest export product of Guinea-Bissau with direct impact on the country’s economy, but that all nuts collected are typically given to the men/husbands who have “legitimacy” to sell and manage the money earned from the sales. In other words, while women bear the brunt of this highly physically demanding work, they are not rewarded with any form of remuneration. This situation contributes to keeping women in a situation of high vulnerability with a negative impact on their ability to participate in political and public affairs.

55. In the regions visited, it was reported that most women engage in agriculture and small businesses as their main economic activities. Despite constituting a considerable percentage of the country’s population, the number of women in large-scale economic activity remains quite small. Moreover, women have little access to land and the means or financing of production. They also reported a lack of road infrastructures and markets to dispose of their products, as well as lack of access to microcredit institutions that could assist financing their activities.

56. Many women also indicated that disagreements on the use of property had resulted in women’s being subjected to domestic violence. To illustrate this, the Gabú Cattlemen's Association indicated that while a much higher percentage (up to 80 per cent) of cattle are registered on behalf of women, in practice the cattle holders are the husbands, who control and take the decisions concerning the cattle, since women do not dispose of the cattle without the consent of their husband. Moreover, even though their right to inheritance is legally protected, especially in urban areas where women are increasingly enforcing their equal right to inheritance via courts, women are often deprived of the right to inheritance. Women consulted during the human rights monitoring missions stated that “the woman has no right because she will get married and go into another family” and in the family constituted with her husband it is claimed that “the woman has no right to inheritance as she depends from the husband”.

57. The close link between obstacles to women’s economic empowerment and women’s ability to participate effectively in public life including decision-making processes was reported systematically during human rights monitoring missions. For example, in the Buba Sector (Quinara Region), many women stated that they were discouraged from participating in public life due to the high cost that holding public office implies, because access to decision-making continues to be conditioned by access to economic means, especially to the means of production.



#### **d) Detrimental voting practices and women's right to vote**

58. During the human rights assessment missions conducted in 2018, stakeholders informed of collective voting by the family or a group imposed by men and traditional leaders. This practice is more detrimental to women since in male-dominated societies women are generally obliged to follow male leaders and thus, their visibility is further reduced. Moreover, domestic violence against women increase in case of non-compliance with this practice.

59. Whilst recognizing that this is not a widespread practice in the regions, stakeholders, particularly in the sectors of Contuboeil and Bafatá, explained that such practices are more frequent among Muslim communities. They further denounced an alleged practice of vote purchasing whereby certain political actors move to some villages, usually on the eve of the elections, and offer goods, such as zinc sheets, to traditional leaders. The traditional leaders, in turn, pray and sometimes take oath before a kola nut (a fruit considered sacred among some Muslim communities in West Africa) and ask for blessings and instruct members of the community to vote for the candidates supported by these politicians. Interviewees reported that the communities follow the traditional leaders' advice for fear of the negative consequences they will face otherwise. While this practice affects the right to vote of both genders, the pressure to follow male leaders in a male dominated society is particularly pronounced for women, and refusal to do so may lead to stigma and increased risk of gender-based and domestic violence.

## **2. Women's representation in public office**

60. International human rights mechanisms have clarified that public participation “comprises the right to take part in the conduct of public affairs, the right to vote and to be elected, and to have access to public service. Moreover, it entails participation in governmental bodies, the judiciary and other agencies of the criminal justice system, decentralized and local forms of government, consultation mechanisms, as well as through cultural or territorial autonomy arrangements”.<sup>72</sup> The constitution of Guinea-Bissau recognizes in article 25 that “men and women are equal before the law in all spheres of political, economic, social and cultural life”. However, women's public participation on a basis of equality with men remains as a challenge in Guinea-Bissau as illustrated by women's limited representation in Parliament, the judiciary and military structures, the two main political parties and other bodies and organizations.

### **a) Women in the Parliament, the Government, the Judiciary and the military structures**

61. Women are not excluded *per se* from top-ranking positions in the Parliament and the Government.<sup>73</sup> However, women's representation at the National Assembly has been continuously low: Out of the 102 seats, there were nine women parliamentarians from 1994 to 1999 (8.8 per cent); seven from 1999 to 2004 (6.8 per cent); 13 from 2004 to 2008 (12.7 per cent); 10 from 2008 to 2012 (9.9 per cent);<sup>74</sup> 14 from 2014 to March 2019 (13.7 per cent). In the 2019 legislative elections, 13 women won seats (12.7 per cent).<sup>75</sup> However, the composition of women parliamentarians in the current legislature might decrease nearly to 10 women (9.8 per cent), as three women elected parliamentarians were appointed as Ministers in July 2019.

62. No woman has ever served as Prime Minister in Guinea-Bissau. From November 2016 to April 2018, women constituted 13.5 per cent of Government positions: out of a total of 37 positions, no woman was appointed at the Ministerial level, and five women were appointed at the level of Secretary of State. From April 2018 to March 2019, women represented 19.2 per cent of Government positions: out of a total of 26 Government positions, three women were appointed at the ministerial level, and two at the level of Secretary of State. In the current Government appointed on 3 July 2019, women constitute 34.4 per cent at the top of Government positions: out of a total of 32 positions eight women were appointed as Ministers and three women were appointed as Secretaries of State. As a very positive note, Guinea-Bissau has reached gender parity in top ministerial positions: women are at the top of eight Ministries out of 16 Ministries. Moreover, out of the nine sectors visited by the Human Rights component of

<sup>72</sup> See A/HRC/13/23, para. 32.

<sup>73</sup> The Government is comprised of the Prime Minister, the Ministers and the Secretaries of State. Constitution of the Republic of Guinea-Bissau, Article 97(1).

<sup>74</sup> Fatumata Djau Baldé e Paulina Mendes, *Relatório Nacional Sobre a Aplicação/Implementação da Declaração e do Plano de Acção de Beijing* (“National report on the application /implementation of the Beijing Declaration and Action Plan”), 1995, p. 27.

<sup>75</sup> The number of women holding seats in parliament may still slightly increase when during the formation of the Government some elected male representatives will be appointed to Government positions and their seats will be encumbered by the next candidates on the respective lists.



UNIOGBIS in 2018, only two sectors, Contuboe and Bafatá (both located in the Region of Bafatá), had women employed as administrators in April 2018.

63. There are no female judges at the Supreme Court of Justice or at the Superior Military Tribunal. In the civilian justice system, 26.7 per cent of judges are women (23 out of 86 judges)<sup>76</sup> and 21.8 per cent of prosecutors are women (19 out of 87 prosecutors).<sup>77</sup> The rate is only 5.8 per cent and 3.4 per cent for women judges and women prosecutors working outside the capital city of Bissau, as only five women judges and three women prosecutors are based in the regions. Female officers in the Judiciary Police constitute 11.87 per cent: of a total of 160 judiciary police officers, 19 are women and none of them is posted outside of Bissau. In the military justice system, there is only one woman employed as a military judge and one woman employed as a military prosecutor. Thus, 14 per cent of military judges are women (one out of seven) and 10 per cent of military prosecutors are women (one out of ten).

64. In 2018, women represented 10.32 per cent of the Bissau Guinean Armed Forces (523 out of 5,064 military officers). The number of women remains very low in high-ranking military positions: There are no women in top-ranking military positions, including generals, lieutenants and colonels. However, there are nine women in high-ranking military positions (four lieutenant colonels and five majors).<sup>78</sup>

**b) Women’s representation in the two main political parties**

65. Information provided to the Human Rights Section of UNIOGBIS indicates that in 2017 the two main political parties in the country (PAIGC and PRS) approved internal resolutions to increase women’s representation within their respective structures to a quota of 30 per cent.<sup>79</sup> The status of implementation of such resolutions in the first semester of 2018 in the regions of Bafatá, Gabú and Quinara is illustrated in table 1.

**Table 1.** Comparative data on women’s representation in the local party structures of the PAIGC and PRS during the first semester of 2018

Political Party	Main party structure in the Regions	Total number of commissioners	Men	Women	Percentage of women
PAIGC (elected members at quadrennial Congress in February 2018)	Regional Political Commission - Bafatá	11	6	5	45.4
	Regional Political Commission – Gabú	11	8	3	27.2
	Regional Political Commission – Quinara	11	7	4	36.3
PRS (elected members at quadrennial Congress in November 2017)	Regional Secretariat – Bafatá	12	7	5	41.6
	Regional Secretariat – Gabú	12	8	4	33.3
	Regional Secretariat – Quinara	12	8	4	33.3

**Source.** Information provided to UNIOGBIS *in situ* by the Political Parties Regional Governing structures during human rights assessment visits conducted in the first semester of 2018.

66. Women’s representation in the regional structures of the political parties was above the quota of 30 per cent in Bafatá and Quinara. At the national level, women’s representation in the Governing Structures of the Political Parties in the third quarter of 2018 was generally low, as illustrated in table 2.

67. Notwithstanding efforts made by political parties to invest in mobilizing women voters, the role of women in the governing structures of political parties is perceived as merely symbolic, given that they are generally not assigned any substantive portfolio. Stakeholders, including women’s groups indicated that women are generally not taken into consideration to handle any substantive portfolios and that the roles assigned to them in past political events was often of an administrative or support nature, including to serve as cooks or dancers. Some of these trends are being reverted with the implementation of the Law 4/2018, as further elaborated in this report.

<sup>76</sup> Information provided by the Human Resources Department of the Supreme Court of Justice.

<sup>77</sup> Information provided by the Human Resources Department of the Office of the General-Prosecutor.

<sup>78</sup> Information provided by the Human Resources Division of the General Staff of the Armed Forces.

<sup>79</sup> PAIGC, *Guião para a realização de Assembleias de Base e Conferências das Estruturas Intermédias* (“Guide for assemblies and conferences of basic and intermediate structures”), November 2017, art. VI.9(b); PRS, Statute, art. 91(4).

**Table 2.** Comparative data on women’s representation in the national governing structures of the PAIGC and PRS

Political Party	Main party structures at the National Level	Men	Women	Percentage of women
PAIGC (elected members at quadrennial Congress in February 2018)	President	1	0	0%
	Vice-Presidents	2	2	50%
	2 <sup>nd</sup> Central Committee	264	87	24,8%
	Political Bureau	63	28	30,8%
PRS (elected members at quadrennial Congress in November 2017)	President	1	0	0%
	Vice-Presidents	5	1	16,7%
	National Council	345	74	17,7%
	Political Commission	156	33	17,4%
	Executive Commission	58	9	13,4%

**Source.** Information provided to the Human Rights Section of UNIOGBIS by the Political Parties Governing Structures at the national level in the third quarter of 2018.

**c) Women representation in other bodies and organizations**

68. In its *General Recommendation 23*, the Committee on the Elimination of Discrimination against Women (CEDAW) stressed that the effective enjoyment of political and public participation rights by women goes beyond the participation in political parties. It also includes, according to CEDAW, women’s participation in civil society through public boards and local councils, trade unions, professional or industry associations, women’s organizations, community-based organizations and other organizations concerned with public and political life.<sup>80</sup>

69. According to the Bar Association, of a total of 118 registered barristers in the country, 12 are women (10.2 per cent of the total of registered barristers in the country). No registered women barristers are working outside the capital, Bissau. Information provided by the Centres of Access to Justice (CAJ), indicates that of a total of 31 CAJ officers, seven are women officers providing legal advice (22.5 per cent). The rate is only 9.7 per cent for women CAJ officers working outside Bissau (three women CAJ officers).

70. Women’s professional organizations are scarce, except in the legal, medical and journalistic fields. The Women’s Political Platform (PPM) was constituted in 2008, with the support of UNIOGBIS to foster political stability efforts. Consisting of more than 11 women’s organizations from civil society and focal points in each political party, the PPM is currently the country’s largest platform for awareness-raising and advocacy for inclusion and political participation of Bissau-Guinean women. It played a crucial role in consensus-building for the approval by the Parliament of the *Law of parity for the participation of women in politics and in the spheres of decision-making* (Law 4/2018).

**d) The legislative elections of 10 March 2019 and the implementation of the 2018 Law of Parity for the participation of women in politics**

71. The *Law of parity for the participation of women in politics and in the spheres of decision-making* (Law 4/2018),<sup>81</sup> promulgated by the President of the Republic on 3 December 2018, sets a minimum of 36 per cent of women candidates in all lists for elective positions in the legislature and in municipality assemblies. The non-compliance with the Law by political parties implies specific procedures and penalties, including that the CNE should disclose through the media the list of parties that do not comply with the established quota. Non-compliance should also result in the loss of all fiscal exemptions and a proportional reduction of public incentives for electoral campaigns.<sup>82</sup>

72. After vetting and lists’ validation processes, 24 out of 49 political parties legally recognized in Guinea-Bissau submitted their credentials to participate in the legislative elections of 10 March 2019. Three political parties were disqualified from participation by the Supreme Court for their failure to provide, or meet the deadline to provide, the requisite data to complete registration.

73. On 8 February 2019, the Supreme Court of Justice published the list of candidates from 21 political parties that were running for legislative elections. Women represented on average 31.2 per cent of candidates in electoral rolls: of a total of 2,654 candidates, 830 were women. In the legislative elections of 10 March 2019, women represented 30.8 per cent of titular candidates (409 of a total of 1,325), 16.7 per cent of top list candidates (62 lists out of a total of 370)

<sup>80</sup>A/52/38, para. 5.

<sup>81</sup> Original title in Portuguese: *Lei de Paridade para a participação das Mulheres na política e nas esferas de tomada de decisão*.

<sup>82</sup> Republic of Guinea-Bissau, Law 4/2018, arts. 7-10.

and 38.1 per cent of candidates listed in second position in electoral rolls (98 out of 257). The chances of women being elected when listed in second position are much lower.

74. On 18 February 2019, the CNE issued a statement informing that 13 parties failed to comply with the Parity law, and that the list of those parties would be communicated to the Ministry of Economy and Finance and other entities of the tax administration to ensure strict compliance with article 10 of the law, regarding the loss of tax benefits.<sup>83</sup> Eight political parties complied with the Law 4/2018 in the electoral rolls in all constituencies: the Democratic Convergence Party (PCD); the Democratic Party for Development (PDD); the African National Congress (CNA); the Party of National Unity (PUN); the Patriotic Movement (MP); the Manifest of People (Manifesto); the Union of Guinean Patriots (UPG); and the Union for Change (UM).

75. The initial new configuration of the National Assembly indicates that 12.7 per cent of elected parliamentarians are women: Out of 102 elected parliamentary seats, 13 are held by women (10 elected by PAIGC, two by MADEM-G15 and one by PRS). Elected women candidates were placed at the top in 10 electoral rolls, and in second and third positions in two electoral rolls each. Out of the 13 women holding parliamentary seats, three women were appointed to serve in Government.<sup>84</sup> Due to the replacement of parliamentarians that were appointed to serve in Government by the next candidates in the respective list, the number of 13 women deutes in the 2019-2022 legislature may still be reduced.

**Table 3.** Comparative data on women’s inclusion in the first and second position in the Political Parties 2019 electoral rolls

Political Party (Portuguese acronym)	Total of candidates	Total of female candidates (percentage)	# of Women in Top list (second list position)
Party for Social Renewal (PRS)	102	29 (28.4%)	2 (5)
Movement for Democratic Change (MADEM-G15)	102	20 (19.6%)	2 (3)
Patriotic Front for National Salvation (FREPASNA)	102	32 (31.37%)	7 (6)
African Party for the Independence of Guinea and Cabo Verde (PAIGC)	102	28 (27.4%)	7 (4)
United People’s Assembly – Guinea-Bissau Democratic Party (APU-PDG)	100	23 (23%)	3 (7)
Union for Change (UM)	97	32 (33%)	7 (12)
New Democracy Party (PND)	91	35 (38.4%)	5 (12)
Resistance of Guinea-Bissau (RGB)	90	24 (26.6%)	3 (4)
Democratic Convergence Party (PCD)	90	31 (34.4%)	10 (5)
Guinean Democratic Movement (MDG)	66	24 (36.3%)	2 (7)
Guinean Movement for Development (MGD)	57	17 (29.8%)	3 (4)
Republican Party for Independence and Development (PRID)	54	19 (35,1%)	5 (5)
Patriotic Movement (MP)	52	18 (34.6%)	1 (5)
Union of Guinean Patriots (UPG)	46	17 (37%)	1 (6)
Democratic Centre (CD)	35	11 (31.4%)	2 (2)
Social Democrat Party (PSD)	31	13 (42%)	0
Party for Justice, Reconciliation and Work - Platform of Democratic Forces (PJRT-PFD)	26	10 (38.4%)	0 (0)
Manifest of People (Manifesto)	25	8 (32%)	0 (1)
Party of National Unity (PUN)	23	7 (30.4%)	2 (2)
African National Congress (CNA)	20	6 (30%)	0 (1)
Democratic and Development Party (PDD)	14	5 (35.7%)	0 (0)

**Source.** Information analysed by UNIOGBIS from information provided by various constituencies.

76. Despite progress made, the initial assessment of the implementation of the Law 4/2018 shows that the number of women candidates eligible through vote for the 2019 legislature was low in connection with the minimum 36 per cent it established. Some women leaders suggest that this could be minimized by a future review to the law to

<sup>83</sup> According to CNE, the political parties not compliant with the Law 4/2018 are PAIGC; PRS; PCD; RGB-MB; PSD; PRID; PJRT-PFD; PND; APU-PDGB; FREPASNA; MDG; MADEM-G15; MGD.

<sup>84</sup> See Republic of Guinea-Bissau, Presidential Decree 10/2019, 3 July 2019. Women deutes that won legislative seats in the 14<sup>th</sup>, 20<sup>th</sup> and 27<sup>th</sup> Electoral Circles, were appointed, respectively, in the top-ranking position of the Ministry of Foreign Affairs and Communities, the Ministry of Fisheries and the Ministry of Territorial Administration and Electoral Management.

include mandatory alternation between women and men in the electoral lists and/or a minimum quota for women in Parliament.

77. It is expected that the full implementation and enforcement of the Law 4/2018 will contribute to long-lasting changes in power relations between men and women, concerning the enjoyment of the rights to participate in political and public affairs in Guinea-Bissau. Those changes have already started: as a direct result of the adoption of the law, national constituencies mobilized around women's right to participate in political and public affairs, including through the media, in public debates and statements. Moreover, political parties mobilized over 800 women for the configuration of electoral rolls to ensure a stronger female presence within their ranks.

78. From 11 to 12 July 2019, UN Women convened a seminar in Bissau on "Women's Political Participation and the Law of Parity: Lessons Learned". Main recommendations formulated by the 55 participants including 49 women from Parliament, Political Parties, Women's Lawyers Association and other non-government organizations included, among others, the need to (i) ensure that women have better access to information, including on electoral processes; (ii) organize special trainings to empower women to claim their public and political participation rights; (iii) revise the Constitution and the electoral and political parties legislation as well as the Parity Law to ensure the inclusion of gender equality provisions, and enhance gender equity and gender equality advocacy efforts; (iv) strengthen women's financial capacity and address challenges in securing financial and material support, which are barriers to women's participation in political life, on an equal footing with men; (v) establish mechanisms to submit and address complains of violations of women's human rights, including in the context of participation in political and public affairs (e.g. sexual harassment, defamation, lack of freedom to decide by themselves); and (vi) promote solidarity among women of different political backgrounds.

#### **D. Other human rights linked to the rights to participate in political and public affairs**

79. All human rights are indivisible, interrelated and interdependent. There are, however, human rights that play a direct role in supporting and enabling equal and inclusive participation. The Human Rights Committee has recognized that the rights to participate in political and public affairs require that positive measures be taken to ensure the full, effective and equal enjoyment of electoral rights as well as the freedoms of expression, information, assembly and association, which are "essential conditions for the effective exercise of the right to vote and must be fully protected".<sup>85</sup>

##### **1. The right to peaceful assembly**

80. Article 21 of the ICCPR recognizes to everyone the right to peaceful assembly, and highlights that only those restrictions that are necessary in a democratic society, in the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others may be applied. International human rights instruments have clarified that restrictions to peaceful assembly must be lawful, necessary, and proportional to the aim pursued, that they must not impair the essence of the right to assembly and to demonstrate, and that they are to be the exception rather than the norm.<sup>86</sup>

81. Article 54 of the Constitution of Guinea-Bissau recognizes the right to peaceful assembly and to demonstrate, which is further regulated by the *Law on the Right to Assembly and to Demonstrate* (Law No. 3/92 of 6 April 1992).<sup>87</sup> This law sets up restrictions to the exercise of these rights, including geographic and time limitations.<sup>88</sup>

82. Law 3/92 also requires a minimum of four working-days prior notice to the Ministry of Interior in Bissau, or to the respective Command of the Public Order Police for assemblies in the regions.<sup>89</sup> However, recommendations made by international human rights instruments on the management of assemblies indicate that "any notice period must

<sup>85</sup> Human Rights Committee, *General Comment No. 25*, paras. 12, 26 and 27.

<sup>86</sup> See CCPR/C/21/Rev.1/Add.9, para. 13; A/HRC/31/66, para 29.

<sup>87</sup> Republic of Guinea-Bissau, Law No.3/92 of 6 April 1992.

<sup>88</sup> *Ibid.*, art. 4 (2-3) and art. 5 (1-2). Article 4(2) states that "authorities may prevent the holding of meetings or demonstrations in public places located less than 100 meters from the headquarters of organs of sovereignty, medical and educational facilities and markets". Article 4 (3) expressly forbids to hold meetings or demonstrations in public places situated less than 100 meters from the premises of the military and militarized forces, prisons, diplomatic or consular representations and the headquarters of other political parties. In terms of temporal limitations, according to article 5 (1) meetings and demonstrations cannot take place after 10 p.m.; marches can only take place on Sundays and holidays and on Saturdays after 1 p.m. and on working days after 7 p.m. (Article 5(2)).

<sup>89</sup> Republic of Guinea-Bissau, Law No.3/92 of 6 April 1992, art.6.

be as short as possible, while still allowing the authorities sufficient time to prepare for the assembly — a maximum of several days, ideally 48 hours”.<sup>90</sup>

83. International human rights mechanisms recommend that in States where a notification system is in place for the holding of peaceful assemblies, such a system: (i) must facilitate peaceful assembly; (ii) must not operate as a *de facto* requirement for prior authorization to hold an assembly; and (iii) must not be overly bureaucratic.<sup>91</sup> Moreover, international human rights mechanisms also recommend that notification for the holding of a peaceful assembly should be deemed to have been completed when the respective State authority receives a notice providing sufficient information for the authority to reasonably determine the date, time and location of the assembly and, when relevant, the contact details of the organizer. A response from the authority should not be required to complete notification or for the assembly to proceed.<sup>92</sup>

84. To satisfy the requirement of lawfulness, any restrictions imposed on the right to peaceful assembly must have a legitimate and formal legal basis (the legality principle), as must the mandate and powers of the restricting authority.<sup>93</sup> To conform to the principle of proportionality, restrictions to the right to peaceful assembly must be appropriate so that they achieve its protective function. To meet the requirement of necessity, any restriction to the right to peaceful assembly must also be the least intrusive measure among those that might achieve the desired result.<sup>94</sup> In determining the least intrusive measure to achieve the desired result, authorities should consider a range of measures, with prohibition being the very last resort. To this end, blanket bans, including bans on the exercise of the right entirely or on any exercise of the right in specific places or at times, are intrinsically disproportionate, because they preclude consideration of the specific circumstances of each proposed assembly.<sup>95</sup> In November 2016, the Ministry of Territorial Administration issued Ministerial Order 2/GMAT/2016 to prohibit indefinitely public demonstrations and rallies all over the country, unless otherwise authorized. This order is not aligned with international standards as it amounts to a blanket ban and the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association has stated that blanket bans are intrinsically disproportionate, because they preclude consideration of the specific circumstances of each proposed assembly.<sup>96</sup>

85. From January to December 2018, out of the 14 demonstrations monitored by the Human Rights Section of UNIOGBIS,<sup>97</sup> five were dispersed by security forces,<sup>98</sup> and one ended with incidents of violence by both organizers and security forces.<sup>99</sup> The lack of compliance by the organizers with the notice period set up by the law was the most common argument by national authorities to justify the dispersion of peaceful demonstrations.

86. From January to July 2019, out of the 23 demonstrations monitored by the Human Rights Section of UNIOGBIS<sup>100</sup>, six demonstrations were dispersed by security forces due to alleged lack of compliance by the organizers with the notification system established by law.<sup>101</sup> Two demonstrations also ended in violence.<sup>102</sup> Moreover, three planned demonstrations did not take place: the demonstration initially planned for 16 January 2019 was cancelled due to the alleged refusal of national authorities to receive the written notice sent by the organizers of the demonstration. Whereas a demonstration initially planned for 27 February 2019 was cancelled by the organizers following the pre-emptive arrests of 12 persons, a demonstration initially planned for 30 May was rescheduled to 8 June to ensure higher adherence by the organizers.

87. During the reporting period, UNIOGBIS observed that the Law No. 3/92 of 6 April 1992 was applied differently to similar situations in Guinea-Bissau. Targeted restrictions to the right to peaceful assembly affected a

<sup>90</sup> A/HRC/31/66, para 28 (d).

<sup>91</sup> A/HRC/31/66, para 28. (b).

<sup>92</sup> *Ibid.*, para 28. (c).

<sup>93</sup> See OSCE/ODIHR, *Guidelines*, para. 35, and European Court of Human Rights, *Hyde Park and others v. Moldova*, application No. 33482/06, 31 March 2009.

<sup>94</sup> See Human Rights Committee, *General Comment No. 27*, para. 14.

<sup>95</sup> See A/HRC/23/39, para 63 and A/HRC/31/66, para 30.

<sup>96</sup> See A/HRC/23/39, para. 63.

<sup>97</sup> These demonstrations took place on 18 February, 4 March, 4 April, 12 and 21 May, 20 and 28 July, 21 October, 4, 8, 11, 14, 22 November and 7 December 2018.

<sup>98</sup> These demonstrations were planned for 12 February, 10 April, 14 April, 27 August and 8 November 2018.

<sup>99</sup> This demonstration took place on 8 November 2018.

<sup>100</sup> These demonstrations took place on 8 January, 8 February, 14 February, 9 March, 13 March, 1 May, two demonstrations took place on 14 May, 22 May, 25 May, 30 May, 1 June, three demonstrations took place on 6 June, 7 June, 11 June, two demonstrations took place on 13 June, 15 June, 24 June, 23 July, 31 July 2019.

<sup>101</sup> These attempted demonstrations took place on 20 January, 12 April 2019, 6 May, 15 May, 27 May and 23 July 2019.

<sup>102</sup> These demonstrations took place on 8 February and 9 March 2019.



youth and social movement, a confederation of associations, various other associations and workers' unions and a political coalition. For example, on 27 May 2019, the Police dispersed, without reported incidents or injuries, a demonstration organized by a confederation of students' associations in Bissau, as a reaction to the closure of many schools due to teachers' strikes motivated for the lack of payment of salary arrears. Police officers affirmed they had been ordered to prevent the demonstration because the organizers failed to provide a written notification to the national authorities as prescribed by the Law. However, UNIOGBIS had access to the notice submitted by the organizers to national authorities on 23 May 2019.

88. When restrictions have been imposed, no option has been provided to the demonstration organizers to seek judicial review and, where relevant, administrative review, that is prompt, competent, independent and impartial. In this connection, the Special Rapporteur on the right to peaceful assembly and of association recommends that organizers should be given the possibility of an expedited appeal procedure, with a view to obtaining a judicial decision by an independent and impartial court prior to the notified date of the assembly.<sup>103</sup>

89. On 8 February 2019, a demonstration initially called by a student movement demanding access to education in reaction to the announcement of a new strike of public teachers foreseen for 11 February, turned into widespread and violent demonstrations across the capital, Bissau. The organizers stated that they had lost control of the demonstrations and that vandalism and trespassing of private property, including the headquarters of some political parties, was orchestrated by infiltrated agitators. At least seven individuals received medical treatment for injuries, including two with sustained serious injuries. At least 96 persons were arrested by the Public Order Police and detained in an overcrowded Police cell, with scarce food and water. According to the Police, 14 were released the same day. On 9 February, the Police and various organizations to which the arrestees belonged to, reached an agreement facilitated by the Human Rights Section of UNIOGBIS to release 77 persons under arrest, with the commitment that they would return on 11 February for hearings. None of the 77 persons were further notified to appear in court for the hearings, and the five persons that remained in pre-trial detention for charges associated to vandalism, were released a few days later. On 15 February 2019, international partner organizations in Guinea-Bissau issued a press statement on the incidents of 8 February, among others, recalling the right of students to demonstrate, urging the Government and trade unions to comply with the agreements undertaken and calling upon social actors to maintain efforts for the holding of peaceful, transparent and inclusive elections on 10 March 2019.<sup>104</sup>

90. On 26 February 2019, 12 members of a movement of students who led demonstrations against the suspension of classes in public schools resulting from continuous strikes by public teachers due, *inter alia*, to lack of payment of salary arrears, were arrested for approximately 11 hours. Inconsistencies in the narrative of both arrestees and police agents illustrated an unclear framework of legality for the arrests. According to the information received from the police, the arrestees were planning an "illegal" demonstration in a public school in Bissau, and accordingly, were arrested as a preventive measure to preserve public order. Given the unclear frame of legality of the arrests, on the same day, the Human Rights Section of UNIOGBIS, together with the Human Rights League, facilitated the release of those arrested. International human rights mechanisms have highlighted that arrest of protestors to prevent or punish the exercise of their right to freedom of peaceful assembly, for example, on charges that are spurious, unreasonable or lack proportionality, may violate the protection against arbitrary arrest or detention. The mechanisms also highlighted that intrusive pre-emptive measures should not be used unless a clear and present danger of imminent violence actually exists, and that "mass arrest" of assembly participants (or, as in this case, of participants planning an assembly) often amounts to indiscriminate and arbitrary arrests.<sup>105</sup>

91. On 9 March 2019, the day before legislative elections, a demonstration of PRS militants turned violent as demonstrators threw stones against a hotel in Gabú where the Prime Minister was accommodated. The incident purportedly was motivated by alleged accusations by PRS militants of alleged attempts by the Government to bribe traditional leaders to vote for PAIGC. The local news published a Press Release of the Office of the Prime Minister issued on the same day, strongly denying the allegations of attempted bribery. Civil Society organisations reported that ten PRS militants were injured in clashes with security forces. UNIOGBIS monitoring with the local hospital confirmed that seven demonstrators were treated for injuries sustained during the demonstration.

92. Overall, there has been a marked increase in demonstrations in the month of May 2019 with a total of three political demonstrations of the parties with parliamentary majority (PAIGC, APU-PDGB, UM and PND) to urge the

<sup>103</sup> A/HRC/23/39, para. 64

<sup>104</sup> Press statement available in Portuguese at: <https://www.cplp.org/id-2595.aspx?PID=7415&M=NewsV2&Action=1&NewsId=8250>

<sup>105</sup> A/HRC/31/66, para.45, 49 (g).

President to appoint the new Prime Minister with a view to the subsequent formation of a new government, which is expected after the 10 March 2019 legislative elections. Demonstrations decreased in June with the appointment of a new Prime Minister.<sup>106</sup>

## 2. The right to freedom of opinion and expression

93. The right to freedom of opinion and expression is a central pillar of democratic societies; a prerequisite for free and fair electoral processes, and meaningful and representative public and political discourse.<sup>107</sup> As such, it is enshrined in international human rights instruments,<sup>108</sup> and is fundamentally interrelated with article 25 of the ICCPR, which recognizes the right to participate in government through free and fair elections. According to the Human Rights Committee “the free communication of information and ideas about public and political issues [...] implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion.”<sup>109</sup> Thus, the right to participate in public life cannot be fully realized without protecting and promoting the right to freedom of opinion and expression in all its dimensions.<sup>110</sup>

94. The Constitution of Guinea-Bissau recognizes the right to freedom of opinion and expression, the right of access to information, including the rights to seek and receive information and the freedom of the press.<sup>111</sup> The Constitution also highlights that the State guarantees press, radio and television services that are independent of economic and political interests and that ensure the expression and confrontation of opinions.<sup>112</sup> The Constitution also provides for the creation of a National Council for Social Communication (NCSC), established in 2013, as an independent body in charge of ensuring respect for the independence of the services of radio, television and the press and for ideological pluralism.<sup>113</sup> Freedom of the press is further regulated by the Law<sup>114</sup> and the State is encouraged to adopt a law on access to information based on the model law developed by the African Commission on Human and Peoples’ Rights.<sup>115</sup>

95. Reporters without Borders ranked Guinea-Bissau 83 in a list of 180 countries included in the 2018 World Press Freedom index, noting that journalists often censor themselves when covering government activities and issues surrounding organized crime as well as the military, and that some journalists have fled abroad to escape threats and intimidation.<sup>116</sup>

96. Whilst direct violence or threats against journalists is not a widespread pattern in Guinea-Bissau, a few incidents have been reported. For example, in August 2018 a member of the National Assembly who was criticized in a radio programme for affirming there was corruption among journalists, entered the radio channel that broadcasted the programme and tried to physically assault the journalist responsible for the programme. Thereinafter he offered public apologies for the incident.

97. In the context of electoral processes, stakeholders have highlighted the need to ensure pluralistic political and media environments and to address the lack of State budget allocated to the functioning of public broadcasters. Journalists and other stakeholders pointed out that the media has resorted to the acceptance of, or the request for, payment for their work undermining the quality of reporting, and impacting detrimentally on the media’s willingness to cover government activities. Moreover, in the past two years, the NCSC has issued at least four statements on freedom of expression, including a call urging public authorities, particularly the executive, to refrain from interfering with the media,<sup>117</sup> and urging the national television to stop discriminating in the coverage of political activities and to strictly observe the principles of pluralism and diversity.<sup>118</sup>

<sup>106</sup> Republic of Guinea-Bissau, Presidential Decree 06/2019, 22 June 2019.

<sup>107</sup> A/HRC/36/30, para. 10.

<sup>108</sup> See UDHR, art.19 and ICCPR.

<sup>109</sup> Human Rights Committee, *General Comment No. 34*, CCPR/C/GC/34.

<sup>110</sup> A/HRC/36/30, para. 75.

<sup>111</sup> Constitution of the Republic of Guinea-Bissau, arts. 51 (1); 34; 56 (1).

<sup>112</sup> *Ibid.*, art.56 (3).

<sup>113</sup> *Ibid.*, arts 56 (4); See also Law 8/2013 (on the National Council of Social Communication) arts.1-4.

<sup>114</sup> See Law on Freedom of the Press (Law 2/2013 of 25 June); Law on Television (Law 3/2013 of 25 June) and Law on Radio (Law 4/2013 of 25 June).

<sup>115</sup> The model law is available at: [http://www.achpr.org/files/news/2013/04/d84/model\\_law.pdf](http://www.achpr.org/files/news/2013/04/d84/model_law.pdf)

<sup>116</sup> The 2018 World Press Freedom index is available at: <https://rsf.org/en/guinea-bissau> (last accessed 3 February 2019).

<sup>117</sup> Republic of Guinea-Bissau, National Council for Social Communication, Deliberation 2/2016 of 18 July 2016.

<sup>118</sup> Republic of Guinea-Bissau, National Council for Social Communication, Deliberation 7/2016 of 28 December 2016.

98. Stakeholders also expressed concern about direct government control over media licensing as there are no laws establishing licensing procedures, and the NCSC only has the authority to render non-binding opinions on the licensing of broadcasters.<sup>119</sup> It should be noted that the independence of the NCSC is expected to be strengthened, *inter alia*, by establishing that the vice-chair will be a representative from the Union of Journalists, through legislative amendments passed by the National Assembly in December 2018 and yet to be promulgated by the President of the Republic.

99. In the context of the 2019 legislative elections, freedom of expression and the press continued under strain in State-owned media. There were allegations of censorship of activities of some parties notwithstanding the Electoral Law stipulating that public authorities shall provide equal treatment to all candidates.<sup>120</sup> On 28 January 2019, the Union of the National television suspended the broadcasting of news relating to political parties arguing lack of conditions for fair and equal treatment of information. The Union also demanded the dismissal of the Editor-in-Chief of the public television broadcaster, whom in the Union's view was exercising censorship by favouring coverage of some political parties over others. Other stakeholders claimed that the situation was grounded on the fact that the President of the Journalists' Union reportedly belonged to an influential political party, while the Editor-in-Chief publicly declared that he belonged to another political party. This illustrates that political affiliation and differences in some instances have had a detrimental impact on the independence of the State-owned media.

100. On 30 January 2019, Reporters without Borders called upon Bissau-Guinean authorities to stop interfering in the editorial policy of the public television broadcaster, stressing that interference is unacceptable and undermines pluralism of opinions, which is essential in the context of parliamentary elections.<sup>121</sup> A positive step was the adoption on 15 February 2019 of a *code of conduct for electoral coverage* signed by media outlet directors. Moreover, public television broadcasting was not suspended during the pre-electoral and electoral period even when there was a partial strike by the national television staff union from 28 January to 12 February 2019 and a strike by the trade unions of the state-run media outlets, with the exception of the national television, from 29 January to 11 February 2019.

### E. Civic space and human rights defenders

101. The right of civil society actors to have their views incorporated within legislative and policy-making processes and to freely voice criticism or submit proposals to improve the functioning of public authorities has been recognized at the international level as part of effective participation. The role of civil society actors and human rights defenders in the promotion and protection of human rights, including the rights to participate in political and public affairs, has also been widely acknowledged.<sup>122</sup>

102. Civil society efforts to enhance women's participation in public affairs were initially led by the *Plataforma Política das Mulheres* (Women's Political Platform) and subsequently by the Women's Forum for Peace, a civil society coalition, with a core group of women mediators -the Women's Facilitation Group-, established in 2017 with the support of UNIOGBIS. In 2018, the Women's Facilitation Group was transformed into the Bissau-Guinean Women's Council, an enlarged structure composed of 25 women, including members of political parties and regional representatives.

103. The formal establishment of a national Human Rights Defenders Network (HRDN), in December 2017, with the technical and financial support of UNIOGBIS and of OHCHR, was welcomed, in particular by Member States of the Security Council,<sup>123</sup> as an important contribution to reinforce the role of civil society and human rights defenders in a juncture of instability in Guinea-Bissau. Since its formalization, the HRDN has undertaken untiring efforts to create an enabling environment for human rights defenders to work in the country.

104. With the technical and financial support of UNIOGBIS and OHCHR, the HRDN undertook a country-wide mapping exercise, which resulted in the identification of 897 human rights activists, including 343 women. In order to lay the foundations of a human rights early warning mechanism, particularly in remote areas, the mapping exercise led to the designation of the Network focal points on the ground. The mapping exercise further contributed to enhance communication, interaction and coordination between individuals and organizations working in the field of human rights. This included cross-fertilization on the analysis of good practices, lessons learned, human rights challenges and

<sup>119</sup> Republic of Guinea-Bissau, Law 8/2013, 25 June 2018, art. 4 (f).

<sup>120</sup> Republic of Guinea-Bissau, Law 10/2013, art. 29(3).

<sup>121</sup> Available at: <https://rsf.org/en/news/guinea-bissau-government-asked-not-interfere-tv-news-coverage> (last accessed 3 February 2019).

<sup>122</sup> See A/HRC/16/44/Add.2, para. 106. See also *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, art. 8.

<sup>123</sup> See S/PV.8182, p. 10.

trends of human rights violations and ways and means to address them. The mapping exercise also offered an in-depth understanding of vulnerabilities and challenges that adversely impact the ability of human rights defenders to undertake their activities in an effective manner.

105. Human rights assessments conducted during the mapping exercise evidenced instances of discrimination, unequal treatment, harassment and restrictions of political and public participation rights against human rights defenders, including members of civil society organizations advocating for the rights of marginalized groups. Although subject to the same risks faced by all human rights defenders, women defenders were found to be targeted for, or exposed to, gender-specific threats and violence. When engaging in activities to promote women's political participation, women human rights defenders indicated they were perceived as challenging traditional gender roles. As a result, they are stigmatized and subjected to discrimination and, in some instances, to violence.

106. As a result of the mapping exercise, three categories of challenges faced by human rights defenders were documented. The first category corresponds to areas with a critical need to raise human rights awareness. In these areas there are important deficits in the presence of State institutions, including lack of access to basic services and detrimental social and cultural beliefs and practices. This trend was identified in the sectors of Boé, Sonaco, PITCHI, Pirada in the region of Gabú; the sectors of Caio, Bigéne in the Region of Cacheu; the sectors of Cossé, Xitole, Ganadu in the region of Bafatá; the sectors of Empada, Fulacunda, Tite in the region of Quinara, and the sector of Uno in the region of Bolama. In the sector of Sonaco in the region of Gabú, the Human Rights Section of UNIOGBIS and the HRDN were informed of a very reduced number of human rights activists due to a hostile security environment, characterized by reported intimidation patterns by the local police against human rights defenders.

107. The second category corresponds to areas where there are persistent and significant gaps in knowledge and skills on the defenders' role, as well as on the role of security, justice and other State institutions. Such gaps impair the effective performance of State authorities and of human rights defenders and highlight a critical need to disseminate information on the defenders' role and on the role of State institutions. Despite basic information on human rights' protection, the lack of skills on human rights monitoring was systematically mentioned as a factor contributing to the defenders' challenges to follow-up on cases of human rights violations. This trend was identified in the sectors of Contuboel and Bambadinca in the Region of Bafatá; the sector of Canchungo in the region of Cacheu; the sector of Mansoa in the Region of Oio; the sectors of Catio and Quebo in the region of Tombali; and the sectors of Bubaque and Bolama in the region of Bolama.

108. The third category corresponds to semi-urban and urban areas, where efforts by human rights defenders to advocate for effective responses to address human rights violations are overshadowed by dysfunctionalities in the justice system. Although the defenders are equipped with basic information on the promotion and protection of human rights, they need to boost their coordination mechanisms to address human rights challenges on the ground. This trend was identified in Bissau, in the capital cities of the Regions of Bafatá, Gabú and Quinara (Bafatá, Gabú and Buba) and in the sectors of São Domingos and Bula in the region of Cacheu.

109. On the poll day, the focal points of the HRDN in the regions conducted basic human rights monitoring based on training sessions provided by the Human Rights Section of UNIOGBIS in the regions of Bafatá, Oio and Quinara for a total of 105 focal points, including 57 women. Furthermore, between April and June 2019, UNIOGBIS conducted five workshops in the regions of Biombo, Bolama, Gabu, Oio and Tombali for 175 human rights defenders, including 73 women. The workshops aimed at setting the technical ground for establishing a functional human rights early warning system coordinated by the Network.

## V. Measures taken by the Government and other stakeholders

110. Between 2018 and February 2019, the *Ad Hoc* Commission of the National Assembly on the revision of the Constitution undertook a number of activities of its workplan, including several retreats to review some of the articles of the draft constitution. The *Ad Hoc* Commission should resume its work to finalize the revision of the current constitution and submit it for approval by the Parliament and the President of the Republic, ensuring that the future constitution is aligned with the treaty obligations of the State, including those contained in the International Covenant on Civil and Political Rights ratified by Guinea-Bissau.

111. The Government with the support of various stakeholders took positive steps in promoting and ensuring respect for the rights to participate in political and public affairs. In 2018, the National Institute of Statistics, in partnership with an academic institution, and with the financial support of the European Union, conducted the first public opinion survey aimed at understanding the populations' perception about public life in Guinea-Bissau. The



survey took place from 17 June to 18 July 2018 and included a random sample of 1.184 Bissau-Guineans from 148 districts, including 42 in Bissau, and 106 in the regions. According to the survey, the understanding of the word “democracy” is limited in the country as 50 per cent of the interviewees failed to define the term. However, the survey indicated that the limited understanding of the word “democracy” does not impair Bissau-Guineans to identify themselves with some democratic values such as the rule of law; free, fair and periodic elections; political pluralism; the right to assembly and to demonstrate and the rejection of authoritarian regimes. The survey also showed that 48 per cent of interviewees associated the term “democracy” to the notion of liberty, 26 per cent to the will of the people, six per cent to peace and five per cent to the choice of leaders. Regarding peaceful assembly, 75 per cent of interviewees believed that the Government could not limit the right to demonstrate. Seventy per cent indicated that they felt free to express ideas and opinions and 67 per cent felt free to join any political organization. Equality between women and men was important for 78 per cent of the interviewees; 76 per cent agreed that women should have equal opportunities to be elected and 85 per cent agreed that women should have the same rights than men concerning land heritage and tenure. Regarding democratic elections, 73 per cent were in favour of regular, open and transparent elections, while 75 per cent of the interviewees indicated they felt free to select the candidates of their choice without external pressures.<sup>124</sup>

112. In December 2018, the President of the Republic *promulgated the Law of parity for the participation of women in politics and in the spheres of decision-making* (Law 4 of 2018) and on 14 February 2019, State and political and civil society actors adopted a *Pact of Political and Social Stability* and a *Code of Conduct and Ethics for the 2019 legislative elections*, whose overall implementation will be monitored by civil society. Through various platforms, women played a strategic role in the drafting, consultations and promotion of both documents. Moreover, in 2018, a code of conduct on ethical standards in journalism was endorsed by the professional association of journalists and the Union of Media Professionals.

113. In April 2018, the newly-established Bissau-Guinean Women’s Council (former Women’s Facilitation Group) promoted regional fora on peace and social cohesion, in the regions of Gabú, Bafatá, Biombo, Bolama, Bubaque, Cacheu, Oio, Quinará and Tombali, bringing together more than 400 participants, mostly women members from local civil society organizations, youth, teachers and other professionals. Each region elected a representative to the Council for one year. In May 2018, the Council organized the first national Women and Girls’ Forum for Peace (FORMUPAZ), which was attended by more than 800 participants, mostly women. A key recommendation from the national forum was the adoption of gender-related legislation to ensure equal participation of men and women. At the Forum, participants also agreed to hold a yearly Women and Girls’ Forum for Peace, which took place on 29 and 30 January 2019 and included more than 500 participants, mostly women. The forum urged all stakeholders to adopt mechanisms for the dissemination of the Law 4/2018 with a focus on rural women. One of the main outcomes of the event was a general appeal to national authorities to address the challenges that prevent women’s access to education, and a call to political parties to safeguard political peace and stability during and after the 10 of March 2019 elections, through a Code of Conduct and Ethics for the 2019 elections.

114. European Union initiatives aimed at promoting respect for the rights to participate in political and public affairs, included contributions to the UNDP-managed Basket Fund for the 2019 legislative elections, and support to the Group of Civil Society Organizations for Elections and the West Africa Initiative for Peacebuilding, which enabled them to monitor the election processes and follow-up on recommendations issued by previous international observation missions. UNIOGBIS, together with other United Nations entities, provided integrated training to the monitors; and collaborated to ensure a common use of the electoral situation room, and of the templates and indicators for the database on electoral monitoring. The European Union also supported a pilot project to promote political and civil participation of marginalized and disabled voters by raising awareness and adapting voting sites.

115. Human Rights mechanisms of the African Union played an active role in the country in 2018. From 16 to 20 July 2018, a delegation of the African Commission on Human and Peoples’ Rights undertook a human rights promotion mission to Guinea-Bissau and recommended national actors to take concrete measures to encourage participation in politics by women and other vulnerable groups such as persons with disabilities.<sup>125</sup> On 8 August 2018, the African Commission also adopted a resolution emphasizing the importance of the organization of peaceful, free,

<sup>124</sup> DEMOS - Center for Democracy, Creativity and Social Inclusion, *Vozes do Povo – a primeira pesquisa de opinião pública na Guiné-Bissau* (“Voices of the People - the first public opinion poll in Guinea-Bissau”), Bissau, 2018. Available at [https://ceas.europa.eu/delegations/guinea-bissau/51685/uniao-europeia-publica-os-resultados-do-inquerito-vozes-do-povo-primeira-sondagem-a-opiniao\\_pt](https://ceas.europa.eu/delegations/guinea-bissau/51685/uniao-europeia-publica-os-resultados-do-inquerito-vozes-do-povo-primeira-sondagem-a-opiniao_pt) (accessed on 3 April 2019).

<sup>125</sup> Press Statement available at: <http://www.achpr.org/press/2018/07/d414/> (last accessed on 8 January 2019).



fair and transparent elections to promote peace and security, to involve women in the electoral process and to uphold human rights principles in the context of electoral security.<sup>126</sup>

116. A number of projects aimed at contributing to socio-political empowerment of women and youth, political dialogue, national reconciliation, and the strengthening of the media and justice sectors were approved in 2018 by the Peacebuilding Fund, under the Intermediate Response Facility. The projects are being implemented by United Nations agencies and civil society, in some instances with the support of UNIOGBIS. As part of the implementation phase of one of these projects, UNIOGBIS in partnership with the United Nations Population Fund (UNFPA) conducted a joint training on Political Leadership and Communication, focusing on transformative leadership, political communication and campaign management. The training took place from 12 to 16 February 2019 and was attended by 93 candidates, 70 per cent of which were women. Of a total of 65 women trained from 20 political parties, 12 women were at the top position of the electoral rolls, and 19 were in second position. Moreover, on 10 March 2019, the legislative elections day, the United Nations supported a gender-focused national network to monitor elections and to support the implementation of the *Code of Conduct and Ethics for the 2019 legislative elections*.

117. On 14 May 2019, the CNE set up a Working Group on Women and Social Inclusion with the aim to create a unit to integrate gender and social inclusion into the work of the CNE. The Working Group is composed of members of CNE, UNDP and UNIOGBIS.

## VI. Activities of the Human Rights Section of UNIOGBIS

118. During the period covered in this report, UNIOGBIS systematically monitored and assessed the situation of human rights in the country, with a focus on political and public participation rights and of human rights enabling them. Accordingly, special attention was given to the rights to peaceful assembly, freedom of association, freedom of expression and the right to education. Human rights monitoring and reporting also included the right to access to justice, with a focus on persons deprived of liberty held in prisons and other detention facilities. As a result of UNIOGBIS advocacy and intervention, sometimes with other human rights entities, at least 89 persons arrested arbitrarily or indiscriminately in demonstrations or related situations between January and February 2019, were released. Routine human rights' reporting and assessments continued to contribute to political analysis, and to the good offices' work of the Special Representative of the Secretary-General.

119. UNIOGBIS, in partnership with UNDP, GTAPE and CNE, conducted training sessions on Human Rights in the context of elections. From April to October 2018, 19 training sessions were conducted in six regions and Bissau, with a total of 625 persons trained, including 339 women. Two additional trainings for 60 persons, including 30 women, were organized in the last quarter of 2018 in partnership with the *Federação das Associações para a Defesa e Promoção dos Direitos das Pessoas com Deficiência* (Federation of Associations for the Defence and Promotion of the Rights of Persons with Disabilities). The trainings targeted a wide spectrum of actors (e.g. defense and security forces; journalists; traditional leaders; representatives of civil society, including youth, women, the elderly and persons with disabilities; judicial actors; members of policy-making bodies and of rural communities). The training sessions helped to raise awareness among key actors on the protection of human rights in the context of electoral processes and on the importance of meaningful participation in the conduct of public affairs, including the rights to vote and to stand for elective office.

120. In the first quarter of 2019, the CNE, with the support of UNIOGBIS, trained 73 civic animators, including nine women, to roll-out the countrywide civic education campaign. UNIOGBIS also prepared and handed over to the CNE two hundred copies of a leaflet on "Human Rights in the Context of Elections" that was used by the civic animators.

121. To contribute to protect civic space and participation, in 2018 UNIOGBIS provided technical assistance and financial support to the HRDN to strengthen advocacy and early warning systems in the country. UNIOGBIS held at least 30 outreach meetings and developed eight trainings in various regions of the country that were attended by 315 defenders including 128 women.

<sup>126</sup> African Commission on Human and People's Rights, Resolution on the Legislative Elections in Guinea-Bissau - ACHPR/Res. 400 (EXT.OS/XXIV) 2018. Available at: <http://www.achpr.org/sessions/24th-eos/resolutions/400/>

122. The right to participate in political and public affairs, the freedoms of association, expression, peaceful assembly and the right to education were also included in various human rights education initiatives undertaken in 2018 and the first semester of 2019 in partnership with the Institute of Educational Development of Guinea-Bissau (INDE, its Portuguese acronym). These initiatives included the elaboration of pedagogical tools for the teaching and evaluation of curricula on “Education for Citizenship, Peace and Human Rights in Guinea-Bissau” and tools to incorporate human rights in primary education for the children to draw and color and for the teachers to use in the classroom.<sup>127</sup> This innovative approach is based on the understanding that building sustainable peace in a context that is fragile due to deeply rooted political instability requires substantial efforts to change the mindset of people, which is best achieved through education -a key entry point to the enjoyment of all human rights by all. Trainings for 240 education inspectors, including 44 women, were conducted in Bafatá and Buba in November 2018, as well as in Bissau and Cacheu in December 2018. Additional targeted trainings are foreseen for the last quarter of 2019. The Human Rights component of UNIOGBIS also published two compendia on international human rights instruments and on fundamental texts of national mechanisms for the promotion and protection of human rights, which include national human rights institutions, and mechanisms for the reporting and follow-up of recommendations of human rights mechanisms, generally known as inter-ministerial commissions or committees.<sup>128</sup>

123. Bearing in mind that the effective participation of all individuals and groups in political and public affairs is included as target 16.7 of Sustainable Development Goal 16, in 2018 UNIOGBIS provided technical advice to national authorities for the mainstreaming of human rights into strategic planning processes and plans. This included human rights mainstreaming into the strategic and operational plan “*Terra Ranka*”. This was part of a broader UNDP-led process to assist national authorities to align “*Terra Ranka*” with the Agenda 2030, the Agenda 2063, the SAMOA pathway and the document “A New deal for engagement with Fragile States”. This also included two trainings organized by the Human Rights Section of UNIOGBIS in partnership with the Presidency of the Council of Ministers on Human Rights Indicators and a Human Rights-Based Approach to Data in Bissau, from 28 to 29 August and 4 to 5 September 2018. The workshops were attended by 14 women among the 49 civil servants from 16 Ministries and State Secretariats and 15 civil society representatives who actively participated in the trainings. This resulted in the improvement of national authorities’ capacity for prioritizing the elimination of discrimination and the reduction of inequalities, using disaggregated data to identify the most vulnerable with a view to uphold the principle of “leaving no one behind”, which underpins all Sustainable Development Goals. Moreover, in 2018 the Working Group of Human Rights (WGHR), one of the mechanisms for coordination, implementation and monitoring established by the Partnership Framework between Guinea-Bissau and the United Nations (2016-2020) and which is chaired by the Human Rights Section of UNIOGBIS, held four quarterly meetings in which common messaging on the rights to participate in political and public affairs was shared with participants.

124. Given that the State of Guinea-Bissau has at least eight pending reports to human rights treaty bodies that monitor the implementation of human rights, including the rights to participate in political and public affairs, UNIOGBIS organized from 26 to 30 November 2018 a training on reporting to human rights treaty bodies in Bissau for 30 government officials, including 11 women. The training aimed to assist the State in the elaboration of overdue reports to human rights treaty bodies included the participation of the chair of the National Commission of Human Rights to promote its role as the national mechanism of the Government for human reporting and follow-up. During the training session an eight-member drafting committee was formed from selected ministries, to start developing a common core document to be submitted to United Nations treaty bodies. A similar training was conducted in December 2018 for 35 members of civil society organizations, including six women.

## VII. Conclusions and Recommendations

125. Respect for the rights to participate in political and public affairs is crucial to advance human rights and ensure an environment where democratic governance, human development, political stability and sustainable peace can flourish. It is essential that the State ensures that the rights related to participation in political and public affairs are duly protected and enjoyed by all Bissau-Guinean citizens. The commitment of the State and other stakeholders to the fulfillment of these rights is illustrated by a number of achievements and good practices. These include the adoption of the *Law of parity for the participation of women in politics and in the spheres of decision-making* (Law No. 4/2018), as a major step in efforts to ensure women’s enjoyment of political and public participation rights. However, the

<sup>127</sup> Those tools are available in Portuguese at: <https://uniogbis.unmissions.org/publica%C3%A7%C3%B5es-dos-direitos-humanos-0>

<sup>128</sup> Some of the tools are available in Portuguese at: <https://uniogbis.unmissions.org/publica%C3%A7%C3%B5es-dos-direitos-humanos-0>

fulfillment of the rights to participate in political and public affairs is hampered by a number of findings detailed in this report. In light of those findings, it is recommended to the State to take additional steps in the following areas:

**A. A Human Rights-sensitive review of the National Constitution and the adoption of a legal, policy and institutional human rights framework**

126. All stakeholders should ensure that ongoing efforts to review the constitution duly address human rights concerns, including those highlighted in the present report. These include ensuring the full compliance of the future constitution with the International Covenant on Civil and Political Rights, ratified by Guinea-Bissau on 1 November 2010, and establishing a National Human Rights Institution in compliance with the Paris Principles.

127. It is recommended that the *Ad hoc* commission of the National Assembly on the revision of the Constitution:

- (i) resumes and finalizes its work ensuring that the draft constitution is aligned with the human rights treaty obligations of the State; and
- (ii) submits the draft constitution for approval by the Parliament and the President of the Republic.

128. It is recommended that the Government:

- (i) elaborates, adopts and implements a national action plan for human rights and a policy or action plan on human rights education, transversal to all State Institutions;
- (ii) ensures that the National Commission of Human Rights of the Ministry of Justice and Human Rights is duly resourced to perform its role as the primary human rights advisor to the Ministry of Justice and Human Rights, and through it, to the Government, including for the elaboration of pending reports to international and regional human rights mechanisms;
- (iii) establishes a merit-based, fair, open and transparent system for the selection and appointment to civil service positions that reflects the various calls for accountability and transparency by aspiring candidates;
- (iv) seeks ways and means to implement the recommendations issued by OHCHR to Member States in July 2018, included in annex I to this report, to ensure meaningful participation before, during and after decision-making.

129. It is recommended that the National Assembly:

- (i) establishes by Law a Human Rights Institution, compliant with the Paris Principles, fully independent from the Government, adequately resourced, and whose statute includes the selection of its members through public and transparent processes, with pre-established criteria that include the skillset and experience required to undertake human rights promotion, protection, investigation and reporting functions, as recommended to Guinea-Bissau in past UPR sessions;
- (ii) amends electoral legislation to (a) allow the enjoyment of active electoral capacity for certain categories of persons currently lacking legal capacity, including those sentenced to prison for intentional crimes, and those suffering physical, or functional limitations as recommended by the Human Rights Committee in its *General Comment No. 25* and by the Committee on the Rights of Persons with Disabilities; (b) ensure that electoral information and voting papers are available in a range of accessible formats and languages, particularly for persons with certain categories of disabilities, such as those with visual and hearing impairments and (c) include persons with disabilities and people with reduced mobility in the design and implementation of voting systems in the country;
- (iii) enact legislation to ensure a system of protection of victims, witnesses and of human rights defenders;
- (iv) enact legislation on access to information and to encourage independent, plural media services, including legislation governing television and radio broadcasters to ensure that journalists are free to pursue their professional activities, that public broadcasting is independent, and that licensing procedures for broadcasting are issued by an independent body.

**B. The adoption of measures to ensure women's rights to participate in political and public affairs on an equal basis with men**

130. It is recommended that the State Institutions:

- (i) adopt concrete measures to prohibit gender-based violence and all forms of direct and indirect discrimination against women, including multiple and intersectional discrimination, both in public and private spheres, and to enforce their prohibition;
- (ii) ensure, that at least once a year, high-quality data disaggregated by sex is collected to elaborate evidence-based public policies to effectively address persistent challenges that impact detrimentally on women's right to participate in political and public affairs, and prioritise the implementation of such policies. Such persistent challenges include discrimination and gender stereotyping; gender-based violence (*e.g.*, harmful practices; forced and early marriage, domestic violence); and, challenges related to the enjoyment of women's rights to access education, economic opportunities, health, and social services;
- (iii) adopt temporary special measures to achieve effective participation of women from all social circles in political life, through meaningful and inclusive consultative processes with relevant communities and their leaders, as well as capacity-building measures. This could include (a) measures to increase women's representation, for example, by supporting existing women's platforms, women leadership training initiatives, awareness-raising campaigns and the sharing of good practices; and (b) specific measures to promote women's participation in traditional forms of governance and decision-making processes, which contribute to eliminate traditional and cultural practices that discriminate against women and that perpetuate stereotyped roles and inequalities, including in inheritance rights, and access to, and ownership of land;
- (iv) promote the implementation of the Parity Law (Law 4/2018), including by closely monitoring its compliance, and effectively imposing the foreseen sanctions for its violation; and
- (v) consider a future review to the Law 4/2018 to include mandatory alternation between women and men in the electoral lists and/or a minimum quota for women in Parliament.

131. The National Assembly should consider reviewing existing legislation to eliminate discrimination against women that may impact on their public and political participation rights and adopt additional measures to eliminate such discrimination in practice.

132. Political parties should:

- (i) devise and implement strategies and measures that allow women's participation in senior positions in the governing structures of political parties and strictly prevent token representation of women;
- (ii) actively seek to identify potential women candidates and to establish mechanisms that facilitate women running for office;
- (iii) establish mentoring programmes in which successful women politicians act as mentors, sharing their knowledge and experience, to empower other women.

### **C. The adoption of measures to ensure the enjoyment of the right to peaceful assembly on an equal basis by all**

133. The Government should review the administrative requirements related to the conduct of peaceful assemblies and other activities connected to the exercise of the right to participate in political and public affairs to ensure that they are not discriminatory and that they do not unduly limit the enjoyment of the rights to participate in public affairs.

134. The Ministry of Territorial Administration and Electoral Management should formally repeal Ministerial Order 2/GMAT/2016 adopted on 14 November 2016 to prohibit, indefinitely, public demonstrations and rallies all over the country unless otherwise authorized.

135. The National Assembly should review the Law 3/92 of 6 April 1992 on the right to demonstrate, particularly regarding the system of prior notification of assemblies, with a view to ensure that:

- (i) it is not overly bureaucratic and thus, that it does not operate as a *de facto* requirement for prior authorization to hold an assembly;
- (ii) it does not require the response from the authority to complete notification or for the assembly in order to proceed;

- (iii) whenever restrictions are imposed, the organizers of demonstrations are provided with the possibility to seek judicial review and, where relevant, administrative review, that is prompt, competent, independent and impartial.

136. The State institutions should adopt measures to ensure that international human rights standards are operationalized in domestic law and practice, to ensure greater protection of human rights during demonstrations and assemblies, based on the recommendations made by United Nations Special Procedures, compiled in annex II to this report.

#### **D. Other recommendations**

137. The Ministry of National and Higher Education should ensure the inclusion of curricula on education for citizenship, democracy, human rights and peace, with key content on political and public participation rights in public schools.

138. Information and educational materials, including in accessible and simplified formats, should continue to be widely disseminated to explain the different political processes as well as the rights and responsibilities of all actors in electoral processes. Women, youth and other groups should be involved in the design of such material as well as in corresponding communication strategies.

139. Civil society and other stakeholders, with the support of the international community, are encouraged to continue monitoring the implementation of the *Pact of Political and Social Stability* and consider adopting a Code of Conduct and Ethics for the 2019 Presidential elections.

140. The international community, civil society and other stakeholders are strongly encouraged to support the State Institutions in capacity building initiatives to enhance leadership, negotiation and communication skills, strategic planning and public speaking, advocacy, policy-making and good governance targeting women, youth and other underrepresented groups.

141. It is recommended that in support of the Ministry of Justice and Human Rights, the National Commission of Human Rights takes steps to address the submission of outstanding pending reports of the Government of Guinea-Bissau to international and regional human rights mechanisms.

142. On the basis of the standing invitation of the Government, the Special Procedures of the Human Rights Council, are encouraged to consider undertaking visits to Guinea-Bissau, including jointly with thematic Special Rapporteurs of the African Commission on Human and Peoples' Rights, particularly regarding the promotion of Truth, Justice, Reparation and Guarantees of non-recurrence; Laws that discriminate against women; the rights to peaceful assembly and of association; and the right to education.

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