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U.S. Department of State

Country Report on Human Rights Practices for 1997

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GUINEA-BISSAU

Joao Bernardo Vieira was elected President in the Republic of Guinea-Bissau's first multiparty elections in 1994. Vieira has ruled the country since taking power in a 1980 coup. He is also a member of the African Party for the Independence of Guinea-Bissau and Cape Verde (PAIGC), which was the only legal political party from independence in 1974 until adoption of a multiparty constitution in 1991. The PAIGC holds 62 of the 100 seats in the National Assembly where 4 other parties are represented. The Constitution provides for an independent judiciary, but its functioning is hampered by a lack of resources and by corruption.

The police, under the direction of the Ministry of the Interior, have primary responsibility for the nation's internal security. The armed forces are responsible for external security and may be called upon to assist the police in internal emergencies. The police were responsible for human rights abuses.

The population of 1 million relies largely upon subsistence agriculture and the export of cashew nuts. Annual per capita gross domestic product is estimated at \$840. The country underwent a major economic transformation in 1997 with its entrance to the West African Economic and Monetary Union (UEMOA). The introduction of the UEMOA's cfa franc has provided the country with its first convertible currency. In addition UEMOA provides a larger potential market for the country's products. In the short term, admission has caused some adjustment problems, including currency shortages, but on the whole UEMOA membership is expected to be positive. The country remains burdened by a heavy external debt and has inadequate tax revenues.

Political pluralism brought about greater transparency. However, the overall human rights situation did not improve during the year. Police continued to engage in arbitrary detention, physical mistreatment, and other forms of harassment. The Government did not punish any members of the security forces for abuses. Prison conditions remained poor, and prolonged detention and a lack of due process continued. Journalists continue to practice self-censorship. Discrimination against women and female genital mutilation are problems.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

The Interior Ministry claims to be continuing an internal investigation into the 1996 shooting of two African deportees by police following demonstrations; one of the deportees died. The authorities have yet to release any results or punish anyone involved.

The 1992 death of Ussumane Quade, an army officer beaten to death while in police custody, remains unresolved. Early this year, two police officers were arrested in connection with his death; however, they were never charged and were later released. The human rights monitors from the Guinean Human Rights League continued to press for prosecution of the officers.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits cruel and inhuman punishment, and evidence obtained through torture or other coercion is invalid. However, the Government often ignores these provisions. Security and police authorities have historically employed abusive interrogation methods, usually in the form of severe beatings or deprivation. The Government rarely enforces provisions for punishment of abuses committed by security forces. Beatings and deprivation have continued to be used in prisons as a means of coercion. The head of the national police has initiated a program to educate police in the interior against using such methods. The program was conducted in three regions during 1996 and 1997. According to the police, a lack of resources prevents the program from being used elsewhere.

Two policemen accused of rape in 1995 have yet to stand trial, and no trial date has been set. As is the case for most prisoners awaiting trial, the policemen are free during the day and jailed at night. Human rights monitors report other incidents in which police accused of rape or mistreatment of prisoners have not been prosecuted.

Prison conditions are poor but generally are not life threatening. Prison authorities have very little control over inmates, many of whom simply leave during the day. The Interior Minister has requested international donor assistance to rehabilitate the prisons.

The Human Rights League was given access to the prisons during the year.

d. Arbitrary Arrest, Detention, or Exile

The legal system provides for procedural rights, such as the right to counsel, the right to release if no timely indictment

is brought, and the right to a speedy trial. In practice the judicial system generally fails to provide these rights.

Police detain suspects without judicial authority or warrants, occasionally through the devices of house arrest. The Government holds detainees without charge or trial for extended periods of time, sometimes incommunicado.

Human rights monitors estimate that pretrial detainees arrested without warrants and imprisoned without charge make up more than 90 percent of the prison population. The authorities do not routinely observe bail procedures.

The African deportees from Spain, who were in custody in 1996, have all been released and returned to their home countries. The Government began an investigation into the matter, but at year's end has released no results.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, but judges, who are poorly trained and paid, are sometimes subject to political pressures and corruption. The Supreme Court is especially vulnerable to political pressure, as its members are appointed by the President and serve at his pleasure.

The judiciary is reluctant to decide cases of a political nature. Cases against several former and current members of the Government have continued to be delayed. The Supreme Court has found itself incapable of dealing impartially with highly charged political cases. The Court was asked to rule on the constitutionality of the President's actions in naming a new government in May. The opposition charged that he failed to consult with political parties in Parliament, as required by the Constitution. The Court ruled that although the President's actions were unconstitutional, the decree he issued that named the Government would be allowed to stand for the good of the nation.

This judgment was not the original decision written by the justice assigned to the case. She wrote a decision that dismissed the Government due to the unconstitutionality of the decree by which it was appointed. Before her initial decision could be released, however, the Supreme Court President--after President Vieira's intervention--issued a press release ostensibly summarizing the Court's decision. In it he stated that, although the President's actions were unconstitutional, the Government could remain in office. After additional presidential pressure, court members forced the decision's author to change her decision to conform with the press release.

Trials involving state security are conducted by civilian courts. Military courts try only crimes under the Code of Military Justice committed by armed forces personnel. The Supreme Court is the final court of appeal for both civilian and military cases. The President has the authority to grant pardons and reduce sentences.

Citizens who cannot afford an attorney have the right to a court-appointed lawyer.

Traditional law still prevails in most rural areas, and urban dwellers often bring judicial disputes to traditional counselors to avoid the costs and bureaucratic impediments of the official system. Police often resolve disputes.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

The Constitution provides for the inviolability of domicile, person, and correspondence, but the Government does not always respect these rights. The police do not always use judicial warrants and have forced entry into some private homes. International and domestic mail is at times opened; however, this violation is by poorly paid postal employees in search of money or other valuables, not by security personnel.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and the press, but journalists continue to practice self-censorship.

In addition to the government-run newspaper, there is a daily newspaper and four weekly newspapers. All newspapers publish sporadically due to financial constraints. The national printing press, the only facility for publishing newspapers in the country, often lacks the raw materials to publish them.

There are currently three independent radio stations and one government-controlled station in Bissau. In addition Radio Portugal and Radio France international broadcasts are received directly from Lisbon and Paris. There are also three community radio stations run by the indigenous nongovernmental organization (NGO) Action for Development and there are plans to open a fourth community radio station supported by Plan International. One independent radio station rebroadcasts British Broadcasting Corporation news and another has plans to begin rebroadcasts of the Voice of America.

One of the community stations has faced harassment from the local authorities. In July two of its journalists were arrested after broadcasting an interview with a local farmer who was critical of a local judge. The judge ordered the station to air a statement disclaiming the interview. When the journalists refused, the judge found them in contempt of court and ordered them jailed. The National Council of Social Communication (Media) issued a ruling in favor of the journalists, and the case is to be heard by the Supreme Court, but at year's end no date had been set for trial, although both journalists have been released.

Academic freedom is observed in schools and research institutions.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the Government respects this right in practice. Government approval is required for all assemblies and demonstrations. During the year, the Government approved all such requests. Numerous organizations held rallies, some of which were highly critical of the Government. Unlike its actions in 1996, the Government did not try to prevent such demonstrations.

Student demonstrations in May in Bissau and regional capitals turned violent. Demonstrators attacked government buildings and private property. In one regional capital, while acting to restore order and protect government personnel, the police fired on the demonstrators, injuring two, one severely. Five police officers were also injured.

The Constitution provides for freedom of association, and the Government respects this right in practice. The Government does not prohibit or discourage actively the formation of associations. All private associations are required to register with the Government.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice. While religious groups must be licensed by the Government, none has been refused. Various faiths, including Jehovah's Witnesses, continued missionary operations during the year. The Government includes members from all major religious groups.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Government generally does not restrict movement within the country, foreign travel, or emigration. However, checkpoints and police harassment occur. Passports are issued by the Minister of the Interior. Citizens are guaranteed the right to return and are not subject to political revocation of their citizenship. The Government allows refugees to stay if they fear persecution at home. There are no formal provisions to recognize this status, but it is granted on a case-by-case basis. No refugees have been deported to a country where they fear persecution.

The Government provided first asylum to refugees from the conflicts in Liberia, Sierra Leone, and the Casamance region of Senegal. There are over 15,000 Senegalese refugees along the Bissauan-Senegalese border, and renewed fighting in the Casamance region is expected to cause their numbers to grow. The United Nations High Commissioner for Refugees (UNHCR) set up a refugee camp in Jolomete, well south of the Senegalese border, but only 750 Senegalese refugees have agreed to relocate. The Government requested this location to prevent refugees from being involved in the Casamance separatist movement. There were no reports of forced return of persons to a country where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

In 1994 voters were able to choose their government freely for the first time in the nation's history. The PAIGC retained power in elections judged to be free and fair by international observers, although they acknowledged some irregularities.

Local elections promised by the Government since 1995 have yet to materialize. The Government's first local electoral law was the subject of much criticism, as it seemed to offer preferential treatment to areas supporting the Government. After a court challenge by the opposition, the Government withdrew the law and formed an all-party parliamentary commission to draft new legislation. The Minister of Territorial Administration promised local elections by the end of 1997. However, such elections were not expected to be held until late 1998 at the earliest since the new law is not drafted, the electoral census is not complete, and donors await a realistic funding plan from the Ministry.

Using his emergency power clause following student demonstrations, the President dismissed the country's first postelection government in May. The opposition and most citizens praised this action.

However, ignoring a constitutional requirement for consultation, the President then named a new government without adequate consultation with the political parties. The opposition filed a court challenge to the new Government's constitutionality. The Supreme Court ruled, in a decision brought on by the President's interference (see Section 1.e.), that although the President's action was unconstitutional, the Government could remain in office for the good of the nation. Public opinion was highly critical of this decision, and the opposition charged that the Court overstepped its authority. Some opposition leaders called for Parliament's dissolution and new legislative elections. The President indicated that legislative elections were a possibility. Due to public sentiment, he dismissed the Government, consulted with the opposition, and reappointed the same government.

Women are underrepresented in the National Assembly, where they have only 8 of the 100 seats. Three of 15 Cabinet ministers are women, including the Interior Minister.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government did not interfere with the Guinea-Bissau Human Rights League (LGDH), and international human rights groups continued to investigate human rights abuses objectively without government harassment. Moreover, the authorities relationship with the IGDH appears to have improved considerably since the new Government took office. The Prime Minister and the LGDH president have had several substantive discussions.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution and law prohibit discrimination on the basis of sex, race, and religion. In practice, however, the Government does not effectively enforce these provisions.

Women

Physical violence, including wife beating, is an accepted means of settling domestic disputes. Although police will intervene in domestic disputes if requested, the Government has not undertaken specific measures to counter social pressure against reporting domestic violence, rape, incest, and other mistreatment of women.

Discrimination against women persists although officially prohibited by law. Women are responsible for most work on subsistence farms and have limited access to education, especially in rural areas. Women do not have equal access to employment. Among certain ethnic groups, women can not own or manage land nor inherit property.

Children

The Government allocates only limited resources for children's welfare and education.

Female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health, is widely practiced within certain ethnic

groups, especially the Fulas and the Mandinkas. The practice is increasing as the population becomes more Muslim. The practice is now being performed not only on adolescent girls, but also on babies as young as 4 months old. The Government has not outlawed the practice. It has, however, formed a national committee, which is conducting a nationwide education campaign to discourage it. International

NGO's, including Radda Barnen (the Swedish equivalent of Save the Children) and Plan International, as well as several domestic NGO's such as Friends of Children and Sinim Mira Nasseque, are working through the national committee to eliminate FGM.

People With Disabilities

There is no legislation mandating accessibility. The law does not specifically prohibit discrimination against people with disabilities, and the Government does not ensure equal access to employment and education. The State has made some efforts to assist disabled veterans through pension programs, but these programs do not adequately address veterans' health, housing, and food needs.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides all civilian workers with the freedom to form and join independent trade unions. However, the vast majority of the population works in subsistence agriculture. Most union members are government or parastatal employees; only a small percentage of workers are in the wage sector and are organized.

The Government registers all labor unions. There are 11 labor unions registered and operating. All unions are officially independent of the Government, but seven unions are affiliated with the National Trade Union Confederation (UNTG), which retains close informal ties with the PAIGC. The law does not favor UNTG-affiliated unions over others. The Constitution provides for the right to strike and protection for workers from retribution against strike activities.

The only legal restriction on strike activity is the requirement for prior notice. Legal strikes were conducted by several unions, with no retribution against the strikers.

All unions are free to affiliate freely with national confederations and international labor organizations of their choice.

b. The Right to Organize and Bargain Collectively

The Constitution does not provide or protect the right to bargain collectively, and there were no instances of genuine collective bargaining. Most wages are established in bilateral negotiations between workers and employers, taking into consideration the minimum salaries set annually by the Government's Council of Ministers.

The Government's provisions for the protection of workers against antiunion discrimination have very little effect due to low union membership. The Government has not taken further action, but no workers have alleged antiunion discrimination. The Government adopted no laws to establish penal sanctions against employers practicing such discrimination. The practice is not widespread.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

Forced or compulsory labor, including that performed by children, is not permitted by law. These prohibitions are generally enforced in the formal sector. However, children are often forced by their

parents or guardians to work as street traders or agricultural laborers in the informal sector (see Section 6.d.). The Government has not taken effective action to combat such practices.

In 1996 the armed forces chief of staff, Ansumane Mane, was arrested after several children died in an explosion that occurred when they were forced to prepare shell cases for sale to Casamance rebels. Mane was placed under house arrest, but never formally charged; he was ultimately pardoned and reinstated by President Vieira.

d. Status of Child Labor Practices and Minimum Age for Employment

Forced or compulsory labor by children is not permitted by law. This prohibition is generally enforced in the formal sector (see Section 6.c.).

The General Labor Act of 1986 established a minimum age of 14 years for general factory labor and 18 years for heavy or dangerous labor, including all labor in mines. These minimum age requirements are generally followed in the small-wage sector, but the Ministry of Justice and Labor does not enforce these requirements in other sectors. Children in cities often work in street trading, and those in rural communities do domestic and field work without pay. The Government does not attempt to discourage these traditional practices.

e. Acceptable Conditions of Work

The Government's Council of Ministers annually establishes minimum wage rates for all categories of work but does not enforce them. The lowest monthly wage is approximately \$15 (9,000 cfa francs). This wage is inadequate to maintain a minimum standard of living, and workers must supplement their income through other work, reliance on the extended family, and subsistence agriculture. The maximum number of hours permitted in a normal workweek without further compensation is 45, but the Government does not enforce this provision.

The Ministry of Justice and Labor establishes legal health and safety standards for workers, with the cooperation of the unions, which are then adopted into law by the National Assembly. However, these standards are not enforced, and many persons work under conditions that endanger their health and safety.

Workers do not have a guaranteed right to remove themselves from unsafe working conditions without losing their jobs. Given high unemployment, a worker who left for such reasons would be readily replaced.

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