Guinea-Bissau:
Peacebuilding responses to impunity and exclusiveness

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Summary

This report was written to inform the CSDN round-table of the situation and the strategies for the fight against impunity and exclusiveness in Guinea-Bissau, which included participants of the country's civil society as well as representatives from the European Union and of its Member States. The document provides an introduction to the current context of interruption of the constitutional order, recalling past history and some of the consequences of the military coup in April 2012. Part I lists the main causes of the conflicts in Guinea-Bissau: withdrawal of the State, inefficacy of the legal sector, extreme poverty, tribalism and drug trafficking. Part II develops these problems in the fight against impunity and exclusiveness. People's perceptions of impunity are identified with an overview of the moments of consolidation of State impunity. An analysis is carried out on the taboo of the debate on ethnic groups as a potential cause of conflict, concluding with the resilience of different groups to the opportunisms of the ethnic conflict. The report then explores the process of affirmation of mainly armed and unarmed impunity and the place occupied by the armed forces at the top of the pyramid of power. Amongst the most vulnerable groups are women and children who are victims of a combination of factors, in a context of "structural violence". Part III deals with possible new responses to the problems of impunity.

I. Introduction

The meeting between elements of Guinean Civil Society in Brussels, organised for the European External Action Service by EPLO within the CSDN, an initiative financed by the European Commission, takes place at a crucial moment in Guinea-Bissau. The growing severity of the country's situation requires strong focus on two plans. On the one hand, there are the proposals to consolidate a peaceful, quick and long-lasting exit from the country's political crisis initiated with a military coup in April 2012 and on the other, the definition of a strategy for facing the root causes of conflict in the country notably by reversing the long cycle of impunity and exclusiveness experienced by Guinea-Bissau. Civil society organisations (CSOs) play a crucial role in both issues.

The history of Guinea-Bissau as an independent nation has been marked by political instability, constant challenges to constitutional normality and the general increase in insecurity, especially since the 1998-1999 conflict. Coups d'état, backlashes and conspiracies, assassinations of political leaders and constant disrespect for basic human rights were no longer the exception and became the rule.

Over the past decade, the people of Guinea-Bissau bore witness, powerless, to the propagation of politics practiced with gun in hand. Between 1988 and 2013, Guinea-Bissau had ten prime ministers, elected without terminating their mandates, four chiefs of staff, all dismissed by military uprisings (and two were murdered on the job by armed forces) without completing their mandates, as well as three presidents and three Interim presidents appointed following military rebellions.

In this scenario, the perspectives for development have been repeatedly postponed and the country, one of the poorest in the world despite its abundance of natural resources, finds itself at the tail end of the human development index. Guinea-Bissau also consolidated its place on different lists of states considered "fragile" [1]"weak", "fractured" or "collapsing", similar to other African States[2]. Any of these labels is difficult to digest for a nation arising from a war of independence with unique contours in Africa.

In an environment of increasing alienation from the State, the military coup of 12 April 2012 once again interrupted the difficult exit from a deep-rooted age-old crisis, whose most shocking moment was the elimination of the President of the Republic and the Chief of Staff of the Armed Forces in March 2009. The coup, which was immediately condemned by the European Union, United Nations and several countries, interrupted the electoral process organised after the death of President Malam Bacai Sanhá in January 2012.

The elections were organised by the president of the People's National Assembly, Raimundo Pereira, who took over as interim Chief of State. Marked by high abstention (45%), the first round took place on 18 March 2012. The former Prime Minister, Carlos Gomes Júnior (PAIGC), won the ballot with 47.97% of the vote, followed by the former President, Kumba Ialá (23%) and Serifo Nhamadjo (15.75%). However, even before the results were announced, five of the eight candidates called for annulment of the elections due to fraud. Kumba Ialá even declared that he would not participate in the second round.

The military coup also isolated the country even more on the international plain, subjecting Guinea-Bissau and its *de facto* leaders to sanctions (the African Union suspended Guinea-Bissau's membership) and restrictive measures (the United Nations adopted individual restrictive measures targeting military officials because of their involvement in the coup).[3].

Interruption of constitutional normality was accompanied by a clear increase in human rights violations, perpetrated primarily by the Defence and Security forces. On another level, all information obtained in the past year points to an increase in drug trafficking and the growing permeability of State structures to international organised crime networks, involving high-ranking military officers and politicians.

The severity of the situation was well summed up by the new Special Representative of the Secretary-General of the United Nations who, on the anniversary of the military coup, warned of "an existential threat to the State" that Guinea-Bissau is currently faces. The

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[1] OECD (2011).
[2] Reno (1997, 2005); Ferreira (2004); Vaz e Rotzoll (2005).
[3] *Cf*. African Union Resolution Resolution (suspending membership of Guinea-Bissau) and Resolution 2048 (2012) of the United Nations Security Council.

country missed several opportunities in its history to reverse the spiral of insecurity, poverty and fragility. The way out is even narrower and time even shorter, according to consistent alerts from the CSOs and several of Guinea-Bissau's international partners

In a recent positive development, the two leading parties with seats in parliament, PAIGC and PRS, signed a Memorandum of Understanding on 16 May at the African Union's head office in Bissau. The document acknowledges "the need to speed up the transition process underway in the country" and established that "the transition period must not extend beyond 31 December 2013". This commitment might finally launch a political basis for elections to be held before the end of this year and breaks the deadlock of the situation of heedless conflict between the military coup leaders and the leading party with a seat on the People's National Assembly, the PAIGC. Nonetheless, both the PAIGC and the PRS recently rejected to integrate the Government proposed by the Transitional President of the Republic and by the Transitional Prime Minister at the end of May 2013.

Civil society's contribution through holding elections is all the more important for the return to constitutional normality therefore. This is a *first*, although irreplaceable, step forward in returning the country to the Rules of State and democratic legitimacy.

II.   Divisions, conflicts, exclusions

1. The Problem State

The debate on long-term, coherent solutions for the situation in Guinea-Bissau must be based on information from the latest documents on the country and direct experience of the current situation in Guinea-Bissau: the current crisis consists of a combination of factors acting at very different times and paces. Some conflict-related factors date back to the war of independence (internal rivalry of the PAIGC, or the notion of fighters' supraconstitutional legitimacy). Others have gained relevance later (corruption), or even only in the past decade (such as the expansion of drug trafficking or political polarization). Still others are purely short-term, or even fortuitous, although this does not make them less operative (for example, the North American anti-drug and anti-terrorism campaign in the Subregion that led to the imprisonment of Bubo Na Tchuto in April this year, and the accusation of other perpetrators from Guinea-Bissau galvanised dynamics whose consequences in the future in the current transition cannot be ignored).

Further factors have long been in play that different groups in Guinean society(ethnic and religious – and others) inherited from the historic process of defining the territory that now corresponds to the country. In times of acute crisis, such as those experienced in recent years, even factors registering strong development that seem to be hidden in normal times, such as identity (even imagined) and culture, emerge and become potential generators of conflict (this is the case of ethnic awareness between rival communities, the Balantas and the Fulas, or the Fulas and the Mandinkas, for example, see below).

Defining strategies for long-lasting and inclusive peace in Guinea-Bissau cannot therefore be limited to solutions to the current crisis, *see* the 2012 post-coup solution, involving some sort of simple exchange of power between the armed forces and parties. Any approach made to this end will fail and cause the outbreak of new crises, as proven by the country's recent history[4].

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[4] OECD (2011).

Guinea-Bissau's main problem today is the State, because of what it no longer guarantees (security, justice, development), what it produces (violence, instability, impunity) and what it prevents (the right to freedom, fulfilment of rights, distribution of resources). The State's "fragile nature" is well-known. The main weak points are internal and include "recurrent political instability since the armed conflict of 1998-1999; irregular operation and lack of capacity of public institutions to fulfil their basic State duties; the democratic deficit demonstrated by the need for greater independence of the judiciary, greater control over the police and insubordination of the armed forces towards political power; the impact of transnational phenomena such as drug trafficking and organised crime; high levels of poverty; poor diversification of the economic structure and heavy reliance on foreign aid. These elements are both causes and symptoms of fragility, preventing consolidation of peace and sustainable development"[5].

These weak points are due to the main dividing lines or friction points in Guinea-Bissau. It should be stressed that none of the causes of conflict arose during the last crisis. None can be solved in the short-term either. On the contrary, they can only be approached in terms of medium and long-term solutions. The major causes are[6]:

- **State Withdrawal:** the Republic tenuously performs its sovereign duties in most of the national territory outside Bissau and some urban centres;
- **Inefficacy of the Justice Sector**: courts and legal agents stopped responding as a social governance mechanism and civil law court; other systems – private and non-democratic, some referred to as "traditional" - occupy this gap;
- **Increasing poverty**: development, which has been a national priority since independence, is still a mirage; economic and social poverty have even affected the State apparatus itself, exposing its agents to corruption;
- **Tribalism**: age-old rivalries between ethnic groups were rekindled by recurrent phenomena (stealing livestock competition for natural resources like water and fight for land), for example); in the meantime, the perception of ethnic loyalty as a strategy for accessing power and managing businesses is gaining ground;
- **Drug trafficking:** international drug trafficking networks expanded their activity and gained active cooperation from senior representatives from Guinea-Bissau. The competition for profits from trafficking has increased the dispute for power through violence.
- **Corruption:** the «mother of all vices»[7], a diffused but widespread phenomenon that is linked to the distortion of the most important State functions and to the pattern of poverty in the country; one should underline here the fact that each individual corrupt action or practice produces a cascade of related effects – and the repetition of corrupt behaviours further enlarges the loss of public wealth and resources in itself very detrimental to the poorest and the most vulnerable in society.

2. Impunity and "rancour"

The most obvious sign of the State's collapse is the voracity with which political violence has been used as an instrument of power, in a sequence of crimes that still remain unpunished. The long tradition of violence in Guinea-Bissau escalated to dizzy heights that

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[5] OECD (2011).
[6] Voz di Paz and Interpeace (2010); GHRL (2010); GHRL (2013:1); GHRL (2013:2); Ministry of Justice (2008).
[7] Voz di Paz and Interpeace (2010).

ended with the assassination, on 1 and 2 March 2009, only a few hours' apart, of the head of the Armed Forced, Tagme Na Waie, and the President of the Republic, João Bernardo "Nino" Vieira.

The way in which the head of State died and the circulation of shocking pictures of his mortal remains on the Internet confirmed the trivialisation of barbarism, similar to what had happened years previously, with the no less brutal death of brigadier Ansumane Mané, head of the Military Junta from 1998 to 1999. A pattern and a tradition can be found in these deaths. These crimes are only some of the most salient examples in a chaotic and bloody decade full of political assassinations of high-level State representatives.

Ansumane, "Nino" and Tagme – all former companions in the fight for freedom – form part of the list of leaders, governors and senior representatives who have disappeared by violent means in recent years. This non-exhaustive list includes general Veríssimo Seabra (beaten to death on 6 October 2004 by armed forces returning from a peace mission in Liberia); the deputy and former Defence minister, Helder Magno Proença, and the former minister for Territorial Administration and presidential candidate, major Baciro Dabó (both in June 2009); his brother, Iaia Dabó (a State Security agent), killed after agreeing to turn himself over to the authorities and after being accused of causing another attempted coup). We must also remember that at that same time the deputy Roberto Ferreira Cacheu went missing and that a few weeks later Colonel Samba Djaló, head of Military Counter-Intelligence and former head of the Information Services[8] was also shot dead.

Some of the deaths of public figures in past years were related to drug trafficking and internal conflicts in the PAIGC or conflicts between the PAIGC and the PRS – with no evidence or serious investigations, and for a good reason. While drug trafficking is relatively recent, a study of the problems of the former one-party political system may help us to understand four decades of assassinations and conflicts in blatant disregard of the Rules of the State.

After eleven years of war (1963-1974) against the colonising country, Portugal, Guinea-Bissau gained its independence, suffering profound consequences (economic, infrastructure-related, human, social, etc.) This resulted in a difficult national reconstruction process. "However, the international backdrop against which access to independence took place, and which was marked by ideological battles between the capitalist and communist camps, did not favour national reconstruction or reconciliation between people with different beliefs in Guinea-Bissau. Therefore, the purging that followed the liberation of the country added to the wounds of the war itself. In turn, the excesses of winners fanned the resentment of those who lost, especially local assistants of the colonial system"[9].

In the immediate aftermath of independence, and for reasons relating to the national project's survival, the Luís Cabral system shot hundreds of former fighters from the Portuguese Army, the so-called African Commandos. The shooting of former troops was decided on by a group of PAIGC leaders.

The African Commandos were not the only enemy of independence in the eyes of the regime. The PAIGC also launched a campaign against representatives of so-called traditional authorities, especially in areas where leaders were identified as collaborators or allies with Portugal during the war. Trials of the people and summary executions, sometimes in public to serve as an example, marked the first years of the Luís Cabral regime. The chief

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[8] GLHR (2013:1).
[9] Voz di Paz and Interpeace (2010).

of the Manjacos, Joaquim Baticã Ferreira, and the Upaié chief and former African commando were shot on 10 March 1976, in a village near Canchungo

On 14 November 1980, the "Readjustment Movement", the name given to the coup led by "Nino" Vieira, begins the tradition of military coups as a means of replacing the regime and conquering power. He also officialised the political role of the Armed Forces, who showed that they were not willing, up to that point, to surrender authority over to the State and the Republic.

In 1980, the supporters of the coups claimed political legitimacy from the struggle and alleged authenticity of children from Guinean soil to oppose the "Cape Verde" wing of the PAIGC. The military presence in the politics of Guinea-Bissau, a culture of arms instead of dialogue and invocation of legitimate exclusivism still remain as vices with disastrous consequences for the development of the national project today.

The history of the Second Republic of Guinea-Bissau – that of the first consulate of "Nino" Vieira, before and after the multi-party system – is a long chain of political violence forming some of the deeper foundations of current State impunity and significant lines of social and political divide. Out of the many episodes that have never been closed, "17 October" 1985 stands out as the date on which State Security surprised an alleged coup in the making. The response of the regime was to judge and sentence those involved, including the vice-president of the State Council (number two of the regime), Paulo Correia, and the Prosecutor-General, Viriato Pã.

The process, which dragged on for almost a year, "ended in the deep cleansing of Balanta and non-Balanta elements from the armies and apparatus of the State[10]. The "17 October" 1985 is now also considered to be a lesson on some of the State Security mechanisms that acted in the shadows and were not subject to democratic scrutiny, contributing to countless situations (conspiracies and *plots*) to undermine the Constitutional State from the centre of power.

The episode "was massive, sudden and brutal in character with cruel fates reserved for certain victims. It had an ethnic angle as most of the victims were from the Balanta ethnic group which had been strongly represented across all ranks in the armed forces. Many of them had played key roles or participated in the national liberation struggle.

This repression caused deep resentment which would remain embedded in large segments of the population during the following decades."[11].

On 7 June 1998, a military uprising led by brigadier Ansumane Mané, former Chief of Staff of the Armed Forces, started the most serious conflict in the history of independent Guinea-Bissau. It was a coup that led to civil war, the 1998-1999 conflict (eleven months), which cost several thousand deaths and the destruction of the majority of the capital's infrastructure.

The war, fought in the name of "justice", also initiated a chaotic period of political instability, erratic governance and institutional confusion and was a drastic setback for the country in socioeconomic terms. It left "the greatest rancour amongst the people of Guinea-Bissau in recent years", which is still evident today[12]. Amongst the direct causes of the conflict is the dispute for power at the centre of the PAIGC and the discrepancy between the

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[10] Nóbrega (2005).
[11] Voz di Paz and Interpeace (2010).
[12] Id.

informal power structures that characterised two decades of hegemony of "Nino" Vieira and the formal State and party structures[13].

The 1998 war broke out on account of the report on arms trafficking to Casamança, which should have been submitted by the parliamentary committee of enquiry on 8 June 1998. The document's conclusions relating to the suspicion of involvement of upper echelons of the State Security and Armed Forces still remain to be discussed today and, more importantly, the recommendations regarding the opening of investigations and legal processes are yet to be implemented.

"The war left the State, the economy and society badly in need of reconstruction"[14]. Since then, "impunity has been institutionalised and has become the norm in the regular operation of public and private institutions with clear inertia of the legal system, inspection bodies, monitoring and control institutions"[15]. Moral and material authors of successive political and military agitations go unpunished, with tentative progress in the investigations and accusations regarding the assassinations of "Nino" Vieira and Tagme Na Waie.

The population sees impunity as a lack of justice, as seen from the most frequent complaints addressed to the State[16]. Therefore, the idea of impunity thwarts the idea that justice is a class privilege or rather administration of justice does not *work*, but when one of its agents does *act*, it is generally against the deprived and those without resources (to escape, corrupt or litigate).

"The population considers the height of impunity as the amnesty granted by Parliament to those attacking State security and committing public crimes since the 80s". The amnesty law "was harshly criticised by many people who consider it an impunity law and encouragement for more killing and crime"[17]. The law, part of a legislative package thought to secure a commitment to the return to the constitutional order, was approved in 2008 for all "political and military-motivated" crimes committed before 6 October 2004.

There is no evidence to confirm that the notion of impunity has ethnic *nuances* in Guinea-Bissau, or rather, that different groups have different expectations with regard to justice, which are primarily directed at the State. However, there is also empirical evidence and common sense to confirm the opposite[18].

It is legitimate to conclude that the idea of impunity covers the society of Guinea-Bissau and that divisions are, in this respect, vertical – amongst those that can violate the law and the *rest* -, and not horizontal. They are certainly not based on ethnicity[19]. This implies that the

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[13] Koudawo (2000).
[14] Interministerial Committee for the Restructuring and Modernisation of the Defence and Security Sector (2006).
[15] GLHR (2013: 1).
[16] Voz di Paz and Interpeace (2010).
[17] Id.
[18] To quote some of it, involving three examples with symbolic value. 1. It was not a tribal-based party but the PAIGC of Amílcar and Lu+is Cabral that introduced the death penalty into the legal system of the party and, later on, the independent Republic. Neither was it on an ethnic basis that the system founded its repression mechanism. 2. The coup of the 1980 "Readjustment Movement" took place immediately after the closure of the discussion in the People's National Assembly to approve the new Constitution which, against the general opinion of the party base, included the death penalty in Guinea-Bissau but not in Cape Verde, for the same type of crimes. 3. The case of political violence, more insistently associated with an ethnic cause, the "17 October", did not only affect the Balanta people. The State Council, which rejected the request for clemency of six sentenced prisoners, was also ethnically diverse. If the elimination of Paulo Correia and Viriato Pã, both Balantas, still haunts us almost three decades later, this is mainly due to a consensus on the victim concept and non-violability of several basic rights for members of this race. See De Barcos (2011) for further information on this. To prevent the process from being interpreted as an attack on the Balantas, the State Council ended up including two non-Balanta elements in the group of sentenced prisoners without the commutation of capital punishment.
[19] In a centripetal sense, namely the union of different groups around their experience of impunity, there are authors that mention the possibility of "victimisation of the nation", a paradoxical effect of impoverishment of the

impunity denounced by the population does not only involve the State, large-scale politics and large-scale business (corruption, trafficking), contributing to the widening of the gap between the ordinary citizens and the people in power, but also the impunity, equally disturbing, of violation of rights at the village level, or rather within each group.

3. Ethnics and taboo

The "ethnic" component of the crisis in Guinea-Bissau is a delicate aspect of any analysis of the causes behind the conflict in the country and of the design of future peacebuilding strategies. The first paradoxical sign that the matter is extremely sensitive is the persistent manner in which the ethnic issue is still avoided by the general establishment in Guinea-Bissau. At the same time, there is a prevalent perception of the PRS as the party protecting the interest of the Balanta; on the other hand, the discourse of Guinean «authenticity («*guineidade*») used by «Nino» Vieira was reintroduced during the last elections (in the context of an electoral campaign that utilized imagery that excluded certain ethnic groups of Muslim religion).There seems to be, in this regard, a real danger of potential instrumentalization of ethnicity by politicians.

The existence of an «ethnic» issue is true on a day-to-day basis and for the common citizen. It is not only ethnic rivalries that are the population's motive for discussion and concern. There is also the evident risk of social conflicts resulting firstly from the absence of the State and the failure of the legal system[20], and secondly from the scarcity of opportunities, being interpreted by communities as "ethnic" conflicts, offering a breeding ground for their orchestration.

The aversion of the public debate to the ethnic issue is primordially inherited from Amílcar Cabral's nationalist ideology, in the version used by the PAIGC for three decades. "Irrespective of the ethnic group, it is easy to lead people to believe that we are a people, a nation", said Amílcar Cabral. "What remained from tribalism was destroyed by the armed struggle we are fighting", therefore "only political opportunists are tribalists"[21]. Orientation of a national unit compatible with ethnic heterogeneity was the subject of political discussion for a whole generation, in a period during which the "pulsation of ethnic groups" was relegated on a more cultural than political plain[22].

However, different authors clearly stressed the great importance of ethnic affiliation in political choices in Guinea-Bissau, in keeping with the general literature on ethnic groups and electoral behaviour[23]. When dealing with existing conflicts between communities and races, it is necessary to go back in time to broach the two historic components of the collective identity of the people of Guinea-Bissau.

One of the components, as mentioned, concerns the formation of the State of Guinea-Bissau and the struggle started by the PAIGC. The fight for independence defined three overall mobilisation goals: independence, development and unity of all people from Guinea-Bissau, defined as those who live in the territory that was once Portuguese Guinea. This is the medium-term component that is related to national identity.

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economic fabric: consolidation of an idea involving the Guinea-Bissau society as a collective State victim (that is, employees and politicians alike). *See* Kohl (2012)
[20] GLHR (2013:1).
[21] Cabral (1974).
[22] Silva (2003).
[23] Sangreman *et al.* (2006).

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The other long-term component relates to the formation of the kaabunké area. "The division of the land on the Northern border that came to consider Casamança as part of Senegal in 1986, the Fula invasion and the war that led to the end of the Kaabu Kingdom (…) are still present in the minds of one and all to the extent that the gaps between the winners and losers are important when it comes to voting"[24].

Kaabu is the "result of a legacy dating back centuries not just a few years"[25] and is fundamental for interpreting the interactions of different groups (ethnic, social, class) in Guinea-Bissau, Gambia and Casamança. We should recall that after winning the 1998-1999 war, Ansumane Mané did not visit "a single" Fula village, "meaning that the defeat of the Manfingas and their allies was still present in his memory"[26].

It is also in this long period that the complex ways of forming a social consensus on cross-border actions must be assessed, beyond the State relationship framework. This operating Framework is unaware of the various levels, from relationships between neighbours on both sides of the border to support from Bissau for separatist movements in Senegal, which implies failure to understand the explosive issue of arms trafficking to Casamança (including *post*-1999).

It is important to mention that the orthodox nature of national identity in Guinea-Bissau was not consensual even amongst PAIGC leaders. "The armed struggle for national independence by promoting some kind of unity between the people of Guinea-Bissau towards a common goal, namely the fight against Portuguese colonialism, created important ties of solidarity and interdependence between the different groups", said Manuel dos Santos, "but, contrary to what many people believe, it did not establish national unity or develop the Guinean Nation. It did, however, build the Nation's bases, its grounds and foundations and created the necessary but insufficient conditions for its emergence"[27].

If, during the struggle and the one-party system, ethnic groups were confined to culture and not identity, and "tribalism" was considered something for "opportunists", according to recent population surveys on what caused the conflict, there was a "bad feeling" on the issue[28]. Therefore, tribalism was discussed in practically all question and answer sessions of the Voz di Paz programme[29]. People admit that the population's basic behaviour in political terms is inspired by their ethnic affinity. These affinities are used to join together identical people and exclude others, those who are different"[30].

The true situation in the country confirms the strength of long-term identity components of the population as a whole in Guinea-Bissau and the prevalence over medium-term elements (those from Cabral's movement). This information must be combined with indicators showing that communities maintain the capacity to act according to tolerance and peaceful living standards that resist manipulation by political leaders and their strategies for conquering power.

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[24] *Id. See* Niane (1989), Pélissier (1989), Mendy (1994) and Lopes (1999).
[25] Lopes (1999).
[26] Nóbrega (2005).
[27] Dos Santos (1989).
[28] This "bad feeling" can be summed up in the statement made in the Voz di Paz programme in Mansôa: "Ethnic problems now arise every single day. We ourselves are affected by them. They always say that our father went to sell glue in Nhacra and this means that we are not from that ethnic group. But how can an issue like this get this far? What is the negative effect of this later on? *See* Voz di Paz and Interpeace (2010).
[29] It was broadcast in all regions of Guinea-Bissau and involved thousands of people from all sectors of the country's society – including the army.
[30] Voz di Paz and Interpeace (2010).

However, political manipulation is not the only basis of tribalism. Another important aspect is the insecurity of people and property. Theft of livestock is clearly one of the threats to living in mixed ethnic groups that, up to this point, used to live peacefully, such as the Fulas and the Balantas. The dormant conflict between the Fulas and the Mandingas also reappears personified in day-to-day life, such as refusal by the two communities to get together for vaccination campaigns[31].

The religious aspect is also important as it stresses the association between belonging to a religion and tribal identity along the lines of "Muslim" groups, or the *Muslim race* (Mandingas, Fulas, Beafadas) with the *Christian race* and animists (Papel, Manjacos, Balantas). That was evident even during the 2012 elections and in 2013 during the debate to choose the new president of the PAIGC. The lines separating them grow stronger than ever before, which appears to be due to the practices of exclusion and violence, strongly related to identity for certain groups, like female genital mutilation (see below).

"Tribalism is rooted in the country's politics and is creating new tensions as access to resources and power is limited to the tribe that holds the majority. Tribal identity and religion are also becoming a phenomenon not easily separated as frustrations and misunderstandings are provoking radicalism and posing a threat to national cohesion."[32].

4. Arms against the Republic

While it is true that, in the perception of the population, Guinean society suffers the effects of a state of impunity, a kind of armed impunity is gaining more relevance, an impunity from which no one is safe - not even the highest echelons of the Nation. Impunity by omission is increasingly being replaced by impunity by aggression.

The Defence and Security Forces, by the very specific nature of the sector, are the crux of the problem. Even a member of the current government defined the Armed Forces as "a bad legacy of the liberation war, since they brought independence but also violence"[33]. The permeability of elements of the Armed Forces to drug trafficking has also added greater volatility.

The ambiguity of the position of the Armed Forces can be summarised in the formula employed by the ECOWAS/AU/CPLP/EU/UN Joint Assessment Mission in Guinea-Bissau, which recognised, in March 2013, the urgent need for long-term solutions to the "problems of impunity of human rights violations and the repeated intrusion of the army in the political life of the country that took root long ago."

The Mission added that "similarly, the issue of reform of the defence, security and justice sectors cannot be divorced from other considerations, particularly the army's role in the liberation of the country and the war of 1998-1999 and the fact that this revolutionary army has not been able to become a true republican army"[34].

The coup of April 2012 confirmed that the Guinean military corps has not been able to release its grip on politics or does not seem to pursue this aim. Dangerous relations also work the other way however: the Guinean political class maintains the vice of seeking loyalties in the Armed Forces. It is noted that "politicians invite military personnel to their

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[31] *Idem* and GHRL (2013:1).
[32] Voz di Paz e Interpeace (2010).
[33] ECOWAS/AU/CPLP/EU/UN (2013).
[34] *Id.*

homes or visit them in the barracks at inappropriate times, while giving them money to buy their support"[35].

The military, in its more benevolent guise, are "both agents for conducting the affairs of state and victims of a pernicious patronage, and remain a vital factor in the process of rebuilding the State"[36]. In moving from the diplomatic to the human rights plan, the Guinean military are accused of having committed "extrajudicial killings, illegal arrests, beatings and torture of citizens and political opponents in order to silence critics and opponents of the regime", besides having allegedly formed a "death squad" in the Military staff[37].

Significant cases that stand out among the very many, without going back beyond 2012 even, include the abduction and beating of Iancuba Indjai, President of the Labour and Solidarity Party and leader of the Anti-Coup National Front (FRENAGOLPE), and Silvestre Alves, president of the Guinean Democratic Movement Party, following the alleged attempted coup by captain Pansau N'Tchamá in October 2012.

The institutional military reform will be, by mutual consent (including the current military leadership), a *sine qua non* condition for a sustainable way out of the crisis. Furthermore, it will also make an important contribution to structural change for state fragility in Guinea-Bissau, considering the amount of public resources given back to the military. The objective of elevating Guinea-Bissau from the group of the poorest countries in the world is also a requirement.

"The atmosphere of insecurity caused by several episodes of war and armed uprisings have become a major obstacle to economic and social development, discouraging investment, diverting the scarce resources of the country to unproductive ends, preventing any credible social trend exercises and development programming through the constant instability that this causes" noted the sector reform strategy paper back in 2006. "Moreover, the intrusion of organised crime through the interstices of the state already weakened by instability and insecurity contributes further to jeopardising the country's future"[38].

A refoundation of arms, ensuring the dignity of freedom fighters of the country but without compromising the requirements of a Republican force, would finally place the armed forces under democratic control and free of the original guardianship of the Affairs of State - a matter that has been provided for in the Constitution since 1991[39].

5. Women and children: converging vulnerabilities

Guinea-Bissau is "one of the poorest of all underdeveloped countries"[40], occupying the 176th position out of the 186 countries in last Human Development Index[41]. Out of the approximate 1.5 million inhabitants of Guinea-Bissau, 69.3% live in absolute poverty (i.e. with an income below 2 dollars per day), compared with 49% in 1991, according to the ILAP[42] carried out in 2010. The survey also reveals an increase in the incidence of extreme poverty (less than 1 dollar per day) from 20.8 to 33% between 2002 and 2010.

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[35] *Id.*
[36] *Ibid.*
[37] LGDH (Guinea-Bissau Human Rights League) (2013:1).
[38] Interministerial Committee for the Restructuring and Modernisation of the Defence and Security Sector (2006).
[39] *Id.* "The Armed Forces, created as an armed wing of a political and military struggle for national liberation, have maintained characteristic politics. This politicisation, essential to ensure the strength of the political awareness of a national liberation struggle persisted under the one-party regime, which implies a close organic relationship between the party, the armed forces, the State and the lifeblood of the nation".
[40] OECD (2011).
[41] UNDP (2013).
[42] Inquérito Ligeiro para a Avaliação da Pobreza (Simplified survey for the evaluation of poverty).

Some progress has been made in access to basic social services (education and health), which has not mitigated the fact that most social indicators are among the lowest in sub-Saharan Africa[43]. These indicators still reveal strong geographical disparities (especially between urban and rural areas) and between men and women, with the persistence of significant factors of gender discrimination in access to employment.

Even before the coup of 2012, the inability to meet the targets of the Millennium Development Goals was reflected in the level of investment in the social sectors, which, in 2010, stood at 22% (according to the IMF) - far below the 40% recommended at an international level[44].

"In terms of the impact of poverty on Guinean society, women constitute 51.5% of the poor people in the country today, having suffered more than men in this respect with much faster development of poverty"[45].

In an attempt to define and explain the phenomena of violence, emphasis has been placed on the fact that violence against women in Guinea-Bissau falls into a political, institutional and economic context which is unfavourable to the resolution of the determining structural problems of these practices.

"In this context, the long-term changes influenced by political action are compromised. Structural violence – in the form of institutional, economic or political violence – emerges as a backdrop (...) through corruption, lack of investment in social services and justice, the bad example set by the elite, permanent distrust of the State, isolation of various communities and poverty"[46].

It is this scenario that leads to the maintenance of social rules and practices based on the trade of women and justice practised outside the scope of the State and at random. Violence is facilitated by lack of confidence in formal justice and the sense of impunity and by the socioeconomic environment particularly adverse to the most vulnerable groups. "The already biased or, in general terms, non-existent relationship between the State and citizens assumes proportions of extreme inequality towards women, since the State does not guarantee their legal, psychological nor economic protection vis-a-vis violent practices"[47].

In confirmation of a convergence of different lines of structural exclusion, the statistics relating to education are alarming: 56.28% of the adult population is illiterate, 64.12% of whom are women; secondary school is attended by 27.3% of boys and only 19.9% of girls. In Guinea Bissau, 40% of young women between the ages of 15 and 24 years are literate. Among the women from the poorest households, only 12% are literate. The average literacy rate grows with an increase of economic power and, among the women living in the richest households, it reaches 73%.

Violence and gender exclusion intersect, in fact, with forms of violence against other vulnerable groups in the same socio-economic context: at the level of Guinea-Bissau, 57% of children aged 5-14 years are involved in child labour. Children living in rural areas are more likely to be involved in this phenomenon than children in urban centres (65% vs. 45% in the urban areas)[48].

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[43] This can been seen in the average life expectancy (48.6 years) and high rates of maternal and child mortality.
[44] The achievement of the main MDGS would require an average GDP growth of more than 7% in Guinea-Bissau by 2015 and an investment level close to 40% of the wealth created in the country.
[45] GHRL (Guinean Human Rights League) (2013:1). The incidence of poverty rose by 9.2% in female-headed households between 2002 to 2010 (56.1% to 65.3%), and by 4.2% for male-headed households (66.1% to 70.3%). However, male-headed households are poorer than female-headed ones, especially in rural areas: 65.3% of female-headed households live in absolute poverty and 29.8% in extreme poverty.
[46] Roque (2010).
[47] *Id.*
[48] National Statistics Institute (2010).

Structural violence - the direct or indirect responsibility of the State - therefore emerges as a more significant factor of exclusion and violence than in the ethnic context, although this merits a closer look in practices such as forced marriage. "Despite the most notorious cases which have received the widest exposure in the press, those of the Balanta girls, this is not the only ethnic group that maintains this kind of practice, although it is perhaps the one in which the girls begin to have the courage to flee (...) Despite some differences in ethnic traditions, it seems to be the rurality, isolation and closed community or perhaps religious factors that determine these events the most"[49].

According to the latest data (MICS/4, 2010), 50% of women aged between 15 and 49 stated that they have undergone some form of female genital mutilation or cutting. In children aged 0-14 years, 39% were subjected to some form of FGM/C "according to the statements of their mothers". 40% of women aged 15-49 years are in favour of continuing this practice of genital mutilation[50].

III.   Looking for new answers

1. Transitional justice

The return to democratic normality in Guinea-Bissau and the desirable process of genuine national reconciliation must take the fight against impunity as its pivotal point, by ensuring that the serious violations of human rights in the past are brought to justice. This path must be pursued in compliance with the standards accepted in international legislation and jurisprudence on the fight against impunity. The conceptual and normative platform is embodied in the framework defined by the so-called Joinet/Orentlicher principles[51] in four areas of intervention:

- The right to know
- The right to justice
- The right to reparation
- Guarantees of non-recurrence of violations

The principles against impunity are "based on the precepts of State responsibility and the inherent right to reparation for victims of serious violations of human rights. As such, (...) do not entail new international or domestic legal obligations but identify mechanisms, modalities and procedures for the implementation of international humanitarian law and international human rights"[52].

Impunity means "the absence, de jure or de facto, of criminal responsibility of the perpetrators of violations, as well as their civil, administrative or disciplinary responsibility, insofar as they escape all attempts at investigation leading to their arraignment, detention, trial and, if found guilty, sentence, including any reparations for the damage suffered by their victims"[53].

Facing the past to build a solid foundation for the future "is one of the most difficult challenges for societies in transition from authoritarian regimes to more democratic forms of Government". Guinea-Bissau is faced with this challenge and needs to re-establish a basis of trust and responsibility in society. It is necessary to "publicly acknowledge the abuses

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[49] Roque (2010).
[50] National Statistics Institute (2010).
[51] Louis Joinet formulated the principles to combat impunity in 1997 in a final report on the mechanisms of Justice and impunity to the UN Subcommittee. The principles were updated by Diane Orentlicher, in 2005, at the request of the Commission on Human Rights.
[52] Sisson (2010).
[53] Report E/CN. 4/2005/102/Add.1 "Definitions, A. Impunity"

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perpetrated, holding those who planned, ordered and committed such violations responsible and to rehabilitate or compensate the victims"[54].

The challenge is greatest "in a context of institutional collapse, resource depletion, reduced security and an anguished and divided population", as the Secretary-General of the UN stressed when establishing the framework for the organisation in the fight against impunity.[55] The answer to the spectrum of "integrated and interdependent" violations through transitional justice "can contribute to achieving the wider objectives of prevention of new conflicts, peace and reconciliation"[56].

At this time of political transition, the discussion should cover existing judicial and extrajudicial mechanisms, including formal charges, truth-seeking processes, compensation programmes, institutional reform, "or any combination of this", as same document also mentions. Different proposals - not only internally[57] - have gone public in the last year, including an international criminal tribunal for Guinea-Bissau or some sort of international commission of inquiry to examine the deaths of "Nino" Vieira and Tagme Na Waie in particular.

The definition of the mechanism(s) to be adopted must be open to the participation of victims and other citizens, to ensure that the policies respond to the real needs of the victims. This participatory approach "can help to reconstruct the full civic integration of those who have been denied the protection of the law in the past"[58]

The CSOs and international partners of Guinea-Bissau can, at this time, press the political parties and the transitional authorities in order to avoid a new round of amnesties. The scope of the amnesties and clemencies is further limited by the international principles, "including the occasions designed to create conditions conducive to a peace agreement or to foster national reconciliation".

A final relevant reference for the debate on the instruments of transitional justice: the UN Human Rights Council approved a series of documents aimed at awarding the right to the truth the status of an international law obligation[59]. This is something to retain when preparing a real transition in a society that has accumulated too many secrets about its common history.

IV.   Conclusion

In 2013, Guinea-Bissau can commence the long road of rebuilding a state weakened by decades of bad political practices, mismanagement of resources, impoverishment of the population and bloody conflict, including a civil war that divided the Armed forces and society. The alternative surely cannot be: to continue on the path of gun in hand politics, dispossession of resources that belong to everyone, corruption combined with criminal practices and transformation of the security forces into a number of rival militias.

Some steps have been taken to unblock an effective transition in recent months with the signing of a minimal understanding between the two major parties. Civil society

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[54] Sisson (2010).
[55] Guidance Note of the Secretary-General, "The UN Perspective of Transitional Justice", June 2010.
[56] *Id.*
[57] ICG (2012).
[58] E/CN.4/2004/88, para.11.
[59] These are two studies that were prepared in 2006 and 2007 by the Office of the United nations High Commissioner for Human Rights (E/CN.4/2006/91 and A/HRC/5/7). This was followed by more targeted research on the place of the files and the protection of victims as part of the right to truth (A/HRC/12/19).

organizations have a say in the modalities for this transition, when the hypothesis of elections gain ground in November.

The ballot will, however, be the first step in a return to constitutional normality, which has been suspended for more than a year. Everything else remains to be done. Genuine reconciliation of Guinean society depends on persistence with ambitious but elementary objectives: the fight against impunity, the fight against poverty and the fight against violence. Together they constitute, to quote Cabral, a new "fight for the people."

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