

fidh



ORGANISATION GUINEENNE DE DEFENSE DES
DROITS DE L'HOMME ET DU CITOYEN

COMMEMORATION OF 28 SEPTEMBER MASSACRE OVERSHADOWED BY POLITICAL TENSION

Note return mission to Guinea-Conakry

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security

SALLE D'AUDIENCE

September 2011

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On the second anniversary of the 28 September massacre and nearly a year after his election, President Alpha Conde, historical opponent of dictatorship, has yet to realise his commitment to human rights and the fight against impunity. As parliamentary elections draw near, government opposition groups struggle to participate in political debate and communitarianism has become a major issue. In this particularly tense political context, there is an urgent need to secure justice for the victims of 28 September. Genuine national reconciliation must be implemented to lay the foundations for a democratic and peaceful society.

The commencement of three days of opposition events (from 27 to 29 September) «accidentally» coincide with the second anniversary of the 2009 massacre at Conakry stadium. Clashes with security forces and Donzos (traditional hunters) on one side, and civilians and pro-opposition demonstrators on the other, have already occurred in several districts of the capital, particularly Bambeto, Hamdallaye and Cosa. International Federation for Human Rights (FIDH) and the Guinean Organization for Human Rights (OGDH) express their deep concern about the three days of demonstrations, calling on Guinean authorities for restraint and demonstrators for calm.

From 17 to 25 September 2011, a FIDH contact mission to Conakry conducted an assessment of the human rights situation in Guinea. This included determination of the progress made in the fight against impunity, particularly for the September massacre. The mission was composed of Africa Desk Director, Florent GEEL, Programme Officer, Antonin RABECQ, and lawyer and FIDH Legal Action Group member, Martin PRADEL. Working collaboratively with FIDH member, the Guinean Organization for Human Rights (OGDH), the mission met with senior representatives of political and judicial authorities, national institutions, diplomatic missions and political parties, as well as representatives of civil society and victims' associations.

A controversial date

UN reports indicate that 156 civilians were massacred and at least 109 women and girls raped by security forces of the coup regime led by Moussa Dadis Camara on 28 September 2009. Two years after the massacre in Conakry's stadium, this date is again at the heart of political and security tension in Guinea. Opposition leaders have announced their intention to organize a major demonstration on 27 September, expressing disagreement with how the forthcoming parliamentary elections, scheduled for 29 December 2011, are being organized. The Governor of Conakry, Commander Sekou Camara Resco, has refused permission for the march, requesting the municipalities concerned not to permit assembly. The violence characterising previous events, particularly the return of opposition leader Cellou Dalein Diallo to Guinea on 3 April, and lack of effective dialogue between the government and the main opposition party (Union des Forces Démocratiques de Guinée, UFDG) give reason to fear further violent clashes between police and political activists. Intentionally or not, the shadow of 28 September 2009 lies over 27 September 2011.

The Government considers the opposition's decision to organise a demonstration on this date to be manipulative of the symbolism of 28 September as regards the massacre. Officials have also suggested that the decision evidences a desire to create conditions aimed at triggering a new national disaster capable of shaming the authorities in the event of bloody repression. The opposition refutes this claim highlighting the significance of 28 September as the day Guinea voted "No" to France to win its independence in 1958. It also denounces the increasingly authoritarian tendencies of the government, illustrated by their failure to respect the right to demonstrate guaranteed under Article 10 of the Guinean Constitution.

Marking both a tragic event and the beginning of political transition towards democracy, 28 September is subject to heated political controversy and is a source of increasing tension.

Ethnicity has become a major source of division in Guinean public life. The ethnicisation of political affiliations during the 2010 presidential elections, means every political act is now interpreted through this lens. Echoes of this ethnicism in a growing proportion of the population is attributable to political strategies and alliances fostered since that campaign. The presidential party, Rassemblement du Peuple de Guinée (RPG), is affiliated with the Malinke ethnic group and the opposition's UFDG with the Fulani.

More recently, the government and the main opposition party have called for national unity and reconciliation and seem to want to limit the effects of ethnicism.

However, some public actors have reinforced this new ethnic paradigm through media interventions. During a conference on 20 May 2011, Mediator of the Republic, General Facine Touré, stated: «For the peace of society, the Fulani have to be satisfied with economic power, and the others share the rest.» In subsequent public statements and responses to the FIDH mission, the Mediator has failed to dispel concerns that in addition to being discriminatory, such comments are contrary to the impartiality necessitated by his position as privileged interlocutor between citizen and state.

The opposition also expresses concern that institutional appointments are determined primarily by ethnicity. Given the duty on government to appoint officials on the basis of skill, the systematic application of ethnic criterion to post holders fuels a climate of suspicion, raising tensions between political actors and different national communities more broadly.

Is reconciliation a real process or a slogan?

In light of atrocities committed in Guinea, such as the September massacre, the presidential election pledges of both second round candidates assured the implementation of mechanisms for national reconciliation in a bid to end impunity. In his inaugural speech, President Conde, reaffirmed this as a priority of government.

A Commission charged with developing a process for Guinean national reconciliation was established by decree on 15 August 2011. Chaired by the first Imam of the Great Mosque of Conakry, Elhadj Mamadou Saliou Camara and the Catholic Archbishop of Conakry, Monseigneur Vincent Coulibaly, the Commission is to recommend how reconciliation is best achieved in the Guinean context.

The emergence of the ethnic prism in the public arena since the last election, has prompted most actors to call for reconciliation between different communities, while some civil society organisations emphasise the need for reconciliation between citizen and state. State repression since independence has been perpetrated without regard to the regional or ethnic origin of victims. That a process of truth and justice be engaged in allowing the State to guarantee the future human rights of its citizens is a *sine qua non* of full reconciliation. The shape of this process can only be defined by Guineans themselves. Many of those interviewed by the FIDH mission expressed a desire to turn the page on the violent past. FIDH and the OGDH recall the need for free speech and clarification of the facts surrounding traumatic past events for a new page of history to be written.

What place for victims?

The interwoven nature of political, electoral and memory issues has rendered victims of past political violence, including the September massacre, fearful of manipulation or relegated to the role of helpless spectator. The coincidence of the opposition march on 27 September with commemoration of the September massacre has already inflicted collateral harm: organisations requesting permission to conduct ceremonies in memory of lost relatives (prayers, wreath laying at the stadium, cleaning victims' graves etc.) have been refused. Conakry's Governor has justified these refusals on the basis that such ceremonies might attract public disorder in the broader context of political demonstrations. It is unfortunate that commemoration of this anniversary has been prevented for the second consecutive year, due to the political context.

28 September profoundly marks the history of Guinea. This date should transcend partisan cleavages and offer an opportunity for victims of the 28 September, Camp Boiro or other atrocities to express themselves freely in national and international media, and convey their message of peace and justice.

Moreover, the events of 28 September are not immune to the ethnicisation that has gradually stained Guinean politics. Thus, some view this massacre as an act of repression limited to targeting the Peul community specifically, though the incident was above all an act of political violence against protesters gathered by party political rallying. FIDH and the OGDH recall that regardless of their age, origin, ethnicity, social class or political affiliation, the victims of 28 September were all men and women as any other. Various victims' associations refuse to be reduced to being identified as a single ethnic community. They reaffirm that 28 September is emblematic of the state violence characterising successive regimes in Guinea and that only the advent of impartial and independent justice can move society beyond these partisan excesses.

28 September: a test of the will for change

On 8 February 2010, following a UN International Commission of Inquiry report and shortly before the International Criminal Court Deputy Prosecutor's first visit to Guinea, the Attorney General of Conakry's Court of Appeal appointed three judges to proceedings against «Aoubakar Diakite alias Toumba and all others.»

In these proceedings, FIDH and the OGDH, together with victims' associations and 67 of others, have become civil claimants in this action. To date, 191 victims have entered the action as civil claimants and nearly one hundred more are expected to do join them.

FIDH and the OGDH have already recommended that authorities make substantial improvements to working and security conditions for judges. This includes relocating the judicial investigations office,¹ housed in barracks home to 31 soldiers from the Special Force Securing the Electoral Process (FOSSEPEL). This proximity to the military, has posed obvious security problems for both judges and victims where perpetrators are senior army officers. During the FIDH mission, on 22 September 2011, judges were relocated to Conakry's Court of Appeal, on the direction of the Minister of Justice, Christian Sow. FIDH and the OGDH greet this concrete step, but point out that, given the magnitude of investigations, the material resources available to the judicial team should be further strengthened.

1. See FIDH and OGDH Report, "1 an après le massacre du 28 septembre 2009 – nouveau pouvoir, espoir de justice?" [*One year after the massacre of 28 September 2009 - new power, hope for justice?*], available at <http://www.fidh.org/1-an-apres-le-massacre-du-28-septembre-2009>.

2. Created in May 2010, the Special Force securing the electoral process (FOSSEPEL) has 16,000 members and is half composed of police and gendarmes and half of military.

Beyond these material issues, questions over the willingness of judicial authorities to lead proceedings are raised. Moreover, question marks hang over the will of political powers to ensure that this case is heard and adjudicated, without allowing the *a priori* evasion of responsibility. Thus, while the Code of Criminal Procedure states that investigation files are to be made “available» to counsel for the parties, and it is usual in Guinea to provide a copy of the preliminary investigation file, access to the files for civil party litigation teams in this case has been restrictive. When such consultation is permitted, it takes place under surveillance, and only handwritten notes may be taken. For national and international lawyers in this case, this barrier is a real difficulty. The Minister of Justice, Christian Sow, nevertheless assured the FIDH mission that the proceedings would not meet any political obstacle and that only «what is legal would prevail», stating «under this government, there will be no impunity”.

The judges seized of these proceedings have commenced the hearing of some victims and witnesses. They have also submitted a number of formal requests for assistance to foreign courts. So far, five people are in custody and a sixth was placed under judicial supervision. Nevertheless significant gaps in this procedure prevail.

FIDH and the OGDH recall that some people reasonably suspected of having individual criminal responsibility according to the UN International Commission of Inquiry report, still occupy important army and government posts. Such is the case for Lieutenant Colonel Oumar Moussa Camara Tiegboro, current Director of the National Agency for the Presidency, in charge of the fight against drugs, organized crime and terrorism. It is also the case for Claude Pivi, minister in charge of presidential security. The latter was decorated on 15 August as a Knight of the Order of Merit, and promoted to the rank of General a few days later, for his role in defending the President’s home during a 19 July attack.

In addition to instilling fear and indignation in victims, this situation casts doubt on the ability of judges to pursue investigations to the end and for justice to be successful.

However, political and judicial authorities have assured FIDH and OGDH that they will take concrete steps towards securing justice and victims’ rights. Our organizations welcome this declared willingness and wish that it be actioned as soon as possible in practice. Two years after the facts, and when political tension is at its peak, such judicial advances would show a commitment to long-awaited change in Guinea. It would ensure that acts of the past will not compromise Guinea’s future.

Recommendations

FIDH and OGDH recommend

To the Guinean Government:

- Freedom to demonstrate must be guaranteed in accordance with Article 10 of the Guinean Constitution, as well as Articles 9 and 11 of the African Charter on Human and Peoples' Rights, and Article 19(2) and (3) of the International Covenant on Civil and Political Rights (ICCPR). This guarantee should also be in accordance with Guinean statutory provisions governing the maintenance of public order.
- The physical and moral integrity of people demonstrating peacefully and legally must be guaranteed in all circumstances. The government must refrain from disproportionate use of force in accordance with the UN's *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*. Where necessary, legal action must be taken against state officials who may have been responsible for such human rights violations.
- Dialogue with political actors must be strengthened to ensure social peace. The parliamentary election must be held as soon as possible and in the best conditions to guarantee their free, open and transparent nature.
- Conditions securing the impartial exercise of judicial functions and the rights of the defense/plaintiff in judicial investigations of crimes committed on 28 September 2009 must be guaranteed. This includes better security and further capacity building for judges leading judicial investigations, as well as effective access to investigation files for counsel.
- Current procedures must actually be capable of securing the prosecution of all those responsible for crimes committed during the events of September 28.
- Refrain from any statements discriminating on the grounds of membership of a national community.
- Necessary steps must be taken for the early adoption of the draft bill implementing the Rome Statute of the International Criminal Court into domestic law through the National Transition Council.

To opposition parties:

- Exercise the right to freedom to demonstrate in accordance with Article 10 of the Guinean Constitution, as well as Articles 9 and 11 of the African Charter on Human and Peoples' Rights, and Article 19(2) and (3) of the ICCPR. This right should also be exercised in accordance with Guinean statutory provisions governing the maintenance of public order.
- Ensure the peaceful nature of demonstrations including through public appeals to members.
- Strengthen dialogue with political actors to ensure social peace. Ensure that the parliamentary elections are held as soon as possible and in the best conditions to guarantee their free, open and transparent nature.
- Refrain from any statements discriminating on the grounds of membership of a national community.

To the International Criminal Court:

- Further analysis of the current situation in Guinea should be conducted, taking into account the latest developments. Where the Guinean authorities prove to be incapable and/or unwilling to prosecute those most responsible for international crimes, an investigation should be initiated.

Keep your eyes open

Establishing the facts – Investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.

FIDH has conducted more than 1 500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

Supporting civil society – Training and exchange

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

Mobilising the international community – Permanent lobbying before intergovernmental bodies

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

Informing and reporting – Mobilising public opinion

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.



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OGDH

The OGDH was founded in 1990 by academics, students and lawyers to promote, protect and defense of human rights.

The OGDH organizes seminars on the protection of human rights for law enforcement officers, judges, public sector managers and journalists.

It also runs a training program in human rights for people living in rural areas. In order to help citizens facing human rights violations, it has established four Human Rights Information Centers (CIDH) in Tougué, Téliélé, Kouroussa and Mandiana.

Moreover, the OGDH had always been particularly active in hearing victims and supporting them in legal proceedings.

The OGDH is a member of the International Federation for Human Rights (FIDH) and the Inter-African Union for Human Rights (UIAH). It also has observer status with the African Commission on Human and Peoples' Rights (ACHPR).

In 2001, the OGDH received the Baldwin award for peace.

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FIDH
represents **164**
human rights organisations
on **5** continents



of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest,

ABOUT FIDH

- FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

- A broad mandate

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

- A universal movement

FIDH was established in 1922, and today unites 164 member organisations in more than 100 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

- An independent organisation

Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.

fidh

Find information concerning FIDH's 164 member organisations on www.fidh.org