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Security Sector Governance:  
An Analysis of Guinea-Bissau

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## List of Abbreviations

ECOMOG	ECOWAS Cease-fire Monitoring Group
ECOWAS	Economic Community of Western African States
IMF	International Monetary Fund
MFDC	Movement of Democratic Forces of Casamance
PAIGC	African Party for the Independence of Guinea and Cape Verde
PRS	Balanta Party for Social Renewal

## **Foreword**

This paper is part of a larger research project, 'Coping with Internal Conflict' (CICP), which was executed by the Conflict Research Unit of the Netherlands Institute of International Relations 'Clingendael' for the Netherlands Ministry of Foreign Affairs. The CICP, which was finalized at the end of 2002, consisted of three components: 'Political Economy of Internal Conflict'; 'Managing Group Grievances and Internal Conflict'; and 'Security Sector Reform'. This paper was written in the framework of the research component 'Security Sector Reform'.

Successful reform of the security sector calls for policies on the basis of good analysis. The purpose of this component was to make such analyses and identify requirements for enhancing democratic governance of the security sector. The studies on Guinea Bissau, Indonesia, Rwanda and Sri Lanka have contributed to the development of an institutional assessment tool for democratic governance the security sector that will help policy makers who would like to engage in security sector reform activities.

# 1. Introduction

Guinea-Bissau has experienced significant political instability since achieving independence and has an associated legacy of widespread abuse of human rights and failure of political leaders to ensure the security sector complied with the nation's law, constitution or international norms. The country never developed effective or stable checks and balances over either the executive branch or the security sector. The executive and the security sector have little regard for constitutional order, separation of powers or the need for institutional checks on the presidency or security sector. The constitution and laws clearly subordinate the military to the civil government command, but the military has not always respected this principle.

After the civil war in 1998 and 1999, peaceful democratic elections were held. Civil society pressure substantially helped broker a peaceful outcome and continues to animate lively public debate in the media and the National Assembly, which hinder the president through public embarrassment. However, constitutional restraints on the executive branch, which wields the internal security forces, have been effectively gutted by the arrest of the Supreme Court and threats to disband parliament.

Despite high expectations for the new democratic government, the political situation has been chaotic due to the capricious, contentious rule of the new president, who has been embroiled in a number of financial and constitutional scandals. The magnitude of the scandals and the constitutionally dubious reactions of the presidency mean that little civic attention has been focused on improving the governance of the security sector.

Elaborate laws aimed at governing practices, policy and command of the security sector are frequently ignored and major oversight institutions are either grossly ineffectual or in some cases have no funding or staff, existing in law but not reality. Laws defining oversight powers are often ambiguously worded or effectively split power between two authorities ensuring that a misbehaving executive can block attempts at oversight.

Fiscal oversight systems are so dysfunctional, so manipulated by politicians and so under funded that many of its oversight mechanisms are mere theoretical intentions that have no prospect of the funding and staff necessary to function properly. As a consequence, many concepts of management that are common in Western nations are ignored or function in only rudimentary ways. Without placing the national government on a much more solid financial footing and installing a government with respect for the constitutional order it is difficult to foresee improvement.

## 2. The Political Environment

### 2.1. Historical Legacies

After 547 years of Portuguese colonial rule, Guinea-Bissau won independence in 1974 after an 12-year guerrilla war that was, along with Zimbabwe's struggle, the most sustained and violent anti-colonial conflict in Africa.

The African Party for the Independence of Guinea and Cape Verde (PAIGC)<sup>1</sup> began armed struggle in 1962 and by the late 1960s had mobilised a loyal, efficient armed following in most of the Guinean territory. The extent of that mobilisation and the speed of the Portuguese exit from their colonies helped enshrine a powerful central role in national affairs for the armed forces generally and particularly for war veterans and top liberation-war commanders, who dominated the nominally civilian independence government and whose demands and interests continue to resonate in political affairs today.

#### 2.1.1. Tribal and Racial Issues

Portuguese rule entrenched a racial and tribal element to governance that continues as a significant factor in politics and military affairs. Portuguese law drew a distinction between 'assimilated' and 'unassimilated' peoples that has lingering effects today. The assimilated had to wear western clothes, attend church, adopt non-African names, speak and write Portuguese and live in western-style homes. Assimilation was necessary to qualify for civil service jobs and most were of mixed Portuguese and African descent, or 'mesticos'.

When rebellion against colonial rule was first organised by the PAIGC, Cape Verde was the administrative capital for Guinea-Bissau. Cape Verde, with a vastly greater proportion of mesticos, was also the epicentre of the party. As a result, the PAIGC leadership was disproportionately weighted with the more sophisticated, better-educated and lighter-skinned players from Cape Verde.

Under the Portuguese mesticos and Cape Verdeans held some 70 percent of administrative jobs granted to Africans, a proportion many darker-skinned groups felt should be significantly cut.<sup>2</sup> Despite popular expectations that the PAIGC would shift the balance of the civil service after independence, those favoured elites kept their jobs. The lack of trained administrative staff and a shortage of educated people generally made this hold-over necessary. However, it created ongoing antipathy and was reinforced by perceptions that bureaucrats continued their colonial-era practice of using state jobs for corrupt aims.

Beneath the mestico issue was another significant tribal element. Most of the front-line fighters in the liberation war were Balanta. Despite its fighting prowess, the Balanta differed from

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<sup>1</sup> Cape Verde and Guinea-Bissau were until independence managed as a single Portuguese colony.

<sup>2</sup> 'Guinea-Bissau: Power, Conflict and Renewal in a West African Nation' by Joshua B. Forrest, (Westview Press, Oxford), p. 21.



other tribes in Guinea-Bissau in not having a system of leadership by chiefs. Instead of the more common vertical social hierarchy, the Balanta had no formal leadership structures and traditionally were more poorly educated than other tribes.<sup>3</sup> Consequently, compared to other tribes Balanta have received far fewer civil service jobs, ministerial postings or senior officer promotions in the military since independence.

### *2.1.2. The First Coup Before Independence*

Guinea-Bissau's first coup against PAIGC leader Amilcar Cabral came in January 1973, a year and a half before independence. In a complicated plot by PAIGC members, he was assassinated. Reasons offered for the betrayal vary, with some claiming that long-time members were turned by Portuguese intelligence agents in exchange for money. Other theories place the blame on simple greed for control. A killing in the ranks of a rebel movement perhaps is not the same as a coup against a recognised civilian government, but Cabral's death clearly contributed to an atmosphere of distrust that contributed to subsequent post-colonial repression and the large and aggressive posture of state security services toward opponents.

Amilcar's half brother Luiz Cabral took over and became the country's first post-independence leader. He built a highly centralized authoritarian government that embraced Marxism-Leninism and a centrally planned economy. Police overreacted to dissent and free expression. Elections were run in Soviet fashion offering people the chance to approve or disapprove of a single candidate. One party rule meant the only means for individuals to advance their careers was through secret, informal factions. By 1979, secret police were increasingly active and feared. Speech even in party circles was highly self-censored. After Cabral was deposed, some 500 bodies were found dumped in mass graves in forests.

Luiz Cabral also sowed the seeds of discontent in the military through a policy in which the government assumed all powers to select and promote military officers. As his regime wore on, the criteria for selecting those officers was clearly loyalty to him and not competence. There began a groundswell of resentment by troops who had fought in the independence war who were either more qualified or longer serving than the selected political officers. Members of the Balanta ethnic group particularly were passed over. Low pay and lack of other benefits compounded the negative mood.

### *2.1.3. Rivalry for Power*

One of the main dissidents of this policy was Joao Bernardo Vieira, who was respected for his wartime leadership and who favoured better treatment for soldiers. In 1980, Vieira was principal commissioner, the equivalent of prime minister. Cabral sensed the tension and rivalry Vieira represented and announced a constitutional change on 10 November 1980 that eliminated the post of principal commissioner and made Cabral supreme head of the army. Four days later, Cabral was overthrown and Vieira was installed as leader. The State Council of Ministers and National Assembly were replaced by a nine-member Revolutionary Council, seven of whom were military and none of Cape Verde descent.

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<sup>3</sup> In November 2002 interview Mamadu Jao, the Director, Instituto Nacional De Estudos E Pesquisa, (National Institute for Studies and Research) described the Balanta social structure as 'horizontal' placing emphasis on age and peer groups rather than vertical social hierarchy.

Like Cabral, Vieira continued the policy of the one-party state. Deep respect for his wartime record kept dissent in military ranks in check for the first year, but soldiers expected material benefits. Vieira did not deliver and adopted a policy of civilian control of the military and staffing of his government with civilian ministers. He did remove mestizos from top ministerial posts in 1981 but did not give them to Balanta soldiers or party members. He also argued that revenues were too sparse to significantly boost military salaries. At the same time the nation was facing a growing food crisis. Here Vieira was caught in the trap of poor underlying economics that is one of the most crucial precursors to military rebellion.

According to Vieira, coup plots were launched in March 1982, June 1983 and November 1985, although, as mentioned earlier, some question whether they were real plots or just knots of dissatisfied officers. Minister of the armed forces Paulo Correia, a Balanta, advocated more support to soldiers. Vieira demoted him in 1982, later sent him to the ministry of justice. In 1985, Vieira felt his security required removing Correia and another top Balanta, Viriato Pan, who had been the government's top prosecutor in 1981. Both were arrested along with dozens of supporters and accused of involvement in the three purported coup plots. A 1986 military trial sentenced 52 to long prison terms, six were executed and six others died suspiciously in prison.

In 1981, Vieira also began to make moves against Victor Saude Maria, who was foreign minister in 1981 and prime minister in 1982. In the extraordinary party congress of 1981, Vieira lobbied hard and succeeded in eliminating the party post of secretary-general adjunct, which would have gone to Maria. In 1984, he eliminated the post of prime minister with a constitutional change and accused Maria of plotting a coup. Vieira took tight control of the armed forces, the ministry of National Security and the new National Security Council, appointed by him with wide police powers. Between April and May 1987, as many as 200 army officers were arrested for conspiring against the regime. Briefly, Vieira had the vice president and the minister of state security arrested.

#### *2.1.4. Aspirations and Failed Governance*

The combination of the one-party state, intolerance of dissent and Vieira's highly centralized strong-man government denied both rank and file and senior party figures of adequate places to rise in the system, which contributed to ongoing political crises as Vieira quashed aspiring leaders. Because the system continued to dish out perks and corrupt opportunities to those at the top, it made clear that real material aspirations could be filled only by knocking those above out of the way.

Under Luiz Cabral and later Vieira, the administrative demands on government grew. However, the response by party cadres and senior leaders was managerially inept. Numbers of civil servants expanded significantly and ministers succeeded in convincing the president to create new internal departments, but there was egregious failure to properly plan and execute the work of government with little attempt by top party leaders to supervise and ask why work was not done. This crisis of inefficiency provoked Vieira to declare 1984 'The Year of Rigorous Discipline and Institutionalisation.' The proclamation failed to make a difference.

A 1986 IMF-World Bank mission to plan a structural adjustment programme noted 'massive administrative failure'. Such a failure of government to deliver is certainly not unique to Guinea-Bissau. It was and remains a critical failure. Together with the decay of the broader economy and faltering terms of trade, it left government with an ever-declining ability to assert its will in any direction, except through repression. This failure to attend to the business of administration and

execution of programmes was compounded by the PAIGC's proclivity for top-down, Soviet management. As the years passed Vieira's concentration of power around himself contributed to the unwieldy and ineffective state system.

The IMF and World Bank came at a time when African state finances were increasingly seen as unsustainable. External pressures were intensifying to end the era of presidents for life and one-party rule. By 1997, the country's total external debt was US\$921 million compared to a GNP of \$266 million. Vieira agreed in 1991 to end one-party rule and the number of opposition parties rapidly grew, in part from their own internal faction fighting, which saw many parties cleaved into new parties.

Multiparty elections scheduled for November 1992 were pushed back to March 1993. An alleged coup attempt further delayed elections until March 1994. A week before that, Vieira announced another delay to 3 July. In the first multiparty elections, the PAIGC won 62 of 100 legislative seats, although it won only 38 percent of the popular legislative vote.<sup>4</sup> After a second round of voting, Vieira narrowly won the presidency with 52 percent of the vote to 47 percent for Kumba Yala.

#### *2.1.5. A Legal Culture of Ambiguity*

Guinea-Bissau adopted much of the Portuguese constitution and system of government wholesale with little modification. While that constitution defines the classic elements of judicial, executive and legislative governance, its definition of powers and oversight are often ambiguously worded. For example, the constitution says National Assembly has the power to legislate but also says that the president has the power to pass decrees. However, the constitution imposes no limits on this power of decree, nor offers clarifications or stipulations of how the Assembly might veto or challenge such decrees in court.

As a result judicial and legislative oversight is weak and can be easily overridden or obfuscated by determined action by the executive or military. Moreover, vague Portuguese law, one-party rule and Soviet influence combined to form a political and legal culture focused far more on who wields power rather than on the aims of government or clear principles of good governance.

Guinea-Bissau's long anti-colonial war and Vieira's subsequent coup resulted in a kind of fusion of military and civilian power. Samuel Nana-Sinkam, the UN Secretary General's special representative to Guinea-Bissau contrasted the country's system, which resulted from its long military struggle for independence, with the more typical African state where colonial regimes handed power to political parties with little or no warfare: 'Since independence, Guinea-Bissau had a military system with a political wing as opposed to a political system with a military wing. ...All military were political and all political were military.'<sup>5</sup>

Although Vieira came to power based on his strong wartime record and following among the liberation fighters, significant discontent developed in the military as he favoured allies among the officers and failed to correct the economic hardships affecting the nation. This led to the 1998 rebellion by Brig. Ansoumane Mane. Maj.-Gen. Verissimo Correia Seabra, now Chief of Staff and number two under Mane, described the situation in an interview:

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<sup>4</sup> 'On Democracy's Sustainability: Transition in Guinea-Bissau' by Lars Rudebeck, p. 46 (Study Series for Swedish International Development Agency).

<sup>5</sup> Interview in Bissau, November 2001.

‘By 1998 Vieira acted without any law, without any rules. The only rule was him. He had all the power. There was corruption without limit. The economy was very bad and the population was in the middle. Military conditions for soldiers at all levels were catastrophic. Soldiers had no salaries for seven or eight months and no proper food. Old combatants were living miserably. Vieira created two groups - one with many privileges able to do anything and another able to do nothing. That second group was defended by Gen. Mane.’<sup>6</sup>

‘The current government is extremely unpopular and criticized for economic mismanagement, corruption, high prices and the poverty of its citizens,’ wrote the Economist Intelligency Unit country profile of 1997-98. Jean-Claude Marut, a researcher for the Centre d'études d'Afrique Noire writing for the UN High Commission for Refugees argued that there was a powerful connection between the rebellion against Vieira and the country's structural economic problems, corruption and budget austerity imposed by the IMF.’

‘The extent of support for Ansumane Mane revealed the depth of malaise within the army. The military, including several thousand former liberation war fighters, were poorly paid, often in arrears. At the same time many PAIGC officials were getting rich on business deals, some would claim corruptly. But the problem went deeper. Like the rest of the population, the military were subjected to Nino Vieira's strict budgetary policy in force since the 1980s under the auspices of the IMF.’<sup>7</sup>

## 2.2. Recent History: From Civil War to Democracy

In January 1998, after a weapons cache was found, a group of army officers were arrested and accused of supplying weapons to the Casamance rebels fighting against the government of neighbouring Senegal. In February, the chief of staff, Brig. Ansumane Mane was dismissed over involvement in the affair,<sup>8</sup> but in March he accused the minister of defence of supplying the Casamance rebels with the long-time acquiescence of president Vieira.

Political scientist Lars Rudebeck noted: ‘This case of top-level criminality came to function as a catalyst for ‘normal’ political discontent. Frustrated soldiers and officers who had not been paid for long came out in solidarity with Ansumane Mane.’<sup>9</sup>

In June 1998, Mane led rebel troops, who seized the Bra military barracks in the capital and the airport. Mane declared a military junta. Evidence suggests Mane pre-planned his attempted coup by moving artillery and other military stores outside the capital. Very quickly, Vieira rallied some 1300 Senegalese and 400 Guinea-Conakry troops to his aid. They were beaten badly by more

<sup>6</sup> Interview in Bissau, November 2001.

<sup>7</sup> ‘Guinea-Bissau and Casamance: Instability and Stabilization’ by Jean-Claude Marut, June 2001, p. 2, Writenet Paper No 15/2000.

<sup>8</sup> Mane was dismissed three days before the report of a parliamentary inquiry was due to be published. When it was finally published it exonerated Mane and accused Vieira of arms trafficking. Guinea-Bissau had joined the west African CFA franc zone and some speculate that French and Senegalese pressure increased on Vieira to stop arms trafficking. ‘Guinea-Bissau and Casamance: Instability and Stabilization’ by Jean-Claude Marut, June 2001, p. 2, Writenet Paper No 15/2000.

<sup>9</sup> ‘On Democracy’s Sustainability: Transition in Guinea-Bissau’ by Lars Rudebeck, p. 28.

experienced Guinea-Bissau troops and only managed to hold the capital. Mane held the radio and skilfully whipped up popular sentiment against the foreign troops. Animosity toward Senegal and Guinea-Conakry remains high among the security forces of Guinea-Bissau<sup>10</sup>. Some 200000 people fled Bissau. On 26 July 1998 a truce was signed but it broke down in October. On October 20, Vieira declared a unilateral ceasefire, by which time nearly all government troops had defected to the rebels and were in control of 99 percent of the country.

Mane did not demand Vieira's removal but asked for a government of national unity. On November 1, 1998 a peace deal was signed in Abuja, Nigeria, that called for elections by March 1999, the replacement of foreign troops with Ecomog troops and the creation of a government of national unity between Vieira and Mane's self-described junta. Ecomog troops arrived in December 1998, but hostilities resumed in January 1999.

Rebel troops and government troops had been disarmed in March, but in May rebel troops seized the stored arms they had given up and overthrew Vieira. He later left to Portugal. The Abuja unity government was interpreted by Mane as a kind of co-presidency shared with the interim civilian government. Mane publicly threatened that the military would reserve the right to intervene in the political system any time it chose.

With UN and other foreign backing, elections were held on November 28, 1999 and a second round of presidential voting took place in January 2000 electing Kumba Yala, a member of the Balanta tribe from the heavily Balanta Party for Social Renewal (PRS). Long excluded from political power, the Balanta now largely controlled both civilian and military power.

Mane retained the loyalty of much of the military in a parallel power centre and repeated threats to intervene any time in the next decade if civilian government failed to meet its pledges to the public. Mane went so far as to block Yala from going on a state visit to Senegal and demanded to accompany him on a visit to Nigeria.<sup>11</sup> Despite the unity government, trade unions, journalists and other civil society groups protested that the military and security forces continued to unlawfully detain, intimidate and torture people.

A row between Mane and Yala steadily escalated in 2000 over military promotions and control of the armed forces. In April, Yala dismissed the Navy chief of staff after he unilaterally released a Korean fishing boat captured for illegally fishing Guinea-Bissau waters. The military, which resented the decision, took control of the commercial port and continued to run it on a commercial basis despite judicial efforts at reconciliation with the government. On 16 November, Mane cancelled the promotions of 30 military officers announced by Yala and a few days later declared that he had fired the country's chief of staff and was assuming the office himself, without consulting Yala. He accused Yala of 'indiscriminate distribution of ranks'. A variety of sources say Yala's promotion list was heavily weighted with members of his Balanta tribe. On November 20, Mane declared himself Supreme Commander of the Armed Forces, a title belonging to the head of state. He ordered the disarming of the Presidential Guard.

At the height of the tension Yala retreated to United Nations offices in Bissau and the Deputy Chief of Staff came wounded to the UN, where he spent 4 days.<sup>12</sup> The same day as the promotions ceremony,

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<sup>10</sup> In a November 2001 interview in Bissau, Major-General Verissimo Correia Seabra, Chief of Staff, described the entry of foreign troops as 'an invasion'.

<sup>11</sup> *Diario de Noticias*, 4-5-00, *Publico* 27-10-00.

<sup>12</sup> Interview with Samuel Nana-Sinkam, special representative of UN Secretary General, November 2001.

Mane ordered all those promoted to come to his house, took their rank insignia and returned them to Yala. Mane loyalists surrounded the various military headquarters and arrested opponents, including Seabra. But other military units opposed him, particularly the Frontier Guards, which fall under the Ministry of Internal Administration. Major battles erupted in Bissau as Mane's soldiers fought those loyal to Yala.<sup>13</sup> Eight days later, Mane was killed. The government has not investigated allegations that Mane was captured and then beaten to death, which is contrary to the official version that he died in a gunfight with loyalist forces.

Yala's government accused the political opposition of being behind the rebellion and 181 political party members were arrested, including PAIGC president Francisco Benante. In December 2000, Yala fired 28 key military officers considered supporters of Mane and replaced them with 33 loyal to Yala, leaving the armed forces with significantly greater Balanta representation. Yala's list promoted some junior officers up three grades, above their previous seniors. Where previously there was only one general, Yala made 10 and retired several old-guard loyal to Mane. Resentment within the officer corps continues over Yala favouring ethnic Balanta.

### **2.3. Yala's Rule: Chaos and Political Controversy**

After so many years under a political system characterised by one-party rule, intolerance of dissent and undemocratic behaviour by the security forces, both international and domestic observers expected Kumba Yala, a long-time Vieira opponent and advocate of multiparty democracy, to usher in an era of renewed commitment to democracy and consensus building politics.

Despite expectations and the obvious political need to build a stable national commitment to democratic order, Kumba Yala's rule has been marred by chaotic decisions, petty feuds, gross economic mismanagement, corruption, constitutional violations, tribalism and crude unconstitutional attempts to muzzle critics.

Based on reports from the UN Peace-Building office in Guinea-Bissau, UN Secretary General Kofi Annan painted a bleak political picture in his most recent report to the Security Council:

'The political situation in Guinea-Bissau has remained difficult and volatile. ...[Events] reflected a seemingly deepening institutional as well as political crisis....Internally the military authorities have continued to pledge loyalty to the constitutional order, although there are growing indications of concern about the inability of the Government to move the democratic process forward. In a recent statement, the Chief of Defence Staff publicly accused political actors of diverting funds earmarked for the welfare of the military....

While mounting social and economic grievances have continued to sharpen political tensions, persistent political instability has also affected economic performance, including the flow of aid. Widespread poverty is not only adding to social instability, but is also generating scepticism about the still elusive dividends of the nascent democracy.'<sup>14</sup>

After his election, Yala made significant concessions to Mane's former military junta, inviting 16 members of the junta into the cabinet creating an uneasy power sharing arrangement. The Abuja peace

<sup>13</sup> Events as related by Maj-Gen. Seabra and other officers.

<sup>14</sup> December 14, 2001 [www.un.org/Docs/sc/reports/2001/1211e.pdf](http://www.un.org/Docs/sc/reports/2001/1211e.pdf).

agreement, which eased the conflict between Mane and the government, established a joint government between Mane's junta and the interim government - essentially a co-presidency that should have ended with the final round of democratic elections in January 2000. That arrangement failed to resolve conflicts over the budget, command and management of the military. Mane continued to refuse to acknowledge Yala as the superior authority.

While there was broad public support for Yala's refusal to accept domination by Mane as co-president, in nearly every commonly accepted gauge of performance Yala's rule is perceived as both failed and undemocratic in spirit. Instead of reacting to Mane's threats to constitutionalism by rallying the democratic political parties, Yala sparked a succession of petty feuds. On a wide variety of issues - basic incompetence, corruption, crudely injecting tribalism into politics, unconstitutional acts, suppression of dissent - perceptions of illegitimacy are growing, which has great potential to affect civil-military relations. The most significant crises are summarised below:

### *2.3.1. Sacking and Arrest of Supreme Court*

Yala most deeply damaged his democratic credibility as well as the proper functioning of Guinea-Bissau's system of governmental checks and balances by a series of grossly unconstitutional attacks on the judiciary as well as highly publicised threats against the judiciary that deeply undermine the constitutional order.<sup>15</sup> Most significantly he illegally fired and later arrested members of the nation's highest court, the Supreme Court, holding the detained members without charge or trial. This also represents a significant and unequivocal violation of United Nations obligations to which Guinea-Bissau is a signatory.<sup>16</sup>

The dispute grew from several cases in which the court properly took decisions countermanding inappropriate or unlawful acts by Yala. After Mane was killed, Yala arrested some military officers, but a regional court ordered them released for lack of evidence. Yala released them but immediately rearrested them and continued to hold them without charge or trial for six months.<sup>17</sup> In another incident, one of Yala's cabinet ministers allegedly impregnated a 17 year old girl who later died, apparently from an abortion. The minister wanted to cover it up but the court wanted to take up the case.

And in 2001, Yala decided to expel from the country the Ahmadiyya Muslim Association<sup>18</sup>, a British-based group whose leaders were mostly originally from Pakistan. Yala accused the group of contributing to instability in the country and discord among Muslims, who form roughly 40 percent of

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<sup>15</sup> Article 120 of the constitution guarantees the independence of the judiciary, expressly declaring it subject only to the law and not other arms of government. Article 68 limits the president involvement to swearing in judges. He has no powers in the constitution for any form of naming, nominating, suggesting, approving or dismissing judges. Article 123 says that the 'appointment, dismissal, transfer and promotion of judges is of the competence of the Higher Council of Magistrates only in accordance with the law'.

<sup>16</sup> His action also contravenes United Nations Principles on the Independence of the Judiciary, principles 1, 18 and 19, which impose on states the duty to respect the independence of the judiciary. The UN Universal Declaration of Human Rights, articles 7, 8, 9, 10 and 11, which guarantee the rights to a presumption of innocence, a fair public trial, due process, and recourse to law for violations of such rights. See <http://www.hri.org/docs/UDHR48.html>.

<sup>17</sup> Amnesty International AI Index AFR 30/14/2001, 'Guinea-Bissau: Attack on the Independence of the Judiciary'.

<sup>18</sup> Ahmadiyya was founded in northern India about 150 years ago but was expelled from Pakistan in the 1970s.

the population. Yala banned the activities of the group, ordered the closure of its mosques and ordered the group to leave, giving its Pakistani members just 48 hours to depart. The Supreme Court ruled against his decision, to which he publicly castigated the court as ‘false, mediocre, corrupt and liars’ who should be ‘barred from practising their profession.’<sup>19</sup>

On September 7, Venancio Martins, deputy president of the Supreme Court, said the court intended to sue Yala for ‘threats, slander and meddling in internal judicial affairs.’ Through a presidential decree Yala ‘dismissed’ four top court members including its president Emiliano Dos Reis and Martins.<sup>20</sup> The decree offered no reasons for the dismissal but Yala later publicly accused the court members of embezzling CFA 75 million in court funds.<sup>21</sup> However, police raids on the court to look for evidence occurred after the dismissal. The four were later arrested without formal charge or trial.<sup>22</sup>

The constitution quite clearly outlaws jailing without trial of non-dangerous persons and it gives exclusive power to dismiss judges to the Higher Council of Magistrates, not the president.<sup>23</sup> Judges went on a month-long strike against the move but later capitulated, despite vocal backing from the Assembly, which accused Yala of ‘trampling constitutional legality’ and passed a motion of no confidence in him. As a result of the Assembly's unwillingness to accept Yala's subversion of the judiciary, Yala began to attack the National Assembly. Yala said the no-confidence vote had no meaning and threatened to disband the Assembly, even though he cannot do so under the constitution unless the Assembly itself consents. He further tried to have parliamentary immunity stripped from members so that he could have them arrested and tried for defamation.

The judiciary went on strike for a month but eventually caved in to Yala, who the court could have properly impeached for his actions. Amnesty International reported that according to its interviews during a fact finding trip, judicial sources said Yala attempted to suspend elections to the Supreme Court by the Superior Magistrates Council on the grounds that he had not appointed

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<sup>19</sup> Yala offered no specific incidents of unlawful acts by the group and did not officially charge or bring to trial any members. The constitution guarantees rights to due process. Article 52 guarantees religious freedom, and Article 55 says religious institutions cannot be dissolved or suspended by the state except in cases provided for under law and after a court decision. The judiciary ruled Yala's action illegal and unconstitutional and declared it null and void.

<sup>20</sup> Through presidential decree 52/2001 issued on 7 September 2001, Kumba Yala dismissed from the Supreme Court Doctor Emiliano Nosolini Reis, its president, Doctor Venancio Martins, vice president of the court, Doctor Paulo Sanha, a Supreme Court judge and Doctor Albino Pires, an official of the Supreme Court and the representative of the Attorney General's office. The decree appointed four other judges to replace them. The decree cited no reasons for the dismissal. See Amnesty International AI Index AFR 30/14/2001, ‘Guinea-Bissau: Attack on the Independence of the Judiciary’.

<sup>21</sup> Ironically accusations were later made in parliament and the press that the new court appointees were involved in embezzlement. One member of parliament in an interview alleged that the money was diverted from the court to pay the bail of Kumba Yala's son, who was facing criminal charges in Portugal. This could not be verified.

<sup>22</sup> ‘Guinea-Bissau leader vows not to interfere with courts,’ AFP 15-1-02, also Andrea Ostheimer: ‘The Structural Crisis of Guinea-Bissau's Political System’.

<sup>23</sup> Detainees must be charged or released within 48 hours under the constitution Title 2 bill of rights, articles 39, 40 and 42. Under the constitution gives no power to the president to fire judges, powers which are reserved for the Superior Council of Magistrates, under the constitution, Title 3, Chapter 7, article 123 (4).



representatives to the Council. In the eventual swearing in ceremony, Yala threatened to end the independence of the judiciary 'if there was manipulation and corruption in the justice system.'<sup>24</sup>

Gutting the Supreme Court also had the function of effectively removing any possibility of impeachment. Under the constitution, the president 'answers to the Supreme Court' (article 72) but the National Assembly can require the Attorney General to institute a penal action against the president before the Supreme Court with approval of two-thirds of the Assembly members.

In an interview for this analysis, Alamara Intchia Nhasse, the Minister of Internal Administration, rationalised the attack on the Supreme Court, effectively saying the president has the right to abrogate the entire constitutional order: 'The President of the Republic is a referee. He doesn't have to intervene in your area but if you are not doing your job he has to intervene.'

### 2.3.2. *Economic Decline*

Guinea-Bissau has suffered long-term economic decline since independence. Decay is eroding the state's capacity to function in the most basic ways, which shows signs of putting the military in conflict with civil government. The 1998-99 civil war resulted in 28 percent decline in the economy.<sup>25</sup> Net foreign direct investment was zero from 1980 to 1997.<sup>26</sup> Among 46 countries ranked by the decline or gain in their terms of trade from 1990 to 1997, Guinea-Bissau was third worst, losing nearly 6 percent per year, mostly as a result of declining prices for cashews, which represented 84 percent of export earnings, an indicator of the severe lack of diversification in the economy.<sup>27</sup>

Structurally, the government is unsustainably large compared to the size of the economy and remains hugely dependent on outside aid. Government deficit spending as a percentage of GDP averaged 41.5 percent from 1985 to 1989 and improved only to an average of 27.2 percent from 1990 to 1997. In 1997, total government expenditure was nearly three times as high as the total of domestic tax and non-tax revenues - expenditures of 46.3 percent of GDP versus revenues of 15.4 percent. (The situation that improved modestly under IMF strictures to 32.2 percent and 17.7 percent respectively in 1999 when war halted much government activity.)<sup>28</sup>

Socially, the indicators are equally bleak. According to the UNDP's human development index, Guinea-Bissau ranks 169<sup>th</sup> out of 174 nations and an estimated 88 percent of the population lives on less than \$1 a day. At the same time population growth was around 2.2 percent in the 1990s while GNP grew by 1 percent. The present minimum monthly wage for a civil servant is about US \$22.<sup>29</sup> In 1999, Guinea-Bissau's national debt of US \$ 709 million is more than three times its GDP of \$218.3 million.<sup>30</sup> Guinea-Bissau qualified for the IMF's Heavily Indebted Poor Countries (HIPC) debt

<sup>24</sup> Amnesty International AI Index AFR 30/14/2001, 'Guinea-Bissau: Attack on the Independence of the Judiciary'.

<sup>25</sup> November 13, 2000 Memorandum of Understanding by government of Guinea-Bissau to IMF pledging economic policies to be followed under structural adjustment, paragraph 3 [www.imf.org/external/np/loi/2000/gnb/01/index.htm#mefp](http://www.imf.org/external/np/loi/2000/gnb/01/index.htm#mefp).

<sup>26</sup> World Bank, African Development Indicators 1999, p. 82.

<sup>27</sup> Ibid, p. 146.

<sup>28</sup> The International Monetary Fund publication 'Guinea-Bissau: Statistical Appendix' (Country Report No. 01/23 of January 2001) See [www.imf.org/external/pubs/ft/scr/2001/cr0123.pdf](http://www.imf.org/external/pubs/ft/scr/2001/cr0123.pdf) IMF pp. 7, 19 and 22.

<sup>29</sup> RTP Reporter, April 9-13, 2001 as reported in Andrea Ostheimer: 'The Structural Crisis of Guinea-Bissau's Political System'.

<sup>30</sup> World Bank data profile: <http://devdata.worldbank.org/external/dgprofile.asp?rmdk=82593&w=0&L=E>

relief programme in January 2000. During the first quarter, an IMF financial review found major fiscal problems and put the HIPC aid on hold.<sup>31</sup>

### 2.3.3. *The Ministry of Finance Scandal*

Shortly after coming to office Yala began displacing qualified civil servants with his loyalists and particularly members of his Balanta tribe. In the Ministry of Finance large numbers of technical and accounting staffs were replaced, often by people completely lacking in accounting background. Many of these were said to be functionally illiterate. Within months even basic accounting procedures and verifications that spending was conducted according to budget were disregarded. Eventually, sources said Army generals and senior members of other ministries were making frequent visits to the ministry, presenting dubious paperwork - sometimes no more formal than a Post-It note - demanding cash.

A structural adjustment agreement reached between the IMF and the government in July 2001 and subsequently updated in November 2001 dryly acknowledges the enormity of fiscal misgovernance:

‘Programme implementation during 2000 and 2001 suffered from a weak fiscal stance, as a situation of political uncertainty and increased military activity in border areas reduced the ability of the authorities to exert effective control over the budgetary process. In particular, unauthorized expenditures during 2000 reached the equivalent of almost 8 percent of GDP, while newly accumulated domestic arrears were equivalent to about 6 percent of GDP.’

To permit unauthorised spending equal to 8 percent of GDP and at the same time fail to pay government bills equal to 6 percent of GDP - 14 percent of GDP in total - represents a monumental mismanagement of funds in a nation where total government spending was 32.2 percent of 1999 GDP (the last year for which GDP figures are available)<sup>32</sup>.

However, for the IMF to attribute the spending problems to political and border insecurity is far too generous, according to other sources familiar with the chaotic situation in the ministry of Finance as well as questions and answers during the November 2001 parliamentary inquiry into the lack of fiscal controls by the ministry.

Procedures requiring proper spending authorization documents were completely disregarded, ministry staff stopped verifying that expenditure was authorised in the state budget and eventually various ministries, and particularly the Armed Forces, bypassed the treasury department and began making demands for cash directly to the Customs Department, which is where the state's principle flows of money are generated.

During the parliamentary inquiry, sources alleged that the military accounted for large amounts of the unauthorised spending under the rationale of Casamance border insecurity. The Armed Forces sent a letter in response to the National Assembly in November 2001 denying any role in the

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<sup>31</sup> Interview Ministry of Finance, November 2001.

<sup>32</sup> In 1999 total government spending including capital was CFA 43.3 billion compared to nominal GDP of CFA 134.4 billion. IMF country report 01/23 Guinea-Bissau: Statistical Appendix pp. 7 and 20 respectively. [WWW.imf.org/external/pubs/ft/scr/2001/cr0123.pdf](http://WWW.imf.org/external/pubs/ft/scr/2001/cr0123.pdf).

missing funds. Other arms of the executive branch also deny culpability and Finance Ministry officials say that reconstructing what happened to the funds is nearly impossible.

This scandal has direct bearing on the military, provoking ominous remarks, given the nation's legacy of instability: 'In July 2001, Chief of Staff Verissimo Correia Seabra accused the political class that they are the principal agitators creating a climate of instability by interfering into the business of the military and citing anarchy within the military quarters.'<sup>33</sup>

The Prime Minister in testimony to a National Assembly inquiry, argued that he had no personal knowledge of where the missing funds went but that he and the Minister of Finance deserve credit for being the first to bring forward the issue of missing funds. However, government critics and opposition members of the Assembly argue that were it not for the size of the misappropriation - 43 percent of government spending either misappropriated or in arrears - and the intervention of foreign aid agencies threatening to withdraw aid, it is questionable what significant action the government would have taken.

While vocal complaints came from the media and the National Assembly, the IMF and World Bank clearly made much more impact by cutting off new funds until concrete reforms were taken. The quarterly Ministry of Finance audits that revealed the problem were brought about under advice by the IMF and World Bank. Foreign financial advisors, funded through aid, are posted to the Ministry of Finance and are retraining and reorganising procedures in the wake of recent spending scandals.

#### *2.3.4. The Advertising Scandal*

In November 2001, the National Assembly held an inquiry into the Ministry of Finance scandal to which the prime minister was called to testify. Assembly members inquired about a number of other fiscal scandals including US \$290000 allegedly paid by the government for an advertising supplement on Guinea-Bissau to have run in the London Independent. The contract was signed by the president himself and money paid to a firm in London with links to Yala. The Assembly demanded but did not receive proof that the advertising ever ran. Questions were asked but unanswered about why a small, nearly bankrupt country should spend such a comparatively large amount of money to promote itself when it cannot even pay government salaries.

#### *2.3.5. The Demobilisation Fund Scandal*

World Bank funds needed to demobilise soldiers from the Armed Forces were misappropriated in 2001 to pay government salaries. The result has been to incapacitate the demobilisation programme and delay the much needed down-sizing of the military. In response the World Bank has frozen new lending and insisted that the funds be repaid to the demobilisation account. However, as the government remains in arrears on basic salaries and dependent on aid and loans for nearly half of its spending there are few apparent options. The only obvious solutions would be major spending cuts or another donor agreeing to replenish the funds. The latter is viewed in aid circles as subsidising misbehaviour. As a result demobilisation and the equally necessary restructuring of the Armed Forces have been delayed, raising tensions between civilian government and the military.

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<sup>33</sup> 'The Structural Crisis of Guinea-Bissau's Political System,' to be published paper by Andrea Ostheimer, political scientist focused on Portuguese-speaking Africa.

### 2.3.6. *The EU Funds Scandal*

In March 2001, the 6000-member National Workers Union launched a strike to press for payment of four months wage arrears in the public sector. To pay the salaries, Yala's government applied for credit to the West African Bank using as loan collateral other funds promised by the European Union but not yet paid.<sup>34</sup> This represented a significant misappropriation of funds as the government would now not be able to carry out the programmes for which the EU funds were intended. Given the potential for instability if government and particularly military salaries were not paid, some analysts argued that this and the diversion of World Bank funds were necessary decisions. However, taken together with other financial scandals they have provoked a major reduction in aid without which Yala's government cannot survive in the medium and long term.

### 2.3.7. *Rupture of the Ruling Coalition*

Although Yala himself won a 72 percent majority in what was essentially a protest vote against the long-ruling PAIGC, his Partido da Renovação Social (PRS) was far less appealing in Assembly elections. PRS won only 38 of 102 seats in the National Assembly, RGB/MB won 29 and PAIGC won 24, which required Yala to enter a coalition government to select a Prime Minister.

From the beginning his relations with his own party and the two main opposition parties - the Resistencia da Guine-Bissau/Movimento Bafata (RGM/MB) and the PAIGC - have been marked by lack of consultation, frequent firing of cabinet members and threats by Yala to disband parliament and rule by decree. Given the unconstitutional arrest of the Supreme Court, efforts to strip assembly delegates of immunity to prosecute them for defamation and efforts to close all private media, those threats against the Assembly were quite destructive of the government's legitimacy. Because such threats were taken seriously by the Assembly as well as other government oversight bodies, willingness to challenge Yala weakened and the nation's system of checks and balances was arguably deeply damaged.

Yala failed to consult his RGB/MB allies on decisions, such as a September 2000 trip to Senegal to renegotiate offshore oil exploration royalties. Yala struck a deal without even consulting the leader of RGB/MB, Helder Vaz, who headed the relevant portfolio of Economic and Regional Development. After complaints, Yala sacked all five RGB/MB ministers the same month, even though Vaz was then in the midst of negotiating debt relief with the IMF. A week later Yala recinded the firings. In January 2001 RGB/MB quit the government, charging that Yala reshuffled cabinet without consultation. Since early 2001, Yala has ruled with a minority government, choosing prime ministers who were not even the first choice of his own party.

In similarly abrupt fashion in November 2001, he announced on local media that he fired his foreign minister while she was on an overseas fundraising trip. He accused the Foreign Ministry staff of corruption and locked them out of their office building.

Guinea-Bissau's hybrid system is neither Westminster nor presidential, but similar to the French system, which is prone to divided government and, due to vague wording and lack of clear oversight, also is prone to constitutional battles between president and the National Assembly. Yala's

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<sup>34</sup> 'The Structural Crisis of Guinea-Bissau's Political System,' to be published paper by Andrea Ostheimer, political scientist focused on Portuguese-speaking Africa.

combative conduct is matched by Assembly members 80 percent of whom are new to politics. Many are illiterate and poorly informed about existing laws.

### 2.3.8. Attacks on the Press

Unqualified freedom of the press is guaranteed in the 1996 constitution Title 2 bill of rights, article 56. However, Yala has frequently used state security police to illegally detain and intimidate journalists. Most dramatically he personally visited the state television broadcaster to complain about the broadcast of political comment or complaints from the opposition. The following are some of the major incidents in Yala's first two years in power:

- After Radio Pidjiquiti broadcast news about the Yala's battles with the judiciary, soldiers raided the station and ordered that tapes of the programme be handed over or journalists would face arrest;<sup>35</sup>
- On June 17, 2001, two journalists were arrested without warrant by security police after reporting on corruption and illegal practices by government.<sup>36</sup> They were later charged with criminal defamation and slander and although released two days later continue to be required to report to the Bissau Regional Court every two weeks;
- Presidential Guards stormed the offices of the journal *Diario de Bissau* after a journalist reported on the luxurious lifestyle of the first lady;<sup>37</sup>
- Two public television journalists, Paula Melo and Jusef Queta were arrested in May 2000 for broadcasting comments by the political opposition accusing the Prime Minister of corruption;<sup>38</sup>
- On January 27, 2001 Bacar Tchernô Dolê, a journalist for national radio and the *No Pintcha* newspaper was arrested and held without charge for two days for reporting on an attack by Casamance rebels inside Guinea-Bissau. He was arrested by police and military officers who intimidated and interrogated him;<sup>39</sup>
- On February 15, 2001 Athizar Mendes, a photographer, and a driver for *Diario de Bissau* were arrested for 24 hours and their cameras were confiscated without charges. They had gone to the headquarters of the state police to write a story about several members of the Guinea-Bissau diplomatic corps who had been detained;<sup>40</sup>
- On March 14, 2001, Adolfo Palma, journalist for the Portuguese news agency *Lusa* was charged with defamation by a member of the President's office. Palma reported four people

<sup>35</sup> 'RSF condemns Guinea-Bissau prosecutor's raid on radio station,' AFP 11-9-01.

<sup>36</sup> Amnesty International press release AI Index AFR 30/009/2001 [www.amnesty.org](http://www.amnesty.org): 'Guinea-Bissau: Sustained attack against freedom of expression.' Also *Diario de Noticias*, 19-6-01: 'Críticas a Yala levam jornalista a prisão'.

<sup>37</sup> 'Bissau Human Rights League Threatened', Panafrican News Agency, 22-5-00.

<sup>38</sup> Interview with Jusef Queta, one of the arrested journalists, November 2001.

<sup>39</sup> Amnesty International press release AI Index AFR 30/009/2001 [www.amnesty.org](http://www.amnesty.org): 'Guinea-Bissau: Sustained attack against freedom of expression'.

<sup>40</sup> Ibid.

had been arrested on February 17 for allegedly plotting to overthrow the government. The member of the presidency alleged that only three had been arrested;<sup>41</sup>

- In March 2001, during a press conference the vice prosecutor general advised journalists to practice 'self-censorship' as a result of widespread coverage and national debate about the hundreds of military officers and politicians who had been detained without trial or charge for alleged involvement in Gen. Ansumane Mane's foiled November 2000 rebellion;<sup>42</sup>
- With 48 hours notice, the government demanded that private media deliver a range of documents and licenses, although no law on the books required many of the documents. The media were threatened with criminal obstruction if the documents were not produced. Radio Bombolom and Radio Pidjiquiti remain open but Attorney General Caetano N'Tchama ordered the journals *Gazeta de Noticia* and *Diario de Bissau* closed on 29 October, allegedly for unpaid taxes;<sup>43</sup>
- On March 30, 2001 Air Force Chief of Staff Brig. Melciades Lopes Fernandes entered Radio Bombolom to disrupt a televised debate over events surrounding Mane's last coup attempt and subsequent death November 22-23, 2001. He accused the press of trying to fan a civil war and other invited military threatened private and national media journalists.<sup>44</sup>

### 2.3.9. Openly Injecting Tribalism into Politics

Under Vieira, the PAIGC government had pursued a non-tribal political system, although it had been touched by animosity directed at mixed race 'assimilados' who had higher levels of education, technical skill and a disproportionate number of civil service jobs.

Since coming to office, Yala has openly broken that tradition in favour of his own tribe. Most noticeably he wears at all times a bright red cap, which is a Balanta tribal symbol signifying that he had completed the final stage of passage into manhood. Although there are Balanta in the capital, it is extremely rare to see anyone wearing such regalia. As a consequence, Yala is interpreted as making a very bold tribal statement.

That statement is backed up by a wide variety of acts interpreted as naked attempts to boost the Balanta at the expense of other groups. Yala has attempted crude, wholesale changes in civil service staffs of several ministries, the Ministry of Finance debacle being the most notable. Eventually this attempt to deliver patronage to his tribe will engender open hostility from other tribal groups, particularly if the economic situation continues to deteriorate. The November 2000 dispute with Brigadier Ansumane Mane was sparked, after months of tension, over Yala putting forward a list of promotions consisting only of Balanta, according to Amnesty International. Subsequently 10 leaders of opposition parties were arrested and held without charge or trial, ostensibly for having supported Mane. Amnesty described them as 'prisoners of conscience, detained solely on account of their criticism of the government (over the promotions). They were held in Segunda Esquadra (Second

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<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> 30 October 2001, BBC Monitoring of Portuguese radio RDP Africa on 29 October 2001.

<sup>44</sup> BBC Monitoring of Pan-African news agency web site 2-4-01.

Squadron) police station in Bissau in conditions which amounted to cruel, inhuman and degrading treatment.<sup>45</sup>

‘We don't care what people think in the capital. We have support of 80 percent of the people in the rural areas,’ said Yala's close ally Alamara Intchia Nhasse, then Minister of Internal Administration (shifted to Prime Minister in a December 2001 cabinet reshuffle following the research trip for this report).<sup>46</sup>

The effect of Yala's tribalism must be seen in the context of his broader political style, which has been characterised by corruption, the disastrous promotion of unqualified people into the ministry of finance, petty disputes, gross violations of the constitution and the abrupt firing of ministers and allies offer the slightest hint of disagreement with him. Rather than attempt to win re-election through delivery of government services and economic growth, Yala is widely seen as trying to build a tribal coalition of Balanta and Fula, each of which represents 25-30 percent of the population. He has made no moves to change the tribal composition of the top military officers, aside from the list of his officer promotions that replaced Mane's list shortly after Mane's death. Officers and politicians offered different views of that list with some arguing that the senior ranks were now heavy with Balanta while others argue that the numbers reflect the Balanta proportion of the population. The result is that politics is increasingly being driven by tribalism that has the capacity to provoke anxiety and counteracting tribal moves by other politicians or security forces.

## 2.4. Conclusions About the Political Environment

The backing given to President Kumba Yala by the armed forces against Mane's second rebellion in November 2000 was widely greeted as a very positive sign that the military had chosen to adopt a role as subordinate to civilian democratic government. Although Yala was long an opponent of the one-party state and Vieira's rule, he did not usher in a period of democratic stability and principled government.

Rather he seemed to embrace the same mindset that dominated Guinea-Bissau's leaders in the past. Frequent cabinet shuffles, massive corruption, misallocation of foreign aid funds, unpaid government salaries, the aggressive pursuit of dominance for Yala's Balanta tribe, and a range of capricious extra-legal decisions have contributed to an atmosphere of ongoing crisis. There is a lack of genuine political dialogue and tolerance between all parts of the democratic system. A very wide variety of sources identify the president as the most important threat to political stability and therefore to peace and long-term proper management of the security forces. He is described as unwilling to listen, unwilling to follow guidance of advisors, intolerant dissent and unwilling to abide by either laws or norms of civil dialogue.

Amnesty International in its 2001 report on Guinea-Bissau outlined the interconnected nature of the human rights violations, economic mismanagement, and political and military instability. It directly blamed Yala's misrule for provoking the November 2000 rebellion by Mane:

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<sup>45</sup> Amnesty International August 2001 report ‘Guinea-Bissau: Human rights since the armed conflict ended in May 1999’. AI Index: AFR 30/011/2001, p. 7.

<sup>46</sup> Interview in Bissau, November 2001.

‘The legacy of insecurity and instability created a climate conducive to violations of human rights. Corruption set in and the new government was accused of favouring the Balanta ethnic group, to which President Yala belongs. Criticism mounted at the government's lack of progress on democratic reform and the critical economic situation, and the government was confronted with demands for payment of salary arrears. ... Discontent within the armed forces increased as ordinary soldiers saw the gains made since the end of the armed conflict - such as being paid and fed regularly - being eroded. Divisions began to emerge in the armed forces as officers of the Balanta ethnic group were promoted at the expense of other groups. This triggered off Brigadier Mane's insubordination in November 2000.’<sup>47</sup>

The magnitude of Yala's misrule has led many political analysts to worry that the military may again raise its hand in politics. Speculation about the limits of the military's patience with Yala is a common topic of conversation in the country, reflecting a high level of anxiety over Yala's rule.

The police forces under the Ministry of Internal Administration, which have a long history of repression, arrest and violence against perceived opponents of the government, have followed Yala's orders in a wide variety of incidents of unconstitutional repression of journalists, opposition politicians and the judiciary.

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<sup>47</sup> Amnesty International report August 2001, AI Index AFR/30/011/2001 ‘Guinea-Bissau: Human rights since the armed conflict ended in May 1999’, p. 5.



### 3. The Security Environment

#### 3.1. External Threats

Externally, the only significant military threat concerns the operations of Senegalese rebels - the Movement of Democratic Forces of Casamance (MFDC) - who are fighting for independence of the southern Senegal region of Casamance along Guinea-Bissau's northern border. The Casamance rebellion has simmered for 19 years at a moderate to low intensity. Logistically the rebellion has been difficult for Senegal to suppress because the long finger of the Gambia physically separates Casamance from the main body of Senegal. At the same time, MFDC supporters are of the same ethnic stock as northern Guinea-Bissau and have been able to cross the frontier easily and there seek shelter and supply. Allegations that both Gen. Ansumane Mane and Vieira were involved in selling guns to the MFDC played an important role in the political instability that drove the 1998-99 civil war, although present military sources say the smuggling story was simply a ruse by Vieira to sack Mane.

In terms of deployment and strategic planning, the Casamance conflict is the only threat perceived by Guinea-Bissau (although some military clearly perceive it as bringing about a threat from Senegal more than as a threat by the MFDC). Diplomatic and political observers allege that during the civil war, MFDC forces joined with Mane's forces to fight Vieira and his Senegalese allies.<sup>48</sup> In the early months of Kumba Yala's term in 2000, there was an increase in military activity to drive out Casamance rebels and close their rear bases. The Guinea-Bissau military claims to have completely eliminated the rebel presence, but the difficult to verify. Even if the MFDC has been suppressed inside Guinea-Bissau, the rebellion remains active and represents a strategic risk. The December Secretary General's report to the UN Security Council noted:

‘Although security along the border with Senegal has improved [from September to December], occasional forays into Guinea-Bissau's territory by armed rebels....have continued. In an encouraging development, no major factional fighting by rival MFDC groups was reported from Guinea-Bissau territory. Armed attacks against civilian vehicles have nevertheless continued, resulting not only in theft of goods and money, but also in civilian casualties.’<sup>49</sup>

#### 3.2. The Strategic Threat of an Independent Casamance

If Casamance were to achieve independence, it could kindle talk of restoring the old pre-colonial Gabu kingdom that straddled what is now the Senegal-Guinea-Bissau border. The Senegalese dubbed their

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<sup>48</sup> Some 108 Senegalese separatists were arrested along with other Mane supporters after his second attempted rebellion in 2000, as noted by Andrea Ostheimer. See ‘Guiné Bissau: Golpistas Presos’, in *Público*, 28/11/2000.

<sup>49</sup> December 14, 2001 [www.un.org/Docs/sc/reports/2001/1211e.pdf](http://www.un.org/Docs/sc/reports/2001/1211e.pdf).

intervention in Guinea-Bissau 'Operation Gabou' in part because Casamance rebels argue for reuniting Gambia, Guinea-Bissau and Casamance.<sup>50</sup> The lure of a reunited Gabu, which could lay claim to the northern third or half of Guinea-Bissau - would then pose a strategic threat as Guinea-Bissau is already arguably too small to be a viable economic state. However, this Casamance-Gabu scenario is considered highly improbable and does not at present figure in any meaningful way into Guinea's military calculations.

There has been two other dimensions of tension between Senegal and Guinea-Bissau. Resolutely pro-West, Senegal has been cool to the strongly Marxist Guinea-Bissau government backed for years by Communist states. Both nations also disputed ownership of off-shore oil deposits, claims which were resolved largely in Senegal's favour by negotiations. The low percentage of royalties from those negotiations continues to inspire animosity toward Yala among opposition parties.

MFDC rebels fought along side Mane's rebellious troops. Those combat allegiances, backed up by long-standing ethnic solidarity, contribute to an active sympathy for the MFDC in some quarters of the Guinea-Bissau military. The war also allowed the MFDC to return to its struggle with more arms.<sup>51</sup>

The Casamance question underscores these tensions and continues to provoke strategic moves and counter moves by Senegal and Guinea-Bissau. The Guinea-Bissau military rapidly rearmed after the civil war by purchasing arms from Ukraine and China. In response, Senegal sought more weapons from France.

### 3.3. Other Causes of Insecurity

Domestically, there are no internal guerrilla movement or political protest movements requiring response by security forces. However, given Guinea-Bissau's past history of coups and military rebellion, Yala's inability to consistently pay state salaries and his drive to tribalise government, political observers believe the greatest threats to peace are domestic.

On December 3, 2001 the government announced that it had foiled a coup attempt by members of the Armed Forces. The government arrested 29 current and former military officers including Almami Camara, deputy head of the army and the former navy chief of staff, Lamine Mane.<sup>52</sup> There were no reports of shooting and the capital was calm, which lead many people to question whether the coup was real or simply a pretence to arrest officers who had been loyal to Mane in his second rebellion. The government subsequently claimed the coup plotters had spent six months preparing the coup, but members of the National Assembly questioned whether anything happened and demanded proof that a coup had been attempted.<sup>53</sup>

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<sup>50</sup> Senegal took the Casamance threat seriously enough that it refused to withdraw its troops from Guinea-Bissau until ECOWAS pledged to deploy troops along the Senegal-Guinea-Bissau border. Between 1982 and 1989, such a union had brief life as the Senegambia Confederation. See 'Guinea-Bissau and Casamance: Instability and Stabilization' by Jean-Claude Marut, June 2001, p. 3, Writenet Paper No 15/2000.

<sup>51</sup> Agence France Presse 22 May 2000.

<sup>52</sup> BBC News 3/12/01 [www.bbc.co.uk/hi/english/world/africa/newsid\\_1690000/1690218.stm](http://www.bbc.co.uk/hi/english/world/africa/newsid_1690000/1690218.stm).

<sup>53</sup> BBC News 5/12/01 [www.bbc.co.uk/hi/english/world/africa/newsid\\_1693000/1693879.stm](http://www.bbc.co.uk/hi/english/world/africa/newsid_1693000/1693879.stm).

### 3.4. Demobilisation

During the civil war, the size of the security forces were increased immensely as veterans of the liberation war and young men were brought into battle, often with only rudimentary training. Since the war's end, most of these have continued on government payrolls and many hope to win permanent employment.

As a result, drastically downsizing the security forces is one of the key challenges facing Guinea-Bissau, with significant social, financial and security implications. Failure to deal with it properly will continue to drain the already overwhelmed public fiscus and threaten the ability of the state to pay the security forces timeously. Failure to either offer alternative employment or fair payout packages also represents a latent threat to political security by adding to the sense of grievance among veterans whose support would be critical if another coup were to be attempted. Politically the veterans also form a powerful constituency that is used to being held in high esteem. Indeed, the constitution declares in its fundamental principles a statement that the state must guarantee the 'existence with dignity' of the liberation war veterans and their orphans.<sup>54</sup>

One of the difficult issues of demobilisation is the lack of clear data on numbers. Prior to the war, there were an estimated 3500 active duty staff in the armed forces. Presently the Ministry of Defence is paying 11082 active duty people<sup>55</sup> but the Programme for Demobilisation, Reinsertion and Reintegration of Ex Combatants registered a total of 7148 active duty soldiers plus another 23803 ex-combatants and paramilitaries.<sup>56</sup> Different scenarios for cutting the active-duty armed forces have been prepared but not yet agreed upon because of the fiscal implications as well as the proposal to revert to a lower-cost conscription system promulgated (law 6/99 of September 7 1999) but never implemented.

According to the IMF, the Ministry of Defence (including the Armed Forces) and the Ministry of Internal Administration together account for 14300 out of the total 1999 government payroll of 29330, which is fairly close to the demobilisation agency figures.<sup>57</sup>

There is no clear declaration that all ex-combatants are entitled to pay-out benefits, but all participants in the war hope to receive benefits, even though independence era fighters already received demobilisation benefits once before. Many active duty soldiers do not want to be demobilised and some sources allege that active duty soldiers are trying to stay active while collecting benefits as independence veterans.

Compounding the problem is the bankruptcy of the state and its gross fiscal mismanagement. A loan for demobilisation from the World Bank was misappropriated to pay for salaries. The bank has blocked further loans until the money is repaid. This issue, together with the previously described misappropriations of funds, led the International Monetary Fund to block further lending, which,

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<sup>54</sup> Title 1, article 5.

<sup>55</sup> The International Monetary Fund publication 'Guinea-Bissau: Statistical Appendix' (Country Report No. 01/23 of January 2001) p. 22 lists 3218 staff at the Ministry of Home Affairs (Internal Administration) and notes that all are categorised as military personnel by the Fund because of lack of detailed breakdown. The same table lists 11082 staff in the Armed Forces and Ministry of Defence. See [www.imf.org/external/pubs/ft/scr/2001/cr0123.pdf](http://www.imf.org/external/pubs/ft/scr/2001/cr0123.pdf).

<sup>56</sup> Report of the demobilisation agency PDRRI (Programme for the Demobilisation, Reinsertion and Reintegration of Ex-Combatants in Guinea-Bissau).

<sup>57</sup> The International Monetary Fund Guinea-Bissau: Statistical Appendix (Country Report No. 01/23 of January 2001) p. 22. [www.imf.org/external/pubs/ft/scr/2001/cr0123.pdf](http://www.imf.org/external/pubs/ft/scr/2001/cr0123.pdf).

because of its strong influence with bilateral donors, has resulted in a general reluctance of donors to release funds.

Finding money to repay the demobilisation fund is difficult and has produced major delays in the demobilisation effort. With the state heavily donor dependent and in arrears on salaries, the money must come either from cutbacks in salaries or from another donor agreeing to repay the amount to the demobilisation fund.

## 4. The Armed Forces

### 4.1. Force and Command Structure

The functions and powers within the Armed Forces, its leadership structures and procedures, general principles, relationships with the Ministry of Defence and other bodies, policies on conscription (although conscription rules are not followed by the present regime) are defined by several articles of the 1996 constitution and by a 35-page government gazette including three laws on military affairs (Nos. 4/99, 5/99 and 6/99 promulgated on September 4, 1999).<sup>58</sup>

- The Armed Forces include Army, Navy and Air Forces. Each branch has its own force commander and a Higher Council of top officers in that branch. The vast bulk of the forces are in the army but no breakdown of numbers of various forces was available;
- Law 4/99 authorises military intelligence and reconnaissance services. Law 6/99 article 72 restricts military information services to strictly military affairs and puts them under the command of the Chief of Staff;
- Forces are deployed in four military zones, each with its own zone commander and a Higher Council of top officers for that zone;
- The top military officer is the Chief of Staff of the armed forces. The zone and force commanders and a Deputy Chief of Staff all report to the Chief of Staff. The Chief of Staff is responsible for drafting legislation affecting the military, which must first be presented to the Council of the Chiefs of Staff and then to the Minister of Defence. The Chief of Staff also is responsible for strategic planning, threat evaluation and ensuring proper training and force readiness as well as command of all armed forces in the event of war;
- The Council of Chiefs of Staff includes the Chief of Staff as chairman, the Deputy Chief of Staff, the Inspector General of the Armed Forces and the three force branch commanders. The council deliberates on and gives its opinion on force structures, doctrine, promotions for senior officers and proposals for the Armed Forces budget;
- The Inspector General of the Armed Forces (authorised under article 9, law 4/99) reports to the Chief of Staff.

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<sup>58</sup> The laws are in the September 7, 1999 Suplemento Ao Boletim Oficial Da Republica Da Guine-Bissau.

The revised 2000 constitution has been approved by parliament but blocked by president Yala by failing to comment within the required 30-day period and later offering a variety of changes that effectively set the process back to the beginning. Although members of the Assembly argue that the new constitution should automatically take force once the president allowed his 30-day period for comment to elapse, most institutions accept that the 1996 constitution continues to govern. As a result, this analysis focused on the 1996 constitution.

## 4.2. Oversight Actors Within the Armed Forces

Much of the direct responsibility for oversight of armed forces activity falls first to institutions inside the armed forces. However, it proved difficult during field research to get military sources to offer any meaningful critique their own internal oversight. As a result, this report cannot express an opinion on the weaknesses of these internal oversight actors, aside from the obvious type of structural defects that are manifest from the Ministry of Finance scandal.

In addition to accounting officers within the military and the responsibility for fiscal, managerial and human resource issues that are part of the ordinary responsibility of the military chain of command and in the four military command zones, the following are the three main institutions:

### 4.2.1. *Inspector General of the Armed Forces*

The IG is most important oversight player inside the military who has broad authority to audit the finances, inventories of supplies and weapons, buildings and human resource policies and practices. In addition he is to assess operational readiness. The IG is appointed or discharged by the president in consultation with the Prime Minister and advice from the Chief of Staff (article 56 6/99). Once the post of IG is vacated, the Council of Chiefs of Staff via the Chief of Staff submits two names of replacements to the Minister of Defence. The Prime Minister presents the approved name to the president, who approves it or requests the Chief of Staff to select a new list of candidates. The IG was unavailable for interviews during the research phase.

### 4.2.2. *The Ombudsman*

This function (defined by Article 33 of law 6/99) is the entity to which citizens can complain over transgressions of rights or losses inflicted by the Armed Forces. In his absence the public can lodge complaints to the Supreme Court. Once members of the Armed Forces have taken complaints up the appropriate chain of command they can present complaints to the Ombudsman. The law does not clarify who appoints the Ombudsman or to whom he/she reports although the position is defined in the law governing the military. Its lack of clearly stipulated powers in the law would indicate it is an advisory body similar to civilian complaint boards overseeing police forces in many nations.

### 4.2.3. *Superior Military Tribunal*

This court is supposed to be in charge of adjudicating all cases of crime within military ranks. It is defined under the constitution chapter 7, article 121 (2)a. Although it has a building, it has never had staff or functioned. Plans are underway to appoint staff and secure funding, but cases involving military personnel have been handled by normal courts, contrary to the law stipulating that crimes involving the military should be tried in a military tribunal.

## 4.3. Oversight Bodies That Include Military and Government

Above the Armed Forces are several advisory bodies that have powers to debate and consent but which have ambiguous, often overlapping powers that would appear - according to the legal structures - to limit the ability of the military or president to take unilateral actions unpopular with the other. While these overlapping layers of councils would appear to help promote consensus on issues such as

strategy and reform, they also can serve to delay reform by provoking lengthy debate. Their veto powers vis a vis the president are unclear.

#### *4.3.1. The National Higher Military Council*

Chaired by the Minister of Defence, this council meets every month. It includes the Chief of Staff and Deputy Chief of Staff, heads of Army, Navy, and Air Force and the Inspector General of the Armed Forces. After decisions are debated in the Council of Chiefs of Staff they are presented to the Military Council, which brings in input from the Minister of Defence. The Higher Military Council drafts laws pertaining to defence and the annual military budget. It also must issue opinions on matters before the Higher Defence Council. The powers of this body are defined by Articles 26, 35, 44 and 48 of law 6/99.

#### *4.3.2. National Higher Defence Council*

Headed by the president, this council meets every two month, according to statute, but sources say it has not conformed to this schedule. It includes the Prime Minister, ministers of Defence, Finance, Interior, Foreign Affairs, Communications and Public Works, two deputies selected by the National Assembly, the Chief of Staff, Deputy Chief of Staff and heads of the Army, Navy and Air Force. The council takes decisions by vote but the numbers heavily favour the president against the five members of the Armed Forces. It is charged with advising or issuing opinions on declarations of war, defence related laws, defence strategy, top level officer promotions and removals. During war, the Council sits permanently. The powers of this body are defined by Articles 8, 23 of law 6/99.

#### *4.3.3. The Council of State*

This council is to advise the president on matters such as the dissolution of the National Assembly, declarations of war, of a state of siege or of emergency. It does not have clear veto powers. Although it votes on issues and can be an influential gathering, it fundamentally only offers advice that the president can ignore. It is composed of the president, president of the assembly, president of the supreme court, five citizens appointed by the president, a representative of each political party with seats in the national assembly. The powers of this body are defined by the 1996 constitution chapter 3, articles 73-75.

## 5. Key Issues of Military Governance

### 5.1. Strategy, Force Structure, Doctrine, Organisation

According to law, the Council of Chiefs of Staff, the Military Higher Council, the Higher Defence Council, the Council of State, the Prime Minister, the Cabinet and the National Assembly have advisory roles in determining military strategy, doctrine, force structure, organisation and declarations of war. In practice, strategy is not something given rigorous attention. The Chief of Staff said the shortage of funds was crucial and as a result strategy did not change and the military learned to work with what resources were available. Asked to describe the formal, theoretical process, the Chief of Staff could not or would not offer any detailed description. When asked whether they had sufficient equipment and resources to carry out their missions, other senior officers laughed. In effect, the severe lack of money to make fundamental changes has meant the military has maintained a de facto strategy based on whatever its existing weapons and staff permit. The facilities in use and weaponry are used because they are what is available without extra expenditure. The result is the opposite of a policy or principle-driven system.

For example, there are frequent allegations of illegal foreign shipping in Guinea-Bissau waters but the Navy has only a few small craft wholly inadequate to the job of patrolling the nation's 200-mile exclusive economic zone. No significant changes have been made in capability and the Navy does what it can with what it has rather than following a process in which need dictates budget and equipment. Where fundamental restructuring has been proposed - such as the demobilisation and consideration of conscription - foreign bilateral donors, the World Bank, IMF and United Nations have instigated the change by offering advice and pledges of finance. The Military and Defence Higher Councils, the National Assembly and other bodies have participated in discussions about resizing the military but the process is many months behind schedule. With the nation's budget dependent on foreign aid for more than half of expenditures, true decision-making power over fundamental strategy and force size rests as much with outsider funders as with national actors. While most industrial states no longer truly face any sort of guns versus butter decisions, Guinea-Bissau quite clearly does, particularly if fiscal misbehaviour results in substantial cuts in the foreign aid it heavily depends upon. The result is a culture of, as one commander said, 'do what you can'.

### 5.2. Management of Abuses by Military Forces

Since independence, Guinea-Bissau has a history of abuse of human rights by the military and security forces. Local and international human rights monitors and many local journalists, politicians and civil activists agree that there has rarely been any attempt to punish or even investigate allegations of abuse or illegality by the military. As noted earlier, the Military Tribunal does not function and government has shown no political will to use the judiciary to bring charges against military who commit abuses in the financial or human rights areas. As the sources used to assess the nature of human rights abuses are



the same for both the military and security forces, this area will be discussed under the section on Police and Other Security Forces.

### **5.3. Fiscal Management**

Fiscal management is a critical issue in civil-military relations at several levels, beyond its obvious direct potential to affect operational readiness, training, equipment and pay. The scandal at the Finance Ministry illustrates a significant lack of accountability in government. This scandal involved the military, which are accused along with other government ministries of taking large amounts of government cash with no authorisation and no proper accounting of the subsequent spending. Publicly the scandal tarnishes the reputation of both military and civil government, although the preponderance of blame is attributed to the president, who is seen as the main source of the present political and constitutional chaos. However, while government has acknowledged its fiscal control problems the military has so far flatly denied involvement.

Until recently meaningful civil government oversight of the Armed Forces spending was extremely difficult because the Armed Forces have only in the past year undertaken a formalised budget system against which to be held accountable. Previously spending was allocated in a lump sum to the Armed Forces without separate totals for types of spending. In addition, audits of military spending simply were not requested by government.

Under pressure by donors and the IMF, a new budgetary system was begun in 2001 with the military preparing detailed budgets, including line items for equipment and facilities, which are discussed within the general staff and Ministry of Defence before being put forward to the government and National Assembly. The Chief of Staff and head of planning in the Ministry of Defence expressed approval of this approach. However, this consultative system effectively pits the generally poorly educated general staff against the Ministry of Defence planning staff, headed by a young, well educated colonel who came up through the ranks after independence.

Aside from the obvious circumstantial evidence of fiscal administration problems in the government and the military, it was not possible during the research trip to gauge the management of finances within the Armed Forces. The Chief of Staff simply asserted that all was working appropriately and that the Armed Forces had systems of fiscal control in all branches and military zones, just as other countries have. Other sources indicated that there were problems of fiscal administration but that the first step to reform was solidifying the new budget process within the Ministry of Defence.

### **5.4. Housing, Salary Rates and Non-Payment**

A significant issue affecting relations between civil government and the military is the outside income of top commanders. Several are widely said to be wealthy with no visible means of support for their lifestyles. For an explanation, some sources point to the discrepancy between the numbers of active soldiers given by the Ministry of Defence and the demobilisation agency, which would imply that salaries are being paid to ghost soldiers. Opposition parties allege that Kumba Yala, eager not to antagonise the military, has allowed top officers to continue with business ventures or procurement related corruption. Other sources accuse the military of involvement in selling marijuana or

contraband goods. Such accusations were not backed up with any specific facts but are believed by some political players and hence affect the political-military landscape.

<b>Military Pay per Month</b>	
Colonel	\$ 459
Major	\$ 277
Captain	\$ 34
First Sergeant	\$ 25
Sergeant	\$ 22
Cabo	\$ 21
Ordinary Soldier	\$ 21
<i>Source: Ministry of Defence</i>	

Two related fiscal issues have great potential to spark civil-military conflict: First the economic mismanagement of civil government has directly led to its inability to pay security sector salaries (as well as all other government salaries). At the time of the field research to Guinea-Bissau in the second half of November 2001, soldiers and civil servants had not been paid for two months. If the government had not in effect stolen the World Bank funds for demobilisation, salaries would have not been paid for several months prior to that as well.

In addition to non-payment of salaries, the absolute level of payment is poor as are the food and living conditions. Soldiers said they are given only plain rice with little meat or fish. Protein must be bought from their salaries, so some soldiers hunt, fish and raise livestock and crops to supplement their diet. Officers also noted that soldiers justifiably complain about the condition of housing. Some barracks have roofs damaged from the civil war, while many are simply leaky and run down. Sources could not explain why idle soldiers could not engage in repairs, painting or re-roofing with available materials, such as traditional thatch. Soldiers complained that there had been no provision for maintenance of facilities for many years.

In the budgetary system affecting the military, the burden is on the general staff to make initiatives about the budget. It is unclear whether the lack of maintenance relates to failure to request the funds or rejection of demands for maintenance funds by the National Assembly or other council due to the severe budget shortfalls.

During the research trip, there was no opportunity to truly test the opinion of rank and file soldiers. However, it is logical to assume from past experience in Guinea-Bissau that widespread public discussion of government corruption and the misallocation of funds have the potential to build into a strong sense of grievance among soldiers. Such a feeling of grievance contributed to the success of Vieira's 1980 coup and to Ansumane Mane's successful 1998 rebellion.

As noted earlier, the Inspector General of the Armed Forces has responsibility to audit the full range of fiscal, human resources and operational issues in the military. In addition line officers have responsibility for policies and facilities within their area of control. Precise evaluation of conditions was not possible, beyond anecdotal evidence and interviews testifying to poor conditions.

### **5.5. Promotions and Professionalism**

Promotions were a key factor in sparking the civil war and continue to be an ongoing source of irritation within military ranks. The Guinea-Bissau military has a strong sense of its own professionalism and a belief that it should be autonomous from political manipulation, even though the military has not always thought it should stay out of the political realm. Indeed, many in the military feel it won the nation's independence and it remains the power behind the civilian throne. Civilian presidents have particularly incurred the ire of the military by putting forward military promotion lists that are based on political allegiance or tribalism rather than competence.

Promotions and professionalism are tightly bound up with issues of low pay rates, tribal balance, perceived unjust civil government interference in promotions, and promotions delayed for logistical or practical reasons. These are in turn tied to fiscal and managerial failures.

Soldiers and generals both complained that hundreds of promotions have been held up for months or years because in the Guinea-Bissau system a promotion and its attendant pay increase cannot take effect until new epaulets are handed out. However the epaulets in use are purchased from Europe and there has not been hard currency to purchase them. The epaulets in question are mostly simple shoulder boards with embroidered stripes. Officers could not explain why these could not be made locally or at least in neighbouring Senegal, which has a significant clothing and embroidery industry.

Under the 1999 military laws, the promotion or discharge of heads of the military services and the Chief and Deputy Chief of Staff follow procedures similar to those applying to the Inspector General. All can be dismissed by the president with advice from the Prime Minister and cabinet. Once a top officer is removed, the Higher council within that branch of service proposes three names to the Chief of Staff, who forwards them to the Minister of Defence, who forwards them to the Prime Minister. At each of these levels, names can be rejected, which would force the process to begin again with the search for new names (Article 58 law 6/99).

Commanders of the military zones are nominated or discharged by the Chief of Staff with advice from the Council of Chiefs of Staff. In the event of discharge, the Chief of Staff of the relevant branch of service will nominate three names to the Council of Chiefs of Staff. Nominally this system maintains the choice of nominees inside the military, which potentially insulates the Armed Forces from unqualified candidates being promoted. In practice, a president determined to tribalise the system or promote those personally loyal to him can do so by rejecting all but his favoured candidates. Promotions under the rank of Captain or Lieutenant can be made within the services without approval from above the commanding officer of the respective service.

### **5.6. Ethnic And Educational Balance**

Sources noted the military is affected by two somewhat related tensions - over educational levels and tribe. There is a quiet but significant tension between the old-guard commanders - who hold their positions because of their role in the guerrilla war against the Portuguese - and the young often university educated officers who did not fight in the liberation war. Many of the senior ranks are poorly educated, some are barely literate and many have little exposure to western concepts of preparation of military strategy or management.

The young officers have benefited from donor-funded scholarships and possess significantly higher levels of education and familiarity with modern defence management. This tension was a key part of the resentment demonstrated by Ansumane Mane toward the promotions list that sparked the civil war. The old guard in effect see their future promotional possibilities as limited, particularly the older middle and lower officers who are not commanders of forces and who will not likely be promoted to higher posts because of their lack of education and lack of potential to qualify for further education.

Top officers, including the Chief of Staff, said there were no problems of tribalism in the military and claimed that posts were equitably distributed. This results from the previous regime's determination to suppress tribalism. However, the government of Kumba Yala has made significant overt efforts to promote the previously underrepresented Balanta and Fula tribes. This poses a long-term source of tension for the military. Yala's moves to promote Balanta and his constant wearing of a bright red Balanta hat have produced widespread media and public discussion of his tribal policies. When next senior command posts are vacant, intense focus will be given to the tribal membership of those promoted.

The tribal issue overlaps with the educational issue because the Balanta have traditionally not pursued education and their ranks tend to be disproportionately poorly educated, giving them a potentially double sense of grievance. The laws 4/99 and 6/99 and the constitution expressly declare that tribal based parties and tribal allocation of jobs is forbidden. Still the ethnic issue arises. This is part of a pattern of governance in which formal declarations and laws set one highly idealistic standard but real governance follows informal, ad hoc patterns in which personal relations, tribe and kinship have enormous importance. Adding more laws will have little effect in a system in which violation of the spirit and letter of the law are routinely made and routinely unchallenged.

## 6. Police and Paramilitary Forces

### 6.1. Force Structures and Duties

The Ministry of Internal Administration is responsible for a variety of paramilitary forces. Information on their oversight and command is in very short supply. The minister said that it was policy not to disclose even to Guinea-Bissau citizens or through the budget the numbers, purposes, or command structures of any of the forces under his command.<sup>59</sup> Other sources could offer no meaningful information on management, strategy or fiscal oversight. Fode Abulai Mane, director and lecturer, law faculty of Bissau, identified two laws governing aspects of criminal investigation, investigation and detentions by the Public Order Police and Judicial Police. However neither Mane nor staff at the government gazette could identify any statutes authorising or governing activities of the security police. Amnesty International also noted that it could find no law governing the security police.<sup>60</sup>

#### 6.1.1. *The Frontier Guards*

They number about 1500 and are mainly concerned with patrolling the border and policing border posts. They have been active in monitoring and pursuing the MFDC rebels. Armed and uniformed like conventional military forces, the Frontier Guards are closest to traditional armed forces and in times of war are under the command of the Chief of Staff.

#### 6.1.2. *Secret Police/Information Service*

Also under the command of the Ministry of Internal Administration are internal intelligence units, described as by the Minister as unarmed ‘investigators’ but as ‘*secret police*’ by members of civil society. Under the Vieira regime the security police or secret police were notorious for human rights abuses. They were active in suppressing dissent and arresting perceived enemies of the government. In the waning days of Vieira regime, in part to secure foreign aid, Vieira initiated changes which later

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<sup>59</sup> The International Monetary Fund Guinea-Bissau: Statistical Appendix (Country Report No. 01/23 of January 2001) p. 22 lists 3218 staff at the Ministry of Home Affairs (Internal Administration) and notes that all are categorised as military personnel by the Fund because of lack of detailed breakdown. However, this does not reconcile with other sources. The Frontier Guards have about 1500 members, according to the agency responsible for demobilisation. Of these 1100 are listed under Internal Administration Ministry and 400 under the Armed Forces. Other sources said there are approximately 2500 public order police under the ministry, which puts the total personnel above the IMF figure, which comes from the Ministry of Finance. As a result it is impossible to infer the numbers of secret police from available figures at the time of this research. The same IMF table lists 11082 staff in the Armed Forces and Ministry of Defence. See [www.imf.org/external/pubs/ft/scr/2001/cr0123.pdf](http://www.imf.org/external/pubs/ft/scr/2001/cr0123.pdf).

<sup>60</sup> Amnesty International report August 2001, AI Index AFR/30/011/2001 ‘Guinea-Bissau: Human rights since the armed conflict ended in May 1999’.

transformed the secret police into the Serviço de Informação do Estado (State Information Service), which supposedly has no power of arrest or interrogation. However, under Yala units of police have been active in repression of perceived opponents in the press, judiciary and present and former military forces alleged to have been involved in plotting to overthrow Yala's government. The minister would not provide detail on their numbers, function or what law authorises their actions. No other sources were aware of the law authorising the internal intelligence units, but such units have existed since independence.

### *6.1.3. Presidential Guard*

A force of Presidential Guard report to the Minister of Internal Administration and are responsible for security of the president and his compound. The minister would not provide information on their numbers but a military analyst put their number at several hundred. Although they are armed and uniformed in military fashion, they have no command links with the Armed Forces. In the past disputes between Mane and both the Vieira and Yala governments the Presidential Guard has remained loyal to the president.

### *6.1.4. The Public Order Police*

The Public Order Police are responsible for preventing public disorder. The Minister of Internal Administration, lecturers at the law school, government gazette and human rights groups could not identify any legislation authorising and regulating the Public Order Police. The Public Order Police include a Rapid Reaction Force, which is better armed and equipped for coping with riots or civil disturbances.

## **6.2. Other Police Services**

### *6.2.1. Judicial Police*

The police function in Guinea-Bissau is split between the Public Order Police and the Judicial Police, which report to the judiciary and are the sole agency legally empowered to make arrests and investigations in criminal matters. The Public Order police can conduct investigations and make arrests, but these powers are ambiguously divided between Public Order and Judicial police, which are agents of the courts (see discussion below).

### *6.2.2. Customs Police*

The Customs service, which is part of the Ministry of Finance, has customs police responsible for border crossings and collection of import and export duties. Along with other Customs officials, this force is frequently cited in allegations of corruption. Customs duties represent a major source of state revenue. Bribes and kick-backs in customs directly harm the state's finances and capacity. Oversight is exercised through the Ministry of Finance.

## **7. Key Issues of Police and Security Governance**

### **7.1. Strategy and Policy Controls**

Unlike the military, there appear to be no formal structures for setting policy pertaining to the police forces under the Minister of Internal Administration. Like other ministries, it has an inspector general with broad review authority, however the IG and the ministry generally are closely controlled by the presidency and used largely as executors of his dictates. While the anti-crime functions of the police are legitimate, the Public Order Police, secret police and rapid reaction force are all largely institutions aimed at exerting coercive control of citizens by the government. Legacies of the heavy Soviet influence in the first 20 years of independence, these agencies are essentially political in character and consequently do not engage in long-term strategy as such. The primary discussion of strategy and goals that ought to occur, but does not, is why the nation needs these entities at all in an era of multiparty democracy.

### **7.2. Financial, Administrative and Human Resources Management**

As noted earlier, the general refusal of the Ministry of Internal Administration to provide information or access makes analysis of these areas of oversight impossible at this time. The lack of information regarding numbers of security forces and funds also limits the ability of other constitutional oversight actors to hold the security forces to account for improper conduct.

Employees of the Ministry of Internal Administration, like all other ministries, are buffeted by the broader economic and fiscal mismanagement of government and inability to pay salaries, which drives members of the internal security forces to use their positions to extract money from citizens or the state. Human rights groups allege that the police are significantly engaged in extortion of bribes both from parties the police accused of crimes and other aggrieved parties who are forced to pay money if they wish the police to conduct investigations or stop crimes.

### **7.3. A Pattern of Human Rights Abuse**

Guinea-Bissau has a long history of pervasive abuse of human rights, wilful violations of law, criminal procedure and the constitution as well as politically motivated extra-judicial murders by state agents. A legal or political analysis of the practices and culpability for violations by the security forces must distinguish between Vieira's regime, which came about through a coup d'état, and Kumba Yala's democratically elected government. Some reforms were initiated under the Yala government, including investigations and trials for torture, murders and human rights abuses committed during the civil war. The secret police were supposedly transformed into a simple investigation unit without

powers of arrest and interrogation. These efforts were supposed to be aimed at ending a culture of impunity.

However, a pattern of widespread abuse of human rights and constitutional structures has continued under Yala. Despite public pledges by Yala to uphold human rights and investigate past abuses, the Yala's government has consistently used security forces to conduct unlawful acts of arrest and repression. Amnesty International reported significant regression, which was backed up by reports by the local Guinea-Bissau League of Human Rights and the US State Department report on human rights.<sup>61</sup>

‘The human rights situation deteriorated sharply in 2000. The Serviço de Informação do Estado (State Information Service) and the presidential security service, together with the military, arrested and beat people, often for trivial reasons or no reason at all, with impunity. As far as Amnesty International is aware, none of these forces have any legal powers of arrest or interrogation. Allegations of attempted coups have served to justify the arbitrary detention without charge or trial of hundreds of political opponents and critics and military personnel. Detainees have been held in conditions that amounted to cruel, inhuman and degrading treatment. Freedom of expression has come increasingly under attack. The authorities have failed to carry out investigations into human rights violations, including into killings which may have been extra-judicial executions.’<sup>62</sup>

Three security members who had been convicted of the murder of a man they suspected of robbing a presidential security officer, were found not to be in prison although they had not been pardoned or paroled.<sup>63</sup>

Amnesty International reported that ‘the transitional government also put in mechanisms in motion to accede to important international human rights treaties, which were subsequently signed by

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<sup>61</sup> Widespread abuses of human rights and violations of law and constitution are noted by the most recent US State Department human rights report (Feb. 2001) by the military, police and security services. See <http://www.state.gov/g/drl/rls/hrrpt/2000/af/828pf.htm> notes: ‘Security forces committed some extra judicial killings. The police and members of the armed forces continued to use beatings, physical mistreatment, other forms of harassment, and arbitrary arrest and detention. The government did not punish any members of the security forces for abuses. Prison conditions remain poor. The government at times used incommunicado detention. The judiciary is subject to political influence and corruption. The government infringed on citizens' privacy rights. The government at times restricted freedom of movement. Violence and discrimination against women were problems’.

‘The constitution prohibits cruel and inhuman punishment, and evidence obtained through torture or coercion is invalid (under the constitution) however, the government often ignored these provisions, and security forces beat, mistreated, and otherwise abused persons. Human rights observers noted repeated instances of police and members of the armed forces beating and abusing civilians for minor social or legal infractions. Security and police authorities historically have employed abusive interrogation methods, usually in the form of severe beatings or deprivation. The government rarely enforced provisions for punishment of abuses committed by security forces’.

<sup>62</sup> Amnesty International August 2001 report ‘Guinea-Bissau: Human rights since the armed conflict ended in May 1999’. AI Index: AFR 30/011/2001 p. 6.

<sup>63</sup> Ibid p. 3.



the new elected government (of Kumba Yala).<sup>64</sup> However, local and international human rights monitors report widespread violation of international human rights conventions including six articles of the Universal Declaration of Human Rights promulgated by the UN December 10, 1948.<sup>65</sup>

Transgressions occur both by the police and military acting on their own initiative (particularly in the rural areas where they are the main agents of government) and by government ordering security services to commit abuses of law and human rights. The latter infractions are generally the more significant in terms of abuse of the political opposition, media and other branches of government that might in the absence of such intimidation play much more effective roles in blocking misbehaviour by the executive.

#### **7.4. Conflict Between Police, Military and Judiciary**

Lack of funds and staff are at the root of a complex conflict between the Public Order Police, the Armed Forces and the Judiciary and Judicial Police. Outside of the capital Bissau Judicial Police are essentially non-existent because there have never been adequate funds to staff the function. As a result the far more numerous Public Order Police and the military perform functions that by law belong to the Judicial Police.

The army and Public Order Police arrest and detain people, often meting out fines, beatings or jail terms without a trial or consulting a judge. At times such punishment is aimed at punishing real crimes, but there are widespread allegations that the police and military act unilaterally to extort bribes from citizens. Regional governors can deputise Public Order Police or military to act in the absence of Judicial Police. However, Judges have raised complaints with central government that the military and Public Order Police act without authority. Human rights groups report that judges also seek bribes from people facing trial and to some degree have argued with the military and Public Order Police to control the flow of potential bribes. The underlying lack of staff and finance in the judiciary continue to mean the practical administration of law is done by Public Order police and the army, which has a far larger presence in much of the rural countryside but is untrained and demonstrates no regard for constitutional and legal protections of citizen rights. Citizens have no effective government oversight actor to turn to when confronted with such infractions.

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<sup>64</sup> Ibid. Guinea-Bissau signed the International Covenant on Civil and Political Rights (ICCPR), the first and second operational protocols to ICCPR, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

<sup>65</sup> <http://www.hri.org/docs/udhr48.html>: The Universal Declaration of Human Rights promulgated by the UN December 10, 1948 includes the following provisions frequently violated in Guinea-Bissau since democratic elections of January 2000: Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. 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, detention or exile. Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. Article 11: (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence. (2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed.

### 7.5. System Failure and Vigilante Justice

The widespread failure of official policing functions to perform their duties in conjunction with the judiciary has led to citizens seeking private justice. Citizens who believe they have been wronged but believe formal channels are pointless or too expensive then commit retaliatory crimes or violence. Police and military are alleged to hire out their services to exact such private justice on behalf of aggrieved citizens.

### 7.6. Human Rights Abuse During Detention

Local and international human rights monitors report significant abuses of citizen rights associated with imprisonment. These accusations involve both formal prisons and jails but also short-term extra-legal detentions by the military and security police. Allegations include poor conditions, torture and beatings as well as the often illegal character of the detentions, as discussed previously.

When Yala had 124 military and security officers over Mane's November 2000 attempted rebellion, Amnesty International reported that they were held 'in appalling conditions. ... We know that at least 55 of them are seriously ill. One detainee has already died, and if the government does not act urgently it is likely that more of them will die. ... The detainees are being held in several prisons in the capital, Bissau, in severely overcrowded conditions, where there is no running water, no adequate sanitation and a poor diet. Some food is being provided, primarily by their families. The detainees do not receive any medical care, and many are suffering from hypertension, various infections and other illnesses.'<sup>66</sup>

Inacio Tavares, president of the Guinea-Bissau Human Rights League, said that these prisoners were denied drinking water, food or medical attention. He accused the military of subjecting them to physical abuse and torture and subjecting their families to persecution. One detainee said all his property was confiscated, including his house, and when he was released another military officer was residing in his house and refused to vacate it.

The nation's only formal prison was so damaged in the civil war that it cannot be used. Prisoners are consequently held in ordinary police cells and in military facilities that are grossly overcrowded, unhealthy and administered by people with no formal rules for properly caring for prisoners.

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<sup>66</sup> Col. Baba Djassi died 4 Feb 2000 apparently of typhoid fever after being ill for several days while authorities refused to transfer him to hospital. Amnesty International press release AI Index AFR 30/003/2001 'Guinea-Bissau: Soldiers held in appalling conditions'  
<http://www.amnesty.org/ai.nsf/print/AFR300032001?OpenDocument>.

## 8. Oversight Structures and Governing Laws

### 8.1. Government Oversight Actors

A number of institutions of civil government have potential oversight roles affecting the security sector. In practical terms, they have individually had little or no influence in the inner workings of the Armed Forces or various paramilitaries, mainly because Guinea-Bissau has only in the last two years made the transition to genuine civilian democratic government from 24 years of what was military government only thinly disguised in civilian trappings. However, under a democratic regime they have greater potential individually and collectively to assert oversight.

#### *8.1.1. National Assembly*

The Assembly is probably the most important general oversight actor outside of the executive branch. Assembly members serve four-year terms (compared to five for the president), are elected from geographic constituencies, cannot serve as ministers in the government and cannot be arrested or persecuted due to parliamentary immunity, aside from grave crimes.

The Assembly's influence operates at various levels. Its importance derives not from its direct legal powers to investigate or even to pass restraining laws on the executive. In an environment in which the executive and security forces demonstrate no inhibition about violating provisions of law and constitution, the Assembly asserts its most significant restraining force through its perceived legitimacy and its consequent power to deeply embarrass the executive through public hearings. This power is magnified greatly by the private radio stations, which relay Assembly proceedings every day to the entire country. (That is widely believed to be the main reason why the government stopped broadcasting the Assembly sessions on state radio and why it has tried to close down private radio stations).

Through the public accounts, economic affairs and the defence committee, the Assembly monitors laws, expenditures and policies related to security matters. Through its powers to conduct wide-ranging inquiries and call government actors to testify, it can have a powerful effect on the national political discourse. Like all countries, information about scandal often arises first through rumours and information leaks. At such an early stage, there is not enough information to prosecute formally. By applying political pressure, the Assembly can embarrass other judicial and executive actors into asserting their oversight responsibilities.

The Assembly's ability to investigate is greatly compromised by its lack of facilities and staff. The new Assembly building was greatly damaged and looted in the civil war. The Assembly meets in a barren hall with plastic chairs. Most members do not have office space. Each party has two advisors but there are only five attorneys to provide research support to the entire Assembly, including policy research, draft laws or support inquiries. Members of the committee overseeing security matters acknowledged that the majority of Assembly members are new to the institution. Many are illiterate

and have poor understanding of the constitution, existing laws and principles of good governance and clear drafting of legislation.

The Assembly has powers to launch proceedings to remove the president, which can affect oversight of the security forces. However, those powers have been severely compromised by the president's illegal firing and arrest of the top Supreme Court members. (See Supreme Court Scandal page 9) The Assembly has not taken action to oust the president over the firing of the Court, although many rhetorical calls have been made for action against the president. The president's blunt threats to disband the Assembly, his arrest of Assembly members over alleged involvement in coup plots and his demonstrated willingness and ability to trample the Supreme Court have softened the Assembly's stance.

The Assembly theoretically asserts influence through the choice of Prime Minister. The Assembly must approve the president's choice of Prime Minister and the overall government programme. This approval power is attenuated because the PM does not come from the Assembly ranks and does not have to be a member of the opposition when, as is the present situation, the opposition controls the majority in the Assembly.

Since Kumba Yala took power the choice of Prime Minister has been the object of intense political struggle between the president and Assembly. The major political parties are not organised around offering different governing philosophies or programmes so the choice of PM has not directly affected the programme of government. However, the choice of the first PM under Yala, Caetano N'tchama was disputed by the Assembly because he was Yala's cousin and generally unpopular with the Assembly. Yala has changed PM three times in two years. After Yala's threats against the Assembly and Supreme Court, the opposition recognises that it cannot oust the president and has therefore opted not to obstruct his choice of Prime Minister again, despite his unpopularity.

### *8.1.2. The Ordinary Courts*

The court system is headed by the Supreme Court or 'Supremo Tribunal da Justica', which consists of nine justices. Justices are nominated by the Supreme Council of Magistrates and appointed by the president. Justices are only removed by the Council of Magistrates. The Supreme Court is the final court of appeal and the body that would try the president for charges brought by the Attorney General at the demand of two-thirds of the National Assembly. There are also Regional Courts (one in each of nine regions), which try all felony cases and civil cases valued at over \$1,000. Regional courts serve as the courts of first appeal over decisions by the lower or Sectoral Courts. There are 24 Sectoral Courts, where judges are not necessarily trained lawyers; they hear civil cases under \$1,000 and misdemeanour criminal cases.

The UN human rights officer, local human rights groups and Amnesty International all described the judiciary as needing major reforms as well as major changes in government policy to enable it to conduct its functions. According to the latest Amnesty report:

'The criminal justice system remains to be overhauled. There is a need to rebuild the infrastructure as well as to carry out a thorough reform and training of the personnel of all its branches. ... There is an acute lack of resources, material as well as human, at all levels of

the court system, and a need for training. ... Two of the country's (nine) regions are without court houses or personnel.<sup>67</sup>

### 8.1.3. *Tribunal of Accounts*

This body (formerly Tribunal de Contas, now Procurado Ria Geral da Republica) was described variously as the equivalent of a General Accounting Office or Auditor General. It has powers to investigate and prosecute violations relating to state spending rules. It is mentioned in the constitution, chapter 7, article 121 (b) but not clearly defined in its powers. Members are appointed by the Superior Council of Magistrates. Lawyers noted that it potentially could investigate improper spending by the security services but this is not done and there are no audits of the actual inventory of arms and materiel supposedly purchased by the security sector. However, given the fragile political system and concerns whether the military will continue to subordinate itself to the civil government, sources say the tribunal has not in recent years undertaken any cases pertaining to the military. Like all institutions of government, it is said to lack skilled staff and resources to do its job effectively. The overwhelming power of the executive branch, its willingness to take action against perceived enemies and the lack of alternative jobs all play in the background affecting the assertiveness of the tribunal. The prime minister in charge during the Finance Ministry scandal was transferred in 2001 to head this function. This function is considered too weak with too little skilled staff and resources to do an effective job. The Dutch government and the Assembly are trying to set up a proper, stronger organisation.

### 8.1.4. *The Inspecao Superior de Luta Contra Corrupcao (Anti-Corruption Inspectorate)*

Created in 1994 this agency reports to the Assembly and is directly led by Assembly members through a board that includes representatives of each of the political parties in the Assembly. It has heretofore possessed little political determination to follow through with investigations and has been largely inactive with inadequate staff, equipment and support. Under the Vieira regime, which controlled both the Assembly and presidency, the Inspectorate had little incentive to investigate the Vieira regime. With the Assembly now controlled by opposition parties, this agency has the potential to play a significant oversight role beyond the Assembly's powers of inquiry but has so far not been active. The Assembly chooses the president, inspector and vice inspector, who have the power to make inquiries and report to the Assembly as well as send recommendations for prosecution or further investigation to the Attorney General. However, no referrals to the Attorney General have ever been made. The Ministry of Finance scandal was investigated by the Assembly's select committee on economic affairs, not this agency.

### 8.1.5. *The Prime Minister*

The PM has an ill-defined role relative to the president and in relation to national defence and security policy. The weakness of his role grows from the ambiguous role granted to the PM by the constitution. The president, who is directly elected, chooses the PM, cannot be recalled by a no-confidence vote by the Assembly. However, the choice of PM and the programme of government must be approved by the Assembly, which gives the Assembly power to paralyse government when the opposition controls the

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<sup>67</sup> Amnesty International August 2001 report 'Guinea-Bissau: Human rights since the armed conflict ended in May 1999'. AI Index: AFR 30/011/2001, p. 16.

majority in the Assembly, as it did in 2002. The PM has authority to make proposals about defence strategy, nomination or discharge of top military officers, and manage inter-ministerial aspects of defence and participate in sessions of the National Higher Defence Council. None of these powers are decisive or permit him to veto presidential decisions, which means that the Assembly has no power through the choice of PM to truly enforce its will over matters of defence or national security. Rather both the PM and Assembly have rhetorical influence and the power to embarrass but not block the president.

#### *8.1.6. Inspector General of Ministry of Finance*

All state spending and revenues flow through the Ministry of Finance. With requests for funds from various ministries, officials are supposed to verify the proper documentation, approvals and whether the spending is budgeted. The Inspector General has power to investigate all aspects of this state spending process, including investigating the proper use of funds once given to the ministries. However, the administration of the ministry has been chaotic in 2000 and 2001. The replacement of skilled financial and accounting civil servants with unskilled political appointees left the ministry unable to properly administer even basic functions of financial control. Given the difficulties within the ministry, there is very limited ability of this ministry to assert its oversight over the spending by other ministries once funds are released from the Finance Ministry. In the scandal over unauthorised spending from the ministry, the military have been implicated in a significant way but have so far simply denied the allegations. Given the military's power, the lack of a clear audit trail implicating individual officers, and the recent military-inspired civil war, it will be a difficult task for the ministry to proceed if the military continue to simply deny the allegations.

### **8.2. Political and Civil Society Oversight**

As noted in the discussion of the influence of the National Assembly, in the present environment of disregard for written law and procedure, the power to embarrass the executive branch is the most potent form of oversight among the many forms of oversight. Generally civil society is poorly organised, heavily dependent on external aid funding and is limited to activity in the capital. It consists of lawyers, a modest assortment of non-governmental organisations, human rights groups, the media, the Catholic Church, Muslim organisations and the political parties.

During the 1998 war, parliament served as an important forum pushing for peace and for the return of control to civilian power. On November 27, 1998 78 of the 100 members of the Assembly met in an extraordinary session in the ravaged parliament building to pass a resolution 'withdrawing' the Assembly's political confidence in president Vieira. No member voted against while 69 voted in favour, including many members of the then ruling PAIGC.

As the political scientist Rudebeck notes the courage and vitality of civil society during the war but also questions whether that high level of activity can truly be applied in less extreme times: 'Some of the civil institutions supportive of democracy in Guinea-Bissau do have a latent force that should not be underestimated. Can this force be sustainably mobilized also in times of peace and 'normality'?'<sup>68</sup>

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<sup>68</sup> 'On Democracy's Sustainability: Transition in Guinea-Bissau' by Lars Rudebeck, p. 90.

Civil society as an oversight actor also has a huge limitation because it is confined to the capital. In rural areas there are virtually no civil society counterweights to state abuses. As Rudebeck notes: 'In the long run, urban civil society, however vital, cannot alone sustain democracy in predominantly rural countries such as Guinea-Bissau. It is therefore a negative sign in the context of democracy that whatever exists of civil society in the rural areas is so weak in political terms. ...No structures or organisations based upon the notion of political equality, enabling the farming population as a whole to stand up autonomously vis-à-vis the state exist in rural areas.'<sup>69</sup>

### 8.3. International Organisations

Because of the government's enormous dependency on foreign aid, international organisations are the most important oversight actor, not only pertaining to the security sector but of all facets of governance. Given the low level of organisation of citizens, their lack of surplus resources to dedicate toward protest and political activism, and the overwhelming powers of the presidency, critics argue that democracy functions at best weakly to assert the interests of the population. While the government frequently and wilfully tramples citizen rights with little regard to the unpopularity it engenders, government is very attentive to international organisations.

However, recognising the great extent of the government's aid dependence and the potential for state collapse without it, international organisations have been hesitant to aggressively threaten to withdraw aid. The government appears conscious of this phenomenon and uses it to its advantage.

The International Monetary Fund and World Bank work together and other bilateral national donors tend to follow their lead. As a consequence the IMF and World Bank have had a wider effect by provoking other donors to slow down aid delivery. The World Bank has a significant role in encouraging downsizing the security forces. The IMF and World Bank have played important roles in pushing for rebuilding proper financial control systems in the Ministry of Finance, including initiation of quarterly spending audits which are responsible for revealing the spending scandals. They also have been involved in bringing about a formal budget system for the Ministry of Defence, which previously operated without a budget to which its spending could be audited against. The Netherlands, one of the biggest donors, also has played a crucial role by financing foreign financial experts who are working inside the Ministry of Finance.

The United Nations mission also exerts significant influence. The head of the UN mission, Samuel Nana-Sinkam, meets weekly with president Yala and directly expresses disapproval of government transgressions. Conversations include discussions of human rights violations and a variety of political crises. As the UN does not directly control much aid funding, its influence depends heavily on the level of assertiveness of Nana-Sinkam and his influence with other aid donors.

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<sup>69</sup> Ibid, p. 90.

## 9. Conclusions About Guinea-Bissau

It is difficult to estimate whether security forces would have followed constitutional rules if Yala had not himself set such a bad example. It is clear though that without leadership dedicated to proper management and respect for constitutional order, the country's long track record of mismanagement and abuse by the security sector will continue.

In analysing oversight structures and procedures, it is equally clear that Guinea-Bissau's failure to stop widespread abuse by the security sector does not derive directly from weaknesses of its written laws. These laws are significantly inadequate, unclear in some respects and lack sufficient powers for the Assembly and Judiciary to check the president. Oversight functions, like all functions of the nation's government, are grossly under funded, lacking in facilities, resources and technical capacity.

However these deficiencies in the system are comparatively minor problems in light of the more fundamental failure of the government and security sector to believe in the need to follow law of any kind. Governance is conducted by fiat and when orders are given to security forces it appears that at no time do participants discuss or even consider the constitutionality or illegality of their actions. Hence, a fundamental cultural revolution is necessary within the national leadership.

Ample evidence exists to demonstrate major weaknesses in fiscal governance in Guinea-Bissau. However, aside from this broad-brush assessment of the failures of fiscal administration in the government and allegations of the military taking significant part in making unauthorised withdrawals from the ministry of Finance, it was exceedingly difficult to get any specific information from military commanders about the strength of fiscal oversight in their ranks. The Chief of Staff would only assert that Guinea-Bissau had fiscal control mechanisms like any other country and that there were no problems.



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