

A Truth and Reconciliation Commission in Guinea-Bissau: a toothless body, or a dangerous one?

PAULO GORJÃO

Portuguese Institute of International Relations and Security (IPRIS)

Last November, the United Nations (UN) Security Council extended the mandate of the United Nations Integrated Peacebuilding Office in Guinea-Bissau (UNIOGBIS) until the end of December 2011. In the coming year, as it was recommended by UN Secretary-General Ban Ki-moon's last report, UNIOGBIS will "focus on an inclusive national dialogue and reconciliation process".¹ The promotion of national reconciliation became a key concern in the last few months, in part triggered by the military unrest that took place on April 1st, but also bearing in mind previous events in 2009.

As it was suggested by the African Union (AU), and after bilateral and multilateral consultations, the idea emerged of setting up a Truth and Reconciliation Commission (TRC) in Guinea-Bissau. All of a sudden, the establishment of a TRC became an important piece in the puzzle of national reconciliation. Apparently, President Malam Bacai Sanhá, Prime Minister Carlos Gomes Júnior, and Speaker of Parliament Raimundo Pereira

welcome the idea. According to Special Representative of the AU Peace and Security Council to Guinea-Bissau Sebastião Isata, the same is true regarding other Bissau-Guinean political, judicial – for instance, Amine Michel Saad, the Attorney General – and religious players, as well as international stakeholders.² Even though a possible TRC is still far away, Isata already goes as far as naming the Bishop of Bissau, Dom José Câmnete na Bissign, as the ideal candidate to lead the TRC.³

Truth and reconciliation commissions are "official bodies set up to investigate a past period of human rights abuses".⁴ Despite differences from case to case, they usually have a few main traits in common: they focus on the past; they aim to draw "the overall picture of certain human rights abuses, or violations of humanitarian law, over a period of time"; they work within a defined limit of time and in the end they present a final report;

1 "Report of the Secretary-General on developments in Guinea-Bissau and on the activities of the United Nations Integrated Peacebuilding Office in that country" (*United Nations*, S/2010/550, 25 October 2010): pp. 15-16

2 "União Africana encoraja comissão de verdade e reconciliação na Guiné-Bissau" (*Pana Press*, 18 October 2010).

3 Ibidem.

4 Priscilla B. Hayner, "Fifteen Truth Commissions – 1974 to 1994: A Comparative Study" (*Human Rights Quarterly*, Vol. 16, No. 4, November 1994): 598.



and, they are “vested with some sort of authority” allowing them “greater access to information, greater security or protection to dig into sensitive issues, and a greater impact with its report”.⁵ Their aim has been to investigate previous human rights violations committed by military or other governmental forces, as well as the political and/or military forces fighting against the state or the regime, such as rebel, liberation or guerrilla movements. Under normal circumstances, truth and reconciliation commissions are perceived as an instrument/mechanism to ease the transition between different domestic political orders, such as during a regime change or after civil war.

The chairman of the South African TRC, the Anglican Archbishop Desmond Tutu, recalled that he had to “balance the requirements of justice, accountability, stability, peace, and reconciliation”.⁶ The perceived success of the South African TRC was such that even today it continues to be a reference for other regions and states who wish to set up similar mechanisms. Guinea-Bissau is no exception. In January 2011, Isata revealed that a joint delegation, composed of AU and members from the legislative and judicial powers of Guinea-Bissau, would travel to South Africa.⁷ Their main goal would be to learn about South Africa’s past experience and, later on, to start the formal procedure leading up to the establishment of the Bissau-Guinean TRC.⁸

Truth and reconciliation commissions are usually the result of opposing pressures toward either a blank amnesty or what one might call the mechanism of full justice. In the words of Archbishop Tutu, they are a ‘third way’. The third way, in the end, meant granting amnesty to individuals in exchange for full disclosure relating to the crime for which amnesty was being sought. It was, in short, a carrot of possible freedom in exchange for the truth. The stick, for those already in jail, was the prospect of lengthy prison sentences, and for those still free the probability of arrest, possible prosecution and imprisonment.⁹ In other words, truth and reconciliation commissions are “creatures of compromise between two extremes: institutional justice versus silence and sanctified impunity”.¹⁰ How deeply are they creatures of

compromise? The answer is related to the international pressure felt and the domestic balance of power. In the end, the degree of power of a TRC reveals the internal power both of those who want justice at any cost and those who oppose accountability for past acts. Isata is carefully enough to emphasize that a TRC in Guinea-Bissau is not a substitute to the legal measures underway.¹¹ Instead, in his words, the goal should be to compensate for moral damage caused to the families of the victims of the crimes that took place in the past few years in Guinea-Bissau.

Yet, surprisingly enough, no one seems to say the obvious: as far as national reconciliation is concerned, a TRC in Guinea-Bissau will offer little if any substantive results. On the other hand, unless it is harmless enough, the TRC could have the opposite effect of what was originally intended. Indeed, “in the midst of a delicate transition, truth-telling could also increase tensions”.¹² Acts of truth telling may open old wounds and can delay national reconciliation. Moreover, it is far from clear if the old Bissau-Guinean rivals want to tell the truth.

Isata did not make any reference regarding how willing the military are to support the TRC, yet this is crucial. One might guess that they are not very fond of the idea. Military intervention has been a constant threat to democratically elected governments, as it was shown once again by the events of April 2010. A culture of impunity is prevalent in Guinea-Bissau, particularly in the military, and one has trouble seeing how the military would accept any meaningful investigation regarding recent and known beatings, tortures, and executions. Will the TRC be able to investigate the beatings of lawyer Pedro Infanda and former Prime Minister Francisco José Fadul? The threats against President of the Human Rights League Luís Vaz Martins? The assassinations of former Minister of Defense Hélder Proença, former President João Bernardo ‘Nino’ Vieira, or former Chief of Staff of the Armed Forces Gen. Batista Tagmé Na Waié?¹³ Moreover, Guinea-Bissau does not have the critical mass, a developed civil society, and a strong independent media. All three are fundamental to the success of any TRC and yet the country does not have any of them. Moreover, Guinea-Bissau suffers from a clear institutional frailty, which does not bode well for success. As it follows from above, one has trouble imagining how a TRC could have

5 Ibidem, p. 604.

6 Desmond Tutu, *No Future Without Forgiveness* (New York: Doubleday, 1999): 23.

7 Miguel Martins, “Missão militar conjunta UA/CEDEAO/CPLP em Bissau em Fevereiro” (*RFI*, 7 January 2011).

8 A delegation will also visit Liberia and Rwanda later on. See “Guiné-Bissau pronta para comissão da verdade e reconciliação” (*Pana Press*, 29 October 2010).

9 Tutu, *No Future Without Forgiveness*, p. 30.

10 Amy Ross, “Truth or consequences? Choosing a Truth Commission in Guatemala” (Paper presented at the annual meeting of the APSA, 2-5 September 2000).

11 “UA pede manutenção do apoio das Nações Unidas à Guiné-Bissau” (*Pana Press*, 8 November 2010).

12 Priscilla B. Hayner, *Unspeakable Truths: Confronting State Terror and Atrocity* (New York: Routledge, 2001): footnote 34, p. 30.

13 “Critics of Guinea-Bissau Military Beaten by Military Personnel” (*Amnesty International*, 1 April 2009); “Guinea-Bissau: Human rights violations in the run up to presidential elections” (*Amnesty International*, 11 June 2009).



any meaningful output towards national reconciliation within this highly adverse context. A TRC in Guinea-Bissau, as a relevant and important instrument of national reconciliation, is mere wishful thinking.

EDITOR | Paulo Gorjão
ASSISTANT EDITORS | Laura Tereno • Vasco Martins

DESIGN | Atelier Teresa Cardoso Bastos

Portuguese Institute of International Relations and Security (IPRIS)
Rua Vitorino Nemésio, 5 - 1750-306 Lisboa
PORTUGAL

<http://www.ipris.org>
email: ipris@ipris.org

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