



June 17, 2021

Via Mail

President Alpha Condé
President of the Republic of Guinea
Boulbinet avenue de la République
Conakry, Guinea 224

Re: Actions of state security forces against protestors during the March 2020 referendum and October 2020 election cycle

Dear President Condé:

The New York City Bar Association (“the Association”) is gravely concerned about credible reports of serious violence by state security forces against protestors in connection with Guinea’s 2020 election cycle. We urge an immediate and independent investigation into these reports and prosecution of those responsible for the deaths and violence against demonstrators.

The Association is an independent non-governmental organization with more than 25,000 members in over 50 countries. Founded in 1870, the Association has a long history of dedication to human rights, notably through its Committee on International Human Rights, that investigates and reports on human rights conditions around the world. The Committee on African Affairs also closely monitors and responds to legal developments in Africa. In addition, the Association’s Cyrus R. Vance Center for International Justice advances global justice by engaging lawyers across borders to support civil society and promote diversity and ethics in the legal profession.

I. SUBJECT OF THE PROTESTS: TERM LIMITS UNDER GUINEA’S CONSTITUTION

In 2010, Guinea adopted a new constitution as part of its transition to democracy following the death of former President Lansana Conté.¹ President Conté, who had seized power in a coup in 1984, was first elected in multi-party elections in 1993.² In 2001, with his second presidential term about to expire, President Conté sponsored a referendum to abolish term limits in the Guinean Constitution.³ Opposition coalitions, including your party, campaigned against the 2001 referendum proposed by President Conté.⁴ At the time, you were a political prisoner of the Conté regime, and

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has 25,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

human rights groups such as GERDDES and Amnesty International as well as observers based in neighboring countries actively campaigned for your release from detention.⁵ It was in part due to this international pressure that you and political prisoners associated with your movement were released from detention.⁶

After President Conté died, Guinea's leaders had an opportunity to strengthen democracy. In drafting Guinea's 2010 constitution, they sought to disallow the tactics that President Conté had used. Among other reforms, they not only provided for presidential term limits but also sought to make those term limits exempt from the constitutional amendment process. Specifically, Article 27 of the 2010 Constitution provides, "[t]he President of the Republic is elected by universal direct suffrage. The duration of his mandate is five years, renewable one time. In any case, no one may exercise more than two presidential mandates, consecutive or not."⁷ Article 154 further provides that "the number and the duration of the mandates of the President of the Republic may not be made the object of a revision."⁸

Despite the limitations on revisions in Article 154, in 2019, your party, the Rally for the People of Guinea ("RPG"), sponsored an amendment to the Constitution purporting to authorize you to run for two additional terms, and extending the length of each term from five to six years.⁹ Since March 2019, when the RPG first proposed such an amendment, citizens opposing the amendment have organized in the streets to protest what they perceive as an illegal amendment of the Constitution and an unfair election process.¹⁰ These protestors have been beaten, killed, and arbitrarily detained. Many remain in detention, where at least four political prisoners have died.¹¹ The spread of COVID-19 across the continent poses additional concerns for these political prisoners.

Previously in 2016, your government refused to heed calls by international human rights organizations to investigate similar allegations of election-related violence and rights deprivations stemming from Guinea's 2015 elections.¹² If the international community is to believe in Guinea's commitment to democratization, this time must be different. Now that the election is over, we urge you to take steps to curb the impunity currently enjoyed by state security forces and release political prisoners still in detention.

II. CRACKDOWN ON PROTESTS: BRUTAL REPRESSION OF OPPOSITION VOICES

Under both Guinean and international law, Guineans enjoy a fundamental right to express their views on these constitutional issues, as well as a right to oppose your candidacy and/or presidency. Articles 7 and 10 of the Guinean Constitution provide for freedom of speech, freedom of peaceful assembly, and the freedom to participate in the political process.¹³ Guinea is also a State Party to the International Covenant on Civil and Political Rights ("ICCPR"). Under Article 2 of the ICCPR, Guinea "undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the [ICCPR]." These rights include the rights to freedom of opinion and expression recognized in Article 19 of the ICCPR and the right of peaceful assembly recognized in Article 21 of the ICCPR. These rights are also recognized in the Universal Declaration of Human Rights, as well as the African Charter on Human and People's Rights, which Guinea has ratified.¹⁴ Nonetheless, Guinea banned demonstrations in 2018 ahead of the expiry of your second term, and state security forces have repeatedly invoked that ban in order to prevent any form of protest, including by using excessive force, resulting in more than 90 deaths and serious bodily injuries to

uncounted others.¹⁵

At one of the earliest protests, on October 14, 2019, security forces used live ammunition and shot five people dead. The government acknowledged at least nine deaths, including one gendarme.¹⁶ At a November 4, 2019 funeral to mourn protestors who had been killed, three mourners were shot dead in clashes with the police.¹⁷ Killings of protestors were not limited to large protests but also included targeting of individuals and small groups who chanted slogans against the proposed constitution.¹⁸

In November 2019, both ECOWAS and the African Commission on Human and People's Rights called attention to Guinean state security force repression of, and the use of excessive violence against, those protesting the proposed constitutional amendment.¹⁹ Several non-governmental organizations also called attention to these issues well before the referendum.²⁰ When videos corroborated previously denied allegations of state security force abuses, however, the government persisted in refusing to investigate the matter and sought to shift blame to protestors.²¹

In the lead-up to the March 22, 2020 referendum, more protests were repressed, and the international community issued additional calls for Guinean security forces to respect the rights of protestors, and to comply with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the African Commission on Human and Peoples' Rights Guidelines on Policing Assemblies in Africa.²² Guinea's 2015 law on maintaining public order requires security forces to use non-violent methods before utilizing any force and requires any use of firearms to be necessary and proportionate.²³

State security forces nonetheless continued to use live ammunition against protestors.²⁴ On March 22, 2020, the day of the referendum vote, Guinean authorities acknowledged at least thirty people who were killed in the city of Nzerekore alone.²⁵

Against this backdrop of violence, opposition parties boycotted the referendum, and the referendum passed.²⁶ Although the Guinean Constitutional Court affirmed the referendum, opposition parties rejected the legitimacy of the amendment to the 2010 Constitution.²⁷ Multiple intergovernmental organizations and diplomatic missions reported additional post-referendum violence.²⁸

Elections were scheduled for October 18, 2020, and you decided to accept your party's nomination for a third term. Violence against dissidents did not stop. In April, state security forces beat and harassed several opposition members and supporters.²⁹ Observers reiterated in advance of the October elections the need to respect the rights of protestors and dissidents.³⁰ On October 18, 2020, the presidential election took place and protestors opposing your candidacy continued to face abuses from security forces.³¹

As the country was waiting for the final results of the election, the violence continued. Twelve people, including two children, were killed by security forces in post-election violence.³² Amnesty International has verified through witness testimonies, satellite imagery and videos that security forces have been using live bullets to fire at protestors, and Human Rights Watch documented substantial post-election violence.³³ Security forces also set up a blockade around the residence of opposition candidate Cellou Dalein Diallo from October 20, 2020 to October 28, 2020, which led to violent

clashes resulting in 21 deaths throughout Guinea.³⁴ Government officials publicly announced the arrest of 325 people in connection with “post-election violence” on October 31, 2020 in Conakry alone,³⁵ but it seems from interviews conducted by impartial NGOs that the vast majority of those arrested were arrested because of a known or suspected political affiliation with the opposition, including at least eleven children and leaders of different opposition groups.³⁶

During a meeting with the Economic Community of West African States (ECOWAS), the African Union, and the United Nations, your government committed to a peaceful and transparent 2020 election in Guinea and expressed your intentions to promote peace in Guinea.³⁷

Despite these promises, impunity remains the norm for these human rights abuses. Your actions have encouraged this impunity. For example, one of the changes to the Constitution that you advocated for in the March 2020 referendum was to eliminate Title XV, articles 141-145.³⁸ These articles of the 2010 Constitution provided that the defense and security forces are neutral and apolitical members of the state.³⁹ The elimination of these provisions and the failure to arrest security forces responsible for the serious harm and deaths of civilians mean impunity will continue to be the norm in Guinea.

Your supporters argued for a new Constitution in part to strengthen Guinean democracy.⁴⁰ But democracy cannot be strengthened by stifling political speech. We urge you to protect all Guinean citizens, including members of the opposition who are currently under arrest for exercising their political rights. In order to do so, security forces must refrain from use of force and respect the constitutional rights to demonstrate and protest going forward. In addition, we urge you to identify and, where appropriate, prosecute those responsible for deaths and violence against demonstrators.

Respectfully,

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⁴¹ The African Affairs Committee would like to thank Aisatou Diallo for her leading role in researching and drafting this letter.