



## International Covenant on Civil and Political Rights

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### Human Rights Committee

104th session

New York, 12-30 March 2012

## Consideration of reports submitted by States parties under article 40 of the Covenant

### Concluding observations of the Human Rights Committee

#### Cape Verde

1. In the absence of a report by the State party, the Human Rights Committee considered the situation of civil and political rights in Cape Verde under the International Covenant on Civil and Political Rights at its 2877th meeting (CCPR/C/SR.2877), held in a public session on 21 March 2012. In accordance with rule 70, paragraph 1, of the Committee's rules of procedure, failure of a State party to submit a report under article 40 of the Covenant may lead to the examination in a public session of the measures taken by the State party to give effect to the rights recognized in the Covenant, and to the adoption of concluding observations.

2. At its 2887th meeting (CCPR/C/SR.2887), held on 28 March 2012, the Committee adopted the following concluding observations, pending submission of the State party's initial report, which the State party's permanent representative to the United Nations stated would be submitted in due course.

#### A. Introduction

3. The Covenant came into force for Cape Verde on 6 November 1993. The State party was under the obligation to submit its initial report under article 40, paragraph 1 (a), of the Covenant by 5 November 1994. The Committee regrets that the State party has failed to honour its reporting obligations under article 40 of the Covenant and that, despite numerous reminders, the State party has not submitted the initial report. This amounts to a serious breach by the State party of its obligations under article 40 of the Covenant. However, the Committee appreciates that the State party's permanent representative to the United Nations attended the session and provided clarification on a number of issues.

#### B. Positive aspects

4. The Committee welcomes the accession by the State party to the following treaties:

(a) The Optional Protocol to the International Covenant on Civil and Political Rights and its Second Optional Protocol aiming at the abolition of the death penalty, on 19 May 2000;

- (b) The Convention on the Rights of Persons with Disabilities, on 10 October 2011;
- (c) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, on 10 May 2002;
- (d) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 10 May 2002;
- (e) The International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, on 16 September 1997.

**C. Principal matters of concern and recommendations**

5. While welcoming the establishment of the National Commission for Human Rights and Citizenship (NCHRC), the Committee expresses concern at the lack of information on its operations and its independence. The Committee shares the concerns expressed by the Human Rights Council during the review of the State party under the universal periodic review (UPR) mechanism on the need to strengthen the NCHRC so that it complies with the Paris Principles (General Assembly resolution 48/134, annex) (art. 2 of the Covenant).

**The State party should provide information in its initial report on the mandate, independence, funding and activities of the NCHRC. Furthermore, the State party should report on the measures taken, since its review by the Human Rights Council under the UPR mechanism, to strengthen the NCHRC so that it operates in accordance with the Paris Principles (General Assembly resolution 48/134, annex).**

6. While noting that article 12 of the new Constitution proclaims that all treaties ratified by the State party, including the Covenant, are part of domestic law, the Committee notes the lack of information on instances when the provisions of the Covenant have been invoked or referred to in national courts (art. 2).

**The State party should provide information on instances of when and how domestic courts have referred to provisions of the Covenant. Furthermore, the State party should take appropriate measures to raise awareness of the Covenant among judges, lawyers and prosecutors to ensure that its provisions are taken into account, as necessary, by national courts.**

7. The Committee notes the lack of information on how the State party's measures to combat terrorism may affect the rights protected under the Covenant (art. 2).

**The State party should provide information in its initial report on how measures to combat terrorism may affect the rights protected under the Covenant.**

8. While welcoming the efforts that are being made by the State party with respect to gender equality, particularly at high levels of Government, the Committee notes the lack of information on the existence of plans and programmes to promote gender equality once the National Gender Equality and Equity Plan for the period 2005 to 2009 ends. The Committee also expresses concern at the slow progress to promote women's representation in decision-making positions, particularly in the private sector and the legislature. The Committee further expresses its concern at the persistence of deep-rooted and negative patriarchal stereotypes regarding the roles of women and men in the family and in society at large (arts. 3 and 26).

The Committee urges the State party to adopt a comprehensive and integrated approach to its policies to ensure that gender mainstreaming is practised at all levels. The Committee further recommends that the State party take special measures to increase the number of women in decision-making positions in all spheres, particularly in the private sector. Furthermore, the State party should enhance its efforts to eliminate existing patriarchal and gender stereotypes on the roles and responsibilities of women and men in the family and in society by, inter alia, adopting programmes that seek to raise awareness in society of gender equality.

9. The Committee is concerned at the lack of data on the incidence of violence against women, including domestic violence, and the lack of information on the measures taken so far to combat this phenomenon, such as police investigations, prosecutions and remedies provided to victims (arts. 3 and 7).

**The State party should provide data, disaggregated by age and ethnicity, on the magnitude of the problem of violence against women, including domestic violence. In this regard, the State party should report on the measures taken to ensure that cases of violence against women, including domestic violence, are thoroughly investigated, that the perpetrators are prosecuted, and if convicted, punished with appropriate sanctions, and that victims are adequately compensated.**

10. The Committee expresses concern at reports of child abuse and sexual exploitation in the schools of the State party. The Committee further expresses concern at the lack of data on the number of cases that have been investigated and prosecuted, and on the compensation awarded to victims of such abuse. Furthermore, the Committee is concerned at the lack of information on the number of shelters available in the State party for victims of sexual abuse and exploitation (arts. 7 and 24).

**The State party should, as matter of urgency, enhance its efforts to combat child abuse and sexual exploitation by improving mechanisms for early detection, encouraging reporting of suspected and actual abuse, and ensuring that cases of abuse are thoroughly investigated, that perpetrators are prosecuted, and if convicted, punished with appropriate sanctions, and that victims are adequately rehabilitated. Furthermore, the State party should provide information on the number of shelters that are available in the State party for this purpose.**

11. While noting the increased problem of juvenile delinquency and youth gangs in the State party, the Committee is concerned at reports that police brutality against juveniles, as a form of extra-judicial punishment, may be common and is allegedly sanctioned by society in the State party. The Committee notes the lack of information on the number of cases that have been investigated and prosecuted, and on the compensation awarded to victims of such abuse by law enforcement personnel (arts. 7 and 24).

**The State party should take concrete measures to combat juvenile delinquency and the increase in the number of youth gangs by, inter alia, addressing the root causes for the increased juvenile delinquency and proliferation of youth gangs in the State party. The State party should further ensure that allegations of brutality and other forms of abuse by law enforcement personnel are effectively investigated and that those responsible are held accountable.**

12. While noting that corporal punishment is unlawful in schools, penal institutions and care institutions, the Committee is concerned that corporal punishment still occurs as excessive chastisement in the home. Furthermore, the Committee is concerned at reports of frequent use of corporal punishment by teachers (arts. 7 and 24).

**The State party should take practical steps to put an end to corporal punishment in all settings. The State party should act vigorously against the use of corporal punishment**

**in schools, promote non-violent forms of discipline as alternatives to corporal punishment, and conduct public information campaigns to raise awareness about its harmful effects.**

13. The Committee is concerned at the prevalence of trafficking in persons, particularly women and children, as the State party's territory is often used for transit purposes. The Committee particularly notes the lack of information on the number of investigations, prosecutions and convictions in this area, as well as on the prevention and protection mechanisms for victims, including rehabilitation schemes (art. 8).

**The State party should provide data on the magnitude of the problem of human trafficking in the State party which should be disaggregated by age, sex and ethnic origin, and should also focus on trafficking flows from, to and in transit through its territory. The State party should train its police officers, border personnel, judges, lawyers and other relevant personnel in order to raise awareness of this phenomenon and the rights of victims. Furthermore, the State party should ensure that all perpetrators of trafficking in persons are investigated, prosecuted, and if convicted, adequately sanctioned, and should guarantee that adequate protection, reparation and compensation are provided to victims. The State party should also provide information on the measures taken to establish prevention and rehabilitation programmes for victims of trafficking.**

14. The Committee is concerned at reports that in detention facilities in the State party, juveniles are not held separately from adults, on the one hand, and accused persons are not separated from convicts, on the other hand. The Committee is also concerned at reports of lengthy pretrial detention leading to overcrowding in prisons and places of detention and which is allegedly exacerbated by delays in the delivery of justice. Furthermore, the Committee notes the lack of information on how the two new prison facilities that the State party constructed have ameliorated the problem of overcrowding and other conditions in prisons (arts. 10 and 14).

**The State party should, as a matter of urgency, put in place a system to segregate juveniles from adult prisoners, and accused persons from convicts. The State party should take all necessary steps to improve prison conditions and ensure that the treatment of detainees and prisoners in detention facilities and prisons is in line with the Covenant and the United Nations Standard Minimum Rules for the Treatment of Prisoners. Furthermore, the State party should review its system of administration of justice in order to expedite the delivery of justice.**

15. The Committee is concerned at the lack of information on the appointment and promotion of judges, as well as the procedures for disciplining judges in the State party. The Committee is also concerned at reports that judges are underpaid, which could expose them to grave risks of bribery and corruption, particularly in light of the emergence of drug trafficking groups that might interfere with the administration of justice (art. 14).

**The State party should provide information in its initial report on the procedures for the appointment, promotion and disciplining of judges. The State party should take steps to entrench judicial independence by ensuring that the remuneration of judges is sufficient to guarantee judicial independence and integrity. In this regard, the State party should provide information on the measures taken to address all forms of possible interference with judicial independence by, inter alia, ensuring that prompt, thorough, independent and impartial investigations are conducted into any allegations of interference, including by way of corruption, and prosecuting and punishing perpetrators, including judicial officers, who may be complicit.**

16. The Committee notes the lack of information on the regulatory framework governing the right to freedom of opinion and expression and how these rights are enjoyed in practice (art. 19).

**The Committee urges the State party to provide information with regard to the regulatory framework governing the right to freedom of opinion and expression in the State party and how these rights are enjoyed in practice.**

17. The Committee notes the lack of information on the measures taken by the State party to implement the recommendation of the National Electoral Commission to amend the provisions of its Electoral Code in order to ensure greater security and transparency in the conduct of elections. The Committee also notes the lack of information on the measures taken to review the voter identification and registration processes (art. 25)

**The State party should provide information on the concrete measures taken to implement the recommendations of the National Electoral Commission to amend the Electoral Code in order to ensure greater electoral security and transparency, and to review the voter identification and registration processes.**

18. The Committee notes the lack of data on the existence and size of ethnic, religious and linguistic minorities in the State party and how their rights under article 27 of the Covenant are guaranteed. The Committee also notes the lack of information with regard to the measures taken to address the alleged sporadic clashes between West African immigrants and the police and the military following the killing of an immigrant from Guinea-Bissau, who was the tenth West African to be killed in the period between 2002 and 2005 (arts. 6, 26 and 27).

**The State party should provide data, disaggregated by ethnicity, on the existence and size of minorities in the State party, and how their rights under article 27 of the Covenant are protected. Furthermore, the State party should thoroughly investigate the root cause of the murders of West African immigrants, and ensure that the alleged perpetrators of such violence are prosecuted and appropriately sanctioned, and that family members of the victims are adequately compensated.**

19. The Committee reminds the State party of the possibility of soliciting technical cooperation from the appropriate United Nations organs and agencies, as well as the Office of the United Nations High Commissioner for Human Rights, to assist in developing its capacity to meet its reporting obligations under the Covenant.

20. The State party should widely disseminate the Covenant, the Optional Protocols to the Covenant, the text of its initial report and the present concluding observations. The Committee also suggests that the present concluding observations be translated into the official language of the State party.

21. The Committee requests the State party to submit its initial report before 30 March 2013.