



International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the third periodic report of the Central African Republic*

1. The Human Rights Committee considered the third periodic report of the Central African Republic (CCPR/C/CAF/3) at its 3694th and 3695th meetings (see CCPR/C/SR.3694 and CCPR/C/SR.3695), held on 4 and 5 March 2020. On 27 March 2020, the Committee adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the third periodic report of the State party and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's delegation on the measures taken to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/CAF/Q/3/Add.1) to the list of issues (CCPR/C/CAF/Q/3) and for the oral responses provided by the delegation.

B. Positive aspects

3. The Committee welcomes the legislative and institutional measures taken by the State party, including:

(a) Act No. 06.032 of 27 December 2006 on the protection of women from violence in the Central African Republic;

(b) Organic Act No. 15.003 of 3 June 2015 on the establishment, organization and operation of the Special Criminal Court, Act No. 18.010 of 2 July 2018 on the rules of procedure and evidence of the Special Criminal Court of the Central African Republic, and the strategy for investigations, prosecutions and inquiries that was presented on 4 December 2018;

(c) Act No. 16.004 of 24 November 2016 instituting parity between men and women in the Central African Republic, in particular the equal access of men and women to elective office, and the creation of the National Observatory on Gender Parity;

(d) Act No. 17.015 of 20 April 2017 establishing the National Commission on Human Rights and Fundamental Freedoms in the Central African Republic;

(e) The interministerial decree of 28 September 2017 instituting the conduct of background checks and security screening for members of armed groups who are candidates for social reintegration or recruitment into the Central African Armed Forces;

* Adopted by the Committee at its 128th session (2–27 March 2020).



(f) The signing of the Political Agreement for Peace and Reconciliation in the Central African Republic of 6 February 2019, which provides, inter alia, for the establishment of the Truth, Justice, Reparation and Reconciliation Commission;

(g) The Electoral Code, adopted in July 2019;

(h) The Act on the Establishment, Organization and Operation of the Truth, Justice, Reparation and Reconciliation Commission, adopted on 27 February 2020;

(i) The Act on Political Parties and the Status of the Opposition, adopted in February 2020, which provides inter alia that gender parity must be respected in the presentation of lists of candidates for elections.

4. The Committee also welcomes the ratification of, or accession to, the following international instruments by the State party:

(a) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto, in 2016;

(b) The International Convention for the Protection of All Persons from Enforced Disappearance, in 2016;

(c) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in 2017;

(d) The Convention on the Rights of Persons with Disabilities, in 2016.

C. Principal matters of concern and recommendations

Domestic applicability of the Covenant

5. The Committee takes note of the particular circumstances in which the State party's third periodic report is being considered, namely the conflict situation that has persisted since 2013 and the difficulties that the central Government has encountered in regaining control over all parts of its territory. The Committee is nonetheless of the view that any difficulties impeding the State party's effective control over certain parts of the country do not absolve it of the obligation to use all available means to ensure the full observance of the rights set forth in the Covenant in respect of all persons within its territory. The Committee further notes that despite the provisions of article 94 of the Constitution, under which treaties take precedence over laws, the State party has not provided any specific examples of cases in which the provisions of the Covenant have in practice been invoked before or applied by the courts (art. 2).

6. **In the light of the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, the State party should see to it that its obligations under the Covenant are fulfilled throughout the national territory, taking all necessary measures in conformity with international law. Furthermore, in view of the Committee's previous concluding observations (CCPR/C/CAF/CO/2, para. 6), the State party should take measures to raise awareness of the Covenant and the Optional Protocol thereto among judges, lawyers and prosecutors, and the general public, in order to ensure that the provisions of these instruments are taken into account and applied by the national courts. It should also establish a mechanism for follow-up to the Committee's concluding observations and Views.**

National human rights institution

7. The Committee is concerned about reports that the funding earmarked under the 2019 Finance Act for the operations of the National Commission on Human Rights and Fundamental Freedoms has not yet been made available. The Committee notes with regret that the National Commission is still inactive, has not really begun its work and does not have regional offices that would enable it to operate throughout the country (art. 2).

8. **The State party should ensure that the resources allocated to the National Commission on Human Rights and Fundamental Freedoms are effectively disbursed in order to enable it to discharge its mandate effectively and independently. It should**

ensure that the Commission has offices and effective means of operating throughout the national territory, while taking account of the security situation in certain parts of the country. The Committee encourages the State party to make use of the technical support available from the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic for this purpose. The State party should also take all necessary measures to bring the national human rights institution into compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

Impunity, effective remedies and reparations

9. The Committee welcomes the efforts undertaken by the State party to look into the most serious human rights violations and to begin a process of transitional justice, particularly with the establishment of the Special Criminal Court, which has begun its work of investigation and inquiry, and the Truth, Justice, Reparation and Reconciliation Commission. However, the Committee is concerned to note that these mechanisms are not yet fully operational. It notes in particular that the Special Criminal Court does not have the requisite number of international judges to hear cases in the indictment chamber and try persons accused of the most serious crimes committed during the conflict; while it appears that the judges have been appointed, not all of them have taken up their posts. In addition, although the Special Criminal Court has introduced a victim and witness protection scheme, decisions as to when it should be used are left to the discretion of judges, who resort to it “as needed”. In practice, no measures have been taken to implement it. Lastly, while noting the actions taken to ascertain the truth and achieve reconciliation in the country, the Committee regrets that, alongside these actions, the authorities have decided to appoint a number of persons suspected of serious human rights violations as members of the inclusive Government, since this could have the effect of blocking any legal proceedings against them (arts. 2, 6 and 7).

10. **In the light of the Committee’s previous concluding observations (CCPR/C/CAF/CO/2, paras. 7–8), the State party should:**

(a) **Take the necessary measures, including through international cooperation, to ensure that the international judges of the Special Criminal Court take up their posts expeditiously in order to begin trying the cases that have been investigated;**

(b) **Ensure that all victims have access to an effective remedy, including before the Special Criminal Court, and that they can benefit from appropriate compensation, restitution and rehabilitation measures, taking into account the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law;**

(c) **Enable victims and witnesses to take part in trials before the Special Criminal Court by effectively making use of the victim and witness protection scheme, following the example of the practices established by the International Criminal Court;**

(d) **Promptly enable the Truth, Justice, Reparation and Reconciliation Commission to begin operations and ensure its inclusive, effective and independent functioning in accordance with international law and standards, including by prohibiting any amnesty for gross violations of international human rights law and serious violations of international humanitarian law; in this respect, the Committee stresses that transitional justice mechanisms do not obviate the need for criminal prosecution of the perpetrators of serious human rights violations;**

(e) **Strengthen vetting processes to prevent those accused of Covenant violations from holding public office or being promoted.**

Non-discrimination and gender equality

11. The Committee is concerned about the lack of a comprehensive anti-discrimination law. It further regrets that no information has been provided on the practical steps taken to mainstream the gender dimension in all aspects of the transitional justice process, including the actual practice of the Special Criminal Court. The Committee also regrets the lack of

information on actions taken to ensure equality between men and women not only in law but also in practice, including participation in public affairs, given that women's representation in legislative bodies, executive decision-making positions and the judiciary remains very low (arts. 2, 3, 23, 25 and 26).

12. In the light of the Committee's previous concluding observations (CCPR/C/CAF/CO/2, para. 9), the State party should:

(a) Adopt a comprehensive anti-discrimination law that makes provision for effective remedies in case of violation to ensure that its legal framework provides comprehensive and effective protection against discrimination in all areas, including the private sphere, and on any ground of discrimination, including sex, colour, language, religion, political or other opinion, national or social origin, disability, sexual orientation and gender identity, or any other status;

(b) Mainstream the gender dimension throughout the transitional justice process, including in the practice of the Special Criminal Court;

(c) Ensure the effective participation of women in public life, in particular by strengthening initiatives to educate and sensitize the public in order to combat gender stereotypes regarding the subordination of women to men and their respective roles and responsibilities in the family and society.

Harmful practices and sexual violence

13. The Committee notes the State party's efforts to combat certain harmful practices and sexual violence, in particular against children, through Act No. 06.032 on the Protection of Women, the bill on child protection and the National Transition Plan, the primary objective of which is to strengthen the basic education system. Nevertheless, the Committee is concerned at the persistence of such practices and violence, including the limited progress made in curbing certain practices such as polygamy, and the maintenance of certain provisions of the Criminal Code such as article 105, which allows the perpetrator of an abduction to marry the victim, thereby depriving the latter of the right to take proceedings against the former. The Committee regrets the lack of information on the impact of the measures taken, including by the Joint Unit for Rapid Intervention and Suppression of Sexual Violence against Women and Children. It is concerned at allegations that sexual violence continues to be used as a weapon of war and at the ineffectiveness of remedies for victims, owing in particular to social taboos, fear of reprisals, attempts to induce victims to accept amicable conciliation, and the situation of insecurity, which makes police stations and courts inaccessible (arts. 2, 3, 6, 7 and 26).

14. The State party should intensify its efforts to combat entrenched patriarchal attitudes and gender role stereotypes, which are conducive to serious violations of the rights and integrity of women and girls. In accordance with Security Council resolution 1325 (2000) on women and peace and security, and the concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/CAF/CO/1, para. 14), the State party should:

(a) Repeal all provisions, including those of the Family Code and the Criminal Code, that are conducive to violations of the integrity of women and girls, in particular article 105 of the Criminal Code;

(b) Strengthen the capacity of the Joint Unit for Rapid Intervention and Suppression of Sexual Violence against Women and Children to ensure that all cases of sexual violence, including child marriage and female genital mutilation, are investigated and that suspected perpetrators are brought to justice and, if found guilty, punished;

(c) Raise awareness among the population, especially traditional and religious leaders, of the harmful long-term consequences of violence against women and girls;

(d) See to it that victims are given legal, medical, financial and psychological assistance and access to effective remedies and measures of protection;

(e) Expedite the training of judges and prosecutors, including those of the Special Criminal Court, and of law enforcement officers in order to equip them to

deal with cases of violence against women and domestic violence effectively and in a gender-sensitive manner;

(f) **Establish a reliable system for the collection of disaggregated statistical data on violence against women and harmful practices.**

Maternal and child mortality and voluntary termination of pregnancy

15. In view of the high rate of maternal mortality and allegations of recourse to clandestine unsafe abortions in conditions that endanger women's lives and health, the Committee regrets that, under the Criminal Code, therapeutic termination of pregnancy is allowed only within a narrow time frame and is subject to approval by a board of professionals (arts. 3, 6, 7, 17 and 26).

16. **The State party should amend its legislation with a view to guaranteeing effective access to safe, legal abortion when the life or health of a pregnant woman or girl is endangered and when carrying a pregnancy to term would cause the woman or girl substantial pain or suffering, most notably when the pregnancy is the result of rape or incest or when it is not viable. It should also ensure that women and girls who have recourse to abortion and the doctors who attend to them are not subject to criminal penalties, inasmuch as the existence of such penalties obliges women and girls to resort to unsafe abortion. The State party should furthermore implement policies to raise awareness and combat the stigmatization of women and girls who have recourse to abortion and should ensure that all women and girls have access to appropriate and affordable contraception and reproductive health services.**

Death penalty

17. While welcoming the de facto moratorium observed by the State party, as shown by the fact that there have been no executions since 1981, the Committee remains concerned about: (a) the fact that death sentences are still being handed down; and (b) the lack of progress towards the adoption of a law abolishing the death penalty (art. 6).

18. **In the light of the Committee's previous concluding observations (CCPR/C/CAF/CO/2, para. 13), the State party should consider embarking on a political and legislative process aimed at the abolition of the death penalty and should carry out public advocacy efforts and campaigns to promote that objective. It should also consider acceding to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.**

Right to life and protection of civilian populations

19. While noting the efforts made by the State party to investigate some of the extrajudicial killings committed since 2013, the Committee regrets that these investigations have not been carried out routinely, particularly with regard to alleged violations committed by the Gang Suppression Office of the Central African Republic and by African Union peacekeepers from the Republic of the Congo in Boali, where a mass grave has been found. The Committee is concerned at reports that serious human rights violations, including rape, torture and extrajudicial killings, have been and continue to be committed against civilians in conflict areas where various armed groups and militias are active and at the fact that these acts are not investigated because they occur in areas that are outside the control of the State. The Committee is also concerned about allegations of lynchings and killings for acts of witchcraft or charlatanism (arts. 2, 6 and 7).

20. **In view of the worrying number of allegations of extrajudicial killings by non-State actors, the State party should address the problem, including by expediting measures to disarm and demobilize armed groups and to ensure that allegations of extrajudicial killings and other serious human rights violations are thoroughly investigated and that all perpetrators, regardless of their affiliation, are prosecuted and punished in proportion to the gravity of the acts they are found to have committed. The State party should fully investigate the acts allegedly committed by African Union peacekeepers in Boali to enable the victims to know the truth and obtain reparation for these crimes. It should step up its efforts to ascertain the facts in cases involving reprisals or killings for witchcraft or charlatanism.**

Torture and cruel, inhuman or degrading treatment

21. The Committee is concerned at the lack of information on the number of prosecutions and convictions for acts of torture. While noting that torture is criminalized under the Criminal Code, the Committee regrets that articles 118–120 of the Code do not give a definition of torture. It also regrets that the Code of Criminal Procedure does not contain any provisions establishing that confessions made under torture are inadmissible. Lastly, the Committee is concerned about allegations that torture has been inflicted by State agents on persons in detention and by members of armed groups on civilian populations (arts. 2 and 7).

22. **The State party should:**

(a) **Amend its domestic laws to include a definition of torture that is consistent with the one set out in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;**

(b) **Ensure that confessions made under torture are inadmissible in criminal proceedings;**

(c) **Strengthen the training of justice, defence and security officials;**

(d) **Ensure that alleged acts of torture or ill-treatment are thoroughly investigated, that suspected perpetrators are prosecuted and, if found guilty, duly punished, and that victims obtain reparation and are offered rehabilitation services;**

(e) **Establish a national mechanism for the prevention of torture, in line with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**

Prison conditions

23. While noting the State party's efforts to demilitarize places of deprivation of liberty, the Committee is concerned about the inadequate conditions of detention in those places under the State party's control, including police custody cells, and the lack of information on those located in areas controlled by armed groups. In particular, the Committee is concerned about the high rate of overcrowding in prisons, the high proportion of prisoners who are in pretrial detention and the lack of rehabilitation measures in men's prisons. Finally, the Committee is concerned at the high proportion of women remand prisoners who are being held on grounds of witchcraft or charlatanism, often on the pretext of protecting them from mob justice (arts. 3, 6, 7 and 10).

24. **In the light of the Committee's previous concluding observations (CCPR/C/CAF/CO/2, para. 17), the State party should take the necessary measures to:**

(a) **Improve conditions of detention, inter alia in police custody cells, and ensure that prisoners, including minors and adults, men and women, and remand and convicted prisoners, are separated by category, in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules);**

(b) **Address the problem of prison overcrowding, in particular by establishing a policy of using alternatives to deprivation of liberty, both in sentencing and to replace pretrial detention before judgments are handed down;**

(c) **Renovate existing detention centres and build new ones;**

(d) **Establish an alternative to detention for women accused of charlatanism or witchcraft.**

Arbitrary detention

25. The Committee is concerned to note that the period of police custody is 72 hours, renewable once, for places where a magistrate of the Public Prosecution Service resides and up to eight days, renewable once, for other places. It is also concerned at reports that the statutory time limits for police custody and pretrial detention are not observed in practice and that judges and prosecutors rarely visit places of deprivation of liberty, a situation that contributes to the high rate of prison overcrowding and makes detention arbitrary within the meaning of article 9 of the Covenant (arts. 9 and 14).

26. **The State party should take steps to remedy the situation of persons who are held in pretrial detention beyond the time limits prescribed by law, amend the law to bring it into line with article 9 of the Covenant, and systematically guarantee that persons in police custody or pretrial detention are informed of their rights and are afforded fundamental legal safeguards, in particular the right of access to a lawyer.**

Administration of justice

27. While noting the State party's stated willingness to bring its current legislation into line with the requirements of judicial independence, the Committee regrets that these efforts have not yet led to such a reform and that frequent allegations of corruption in the judiciary have been reported but have not thus far been specifically addressed. The Committee is concerned at the shortage of judges and the uneven geographical coverage of the justice system, which has made justice inaccessible in practice to some sectors of the population (arts. 2 and 14).

28. **In the light of the Committee's previous concluding observations (CCPR/C/CAF/CO/2, para. 18), the State party should:**

- (a) **Fight corruption within the judiciary, including by reforming the Supreme Council of the Judiciary to make it independent of the executive and by strengthening procedures for shielding judges and prosecutors from any form of interference or corruption;**
- (b) **Ensure, in practice, that judges and prosecutors have security of tenure;**
- (c) **Recruit and train enough judges to ensure the proper administration of justice throughout its territory and to combat crime and impunity;**
- (d) **Allocate adequate budgetary resources to the administration of justice;**
- (e) **Strengthen measures to ensure access to justice for all, including investment in mobile justice systems, while taking account of the constraints currently faced as a result of the situation of insecurity.**

Trafficking in persons, forced labour and child soldiers

29. Despite the State party's stated commitment to combating trafficking in persons, including children, the Committee is concerned at the persistence of impunity, including the lack of information on prosecutions and convictions under article 151 of the Criminal Code, which concerns trafficking in persons. The Committee is alarmed at allegations that children are being recruited by armed groups for exploitation as combatants, sex slaves or workers in the mining sector (arts. 7, 8 and 24).

30. **The State party should continue and intensify its actions to:**

- (a) **Prevent, combat and punish contemporary forms of slavery, forced labour and human trafficking by strictly enforcing the provisions of the Criminal Code;**
- (b) **End the involvement of children in armed conflict by expediting measures to disarm and demobilize armed groups and to reunite children with their families, while ensuring the best interests of these children;**
- (c) **Eliminate all forms of exploitation of child labour, particularly in the extractive industries.**

Displaced persons, refugees and stateless persons

31. The Committee is concerned about the large number of internally displaced persons in the country and of refugees in neighbouring countries. While noting the efforts made to facilitate the return of displaced persons to their places of origin and the voluntary return of refugees, the Committee regrets that no specific information has been provided on the strategy used to ensure that the return of such persons takes place in safe and sustainable conditions. It also regrets the current restrictions on birth registration, which is not free of charge and must be carried out within 30 days of birth, a requirement that, in the absence of

registrars in much of the territory, entails an increased risk of statelessness (arts. 7, 12, 13, 16 and 24).

32. The State party should:

(a) **Develop and adopt a legal framework and a national strategy for assisting and protecting internally displaced persons in accordance with the relevant international standards, including the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) and the Guiding Principles on Internal Displacement;**

(b) **Create conditions that are conducive to sustainable solutions for displaced persons and stateless refugees, including their voluntary and safe return;**

(c) **Facilitate birth registration, including by raising public awareness and facilitating and expediting access to civil registry offices.**

Freedom of religion

33. The Committee is concerned about allegations that Muslim and Christian minorities are discriminated against and that their freedom of movement is restricted, particularly in areas controlled by ex-Séléka and anti-balaka militias. In the context of the forthcoming presidential and legislative elections, the Committee is concerned about the possible exploitation of religion and the resurgence of hate speech, including on the basis of religious affiliation (arts. 2, 6, 12, 18, 20 and 26).

34. The State party should guarantee that freedom of religion and belief can be effectively exercised in practice, in accordance with article 18 of the Covenant. It should take measures to combat discrimination, hate speech and incitement to hatred or violence against any religious community, in particular by providing the High Council for Communication with the necessary tools and expertise to carry out its monitoring role.

Freedom of expression, assembly and association, and human rights defenders

35. The Committee notes with concern that the State party has no legislative framework for the protection of human rights defenders, apart from the Freedom of Communication Act. It also notes with concern the restrictions imposed by article 14 of the Constitution, which places a vaguely worded limitation on the formation of associations, referring to associations whose activities are “contrary to public order and to the unity and cohesion of the people of the Central African Republic”. The Committee is concerned about the intimidation of human rights defenders, including community and religious actors working for peace. Lastly, it regrets the lack of information that might shed light on the alleged murders of a number of journalists, such as Camille Lepage, Orkhan Dzhemal, Kirill Radchenko and Aleksandr Rastorguev (arts. 6, 7, 19 and 21).

36. In the light of the Committee’s previous concluding observations (CCPR/C/CAF/CO/2, para. 20) and the most recent report of the Special Rapporteur on the situation of human rights defenders (A/HRC/43/51), the State party should:

(a) **Develop comprehensive gender- and age-sensitive legislation and policies to protect human rights defenders, in accordance with the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders), and establish protection mechanisms that are accessible to defenders operating in conflict zones;**

(b) **Ensure the protection of human rights defenders who cooperate and provide information to the Special Criminal Court, the Truth, Justice, Reparation and Reconciliation Commission or any other body with a mandate to inquire into human rights violations in the country;**

(c) **Investigate, prosecute and sentence those responsible for harassment, threats or intimidation against journalists or human rights defenders, including defenders who are community or religious actors.**

Indigenous people

37. The Committee is concerned about reports that indigenous communities (Mbororo and Baka) continue to face significant obstacles to the enjoyment of the rights set out in the Covenant. In particular, the Committee is concerned about allegations that some individuals, including individuals of foreign nationality, have been reduced to slavery. It is also concerned to note that indigenous communities are not represented in the decision-making and electoral spheres (arts. 8, 25, 26 and 27).

38. **In accordance with the concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/CAF/CO/1, para. 22), the State party should adopt a national strategy to promote and protect the rights of indigenous populations, with the participation of the communities concerned, with a view to eradicating practices involving the enslavement of indigenous populations, promoting their participation in public affairs and obtaining their free, prior and informed consent with regard to all decisions affecting them.**

D. Dissemination and follow-up

39. **The State party should widely disseminate the Covenant, its third periodic report, the written replies to the Committee's list of issues, and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public. The State party should ensure that the report, the written replies and the present concluding observations are translated into the principal written languages used in the country.**

40. **In accordance with rule 75 (1) of the Committee's rules of procedure, the State party is requested to provide, by 20 March 2022, information on the implementation of the recommendations made by the Committee in paragraphs 8 (national human rights institution), 10 (measures against impunity) and 20 (right to life and protection of civilian populations) above.**

41. **In accordance with the Committee's planned review cycle, in 2025 the State party will receive from the Committee the list of issues prior to submission of the report and will have one year to submit its replies to the list of issues, which will constitute its fourth periodic report. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in Geneva in 2027.**