



International Covenant on Civil and Political Rights

Distr.: General
3 December 2019

Original: English

Human Rights Committee

Concluding observations on the initial report of Cabo Verde*

1. The Committee considered the initial report of Cabo Verde (CCPR/C/CPV/1) at its 3661st and 3662nd meetings (CCPR/C/SR.3661 and 3662), held on 22 and 23 October 2019. At its 3678th meeting, held on 4 November 2019, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the initial report of Cabo Verde, albeit over 20 years late, and the information presented therein. It expresses appreciation for the opportunity to initiate a constructive dialogue with the State party's high-level delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee is also grateful to the State party for its written replies (CCPR/C/CPV/Q/1/Add.2) to the list of issues (CCPR/C/CPV/Q/1/Add.1), which were supplemented by the oral responses provided by the delegation, and for the supplementary information provided to it in writing.

B. Positive aspects

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

(a) The ongoing process of developing of a new statute for the National Commission for Human Rights and Citizenship;

(b) The efforts made to increase gender mainstreaming through the establishment, in 2018, of the Interministerial Commission for Gender Mainstreaming;

(c) The adoption of the law on gender-based violence published on 27 January 2015;

(d) The establishment of the 2018–2021 national action plan against trafficking in persons;

(e) The reform of the criminal justice system, including the introduction of alternatives to incarceration and measures to tackle prison overcrowding and the enactment of a code on the enforcement of conventional criminal penalties.

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

* Adopted by the Committee at its 127th session (14 October–8 November 2019).



- (a) The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, on 23 June 2014;
- (b) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, on 1 April 2016.

C. Principal matters of concern and recommendations

Domestic implementation and dissemination of the Covenant

5. The Committee notes the State party's efforts to comply with its Covenant obligations but is nevertheless concerned that the domestic legal framework may not fully incorporate the rights guaranteed in the Covenant. The Committee regrets that the level of knowledge about the Covenant in the State party seems to be inadequate, including regarding the complaints mechanism under the first Optional Protocol, and that reference to the Covenant is made in only a limited number of decisions on the application or interpretation of domestic law. Moreover, it is concerned by the lack of civil society involvement in the process of the State party's reporting. While appreciating the existing constraints, the Committee refers the State party to its obligation under article 2 of the Covenant and draws its attention to the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant (art. 2).

6. The State party should:

- (a) **Evaluate and revise, where necessary, domestic legal provisions to ensure further harmonization with the rights guaranteed in the Covenant and that domestic laws are interpreted and applied in conformity with its obligations under the Covenant;**
- (b) **Intensify its efforts to raise awareness of the Covenant and the complaints procedure under the first Optional Protocol among members of the general public, civil society representatives, public officials, lawyers and State agents such as judges and prosecutors;**
- (c) **Dedicate adequate budgetary resources to the implementation of all rights under the Covenant.**

National human rights institution

7. While acknowledging the ongoing process of developing the new statute for the National Commission for Human Rights and Citizenship and welcoming the information about funds to be allocated by the State party in 2020 for its functioning, the Committee regrets that such a statute, which aims to set up a national human rights institution that fully complies with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), is yet to be approved. The Committee is concerned about the possible involvement of the Ministry of Justice in the future process for appointing commissioners and the lack of information from the State party about the compatibility of such involvement with the full independence of the institution. The Committee is also concerned about reports that the Commission has close links to the Ministry of Justice and about the lack of information about the exact budget available to the Commission. While noting efforts to identify focal points on different islands, the Committee is concerned that the geographical coverage of the Commission may need to be strengthened so that it can carry out all of its functions throughout the State party's territory (art. 2).

8. **The Committee reiterates its recommendation that the State party strengthen the National Commission for Human Rights and Citizenship to ensure full compliance with the Paris Principles (CCPR/C/CPV/CO/1, para. 5). In particular, the State party should:**

- (a) **Ensure a fully independent, transparent and participative process for the selection and appointment of the members of the Commission with a view to guaranteeing their independence;**

- (b) **Increase the independence of the Commission, including by removing any oversight by government entities;**
- (c) **Provide the Committee with the human and financial resources necessary to enable it to carry out its mandate effectively;**
- (d) **Make sure that the Commission's geographical coverage is strengthened so that it can carry out its functions throughout the State party's territory.**

Combating discrimination

9. While recognizing that the Constitution prohibits discrimination on certain grounds, the Committee is concerned about the absence of comprehensive anti-discrimination legislation covering all the grounds prohibited under the Covenant and notes a lack of information about whether there are plans to address this situation. The Committee is concerned about reports that individuals belonging to certain groups continue to face discrimination, in particular persons living with HIV/AIDS, persons with disabilities and lesbian, gay, bisexual and transgender persons. Furthermore, it regrets the lack of information on the number of complaints regarding cases of discrimination and their outcomes (arts. 2 and 26).

10. The State party should:

- (a) **Provide full and effective protection from discrimination in all spheres, public and private, and prohibit direct, indirect and multiple discrimination;**
- (b) **Enact legislation containing a comprehensive list of grounds for discrimination in line with the Covenant;**
- (c) **Effectively protect and safeguard the fundamental rights of persons living with HIV/AIDS, persons with disabilities and lesbian, gay, bisexual and transgender persons;**
- (d) **Provide complaints mechanisms and effective and accessible remedies for all forms of discrimination and collect disaggregated data on complaints of discrimination and their outcomes;**
- (e) **Carry out broad education and awareness-raising campaigns that promote equality, tolerance and respect for diversity.**

Equality between men and women

11. The Committee recognizes that a number of important steps have been taken by the State party to achieve equality between men and women, including to increase gender mainstreaming through the Interministerial Commission for Gender Mainstreaming, and the establishment of the Cabo Verdean Institute for Gender Equality and Equity and consecutive national action plans on gender equality. It notes with concern, however, a lack of information about the efficacy and impact of existing measures to ensure equality between men and women. The Committee is concerned about women's insufficient participation in some areas of public life, including the relatively low proportion of female parliamentarians, the lack of female mayors and the decrease in the proportion of women in ministerial positions. In this respect, while it notes that a parity bill has been presented to improve women's representation, it is concerned that it has not yet been passed into law. The Committee is also concerned about the persistence of deep-rooted patriarchal attitudes and gender stereotypes and the lack of specific information about steps taken by the State party to address them (arts. 2, 3, 25 and 26).

12. The State party should:

- (a) **Ensure passage into law of the gender parity bill and its effective implementation to increase women's participation in all spheres of public and private life;**
- (b) **Strengthen education and awareness-raising initiatives for the general public to eliminate gender stereotypes, combat the subordination of women and**

promote respect for the equivalent roles and responsibilities of women and men in the family and in society;

(c) Collect comprehensive data to monitor the efficacy of initiatives to achieve gender equality.

Violence against women

13. The Committee notes that a number of important steps have been taken to combat violence against women, including the enactment in 2011 of a law on gender-based violence, the development of awareness-raising campaigns targeting personnel working in education facilities, the development of training activities for the police and different groups within society and the provision of shelters. It is, however, concerned about gaps in the State party's response to violence against women. In particular, it is concerned about barriers to reporting, including due to insufficient numbers of relevant police officers being present throughout the country, fear of stigmatization and discrimination among women, shelters not being available in all 22 municipalities and the closure of the domestic violence hotline. It also notes, with concern, the lack of information about investigations, prosecutions and convictions of perpetrators of violence against women and about the remedies provided to victims (arts. 2, 3, 6, 7, 25 and 26).

14. **The State party should:**

(a) Investigate further the root causes of and prevalence levels of violence against women, including to understand the extent of such violence and the barriers to reporting among victims;

(b) Ensure that women who are victims of violence have access to a range of reporting mechanisms in all parts of the country;

(c) Provide shelters to victims of violence against women throughout its territory;

(d) Continue to raise awareness on all forms of violence against women;

(e) Ensure that all reported cases of violence against women are investigated and that perpetrators are prosecuted, convicted, where appropriate, and sanctioned with adequate sentences and that victims are provided with suitable remedies.

Sexual and reproductive rights

15. The Committee acknowledges that voluntary termination of pregnancy is legal in the State party and that the Government has taken steps to try to ensure access to safe abortion, including through mobile units that provide access to sexual and reproductive health services. It is concerned, however, that clandestine and unsafe abortions may continue, as access to safe, legal and effective abortions is not guaranteed in practice throughout the State party's territory. It is also concerned that not all vulnerable groups can access sexual and reproductive health information and services and that there is a lack of information about sexual education programmes in schools (arts. 3, 7 and 26).

16. The State party should remove all barriers to access to safe, legal and effective abortion services for all and collect disaggregated data on all forms of terminations of pregnancies. It should also organize awareness-raising programmes, as well as quality and age-appropriate education, on the importance of contraception and of sexual and reproductive health rights.

Right to life and climate change

17. The Committee welcomes the commitment of the State party, as a small island State particularly vulnerable to climate change, to adaptation and mitigation measures. It is concerned, however, by the insufficient information on the effectiveness of mechanisms and systems in place to implement such a commitment, as well as on the measures taken to ensure the effective, meaningful and informed participation of the whole population in projects that may affect sustainable development and resilience to climate change (art. 6).

18. **The State party should step up efforts to develop mechanisms and systems to ensure the sustainable use of natural resources, develop and implement environmental standards, conduct environmental impact assessments, provide appropriate access to information on environmental hazards and adopt a precautionary approach to protect persons in the State party, including the most vulnerable, from the negative impacts of climate change and natural disasters. All projects that affect sustainable development and resilience to climate change should be developed with the meaningful and informed participation of the whole population. In that regard, the Committee draws the State party's attention to paragraph 62 of general comment No. 36 (2018) on the right to life.**

Excessive use of force

19. The Committee remains concerned about the possible use of police brutality as a form of extrajudicial punishment against juveniles alleged to be involved in gangs and juvenile delinquency (CCPR/C/CPV/CO/1, para. 11). It is also concerned about reports of excessive use of force and aggression against persons arrested and detained by the police and that the media and public discourse seem to be tolerant of violence by police officials. While noting efforts by the State party to investigate complaints, it is concerned about the lack of information about measures taken to prevent violence and about reports indicating that a significant number of cases are dismissed or result in minor administrative sanctions such as fines. It is also concerned about the lack of information on the independent monitoring of police stations, remedies available for victims and steps taken to address societal discourse that may encourage police violence (arts.7 and 24).

20. **The State party should:**

(a) **Continue training police officers on their human rights responsibilities and put in place mechanisms to measure the efficacy of such training;**

(b) **Ensure that the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials are implemented through measures to ensure that law enforcement personnel do not use excessive force;**

(c) **Continue to implement and expand measures to address the root causes of juvenile involvement in anti-social and criminal behaviours;**

(d) **Ensure that accessible complaints mechanisms are in place, that all reports of violence are thoroughly investigated and that such investigations, where warranted, lead to proportionate sanctions;**

(e) **Provide remedies to all victims of police violence, including compensation and guarantees of non-repetition;**

(f) **Strengthen the independent monitoring of police stations by the National Commission for Human Rights and Citizenship and other oversight bodies;**

(g) **Develop awareness-raising activities to address social discourse that may encourage police violence.**

Crime prevention and control

21. Although there has been a significant decrease in the number of homicides in the country, the Committee is concerned about the persistence of cases of violent crime and insecurity and about limits to the police's capacity to address these phenomena. It notes with concern the lack of information about trends in the prevalence of such crimes and the budget allocated to the police. The Committee acknowledges information about steps taken to improve the police's equipment and forensic expertise but remains concerned about whether its overall capacity is sufficient to allow it to effectively fulfil its responsibilities in guaranteeing the security of persons in the State party (art. 9).

22. **The State party should increase the capacity of the police to tackle crime and insecurity in the country by ensuring adequate funding, including by investing in equipment and forensic expertise.**

Pretrial detention

23. The Committee is concerned about reports that the legal limit of 48 hours on detention without being brought before a judge may not be consistently applied and notes the lack of detailed information about measures taken to ensure adherence. It is also concerned about reports that individuals may spend an extended period in pretrial detention despite legal provisions setting time limits on such detention. It notes the absence of information about the incidences of those who have been released from pretrial detention and additional cautionary measures applied by judges after the exhaustion of the initial six-month legislative limit to pretrial detention (art. 9).

24. The State party should consistently ensure the application of existing legal standards in relation to pretrial detention, to uphold the liberty of those accused of crimes and guarantee the right to a trial within a reasonable time. It should continue to reduce the length of pretrial detention and step up the use of non-custodial alternatives, bearing in mind its obligations under article 9 of the Covenant as interpreted by the Committee in its general comment No. 35 (2014) on liberty and security of person.

Trafficking in persons, elimination of slavery and servitude and domestic workers

25. The Committee remains concerned about trafficking in persons, particularly women and children, and the use of the State party's territory for transit purposes (CCPR/C/CPV/CO/1, para. 13). While recognizing the 2018–2021 national action plan against trafficking in persons and that the State party has been involved in a range of important training, awareness-raising and knowledge-sharing activities, the Committee notes with concern the absence of sufficient information about investigations, prosecutions and convictions of those engaged in trafficking activities. It is also concerned about a lack of information about comprehensive assistance, remedies and rehabilitation available for victims. The Committee is further concerned about other forms of exploitation in the State party, including domestic work under exploitative conditions and child labour, including in agriculture and in the form of begging and selling goods on the streets, and commercial sexual exploitation, including in the context of tourism (arts. 6, 7, 8 and 24).

26. The State party should significantly increase efforts to address impunity for trafficking in persons, including by providing accessible and effective complaints mechanisms and assurances that all those accused of trafficking are investigated, prosecuted and, if convicted, adequately sanctioned. The State party should also provide additional support for the rehabilitation and integration of survivors of trafficking, including effective remedies that provide compensation and guarantees of non-repetition. The State party should also ensure that other forms of exploitation, including domestic work and the worst forms of child labour, are adequately criminalized, increase efforts to prevent such forms of exploitation, step up efforts to investigate, prosecute and convict perpetrators and provide assistance, rehabilitation and compensation to all victims.

Conditions of detention

27. The Committee welcomes the efforts made by the State party to invest in the prison system and address overcrowding, including through the redistribution of individuals between detention facilities and the development of alternatives to incarceration resulting from the 2015 criminal justice reforms. It is concerned, however, that some prisons remain overcrowded and that a significant proportion of individuals included in the data provided by the State party have been imprisoned for non-violent offences, including theft, which in some cases is reported to have been driven by poverty. The Committee recalls its previous concluding observations (CCPR/C/CPV/CO/1, para. 14) and regrets that children continue to be imprisoned with adults. Moreover, it regrets the lack of adequate information about specific provisions for those with intellectual and psychosocial disabilities and the outcome of complaints lodged before the Public Prosecution Service (arts. 6, 7, 9 and 10).

28. The State party should:

- (a) **As a matter of urgency, put in place a system to separate juveniles from adult prisoners;**
- (b) **Expand the use of alternatives to incarceration, particularly for non-violent offences, in accordance with article 9 of the Covenant;**
- (c) **Invest in the prison system so as to eliminate overcrowding and improve conditions, including by making specific provisions for individuals with intellectual and psychosocial disabilities;**
- (d) **Safeguard the right of all persons deprived of their liberty to be treated with humanity and dignity and ensure that detention conditions in all facilities for persons deprived of liberty meet the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), including with respect to access to health care, sanitation and food.**

Solitary confinement

29. The Committee notes the measures taken to use solitary confinement only as a disciplinary measure of short duration and only among adults, as introduced in the code on the enforcement of conventional criminal penalties, but is concerned about the lack of information about how such standards are upheld and about the infrequent nature of monitoring visits to certain prisons (arts. 7 and 10).

30. **The State party should ensure that all prison officials are trained on their human rights obligations, including on the legal provisions in the code on the enforcement of conventional criminal penalties limiting the use of solitary confinement. It should also make sure that there is comprehensive and regular oversight of the prison system by competent services under the General Directorate of Prison and Social Reintegration Services, the Public Prosecution Service and the National Commission for Human Rights and Citizenship.**

Treatment of aliens, including refugees and asylum seekers

31. The Committee regrets the lack of information about measures taken to improve data collection on refugees and asylum seekers and the estimated timeline for adoption of the regulation on Law No. 99/V/99 on the legal regime for asylum seekers and refugee status. It is also concerned about reports indicating that rules relating to legal entry into the country appear to be applied without due assessment of refugee and asylum status and without regard for the principle of non-refoulement. It is further concerned about reports of a lack of judicial oversight of such decisions (arts. 9, 10 and 13).

32. **The State party should improve the collection of data on refugees and asylum seekers and ensure that relevant legal provisions are implemented effectively. It should undertake a thorough review of border management processes to ensure that an assessment of refugee and asylum status takes place without exception, in line with the principle of non-refoulement. In all cases where asylum and refugee status is refused, individuals should be allowed recourse to judicial review.**

Administration of justice

33. The Committee acknowledges that in recent years the budget allocated to the judicial system has increased and that multiple measures included in the strategic plan of the Superior Council of the Judiciary have been taken to increase judicial capacity and address systemic issues. It remains concerned, however, about allegations that there continues to be a large number of pending cases and long delays in trials (art. 14).

34. **The Committee recommends that the State party effectively implement its plans to increase the capacity of the judicial system and that it step up measures aimed at decreasing the number of cases pending before the courts and prosecution services and the waiting times in each case.**

Forced evictions

35. The Committee is concerned about reports of forced evictions following a growth in the number of informal and unplanned settlements. While recognizing that measures have been taken to ensure procedural safeguards, the Committee notes the lack of information on measures taken to collect data on demolitions and forced evictions and on the participation of affected populations in the process. It notes efforts to provide alternative accommodation but is concerned that such accommodation is not available to all and that when it is available it is for a period of only three to six months, after which time it was not clear to the Committee what assistance is in place to ensure that people remain in secure housing (arts. 12 and 17).

36. The State party should take all feasible measures to avoid forced evictions and ensure that when they do take place the affected individuals and communities enjoy access to legal protection and are provided, where appropriate, with adequate alternative housing. The State party should also collect data on demolitions and forced evictions and take steps to ensure the effective participation of affected populations in decisions concerning them.

Freedom of expression and assembly

37. The Committee is concerned that, under article 166 of the Penal Code, individuals can be deprived of their liberty for 18 months for defamation. It notes the information provided by the State party about the need to balance freedom of expression with the protection of other rights and the steps taken to secure freedom of expression, including in the media, but is concerned that the period for which people can be imprisoned for defamation is disproportionately punitive and may have a chilling effect within the civic space. It notes the lack of information about the application of such provisions within the past five years. The Committee is also concerned about reports about the use of civil requisition by the Government, albeit as an exceptional measure, which hampers trade unions' and workers' right to freedom of association (arts. 2, 9, 19 and 21).

38. The State party should consider decriminalizing defamation and in any case reviewing article 166 of the Penal Code to ensure that defamation is not punished with sentences of deprivation of liberty. The State party should ensure that all individuals fully enjoy their rights to freedom of expression, association and peaceful assembly and that any restrictions on the exercise of such rights comply with the strict requirements set out in article 19 of the Covenant, as interpreted in the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression, and in articles 21 and 22 (2) of the Covenant.

Rights of the child

39. The Committee notes the important steps taken by the State party to protect the rights of children, such as the adoption of the national action plan to combat sexual violence against children and adolescents 2017–2019, but remains concerned about reports of disturbing levels of violence against children, including domestic abuse and neglect and commercial sexual exploitation, including online abuse and child prostitution. It is also concerned that, while child marriage is illegal, a high proportion of girls under 18 years of age are in de facto marriages and that cases of female gender mutilation among migrant communities have been reported. The Committee notes the measures taken to address the practice of corporal punishment but is concerned that such practice persists in the State party, particularly in domestic settings (arts. 7, 24 and 26).

40. **The State party should:**

(a) **Ensure that all forms of abuse, violence and exploitation are criminalized within the national legal framework;**

(b) **Put in place child-friendly reporting mechanisms and ensure that all complaints are investigated, that those accused are prosecuted and, where appropriate, that perpetrators are proportionately sanctioned, and that child victims can access assistance and remedy;**

(c) **Undertake awareness-raising and training activities among members of the general public, civil society representatives, public officials and State agents to improve the protection of children.**

Participation in public affairs

41. The Committee is concerned about reports of nepotism and corruption, including among elected officials, within the State party and regrets that the bill on nepotism was not passed by parliament. While it notes the information provided by the State party about the measures taken to tackle such phenomena and ensure transparency and accountability in public administration, challenges still remain. The Committee is also concerned about the lack of legislation on access to public information (art. 25).

42. **The State party should step up its efforts to increase transparency and accountability in public administration and among public officials and should consider the adoption of legislation on access to public information.**

43. The Committee notes the significant decentralization efforts carried out by the Government. It is concerned, however, by the lack of sufficient information on the process and results of the ongoing efforts, including in terms of reducing de facto regional disparities, notably in terms of access to services and infrastructure.

44. **The State party should take measures to ensure robust public participation in decision-making during the decentralization efforts.**

D. Dissemination and follow-up

45. **The State party should widely disseminate the Covenant, its Optional Protocol, its initial report 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 and the present concluding observations are translated into its official language.**

46. **In accordance with rule 75, paragraph 1, of the Committee's rules of procedure, the State party is requested to provide, by 8 November 2021, information on the implementation of the recommendations made by the Committee in paragraphs 8 (national human rights institution), 12 (equality between men and women) and 44 (decentralization) above.**

47. **In line with the Committee's predictable review cycle, the State party will receive in 2025 the Committee's list of issues prior to submission of the report and will be expected to submit within one year its replies to the list of issues, which will constitute its second 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 2027 in Geneva.**