

CENTRAL AFRICAN REPUBLIC

CCPR A/43/40 (1988)

273. The Committee considered the initial report of the Central African Republic (CCPR/C/22/Add.6) at its 790th, 791st and 794th meeting, held on 23 and 25 March 1988 (CCPR/C/SR. 790, 791 and 794).

274. The report was introduced by the representative of the State party, who informed the Committee that all of the political institutions provided for in the Constitution of 28 November 1986, including the National Assembly, the Economic and Regional Council, the Supreme Court and the High Court of Justice, had now been established. Thus, the Central African Republic had become a State in which individual freedoms were recognized and guaranteed. However, that did not mean that all of the provisions of the Covenant had been implemented effectively and much remained to be done, both by the authorities and by the population.

275. The Central African Republic was one of the least developed countries and the bulk of its population continued to live in poverty and ignorance. The Government had only limited means of publicizing the provisions of the Covenant and other human rights instruments and many civil servants were unaware of them. Accordingly, the Government wished to reiterate, through the Human Rights Committee, its request for United Nations assistance in the promotion of human rights, either through training grants or the organization at Bangui of a national or regional seminar or United Nations human rights conventions.

276. Members of the Committee welcomed the frankness of the report which showed the Government's awareness that much remained to be done in the field of human rights. At the same time, they pointed out that the Covenant imposed obligations for the present and not the distant future and that it was therefore necessary to place emphasis on what could be accomplished to resolve the more immediate problems. Members also drew attention to the absence in the report of detailed information on actual human rights practices in the country.

277. With regard to article 2 of the Covenant, members of the Committee requested further information concerning the political system in the Central African Republic. They wished to know, in particular, how the National Assembly had been elected and whether several political parties had sought representation in it, how the other political institutions had been established, how Government leaders were appointed, how it had been possible to respect the fundamental rights of citizens while the Constitution was suspended, why it had been necessary to restrict political activity to one movement, the Rassemblement démocratique centrafricain (RDC), whether all citizens were automatically members of the RDC, and what the difference was between the party and the State. Members also asked what measures were being undertaken by the Government to prevent the recurrence of a dictatorship in the country, whether any laws had been changed since the departure in 1979 of the dictator Bokassa to ensure that the old, repressive laws could not be applied in the current improved climate, whether such practices as arbitrary arrest and ill-treatment still survived

and whether people were still being held incommunicado longer than the law prescribed and without trial. In that connection, several members expressed concern that the Constitution granted a number of absolute powers, with no legal restrictions on their exercise, and that the powers of the current President appeared virtually unlimited.

278. Members of the Committee also noted that the report did not indicate the status of the Covenant in the legislation of the Central African Republic and requested clarification, particularly as to how any eventual conflict between its provisions and those of the Constitution and domestic law would be resolved. It was also asked whether the Covenant could be directly invoked before the courts and whether the Covenant had, in fact, been incorporated into Central African law and had binding force in the country. One member drew attention to the fact that no account had been taken of articles 9, 10, 18, and 19 of the Covenant in the national legislation. Members also inquired about the steps being taken by the Government to ensure that both government officials and citizens were aware of the Covenant's provisions as well as of other human rights instruments such as the African Charter on Human and People's Rights. It was also asked whether the proposed national human rights committee would be a non-governmental organization or a governmental body that would supervise the observance of human rights and assist the victims of human rights violations.

279. With reference to article 3 of the Covenant, members of the Committee wished to receive information on the specialized institutions that had been established to enable women to catch up with men in career training for the private sector and on the number of women who held senior positions in various sectors of private and public life.

280. Noting that article 14 of the Constitution permitted derogation from any right, which was incompatible with article 4, paragraph 2, of the Covenant, members wondered to what extent rights that could not be derogated from were, in fact, legally protected in the Central African Republic.

281. Regarding article 6 of the Covenant, members of the Committee requested further information on the death penalty, including the nature of the offences that were punishable by death and the number of times that the penalty had been carried out in past years; they also asked what had happened in certain cases of forced disappearance. Noting that the death penalty was apparently applicable in cases of unlawful arrest or detention and that such a penalty seemed disproportionate to the offence, one member wished to know why that provision had been maintained in the statute books. Another member asked for clarification of the principles of zo kwe zo and so zo la, contained in the preamble to the Constitution.

282. With reference to articles 7 and 10 of the Covenant, members wished to know whether corporal punishment was still included in the Criminal Code and asked for additional details concerning the most severe disciplinary penalties to which detainees could be subjected.

283. In connection with article 9 of the Covenant, members of the Committee wished to know why it had been necessary to increase the maximum time-limit of eight days for police custody, as provided in the old law, to a period of two months in the case of political offences and what guarantees existed for testing the legality of detention in such cases and for ensuring that political detainees were actually brought to court at the end of the two-month period. In that connection, they noted that, while the frequent release of persons held in police custody by order of the Head of State

was to be welcomed, that procedure was not an adequate substitute for the rule of law. It was also observed that resort to such a long period of police custody was not in conformity with article 9 of the Covenant. One member voiced concern over the reported arrest, for threatening State security, of nine students who had merely protested about the awarding of scholarships and expressed the hope that measures would be taken as part of the reorganization of the legal structure in the Central African Republic to prevent the recurrence of such incidents.

284. Concerning articles 12 and 13 of the Covenant, members requested clarification of the procedure regarding aliens who wished to leave the national territory and of the policy reasons for restricting the movement of aliens in mining areas. It was also asked whether the requirement of exit visas for citizens travelling abroad was compatible with article 13 of the Covenant.

285. In connection with article 14 of the Covenant, members of the Committee wished to receive additional information concerning the position and competence of all existing courts in the Central African Republic including, in particular, the Special Court, the Permanent Military Court and the Supreme Court. In that regard, they wished to know specifically how judges were recruited, appointed and trained and how their independence and impartiality were guaranteed, whether the time-limits established for lodging appeals were sufficient to protect the rights of convicted persons, whether the State Prosecutor (Procureur), who was apparently empowered to annul Supreme Court decisions, was a judge or an official of the executive and whether the decisions of an administrative tribunal could be appealed before an ordinary court. Members also wished to know whether a verdict had ever been annulled because of the adverse effects of previous procedures under special jurisdiction. Noting that the decisions of the Supreme Court and of the High Court of Justice were not subject to appeal or review, several members questioned the compatibility of that practice with article 14, paragraph 5, of the Covenant. One member requested clarification of a report that senior judges of the Court of Appeal in Bangui had been removed by the Government in 1982.

286. Regarding article 17 of the Covenant, members of the Committee wished to receive information concerning the ordinary circumstances under which house searches were permitted between 5 a.m. and 6 p.m. and the circumstances in which searches might have been prescribed by law exceptionally outside the daylight hours.

287. With reference to article 18 of the Covenant, members of the Committee requested further information about the problems that had led to the prohibition of the Jehovah's Witnesses.

288. In connection with article 19 of the Covenant, members of the Committee wondered whether freedom of expression could be effectively exercised within the current legal framework. They wished to know, in particular, whether freedom of expression, which was not mentioned in the Constitution, was nevertheless constitutionally guaranteed, whether an individual could express and disseminate views critical of the Government, and whether possibilities for freedom of expression existed outside the country's single party. Regarding censorship, information was requested as to the type of censorship practised in the Central African Republic, which bodies were empowered to censor and what plans there were for increasing freedom of the press. It was asked how many newspapers and journals there were in the country, how much radio coverage was given to views other than those of the Government, whether programmes in languages other than Sango could now be broadcast and whether progress had been made since the installation of the National Assembly

with respect to freedom of the press and the unrestricted circulation of foreign newspapers. In the view of one member, it was a particularly serious matter that the freedom of expression of members of the National Assembly did not appear to be protected in the Constitution.

289. With reference to article 21 of the Covenant, members of the Committee wished to receive additional information concerning the actual implementation of the regulation prohibiting meetings of a political character outside the party and asked whether prior approval from the authorities had to be obtained for all meetings.

290. In connection with article 22 of the Covenant, members of the Committee wished to know whether any new laws had been enacted that could lead to the re-establishment of trade unions and the restoration of the right to strike.

291. Regarding article 23 of the Covenant, members requested clarification concerning the rights of women in marriage and current practice in respect of the dowry.

292. With respect to article 27 of the Covenant, members of the Committee requested additional information concerning the status of minorities in the Central African Republic.

293. Responding to the questions raised by members of the Committee concerning article 2 of the Covenant, the representative of the State party reviewed the development of the political party system in the Central African Republic over the past nine years, stating that, although there was a single political party under the current system, the Rassemblement démocratique centrafricain (RDC), many viewpoints could none the less find expression. During the legislative elections of 1987, of example, there were more than 200 candidates - all of whom had been endorsed by the party - for the 52 available seats. RDC was open to all Central African citizens, adherence being free and voluntary. The functions of the Government and the party were different, with the former being responsible for implementing the laws and administering the country and the latter occupying itself with educating and organizing the population. The principle of zo kwe zo and so zo la, which had been endorsed by RDC, referred to the equality of all persons before the law, and to the sanctity of the human person and the State's obligation to respect and protect it. As for preventing the re-establishment of a dictatorship, it should be noted that, in general, the people of the Central African Republic, particularly those living in urban areas, were politically mature and would not allow their rights and freedoms to be usurped.

294. Under the interim procedure adopted after the dissolution of the National Assembly in 1966, the Covenant had been examined by the Ministry of Foreign Affairs, approved by the Council of Ministers and ratified by the Head of State. After its publication in the Journal officiel of 8 May 1981, it had entered into force and became part of the country's legal order. The text of the Covenant was available only in French and only to a select few, both because it was difficult to use Sango in written form and because funds were lacking to disseminate it as well as other documents, such as the Africans Charter on Human and People's Rights. However, the national laws and the Criminal Code reflected many of the Covenant's provisions and these were available to the public. The national human rights committee was planned as a consultative body that would assist the Government in familiarizing itself with the various human rights instruments and in meeting its reporting obligations, as well as disseminating human rights information in the country.

295. Referring to questions raised by members of the Committee concerning non-discrimination, the representative of the State party noted that women in the Central African Republic had always had an important role to play in family councils, the education of children and managing financial affairs. Although no women were members of the National Assembly, they were active in the party and formed a substantial part of the Administration. Women were also active in the professions and in business. Female circumcision was illegal but those who practised it were not prosecuted except in cases where serious injury or death had resulted.

296. Regarding article 6 of the Covenant, the representative stated 23 persons had been sentenced to death since 1981, six of whom had been executed and one pardoned. Death sentences imposed on minors were commuted because of their age.

297. With reference to article 8 of the Covenant, the representative explained that prisoners who had been sentenced to forced labour for life no longer had to work in the quarries but only within the prison and under improved conditions.

298. Responding to questions concerning articles 7 and 10 of the Covenant, the representative stated that the inviolability of the person was strictly observed in respect of detainees, including political prisoners, and that corporal punishment was no longer practised. Minors under the age of 14 could not be imprisoned.

299. Regarding article 9 of the Covenant, the representative explained that persons in pre-trial detention were held in places other than prisons and under a committal order. Those in police custody could normally be detained for 48 hours only, extendible to eight days in complicated cases. Only in exceptional circumstances could custody be prolonged under a renewable committal order issued for a one-month period. While such time periods might appear excessive, the political offences involved were complex and it was important not to hurry the investigation. Also, judges often had to travel long distances to try cases. The release of detainees under presidential orders was undertaken to prevent an excessive buildup of the prison population.

300. With reference to articles 12 and 13 of the Covenant, the representative explained that under earlier régimes freedom of movement had been impeded by lack of proper roads combined with police barricades at various regional borders intended to control the movements of citizens. Consequently, the current leadership had given priority to opening up the entire country, through the reopening and maintenance of roads and the dismantling of the barricades. Officials of the Central African Republic were authorized to verify that citizens travelling abroad had the proper documents for the country they were planning to visit. Such regulations were in effect simply to prevent difficulties at the border or in the host country. Measures had also been taken to prevent foreigners and Central African citizens from leaving the country without first fulfilling their tax obligations. The regulations relating to travel of foreigners in mining areas were intended to curb the illegal export of the country's gold and diamond deposits.

301. Replying to questions raised by members of the Committee concerning article 14, the representative of the State party explained that the country had 56 courts of first instance at the sub-prefectoral level, which were competent to deal with minor offences and with civil matters involving up to 40,000 CFA francs. There were 16 courts at the prefectural level with competence in handling

crimes and the more important civil suits. There was one Court of Appeal and one Criminal Court at Bangui as well as a Special Labour Court. The Permanent Military Court at Bangui was competent to try cases concerning members of the armed forces accused of crime in peacetime, and cases concerning both the military and civilians in wartime. The jurisdiction of the Permanent Military Court was subject to appeal in the Court of Cassation. The High Court of Justice, which had replaced the Special Court in 1987, dealt with offences against the internal and external security of the State, including high treason, conspiracy and subversion. Ministers or any other persons who had committed acts endangering State security could be summoned to appear before the High Court. Insulting the Head of State was no longer considered a crime against State security. The President of the High Court could order that a trial be held *in camera*, but the Court's decisions had to be handed down in public. There was no appeal against the judgements of the High Court of Justice. The Supreme Court consisted of four chambers, dealing respectively with constitutional, judicial, administrative and financial matters, and also acted as a Court of Cassation.

302. Regarding the recruitment, training, appointment and discipline of judges, the representative explained that judges were trained in France and were required to sit for a competitive examination. They were appointed by the President of the Republic and were subject to discipline by two disciplinary councils. Five judges had been impeached for failure to do their duty or misconduct since 1980. The President was the guarantor of judicial independence but the judiciary itself also insisted upon it. The time-limits for the first and second appeals in criminal cases were 10 days and three days, respectively; admittedly, they were short periods but they had been set so as to allow for the consideration of cases as soon as possible. Accused persons who had escaped from detention could be convicted and sentenced *in absentia*, but their trials would be reopened after their recapture or voluntary surrender. Under article 32 of the Constitution, laws could be referred to the Supreme Court for verification of their constitutionality by the President of the Republic, the President of the National Assembly or by one third of the members of the National Assembly. The Public Prosecutor (Procureur de la République), mentioned in article 32 of the Constitution, existed only on paper and reference to that office should probably be eliminated from that article.

303. Regarding article 17 of the Covenant, the representative said that house searches without a search warrant between 5 a.m. and 6 p.m. were authorized only with the express consent of the house-owner. Otherwise a search warrant had to be obtained. Searches after 6 p.m. were authorized when they were in the interest of the owner or in State security cases.

304. In connection with article 18 of the Covenant, the representative stated that freedom of expression was guaranteed to all religious groups. The only exception concerned the Jehovah's Witnesses, who were prohibited from holding services, but were free to pursue their other religious activities. The measures regulating them were based on their practice of prohibiting their followers from voting and from giving blood. Such behaviour was considered anti-civic and a violation of article 78 of the Criminal Code.

305. With reference to article 19 of the Covenant, the representative explained that the number of periodicals in the country was limited owing to the high rate of illiteracy. The television station, radio and the local press were State-owned and functioned as educational tools as well as purveyors of national and international news. A wide range of foreign publications was available, but few people could afford to buy them. The Censorship Commission, which had been established for the

sole purpose of reviewing films and pornographic materials, was not very active since there were only a few cinemas in the country.

306. Regarding article 23 of the Covenant, the representative stated that women enjoyed the same rights in respect of marriage, divorce and inheritance as men. Although the traditional practice of the dowry had been abolished, it was still commonly resorted to because of its symbolic value. The general approach to its suppression was one of dissuasion rather than punishment.

307. Finally, with reference to article 27 of the Covenant, the representative of the State party said that there was no problem of racial minorities in the Central African Republic. The pygmies were entitled to the same rights as the rest of the population and they were slowly increasing their participation in society as their very different life-style was integrated into the cultural mainstream.

308. Members of the Committee thanked the representatives of the State party for their frank, precise and informative replies to the Committee's questions and commended the Government's efforts to introduce a new Constitution and establish new institutions. At the same time, they expressed concern as to the implementation of the Covenant in the Central African Republic and felt that additional information was needed, particularly regarding articles 2, 6, 9, 14 and 15 of the Covenant. Members also noted that national legislation had apparently not taken articles 9, 10, 18 and 19 of the Covenant into account. They expressed the hope that such information would be provided in the State party's second periodic report and that the Committee's observations would be brought to the attention of the Government.

309. The representative said, in conclusion, that the Central African Republic relied on the Human Rights Committee and other competent international bodies to assist it in promoting human rights. The protection of such rights in his country would improve as the economic and social situation improved. He assured the Committee that its observations would be taken into account by his Government in preparing future reports.