

EQUATORIAL GUINEA

CCPR CCPR/CO/79/GNQ (2003)

1. The Committee considered the situation of civil and political rights under the International Covenant on Civil and Political Rights in Equatorial Guinea in the absence of a periodic report at its 2147th meeting, held on 27 October 2003 (CCPR/C/SR.2147). At its 2160th and 2162nd meetings, held on 4 and 5 November 2003 (CCPR/C/SR.2160 and CCPR/C/SR.2162), it adopted the following provisional concluding observations pursuant to rule 70, paragraph 1, of its rules of procedure.

Introduction

2. 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, not a single report has been submitted to it, not even the initial report, which should have been submitted in 1988. This amounts to a serious breach by the State party of its obligations under article 40 of the Covenant. The Committee likewise regrets that, although notice was given of the hearing before the Committee, no delegation from the State party attended it.

Principal subjects of concern and provisional observations

3. The Committee expresses its concern at the substantiated accusations of systematic torture and ill-treatment in the State party and at the use of statements and confessions obtained through torture.

The State party should take all necessary steps to ensure the protection due to everyone against the acts prohibited by article 7 of the Covenant. It should also put an end to the culture of impunity from which the perpetrators of such violations benefit and guarantee that all cases of the kind in question will be investigated with a view to bringing suspects before the courts, punishing the culprits and indemnifying the victims. Lastly, it should respect the standards set forth in article 14 of the Covenant and ensure that no statement or confession made under torture can be used in evidence.

4. The Committee welcomes the commutation of 15 death sentences handed down in 1998. Nonetheless, it expresses its concern at the fact that the death penalty remains in force.

The Committee encourages the State party to take the necessary legislative action to abolish the death penalty and guarantee the right to life (article 6 of the Covenant).

5. The Committee is concerned at reports of illegal detention and of the existence of semi-clandestine detention centres such as those in the National Gendarmerie "barracks" at Bata and at the shortcomings of the system for recording admissions and releases of detainees.

The State party should take the steps necessary to guarantee the application of article 9 of the Covenant. Accordingly, it should order an end to the practice of illegal detention. In

addition, detainees should be held in officially recognized places of detention and the authorities should keep orderly, up-to-date registers of admissions and releases of detainees.

6. The Committee observes with alarm the poor conditions in detention facilities, especially those under the control of the military authorities. It is also concerned at the practice of imposing forced labour on the inmates of the various detention facilities.

The State party should ensure that all the provisions of article 10 of the Covenant are fully respected in prisons and other detention facilities.

7. The Committee expresses its concern at the absence of an independent judiciary in the State party and at the conditions for the appointment and dismissal of judges, which are not such as to guarantee the proper separation of the executive and the judiciary. It is also concerned that, in an infringement of the powers of the judiciary, trials are being conducted by the House of Representatives of the People. The Committee also regrets the absence of safeguards to ensure that civilians are tried solely by civilian courts and not by military tribunals.

Bearing in mind article 14 of the Covenant, the State party should take steps to safeguard in practice the judiciary's independence and its role as the sole administrator of justice and to guarantee the competence, independence and tenure of judges. In addition, the State party should restrict the jurisdiction of the military justice system, removing civilians from it.

8. The Committee expresses its concern at the discrimination against women in the country's political, social and economic life. It notes that women are imprisoned if they do not return their dowries on separating from their husbands, that custody of the children is given to the husband in the event of divorce and that joint paternity is not recognized.

The State party should, by virtue of articles 3, 23, paragraph 4, and 26, take steps to promote the enjoyment by women of all the civil and political rights set forth in the Covenant. It should, because the practice is contrary to article 11 of the Covenant, put an end to the imprisonment of women who do not return their dowries when they separate from their husbands.

9. The Committee expresses concern that legal restrictions on the availability of family planning services give rise to high rates of pregnancy and illegal abortion, which are one of the principal causes of maternal mortality.

The State party should do away with the legal restrictions on family planning so as to reduce maternal mortality (articles 23, 24 and 6 of the Covenant).

10. The Committee notes with concern the lack of protection for children, whether indigenous or from neighbouring countries, in the areas of health, work and education, as borne out in the latter field by the low levels of education, the repeater and dropout rates and the low tax expenditure per pupil. It is also concerned by the corporal punishment inflicted on children, allegedly as a remedial measure, and by the prostitution of young girls.

The State party should, in conformity with articles 24 and 7 of the Covenant, put into practice child-protection programmes in the above-mentioned areas.

11. The Committee notes with alarm that Act No. 1 of 1999 governing the operation of non-governmental organizations has not yet been amended, because it does not provide for human rights organizations. It also remarks with concern that a number of associations, such as the Press Association of Equatorial Guinea (ASOPGE) and the Bar Association, are said to have been banned without good reason. Lastly, it takes note with concern of the lack of trade unions in the State party.

The State party should take all necessary steps to guarantee the rights of assembly and association, especially the right to form trade unions (arts. 19, 21 and 22). It should amend Act No. 1 of 1999 to permit the registration and operation of non-governmental human rights organizations and allow the Press Association of Equatorial Guinea (ASOPGE) and the Bar Association to operate without hindrance.

12. While the Committee has taken note of the introduction of a multiparty system and of the adoption of the National Pact between the Government and the authorized political parties, it regrets the continuing harassment of political opponents through, inter alia, detentions, fines and difficulty in finding employment or leaving the country to attend meetings abroad, for example. It also notes with concern that political parties opposed to the Government are discriminated against, and that some have apparently even had difficulty in registering. Lastly, the Committee notes with alarm the irregularities during the latest elections held in the State party, culminating in the withdrawal of all the opposition candidates.

The State party should, in accordance with articles 25 and 26 of the Covenant, treat all political parties equally and give them all the same opportunities to carry out their lawful activities. In addition, it should, in observance of the right set forth in article 25 of the Covenant, guarantee the free expression of the electorate's will through universal and equal suffrage and secret balloting.

13. The Committee regrets that, according to reports of numerous military roadblocks, the requirement to obtain a visa to leave the State party and the practice of internal political exile, the right to freedom of movement is still restricted.

The State party should, in conformity with the provisions of articles 9, 12 and 25 of the Covenant, guarantee the freedom of circulation recognized in article 12 of the Covenant by doing away with all military roadblocks or taking steps to prevent their being used as a means of extortion, by repealing the requirement to obtain a visa to leave the country and by abolishing the practice of internal political exile.

14. The Committee expresses concern at reports of discrimination against and persecution of the country's minority ethnic groups, in particular the Bubi.

The State party should, in conformity with articles 26 and 27 of the Covenant, take all necessary steps to guarantee the right to equality of all ethnic groups.

15. The Committee encourages the State party to solicit technical cooperation from the appropriate United Nations organs, in particular the Office of the United Nations High Commissioner for Human Rights, to assist it in meeting its reporting obligations under the Covenant.

16. The Committee requests the State party to submit its initial report by 1 August 2004.