



International Covenant on Civil and Political Rights

Distr.: General
30 October 2019

Original: English

Human Rights Committee 127th session

Summary record of the 3662nd meeting

Held at the Palais Wilson, Geneva, on Wednesday, 23 October 2019, at 10 a.m.

Chair: Mr. Fathalla

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant
(*continued*)

Initial report of Cabo Verde (continued)

This record is subject to correction. Corrections should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of the present record to the Documents Management Section (DMS-DCM@un.org).

Any corrected records of the public meetings of the Committee at this session will be reissued for technical reasons after the end of the session.

GE.19-18365 (E) 301019 301019



* 1 9 1 8 3 6 5 *

Please recycle A recycling symbol consisting of three chasing arrows forming a triangle.



The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Initial report of Cabo Verde (CCPR/C/CPV/1; CCPR/C/CPV/Q/1/Add.1 and CCPR/C/CPV/Q/1/Add.2)

1. *At the invitation of the Chair, the delegation of Cabo Verde took places at the Committee table.*
2. **Ms. Santos Lélis** (Cabo Verde) said it was true that, since some islands had no prison, some detainees were held in police stations; however, there was a requirement that they should be held in such facilities only for the time it took to arrange their transfer to a prison on another island. In 2018–2019, the Public Prosecution Service had complied with the maximum periods of temporary custody detailed in her country’s replies to the list of issues (CCPR/C/CPV/Q/1/Add.2, paras. 93 and 94). As a result, no charges against detainees held in temporary custody had had to be dropped and no detainees had had to be released.
3. In 2018–2019, there had been 35 instances of disciplinary proceedings against police officers accused of violence; the proceedings against four of those officers were still in progress, as were investigations into a further two. One officer was being held in pretrial detention, having been charged by the Public Prosecution Service. In 9 of the above-mentioned instances, the disciplinary charges had been dropped; in 3 of the instances, criminal proceedings had been started and a final judicial decision was pending; and in 19 of the instances, criminal penalties, such as fines or the suspension of the officers in question, had been handed down.
4. There was no institutional stigmatization of people living with HIV: treatment was available to anyone carrying the virus, and article 161 of the Penal Code prohibited any form of discrimination on the ground of a person’s health status. The Government was investing in training peer educators to ensure primary prevention among children and adolescents; 250 vulnerable children and orphans were receiving psychosocial support in day-care centres. The State party was also investing over €1 million per year in ensuring free and universal antiretroviral treatment for HIV-positive persons, who could also benefit from biological monitoring and, if eligible, psychosocial support. Of the 11,000 women who became pregnant each year, 10,000 had access to HIV testing, and if any of them were found to be carrying the virus, they received treatment. All blood transfusions were screened. The prevalence of HIV infection was 0.6 per cent; 2,500 Cabo Verdeans were living with HIV and 1,600 were undergoing treatment.
5. Cabo Verde was one of the world’s 10 most inclusive low- and middle-income countries in respect of lesbian, gay, bisexual and transgender persons, according to the Homophobic Climate Index 2018. The National Commission for Human Rights and Citizenship had not reported any breaches of the rights of such persons. Measures under the Second National Human Rights and Citizenship Plan that related to such persons included a citizenship project, which encompassed awareness-raising, research and training, with a view to guaranteeing their rights.
6. Fifteen complaints had been submitted to the Ombudsman’s Office by foreign nationals resident in Cabo Verde in 2019. A further 21 had been received from persons resident abroad.
7. There were no plans to amend the legislation on abortion. The Cabo Verdean Association for Family Protection, a non-governmental organization, provided five mobile teams for the provision of sexual and reproductive health care on the islands of Santiago, São Vicente, Fogo, Santo Antão and Sal. The units’ work related to information, education and communication on the prevention of unsafe abortions and on contraception, among other things; they also offered free health check-ups.
8. The statute of limitations on the offence of torture depended on the length of the sentence that could legally be handed down in a given case; the sentences available to judges for that offence ranged from 2 to 12 years’ imprisonment, depending on the

seriousness of the offence, and its circumstances and consequences. The limitation period was 10 years for deeds punishable with prison terms of 1–10 years, and 15 years for sentences exceeding 10 years.

9. With a view to addressing the backlog of court cases and the problem of lengthy court proceedings, a further 16 judges were being recruited, along with additional prosecutors. Another measure had been to empower the Superior Council of the Judiciary to set targets for each judge in respect of the number of cases to be heard. In addition, the required inspections of the courts had been facilitated, by relaxing the requirements for membership of the Public Prosecution Service Inspectorate to ensure that it was properly staffed; departments of the Inspectorate at the Public Prosecution Service had also been established, with the result that the backlog of the Public Prosecution Service had been reduced. The Superior Council of the Judiciary and the Superior Council of the Public Prosecution Service were in the process of assessing the bill on the chronological processing of cases.

10. In 2010, a constitutional amendment had been enacted, making the Superior Council of the Judiciary and the Superior Council of the Public Prosecution Service responsible for managing the human and material resources of judicial authorities. There was absolutely no interference in the operations of the courts by the Government, which simply provided funding on the basis of the priorities determined by the two Superior Councils. The amendment had also removed all political involvement in judges' careers, which were based on merit. No cases of corruption in the judicial system had been reported. A debate had been ongoing for some time on the indexing of judicial salaries to those for political posts; the relevant bill had been passed by a two-thirds majority in parliament in late 2016, but the President had vetoed it.

11. **Mr. Muhumuza** said that it would be helpful to have information on the number of complaints of trafficking in persons received, investigations conducted and convictions handed down. He hoped to hear what was being done to develop and institute standardized victim identification procedures, both for adults and for vulnerable populations, such as child domestic workers. He would welcome details of any steps taken to establish mechanisms for referring victims to institutions for their care and to train law enforcement personnel, judicial officials and hotline operators in such mechanisms. He wondered what concrete steps had been taken to increase collaboration with foreign governments on incidents of transnational trafficking; to allocate resources to the Ministry of Justice and Labour in order to facilitate coordinated Government anti-trafficking action; and to develop a system to compile comprehensive data on law enforcement and victim identification efforts, and share such data between the agencies involved in combating trafficking. What efforts had been made, in collaboration with civil society and relevant government agencies, to allocate funding or in-kind assistance to supporting shelter and psychosocial care for all victims, and to collect data on such efforts?

12. In the light of the concluding observations issued by the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families ([CMW/C/CPV/CO/1](#)), he would appreciate an update on any process to amend article 282 of the Labour Code to require written contracts for all migrant workers, and on any measures to ensure adequate and frequent inspection of their employment conditions. He also hoped to hear about any progress with amending the Penal Code in respect of child exploitation for sexual purposes; in particular, he wondered what was being done to amend article 149, in order to criminalize the exploitation or trafficking of children aged between 16 and 18 years for prostitution purposes. He would like an explanation of the steps being taken to investigate indicators of child forced labour in the informal sector, including domestic service and street vending. He wished to know whether law enforcement officers were being educated about the need, especially in areas with high numbers of tourists, to investigate the exploitation of those under the age of 18 years for the purposes of prostitution involving a third party, since such exploitation constituted sex trafficking. How was the State party increasing its efforts to raise public awareness of trafficking in persons, including child sex trafficking and domestic servitude? He wondered what measures were in place to ensure that the Government had formal procedures whereby law enforcement officers or social workers could identify trafficking victims and refer them to care, and

whether law enforcement officers or social workers were sufficiently trained to distinguish victims of trafficking from victims of smuggling, and victims of child abuse from victims of child forced labour and child sex trafficking. Specific information on the implementation and effectiveness of the National Plan to Combat Sexual Violence against Children and Adolescents 2017–2019 would be welcome.

13. **Mr. Furuya** said that it was unclear why, despite being a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, as well as to the African Union Convention Governing Specific Aspects of Refugee Problems in Africa, the State party had not enacted implementing legislation or established any system or institution for providing protection to asylum seekers and refugees; if there were any specific difficulties in that connection, he hoped to hear about them. In the light of the Committee against Torture’s concluding observations ([CAT/C/CPV/CO/1](#)), he would like details of any steps the State party had taken since 2016 to find out the exact number of asylum seekers, as well as the relevant figures, if available. He would appreciate an account of any measures that the State party had taken in response to allegations that persons had been prevented from entering Cabo Verde without adequate explanation or detained at border posts and then repatriated, and that, before their repatriation, undocumented migrants had been subjected to inappropriate and disrespectful treatment by border authorities. It would be particularly useful to have information on how the personnel of border authorities were trained in and made more aware of non-refoulement and other human rights principles applying to foreigners, migrants and asylum seekers.

14. He would welcome detailed information on the number of cases of defamation in which the 18-month prison sentence provided for in article 166 of the Penal Code had actually been applied in the previous five years, and on the outcome of those cases.

15. He was interested in hearing about the action taken by the Regulatory Authority for the Media to protect the media and promote freedom of the press. The insecure financial situation of the media had allegedly undermined the ability of journalists and other media professionals to undertake in-depth reporting. Some had apparently resorted to self-censorship in order to retain their jobs. He wished to know whether the Strategic Plan for the Media Sector 2013–2016 and the Support Fund for the Development of the Media Sector had improved journalists’ financial situation.

16. The Committee had been informed of a complaint by trade unions that the Government used civil requisition to prevent them from exercising their right to freedom of association and their right to strike. In 2017, the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organization had requested Cabo Verde to amend the legislative provisions concerning civil requisition with a view to confining its use to certain limited situations. He wished to know whether the State party had responded to that request and, if so, what measures had been taken.

17. **Mr. Santos Pais** said that the Committee would appreciate receiving information on measures taken to protect children who had been deprived of their family environment. He wished to know what type of assistance was provided to child and adolescent victims of prostitution, pornography, sexual abuse and rape. In particular, he would welcome information on the results achieved by the National Plan to Combat Sexual Violence against Children and Adolescents 2017–2019.

18. He noted that children in the age group from 12 to 16 years who were deprived of their liberty benefited from socio-educational measures, and that persons aged from 16 to 21 years received more favourable treatment than other inmates in the criminal justice system. He would welcome additional information regarding both age groups. He also wished to know whether the Orlando Pantera Socio-Educational Centre was capable of dealing with all children in conflict with the law in the State party. What training was provided for judges, prosecutors, law enforcement officers and health-care and social welfare personnel to assist them in addressing problems related to the protection of children?

19. The Committee would like to know whether the National Commission for Human Rights and Citizenship would publish the Committee’s concluding observations on its

website and which State agencies would be involved in monitoring the implementation of its recommendations.

20. **Ms. Brands Kehris**, noting that the new Code of Enforcement of Conventional Criminal Penalties prohibited the placement of minors in isolation cells, said that she wished to know whether such cells had been abolished and whether prison staff had been trained to abide by the new regulations.

21. In view of the fact that the City Council of Praia was implementing an urban planning strategy aimed at regularizing some informal settlements and demolishing others, the Committee would appreciate data on the number of settlements that had been demolished. According to the State party, no demolition was undertaken without due process. She wished to know whether due process in such circumstances included safeguards for individuals or families in informal dwellings, access to remedies, and consultation prior to demolitions and compensation thereafter. Temporary alternative accommodation was reportedly provided for a period of from three to six months, especially for families whose homes were demolished. She wondered how frequently such accommodation was provided and what occurred after that period had elapsed.

22. **Ms. Kran** said that she would be grateful for information on measures aimed at preventing and eliminating nepotism and bribery in the area of public administration, especially at the municipal level, and at ensuring a safe environment for anti-corruption activists and whistle-blowers. As the code of ethics and conduct for public officials was not applicable to elected officials, she wished to know whether the State party would consider amending the Criminal Code to include them in the definition of a “public official”. She wondered whether the State party had implemented the recommendations made in 2017 by the United Nations Convention against Corruption Implementation Review Group, especially concerning the private sector. What measures would be taken to prevent corruption in bidding on public contracts and infrastructure projects involving the private sector? She also wished to know whether the State party planned to develop legislation on freedom of information.

23. The Committee would appreciate information on how the consultation of local communities would be incorporated into the decentralization process. Would consultative mechanisms be established to accept and encourage inputs from communities that would be affected by government decisions? The Committee would also like to know what steps would be taken to preserve the support and monitoring functions of national human rights institutions such as the Ombudsman’s Office and the National Commission for Human Rights and Citizenship.

24. Given the challenges presented by the State party’s geography, she would welcome information on measures aimed at reducing regional disparities through the decentralization legislation. What steps would be taken to ensure that municipalities had the necessary administrative capacity and funds to provide support services?

The meeting was suspended at 11.10 a.m. and resumed at 11.30 a.m.

25. **Ms. Santos Lélis** (Cabo Verde) said that legal proceedings had been instituted in 12 cases of trafficking in persons. One case had been concluded and 11 were pending. As noted in the replies to the list of issues, two training sessions on trafficking in persons had been organized. They had focused on investigation procedures by law enforcement officers and on victim monitoring and support. Victims in a recent case had been provided with medical care, psychological support, security services and accommodation pending their return to their countries of origin. The requisite security was provided and facilities were provided for their return. Recently adopted regulations permitted temporary labour by persons registered with the Directorate-General for Labour. Many awareness-raising campaigns had been conducted in the media and elsewhere to alert the general public to the phenomenon of trafficking and to encourage complaints.

26. Statistics indicated the reasons why certain persons were prevented from entering the country. For instance, they might lack evidence of the means required to survive, lack documentation, or possess fake documents, somebody else’s passport or an invalid

residence permit. Border officials never based decisions concerning admission on an arbitrary or subjective approach. They were required to respect the law in all cases.

27. With regard to the allegation that the offence of defamation undermined freedom of expression, it was universally agreed that freedom of expression was subject to certain limits, for instance when it encroached on other people's freedom. The aim was to protect an individual's honour, good standing and human dignity. Complaints regarding freedom of expression had been submitted to and examined by the Regulatory Authority for the Media. Its mandate was defined by law and it played a key role in promoting pluralism and guaranteeing freedom of expression. Journalists in Cabo Verde had no reason to engage in self-censorship. Those who were employed in the public sector had no economic incentive to censor their reporting, as they were paid in accordance with a fixed salary scale. It was possible that the situation would change as the market for media services became more competitive.

28. The Government fully respected the independence of trade unions, but it had a responsibility to guarantee a basic level of service provision, particularly in the interests of safety and security. Civil requisition was an exceptional measure that was used only if the parties to a reconciliation or mediation process were unable to reach an agreement. The relevant authorities had sought to promote such reconciliation and mediation processes as an alternative to the use of civil requisition. Nevertheless, it was true that complaints had been lodged with the International Labour Organization.

29. The legal system of Cabo Verde established rules governing the criminal and civil responsibility of children and their capacity to stand trial. The law on cybercrime had been strengthened in order to establish more stringent sentences for offences related to child pornography. Cabo Verde had a dedicated institute, the Orlando Pantera Socio-Educational Centre, to provide psychosocial support to families and children. The centre operated in Praia, but children who lived outside the capital were able to access similar services. If they had to travel in order to access the appropriate support, the Ministry of Justice bore the cost of their transport.

30. The Government recognized the importance of increasing the technical and human resources allocated to the protection and promotion of human rights. In recent years, Cabo Verde had endeavoured to comply with its reporting obligations under the various human rights treaties to which it was a party. The Committee's recommendations would be published. Responsibility for the follow-up and monitoring of such recommendations lay with the ministerial committee under the Office of the Prime Minister, which ensured coordination across all sectors.

31. All places of deprivation of liberty had been advised that the use of isolation cells was unconstitutional. That position had been strengthened in the new Code of Enforcement of Conventional Criminal Penalties. The new Code had been widely disseminated, and prison officials received training on its provisions. The Code established the circumstances in which a person could be placed in an isolation cell as a disciplinary measure. New prisoners were initially placed in a reception cell so that they could acclimatize to the prison environment. On arrival, they were individually assessed and underwent a medical examination. An individualized rehabilitation plan was drawn up for each new prisoner.

32. Eviction notices could be issued to the occupants of buildings or structures that had been erected in violation of applicable building standards. In such cases, the authorities notified the occupants of their obligation to vacate the building or structure. If the occupants failed to take the appropriate action, the authorities were required to intervene in the interests of public safety.

33. Cabo Verde had various projects and programmes to improve access to housing. One example was the "Casa para Todos" ("Housing for All") programme. Special emphasis was placed on the provision of housing for vulnerable groups. Some municipalities did not have adequate resources to ensure that all persons had access to housing.

34. A bill aimed at stamping out nepotism had been submitted to the parliament, but it had ultimately been defeated, as it had failed to win the support of two thirds of members. The powers of the Court of Auditors had been strengthened through a dedicated law. The

Court was now empowered to launch investigations and to carry out financial audits of public bodies, which gave it an important anti-corruption role. Public procurement contracts for infrastructure projects were put out to tender, and decisions could be contested through the courts. Legislation was in place to ensure the accountability of public officials, including persons holding political office. Some complaints had been brought under the legislation in question and were currently pending before the courts. There were no restrictions on freedom of information, but public bodies were not required to reveal the sources of the information that they held.

35. With regard to decentralization, citizen participation mechanisms were in place to ensure that the public was consulted on reform processes, particularly those that concerned environmental matters. The Government was aiming to devolve certain powers to the municipalities. Many public bodies already had municipal offices, and others had signed so-called “programme contracts” with individual municipalities. The Government planned to establish a network of focal points for the Ombudsman’s Office and the National Commission for Human Rights and Citizenship, in order to improve the coordination of services in the context of decentralization.

36. Technical staff and councillors at the municipal level were provided with in-service training. The cabinet had approved bills concerning the work of the municipalities, and they would be submitted to parliament for approval. One of the bills concerned the legal framework governing the work of municipal authorities and another concerned municipal financing. A large proportion of the income generated through the Environment Fund and the Tourism Fund was reinvested into the municipalities. Legislation was in place to ensure that municipalities enjoyed a high level of autonomy. The Government was also working on the Renewal, Regeneration and Accessibility Programme (PRRA), which was intended to upgrade urban centres, protect the country’s religious and cultural heritage and develop coastal areas. The overarching aim was to generate economic, environmental and social value in support of improved quality of life and living standards. The Government wished to prevent the isolation of areas with tourist potential. Rural areas and the agricultural and fishing sectors were also in receipt of investment, as were municipal markets and social housing. Santo Antão would receive over 500 million Cabo Verde escudos in environment and tourism funding. São Nicolau would receive 276 million Cabo Verde escudos in investment under the Renewal, Regeneration and Accessibility Programme.

37. **Ms. Brands Kehris** said that she wished to know for how long a prisoner could be placed in an isolation cell as a disciplinary measure and whether a minor could be placed in such a cell under any circumstances. It was unclear how long a deadline was set in eviction notices, whether such notices could be challenged, and whether any attempt was made to engage in dialogue with the occupants of unauthorized buildings or structures prior to their eviction. She wondered how many persons who had been evicted from their homes were provided with temporary housing for three to six months and what arrangements were subsequently made for them. Further information on the situation of vulnerable families who were living in illegally constructed homes would be welcome.

38. With regard to the Electoral Code, she would appreciate clarification regarding the three categories of persons who could be deprived of their right to vote, as enumerated in the State party’s report (para. 244). It was unclear whether “those prohibited by a final judgment” included all persons who had been sentenced by a court. Given the inclusion of the category of “those notoriously recognized as mentally ill”, she wondered how the State party guaranteed the electoral participation of persons with psychosocial impairments. Were all persons who had been diagnosed with a mental illness deprived of the right to vote? With regard to the third category, namely persons who had been “suspended from the exercise of their political rights by a final judicial sentence”, she wished to know on what grounds persons could be thus deprived of their political rights. On a related point, she would be grateful if the delegation could comment on how the State party balanced the restrictions set out in the Electoral Code with the constitutional requirement that no penalty or security measure should have as a necessary effect the loss of civil, professional or political rights.

39. **Ms. Kran** said that, in the context of measures against corruption, she would be grateful for further information on the pending complaints and wished to know whether a

code of ethics existed for elected office-holders. She would also appreciate information on plans to adopt legislation in the area of freedom of information, to ensure that the public had access to information that was held by public entities.

40. **Mr. Santos Pais** said that he would appreciate a reply to his earlier question regarding the socio-educational measures provided to children aged 12 to 16 years in conflict with the law and the favourable treatment afforded to persons aged 16 to 21 years with criminal responsibility. He would also be grateful for information on the assistance provided to children requiring protection from the State, such as orphans. He wished to know what training was given to judges and prosecutors in matters related to the protection of children, particularly those in conflict with the law. He also wished to have more information regarding the administrative procedure relating to forced evictions, and the ways in which eviction decisions could be challenged.

41. **Mr. Furuya**, recalling the State party's obligations in relation to the principle of non-refoulement, said that he still wished to know whether there was a system in place for determining refugee status, and if not, what the main obstacles were. Given the requirements of necessity and proportionality in restrictions on freedom of expression, he considered punishment of up to 18 months for defamation to be disproportionate for the purpose of protecting another person's reputation. He would therefore be grateful if the State party could send the Committee data on the application of article 166 of the Criminal Code within 48 hours.

42. **Mr. Muhumuza** said that he would be grateful to receive written replies to the questions he had asked concerning investigations and prosecutions in the area of trafficking in persons.

The meeting was suspended at 12.20 p.m. and resumed at 12.30 p.m.

43. **Ms. Santos Lélis** (Cabo Verde) said that she would be in favour of Portuguese being made an official United Nations language; it had been difficult to participate fully in the questions and answers via interpretation.

44. Prisoners could be placed in an isolation cell for up to 22 hours, which could be consecutive or interrupted. That measure was not applied to those aged under 18 years. She was unable to provide specific information on the notification period for evictions, and on what happened when the period of post-eviction temporary housing came to an end. Eviction decisions could be appealed, and there was an effective legal aid system, with costs borne by the State. Exceptions to the right to electoral participation were established in the Penal Code and the Constitution; for example, convicted holders of political office had restrictions placed on that right. For persons with mental disabilities, restrictions applied only in cases of a visible disability, and where a medical certificate clearly stated that the person's ability to express his or her vote was impaired.

45. The corruption cases pending involved those holding political office and were related to the Environment Fund and the Tourism Fund. Specific legislation existed on the criminal responsibility of those holding political office. A legislative initiative in the area of freedom of information was under consideration in parliament; however, she did not know what stage of the legislative process it had reached.

46. Those involved in defending the interests of children included the Public Prosecution Service and the Ministry of Family and Social Inclusion, which operated a network of emergency shelters and homes. Training in child protection considerations had been given to law enforcement officers, prosecutors and the courts.

47. She was unable to provide any further information on asylum. Data on defamation cases were collected not by the Government but by the judiciary, and they were not organized in a sufficiently detailed manner to yield the information requested by the Committee.

48. While the Committee should be assured of the Government's political commitment to the implementation of human rights, the lack of resources constituted a real impediment to the extent of the progress that could be made. Nevertheless, the Government would do its utmost to address the challenges it faced.

49. **The Chair** said that he wished to thank the delegation for the fruitful and constructive dialogue; he appreciated the Government's efforts to provide the Committee with the information requested and its acknowledgement of the existence of shortcomings. While, welcoming the reassurance that the Government would continue to defend, protect and promote human rights, he expressed the hope that the necessary policy adjustments would be made, that the draft legislation on, inter alia, improving prisons, would be adopted by parliament and that the State party would secure the necessary resources to meet all the Committee's concerns.

The meeting rose at 12.50 p.m.