

HUMAN RIGHTS COMMITTEE  
87th session (Geneva, 10 – 28 July 2006)

Reports of States

**Central African Republic (second periodic report)<sup>1</sup>**

*Information submitted to the Committee*

The Central African Republic submitted its second periodic report<sup>2</sup> and written replies<sup>3</sup> to the list of issues.<sup>4</sup> In introducing the State report the head of the delegation, Mr. Thierry Malyeombo, talked about the incidents of December 2005 when national security threats supported by armed groups and rebels created a very fragile human rights situation in the country and called the international community to rigorously condemn those acts of aggression. Another interesting point of his presentation included the Government's thoughts of ratifying more international human rights instruments, with special attention given to the ratification of the International Labour Organisation's *Convention No. 169*<sup>5</sup> relating to the rights of indigenous and tribal peoples.

The Central African Republic's report was well written and organised, providing an overview of the country's political, economic and social situation. The head of the delegation first replied to the list of issues and then received oral questions by Committee members who noted that the report was somewhat formal and did not pay sufficient attention to the difficulties or successes the country was currently facing, particularly in implementing its human rights obligations under the *International Covenant on Civil and Political Rights (ICCPR)*. The lack of statistics was also considered by some members as an obstacle to properly assessing the country's situation.

During the interactive debate Committee members raised concerns about issues including: the **status of the Covenant**; the **justice system**, the set-up of the **Truth and Reconciliation Commission** to compensate victims of human rights violations; the systematic practice of **torture**; **impunity and corruption**; **pre-trial detention**; the **management of public revenues**; **female genital mutilation (FGM)**; the **death penalty**; and the **situation of women** in the country.

In an alternative report submitted by the Federation Internationale de l'Action des chretiens pour l'Abolition de la Torture (FIACAT)<sup>6</sup>, it was recommended that torture be defined and criminalised in domestic legislation; and that impunity and arbitrary executions be combated by forbidding and sanctioning them in the new *Penal Code*. It was also suggested in FIACAT's report that the rules governing detention conditions and the right to access a doctor or a lawyer be explicitly defined. Committee members took up these issues during the consideration of the State party report.

*Themes and issues*

**Death penalty**

Regarding the death penalty and why it had not yet been abolished, the delegation said that technically the death penalty had not been applied since 1981 and this issue was delicate for the Government at the moment because of the unstable security situation in the country. However, the delegation indicated that the Government was prepared to get engaged into discussions but that on security grounds it had to disarm the militias first. When experts noted that witchcraft and sorcery were punishable by death penalty the delegation explained that these offences were very difficult to prove into court and no cases had ever been prosecuted under the provisions of the *Penal Code*.

<sup>1</sup> For more information please check the summary record of the meeting at:

<http://daccessdds.un.org/doc/UNDOC/GEN/G06/431/05/PDF/G0643105.pdf?OpenElement>

<sup>2</sup> *CCPR/C/CAF/2004/2*, date 21 September 2005, retrieved from: OHCHR website

<http://www.ohchr.org/english/bodies/hrc/hracs87.htm>

<sup>3</sup> *CCPR/C/CAF/Q/2/Add.1*, date 23 June 2006, retrieved from: OHCHR website

<http://www.ohchr.org/english/bodies/hrc/hracs87.htm>

<sup>4</sup> *CCPR/C/CAF/Q/2*, date 24 April 2006, retrieved from: OHCHR website

<http://www.ohchr.org/english/bodies/hrc/hracs87.htm>

<sup>5</sup> *Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries*.

<sup>6</sup> <http://www.ohchr.org/english/bodies/hrc/docs/ngos/fiacat.pdf>, June 2006, retrieved from: OHCHR website

<http://www.ohchr.org/english/bodies/hrc/hracs87.htm>

Committee members also expressed their concerns over capital punishment and the application of the death penalty for crimes covered by the Rome Statute of the International Criminal Court (ICC). The delegation argued that although crimes such as murder carried the death penalty the new *Penal Code* would be the opportunity for incorporating the provisions of the ICCPR.

### **Impunity and corruption**

With regard to impunity, the delegation argued that it was not widespread in the country to the extent suggested by Committee members neither that impunity indicated a lack of political will. The head of the delegation also drew attention to the fact that in most cases impunity in the Central African Republic should be linked with the actual causes that triggered it, which in his view were the breakdown of the judicial apparatus and of the court system. The shortcomings of the criminal justice system, like the delay in dealing with claims against Government officials, were due to the lack of available resources and the workload of the Criminal Court but the Government was assisted by the European Union on equipping properly the country's courts and making its system more efficient. On the issue of corruption, the delegation said that the a National Action Plan had been set up by the Government working jointly with the United Nations Development Program (UNDP) to fight this phenomenon. Institutional mechanisms had been established with monitoring functions and could impose disciplinary and administrative sanctions against Government officials found guilty of misconduct and illegal activities

### **Female genital mutilation (FGM)**

Committee members were disappointed to note that the country's current *Penal Code* did not criminalise female genital mutilation. The delegation informed that the new draft *Penal Code* would address the issue of FGM and explained that the Government was in the process of reviewing its action plan on FGM and was working with the UNDP on a survey with multiple indicators on rates of these harmful practices. FGM was not only a social problem and a part of the culture in the Central African Republic but also an activity creating revenues to those practicing them. Some ethnic groups had been affected by these practices in various degrees but the phenomenon was mainly marginalised in some regions of the country, mostly in rural areas with high illiteracy rates. The delegation argued that this practice could not stop from one day to the other because it constituted part of the country's customs and traditions. The Government established a policy on a step-by-step basis focusing first on awareness-raising programmes targeting these specific groups to address this issue. The first phase of this strategy resulted in the abandonment of the phenomenon especially amongst the middle classes. The Government began a second phase of its campaign, aiming at prohibiting FGM practices.

### **Gender equality**

On the issue of gender equality, it seemed that tradition resulting in discrimination, violence, and marginalisation still put obstacles for women realising equal rights with men. The delegation kept insisting during the debate that women were not interested in politics and in participating actively in the country's management and argued that although women had been asked to occupy higher government posts, they refused because they wished to obtain their husband's consent first. Committee members were quite surprised by the delegates' replies and took up this issue in both rounds of questions, as they were not convinced by the explanations given. It was also stated by the delegation that the Government had been working on this issue by raising awareness on women's rights, adopting in 2004 a national policy on gender equality, reserving quota of posts for women in public affairs and politics and by making significant progress in legislative terms, such as enacting reforms in the *Family Code*.

### **Justice system**

The Government's efforts to strengthen and guarantee the independence of the judiciary system was raised on a number of occasions. Committee members, Mr. Ahanhanzo and Mr. Ando asked the delegation about the independence of judges, their modes of appointment, tenure, salaries, and training. The delegation replied that the country's legal system operated along the same lines as the French *Civil Code*. Judges were appointed for life and they could not be removed without their consent, while the prosecutors were subject to a system of rank and could be removed. Moreover, judges had a special status in the country and there was special legislation in place managing their salaries, benefits, and their career structure. Promotion of members of the magistracy was based on terms of service. In case of misconduct, disciplinary measures were envisaged and judges could be brought before a disciplinary body headed by the president of the State Council. Regarding judicial

training, the delegation said that that it was a standing procedure and it was provided by the National Judicial College. Judges were regularly trained in human rights with the help of the Office of the High Commissioner for Human Rights (OHCHR) and the United Nations (UN).

### *Conclusions and next steps*

The dialogue between the delegates of the Central African Republic and the members of the Committee was constructive and engaged fully both parties. The delegation had a cooperative stance throughout the session but it also expressed its disappointment on the little support received by the UN country office handling human rights matters in the Central African Republic. The head of the delegation, Mr.Thierry Maleyombo, asked the Committee not to disregard the efforts that have been carried out in the country up to this point.

In its concluding observations<sup>7</sup> the Human Rights Committee focused on the issues that were taken up during the meeting, such as the implementation of the Covenant, impunity, discrimination against women, Female Genital Mutilation (FGM), summary and arbitrary executions, and the death penalty. Committee members urged the State party to incorporate the Covenant in its national legislation so that it can be invoked in cases before the courts. On the issue of corruption of judges and impunity of State officials there was a call on conducting exhaustive enquiries so that people responsible of human rights violations are prosecuted and penalised. Committee members recommended that the Government should take further steps for a national dialogue on the issue of setting up a Truth and Reconciliation Commission in the country

The State party should strengthen its efforts to inform women on their rights and take steps to keep the *Family Code* in consistency with international judicial instruments so that persistent discrimination against women at all levels of political and social life is eliminated. Moreover, the State party should criminalise the practice of Female Genital Mutilation and take legal action against its authors. The concern over summary and arbitrary executions, torture and other inhumane and degrading treatment was reiterated in the Committee's concluding observations and as result the State party was urged to set up an independent authority to conduct thorough investigations on every allegation and give victims appropriate reparation. The State party is expected to provide detailed information on complaints for such actions, the number of persons prosecuted as well as the compensation offered to victims in its next report. The Committee repeated its request for the abolition of the death penalty and capital punishment.

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<sup>7</sup> [CCPR/C/CAF/CO/](http://www.ohchr.org/english/bodies/hrc/hrca87.htm), date 25 July 2006, retrieved from: OHCHR website <http://www.ohchr.org/english/bodies/hrc/hrca87.htm>