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**Human Rights Committee****Concluding observations on the initial report of Cabo Verde\***

1. The Committee considered the first periodic report of Cape Verde (CCPR/C/CPV/1) at its 3661th and 3662th 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 first periodic report of Cape 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/VNM/Q/3/Add.1) 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 the new Statute for the National Commission for Human Rights and Citizenship;

(b) Efforts to increase gender mainstreaming through the establishment, in 2018, of the Inter-ministerial Commission for Gender-Mainstreaming;

(c) The adoption of the Gender Based Violence Law published on 27 January 2015;

(d) The establishment of the 2018-2021 National Action Plan against Trafficking in Persons;

(e) Reform of the criminal justice system, including the introduction of alternatives to incarceration, measures to tackle prison overcrowding and the enactment of the Code of Enforcement of Conventional Criminal Penalties.

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

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\* Adopted by the Committee at its 127<sup>th</sup> 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 of the Convention against Torture on 01 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 nevertheless, is 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 mechanism of complaints under the first Optional Protocol and that a limited number of decisions refer to the Covenant in the application or interpretation of domestic law. It is further concerned by the lack of civil society involvement in the process of the State party's reporting. Whilst appreciating the constraints faced by the State party, the Committee refers the State party to its obligation under article 2 of the Covenant. It draws the State party's attention to 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 ensure 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 procedure under the First Optional Protocol thereto, amongst the general public, civil society, public officials, lawyers and State agents, namely 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 allocated for its functioning for the State party in 2020, the Committee regrets that such a statute, aiming at setting 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 (Paris Principles), is yet to be approved. It 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 this and the full independence of the institution. It is also concerned by reports that the Commission has close links to the Ministry of Justice and the lack of information about the exact budget available to the Commission. Whilst noting efforts to develop focal points across different islands, the Committee is concerned that the geographical coverage of the Commission may need to be strengthened to disperse all of its functions across the State party's territory (art. 2).

8. **The Committee reiterates its 2012 recommendation (CCPR/C/CPV/CO/1 para. 5) that the State party reform the National Commission for Human Rights and Citizenship to ensure full compliance with the Paris Principles. In particular, it 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 removing any oversight by Governmental 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 to disperse its functions across the State party's territory.**

#### **Combating discrimination**

9. Whilst recognising 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. The Committee is concerned at reports that individuals belonging to certain groups continue to face forms of 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 of 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 persons living with HIV/AIDS, persons with disabilities, and lesbian, gay, bisexual and transgender persons and safeguard their fundamental rights;**

(c) **Provide complaint mechanisms and effective and accessible remedies for all forms of discrimination and collect disaggregated data on complaints of discrimination and their outcomes;**

(d) **Carry out broad education and awareness-raising campaigns that promote equality, tolerance and respect for diversity**

#### **Equality between men and women**

11. The Committee recognises a number of important steps taken by the State party to achieve equality between men and women, including efforts to increase gender mainstreaming through the Inter-ministerial Commission for Gender Mainstreaming, the establishment of the Cape Verdean Institute for Gender Equality and consecutive national action plans on gender equality. It however notes, with concern, a lack of information about the efficacy and impact of existing measures to ensure equality between men and women. The Committee is concerned by 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 the Parity Bill was presented aiming to improve women's representation, it is concerned that this bill has not yet passed into law. It 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 this (arts. 2, 3, 25 and 26).

12. **The State party should:**

(a) **Ensure the passing into law of the 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 on the subordination of women and on the respective and equivalent roles and responsibilities of women and men in the family and society;**

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

**Violence against women**

13. The Committee notes a number of important steps to combat violence against women, including the enactment of the 2011 Gender Violence Law, awareness raising campaigns, namely targeting education facilities, training activities involving police and different groups within society and the provision of some 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 relevant parts of police forces not having a presence in all of the country; fear of stigmatisation and discrimination amongst women; shelters not being available in all 22 municipalities; and that the domestic violence hotline being closed. It also notes, with concern, the lack of information about investigations, prosecutions and convictions against those who have perpetrated violence against women and 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 understanding the extent of and barriers to reporting amongst 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 across its territory;**

**(d) Continue and expand awareness raising 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 and that the State party has taken steps to try and ensure access to safe abortion, including the provision of mobile units that provide access to sexual and reproductive health services. It is however concerned that clandestine and unsafe abortions may continue, as access to safe, legal and effective abortions is not guaranteed in practice across the whole of the State party's territory. It is also concerned that not all vulnerable groups can access sexual and reproductive health information and services and by 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 to abortion for all, and keep 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 however concerned by a lack of sufficient information about the effectiveness of mechanisms and systems that are in place to implement such a commitment, as well as the measures taken to ensure effective meaningful and informed participation of all populations on 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 sustainable use of natural resources, develop and implement substantive environmental standards, conduct environmental impact assessments, provide appropriate access to information on environmental hazards and implement the precautionary approach to protect persons in the State Party, including the most vulnerable, from the negative impact of climate change and natural disasters. The development of all projects that affect sustainable development and resilience to climate**

**change should include the meaningful and informed participation of all populations. In the regard, the Committee draws the State party's attention to paragraph 62 of General Comment 36 on the right to life (2018).**

#### **Excessive use of force**

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

20. **The State party should:**

(a) **Continue training amongst police officers on their human rights responsibilities, putting in place mechanisms to measure its efficacy;**

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

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

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

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

(g) **Develop awareness raising and sensitisation activities that address societal 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 in the country and limits to the police's capacity to address these phenomena. It notes, with concern, a lack of information about trends in the prevalence of such crimes and the budget allocated to police. The Committee acknowledges information about steps taken to improve the police's equipment and forensic expertise but remains concerned about whether their overall capacity is sufficient to effectively fulfil their responsibilities in guaranteeing 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 ensuring adequate funding, including the investment of funds in equipment and forensic expertise.**

#### **Pre-trial detention**

23. The Committee is concerned about reports that the legal limit of 48 hours to detention without being brought before a judge may not be being 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 pre-trial 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 pre-trial detention and additional cautionary measures applied by judges after the exhaustion of the initial six-month legislative limit to pre-trial detention (art. 9).

**24. The State party should consistently ensure the application of existing legal standards in relation to pre-trial detention to uphold the liberty of those accused of crimes and guarantee the right to a trial within a reasonable time. It should continue reducing the length of pre-trial detention and step up the use of non-custodial alternatives, bearing in mind its obligations under article 9 of the Covenant, as interpreted in the Committee's 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). Whilst recognising 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, it notes, with concern, the absence of sufficient information about the investigation, prosecution and conviction of those who engage in trafficking activities. It is also concerned about a lack of information about comprehensive assistance, remedies and rehabilitation for victims. The Committee is also concerned by other forms of exploitation in the State party, including domestic work under exploitative conditions and the use of child labour, including in agriculture, begging and vending 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 provision of accessible and effective complaint mechanisms and assurances that all accused perpetrators of trafficking are investigated, prosecuted, and, if convicted, adequately sanctioned. The State party should also provide additional support to 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 criminalised; increase steps 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 efforts by the State party to invest in the prison system and address overcrowding, including the redistribution of individuals between detention facilities and the development of alternatives to incarceration following 2015 criminal justice reforms. It is however concerned that some prisons remain overcrowded and a significant proportion of individuals included in the data provided by the State party are imprisoned for non-violent offenses, including theft, which in some cases is reported to be driven by poverty. In light of its previous concluding observations (CCPR/C/CPV/CO/1, para. 14), the Committee regrets that children continue to be imprisoned with adults. It further regrets a lack of adequate information about specific provisions for those with intellectual and psychosocial disabilities and the outcome of complaints 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 segregate juveniles from adult prisoners;**

**(b) Expand the use of alternatives to incarceration, particularly for non-violent offenses, in accordance with article 9 of the Covenant;**

(c) **Invest in the capacity of the prison system to eliminate overcrowding and improve conditions, including 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 Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), including those concerning access to health care, sanitation and food.**

#### **Solitary confinement**

29. The Committee notes measures to limit solitary confinement to a disciplinary measure of short duration used only amongst adults, as introduced in the Code of Enforcement of Conventional Criminal Penalties, but is concerned about a lack of information about how such standards are upheld and by 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 legal provisions within the Code of 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 to improve data collection on refugees and asylum seekers and the estimated timeline for adoption of regulation to Law 99/V/99 on the legal regime for asylum seekers and refugee status. It is also concerned by reports that rules related to legal entrance to the country appear to be being applied without due assessment of refugee and asylum status, and regard for the principle of non-refoulement. It is further concerned by reports of a lack of judicial oversight of such decisions (arts. 9, 10 and 13).

32. **The State party should improve data collection 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 annual increases in recent years in the budget allocated to the judicial system and multiple measures included in the Strategic Plan of the Superior Council of the Judiciary to increase judicial capacity and address systemic issues. It remains however concerned by allegations of a large number of pending cases and long delays in trials which still persist (art. 14).

34. **The Committee recommends that the State party effectively implements its plans to increase the capacity of the judicial system and steps up, measures aiming to decrease the number of pending cases before the courts and prosecution services and the waiting times in each case.**

#### **Forced evictions**

35. The Committee is concerned by reports of forced evictions following growth in the numbers of informal and unplanned settlements. Whilst recognising measures to ensure procedural safeguards, the Committee notes a lack of information about measures to collect data on demolitions and forced evictions and the participation of affected populations in the process. It notes efforts to provide alternative accommodation but is concerned that this is

not available to all and is for a period of only 3 to 6 months, after which it was not clear to the Committee what assistance is in place to ensure people remain in secure housing (arts. 12 and 17).

**36. The State party should take all feasible measures to avoid forced evictions and, in case of evictions, ensure that the affected individuals and communities enjoy access to legal protection and are provided, where appropriate, with adequate alternative housing. It 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 liberty for 18 months for defamation. It notes information from the State party about the need to balance freedom of expression with the protection of other rights, and steps taken to secure freedom of expression, including amongst 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 last five years. The Committee is also concerned by reports, although as an exceptional measure, of the use of civil requisition by the Government that 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 review article 166 of the penal code to ensure that defamation is not sentenced with 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 article 21 and article 22, paragraph 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, namely 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 incidences of child prostitution. It is also concerned that whilst child marriage is illegal, a high proportion of girls under 18 are in de-facto marriages and that cases of female gender mutilation among migrant communities have been reported. The Committee notes measures taken to address the practice of corporal punishment but is concerned that such practices persist 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 criminalised within the national legal framework;**

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

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

#### **Participation in public affairs**

41. The Committee is concerned by reports of nepotism and corruption, including amongst elected officials, within the State party, and regrets that the Nepotism bill was not passed by parliament. While it notes the information provided by the State party about

measures taken to tackle such phenomena and ensure transparency and accountability of public administration, challenges still remain. The Committee is also concerned by the lack of legalisation on access to public information (art.25).

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

43. The Committee notes the significant decentralization efforts carried out under the State party government programme. It is however concerned by a 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 first periodic 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 71, paragraph 5, of the Committee's rules of procedure, the State party is requested to provide, by xx, 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. Pursuant to the Committee's Predictable Review Cycle, the State party will receive during 2025 the Committee's list of issues prior to the 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 organisations 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 during 2027 in Geneva.**

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