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HUMAN RIGHTS COMMITTEE

Eighty-seventh session

SUMMARY RECORD OF THE 2374th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 13 July 2006, at 10 a.m.

Chairperson: Ms. CHANET

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

CONSIDERATION OF REPORTS UNDER ARTICLE 40 OF THE COVENANT
(agenda item 6) (continued)

Second periodic report of the Central African Republic (continued)
(CCPR/C/CAF/2004/2; CCPR/C/CAF/Q/2 and 2/Add.1; HRI/CORE/1/Add.100)

1. At the invitation of the Chairperson, Mr. Diba, Mr. Findiro and Mr. Maleyombo (Central African Republic) took places at the Committee table.
2. Mr. MALEYOMBO (Central African Republic) said that, contrary to what was being stated by the media and NGOs, the Government had ordered investigations into the killing of army sergeant Claude Sanzé immediately after the event; the investigations had not yet been concluded.
3. Given the fragile security situation in the Central African Republic resulting from the proliferation of small arms, the abolition of the death penalty was currently not feasible. However, his Government recognized the undesirable nature of that type of punishment. Efforts were being made to achieve disarmament in order to improve the security situation, thus establishing conditions where abolition of the death penalty would be possible. Although capital punishment continued to exist in law, no judicial executions had been carried out since 1981.
4. Mr. FINDIRO (Central African Republic) said that several institutional mechanisms had been established in the administrative and judicial sectors to curb corruption, including a disciplinary committee, an inspectorate with special responsibility for public finances and inspectorates within individual ministries. The National Assembly functioned as a control mechanism in the political sphere. Persons accused of misappropriating public funds were liable to prosecution and/or administrative sanctions. Inspections conducted in the framework of efforts to stabilize public finances had revealed large-scale misappropriation of funds and many cases had been brought before the disciplinary committee. Further disciplinary committees had been set up to deal with the increased workload. In that context, three ministers had been tried and dismissed from office. In 2005, a special unit had been set up within the prosecution service to handle cases of corruption, misappropriation of funds and money laundering.
5. In cooperation with the United Nations Development Programme (UNDP), a national action plan had been formulated to fight corruption. At the regional level, the Monetary and Economic Community of Central Africa had set up the Action Group against Money-Laundering in Central Africa to address issues relating to corruption, money laundering and similar offences. The domestic equivalent of that Group in the Central African Republic was the national financial investigation agency.
6. Under the existing Criminal Code, witchcraft was a punishable offence. Although relevant provisions did exist, no person found guilty of having practised witchcraft had ever been sentenced to death. The provisions relating to witchcraft contained in the existing Criminal Code would also be reflected in the new code.

7. Victims of a criminal offence had the right to bring charges against the person(s) responsible. If a victim failed to bring charges, proceedings could be instituted by the prosecution service.

8. As to allegations that the Central African Republic fostered impunity, he said that the justice system currently lacked the capacity to deal with the large number of cases before it. The Criminal Court sat only twice a year. While the resulting backlog in cases might create an impression of impunity, it should not be interpreted as an indication of a lack of political will to bring criminals to justice. The issue had given rise to nationwide debate and recommendations had been formulated in cooperation with the European Union to hold a “States general” on justice to address the shortcomings.

9. Mr. MALEYOMBO (Central African Republic), replying to question 14 of the list of issues, said that General Ferdinand Bombayake had been released. He enjoyed no special guarantees and had the same rights as other citizens.

10. Mr. DIBA (Central African Republic) said that his Government had adopted an affirmative-action policy to eradicate the practice of female genital mutilation. However, the practice was deeply rooted in the traditions of the country’s main ethnic groups, and its elimination required far-reaching attitudinal changes. While female genital mutilation was no longer practised by the middle classes, it continued to be widespread among the mostly illiterate rural population. The Government was therefore continuing its efforts to raise awareness of the harmful effects of such mutilation. In addition, the Committee’s suggestion to make female genital mutilation a punishable offence would be taken into account in the formulation of the new criminal code. The Government further intended to help circumcisers find alternative employment and looked to other, more experienced, African countries for advice.

11. His Government’s efforts to increase women’s representation in political decision-making had thus far yielded few results. Women were reluctant to participate in political activity without their husbands’ consent. The Government conducted awareness campaigns to overcome such culture-related obstacles and to sensitize women to their important role in society. In that connection, it had adopted a national policy for the advancement of women; on the occasion of Mothers’ Day 2006, the President had called for the implementation of that policy through, inter alia, the adoption of affirmative-action measures.

12. Sir Nigel RODLEY asked whether all persons taken into custody had immediate access to a lawyer and what provisions existed for detainees who could not afford counsel. The delegation should clarify whether, under the new criminal code, the crimes covered by the Rome Statute of the International Criminal Court (ICC) would attract the death penalty.

13. The delegation had indicated that the military personnel accused of killing Sergeant Sanzé would be prosecuted by a military rather than a civilian court, since acts carried out by soldiers in the discharge of their duties were subject to military justice. It was unclear why the abduction, torture and subsequent killing of a person should constitute a military function, and he would welcome clarification in that regard.

14. Mr. GLÈLÈ AHANHANZO asked what measures had been taken by the State party to address the reportedly widespread problem of police violence against persons in custody.

15. Mr. LALLAH said there was a clear need to introduce legislation that would enable judges to implement the rights embodied in the Covenant. To that end, efforts should be made to ensure that those rights were protected under the new criminal code, which should include penalties for any violations of those rights, whether the perpetrators were civilians or officials. The new code should come into effect as soon as possible.

16. Mr. MALEYOMBO (Central African Republic) urged Committee members to visit his country in order to witness the progress his Government had made in human rights protection, including among the prison population. The Central Office for the Prevention of Banditry had not, to his knowledge, carried out any summary extrajudicial killings. Its difficult security task frequently resulted in staff being involved in shooting incidents; under such circumstances, some deaths were unavoidable.

17. Owing to a lack of resources, the Government gave prisoners only one meal a day, relatives providing additional food. Basic medical services were also provided. Since the Office of the High Commissioner for Human Rights had begun making random inspections of prisons and police stations, its inspectors had not witnessed any cases of violence or ill-treatment of detainees. He invited NGOs to make similar visits to verify the situation for themselves, as the International League for Human Rights had done.

18. Turning to the question of Sergeant Sanzé, he said the military courts dealt with all cases involving military justice, whether misconduct occurred on military territory or while military personnel were on active service. In accordance with the principles of good governance, the judiciary was independent.

19. Mr. FINDIRO (Central African Republic) said that the Sanzé case would be taken up at the end of July 2006. It had been postponed because some of the military personnel who were due to appear before the court in that case had been sent to the north-eastern border to deal with the crisis there.

20. While the current Criminal Code did not make specific provision for detainees to have access to a lawyer of their choice, in practice that right was respected. All detainees suspected of committing an offence had the right to legal aid if they could not afford a lawyer. Those involved in non-criminal cases did not have that right, but could appeal to relatives for advice and assistance. Prisoners had the right to choose their own doctor, in accordance with the provisions of the Constitution.

21. The crimes that would be tried by the ICC were those, such as murder, that were punishable by the death penalty under the current Criminal Code. However, the Government would make every effort to take advantage of the opportunities for change offered by the drafting of the new code by including all the provisions of the Covenant.

22. The CHAIRPERSON invited the delegation to reply to questions 17-25 of the list of issues (CCPR/C/CAF/Q/2).

23. Mr. FINDIRO (Central African Republic) referred members of the Committee to the written replies to those questions contained in document CCPR/C/CAF/Q/2/Add.1.
24. Mr. LALLAH asked whether the Government had considered alternatives to imprisonment. Since it appeared that the State party was unable to guarantee the protection of detainees' rights in accordance with the Covenant, it should examine other forms of punishment. He wished to know what the current prison population was and whether the prisons had sufficient capacity to house that population.
25. He requested additional information on the current situation of journalists in the State party. It would be useful to know whether any inquiries had been conducted into alleged death threats against journalists, and if so, whether any cases that had come before the courts had resulted in prosecution. Updated information on the situation of Mr. Maka Gbossokotto would be welcome.
26. Turning to political persecution, he asked for details of Mr. Larmassoum's state of health and his right to receive visits from lawyers and family members. While those guilty of wrongdoing deserved punishment, everyone had the right to protection under the Covenant.
27. Mr. GLÈLÈ AHANHANZO asked for additional details of domestic legislation relating to the right of association, and its compatibility with articles 18-20 of the Covenant.
28. He also requested further information on NGOs in the State party, particularly the number of such organizations working in the field of human rights. It would be useful to learn whether there was any other human rights institution apart from the Office of the High Commissioner for Human Rights. If so, the delegation should indicate whether that institution was independent and whether it had been accredited.
29. He wished to know how many police stations there were in Bangui and elsewhere in the country. The delegation should clarify whether people detained in police custody had the right to receive visits from relatives, whether relatives had to provide food for the detainees, and how detainees were treated in general.
30. He asked whether human rights were included in the training of members of the judiciary, and if so, in what form. He urged the State party to take part in the forthcoming seminar on human rights education for law enforcement officials to be held for members of the Economic Community of Central African States in Brazzaville.
31. Mr. ANDO asked why judges had life tenure, while prosecutors had no such guarantee. He wished to know how judges were appointed, how their salaries compared to those of other civil servants, whether they were guaranteed pensions, and who decided on their appointment and promotion. He asked whether practical measures were being taken to ensure that the legislation guaranteeing the independence of the judiciary was being implemented effectively. He wondered whether cases of treason and rebellion that came before the permanent military court could be reviewed by other courts. He asked whether any voluntary non-governmental services existed for the provision of legal aid, and if not, whether measures were being taken to

encourage the establishment of such services. What problems had arisen in the functioning of the legal aid system, why had those problems arisen and what measures were being taken to tackle them?

32. He asked whether conscientious objection was covered in legislation. He wondered what types of community service were used in lieu of prison sentences for conscientious objectors. He wished to know what kind of guarantees could be given that the administration of justice at the national level was in conformity with the requirements of the ICC. Under Central African criminal law, all the crimes listed under the Rome Statute carried the death penalty. He asked what was being done to bring domestic legislation into line with the Statute, which did not provide for capital punishment in any circumstances.

33. Mr. JOHNSON LOPEZ said that States parties to the Covenant were not only expected to fulfil their Covenant obligations regarding the protection of civil and political rights and reporting to the Committee, but must also ensure that efforts were made to give effect to the Committee's concluding observations and take the necessary follow-up measures to ensure that the Covenant and the Optional Protocol were being implemented effectively. A timely evaluation should therefore be made of the implementation of the Committee's concluding observations (CCPR/CO/81/CAF(Future)). He agreed with Mr. Glèlè Ahanhanzo that training in human rights protection should be given to law enforcement officials.

34. Mr. BHAGWATI asked what procedures were in place for the appointment of judges, and whether life tenure applied to all judges at all levels. He wished to know what qualifications were required for judges, and whether requirements differed according to judges' seniority. He also asked whether judges could be dismissed in the event of malpractice or misconduct, and whether there was an independent body responsible for investigating violations of regulations or misconduct by judges. He requested information on the composition and functions of the Judicial Service Commission and the Advisory Commission of the State Council. He wished to know what type of training judges underwent before their appointment, and whether they had access to continuing training throughout their careers. He wondered what procedures were in place for ensuring that all judges were thoroughly trained before beginning their duties, and whether there were legislative provisions on access to legal aid.

The meeting was suspended at 11.45 a.m. and resumed at 12.15 p.m.

35. Mr. FINDIRO (Central African Republic) said that although he did not have statistics on the number of people being held in detention, the figure was not more than 1,500. The majority of prisons had been built before 1960 and were in a state of disrepair. The Government was therefore making efforts to rebuild and refurbish many prison buildings.

36. Turning to the case of Mr. Larmassoum, he said that that man was a soldier who had defected from the army and begun a rebellion in the north of the country, attacking, destroying and looting a number of villages and causing considerable loss of life. He had subsequently begun trading in weapons, and had been traced and arrested by the police. He had cooperated fully with the police during questioning, and had named his accomplices. He was currently being held in detention, and would be tried in the Criminal Court within the coming month.

37. Judges could not be transferred without their consent, whereas public prosecutors could be moved without being consulted. Ordinary court judges were appointed by the Judicial Service Commission, which was presided over by the President of the Republic, with the Minister of Justice as deputy. The members of the Commission comprised serving judges and other persons with judicial responsibility. Judges of administrative courts were appointed by the Advisory Commission of the State Council, which was also presided over by the President of the Republic, with the Minister of Justice as deputy. Members of the latter Commission included the presiding officer of the Court of Cassation, the Government Commissioner of the Administrative Tribunal, and the presiding officer of the department for administrative proceedings. The same appointment process applied to judges of the Audit Court. According to legislation on remuneration, judges' salaries were reviewed by the two Commissions on a biennial basis. All judges underwent an annual assessment, the results of which were averaged over a two-year period in order to decide whether they would be granted promotion.

38. Disciplinary proceedings were occasionally brought against members of the judiciary, who were not immune from prosecution but enjoyed immunity from legal proceedings. Judges charged with misconduct were brought before a disciplinary board. In the case of ordinary court judges, the board was chaired by the President of the Court of Cassation, in the case of administrative judges by the President of the Council of State and in the case of Audit Court judges by the President of the Audit Court. The executive and politicians played no part in such proceedings. Judges summoned to appear before a disciplinary board were represented by defence counsel, who could be either a lawyer or another judge.

39. The training of members of the judiciary was a process that continued throughout judges' careers. They entered the Judicial Service Training College on the basis of a competitive examination after obtaining a master's degree in law. On completing the course, they had a year's practical training in court and subsequently attended regular refresher courses, some of which were organized with the assistance of the French Government.

40. The procedure for obtaining legal aid was simple, flexible and open to anyone who could prove indigence by obtaining a certificate to that effect from a local authority. The decision on whether to grant legal aid was taken by the public prosecutor or a deputy and a representative of the Bar Council. However, the fact that there were no foreseeable financial advantages for defence counsel acting on behalf of an indigent person could have an impact on the services provided. Accused persons were frequently unaware of their entitlement to legal aid. In the case of serious crimes, however, defence counsel was assigned *ex officio*.

41. Jurisdiction to hear cases of treason or offences against State security did not lie with the standing military court but with the High Court of Justice. Civilians involved in a coup d'état were tried by the ordinary courts.

42. He agreed that the role of the ICC was complementary to that of national courts, but the judiciary had found it difficult to operate effectively during the disturbances of 2002 and 2003. Some of the accused were not citizens of the Central African Republic, and others had fled and were trying to foment insurrection throughout the country. A law granting privileges and immunities to ICC investigators had been enacted.

43. There were police stations and gendarmerie forces in each of the country's 69 sub-prefectures and sometimes in individual districts. For instance, Bangui's eight districts each had a police station, where people were held in custody while inquiries were being conducted.

44. Mr. MALEYOMBO (Central African Republic) said that a number of human rights NGOs operated freely in his country. Following the national dialogue held in September 2003 a recommendation had been adopted calling for close cooperation between civil society and the State, including a partnership between the Office of the High Commissioner for Human Rights and human rights NGOs. The NGOs that worked regularly with that Office included the Central African League for Human Rights, the Central African Association of Women Lawyers, the Central African Human Rights Observatory, the Movement for Human Rights and Humanitarian Action, and Action by Christians for the Abolition of Torture.

45. The activities of the National Human Rights Commission had been frozen since 1995. The present Government had taken steps to reactivate it but was unable to endow it with the financial resources it required to operate independently.

46. With regard to press freedom, the Central African Republic was, to his knowledge, the only State in Africa to have decriminalized "press offences". Local newspapers were now free to publish whatever material they saw fit. He himself, as High Commissioner for Human Rights, was insulted regularly in the press and the Head of State was caricatured. Matters had got so out of hand that his Office had organized a forum with United Nations assistance to provide training in media ethics and human rights. An awareness-raising campaign had encouraged people to report human rights violations to his Office and to the press. Whenever such a violation was reported, a unit was dispatched to the site to check the facts.

47. With regard to the dissemination of the Committee's concluding observations, there was a United Nations office in Bangui with a human rights unit that had so far failed to support his Office's activities. When the Committee had urged the Central African Republic in 2004 to submit its report as soon as possible, he had requested the United Nations office to provide it with printing paper but had received a negative response. The Government took its responsibilities seriously but it was so cash-strapped that, for instance, the cost of sending his delegation to Geneva had led to a shortfall in the funds available to pay civil servants' salaries. However, he assured the Committee that the authorities were committed to disseminating the concluding observations.

48. His Office provided regular human rights training courses for law enforcement officials, who had also been targeted by a countrywide human rights awareness-raising campaign sponsored by the President the previous year. The military, which had set up checkpoints on roads throughout the country, had been persuaded to dismantle them.

49. In the written reply to question 21 of the list of issues, it had erroneously been stated that no form of non-punitive alternative service to military service had existed since the abolition of compulsory military service in the 1980s. However, a law on community service as an alternative to imprisonment was currently in force, its main purpose being to prevent juveniles from being imprisoned.

50. Mr. ANDO said that he had enquired about jurisdiction regarding the crime of treason with a view to ascertaining whether there was a possibility of review by a higher tribunal as required by article 14, paragraph 5, of the Covenant.

51. The Rome Statute of the ICC did not provide for the imposition of the death penalty for crimes coming within its jurisdiction. He wondered therefore how the Central African Republic could justify its decision to impose the death penalty for such crimes.

52. He asked whether the Central African Republic applied an ethnic allotment policy, reserving a certain percentage of judicial posts for members of particular ethnic groups.

53. Mr. MALEYOMBO (Central African Republic) said that he had no further information regarding the death penalty.

54. His country did not apply any policy of an ethnic nature. All components of the nation were well represented in the Government, and State institutions were careful to ensure equitable geopolitical representation because of the notorious shortcomings of the previous regime in that regard, especially in the administration and the armed forces.

55. The CHAIRPERSON commended the authorities of the Central African Republic on their serious efforts to improve the human rights situation in the country despite the considerable material difficulties they faced. A particularly good sign was the decriminalization of acts previously prosecuted as press offences, although it did not fully guarantee freedom of the press. Positive action had also been taken in the area of juvenile justice.

56. She hoped that the Committee's recommendations would be reflected in the new criminal code, whose promulgation had been seriously delayed. The Committee was concerned in particular about the provision for the death penalty for crimes within the jurisdiction of the ICC, which meant that the same crimes would attract different penalties at the international and local levels. On the other hand, it would also be an anomaly if the Central African Republic abolished the death penalty for crimes such as genocide and retained it for less serious crimes. The Committee therefore hoped that the authorities would opt for the logical solution of abolishing the death penalty altogether.

57. With regard to offences such as charlatanism and witchcraft that were difficult to define on the ground of their "irrationality", the Committee felt that such matters should be addressed not in the area of criminal law but through social action. The new criminal code could, however, be used to promote the eradication of the practice of female genital mutilation, which was not just a health concern but an issue of discrimination against women. The Committee had trouble accepting the argument that women were not in favour of gender equality. Clearly, women who were illiterate or had very little education could not expect to hold high office or run for Parliament, but there were doubtless many highly educated women, for instance members of the Central African Association of Women Lawyers, who longed for an end to inequality.

58. The Committee was concerned that time limits for police custody were not respected. Detainees were sometimes denied access to a lawyer or judge for several months.

59. With regard to impunity, the penalties mentioned by the delegation seemed in many cases to be military, for instance demotion, rather than judicial. Paragraph 216 of the report stated that the criminal investigation department known as the Central Office for the Prevention of Banditry systematically carried out summary and extrajudicial executions of bandits with impunity. According to the written replies to the list of issues, such practices were being eliminated. However, the delegation had argued that such acts were not summary or extrajudicial executions but self-defence when the bandits opened fire. The whole issue of how to deal with the problem of banditry should be reviewed.

60. Mr. MALEYOMBO (Central African Republic) said that his country was emerging from a long period of crisis. Action had been taken to restore democracy and security, and at the same time to meet basic economic and social needs. Those were the prime concerns of a population that was recovering from a plethora of gunfire and bloodshed under earlier regimes.

61. His delegation had taken note of the Committee's comments and the competent authorities would make every effort to implement the concluding observations. The Committee should not disregard the Government's efforts, since encouragement would serve as an incentive to persist with its action in furtherance of human rights.

The meeting rose at 1.05 p.m.