

TREATY BODY MONITOR

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COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

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GUINEA-BISSAU, 1ST - 6TH REPORTS

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Key facts¹

Ratified CEDAW	Reservations	Party to optional protocol?	Submission of State party report	Other core treaties ratified
1985	None	Yes, 2009	Due: 22 September 1986 Submitted: 22 September 2009	ICESCR, CRC

Opening remarks by the delegation

The delegation of Guinea-Bissau was led by Ms. Iracema do Rosario, President of the Institute of Women and Children. She was supported by five other delegates from the Institute, as well as a Judicial Counsellor and Guinea-Bissau's Permanent Representative to the United Nations.² The delegation did not submit written replies to the Committee's list of issues.

In her opening remarks, the head of the delegation appealed to Committee members to bear in mind the many obstacles to gender equality that Guinea-Bissau continued to face, despite its desire for progress. Years of conflict and political instability had contributed to Guinea-Bissau's status as one of the world's least developed countries and relegated many of its people to a life of poverty. Further, there were few national

¹ The information in this table is sourced from the Office of the High Commissioner for Human Rights (OHCHR), and is available at www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx.

² The list of members of Guinea-Bissau's delegation is available at <http://www2.ohchr.org/english/bodies/cedaw/cedaws44.htm>.

institutions to implement the Convention, insufficient financial resources and trained personnel to deliver necessary programmes and services, and entrenched patriarchal laws and customs. The head of the delegation acknowledged Guinea-Bissau had been tardy in its reporting obligations to the Committee, and advised that the government had relied on financial and technical support from the UN Development Programme (UNDP) to assist in the preparation of the combined report that was before the Committee. However, since its ratification of the Convention, the government had implemented a series of national action plans to advance the goals of the Beijing Platform for Action, and looking to the future, the next session of the National Assembly was expected to consider draft laws to combat gender-based violence, female genital mutilation (FGM) and trafficking in women and children.

Overview of key issues

The delegation was cooperative with the Committee and welcomed members' questions and recommendations. The main issues addressed by the Committee included the need for Guinea-Bissau to incorporate CEDAW into domestic law and overturn all discriminatory laws and practices; address all forms of violence against women, with a particular focus on the need to eliminate FGM and trafficking; and to actively promote gender equality in all spheres of public and private life.

While they acknowledged the multiple challenges faced by the government, several Committee members were critical of the lack of statistics to demonstrate efforts to implement the Convention.³ Other members raised concerns about inconsistencies and confusing analyses where statistics were provided, and asked the State party to address these shortcomings in future reports.⁴ In response, the delegation reiterated the acute resource challenges faced by the State party and its reliance on international assistance. It also explained that there were significant gaps in the data as a result of years of civil war and the destruction of documents; nonetheless it was committed to work harder to overcome these obstacles.

Legal status of Convention and discriminatory laws

Concluding Observations:

10. The Committee urges the State party to take immediate steps to ensure the full incorporation of the Convention into national law. It recommends that the State party consider, in the process of its constitutional reform currently underway, the adoption of an explicit provision ensuring that human rights treaties which it has ratified have legal effect as part of the State party's national law and have superiority over any incompatible national laws.

14. The Committee urges the State party to systematically review its domestic legislation, with a view to ensuring without delay that all discriminatory legislation is explicitly amended or repealed and brought into full compliance with the Convention and the Committee's general recommendations. It also encourages the State party to introduce a process by which all draft legislation is analysed in light of the obligations set out in the Convention.

** See also concluding observation No.8 (affirms the Convention is binding on all branches of government).*

In its questions, the Committee emphasised the State party's obligation to directly incorporate the Convention into domestic law and remove discriminatory laws from its books. For example, Ms. Simonovic (Croatia) asked if there was a time frame for the constitutional revision process and suggested that such a process would be an excellent opportunity to incorporate the Convention into national law. Mr. Flinterman (Netherlands) and Ms. Patten (Mauritius) asked whether the Convention could be invoked in court and whether judicial officials had the knowledge and training regarding its domestic application. Ms. Neubauer (Slovenia) asked more detailed questions about the national institutional machinery and whether there was a

³ Ms Xiaojiao (China) and Ms Chutikul (Thailand) raised this criticism in relation to: literacy, education, prostitution, trafficking and the status of rural women.

⁴ Ms Hayashi (Japan), Ms Bailey (Jamaica), Ms Arocha Dominguez (Cuba).

policy framework for implementation of the Convention. Ms Popescu (Romania) inquired whether the government had a systematic approach to the removal of discriminatory laws. Ms. Awori (Kenya) pointed out that the State party report claimed that all discriminatory laws in the Civil Code had been repealed, but along with Ms. Kaddari (Israel), she was concerned that a number of discriminatory provisions were still in force in relation to women's "participation in trade", early marriage laws and inheritance procedures for widows.

In response, one member of the delegation pointed out that Guinea-Bissau was a party to the core international human rights treaties and honoured its legal obligations under each.⁵ His comment that the government "had faith" these treaties would be incorporated in the Constitution after ratification, did little to allay the Committee's concerns about Guinea-Bissau's poor record on both treaty ratification and implementation. The delegation did not explicitly answer questions about the policy framework or move beyond general descriptions about institutional arrangements to implement the Convention. Rather, the head of the delegation repeated remarks from her opening statement about the lack of national institutions and resources to advance gender equality.

The delegation also acknowledged that a range of discriminatory laws had indeed remained on the books in Guinea-Bissau. Even though the Constitution guaranteed the equal status of men and women, the delegation admitted that civil laws from the "colonial period" relating to inheritance (amongst other matters) discriminated against women. However, the Committee was assured that these laws were no longer enforced, as the Constitution was the "supreme law of the land" and would prevail where there were any inconsistencies with domestic laws. The delegation expressed appreciation for the "kind" manner in which the Committee raised this matter and assured members that the government was very conscious of the need to remove all discriminatory laws from the Civil Code.

Stereotypes and harmful cultural practices

Concluding Observations:

24. The Committee urges the State party to view culture as a dynamic dimension of the country's life and social fabric, subject to many influences over time and therefore subject to change. It urges the State party to put in place, without delay, a comprehensive strategy, including clear goals and timetables, to modify or eliminate cultural practices and stereotypes that are harmful to, and discriminate against, women and promote women's full enjoyment of their human rights in conformity with articles 2(f) and 5(a) of the Convention. This strategy should include specifically designed educational and awareness-raising programmes targeting women and men at all levels of society, including government officials and traditional and community leaders, and should be aimed at creating an enabling environment for the transformation and change of stereotypes and discriminatory cultural values, attitudes and practices. It also encourages the State party to put in place monitoring mechanisms to regularly assess progress made towards the achievement of established goals.

26. The Committee urges the State party to strengthen its awareness-raising and educational efforts, targeted at both women and men, including government officials at all levels, traditional and community leaders, and religious leaders, to eliminate the practice of female genital mutilation and its underlying cultural justifications. It also urges the State party to enact without delay legislation explicitly prohibiting female genital mutilation and ensure that offenders are prosecuted and punished in accordance with the severity of this violation, including, in the interim, under existing provisions in the penal code.

Committee members asked the delegation many questions about what the State party was doing to counter the traditional roles, cultural practices and stereotypes which harmed women and perpetuated discrimination against them. Ms. Coker-Appiah (Ghana) commended the delegation for openly speaking about traditional customs based on patriarchy, acknowledging that such discussions were often avoided. Ms. Popescu asked

⁵ Guinea-Bissau has ratified only ICESCR, CRC and CEDAW. In 2000, it signed several of the core international human rights treaties (ICCPR, CAT, CERD, CMW) but is yet to ratify them.

whether the government had taken steps to involve media outlets in efforts to eliminate harmful and discriminatory stereotypes and promote the portrayal of women in roles other than childbearing. Ms. Begum (Bangladesh) and Ms. de la Vega (Spain) asked whether shelters and support services were available to women who were victims of early and forced marriages and FGM.

Of all the harmful practices women in Guinea-Bissau were subjected to, the Committee was most concerned by the persistence of FGM. Some of the most probing questions were posed by Ms. Rasekh (Afghanistan) who asked what measures were being taken to demonstrate FGM was not a religious obligation; whether initiation rituals involving FGM were prosecuted; whether deaths of girls resulting from these initiation rituals were classified as homicides; and why the draft law prohibiting FGM was being held up even though the government had identified FGM as a threat to women's health. Ms Begum also inquired as to whether programmes had been established to help FGM practitioners transition to new careers.

In response, Ms. do Rosario said she was confident that the bill on FGM currently before the parliament would be adopted in the near future. The government had invited the National Islamic Council and the National Islamic Youth Group to become members of the National Committee to Combat Harmful Practices in order to avoid a religious backlash against the FGM bill. Under existing penal laws, FGM was a punishable corporal offence, however few women reported violations as there were strong traditional taboos against women seeking legal redress. With regard to FGM practitioners, measures had been taken to educate them about its harmful effects and to provide retraining for alternative careers.

The head of the delegation also explained that although there was a national network to combat violence against women, which included awareness campaigns on women's rights, there were few victim centres and little expertise amongst police in relation to the treatment of victims. With respect to the particular vulnerability of rural women to harmful traditional practices, Ms do Rosario acknowledged the difficulties the government faced in delivering services as a result of its lack of capacity and resources. However she advised that the government was working with civil society to provide assistance. Finally, she emphasised the ongoing need for support from Guinea-Bissau's development partners to implement awareness-raising campaigns and family planning programmes.

Trafficking and violence against women

Concluding Observations:

28. The Committee urges the State party to prioritise the adoption and implementation of a comprehensive approach to address all forms of violence against women, including domestic violence, and to enact pending legislation as part of a comprehensive legal framework, which takes account of the relevant articles of the Convention and the Committee's general recommendation 19. It urges the State party to raise public awareness through media and education programmes that all forms of violence against women, including domestic violence, are unacceptable. The Committee calls upon the State party to train the judiciary, law enforcement officials, legal professionals, social workers and health care providers on violence against women to ensure that violence against women is duly investigated, perpetrators of violence against women are effectively prosecuted and punished with the required seriousness and speed, and that effective and gender-sensitive support is provided to victims, including shelters and legal, medical and psychological support. In particular, the Committee is concerned with those women and girls affected by violence during periods of conflict and political and institutional instability, and requests the State party to take adequate steps to support them. The Committee requests the State party to provide information in its next report on the laws, policies and programmes in place to deal with all forms of violence against women and on the impact of such measures.

30. The Committee requests the State party to incorporate into the draft legislation aimed at trafficking in persons, a definition of trafficking in line with article 3(a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing United Nations Convention against Transnational Organized Crime. The Committee encourages the State party to undertake an assessment of

the extent of trafficking in women and girls in Guinea-Bissau, both internally and across borders, and begin to systematically collect data in this regard, with a view to design and implement a comprehensive plan to prevent and combat trafficking, including the provision of assistance and support to women victims. It also encourages the state party to address the root causes of trafficking and improving the economic situation of women so as to eliminate their vulnerability to exploitation and traffickers. The Committee invites the State party to enhance its collaboration and coordination with countries in the region aimed at the prevention and combating of trafficking in women and girls.

Committee members had many questions about the laws and strategies designed to combat human trafficking. Ms. Rasekh and Ms. Chutikul (Thailand) were both interested to know if legislation was currently in place to criminalise trafficking, and whether it only applied to children. Several Committee members sought basic information about the existence of shelters and support services for victims of trafficking. Ms. Chutikul was interested to know what definition of trafficking was used in Guinea-Bissau, as well as the results of poverty-eradication studies and programmes to end exploitative prostitution. She asked that statistics be included in the next periodic report regarding trafficking and exploitative prostitution.

Although the delegation discussed the Government's efforts to eliminate trafficking of children, it remained unclear whether these efforts included women or whether there were separate laws prohibiting the trafficking of women. The delegation did advise that most trafficking victims were children, not women, and a national commission had recently been created for the purpose of preventing trafficking in human beings, especially children. Other measures to combat trafficking included training for border agents; cooperation with civil society organisations with expertise in the area; bilateral anti-trafficking agreements with neighbouring States; and temporary transit centres that were providing counselling for trafficked children before their reintegration into society. According to the delegation, the definition of "trafficking" in the Penal Code was indeed the same used in the Palermo Protocol. The delegation expected the anti-trafficking bill to be debated by the parliament in a matter of months.

In relation to violence against women, Committee members' questions indicated their concern with the adequacy of the State party's efforts to address domestic violence and rape. Ms. Popescu (Romania) questioned the delegation on specific provisions of the Penal Code, asking whether there was a definition of domestic violence, rape and marital rape. She also asked whether there were legal provisions to deal with the systematic rape and abuse of women that had occurred during the civil war.

In response, the delegation advised that no definition for either marital rape or domestic violence were included in the draft legislation on domestic violence, but rape and other forms of sexual violence were already criminal offences under existing laws. It also explained that "cultural taboos" discouraged women from filing complaints or seeking legal redress when they were abused, as they feared being ostracised from their community. The government had set up a support office for victims of violence as well as a national network to implement a public awareness campaign on women's rights. Civil society organisations were working to encourage women to bring charges for violence and abuse, including sexual abuse. The delegation did not address whether or how the government would address human rights violations against women that were committed during the civil war. In relation to prostitution, the delegation acknowledged that since the July 1997 war, it had become a serious problem. The government was working with civil society organisations to educate girl prostitutes about other career choices and provide outreach programmes to sex workers.

Participation in political and public life

Concluding Observations:

32. The Committee urges the State party to take concrete measures to accelerate the increase in the representation of women in all branches and levels of government and, in accordance with article 7 and 8 of the Convention and its general recommendation 23 on women in political and public life, including through the use of temporary special measures in accordance with article 4(1) of the Convention and the

Committee's general recommendation 25. The Committee also encourages the State party to implement awareness-raising campaigns to highlight the importance to society as a whole of women's full and equal participation in decision-making at all levels. The Committee invites the State party to establish concrete goals and timetables to increase the number of women in political and public life and in decision-making processes, to monitor the impact of measures taken and the results achieved, and to report thereon in its next periodic report.

The Committee's questions in this area revealed its concern that the State party had not done enough to increase women's participation in decision-making positions in both the private and public sectors. For example, Ms Belmihoub Zerdani (Algeria) suggested the government boost the number of women diplomats as a means of showing the world it was committed to gender equality. Ms. Patten raised the issue of gender discrimination in the labour market and emphasised the importance of distinguishing between formal and substantial equality. She asked for information regarding the bodies in place to create laws and policies addressing labour discrimination, and about women's access to credit and new technologies. Additional information was requested on the government's monitoring of gender-based labour discrimination in the private sector.

The head of the delegation assured Committee members that the government was aware of the need to increase the presence of women in decision-making roles, particularly in the public sector. She noted that the upcoming local elections provided an important opportunity to improve the political visibility of women, particularly in rural areas. She agreed that more could be done to ensure women were better represented in the judiciary, and legislative reforms could support and encourage the positive role of women in leadership positions. Ms do Rosario named women in high governmental positions, including the chief justice of the supreme court, the second secretary, and women within the parliament. Although noting this progress, she reiterated the great need to continue to increase the number of women in the public and political sphere and declared that the fight would continue for parity in the political parties.

Education

34. The Committee stresses that education is a key to the empowerment of women and that the low level of education of girls and women is among the most serious impediments to their full enjoyment of human rights. It recommends that the State party take immediate steps to implement measures to ensure equal access for girls and women to all levels of education and retention of girls in school, including through temporary special measures in accordance with article 4(1) of the Convention and the Committee's general recommendation 25. It urges the State party to increase its investment in education, especially in rural areas, and to raise awareness of the importance of education as a human right and as a basis for the empowerment of women. It encourages the State party to take steps to overcome traditional attitudes that constitute obstacles to girls' and women's education, to develop non-stereotyped educational curricula that address structural causes of discrimination against women, to provide adequate and gender-sensitive training for teachers and school personnel, and to ensure that women and girls have access to safe educational settings that are free from violence and abuse. The Committee calls on the State party to make strong efforts to improve the literacy level of girls and women through the adoption of comprehensive programmes at the formal and non-formal levels, and through adult education and training.

Several members of the Committee requested exact figures and statistics on women's literacy and girls' enrolment in schools.⁶ They expressed concern at the declining rate of girls enrolled in schools and sought additional information about the progress of the national education plan which had been discussed over the past several years. Ms. Bailey also asked for information regarding discipline in schools and government efforts to increase the number of female teachers.

⁶ Ms. Bailey (Jamaica), Ms. Hayashi (Japan), Mr Bruun (Finland).

Ms. do Rosario affirmed the Government's commitment to invest heavily in education, based on the belief that it was vital to sustainable development. She acknowledged that progress would be difficult and slow in this area because of the prevalence of extreme poverty throughout Guinea-Bissau. However, the government was committed to increasing its school feeding programmes and would continue with an awareness-raising campaign to remind parents and others how important a good education was for life.

Other issues

In an effort to link up the work of various UN bodies that are active in Guinea-Bissau on human rights and gender equality, some Committee members asked about the government's cooperation with the UN Peacebuilding Commission (PBC) and the Security Council. Ms Popescu asked whether the implementation of the PBC's Strategic Framework for Guinea-Bissau was strengthening women's rights and supporting the work of national institutions working on gender equality; if the State party had implemented any temporary special measures to ensure women were actively involved in implementing the Strategic Framework; and whether the work of the PBC to consolidate the rule of law in Guinea-Bissau had helped to remove discriminatory laws from the books. Questions were also put to the delegation as to whether the State party was strengthening the rule of law as required under Security Council *Resolution 1325* on women, peace and security.⁷ Both sets of questions received only very general answers that shed little light on the situation.

Conclusions and next steps

In her closing remarks, Ms. do Rosario thanked the Committee and asked it to continue to assist the government to implement the Convention. She emphasised the government's commitment to address the concerns raised by the Committee, including poverty, the situation of rural women, and harmful traditional practices such as FGM. She stated her belief that Guinea-Bissau would continue to strengthen its efforts to promote and protect the rights of women.

The Chairperson thanked the State party for its combined 1st – 6th periodic reports and its forthright and honest portrayal of the situation in Guinea-Bissau. She conveyed the Committee's regret that the reports were so overdue and did not follow the Committee's reporting guidelines. On a more positive note, the Chairperson expressed appreciation for the State party's written replies to the list of issues, the oral presentation and responses during the report. The Committee requested that the State party respond to the issues presented in the concluding observations in its next periodic report.

The Committee invited the State party to submit its combined seventh and eighth periodic report in 2014.

Last revised and updated: 14 September 2009.

⁷ Ms Popescu and Ms Ameline.

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