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Committee on Economic, Social and Cultural Rights

Fifty-first session

Summary record of the 50th meeting

Held at the Palais Wilson, Geneva, on Monday, 18 November 2013, at 3 p.m.

Chairperson: Mr. Kedzia

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The meeting was called to order at 3.05 p.m.

Consideration of reports

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant *(continued)*

Initial report of Gabon (E/C.12/GAB/1; E/C.12/WG/GAB/Q/1)

1. *At the invitation of the Chairperson, the delegation of Gabon took places at the Committee table.*

2. **Mr. Dodo Bounguendza** (Gabon), introducing his country's initial report, said that a number of legislative and administrative measures had been taken to ensure the implementation of the Covenant's provisions in Gabon. The principle of gender equality had been enshrined in the Constitution since 1990, and the protection of women's rights was overseen by the Ministry of Health, Social Affairs, Solidarity and the Family as well as the Observatory for Women's Rights and Parity. Discriminatory provisions of the Criminal Code, the Civil Code, the Nationality Code and the Labour Code had been revised, and policies were in place to promote women's enjoyment of their economic, social and cultural rights.

3. His Government was committed to eradicating all work-related discrimination, boosting employment levels (particularly among youth), and fostering the establishment of small and medium-sized businesses. Reforms had been undertaken to improve working conditions and raise the minimum wage.

4. All discriminatory provisions relating to marriage had been revised to protect the widowed, children in general and orphans in particular. A special Government commission had been set up to propose ways to legally recognize religious and customary marriages so that national law would reflect local traditions and practices.

5. Measures to ensure that citizens enjoyed an adequate standard of living included, for example, reductions in utility charges and special assistance for vulnerable groups such as teenage mothers. The Government was working to eradicate tuberculosis and HIV/AIDS and reduce maternal morbidity and mortality. The social guarantee fund financed by indirect taxation provided medical benefits to the economically weak.

6. Gabon had one of sub-Saharan Africa's highest rates of school enrolment, and a number of measures were in place to enhance the quality of schooling. As far as cultural rights were concerned, in his Government's view all development needed to take into account the dignity, rights and cultural traditions of the country's inhabitants. Among recent improvements in the field of culture were efforts to provide inhabitants with enhanced access to radio, television and the Internet.

7. **Mr. Ribeiro Leão** (Country Rapporteur), saying that he would highlight areas of concern to the Committee, began by asking why the State party had submitted its initial report nearly 30 years after acceding to the Covenant. It was also unfortunate that the State party had not provided replies to the questions raised by the Committee in the list of issues.

8. A number of important issues were left unclear in, or even omitted from, the report, and he would list some of them in the hope that the delegation would provide the Committee with the missing information.

9. Could national courts directly invoke the Covenant? If so, could examples of such jurisprudence be provided? How were the rights of indigenous peoples protected, and were there mechanisms for securing their prior informed consent with regard to, for example,

exploitation of natural resources to which they laid claim, or for involving them in decision-making on issues affecting them?

10. Could information be provided on budgetary allocations for ensuring that the country's inhabitants were able to enjoy their economic, social and cultural rights? What laws and policies had been introduced to tackle corruption? What steps had been taken to ensure that national legislation on discrimination covered all forms of discrimination? In particular, what measures were in place to prevent and prosecute practices that discriminated against the lesbian, gay, bisexual and transgender populations and against albinos?

11. Could details of legislative amendments to rescind provisions discriminating against women be provided? What progress had been made in developing a Family Code? What measures had been taken to reduce unemployment among young people? What had been done to enhance support for trafficking victims, and were statistics available regarding complaints, prosecutions and sentences connected with trafficking?

12. How was the minimum wage established? What measures had been taken to safeguard the rights of workers belonging to trade unions, and particularly of trade union leaders? Had sufficient progress been made in implementing the social security scheme to place the State party in compliance with its obligations under article 9 of the Covenant, bearing in mind the Committee's general comment No. 19 of 2008?

13. **Mr. Atangana** said that having replies to the list of issues would have facilitated the interactive dialogue. Regarding the application of the Covenant's principles in Gabon, he asked whether the rights enshrined in the Covenant could be directly invoked in Gabonese courts. If that was the case, could the State party provide examples of actual cases? He requested additional information about anti-corruption legislation, in particular whether there had been prosecutions, including of Government officials, under such legislation.

14. **Mr. Schrijver** asked whether the Covenant in its entirety was being applied through national legislation.

15. He asked to what extent the State party had incorporated the rights enshrined in the Covenant into its policies for achieving the Millennium Development Goals. To what extent were human rights issues taken into account in development cooperation with donor countries and organizations?

16. He requested information about the involvement of non-governmental organizations (NGOs) and civil society in monitoring the promotion of human rights in Gabon.

17. **Ms. Shin** said that the report did not contain enough disaggregated data to give the Committee a clear picture of the situation in Gabon. In the State party's next report data should be disaggregated by year, as well as by relevant indicators such as sex or disability.

18. She requested information about the National Human Rights Commission, including its mandate, whether it operated according to the Paris Principles, the resources it had at its disposal, and statistics on complaints handled.

19. Turning to the issue of gender equality, she asked whether the new Ministry of Health, Social Affairs, Solidarity and the Family that had replaced the Ministry for the Family and the Advancement of Women still dealt with gender equality issues, or whether those were handled exclusively by the Observatory for Women's Rights and Parity. Noting that Gabon had many laws that discriminated against women, she asked who had the power to propose new laws or amendments to existing laws. Had an interministerial commission or task force been established to deal with discriminatory legislation?

20. **Ms. Bras Gomes** said that the State party's lowly ranking in the human development index was at odds with its relatively stable budgetary position, low level of public debt and reported per capita income. That situation suggested a failure to meet its obligation to maximize available resources in realizing the rights recognized in the Covenant. Detailed information about the pattern of social expenditure over the past few years was therefore needed.

21. Anti-discrimination legislation in Gabon appeared to consist of one constitutional provision and a single article of the Labour Code and was therefore far too limited. Did the State party envisage adopting a comprehensive anti-discrimination law that took into account all grounds for discrimination covered by the Covenant and the Committee's general comment No. 20? Recalling that the Committee on the Elimination of Discrimination against Women had expressed concern about persistent stereotypes and practices that discriminated against women, she called for the State party to take a proactive approach to changing prevailing, discriminatory attitudes and to establish a specific Government body or department dedicated to the protection of women's rights.

22. **Mr. Kerdoun** asked what the State party was doing to safeguard the right of indigenous peoples to dispose of their ancestral lands and what mechanisms were in place to ensure their right to prior consultation in decision-making processes concerning the exploitation of natural resources. He would particularly like to know whether the Baka people were consulted about the use of the remote forests in which they lived; what the main sources of sustenance of the Fang people were; and whether any oil reserves were located on land inhabited by the Baka or Fang. He also enquired about the State party's position on the independence of the people of Western Sahara and their right to self-determination.

23. **Mr. Dasgupta**, referring to the legal provisions concerning the distribution of widows' pension entitlements mentioned in paragraph 38 of the report, asked whether, in view of those provisions and the fact that widows married under customary or religious law had no pension entitlements, he was correct in assuming that polygamy was permitted under civil and criminal law. If so, what action did the State party envisage taking to ensure the gradual elimination of polygamous practices and address the discriminatory effects of customary marriage?

24. **Mr. Abdel-Moneim**, referring to the objectives of economic policy outlined in paragraph 16 of the core document (HRI/CORE/1/Add.65/Rev.1), sought assurances that the constraints on public expenditure were not impinging on economic, social and cultural rights, that the easing of the personal tax burden was equitably scaled to income and that corporate tax incentives for the creation of jobs for young people were not leading to income disparities. Referring to paragraph 19 of the core document, he asked to what extent the State party's negotiations with the Bretton Woods institutions were influenced by its obligations under the Covenant.

25. **Ms. Bras Gomes** asked the delegation for up-to-date employment figures. She would particularly like to know whether young people still accounted for the majority of those out of work; whether the measures taken to address unemployment were bearing fruit; whether there had been any effort to assess the potentially discriminatory effects of the decision to treat Gabonese nationals of foreign origin as non-nationals in employment matters; and, if discrimination had been identified, what remedies were available for those affected.

26. Information about the impact of the Enterprise Development Centre referred to in paragraph 89 of the report and the nature and scale of informal employment in Gabon would be appreciated, as would the delegation's comments on reports that the provisions of the Labour Code were not fully enforced in sectors such as mining and forestry where the

majority of the labour force was foreign. She questioned the adequacy of the social guarantee fund financed through indirect taxation that had been mentioned in the introductory statement and asked what other mechanisms were in place to guarantee sufficient and timely employer contributions to the social security system.

27. **Mr. Martynov** asked whether the various draft decrees related to employment policy that were mentioned in the report had been implemented since its submission and, if so, what their impact on unemployment had been. He would also like information and up-to-date statistics about the employment of persons with disabilities, the employer incentives available and the success of such mechanisms. With regard to health and safety at work, he asked what body was responsible for ensuring that existing regulations were enforced. Was there a labour inspectorate and, if so, what were its powers and was it adequately staffed and financed? Disaggregated data on workplace accidents would be appreciated.

28. He invited the delegation to indicate whether a minimum wage applied in the private sector and, if so, how the Government monitored compliance; whether trade union rights were guaranteed to foreign workers as well as to nationals; whether there were trade unions in the civil service and, if so, whether a civil servant elected to executive office within a civil service trade union would be required to resign from his or her position, as paragraph 101 of the report implied; what was “irregular” about the situation of the foreign nationals working in the oil sector referred to in paragraph 106; whether private-sector employees, self-employed persons and workers in the informal sector could benefit from cover under the national health insurance fund; what the current retirement age was in the public and private sectors; and what proportion of the working population was covered by the pension scheme.

29. **The Chairperson**, speaking as a member of the Committee, asked for more detailed information about the impact of measures to address the high rate of youth unemployment. With regard to trade union membership, he would like to know whether the right to form trade unions was guaranteed in all sectors; whether employees were free to choose whether or not to join, and were also free to leave; and whether such decisions had any consequences for their employment. Clarification regarding the purpose of the Government subsidies referred to in paragraph 100 of the report and the criteria governing their distribution was also needed. In the delegation’s view, would the trade union system survive without those subsidies? Lastly, noting that the right to strike was fully recognized in the Labour Code, he asked how many strikes had been organized in the past five years and in what sectors of the economy.

The meeting was suspended at 4.30 p.m. and resumed at 5 p.m.

30. **Mr. Dodo Bounguendza** (Gabon) said that the provisions of the Covenant were rarely invoked directly in Gabonese courts as they had been fully incorporated in national legislation. However, as the human rights culture cemented itself in Gabon, judges and magistrates were becoming more likely to base their arguments on the provisions of duly ratified international instruments and to use them as a source of reference. Instruction in human rights had been incorporated within educational curricula and the Government had initiated a comprehensive review of its legal arsenal to ensure conformity with international human rights law. For example, media laws were being revised to guarantee diversity and freedom of expression.

31. The National Human Rights Commission was governed by the founding act of 2006 and the decree of 2008 concerning its membership. The 2006 law had recently been amended to increase the Commission’s autonomy and budget and bring it more closely into line with the Paris Principles. Pending implementation of the amendment, the Commission had a budget of CFAF 72 million. The Commission had been officially operational since September 2012 and had applied to the International Coordinating Committee of National

Institutions for the Promotion and Protection of Human Rights for accreditation under the Paris Principles.

32. Although still in its infancy, the Commission enjoyed the support of the NGO sector, worked closely with Government institutions, was already helping to shape policy and had dealt with five individual complaints to date. Its remit also included regular meetings with law enforcement and prison officers; visits to places of detention; preparation of advisory reports on issues such as conditions of detention, the right to life, press freedom and access to justice; and preparation of reports for submission to international bodies, including the report currently under review.

33. Indigenous peoples, including the Baka, had the same rights as the ethnic groups who made up the majority of the Gabonese population. Pygmies' traditions and customs were an integral part of Gabonese culture. Many senior officials were Pygmies, although unfortunately disparaging stereotyping had given many Pygmies a complex about admitting their origin.

34. A plan for the development of indigenous peoples, which had been in place since 2005, encompassed forest and fisheries management, the enhancement of biodiversity and institution-building. All development schemes respected indigenous peoples' dignity, rights, culture and socioeconomic needs. The Government recognized and protected areas used by indigenous peoples and provided them with technical training, enabling them to participate in the management of natural resources. The authorities ensured that indigenous villages and settlements received their rightful share of funds. Persons from indigenous groups were employed in development projects and participated in decisions concerning the forests. They were warned of the risks of the development process and received assistance with capacity-building in an effort to preserve their traditional knowledge and way of life.

35. Budgetary expenditure on education and health had tripled in the period 2005–2013. In 2013, some CFA 362 billion had been allocated to housing, water-supply, electricity and infrastructure projects.

36. Legislation guaranteed equal access for all to education, training and research, regardless of beliefs, religion, race, gender or political affiliation. Children living with disabilities had the same right to education as other children. By law women had the same right as men to vote and to hold political office. Workers who earned less than the monthly minimum wage received a solidarity benefit. The Labour Code specified that all workers were equal before the law and were entitled to the same protection and the same guarantees regarding employment and working conditions. A large number of legislative provisions which had discriminated against children born out of wedlock and women, above all in the area of family law and matters of inheritance, had been repealed. Under articles 20 and 24 of the Nationality Code, Gabonese women could pass on their nationality to their foreign husband and could have dual nationality if they married a foreigner. If women deemed a legislative provision to be discriminatory they could challenge it as being unconstitutional.

37. **Mr. Pillay** asked what percentage of the population lived in poverty or extreme poverty and which categories of the population were worst affected by poverty. Had the Government's anti-poverty policies proved successful in reducing the poverty rate? He enquired as to the existence of a housing plan and whether social housing units were being built to cater for the needs of low-income groups and the poor. He wondered if there was a housing shortage. He wished to know how many people lived in informal settlements, a situation which made them vulnerable to forced eviction and homelessness. What results had been achieved by measures to provide safe drinking water, sanitation and electricity in rural areas?

38. **Ms. Ravenberg** asked whether the 2008–2012 strategic plan to combat HIV/AIDS had been implemented. What was the current situation with regard to that plan? She wished to know whether all minority groups, refugees, asylum seekers and Pygmies living in rural areas were covered by the action mentioned in paragraph 169 of the report. She was also eager to learn whether the health insurance programme encompassed all groups of vulnerable persons and whether those groups had effective access to primary health care.
39. **Mr. Atangana** enquired whether the bill referred to in paragraph 121 of the report had been passed and whether it had entered into force. How was customary marriage legalized? Why could customary marriage not be regulated in the Civil Code? He wished to know what steps were being taken to halt domestic violence. Had it been criminalized? What penalties applied? Were there any statistics on domestic violence?
40. **Mr. Dasgupta** asked what action had been taken to lower the incidence of waterborne diseases by improving sanitation, providing access to clean drinking water and draining pools of stagnant water.
41. **Ms. Cong** requested additional information about primary health care in rural areas. Could children and pregnant women obtain affordable medical care in their locality? What services were available? What problems were encountered in the field of primary health care? Were there any plans to improve the situation? Lastly, she wondered what role traditional medicine played in rural primary health-care services.
42. **Mr. Martynov** said that he would appreciate the provision of figures showing the prevalence of malnutrition among the urban and rural population and among children. What percentage of the population worked in the informal sector? Did the Government have a strategy for regularizing informal work? He requested additional information about the agricultural reform policy. Did farmers own the land which they cultivated? What percentage of farmers held such ownership titles? Did Gabon have an official poverty threshold?
43. **Mr. Ribeiro Leão** requested a description of the measures adopted to ensure that Act No. 0038/2008 of 29 January 2009 on combating and preventing female genital mutilation was applied and an account of progress in giving effect to the World Health Organization Framework Convention on Tobacco Control.
44. **Ms. Ravenberg** asked what measures were being taken to improve the quality of teaching, reduce the high dropout rate in rural schools and ensure that children living with disabilities had access to education.
45. **Mr. Marchán Romero** asked whether ethnic groups could apply for recognition as such from the State party. Did the State recognize and protect the right to cultural self-identification? How did it protect the traditional knowledge of indigenous peoples? Did the Government intend to ratify the International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169)? Lastly, he recommended the inclusion of disaggregated data in the following report in order to enable the Committee to gain a better insight into progress towards the achievement of economic, social and cultural rights.
46. **Mr. Mancisidor** requested disaggregated data on the school dropout rate for boys and girls. He asked the delegation if it could provide an assessment of the outcome of the 10-year plan mentioned in paragraph 206 of the report. What percentage of the persons trained had been women? What practical results had been obtained in primary, secondary and higher education from Gabon's commitment to implement a national plan of action to give effect to the World Programme for Human Rights Education?

47. **Mr. Abashidze**, noting that political and ethnic boundaries rarely coincided, asked whether Gabon had any agreements on cultural exchanges with neighbouring countries. Did they make provision for any educational assistance, for example in the form of history books?

48. **Mr. Ribeiro Leão** requested information on measures to reduce school dropout rates in rural areas.

The meeting rose at 6 p.m.