



International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues prior to submission of the third periodic report of Gabon*

A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

1. Please report on any notable developments in the legal and institutional framework within which human rights are promoted and protected that have taken place since the adoption of the Committee's previous concluding observations (CCPR/CO/70/GAB).

B. Specific information on the implementation of articles 1–27 of the Covenant, including with regard to the previous recommendations of the Committee

Constitutional and legal framework within which the Covenant is implemented (art. 2)

2. With regard to article 113 of the Constitution, please provide information on the status of treaties and international agreements in the State party's hierarchy of norms and specify what measures have been taken to ensure that the Covenant takes precedence over domestic law in practice. Please describe the measures taken to raise awareness of the provisions of the Covenant among the entire population, particularly among public officials, judges, prosecutors and lawyers, and provide examples of cases in which its provisions have been applied by the national courts. Please provide information on the remedies available and accessible to any person claiming to be a victim of a violation of the rights protected under the Covenant and indicate whether the State party is considering acceding to the Optional Protocol to the Covenant providing for an individual communications procedure.

3. With reference to Act No. 19/2005 of 3 January 2006 providing for the establishment and organization of the National Commission on Human Rights, please describe all the measures taken to bring the Commission into line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), in particular those taken to: (a) ensure that its members are selected and appointed through a transparent and independent process; (b) provide the Commission with sufficient resources so that it can fully discharge its mandate, in particular with regard to its powers to carry out visits and handle individual complaints; and (c) raise awareness of the Commission among the general public. Please indicate whether the State party plans to apply to the Global Alliance of National Human Rights Institutions for accreditation for the Commission.

* Adopted by the Committee at its 129th session (29 June–24 July 2020).



Anti-corruption measures and resource management (arts. 1–2, 14 and 25)

4. With regard to Act No. 002/2003 of 7 May 2003 establishing a system to prevent and suppress fraud in Gabon, please describe all the measures adopted to: (a) combat corruption, particularly in the judicial system, by remunerating judges, prosecutors and other public officials in a manner commensurate with the importance of their office; and (b) ensure that prosecutions are systematically initiated whenever a person is suspected of corruption or illicit enrichment. In this regard, please provide information on the mandate, composition and working methods of the National Commission to Combat Fraud and the Special Criminal Court and on the results that have been achieved. Please describe all the steps taken to ensure that natural resources are managed in a transparent and sustainable manner, in accordance with the provisions of article 1 (2) of the Covenant.

State of emergency, response to the coronavirus disease (COVID-19) pandemic and measures to combat breaches of State security and terrorism (arts. 2, 4 and 25)

5. With reference to the Committee's previous concluding observations (para. 10),¹ please provide detailed information on the extent to which existing regulations on the declaration of a state of emergency are in compliance with article 4 of the Covenant and, in particular, please indicate: (a) whether the provisions of the Covenant that are non-derogable during a state of emergency are expressly protected; and (b) whether there are effective mechanisms of redress for any violation of the Covenant, including during a state of emergency. Please also provide information on the measures taken in the context of the COVID-19 pandemic and on their impact on the enjoyment of civil and political rights. Please elaborate on the legislative framework set out in the bill on measures to prevent, combat and respond to health disasters.

6. Please provide information on the practical implementation of the articles of the Criminal Code that concern attacks and conspiracies and on the extent to which these articles comply with the Covenant, in particular article 68, which establishes a penalty of life imprisonment for any person found guilty of attempting to change the constitutional order or the Government, and article 69. Please provide information on counter-terrorism legislation and on the measures taken to ensure that terrorist suspects are granted the basic safeguards set out in the Covenant; more specifically, please provide further details as to how article 439 of the Code of Criminal Procedure, which suspends the right of persons taken into custody in connection with drug trafficking or terrorism offences to notify their family and friends and extends the time limit for access to a lawyer to 72 hours, is in keeping with the Covenant. Please also provide information on Operation Nguéné, conducted in July 2016, which involved the deployment of military forces throughout the country, and respond to allegations that the operation was in reality motivated by political rather than counter-terrorism objectives.

Non-discrimination (arts. 2–3 and 26)

7. With reference to the Committee's previous concluding observations (para. 8), please provide information on the measures taken to ensure that the non-discrimination provisions contained in articles 2, 3 and 26 of the Covenant are reflected in the Constitution. Please describe the steps taken to adopt comprehensive legislation that: (a) clearly defines and establishes the offences of direct and indirect discrimination; (b) contains a comprehensive list of prohibited grounds of discrimination, including sexual and gender identity and disability; and (c) provides victims with effective remedies. Please outline the measures adopted to combat and prevent acts of discrimination, stigmatization and violence against persons living with HIV and persons with disabilities.

8. The Committee welcomes the fact that, on 23 June 2020, the National Assembly voted to rescind the amendment introduced to the Criminal Code one year earlier under which homosexuality had been condemned as an "offence against public decency". In this regard, please provide information on the measures taken to prevent and combat acts of

¹ Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.

discrimination, stigmatization, harassment and violence, including by law enforcement officials, on the basis of sexual orientation or gender identity.

Right to life, measures to combat impunity and excessive use of force by law enforcement officials (arts. 6–7 and 21)

9. With regard to the acts of violence committed during the post-election crises of 2009 and 2016, please respond to allegations that law enforcement officials used excessive force against demonstrators, particularly during the assault on the headquarters of opposition candidate Jean Ping, resulting in deaths and injuries. Furthermore, please specify what measures have been taken to open a full and impartial investigation into all alleged violations of the provisions of the Covenant during the events of 2016 and provide information on the results of this investigation. Please also provide information on recent allegations of deaths at the hands of law enforcement officials, including the deaths of Chimène Bitogui Mangongo, by firearm, on 24 January 2020 in the PK7 neighbourhood of Libreville, Serge Alex James Bangalivoua during the night of 10–11 April 2020, near the village of Ayem Bokoué, and Cédric Apedo, whose decomposing body was found at Libreville Central Prison on 18 May 2020. Please provide information on the legal frameworks in place to ensure that force and firearms are used only when strictly necessary and on the degree to which these frameworks are aligned with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Lastly, please provide information on the complaint and redress mechanisms available to persons claiming to be a victim of a violation of the provisions of the Covenant by law enforcement officials and describe the safeguards in place to ensure the independence and impartiality of those mechanisms.

Ritual crimes and mob justice (arts. 6–7 and 24)

10. Please provide information on the number of ritual crimes committed in the State party and specify what measures have been taken to prevent and investigate such crimes and to punish the perpetrators and instigators. Please also provide information on cases of mob justice and attacks, in particular against persons suspected of ritual crimes and child abduction, and indicate what measures have been taken to prevent such practices and to prosecute and punish the perpetrators.

Prohibition of torture and cruel, inhuman and degrading treatment and treatment of persons deprived of their liberty (arts. 6–8 and 10)

11. Please clarify whether the definition of torture contained in article 224 of the Criminal Code is consistent with the provisions of the Covenant. Please respond to allegations that torture and ill-treatment continue to be practised by the defence and security forces. In this regard, please indicate whether statements and confessions obtained under torture are inadmissible under domestic law.

12. With reference to the Committee's previous concluding observations (para. 14), please describe all the measures taken to improve the living conditions of detainees and respond to allegations of severe overcrowding, a failure to separate remand prisoners from convicted prisoners and minors from adults, and the presence of persons with mental illness, in particular at Libreville Central Prison. Please provide information on the implementation of article 555 of the Code of Criminal Procedure, under which coercive measures may be used against convicted prisoners, including for disciplinary offences, and indicate whether corporal punishment is used. Please explain how prison labour, as provided for under Act No. 22/84 of 29 December 1984 establishing the penal labour regime, and the obligation under article 556 of the Code of Criminal Procedure to perform prison labour are in line with article 8 of the Covenant.

Treatment of foreign nationals, including migrants, refugees and asylum seekers (arts. 2, 7–8, 12 and 13)

13. With reference to the Committee's previous concluding observations (para. 16), please provide information on the provisions regulating the residence and conditions of foreign workers and indicate in particular whether there are still restrictions on the exit of such workers from the country. With regard to the treatment of refugees, migrants and asylum

seekers, please describe all the measures adopted to prevent acts of discrimination against them, including in the context of police checks, and provide information on the status of the National Commission for Refugees. Please specify what steps have been taken to ensure that migrant workers are treated in accordance with the provisions of the Covenant and to prevent the risks of trafficking in persons. Furthermore, please respond to allegations that Indian migrant workers have been subjected to abusive treatment (confiscation of identity documents, lack of employment contracts, valid work visas and weekly rest, and irregular wages) in the Nkok special economic zone.

Liberty and security of person (arts. 9 and 11)

14. With reference to the Committee's previous concluding observations (para. 13), please report on the measures taken to ensure that the safeguards set out in article 9 of the Covenant are fully respected, in law and in practice, and respond to allegations that: (a) some persons have been arrested and detained without an arrest warrant or charge; and (b) police officers frequently keep persons in custody, without charge and without access to a lawyer, beyond the 48-hour legal limit. Please also provide information on deprivations of liberty such as commitment with partial or total solitary confinement in the context of the measures adopted in response to the COVID-19 health crisis and on the monitoring of the legality of such deprivations of liberty. In the light of the concerns repeatedly expressed by international and regional bodies regarding pretrial detention in the State party, please describe all the measures taken to ensure reasonable time limits for detention and provide information on: (a) the proportion of the overall detainee population represented by persons in pretrial detention; (b) the average time spent in pretrial detention; and (c) alternatives to pretrial detention, the percentage of cases in which non-custodial measures are applied and the efforts made to raise awareness of such mechanisms among the judiciary.

15. With reference to the Committee's previous concluding observations (para. 15), please indicate whether the new Criminal Code has abolished imprisonment for debt and whether law enforcement officials, in particular police officers and public prosecutors, actually comply with this abolition in practice.

Administration of justice (art. 14)

16. Please provide information on any draft legislation designed to reform the State party's judicial system and describe any aspects of such reforms that would help to strengthen the independence and effectiveness of the system. In this regard, and with reference to the Committee's previous concluding observations (para. 11), please describe the current status of the State Security Court and indicate whether the State party intends to abolish it.

17. Please provide information on the measures adopted to address the lack of public confidence in the judiciary and strengthen the capacity of the judicial system, in particular with a view to: (a) shortening delays in the administration of justice and reducing the backlog of pending cases, including by organizing regular criminal hearings in the Gabonese courts; and (b) remedying the lack of financial and human resources and ensuring that court staff have the qualifications and receive the in-service training necessary to meet the needs of justice in the country. With regard to article 68 of the Constitution, please describe the steps taken to strengthen the independence of the judicial system, including to ensure respect for the principle of the separation of powers between the executive and the judiciary, and provide information on: (a) the procedures for the selection and appointment of judges, guarantees of their security of tenure and the authorities with powers of appointment; and (b) the organization and functioning of the Supreme Council of Justice, setting out the safeguards in place to ensure its total freedom from any pressure or interference. Please outline any measures taken to ensure that all accused persons, including those who are destitute, have access to legal assistance at all stages of proceedings; and respond in this regard to allegations that some assigned counsel make themselves available only at the time of the hearings.

Right to privacy (art. 17)

18. With regard to Act No. 001/2011 of 25 September 2011 on the protection of personal data, please specify what safeguards are in place to limit any surveillance, interception, analysis, use and archiving of private communications and data and provide information on

the rules by which intelligence and law enforcement agencies are bound in this area. Please respond to allegations that: (a) the telephone conversations, emails and movements of citizens and some foreign residents are monitored, in particular by the Silam wiretapping centre; and (b) police officers routinely carry out searches without a warrant and do not obtain a warrant until after the searches have been carried out.

Freedom of expression (arts. 19 and 25)

19. With regard to the Communication Code of Gabon (Act No. 019/2016 of 9 August 2016), please provide information on the measures taken to safeguard the independence of the media and prevent the executive branch from interfering with the freedom of expression of journalists and on the compatibility of articles 3, 44, 87, 95, 100 and 186 of the Act with article 19 of the Covenant. With reference to the Committee's previous concluding observations (para. 19), please provide information on the powers of the High Communications Authority to monitor and impose penalties on media outlets and on the measures taken to safeguard its independence; specify the number of decisions issued by the Authority to suspend or shut down media outlets in the last five years and the reasons for those sanctions; and respond to allegations that the Authority in reality exercises a power akin to censorship, which encourages journalists to engage in self-censorship. Please elaborate on the implementation and use of article 158 of the Criminal Code, which establishes the offence of insulting the President, and indicate whether the State party intends to abolish this provision.

20. Please provide information on the legal frameworks in place to safeguard: (a) citizens' right of access to information held by public entities and clarify whether the State intends to adopt a general law on access to information; and (b) access to the Internet. In this regard, please provide details as to why Internet and social network access had been cut off during the post-electoral unrest of 2016; please specify in particular which bodies are responsible for decisions to adopt such measures and provide information on any provisions in place to ensure that such cuts are strictly necessary and not arbitrary.

Freedom of peaceful assembly and association (arts. 21–22 and 25)

21. With regard to Act No. 001/2017 of 3 August 2017 on public meetings and demonstrations in Gabon, please: (a) provide figures, disaggregated by year, on the number of applications for permission to hold a public demonstration that were submitted and the number that were refused; (b) explain the reasons why and the manner in which representatives of the Ministry of the Interior are present at public meetings; and (c) respond to allegations that excessive force has been used to break up some demonstrations. With regard to Act No. 35/62 of 10 December 1962 on associations, please provide information on the measures taken to ensure the prompt and transparent registration of non-governmental organizations and respond to allegations that many organizations face unjustified restrictions and disproportionately long registration processes.

Treatment of journalists, human rights defenders, trade union leaders and political opponents (arts. 7, 9, 19 and 25)

22. Please respond to allegations that journalists, human rights defenders and political opponents have been subjected to judicial persecution, arbitrary arrests and detentions, intimidation and harassment. Please respond in particular to the allegations concerning the following persons: (a) Marceau Malekou, Melvin Gondjout, Alex Haore and Barry Ndimial, who were arrested during a demonstration on 18 January 2017; (b) Sylvie Nkoghe-Mbot, an activist and trade union leader in the health sector, who was arrested after publishing a report on the post-election violence of 2016; (c) Marc Ona Essangui, who received a 6-month suspended sentence after being convicted of defamation; (d) Jean Rovis Dabany, an Agence France-Presse reporter who was physically attacked in July 2016; (e) Jean Rémy Yama, a member of the Dynamique Unitaire group of affiliated trade unions, who was arrested for causing a breach of the peace and detained from 9 July to 6 October 2016 without being brought before a judge; and (f) Blanche Simonny, who was arrested on 11 May 2013 for participating in a demonstration against ritual crimes and the impunity associated with them. Please describe all the measures taken to put an end to these occurrences, including any

criminal investigations and prosecutions initiated and any convictions handed down, and indicate whether the State party intends to adopt a legal framework for the protection of such persons.

Rights of the child (arts. 7–8, 16, 23 and 24)

23. Please describe the measures adopted to reduce the relatively high number of children who are not registered at birth and consequently do not have birth certificates, which deprives them of legal personality and access to a number of their fundamental rights. Please also provide information on the measures taken to protect children from abuse, sexual exploitation, including at school, forced labour and the worst forms of child labour.

Participation in public affairs (art. 25)

24. In the light of the national dialogue that took place between 28 March and 26 May 2017, please list any measures taken to restore citizens' confidence in democratic institutions and to guarantee political pluralism, access to elected posts for all, including women and members of ethnic and indigenous minorities, and a regular rotation in respect of these posts. Please describe in particular how Act No. 001/2018 of 12 January 2018 amending the Constitution of Gabon and the creation of the post of general coordinator of presidential affairs contribute to the aforementioned objectives; please clarify whether article 13 of the Constitution, which concerns vacancy in the office of the President, has actually been amended.

25. Please describe all the measures taken to ensure that free, reliable and transparent elections are held without undue delay and specify in particular what measures have been taken to: (a) safeguard the autonomy and impartiality of the Gabonese Centre for Elections and its independence from the Ministry of the Interior and the Constitutional Court; (b) ensure that inclusive and exhaustive electoral rolls are compiled in a transparent manner; (c) establish a legal framework for campaign financing that guarantees fair competition among all candidates; and (d) ensure that identity documents are produced in such a way as to promote participation in elections. With regard to the presidential election of 27 August 2016, please respond to allegations that: (a) law enforcement officials attacked a campaign headquarters and the headquarters of various media outlets; (b) candidates did not have equal access to the public media; and (c) some voting cards were purchased. Please indicate whether the State party intends to review article 10 of the Constitution, which limits the right to stand as a candidate in presidential elections, and article 26 of Act No. 07/96 of 12 March 1996 establishing common rules for all political elections in Gabon, which, inter alia, renders persons who have been convicted of a crime and adults under curatorship ineligible to vote or register to vote.

Rights of ethnic minorities (arts. 2, 25 and 27)

26. With reference to the Committee's previous concluding observations (para. 17), please describe all the steps taken to recognize the ethnic minorities in the State party, in particular the Babongo, Bakoya, Baka, Barimba, Bagama, Bakouyi and Akoa ethnic groups, including through the adoption of specific legislation, and to ensure that there is no de facto discrimination against them. Please describe the measures adopted to guarantee indigenous peoples' rights of use over their ancestral lands and set out the steps taken to ensure prior and informed consultation and free participation of these peoples in all matters affecting them.
