



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Summary record of the first part (public)* of the 1110th meeting

Held at the Palais Wilson, Geneva, on Thursday, 8 November 2012, at 10 a.m.

Chairperson: Mr. Grossman

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* No summary record was prepared for the rest of the meeting.

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

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Initial report of Gabon (CAT/C/GAB/1; HRI/CORE/1/Add.65/Rev.1)

1. *At the invitation of the Chairperson the delegation of Gabon took places at the Committee table.*
2. **Mr. Bounquendza** (Gabon) recalled that the State party had adhered to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2008 and that it had signed the Optional Protocol to the Convention in 2004. The notion of torture was included in article 253 of the Criminal Code, in the context of arrest, detention or illegal confinement, and the definition of torture in Gabonese law was in line with the spirit of the Convention. Gabon had adopted important legislative, administrative and judicial measures to prevent acts of torture from being committed on its territory and had adopted several acts and decrees to that effect. In addition, the Government had undertaken the construction of new modern prisons.
3. In Gabon refugees had access to the courts, housing, health and education and the Government had opened a modern holding centre to accommodate persons in an irregular situation.
4. A special judicial system for the protection of minors administered by independent judicial bodies had been established, and protective measures had been adopted for the rehabilitation and social reintegration of minors. In prison, minors were separated from adults and, in Gabon, any form of exploitation of school-age children was prohibited. With regard to inhuman or degrading treatment inflicted on widows and orphans, a phenomenon which had caught the attention of senior officials and civil society over recent years, a centre for dialogue and solidarity for widows had been established, legal texts prohibiting the eviction of the surviving spouse from the family home and several draft reforms had been introduced and certain provisions of the Civil Code had been revised to protect the inheritance rights of the surviving spouse and offspring.
5. In respect of training sessions for the police, officers received in-service, advanced and specialization courses aimed at improving their skills and attitudes with a view to preventing torture. Custody was thus better supervised, limited to 48 hours and could only be extended upon written authorization from the public prosecutor. Search and entry of homes were subject to the acquisition of a search warrant from the office of the public prosecutor.
6. **Ms. Belmir** (Country Rapporteur) said that, since the Gabonese Criminal Code did not reflect the exact terms of the definition of torture contained in the Convention, it would be useful to know the wording of the section in article 253 that referred to that practice. She asked whether the State party intended to include the definition of torture contained in article 1 of the Convention in its Constitution and, if not, what prevented it from doing so. In addition, she wished to know the status of the Convention in domestic law and if it could be invoked directly by judges.
7. She asked whether the bill on the abolition of the death penalty had been enacted and whether the State party had abolished the penalty in practice. She also invited the delegation to comment on the information communicated by NGOs according to which civilians had allegedly been killed by security forces, in particular following the presidential election in 2009, and that no investigation had been conducted nor any sentences handed down.

8. Could the delegation also provide information on the mandate and operation of the National Commission of Human Rights, its composition, the way in which its members were appointed, the financial and human resources available to it, and its autonomy and conformity with the Paris Principles. Details on the Commission's application for accreditation with the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights would also be appreciated.

9. It would be useful to know what measures the State party adopted to reform the judiciary and to overcome the shortcomings described in the report at the start of the judicial year of the Council of State. Perhaps the delegation could also comment on reports about the ineffectiveness of the judicial system, its exposure to Government influence and corruption.

10. She wished to know if the State party intended to amend the Criminal Code, which addressed complicity in the commission of acts of torture but did not take into account article 2, paragraph 3, of the Convention, under which a superior officer or a public authority may not be invoked as a justification of torture. She asked whether members of the security forces had been prosecuted for acts of torture and, that being the case, invited the delegation to provide information on the investigations and proceedings conducted and on the sentences handed down.

11. She also invited the delegation to comment on information from NGOs that in the event of an arrest or a search, warrants were sometimes obtained after the fact.

12. She asked how the National Commission for Refugees operated and requested further information on the repatriation procedure of Congolese refugees. She invited the delegation to comment on information received by the Committee that pretrial detention was often long and not always justified, and that the right of access to a lawyer and the obligation to notify next of kin and to inform the detainee of the charges against him or her were not always respected.

13. Could the delegation also indicate whether the Gabonese Criminal Code criminalized attempts to commit acts of torture and, if so, read out the relevant provisions? If it did not, did the State party plan to revise the Criminal Code? She would also like details of the bill on sexual aggression. Since it was a question of juvenile justice, she suggested that rather than seeking funding to build detention and reintegration centres, the Government might instead focus on alternative measures to imprisonment.

14. She asked the delegation to clarify its position regarding the legal age for criminal responsibility and to indicate whether there was imprisonment for debt in Gabon. She also asked the delegation to explain its position vis-à-vis the principle of universal jurisdiction and give details of the application of article 5 of the Convention. Further information on measures taken by Gabon in the area of mutual judicial assistance and on steps taken to ensure observance of the principle of non-refoulement would also be appreciated.

15. **Mr. Domah** (Country Rapporteur) asked whether training on the prohibition of torture was provided to law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual who was arrested, detained or imprisoned. Specific examples of training sessions on the prohibition of torture for police officers as well as information on the practical results of training activities conducted would be appreciated.

16. He asked whether Gabon carried out a systematic review of its interrogation rules, instructions, methods and practices. Building new and more modern holding centres was not sufficient; it was also necessary to ensure that the personnel working in those places observed the rules. He asked the delegation to indicate how the competent authorities ensured prompt and impartial investigation, whenever there was reasonable ground to

believe that an act of torture had been committed, who conducted the investigations and whether the investigators were independent.

17. He sought clarification regarding measures taken by the State party to guarantee the effective exercise of the right of all persons who claimed to have been subjected to torture to lodge a complaint with the competent authorities. He also wished to know, where relevant, the number of victims of acts of torture who had been compensated and the amount of compensation awarded. Further information on medical, psychological and psychiatric follow-up measures would also be appreciated. In addition, he requested the delegation to describe its laws on evidence, specifying whether a statement proved to have been obtained through torture may be invoked as a piece of evidence in legal proceedings. He also wished to know what Gabon did to prohibit other practices which, while not acts of torture, amounted to cruel, inhuman or degrading treatment or punishment, including in schools, families and workplaces.

18. **Mr. Bruni**, noting that article 253 of the Criminal Code covered only physical torture, recommended that Gabon should take into account the mental aspects of the practice. Given the importance of the effective implementation of the Convention, information on the real effectiveness of prevention measures would be appreciated. In that connection, details of results obtained in the fight against female genital mutilation would also be appreciated.

19. Noting that the Government had introduced periodic inspection visits in prisons and that the last of those visits had taken place in Libreville Central Prison in 2010, he enquired about its results, whether complaints had been collected, a report had been drawn up and recommendations had been made. He also wished to know how many visits had been carried out after 2010, by which body and with what outcome. Taking note of the severity of prison overcrowding, he requested details of the premises used for detention, including their average surface area, and on the medical services available to the detainees. He also wished to know whether the provisions of the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) were included in the courses on the prohibition of torture provided for prison personnel.

20. **Mr. Gaye** asked whether Gabon intended to consider, together with civil society organizations, the establishment of a national preventive mechanism in accordance with the Optional Protocol to the Convention against Torture. He invited the delegation to clarify whether torture was criminalized as such and was punishable by specific penalties, if not, steps should be taken to remedy that shortcoming. He also asked the delegation to indicate whether there was a mechanism to protect against retaliation of State officials who refused to obey an order from a public authority for the commission of an act of torture.

21. He requested further information on custody supervision methods. Such supervision should be ensured from the start of placement in custody. He asked whether the law provided for legal aid lawyers and, if that was the case, wished to know at what stage of the procedure they were engaged. Could the delegation clarify whether persons placed in custody had the right to notify the person of their choice or whether that was only an option.

22. He asked whether it was necessary to lodge a complaint before opening investigations into cases of torture, which would run counter to article 12 of the Convention. He asked the delegation to explain whether civil society organizations had access to places of detention, whether a maximum time was imposed on pretrial detention and whether alternative measures to imprisonment were implemented in order to reduce prison overcrowding.

23. He wished to know whether there was a protection system for victims and witnesses. Information on possible rehabilitation measures for victims of torture would also be appreciated. Lastly, noting that the State could be held responsible for acts of torture committed by a public official, he asked whether such officials could be liable for action for indemnity.

24. **Mr. Mariño Menéndez** noted that the State party's initial report contained few figures. Regarding the protection of vulnerable groups and persons, he asked whether there was a minimum age for marriage. He would appreciate more information on the nature of customary marriages and wondered whether they might be contracted under duress. Expressing concern about the situation of pygmies in Gabon, he asked whether the State party envisaged ratification of the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). With reference to article 252 of the Criminal Code, he enquired whether the practice of placing a person in bondage was authorized by the law.

25. He sought clarification regarding the law profession and how a lawyer was chosen by a person in custody or convicted of an offence. He also requested information on the mass revocation of the refugee status of Congolese nationals in 2011.

26. Additional information on the inquiry procedure described in paragraph 90 of the report would be appreciated. He asked the delegation to explain the practical arrangements for administrative arrests and how they were followed up, and to indicate whether those arrests were subject to judicial review.

27. **Mr. Tugushi** invited the delegation to comment on reports that detention conditions in Gabon were deplorable, especially in terms of hygiene, food and space. Regarding corporal punishment in schools and homes, he noted with regret that it was not expressly prohibited in Gabonese legislation.

28. Noting that asylum seekers and refugees faced discrimination, in particular regarding access to care and to social benefits, he asked whether the State party envisaged establishing an efficient reception and support system for persons in need of international protection. He also enquired whether law enforcement officials recognized the validity of refugee identity cards and whether there were plans to review the operations and responsibilities of the National Commission for Refugees. Did the State party envisage acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness?

29. **The Chairperson** said that article 253 of the Criminal Code did not contain a definition of torture and, while he welcomed the decision taken by Gabon to abolish the death penalty, he pointed out that that had been the penalty incurred by the perpetrators of acts of torture. The crime of torture and the current penalties incurred by its perpetrators should be expressly mentioned in Gabonese legislation.

30. While noting with satisfaction that the Ministry of Justice was now responsible for prison administration and that the International Committee of the Red Cross had noted an improvement in detention conditions, he regretted that detainees continued to die through lack of hygiene and food. Information on potential prison renovation projects and the resources which would be allocated to them would be appreciated.

31. Regarding problems identified within the judicial system, he asked whether disciplinary measures had been adopted by the Supreme Council of Justice. He would also like to know whether the draft decree establishing education facilities in prisons, mentioned in paragraph 35 of the report, had been examined by the Interministerial Council and the Council of State.

32. He sought clarification regarding the evacuation of poachers and clandestine gold-diggers in 2011 and asked whether the Gabonese authorities had made sure that no

violation of article 3 of the Convention had been committed. In respect of trafficking in persons, he emphasized that adults could also be victims like minors and invited the delegation to inform the Committee of measures adopted in that area. Many people had been arrested for acts of trafficking but there had as yet been no convictions and, according to some reports, the courts lacked the resources to bring those responsible to justice. What exactly was the situation? Further information on the cases of ritual murder and any convictions made would also be welcome.

33. Regarding training, prevention and awareness-raising activities, he wished to know what role the National Commission of Human Rights played. Referring to paragraph 98 of the initial report, he asked whether the use of confessions obtained through torture was prohibited by Gabonese law. Expressing concern about violations of freedom of the press in Gabon in 2012, he asked for further information on the inquiries into the violations suffered by the television channels linked to the opposition parties. Welcoming programmes for the pygmy population, especially the provision of birth certificates for children, he asked whether there was a time frame for the implementation of planned activities.

34. **Ms. Belmir** (Country Rapporteur) asked whether the reform of the judicial system covered all aspects, including the nomination and dismissal of judges and their relations with the prosecution services. She also requested clarification regarding the role of women in the judiciary, the possibility for judges to form associations or unions, and any disciplinary decisions which had been subject to appeal. She enquired whether any appeals had been lodged on the grounds of unconstitutionality and whether they had been successful. Further information on measures adopted to facilitate access to judicial proceedings would likewise be appreciated. She would also like information on the detention conditions of women, in particular when accompanied by children.

35. **Mr. Domah** (Country Rapporteur) expressed surprise that witnesses could be held in detention and requested an explanation in that regard.

36. **Mr. Bruni** asked whether the bill adopted on 26 November 2009 by the Council of Ministers, which aimed to improve the monitoring of sentence enforcement and prison management, had been implemented and given effect.

37. **Mr. Mariño Menéndez** enquired how civil society was represented in the National Commission of Human Rights. He would also appreciate details on the operation and activities of the Law Centre inaugurated in July 2010.

The public part of the meeting rose at 11.15 a.m.