



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

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Committee against Torture

List of issues prior to submission of the second periodic report of Gabon, due in 2016*

The Committee against Torture, at its thirty-eighth session (A/62/44, paras. 23 and 24), established an optional procedure which consists in the preparation and adoption of a list of issues to be transmitted to the State party concerned prior to the submission of its periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations

Articles 1 and 4

1. Bearing in mind the Committee's previous concluding observations (paras. 7 and 8),¹ please provide information on measures taken to specifically criminalize torture, including the adoption in national legislation of a definition of torture that, in accordance with article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, includes acts involving the infliction of mental suffering, and the establishment of appropriate penalties. Please also include information on measures taken to explicitly criminalize attempts to commit torture and acts constituting complicity or participation in torture and to define them as acts of torture.² In particular, please provide information on the progress made in revising the Criminal Code in that regard.³

* Adopted by the Committee at its fifty-third session (3–28 November 2014).

¹ Paragraph numbers in brackets refer to the Committee's previous concluding observations, adopted on 20 November 2012 (CAT/C/GAB/CO/1).

² CAT/C/GAB/1, para. 27; and CAT/C/SR.1113, paras. 2 and 5.

³ CAT/C/GAB/1, paras. 9 and 12; and CAT/C/SR.1113, para. 73.



Article 2⁴

2. In the light of the Committee's previous concluding observations (para. 9),⁵ please provide information on the status of the Convention in the national legal system. Please give examples of legal cases in which the Convention has been applied or invoked.

3. Bearing in mind the Committee's previous concluding observations (para. 11),⁶ please provide information on:

(a) Measures taken to expressly guarantee in law that the execution of an order from a superior is not accepted as a justification for torture and to guarantee the right of subordinates to refuse to obey such orders;

(b) Mechanisms put in place to ensure that subordinates are protected from reprisals if they refuse to carry out orders from superiors that are in breach of the Convention;

(c) Measures taken to ensure that superiors bear criminal responsibility for torture or ill-treatment committed by subordinates where they knew or should have known that such impermissible conduct would occur, or was likely to occur, and they failed to take reasonable and necessary preventive measures.⁷

4. Bearing in mind the Committee's previous concluding observations (para. 10),⁸ please indicate which legislative provisions recognize the right of all persons deprived of their liberty, from the outset of the deprivation of liberty:

(a) To have access to publicly appointed legal counsel, particularly at the time of their arrest and questioning;

(b) To promptly undergo an independent medical examination free of charge;

(c) To be informed of the reasons for their arrest and of any charges brought against them;

(d) To be brought promptly before a judge;

(e) To have the legality of their detention reviewed by a court;

(f) In the case of foreign nationals, to communicate with the consular authorities of their country.

Please also provide information on the measures taken to ensure respect in practice for the fundamental legal safeguards established for all persons deprived of their liberty and on the penalties imposed for breaches of these safeguards. In particular, please include information on the measures taken to eliminate the possibility of issuing 8-day detention orders and on the maximum duration in practice of police custody and pretrial detention.

⁴ The issues raised under article 2 may also arise under other articles of the Convention, including, but not limited to, article 16. As indicated in paragraph 3 of general comment No. 2 (2007) on the implementation of article 2 by States parties: "The obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter 'ill-treatment') under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. [...] In practice, the definitional threshold between ill-treatment and torture is often not clear." See also section V of the same general comment.

⁵ CAT/C/SR.1113, paras. 5 and 73.

⁶ CAT/C/GAB/1, paras. 12 and 13; and CAT/C/SR.1113, paras. 2 and 5.

⁷ General comment No. 2, para. 26.

⁸ A/HRC/WG.6/14/GAB/1, para. 56; CAT/C/GAB/1, paras. 11, 77, 79, 80 and 81; CAT/C/SR.1110, para. 5; and CAT/C/SR.1113, paras. 14, 23, 24 and 77.

5. Please provide annual statistical data for the period since the Committee's previous concluding observations on the number of pretrial detainees, including as a proportion of the total number of prisoners. Please also provide information on measures taken to reduce the delays in hearing cases and thus the number of detainees awaiting trial.

6. In its previous concluding observations (para. 12),⁹ the Committee expressed concern at the fact that the National Human Rights Commission did not yet have offices, sufficient financial and human resources or the independence required to function effectively. Please indicate what measures have been taken to address those concerns and to ensure that the Commission complies with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).¹⁰ Please include information on the steps taken to apply to the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights for accreditation of the Commission.

7. In the light of the Committee's previous concluding observations (para. 13),¹¹ please provide information on the progress made regarding the establishment of an independent national mechanism for the prevention of torture, responsible for ensuring the implementation of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and provided with sufficient financial and human resources to perform its functions effectively.

8. In its previous concluding observations (para. 14),¹² the Committee expressed concern about breaches and misconduct on the part of judicial officials, particularly corruption. Please provide information on:

(a) Measures taken to guarantee the independence of judges, particularly steps to ensure their security of tenure and improve the legislation governing their conduct;

(b) The implementation of the National Strategy to Combat Corruption and Money-Laundering and efforts made to improve training for judges. Please include information on measures taken to ensure the continuity of the training provided to judges in that area;

(c) The number of complaints received regarding misconduct on the part of judicial officials, the number of investigations and criminal prosecutions or disciplinary proceedings to which those complaints gave rise, the number of convictions handed down and the nature of the penalties imposed since the Committee's previous concluding observations.

9. Please provide information on efforts to pursue the reform of the judicial system, initiated in order to strengthen the structure of the judiciary and improve its performance and to ensure access to the courts for local and indigenous communities struggling with geographical isolation, the cost of proceedings, the dysfunctional nature of the legal system and unfamiliarity with the law and legal terminology.

10. With regard to the Committee's previous concluding observations (para. 18),¹³ please provide information on measures taken to establish and apply non-custodial

⁹ E/C.12/GAB/CO/1, para. 9; A/HRC/WG.6/14/GAB/2, para. 5; and CAT/C/SR.1113, paras. 26 and 82.

¹⁰ General Assembly resolution 48/134 of 20 December 1993, annex.

¹¹ CAT/C/SR.1113, para. 79.

¹² E/C.12/GAB/CO/1, para. 10; A/HRC/WG.6/14/GAB/2, para. 29; CAT/C/GAB/1, para. 11; and CAT/C/SR.1113, paras. 6, 10 and 11.

¹³ A/HRC/WG.6/14/GAB/1, para. 53; A/HRC/WG.6/14/GAB/2, paras. 17, 30 and 31; A/HRC/22/5, paras. 54 and 55; CAT/C/GAB/1, paras. 33, 34 and 35; CAT/C/SR.1110, para. 4; and CAT/C/SR.1113, para. 15.

sentences for minors and to ensure that minors are not held in detention except as a last resort and for the shortest amount of time possible.

11. Bearing in mind the Committee's previous concluding observations regarding human trafficking (para. 19),¹⁴ please provide information on:

(a) Measures taken to amend Act No. 09/2004 and criminalize trafficking in persons over the age of 18, as well as all forms of trafficking, including trafficking of persons for purposes of sexual or labour exploitation, slavery and organ removal;

(b) The results of the national action plan to fight trafficking and child labour (2012–2016);¹⁵

(c) Efforts made to step up related awareness-raising campaigns and the training of investigators and other personnel who come into contact with trafficking victims, including labour inspectors;

(d) Measures taken to offer victims improved assistance, including social, medical, legal and psychological support and a compensation scheme.¹⁶ Please include information on the creation of shelters specifically intended for victims of trafficking in persons, including adult victims;¹⁷

(e) The number of complaints of trafficking in persons, enforced prostitution or forced labour received per year, the number of investigations and prosecutions to which those complaints have given rise, the number of convictions handed down, the nature of the penalties imposed and the number and type of redress measures granted to victims since the Committee's previous concluding observations. Please provide that data disaggregated by age, sex and origin of the victim.

12. In the light of the Committee's previous concluding observations (para. 21),¹⁸ please provide information on measures taken to prevent and combat traditional practices that are harmful to women and girls, including female genital mutilation, early and forced marriage, widowhood practices and levirate,¹⁹ as well as sexual and gender-based violence and domestic violence. In that regard, please also indicate:

(a) The outcome of the awareness-raising campaign on female genital mutilation. Please include information on measures taken to assist victims in filing complaints, improve legal and medical assistance and ensure that they receive appropriate redress;

(b) The number of complaints of domestic violence and of acts of violence against women or girls, including instances of female genital mutilation, received per year since the Committee's previous concluding observations. Please include information on the investigations carried out, the types of sentence handed down and the compensation awarded to victims;

(c) Measures taken to set the minimum age for marriage for girls at 18;²⁰

(d) Measures taken to criminalize marital rape and sexual harassment.

¹⁴ E/C.12/GAB/CO/1, para. 23; A/HRC/WG.6/14/GAB/1, paras. 47 and 73; A/HRC/WG.6/14/GAB/2, paras. 20–27; A/HRC/23/48/Add.2; CAT/C/SR.1113, para. 21; and CAT/C/GAB/1, paras. 37, 39 to 44, 46, 51 to 55.

¹⁵ A/HRC/23/48/Add.2, para. 40.

¹⁶ A/HRC/23/48/Add.2, paras. 71 and 99 (g).

¹⁷ A/HRC/23/48/Add.2, paras. 45 and 49.

¹⁸ E/C.12/GAB/CO/1, para. 14; A/HRC/WG.6/14/GAB/2, para. 17; CAT/C/GAB/1, paras. 32 and 56; and CAT/C/SR.1113, para. 78.

¹⁹ E/C.12/GAB/CO/1, para. 14.

²⁰ A/HRC/23/48/Add.2, para. 18.

Article 3

13. In the light of the Committee's previous concluding observations (para. 15),²¹ please provide information on measures taken to ensure that:

(a) Decisions on expulsion or extradition are arrived at on the basis of an examination of each individual case and respect the non-refoulement principle;

(b) The persons concerned have the opportunity to appeal such decisions before a court, with suspensive effect in the case of decisions on expulsion;

(c) The persons concerned have access to independent legal assistance free of charge during the proceedings, including the appeals process;

(d) Mechanisms are put in place for the timely identification of victims of torture arriving in the State party, with provision being made in particular for independent medical examinations carried out free of charge.

14. Please provide information on measures taken to ensure that all allegations of ill-treatment or humiliating treatment of refugees by law enforcement officers result in investigations and prosecutions and that the perpetrators are subjected to appropriate sanctions.²²

15. Please indicate the number of applications for asylum received per year since the Committee's previous concluding observations, as well as the number of applications granted due to the existence of substantial grounds for believing that the persons concerned would be tortured or were in danger of being subjected to torture if they returned to their countries of origin or to a third State. Please include data disaggregated by sex, age and country of origin on the number of persons returned, extradited or expelled during the period under review.

Articles 5, 6, 7, 8 and 9

16. Please clarify whether the State party can establish extraterritorial jurisdiction over crimes of torture when the alleged foreign perpetrator is present in its territory.²³ Please also indicate which legislative provisions establish the State party's obligation to extradite or prosecute in cases involving acts of torture (*aut dedere aut judicare*).

17. Please indicate whether, since the Committee's previous concluding observations, the State party has rejected, for any reason, a request for extradition by another State of an individual suspected of having committed an act of torture and whether, as a result, it has brought criminal proceedings itself. If so, please inform the Committee of the status and outcome of such proceedings. Please also clarify:

(a) Whether the crimes referred to in article 4 of the Convention are considered to be extraditable offences;

(b) Whether the Convention may be invoked as the legal basis for extradition in respect of the crimes referred to in article 4 of the Convention when Gabon receives a request for extradition from another State party with which it has no extradition treaty.

18. Please indicate whether the mutual judicial assistance treaties or agreements that the State party has entered into with other entities, such as countries, international tribunals or international institutions, have led in practice to the transfer of evidence in connection with prosecutions concerning torture or ill-treatment. Please give examples.

²¹ A/HRC/WG.6/14/GAB/2, para. 63; and CAT/C/GAB/1, paras. 25 and 26.

²² A/HRC/WG.6/14/GAB/2, paras. 16, 56, 57, 60 and 61; and CAT/C/GAB/1, para. 23.

²³ CAT/C/GAB/1, paras. 63 and 64.

Article 10

19. In the light of the Committee's previous concluding observations (para. 16),²⁴ please provide information on measures taken to extend training on the prevention of torture and ill-treatment, including on the provisions of the Convention, to all law enforcement officers, medical personnel and any other persons who may be involved in matters pertaining to the custody, questioning or treatment of persons subject to arrest, detention or imprisonment. Please include information on measures taken to reinforce and evaluate the impact of the training programmes already in place.

20. With reference to the Committee's previous concluding observations (para. 16), please provide information on measures taken to ensure that training programmes for law enforcement officers, medical personnel and any other persons who may be involved in matters pertaining to the custody, questioning or treatment of persons subject to arrest, detention or imprisonment include a practical component, delivered on a regular basis, on the application of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol).

Article 11

21. With regard to the Committee's previous concluding observations (para. 17), please provide information on:

(a) Measures taken to reduce prison overcrowding, particularly in Libreville Central Prison. Please provide annual statistical data on the total capacity in relation to the prison population, disaggregated by detention facility. Please include information on measures taken to increase the use of non-custodial measures, such as release on probation, and on the status of plans to build new prisons and renovate older ones;²⁵

(b) Efforts made to improve food, medical care and hygiene within the prison system;

(c) Measures taken to ensure the observance of the principle of the separation of detainees, particularly the separation of minors and adults, remand prisoners and convicted prisoners, and men and women;²⁶

(d) Steps taken to prevent violence between detainees, including sexual abuse, and to protect their physical integrity;

(e) Measures taken to enable detainees to file complaints regarding their conditions of detention and ill-treatment.

Articles 12 and 13

22. In the light of the Committee's previous concluding observations (para. 22), please provide information on:

(a) Measures taken to include in the Code of Criminal Procedure provision for the opening ex officio of prompt, impartial investigations into allegations of acts of torture;

(b) Steps taken to establish an independent mechanism for receiving complaints against law enforcement officers involving allegations of acts of torture or ill-treatment. Please state how the independence of investigations is safeguarded so that there is no

²⁴ A/HRC/22/5, para. 55; CAT/C/GAB/1, paras. 70 to 76; CAT/C/SR.1110, para. 5; and CAT/C/SR.1113, paras. 6 and 74.

²⁵ A/HRC/WG.6/14/GAB/1, para. 54; CAT/C/SR.1113, paras. 19 and 76; and CAT/C/GAB/1, para. 11.

²⁶ A/HRC/WG.6/14/GAB/1, para. 53; A/HRC/WG.6/14/GAB/2, para. 30; and A/HRC/WG.6/14/GAB/3, para. 2.

hierarchical or institutional link between the suspected perpetrators of torture and the inspectors;

(c) Measures taken to enable victims of torture to file complaints without fear of reprisals and to guarantee the confidentiality and independence of the complaints mechanism in cases where the victims are deprived of their liberty.

23. Please provide annual statistics for the period since the Committee's previous concluding observations, disaggregated by age, sex and ethnic origin or nationality of the victim, on the number of complaints received involving allegations of acts of torture or ill-treatment, attempted torture or complicity or participation in such acts, homicide or excessive use of force by law enforcement officers. Please include information on any disciplinary or criminal proceedings brought and criminal penalties or disciplinary sanctions imposed and state whether the officers in question were suspended during the investigation.

Article 14

24. In the light of the Committee's previous concluding observations (para. 23), please provide information on all the points referred to in paragraph 46 of the Committee's general comment No. 3 (2012). Please include information on:

(a) Measures taken to guarantee that victims of torture receive fair and adequate compensation, as well as rehabilitation services, particularly in cases where public officials are implicated;

(b) Measures of redress and compensation, including rehabilitation measures, ordered by courts and actually provided to victims of torture or their families since the Committee's previous concluding observations;

(c) Rehabilitation programmes offered to victims and whether they include medical and psychological assistance;

(d) The possibility for victims of acts of torture to have access to legal assistance.

Article 15

25. With regard to the Committee's previous concluding observations (para. 24),²⁷ please provide information on:

(a) Measures taken to explicitly prohibit in law the invoking as evidence in legal proceedings of evidence obtained through torture or ill-treatment, except against a person accused of torture as evidence that a statement was made;

(b) Steps taken to ensure that allegations that confessions have been obtained through torture are investigated and that the perpetrators are prosecuted and punished;

(c) Measures taken to ensure that cases allegedly based on confessions obtained through torture or ill-treatment can be reviewed at a later date.

Article 16

26. In the light of the Committee's previous concluding observations (para. 20),²⁸ please provide detailed information on practical measures taken to prevent ritual crimes, the main victims of which are children, and to end impunity for such crimes. Please include information on:

²⁷ CAT/C/GAB/1, paras. 98 and 99; and CAT/C/SR.1113, paras. 13 and 25.

²⁸ A/HRC/WG.6/14/GAB/1, para. 72; A/HRC/22/5, para. 50; and CAT/C/SR.1113, para. 22.

- (a) Measures taken to encourage the public to report such acts to the police;
- (b) Steps taken to raise public awareness of the problem;
- (c) Measures taken to ensure that victims of ritual crimes receive redress;
- (d) The number of complaints filed, prosecutions brought and convictions and sentences handed down for such crimes since the Committee's previous concluding observations;
- (e) National strategies or policies to combat both ritual crimes and the tolerance of such crimes by law enforcement officers.

27. In the light of the information available to the Committee,²⁹ please provide information on measures taken to combat acts of violence against children. Please also indicate:

- (a) What legislative measures have been taken to prohibit corporal punishment in all places;³⁰
- (b) Whether national strategies or policies to combat corporal punishment exist and, if so, please provide information on the results of their implementation;
- (c) The outcome of the awareness-raising campaigns carried out since the Committee's previous concluding observations;
- (d) The number of complaints received, investigations opened, prosecutions brought and convictions handed down per year in respect of violence against children, disaggregated by sex and age of the victim.³¹

Other issues

28. With regard to the Committee's previous concluding observations (para. 27), please indicate whether the State party intends to make the declarations provided for under articles 21 and 22 of the Convention.

General information on the human rights situation in the country, including new measures and developments relating to the implementation of the Convention

29. Please provide detailed information on any other legislative, administrative, judicial or other measures taken during the period under review to implement the Committee's recommendations. This may also include institutional developments, plans and programmes. Please indicate the resources allocated and provide statistical data or any other information that the State party considers relevant.

²⁹ CAT/C/GAB/1, para. 48; and A/HRC/WG.6/14/GAB/2, paras. 17 to 19 and 28.

³⁰ A/HRC/WG.6/14/GAB/3, paras. 3 to 5.

³¹ A/HRC/WG.6/14/GAB/1, para. 48; A/HRC/WG.6/14/GAB/2, para. 18; A/HRC/WG.6/14/GAB/3, paras. 3 to 5; and CAT/C/GAB/1, paras. 38 and 47.