


<b>AFRICAN UNION</b>		<b>UNION AFRICAINE</b>
<b>الاتحاد الأفريقي</b> <b>African Commission on Human &amp; Peoples' Rights</b>		<b>UNIÃO AFRICANA</b> <b>Commission Africaine des Droits de l'Homme &amp; des Peuples</b>
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## 15<sup>th</sup> Extraordinary Session

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### Concluding Observations and Recommendations on the Initial and Combined Report of the Gabonese Republic on the Implementation of the African Charter on Human and Peoples' Rights (1986 - 2012)

#### I. Introduction

1. The Gabonese Republic is a State Party to the African Charter on Human and Peoples' Rights (the African Charter), which it ratified on 20 February 1986.
2. This Report which covers the period 1986 to 2012 is a combination of the Initial Report and the Periodic Reports outstanding since its ratification of the African Charter. This Combined Report was examined by the African Commission on Human and Peoples' Rights (the Commission) at its 54<sup>th</sup> Ordinary Session held from 22 October to 5 November 2013 in Banjul, The Gambia.
3. It was presented by the Delegation of the Gabonese Republic (the Delegation) which comprised the following officials of the Ministry of Justice, Keeper of the Seals, Human Rights and Relations with Constitutional Institutions:
  - Mr Eric Dodo Bounguendza, Director General of Human Rights;
  - Mr Matthieu Ekwa Ngui, Deputy Director General of Human Rights;
  - Mrs Edna Paola Biyogou, Director of Human Rights Promotion.
4. The report highlights developments which took place in the promotion and protection of human rights, and the legislative, administrative and judicial measures put in place to implement the provisions of the African Charter.
5. The present Concluding Observations underscore the positive aspects, the factors restricting the enjoyment of human rights and the challenges identified in the report. In conclusion, the Commission formulates recommendations to the Gabonese Republic regarding the measures required to strengthen the enjoyment of human rights guaranteed by the African Charter and other relevant regional and international human rights instruments.

6. The Commission welcomes the presentation of the initial and combined report by the Government of Gabon with a view to fulfilling its obligations under Article 62 of the African Charter. The Commission commends the Gabonese Delegation for its frank and constructive dialogue with the Commission during its presentation of the initial and combined report of the Gabonese Republic.

## **I. Positive Aspects**

### **The Commission:**

7. Commends the efforts made by Gabon in preparing and presenting its periodic report in accordance with the provisions of Article 62 of the African Charter;
8. Commends the Gabonese Republic for having established a national commission for the preparation of human rights reports, and an inter-sectorial commission responsible for preparing human rights reports which is also accessible to civil society organizations;
9. Notes that the Constitution of the Gabonese Republic takes into account the majority of the fundamental rights and freedoms enshrined in the African Charter;
10. Notes that the Gabonese Republic has ratified or acceded to most of the relevant regional and international instruments on the promotion and protection of human rights, including:
  - The African Charter on Human and Peoples' Rights;
  - The African Charter on the Rights and Welfare of the Child;
  - The OAU Convention Governing the Specific Aspects of Refugee Problems in Africa;
  - The Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights;
  - The African Youth Charter;
  - The International Convention on Civil and Political Rights;
  - The International Convention on Economic, Social and Cultural Rights;
  - The Convention on the Rights of the Child;
  - The Rome Statute of the International Criminal Court;
  - The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment;
  - The International Convention on the Elimination of all Forms of Racial Discrimination;
  - The Convention on the Elimination of all Forms of Discrimination against Women;
  - The Optional Protocol to the Convention on the Elimination of all

Forms of Discrimination against Women;

- The Convention on the Rights of Persons with Disabilities.

11. Notes that Gabon has enacted laws to promote and protect fundamental human rights and freedoms, including the law to provide social protection to children with disabilities, the Nationality Code which promotes the rights of women and children, the law on pre-trial detention and compensation for unlawful detention, the law on preventing and combating child trafficking, and the law on preventing and combating female genital mutilation;
12. Commends the Gabonese Republic for passing a law abolishing the death penalty;
13. Welcomes the establishment of organs and institutions to ensure the promotion and protection of human rights, namely:
  - The National Human Rights Commission;
  - The Office of the Ombudsman;
  - The National Communication Council (CNC);
  - The National Council for Religious Denominations (CNCR); and
  - The Women's Rights and Gender Equality Observatory;
14. Commends the Government for its free and compulsory primary education policy;
15. Commends the Government's commitment to ensure the right to education by passing laws and regulations governing education;
16. Notes with satisfaction the political will demonstrated by the Gabonese Government in promoting the right to employment, in particular through the ratification of about thirty Conventions, eight (8) of which are ILO Conventions, the implementation of employment, vocational training and re-integration policies, as well as increasing the minimum wage to 150,000 CFA francs;
17. Appreciates the efforts made by the Gabonese Government to improve health care for the population, including by rehabilitating, constructing and equipping health facilities, and establishing a National Social Medical Insurance and Pension Scheme;
18. Commends the Government's efforts and achievements in combating the HIV pandemic in the country, including the construction of some health centres for the treatment of HIV/AIDS, four (4) of which are mobile treatment centres, the adoption of a national health development plan (PNDS) in the public health sector, and the adoption of a national health action plan (PNAS) comprising the provision of both curative and palliative health care for persons living with HIV;

19. Welcomes Gabon's positive role in combating HIV/AIDS both at the national and international level;
20. Welcomes the enactment of a specific law on asylum, the establishment of a national institution mandated to handle applications for asylum, and the establishment of a National Refugee Commission;
21. Commends the measures and initiatives taken to promote equal opportunities for men and women, including the establishment of a Women's Rights and Gender Equality Observatory (ODEFPA) and the signing of the Solemn Declaration on Gender Equality in Africa;
22. Welcomes the efforts made by the Government to promote and protect the rights of children in Gabon, including the establishment of a National Commission on the Family and Women's Empowerment and a National Child Rights Observatory;
23. Welcomes the efforts made by the Government of Gabon to protect delinquent minors;
24. Welcomes the enactment of a new code of criminal procedure which takes into account key elements such as the principle of equality before the law, and protects the rights of pre-trial detainees including the right to defence;
25. Notes with satisfaction that the Gabonese Republic has, since 2010, established nationwide mobile court hearings (per province) to accelerate the trial of pre-trial detainees;
26. Commends the establishment of "legal homes" to promote access to justice at the community level for underprivileged citizens;
27. Commends the efforts made by Gabon to acknowledge the right to development as a human right, including by adopting economic policies for its citizens and economic operators;
28. Notes with satisfaction that the Constitution of Gabon and other legislative instruments recognize the rights of persons with disabilities;
29. Welcomes the creation of a school for hearing-impaired and deaf children, the celebration of a national day for persons with disabilities, and the collaboration between the government and organisations to protect the rights of persons with disabilities;
30. Takes note of the establishment of the "Fraternité Saint Jean" retirement home which contributes towards improving the living conditions of elderly persons;

31. Appreciates the efforts made by Gabon in combating unemployment through the establishment, with the support of the European Union, of a project to promote the vocational training and re-integration of the youth;
32. Takes note of the integrated development project for indigenous communities which includes the registration of birth certificates issued to indigenous children and the vaccination of indigenous children;
33. Notes with satisfaction the establishment of a Climate Commission, the development of a national policy on the management of environmental hazards, and the reduction in greenhouse gas emissions;
34. Commends the establishment of a national media development fund which provides subsidies to private audio-visual and print media;

## **II. Factors restricting the enjoyment of human rights guaranteed by the African Charter**

35. Sociological and cultural factors and deeply-rooted prejudices against women continue to prevent women from fully participating in the public affairs of their country.
36. Harmful cultural, religious and traditional practices continue to restrict Gabonese women and children from fully enjoying their rights, and are often the cause of several human rights violations against women and children.
37. Lack of knowledge, by the majority of the population, about the national, regional and international human rights promotion and protection instruments ratified by Gabon also restricts the effective enjoyment of human rights in Gabon.

## **III. Areas of Concern**

While acknowledging the significant efforts made by the Government of Gabon to promote and protect human rights, the Commission is however concerned about the following:

38. The non-ratification of some relevant regional and international human rights instruments, namely:
  - The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;

- The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa;
  - The African Charter on Democracy, Elections and Governance;
  - The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
39. Failure by Gabon to make the declaration under Article 34 (6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights allowing individuals and non-governmental organizations to seize the African Court directly;
  40. The lack of specific legal provisions criminalizing torture in the Gabonese Penal Code;
  41. The lack of material and financial resources for the effective functioning of the National Human Rights Commission and its non-compliance with the Paris Principles;
  42. The delays in the enactment of new laws, in particular the draft law on the suppression of sexual assault and the draft law establishing a justice system for the protection of minors;
  43. The slow administration of justice and non-respect for the legal deadlines for police custody and pre-trial detention;
  44. Corruption in the judiciary;
  45. The lack of adequate prison infrastructures and non-separation of detainees from convicted persons and minors from adults;
  46. The lack of educational and vocational training to facilitate the social reintegration of prisoners after leaving prison;
  47. The increase in ritual crimes, fetishist practices and the impunity enjoyed by the perpetrators of these acts;
  48. The extent of human and child trafficking for sexual and domestic exploitation in the country;
  49. The lack of transparency in public sector recruitments;
  50. The high unemployment and under-employment rates especially among the youth, women and persons with disabilities;

51. The existence of harmful traditional practices which affect the rights of women and children, such as widowhood practices and the inheritance of orphans;
52. The increase in gender-based violence and the lack of appropriate measures and programmes to support victims;
53. The low rate of women's representation in decision-making institutions and the lack of affirmative action measures to increase women's representation in political and decision-making institutions;
54. The existence of discriminatory provisions against women in Gabonese laws;
55. Harmful cultural practices which restrict women's leadership role;
56. The lack of a law on matrimonial regimes, inheritance and gifts which affects the rights of women and children, in particular concerning inheritance;
57. The high maternal and child mortality rates, especially in rural areas;
58. The high poverty rate among indigenous populations and their limited access to basic social services such as education, health care and drinking water;
59. The low representation of indigenous people in decision-making positions;
60. The restriction on freedom of expression, in particular regarding the private media, and the harassment of journalists;
61. The lack of human rights courses in schools and institutions of higher education;
62. The lack of in-service human rights training programmes for the judiciary, the police and prison officers;
63. The lack of a law to protect human rights defenders;
64. The illegal exploitation of mineral resources and non-respect for environmental standards;
65. The lack of gender disaggregated data in the various areas of human rights which prevents the Commission from making an objective assessment of the challenges and achievements made in the promotion and protection of human rights.

#### IV.Recommendations

66. In view of the foregoing, the Commission recommends that the Government of Gabon should:

- i. Continue to comply with its obligations under Article 62 of the African Charter;
- ii. Take the necessary measures to ratify and domesticate the provisions of the following regional and international human rights instruments:
  - The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa;
  - The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa;
  - The African Charter on Democracy, Elections and Governance;
  - The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- iii. Make the declaration under Article 34(6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights to allow individuals and NGOs to seize the African Court directly;
- iv. Expedite the enactment and promulgation of codes and laws which are being drafted or amended;
- v. Take the necessary measures for the National Human Rights Commission to comply with the Paris Principles and provide it with the necessary human, material and financial resources for it to effectively implement its mandate to promote and protect human rights;
- vi. Pass a specific law to define and suppress torture in accordance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Commission's Robben Island Guidelines;
- vii. Take measures to popularize the Robben Island Guidelines;
- viii. Take the necessary measures to ensure strict respect for the duration of police custody and pre-trial detention;
- ix. Adopt robust measures to combat corruption and severely punish corrupt personnel of the judiciary;



- x. Take the necessary measures to reduce prison overcrowding, in particular by adopting a policy of alternative and non-custodial sentences;
- xi. Ensure that minors are separated from adult prisons and that convicted persons are separated from detainees;
- xii. Organize vocational training activities in prisons to facilitate the social reintegration of prisoners after they leave prison;
- xiii. Prosecute the perpetrators of ritual crimes and other human rights violations and ensure the establishment of a fund to support and compensate families of the victims;
- xiv. Take the necessary measures to prevent and end child trafficking and bring the presumed perpetrators to justice;
- xv. Adopt measures to combat unemployment and ensure that recruitments are conducted in a transparent manner;
- xvi. Repeal laws that discriminate against women;
- xvii. Adopt affirmative action measures to sensitize Gabonese women and increase their leadership role and participation in the development and management of the country;
- xviii. Enact a quota law to increase women's representation in decision-making institutions;
- xix. Build operational and institutional capacities to combat violence against women and children and provide support to victims of violence;
- xx. Provide free health care to children below five years and pregnant women in order to reduce the high rate of maternal and child mortality;
- xxi. Strengthen ongoing HIV/AIDS sensitization programmes, in particular programmes targeting the youth of underprivileged communities;
- xxii. Adopt legislative measures to recognize the rights of indigenous communities;
- xxiii. Take the necessary measures to reduce poverty among indigenous populations and provide them access to basic social services;

- xxiv. Adopt legislative and other measures to ensure the representation of indigenous populations in the various decision-making institutions;
- xxv. Continue to take the necessary measures to strengthen the protection of older persons and people with disabilities, including by adopting a national plan of action for the protection of the rights of these vulnerable people;
- xxvi. Take the necessary measures to ensure the right to freedom of expression, in particular for the private media;
- xxvii. Take the necessary measures to include human rights in the curricula of primary, secondary and vocational schools, as well as in universities;
- xxviii. Ensure in-service human rights training for the police and law enforcement officers;
- xxix. Raise the awareness of the entire population about their rights, legal procedures and available remedies;
- xxx. Adopt legislative measures to protect human rights defenders and create a forum for dialogue with civil society;
- xxxi. Strengthen programmes and policies to protect the environment and ensure the transparent management of natural resources;
- xxxii. Provide, in its next periodic report, up-to-date statistics and data on vulnerable and marginalised groups regarding the various areas of human rights protection;
- xxxiii. Inform the Commission, in its next periodic report, of the measures taken to address the above issues of concern and to ensure the effective implementation of the recommendations contained in the present Concluding Observations.

**Adopted by the African Commission on Human and Peoples' Rights at its 15<sup>th</sup> Extraordinary Session held from 7 to 12 March 2014 in Banjul, The Gambia**