



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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REFERENCE: cc/jmnf/jli/follow-up/CAT

25 November 2013

Your Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the United Nations Committee against Torture, I refer to the examination of the initial report of Gabon (CAT/C/GAB/1) by this Committee, at its 49th session, held from 29 October to 23 November 2012. At the end of that session, the Committee's concluding observations (CAT/C/GAB/CO/1) were transmitted to your Permanent Mission. In paragraph 29 of those concluding observations, the Committee requested, pursuant to its rules of procedure, that the State party provide, within one year, by 23 November 2013, further information regarding areas of particular concern identified by the Committee in paragraphs 8, 10, 17 (a) and (e) and 22 (see extracts annexed).

The Committee has adopted a follow-up procedure to pursue issues that are serious, that can be accomplished by the State party in a one year period, and that are protective.

The information sought by the Committee has not been provided yet, although more than one year has elapsed from the transmittal of the Committee's concluding observations. Accordingly, I would be grateful for clarification as to the current status of your Government's responses on the matters, and as to when the information requested will be forthcoming. A Word electronic version of the reply should be sent to the Secretariat of the Committee against Torture (cat@ohchr.org). Upon receipt of this information, the Committee will be able to assess whether further action is needed.

The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of Gabon on the implementation of the Convention. In this context, the Committee seeks to receive your response to this enquiry.

Accept, Your Excellency, the assurances of my highest consideration.

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Committee against Torture

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/GAB/CO/1)

GABON

(...)

C. Principal subjects of concern and recommendations

(...)

Criminalization of attempted torture

8. The Committee is concerned by the fact that the provisions contained in articles 46 and 47 of the Code of Criminal Procedure that refer to the Attorney General's ability to lay charges and initiate legal action do not explicitly criminalize either attempts to commit torture or acts which constitute complicity or participation in torture and therefore are not in full compliance with article 4 of the Convention. (art. 4)

The State party should make the necessary modifications in its Criminal Code to explicitly criminalize attempts to commit torture and acts constituting complicity or participation in torture and to define them as acts of torture, in accordance with article 4 of the Convention, and to establish appropriate penalties for that offence.

(...)

Fundamental legal safeguards

10. While noting that, under the laws of the State party, persons in detention are protected by fundamental legal safeguards, the Committee is nevertheless concerned by reports that persons held in police custody or in other places of detention are not always given the benefit of the fundamental legal safeguards provided for in articles 53 and 54 of the Code of Criminal Procedure. In accordance with international standards, the safeguards provided for in those articles include access to legal counsel from the outset of the period of detention, access to a physician of the person's choice and the right to notify someone of their choice of the arrest. The Committee notes that the length of time that a person can be held in police custody is limited to 48 hours under the Code of Criminal Procedure, but it remains concerned by the fact that, in certain regions, criminal investigation officers can issue a non-renewable eight-day detention order for the purpose of bringing a person before a judge. The Committee is

also concerned by the lack of information on the maximum duration of pretrial detention. (art. 2)

The State party should promptly adopt effective measures to ensure that, both by law and in practice, all persons deprived of their liberty have the benefit of all fundamental legal safeguards from the moment that they are taken into custody. These safeguards include the right of every such person to be informed of the reasons for his or her arrest and all charges brought against him or her, to have prompt access to legal counsel and to meet with counsel in private, to be examined by a physician of his or her choice, to notify a friend or family member, to be assisted by a lawyer when being questioned by the police and, if necessary, by an interpreter, to be provided with legal aid if needed, to be brought promptly before a judge and to have the legality of his or her detention reviewed by a court. The State party should amend its legislation in accordance with international standards in order to eliminate the possibility that criminal investigation officers can issue an eight-day detention order.

(...)

Prison conditions

17. The Committee has taken note of the State party's efforts to improve prison conditions, including its plan to build new prisons and renovate older ones, and its undertaking to significantly reduce overcrowding in its prisons starting in late 2012. It is nonetheless concerned about those conditions, particularly with regard to hygiene and access to health care and to adequate food. It is, in addition, concerned about the high rate of overcrowding, especially in Libreville Central Prison, and by reports that the principle whereby different categories of inmates are to be held separately is not always observed in prisons located in rural areas. The Committee is also concerned about the lack of information on the enforcement of the law adopted on 26 December 2009 that provides for improved monitoring of persons serving their sentences and better prison management, as well as about the absence of specific information on complaints filed by prisoners and on how those complaints have been processed. (arts. 11 and 16)

The State party should redouble its efforts to improve prison conditions and to ensure that they conform to the United Nations Standard Minimum Rules for the Treatment of Prisoners, adopted by the Economic and Social Council in its resolutions 663 C (XXIV) and 2076 (LXII). To this end, it should:

(a) Significantly reduce prison overcrowding, especially in Libreville Central Prison, through a greater use, in particular, of non-custodial measures as outlined in the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);

(...)

(e) **Bring its sentencing policy regarding minors into line with international standards;**

(...)

Complaints of torture

22. The Committee is concerned by the fact that article 31 of the Code of Criminal Procedure is not in line with article 12 of the Convention, inasmuch as article 31 provides for the opening of an inquiry into allegations of torture and the initiation of judicial investigation proceedings "if the victim requests that these steps be taken in accordance with the laws in force". The Committee is equally concerned by the absence of a specific mechanism for filing complaints of torture committed by police officers and/or in any place of detention, including prisons. The Committee has some concerns as to the independence and impartiality of inquiries into allegations that members of the police force have committed acts of torture in view of the fact that, as provided for in article 3 of the Code of Criminal Procedure, they may be conducted by criminal investigation police officers. (arts. 12 and 13)

The State party should revise its Code of Criminal Procedure so that a prompt, impartial inquiry can be opened ex officio where there is reason to believe that an act of torture has been committed in any territory under its jurisdiction. It should establish an independent mechanism for lodging complaints against members of the police force and ensure that prompt, impartial, independent investigations into such complaints are conducted. The State party should also take the necessary steps to enable victims of torture, including those in detention, to file complaints without fear of reprisal and to ensure that such complaints are investigated promptly and impartially.

(...)

29. The Committee urges the State party to provide it with information by 23 November 2013 on the action taken in response to the recommendations set forth by the Committee in paragraphs 8, 10, 17 (a) and (e), and 22 of these concluding observations concerning: (a) the criminalization of torture; (b) the fundamental safeguards in place for the protection of persons held in police custody; (c) prison conditions; and (d) the prosecution and punishment of perpetrators of acts of torture and ill-treatment.

(...)