

GABON

CCPR A/52/40

117. The Committee considered the initial report of Gabon (CCPR/C/31/Add.4) at its 1541st to 1543rd meetings (fifty-eighth session), held on 28 and 29 October 1996, and at its 1556th meeting on 6 November 1996, adopted the following observations.

1. Introduction

118. The Committee welcomes the opportunity to initiate its dialogue with the Government of Gabon while regretting that this follows a lapse of over 12 years in the submission of the report by the State party. While the Committee regrets the scarcity of information contained in the written report, it expresses its appreciation for the high-level delegation, as well as for the detailed and updated additional information provided by the delegation in response to the Committee's questions.

2. Factors and difficulties affecting the application of the Covenant

119. The Committee notes the existence in the State party of customs and traditions, particularly in the area of equality between men and women, which may impede the full observance of relevant provisions of the Covenant.

3. Positive aspects

120. The Committee welcomes the positive political evolution of Gabon towards a multi-party and pluralist democracy since the entry into force of the 1991 Constitution and its amendment of 18 March 1994. It notes with satisfaction the establishment in 1987 of a Ministry of Communication, Culture, Art and Human Rights, which includes human rights among the subjects for which it has responsibility. The Committee appreciates the statement made by the delegation to the effect that the Government intends to establish, as a statutory, autonomous body, a national human rights commission for the promotion and protection of human rights.

121. The Committee welcomes Gabon's accession without any reservation to various international human rights instruments.

122. The Committee notes with satisfaction that pursuant to the introduction of the multi-party system, 20 political parties have been created and that, further to the promulgation of the 1994 Labour Code and the 1993 Act on trade union organizations of public servants, the previous trade union monopoly system has been removed.

123. The Committee appreciates the statement by the delegation that information on international human rights instruments and, in particular, on the provisions of the Covenant would be disseminated to the public.

4. Principal subjects of concern

124. The Committee regrets that the opportunity was not taken by the drafters of the Constitution to include in the 1994 Constitution, which refers to other international human rights instruments, a specific reference to the Covenant and its legal relationship with the domestic legal order. It also regrets that all rights provided for in the Covenant are not incorporated into domestic law and that effective remedies are not provided in all cases of violation of rights protected under the Covenant.

125. The Committee is concerned that the non-discrimination clauses in the Covenant, as laid down in its articles 2, 3 and 26, are not fully reflected in the Constitution. Particular concern is expressed at the prevailing discriminatory attitudes in society towards women and at the insufficiency and lack of effectiveness of measures adopted to prevent those attitudes.

126. The Committee is concerned about the lack of safeguards and effective remedies available to individuals during a state of emergency and particularly regrets the lack of information on the situation of non-derogable rights in such circumstances.

127. The Committee regrets that despite the Government's declared policy of not applying the death penalty, no legal steps have yet been taken to abolish it.

128. The Committee is concerned that the guarantees contained in articles 7, 9 and 10 of the Covenant are not fully complied with either in law or in practice. In particular, it is seriously concerned about the length of time that individuals may have to spend in police custody and pre-trial detention.

129. The Committee is concerned about the practice of imprisonment for civil debt, in contravention of article 11 of the Covenant.

130. The Committee is also concerned about the "dilapidated state of jail cells" and notes that insufficient measures have been taken to provide law enforcement officials with appropriate training in the field of human rights and to inform arrested persons and detainees of their rights. The Committee further deplors the fact that the police force is a component of the country's military forces and, as such, is subject to the military command of the Ministry of Defence.

131. The Committee is concerned about the lack of information on measures to ensure the independence and impartiality of the judiciary, in conformity with article 14 of the Covenant.

132. With regard to the rights of non-Gabonese citizens and refugees living in Gabon, the Committee is concerned about legal impediments to their freedom of movement within the country, as well as by the requirement of an exit visa for foreign workers, which run counter to the provisions in article 12 of the Covenant. It is particularly worried by the appalling conditions prevailing in refugee centres, including the Libreville Detention Camp, which led to the death of a number of persons through suffocation and dehydration.

133. The Committee is concerned about the lack of measures taken to implement the rights of persons belonging to minorities, as set forth in article 27 of the Covenant.

5. Suggestions and recommendations

134. The Committee recommends that the Covenant be incorporated into the domestic legal order and that its provisions be made directly applicable before the courts. In this connection, the Committee emphasizes the importance of establishing a national commission on human rights as a permanent and independent mechanism to monitor the effective implementation of the Covenant and to provide training to law enforcement officials and appropriate information to the public.

135. The Committee recommends that all grounds on which discrimination is prohibited, as provided for in articles 2 and 26 of the Covenant, be incorporated in the relevant provisions of the Constitution. It further recommends that article 2 of the Constitution be amended to ensure its compatibility with articles 2 (1), 3 and 26 of the Covenant and that affirmative measures be taken to strengthen the participation of women in the political, economic and social life of the country and to overcome the discriminatory effects of customary laws.

136. The Committee recommends that the State party urgently adopt and incorporate all relevant provisions of article 4 of the Covenant into the Constitution.

137. The Committee recommends that the State party consider the abolition of the death penalty and accession to the Second Optional Protocol to the Covenant.

138. The Committee recommends that all legal provisions or executive orders be reviewed to ensure their compatibility with articles 7, 9 and 10 of the Covenant and their effective implementation in practice. Urgent steps should be taken to review the duration of police custody and preventive detention and to ensure the independent investigation of all allegations of ill-treatment by police and prison officers.

139. The Committee recommends that prison conditions be brought into compliance with article 10 of the Covenant and with the United Nations Standard Minimum Rules for the Treatment of Prisoners and that those standards be made accessible to the police, armed forces, prison personnel and other persons responsible for holding interrogations, as well as to persons deprived of their liberty.

140. The Committee urgently recommends the abolition of imprisonment for civil debt, in compliance with article 11 of the Covenant.

141. The Committee strongly recommends that the State party take the necessary measures to ensure that the police is transformed into a civilian force not subject to the military command of the Ministry of Defence. It also recommends that the State party include in its second periodic report information on measures to ensure the independence and impartiality of the judiciary.

142. Existing provisions, such as article 1, paragraph 3, of the Constitution limiting or restricting the exercise of the right to freedom of movement for non-Gabonese citizens, including the requirement of exist visas, should be reviewed to bring the legislation fully into conformity with article 12 of the Covenant. The Committee further recommends that the State party consider adopting measures to improve the status and living conditions of refugees in refugee centres.

143. The Committee recommends that the Government of Gabon develop information and awareness programmes on the principles and provisions of the Covenant in the various languages spoken in Gabon. It also recommends that human rights education be provided at all levels in schools and that comprehensive human rights training be provided to all segments of the population, including law enforcement officers and all persons involved in the administration of justice. In this regard, the Committee suggests that the State party avail itself of the technical cooperation services of the United Nations High Commissioner for Human Rights Centre for Human Rights.

144. The Committee encourages the State party to disseminate widely the State party's report and the concluding observations adopted by the Committee following its consideration of the report.

145. The Committee recommends that full and comprehensive information on the implementation of the provisions of the Covenant, in law and in practice, be incorporated in the State party's next periodic report.

CCPR A/56/40

75. Gabon

(1) The Committee considered the second periodic report of Gabon (CCPR/C/128/Add.1) at its 1886th and 1887th meetings on 27 October 2000 (CCPR/C/SR.1886 and 1887), and adopted the following concluding observations at its 1894th meeting, held on 2 November 2000 (CCPR/C/SR.1894).

Introduction

(2) The Committee found the introduction to the second periodic report of Gabon and the additional written material interesting. It is thankful that the report was submitted on time and notes the efforts made by the State party delegation to answer the Committee's questions. It regrets, however, that the report is so brief, offering some information on Gabonese legislation, but no specific details on the implementation of the Covenant. It emphasizes that the State party has not followed the guidelines for the submission of reports or taken account of the concerns the Committee expressed in its concluding observations following the consideration of the initial report (CCPR/C/31/Add.4).

Positive aspects

(3) The Committee welcomes Gabon's shift towards a multi-party, pluralistic democracy, particularly since the amendments to the Constitution in 1994 and 1997.

(4) It notes with satisfaction that the Covenant is directly applicable in Gabon.

(5) The Committee is pleased that individuals may submit appeals directly to the Constitutional Court, which could additionally strengthen the remedies available to them in the event of violations of the Covenant.

(6) The Committee takes note of the establishment of a ministry with responsibility for human rights and of a 14-member national human rights commission as an official body to promote and protect human rights with jurisdiction to consider applications from individuals. It welcomes the creation of an inter-ministerial commission to identify and remove discriminatory legislative provisions, particularly with regard to women.

(7) It notes that the police is no longer a part of the Armed Forces and no longer comes under the authority of the military command in the Ministry of Defence.

Principal subjects of concern and recommendations

(8) The Committee reiterates the concern expressed in its 1996 concluding observations that the non-discrimination clauses contained in articles 2, 3 and 26 of the Covenant are not fully reflected in the Constitution.

(9) The Committee notes that there are customs and traditions in the State party, having a bearing

on, among other things, equality between men and women, that may hamper the full implementation of some provisions of the Covenant. In particular, the Committee deplores the fact that polygamy is still practised in Gabon and refers to its General Comment No. 28, which states that polygamy is incompatible with equality of treatment with regard to the right to marry. “Polygamy violates the dignity of women. It is an inadmissible discrimination against women” (CCPR/C/21/Rev.1/Add.10, para. 24). The Committee also observes that a number of legislative provisions in Gabon are not compatible with the Covenant, including article 252 of the Civil Code requiring a woman to be obedient to her husband. Lastly, the Committee notes that, in the event of her husband’s death, a woman inherits only the usufruct of a quarter of the property left by her husband, and only after her children.

The State party must review its legislation and practice in order to ensure that women have the same rights as men, including rights of ownership and inheritance. It must take specific action to increase the involvement of women in political, economic and social life and ensure that there is no discrimination based on customary law in matters such as marriage, divorce and inheritance. Polygamy must be abolished and article 252 of the Civil Code repealed. It is the duty of the State party to do everything necessary to ensure that the Covenant is respected.

(10) The Committee notes the lack of information concerning article 4, paragraph 2, of the Covenant; it is concerned about the lack of safeguards and effective remedies available to individuals during a state of emergency.

The Committee invites the State party to clarify the rights of the Covenant affected by the various types of state of emergency. Gabon should establish effective remedies in legislation that are applicable during a state of emergency.

(11) The Committee notes that the State Security Court is still in existence even if it is not functioning.

The Committee invites Gabon to abolish the State Security Court.

(12) The Committee notes the State party’s declared policy of not applying the death penalty, and that no one has been executed since 1981.

The Committee invites the State party to take the required steps to accede to the Second Optional Protocol to the Covenant on the abolition of the death penalty.

(13) The Committee notes that the safeguards provided for in article 9 of the Covenant are not fully respected either in law or in practice. It is particularly concerned about the length of time people can spend in police custody and pre-trial detention. It points out that article 9, paragraph 3, of the Covenant stipulates that “It shall not be the general rule that persons awaiting trial shall be detained in custody”.

The State party should take action to ensure that detention in police custody never lasts longer than 48 hours and that detainees have access to lawyers from the moment of their detention. The State party must ensure full de facto compliance with the provisions of article 9, paragraph 3, of the

Covenant.

(14) The Committee notes the delegation's statement that, in prison, detainees are segregated, accused persons being kept separate from convicted persons and juveniles from adults. It is, however, concerned to learn that such segregation is still not practised in some rural prisons. Although, since the consideration of the previous report, Gabon has made efforts to restructure its prisons and has built two new ones, the Committee is still concerned about the dilapidated state of the old prisons, the overcrowding and the lack of hygiene.

The State party must bring prison conditions into line with article 10 of the Covenant and the Standard Minimum Rules for the Treatment of Prisoners, making those rules available to the police, the Armed Forces, prison staff and anyone else responsible for conducting interrogations, as well as to persons deprived of their liberty.

(15) The Committee reiterates its concern about the practice of putting people in prison for civil debts, which is in breach of article 11 of the Covenant.

The State party must abolish imprisonment for debt.

(16) As regards the rights of non-Gabonese citizens and refugees living in Gabon, the Committee notes that foreign workers are still required to have exit visas, in contravention of article 12 of the Covenant.

The State party must do away with this requirement.

(17) The Committee is concerned to note that the State party denies the existence of minorities in its territory. The Committee is concerned to note that the steps taken to guarantee the rights of people belonging to minorities, as set forth in article 27 of the Covenant, are inadequate, particularly with regard to the Baka people.

The State party must take positive, effective steps to guarantee the rights of people belonging to all minorities.

(18) The Committee is concerned about the exploitation of children, including foreign children. It notes that the Libreville Conference in February 2000 showed this to be a veritable scourge.

The State party must take all necessary steps to ensure that children enjoy special protection, in accordance with its obligations under article 24 of the Covenant.

(19) The Committee notes with regret that the powers vested in the National Council of Communication to monitor programmes and impose penalties on organs of the press are an obstacle to the exercise of freedom of the press. It deplores the harassment of journalists.

The Committee invites the State party to bring its legislation into line with article 19 by doing away with censorship and penalties against organs of the press and ensuring that journalists may safely

exercise their functions.

Dissemination of information about the Covenant

(20) The Committee has scheduled the submission of the third periodic report for 31 October 2003. This report should be prepared in accordance with the Committee's revised guidelines, provide gender disaggregated data and up-to-date statistics on the status of women and give particular prominence to the recommendations made in these concluding observations. The Committee requests that these concluding observations and the next periodic report should be widely circulated to the general public, including civil society and non-governmental organizations active in Gabon.