



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

Distr.: General
16 February 2012
English
Original: French

Committee against Torture

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

Initial reports of States parties due in 2001

Gabon*

[26 October 2011]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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I. General information

1. This report undertakes to describe Gabon's efforts to implement its international commitments, in particular with regard to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The fundamental rights enshrined in the Universal Declaration of Human Rights and those taken into account in the African Charter of Human and Peoples' Rights are priority areas of the "Gabon Emergent" policy being implemented by President Ali Bongo Ondimba since he took office in October 2009.

2. The Convention against Torture is a supplementary instrument for Gabon's legal order. Gabon acceded to the Convention on 8 September 2000, and it signed the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 15 September 2004.

3. Gabon accepted the rule contained in article 5 of the Universal Declaration of Human Rights, adopted by the United Nations General Assembly on 10 December 1948 and ratified by Gabon in 1960, which states that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In conformity with that acceptance, Gabon recognizes in article 1, paragraph 1, of its Constitution that no one may be humiliated, abused or tortured, including when under arrest or imprisoned. Gabon is also party to a number of international instruments that prohibit torture and similar acts, and in particular:

- International Labour Organization (ILO) Forced Labour Convention (No. 29), which it ratified on 14 October 1960.
- ILO Night Work (Women) Convention (No. 4), which it ratified on 14 October 1960.
- ILO Night Work (Women) Convention (Revised) (No. 41), which it ratified on 14 October 1960.
- ILO Minimum Age (Industry) Convention (No. 5), which it ratified on 14 October 1960.
- ILO Minimum Age (Non-Industrial Employment) Convention (No. 33), which it ratified on 14 October 1960.
- ILO Night Work of Young Persons (Industry) Convention (No. 6), which it ratified on 14 October 1960.
- ILO Right of Association (Agriculture) Convention (No. 11), which it ratified on 14 October 1960.
- ILO Freedom of Association and Protection of the Right to Organize Convention (No. 87), which it ratified on 14 October 1960.
- ILO White Lead (Painting) Convention (No. 13), which it ratified on 14 October 1960.
- ILO Weekly Rest (Industry) Convention (No. 14), which it ratified on 14 October 1960.
- ILO Protection of Wages Convention (No. 95), which it ratified on 14 October 1960
- ILO Right to Organize and Collective Bargaining Convention (No. 98), which it ratified on 29 May 1961.

- ILO Discrimination (Employment and Occupation) Convention (No. 111), which it ratified on 29 May 1961.
- ILO Abolition of Forced Labour Convention (No. 105), which it ratified on 29 May 1961.
- ILO Maternity Protection Convention (No. 3), which it ratified on 13 June 1961.
- ILO Workmen's Compensation (Agriculture) Convention (No. 12), which it ratified on 13 June 1961.
- ILO Equality of Treatment (Accident Compensation) Convention (No. 19), which it ratified on 13 June 1961.
- ILO Underground Work (Women) Convention (No. 45), which it ratified on 13 June 1961.
- ILO Holidays with Pay Convention (No. 52), which it ratified on 13 June 1961.
- ILO Fee-Charging Employment Agencies Convention (Revised) (No. 96), which it ratified on 13 June 1961.
- ILO Minimum Wage Fixing Machinery (Agriculture) Convention (No. 99), which it ratified on 13 June 1961.
- ILO Equal Remuneration Convention (No. 100), which it ratified on 13 June 1961.
- ILO Holidays with Pay (Agriculture) Convention (No. 101), which it ratified on 13 June 1961.
- Convention relating to the Status of Refugees, to which it acceded on 27 April 1964.
- General Convention on the Privileges and Immunities of the Organization of African Unity, which it ratified on 19 April 1965.
- Convention on the Political Rights of Women, which it ratified on 19 April 1967.
- ILO Minimum Age (Underground Work) Convention (No. 123), which it ratified on 18 October 1968.
- ILO Medical Examination of Young Persons (Underground Work) Convention (No. 124), which it ratified on 18 October 1968.
- ILO Labour Inspection Convention (No. 81), which it ratified on 17 July 1972.
- ILO Weekly Rest (Commerce and Offices) Convention (No. 106), which it ratified on 26 April 1973.
- Protocol relating to the Status of Refugees, which it ratified on 28 August 1973.
- ILO Workers' Representatives Convention (No. 135), which it ratified on 13 June 1975.
- ILO Labour Administration Convention (No. 150), which it ratified on 11 October 1979.
- International Convention on the Suppression and Punishment of the Crime of Apartheid, to which it acceded on 29 February 1980.
- International Convention on the Elimination of All Forms of Racial Discrimination, which it ratified on 29 February 1980.
- International Covenant on Economic, Social and Cultural Rights, to which it acceded on 21 January 1983.

- Convention on the Elimination of All Forms of Discrimination against Women, which it ratified on 21 January 1983.
- Convention on the Prevention and Punishment of the Crime of Genocide, to which it acceded on 21 January 1983.
- International Convention against Apartheid in Sports, which it signed on 16 May 1986.
- ILO Tripartite Consultation (International Labour Standards) Convention (No. 144), which it ratified on 6 December 1988.
- ILO Collective Bargaining Convention (No. 154), which it ratified on 6 December 1988.
- ILO Termination of Employment Convention (No. 158), which it ratified on 6 December 1988.
- Convention on the Rights of the Child, which it ratified on 9 February 1994.
- Rome Statute of the International Criminal Court, which it ratified on 20 September 2000.
- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which it signed on 8 September 2000.
- ILO Worst Forms of Child Labour Convention (No. 182), which it ratified on 28 March 2001.
- Protocol Relating to the Peace and Security Council (PSC) of the African Union, which it ratified on 29 December 2003.
- United Nations Convention against Corruption, which it ratified on 13 September 2004.
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, to which it acceded on 5 November 2004.
- United Nations Convention against Transnational Organized Crime (Palermo Convention), to which it acceded on 10 December 2004.
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which it signed on 15 December 2004.
- ILO Worst Forms of Child Labour Convention (No. 182), which it ratified on 27 January 2005.
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, which it signed on 27 January 2005.
- OAU Convention on the Prevention and Combating of Terrorism, which it ratified on 25 February 2005.
- African Youth Charter, which it ratified on 17 July 2007.
- African Charter on the Rights and Welfare of the Child, which it ratified on 18 May 2007.
- OAU Convention for the Elimination of Mercenarism in Africa, which it ratified on 18 May 2007.
- Additional Protocol to the OAU General Convention on Privileges and Immunities, which it ratified on 18 May 2007.

- Protocol of the Court of Justice of the African Union, which it ratified on 18 May 2007.
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which it ratified on 10 September 2007.
- Convention on the Rights of Persons with Disabilities, to which it acceded on 17 September 2007.
- International Convention for the Protection of All Persons from Enforced Disappearance, which it signed on 25 September 2007.
- WHO Framework Convention on Tobacco Control, which it ratified on 20 February 2009.
- ILO Minimum Age Convention (No. 138), which it accepted and deposited with ILO on 1 October 2009.
- African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, which it signed on 29 January 2010.
- African Charter on Democracy, Elections and Governance, which it signed on 30 January 2010.
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, which it ratified on 8 October 2010.
- Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, which it ratified in October 2010.
- Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which it signed on 15 December 2004.
- International Covenant on Civil and Political Rights, to which it acceded on 21 January 1983.
- African Charter on Human and Peoples' Rights, which it ratified on 20 February 1986, article 5 of which stresses that "Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited."
- OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, which it ratified on 21 March 1986.
- Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, which it ratified on 14 August 2000.

4. In conformity with its international commitments, the basic principles of the above-mentioned instruments are taken into account in Gabon's legal order so as to ensure that they are complied with and implemented. To that end, article 4 of the Constitution provides that rights of the defence in legal proceedings are guaranteed for all, and it stipulates that pretrial detention may not exceed the time period set by law. The preamble to the Constitution affirms Gabon's commitment to the basic human rights and fundamental freedoms defined in the 1789 Declaration of the Rights of Man and of the Citizen and the 1948 Universal Declaration of Human Rights and embodied in the 1981 African Charter on Human and Peoples' Rights and the 1990 National Charter of Freedoms.

5. In accordance with article 67 of the Constitution, justice is administered in the name of the Gabonese people by the Constitutional Court, the Court of Cassation, the Council of State, the Court of Accounts, the Courts of Appeal, the Tribunals, the High Court of Justice and other courts of special jurisdiction. The judiciary is independent of the legislature and executive branches (Title V of the Constitution). On 19 October 2010, the Council of Ministers proposed a reform aimed at assuring a balance of powers through the involvement of magistrates in the operation of the Supreme Council of Justice. To that end, each president of the High Courts now holds the post of vice-president within the Council of Justice on a rotation basis determined by law. Article 68 of Title V of the Constitution specifies that the judiciary is independent of the legislative and executive branches and that in the exercise of their duties, judges are subject solely to the authority of the law.

6. In order to ensure better prevention of torture and inhuman or degrading treatment or punishment, the Government conducts periodic interministerial visits (Ministry of Justice, Ministry of Human Rights, Ministry of the Interior and the Secretariat General of the National Commission of Human Rights, which represents civil society) to prison facilities. Prisons are inspected by officials of the Ministry of Justice and are visited by examining magistrates; for all other segments of society, special authorization must be granted by the Ministry of Justice. The latest visit of this type took place in 2010, to Libreville Central Prison, the objective being to prevent ill-treatment of persons deprived of their liberty.

7. According to the Global Peace Index for 2011 established by the Institute for Economics and Peace, Gabon ranks 81st on the list of countries offering the most guarantees of peace and security worldwide, and 17th on the list of African countries.

II. Information relating to the articles of the Convention

Article 1

8. This article contains an exact definition of the term “torture” and sets out its distinctive features. It lists in detail the acts which can be considered to constitute torture.

9. The Criminal Code does not reproduce verbatim the definition contained in the Convention against Torture, but focuses instead on the presentation of procedures for searches, the questioning of witnesses, interrogations and confrontations, trials of children, appeals, the sentencing of offenders, etc. However, the concept of torture appears in article 253 in connection with physical torture during arrest, detention or illegal confinement. Torture is also referred to in article 1, paragraph 1, of the Constitution, which states that every citizen has the right to the free development of his or her personality with due respect for the rights of others and public order. No one may be humiliated, abused or tortured, including when under arrest or imprisoned.

Article 2

Paragraph 1

10. This paragraph stipulates that States parties must take legislative, administrative, judicial or other measures to protect citizens from being victims of torture or any similar act. Article 4, paragraph 1, of the Convention also takes into account attempts to commit torture.

11. In order to prevent torture and other cruel, inhuman or degrading treatment or punishment from being practised in Gabon, the State has adopted important legislative, administrative and judicial measures, including:

- Act No. 919/95 of 3 July 1995 on the social protection of children with disabilities
- Act No. 19/95 of 13 February 1996 on the organization of the social protection of persons with disabilities
- Act No. 05/98 of 5 March 1998 on the status of refugees in Gabon
- Act No. 05/86 of 18 June 1986 establishing regulations for the admission and residence of foreigners in Gabon
- Act No. 87/98 of 20 July 1999 on the Nationality Code, which promotes the interests of women and children
- Acts Nos. 09/89 and 10/99 on pretrial detention and on compensation for wrongful pretrial detention
- Act No. 09/2004 of 21 September 2005 on preventing and combating trafficking in children in Gabon
- Act No. 0038/2008 of 29 January 2009 on combating and preventing female genital mutilation
- Act No. 012/2010 ratifying Order No. 001/PR/2010 of 25 February 2010 amending certain provisions of Act No. 003/78 of 1 June 1978 establishing a prison guard service
- Act No. 36/10 of 25 November 2010 establishing the Code of Criminal Procedure, promulgated by Decree No. 0805/PR of 25 November 2010 and published in the Official Gazette on 30 December 2010. This Act abrogates Act No. 35/61 of 5 June 1961
- A bill abolishing the death penalty, adopted by the Council of Ministers at its meeting of 14 February 2008 and submitted to the Secretariat General of the Government in February 2010
- Order No. 59/76 of 1 October 1976 concerning the protection of minors and banning minors under 21 years of age from public places after 9 p.m.
- Order No. 0022/PR/2007 of 21 August 2007 establishing a mandatory health insurance and social security scheme
- Order No. 0023/PR/2007 of 21 August 2007 establishing a family allowance scheme for Gabonese of limited means
- Order No. 18/PR/2010 of 25 February 2010 amending certain articles of the Labour Code
- Decree No. 00648/PR of 19 July 2000 establishing the powers, structure and operation of the National Commission for Refugees
- Decree No. 0003/PR/MTEFP of 8 January 2002 on combating child labour
- Decree No. 000152/PR/MSASBE of 4 February 2002 establishing the powers, structure and operation of the National Centre for the Integration of Persons with Disabilities
- Decree No. 00243/PR/MASSNBE of 12 April 2002 on the free distribution of school textbooks
- Decree No. 00604/PR/MSNDSBE of 22 August 2002 introducing higher family allowances under the social security scheme for wage earners

- Decree No. 00102/PR/MISPD of 17 October 2002 establishing the Department of Prison Health and the Department of Social Affairs, which is responsible for social issues
- Decree No. 000741/MTE/MEFBP of 22 September 2005 establishing modalities for the punishment of infractions in the areas of labour, employment, security and health at work as well as social security
- Decree No. 000024/PR/MTE of 6 January 2006 regulating checks, investigations and searches for the purpose of preventing and combating trafficking in children in Gabon
- Decree No. 000873/PR/MFPEPF of 17 November 2006 on the establishment, responsibilities and structure of a national observatory for children's rights
- Decree No. 104/ PR/MSP of 15 January 2007 on modalities for the care of patients at public health facilities
- Decree No. 304/PR/MCAEPRDH of 31 March 2008 on the establishment and organization of the Directorate General of Human Rights
- Decree No. 303/PR/MCAEPRDH of 31 March 2008 on modalities for the appointment of members of the National Commission of Human Rights
- Decree No. 00031/PR/MTEEFP of 8 June 2002 on combating trafficking in minors
- Decree No. 298/PR/MFPF on the establishment, powers and operation of the National Commission for the Family and the Protection of Women
- Decree No. 0128/PR/MTEPS/MBCFPRE of 23 April 2010 establishing a solidarity benefit for all employees whose gross salary is less than the minimum monthly wage (this benefit is the difference between the minimum monthly wage and the employee's gross salary)
- Order No. 001/PM/MDCRPE/AS of 12 December 1972 establishing a court welfare office in Libreville
- Order No. 0012/MASSBE/DGAS of 5 November 1985 establishing a school for hearing-impaired children
- Order No. 1145/PM/PAECF of 30 July 2000 establishing an identity card for refugees and regulating its issuance and renewal
- Order No. 000158/PM/MSNASBE of 8 August 2000 on the establishment, responsibilities and structure of a committee to monitor the implementation of the platform for action on trafficking for labour exploitation
- Order No. 006/MTEPS of 12 April 2010 defining the composition and operation of the committee on job safety and health in establishments with at least 50 employees
- Decision No. 055/MASSNCRA/SG/DAS/SASS of 5 April 1992 establishing an ad hoc commission on foster care for abandoned children
- Decision No. 000001/PM/MESI/PDM of 3 June 2006 establishing the procedure for the care and repatriation of trafficked children in the province of Ogooué-Maritime
- The Criminal Code
- The Labour Code
- The signing of a multilateral regional cooperation agreement to combat trafficking in persons, especially women and children, in West and Central Africa and its resolution on combating trafficking in children

The following measures have also been taken:

On 26 November 2009 the Council of Ministers adopted a bill to ensure a better monitoring of the enforcement of punishments and a better prison management that takes into account social problems and the reintegration of minors in society. The Ministry of Justice has been in charge of prisons since 2010.

The Government has decided to build new prisons, bearing in mind contemporary norms for the protection of human rights, in the provinces of Estuaire, the administrative and political capital, and Ogooué-Maritime, the economic capital. This measure will make it possible to bring prison conditions into conformity with article 10 of the International Covenant on Civil and Political Rights and with the Standard Minimum Rules for the Treatment of Prisoners. Construction has begun on the Estuaire prison, which is located in a southern suburb of Libreville.

In June 2010, the director of prison security and the administrators of the central prison of Libreville, which is the administrative and political capital of Gabon, launched an initiative to give inmates vocational training, focusing first on the agricultural sector, so that inmates, and young people in particular, can find work in that area once they have served their sentence.

On 26 November 2009, the Council of Ministers adopted a bill amending certain provisions of Act No. 021 on exposure to risks and a draft decree that places the Directorate of Civil Protection under the authority of the Ministry of the Interior, Public Security, Immigration and Decentralization. The adoption of these texts has given rise to studies and the elaboration of measures to ensure the implementation or application of the Civil Protection Plan.

In 2010, the capacities of the security forces were strengthened with the help of a local competitive examination held for 3,000 posts at national level.

A Law Centre was inaugurated in July 2010. Community-based, the Centre makes legal aid more readily accessible to the most disadvantaged citizens, who can receive assistance there from lawyers, bailiffs, legal advisors, notaries and accountants. The Centre compensates for the absence of both a standing mechanism for cooperation and dialogue between legal practitioners and a permanent arrangement offering legal assistance to the population. It provides free confidential consultations so that the most underprivileged members of the population can learn about their rights and ensure that they are respected and implemented.

On 4 October 2010, at the start of the 2010–2011 judicial year, the first President of the Council of State drew attention to improper practices and misconduct in the judiciary. A document prepared by the Inspector General of Judicial Services and read by the first President of the Council of State revealed that, in addition to corruption, which is taking on alarming proportions, there have been fraudulent removals of evidence from files; paroles for frivolous reasons of dangerous criminals without guarantee that they will appear in court; falsifications of judicial decisions by court officials; disappearances of files removed by judges or court officials; disappearances of sealed documents and other evidence; instances of files being withheld by judges acting as notaries in inheritance cases etc. For these reasons, it was decided that, when such acts have come to light and the perpetrators are clearly identified, anyone who tarnishes the reputation of the judiciary must be referred to the Judicial Service Commission, which rules on disciplinary matters, because it is important to put an end to the image of an ineffective and corrupt judicial system.

To address this situation, during this same period the Commissioner General proposed the complete overhaul of the institutional framework, which clearly needs a far-reaching modification of existing texts; training of qualified personnel; a reorganization of

the map of judicial districts and a guarantee of the independence of the judiciary; a recasting of legislation on the organization of the judicial system and of the judges' statute, which is no longer in keeping with the current context; and organic laws relating to the high courts, namely the Court of Cassation, the Council of State and the Court of Accounts.

On 1 April 2011, magistrates of the Association of Magistrates of Gabon met with students to discuss the implications of the new Code of Criminal Procedure.

At the meeting of the Council of Ministers of 1 June 2011, President Ali Bongo Ondimba gave firm instructions to the Government to strengthen the provisions of the Criminal Code in view of the upsurge of social ills such as drug abuse, sexual abuse and the dispossession of widows and orphans.

Paragraph 3

12. The basic idea of this paragraph is to prohibit the invoking of an order from a superior or a public authority as a justification for torture, as defined in article 1 of the Convention against Torture, which entered into force on 26 June 1987 pursuant to article 27 (1). This definition is not reproduced verbatim in the Criminal Code. Neither the amendments made in 1993 to articles of the Criminal Code nor those introduced in 2010 contain a detailed definition of the term of torture. However, all the other provisions taken into account include explicit definitions.

13. Articles 49 and 49 bis of the Criminal Code warn against abuse of authority. Article 49 specifies that anyone who through abuse of authority or power gives instructions for the commission of an act qualified as a crime or an infraction shall be punished as an accomplice. Article 49 bis, added by Act No. 19/93 of 27 August 1993, stipulates that anyone who knowingly instigates the commission of a criminal act by another person or directly incites the commission of a crime or an infraction shall be sentenced to the same punishment as the perpetrators, even if, for reasons beyond their control, such incitement is not followed by acts.

14. Article 22 of the Preliminary Title of the Constitution provides that the defence of the nation and the safeguard of public order are ensured above all by the national defence and security forces. Consequently, no individual or group may create a private militia or paramilitary group. The national defence and security forces are in the service of the State. Pursuant to article 1 of the Constitution, and bearing in mind article 2, paragraph 2, of the Convention, Gabon recognizes and guarantees that human rights are inviolable, imprescriptible and binding for the public authorities.

15. In line with article 2 of the Convention, article 12 of the Code of Criminal Procedure stipulates that the work of the criminal investigation department, which is under the direction of the Attorney General, the supervision of the public prosecutor and the scrutiny of the court of appeals, is performed by prosecutors and their deputies; examining judges; judges of regional courts discharging the function of public prosecutor or examining judge; district judges; heads of administrative districts and their deputies; non-commissioned and commissioned officers in the gendarmerie, as well as brigade chiefs, station chiefs and gendarmes specifically designated pursuant to an order by the Minister of Justice; mayors and their deputies; directors of security and police superintendents as well as secretaries and police inspectors specifically designated pursuant to a joint order of the Minister of Justice and the Minister of the Interior; and the administrative chiefs of control posts. In accordance with article 12, article 15 specifies that criminal investigation officers must inform the examining judge or the public prosecutor within 48 hours of any crime, infraction or misdemeanour of which they have knowledge and above all must indicate their official status in the police report. Article 20, paragraph (c), of the Code of Criminal Procedure states that in cases of professional misconduct, the public prosecutor may take all

necessary measures to suspend criminal investigation officers from their duties, pending a decision by the Minister of Justice.

16. In that connection, article 95 of Act No. 19/2010 of 27 July 2010 ratifying Order No. 013/PR/2010 of 25 February 2010 on the status of the national police force stipulates that prejudicial acts committed by a police officer in the exercise of his/her functions, in connection with the exercise of his/her functions or outside his/her functions must be reported to the competent jurisdictions. Article 97 confirms that when a procedure is instituted against a police officer, he/she must appear before the competent judicial authority. The members of the police force of Gabon do not enjoy any impunity.

17. Article 135 of Order No. 013/PR/2010 of 9 April 2010 on the status of the national police force introduces the concepts of disciplinary offence and police misconduct. Disciplinary offences are breaches of professional duties or honour, behaviour or dress code, and professional misconduct are violations of regulations on discipline, violations of rules on the performance of duties, or negligence in the performance of duties.

18. Article 137 classifies sanctions applicable to police officers in four categories: group 1 disciplinary sanctions for officers and non-commissioned officers; group 2 and group 3 statutory sanctions; and group 1 sanctions for non-commissioned officers (warning, suspension, custodial arrest and reprimand) and for officers (warning, suspension, reprimand, custodial arrest and reprimand with an entry on the officer's personal file).

19. To ensure conformity with article 2 of the Convention, articles 250 to 254 of the Criminal Code contain the following provisions on arbitrary arrest and illegal confinement:

- In accordance with article 250, anyone who — without an order by the authorities and apart from cases in which the law requires the seizure of the accused — arrests, detains or illegally confines any other person shall be punished by a prison term of 5 to 10 years and may also be fined up to 1,000,000 CFA francs.
- Pursuant to article 251, anyone who concludes an agreement for the purpose of the deprivation of liberty of another person, either for payment or for free, shall be punished as set out in the previous article. The money, objects or valuables received in the exercise of said agreement shall be confiscated. The guilty parties shall be sentenced to a maximum punishment if the person who is the object of the agreement is under 15 years of age.
- Article 252 specifies that anyone who places or receives a person in bondage, regardless of the reason, shall be punished by a prison term of 3 months to 2 years and a fine of 24,000 to 120,000 CFA francs. The prison sentence may be increased to 5 years if the person placed or received in bondage is under 15 years of age.
- Article 253 stipulates that the perpetrators of any of the infractions set out under the present chapter shall be punished by:
 1. Long-term rigorous imprisonment if the detention or illegal confinement lasted more than one month;
 2. Life imprisonment if the arrest was conducted with the use of false uniforms, under a false name or on the basis of a false order by a public authority, if the person arrested, detained or held in illegal confinement was threatened with death, or if ransom was demanded from that person;
 3. Rigorous imprisonment if the arrest, detention or illegal confinement involved a person vested with public authority or if the victim, regardless of whom, was subjected to physical torture;

- Article 254 states that in all cases under the present chapter, convicted offenders may also be deprived of the rights enumerated in article 18 of the Code for a period of 5 to 10 years after they have served their sentence.

Article 3

Paragraphs 1 and 2

20. Gabonese law is currently in conformity with this article with regard to measures for the return, removal or expulsion of persons who enter the country. The following provisions build on this commitment:

- Act No. 05/98 of 5 March 1998 on the status of refugees in Gabon
- Decree No. 00648/PR of 19 July 2000 on the powers, structure and operation of the National Commission for Refugees
- Order No. 1145/PM/PAECF of 30 July 2000 establishing an identity card for refugees and regulating issuance and renewal

21. Gabon is making great efforts to welcome on its soil all the peoples of Africa and the world, in keeping with its international commitments and its tradition of hospitality. During World Refugee Day, celebrated on 20 June 2010, Gabon focused its attention on the return to their country of the Congolese refugees who had come to the country between 1997 and 2003. With the help of the tripartite agreement between Gabon, the Republic of the Congo and the Office of the United Nations High Commissioner for Refugees (UNHCR), stability has returned to the Republic of the Congo. A meeting was held in that connection in Libreville from 14 to 18 June 2010, and a roadmap was signed on 25 February 2010 between the Governments of Gabon and the Republic of the Congo in the presence of the United Nations High Commissioner for Refugees. Together, they chose 31 July 2011 as a deadline. On 26 and 28 July 2011, two preparatory inter-ministerial meetings were held, attended by the Ministry of Foreign Affairs, the Ministry of the Interior, the Ministry of National Defence, the Ministry of Human Rights, the Directorate General of Documentation and Immigration and the National Commission for Refugees, at which it was agreed to elaborate and strengthen measures to assist the departure of Congolese refugees. The Ministry of the Interior issued a circular with instructions to its services on the procedures and conduct to adopt for the return of refugees, and in particular on the provision of greater assistance to repatriation convoys. A need has also arisen to devise a strategy to continue normalizing the status of Congolese refugees whose cases are under consideration by the Directorate General of Documentation and Immigration. The strategy covers both diplomatic matters and aspects linked to respect for fundamental human rights and human dignity, in conformity with Gabon's international commitments and national legislation. It was decided that the Government would continue to give special attention to refugees still in Gabon, pending an administrative regularization of their status or their repatriation.

22. Following a reminder issued by the Government of the inalterable nature of 31 July 2011 as the deadline for the termination of Congolese refugee status, the President of the Committee of African Refugees in Gabon, together with the UNHCR spokesman, organized a press briefing to explain to the Congolese refugees measures in compliance with the international commitments of all the parties to the repatriation process, the aim being to prevent disinformation and misinterpretations. In actual fact — and this has been confirmed by the President of the Committee of African Refugees in Gabon — there has never been a plan to deport Congolese refugees and asylum-seekers. Throughout the process, which is ongoing, the Government of Gabon has called on all the authorities to ensure the protection of the refugees and asylum-seekers in accordance with Act No. 05/96

of 5 March 1998 and Decrees Nos. 646, 647 and 648. Together with UNHCR, it gave every adult 100,000 CFA francs and every child 50,000 CFA francs who agreed to be repatriated. UNHCR also gave all applicants for a residence permit in Gabon 150,000 CFA francs. Congolese nationals whose application for a residence permit was pending were not threatened or arrested, even after the 31 July 2011 deadline. In all, about 450 refugees applied for voluntary repatriation. Several convoys were organized between 1 and 5 August 2011 for that purpose. An arrangement with mobile teams was set up along the main routes used by the Congolese refugees, namely Franceville-Moanda and Lambaréné-Mouila-Tchibanga. Nearly one thousand Congolese refugees applied for a residence permit, and as of the end of July 2011, 217 had been issued one. Placed under the guidance of the administrator responsible for external relations of the regional UNHCR office in Kinshasa, Democratic Republic of the Congo, the voluntary repatriation of Congolese refugees living in Gabon has been a real success, thus confirming the good cooperation between the Gabonese authorities and their partners. The refugees receive support until they reach their home country; this enables them to rebuild their lives. With that in mind, UNHCR Congo organized a monitoring initiative in the host localities to assess the conditions of reintegration of the repatriated persons. In August 2011, the monitoring committee was reactivated. It met on 8 August 2011 with the participation of the Ministry of Defence and the Directorate General of Documentation and Immigration. The deadline of 30 August was chosen as the date by which all ongoing options were to be terminated, including voluntary repatriation, the issuance of residence permits and consideration of applications for exemptions and resettlement cases. Joint teams composed of representatives of UNHCR, the National Commission for Refugees and the Gabonese Red Cross and deployed in the provinces of Haut-Ogooué, Nyanga and Ngounié have repatriated 349 Congolese refugees since 22 July 2011; 388 Congolese refugees have been repatriated since 1 January 2011. These teams have also been deployed in the province of Ogooué-Maritime under this operation. A total of 443 residence permits, including 339 for which UNHCR paid the administrative fees, were issued in Libreville. As of August 2011, the mobile team of the Directorate General of Documentation and Immigration had processed 512 applications for a residence permit submitted by Congolese refugees in the provinces of Nyanga and Ngounié. All told, 1,715 applications for a residence permit have been submitted to the decentralized services of the Directorate, of which 760 are under consideration, primarily in Franceville and in Libreville. The Ministry of Foreign Affairs, International Cooperation and the French Language received a total of 48 applications for exemptions, which are examined by the subcommittee on eligibility. In view of the sensitive nature of the process and the disinformation orchestrated by certain refugees and persons acting in bad faith, UNHCR together with the Ministry of Foreign Affairs, International Cooperation and the French Language adopted a communication strategy with the help of the electronic, audio-visual and press media for the purpose of making the activities inherent in this process more visible and objective. During the repatriation of the Congolese refugees, no security incidents or cases of arrests by the police or the gendarmerie were noted or registered in Libreville or in the hinterland. With a view to bringing the repatriation of Congolese refugees to a successful close, the Government of Gabon is providing temporary protection to 306 refugees whose resettlement applications are in abeyance pending replies from new host countries such as the United States and the Nordic countries. On 26 and 29 August 2011, in a continuing spirit of cooperation with UNHCR, the national committee on eligibility met to consider about 85 applications for exemptions filed by refugees seeking to prolong their status; the decisions will be forwarded to the Government.

23. In order to provide refugees protection and assistance that is fully in line with the requirements of the international community, Gabon, as noted above, ratified the 1951 Geneva Convention relating to the Status of Refugees in 1964, its 1967 Additional Protocol in 1977 and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa in 1988. To give effect to these international instruments in the

domestic legal order, Gabon has adopted national legislation on asylum, which is embodied in Act No. 05/98 of 5 March 1998 on the protection of refugees in Gabon. Pursuant to this Act, a National Commission for Refugees was established together with its subsidiary bodies, including a subcommittee on eligibility and an appeals board. Through its recommendations, the National Commission for Refugees assists the Government with the reception and administration of refugees. The subcommittee on eligibility, composed of representatives of the ministerial departments involved in sheltering and assisting refugees, is responsible for deciding on eligibility for refugee status as defined in the legislation in force in Gabon. The appeals board makes a final ruling and considers appeals against decisions on refugee applications and status handed down by the subcommittee on eligibility. As of the end of 2010, Gabon had approximately 13,000 refugees and asylum-seekers with 25 nationalities. Unlike in other States, the refugee populations do not live isolated from Gabonese nationals. They plant their crops, hunt and fish in the same areas and use the same educational and health-care infrastructures. Since 2007 these persons have been entitled to a refugee identity card that serves as a residence permit and guarantees their freedom of movement throughout Gabon.

24. All in all, Gabon ensures the best possible treatment of refugees living in the country, in conformity with the law, guaranteeing them access to the courts, employment, housing, health care, education, etc. The Office of UNHCR in Gabon supervises unhindered the problems that arise in this area.

25. Return, i.e. a decision by which the Gabonese executive can remove from the territory a foreigner who undermines public order or national security or who has not respected the conditions of his/her stay as established by law, may be carried out voluntarily or, as was the case with the clandestine foreigners of Minkébé in June 2011, forcibly. Some background information is required to understand why Gabon took that action. On 1 June 2011 the Council of Ministers approved a bill establishing the Code of the Environment and Sustainable Development so as to give Gabon a legislative tool for addressing environmental challenges at both national and international level. In order to prevent the adverse effects of poaching, and with a view to safeguarding its animal heritage, Gabon introduced Act No. 16/2001 of 31 December 2001 on the Forest Code. The Act prescribes mandatory measures to reconcile the concern to protect and preserve the national fauna with the nutritional needs of the population, particularly in rural areas. The regulations governing the protection of wildlife are based on the following texts:

At national level:

- Act No. 016/01 of 31 December 2001 on the Forestry Code
- Act No. 15/82 of 3 February 1981 establishing regulations governing weapons and ammunition
- Act No. 3/2007 of 27 August on national parks
- Decree No. 00161/PR/MEF of 19 January 2011 establishing the conditions for the issuance of hunting licences and capturing permits
- Decree No. 000162/PR/MEF of 19 January 2011 establishing the modalities for the determination and punishment of certain infractions relating to water and forests
- Decree No. 000163/PR/MEF of 19 January 2011 establishing the conditions for the transport and marketing of wildlife species, trophies and hunting products
- Decree No. 000164/PR/MEF of 19 January 2011 regulating the classification and bag limits of animal species
- Decree No. 0679/PR/MEFCR of 28 July 1994 setting dates for the opening and closing of the hunting season

- Decree No. 015/PR/MAEFDR of 3 February 1981 on the protection of wildlife
- Order No. 02043/PM/MEFPCEPN of 13 August 2003 prohibiting the hunting, capture, detention, transport and consumption of primates
- Order No. 0481/MEFPE of 14 August 1995 setting dates for the opening and closing of the hunting season

At international level:

- Convention on International Trade in Endangered Species of Wild Fauna and Flora (Washington Convention)
- Convention on the Conservation of Nature and Natural Resources (Algiers Convention)
- Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention)
- Agreement on the Conservation of Gorillas and Their Habitat (Gorilla Agreement)
- Memorandum of Understanding concerning Conservation Measures for Marine Turtles of the Atlantic Coast of Africa
- Memorandum of Understanding concerning the Conservation of the Manatees and Small Cetaceans of Western Africa and Macronesia

Despite this firm determination on Gabon's part, foreign nationals residing in Gabon refuse to comply. The situation at Minkébé National Park, for example, had become very alarming. Notwithstanding numerous reports as well as warnings from the executive power about the plundering of natural resources, foreigners illegally occupying these areas continued to defy State authority. Poaching and illegal gold-digging led the Government to remove the poachers and clandestine gold-diggers from this site. In June 2011, the site was evacuated, with due respect for the human rights of the persons concerned, and was occupied by the police. Some 4,700 foreigners from 14 nations who were illegally present in Gabon were returned to their country of origin; the obligations under article 3 of the Convention against Torture were observed. This action put an end to unregulated gold digging and the illegal exploitation of forests, poaching and trafficking in ivory.

26. A building belonging to the Directorate General of Documentation and Immigration that serves as a holding centre for persons unlawfully in Gabon and awaiting repatriation to their country of origin began operating in June 2010. The centre is a reception facility at which persons irregularly or illegally in the country are properly lodged while they await authorization to remain in Gabon or their repatriation. It meets international human rights standards (providing guarantees for the occupants with regard to moral and religious rules, medical and social assistance, and their material well-being and hygiene), and it has a capacity of 130 beds, 80 for men and 50 for women. For entertainment, there is a large flat screen television in a spacious dining room adjacent to the bedrooms, which are equipped with modern showers and toilets. This investment sets the stage for the construction of a large modern holding centre in the municipality of Owendo, for which the State has just included 500 million CFA francs in the investment budget of the Directorate General of Documentation and Immigration.

Article 4

Paragraphs 1 and 2

27. Articles 48, 49 and 49 bis of Book I, chapter XI, of the Criminal Code are clearly consistent with paragraph 1, which stipulates that complicity in torture constitutes an

offence punishable by appropriate penalties which take into account their grave nature. Articles 250 to 254 of Book III, chapter VI, also meet this concern.

28. The Criminal Code is not limited to the cases of torture evoked in the above-mentioned chapters. It also punishes indecent assault, grievous bodily harm and other acts of physical violence. Articles 255 to 263 focus on cases of torture and cruel, inhuman or degrading treatment or punishment. Anyone who violates these provisions is punishable by law, regardless of whether the offence is indecent behaviour, rape committed by an adult on a child or a vulnerable person, procuring, or the use of the premises of a snack bar by its owners to engage in prostitution. Penalties range from a prison term of 3 months to rigorous imprisonment.

29. Articles 230 to 239 of the Criminal Code provide for the punishment of persons who commit grievous bodily harm and other acts of physical violence. Penalties range from a prison term of 2 months to rigorous imprisonment, depending on the case.

30. Given the importance of article 4 of the Convention, reference is made to a number of national instruments which reaffirm Gabon's commitment to the provisions contained in the Convention. These include (but are not limited to) the following:

- Act No. 09/2004 of 21 September 2005 on preventing and combating trafficking in children
- Act No. 0038/2008 of 29 January 2009 on combating and preventing female genital mutilation
- An Act establishing legal regulations for the protection of minors
- A bill abolishing the death penalty, adopted by the Council of Ministers at its meeting of 14 February 2008 and submitted to the Secretariat General in February 2010
- Order No. 59/76 of 1 October 1976 concerning the protection of minors and banning minors under 21 years of age from public places after 9 p.m.
- Decree No. 0003/PR/MTEFP of 8 January 2002 on combating child labour
- Decree No. 000024/PR/MTE of 6 January 2006 regulating checks, investigations and searches for the purpose of preventing and combating trafficking in children in Gabon
- Decree No. 00031/PR/MTEEF of 8 June 2002 on combating trafficking in minors
- Decree No. 298/PR/MFPF on the establishment, powers and operation of the National Commission for the Family and the Protection of Women

At the meeting of the Council of Ministers of 1 June 2011, President Ondimba instructed the Government to strengthen the provisions of the Criminal Code in order to combat the upsurge of social ills such as drug consumption, sexual abuse and the dispossession of widows and orphans.

31. Articles 275 to 281 of the Criminal Code covers crimes and other offences committed against children. Such acts are punishable by a prison term of 1 year to imprisonment for life and are sometimes accompanied by fines. These articles primarily concern kidnapping, concealment of birth, substitution, abandonment, abduction and inducement of intoxication of children.

32. Reforms of criminal law are under way, and a bill on the punishment of sexual aggression was adopted by the Inter-ministerial Council and the Council of State. The bill takes into account the situation of child victims of sexual violence by introducing harsher sanctions, particularly with regard to rape.

33. On 1 April 2010, the Government adopted a bill establishing regulations for the protection of minors, which covers provisions on the administration of juvenile justice and the relevant judicial bodies as well as protective measures for promoting the rehabilitation and social reintegration of such persons. To give effect to this protection, the bill calls for the separation of minors from adults in prisons and for alternative detention measures. This commitment clearly fulfils one of the recommendations made to Gabon during its latest universal periodic review in 2008 in the Human Rights Council, in conformity with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), with regard to the application of criminal law to juveniles (both civilians and members of the military).

34. Adopted by the Senate on 13 October 2010, the Act establishing regulations for the protection of minors takes into account Gabon's international obligations and provides for special treatment of minors so that their cases are dealt with expeditiously. It sets up a sole trial court at each level of jurisdiction and institutes a special service responsible for handling cases involving minors. This reform responds to the concerns of the international community, the recommendations that emerged from national consultations on the judicial system held in 2003 and the conclusions of the operational audit of the judicial system approved by practitioners in a workshop conducted in June 2007. In addition, the Senate recommended that the Government should harmonize the age of criminal responsibility, which is fixed at less than 13 years, and the text containing the regulations for the protection of minors, which sets it at 13 to 18 years.

35. A bill establishing a juvenile court, which was elaborated with the assistance of the United Nations Children's Fund, has been tabled in parliament, and a draft decree establishing educational structures in prisons will be submitted to the Inter-ministerial Council and the Council of State. Once the text is adopted, the Government will launch an appeal for funding for juvenile detention and reintegration centres. At present, there are separate wings for the detention of juveniles.

36. Acting on the Head of State's reminder, addressed to the Government, of the State's constitutional obligation to ensure the protection of young people against exploitation and moral, intellectual and physical abandonment, on 8 November 2010 the Council of Ministers instructed the ministers concerned to do everything in their power to ensure that no child of school age, whether a Gabonese or a foreigner living in Gabon, is exploited in any way. Any parent who abandons his or her child or does not report behaviour in violation of the law and public morals is liable to prosecution in accordance with the law, which is currently being reinforced to prevent and, if necessary, punish any deviant behaviour as well as the consumption, possession or sale of drugs and similar products. If Gabon is to move ahead, and that is the aspiration of all Gabonese, it is essential to ensure greater assistance for young people and better use of the country's human capital by providing everyone with the resources needed to participate in the production of national wealth and enjoy individual and collective prosperity.

37. Discussions are currently being held with a view to criminalizing trafficking in children in conformity with international norms. In that connection, a study on violence against children in Gabon has been conducted by UNICEF, the Association against Ritual Crimes and other partners.

38. In 2010–2011, public awareness campaigns and workshop seminars with the participation of school supervisors were organized together with UNICEF in Libreville, Owendo, Makokou and Oyem. These activities were aimed at prohibiting the worst forms of corporal punishment of schoolchildren.

39. The fight against trafficking in children took on importance following the World Children's Summit, the theme of which was "A World Fit for Children". The Government

subsequently put into place an appropriate legal framework. In that connection, it organized a subregional consultation from 22 to 24 February 2000 in partnership with UNICEF and the ILO on “Developing strategies to combat trafficking in children for labour exploitation in West and Central Africa”. It also established an inter-ministerial commission responsible for considering the joint platform for action stemming from the consultation and for monitoring its implementation. The findings of a survey conducted in 2009 by the NGO SIFOS and funded by UNICEF on trafficking in children in the province of Estuaire, the administrative and political capital, revealed that 30.6 per cent of Gabonese children were still victims of trafficking.

40. Pursuant to article 177 of the Labour Code, the Government adopted Decree No. 0031/PR/MTEFP on child labour and Act No. 09/2000 on preventing and combating trafficking in children in order to bring national legislation into line with the principles of the Convention on the Rights of the Child.

41. On 8 August 2000, a committee to monitor the implementation of the joint platform for action on trafficking for labour exploitation was established in accordance with Order No. 001058/PM/MSNASBE of the Prime Minister. The committee is under the supervision of the Ministry of Labour and Employment.

42. A number of other structures have been created with the support of the Inter-ministerial Commission and the Monitoring Committee, including:

- The Arcades Call Centre, which assists and supports child victims of trafficking and exploitation and takes steps to return them to their families. It is the link between the child and the authorities. Equipped with a telephone hotline, its mission is to monitor, to provide a listening ear and to inform.
- The Angondjé shelter for children in difficulty, created in 1997 and recognized by the public authorities in 2001, which is tasked with caring for children in difficulty. To alleviate problems of trafficking in children, part of the Centre has been set aside as a transit facility.
- The House of Hope.
- The Cry of the Child Orphanage, opened in 2009 in Oyem.
- Watchdog Committees (the latest set up in Lambaréné on 6 November 2010), which are mandated to improve the care provided to child victims of trafficking who have been removed from exploitative situations. The Watchdog Committees were formed and put in place with ILO support, under an IPEC/LUTRENA project.
- The Coordination Unit is the Watchdog Committee’s decision-making body and is responsible for promoting, planning and coordinating its work and monitoring the activities of the Reception Unit and the Task Force. The Reception Unit consists of social workers, and the Task Force comprises a labour inspector, a judge and two members of the security forces.

43. Assistance to child victims of trafficking includes removal, administrative and psychosocial support, board and lodging, and return to the country of origin or resettlement in Gabon.

44. It should, however, be pointed out that traffickers of children in Gabon are not Gabonese, but are nationals of other African countries.

45. As part of the implementation of the activities under the Gabon-UNICEF cooperation programme (2007–2011), a study was conducted analysing the situation of women and children in order to encourage the introduction of social policies and the allocation of substantial resources for these categories of persons by decision-makers,

donors, and local governments and communities, the objective being to meet the Millennium Development Goals by 2015. Seminars have been held to strengthen the capacities of key stakeholders involved in the promotion and protection of the rights of women and children.

46. A national seminar organized jointly by the Inter-Parliamentary Union and the parliament of Gabon was held in Libreville on 27 April 2011. Its aim was to enhance the capacities of Gabonese parliamentarians for promoting an environment propitious to combating trafficking in children and child labour. The purpose of the encounter, which followed up the sessions of the Regional Conference held in Cotonou in May 2010, was to enable Gabonese parliamentarians and their collaborators to explore possibilities for taking action and to initiate legislative, criminal, social and administrative reforms with a view to introducing strategies adapted to the evolution of the social ill of trafficking in children in various countries. The following recommendations were made:

- Make the fight against trafficking in children and child labour a national priority to be taken into account in the Government's finance bill
- Create an ad hoc commission in the chambers of parliament during the consideration of the finance bill
- Fund the projects of charitable organizations with a view to combating trafficking in children and child labour
- Revise Act No. 009/2004 of 22 September 2004 on preventing and combating trafficking in children in Gabon in order to bring it into line with the international legal instruments duly ratified by Gabon
- Create or strengthen the commission responsible for monitoring the application of the law
- Put into place a parliamentary network to promote the fight against trafficking in children and child labour
- Put into place a strategy to combat trafficking in children and child labour
- Strengthen training and awareness-raising programmes for all stakeholders involved in combating trafficking
- Include and improve modules on trafficking in children and child labour in school curricula and university-level courses
- Implement Order No. 18/2010 of 25 February 2010 amending certain provisions of the Labour Code
- Revise the Public Markets Code
- Elaborate legislation for combating cybercrime
- Revise the growth and poverty reduction strategy document

47. A survey on child abuse conducted in January 2009 in three provinces (Estuaire, Ogooué-Maritime and Haut-Ogooué) by the Ministry of the Family in conjunction with UNICEF revealed the following:

- Domestic violence committed against children by their parents: fathers (26.2 per cent) and mothers (21.2 per cent)
- Violence in single-parent families in which the father is granted custody of the children: abuse committed by the stepmother (30.6 per cent); by the father (60 per cent)

48. In 2011, in the framework of the annual celebration of the International Day of the African Child, the National Observatory for Children's Rights submitted the main findings of a study conducted on violence against children in Gabon. The study showed that 77.7 per cent of children are victims of physical violence. According to the report, this violence is committed in several settings, above all in the family (40.6 per cent), in the community (32.4 per cent), at school (12.9 per cent), in the judicial system (1.4 per cent) and in shelters for children in difficulty (0.2 per cent). The violence is motivated by social and psychological (64.6 per cent), economic (5.2 per cent), cultural (9.4 per cent) and political (1.1 per cent) factors. At social and psychological level, violence committed against children is linked to the lack of role models and the collapse of traditional values, divorce, separation or non-marital relationship of the parents, the death of the parents and the dispossession of the inheritance, unwanted children, alcohol and drug abuse, the inability of the public authorities to assist parents and guardians and the negative influence of the media. At economic level, the report refers to the unemployment of the parents, frustration and family hardship, prostitution, school abandonment and trafficking. Cultural factors include obscurantist practices linked to birthright, belief in witchcraft and mysticism, and harmful practices such as excision, homicide, mutilation and scarification. At social level, the report notes that ignorance of the rights of children and the illiteracy of underprivileged parents lead some parents to commit acts of violence against their children as a disciplinary measure. Some persons indulge in fetishist practices, incest, etc.

49. In view of the abuses noted of which some children are the prime victims, articles 230 to 235 of the Criminal Code provide for stiff penalties to restore order. Punishment ranges from a prison term of two months to life imprisonment, together with fines.

50. The following recommendations were formulated for the public authorities at the celebration of the International Day of the African Child:

- Ensure close and effective cooperation between all stakeholders (Government, NGOs and families) in order to find short-term solutions that alleviate the phenomenon of street children, who are present in small numbers in some of Gabon's biggest cities
- Establish a facility at which street children can receive free emergency health care
- Assign motivated and trained civil servants to shelters for children in difficulty
- Set up a network of offices in neighbourhoods through the creation of help and play centres for children

51. In the Trafficking in Persons Report 2011, it is noted that Gabon has been removed from the Tier 2 Watch List and has been placed on Tier 2. This improvement is proof of the work carried out by the Government to combat trafficking. The Government showed a marked improvement in its anti-trafficking performance, particularly by investigating trafficking in Libreville and Port Gentil, rescuing and protecting a large number of victims during the reporting period, and initiating the prosecutions of several cases, although it produced no convictions in 2010. The Government continued to provide care to child trafficking victims through public shelters. The Ministry of Foreign Affairs and the Inter-ministerial Commission sent delegations to source countries and worked with foreign embassies in Libreville to address victims' needs and raise awareness. A number of recommendations were made: increase efforts to prosecute trafficking offences and convict and punish trafficking offenders by allocating resources to convene the High Court; enact provisions prohibiting the trafficking of adults; continue to strengthen cooperation between law enforcement, immigration and gendarmerie to jointly address trafficking cases; and develop a system to track trafficking cases and provide relevant law enforcement and victim protection statistics.

52. With regard to prosecutions, the Trafficking in Persons Report 2011 notes that the Government demonstrated clear improvement in its anti-trafficking law enforcement efforts, although existing laws do not prohibit all forms of trafficking in persons. Act No. 09/04 concerning the prevention and fight against trafficking in children, enacted in September 2004, prohibits child trafficking for both labour and sexual exploitation and prescribes penalties of 5 to 15 years' imprisonment, along with fines of US\$ 20,000 to US\$ 40,000; these penalties are sufficiently stringent and commensurate with penalties prescribed for other serious crimes, such as rape. Article 261 of the Criminal Code prohibits the procuring of a child for the purpose of prostitution and prescribes 2 to 5 years' imprisonment and a fine, a penalty that is sufficiently stringent. Act No. 21/63-94 prohibits forced prostitution of adults and prescribes sufficiently stringent penalties of 2 to 10 years' imprisonment, which are commensurate with those prescribed for other serious crimes, such as rape. Article 40 of Title I of the Labour Code (Act No. 3/94) criminalizes all forms of forced labour, prescribing penalties of 1 to 6 months' imprisonment, with possible fines of \$700 to \$1,400, which are not sufficiently stringent. The High Court is required to hear trafficking cases since they are a crime equivalent to murder; however, the High Court is backlogged with cases filed from as early as 2001 and has not met in three years, presenting a significant obstacle to prosecutions of trafficking crimes. The Council of Ministers rightly put forward a proposal to change the court venue for the hearing of trafficking cases to a lower court; internal discussion continues on this and other approaches to address this obstacle. Despite the arrest of more than 68 suspected trafficking offenders between 2003 and 2010, there have been no convictions under the 2004 Child Trafficking Act, though the Government investigated trafficking offenders for potential prosecution under this Act in December 2010. The Government subsequently requested Interpol assistance in a joint operation, dubbed "Operation Bana", that resulted in the identification and rescue of 20 child labour trafficking victims and the arrest of 38 alleged trafficking offenders. The three magistrates and three investigative prosecutors overseeing the operation began preparing 17 cases, involving 20 victims, for trial under Act No. 09/04. Families of victims who were found not to be sending their children to school are facing fines. During Operation Bana, the Government worked with UNICEF as well as ministries and security services in the countries of origin to verify documents and the identities of trafficking victims and suspected offenders. Prior to Operation Bana, Gabon's police chief, in cooperation with Interpol, led three days of training for 133 law enforcement, social service and judicial officials, magistrates and NGOs. In March 2010, the Government hosted and provided the venue and food for a training course on trafficking victim identification and care; 160 police officers, gendarmes, and immigration and other officials took part.

53. With regard to protection, the Government improved on past efforts to ensure that victims of trafficking received access to necessary protective services. It provided approximately \$270,000 to support four centres offering shelter, medical care, education and psychosocial services to orphans and vulnerable children, including child trafficking victims, in Libreville and Port Gentil. One centre is completely Government-funded, while the other three are financed partly by the Government through in-kind donations and financial and service support, including social workers. Following Operation Bana, the Government specifically assigned social workers to the two Libreville-based NGO shelters to care for the rescued children; the public shelter had a social worker on staff. During the operation, authorities recovered 142 children; 24 were released to their families and the remaining 118 were placed in the three shelters in Libreville. Authorities identified 20 of these children as trafficking victims and continued to provide them with assistance. Following the operation, however, the social workers expressed concern that some of the children released to parents appeared back in the markets. An NGO in Port Gentil provided assistance to 12 victims with the support of Government social services personnel; thus, during this operation, a total of 130 suspected child trafficking victims were accommodated in the Government- and NGO-run shelters. Working with officials in the countries of

origin, the Government coordinated the repatriation of 16 victims. In the period concerned, the Inter-ministerial Commission distributed the Government's National Procedural Manual for Assisting Trafficking Victims to all relevant ministries, vigilance committees, NGOs and foreign embassies. It also provided specialized training on the manual for social workers. The Government could shelter adult victims in transit centres, though none were identified. Government personnel employed procedures to identify victims of trafficking among vulnerable groups, such as migrant children, and referred them systematically to Government or NGO shelters. Security forces routinely took testimony at the time of arrest of the trafficker or recovery of the victim, and prosecutors, with social workers present, had access to the children at shelters for follow-up questions. The Government provides temporary residency for trafficking victims; if repatriation or resettlement is not an option, the Ministry of Social Affairs normalizes victims' immigration status and places them in a community in Gabon. Following Operation Bana, the Ministry of Foreign Affairs called together the ambassadors of the source countries of the suspected victims to share information and to invite them to visit the children and play a role in their repatriation. In December 2010, six members of Gabon's Inter-ministerial Commission travelled to Mali, Benin and Togo to meet with the foreign and social affairs ministries, as well as judicial officials, to share information on anti-trafficking efforts and begin finalizing formal bilateral partnerships on victim repatriation. Benin and Gabon already have bilateral procedures in place to facilitate the repatriation of victims.

54. The Government has made strong efforts to prevent trafficking in persons. The Inter-ministerial Commission, established by Act No. 09/04 and placed under the supervision of the Ministry of Labour, conducted a door-to-door public awareness campaign in Libreville, in cooperation with UNICEF. In Lambaréné, it coordinated an awareness campaign that targeted market women and ordinary citizens who might employ child domestics.

55. Gabon has a National Procedural Manual for Assisting Trafficking Victims, which provides information on the constituent elements of the offence of trafficking in children; the Council for Preventing and Combating Trafficking in Children; the Monitoring Committee; the National Centre for the Care of Child Victims of Trafficking; the Watchdog Committee; identification; removal; hearings, the initial audience, interviews and initial action; psychosocial assistance; administrative assistance; and departure and prosecution.

56. In view of the inhuman or degrading treatment of which widows and orphans are victims (nearly 300 widows were dispossessed in the period 2009–2011), Gabon has taken a number of protective measures for these vulnerable persons, including:

- The organization of a symposium to review the conclusions of an information and public awareness seminar on the question of widows in Gabon. The recommendations of the symposium, which was held in Libreville on 25 June 2011, are to create a national agency for the protection of the surviving spouse, with provincial and departmental branches, and to hold awareness raising campaigns on the rights of widows and the international legal instruments ratified by Gabon.
- The inauguration by the First Lady, Sylvia Bongo Ondimba, on 25 June 2011 of the Mbandja Centre, which is equipped with computer services, a library and meeting rooms. This is a forum for dialogue and solidarity at which women can receive sympathy, information and advice at all times on the action that they must take as widows. The Centre has a counselling and help unit for widows which provides psychological, social and legal assistance. The associations have the logistical and technical tools needed to strengthen their capacities (through training) so as to make them genuine agents of development. In the view of many observers, community-based associations have a number of deficiencies: shortage of adequately equipped staff, opaque management of financial resources and insufficient technical equipment.

- The approval on 1 June 2011 by the Council of Ministers of a bill amending and abrogating certain provisions of Act No. 19/89 of 30 December 1989 adopting part 2 of the Civil Code. The purpose of the bill is to strengthen the legal protection of the surviving spouse and offspring through a far-reaching reform of the rules governing transfer of property and to enable these persons to effectively enjoy their inheritance rights by increasing criminal sanctions for dispossession and illegal inheritance appropriation. In accordance with article 47 of the Convention, the current text, which amends articles 647, 651, 683, 691, 692, 696, 698 to 706, 710, 747 and 906 of the above-mentioned Act, eliminates the phenomenon of dispossession of widows and orphans by reinforcing provisions for their protection, enhancing the powers and rights of the surviving spouse and orphans vis-à-vis family heirs and reorganizing the Family Council, which has become the “Inheritance Council”.
- The holding of a seminar in Libreville on 21 June 2011 on the situation of widows in Gabon to exchange ideas on issues relating to widows and to produce a concluding document on the basis of the discussion, as well as to heighten public awareness. The following measures were taken: strengthening of criminal provisions on the protection of widows and orphans; reorganization of the Family Council, which has become the Inheritance Council, through the revision of a number of provisions contained in part 2 of the Civil Code and in the Social Security Code; approval in August 2010 of the national gender equality strategy; and incorporation (in November 2010) of the services responsible for the protection of widows and orphans into the modernized national mechanism for assistance and relief.
- The firm commitment of the following associations to the protection of widows and orphans: Association of Widows and Orphans of Gabon; Pilot Group of Widows of Libreville; Association for the Defence of the Rights of Women for Widows and Orphans; Bright Morning Star Association for Widows and Orphans; and SOS Women and Children in Distress and Indigent and Abandoned Child Orphans.
- The introduction of several legal texts prohibiting the eviction of the surviving spouse from the family domicile, as well as draft reforms, primarily concerning the abolition of the Family Council, the criminalization of assaults against widows through the establishment of the offence of dispossession and the offence of illegal appropriation of inheritance, changes in the procedure for the allocation of death benefits, the abrogation of family inheritance, the setting up of a Government body to replace the Family Council and the elaboration of a Family Code.
- The creation on 16 April 2011 of the Sylvia Bongo Ondimba Foundation for the family to encourage the Government to adopt reforms to prevent dispossession and ill-treatment of widows and orphans. The Foundation has three objectives: to inform, to educate and to change women’s behaviour; to improve the quality of care provided to women in health-care facilities; and to enhance community-based assistance.
- The adoption on 16 February 2011 by the Council of Ministers of a bill amending and abrogating certain provisions concerning the rights of widows and orphans of Act No. 6/75 of 25 November 1975 of the Social Security Code. The new article 79, paragraph 2, of the bill stipulates that only the widow and the widower are considered to be survivors, provided that the marriage was contracted in a Registry Office. As to survivor pensions, the new article 81, paragraph 1 (a), states that, in the event of the death of one of the spouses, 60 per cent of the deceased’s pension is to be paid to the widow or widower, provided that the marriage was contracted in a Registry Office. If there is more than one widow, the amount is shared equally between them; the decision on distribution is final, even if one of the widows remarries or dies.

- Gabon's diplomatic success, with the help of the First Lady, in ensuring that the General Assembly adopted the principle of the institutionalization of an International Widows' Day to promote universal recognition of a right of inheritance, which widows throughout the world are often denied. International Widows' Day is celebrated annually on 23 June.
- The signing by the First Lady, during her visit to London on 23 May 2011, of new partnership agreements with bodies active in the area of women's and widows' rights. Sylvia Bongo Ondimba signed an agreement with Cherie Blair, the Loomba Foundation and its founder, Lord Loomba. A memorandum of understanding was signed with the Loomba Foundation for the creation of a new joint initiative: Widows Voice.

57. The legal status of Gabonese women is undergoing change. There is a new general awareness of the importance and the vital role of women as a driving force in Gabon's development. According to a report of the Ministry for the Advancement of Women, the legal status of women in Gabon has been gradually improving, thanks to the adoption and ratification of international and regional instruments for the protection of their rights, as well as a number of other measures taken in their favour. At international level, Gabon ratified the Convention on the Elimination of All Forms of Discrimination against Women on 22 July 1982. The Convention entered into force in Gabon on 21 January 1983. Gabon also adopted the Solemn Declaration on Gender Equality in Africa and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. With regard to domestic legal provisions, reference is made to the inclusion in the Constitution in 1990 of the principle of the equality of all citizens without distinction based on sex; the adoption of Act No. 3/94 of 21 November 1994 establishing the Labour Code, which in articles 1 and 9 specifies that all workers are equal before the law and enjoy the same benefits; a social and legal study carried out in 1997 on the status of women in Gabon, which drew attention to provisions that discriminate against women; and the adoption of Act No. 0001/2000 defining general measures of health care and social protection for women, mothers and children. In the political sphere, the Government initiated several reforms, including the passage of Act No. 7/96 of 12 March 1996 on political elections, which guarantees the equal exercise of political rights for citizens of both sexes as well as equal access to all political bodies and institutions. Act No. 24/96 of 6 June 1996 on political parties rejects discrimination against women and encourages them to be active in politics. On the economic plane, the Government adopted and implemented a number of policies and initiatives to combat poverty and help poor women become more independent. A national competitive examination was introduced by the President to encourage the socio-economic activities of women. A programme that targets women active in associations helps finance many income-generating activities by granting microcredits at an annual rate of 4 per cent for sums between 500,000 and 5 million CFA francs. In the social sphere, the Government together with civil society and development partners has conducted initiatives to explain to men and women the need to combat certain attitudes and cultural practices which impede the social advancement of Gabonese women. Reference is also made in this connection to the process of institutionalizing the gender perspective, which has been marked by the organization of several training seminars for members of civil society, public officials, human resources directors etc. An observatory for human rights and parity has been set up in cooperation with UNDP, and support has been provided for the establishment of the Office for the Coordination of Women's NGOs and Associations. In the institutional framework, the political vision of the highest Gabonese authorities with regard to gender mainstreaming led to the creation on 1 July 1974 of an Office of the High Commissioner for the Advancement of Women, the goal of which is to address questions specifically relating to women. In 1983, the Office became a State Secretariat tasked with introducing and implementing gender policy. The State Secretariat for the advancement of

women was set up in February 1999; pursuant to Decree No. 000013/PR/MFPF of 7 January 2002, it became the Ministry of the Family and the Advancement of Women, before becoming the Ministry of Health, Social Affairs, Solidarity and the Family in 2009.

58. Another important phenomenon in Gabon is the recognition by the public authorities of customary and religious marriages. During the celebration of the first International Widows' Day (23 June 2011), an urgent plea was made concerning the question of customary marriage in Gabon. It was shown that in Gabon customary marriage is marginalized by positive law, because it does not have any legal basis, although such marriages have a sociological legitimacy (more than 50 per cent of the population is in a customary marriage). The authorities responsible for these questions were called on to put an end to this judicial hypocrisy, which amounts to degrading treatment. The proposal was made that every customary marriage should be registered by a court official at the locality in which the marriage ceremony took place. The spouses can then submit this duly signed document to a Registry Office to have the marriage officially recognized. At a meeting of the Council of Ministers on 28 June 2011, President Ondimba decided to set up a special commission to consider the practical aspects of a legal recognition of customary and religious marriages. A bill on the question has already been submitted to the National Assembly. According to a national statistical study conducted between 23 May and 14 June 2011 by the Sylvia Bongo Ondimba Foundation, 95 per cent of widows had been married, of whom 96 per cent had been in a customary marriage. Yet this union is not reflected in part 2 of the Civil Code. Thus, when their spouses die, the surviving spouses cannot claim any inheritance.

59. In 2010, the Government adopted the national gender equality and equity strategy document, which aims to meet the Millennium Development Goals in the framework of Gabon's emergence.

Article 5

60. The terms of article 5 of the Convention are reflected to some extent in articles 1, 2 and 3 of the Preliminary Title of the Code of Criminal Procedure, on prosecution and civil action. Although not explicit on the distinction with regard to the origin of the alleged offender, their content shows that criminal law is applicable to offences committed in Gabon, provided that the acts are relevant in the national territory. In such cases, criminal proceedings to obtain the imposition of penalties are set in motion and conducted by magistrates or officials appointed by law. Moreover, regardless of whether or not the alleged offender is a Gabonese citizen, article 1, paragraph (b), of the Code of Criminal Procedure specifies that anyone who considers that their rights have been violated may institute proceedings in accordance with the provisions of the Code. Thus, irrespective of where a person may be in Gabon, article 2 of the Code stipulates that a civil action to seek compensation for harm caused by a serious, ordinary or minor offence may be brought by anyone who has suffered personally from the harm directly caused by the offence. This is supported by article 3, paragraph (a), of the Code, which states that a civil action may be instituted at the same time as the prosecution and before the same court and that such civil action is admissible for all types of loss or injury, both material and physical or mental, resulting from the offences forming the subject of the proceedings. This is a corroboration not only of Title I of the Constitution, on the Republic and sovereignty, and more specifically article 2, which states that Gabon guarantees equality for all citizens before the law, without distinction as to origin, race, sex, opinion or religion, but also of article 46 of the Code of Criminal Procedure, which specifies that anyone who claims to have been injured by a crime or an offence may lodge a complaint with the investigating judge.

61. Article 119 of Book II of the Code of Criminal Procedure applies not only to accused persons and offenders, but to all co-perpetrators and accomplices.

Article 6

Paragraphs 1 and 2

62. With a view to enunciating the modalities of article 6, it is important to explain the situations in which it applies when the alleged offender is present in Gabon.

63. If the offence was committed in Gabon by a Gabonese citizen against another Gabonese citizen, Gabon alone has jurisdiction. If the offence was committed by a foreign national in the territory of the national's State against another national of that State, that State alone has jurisdiction in accordance with the customary principles of international criminal law and thus is responsible for requesting the extradition of the guilty party or suspect. Such extradition is normally granted by Gabon in compliance with article 8 of the Convention.

64. Depending on the situation, ordinary law is applied as defined by the Code of Criminal Procedure: initial inquiries conducted by the criminal investigation department (art. 40) either automatically or as ordered by the magistrate referred to in article 16; custody for 48 hours, renewable once, until prosecution is instituted through the opening of an investigation by an examining judge (articles 27, 28 and 29 of the Code); occasionally, pretrial detention after charges are filed.

Article 7

Paragraph 1

65. This paragraph is the corollary of article 5, paragraph 2, of the Convention. In fact, it is the consequence of the offences referred to in the Convention. Thus, it does not require any comment other than those made concerning the above-mentioned article.

Paragraph 2

66. Given what has been said about article 4 of the Convention, any act of torture is considered to be a serious offence in Gabonese law. Thus, any act of torture is automatically treated by the authorities as a serious offence, the rules for demonstrating and proving the offence or deciding on its seriousness being independent of the capacity in which the State exercises its jurisdiction.

Paragraph 3

67. Fair treatment is ensured at all stages of the proceedings, in conformity with Gabonese law and the international instruments to which Gabon is a party, which are enumerated in the part of the report on general information. Article 1, paragraph 4, of the Constitution is clear on this point, because it stresses that the rights of the defence in legal proceedings are guaranteed for all; pretrial detention may not exceed the period prescribed by law.

Article 8

68. This article basically requires States parties to take into account the offences enunciated in article 4 of the Convention, namely torture, attempts to commit torture and

acts by a person which constitute complicity or participation in torture, in any extradition treaty with another State party. Gabon has undertaken to comply with this obligation whenever it concludes a bilateral or multilateral extradition treaty with other States parties.

Article 9

69. Gabon does not have general legislation on mutual judicial assistance. However, current legal provisions include a number of rules and actions applicable in domestic law for giving effect to requests for mutual judicial assistance.

Article 10

70. Courses on legal provisions prohibiting and punishing the use of torture are gradually becoming part of training for the officials concerned.

71. The Criminal Code and the Code of Criminal Procedure are taught both at the Legal Service Training College and in courses for future criminal investigation officers, who thus have a better awareness and understanding of the issues involved.

72. Initiatives are under way to rehabilitate the judicial system and place it on a sound moral footing. On 5 August 2011, the Minister of Justice announced that a counsellor had been appointed in his cabinet to consider ethical questions, the objective being to launch a debate on the judicial environment. It is expected that ultimately officials of the Ministry of Justice will treat detainees with greater justice, humanity and understanding — without lapsing into exaggerated familiarity — by showing more concern for their physical and moral state.

73. In May 2011, a training seminar for prison staff elaborated tools for the smooth functioning of prison security. The purpose of the seminar was to draw the attention of personnel to the responsibilities of the prison administration, thereby allowing participants to address a number of aspects of prison regulations. Issues covered included detention structures and procedures, the attitude of prison staff, corruption and drug abuse.

74. On 6 May 2010, a bill reorganizing the Legal Service Training College was adopted by the Council of Ministers in order to meet the need for more credible justice and respond to expectations in the population. Formulated pursuant to Act No. 20/2005 of 3 January on the establishment, organization and administration of State services, the bill also defines the functions of structures within the Legal Service Training College. The College will train student judges and registrars, prison administrators, guidance counsellors and bailiffs, as well as teachers responsible for initial and ongoing training. Ongoing training will guarantee that detainees are properly treated and will help prevent ill-treatment.

75. The police take initial, in-service, advanced and specialized training courses. Initial and further training is regarded as a right and an obligation for police officers (articles 199 to 205 of Order No. 013/PR/2010 of 9 April 2010 establishing the status of the police). The objective of ongoing training is to improve the skills and attitudes of police officers and thus ensure better public service (arts. 206 to 211).

76. Armed forces personnel are trained in the same way as police officers, except that such training takes into account particularities associated with being a soldier (articles 184 to 199 of Act No. 18/2010 of 27 July 2010 ratifying Order No. 7/PR/2010 of 25 February on the status of armed forces personnel). In accordance with article 100 of the Act, members of the armed forces are subject to criminal law as well as to the provisions of the Code of Military Justice and the law of war.

Article 11

77. Act No. 36/10 of 25 November 2010 establishing the Code of Criminal Procedure, promulgated by Decree No. 0805/PR of 25 November 2010, was published in the Official Gazette on 30 December 2010, thereby abrogating Act No. 35/61 of 5 June 1961. This text modernizes several phases of the procedure, including custody, which had become outdated. Long criticized and often regarded with suspicion, custody has now established its credentials through a judicial system with better controls. The reform had become necessary for several reasons, including the occurrence of cases of abuse during custody and the inadequacy of laws protecting persons subject to such a measure. The reform is salutary, since it creates a new balance between two constitutional requirements: security as set out in article 2 of the Declaration of the Rights of Man and of the Citizen, and respect of the freedoms guaranteed by the Constitution of Gabon. Under the former Code of Criminal Procedure, custody was essentially based on a single article (art. 35, paras. (a), (b) and (c)), and thus the scope of this provision was limited, since the obligations of the police and the gendarmerie were hardly respected. The current system of custody is regulated above all by articles 50 to 55 of the Code of Criminal Procedure, relating to expedited police investigations. These rules, subject to modifications, are also applicable to the preliminary inquiry. In any event, only the person suspected of having committed or attempted to commit an offence may be remanded in custody. Thus, a witness should be held only for the period strictly necessary for a hearing. In principle, the duration of custody is set by law at 48 hours. It may no longer be extended orally: in accordance with article 50, paragraph 2, written authorization by the public prosecutor is required, and an extension may not exceed 48 hours. Persons remanded in custody are entitled to proper food and hygiene (art. 50, para. 3), they have the right to ask to speak with a lawyer as soon as custody begins (article 54 of the Code of Criminal Procedure), and they also have other protective rights, such as the right to be examined by a doctor (art. 53). Persons remanded in custody must be informed of all these rights immediately and in a language which they understand perfectly, preferably through a written document.

78. With regard to the search and entry of a home, article 73, paragraph 2, of the Code provides that, for the preliminary inquiry, the criminal investigation officer must first obtain a search warrant from the office of the public prosecutor and must show it before proceeding with a search or a seizure. If the police officer does not have a search warrant signed by the public prosecutor or one of his/her deputies, the search and entry will be invalid.

79. Guarantees have been introduced to prevent abuse of detainees under administrative or judicial arrest. Articles 63 to 70 of the Code of Criminal Procedure rightly provide for a legal mechanism to ensure that defendants are not tortured. The above-mentioned articles stipulate that the examining judge must establish the identity of the defendant and must inform him/her of the charges and of his/her right to make a statement or to remain silent. The judge must also inform the defendant of his/her right to choose a lawyer from the list of lawyers registered with the jurisdiction. Claimants have the right to be assisted by a lawyer at the first hearing of the defendant. The defendant's or the claimant's lawyer may be present during questioning, hearings and confrontations of his/her client, provided that the judge notifies the lawyer of when they take place. Anyone who has been arrested may request that a person of their choice be informed. Article 140, paragraph (d), of the Code of Criminal Procedure stipulates that the presiding judge must inform the defendant of his/her right to request a delay to prepare his/her defence, and paragraph (e) specifies that if the defendant makes use of that right, the court must grant him/her a delay of at least three days.

80. When a minor is arrested, the parents or guardians must be informed of the arrest and of the place of detention. With regard to the trial of children, articles 143 to 147 of the

Code of Criminal Procedure provide in general terms that the juvenile judge may take all necessary measures concerning detention. Minors who are 13 years of age may not be held under a detention warrant. The juvenile judge may appoint a defence lawyer or else a civil servant or public official to ensure the defence of the minor throughout the investigation and the trial.

81. Gabon is a multilingual country in which more than 70 languages are spoken, and statements by alleged offenders or witnesses who do not speak the official language, which is French, must be taken with the help of a sworn interpreter, as specified in article 58, paragraph (b), of the Code of Criminal Procedure.

82. Paragraph 6 of this report refers briefly to the question of prison inspections, monitoring and visits. It should also be noted that, at the very least, prisons have a medical service pursuant to Decree No. 00102/PR/MISPD of 17 October 2002 establishing the Directorate of Prison Health and the Directorate of Social Affairs, which is responsible for social issues.

83. Article 1, paragraph 8, of the Constitution stipulates that the State must guarantee health protection for everyone, but the lack of a specific codification on the rights of patients continues to be a weakness in the fight against inhuman or degrading treatment in Gabon. There are a number of specific laws, however. With regard to HIV/AIDS, the UNAIDS report 2010 confirms that 40 per cent of the population still do not know their infection status. The participatory and multisectoral approach ordered by the Government to combat the illness takes into account the various NGOs working to reverse the trend. At the meeting of the Council of Ministers held 1 June 2011, President Ondimba announced important measures to ensure that every person who had contracted AIDS or who was HIV-positive has the right to quality service in keeping with their needs, with due respect for their human dignity and their empowerment, and without any discrimination. These measures include:

- A significant increase, by 150 per cent, of the Anti-AIDS Fund, from 1 billion CFA francs to 2 billion 500 million CFA francs, for the purchase of antivirals and for prevention initiatives.
- Free antiretroviral treatment for anyone infected with HIV/AIDS living in Gabon, whereas in the past only destitute persons were concerned.
- Free prenatal and obstetric care for all pregnant women infected with HIV/AIDS.
- Free HIV/AIDS tests, laboratory analysis and treatment of opportunistic infections, covered by the national health insurance scheme (CNAMGS).
- Treatment at hospitals, medical establishments and health-care centres for persons living with HIV/AIDS: in the past, treatment was available solely at outpatient facilities.
- Revitalization of committees to combat HIV/AIDS in every province and department, under the supervision of the governors.
- Intensification of HIV/AIDS awareness-raising campaigns in the overall population and in target groups.
- Strengthening of the operational capacities of HIV/AIDS committees in every institution and ministry as well as in local governments and the private sector. These entities are required to include funding in their annual budget to combat the illness.

Reference is also made to the following measures taken to step up the national response:

- Inclusion of a module on HIV/AIDS prevention and sexual and reproductive health in the training curricula for teachers and trainers, and revitalization of AIDS and sexual and reproductive health information clubs at all schools and universities
- Introduction of a genuine social marketing strategy for condoms in order to make them accessible and available throughout the country, including at hotels and shops
- Greater involvement of political leaders, public and private administrators, religious figures and heads of associations in raising public awareness of HIV/AIDS

84. At the meeting of the United Nations Security Council held in June 2011, which was chaired by Gabon, President Ondimba, with the support of a number of countries, submitted and obtained the adoption of resolution 1983 on strengthening the fight against HIV/AIDS.

85. All patients in Gabon have an inherent right to consult their medical file, to give consent and to choose their health-care provider.

86. Drawing on article 8 of the African Charter on Democracy, Elections and Governance, and given the country's population of Bantus and Pygmies, Gabon, building upon the Convention against Torture, attaches particular importance to the rights of minorities. Pygmies make up about 1 per cent of the population. In an effort to protect these persons, and in conformity with the Constitution, which condemns any act of racial, ethnic or religious discrimination, the Government has undertaken to safeguard and promote their social integration.

87. To guarantee the fundamental rights of Pygmies, Gabon ensures compliance with articles 2 and 25 of the International Covenant on Civil and Political Rights and articles 6, 12 and 13 of the International Covenant on Economic, Social and Cultural Rights.

88. In 2007 Gabon initiated a project in conjunction with UNICEF for a comprehensive development of areas inhabited by Pygmies in the provinces of Woleu-Ntem (Minvoul) and in Ogooué-Ivindo (Lopé, Zadié and Ivindo), with the following main components:

- Issuance of birth certificates for Pygmy children
- Vaccination of Pygmy children
- Formation of a team of traditional counsellors on the hygiene and health of Pygmies
- Coordinated development, with the help of microprojects
- Introduction of basic social services in areas inhabited by Pygmies: education, health, literacy, village water supply etc.

89. Today, nearly 90 per cent of Pygmy children in 29 villages have a birth certificate. About 80 per cent of rural Pygmy children under 5 years of age are vaccinated against the illnesses targeted by the enlarged vaccination programme, including measles, polio, hepatitis and BCG. In addition, 80 per cent of Pygmies are informed and aware of hygiene practices conducive to the health and development of women and children. It should also be noted that 52 traditional counsellors and 78 young peer educators have been trained as facilitators and communicators on the priority themes enumerated above.

Article 12

90. Wherever there is reasonable ground to believe that an act of torture has been committed, article 31 of the Code of Criminal Procedure calls for the opening of an inquiry and the initiation of judicial investigation proceedings if the victim makes such a request in accordance with the law. To that end, the criminal investigation officer to whom the matter is referred must immediately inform the examining judge or the public prosecutor, go to the

scene of the crime without delay and establish the facts. The criminal investigation officer hands over the case to the public prosecutor or the examining judge upon their arrival. The defendant is questioned, remanded in custody and brought before the judge at the next scheduled hearing. Witnesses are heard, and the defendant is informed of his/her right to request a delay to prepare his/her defence. If he/she makes such a request, he/she is allowed a minimum of three days. If the case is not ready for trial, the court must release the defendant provisionally, with or without bail, pending the receipt of additional information.

91. The Code of Criminal Procedure contains not only general provisions (arts. 41 to 45), but also specific provisions on lodging complaints (arts. 46 to 52), inspection of the premises and searches (arts. 53 to 62), questioning and confrontations (arts. 63 to 70), letters rogatory (art. 71), expert opinions (arts. 72 to 80) and provisional release pending trial (arts. 81 to 88).

Article 13

92. In accordance with the conditions required by ordinary law, all persons who allege that they have been directly or indirectly exposed to torture have the right to file a complaint. Article 3, paragraph (b), of the Code of Criminal Procedure provides that a civil action is admissible for all types of loss or injury, both material and physical or mental, resulting from the offences forming the subject of the proceedings.

93. Every ordinary citizen, like every detainee, may appeal against a judgement within 10 days. In the specific case, others have an additional five days to appeal. A ruling on the appeal is made at the hearing within one month. Every defendant has the right to demand compensation. All questions concerning the procedure for appealing against a judgement are contained in articles 158 to 174 of the Code.

94. The following provisions of the Code of Criminal Procedure ensure protection against threats:

- Article 240: anyone who makes a death threat to another person by means of an anonymous or signed document, image, symbol or emblem is punishable by 2 to 5 years' imprisonment and a fine of 50,000 to 500,000 francs if the threat was made with a demand to put a sum of money at a particular place or to meet another condition; by 3 months' imprisonment and a fine of 24,000 to 240,000 francs if the threat was not accompanied by any demand or condition
- Article 241 (amended by Act No. 19/93 of 27 August 1993): if the death threat is accompanied by a demand or condition that is merely verbal, the offender shall be punished by a prison term of 6 months to 2 years and a fine of 24,000 to 120,000 francs
- Article 242: anyone who, by any of the means set out in the preceding articles, threatens another person with assault or other violence and the threat is made with a demand or condition shall be punished by a prison term of 1 to 3 months and a fine of 24,000 to 120,000 francs
- Article 243: the threat to set on fire or blow up a dwelling or any other property is punishable in the same way as for death threats

95. The Criminal Code has 13 articles (arts. 327 to 339) relating to acts of destruction of property. They include the placement of explosives, regardless of whether or not they explode, sabotage of a car, boat, airplane or train, arson directed at an inhabited dwelling, the deliberate destruction of buildings, bridges or dams, the damaging of crops, plants or trees and the deliberate destruction of records, minutes or original documents of public

authorities. All these types of destruction and damage are punishable by a prison term of about 1 month to 10 years, together with fines.

Article 14

96. For any act of torture committed in the conditions set out in article 1 of the Constitution, article 2 of the Code of Criminal Procedure provides that a civil action to seek compensation for harm caused by a serious, ordinary or minor offence may be brought by anyone who has suffered personally from the harm directly caused by the offence.

97. With regard to the justification of complaints lodged on which no further action is taken, article 1, paragraph (b), of the Code of Criminal Procedure calls for special sensitivity in dealing with the injured party, who may institute criminal proceedings to obtain the imposition of penalties.

Article 15

98. As in many other legal systems, Gabon's civil law limits and regulates the kinds of evidence that are admissible and their evidential value, whereas in criminal law, all kinds of evidence are admitted, provided that they were sought and established in accordance with formal requirements, are in conformity with the rules and contribute to the debate and the adversary proceedings.

99. There are of course constraints on the freedom to provide evidence. Although the aim is to establish the truth, the search for that truth cannot be conducted using any means, including those rightly considered illegal. Torture, for example, is prohibited under the Convention against Torture and the other international instruments ratified by Gabon and listed in the part of the report devoted to general information.

Article 16

100. Gabon prohibits other acts of cruel, inhuman or degrading treatment or punishment which are not classified as torture under the definition in article 1 of the Convention. A chapter of the Criminal Code containing a dozen articles deals specifically with assault and other forms of violence committed against persons. Penalties range from a prison term of 2 months to rigorous imprisonment, together with fines.

101. Mutilations, amputations or deprivation of the use of a limb or other permanent infirmity, castration etc. are prohibited. Violence intentionally committed against children under 15 years of age, including deprivation of food or care to the point of undermining their health, and light physical injury are also punishable by law (article 235 of the Criminal Code).

102. In sum, articles 230 to 239 of the Criminal Code fulfil to a certain extent the obligations under article 16 of the Convention.

Conclusion

103. In line with President Ondimba's vision for Gabon's emergence, Gabon is gradually but actively pursuing initiatives and reforms in order to comply with its commitment to protect against torture and other cruel, inhuman or degrading treatment or punishment.

104. The measures and reforms presented and discussed in this report testify to Gabon's determination to prevent any practice that violates human rights and dignity.

105. Thanks to the acceptance of the rule of law in Gabon, the public is gradually becoming acquainted with respect for the hierarchy of norms, but also with respect for fundamental rights. The culture of the rule of law and human rights of the public authorities is firmly and durably anchored in all recognized rights and the procedures for their protection.

106. On no account is Gabon evading the commitments which it entered into in acceding to the Convention against Torture and in signing the Optional Protocol to the Convention. It automatically implements the provisions contained therein as well as those in its domestic law.
