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U.S. Department of State

Gabon Country Report on Human Rights Practices for 1998

Released by the Bureau of Democracy, Human Rights, and Labor, February 26, 1999.

GABON

A one-party state until 1990, Gabon held its first multiparty elections in 1991, with President Omar Bongo's party retaining a large majority in the National Assembly. President Bongo, in office since 1967, was reelected in 1993 in an election marred by serious irregularities. In October 1994, following several months of contention and civil unrest, political parties supporting the President and the principal opposition parties negotiated the "Paris Accords." These agreements included promises of reforms to amend electoral procedures, to include opposition leaders in government, and to assure greater respect for human rights. These were approved by a national referendum in 1995. Opposition parties won disorganized municipal elections in the capital in October and November 1997, while in December 1997 parties supporting the President won more than two-thirds of the seats in the National Assembly in poorly run, fraudulent elections. Regional councils later elected 91 members of the national Senate, more than half of whom represent the President's party. In December President Bongo was reelected to a 7-year term with almost two-thirds of the vote in an election marked by organizational deficiencies and irregularities that included incomplete and inaccurate electoral lists and the use of false documents to cast votes. Although an independent election commission originally was to be responsible for the voting under a pact signed with opposition parties to ensure fairness, in July the Government passed a law that transferred key election functions from the commission to the Interior Ministry. Opposition parties alleged widespread fraud and called for the annulment of the election. The judiciary is independent but remains vulnerable to government manipulation.

The national police and the gendarmerie enforce the law and maintain public security. In conformity with the Paris Accords, the National Assembly reassigned authority over these security forces from the

Ministry of Defense to the Ministry of Interior and redesignated them the "Republican Guard," an elite, heavily armed corps that protects the President. In 1994 the Defense Minister used this corps for violent repression of public dissent; there have been no reported incidents since that time. Members of the security forces sometimes beat persons in custody.

The Government generally adheres to free market principles, particularly in the export sector, in which trade is dominated by petroleum, timber, and minerals. A majority of workers in the formal sector are employed by the Government or by large, inefficient, state-owned organizations, although the country is making progress toward its privatization goals. In 1998 lower than anticipated oil prices, along with a substantial decline in timber exports to Asia, necessitated major revisions of budget estimates. Per capita income is approximately \$4,600 annually, and income distribution is badly skewed in favor of urban dwellers and a small economic elite. Immigrants from other African countries dominate the informal sector. The rural population is poor and receives few social services. Financial mismanagement and corruption have resulted in significant arrears in domestic and external debt. Although the Government continued to meet most of its structural adjustment performance goals, shrinking revenues were expected to hinder its efforts.

The Government generally respected the rights of its citizens in some areas; however, longstanding human rights abuses continued. The security forces beat and tortured prisoners and detainees, and prison conditions remained harsh and life threatening. The judiciary sometimes is subject to government influence, and there were allegations of government infringement on freedom of the press. Societal discrimination and violence against women and exploitation of expatriate children as domestic and agricultural workers remained problems.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killing.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading

Treatment or Punishment

The Constitution prohibits torture or cruel and inhuman punishment. However, security forces often beat or physically mistreat prisoners and detainees as punishment and to exact confessions.

Conditions in most prisons are abysmal and life threatening. Sanitation and ventilation are poor, and medical care is almost nonexistent. Prisons provide inadequate food for inmates. There were no known visits by human rights monitors to prisons during the year.

d. Arbitrary Arrest, Detention, or Exile

The law provides for up to 48 hours of initial preventive detention, during which time police must

charge a detainee before a judge. In practice, however, police rarely respect this provision. Bail may be set if there is to be a further investigation. Pretrial detainees have the right to free access to their attorneys, and this right is respected in practice. Detainees have the right to an expeditious trial, as defined by the law. Pretrial detention is limited to 6 months for a misdemeanor and to 1 year for a felony charge. These periods may be extended for 6 months by the examining magistrate. The Attorney General's office estimates that roughly 40 percent of persons in custody are pretrial detainees.

On October 16, immigration police arrested and detained three Togolese nongovernmental organization (NGO) workers who were in Gabon to monitor the preelection process. The authorities deported them the next day. The Government claimed that the incident was a case of mistaken identity and stated that representatives of the NGO could return.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, while the judiciary is generally independent in principle, it remains vulnerable to government manipulation.

The judicial system includes the regular courts, a military tribunal, and a civilian State Security Court. The regular court system includes trial courts, appellate courts, and the Supreme Court. The Constitutional Court is a separate body charged with examining constitutional questions, including the certification of elections. There are no traditional or customary courts. In some areas, minor disputes may be taken to a local chief, but the Government does not recognize such decisions. The State Security Court, last convened in 1990, is constituted by the Government as required to consider matters of state security.

The Constitution provides for the right to a public trial and the right to legal counsel. These rights are generally respected in criminal cases. Nevertheless, procedural safeguards are lacking, particularly in state security trials. The law applies the concept of presumed guilt. A judge may thus deliver an immediate verdict at the initial hearing if sufficient evidence is presented by the State.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for protection from surveillance, from searches without warrant, and from interference with private telecommunications or correspondence. As part of criminal investigations, police may request search warrants from judges, which they obtain easily, sometimes after the fact. The Government has used them in the past to gain access to the homes of opposition figures and their families. Government authorities also routinely monitor private telephone conversations, personal mail, and the movements of citizens.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and the press and, although citizens generally speak freely and criticize leaders, there were instances when the Government allegedly infringed on press freedom. Legislators in the National Assembly openly criticize government policies, ministers, and other

officials.

The only daily newspaper is the government-owned L'Union, but there are more than a half-dozen weekly or periodical publications in newspaper format, representing independent views and those of various political parties. All--including L'Union--actively criticize the Government and political leaders of all parties. Most also criticize the President.

In January authorities accused an opposition newspaper, the Lumberjack, of insulting President Bongo and suspended its publication for 1 month. The newspaper's director was given a 4-month suspended sentence and a caricaturist received a 6-month sentence.

In August police arrested and charged three journalists with defamation, in separate cases, against the Minister of Communication, who filed one of the complaints, and the chief executive officer of state-owned Air Gabon. Courts sentenced the three journalists to fines and sentences ranging from 1 month to 8 months. It closed an opposition newspaper, La Griffé. Although the National Communication Council (NCC) maintained that the newspaper closure was outside the Communication Ministry's competence, a decision to reopen La Griffé had not been made by year's end. Journalists staged two demonstrations to protest the incarceration of their colleagues. The local journalist association, union organizations, and the political opposition criticized the Government over the sentences, and claimed that they constituted an effort by President Bongo to muzzle or control the media prior to the December presidential election. Two of the journalists and left the country and failed to appear in court. According to opposition sources, the journalists fled to avoid persecution; the Government maintains that the journalists are fugitives.

The Government controls the national electronic media, which reach all areas of the country. Four private radio stations have been licensed. A fifth station previously operating under a temporary license closed for financial reasons. Journalists are subject to an extensive code of rights and responsibilities approved by the National Assembly in 1995.

The Government does not interfere with broadcasts of international radio stations Radio France 1, Africa No. 1, or the Voice of America. Foreign newspapers and magazines are widely available.

There are no restrictions on academic freedom, including research.

b. Freedom of Peaceful Assembly and Association

Citizens and recognized organizations normally enjoy freedom of assembly and association, which are provided for by the Constitution. Groups must obtain permits for public gatherings in advance, and the Government usually grants them.

c. Freedom of Religion

The Constitution provides for religious freedom, and authorities do not engage in religious persecution or favoritism. There is no state religion. While the Government has not lifted its ban on Jehovah's Witnesses, neither has it enforced this ban.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights. There are no legally mandated restrictions on internal movement. Police and gendarmes frequently stop travelers to check identity, residence, or registration

documents, and members of the security forces regularly harassed expatriate Africans working legally as merchants, service sector employees, and manual laborers. They extorted bribes and demanded services with the threat of confiscation of residence documents or imprisonment. Residence permits cost up to \$1,000. In October authorities expelled three foreign NGO workers from the country, but later stated that the NGO could again send representatives (see Section 1.d.).

An unevenly enforced law requires married women to have their husbands' permission to travel abroad. An exit visa is no longer required for citizens to travel abroad. Aliens resident in the country must obtain a visa in order to leave and return.

The Government strictly controls the process of refugee adjudication. Coordination with the United Nations High Commissioner for Refugees (UNHCR) is generally adequate. In 1997 the Government failed to respond to international protests over the treatment of refugees from Equatorial Guinea during the year.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The 1991 Constitution explicitly provides this right, but mismanagement and serious irregularities in both the 1990 and 1996 legislative elections and the 1993 and 1998 presidential elections called into serious doubt the extent to which this right exists in practice.

In a July 1995 constitutional referendum, citizens approved by a 96 percent majority reforms previously agreed upon in the Paris Accords, including most significantly the establishment of an independent National Electoral Commission (NEC). The referendum was carried out under arrangements that assured that all political parties could monitor voting and vote counting.

National Assembly, Senate, and municipal elections were held in late 1996, after a series of postponements due to both legislative inaction and requests by the NEC for additional time. Delays in registering voters and organizing elections were attributed by all sides to logistical rather than political obstacles.

Local elections held in 1996 were poorly organized and were later repeated in key districts. In both rounds, opposition parties won most of the municipal council seats in the capital, Libreville. This outcome was reversed in the official results of poorly run legislative elections held in December 1996, in which parties supporting the President won more than 80 of the 120 National Assembly seats, including 8 of the 10 seats representing the capital. The military and NEC magistrates fraudulently ensured victory for parties supporting the President by arbitrarily altering vote counts, particularly in the capital. In early 1997, municipal and regional leaders elected 91 members to the new national Senate without controversy. There are no restrictions on the participation of women and minorities in politics. There are 6 women among the 120 National Assembly representatives, 9 of 91 members of the Senate are women, and there is 1 woman in the Cabinet. Women serve at all levels within the various ministries, the judiciary, and the opposition. Despite governmental protections, indigenous Pygmies rarely participate in the political process, and the Government has made only marginal efforts to include them (see Section 5).

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government officially allows the existence of independent human rights groups. There are two human rights groups, neither of which was active.

In October authorities arrested, detained, and expelled from the country three foreign NGO workers; however, the Government later stated that the NGO could again send representatives (see Section 1.d.).

There have been no active inquiries from foreign groups in recent years.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution forbids discrimination based on national origin, race, gender, or opinion. The Government does not uniformly enforce these constitutional guarantees and tolerates a substantial degree of discrimination against women, especially in domestic affairs. It has also provided a lower level of health care and educational services to children of families of other African nationalities than it provided to citizens.

Women

Violence against women is common and is especially prevalent in rural areas. While medical authorities have not specifically identified rape to be a chronic problem, religious workers and hospital staff report that evidence of beatings of women is common. Police rarely intervene in such cases, and women virtually never file complaints with civil authorities. Only limited medical and legal assistance is available.

The law provides that women have rights to equal access in education, business, and investment. Women own businesses and property, participate in politics, and work throughout the government and the private sector. Women nevertheless continue to face considerable societal and legal discrimination, especially in rural areas.

By law couples must stipulate at the time of marriage whether they will adhere to a monogamous or a polygynous relationship. For monogamous married couples, a common property law provides for the equal distribution of assets after divorce. Wives who leave polygynous husbands suffer severe reductions in their property rights. In inheritance cases, the husband's family must issue a written authorization before his widow can inherit property. Common law marriage, which is socially accepted and widely practiced, affords a woman no property rights.

The law still requires that a woman obtain her husband's permission to travel abroad; however, this requirement is not consistently enforced.

Children

The Government has used oil revenue to build schools, to pay adequate teacher salaries, and to promote education, even in rural areas. The country has a relatively high infant mortality rate, and not all children have access to vaccination. Traditional beliefs and practices provide numerous safeguards for children, but children remain the responsibility of the extended family--including aunts, grandmothers, and older siblings. There is little evidence of physical abuse of children. Protection for children's rights is not codified in law.

There is concern about the problems facing the large community of children of African noncitizens. Almost all enjoy far less access to education and health care than do children of Gabonese, and are sometimes victims of child labor abuses (see Section 6.d.). Female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health, occurs among the resident population of expatriate Africans. There are no laws against FGM, but

according to local women's groups, it is not practiced on Gabonese children.

People With Disabilities

There are no laws prohibiting discrimination against persons with disabilities, or providing for access to buildings or services.

Indigenous People

Several thousand indigenous Pygmies live in northeastern Gabon. In principle they enjoy the same civil rights as other citizens. Pygmies are largely independent of formal authority, keeping their own traditions, independent communities, and local decisionmaking structures. Pygmies did not participate in government-instituted programs that integrated many small rural villages into larger ones along major roads. As a result, their access to government-funded health and sanitation facilities was limited. There are no specific government programs or policies to assist or hinder Pygmies.

National/Racial/Ethnic Minorities

Persons from all major ethnic groups continued to occupy prominent positions in government, in the military services, and in the private sector. Credible reports suggest, however, that ethnic favoritism in hiring and promotion is pervasive. There was evidence, especially within the armed forces, that members of the President's ethnic group held a disproportionately large share both of senior positions and of jobs within the ranks.

Section 6 Worker Rights

a. The Right of Association

The Constitution places no restrictions on the right of association and recognizes the right of citizens to form trade and labor unions. Virtually the entire formal private sector work force is unionized. Unions must register with the Government in order to be recognized officially. Public sector employees may unionize although their right to strike is limited if it could jeopardize public safety. Until 1990 there was only one recognized labor organization, the Gabonese Labor Confederation (COSYGA), to which all unionized workers contributed a mandatory percentage of their salaries. In 1992 the Government accepted the establishment of independent unions and abolished the mandatory contribution to COSYGA.

In 1994 the National Assembly passed an extensively revised version of the Labor Code, which was published and implemented in early 1995. The Code provides extensive protection of worker rights.

Strikes are legal if they are held after an 8-day notice advising that outside arbitration has failed. The Labor Code prohibits direct government action against individual strikers who abide by the arbitration and notification provisions. It also provides that the Government cannot press charges against a group for criminal activities committed by individuals. Unions and confederations are free to affiliate with international labor bodies and participate in their activities. COSYGA is affiliated with the Organization of African Trade Union Unity, while the Gabonese Confederation of Free Unions (CGSL) is affiliated with the International Confederation of Free Trade Unions. Both COSYGA and CGSL have ties with numerous other international labor organizations.

b. The Right to Organize and Bargain Collectively

The Labor Code provides for collective bargaining. Labor and management meet to negotiate differences, and the Ministry of Labor provides an observer. This observer does not take an active part in negotiations over pay scales, working conditions, or benefits. Agreements also apply to nonunion workers. While no laws specifically prohibit antiunion discrimination, the court may require employers who are found guilty by civil courts of having engaged in such discrimination to compensate employees.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced labor, and there are no reports that it exists in the adult community. The Government also specifically prohibits forced and bonded labor by children, but does not enforce this prohibition effectively. As reported by UNICEF and other concerned organizations, immigrant children in particular are often found working as domestic or agricultural help.

d. Status of Child Labor Practices and Minimum Age for Employment

Children below the age of 16 may not work without the express consent of the Ministries of Labor, Education, and Public Health. These ministries rigorously enforce this law with respect to Gabonese children, and there are few Gabonese under the age of 18 working in the modern wage sector. A significant number of children work in marketplaces or perform domestic duties. The U.N. Children's Fund and other concerned organizations have reported that government officials often privately use foreign child labor, mainly as domestic or agricultural help. These children do not go to school, have only limited means of acquiring medical attention, and are often victims of exploitation by employers or foster families. Laws forbidding child labor theoretically extend protection to foreign children as well, but abuses often are not reported. Education is compulsory until age 16.

The Government prohibits forced and bonded labor by children, but does not enforce this prohibition effectively (see Section 6.c.).

e. Acceptable Conditions of Work

The Labor Code governs working conditions and benefits for all sectors and provides a broad range of protection to workers. The Code stipulates a 40-hour workweek with a minimum rest period of 48 consecutive hours. Employers must compensate workers for overtime work. All companies in the modern wage sector pay competitive wages and grant generous fringe benefits required by law, including maternity leave and 6 weeks of annual paid vacation.

Traditionally, representatives of labor, management, and the Government met annually to examine economic and labor conditions and to recommend a minimum wage rate within government guidelines to the President, who then issued an annual decree. This procedure has not been followed since 1994, in part because the Government was pursuing a policy of wage austerity recommended by international financial institutions. The monthly minimum wage was kept at its 1994 level of about \$110 (cfa 64,000). Wages provide a decent standard of living for a worker and family.

The Ministry of Health has established occupational health and safety standards, but does not enforce or regulate them effectively. Application of labor standards varies greatly from company to company and between industries. The Government reportedly does not enforce Labor Code provisions in sectors where the bulk of the labor force is non-Gabonese. Foreigners, both documented and undocumented, may be obliged to work under substandard conditions; may be dismissed without notice or recourse; or

may be mistreated physically, especially in the case of illegal aliens. Employers frequently require longer hours of work from noncitizen Africans and pay them less, often hiring on a short-term, casual basis in order to avoid paying taxes, social security contributions, and other benefits. In the formal sector, workers may remove themselves from dangerous work situations without fear of retribution.

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