

Status of Human Rights in Gabon for the 42nd Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting human rights around the world. The ECLJ holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Gabonese Republic (Gabon) for the 42nd session of the Universal Periodic Review (UPR).

Background

2. Gabon is a country located in central Africa and has an estimated population of 2.3 million people.¹ The country is predominately Christian with 42% of the population identifying as Roman Catholic, 12% as protestant, 27% as other Christian, nearly 10% as Muslim, 0.6% as animist, and 0.5% as other.²

3. Gabon's previous UPR was held on November 7, 2017.³ As a result of the review, Gabon received 166 recommendations, 143 of which were supported by Gabon.⁴ One of the recommendations which was made by Chile and supported by Gabon was that the government "[a]dopt all legislative and policy measures to eradicate child and forced marriages."⁵ On the issue of child trafficking, it was recommended by Iceland, and supported by Gabon, that the government "[i]mprove enforcement and coordination of national legislation and policies on the trafficking of persons, especially women and children, and to raise the awareness of this issue amongst the public."⁶ There were no recommendations made regarding abortion or religious freedom.

Legal Framework

Child Marriage

4. Under Article 1 of the Constitution of Gabon, "[t]he Gabonese Republic recognizes and guarantees the inalienable and imprescriptible human rights, which are necessarily tied to the public powers,"⁷ and section 17 specifically states that "[t]he protection of the country's youth from exploitation and moral, intellectual and physical abandonment, is an obligation of the State and the public collectivities."⁸

5. Article 203 of the Civil Code of Gabon establishes the minimum age for marriage of boys at eighteen, and fifteen for girls.⁹

6. Establishing 15 as the minimum age for girls to enter into marriage, while the minimum age for men is 18, violates the principles enshrined in international treaties to which Gabon is a party, particularly the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).¹⁰ Under Article 16 sec. 2 of the CEDAW "The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage" ¹¹

Abortion

7. Under Article 1 sec. 8 of the Constitution of Gabon, the State “guarantees to all, notably to children, mothers, . . . the protection of health, social security, a preserved natural environment, rest and leisure.”¹²

8. On July 5, 2019, Gabon reformed its penal code to legalize abortion. According to Articles 377 and 378 of Law No. 042/2018 abortion before 10 weeks is permissible if the baby would be born with an incurable physical deformity, if the life of the mother is in danger, or in cases of rape, incest, “*or when the minor is in a serious state of distress.*”¹³

9. Gabon is a party to the International Convention on Civil and Political Rights (ICCPR) and is responsible for upholding the principles enshrined within it. Under Article 6 of the ICCPR, “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”¹⁴ Gabon also has a responsibility to uphold pro-life principles enshrined in other international agreements such as the UN Charter, Universal Declaration of Human Rights (UDHR) and the 1994 Cairo Conference on Population and Development.

Human Trafficking

10. Under Article 342 of Gabon’s Penal Code, human trafficking is prohibited.¹⁵

11. Article 343 of Gabon’s Penal Code prescribes penalties of up to 15 years in prison and a fine of up to CFAF 100,000,000 based on the severity of the crime or if a minor was involved.¹⁶

12. Furthermore, under Article 8 of the ICCPR, “[n]o one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. No one shall be held in servitude.”¹⁷

Child Marriages

13. Based on data from 2018, “22% of girls in Gabon are married before the age of 18 and 6% are married before their 15th birthday.”¹⁸ This stands in stark contrast to boys, where only 5% are married before the age of 18.¹⁹ The prevalence with which girls are married at such a young age can be extremely harmful for girls and have a lasting impact on their entire lives.

Child marriage robs girls of their childhood and threatens their lives and health. Girls who marry before 18 are more likely to experience domestic violence and less likely to remain in school. They have worse economic and health outcomes than their unmarried peers, which are eventually passed down to their own children, further straining a country’s capacity to provide quality health and education services.

Child brides often become pregnant during adolescence, when the risk of complications during pregnancy and childbirth increases – for themselves and their infants. The practice can also isolate girls from family and friends and exclude them from participating in their communities, taking a heavy toll on their physical and psychological well-being.

Because child marriage impacts a girl’s health, future and family, it imposes substantial economic costs at the national level, too, with major implications

for development and prosperity.²⁰

14. Despite still permitting underage marriage for girls, we recognize that Gabon has been taking action on this issue and is among the countries experiencing the greatest decline in child marriages within the region, with an average annual rate of reduction (AARR) of approximately 2.2%.²¹

15. In 2019, Gabon drafted a Children’s Code to raise the minimum age for marriage of girls to 18.²² And in February 2022, the UN Committee on the Elimination of Discrimination against Women “asked Gabon to revise the provisions of the Civil Code to ensure the minimum age of marriage is set at 18 years for both women and men.”²³ However, at the time this report was submitted, the legislation had not been adopted.

Abortion

16. In 2019, Gabon reformed its penal code to permit abortion up until the 10th week of pregnancy under the following circumstances:

- when it has been proven that the conceived child will be born with serious or incurable physical deformities;
- when the pregnancy seriously endangers the life of the mother;
- when the conception occurred as a result of rape, incest or when the minor is in a serious state of distress.²⁴

17. Not even two years have passed since this legislation was adopted, yet Gabon has already introduced new legislation that would permit abortion, under the previously stated circumstances, beyond 10 weeks.²⁵

18. We oppose Gabon’s recent efforts to expand abortion, and encourage Gabon to return to its long history of protecting innocent human life. Especially because, while there is a, internationally recognized right to life, there is no international right to abortion. This fact can be seen when looking at each country’s abortion legislation. Currently, a majority of the world has strict limitations when it comes to taking the life of a preborn baby. Out of the 193 member states of the U.N., an overwhelming majority (112) of them have strict limits on abortion: twenty countries prohibit abortion altogether; forty-two countries only permit abortion where the mother’s life is at risk; and fifty only allow abortion to preserve the health of the mother. Even in the sixty-two countries that have varying gestational limits for on-demand abortions, the majority of these (53) have a gestational limit of twelve weeks or less, while some allow only up to fourteen weeks, or somewhere in-between. Only eleven countries allow abortion throughout pregnancy for social and economic grounds, including for rape, incest, or fetal impairment. Only two countries broadly allow pre-viability abortion. And finally, there are only six extreme outliers among the nations, including China and North Korea, which do not have a law indicating any gestational limit on abortion, though their regulatory mechanisms vary.²⁶

19. While abortion laws and regulations vary across nations, what most countries do agree on is that the state has an interest, not only in protecting women and girls, but also in protecting the lives of all their citizens – including the unborn.²⁷ This interest is enshrined in national and international documents alike, as well as in the legislation of individual countries.

20. For instance, the UDHR states that “recognition of the inherent dignity and of the equal and inalienable rights of *all* members of the human family is the foundation of freedom, justice and peace in the world,” and that “[e]veryone has the right to life”²⁸ Additionally, Article 6 of the ICCPR likewise states that “[e]very human being has the inherent right to life. This right shall be protected by law.”²⁹ And the preamble of the UN Charter states that “the peoples of the United Nations determined . . . to reaffirm faith in fundamental human rights, in the dignity and worth of the human person”³⁰ It is important to note that, while virtually all international treaties contain provisions for the protection and promotion of the right to life, not one contains a “right to abortion.” Furthermore, since the 1994 Cairo Conference on Population and Development, U.N. Member States have had an affirmative commitment to “reduce the recourse to abortion”³¹ and to “take appropriate steps to help women avoid abortion, *which in no case should be promoted as a method of family planning.*”³²

21. Abortion is one of the gravest of all offenses against human life and justice because it entails the deliberate killing of an innocent human being. Gabon must protect life at all stages. Any justification of abortion (aside from the extremely rare life vs. life situations where a mother is at risk of dying from continuing the pregnancy) fundamentally rests on the proposition that some members of the human race do not have even the most basic of human rights, i.e., the right to life. That proposition is incompatible with international law, as discussed above. Moreover, the value of human life is not dependent upon the nature in which it begins, and the life of a preborn baby conceived by rape or incest is no less valuable and deserving of life than any other. Furthermore, babies born with disabilities, such as Down syndrome, are no less deserving of life than otherwise completely healthy babies. In fact, babies born with Down syndrome are capable of living long and otherwise healthy lives.³³ Additionally, the tests used to detect these abnormalities are not consistently reliable.³⁴ As prenatal screenings are becoming more common, companies are trying to screen for more and more diseases and abnormalities. For example, studies found that a prenatal screening for Prader-Willi syndrome, a genetic multisystem disorder, returned an incorrect positive result 90% of the time.³⁵

22. Furthermore, abortion can also cause physical harm to the mother, beyond the harm (i.e., death) to the preborn child. This can result directly from the procedure itself (e.g., perforation of the uterus, laceration of the cervix), from the deprivation of the health benefits of continuing pregnancy (e.g., eliminating the protective effect of a full-term pregnancy against breast cancer),³⁶ or by masking other dangerous symptoms (e.g., a woman with an infection or an ectopic pregnancy may believe her symptoms are merely normal after-effects of abortion, leading her to delay seeking medical help).³⁷ Remarkably, although completely partisan and lacking in legal authority, the World Health Organization’s newly published 2022 “Abortion care guideline,”³⁸ also acknowledges the complications of abortion.

23. In addition, post-abortive women experience a host of negative side-effects including:

- Depression
- Guilt/Remorse
- Self-hatred/anger at self/self-loathing/feelings of worthlessness/unworthy of love
- Shame
- Addiction, alcohol or drug abuse
- Regret
- Self-destructive behaviors including promiscuity, self-punishment, and poor choices

- Low self-esteem
- Anxiety/fear
- Suicidal/suicidal thoughts/wanting to die/self-harm/dangerous risks/suicidal attempts.³⁹

All of these factors contribute to the negative and even devastating effects abortion has on women and girls.

Child Trafficking

24. “[Boys and girls under the age of 18, predominately from Benin, Mali and Togo, are lured into Gabon – considered relatively wealthier than other countries in the sub-region – with promises of employment opportunities.”⁴⁰ The most common forms of trafficking in Gabon for young girls is for domestic work, servitude, and forced early marriage, and for boys includes auto mechanics and hard labour.⁴¹

25. Human trafficking for work in domestic service is one of the most prevalent forms of human trafficking in Gabon.⁴² However, people are also trafficked for work on plantations, in small trade, and for begging and soliciting.⁴³ The children who are trafficked for these purposes receive an inadequate amount of food and very little, if any, money.⁴⁴ They are forced to live in horrible conditions and even sleep on the floor.⁴⁵

26. One girl, Héléne, told the story of how she was trafficked from Benin to Gabon.⁴⁶ Héléne “[grew] up in a remote community in Benin, she dropped out of school and did daily chores around the house. But her family was eager to help her find a better future, so they were vulnerable to the lies they were told by traffickers.”⁴⁷ At the time, she believed that she was traveling to Gabon to receive an education. However, when she arrived in Gabon she “was placed with a family where she was expected to cook and clean.”⁴⁸ Héléne said: “I never went to school in Gabon, I was beaten and sick and I never got medical help or enough food to eat.”⁴⁹ Thankfully, Héléne was rescued by police and sent to a children’s center where she received care and, eventually, a ticket back to Benin to be reunited with her family.⁵⁰

27. In September 2020, thirty-six girls were rescued after their smugglers abandoned them when they reached Gabon. The victims

are usually recruited by strangers or people familiar with their parents in their country of origin and their villages . . . They are then forced to take smuggled boats made of wood to Gabon and the trip usually takes 7 to 10 days by sea until they reach the coasts of Gabon.⁵¹

After being rescued, the victims were sent to a temporary home where they were provided “food and medical treatment as well as psychological support,”⁵² before finally being sent back to their home countries.⁵³

28. These are just a few stories to illustrate the issue of child trafficking in Gabon.⁵⁴ The full scope of child trafficking in Gabon is hard to understand because “the underground nature of trafficking makes it very challenging to trace and protect children.”⁵⁵ Furthermore,

the issue remains tough for Gabon government and organizations working on immigration. As human trafficking in Gabon is also seen by the govt and agencies working on the issues of the human rights as part of mixed migration. Women, men and children who are moving to Gabon from western African

and other African countries are firstly job seekers.⁵⁶

29. Moreover, Gabon has a long history of child labor, which causes this crime to be overlooked and often ignored.⁵⁷ According to one judge, even “some of his peers overlooked certain abuses on the grounds that child labor was an old social tradition and less of a criminal act than child marriage.”⁵⁸ In addition, traffickers will try and bribe magistrates if they are caught and as a result “some judges are turning this fight against trafficking into a money-making machine.”⁵⁹

Recommendations

30. Although we commend Gabon on its efforts to combat child marriages, we urge Gabon to revise its marriage laws in order to meet international norms by raising the minimum age of marriage for both girls and boys to eighteen. This change is necessary to further protect girls from the practice of child marriage.

31. Additionally, Gabon must commit to protecting life at all stages, resist further efforts to expand access to abortion, work to better regulate abortion providers, and provide education about the dangers of abortion to combat the high level of illegal abortions that are occurring within the country. We also ask that Gabon reform its current law to protect all life with no exceptions based on how the baby’s life began or on potential fetal abnormalities. All innocent human life is precious, without regard to how life began, or the possibility of disability.

32. Gabon must also do more to protect children from being trafficked into domestic servitude and forced labor. To do this, Gabon must allocate resources and training for authorities to be able to properly identify human trafficking so they can help the victims and prosecute the perpetrators. This includes investigating and prosecuting corrupt officials who take bribes to look the other way.

¹ *Gabon*, WORLD FACTBOOK (Apr. 1, 2022), <https://www.cia.gov/the-world-factbook/countries/gabon/>.

² *Id.*

³ *Universal Periodic Review – Gabon*, UNHRC, <https://www.ohchr.org/en/hr-bodies/upr/ga-index> (last visited May 1, 2022).

⁴ *UPR of Gabon – Thematic List of Recommendations*, UNHRC, <https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session28/GA/MatriceRecommendationsGabon.docx> (last visited May 12, 2022).

⁵ *Id.* at A/HRC/37/6 – Para. 118.

⁶ *Id.*

⁷ Constitution of Gabon art. 1, available at https://www.constituteproject.org/constitution/Gabon_2011.pdf?lang=en.

⁸ *Id.*, at art. 1, sec. 17.

⁹ Civil Code 1972 art. 203 (June 2013), <https://www.girlsnotbrides.org/documents/1197/Minimum-age-of-marriage-in-Africa-June-2013.pdf> (unofficial translation).

¹⁰ *Status of Ratification – Gabon*, UNHRC <https://indicators.ohchr.org/> (last visited May 12, 2022).

¹¹ Convention on the Elimination of All Forms of Discrimination against Women art. 16, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women> (last visited May 12, 2022).

¹² Gabon Const. art. 1 sec. 8.

¹³ Gabon Penal Code Loi n° 042/2018 du 05 Juillet 2019, art. 377 (July 5, 2019), <https://www.droit-afrique.com/uploads/Gabon-Code-2019-penal.pdf> (unofficial internal translation) (emphasis added).

¹⁴ International Covenant on Civil and Political Rights, Dec. 16, 1966, S Treaty Doc. 95-20, 6 I.L.M. 368 (1976), 999 U.N.T.S. 171, art. 6.

¹⁵ Gabon Penal Code, *supra* note 13.

¹⁶ *Id.* at 343.

¹⁷ ICCPR, *supra* note 14, at art. 9.

¹⁸ *Gabon*, GIRLS NOT BRIDES, <https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/regions-and-countries/gabon/> (last visited May 12, 2022).

¹⁹ *Id.*

²⁰ *Child Marriage*, UNICEF, <https://www.unicef.org/protection/child-marriage> (last visited May 12, 2022).

²¹ GIRLS NOT BRIDES, *supra* note 18.

²² *Id.*

²³ Press Release, UN Women’s Rights Committee Publishes Findings on Dominican Republic, Gabon, Lebanon, Panama, Peru, Senegal, Uganda and Uzbekistan, (Feb. 28, 2022), <https://www.ohchr.org/en/press-releases/2022/02/un-womens-rights-committee-publishes-findings-dominican-republic-gabon#:~:text=Regarding%20child%20marriage%2C%20the%20Committee,of%20child%20marriage%20and%20polygamy.>

²⁴ Gabon Penal Code, *supra* note 13, at art. 377.

²⁵ *Gabon Introduces Laws to Promote Gender Equality, Relax Abortion Rules*, REUTERS (March 26, 2021), <https://www.reuters.com/article/uk-gabon-rights-women/gabon-introduces-laws-to-promote-gender-equality-relax-abortion-rules-idUSKBN2BI2BW>.

²⁶ *The World’s Abortion Laws*, CTR. FOR REPROD. RTS. (Feb. 23, 2021), https://reproductiverights.org/sites/default/files/WALM_2021update_V1.pdf.

²⁷ *Id.*

²⁸ G.A. Res. 217 (III) A, Universal Declaration of Human Rights, preamble, art. 3 (Dec. 10, 1948) (emphasis added).

²⁹ ICCPR, *supra* note 14 (emphasis added).

³⁰ U.N. Charter preamble.

³¹ Report of the International Conference on Population and Development, Cairo A/CONF/F.171/13/Rev.1 at 58 (5-13 Sept. 1994), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N95/231/26/IMG/N9523126.pdf?OpenElement>.

³² *Id.* at 46 (emphasis added).

³³ *Data and Statistics on Down Syndrome*, CDC, <https://www.cdc.gov/ncbddd/birthdefects/downsyndrome/data.html> (last visited May 12, 2022).

³⁴ *When They Warn of Rare Disorders, These Prenatal Tests Are Usually Wrong*, NEW YORK TIMES (Jan. 1, 2022), <https://www.nytimes.com/2022/01/01/upshot/pregnancy-birth-genetic-testing.html>.

³⁵ *Id.*

³⁶ See Justin D. Heminger, *Big Abortion: What the Antiabortion Movement Can Learn from Big Tobacco*, 54 CATH. U.L. REV. 1273, 1288-89 & nn.119 & 121 (2005).

³⁷ See generally *Physical Effects of Abortion: Fact Sheets, News, Articles, Links to Published Studies and More*, UNCHOICE, www.theunchoice.com/physical.htm (listing sequelae and referencing sources).

³⁸ *Abortion Care Guideline*, WORLD HEALTH ORGANIZATION & HUMAN REPRODUCTION PROGRAMME 79 (Mar. 8, 2022), <https://www.who.int/publications/i/item/9789240039483>.

³⁹ Priscilla K. Coleman, Ph.D., et al., *Women Who Suffered Emotionally from Abortion: A Qualitative Synthesis of Their Experiences*, JOURNAL OF AMERICAN PHYSICIANS & SURGEONS, Vol. 22 No. 4, p. 115, 116-17 (2017), <https://www.jpands.org/vol22no4/coleman.pdf>.

⁴⁰ *UN Independent Rights Expert Urges Gabon to Combat Trafficking of Children*, UN (May 24, 2012), <https://news.un.org/en/story/2012/05/411652-un-independent-rights-expert-urges-gabon-combat-trafficking-children>.

⁴¹ *Id.*

⁴² *Gabon Struggles to Stem Tide of Child Trafficking*, ARAB NEWS (updated July 4, 2018), <https://www.arabnews.com/node/1333111/world>.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Brahim Ould Isselmou, *Trafficked to Gabon*, UNICEF (October 30, 2019), <https://www.unicef.org/gabon/en/stories/trafficked-gabon>.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Fanja Saholiarisoa, *36 Girls Saved from Black Migration in Gabon are Sent Home for a New Start*, UNICEF (July 30, 2021), <https://www.unicef.org/gabon/en/stories/36-girls-saved-black-migration-gabon-are-sent-home-new-start>.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Brahim Ould Isselmou, *supra* note 46.

⁵⁵ *Id.*

⁵⁶ Fanja Saholiarisoa, *supra* note 51.

⁵⁷ *Gabon Struggles to Stem Tide of Child Trafficking*, *supra* note 42.

⁵⁸ *Id.*

⁵⁹ *Id.*