Republic of Gabon

Consolidated Joint Submission to the UN Universal Periodic Review

28th Session of the UPR Working Group

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Submission by CIVICUS: World Alliance for Citizen Participation, NGO in General Consultative Status with ECOSOC

AND

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AND

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1. Introduction

1.1 CIVICUS is a global alliance of civil society organisations and activists dedicated to strengthening citizen action and the civil society around the world. Founded in 1993, we proudly promote excluded voices, especially from the global south and have members in more than 170 countries throughout the world.

1.2 Brainforest is a nongovernmental organisation created in 1998. Its mission is to work to preserve the environment and the sustainable and fair management of natural resources. In addition to its ecological objectives, Brainforest also works to political and economic governance, respect for human rights including the rights of indigenous people directly affected by the activities of extractive industries.

1.3 Dynamique OSCAF is a forum for reflection and analysis for civil society organisations in Francophone African countries. Its objective is to mobilise civil society in the drafting of policies that promote economic development at national, regional and international level.

1.4 In this document CIVICUS, Brainforest and Dynamique OSCAF examine the government of Gabon’s compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse Gabon’s fulfilment of the rights to freedom of expression, assembly and association and unwarranted restrictions on Human Rights Defenders (HRDS) since its previous UPR examination on 23 October 2012. To this end we assess Gabon's implementation of recommendations received during the 2nd UPR cycle relating to these issues and provide a number of specific, action-oriented follow-up recommendations. Gabon is listed as ‘obstructed’ on the CIVICUS Monitor which evaluates protection of the freedoms of expression, association and peaceful assembly.

1.5 During the second UPR cycle, Gabon has received a total of 156 recommendations. Of these recommendations, 103 were accepted and 53 were noted. An evaluation of a range of legal sources and human rights documentation demonstrate that the government of the Republic of Gabon has not fully implemented most of the recommendations it accepted and noted in relation to the above-mentioned rights necessary to promote and protect civic space.

1.6 CIVICUS, Brainforest and Dynamique OSCAF are deeply concerned about unwarranted restrictions on journalists and independent media agencies and the

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1 The full version of this submission can be found here.

2 See, https://monitor.civicus.org/
promulgation of unduly restrictive legislation including the Communications Code, which undermine the right to freedom of expression. We are further alarmed that security forces have used excessive and unlawful force to disperse peaceful protests, particularly those held during periods of elections and when demonstrators oppose government practices or policies. We are equally concerned about the targeting and judicial persecution of civil society activists.

2. (B) Freedom of expression, independence of the media and assault on journalists

2.1 Under the second UPR cycle, the Gabonese government accepted 9 and noted 4 recommendations relating to freedom of expression, independence of media and the protection of journalists. Among other commitments, the government pledged to discontinue broad restrictions on media and freedom of expression and to engage in regular dialogue with journalists to create an environment that encourages free expression without fear of censure (proposal made by the USA). The government of the Republic of Gabon also committed to respecting the plurality and freedom of the press, particularly the application of neutral sanction measures by the regulatory organs such as the National Communications Council (proposal made by Spain). However, as discussed below, the government has not fully implemented all these recommendations.

2.2 Article 19 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to freedom of expression and opinion. Article 2 of the Constitution of Gabon also guarantees the right to freedom of expression. It states that "Freedom of conscience, thought, opinion, expression, communication and the free practise of religion are guaranteed to all subject to the respect of public order." While Gabon has several private media agencies, including radio stations, newspapers and TV stations, these outlets have been targeted when they report on issues considered sensitive by the government. Some of such issues include the activities of President Ali Bongo Ondimba of Gabon, corruption by government representatives, and ritual crimes. Because of the likelihood of reprisals against journalists and media agencies that report on these issues, a number of media outlets have resorted to self-censorship. In addition, the Gabonese authorities have targeted independent media agencies during election periods including by attacking private radio stations and newspapers and blocked access to the internet.

3 (C ) Harassment, intimidation and assault on human rights defenders of and civil society organisations.

3.1 Under Gabon’s previous UPR examination, the government accepted 6 and noted 1 recommendation on the protection of human rights defenders and civil society representatives. These include a commitment to better operationalise good
practices including the wide implementation of human rights public policies based on the collaboration between the state and civil society (proposed by Chile). The government of Gabon also agreed to encourage the functioning of its civil society in particular human rights NGOs (proposed by Slovakia). However as reviewed in this section, the government has not fully implemented most of these recommendations.

3.2 Article 12 of the United Nations Declaration on Human Rights Defenders mandates states to take necessary measures to ensure protection of human rights defenders. The ICCPR further guarantees the freedom of expression, association and peaceful assembly. However, despite these provisions, human rights defenders and civil society activists have been subjected to judicial persecution, intimidation harassment, assault and have been the victims of smear campaigns to discredit them and their work.

4 (E) Freedom of peaceful assembly

4.1 During Gabon’s examination under the second UPR cycle, the government accepted 1 recommendation related to the right of peaceful assembly. The government committed to taking the necessary measures to ensure freedom of expression, the press and peaceful assembly by ensuing inter alia that those responsible for acts of intimidation, harassment or violence against persons for having exercised these rights are held to account (proposed by Canada). Despite these commitments, the government has not fully implemented them.

4.2 Article 21 of the ICCPR guarantees the freedom of peaceful assembly. It states that no restriction may be placed on the exercise of this right other than those imposed in conformity with the law. However, despite these protections, the Gabonese authorities have used excessive force to disperse peaceful protests questioning government policies as well as the outcome of the August 2016 national elections.

5 (F) Freedom of association

5.1 During Gabon’s examination under the second UPR cycle, the government accepted 1 recommendation related to the right to freedom of association and on creating an enabling environment for civil society organisations. It agreed to extend a standing invitation to all UN Special Procedures and submit regular reports to Treaty Bodies (proposed by the Czech Republic). However as reviewed in this section, the government has not fully implemented most of these recommendations.

5.2 Article 22 of the ICCPR, guarantees freedom of association. In addition, Article 13 of the Gabonese constitution guarantees the right to freedom of association. It
stipulates that the right to create associations, political parties or formations, trade unions, companies, institutions of social interest and religious communities is guaranteed to all in accordance with the conditions laid down by law.

6  (G) Recommendations to the Government of Gabon

CIVICUS, Brainforest and Dynamique OSCAF call on the Gabonese government to create and maintain in law and practice, an enabling environment for civil society in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human rights defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: freedom of association, freedom of expression, freedom of peaceful assembly, the right to function operate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made.

6.1 Concerning freedom of expression, independence of the media and access to Information

- Thoroughly review and amend the Code of Communication to ensure that it is in line with international best practices and standards on freedom of expression.
- Conduct extensive consultations with the media, civil society organisations and citizens and provide space for feedback on areas of the Code of Communication that need to be amended and replaced with suitable provisions in line with Gabon’s constitutional and international obligations.
- Conduct independent investigations into the attacks on private television stations including RTN and Tele Plus and bring the perpetrators to justice.
- Stop the practice of targeting independent newspapers and suspending their publication simply because they report on and publish stories that challenge the actions of the authorities.
- Ensure that journalists are able to work freely and without fear of retribution for expressing critical opinions or for covering topics that the government may find sensitive.
- Take adequate steps to lift restrictions on freedom of expression and adopt a framework for the protection of journalists from persecution, intimidation and harassment.
- Refrain from censoring social and conventional media, particularly in politically sensitive periods and ensure that freedom of expression is safeguarded in all forms, including the arts.
6.2 Concerning the protection of human rights defenders

- Civil society members and human rights defenders should be provided a safe and secure environment to carry out their work. Conduct impartial, thorough and effective investigations into all cases of attacks, harassment, and intimidation against them and bring perpetrators of such offences to justice.
- Stop the intimidation harassment and judicial persecution of civil society activists, including those who advocate for environmental and land rights.

6.3 Concerning the right of assembly

- Review and if necessary update existing human rights training for police and security forces with the assistance of independent civil society organisation to foster more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.
- Carry out independent investigations into the violent response to peaceful protests after the proclamation of the results of elections held on 27 August 2016 and hold the perpetrators accountable.
- Reveal the whereabouts and the state of all those who remain unaccounted for after the use of extreme violence against protesters who denounced the outcome of the August 2016 elections.
- Release all those still in detention for participating in peaceful protests before and after the August 2016 elections.
- Recourse for judicial review and effective remedy should be provided including compensation in cases of unlawful denial of the right to freedom of assembly by state authorities.
- Ensure that security forces abide by the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.\(^3\) Force should not be used unless it is strictly unavoidable, and if applied it must be done in accordance with international human rights law.\(^4\)

6.4 Concerning freedom of association

- Replace Law 35/62 which governs the functioning of associations with a more enabling law for the registration and operation of associations.

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\(^3\)Basic Principles on the Use of Force and Firearms by Law Enforcement Officials
http://www.ohchr.org/Documents/ProfessionalInterest/firearms.pdf

• Rescind Order (No. 006 / MISPDL) prohibiting the activities of the National Confederation of Unions in the Education sector and allow all associations and labour unions to carry out their activities without intimidation and fear or reprisals.
• Take measures to foster a safe, respectful, enabling environment for civil society, including through removing legal and policy measures which unwarrantedly limit the right to association.

6.5 Regarding access to UN Special Procedures mandate holders

• The government should prioritise official visits with the: 1) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 2) Special Rapporteur on the Independence of Judges and Lawyers; 3) Special Rapporteur on extrajudicial, summary or arbitrary executions; 4) Special Rapporteur on Human Rights Defenders; 5) Special Rapporteur on the Right to Freedom of Association and Assembly and 6) Working Group on Arbitrary Detention.

6.6 Regarding State engagement with civil society

• Implement transparent and inclusive mechanisms of public consultations with civil society organizations on all issues mentioned above and enable more effective involvement of civil society in the preparation of law and policy.

• Systematically consult with civil society on the implementation of UPR recommendations including by holding periodical comprehensive consultations with a diverse range of civil society actors.

• Incorporate the results of this UPR into Gabon’s action plans for the promotion and protection of all human rights, taking into account the proposals of civil society and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.