



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

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Committee against Torture

Concluding observations on the initial report of Gabon as adopted by the Committee at its forty-ninth session (29 October–23 November 2012)

1. The Committee against Torture considered the initial report of Gabon (CAT/C/GAB/1) at its 1110th and 1113th meetings (CAT/C/SR.1110 and 1113), held on 8 and 9 November 2012, and adopted the following concluding observation at its 1127th meeting (CAT/C/SR.1127) on 20 November 2012.

A. Introduction

2. The Committee welcomes the initial report of Gabon, but notes that it is not entirely in compliance with the reporting guidelines and regrets that it was submitted 11 years late.
3. The Committee appreciates the open and constructive dialogue that was held with the State party's high-level delegation, as well as the responses provided orally during the Committee's consideration of the report.

B. Positive aspects

4. The Committee notes with appreciation that the State party has acceded to or ratified the following international instruments:
 - (a) The International Convention for the Protection of All Persons from Enforced Disappearance (19 January 2011);
 - (b) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (22 September 2010);
 - (c) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (8 October 2010);
 - (d) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (21 September 2010);
 - (e) The Convention on the Rights of Persons with Disabilities (17 September 2007);
 - (f) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (10 September 2007);

(g) The United Nations Convention against Transnational Organized Crime (10 December 2004);

(h) The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (5 November 2004); and

(i) The Rome Statute of the International Criminal Court (20 September 2000).

5. The Committee takes note with appreciation of the State party's efforts to revise its legislative framework by means of, inter alia:

(a) The adoption of the Code of Criminal Procedure (Act No. 36/10 of 25 November 2010);

(b) The adoption of Act No. 3/2010 of 2010, which abolished the death penalty;

(c) The adoption of Act No. 0038/2008 of 29 January 2009, which is designed to combat and prevent the practice of female genital mutilation; and

(d) The adoption of Ordinance No. 013/PR/2010 of 9 April 2010 on the status of the national police force, article 135 of which establishes two categories of culpable police action (disciplinary breaches and misconduct).

6. The Committee welcomes the creation of a national committee in January 2007 to prepare human rights reports for Gabon, as well as the signing of the Multilateral Cooperation Agreement to Combat Trafficking in Persons, Especially Women and Children, in West and Central Africa and the adoption of a resolution on combating trafficking in children. The Committee also takes note with appreciation of the State party's cooperation with the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children, who visited Gabon from 14 to 18 May 2012.

C. Principal subjects of concern and recommendations

Definition of torture

7. The Committee is concerned by the fact that the references to torture made in article 1, paragraph 1, of the Constitution and in article 253 of the Criminal Code of Gabon do not set out a definition of torture, which should include acts involving the infliction of mental pain or suffering. Nor is the offence of torture defined anywhere else in the State party's criminal legislation, which is clearly in breach of its obligations under the Convention. (art. 1)

The State party has an obligation to revise its legislation, particularly its Criminal Code, with a view to adopting a definition of torture which, in accordance with article 1 of the Convention, includes acts involving the infliction of mental pain or suffering, along with a provision that specifically criminalizes it. The State party should also ensure that the Criminal Code sets out appropriate penalties for acts of torture.

Criminalization of attempted torture

8. The Committee is concerned by the fact that the provisions contained in articles 46 and 47 of the Code of Criminal Procedure that refer to the Attorney General's ability to lay charges and initiate legal action do not explicitly criminalize either attempts to commit torture or acts which constitute complicity or participation in torture and therefore are not in full compliance with article 4 of the Convention. (art. 4)

The State party should make the necessary modifications in its Criminal Code to explicitly criminalize attempts to commit torture and acts constituting complicity or

participation in torture and to define them as acts of torture, in accordance with article 4 of the Convention, and to establish appropriate penalties for that offence.

Direct application of the Convention by domestic courts

9. While taking note of the fact that the State party's delegation has indicated that domestic courts can refer to the Convention for information purposes, the Committee is nonetheless concerned by the lack of detailed information about the status of the Convention in the State party's domestic legal system. It is also concerned by the lack of information on cases in which the Convention has been applied by the courts of the State party or has been invoked before them. (art. 2)

The State party should clarify the nature of the Convention's status in its domestic legal system. It should ensure that public officials, judges, magistrates, prosecutors and attorneys receive training that covers the provisions of the Convention so that they are in a position to invoke the rights set forth in the Convention directly before the courts of the State party and to assert those rights before the courts. The State party should also provide the Committee with specific, representative examples of cases in which the Convention has been applied directly by the courts or has been invoked before them.

Fundamental legal safeguards

10. While noting that, under the laws of the State party, persons in detention are protected by fundamental legal safeguards, the Committee is nevertheless concerned by reports that persons held in police custody or in other places of detention are not always given the benefit of the fundamental legal safeguards provided for in articles 53 and 54 of the Code of Criminal Procedure. In accordance with international standards, the safeguards provided for in those articles include access to legal counsel from the outset of the period of detention, access to a physician of the person's choice and the right to notify someone of their choice of the arrest. The Committee notes that the length of time that a person can be held in police custody is limited to 48 hours under the Code of Criminal Procedure, but it remains concerned by the fact that, in certain regions, criminal investigation officers can issue a non-renewable eight-day detention order for the purpose of bringing a person before a judge. The Committee is also concerned by the lack of information on the maximum duration of pretrial detention. (art. 2)

The State party should promptly adopt effective measures to ensure that, both by law and in practice, all persons deprived of their liberty have the benefit of all fundamental legal safeguards from the moment that they are taken into custody. These safeguards include the right of every such person to be informed of the reasons for his or her arrest and all charges brought against him or her, to have prompt access to legal counsel and to meet with counsel in private, to be examined by a physician of his or her choice, to notify a friend or family member, to be assisted by a lawyer when being questioned by the police and, if necessary, by an interpreter, to be provided with legal aid if needed, to be brought promptly before a judge and to have the legality of his or her detention reviewed by a court. The State party should amend its legislation in accordance with international standards in order to eliminate the possibility that criminal investigation officers can issue an eight-day detention order.

Order from a superior

11. The Committee is concerned by the fact that articles 49 and 49 bis of the Criminal Code, which are viewed by the State party as fulfilling its obligation to ensure that an order from a superior or a public authority cannot be invoked as a justification for an act of torture, do not fulfil the obligation set forth in article 2, paragraph 3, of the Convention. The

Committee is equally concerned by the fact that articles 12 and 15 of the Code of Criminal Procedure do not provide for sufficient mechanisms or procedures for protecting subordinates from reprisals if they refuse to obey a superior who orders them to commit an act of torture. (art. 2)

The State party should guarantee, both by law and in practice, a subordinate's right to refuse to carry out an order from a superior that is in breach of the Convention. It should also make certain that, in full conformity with article 2, paragraph 3, of the Convention, the execution of such an order is not accepted as a justification for torture. The State party should put mechanisms or procedures into place for protecting a subordinate from reprisals if he or she refuses to carry out an order from a superior that is in breach of the Convention.

National Human Rights Commission

12. The Committee takes note of the fact that the State party has established the National Human Rights Commission in accordance with Act No. 19/2005 of 3 January 2006 and Decree No. 303/PR/MCAEPRDH of 31 March 2008, which sets forth the procedure to be used for designating the Commission's members. The Committee is concerned, however, by the fact that the Commission does not yet have offices. In addition, the Commission does not have sufficient financial and human resources, lacks safeguards that would ensure its members' independence and is not accredited with the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights. (art. 2)

The State party should, as a matter of urgency, take steps to ensure that the National Human Rights Commission is functioning as it should, to guarantee its independence, and to provide it with the financial and human resources that it needs to discharge its mandate in full compliance with the Principles relating to the Status of National Institutions (Paris Principles, General Assembly resolution 48/134). The State party should also apply to the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights for accreditation of the National Human Rights Commission.

National mechanism for the prevention of torture

13. The Committee regrets that the State party has not established a national preventive mechanism since its ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 22 September 2010. (art. 2)

The State party should adopt appropriate measures as soon as possible, in consultation with all stakeholders, to establish a national preventive mechanism in accordance with article 3 of the Optional Protocol and to provide it with the financial and human resources that it needs in order to perform its functions effectively on an entirely independent basis in accordance with article 18, paragraph 3, of the Optional Protocol and guidelines Nos. 11 and 12 of the Subcommittee on Prevention of Torture.

Judicial reform

14. While taking note of the additional information provided by the State party, the Committee is concerned by the information contained in paragraph 11 of the State party's initial report concerning breaches and misconduct on the part of judicial officials, including "corruption, ... fraudulent removals of evidence from files; paroles for frivolous reasons of dangerous criminals without guarantee that they will appear in court; ... disappearances of files removed by judges or court officials; disappearances of sealed documents and other

evidence". These breaches are serious enough to impede the investigation of complaints of torture, the taking of evidence of torture, the progress of inquiries and trials, and the punishment of guilty parties. They may also prevent the parties concerned from fully enjoying rights set out in the Convention and may hinder the proper administration of justice. The Committee is also disturbed by the absence of safeguards for the protection of the effective independence of the judiciary, the obsolete nature of the legislation governing the conduct of judges, the lack of qualified personnel, the absence of systematic investigations and the failure to punish judges who commit such breaches, all of which may hamper the effective administration of justice as a means of combating torture. (art. 2)

The State party should:

(a) Pursue the reform of the judicial system that it has initiated in order to improve the performance of the judiciary and strengthen its institutional structure;

(b) Guarantee and strengthen the effective independence of judges, ensure their security of tenure, improve the legislation governing their conduct, increase the number and quality of available human-resource capacities and provide judges with improved training (including in-service training) while taking into account the actual situation in the State party and the provisions of the Convention; and

(c) Reinforce the measures in place for countering judicial misconduct, particularly corruption in all its forms, which may hinder the progress of inquiries and of independent, impartial and appropriate legal proceedings against perpetrators of torture and interfere with the conviction of guilty parties. The State party should, in particular, carry out inquiries, bring guilty parties before the Disciplinary Council and impose suitable penalties upon them.

Non-refoulement of undocumented foreign nationals

15. While taking note of the information provided by the State party regarding the removal of undocumented foreign nationals from Minkébé in June 2011 as provided for in Gabonese legislation, under which persons may be removed from Gabonese territory if they undermine public order or national security or have not respected the conditions of their stay in the country as established by law, the Committee is concerned by the lack of information on the manner in which these foreign nationals were removed and, in particular, wishes to know whether the decision to remove them was taken on an individual or collective basis, whether they had an opportunity to appeal that decision and what the outcome has been. The Committee is also concerned about the lack of information concerning the observance of the principle of non-refoulement during the removal of these foreign nationals. (art. 3)

The State party should ensure that no one, including persons in an irregular situation who are in Gabonese territory, is expelled, extradited or returned to a State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture. It should take all necessary steps to ensure that the principle of non-refoulement is upheld under all circumstances, including situations similar to those found in Minkébé, in accordance with its international obligations under article 3 of the Convention, that decisions taken in this regard are arrived at following an examination of each individual case, rather than on a collective basis, and that the persons concerned have an opportunity to appeal such decisions.

Training

16. While taking note of the information furnished by the State party regarding the training on citizens' fundamental rights that is provided to law enforcement officers, prison security staff, police investigators and newly appointed judges, the Committee is concerned

by the fact that this training is not given to all persons involved in the application of the law and medical personnel who work with prisoners. Sufficient outreach and awareness-raising activities are also lacking. The Committee is equally concerned by the lack of information on the impact that such training has had in combating torture and ill-treatment and on its evaluation. Finally, it notes with concern that the State party has not indicated whether or not this training covers the application of the *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (the Istanbul Protocol). (art. 10)

The State party should reinforce the training programmes that it offers to civilian law enforcement officers and military personnel. It should also provide that training to medical personnel, public officials and other persons who may be involved in matters pertaining to the custody, questioning or treatment of persons subject to any form of arrest, detention or imprisonment. It should assess the effectiveness of the training that is being offered and make certain that the Istanbul Protocol is covered in its training programmes. It should, in addition, carry out public awareness campaigns regarding the prevention of torture.

Prison conditions

17. The Committee has taken note of the State party's efforts to improve prison conditions, including its plan to build new prisons and renovate older ones, and its undertaking to significantly reduce overcrowding in its prisons starting in late 2012. It is nonetheless concerned about those conditions, particularly with regard to hygiene and access to health care and to adequate food. It is, in addition, concerned about the high rate of overcrowding, especially in Libreville Central Prison, and by reports that the principle whereby different categories of inmates are to be held separately is not always observed in prisons located in rural areas. The Committee is also concerned about the lack of information on the enforcement of the law adopted on 26 December 2009 that provides for improved monitoring of persons serving their sentences and better prison management, as well as about the absence of specific information on complaints filed by prisoners and on how those complaints have been processed. (arts. 11 and 16)

The State party should redouble its efforts to improve prison conditions and to ensure that they conform to the United Nations Standard Minimum Rules for the Treatment of Prisoners, adopted by the Economic and Social Council in its resolutions 663 C (XXIV) and 2076 (LXII). To this end, it should:

(a) Significantly reduce prison overcrowding, especially in Libreville Central Prison, through a greater use, in particular, of non-custodial measures as outlined in the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);

(b) Reduce the duration of pretrial detention and release prisoners who have served most of their prison sentences and whom the relevant authorities consider to be ready to rejoin society;

(c) Ensure that, in accordance with international standards, minors are separated from adults, remand prisoners are separated from convicted prisoners, and women are separated from men, particularly in rural prisons;

(d) Ensure that prisoners have genuine access to a means of filing a complaint regarding their conditions of detention and/or ill-treatment and that impartial, independent investigations into such complaints are promptly carried out;

(e) Bring its sentencing policy regarding minors into line with international standards; and

- (f) **Guarantee access to health care and to an adequate daily diet.**

Juvenile justice

18. While noting that the State party has introduced a new juvenile justice regime with the adoption of Judicial Protection of Minors Act No. 39/2010 of 25 November 2010 and the promulgation of Decree No. 0806/PR of 25 November 2010, which establishes special provisions regarding pretrial detention and the age of criminal responsibility, the Committee regrets that the amended legislation does not include a scheme of non-custodial sentences for minors. (arts. 2, 10 and 16)

The State party should:

(a) **Incorporate non-custodial measures into the justice system for minors in conflict with the law;**

(b) **Ensure that minors are not held in detention except as a last resort and for the shortest amount of time possible;**

(c) **Ensure that minors who have been deprived of their liberty have the benefit of all legal safeguards and that convicted minors are held separately from adults, men are held separately from women, and remand prisoners are held separately from convicted prisoners, in accordance with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), adopted by the General Assembly in its resolution 40/33 of 29 November 1985, and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), adopted by the General Assembly in its resolution 45/112 of 14 December 1990.**

The State party should also train a sufficient number of qualified staff members to handle the caseload in the juvenile justice system.

Human trafficking

19. The Committee takes note of the numerous legislative, institutional and awareness-raising measures adopted by the State party to prevent and combat human trafficking. Nevertheless, the Committee is concerned by the persistence in the State party of the practice of trafficking in persons, including children (30.6 per cent), as forced labour and for purposes of sexual exploitation. The Committee is equally concerned by the fact that the measures in place to combat trafficking fall short of what is needed, given, for example: the fact that Act No. 09/2004 does not penalize all forms of human trafficking and does not penalize trafficking of persons over 18 years of age; the absence of specific data on the extent of trafficking; the lack of regulations on victim assistance; the lack of qualified investigators; the absence of information on the complaints that have been filed and their outcome; the lack of sufficient funding for shelters; and the existence of some degree of impunity for those responsible. (arts. 2, 12, 13, 14 and 16)

The State party should:

(a) **Ensure the effective enforcement, in full compliance with the Convention, of existing anti-trafficking laws;**

(b) **Amend Act No. 09/2004 so that it also criminalizes trafficking in persons over the age of 18, as well as all forms of trafficking, particularly trafficking of persons as forced labour and for purposes of sexual exploitation or servitude;**

(c) **Conduct a study to determine the actual extent of human trafficking in the State party and the relevant causal factors;**

(d) Put an end to impunity by conducting systematic investigations into allegations of trafficking, prosecuting perpetrators and imposing appropriate punishments upon them;

(e) Offer victims protection, sufficient compensation and rehabilitation services as necessary and step up its awareness campaigns;

(f) Train investigators and other personnel who come into contact with trafficking victims, including immigration service staff, and provide shelters with sufficient funding.

Ritual crimes

20. The Committee takes note of the information provided by the State party on the steps taken to put an end to ritual crimes. Nonetheless, the Committee remains concerned about the persistence of ritual crimes involving children in the State party. The Committee is also concerned by the lack of accurate, detailed information on the scale of this problem, the investigations undertaken, the legal proceedings initiated, the trials held, the sentences handed down to perpetrators of such crimes, the redress offered to victims and awareness-raising measures. (arts. 2, 12, 13, 14 and 16)

The State party should, as a matter of urgency, adopt preventive and protective measures with regard to ritual crimes. It should carry out a study to determine the scale of the problem and step up its efforts to raise the population's awareness of it. The State party should continue to conduct investigations, to prosecute, bring to justice and punish those guilty of such crimes and to inform the Committee about the outcomes of the judicial action taken in cases now pending. In addition, the State party should take steps to provide redress, compensation or rehabilitation services to victims.

Female genital mutilation

21. While taking note of the measures adopted by the State party, particularly Act No. 0038/2008 of 29 January 2009, which is designed to combat and prevent female genital mutilation, as well as the information provided by the State party's delegation on the reasons underlying this practice, the Committee remains concerned by the fact that girls continue to be subjected to female genital mutilation in the State party. It is equally concerned by the absence of detailed information on the complaints that have been filed and the investigations conducted into those complaints, on the legal proceedings brought against those responsible for this practice and on the penalties imposed upon them. (arts. 2, 12, 13, 14 and 16)

The State party should strengthen its laws and other measures for the prevention and elimination of the practice of female genital mutilation by, inter alia, ensuring that its existing laws on the subject are effectively enforced in accordance with the Convention. To this end, it should assist victims to file complaints, conduct the corresponding investigations, prosecute those responsible, impose appropriate penalties upon the guilty parties and provide victims with appropriate redress, compensation or rehabilitation services. It should also increase the scope of campaigns to raise awareness, particularly among families, of the harmful effects of this practice.

Complaints of torture

22. The Committee is concerned by the fact that article 31 of the Code of Criminal Procedure is not in line with article 12 of the Convention, inasmuch as article 31 provides for the opening of an inquiry into allegations of torture and the initiation of judicial investigation proceedings "if the victim requests that these steps be taken in accordance

with the laws in force". The Committee is equally concerned by the absence of a specific mechanism for filing complaints of torture committed by police officers and/or in any place of detention, including prisons. The Committee has some concerns as to the independence and impartiality of inquiries into allegations that members of the police force have committed acts of torture in view of the fact that, as provided for in article 3 of the Code of Criminal Procedure, they may be conducted by criminal investigation police officers. (arts. 12 and 13)

The State party should revise its Code of Criminal Procedure so that a prompt, impartial inquiry can be opened ex officio where there is reason to believe that an act of torture has been committed in any territory under its jurisdiction. It should establish an independent mechanism for lodging complaints against members of the police force and ensure that prompt, impartial, independent investigations into such complaints are conducted. The State party should also take the necessary steps to enable victims of torture, including those in detention, to file complaints without fear of reprisal and to ensure that such complaints are investigated promptly and impartially.

Redress, compensation, rehabilitation

23. While noting that a complainant can bring a civil suit for compensation for harm suffered as the result of a crime or offence under article 2 of the Code of Criminal Procedure, the Committee regrets the absence of precise, detailed information about the mechanisms available in the State party for seeking fair and adequate compensation, including rehabilitation services, for victims of torture, including those who have not entered a claim for redress. The Committee is equally concerned by the lack of information about cases involving torture or ill-treatment in which the State party has paid out compensation in order to redress harm suffered by victims of torture or has provided rehabilitation services, where necessary. (art. 14)

The State party should clarify its legislation and ensure that it provides guarantees that will allow victims of torture to claim and receive fair and adequate compensation, particularly in cases where public officials are implicated, and that it offers them rehabilitation services in accordance with article 14 of the Convention. It should supply the Committee with detailed statistics on the cases in which the State party has compensated victims of torture or ill-treatment and on the exact amounts of compensation paid to them.

The Committee draws the State party's attention to its recently adopted general comment on the implementation of article 14 (CAT/C/GC/3), which clarifies the content and scope of States parties' obligations with respect to the provision of full redress to victims of torture.

Confessions made under duress

24. The Committee is concerned by the fact that while, according to the information provided by the State party in its report, the freedom to provide evidence does not encompass illegal means, there is no clearly stated provision in its criminal legislation that explicitly prohibits the courts from admitting evidence or confessions obtained under torture. (art. 15)

The State party should amend its legislation in order to make it clear that confessions, statements and other evidence obtained through torture or ill-treatment may not be invoked as evidence in legal proceedings, except against a person accused of torture as evidence that the statement was made. The State party should investigate all allegations that confessions have been obtained under torture and ensure that the

guilty parties are prosecuted and punished. It should review cases that were based on confessions made under torture or ill-treatment, take appropriate remedial action and inform the Committee of its findings.

Corporal punishment inflicted upon children

25. While taking note of the information provided by the State party's delegation which indicates that children are safeguarded by the Minors Protection Code, by the law on domestic, school-related and institutional violence and by the awareness campaigns conducted in Libreville, Owendo, Makokou and Oyem on the worst forms of corporal punishment inflicted upon schoolchildren, the Committee is concerned by reports indicating that corporal punishment continues to be practised in homes and schools. (art. 16)

The State party should take steps to ensure the effective enforcement of its legislation in order to make certain that corporal punishment is not practised under any circumstances. It should also step up its campaigns aimed at raising public awareness about the harmful effects of corporal punishment and about the fact that it is prohibited.

Data collection

26. The Committee regrets that it does not have full, reliable information on complaints, inquiries, trials and convictions relating to acts of torture or ill-treatment committed by law enforcement personnel or prison staff. It also regrets the fact that it does not have full, reliable information on human trafficking, juvenile justice, corporal punishment, female genital mutilation, or victim compensation and rehabilitation.

The State party should compile statistics that can be used to assess the application of the Convention at the national level. These statistics should include figures on the complaints filed, investigations conducted, legal proceedings pursued and convictions handed down in cases involving torture or ill-treatment committed by members of the police force or prison staff. Statistics should also be provided on cases of human trafficking, juvenile justice, corporal punishment, female genital mutilation, the redress provided to victims in the form of compensation and the means of rehabilitation made available to them.

27. The Committee recommends that the State party make the declarations provided for in articles 21 and 22 of the Convention in order to recognize the competence of the Committee to receive and consider communications.

28. The State party is invited to widely disseminate the report that it has submitted to the Committee, as well as these concluding observations, in the appropriate languages through official websites, the media and non-governmental organizations.

29. The Committee urges the State party to provide it with information by 23 November 2013 on the action taken in response to the recommendations set forth by the Committee in paragraphs 8, 10, 17 (a) and (e), and 22 of these concluding observations concerning: (a) the criminalization of torture; (b) the fundamental safeguards in place for the protection of persons held in police custody; (c) prison conditions; and (d) the prosecution and punishment of perpetrators of acts of torture and ill-treatment.

30. The Committee invites the State party to submit its second periodic report by 23 November 2016. To this end, it invites the State party to agree, by 23 November 2013, to use the optional reporting procedure, which consists of the transmittal by the Committee of a list of issues prior to the submission of its report. As provided for in article 19 of the Convention, the State party's responses to that list of issues would constitute its next periodic report.