



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE
Eighty-second session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Concluding observations of the Human Rights Committee

BENIN

1. The Human Rights Committee considered the initial report of Benin (CCPR/C/BEN/2004/1/Add.1) at its 2232nd to 2234th meetings on 21 and 22 October 2004 (CCPR/C/SR.2232, 2233 and 2234). It adopted the following concluding observations at its 2248th meeting, held on 2 November 2004 (see CCPR/C/SR.2248).

A. Introduction

2. The Committee welcomes the initial report of Benin. It regrets, however, that the report was submitted more than 10 years late and does not contain sufficient information on the effectiveness of measures taken to implement the Covenant. The Committee commends the sending of a high-level delegation to Geneva as well as the delegation's efforts to answer its questions, both in writing and orally. It welcomes the opening of a dialogue with the State party.

B. Positive aspects

3. The Committee notes with satisfaction that individuals are able to bring matters before the Constitutional Court in a simple procedure, and that the Court has a role to play in protecting fundamental rights.

4. The Committee notes with interest that the trial of judges, registrars and tax collectors charged with misappropriation of court fees has resulted in the imposition of heavy sentences on 63 persons.

5. The Committee welcomes the promulgation on 25 August 2004 of a new Personal and Family Code that seeks to promote equality of the sexes, particularly in the areas of marriage, divorce and parental authority.

6. The Committee commends the adoption of the Act of 3 March 2003, which makes female genital mutilation a punishable offence.

C. Principal subjects of concern and recommendations

7. The Committee notes with concern that the individual complaint procedure before the Constitutional Court, which is highly important, is largely unknown to the public and that the Court's decisions are not subject to a follow-up procedure (article 2 of the Covenant).

The State party should make people more aware of the opportunities they have to bring matters before the Constitutional Court, ensure that the Court's decisions are enforced, and contemplate the establishment of a body to follow up the Court's decisions.

8. The Committee notes with concern that the Beninese Commission on Human Rights is no longer operational and that the State party has not taken the necessary measures, including budgetary measures, to enable the Commission to function effectively. It recalls that an independent national human rights institution having as its mandate the promotion and protection of rights cannot be replaced by non-governmental organizations or by the National Human Rights Advisory Board within the Ministry of Justice (article 2 of the Covenant).

The State party should set up a national human rights institution, in accordance with the Paris Principles relating to the status and functioning of national institutions for protection and promotion of human rights (General Assembly resolution 48/134).

9. The Committee is disturbed by reports that domestic violence against women is a common practice (articles 3 and 7 of the Covenant).

The State party should adopt effective and concrete measures to combat this phenomenon. It should sensitize society as a whole to this matter, ensure that the perpetrators of such violence are criminally prosecuted and provide assistance and protection to victims.

10. The Committee notes that under the new Personal and Family Code, only monogamous marriage is recognized, and that "custom ceases to have the force of law in all matters covered by the present Code". The Committee is concerned, however, at the possible consequences of polygamous marriages that might nevertheless be concluded under customary law, particularly as regards the protection that would be afforded to women involved in such unions (articles 3 and 23 of the Covenant).

The State party should clearly prohibit the conclusion of new polygamous marriages, in accordance with the Committee's General Comment No. 28 on article 3 of the Covenant. It should provide greater protection to women who, once the new Personal and Family Code has entered into force and out of respect

for tradition, may enter into polygamous unions when such unions no longer have any legal standing. The Committee invites the State party to increase its efforts to inform women and make them aware of these issues, including in the remotest parts of the country.

11. The Committee remains concerned at the persistence of female genital mutilation, particularly in certain parts of the country, which constitutes a serious violation of articles 3 and 7 of the Covenant.

The State party should increase its efforts to combat these practices, especially in communities in which they are extremely common. It should effectively ban such practices by means of more awareness campaigns and the criminal prosecution of perpetrators. The State party should provide more accurate information about the percentage of women and girls affected, as well as their distribution by region and ethnic group, and about any criminal proceedings brought against the perpetrators.

12. The Committee is concerned that certain provisions of the draft Criminal Code and Code of Criminal Procedure aimed at combating terrorism might infringe some of the rights set out in the Covenant (articles 2, 7, 9 and 14 of the Covenant).

The State party should seek to ensure that these provisions do not infringe the rights set out in the Covenant, particularly the right to security and freedom of the person, the right to a fair trial and the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment.

13. While welcoming the fact that no one sentenced to capital punishment has been executed in Benin in almost 18 years, the Committee notes with concern that capital punishment is not limited to the most serious crimes. It is concerned that some individuals have been on death row for many years, and is disturbed by contradictory reports regarding their conditions of detention (articles 6, 7 and 10 of the Covenant).

The State party should limit the death penalty to the most serious crimes. It should consider abolishing the death penalty and acceding to the Second Optional Protocol to the Covenant. The Committee recommends that the State party commute all existing death sentences into terms of imprisonment, immediately verify the conditions of detention of those on death row and ensure that the United Nations Standard Minimum Rules for the Treatment of Prisoners are respected in all situations.

14. The Committee is concerned at the persistence of vigilante justice. It also notes with concern that infanticides motivated by traditional beliefs are being committed in the country (articles 6, 7 and 24 of the Covenant).

The State party should protect persons from acts committed by individuals that infringe their right to life and physical integrity, and should exercise due diligence with a view to preventing and punishing such acts, investigating them and providing

reparations for the resulting harm. The State party should also step up its efforts to increase public awareness and provide detailed information on the extent of these phenomena.

15. The Committee is concerned by allegations that abuse of the system of police custody, torture and cruel, inhuman or degrading treatment are common practice in Benin. It is disturbed by the fact that law enforcement officials who perpetrate such violations appear to enjoy widespread impunity (articles 2, 7 and 9 of the Covenant).

The State party should display greater firmness in preventing abuses of police custody, torture and ill-treatment, and should strengthen the training provided to law enforcement personnel in this area. It should automatically bring disciplinary and criminal proceedings against the perpetrators of violations and, in particular, should enforce Constitutional Court decisions in such cases. The Committee recommends that the State party provide it with detailed information on complaints filed in connection with such acts and on the disciplinary and criminal sanctions imposed during the past three years, and that it conduct an independent investigation of the methods in use in the “Petit Palais”.

16. The Committee notes with concern that the most basic rights of persons in police custody are not guaranteed under Beninese law (articles 7, 9 and 14 of the Covenant).

The State party should guarantee the right of persons in police custody to have access to a lawyer in the initial hours of detention, to inform their family members of their detention and to be informed of their rights. Provision should be made for a medical examination at the beginning and at the end of the detention period. Provision should also be made for rapid and effective remedies to allow detainees to challenge the legality of their detention and assert their rights.

17. The Committee, while taking note of the efforts made by the State party to improve conditions of detention, continues to be concerned by the situation in prisons, particularly in the areas of sanitation and access to health care and food. It is concerned at the extreme overcrowding of prisons and at the fact that juveniles are not always held separately from adults (articles 7, 10 and 24 of the Covenant).

The State party must guarantee the right of detainees to be treated humanely and with respect for their dignity, particularly their right to live in hygienic facilities and to have access to health care and adequate food. Detention should be viewed only as a last resort, and provision should be made for alternative measures. As the State party is unable to meet the needs of detainees, it must reduce the prison population as soon as possible. Lastly, special protection should be provided for juveniles, and all juveniles, including girls, should be systematically separated from adults.

18. The Committee notes the efforts made by the State party to bring the system of justice closer to the people but remains concerned at reports of serious dysfunctions in the administration of justice, owing chiefly to the lack of human and material resources, the overcrowding of dockets, the slow pace of proceedings, corruption and the interference of the executive in the judiciary. In this connection, the Committee notes with concern the protests by

judges against the outright handing over to the Nigerian authorities of persons and vehicles under court administration and other acts related to the so-called Hamani case (articles 2, 13 and 14 of the Covenant).

The State party should give greater priority to efforts to address these problems. It should ensure the prompt and effective implementation of the Act of 27 August 2002 on the organization of the judiciary increasing the number of courts and tribunals, strengthen the independence of the justice system by effectively prohibiting any interference by the executive in the judiciary, and ensure that appeals are dealt with in a reasonable amount of time. It should also provide effective reparation for violations established by the Constitutional Court. The State party should also ensure that the expulsion of individuals is based solely on a decision taken in conformity with the law and that such individuals are given an opportunity to contest their expulsion.

19. The Committee notes that the conciliation tribunals are useful, but fears that the different mandates of the tribunals and of the ordinary courts have been defined vaguely and are not clear to the public, and that the system of judicial confirmation in the courts does not afford all the guarantees provided for in article 14 of the Covenant.

The State party should endeavour to clarify the respective mandates of the different tribunals and courts and to ensure that the system of judicial confirmation in the courts meets the requirements of article 14 of the Covenant.

20. The Committee is concerned that few people, including minors, are assisted by a lawyer during criminal proceedings, and that such assistance is mandatory only in the Assize Court. It further notes with concern that in the Assize Court a lawyer is appointed only during the final questioning before the actual hearing, a situation that does not guarantee that the right to a defence is respected (article 14 of the Covenant).

The State party should ensure that lawyers are trained in adequate numbers, facilitate the access of individuals to legal assistance in criminal proceedings and ensure that lawyers are involved in proceedings from the time of arrest onward.

21. The Committee is of the view that the requirement that pre-trial detainees and convicts must wear jackets indicating their place of detention constitutes degrading treatment, and that the requirement that pre-trial detainees must wear such jackets during their trial may infringe the principle of presumption of innocence (articles 7 and 14 of the Covenant).

The State party should abolish this measure.

22. The Committee notes with concern that under the Act of 30 June 1960 and the Act of 20 August 1997 press offences are punishable by up to five years' imprisonment, which is a disproportionate duration in the light of article 19 of the Covenant.

The State party should abolish prison sentences for press offences.

23. The Committee notes with concern that public demonstrations have been banned for reasons that appear to have nothing to do with the justifications listed in article 21 of the Covenant.

The State party should guarantee the right of peaceful assembly and impose only those restrictions that are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others. Timely remedies for appealing any ban should be available.

24. While noting the efforts made by the State party, the Committee expresses its concern at the alarming practice of placing children with a third party as an act of mutual assistance or family or community solidarity (*vidomégons*), which has become a source of trafficking and economic exploitation of children within Benin. It notes with concern that Benin has become a country of transit, origin and destination for international trafficking in children (articles 7, 16 and 24 of the Covenant).

The State party should increase its efforts to combat trafficking in children and provide the Committee with more detailed information about this phenomenon, in particular an estimate of the number of children involved. It should create mechanisms to monitor the placement of children, increase public awareness and bring criminal proceedings against those engaged in the trafficking in and economic exploitation of children.

25. The Committee notes the efforts made by the State party to increase public awareness of human rights but is concerned that these efforts have been limited.

As expressly stipulated in article 40 of the Constitution, the State party should integrate human rights education in the primary, secondary, higher and vocational education curricula and, in particular, in the training programmes of the security forces.

26. The Committee sets 1 November 2008 as the date for the submission of Benin's second periodic report. It requests that the texts of the State party's initial report and the present concluding observations be published and widely disseminated in Benin, and that the second periodic report be brought to the attention of the non-governmental organizations operating in the country.

27. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 11, 15, and 17. The Committee requests that the State party include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole.
