



International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the second periodic report of Benin*

1. The Human Rights Committee considered the second periodic report of Benin (CCPR/C/BEN/2) at its 3216th and 3217th meetings (CCPR/C/SR.3216 and 3217), held on 27 and 28 October 2015. At its 3226th meeting, held on 3 November 2015, the Committee adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the second periodic report of Benin and the information presented therein. It expresses appreciation for the opportunity to engage in a constructive dialogue with the high-level delegation from the State party on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for its written replies (CCPR/C/BEN/Q/2/Add.1) to the list of issues (CCPR/C/BEN/Q/2), which were supplemented by the oral responses provided by the delegation during the dialogue, and for the additional information that was provided in writing.

B. Positive aspects

3. The Committee welcomes the legislative and institutional measures taken by the State party during the period under review, including:

(a) Act No. 2006-04 of 10 April 2006, which sets out conditions for the displacement of minors and the suppression of child trafficking in the Republic of Benin;

(b) Act No. 2009-22 of 11 August 2009 instituting the Ombudsman of the Republic of Benin;

(c) Act No. 2011-26 of 9 January 2012 on the prevention and punishment of violence against women;

(d) The National Child Protection Policy, adopted in October 2014;

(e) The National Plan of Action against Racism, Racial Discrimination, Xenophobia and Related Intolerance, adopted in October 2014.

* Adopted by the Committee at its 115th session (19 October-6 November 2015).



4. The Committee welcomes the ratification of the following international instruments:

(a) The Convention on the Rights of Persons with Disabilities and its Optional Protocol, in July 2012;

(b) The Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict, and on the sale of children, child prostitution and child pornography, in January 2005;

(c) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in September 2006.

5. Further to its previous concluding observations (CCPR/CO/82/BEN), the Committee welcomes the State party's accession, in July 2012, to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty (para. 13). It also welcomes the adoption, on 30 March 2012, of Act No. 2012-15 on the Code of Criminal Procedure, which enshrines fundamental legal safeguards from the first hours of detention (para. 16) and abolishes imprisonment for press offences (para. 22).

C. Principal subjects of concern and recommendations

Applicability of the Covenant by national courts

6. The Committee notes that article 147 of the Constitution establishes the primacy of international conventions over national legislation once they have been published in the Official Gazette. It takes note of the information provided by the State party regarding the publication of the Covenant in September 2006. While it welcomes the information provided to it by the State party concerning the case law of the Constitutional Court, the Committee finds it regrettable that the State party has not provided specific examples of court cases in which the provisions of the Covenant have been invoked or applied directly by the courts (art. 2).

7. The State party should take the necessary steps to continue to raise awareness of the Covenant's provisions among judges, lawyers, prosecutors and other law enforcement officials in order to ensure that they are applied directly by the national courts. In this regard, the State party should further increase awareness of the Covenant in its institutions and among the general public.

National Human Rights Commission

8. The Committee is concerned that no members have been appointed to the National Human Rights Commission since the adoption, on 17 December 2012, of Act No. 2012-36 establishing the Commission. While noting the reasons given by the State party, the Committee finds it regrettable that progress in making the Commission operational has been slow (art. 2).

9. The State party should take all necessary measures to appoint the members of the National Human Rights Commission as soon as possible. It should guarantee the Commission's independence by ensuring that it has financial autonomy and adequate human and material resources to enable it to fulfil its mandate in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

Equality between men and women

10. While noting the legislative and institutional measures taken by the State party to promote equality between men and women, the Committee is concerned that women

in the country, especially in rural areas, continue to suffer discrimination. The Committee is also concerned by the low level of representation of women in both public service and the private sector, especially in positions of responsibility. It is also concerned by the small number of women in political life and finds it regrettable that the Act providing for quotas to boost their participation in political life has not yet been adopted (arts. 3 and 25).

11. The State party should continue and strengthen its efforts to ensure that the legal provisions governing equality between men and women are effectively applied by publicizing the relevant laws among the general public and the judiciary. The State party should adopt special temporary measures to increase women's participation in all aspects of public and political life.

Practices harmful to women

12. The Committee is concerned by the persistence in some areas of the country of certain practices harmful to women, such as female genital mutilation, rites of widowhood, levirate, child and forced marriages, as well as Oro worship, which prohibits women from leaving their homes during a certain period. The Committee reiterates its concern about the continuation of the practice of polygamy despite the legal recognition of monogamous marriage (arts. 3, 7, 23 and 26).

13. The State party should step up measures to prevent and punish the practice of female genital mutilation, particularly in those areas where it is still practised. The State party should intensify its public awareness campaigns, especially among religious and traditional leaders, to eliminate stereotypes and all practices harmful to women.

Forced labour and trafficking

14. The Committee is concerned by the persistence of misuses of the placement of children *vidomégon*, which has become a source of financial and occasionally sexual exploitation. It is also concerned about the forced labour of children in different sectors of the economy. It remains concerned that Benin is at the same time a country of origin, of transit and of destination for trafficking in persons, and in particular women and children (arts. 7, 8 and 24).

15. The State party should ensure compliance with Act No. 2006-04 setting out conditions for the displacement of minors and the suppression of trafficking in children in Benin by prosecuting those responsible and protecting the victims. The State party should step up its efforts to raise awareness among the population of the misuses of placement, ensure that primary education is provided free of charge and protect children against all forms of ill-treatment. It should adopt, as soon as possible, the bill on trafficking in persons and take additional measures to combat trafficking within the country and at the regional level.

Violence against women

16. The Committee is concerned by the persistence of violence against women, including domestic violence and sexual harassment. It is also concerned by the difficulties faced by victims of violence in accessing justice and their reluctance to report rape for fear of reprisals or social stigma (arts. 3 and 7).

17. The State party should improve the services provided by the integrated support centres for victims of gender-based violence. It should ensure that the relevant laws and policies are applied effectively and that cases of violence against women are investigated, perpetrators are prosecuted and sentenced and

victims are awarded reparation. It should also combat harassment and sexual abuse in schools and universities. The State party should continue its efforts to train law enforcement officials in the detection, prevention and punishment of violence against women. It should build up its awareness campaigns on this issue.

Right to life

18. The Committee finds regrettable the delay in the adoption of the new Criminal Code, which will expressly abolish the death penalty following accession by the State party to the Second Protocol to the Covenant. It is also concerned about the situation of 13 death row inmates whose sentences have not yet been commuted. It expresses its concern in respect of the unexplained deaths of the journalist Jean Christophe Hounbo and his family and the student René Miwanou and the attempted assassination of the human rights defender, Martin Assogba. Furthermore, the Committee expresses its concern at the persistence of ritual killings of so-called witch children (arts. 6, 7, 10 and 24).

19. The State party should adopt the new Criminal Code as soon as possible so as to expressly abolish the death penalty. It should commute death sentences to prison sentences. The State party should take steps to initiate or continue investigations into cases of murder or attempted murder and bring the perpetrators to justice. It should also take stringent measures to punish infanticide. It should raise public awareness of respect for the right to life.

Mob justice and arbitrary extrajudicial executions

20. The Committee expresses its concern at the cases of mob justice and extrajudicial killings of persons suspected of offences, and at the excessive use of force on the part of law enforcement officials. It considers regrettable the lack of information on any measures taken to prevent those offences, or on investigations, prosecutions or convictions of the perpetrators (arts. 6 and 14).

21. The State party should take all necessary and effective measures to conduct prompt and effective investigations in order to identify and prosecute the perpetrators of extrajudicial killings and to impose appropriate penalties and provide reparation to the victims or to their families. The State party should take practical steps to prevent the excessive use of force by law enforcement officials by ensuring that they comply with the 1990 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. It should also conduct awareness-raising campaigns on the illegality of summary and mob justice and the criminal responsibility of perpetrators.

Prohibition of torture and impunity

22. The Committee is concerned about the delays in adopting the new Criminal Code, which will criminalize torture, and in setting up the torture prevention mechanism. It is concerned by information relating to cases of torture and ill-treatment, in particular during the first hours of deprivation of liberty. It is disturbed by the absence of information on the existence of a completely independent complaint mechanism empowered to examine complaints of torture or ill-treatment. The Committee deplores the impunity allegedly enjoyed by persons suspected of having committed acts of torture, pursuant to Act No. 90/028 of 9 October 1990 on amnesty for crimes committed between 1972 and 1990 (art. 17).

23. The State party should adopt the new Criminal Code as soon as possible so as to expressly define and criminalize torture in line with article 7 of the Covenant. It should establish a national observatory for the prevention of torture

in addition to an independent mechanism for the systematic consideration of complaints of torture or ill-treatment. The State party should conduct thorough and impartial investigations into all allegations of torture and ill-treatment, including such acts committed between 1972 and 1990, and take the necessary measures in this regard.

Pretrial detention

24. The Committee is concerned by the abusive use of pretrial detention and cases of excessively long detention pending trial, sometimes well beyond the maximum duration of the applicable penalty (arts. 9, 10 and 14).

25. The State party should publicize the provisions of the new Code of Criminal Procedure and ensure their application, in particular as regards fundamental legal safeguards for persons deprived of their liberty. It should compensate any person who has been a victim of arbitrary detention by making the commission for compensation for illegal detention operational. It should increase the number of judges so that they are able to issue their judgements within the time limits provided for in the new Code of Criminal Procedure.

Conditions of detention

26. While noting the legislative measures taken by the State party, in particular the adoption of the new Code of Criminal Procedure, the Committee is concerned about the lack of sufficient numbers of qualified staff to ensure respect for the rights of detainees. The Committee expresses its concern about the poor conditions in the State party's prisons and particularly about prison overcrowding and the lack of hygiene and of adequate food and medicine, despite the efforts of the State party (arts. 9, 10 and 14).

27. The State party should take urgent measures to improve conditions of detention and reduce prison overcrowding. In this regard, the State party should continue implementing its prison construction projects and apply alternatives to pretrial detention in order to reduce the high rate of arbitrary pretrial detention. The State party should improve hygiene conditions and access to food and health care, regularly monitor conditions of detention and ensure that prisoners are separated according to their category, age and sex.

Independence of the judiciary

28. The Committee reiterates its concern about operational shortcomings in the administration of justice, in particular the lack of human and material resources, lengthy delays in court hearings and cases of corruption. The Committee is concerned about interference in judicial matters by the executive branch, reflected, inter alia, in the appointment of judges and the composition of the Supreme Council of Justice (arts. 2 and 14).

29. The State party should reform the judiciary in order to guarantee its independence. It should adopt the bill on the Supreme Council of Justice, making sure that the executive branch does not influence its activity. It should also guarantee that the executive branch does not interfere in the appointment, promotion or dismissal of judges. Lastly, it should provide sufficient means for the judiciary to function at an optimal level, while at the same time firmly combating corruption.

Right to a fair trial

30. The Committee is concerned that the most disadvantaged persons are not yet receiving free legal assistance and by reports that there are very few lawyers in the north of the country. While taking note of the material and financial constraints the State party faces, the Committee finds it regrettable that the State party has not yet taken measures to implement the Committee's Views on communication No. 2055/2011, adopted on 18 July 2014 (*Paul Mitonsou Zinsou v. Benin*) (arts. 2, 7 and 14).

31. The State party should facilitate access to lawyers for all and provide legal assistance to the most disadvantaged. The Committee requests the State party to implement its Views on communication No. 2055/2011 in order to ensure that the principle of the presumption of innocence is respected.

Freedom of expression, assembly and association

32. The Committee is concerned about restrictions on rallies and demonstrations. It notes with concern that the Government makes disproportionate use of the public media and that restrictions are placed on the right to freedom of expression, including by the High Authority for Audiovisual Media and Communication, whose independence and ways of working are allegedly questionable. While taking note of the adoption of the new Information and Communication Code, which confirms that custodial sentences will no longer be imposed for media offences, the Committee is concerned that the statute of limitations for such offences has been extended. It is also concerned that this same Code covers offences related to insulting Heads of State and diplomatic officials (arts. 19 and 21).

33. The State party should promote freedom of assembly and association and facilitate equal access to the public media. It should revise article 143 of the Constitution, which allows the Head of State to appoint the High Authority for Audiovisual Media and Communication, and guarantee the independence and impartiality of that institution. In the light of its general comment No. 34 (2011) on freedom of opinion and expression, the Committee points out that it is legitimate for all public figures, including Heads of State, to be exposed to criticism and political opposition. The law should not provide for more severe penalties solely on the basis of the identity of the person impugned. Lastly, the State party should ensure that the new bill on the conditions governing associations and the Information and Communication Code are in conformity with the provisions of the Covenant.

Rights of the child

34. The Committee is concerned about the high rate of school dropout among girls, in particular in rural areas. It is concerned that birth registration is not yet universal despite the efforts of the State party (art. 24).

35. The State party should reduce the school dropout rate among girls by ensuring that primary education is free of charge and identifying the main causes of the phenomenon in order to combat it more effectively. It should reinforce its efforts to ensure that all child births are registered, in both urban and rural areas. The State party should promulgate the Children's Code as quickly as possible and ensure its implementation.

Dissemination of information relating to the Covenant

36. The State party should widely disseminate the Covenant, the two Optional Protocols, its second periodic report, the written replies to the list of issues prepared by the Committee and the present concluding observations among judicial, legislative and administrative authorities, civil society, non-governmental organizations operating in the country and the general public.

37. The State party should continue its human rights awareness-raising, educational and training activities in order to integrate human rights into literacy programmes and teaching curricula at all levels in schools and universities, in line with article 40 of the Constitution.

38. In accordance with article 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, information on the follow-up given to the Committee's recommendations in paragraphs 9 (National Human Rights Commission), 19 (right to life) and 23 (prohibition of torture) above.

39. The Committee requests the State party to include in its next periodic report, due to be submitted by 6 November 2019, specific, up-to-date information on the follow-up given to the other recommendations and on its implementation of the Covenant as a whole. The Committee also requests that when preparing its third periodic report, the State party continue to consult broadly with civil society and non-governmental organizations. In accordance with General Assembly resolution 68/268, the report should not exceed 21,200 words.
