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Consideration of reports submitted by States parties under article 40 of the Covenant

List of issues in relation to the second periodic report of Benin

Addendum

Replies of Benin to the list of issues*

[Date received: 21 September 2015]

Reply to the questions raised in paragraph 1

1. The Covenant has been an integral part of the legal framework of Benin since 20 September 2006, the date on which it was published in the Official Gazette. It has occasionally been invoked in judicial proceedings by the parties and has been applied by the courts.

2. The various legal instruments ratified by Benin, including the Covenant, have been widely disseminated through the human rights law clinics organized by the Human Rights Directorate of the Ministry of Justice, Legislation and Human Rights.

3. The Covenant has also been disseminated among judges and other law enforcement officials by means of special human rights awareness kits that have been prepared and distributed.

Reply to the questions raised in paragraph 2

4. The implementing legislation for Act No. 2012-36 of 15 February 2013 on the establishment of the Benin Human Rights Commission was contained in a decree issued on 6 May 2014.

5. With a view to the start-up of the Commission, the National Assembly adopted decision No. 2014-005-14 /AN of 15 December 2014 whereby a selection committee was established. The members of the sixth legislature appointed to the committee were unable to fulfil their mandate owing to the holding of legislative elections on 26 April 2015, and especially the run-up to those elections.

* The present document is being issued without formal editing.



6. Acting on petitions submitted to the seventh legislature, the National Assembly appointed members to a new selection committee on 27 August 2015 and steps are currently being taken for the committee to begin its work.

Reply to the questions raised in paragraph 3

7. The promotion and protection of human rights sits at the centre of the national policy for strengthening the justice sector adopted in October 2014. Various ministries conduct extensive awareness-raising activities on human rights as part of their regular workplans.

8. Human rights education is imparted as part of the regular curriculum at the primary and secondary levels (years 3 and 6) and, at the university level, in law faculties. An advanced training programme in human rights is offered at the post-graduate level (*diplôme d'études approfondies*) through the UNESCO Chair in Human Rights and Democracy.

Reply to the questions raised in paragraph 4

9. As a complement to the constitutional precepts mentioned previously, a number of other laws are in place to ensure respect of the principle in question. The Gender Violence Act, for instance, states in its article 5 that the effort to ensure gender equality is a national priority. With regard to racial discrimination, the Government organized two awareness-raising events, one in 2010 and one in 2011, to follow up on the decisions reached at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance; in October 2014, it adopted an action plan in this area.

10. Looking forward, Act No. 2015-08 on the Children's Code, which was adopted on 26 January 2015 and is awaiting promulgation, clearly establishes the principle of non-discrimination in its article 7.

11. In support of the aforementioned measures, all future policies and legislation will take into account the principles and concepts of mutual respect between the sexes, harmonious coexistence, the rejection and condemnation of violence, and the adoption of a critical and analytical approach to violence and all forms of gender inequality.

Reply to the questions raised in paragraph 5

12. The Government had previously introduced a bill on gender equality in the National Assembly, which the Assembly had adopted. The Constitutional Court, however, declared that the law did not conform to the Constitution.

13. Since then, the Government has organized information and awareness-raising events through the National Institute for the Advancement of Women.

14. An assessment of the Institute's activities has not yet been conducted.

Gender violence, including family violence

Reply to the questions raised in paragraph 6

15. The impact studies and statistics are currently being prepared.

Reply to the questions raised in paragraph 7

16. The enactment of Act No. 2003-03 prohibiting female genital mutilation has had a positive impact on the population, as practitioners have had to move their mutilation activities outside Benin to neighbouring countries.

17. As a result of awareness-raising events that were organized, religious leaders now support the Government in the eradication of this harmful practice.

Right to life and the prohibition of torture and of cruel, inhuman or degrading treatment

Reply to the questions raised in paragraph 8

18. Benin acceded to the Second Optional Protocol to the Covenant on 5 July 2012. The instrument entered into force for the State party on 5 October 2012.

19. The draft Criminal Code went through final reading in 2014, and the Bureau of the seventh legislature is currently completing procedures for the adoption of the text. The advances in terms of safeguarding rights are reflected in a strengthened domestic legal framework, including amendment of the Code of Criminal Procedure. The draft Criminal Code currently pending adoption includes a definition of torture.

20. With regard to the national mechanism for the prevention of torture, a decree text has been drafted. Concerning article 808 of the Code of Criminal Procedure, which provides the legal basis for establishing a national mechanism, and the adoption of the act establishing the Benin Human Rights Commission, which is now the country's national human rights institution, discussions are still under way to provide clarification and identify an appropriate independent authority for the prevention of torture in Benin.

Reply to the questions raised in paragraph 9

21. The latest version of the draft Criminal Code abolishes capital punishment. The Code, which would provide the legal basis for the commutation of death sentences ordered previously, has not yet been adopted, which means that the status of those sentences has not changed. However, by way of circular No. 2807/MJLDH/CAB/SGM/DACP/DLCS/DDU of 2 October 2012, the Government notified jurisdictions that the Second Optional Protocol to the Covenant had entered into force.

Reply to the questions raised in paragraph 10

22. As a result of the numerous awareness-raising activities that have been organized, the phenomenon of mob justice has diminished considerably.

23. The legislation currently in force in Benin bans all forms of infanticide.

24. Concrete steps have been taken to protect so-called "witch children" from attacks reported in some regions of the country. A national forum was organized on this issue by the NGO Franciscains Bénin. The forum's work — which involved the National Ombudsman, local elected officials, representatives of NGOs and religious and traditional leaders — culminated in a series of specific proposals aimed at effectively tackling this practice. Awareness-raising events have been organized in the regions concerned with a view to better safeguarding the right to life.

25. The Ministry of Justice, Legislation and Human Rights has launched a programme to set up local human rights awareness groups and student clubs in communes across Benin and provide them with constant, up-to-date training. These trained human rights advocates engage in on-the-ground campaigns to publicize international and domestic human rights instruments and raise awareness among the public, especially students, of the harm caused by some traditional practices.

26. Legal investigations are under way in the deaths of the journalist Jean Christophe Hougbo and his family and of the student René Miwanou and in the attempted murder of Martin Assogba.

27. These investigations have not yet been closed.

28. Discussions are ongoing with a view to the drafting of legislation to protect human rights defenders.

Liberty and security of person, and treatment of persons deprived of their liberty

Reply to the questions raised in paragraph 11

29. Pursuant to the adoption of the new Code of Criminal Procedure, the International Federation of Action by Christians for the Abolition of Torture (FIACAT), working in close collaboration with the Ministry of Justice, Legislation and Human Rights, has prepared a handbook on legal guarantees for prisoners. The purpose of the publication is to make prisoners better aware of their rights.

30. Under its programme to provide stronger protection of human rights, the Ministry is also preparing a brochure outlining the principal human rights innovations in the Code with a view to ensuring a better understanding of those innovations.

Reply to the questions raised in paragraph 12

31. As from 1 January 2010, the Government has increased the number of hot meals served to prisoners from one to two a day.

32. To address the issue of prison overcrowding, a commission was established to identify prisoners whose time spent in pretrial detention already exceeded the time to which they could potentially be sentenced for the crime being prosecuted. As a result of the commission's work, over 800 prisoners were released. This work is ongoing as part of the effort to prevent the misuse of pretrial detention.

33. With support from the European Union, a team of experts from Brussels spent several months in Benin conducting a study on the implementation of prisoner management software. The software would give investigating judges and prosecutors a real-time view of the pretrial detention situation by means of a comparative table showing the time already spent in detention against the time to which the person could potentially be sentenced for the crime being prosecuted.

34. A new prison meeting international standards has been built in Abomey-Calavi and was opened in December 2013 to ease overcrowding at the civil prison in Cotonou.

35. A number of innovations have been introduced in the new Code of Criminal Procedure with a view to improving the living conditions of incarcerated prisoners. They include the following:

- Establishment of a sentencing commission;
- Establishment of a commission on redress for unlawful imprisonment;
- Setting of a maximum period for pretrial detention and the conditions for automatic release;
- Establishment of a liberty and custody court;
- Appointment of liberty and custody judges.

36. In addition to these new measures in the Code, the Government has undertaken a number of other initiatives:

- Four generators were installed (in Ouidah, Porto-Novo, Parakou and Kandi) as backups in case of power outages;
- Mattresses have been purchased to gradually replace the plastic mats used in prisons;
- New facilities with modern washrooms have been built at the country's civil prisons;
- Technical capacity has been upgraded at infirmaries, including provision of pharmaceuticals.

Elimination of slavery, forced labour and servitude

Reply to the questions raised in paragraph 13

37. Legal instruments are in place in Benin to suppress trafficking in children, forced labour and sexual exploitation, all of which are associated with *vidomégon* children.

38. When reported, the perpetrators of such crimes are brought before the country's judicial authorities.

39. Law enforcement officers ensure that applicable legislation is observed.

40. The providing of compensation to victims is currently under study.

41. Draft legislation on human trafficking has been submitted to the National Codification Commission for review.

Independence of the judicial system and the right to a fair trial

Reply to the questions raised in paragraph 14

42. The independence of the justice system is guaranteed in the Constitution. The judiciary is one of the three branches of government in Benin. The executive branch, which provides the judiciary with the means it requires to operate, may not interfere in the latter's workings.

43. That being said, a system of oversight structures is in place to address any irregularities observed, and those responsible are held accountable.

44. The law setting out the organization of the country's justice system clearly stipulates the conditions for the appointment and removal of judges and prosecutors.

45. The Supreme Council of the Judiciary oversees proper enforcement of that legislation.

46. Corruption in the justice system is addressed through the mechanisms established in legal instruments.

47. Access to justice is free, except for procedural costs.

Reply to the questions raised in paragraph 15

48. The procedure for judicial confirmation has been revised in the new Code of Civil Procedure.

49. The requirement of wearing prison jackets has not yet been abolished. It is currently under review.

Reply to the questions raised in paragraph 16

50. Under the new Code of Criminal Procedure, access to a lawyer is mandatory as from the preliminary inquiry stage.

51. Free legal assistance is not yet a reality. It is currently under review by the Government.

Freedom of opinion and expression, and freedom of assembly and association

Reply to the questions raised in paragraph 17

52. Restrictions on public gatherings are guided in all cases by the need to protect the public interest and, especially, respect for public order. Legislation on the freedom of assembly and association is being prepared with a view to better safeguarding those freedoms.

Reply to the questions raised in paragraph 18

53. As part of the effort to strengthen freedom of the press in Benin, the Information and Communication Code was adopted in January 2015 and promulgated in May 2015.

54. New legislation on access to information was prepared recently with guidance from the West Africa Network for Peacebuilding (WANEP) network, and steps are being taken for its adoption by the Parliament.

Reply to the questions raised in paragraph 19

55. Under the Information and Communication Code adopted on 22 January 2015, the offences in question have been effectively decriminalized.

Reply to the questions raised in paragraph 20

56. The Children's Code has been cleared by the Constitutional Court and submitted to the National Assembly for review and adoption. In advance of adoption, the Ministry for Family Affairs, in partnership with the United Nations Children's Fund (UNICEF), has already taken steps to guarantee broad dissemination of the text.

57. With an eye to ensuring that primary education is indeed free and to raising enrolment rates among girls, the Government has lent direct support to schools by taking over operating expenses as follows:

- Assumption of all the running costs of nursery and primary schools;
- Purchase of classroom teaching materials for 8,059 public nursery and primary schools;
- Exemption from tuition fees for 509,559 girls at secondary schools.

58. With regard to birth registration, a number of measures have been taken, including those outlined below.

59. The Civil Status Census (RAVEC) project was designed to help all citizens to obtain a copy of their birth certificate. Launched on 10 October 2006, it sought to address the problems that people encounter when registering information with the civil registry. In 2011, the following results were obtained:

- A total of 69 communes out of 77 had been covered;

- Some 2,101,402 applicants had been registered.
60. In addition to those measures, the Government has done the following:
- Organize a study on civil status (2012);
 - Create the General Directorate for Civil Status (2013);
 - Organize a forum on birth registration (2014).
61. The General Directorate for Civil Status is currently setting up a civil status information database.

Reply to the questions raised in paragraph 21

62. In 2007, the Government prepared a brochure containing practical information on human rights in Benin; that brochure contains ample references to the Covenant and its protocols. Specific modules on the Covenant and its two protocols are offered at the human rights legal clinics and through other grass-roots organizations and student clubs.
63. Preparation of the reports has always been a participatory, inclusive process. Civil society has always taken an active part in the gathering of information and in the workshops to validate the reports.
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