



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Concluding observations on the third periodic report of Benin*

1. The Committee considered the third periodic report of Benin (E/C.12/BEN/3) at its 12th and 13th meetings (see E/C.12/2020/SR.12 and 13), held on 24 and 25 February 2020, and adopted the present concluding observations at its 30th meeting, held on 6 March 2020.

A. Introduction

2. The Committee welcomes the State party's submission of its third periodic report and its written replies to the list of issues (E/C.12/BEN/RQ/3), although some information requested by the Committee was not provided. Furthermore, the Committee is appreciative of the dialogue held with the delegation of the State party and the information provided during the discussion.

B. Positive aspects

3. The Committee welcomes the steps that have been taken towards the realization of the rights enshrined in the International Covenant on Economic, Social and Cultural Rights, such as the numerous laws, policies and strategies cited in the State party's periodic report and referred to in it, in particular the adoption of the 2016–2021 Government Programme of Action, one of whose strategic aims is to strengthen basic social services and social protection.

C. Principal subjects of concern and recommendations

Domestic application of the Covenant

4. **The Committee encourages the State party to systematically review the conformity of draft legislation with its obligations under the Covenant, which, in accordance with article 147 of the Constitution, takes precedence over its laws. It also encourages the State party to raise greater awareness of the Covenant among judges and lawyers, as well as among the population. Furthermore, the Committee invites the State party to inform members of parliament of their role in the implementation of the Covenant, including through the introduction of constitutional appeals, and refers, in this regard, to its general comment No. 9 (1998) on the domestic application of the Covenant.**

* Adopted by the Committee at its sixty-seventh session (17 February–6 March 2020).



Statistical data

5. The Committee regrets that up-to-date statistical data on the enjoyment of economic, social and cultural rights, some of which are available from the National Institute for Statistics and Economic Analysis, were not included in the information provided prior to the dialogue with the State party, thus precluding any assessment of the impact of the measures recently taken by it (art. 2 (1)).

6. **The Committee recommends that the State party collect and include in its next periodic report the comparative annual statistical data necessary to assess the progress made in this connection, ensuring that these data are disaggregated by sex, age, geographical location, socioeconomic level and any other relevant status. Furthermore, the Committee recommends that the State party measure the impact of economic and social policies and programmes by using indicators to measure the availability, accessibility, acceptability and quality of goods and services. In this connection, the Committee draws the attention of the State party to the document Human Rights Indicators: A Guide to Measurement and Implementation (HR/PUB/12/5) and the conceptual and methodological framework on human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (see HRI/MC/2008/3).**

National human rights institution

7. The Committee regrets that the Benin Human Rights Commission did not have a budget in 2019 and that some of its members belong to the governing bodies of political organizations, contrary to the provisions of Act No. 2012-36 of 15 February 2013 establishing the Commission (art. 2 (1)).

8. **The Committee recommends that the State party guarantee the independence of the Benin Human Rights Commission and its members, and ensure its ability to function, including by providing it with adequate human and budgetary resources.**

Human rights defenders

9. The Committee notes with concern the recent legislative amendments introduced by the State party, including the provisions on gatherings and disseminating false information, in the Criminal Code and Act No. 2017-20 of 20 April 2018 on the Digital Code in the Republic of Benin, which may deter human rights defenders from carrying out their work and restrict their freedom to act (art. 2 (1)).

10. **The Committee calls upon the State party to review the legal provisions on gatherings and disseminating false information in order to enable human rights defenders to work freely and without fear. In this respect, the Committee refers the State party to its Statement on human rights defenders and economic, social and cultural rights (E/C.12/2016/2).**

Maximum available resources

11. The Committee is concerned about the fact that tax concessions granted to investors deprive the State party of significant resources when it is still required to guarantee the basic content of certain Covenant rights by mobilizing such resources. It is also concerned about reports that the mechanism for processing approval requests has led to the granting of excessive concessions in some cases (art. 2 (1)).

12. **The Committee recommends that the State party: (a) review the concessions granted to investors to attract them to the country and assess the resulting loss of revenue; and (b) take corrective action as required. The Committee also urges the State party to review the mechanism for processing approval requests so as to prevent the granting of excessive concessions to investors. Furthermore, the Committee recalls that the observance of corporate social responsibility is not a substitute for the fulfilment by the State party of its obligations under the Covenant.**

Corruption

13. While noting the State party's explanation of the role of the economic and financial brigade in combating corruption and the work of the National Anti-Corruption Authority,

the Committee is concerned about the weakening of the Authority, whose financial resources have been considerably reduced and whose mandate has apparently been restricted to prevention (art. 2 (1)).

14. The Committee recommends that the State party:

(a) **Strengthen the National Anti-Corruption Authority so as to make it much more accessible to the public for the filing of complaints and adopt legal provisions relating to the Authority's budgetary resources and establishing the obligation to cooperate with it;**

(b) **Ensure the effectiveness of the legislative arsenal to combat corruption, including the provisions on the declaration and monitoring of assets, Decree No. 2013-122 of 6 March 2013 establishing the conditions for special protection of whistle-blowers, witnesses, experts and victims of acts of corruption, and Decree No. 2015-035 of 29 January 2015 on the Transparency Code for the Management of Public Finances in the Republic of Benin.**

Non-discrimination

15. The Committee is concerned about the everyday prevalence of discrimination in the enjoyment of economic, social and cultural rights and the number of attacks against persons with albinism. It is also concerned about the fact that the State party is unaware of this problem (art. 2 (2)).

16. **While noting the measures taken in the area of health, the Committee recommends that the State party: (a) fully and thoroughly investigate all reported cases of attacks on persons with albinism, including cases reported by civil society organizations; and (b) conduct public education campaigns on albinism in order to combat prejudices and misconceptions about it. The Committee also encourages the State party to take into account the recommendations made in the Report of the Independent Expert on the enjoyment of human rights by persons with albinism on the Regional Action Plan on Albinism in Africa (2017–2021) (A/HRC/37/57/Add.3).**

Equal rights of women and men

17. The Committee notes with concern that, despite the existence of legislative provisions establishing equal rights to inheritance and land ownership without distinction as to sex, in the departments of Atlantique and Zou, and in rural areas, some customs deprive women of their inheritance and property rights. The Committee is also concerned about the provisions in the Personal and Family Code that discriminate against women, including those relating to a person's name after marriage, the choice of the matrimonial home and the waiting period for remarriage (art. 3).

18. The Committee recommends that the State party:

(a) **Increase women's awareness of the legal provisions concerning equal rights to inheritance and land ownership in order to ensure that they exercise their rights;**

(b) **Raise public awareness of the equal rights of women and men, and combat social prejudices that lead to discrimination against women;**

(c) **Encourage locally elected representatives, administrative officials and traditional leaders to take into account women's rights in the allocation and use of land and, in the event of expropriation, to provide compensation; and**

(d) **Repeal all the provisions of the Personal and Family Code that discriminate against women.**

Right to work

19. The Committee notes that the conditions for the application of disciplinary measures against a civil servant, including dismissal, are set out in Act No. 2015-18 of 2 April 2015 on the General Civil Service Regulations. It notes with concern that the amendments introduced by Act No. 2018-35 of 5 October 2018 amending and supplementing Act No. 2015-18 encourage the circumvention of dismissal formalities and undermine the right to

work by capping compensation for loss of employment or wrongful dismissal at a few months' wages (art. 6).

20. The Committee, recalling that the obligation to safeguard the right to work constitutes an essential element of article 6 of the Covenant, recommends that the State party:

(a) **Review the provisions of Act No. 2018-35 so as to prevent them from giving rise to wrongful dismissal;**

(b) **Ensure that any dismissal is for just cause and, if it is not, that it provides entitlement to reinstatement or adequate compensation.**

21. The Committee is concerned about the regressive provisions introduced by Act No. 2017-05 of 29 August 2017 establishing the conditions and procedure for recruitment, job placement and termination of employment contracts in the Republic of Benin, which lead to job insecurity, in particular:

(a) The possibility of fixed-term employment contracts being renewed indefinitely under article 13;

(b) The absence of a limit on the duration of probation periods, which may be renewed or terminated at any time without notice, compensation or indemnification under article 10;

(c) The capping of the amount of compensation in the event of dismissal or failure to comply with dismissal formalities under articles 29 and 30, which, according to the delegation, is necessary because of the prevalence of illicit agreements between judges and employees (art. 6).

22. The Committee urges the State party to:

(a) **Amend the provisions of articles 10, 13, 29 and 30 and any other relevant provisions of Act No. 2017-05 in order to protect workers against unjustified dismissal and other abuses made possible by the Act;**

(b) **Combat corruption in the judicial system.**

23. The Committee notes with concern that unemployment disproportionately affects people living in rural areas, women and young people living in urban areas, and that the number of persons benefiting from the services of the National Employment Service remains very low. Furthermore, it regrets the lack of information on the measures taken in this connection, other than microcredit programmes, and their impact (art. 6).

24. The Committee recommends that the State party adopt a national employment policy that: (a) promotes investment in labour-intensive sectors; (b) strengthens the capacity of the National Employment Service; (c) strengthens technical and vocational training in priority economic sectors; and (d) includes positive measures to assist the groups most affected by unemployment. Furthermore, the Committee encourages the State party to continuously monitor the impact of the measures taken in this connection on the enjoyment of the right to work. Lastly, it draws the attention of the State party to its general comment No. 18 (2005) on the right to work.

Right to just and favourable conditions of work

25. The Committee notes with concern that the guaranteed minimum interprofessional wage has remained unchanged since 2014. It is also concerned about the fact that, outside the public sector, this wage is not always paid (art. 7).

26. Recalling its general comment No. 23 (2016) on the right to just and favourable conditions of work, the Committee recommends that the State party:

(a) **Undertake, in consultation with the social partners, a periodic review of the minimum wage in order to index it to the cost of living, thereby ensuring that it enables workers and their families to enjoy an adequate standard of living;**

(b) **Enforce minimum wage provisions in practice, ensuring that any non-compliance leads to criminal or other penalties; and**

(c) **Allocate the resources necessary to monitor working conditions, including in the informal economy, in particular by strengthening inspections and making it easier for workers to lodge complaints.**

Freedom of association

27. While noting the details provided by the State party, the Committee remains concerned about the fact that several trade union leaders have been convicted in court, which may deter workers' representatives from carrying out their functions (art. 8).

28. **The Committee recommends that the State party ensure the free exercise of trade union rights and put an end to practices that create an anti-union climate.**

Right to strike

29. The Committee is concerned about the restrictions on the right to strike introduced by Act No. 2018-34 of 5 October 2018 amending and supplementing Act No. 2001-09 of 21 June 2002 on the exercise of the right to strike in the Republic of Benin. In particular, the Committee is concerned about the conditions applicable to the duration of strikes, the prohibition against the exercise of the right to strike by certain categories of personnel (customs, water, forestry and hunting, health services personnel, etc.), the prohibition against solidarity strikes and the vague definition of the minimum service to be ensured in the event of a strike (art. 8).

30. **The Committee recommends that the State party bring the provisions of Act No. 2018-34 into line with article 8 of the Covenant, by:**

(a) **Revising the categories of personnel listed in the new article 2 so that public servants whose services cannot reasonably be considered essential may exercise their right to strike;**

(b) **Drawing up a list of services, jobs and personnel categories that are strictly necessary for the provision of a minimum level of service in the event of a strike in the public service; and**

(c) **Repealing the provisions setting conditions for the duration of strikes that are incompatible with the nature of the right to strike and constitute disproportionate restrictions on this right.**

Poverty reduction and the right to social security

31. The Committee remains concerned about the persistent poverty in the State party. The Committee recalls that the expansion of social protection should not be viewed as the end point of the development process; rather, it is an ingredient of development that allows the latter to satisfy the requirements of the Covenant. While noting the initiatives envisaged to expand the coverage of the social security system, the Committee is concerned about the low level of social protection in the State party, particularly in the informal economy. The Committee also notes with concern that, despite the launch in 2016 of the 2016–2021 Government Programme of Action, the Insurance for the Strengthening of Human Capital project is still at the pilot stage, covering only around 10,000 households, when it is meant to cover 4 million people (art. 9).

32. **Recalling that the realization of the right to social security is essential in combating poverty and food insecurity, the Committee recommends that the State party accelerate the roll-out of the universal health insurance component of the Insurance for the Strengthening of Human Capital project in the informal economy, giving priority to the most disadvantaged households and, if necessary, drawing on international assistance and cooperation. The Committee also recommends that the State party broaden the scope of the project in order to create a social protection floor providing basic income security for all. The Committee refers the State party to its Statement entitled "Social protection floors: an essential element of the right to social security and of the Sustainable Development Goals" (E/C.12/2015/1).**

Protection of the family, mothers and children

33. The Committee remains deeply concerned about the persistence of killings of so-called “witch children”, including infants born with disabilities, despite the existence of Criminal Code provisions criminalizing ritual infanticide. The Committee is also concerned about the widespread impunity for such acts (art. 10).

34. **Reiterating the recommendations already made in its previous concluding observations (E/C.12/BEN/CO/2), the Committee urges the State party to:**

(a) **Send a strong signal of its political will to put an end to the killing of so-called “witch children”;**

(b) **Ensure the effectiveness of the legal provisions punishing ritual infanticide, by investigating all reported cases;**

(c) **Strengthen awareness-raising measures to combat the phenomenon, particularly among the Bariba, Fulani, Gando, Yom, Nagot and Bot ethnic groups;**

(d) **Facilitate women’s access to antenatal and delivery services, and educate health workers about patient confidentiality; and**

(e) **Promote the reintegration of so-called “witch children” into their families and community.**

Right to food

35. While welcoming the improvement in food security in the State party since the publication of the 2013 edition of the Comprehensive Food Security Vulnerability Analysis, the Committee is nevertheless concerned about the fact that, according to the 2018 edition of that report, 9.6 per cent of the population are affected by food insecurity, and that there is inadequate food consumption by 14.2 per cent of households. The Committee is also concerned that the breastfeeding rate remains low in the State party (art. 11).

36. **The Committee recommends that the State party:**

(a) **Strengthen food security in the departments most affected by hunger and malnutrition, including by promoting access to food processing facilities and improving food distribution to local markets;**

(b) **Adopt specific measures to assist the groups worst affected by food insecurity, particularly households living mainly on subsistence crops or fishing, by promoting diversification of income sources and increasing their resilience to natural disasters and other hazards that are not covered by the social security system; and**

(c) **Strengthen efforts to raise awareness of good dietary diversity and breastfeeding practices, including by ensuring that employers create the conditions necessary for breastfeeding to take place in the workplace.**

Right to water

37. The Committee is concerned about reports of corruption by officials of the Benin Water Corporation and Village Water Supply services, which is an impediment to the enjoyment of the right to water. The Committee notes that the delegation of the State party was unaware of these allegations (art. 11).

38. **The Committee recommends that the State party:**

(a) **Revise existing procedures in order to reduce the risk of corruption in the provision of services such as connection to the water distribution network, subscription to the promotional connection programme, repair of system breakdowns and the restoration of the water supply after suspension for failure to pay bills;**

(b) **Ensure that all households are able to meet their water needs and therefore to avoid having their water supply cut off owing to a failure to pay bills; and**

(c) **Facilitate reporting of corrupt practices, by informing users, in the national languages, of the costs of services and of the mechanisms for lodging complaints.**

Right to health

39. The Committee notes with concern that pesticides used for cotton cultivation are also used in the cultivation of food crops in the State party. It is also concerned about the impact of the widespread use of pesticides on the health of farmers and others working in the cotton sector (art. 12).

40. **The Committee urges the State party to:**

(a) **Combat the misuse of pesticides, including by raising public awareness of their harmful effects when they are used on food crops;**

(b) **Help farmers transition to agroecological practices; and**

(c) **Provide care to farmers and other persons working in the cotton sector for health problems linked to the use of pesticides.**

41. The Committee notes with concern that the use of drugs is punishable by imprisonment, as is the possession and purchase of drugs for personal consumption. It is also concerned about the fact that the State party's drug policy seems to focus on repression (art. 12).

42. **The Committee recommends that the State party adopt a human rights-based approach to tackling drug abuse, including by: (a) revising Act No. 97-025 of 18 July 1997 on the control of drugs and precursors so as to provide for the decriminalization of drug use; and (b) ensuring the availability and coverage of risk reduction services. The Committee refers the State party to the International Guidelines on Human Rights and Drug Policy, endorsed by the United Nations Development Programme and the Joint United Nations Programme on HIV/AIDS.**

Right to education

43. While noting the increase in the budget allocated to the education sector, which has, inter alia, made it possible to recruit new teachers, the Committee remains concerned about the various shortcomings in the State party's public education system, such as the lack of infrastructure and equipment and the poor quality of education (arts. 13 and 14).

44. **Recalling its general comment No. 13 (1999) on the right to education, the Committee recommends that the State party increase investment in the education sector so as to, in particular:**

(a) **Improve school infrastructure and equipment and ensure that all schools have adequate water and sanitation facilities; and**

(b) **Improve the quality of teaching by investing in teacher training and the production of quality teaching materials.**

45. While welcoming the high rate of school enrolment, the Committee notes with concern that many pupils drop out before having completed their primary schooling and that the State party has adopted a punitive approach to compulsory schooling. The Committee is also concerned about the high level of inequality in primary school completion between boys and girls (63.51 per cent and 56.85 per cent, respectively, according to the latest figures published by the National Institute for Statistics and Economic Analysis) and the lack of lasting progress in school completion rates in recent years (arts. 13 and 14).

46. **The Committee urges the State party to tackle without delay the problem of school dropout by addressing its social and economic causes, including the refusal of parents to send their children, especially girls, to school. It also recommends that the State party strengthen the mechanisms in place for the reintegration into the school system of out-of-school children, including street children.**

Cultural rights

47. The Committee regrets the lack of information on the programme put in place by the State party to promote national languages and its impact. It also notes that the introduction of national languages into the education system is still in the pilot phase (art. 15).

48. The Committee requests the State party to provide, in its next periodic report, information on the impact of the national programme to promote national languages on the enjoyment of cultural rights by ethnic groups. Furthermore, it recommends that the State party introduce the teaching of national languages into school curricula. Lastly, the Committee encourages the State party to facilitate the provision of information in national languages by public service providers.

D. Other recommendations

49. The Committee encourages the State party to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

50. The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein in the implementation of the 2030 Agenda for Sustainable Development at the national level, with international assistance and cooperation when needed. Achievement of the Sustainable Development Goals would be significantly facilitated by the State party establishing independent mechanisms to monitor progress and treating beneficiaries of public programmes as rights holders who can claim entitlements. Implementing the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind. In this regard, the Committee draws the attention of the State party to its Statement on the pledge to leave no one behind (E/C.12/2019/1).

51. The Committee requests the State party to disseminate the present concluding observations widely at all levels of society, including at the national and regional levels, in particular among members of the National Assembly, public officials and judicial authorities, and to inform the Committee in its next periodic report about the steps taken to implement them. The Committee encourages the State party to engage with the Benin Human Rights Commission, non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in its consultations at the national level prior to the submission of its next periodic report.

52. In accordance with the procedure on follow-up to concluding observations adopted by the Committee, the State party is requested to provide, within 24 months of the adoption of the present concluding observations, information on the implementation of the recommendations made by the Committee in paragraphs 26 (a) and (b) (minimum wage), 30 (right to strike) and 40 (pesticides), above.

53. The Committee requests the State party to submit its fourth periodic report, to be prepared in accordance with the reporting guidelines adopted by the Committee in 2008 (see E/C.12/2008/2), by 31 March 2025. In addition, it invites the State party to update its common core document, as necessary, in accordance with the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.6, chap. I).