



**International covenant
on civil and
political rights**

Distr.
GENERAL

CCPR/C/82/L/BEN
13 August 2004

ENGLISH
Original: FRENCH

HUMAN RIGHTS COMMITTEE
Eighty-first session

BENIN

**Draft list of issues to be taken up in connection with the consideration
of the initial report of Benin (CCPR/C/BEN/2004/1)**

**Constitutional and legal framework in which the Covenant is implemented,
right to an effective remedy and measures to combat impunity (art. 2)**

1. How in practice is compliance secured with article 147 of the Constitution, according to which treaties have higher authority than laws? Has the Covenant already been invoked before the courts? If possible, please provide examples (CCPR/C/BEN/2004/1, para. 97; HRI/CORE/1/Add.85, para. 58).
2. Please provide more information about the present organization of the judiciary. What are the rules governing the appointment of, or disciplinary proceedings against, judges, and what rules safeguard their independence? What stage has been reached in the trial of the 95 registrars and tax collectors who, according to some reports, have been prosecuted for the misappropriation of court fees?
3. According to some reports, customary-law “conciliation tribunals”, do not always respect guarantees of the right to a fair trial. Please comment and provide more information about the root-and-branch reform of the judicial system, and say whether this includes a new map of judicial districts and the recruitment of new judges (CCPR/C/BEN/2004/1, paras. 50 and 66).
4. Please provide additional information about the membership, terms of reference and action taken to date by the Benin Commission on Human Rights (HRI/CORE/1/Add.85, para. 59).

5. What findings have been reached by the commission which was set up in May 1991 and instructed to compile a list of victims of torture and corporal punishment and to verify the circumstances in which they disappeared (CCPR/C/BEN/2004/1, paras. 65 and 112)? To what extent has the Act of 9 October 1990 granting amnesty for acts committed between 1972 and 1990 prevented prosecution and conviction for these acts (CCPR/C/BEN/2004/1, para. 131)?

Equality of men and women (art. 3)

6. What measures have been taken by the authorities to increase women's representation in State institutions, political parties and positions of responsibility in public and private enterprises (CCPR/C/BEN/2004/1, paras. 61 and 81-89)?

7. Please provide more detailed information about violence against women and measures to put a stop to it (para. 76).

8. According to reports, on 23 December 2002 the Constitutional Court ruled nearly 40 articles of the draft Personal and Family Code unconstitutional. Please comment. Please describe the main features of the Code as adopted that relate to equality between men and women in areas such as marriage, divorce, inheritance and parental authority. How does the new code mesh with existing customary law (CCPR/C/BEN/2004/1, para. 77)?

9. According to some reports, 50 per cent of the female population in Benin has undergone female genital mutilation. Please give the gist of the Act of 3 March 2003 banning the practice of female genital mutilation and indicate whether there have yet been any prosecutions. What other steps has Benin taken to eradicate and ban such mutilation?

10. What is State policy with regard to combating HIV/AIDS and preventing early and unwanted pregnancies? What is the content of the legislation on abortion and how is it applied in practice?

Derogations (art. 4)

11. Please provide more information about the implementation of article 4 of the Covenant. Has the State party passed legislation specifically relating to counter-terrorism, the content of which might have an impact on the enjoyment of the rights set forth in the Covenant (CCPR/C/BEN/2004/1, para. 90 et seq.)?

Right to life and ban on torture (arts. 6 and 7)

12. Please give the gist of the revised Criminal Code and Code of Criminal Procedure relating to the ban on torture and on cruel, inhuman or degrading treatment or punishment. When will these drafts be adopted (CCPR/C/BEN/2004/1, para. 111)?

13. What crimes carry the death sentence? In connection with the adoption of the new Criminal Code, what debate has taken place regarding the abolition of the death penalty (CCPR/C/BEN/2004/1, paras. 102-104)?

14. Have any State officials been convicted of torture or ill-treatment? In March 2003, four journalists were reportedly ill-treated by police officers during questioning. Was there any consequent prosecution?

15. According to reports, 11 former Togolese soldiers with refugee status who are accused of fomenting a coup d'état against the Beninese President are currently being held in detention. No judicial proceedings have been initiated, and the men are likely to be extradited to Togo. They are said to be held in deplorable conditions and to have been subjected to torture and ill-treatment. Please comment.

Security of person and protection against arbitrary arrest (art. 9)

16. How does the State party justify the length of pre-trial detention (maximum of eight days) in the light of article 9, paragraph 3, of the Covenant? According to some reports, there have been cases of pre-trial detention lasting for more than a month. Please comment and describe in detail what remedies are available in accordance with article 9, paragraph 4 of the Covenant (CCPR/C/BEN/2004/1, para. 125).

17. Please give a detailed description of the rights of persons held in pre-trial detention. According to some reports, access to a lawyer or a doctor is rare in practice. Please comment.

18. Please give details of the rules governing pre-trial detention, for adults and minors (offences warranting pre-trial detention, maximum duration, remedies available).

Treatment of persons deprived of their liberty (art. 10)

19. Benin acknowledges it cannot meet the needs of the prison population owing to economic and financial problems (CCPR/C/BEN/2004/1, para. 138). Some reports assert that the situation with regard to prison hygiene and prisoners' access to health care and food is extremely worrying. Women are allegedly subject to a more severe regime, in that they are said to have less freedom of movement and no access to the parallel fruit and vegetable market, and have to share their meals with their young children. Please comment and say what solutions are envisaged.

20. What measures have been taken by the Beninese authorities to reduce overcrowding in prisons and to effect a significant reduction in the number of persons held in pre-trial detention?

21. In Cotonou prison, adult prisoners are said to have free access to the building reserved for minors. Please comment.

22. Some reports speak of the especially deplorable conditions of detention in which prisoners who have been condemned to death are held in Cotonou prison. These persons, who have been in prison for years, are, it is alleged, let out of their cells only twice a year and have no contact with the outside world. Please comment and provide statistics on the number of cases of suicide on death row over the last 10 years.

Right to a fair trial (art. 14)

23. According to some reports, few people, including minors, are assisted by a lawyer in criminal trials before courts of first instance. Please explain how the system of assigned defence counsel and legal aid works in practice.

24. In the opinion of the State party, is the fact that defendants appear at their trials wearing, according to some reports, a jacket indicating their place of detention, not likely to undermine the principle of the presumption of innocence?

Freedom of expression (art. 19)

25. Under the Acts of 30 June 1960 and 20 August 1997, press offences can be punished by prison sentences and forced labour. Please provide details of the applicable legislation and comment on its compatibility with article 19 of the Covenant. Please supply details of cases in which journalists or newspaper editors have been given prison sentences.

Right of peaceful assembly (art. 21)

26. Please specify the conditions under which authorization to demonstrate on the public highway may be refused. Are such authorizations frequently refused in practice (CCPR/C/BEN/2004/1, para. 206)? Please comment on the report that a demonstration by the opposition Renaissance du Bénin party was violently broken up by police on 25 April 2002.

Freedom of association (art. 22)

27. Please provide additional information about the exercise of trade union freedom in Benin. How is the right to strike regulated (CCPR/C/BEN/2004/1, para. 209 et seq.)?

Protection of children (art. 24)

28. According to some reports, Benin is a source, transit and destination country for international trafficking in human beings, mostly children. What measures are being taken by the authorities to prevent and punish such trafficking? What measures has the State party adopted to eliminate child labour and the economic exploitation of children, which are said to be still widespread?

Participation in public affairs (art. 25)

29. Please supply more information on the application of article 25 of the Covenant, given the Constitutional Court's ruling on 27 August 2001 that some provisions of the Charter of Political Parties were unconstitutional, and the wording of the Charter as finally adopted.

Dissemination of the Covenant and Optional Protocol

30. Please describe the measures taken to disseminate information about the Covenant and the Optional Protocol thereto and about the presentation of reports and their consideration by the Committee, in particular the Committee's concluding observations.
