



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

List of issues in relation to the third periodic report of Benin*

Issues identified for follow-up in the previous concluding observations

1. In its previous concluding observations (CAT/C/BEN/CO/2, para. 33),¹ the Committee requested the State party to provide information on action taken in response to the Committee's recommendations on (a) the adoption of a legislative framework regulating expulsion, refoulement and extradition in a manner consistent with article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and (b) the adoption of measures to bring conditions in detention centres into line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (*ibid.*, paras. 11 and 18). The Committee regrets that the State party has not provided the information requested, despite the reminder letter addressed to the State party on 6 May 2009 by the Rapporteur for follow-up to concluding observations. The Committee is of the view that the recommendations set out in paragraphs 11 and 18 of its previous concluding observations have not yet been fully implemented (see paras. 7 and 14 below).

Articles 1 and 4

2. In view of the adoption, in 2018, of Act No. 2018-16 on the Criminal Code, please indicate whether the bill that was finally adopted defines torture as a separate offence and in accordance with article 1 of the Convention, as stated in the State party's third periodic report.² Please indicate when the above-mentioned law entered or will enter into force. Please also describe the measures that have been or will be taken to incorporate the absolute and non-derogable character of the prohibition of torture into law and to amend the Code of Criminal Procedure (Act No. 2012-15) to specify that statutes of limitations and amnesties do not apply to the offence of torture.³

* Adopted by the Committee at its sixty-fifth session (12 November–7 December 2018).

¹ Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee.

² CAT/C/BEN/3, para. 55.

³ Article 7 of the Code of Criminal Procedure.



Article 2⁴

3. In the light of the Committee's previous concluding observations (para. 12), please provide information on the measures that have been or will be taken to reduce the maximum duration of police custody to ensure that it does not exceed 48 hours, which may be extended once for a similar period if there are exceptional circumstances duly justified by tangible evidence. Please specify the number of detentions that have been declared unlawful or arbitrary by judges over the past five years.

4. In view of the provisions governing police custody in the Code of Criminal Procedure and the information provided in the State party's report,⁵ please indicate the measures taken to ensure that, in practice, as soon as deprivation of liberty occurs:

(a) Detainees are informed of their rights, the reasons for their arrest and the charges against them in a language that they understand; please indicate whether the State party has enhanced training and awareness-raising for the police and gendarmerie in this regard;

(b) Detainees enjoy access to a lawyer and legal aid in all regions;⁶ please provide information on the existing legal aid mechanism and indicate whether there are plans to allocate the necessary resources to provide legal aid at all stages of criminal proceedings and for all persons in need;⁷

(c) Detainees have the right to contact a person of their choosing to inform that person of where they are being detained;

(d) Arrests are immediately, systematically and comprehensively recorded in standardized registers in all places of detention and in a computerized central register;

(e) Detainees have the right to be informed that they may request and receive a free, confidential medical examination by an independent doctor, or a doctor of their choosing, and are effectively able to exercise this right; please indicate whether there is a mechanism whereby medical staff can report any signs of torture or ill-treatment identified during a medical examination to an independent investigating authority without risk of reprisals.

5. In the light of the Committee's previous concluding observations (para. 20) and the adoption of Act No. 2012-36 on the establishment of the Benin Human Rights Commission, please state when the members of the Commission will be appointed and the approximate date on which its activities will begin. Please also describe the measures taken to guarantee the independence of the Commission, in accordance with the Paris Principles,⁸ and to provide it with adequate funding.⁹

6. In the light of the Committee's previous concluding observations (para. 17) and the information provided in the State party's report,¹⁰ please state the measures envisaged to accelerate the process of adopting the bill on the establishment of a national preventive mechanism. In the absence of such a mechanism, please indicate whether the State party intends to grant all non-governmental organizations permanent access to detention facilities,

⁴ The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2 by States parties, the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent such ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

⁵ CAT/C/BEN/3, paras. 96–100.

⁶ CCPR/C/BEN/CO/2, paras. 30 and 31.

⁷ *Ibid.*, paras. 30 and 31; CRC/C/BEN/CO/3-5, para. 69; and A/HRC/WG.6/28/BEN/3, para. 32.

⁸ E/C.12/BEN/CO/2, paras. 8 and 29.

⁹ CCPR/C/BEN/CO/2, paras. 8 and 9.

¹⁰ CAT/C/BEN/3, para. 52.

pursuant to the undertaking given by the delegation during the consideration of the second periodic report of Benin.

Article 3

7. In the light of the Committee's previous concluding observations (para. 11) and the information provided in the State party's report,¹¹ please indicate whether the State party has adopted a legislative framework that regulates the expulsion of undocumented aliens, extradition and asylum and that fully implements the principle of non-refoulement, in accordance with article 3 of the Convention. Please indicate in particular whether the State party intends to amend the Code of Criminal Procedure in order to include the danger of torture as one of the grounds for the refusal of extradition. Please also state whether the procedures and practices currently implemented in respect of the expulsion of undocumented aliens, asylum and extradition are based on a court decision taken after a careful assessment of the risk of torture in each case and whether such decisions are subject to appeal with suspensive effect.

8. Concerning the State party's assertion that some cooperation agreements are not in line with the Committee's recommendations,¹² please specify what measures will be taken to revise those agreements in such a way as to ensure that the transfer of detainees to other signatory States is carried out under a judicial procedure and in strict compliance with article 3 of the Convention.

9. Please provide statistical data for the past five years, disaggregated by year and country of origin, concerning:

- (a) The number of asylum applications registered;
- (b) The number of applications in respect of which asylum, refugee status or other forms of humanitarian protection were granted;
- (c) The number of persons extradited, expelled or returned and the countries to which they were sent;
- (d) Cases where requests for extradition, expulsion or return were refused because the individual concerned was in danger of being subjected to acts of torture.

Articles 5–9

10. Please indicate whether the State party has rejected, for any reason, a request from another State for the extradition of an individual suspected of having committed acts of torture and has started its own criminal prosecution as a result. If so, please provide information on the status or outcome of the proceedings.

11. In the light of the Committee's previous concluding observations (para. 16), please specify what measures will be taken to review the terms of the agreement between Benin and the United States of America whereby United States nationals in the territory of Benin cannot be transferred to the International Criminal Court to be tried for war crimes or crimes against humanity, including acts of torture.

Article 10

12. In the light of the Committee's previous concluding observations (para. 26) and the information provided in the State party's report,¹³ please indicate whether all persons involved in the custody, interrogation or treatment of persons deprived of their liberty receive regular training on:

- (a) The provisions of the Convention;
- (b) Non-coercive investigation techniques and the principle that force may be used only as a last resort;

¹¹ Ibid., paras. 84–92.

¹² Ibid., para. 95.

¹³ Ibid., paras. 170–175.

(c) Guidelines for the detection of signs of torture or ill-treatment, reflecting the standards set out in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

13. Please indicate whether the State party has developed a method for assessing the effectiveness and impact of training and educational programmes for the reduction of cases of torture, violence and ill-treatment.

Article 11

14. In the light of the Committee's previous concluding observations (para. 18) and the information provided in the State party's report,¹⁴ please provide:

(a) Annual statistics for the past five years, disaggregated by place of detention and by the detainees' sex, age group (minor/adult) and nationality (Beninese/foreign), on the total capacity and occupancy rate of all detention facilities, stating the number of remand and convicted prisoners;

(b) Information on measures taken to ensure the separation of remand prisoners from convicted prisoners, minors from adults and women from men, and on the number of places of deprivation of liberty where detainees are not yet separated in this way;¹⁵

(c) Information on measures taken to prevent overcrowding in detention facilities,¹⁶ including by giving priority to alternatives to imprisonment and making more frequent use of parole for eligible inmates;

(d) Information on the measures taken to: (i) give priority, as far as possible, to alternatives to pretrial detention,¹⁷ especially for children in conflict with the law;¹⁸ (ii) take the financial situation of prisoners into account when setting bail; and (iii) expedite investigations and ensure that the time limits on pretrial detention are respected;¹⁹

(e) Information on the measures taken to renovate prisons and to improve accommodation, hygiene and sanitation conditions in detention facilities²⁰ (police custody centres and prisons);²¹ provide police stations and gendarmeries with a budget for purchasing food; and increase the quality and quantity of food²² and provide access to drinking water, toilets and showers in all places of detention;

(f) Information on measures taken to provide appropriate medical care in prisons, particularly for pregnant women;²³ in this connection, please state whether medicine supplies are replenished regularly²⁴ and whether, when the need arises, the State pays hospital costs;

(g) Information on measures taken to create a specialized prison service and increase the number of staff involved in the custody of detainees, especially female staff;

(h) Information on remedial measures taken to eradicate corruption and extortion in prisons and the system of privileges based on inmates' financial means; please also describe the measures taken to eliminate the system of delegating the management of buildings to inmates known as "yard bosses"; please provide updated statistics on cases of corruption among prison officers and the penalties imposed;

¹⁴ Ibid., paras. 133–139.

¹⁵ A/HRC/WG.6/28/BEN/3, para. 26.

¹⁶ CCPR/C/BEN/CO/2, paras. 26 and 27.

¹⁷ Ibid., para. 27, and A/HRC/WG.6/28/BEN/3, para. 28.

¹⁸ CRC/C/BEN/CO/3-5, para. 69.

¹⁹ A/HRC/WG.6/28/BEN/2, para. 22.

²⁰ A/HRC/WG.6/28/BEN/3, para. 23, and CCPR/C/BEN/CO/2, paras. 26 and 27.

²¹ CCPR/C/BEN/CO/2, para. 27.

²² A/HRC/WG.6/28/BEN/3, para. 24.

²³ CEDAW/C/BEN/CO/4, para. 37.

²⁴ A/HRC/WG.6/28/BEN/3, para. 25.

(i) Information on steps taken to ensure that every detainee is allowed at least one hour of outdoor physical exercise each day and to allocate the resources needed to set up a prison education programme and facilitate access to vocational training, work and recreational and cultural activities.²⁵

15. Please provide annual statistics, for the past five years, on the number of cases of violence or ill-treatment in detention, such as the riots at the Abomey prison in 2016, deaths in custody and extrajudicial executions. Please specify the causes of death; the number of investigations opened into such deaths and cases of violence, including information on the outcome of these investigations; and the number of deaths or cases of violence attributed to assaults by State agents, excessive use of force or negligence. Please state how many prosecutions have been initiated, convictions handed down and criminal and disciplinary sanctions imposed, specifying the length of any prison sentences. In particular, please indicate whether any investigations have been initiated, describe the outcome of any such investigations and state whether any reparations have been granted in connection with the alleged extrajudicial execution of the following persons: (a) Corporal Mohamed Dangou, who was shot dead in a military camp in Cotonou on 6 January 2016; and (b) Latifa Boukari, who was killed by a police officer in the city of Bassila on 5 April 2016.

16. Please provide information on the disciplinary regime applicable in detention centres, including whether disciplinary measures are subject to due process so that the facts can be established and the prisoner has a chance to defend himself or herself at an independent review. Please also provide information on: (a) the maximum duration, in law and in practice, of solitary confinement; (b) whether this measure can be applied to children in conflict with the law²⁶ or persons with psychosocial disabilities; (c) whether there is a register of disciplinary sanctions in all places of detention and a mechanism for monitoring the proportionality of sanctions; and (d) living conditions in solitary confinement.

Articles 12 and 13

17. In the light of the Committee's previous concluding observations (para. 9) and the information provided in the State party's report,²⁷ please describe the steps taken to repeal the 1990 law on amnesty and to facilitate the investigation of allegations of torture or ill-treatment committed between 1972 and 1990.²⁸ Please describe also the means of redress and the reparations obtained by the victims of these acts to date.

18. In the light of the Committee's previous concluding observations (para. 21), please provide annual statistics for the past five years, disaggregated by type of offence and by the victims' sex, age group (minor/adult) and ethnicity, on: (a) the number of complaints received by prosecutors or by any other competent authority, or investigation reports submitted, regarding offences such as the attempted or actual commission of acts of torture or ill-treatment, or complicity or participation in such acts, by or with the consent or acquiescence of law enforcement officers; (b) the number of such complaints that led to a criminal or disciplinary investigation; (c) the number that were dismissed; (d) the number that resulted in prosecution; (e) the number that led to a conviction; and (f) the criminal and disciplinary sanctions that were imposed, specifying the length of any prison sentences. Please include information on the criminal sanctions imposed in the cases mentioned in paragraph 41 of the State party's third periodic report. In cases where there are substantial grounds for believing that a complaint of torture or ill-treatment is well founded, please indicate whether the alleged perpetrator of the acts in question is suspended from duty or transferred during the investigation. In particular, please indicate whether any investigations have been initiated, and their outcome, and whether reparations have been granted, in respect of the allegations of torture and ill-treatment of the following persons: (a) a sick woman who was chained to a bed for 12 days on the orders of the director of the Cotonou prison, as established by the Constitutional Court in its ruling of 28 April 2016; and (b) a man arrested in the village of Akpro-Misserete who was beaten to death in July

²⁵ CEDAW/C/BEN/CO/4, para. 37.

²⁶ CRC/C/BEN/CO/3-5, para. 68.

²⁷ CAT/C/BEN/3, paras. 69–72.

²⁸ CCPR/C/BEN/CO/2, paras. 22 and 23.

2016 by five gendarmes attempting to extract a confession, as established by the Constitutional Court in its ruling of 16 March 2017.

19. In the light of the Committee's previous concluding observations (para. 10) and the information provided in the State party's report,²⁹ please provide information on:

(a) The measures taken to establish a fully independent complaint mechanism open to all victims of torture,³⁰ especially victims deprived of their liberty, and a register of complaints in places of detention;

(b) The measures taken to protect victims of torture or ill-treatment, witnesses and investigators, as well as their families, from any intimidation or reprisals relating to complaints filed;

(c) The measures taken to ensure the independence of investigations into cases of torture and to prevent interference by the executive branch.³¹

Article 14

20. Please provide information on measures to ensure that all victims of torture or ill-treatment obtain the means for as full rehabilitation as possible.

21. Please provide annual statistical data on redress and compensation measures, including means of rehabilitation, ordered by the courts and actually provided to victims of torture or ill-treatment or their families over the past five years. This information should include the number of: (a) applications lodged for State compensation for torture or ill-treatment; (b) applications time-barred due to the courts' inaction; and (c) applications granted and the amounts awarded in successful cases.

22. Please provide information on measures taken to enhance the capacity of the Standing Committee for the Compensation of Victims of Injury Caused by the State, established by Decree No. 98-23 of January 1998. Please provide details on the resources allocated to the Standing Committee and the practical results of its work.

Article 15

23. Please describe the measures taken to ensure that the courts give full effect to the principle that evidence obtained through torture is inadmissible. Please provide, for the past five years, statistical data on the number of cases in which detainees have alleged that their confessions were extracted through torture, the number of cases in which confessions have been declared inadmissible, the number of complaints of this kind that have been investigated and the outcomes of those investigations, including the sentences handed down to those found guilty and the redress and compensation granted to victims.

Article 16

24. In view of allegations that acts of physical and psychological violence, including threats and corporal punishment, have been committed against children in conflict with the law by gendarmes, police officers or prison directors in Beninese civilian prisons,³² please indicate the measures taken to strengthen the protection of children in conflict with the law in places of detention and to improve their conditions of detention.³³ Please also provide annual statistical data for the past five years on: (a) the number of complaints received regarding acts of physical or psychological violence against children in detention; (b) the number of such complaints that led to a criminal or disciplinary investigation; (c) the number that were dismissed; (d) the number that resulted in prosecution; (e) the number that led to a conviction; and (f) the criminal and disciplinary sanctions that were imposed, specifying the length of any prison sentences.

²⁹ CAT/C/BEN/3, paras. 69–72.

³⁰ CCPR/C/BEN/CO/2, paras. 22 and 23.

³¹ *Ibid.*, paras. 28 and 29.

³² A/HRC/WG.6/28/BEN/3, para. 19, and CRC/C/BEN/CO/3-5, para. 68.

³³ CRC/C/BEN/CO/3-5, para. 68.

25. In the light of the Committee's previous concluding observations (para. 23), the report of the Special Rapporteur on the sale of children, child prostitution and child pornography³⁴ and the information provided in the State party's report,³⁵ please describe further the mechanism employed to protect students from all forms of violence in schools³⁶ and the measures that have been or will be taken to combat sexual violence in schools. In particular, please provide data, for the past five years, on the number of cases of physical or sexual violence in schools and on the convictions and criminal sanctions imposed on the perpetrators. Please also specify the measures taken to investigate allegations of kidnapping and sexual abuse of children in voodoo convents,³⁷ to prosecute the perpetrators and to remove children from environments in which these practices take place.

26. In the light of the Committee's previous concluding observations (paras. 22 and 25), the information on acts of mob justice³⁸ provided in the State party's report and the persistence of other harmful practices, including the ritual killing of so-called "child sorcerers"³⁹ and the increase in cases of female genital mutilation,⁴⁰ please provide information on measures taken to promote changes in behaviour and to strictly enforce the relevant legislation by prosecuting the perpetrators of such acts.⁴¹ Please also describe the investigations conducted over the past five years into acts of mob justice, ritual killing or genital cutting, the number of such investigations that led to a conviction and the criminal and disciplinary sanctions that were imposed.

27. In the light of the Committee's previous concluding observations (para. 24) on gender-based violence, and the allegations that sex workers are often victims of assaults by law enforcement officers, including beatings with batons and sexual assaults,⁴² please describe the measures taken to strictly enforce the relevant legislation by prosecuting the perpetrators of such acts. Please also provide information for the past five years on the number of complaints received, investigations conducted, protection measures requested and granted, prosecutions initiated and convictions handed down in cases of gender-based violence and human trafficking involving the State party in an active or passive way.

28. In view of the accession of Benin to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, please state the measures taken to amend the Criminal Code, abolish the death penalty and review the legal situation of persons sentenced to death.⁴³

Other issues

29. Please indicate whether the State party is considering the possibility of recognizing the competence of the Committee under article 22 of the Convention.

³⁴ A/HRC/25/48/Add.3, paras. 93 and 101.

³⁵ CAT/C/BEN/3, paras. 147–154.

³⁶ CRC/C/BEN/CO/3-5, para. 35.

³⁷ A/HRC/25/48/Add.3, para. 36, and CRC/C/BEN/CO/3-5, para. 42.

³⁸ CAT/C/BEN/3, para. 169, and A/HRC/WG.6/28/BEN/3, para. 17.

³⁹ A/HRC/WG.6/28/BEN/3, para. 15.

⁴⁰ CCPR/C/BEN/CO/2, paras. 12 and 13.

⁴¹ *Ibid.*, paras. 20 and 21.

⁴² A/HRC/WG.6/28/BEN/3, para. 18.

⁴³ CCPR/C/BEN/CO/2, paras. 18 and 19.