



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

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Committee against Torture

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List of issues to be taken up prior to the submission of periodic reports by States parties*

Third periodic report of Benin (CAT/C/BEN/3)

Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations**

Articles 1 and 4

1. Bearing in mind the Committee's previous concluding observations, please provide information on measures taken by the State party, in reviewing its criminal legislation, to include a definition of torture that covers all the elements contained in article 1 of the Convention, together with provisions criminalizing acts of torture and establishing appropriate penalties which take into account the grave nature of such acts (para. 6). In this connection, please inform the Committee of the status of the bill on the new criminal code.

Article 2

2. Please indicate what measures have been taken by the State party to incorporate the principle of the absolute prohibition of torture into its criminal legislation, together with a provision that an order from a superior officer may not be invoked as a justification for torture, as recommended by the Committee in its previous concluding observations (para. 7).

* The present list of issues was adopted by the Committee at its forty-third session in accordance with the new optional procedure established by the Committee at its thirty-eighth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic reports. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

** Paragraph numbers in brackets refer to the Committee's previous concluding observations, issued as document CAT/C/BEN/CO/2.

3. With reference to the Committee's previous concluding observations, please provide information on measures taken by the State party to revise the provisions of its Code of Criminal Procedure relating to police custody with a view to: (a) guaranteeing the rights of detained persons from the moment that they are taken into police custody, including the right to consult a lawyer and a doctor of their choice and to contact family members; and (b) incorporating into the Code the principle of the presumption of innocence and the obligation to inform all arrested persons of their right to receive legal assistance (para. 12). Please also indicate whether persons are registered as soon as they are taken into custody.

4. Further to the Committee's previous concluding observations, please:

(a) Indicate what measures have been taken in order to remedy the shortcomings that exist in the administration of justice (para. 13). In particular, indicate whether the measures taken include a review of the country's map of judicial districts and the allocation of sufficient resources with a view to:

- (i) Continuing efforts to combat corruption;
- (ii) Addressing the problem posed by the lack of a sufficient number of judges; and
- (iii) Accelerating the slow pace of the judicial process;

(b) Describe the steps taken to ensure the full independence of the judiciary in accordance with the relevant international standards and indicate whether or not the State party has repealed the provisions of the Code of Criminal Procedure that empowered the public prosecutor to remove a judge from a case;

(c) Provide information on the implementation of such measures and their impact on the administration of justice, including their effects in terms of administrative delays and the excessive number of persons in pretrial detention. Please give updated information on the composition of the staff, judges or otherwise, in the criminal justice system.

5. Please furnish information on the steps taken by the State party to align its juvenile justice system with relevant international standards, such as the Beijing Rules. Please indicate, in particular, what measures have been adopted in order to:

- (a) Raise the age of criminal responsibility to an internationally acceptable level;
- (b) Substitute non-custodial schemes, such as probation, community service or suspended sentences, for custodial penalties so that persons under the age of 18 will not be deprived of liberty except as a last resort and for as little time as possible;
- (c) Consider establishing family courts with specialized juvenile judges.

6. Further to the Committee's previous concluding observations, please:

(a) Indicate whether the State party has granted permanent access to detention facilities to any NGOs, pursuant to the undertaking given by the delegation on this subject (para. 17). Please provide details on the number of visits made by NGOs and the outcomes of those visits;

(b) Provide information on the status of the bill for the establishment of a national mechanism for the prevention of torture, on measures taken to accelerate its implementation, and on the make-up and operation of this mechanism.

7. With reference to the Committee's previous concluding observations, please indicate what measures have been taken to operationalize the Benin Human Rights Commission and ensure that it conforms to the Paris Principles (para. 20).¹ Do those measures include provisions for strengthening the legal status of the Commission and ensuring its independence and adequate funding? Please indicate what measures have been taken by the Commission in response to allegations of torture.

Article 3

8. With reference to the Committee's previous concluding observations, please indicate whether the State party has adopted a legislative framework regulating expulsion, refoulement and extradition in fulfilment of its obligation under article 3 of the Convention (para. 11). Please also provide information on measures taken to bring current expulsion, refoulement and extradition procedures and practices fully into line with article 3 of the Convention. In particular, state whether:

(a) The State party has amended article 221 of the draft criminal code to include the "danger of being subjected to torture" as one of the grounds for the refusal of extradition, as required by article 3 of the Convention;

(b) The expulsion, refoulement and extradition of individuals, including undocumented individuals, is decided by a court after careful assessment of the risk of torture in each case and is subject to appeal with suspensive effect;

(c) The terms of judicial cooperation agreements signed with neighbouring countries have been revised so as to ensure that the transfer of detainees to another signatory State is carried out under a judicial procedure and in strict compliance with article 3 of the Convention.

9. Please provide statistics on cases of extradition, expulsion or refoulement, including information on the handing over of detainees under subregional agreements and, in particular, on cases where requests have been refused because the individual was in danger of being subjected to acts of torture.

Articles 5, 6, 7, 8 and 9

10. Bearing in mind the Committee's previous concluding observations, please provide information on measures taken by Benin to establish and exercise its jurisdiction over acts of torture when the alleged author of the offence is in Benin, either to extradite or prosecute him or her, in accordance with the provisions of the Convention (para. 15).

11. In its previous concluding observations, the Committee expressed concern about information regarding the existence of an 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 (para. 16). Please state what measures have been taken to address that concern. Please also indicate which countries have signed agreements with Benin on legal cooperation in criminal matters.

¹ See also the concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/BEN/CO/2), paras. 8 and 29.

Article 10

12. Bearing in mind the Committee's previous concluding observations, please:

(a) Provide up-to-date information on measures taken by the State party to strengthen human rights training programmes for law enforcement officials so as to incorporate the prohibition of torture and cruel, inhuman or degrading treatment and punishment (para. 26);

(b) Indicate whether such training is also provided to medical staff and whether the 1999 Istanbul Protocol forms an integral part of their training. How many physicians have received such training? Please also provide examples of cases in which physicians have applied the Istanbul Protocol;

(c) Indicate whether the State party has established a methodology for assessing the effectiveness of such training or educational programmes, as well as their impact in terms of the reduction of the number of cases of torture, violence and ill-treatment, and, if applicable, provide information on the content and practical application of this methodology and on the outcome of such measures.

Article 11

13. Please provide information on all new rules, instructions, methods and practices concerning questioning and police custody arrangements that have been introduced since the consideration of the previous periodic report. Please also indicate how often they come under review.

Articles 12 and 13

14. In response to the Committee's previous concluding observations, please provide information on measures taken to abrogate the system of discretionary prosecution and to ensure that the competent authorities institute, systematically and on their own initiative, without prior complaint from the victim, objective and impartial inquiries whenever there are reasonable grounds to believe that an act of torture has been committed (para. 8).

15. With reference to the previous concluding observations of the Committee (para. 9), please describe the measures taken to:

(a) Ensure that all allegations of acts of torture and ill-treatment are investigated, including those committed between 1972 and 1990;

(b) Establish a truth commission to shed light on the allegations;

(c) Abrogate the Amnesty Act of 1990 with a view to prosecuting and punishing the authors of such acts.

16. Bearing in mind the previous concluding observations of the Committee (para. 21), please provide specific information on:

(a) Measures taken to send a clear message to law enforcement officials that violence and ill-treatment are punishable offences;

(b) Measures taken to put an end to acts of torture and ill-treatment and to ensure that prompt, impartial and effective investigations are conducted into allegations of ill-treatment by law enforcement officials and that those responsible are prosecuted and punished with appropriate penalties. With regard to cases in which there are strong grounds for believing that the complaint of torture or ill-treatment is valid, please indicate whether

the alleged perpetrator of these acts is subject to suspension or reassignment during the investigation;

(c) The application of these measures, their impact and their effectiveness in reducing the number of cases of violence and ill-treatment by law enforcement officials.

17. Please provide statistics on violence in detention centres, police stations and gendarmerie posts.

18. Bearing in mind the previous concluding observations of the Committee, please:

(a) Provide information on measures taken to establish a fully independent complaints mechanism that is available to all victims of torture and to afford adequate protection to all persons who report acts of torture or ill-treatment (para. 10);

(b) Furnish statistics on complaints of alleged torture and the action taken, in particular on the number of investigations, prosecutions and convictions, as well as on the sentences that have been passed.

Article 14

19. Please:

(a) Describe the steps taken to ensure that compensation and adequate medical and psychological support are provided to torture victims and their family members. In this connection, 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 29 January 1998. Please provide details on the resources allocated to the Standing Committee and the practical results of its work.

(b) Please provide specific information, if applicable, on the number of cases in which compensation has been provided to victims, the type of remedy provided, including rehabilitation measures, and any other relevant information.

Article 15

20. In response to the Committee's previous concluding observations, please provide information on measures taken to prohibit the use of confessions obtained through torture (para. 7). Which provisions of the Code of Criminal Procedure are applicable in this connection?

Article 16

21. Further to the Committee's previous concluding observations, please provide details on the measures taken to ensure that conditions in detention centres are brought into line with the Standard Minimum Rules for the Treatment of Prisoners (para. 18). Please provide information on the material, human and budgetary resources allocated for this purpose. State whether the measures taken include:

(a) Reducing overcrowding and the high number of prisoners in pretrial detention, in particular by focusing on alternatives to custody. Please provide updated statistics on the reception capacity and population of each prison in Beninese territory, including data disaggregated by gender and age group (adults/minors) and the number of pretrial detainees;

(b) Improving the food supply by, inter alia, increasing the food budget and the number of food-quality checks in prisons and remand centres;

(c) Improving health care for detainees. In this connection, state whether medicines are now being supplied regularly again and whether, when the need arises, the State pays hospital costs;

(d) Reorganizing prisons so that accused persons are held separately from convicted persons;

(e) Implementing appropriate measures to put a definitive end to alleged corruption and ransom demands in prisons. In this connection, please provide updated statistics on cases of corruption among law enforcement officials and the penalties imposed;

(f) Strengthening judicial supervision of conditions of detention.

22. Bearing in mind the Committee's previous concluding observations, please:

(a) Provide information on measures taken to improve the conditions of detention for prisoners on death row in order to ensure that their basic needs are met and to guarantee their fundamental rights;

(b) Indicate whether the State party has introduced a moratorium on executions and commuted death sentences. In this connection, please provide details on the status of the bill on the abolition of the death penalty and state whether the death penalty is retained in the new draft criminal code. Please provide statistics on the number of executions carried out since the consideration of the preceding report.

23. Please indicate whether the State party has adopted a holistic approach to combating and eradicating torture and cruel, inhuman or degrading treatment of children and provide information on the form that approach has taken. In particular, please describe the nature and outcome of measures designed:

(a) To improve conditions of detention for minors and, in particular, ensure that minors are detained separately from adults in all circumstances;

(b) To combat child labour and put an end to the practice of "vidomégon" (use of child domestic workers). In this connection, please provide information on measures taken to resume consideration of the bill on "vidomégons";

(c) To ensure strict enforcement of the relevant legislation by prosecuting and punishing those responsible for such acts. In particular, provide details on: measures taken to implement the national plan of action to combat child trafficking and to enforce the law on conditions for the displacement of minors and the suppression of child trafficking; the funds allocated for the implementation of these measures; increased cooperation with neighbouring States; and the impact of the national plan in terms of a reduction in the number of cases of trafficking in children;

(d) To establish an observatory on the rights of the child and strengthen the system of care for child victims of violence.

Please provide updated statistics on the outcomes of the proceedings that have been instituted and on reports of violence against children, the number of perpetrators prosecuted and the penalties imposed.

24. With reference to the Committee's previous concluding observations, please describe the measures taken to extend legislation prohibiting corporal punishment to encompass the family context and other institutions such as schools, to ensure the strict

enforcement of that legislation and to conduct awareness-raising and educational campaigns to that effect (para. 23).

25. Bearing in mind the previous concluding observations of the Committee on Economic, Social and Cultural Rights, please provide information on measures taken to prevent and halt killings of so-called “witch children” by adopting criminal law provisions to suppress the practice and by organizing campaigns to heighten awareness of its criminal nature among local authorities, doctors, midwives and the population at large (E/C.12/BEN/CO/2, para. 40). Please provide updated statistics on the number of cases of infanticide reported to the police, the number of perpetrators brought to justice and the penalties imposed.

26. Please provide details on the impact which the law prohibiting female genital mutilation has had in terms of reducing the number of cases of female genital mutilation and describe the specific steps taken to implement the law. In particular, indicate what measures have been taken to:

- (a) Provide training for judges, prosecutors and police officers in the strict enforcement of the law prohibiting female genital mutilation and the law on sexual and reproductive health;
- (b) Conduct awareness-raising campaigns to combat and eradicate this practice;
- (c) Strengthen programmes providing assistance to victims and programmes providing reorientation and financial support to practitioners of excision who agree to halt this activity.

Please provide updated and disaggregated data on the number of reported cases of excision, on the convictions of perpetrators and on the penalties imposed upon them.

27. Please furnish information on the steps taken to improve the conditions of detention for women. In particular, please indicate what measures have been adopted to ensure that women are separated from men and that the majority of their prison guards are female. Please also furnish up-to-date statistics on the number of rapes committed against women in detention.

28. Please describe the steps taken to adopt all appropriate measures to prevent, combat and punish acts of violence against women. State whether these measures include:

- (a) Incorporating the offences of domestic violence, marital rape and trafficking in women into the draft criminal code and adopting the bill on the prevention, control and repression of violence against women;
- (b) Ensuring that judges, prosecutors and police officers undergo training in the strict application of the relevant provisions of criminal law;
- (c) Implementing rehabilitation and support programmes for victims and ensuring adequate access to such programmes.

Please provide updated statistics on the outcomes of the proceedings that have been instituted and on the number and nature of reported cases of violence against women and the convictions and criminal sanctions imposed on perpetrators.

29. Please indicate what steps have been taken to eliminate the problem of mob justice, as recommended by the Committee in its previous concluding observations (para. 25).

Other issues

30. Please supply information on the steps taken towards making the declarations provided for in articles 21 and 22 of the Convention.

31. Please indicate which NGOs and academic experts have been invited to take part in the review of national legislation, particularly the Criminal Code and the Code of Criminal Procedure, and provide details on their role in the review process and their contributions to it. Please supply information on the status of the draft codes.

32. Please provide information on the questions that remained unanswered during the consideration of Benin's report in 2007, including information on the situation of the 13-year-old girl who was raped by three male nurses in April 2005, on the proceedings that have been initiated and on the penalties imposed.

33. The Committee notes that it has not received a response from the State party as requested in paragraph 33 of its previous concluding observations. A reminder to this effect was sent by the Special Rapporteur for follow-up on concluding observations in a letter dated 6 May 2009. Please provide the requested information.

34. Please provide the Committee with information on legislative, administrative or other measures taken by the State party in response to the threat of terrorist acts and indicate whether or not these measures have had an impact on human rights safeguards, in law or in practice, and, if applicable, how the State party has ensured that these measures are consistent with all its obligations under international law. Please describe relevant training provided to law enforcement officers, the number and types of convictions handed down under the corresponding laws and the legal remedies available to persons subject to anti-terrorism measures. Also please indicate whether complaints of non-observance of international standards have been lodged and what follow-up has been given to them.

General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention

35. Please provide details on new developments that have occurred since the consideration of the previous report with regard to the legal and institutional framework within which human rights are promoted and protected at the national level, including any relevant court decisions.

36. Please supply detailed information on new political, administrative and other measures taken since the consideration of the previous report to promote and protect human rights at the national level, including any national human rights plans or programmes, the resources allocated for their implementation, the means placed at their disposal and their objectives and results.

37. Please furnish detailed information on any new measures or initiatives taken to implement the Convention and the Committee's recommendations since the consideration of the previous report in 2007, including pertinent statistics, and specific information on any events that have occurred in the State party which are of relevance to the Convention.