



**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 considered during the examination of
the second periodic report of BENIN (CAT/C/BEN/2)**

Articles 1 and 4

1. The Committee notes that there is no formal definition of torture in Beninese legislation. What measures have been taken or are planned in order to incorporate in domestic law a definition of torture that is in keeping with the Convention and to subsequently criminalize the acts so defined?
2. Please provide detailed information on the measures taken or planned in order to permit the State party to bring its domestic legislation fully into line with the provisions of article 4 of the Convention.

Article 2

3. Does Beninese law stipulate that no exceptional circumstances whatsoever, nor any order from a superior officer or a public authority, may be invoked as a justification of torture? What measures have been taken or are planned to that end? What amendments have been proposed to articles 327 and 328 of the Criminal Code?
4. Please provide information on legislative, administrative or other measures taken against terrorism. Please also indicate whether such measures affect any legal or practical human rights guarantees.

Article 3

5. Please provide information on existing legal guarantees against the expulsion, return (“refoulement”) or extradition of a person to a State where there are substantial grounds for believing that the person in question would be in danger of being subjected to torture.
6. Please supply information on the authorities competent to take a decision to expel, return or extradite a person, the training they receive and the information made available to them to guide their decisions. Are the decisions of these authorities subject to appeal? Under what procedures? In the event of an illegal expulsion, return or extradition, what remedies are available to the dependants of the expelled, returned or extradited person?
7. Do appeals lodged by persons whose asylum applications have been rejected suspend the effect of the decision?

Article 5

8. Please indicate which provisions of Beninese law govern the courts’ handling of acts of torture committed by or against the State party’s nationals.
9. Please provide information on the measures taken or planned in order to establish the jurisdiction of the State party over the offences referred to in article 4 of the Convention when the alleged offender is present in territory under its jurisdiction.

Articles 6, 7, 8 and 9

10. Please provide information on the procedures in place or those that are planned to ensure that a person suspected of acts of torture is taken into custody for the time necessary for the conduct of criminal or extradition proceedings. In particular, please describe the existing legal framework and any cases in which it has been invoked, as well as the guarantees provided to the person in custody.
11. Please define more precisely “provision of assistance in order to make available to the judicial authorities of the requesting member State persons in detention or other persons, for the purposes of giving evidence or assisting in the conduct of investigations” (CAT/C/BEN/2, para. 52 (b)).

Article 10

12. Please provide information on the training given to, or planned for, public officials and officers and medical personnel responsible for monitoring and treating persons who are arrested, taken into police custody, questioned or detained, in order to ensure that they are able to detect the physical and psychological signs of torture.
13. Please also provide information on the results of the training programmes mentioned in paragraphs 95, 100 and 101 of the initial report of Benin (CAT/C/21/Add.3) and on any studies conducted to assess their impact.

Article 11

14. The Committee notes that the report of the State party describes the legal framework for the systematic monitoring of questioning and of places of detention (CAT/C/BEN/2, paras. 59 to 61).

(a) What is the practice observed in Benin regarding the systematic monitoring of questioning and of places of detention under the responsibility of prosecutors?;

(b) What authority is competent to receive complaints from detainees alleging that they are or have been victims of torture?;

(c) Please specify the rules relating to the right of persons in police custody to have access to a lawyer and doctor of their choice, to be informed of their rights and to inform their families of their detention;

(d) Please provide information on how criminal cases are handled in practical terms, in particular in respect of procedure, police custody, duration of proceedings and administration of sentences;

(e) What are the “exceptional circumstances” in which the period of custody may be extended from 48 hours to one week, and what procedure is used to define them? What remedies are available to persons detained under this constitutional provision?;

(f) What rules apply to police custody?;

(g) Is incommunicado detention authorized?;

(h) At what point are arrested persons allowed to contact a lawyer? Is the lawyer permitted to be present during questioning?;

(i) After what period of time are arrested persons entitled to be examined by a doctor of their choice?;

(j) Are the relatives of arrested persons informed of the arrest? When?;

(k) Are military personnel permitted by law to arrest persons and detain them?;

(l) The State party indicates in its report that the phenomenon of mob justice has worsened and that, in response, prosecutors have brought criminal proceedings (CAT/C/BEN/2, para. 31). Please indicate what measures have been taken or are planned to prevent the phenomenon. Please also indicate whether, in the proposals to revise the Criminal Code, there are provisions unequivocally making such acts a crime.

Articles 12 and 13

15. The State party indicates in its report that the prosecutors attached to courts in whose jurisdiction acts of torture have been committed initiate investigations (CAT/C/BEN/2, para. 65). Please provide information on the non-judicial investigations, in particular disciplinary ones, that

commonly take place in cases where there is reasonable ground to believe that an act of torture has been committed. Please also provide information on cases where such investigations have been conducted and on their outcome. Who initiated these investigations? Please provide statistics.

16. Please provide information on existing guarantees to ensure the impartiality of the administrative and judicial inquiries undertaken when there is reasonable ground to believe that an act of torture has been committed.

17. Please also supply information on the measures taken and those planned to improve conditions of work in the judicial branch and, in particular, on the level of implementation and the results of the Plan for the Strengthening of the Legal and Judicial Systems (2005-2007), specifically with regard to the increase in and training of judicial and penitentiary staff, conditions of work in the judicial branch and interpretation into local languages.

18. Please indicate what guarantees exist for the proper career development of judges, which contributes to strengthening their independence from the executive branch.

19. Please describe the administrative and judicial remedies available to detainees who claim that they have been victims of torture and the guarantees provided to fellow inmates who give testimony to ensure that they are not subjected to any reprisals. Please also describe the procedure. Please indicate whether complainants are transferred to places where they are protected from the alleged torturer. Please provide statistics on the complaints lodged and give examples of decisions handed down.

Article 14

20. What specific measures have been taken by the State party to facilitate compensation of victims? What is the procedure to obtain compensation in the event of torture? What rehabilitation mechanisms are available for victims of torture? Are such compensation and rehabilitation mechanisms available only to nationals, or are they also available to other groups, such as refugees and non-nationals?

Article 15

21. The report of the State party indicates that “confessions extracted under torture are null and void” (CAT/C/BEN/2, para. 73). “The judge must check the veracity of any claim by the accused that his or her statements were made under torture. If the claim is substantiated, the judge sets aside the police reports and orders a reopening of investigations” (ibid., para. 74). Please provide information on the means of verification used by the judge and on the legal provisions obliging the judge to reject evidence obtained through torture.

Article 16

22. The report of the State party describes many situations and practices that it qualifies as inhuman or degrading treatment (CAT/C/BEN/2, paras. 75-87).

(a) Is there a definition in Beninese law of cruel, inhuman or degrading treatment or punishment? If so, what criteria apply?;

(b) What measures have been taken or are planned to stop the practice of having defendants brought to court wearing “civilian prison” jackets?;

(c) What measures have been taken or are planned to remedy the situations described by the State party in its report with respect to prison overcrowding, lack of medical care, corporal punishment and insufficient food?;

(d) What is the State’s policy to prevent such problems?;

(e) What measures have been taken or are planned to reduce overcrowding in pretrial detention?

Other questions

23. Has the State party adopted a legislative act to prohibit the production of and trade in materials specifically designed to inflict torture or other cruel, inhuman or degrading treatment or punishment? If so, please provide information on the content and implementation of the act. If not, please indicate whether there are plans to adopt legislation in this field.

24. Further to the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, what national torture prevention mechanisms have been set up or are planned, and what are the guarantees of their independence?

25. The State party recognizes that “it is not unusual for an accused person to be proved innocent and acquitted after he has spent a long time in detention. He has therefore been imprisoned for nothing” (CAT/C/BEN/2, para. 85). What measures have been taken or are planned, in particular in the Code of Criminal Procedure, to correct this state of affairs? What is the common practice in this situation? What compensation possibilities are made available to the persons affected?
