



## Economic and Social Council

Distr.  
GENERAL  
E/C.12/2002/SR.9  
6 February 2003  
ENGLISH  
Original: FRENCH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-eighth session

SUMMARY RECORD OF THE 9th MEETING

Held at the Palais Wilson, Geneva,

on Friday, 3 May 2002, at 10 a.m.

Chairperson: Mr. ATANGANA

(Vice-Chairperson)

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS:

(a)REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH

ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Initial report of Benin (continued) [(E/1990/5/Add.48); core document (HRI/CORE/1/Add.85); list of issues (E/C.12/Q/BEN/1)]

At the invitation of the Chairperson, the delegation of Benin resumed its place at the Committee table.

The CHAIRPERSON invited the delegation of Benin to reply to the questions asked by the Committee at the previous meeting.

Mr. GNONLONFON (Benin), giving information about the incorporation of the provisions of the Covenant into the Constitution of Benin, said that economic, social and cultural rights and the right to development were guaranteed under article 22 of the African Charter on Human and Peoples' Rights, which formed an integral part of the Constitution. The Constitution had been translated into eight national languages and public information programmes had been broadcast on rural and community radio stations. On numerous occasions, violations of the rights enshrined in the Covenant, relating, in particular, to discrimination in the workplace, had been brought before the Constitutional Court.

Replying to questions about the Benin Commission on Human Rights, he said that the institution had been created in accordance with a law introduced in 1998, in implementation of a provision of the African Charter on Human and Peoples' Rights on the establishment of national institutions to promote and protect human rights. That body was involved, *inter alia*, with activities such as prison and detention or custody centre visits and the processing of complaints of human rights violations and refugee cases. Currently, because of a lack of resources, the Commission had scaled down its activities and was forced to limit itself to the organization of seminars and the monitoring of elections. It had no institutional linkage with the Human Rights Institute, which was a non-governmental organization (NGO) working in the field of public human rights training, but organized seminars and colloquiums in cooperation with it. It gave press conferences on its prison visits and submitted reports to the National Assembly.

As to the situation of women and children, he said that women represented almost 52 per cent of the population. They generally worked in the agricultural, commercial and craftwork sectors and in companies. In urban areas, they did not face salary discrimination, but in rural areas, their situation remained a matter of concern, which was why several microcredit programmes for women had been introduced. With regard to children, the Government was trying to encourage parents who put their children to work to take into account the child's age and not to sacrifice his or her education. On the issue of the system of foster care, which gave rise to serious abuses, some awareness-raising and preventive measures had been taken by the Government, NGOs and international institutions and some bilateral partnerships had been created in order to put an end to such practices. The courts, including the criminal court, had imposed some sentences against individuals who had abused foster children. As to matters of inheritance, to which women had not been entitled in the past, a system was being developed whereby the deceased person's property was shared out by a family council authorized by the courts to distribute the inheritance. Furthermore, a draft individuals and family code, setting out the principle of gender equality, was currently being examined by the National Assembly and a seminar had been held with a view to encouraging members of Parliament to adopt the text.

With regard to the freedom of association, it was untrue that the registration of trade union statutes with State authorities was at variance with the law, because the Labour Code established that trade unions had to be registered in order to exist legally. The aim of that provision was to grant a legal status to those organizations, allowing them to participate in judicial proceedings and in the election of staff representatives. Furthermore, the right to strike was guaranteed by the Constitution. The draft law repealing the 1969 Ordinance restricting the right to strike still had to be re-examined by the National Assembly before it could be promulgated by the President of the Republic.

Replying to a question on the Occupational Safety and Health Commission and the Hygiene and Safety Committee, he said that the draft decree on the operation of the Commission would be submitted in the coming months to employers and workers. Nevertheless, with the assistance of the International Labour Organization (ILO), civil servants working in the field of labour had been provided with training and, subsequently, a multidisciplinary group had been created and made responsible for monitoring companies' compliance with safety and hygiene standards.

With regard to disabled persons, there were centres in Cotonou for the blind, partially sighted and the deaf. In Akassato and Peporiyakou, two professional training centres had been opened for the physically disabled. NGOs were also active in that field.

The Government was convinced that decentralization would be beneficial for local communities; it had therefore begun, together with NGOs, to train interested parties to that end. Local elections would take place in December 2002.

Mr. TEXIER expressed great concern about the situation of workers in the State party, 80 per cent of whom, according to the statistics, were employed in the informal sector, in other words in unstable jobs without social protection. He also observed that the minimum wage did not apply to that sector, and therefore only 20 per cent of workers benefited from it. Furthermore, according to some sources, the level of that wage - fixed at CFAF 25,000 per month - was not enough to guarantee a decent standard of living for employees and their families. What was the Government doing to improve the situation?

Following the company privatization policy launched in 1992, it would seem that certain key water and electricity providers, had also been privatized, meaning that public access to those basic services had been restricted. Could the delegation provide further information on that issue, and specify, in particular, whether privatization had involved collective redundancies?

Had those who had been made redundant moved into other sectors of industry? It would seem that they had not benefited from the social guarantees established in the Labour Code. What was the real situation? Did the Government intend to adopt a policy to prevent unemployment, and, thus reduce poverty?

Even though the new Labour Code, introduced in 1998, meant that the right to association and the right to strike had improved, trade unions nonetheless still had to register their statutes in order to be recognized by the State, which was contrary to the applicable ILO regulations. What did the delegation think about the matter? According to a study by UNICEF, some 480,000 children were working in Benin. Did the Government intend to introduce a comprehensive plan to educate those children, who were too young to work?

Mr. PILLAY said he regretted the lack of will, on the part of the Government, to repeal the array of national laws that were contrary to the provisions of the Covenant, in particular those relating to polygamy, female genital mutilation and forced marriage, as well as those that prevented women from owning property. Why had the Family Code, introduced in 1995 with the aim of putting an end to all those customary laws that were discriminatory against women, not yet been promulgated? Benin would receive no financial aid if it did not show a political will to improve the situation.

Mr. GNONLONFON (Benin) strongly denied the claims that the Government did not have the political will to change the situation. If that were the case, Benin would not be submitting periodic reports under the various international human rights instruments to which it was a party with such regularity and would not be sending delegations open to criticism from members of various committees. The Government had done what it could by submitting to the Assembly a new Family Code to put an end to discriminatory practices against women. Nevertheless, as the Assembly was in the hands of the opposition, the adoption process was beyond the Government's control.

Under the structural adjustment programme, it had been anticipated that an allowance would be paid to individuals who left the civil service voluntarily, whereas within the framework of negotiations for the privatization of a State-run company, one of the main criteria used by the Government was the obligation of the acquiring enterprise to retain the employees in their posts, another example of the Government's will to reduce unemployment. Only the employees of bankrupted companies were laid off without compensation. The Government was currently considering ways of releasing credit to help individuals who found themselves in that situation.

In order to prevent child labour, the Government was endeavouring to raise parents' awareness of the importance of education, so

that they would send their children to school. The 2002 budget provided, inter alia, that parents would no longer be required to pay school fees. Moreover, in villages without a schoolteacher, parents were given a grant so that they could employ a teacher themselves. Measures were, therefore, being undertaken and the sector was clearly not being neglected.

The fixing of the minimum wage did not depend entirely on the Government. While it was true that the current rate of CFAF 25,000 was not sufficient, that figure was the result of negotiations between employers and employees, and the Government could not unilaterally change it. Lastly, with regard to the question about rights of association and the right to strike, he pointed out that, under article 83 of the Labour Code, the legal existence of trade unions was subject to the registration of their statutes by law. It was not a question of "recognizing" trade unions or authorizing them to operate, but merely of giving them a proper legal status.

Mr. GRISSA said he was well aware of the economic and social problems facing Benin, but he considered it dangerous to state that parents were free to bring up their children in the same way that they themselves had been. Society was entitled to make it compulsory for parents to bring up their children in the best possible way and, in particular, to send them to school. Without education, progress was not feasible.

Mr. PILLAY said he understood perfectly how difficult it was to change the cultural attitudes of society, but he saw it as the role of the political community to do exactly that. Thus, the principle of non-discrimination was enshrined in the State party's Constitution and it was immediately applicable under the Covenant. Consequently, he considered that the efforts made by the Beninese authorities to that effect were insufficient.

Mr. TEXIER noted that, according to the observations formulated in 2000 by the ILO Committee of Independent Experts on the implementation of ILO Convention No. 87 concerning the freedom of association, the obligation set out in the Labour Code with regard to the creation of trade unions was not a mere condition of notice and was considered by the Committee of Independent Experts to be a major obstacle to the creation of establishment unions.

Furthermore, was it true that the national telecommunications and water supply companies were to be privatized in the near future? He would like to know, generally speaking, whether the Beninese Government was trying to draw attention to the negative impact of privatization and the cutbacks made to certain social budgets in its negotiations with the World Bank or the IMF.

Articles 10 to 15 of the Covenant

Mr. MALINVERNI said that, according to information received from NGOs, the trafficking of children, both within the borders of the country and towards other countries, was fairly widespread despite the Government's efforts. He would like to know what measures the Government had taken, or intended to take, at the legislative or judicial levels, to address the problem, to ensure the rehabilitation of children who had been victims of trafficking and to punish the perpetrators. Did the Beninese Government intend, in that regard, to work with NGOs active in the field of child protection?

Mr. RIEDEL said he would like to know how the principle of equal access to health care was guaranteed. He would also have appreciated more detailed statistical information on the development of the health sector, the percentage of the national budget devoted to health and AIDS prevention. Lastly, it seemed that female genital mutilation was still widely practised in the State party, particularly in the north of the country. What action was the Government taking on the legislative, administrative and educational levels to abolish that practice, which was improperly defined as cultural?

Mr. PILLAY noted that no reply had been given to question 27 of the list of issues (E/C.12/Q/BEN/1) relating to housing policies, the homeless and forced evictions. Furthermore, he would like to know why the right to an adequate standard of living and the elements thereof, namely the right to adequate food, clothing and housing, were not incorporated into the Constitution. There was no doubt that the country was facing extremely significant economic and social difficulties, but the fact that only 5 per cent of the State budget was reportedly allocated to housing seemed insufficient. It would be interesting, moreover, to have information on the situation of people living in the streets or in slums. Was it true that certain administrative authorities were expropriating property owners without compensation, which would amount to a violation of the provisions of the Constitution and would be inconsistent with the Committee's General Comment No. 7 on forced expulsions?

Mr. CEAUSU said he well understood that Beninese society was a patchwork of different cultures and that it took time to change habits. Nevertheless, it was the responsibility of the political community to lead the way and to propose models for changing the behaviour of individuals. That was why it was necessary for the principle of equality between men and women to be enshrined in the law and in all the applicable regulations. The aim was not to change the day-to-day lives of the people overnight, but to create the conditions necessary for a change in behaviour.

With regard to question 24 of the list of issues on children's rights, especially in relation to orphans, street children and abandoned children, he asked how many education and rehabilitation centres had been created in the country, and said he hoped to receive details on the practical and concrete solutions that had been found to resolve that relatively serious problem. It would also be interesting to know whether a system of adoption had been created. The reply given to question 31 on the reproductive health of teenagers was very vague. The creation of a reproductive health service for adolescents and young people was mentioned but no information had been provided on the number of branches offering that service, the staff employed, the resources available to it and its working methods. Furthermore, it seemed from reading paragraph 274 of the report (E/1990/5/Add.48) that the number of doctors, nurses and midwives had decreased in comparison with the population. Was that situation due to the exodus of qualified medical staff or the fact that recruitment into public administration was prohibited under agreements concluded in the framework of the structural adjustment programmes? By the same token, it appeared that none of the numerous private training centres provided medical training. The Government should perhaps encourage the creation of specialized training establishments in that field.

With regard to the right to participate in cultural life, he would like to know the total value of the grants earmarked each year for culture and on what criteria such grants were awarded. Were they allocated on an individual basis or for institutional projects? Lastly,

the looting of the cultural heritage of developing countries, and particularly African countries, was now a recognized problem. It would be interesting to know what the situation was in Benin and whether any legislative provisions had been taken to prevent that phenomenon.

Mr. MARTYNOV said that paragraph 237 of the report (E/1990/5/Add.48) revealed that family allowances failed to keep pace with the cost of living. Did the Government of Benin intend to index family allowances to the cost of living? According to the World Health Organization, some 17,000 children had been orphaned since the emergence of the HIV/AIDS epidemic. Had the Government introduced a special programme to offer protection to those children? He hoped that the delegation would provide more statistics in its oral replies on the sectors of health and education.

Mr. MARCHAN ROMERO asked whether the Cultural Charter mentioned in paragraph 412 of the report included provisions aimed at protecting the traditional knowledge that many of Benin's ethnic groups passed on to each other, primarily by word of mouth.

Mr. THAPALIA said that, according to several NGOs, women, particularly those in rural areas, faced serious discrimination. Furthermore, certain local customs deprived them of any inheritance rights. What measures were being taken by the Government to put a stop to discriminatory practices? He would like to know the amount of the budget devoted to education. With regard to human rights education, were there any special programmes for judges, law enforcement officers and teachers?

Mr. SADI highlighted the fact that the HIV/AIDS epidemic had reached catastrophic proportions in Benin and threatened to reduce demographic growth. Had the Government taken any measures to provide low-cost medicines to patients? Within the context of HIV/AIDS prevention, did it intend to adopt measures to make it a criminal offence to transmit the disease, to introduce compulsory blood tests for future spouses and to regulate prostitution as much as possible? Furthermore, he noted that 54 per cent of the inhabitants of urban areas still did not have access to sanitation services and that a supply of drinking water was not guaranteed throughout the territory. What measures were being taken to improve the population's living conditions?

Mr. TEXIER asked about the Government's policy to solve the alarming problem of street children. On the issue of HIV/AIDS, in view of the estimates of the Joint United Nations Programme on HIV/AIDS (UNAIDS), according to which the epidemic would worsen from now until 2005 with a prevalence rate of up to 10 to 20 per cent of the population, what public prevention and awareness-raising campaigns did the Government intend to conduct? Furthermore, had the Government implemented a policy to build social housing or to regulate the rents of the poorest citizens? Were there any plans to conduct a reliable cadastral survey given that, according to several sources of information, title deeds were managed in an anarchical fashion? Although primary education was compulsory and free, some schools were apparently asking parents to pay the teachers who did not receive regular salaries from the Government. Was that practice very widespread?

Mr. WIMER ZAMBRANO asked what the impact of the structural adjustment programmes had been on higher education. In order to encourage students to go on to higher education, perhaps the Government could introduce a programme to help young graduates enter into the labour market. What steps had been taken by Benin to preserve the vernacular languages?

Mr. HUNT asked about the detailed plan of action that was necessary for the progressive implementation of the principle of compulsory education free of charge for all, in accordance with article 14 of the Covenant. In that regard, perhaps the Government could refer to the Committee's General Comment No. 11 on plans of action for primary education. Furthermore, he would like to know whether, in conformity with the Dakar Framework for Action adopted by the World Education Forum, Benin intended to institute a national action plan to provide basic education for all. He pointed out that UNESCO was lending its support to developing countries to prepare that type of action plan.

Mr. AHMED, quoting a report by the International Monetary Fund, said that, in 2000, Benin had undertaken a vast programme to develop and decentralize its health services. In particular, it was anticipated that 23 new health districts would be created. How advanced was that programme? In 1997, only 3 per cent of the GDP had been devoted to the health sector and that percentage was continuing to decrease. Had that trend been confirmed?

Mr. KOLOSOV, referring to an earlier statement by a member of the Beninese delegation that Benin had undertaken numerous reforms and was experiencing an unprecedented period of change, asked whether the Government was taking into account the social repercussions of its reform programme. What were the results of those reforms? Could the delegation provide some figures so that the Committee could better understand how widespread they were?

Mr. PILLAY said he would like to obtain statistics on the number of unsafe abortions, which was a major factor in maternal mortality. Did Benin intend to revise its legislation prohibiting abortion under all circumstances and to adopt a policy that would solve the problem of unsafe abortions?

Mr. GNONLONFOUN (Benin), noting that a significant number of questions had been asked, said it would be preferable for his delegation to withdraw so that it would be able to provide the Committee with the most complete answers possible at the afternoon meeting.

The CHAIRPERSON proposed to the members of the Committee that, if there was no objection, the meeting should rise in order to give the Beninese delegation time to prepare its answers for the next meeting.

It was so decided.

The meeting rose at 12.10 p.m.