REPUBLIC OF BENIN

MINISTRY OF JUSTICE, LEGISLATION AND HUMAN RIGHTS

DEPARTMENT OF HUMAN RIGHTS

PERIODIC REPORT OF THE REPUBLIC OF BENIN
ON THE IMPLEMENTATION OF THE RIGHTS AND
FREEDOMS ENSHRINED IN THE AFRICAN CHARTER ON
HUMAN AND PEOPLES' RIGHTS

08

INTRODUCTION

The Republic of Benin is a francophone country situated in West Africa and covers an area of 114,763 square kilometres.

It is bordered to the North by Niger and Burkina Faso, to the East by Nigeria, Togo and to the South by the Atlantic Ocean.

Following the administrative reform carried out in the 90s, 77 sub prefectures were created in 77 communes, three of which have a special status. (Cotonou, Porto-Novo and Parakou).

In the wake of decentralisation, the former departments were each subdivided into two departments bringing the total number of departments in Benin to twelve (12): Atacora, Donga, Borgou, Alibori, Zou, Collines, Mono, Couffo, Ouémé, Plateau, Atlantic and Coastal.

The population of Benin was estimated at 6,752,596 inhabitants according to the 2002 general population and housing census.

Politically, Benin enjoys a pluralistic democracy and good governance.

This is demonstrated by the establishment of a single civil service register, formulation of an anti-corruption plan, regular organisation of free and transparent elections and the existence of opposing forces.

The third presidential elections held in 2001, the setting up of decentralisation organs following the 2002 local government and municipal elections and the fourth presidential elections conducted in April, 2006, the Legislatives and 2008 local government were the most significant events which occurred during the period covered by this consolidated report.

On the economic plane, Benin has made tremendous strides especially in the area of fiscal consolidation.

Thanks to this progress, Benin qualified for external debt relief and opted to give priority to social sector financing such as education and health setting Benin squarely on course to meet the 2006-2011 Strategic Development Goals and the Millennium Development Goals come 2015.

In accordance with article 62 of the African Charter on Human and Peoples' Rights, the present consolidated report seeks to set forth the legislative or other measures taken by Benin from 2000 to 2008 with a view to giving effect to the rights and freedoms recognised and guaranteed by the present Charter. The main objective of the report therefore is to assess the progress made by Benin, obstacles to her meeting the obligations contained in the Charter to the full, and come up with potential solutions to redress all the shortcomings discerned.

Through the National Human Rights Consultative Council (NHRCC), all segments of civil society were fully involved in the drafting of this report.

I - <u>LEGAL MECANISMS FOR PROTECTION</u> <u>OF HUMAN RIGHTS IN BENIN</u>

These mechanisms are contained in the arsenal of national laws and commitments made by Benin internationally in the area of human rights.

A - National Legislation

1. The 11th December 1990 Constitution

Act n° 90-32 of 11 December, 1990 on the Constitution of the Republic of Benin is the reference framework for issues related to human rights protection.

The preamble to this fundamental text sets forth «the determination of Benin to establish a constitutional and pluralistic democratic state

wherein fundamental human rights, public freedoms, dignity of the human being and justice are guaranteed, protected and espoused» and the commitment of Benin to the principles of democracy as defined by the regional and international legal instruments.

The Constitution of Benin guarantees under Volume II, entitled «rights and responsibilities of the human person» (articles 8 to 40), respect, protection and promotion of:

- Economic, social and cultural rights (articles 8, 10 to 14, 30 and 31).
- Civil and political rights, (Article 8 paragraph 1, 15 to 26).
- The right to development (Article 9)
- The right to a sound environment (Articles 27 to 29)

In a bid to give effect to these rights, all Beninese citizens are compelled to respect the established constitutional order as well as the laws and regulations of the Republic. (Article 33 to 39 of the Constitution).

This normative framework bears testimony to the commitment of Benin to the principles of democracy and human rights as laid down in the United Nations Charter, the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights (ACHPR). The provisions of this last instrument, the ACHPR are an integral part of the Constitution. In a bid to give effect to these principles, from 2000 to 2008, Benin submitted several bills before Parliament and ensured the adopted regulatory acts were brought into force:

• The 27 August 2002 Judicial System Act n° 2001-37 of the Republic of Benin (cf. annex 1) sets forth, in articles 2 and 3, the principle of separation of powers and independence of the judicial authority, and provides for the establishment of twenty (20) second

instance courts and two Appeals Courts (one in the centre and the other in the North) in addition to the existing ones in a bid to bring justice to the doorsteps of the justiciable persons.

- Statutes of the Beninese Bench Act n° 2001-35 dated 21st February 2003;
- Act n° 2002-07 dated 24th August 2004 on the Persons and Family Code which put an end to the legal dualism whereby modern and customary law were applied depending on the circumstances:
- Act n° 2003-03 dated 03 march 2003 repressing female genital mutilation in the Republic of Benin;
- Act n° 2003-04 dated 03 March 2003 on sexual and reproductive health.

2. Laws regulations and general principles of the law

- Act n°98-030 dated 12 February 1999 pertaining to the framework law on the environment of the Republic of Benin;
- Inter-ministerial decree n°132 dated 07 November 2000 pertaining to the minimum age for different categories of child labour.
- Act n° 2003-17 dated 11 November 2003 on the orientation of National Education in the Republic of Benin;
- Act n°2006-04 dated 05 April 2006 pertaining to the conditions governing movement of minors and repression of child trafficking in the Republic of Benin;
- Act n°2006-31 dated 05 April pertaining to prevention and management of HIV/AIDS and control of the latter;
- Act n°2005-30 dated 10 April 2006 relating to the protection of copyright and neighbouring rights in the Republic of Benin;
- Act n°2006-19 dated 17th July 2006 pertaining to the repression of sexual harassment and protection of victims.

To this non exhaustive list, we would add bills pending adoption before the National Assembly, namely:

- Draft Penal Code;
- Draft bill on press freedom with an important innovation: the decriminalization of breach of press laws; and
- The money laundering and illegal enrichment bill.

In addition to these bills, the abundant jurisprudence of the Constitutional Court which is responsible for ensuring respect for human rights and individual freedoms, registering cases of violations, monitoring the constitutionality of laws and regulations prejudicial to human rights, also contributes to the consolidation of Beninese democracy.

To wit, from 2000 to 2006, the Constitutional Court passed 18 rulings against police and gendarmerie officers (*Annex II*) for violations of the provisions of article 19 of the Constitution and declared:

"The Court in the case of Gaston Bagbonou and co, all police officers of the Criminal Investment Division passed a landmark ruling to enshrine access to the right to compensation for victims of violations of fundamental rights (DCC 021-052 of 31 March, 2002)."

This jurisprudence of the Court marks a paradigm shift in case law in the area of human rights protection in Benin. Henceforth, all justiciable persons whose rights have been violated and who obtain such a decision shall be entitled to compel the judicial judge seized to rule on the amount of reparation.

B- <u>Periodic report on progress made since the last report</u> submitted in 2000.

Accession of Benin to human rights instruments.

Since the examination of the previous periodic report on the African Charter presented in 2000, Benin has pursued its accession to international human rights conventions or their ratification. Thus between 2000 and 2006, Benin became a party to a number of international legal instruments, namely:

- a. The Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography as well as the Protocol to the African Charter on the rights and well-being of the Child ratified on 30 March, 2004;
- b. The optional protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflict, ratified on 28th February, 2005;
- c. Convention n°138 of the International Labour Organisation (ILO) of 1973 on the minimum age for admission into employment, ratified on June 11, 2001;
- d. United Nations Convention against organised transnational criminality and its additional protocol aimed at preventing, repressing, and punishing trafficking of persons especially women and children, on 06 November, 2003;
- e. The Anti-Corruption Convention on 23rd September, 2005;
- f. The optional protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, on 20 September, 2006.
- g. The Convention on the Civil Service in Africa, ratified on 5th February, 2001.

h. The protocol to the African Charter on Human and Peoples Rights relating to the rights of women in Africa signed on 6th March, 2005.

II- REALITIES AND MEASURES TAKEN IN THE AREA OF PROMOTION AND PROTECTION OF HUMAN RIGHTS

A- Realities in the area of promotion of human rights

1- Respect for the integrity of persons and property

a-Respect for the human person

Violations to the physical integrity of the human being are punishable both by the penal code in force and the proposed penal code. Specific laws also protect the human person namely Act n° 2003-03 dated 03 March on the repression of the practice of female genital mutilation in the Republic of Benin making all violators liable, in article 4, to a 6 month to three year term in prison and a fine ranging from one hundred thousand CFA francs to two million francs (2,000,000) CFA.

Furthermore, the minority of the victim is an aggravating circumstance and the perpetrator is liable to a criminal sentence in the event of the victim's death.

Article 8 of the Beninese Constitution sets forth that «the human being shall be sacrosanct and inviolable, and that the absolute responsibility to respect and protect him shall rest with the State», as stipulated in article 4 of the African Charter on Human and Peoples' Rights.

Albeit, the death penalty still exists in the Beninese legal arsenal.

The fresh upsurge of crime and public condemnation of the latter have not made militating for the abolition of the death penalty easy. However, Benin advocates for the moratorium; the last executions date back to 1998 when 16 people were put to death.

In a bid to implement the resolution of the African Commission on Human and Peoples' Rights and to give effect to the commitments made by Benin with respect to the right to life, the Government has initiated a debate on whether to abolish or maintain the death penalty.

In fact, the eighth session of the National Human Rights Consultative Council, held from 23 to 25 February, 2004 in Cotonou was the forum for such debate.

Whereas the dehumanising nature of the death penalty has been recognised, much has also been said of its dissuasive effect

So, much as the Beninese government leans towards abolitionist measures it is pursuing its economic, social and cultural development efforts to eradicate the causes of criminality: to its mind therein lies the pre-requisite to a final decision.

• The duration of police custody is strictly regulated under article 18 of the Constitution and articles 50 and 52 of the Penal Code of Procedure. Any person violating these laws shall be liable to penal and disciplinary sanctions or even stripped of his authority as criminal investigation officer where the perpetrator is indeed a criminal investigation officer.

From 2000 to 2006, the Constitutional Court passed 92 rulings on arbitrary or abusive police custody.

In the case of ASSOGBA Rock versus the Commissioner of Police Honoré SEVO and Inspector Comlan ASSOGBA, the Constitutional Court ruled that « any police custody which exceeds the duration laid down in article 18, paragraph 4 of the Constitution shall be deemed arbitrary, abusive, and shall constitute a violation of the Constitution.» (DCC 00-036 of 28 June 2000).

Following this decision, the Cotonou Court of Criminal Appeal seized pursuant to articles 19, 50 to 52, 201 to 206 of the Penal Procedure Code passed rulings n° 190/2001 and 191/2001 (cf. Annex III).

In fact, several criminal investigation officers were stripped of their powers in some instances.

- The right to a fair trial is enshrined in article 17 of the Constitution;
- Articles 126 and 129 affirm the principle of separation of powers and independence of the Bench. These provisions are reinforced by act n° 2001-35 du 21-02-2003 on the statutes of the Bench and act n°2001-37 dated 27-08-2002 regulating the judicial system in Benin;
- The Constitutional Court has recognised the right to protection and the right to be judged within a reasonable period. In order to bring justice to the doorstep of the justiciables new jurisdictions have been established: One (01) first instance court in each county town with a special status (Cotonou, Porto-Novo and Parakou) and 25 second instance tribunals in the other communes.
- Torture and other Cruel, Inhuman or Degrading Treatment or Punishment are forbidden in Benin (article 18, paragraph 1 of the Constitution).

This practice is dealt with under the specific laws of the Special Penal Law.

The Constitutional Court has defined torture by deciding that «inhuman or degrading treatments are considered not only with regard to the effect on the physical or mental state of the individual but also their duration, deliberate nature and the circumstances under which they were inflicted.

« Fifteen (15) days detention in a poorly ventilated, ill-lit cell, stinking of urine or even of faeces well and truly constitutes inhuman and degrading treatment.» (DCC 99- 011 du 9-02-1999).

To prevent torture, on 20 September 2006 Benin ratified the optional protocol to the Convention against torture and other cruel, inhuman or degrading treatment or punishment. Benin attended the first meeting of State Parties to this Protocol in Geneva, Switzerland on 18 December, 2006.

At its sitting of the 6 December, 2006 Cabinet, in its decision contained in the extract of Transcript no 49, authorised the establishment of a National Prevention Mechanism in accordance with article 3 of the Protocol.

b- Respect for property

The State shall protect the right to property in Benin.

The 11 December, 1990 Constitution enshrines and guarantees the right to property in its article 22. Former civil law provisions are still in force and Civil Code and Civil Procedure bills pending adoption before the National Assembly have taken this issue on board.

The enforcement of certain legal decisions on real estate cases recently led to mass surrender of land.

And in a bid to protect the rights of citizens, in 2006, the Government tabled a bill on rural land issues which was passed recently.

Other relevant provisions are presently being discussed across the length and breadth of the country.

2- Respect for individual freedoms

Article 23 of the Constitution enshrines the «right to freedom of thought, conscience, religion in compliance with public order as established by the laws and regulations ».

The exercise of the right to freedom of thought, opinion and expression is governed by Act n° 60-12 of 30 June 1960 on press freedom and Act 97-010 of 20 August 1997 pertaining to the liberalisation of the audio-visual environment and special penal provisions relative to breach of press and communication laws.

In order to ensure compliance with ethical rules and values, media practitioners set up the Observatory for Media Deontology and Ethics (OMDE) in 1998 and a Code of conduct for the Beninese media.

This organ is charged with defending press freedom, protecting the right of the public to free, comprehensive, honest, and accurate information, ensuring the safety of journalists whilst exercising their duties; it may seize itself or be seized by any other person who believes his rights have been infringed on by the publication of information by a given medium or by a breach of the code of conduct and ethics. The United Nations Human Rights Committee for its part did recommend that journalists no longer be liable to serve prison sentences for breach of the press laws, during the consideration of the Benin report on the implementation of the International Covenant on Civil and Political Rights in October, 2004.

These recommendations were taken into consideration in the bill relative to the information and communication code.

Meanwhile, the High Audio-Visual and Communication Authority ensures compliance with the code of conduct by the media while protecting press freedom and serves as the regulatory organ. The Authority may seize itself or be seized.

Regarding other public freedoms, they are laid down in article 25 of the Constitution which stipulates as follows: "The State recognises and guarantees under the conditions established by the law, the freedom to come and go, freedom of association, assembly, procession and demonstration." These provisions are in line with article 10 of the African Charter on Human and Peoples' Rights.

The Constitutional Court seized with cases of violations of these freedoms ruled that: « the constitutional principles of movement, freedom of association, assembly, procession and manifestation are aimed at guaranteeing the individual the enjoyment of fundamental freedoms and protection against arbitrariness. So long as an administrative authority, specifically, the sub prefect fails to give any reasons for its decision to deny him such freedoms, it is construed that the Constitution has been violated » So judged the Court in ruling (DCC 00-03 dated 20 January 2000).

« Prohibition to exercise union activities constitutes a violation of the Constitution » (DCC 01 –038 of 13 June 2001).

3- Respect for political rights

This principle is affirmed in the preamble of the Constitution of 11 December, 1990 and is guaranteed under the provisions of articles 5, 6, 25 and 44 of the latter.

Act n°90-023 of 13 August, 1990 establishing the Charter of Political Parties authorises all citizens enjoying their civil and political rights to enlist in the political party of their choice. (article 6).

By December, 2006, there were over a hundred political parties in Benin.

Some provisions of Act n°2000-18 of 03 January 2001 on the general rules governing elections in the Republic of Benin have been amended by acts $N^{\circ}2002-22$ of 28-08-2002 and 2003-02 of 27-01-2003 but the former recognises the right of all citizens without prejudice to conditions of age, nationality, and morality to be eligible for office and to vote.

Twenty-six (26) candidates, including two (2) women contested the last presidential elections held in March 2006.

4- Protection of worker's rights

The 11 December 1990 Constitution recognises the right to work (article 30). It recognises and guarantees the right to go on strike, grant all workers the right to protect their interests either collectively, individually or through unions.

Act n° 98-004 of 24th January 1998 on the Labour Code of the Republic of Benin and Act n° 86-013 of 26 February 1986 relative to the Public Service Act shall remain in force.

The exercise of the right to go on strike is governed by act n°2001-09 of 21 June 2002.

- ➤ Convention n°138 of the 1973 International Labour Organisation on the minimum age for admission to employment ratified on 11 November, 2001;
- ➤ ILO Convention n°182 concerning the Prohibition and Elimination of the Worst Forms of Child Labour ratified on 28 May 2001 and the Public Service Charter adopted on 5 February, 2001;
- ➤ Conventions n°155 and 164 concerning health and safety of workers in the workplace;
- ➤ Act n°98-019 of 21 March 2008 pertaining to the Social Security Code of the Republic of Benin;

are all instruments which consolidate the national legal framework in the area of protection of the worker's rights both within the public and private sectors.

5- Protection of the right to education

The right to education is guaranteed by articles 13, 14, and 40 of the 11 December, 1990 Constitution. The State strives to protect this right by creating the conducive environment for access to education. From 2001 to 2006, the Beninese educational system was managed by three Ministries:

- The Ministry responsible for Higher Education, and Scientific Research,
- The Ministry for Secondary Education and Technical and Professional training,
- The Ministry for primary education, literacy and national languages;

From 2000 to 2005, education became progressively free of charge.

Furthermore, in 2005 Benin adopted an education policy paper aimed at setting the Benin educational system on the path to universal education by 2015, in accordance with the provisions of the Millennium Development Goals.

Also, at the beginning of the school year, in October, 2006, the Beninese State declared public primary education free of charge. Support measures have been put in place to make this decision effective and to promote access to education and schooling for all.

The State also adopted some strategies and strives to improve the quality of education and the working and living conditions of teachers.

Measures aimed at making school fees free of charge are not yet applicable to Secondary and Technical Education nonetheless, since the beginning of the 2006 school year, these fees have been standardised countrywide.

At the beginning of 2001-2002, a second university was opened in Benin in Parakou, North of Benin pursuant to decree n°2001-365 of 18 September 2001.

The budget allocated to Education has been on the rise.

From 53,750,337000 FCFA, with 30,706,775,000 FCFA allocated to primary education in 2003, this amount rose to 82,141,821,000 FCFA in 2006, of this amount, 51,570,764,000 went to primary education.

Thanks to these efforts, Government has:

- attained high gross enrolment rates (cf. Annexe V);
- increased the success rate;
- and reduced the dropout rate (cf. annex V).

The on-going sensitisation and different programmes formulated by development partners (UNICEF, USAID), State organs, and some Non Governmental Organisations have contributed to the retention of girls in school and the promotion of their schooling.

Literacy classes were also organised for the elderly and a Ministry for literacy and the promotion of the local languages set up.

6- Protection of women and children

The provisions of article 26 paragraph 2 of the Constitution that "the State shall protect the family, especially mothers and children » are in line with article 3 of the African Charter on Human and Peoples' Rights and the provisions of other international human rights instruments. The adoption of act n°2002-07 of 24 August 2004 on the Persons and Family Code reinforces the existing legal mechanism for the protection of women and children's rights.

In article 30 thereof, this law puts an end to the legal dualism which prevailed in Benin with respect to the status of persons and property resulting from the co-existence of customary and modern law.

The provisions of the code make it possible to combat cultural and traditional obstacles to the promotion of women and lays further emphasis on gender balance.

Decree n°2002-464 of 28 October 2002 established the National Commission for Women's Affairs.

The age of marriage is 18 years for young girls and boys (article 123). Some practices are prohibited including:

- levirate (article 122)
- polygamy (article 125 and 143)
 The rights of the surviving spouse are recognised under inheritance (article 630 and 631); the couple shall choose its marital home (article 156)
- parental authority shall be exercised by both the mother and father of the child $(405 \ \text{à}\ 411)$
- voting age shall be fixed at 18 years (article 459)

Non governmental organisations and national human rights institutions are holding more and more sensitisation sessions to disseminate this law extensively.

Pursuant to decree n°2001-129 of 4th April, 2001 the government has set forth the conditions for enjoyment of widowers' pensions.

In January 2001, Benin adopted a national policy for Women's Affairs and in August 2002, a national policy to boost women's involvement in the agricultural and rural sectors.

Act n° 2003-03 of 3rd March 2003 concerning the repression of female genital mutilation in Benin protects the physical integrity of women and the girl child.

Act n° 2003-04 of 3rd March 2003 pertaining to sexual and reproductive health, governs termination of pregnancy for health reasons.

Article 20 of this law abrogates the 1920 law pertaining to propaganda, contraceptive practices and abortion.

Voluntary termination of pregnancy can be conducted should carrying the pregnancy to term endanger the life and health of the woman, or the pregnancy is the result of rape or an incestuous act or where the unborn child is diagnosed with a very serious condition.

Act n°2006-04 of 5th April 2006 on the conditions of transfer of minors represses the trade and trafficking in children.

Pursuant to decree n° 99-559 of 21 November 1999, the National Commission on the Rights of the Child was established and its departmental offices set up in 2002.

This Commission centralises activities carried out in Benin in pursuance of the Convention on the Rights of the Child. The Commission holds two sessions and local committees for the fight against child trafficking have also been set up.

Further, it is noteworthy that inter-ministerial decree $n^{\circ}132/MFPTRA/MSP/DC/SGM/DT/SST$ of 7th November 2000 defining the type of work and categories of employment prohibited for women, pregnant women and youth and the minimum age for the prohibition. Decree $n^{\circ}2005-363/MCAT/DC/SGM/DNA/SA$ of 30th December 2005 organising skills training in cottage industries.

The National Monitoring and Evaluation unit for protection activities for the Child has been set up and is housed at the Ministry for Family Affairs.

To better protect women and children, the Beninese State reinforced the portfolio of the ministerial department responsible for family affairs by establishing, pursuant to decree no 2006-178 of 8th April 2006 concerning the composition of the Government, a Ministry for Family, Women and Children's Affairs headed by a woman.

A Junior Minister responsible for micro finance and the promotion of small and medium sized companies and youth and women's employment at the Ministry of Development, Economy and Finance was also created and entrusted to a Lady.

7- Elimination of discrimination based on sex, religion, language or social standing

The State strives to guarantee equality for all citizens in conformity with the provisions of articles 8 to 26, paragraph one of the Constitution.

This protection is supported by the specific laws which enshrine, in Benin. :

- equal access to employment and elimination of all other forms of discrimination (articles 2, 4 and 5, 167,142, et 143, 208) of act n°98-004 of 27 January 1998 on the Labour Code of the Republic of Benin.
- Equal treatment for all civil servants on the same grade and with equal skills.

Act n°86-013 of 26 February 1986 on the Status of Permanent State Employees amended by act n°89-006 of 12th April 1989, has made provisions for all categories of civil servants to earn equal salary for equal work. This law is still in force. Special statuses also offer the same guaranties. These include among others, Act n° 2001-35 of 21st February

2003 on the Status of the Bench specifically in its provisions relevant to the conditions of recruitment (article 25 last paragraph). "There shall be no distinction based on gender. $^{\circ}$

Person's and Family Act (act n°2002-07 of 4th August 2004) also enshrines equality of men and women in law and in duty. Here, women enjoy the same rights to inheritance as men, both in their capacity as descendants and as surviving spouses.

The Constitutional Court has ruled that the principle of equality « shall be analysed as a rule according to which the same law shall be applicable for all not only in its adoption but also in its application. ».

8- <u>Protection and promotion of traditional morals and values</u> recognised by the Community

To promote good governance, the Beninese Government, fully committed to the fight against corruption, is strengthening the institutional and normative framework, collaborating with civil society and the press.

The public office moralisation unit established by decree n°96-579 of 19th December, 1996 carried out its duties of prevention and combating corruption up to 2006.

The unit has contributed among others to the creation of the Pecuniary Settlements Fund for lawyers to combat the misappropriation of monies paid by Insurance Companies to beneficiaries, and for the compilation of manuals of procedure, in collaboration with the different services, for users within the civil service; the unit also conducted sensitisation with the assistance of civil society organisations.

Finally, it has also championed the fight against the abusive use of State funds.

- In order to support the anti-corruption crusade, the Government of Benin set up a technical committee to formulate a national anti-corruption campaign. The mission of this Committee is to identify priority actions to be implemented in the medium to long term in collaboration with the public services, private sector and civil society.
- Two bills were submitted to Parliament, one on the repercussions of corruption and the other on illegal enrichment, in line with the directives of the West African Monetary Union (UEMOA).
- In 2006, the moralisation unit was dissolved but the Anti-Corruption Observatory comprising of representatives of the civil service, civil society has continued its work. Incidentally, the date, 8th December has been identified as National Anti-Corruption Day as stipulated by Decree n°2006-773 of 31 December, 2006.

The Observatory conducts sensitisation within the service on respect for public property.

On 15 December, 2006, the Observatory sensitised officers within the Ministry of Justice on the dangers of this scourge.

On 13 October, 2006, a study was launched with the assistance of the World Bank on Governance and Corruption in Benin in a bid to diagnose the attendant problems. In this light, forms were designed and distributed within the civil service. The findings of this study will be reviewed by Government to come up with appropriate measures to eradicate this phenomenon.

B- Measures taken by Benin to promote human rights in Benin.

C-

The Beninese State has made tremendous strides in the area of human rights such as :

- > The introduction of human rights in philosophy training programmes at the general and technical schooling levels;
- ➤ Launching of the Birth Certificate Census to provide birth certificates free of charge to thousands of Beninese without the document :
- Increase in the State subsidies granted to private media houses;
- ➤ Introduction of a growth policy to ensure all segments of society enjoy their economic, social and cultural rights by adopting appropriate measures (micro-credit for the poorest, financial assistance to youths with business plans, salary increase for the civil service).

Regarding international commitments, by virtue of its situation of State Party to the relevant human rights instruments, Benin has drafted and presented several reports on the implementation of the said instruments:

- ➤ initial report combined with the 2nd periodic report on the application of the International Covenant on Civil and Political rights was defended on 21 October, 2004 before the Human Rights Committee.
- ➤ The initial report combined with the 2nd and 3rd periodic reports on the implementation of the Convention on the Elimination of all Forms of Discrimination against Women was reviewed in New York, in the United States on July 2005.

➤ The consolidated report on the application of the Convention on the Rights of the Child was presented on 20 September, 2006, in Geneva. Switzerland.

In accordance with the provisions of article 44 of the Convention on the Rights of the Child, the Department of Human Rights disseminated the report nationwide before submission.

The observations of the Committee on the Rights of the Child were submitted on 11, 12 and 13 January 2007 to the members of the Monitoring Committee for international instruments and resource persons and recommendations made to Government for implementation.

The second and third reports on the implementation of the Convention against torture and other forms of punishment or inhuman and degrading treatment as well as the second progress report on the implementation of the International Covenant on Economic, Social and Cultural Rights were drafted and transmitted to the different monitoring bodies of the United Nations. In the case of the Convention against torture and other forms of punishment or inhuman and degrading treatment the report was defended in November, 2007.

- ➤ The first, second and third application reports of the international counter-terrorism instruments were presented in 2002, 2005, and 2006 respectively.
- > The report on the Universal human rights periodic review from 5th to 16th May, 2008 in Geneva, Switzerland;
- The second periodic report on the implementation of the International Covenant on Economic, Social and Cultural Rights was reviewed from 5th to 16th May 2008, in Geneva, Switzerland.

Internally, the responsibilities of several Ministers have been extended. Human Rights have been included in the schools' curriculum.

With regard to human rights education, training has been organised by the Department for Human Rights in collaboration with development partners.

Hence thanks to the support of the Embassy of the Kingdom of Denmark, the Human Rights Department organised a training workshop for the following target groups:

- > The specialised units of the Police Force from 22 to 24 March 2005: **57 police units trained.**
- > Magistrates from 10 to 12 May 2005 : **33 magistrates trained**.
- ➤ Local elected representatives from Mono-Couffo, Zou and Collines from 31 May, 1st and 2nd June 2005 : **52 representatives trained.**
- ➤ Journalists in 2005 : **36 journalists trained.**

Non governmental organisations 13, 14 and 15 September, 2005 : **37 representatives trained.**

- > Philosphy lecturers from 15 to 17 November, 2005:45 philosophy professors lecturers trained.
- ➤ Health personnel in contact with patients from 29 November to 1st December 2005 : **43 health personnel.**
- ➤ Union leaders from 15-17 December, 2005: **39 union leaders** trained.

With the assistance of the United Nations Development Programme (UNDP) Project for Support to the National Policy for the Promotion of Human Rights (PNPPHR), sensitisation programmes were conducted for the population, training of relays, schools, clubs and legal and judicial

assistance for poor people in the Department of Albori in the North of the Country, from September to November, 2005 and in 2006.

Most of the international instruments were published in September, 2006 in the Gazette of the Republic of Benin for ease of implementation by legal practitioners.

In addition, since 2007, pedagogical kits on Human Rights were prepared by the Human Rights Department of the Ministry of Justice, Legislation and Human Rights to enable all Beninese citizens to know their rights and to use them should they be violated. The kits are currently being disseminated and contain the following leaflets:

- Human rights;
- Women's rights;
- The rights of the child;
- Minors' protection squad;
- Human Rights Department;
- National Human Rights Consultative Council (NHRCC);
- Mechanisms for regional and international human rights protection;
- Practical guide to Human rights in Benin;
- Police in a Constitutional State ;
- Supreme Court; and
- The Constitutional Court.

Similarly, the Department of Human Rights organised legal clinics on human rights in 2004, 2005, and 2006 nationwide.

Since the institution, by virtue of decree n°97-509- of 11 December 1997, of the National Day for the rights and responsibilities of citizens all prisons, Police Stations and Gendarmeries are visited systematically and periodically to ensure human rights are respected in these places.

Concerning overcrowding in prisons in particular, apart from the 1000 place prison in Akpo- Misserete which opened on 7th November, 2007, the Government of Benin through its Budget programme for the 2008-2011 fiscal years plans to build ten (10) new prisons in the following locations: Allada, Abomey-Calavi, Pobè, Adjohoun, Nikki, Savalou, Comè, Djougou, Malanville and Covè.

In addition, with the training of paralegals held from 21st to 23rd November, 2007 the Beninese Government has set in motion the process of installing an office with a « hot line » at Lokassa to enable citizens better respect human rights within the community and even report all human rights violations in their midst for appropriate redress.

III- OBSTACLES TO THE PROMOTION AND PROTECTION OF HUMAN RIGHTS IN BENIN

Several factors hamper the promotion and protection of human rights, namely:

- Lack of a national plan for the promotion of human rights;
- ➤ Delay in the disbursement of funds allocated by the State to the sector Ministries such as the departments responsible for human rights;
- > absence of a legal culture;
- poorly sensitised population;
- adequately trained actors involved in the implementation of international human rights instruments;
- cumbersome socio-economic, cultural and political procedures;
- lack of adequate infrastructure;
- poor understanding of legal documents;

- impoverishment of the population;
- dearth of structures responsible for the application of laws;
- > absence of infrastructure ;
- absence of regulations;
- ➤ lack of specifics ;
- inadequacy of the official channels for the popularisation of legal documents;
 - ➤ lack of capacity to establish a coherent archive system.

IV- SOLUTIONS ENVISAGED FOR IMPROVED PROMOTION AND PROTECTION OF HUMAN RIGHTS IN BENIN

A- In the area of human rights

- Fine-tune the national action plan for the promotion of human rights ;
- Make the technical support provided by the State to nongovernmental organisations involved in the promotion of the rights more effective;
- Strengthen good governance;
- Build capacity to manage and utilise public resources;
- Boost cooperation with nongovernmental organisations;
- Strengthen the effective implementation of policies geared towards the promotion of women;
- Promote gender and empowerment of women;
- Improve access to education;
- Reduce administrative red tape ;
- Popularize respect for public property;
- Continue popularisation of human rights pedagogical kits.

B- In the area of protection of Human rights

Measures adopted are to:

- Continue sensitisation of the population and training of target groups;
- Ensure wide popularisation of national and international human rights instruments;
- Boost efforts at poverty alleviation;
- Put in place a national mechanism for the prevention of torture in Benin:
- Operationalise the new jurisdictions created in accordance with act n° 2001-37 of 27 August 2002 relating to the Judicial System of the Republic of Benin;
- Pursue recruitment of Bench staff and build the capacity of support staff;
- Continue gazetting all international instruments pertaining to human rights to which Benin is a party;
- Improve the legal environment;
- pursue and intensify the anti-corruption drive;
- continue periodic visits to detention and remand centres
- equip all prison clinics in Benin with the requisite medication and materials necessary for first aid treatment;
- make the new prisons to be constructed under the Budget-Programme more effective.

CONCLUSION

From 2000 to 2006, the Government of Benin made significant progress with respect to the implementation of the provisions of the African Charter on Human and Peoples' Rights. However, there are still more challenges to be met with regard to the institutional and legal framework.

Regarding the institutional framework, there is a need to pursue the establishment of jurisdictions and to make them operational.

In a bid to strengthen the legal framework, there is need to carry out some lobbying to expedite the adoption of pending bills before the National Assembly in the area of human rights.

The State should boost its efforts and continue the sensitisation campaign in collaboration with civil society organisations for greater ownership of national and international legal human rights instruments to usher in a true culture of the law in Benin.

Strengthened good governance and the improvement of the legal and institutional framework are all steps which will go a long way to usher in true democracy and rule of law in Benin.

GLOSSARY

MGD : Millenium Development Goals

SDO : Strategic development Objectives

UNICEF: United Nations' Children's Fund

USAID: United States Agency for International Development

OIT : International Labour Organisation

ONU: United Nations

DCC: Decision of the Constitutional Court

OLC : Anti-Corruption Observatory

Cf. : Confer

PNPDH: Project for Support to the National Human Rights Policy

PNUD: United Nations Development Programme

ONG: Non- Governmental Organisation