

AFRICAN UNION

الاتحاد الأفريقي



UNION AFRICAINE

UNIÃO AFRICANA

*African Commission on Human &
Peoples' Rights*

*Commission Africaine des Droits de l'Homme et
des Peuples*

48, Kairaba Avenue, P.O.Box 673, Banjul, The Gambia Tel: (2204) 392 962;

4372070; Fax: (2204) 390 764

E-mail: achpr@achpr.org; Web www.achpr.org

**DRAFT REPORT OF THE PROMOTION MISSION TO THE REPUBLIC OF
BENIN**

25-29 August 2008

INTRODUCTION

1. The African Commission on Human and Peoples' Rights (ACHPR) is the principal organ of the African Union responsible for the promotion and protection of human and peoples' rights on the Continent. It was established in 1987, in conformity with Article 30 of the African Charter on Human and Peoples' Rights (The « African Charter »), adopted in Nairobi on the 27th June 1981 and entered into force on the 21st October 1986. The mandate of the ACHPR is defined in Article 45 of the African Charter under the terms of which:

« The Commission has the mandate of:

1. *Promoting human and peoples' rights and in particular:*
 - (a) *Putting together documentation, carrying out studies and research on African problems in the field of human and peoples' rights, organizing seminars, symposiums and conferences, disseminating information, encouraging national and local organizations that deal with human and peoples' rights and, where necessary, give opinions or formulate recommendations to the Governments;*
 - (b) *Formulating and preparing principles and regulations to be used as basis for the adoption of legislative texts by African Governments, which would facilitate the solution of legal problems relative to the enjoyment of human and peoples' rights and fundamental freedoms:*
 - (c) *Cooperating with the other African or International Institutions that work in the area of promotion and protection of human and peoples' rights.*
 2. *Guaranteeing the protection of human and peoples' rights under the conditions established by the present Charter.*
 3. *Interpreting all provisions of the present Charter on the request of a State Party, of an Institution of the OAU or of an African Organization recognized by the OAU.*
 4. *Executing all other tasks which are entrusted to it by the Assembly of Heads of State and Government ».*
2. In the context of its mandate of promotion the ACHPR carries out missions of promotion in the State Parties to dialogue with all the stakeholders on the measures taken for the implementation of the African Charter, to identify potential difficulties likely to be encountered by the State in the implementation of the African Charter, and to formulate recommendations for the protection of human rights generally and in particular those outlined in the African Charter.
 3. Each promotion mission consists of meetings and discussions with the Organs and Institutions of the State Party concerned, Civil Society, the

Media, as well as any other personality or Institution capable of informing the ACHPR about the human rights situation in the country. The mission ends with a debriefing meeting with the competent Authorities of the State Party concerned and a press conference held by the Head of the ACHPR delegation who led the mission.

4. The present mission Report prepared by the delegation, and containing a report of the mission as well as recommendations, is submitted to the ACHPR for consideration and adoption. After its adoption by the ACHPR in private session, the mission Report is conveyed to the State Party concerned which will be given two months to make comments on it. The comments of the State will be attached to the Report before its publication. If on the expiry of the two month deadline the State Party concerned has not submitted any comments, the ACHPR goes ahead and publishes the Report.

Composition of the delegation and terms of reference of the mission of promotion to Benin

5. The human rights promotion mission to Benin took place from 25th to 29th August 2008 on the invitation of the Republic of Benin, at the request of the African Commission.
6. The mission had been conducted by Commissioner Yeung Kam John Yeung Sik Yuen, Member of the ACHPR, responsible for Benin in terms of promotion activities and Focal Point of the ACHPR on the rights of elderly persons. Commissioner Yeung Sik Yuen was assisted by Dr. Robert Eno and M. Nadjita Ngarhodjim, Legal Officers in the Secretariat of the African Commission.
7. The following constitute the terms of reference of the present mission of promotion to Benin:
 - To discuss with the stakeholders working in the field of human rights in the country about the measures taken to guarantee the enjoyment of human rights in the country;
 - To examine the successes and good practices registered by the Government in the implementation of the African Charter and other human rights instruments for the purpose of sharing them with other countries;
 - To discuss with the Government and the other stakeholders about the potential difficulties to be encountered in the implementation of the Charter;
 - To urge the Government to fulfil its obligations under the terms of the Charter, in particular pertaining to the submission of its Periodic Reports; and

- To urge the Beninese Civil Society Organizations to be more involved in ACHPR activities.

PART ONE: PRESENTATION OF THE REPUBLIC OF BENIN

Historical Overview

8. Before its colonization by the Europeans what today constitutes the Republic of Benin used to be the cradle of a rich civilization built around kingdoms centred around City-States, of which the most important were the Kingdom of Allada, founded in the 16th century, the Kingdom of Abomey, founded in the 17th century (1625), and the Kingdom of Porto Novo (first called « Adjacé » then « Hogbonou »). These Kingdoms lived off trade, first from the trafficking of slaves from the 17th century, then palm oil after the abolition of slavery. In the context of the triangular trade, numerous trading posts were set up all along the coast by the British, the Danish, the Portuguese and the French, which gave rise to the name of « slave coast » attributed to this territory. The Europeans exchanged arms for slaves who were then shipped out to some destination in the New World.
9. The rivalry between the kingdoms promoted the western colonization, with each kingdom signing agreements with the western powers to counter the expansionist tendencies of the neighbouring kingdoms or of other European powers.
10. The Dahomey Empire was the last to fall under the western bosom. It resisted fiercely against French colonization, particularly under the iron rule of King Gléglé and his son Béhanzin, before it was conquered.
11. Dahomey was integrated into the French colonial empire with the defeat of King Béhanzin, vanquished in 1894, made prisoner and then deported to Algeria where he died in 1906. After the surrender of King Abomey, the new territories were named « Colony of Dahomey and its satellites ». The new colony was integrated into French West Africa in 1895 and became an Overseas Territory in 1946, then a Republic member of the French Community in 1958, under the official name of « Republic of Dahomey ».
12. The Republic of Dahomey acceded to international sovereignty with the proclamation of independence on the 1st August 1960 by Hubert Maga, its first President. The country then experienced a rather turbulent political history, characterized by repeated coups d'Etat in 1963, 1965 (twice), 1967, 1969, and 1972. The coup d'Etat of the 26th October 1972 brought Major Mathieu Kérékou to power. Mathieu Kérékou established a Marxist-Leninist regime from 1974 and renamed the country "Peoples' Republic of Benin" on the 1st December 1975, as tribute to the Benin Empire founded in the 14th century in the South West of what is now Nigeria. The Marxist-leninist regime was characterized by the nationalization of Companies and the restriction of public liberties.
13. The « Conference of the Nations Resources » organized from the 19th to 28th February 1990 under the chairmanship of Mgr de Souza, Archbishop of Cotonou, inaugurated the democratic era in Benin and set up a

transitional Government led by a Prime Minister, Nicéphore Soglo. The country broke with marxist-leninism and became the «Republic of Benin ». A new Constitution was adopted and a multiparty system established. The 1991 presidential election made possible political change with the election as Head of State of Nicéphore Soglo, a former World Bank official. Mathieu Kérékou came back to power thanks to the 1996 elections, then was again re-elected in 2001. During the 2006 presidential elections an independent candidate, Thomas Boni Yayi, former President of the West African Development Bank (ADB) was elected as President of the Republic of Benin.

Geography

14. With a surface area of 114,763 Km², Benin is located in West Africa in the Tropical zone between the Equator and the Tropic of Cancer (between the parallels 6°30' and 12°30' Latitude North and the meridians 1° and 30°40' Longitude East). It is bordered in the North by Niger, in the North West by Burkina Faso, in the West by Togo, in the East by Nigeria and in the South by the Atlantic Ocean.
15. Benin's landscape is not very mountainous and comprises a coastal region which is low, sandy and bordered by lagoons; a plateau of ferruginous clay; a silico-clayey plateau strewn with some undergrowth; in the North-West is the Atacora mountain (which reaches up to 800 metres); in the North-East, the silico-clayey Plains of Niger which are very fertile.
16. The country is watered by several watercourses, including the Niger Basin which comprises the tributary rivers of the Niger (the Mekrou, the Alibori, the Sota, and the Pendj Ari), and the coastal Basin comprising the Oueme, the Couffo and the Mono which flow out into the sea. The South is also crossed by several lakes including Lake Nokoue, Lake Aheme and the Porto Novo lagoon.
17. In Benin the vegetation consists of a woody savannah in the Sudanese regions of the North, a savannah in the Centre and a forest in the South and Middle Benin.

Demographic Data

- **Surface Area**: 115,762 km².
- **Population**: 6,769,914 inhabitants [*Men: 48.5%; Women: 51.5%; rural population: 61.1%; urban population: 38.9%*] (RGPH 3: 2002). Population made up of a little more than 50 ethnic groups including the Fon, Yoruba, Aja, Gen, Waci, Weme, Dendi, Baatombu, Peuls, Betammaribe, Waaba, Ayizo, Idaasha, Maxi, Gun, Ləkpa, Natemba, Yowa, Anii, Berba, Shabe, Foodo, Anii, etc.
- **Official Language**: French.

- **National Languages** (52 registered): Fon, Yoruba, Dendi, Aja, Ayizo, Tofin, Saxwe, Gen (Mina), Baatonum, Ditammari, Waama, Gun, Idaasha, Fulfulde, Mokole, Boko, Nateni, Yom, Ləkpa, etc.
- **Density**: 59 inhabitants per km².
- **Demographic growth rate 1992-2002**: 3.2% [RGPH 3].
- **Major Cities**: Porto-Novo (Administrative Capital, 223,552 inhabitants), Cotonou (Economic Capital, 665,100 inhabitants), Djougou (19,020 inhabitants), Abomey (59,672 inhabitants), Bohicon (65,974), Parakou (149,810 inhabitants.), Ouidah (37,647 inhabitants), Lokossa (36,954 inhabitants).

Economy

18. Benin is one of the poorest countries in the world, ranked 162nd out of 177 in the United Nations Development Programme (UNDP) 2005 Index. Benin lacks mineral resources, and the economy is based essentially on the primary and tertiary sectors which represent 36.9% and 48.2% of GDP respectively. Cotton is the primary export product of Benin, representing on its own 80% of total exports and 18% of GDP. The sector however has been in crisis for several years due to the vagaries of the climate and the fall in prices brought about by the subventions of the developed countries and the depreciation of the dollar.
19. Benin exports mainly to India, China, Thailand, Indonesia and Italy. Benin's principal suppliers are China, France, the United Kingdom, Thailand, Belgium and Italy.
20. The informal sector is highly developed in Benin. According to estimates, it is said to employ 41% of the active population and is said to represent 37% of GDP.
21. Benin is highly dependent on foreign aid and enjoys preferential treatment from the international donors thanks to its good performance in the field of democracy. The country thus benefits from the new poverty reduction facility and growth (FRPC), from the increase in budgetary support from the European Union, from the multilateral debt cancellation decided by the G8, as well as from funds from the Millennium Challenge Account programme of the American Government since 2006.

Political System

22. Since the adoption of the Constitution of 1990, Benin has been a democratic Republic, based on the separation of the executive, legislative and judicial powers, multiparty system, the recognition and respect for fundamental rights and freedoms. The Executive comprises of the President of the Republic and Head of the Government, elected by direct universal suffrage for a five-year term renewable only once. The legislative comprises a unicameral Parliament made up of a National Assembly with

- 83 Deputies. Justice in Benin is rendered by a Judiciary comprising a Supreme Court, law courts and tribunals. The Constitutional Court established in 1993, plays the role of arbitrator between the different institutions of the country and is the guarantor of fundamental rights and freedoms, while the High Court is competent to judge the President of the Republic and the members of the Government in cases of high treason, crimes and offenses committed in the exercise of their duties or in the case of a plot against the security of the State.
23. The other major State institutions are the High Audiovisual Authority, the Economic, Social and Cultural Council and the National Independent Electoral Commission.
 24. The activities of the Political Parties are regulated by the law n° 90-23 of the 13th August which established the Charter that governs the Political Parties and which determines the conditions of their creation and their operations. About 100 Political Parties are currently registered at the Ministry of the Interior and of these at least forty actually exist and have been established. About twenty of the Political Parties are represented in the National Assembly. The main Political Parties in Benin are the Renaissance of Bénin (RB) of the former President of the Republic, Nicéphore Soglo, the Party of Democratic Revival (PRD) of Adrien Houngbédji, the Action Front for Revival and Development (FARD-Alafia) relative of the former President of the Republic, Mathieu Kérékou, the Social Democratic Party (PSD) of Bruno Amoussou, the African Movement for Democracy and Progress (MADEP) of Séfou Fagbohoun, the Union for Democracy and Solidarity (UDS) of Adamou N'Diaye, and Our Common Cause (NCC) of François Tankpinou.

The Judicial System

25. As we have indicated above, the 1990 Constitution sanctions the separation of the legislative, executive and judicial powers.
26. The Judiciary is independent from the legislative and judicial powers. The President of the Republic is the guarantor of this independence. He appoints people to the judiciary. He is assisted in his task by the Supreme Council of the Magistracy which he chairs and which is made up of the Chief Justice (1st Vice-President), the Keeper of the Seals (2nd Vice President), the Presidents of the Divisions of the Supreme Court, the President of the Court of Appeal, the Public Prosecutor in the Court of Appeal, of two Magistrates (including one in the Public Prosecutor's Department) and an independent individual.
27. Justice is rendered by a single set of Courts with the Supreme Court at the top, and with competence in administrative, judicial and accounting issues and whose decisions are final and are binding on the legislative and executive powers as well as on all the Courts. The Chief Justice is appointed for a five-year term renewable only once, by the President of

- the Republic after pronouncement by the Speaker of the National Assembly.
28. There is only one Court of Appeal with headquarters in Cotonou and which has competence over the entire national territory, eight lower courts and an arbitration courts.

The Human Rights situation

29. Benin has ratified the principal international legal human rights instruments at both the regional and universal levels. At the level of the UN, Benin is signatory to the International Convention on Civil and Political Rights, to the International Convention on Economic, Social and Cultural Rights, to the Convention on the Elimination of all Forms of Discrimination Against Women, to the Convention on the Elimination of Racial Discrimination, to the Convention against Torture and penalties or inhuman, cruel and degrading punishment, and to the Convention on the Rights of the Child.
30. At the African level, Benin is signatory, among others, to the African Charter on Human and Peoples' Rights, to the African Charter on the Rights and Welfare of the Child, and to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.
31. Benin submitted its initial Report to the ACHPR in 2000. A second Report covering the period 2000 - 2008 had been submitted during the present promotional mission.
32. Benin set up a Beninese Human Rights Commission in 1989 and 12 Beninese NGOs enjoy Observer status with the ACHPR.
33. Under the former Marxist-leninist regime, the ACHPR had been seized of a certain number of communications against Benin. Since the establishment of democracy in Benin, no new complaint has been received against this State. Currently there is no communication pending before the ACHPR against Benin.
34. The ACHPR has already carried out a mission of promotion in Benin, from the 7th to 11th August 2000. The mission was conducted by Commissioner Jainaba Johm who had then been in charge of Benin concerning promotional activities.

PART TWO: ORGANIZATION OF THE MISSION

TUESDAY 26TH AUGUST 2008

Courtesy Call on the Minister of Justice, Keeper of the Seals

35. Commissioner Yeung Sik Yuen paid a courtesy visit on His Excellency Me Gustave Anani Cassa, Minister of Justice, Keeper of the Seals of the Republic of Benin. The visit was held in the presence of the Director of Human Rights in the Ministry of Justice. Commissioner Yeung Sik Yuen thanked His Excellency the Minister of Justice on behalf of the ACHPR, and through him, the Government and People of Benin for having authorized and welcomed the mission. He had explained to the Minister that the said visit was a courtesy call which would be followed, during the course of the mission, by another working meeting with the Minister.
36. The Minister said he was honoured by the mission and the courtesy call, and wished the Commissioner fruitful exchanges with the various stakeholders during his mission.

Meeting with the Non-Governmental Organizations (NGOs)

37. After the courtesy call on His Excellency the Minister of Justice, Commissioner Yeung Sik Yuen held a meeting with a group of Beninese NGOs.
38. After having explained the objective of the mission and the meeting, Commissioner Yeung made a brief presentation of ACHPR, an institution created by the African Charter with the mandate of promoting and protecting human rights in Africa and of interpreting the African Charter. In the context of its promotional mandate, the ACHPR carries out studies, organizes seminars on human rights, collaborates closely with the States Parties, the National Human Rights Institutions and the NGOs.
39. So as to execute its mandate more effectively, the ACHPR has put in place 11 special mechanisms including the Special Rapporteurs, the Working Groups, a Monitoring Committee and a Focal Point. The special mechanisms are entrusted with specific issues relating to the human and peoples' rights guaranteed by the African Charter.
40. One of the tasks of the ACHPR is to examine the human rights situation in the States Parties, in particular by means of promotional missions which enable the ACHPR to dialogue with all the stakeholders. The ACHPR also receives the Periodic Reports that the States Parties are required to submit every two years, in conformity with Article 62 of the African Charter on the measures taken to give effect to the African Charter. The NGOs can also submit Reports which are alternative to those submitted by the States. Consideration of these Reports is done during the public sessions.

One of the major difficulties linked to this procedure of Reports is the fact that the States do not submit them regularly.

41. The ACHPR also receives Communications, which are complaints submitted by one or several State(s) Parties (inter-state Communications) or by non-state actors, generally individuals and NGOs (individual Communications). The admissibility of individual Communications is governed by Articles 55 and 56 of the African Charter.
42. The promotional mission provides an opportunity for dialogue with the various partners, including the Government and the other institutions and state bodies, the national human rights institutions, the NGOs, the media, etc., on the best way of guaranteeing the enjoyment of human rights in the country, of identifying the difficulties encountered and of formulating recommendations for addressing them, and of identifying the best practices which could be shared with the other States Parties. The mission report is discussed and adopted by the ACHPR in private session. It is then conveyed to the State for its comments within a period of two months. The comments of the State are attached to the Report during its publication. If the State does not react within the two month deadline, the ACHPR publishes the Report.
43. After Commissioner Yeung Sik Yuen's presentation the representatives of the NGOs asked for a few clarifications. Their related to the special mechanisms and their functioning as well as the conditions of seizure, to the mandate and composition of the Focal Point on elderly persons, the relations between the ACHPR and the NGOs, the interstate communications, and to the existence of a special mechanism on the rights of physically handicapped persons.
44. In reply to the questions posed by the NGOs, Commissioner Yeung Sik Yuen indicated that within the ACHPR there are special mechanisms that take care of specific areas relating to human rights, notably the rights of Human Rights Defenders, the rights of Indigenous Populations, the rights of Women, the rights of Refugees, the Freedom of Expression, Economic, Social and Cultural Rights, the combat against Torture, etc. These special mechanisms have their contact networks in the States Parties, which inform them about any human rights violation thereby enabling them to react in time.
45. The list and composition of the special mechanisms can be consulted on the ACHPR Website. The members of the ACHPR, including the Commissioners responsible for the various special mechanisms exercise their mandate part time. However, the ACHPR Secretariat is permanent and can be contacted at any time. There are Legal Officers who assist the various mechanisms and who contact the ACHPR members in cases where there is need for urgent action, so that they can take action.
46. The work of the ACHPR on the rights of elderly persons is not a simple matter of fashion but actually responds to the genuine need for the

protection of this category of persons. This protection is in line with the African values of solidarity both within the family structure and within society generally. It also responds to the need to perfect the framework for the protection of elderly persons by combating the negatives prejudices to which elderly persons sometimes fall victim in our societies and which sometimes lead to the violation of their fundamental rights. The Focal Point has thus been given the mandate of carrying out research and consultations to obtain information on the situation of elderly persons in the States Parties, to sensitize the various stakeholders and to contribute to the drafting and adoption of a protocol on the rights of elderly persons in Africa.

47. Concerning the relations between the ACHPR and the NGOs, Commissioner Yeung Sik Yuen declared that the objective of the meeting was to sensitize the NGOs on the existence, the mandate and the ACHPR's method of functioning so as to enable them participate actively in its activities. He also explained the procedure for the granting and enjoyment of Observer status with the ACHPR.
48. Commissioner Yeung Sik Yuen indicated that the ACHPR is endeavouring to facilitate the participation of the NGOs in its activities by systematically inviting the NGOs that have Observer status, as well as the other NGOs which ask for it or show an interest in the subjects that are dealt with during these activities.
49. He also declared that the ACHPR cannot unfortunately grant financial support to the NGOs participating in the sessions, considering its own financial constraints and the African Union financial regulations. He nonetheless added that the ACHPR tries to despatch the invitations early to allow the NGOs to seek financial assistance from other partners. The late despatching of these invitations is often due to the uncertainty of fixing the date or venue of the sessions.
50. He had also indicated that the Focal Point on the rights of elderly persons does not cover physically handicapped persons, except in cases where these persons are also elderly persons, and there is no other mechanism on physically handicapped persons.
51. Pertaining to the interstate Communications, Commissioner Yeung Sik Yuen intimated that since its creation the ACHPR had been seized of only one interstate Communication, submitted in 1999 by the Democratic Republic of Congo against Rwanda, Burundi and Uganda.

Meeting with the Secretary General of the Ministry of Foreign Affairs

52. In the afternoon of Tuesday 26th August 2008, Commissioner Yeung Sik Yuen met the Secretary General of the Ministry of Foreign Affairs. The meeting was held in the presence of Mr. Francis Lokossa, Director of Human Rights in the said Ministry.

53. The Secretary General welcomed the ACHPR delegation and expressed satisfaction with the fact that the mission had started well. He expressed the wish to be more fully informed about the mission.
54. Commissioner Yeung Sik Yuen thanked the Secretary General for the hospitality and explained to him about the objective and organization of the mission. He reiterated that he is the Commissioner in charge of the promotion of human rights in Benin and that it was in this context that he had undertaken this mission the principal objective of which was to dialogue with the various actors, including the State, the NGOs, the Media, etc. It was not an investigation mission but rather a promotional mission, in other words, one of dialogue.
55. Commissioner Yeung Sik Yuen also made a presentation on the ACHPR, on its mandate, its structure, its special mechanisms and activities. He underscored in particular the obligations of the State Party, including that of the regular submission of Periodic Reports, and expressed satisfaction with the fact that Benin was about to convey its Report covering the period 2000-2008 to the ACHPR.
56. The Secretary General thanked Commissioner Yeung and informed the delegation about the efforts made by Benin since the holding of the Conference of the Nations Resources in 1990 which had ushered in the democratic era into the country, for the establishment of the rule of law and respect for human rights in the country. He re-affirmed that Benin was from henceforth, a country of freedom with a very dynamic civil society which denounces human rights violations without beating about the bush. He indicated that there were also other state institutions which guarantee the opposition force, including the Constitutional Court, the Supreme Court, the Law Courts, the Parliament etc., which participate in the democratic life of the country. There are also highly active Trade Unions and a flourishing media which does it work well, despite some abuses which consist in the dissemination of inaccurate information, personal attacks, etc.
57. The Secretary General expressed the need for the supervision and training of the various actors, both state and non-state actors, so that they could all appreciate the scope of their rights and responsibilities and thereby carry out their work in a responsible and effective manner.
58. The Secretary General also indicated that the question of education is primordial, for education enables citizens to know their rights and to defend them in case of violation. It is for this reason that Benin is resolutely set on the road of free education for all which has already been applied at the grassroots level and which will be effective for the higher levels with effect from the 2008-2009 academic year.
59. In the area of health care, the Secretary General declared that medical care is provided free of charge for children under the age of five and that the State takes care of child delivery and obstetric charges.

60. In conclusion, the Secretary General declared that to guarantee the enjoyment of human rights is a long term job and that Benin counts on the support of its partners.

Meeting with the Heads of the Observatory on the Combat against Corruption

61. Commissioner Yeung Sik Yuen held a meeting with the Heads of the Observatory on the Combat against Corruption (OLC). The meeting was held at the headquarters of the OLC.
62. The President of the Dr. Jean-Baptiste Elias, welcomed the ACHPR delegation and introduced his colleagues before inviting Commissioner Yeung Sik Yuen to introduce the ACHPR and the objective of his mission.
63. Commissioner Yeung Sik Yuen thanked the President of the OLC and his colleagues for having agreed to meet with the delegation. He then presented an overview of the ACHPR, its structure, its mandate and its work. He explained that the ACHPR, comprising 11 members from 11 different African countries, is a product of the African Union established by the African Charter to promote and protect human rights in Africa, and to interpret the African Charter. The ACHPR has special mechanisms comprising working groups and special rapporteurs. It also receives interstate or individual Communications (complaints). The Commissioner indicated that the objective of the mission of promotion was to obtain information about the measures taken in Benin to give effect to the provisions of the African Charter, to identify the difficulties and formulate recommendations so as to improve the enjoyment by the citizens of the rights guaranteed by the African Charter.
64. Following Commissioner Yeung Sik Yuen's presentation, Me Alexandrine F. Saïzonou-Bédié, Head of the OLC Communication Section, made a presentation on the OLC. She indicated that the OLC had been created in April 2004 by Decree. It comprises 19 members from the different sectors of the Public Service and from civil society, designated by their respective Divisions and appointed by Decree for a three-year mandate renewable only once. The structure of the OLC consists of a Bureau and a General Assembly. The General Assembly comprises all the members of the OLC. The Bureau is made up of five members, namely a President, a Vice-President, a Rapporteur, a deputy Rapporteur and a Head of Communications. The OLC Bureau meets once every two weeks. The OLC has a Secreariat consisting of technical staff and an Accounting Agency. The OLC is structured around two Commissions: the Investigation Commission and the Sensitization, Prevention and Education Commission. The OLC can be seized by any individual who has factual information about corruption or is a victim of it. Once it is contacted, the OLC carries out an investigation and, if it has enough facts, it can call the

- perpetrator to order. If this call to order is not respected, the OLC can seize higher authority.
65. Within the context of the OLC report, Me Saïzonou - Bédié outlined a series of activities which enter into the context of sensitization, notably the setting up of a Website and other means of communication, the organization of training and sensitization seminars on the fight against corruption, the annual publication of the White Paper on the state of corruption in Benin, the missions to the institutions responsible for the combat against corruption in other countries, notably in Mali and in South Africa, as well as the participation in international seminars.
 66. Following Me Saïzonou – Bédié’s presentation Commissioner Yeung Sik Yuen asked for some clarifications. He wished to know in particular if the investigations by the OLC could lead to a prosecution, and if OLC’s mandate also covers the private sector. He also requested information about the Authorities to whom the OLC submits its report, and about the difficulties encountered by the OLC.
 67. Pertaining to the investigations, the Heads of the OLC indicated that the OLC had the power to seize the Courts but that it had not yet used it. They added that the OLC, apart from the combat against corruption, it is also responsible for the promotion of good governance. Therefore what justifies its impact is not the number of cases brought before the Prosecutor’s Department or before the Judges, rather it is the change in behaviour within the society. They also declared that the mandate of the OLC extends to the private sector for corruption does not exist only in the public sector.
 68. With regard to the OLC Report, they indicated that it is conveyed to all the State institutions and is also made available for anybody who requests it.
 69. Concerning the difficulties of the OLC, they spoke about the lack of a solid legal base, the OLC having been created by Decree and not by a law. They added that the internal measures for the implementation of the Convention on the fight against corruption ratified by Benin had so far not yet been established, and that there were no laws defining or repressing corruption in Benin on the basis of which the OLC could act. They informed the delegation that a draft law was on the table of the National Assembly for two years now but had still not been considered. Another difficulty mentioned by the Heads of the OLC was the attempt by the Public Authorities to influence the operations of the Observatory.

WEDNESDAY 27TH AUGUST 2008

Meeting with the Director General of the National Gendarmerie

70. Commissioner Yeung Sik Yuen held a meeting with the General Cocou L. Semegan, Director General of Benin’s National Gendarmerie. The meeting took place in the Headquarters of Benin’s National Gendarmerie,

in Porto Novo, in the presence of the Colonel Robert Sewade, deputy Director General of Benin's National Gendarmerie.

71. Commissioner Yeung Sik Yuen explained the objective of his mission and made a brief presentation of the ACHPR, an institution of the African Union responsible for the promotion and protection of human and peoples' rights.
72. The Director General, in his turn, introduced the national Gendarmerie of Benin, an institution with two areas of responsibility: the military and the Criminal Investigation Department. As a military institution, the Gendarmerie is placed under the authority of the Ministry of Defence and the Ministry of the Interior and is responsible, alongside the various national armies (infantry, the air force, and the navy), for the defence of the territory, for the surveillance of the borders and communication facilities, and safeguards assets and persons. As an institution of the Criminal Investigation Department the Gendarmerie works under the authority of the Ministry of Justice (through the Prosecutor's Office) and guarantees the application of laws and regulations. The Gendarmerie is posted everywhere on Beninese territory and has a total force of 3,000 men including Officers, non-commissioned Officers and Gendarmes).
73. Commissioner Yeung Sik Yuen asked for some clarifications, notably in relation to the possible overlapping between the work of the Police and that of the Gendarmerie, the training of Gendarmes particularly in the area of human rights and the impression which is discernible within the population with regard to the impunity enjoyed by the Gendarmes and the Forces of Law and Order generally.
74. The Director General and his deputy provided the clarifications required by Commissioner Yeung Sik Yuen. Pertaining to the risks of overlapping between the work of the Police and that of the Gendarmerie, they declared that before 1990, such overlapping had been quite pronounced. Today the distinction is clearer between the two institutions with the Police taking care of the maintenance of law and order in the towns while the Gendarmerie operates in the rural areas. However, the Gendarmerie maintains squads in the cities and the citizens are free to go to either the Gendarmerie squad, or to the Police Station. The discipline within the Army, including the Gendarmerie, makes citizens prefer to go to the Gendarmerie instead of to the Police Station.
75. With regard to the training of the Gendarmes, the Heads of the Gendarmerie Department informed the delegation that there is a Gendarmerie school in Benin which issues out Certificates of Professional Aptitude. The Gendarmes also undergo technical and specialized training throughout their careers as well as exams to pass from one grade to a higher one. Human rights and humanitarian law are subjects which are integrated in the training modules of the School of Gendarmerie, as well as courses in criminal law and criminal procedure law. The University of

Benin, the Human Rights Commission, and other partners regularly organize training sessions in human rights for the Gendarmes.

76. Concerning the public perception of the impunity enjoyed by the security Forces, in particular the Gendarmes, the Director of the Gendarmerie indicated that measures are taken against any Gendarme who is guilty of any offence. He asserted that in the event of an offence, the Gendarme is punished twice more severely than the ordinary citizen because, apart from the criminal punishment, he is also subjected to disciplinary punishment. He added that there are numerous Gendarmes who are wallowing in jail because of the offences they committed during the exercise of their duties. The Director however clarified that often there is excessive media fuss in relation to the activities of the security Forces so that a simple offence is often passed around in circles and brings disgrace on the Gendarme.

Meeting in the Ministry of Nursery and Primary Education

77. The Commissioner Yeung Sik Yuen had a meeting with Mr. Moussibaou Fassassi, Legal Technical Adviser to the Minister of Nursery and Primary Education. Mr. Fassassi thanked the Commissioner for his visit which he said is an indication of the importance that the ACHPR attaches to human rights, in particular the rights of the Child.
78. Commissioner Yeung Sik Yuen thanked the Legal Technical Director for the reception and observed that the existence of a Ministry of Nursery and Primary Education and a Ministry of the Family is evidence of the priority accorded by the Government of Benin to children. Commissioner Yeung Sik Yuen then asked the Legal Technical Adviser some questions pertaining to the work of his Ministry and on the situation of children in Benin generally.
79. In response to Commissioner Yeung Sik Yuen's questions, the legal technical Adviser declared that Articles 13 to 15 of the Beninese Constitution make education compulsory, even if no sanction has been provided for in the event of non respect for this obligation. He declared that entry into public nursery and primary school is free in Benin since President Boni Yayi came to power. Some textbooks have also been given to the children free of charge, whilst others are to be paid for by the parents. The children are admitted into nursery school from the age of 3 for a period of two years with two sections. He also indicated that the public secondary school attracts fees and school fees cost about 15,000 FCFA per annum.
80. The Legal Technical Adviser also declared that the Government, with the support of its partners, organizes sensitization campaigns to promote the education of children, in particular girls, and uses incentives such as the distribution of food rations (school canteens) and toys.

81. With regard to the exploitation of children, the Legal Technical Adviser indicated that in the Ministry of Nursery and Primary Education, activities are restricted to sensitization. He also indicated that coercive measures are taken by other Departments, in particular the Ministry in charge of the Family and that of Tourism. These Departments take measures to combat, among other things, child trafficking. There is for this purpose, in all the districts of Benin, local committees for the combat against child trafficking. The Legal Technical Adviser added that the Children's Code also punishes abuses against the rights of the Child.

Meeting in the National Police Headquarters

82. Commissioner Yeung Sik Yuen held a meeting in the National Police Headquarters with the Commissioner Anki Dosso Osséni Maïga, Deputy Director General (DGA) of the National Police. The meeting took place in the presence of Commissioner Alassane Boukari-Yabara, Director of the Criminal Investigation Department and Commissioner Emile Florent Djimasse of the Department of Public Security.
83. Commissioner Yeung Sik Yuen thanked the DGA for having agreed to receive his delegation and made a brief presentation of the ACHPR, of its mandate and mechanisms. He also informed the DGA about the meeting he had had that morning in the National Gendarmerie Headquarters. Commissioner Yeung Sik Yuen notably harked back to the perception of the population pertaining to the enjoyment of a certain impunity in Benin by the security forces, including the Gendarmes and the Police Officers. He informed the DGA that the Director General of the Gendarmerie had assured him of the repressive disciplinary and criminal measures taken against any Gendarme guilty of an offence. The Commissioner voiced the need for the Heads of the Gendarmerie and the Police to communicate with the public. Commissioner Yeung Sik Yuen also raised the issue of torture and the excessive use of force by the security forces against whom disciplinary and repressive measures should be taken.
84. The DGA thanked the delegation for its mission. He declared that Benin had chosen the option of democracy despite a lot of difficulties and that at all levels of Beninese society, there is a type of positive development that cannot be seen anywhere. He recalled the past history of the Police in Benin which, before the advent of democracy, had been integrated in the Armed Forces. He added that it was only after the Conference of the Nations Resources of 1990 that the Police had been separated from the Army and had received the principal mandate of guaranteeing respect for the law and for human rights. He admitted that not everything is positive in the attitude and actions of the Police Force of Benin but things were improving.
85. With regard to the potential overlapping between the work of the Police and that of the Gendarmerie, the DGA indicated that the two institutions do the same work which consists in maintaining law and order. The

difference between them emanates from the fact that the Police operate in urban areas whilst the Gendarmerie operate in the rural areas. As a result of staff constraints, the two institutions complement each other. Thus the Gendarmerie has squads in the towns and the Criminal Investigation Department has nationwide jurisdiction which allows it to operate in the rural areas. Furthermore, for some time now, the development of the economic sector has caused criminality to develop in some districts. The Police and the Gendarmerie therefore cooperate fully in seeking out and arresting criminals.

86. On the matter of recruitment and training of Police Officers, there is a National Police School which trains future Police Officers. Human Rights Courses are taught during the training and during conferences and seminars.
87. The DGA also declared that disciplinary and repressive measures are taken against Police Officers who are guilty of human rights violations, because no man is above the law. He indicated that every Police Officer undergoes a meticulous moral investigation before being recruited. Where accusations are made against a Police Officer, an investigation is mounted and legal proceedings can be instituted as well as an open disciplinary procedure.
88. Pertaining to the staff strength of the Police, the DGA indicated that the Beninese Police has at least 3,000 Officers, and that 500 new recruits were undergoing training and that there was a project to recruit another 1,000 new officers. New equipment was also to be acquired.

Meeting with the Central Trade Unions

89. Commissioner Yeung Sik Yuen also had a meeting with the Leaders of the Trade Unions at the Trade Union Centre. The following people participated in the meeting: Messrs Michel Kissi of the CGTB, François-Xavier of the CSTB, and Fulgence Afonda of the CSTB.
90. The Unionist leaders informed the delegation about their activities. They indicated that there are seven Trade Unions Groups in Benin, of which five are based in the Trade Union Centre. Each Group assembles the unions from various sectors. They also spoke about the difficulties they encountered in the exercise of their unionist rights, in particular within the private sector where the employers use threats, prohibition of assembly and sackings to hinder any desire of the staff to unionize. In the private or parapublic sector, some employers do not tolerate the organization of their staff into unions. There is a lot of intimidation and abusive sacking of staff. At the level of the laws, there is no problem since the 1990 Constitution and the Conventions of the International Labour Organization (ILO) relative to the freedom of association ratified by Benin sanction the freedom of association. It is in the practice that problems arise, with manoeuvring by the bosses to strangle any effort to set up a union. Undoubtedly, the laws provide for the setting up of a Labour Tribunal,

which in fact exists, but its procedures are often slow. Moreover, the employers have financial resources and can engage in delaying tactics to make the procedures drag along forever.

91. The Union leaders also referred to the Law 90/004 relative to hiring and firing the wording of which is said to benefit the employers by making the sacking of workers very easy.
92. The Union leaders have, moreover, alluded to certain current burning cases relative to freedom of association. They mentioned in particular the case of Magistrates who have been on strike for some time now and had declared that the Government had started to lay some of them off. They also mentioned the case of educational advisers who had not been allowed to sit a professional exam in order to move from the Category A3 Grade of Inspectors to that of Category 2. The examination had been cancelled and the case is still pending.

THURSDAY 28 AUGUST 2008

Meeting with the Minister of the Interior

93. The delegation met the Permanent Secretary of the Ministry of Interior on 28 August 2008.
94. The Permanent Secretary indicated that the Ministry of Interior is the sponsoring Department of the police and the gendarmerie in matters of security.
95. The Commissioner wanted to know how the Ministry of Interior reacts to allegations of violations against the police. He also requested for explanations on the circumstances in which prisoners can enjoy reprieve in terms of reduction of their sentences pertaining to child trafficking in the country and, on this score wanted to know whether this phenomenon was limited to the border areas alone or whether it cut across the entire country. This question also applied to female genital mutilation.
96. In response, the Permanent Secretary stated that, like in all civilized countries, in Benin, legal provisions exist for abuse of authority, as Benin has since 1990 put in place rules and structures for the improvement of human rights protection in the country. He indicated that inspectors had been appointed to visit police stations on their own initiative after receiving any complaint to ensure that the rights of persons arrested are respected and that they are held in humane conditions.
97. He said there are two police colleges – one for the junior ranks and the other for senior officers with their teaching personnel coming from other institutions, the University, the Judiciary and from the Bar.
98. On the reduction of prison sentences, he stated that it was within the purview of the Ministry of Justice and not the Ministry of Interior and noted that the President has the prerogative of pardon.

99. Concerning child trafficking, he stated that in the past parents were in the habit of handing over their children to relatives living in the cities for purposes of schooling or employment. He indicated that with the high level of poverty, human greed and the need to make some fortune, people are now capitalising on this practice to exploit the children. He said third parties are now engaged in this practice and take children from poor families in the villages and send them to families in the cities, even sometimes abroad in order to make money. He added that there was a growing perception that children sent outside bring in a lot of money, thus some parents compel their children to travel abroad.
100. He stated that the Government passed a series of laws and adopted policies to curb this phenomenon, including a law to ascertain that before a child leaves the country, certain conditions are fulfilled and the consent of parents sought. The Government also established children's protection units in all police stations. NGOs have also played a useful role in the reunion of children with their parents and the Government is carrying out sensitization campaigns on the issue.
101. On female genital mutilation (FGM), the Permanent Secretary stated that it was within the jurisdiction of the Ministry of Justice. He however stated that a serious sensitization campaign was being carried out and that a law forbidding FGM was passed in 2003. He declared that the difficulty stemmed from the fact some people go out to certain countries where the FGM was legal to get it done and thereafter return to Benin. He informed the delegation that efforts were underway to abolish the practice in the neighbouring countries. He claimed that since 2003, some people had been arrested, brought to justice and sentenced for practising FGM. This has led to a reduction in the phenomenon.
102. The delegation indicated that there exists an international consensus for the abolition of FGM and people should stop hiding behind culture and religion.
103. On domestic violence, the Permanent Secretary informed the delegation that a new law was passed to deal with this problem. He also maintained that the Convention for the Elimination of all Forms of Discrimination against Women was introduced into the internal legal system of Benin.
104. He declared that domestic violence has drastically reduced so there was a great awareness and many are those who prefer to settle disagreements within the family level.

Meeting at the Ministry of Justice

105. The delegation held a meeting with the Director in charge of Human Rights at the Ministry of Justice. After the introductions by the ACHPR and the purpose of the mission, Commissioner Yeung Sik Yuen informed the Director that the ACHPR wanted to know the role of the Ministry of Justice in the promotion and protection of human rights in the country and to also

- get information on the conditions for the reduction of sentences of prisoners, the appointment and conditions of service of judges and the position of the Beninese Government on capital punishment.
106. In the area of prison sentences, the Director informed the delegation that the prisoners are regularly and generally examined every six months so as to determine their attitude. Those who exhibit an exemplary attitude could be recommended for sentence reduction. He also stated that the Government is aware of the overcrowded prison conditions and has plans to build ten new prisons in the next ten years.
 107. Concerning capital punishment, the Director informed the delegation that the country is abiding by a moratorium on capital punishment and that discussions were ongoing in government in order to ensure total abolition. He indicated that in 2004, the Government had organized a meeting to discuss the abolition of capital punishment. At this meeting two groups emerged, one asking for the abolition of the death penalty and another fighting for its perpetuation. The Government decided to be neutral, not rooting for the abolitionists and the anti-abolitionists by opting for the maintenance of the moratorium until an in-depth discussions are completed. The Director also informed the delegation that the last execution in Benin goes as far back as 1987.
 108. On the appointment and conditions of service of the judges, the Director informed the delegation that the judges are appointed by the High Judicial Council, an organ also tasked with ensuring that the independence of the judiciary is guaranteed and vested with powers for appointments and disciplinary matters. He stated that Benin has more than 200 judges.
 109. Commissioner Yeung Sik Yuen tackled the issue of international human rights obligations of Benin and commended the country for submitting her last periodic report to the ACHPR.

Meeting with the Ministry of Women and Children's Affairs

110. The delegation met the Permanent Secretary of the Ministry of Women and Children's Affairs. At the meeting, Commissioner Yeung Sik Yuen raised a lot of issues including allegations of child trafficking, particularly the trafficking of 40 children to Gabon in 2006, the measures taken by the Government as follow-up to reports of domestic violence especially whether there have been legal proceedings, prohibition of marital rape, whether headways have been made in stemming FGM as well as child labour.
111. On the question of marital rape, the Permanent Secretary explained it is more within the jurisdiction of the Ministry of Justice but added that in Benin, laws that sanction domestic violence do exist and the population has been sensitized on them. The difficulty would arise from the fact that sometimes people are shy to approach the institutions set up to help them

- as they prefer to settle disagreements on violence as a personal and or/family issue.
112. On FGM, the Permanent Secretary indicated that some people were arrested in the North of the country for having engaged in the practice. He however could not tell whether these people were brought before court, tried and sentenced in line with the 2003 law.
 113. Concerning child trafficking, he declared that it was difficult both within Benin or between Benin and the outside world in view of the numerous mechanisms put in place to combat this phenomenon. These include, inter alia, the obligation to seek the consent of the parents and a written commitment to guarantee the protection of the child. He stated that persons who violate this law are arrested and legal action taken against them.
 114. He said the Government, with the support of other partners had set up Monitoring Units, among others, to keep a track on the movement of children to ensure their protection. The monitoring units were created in the Communes and they are made up of different stakeholders working in the field of child rights protection including ministerial departments, international and local NGOs. Each unit meets once in a month to evaluate the condition of children in the country and the problems they faced.
 115. Apart from the Monitoring Units, the Government set up a Commission on the Rights of Children and is in the process of creating a data base on the rights of children in the country.
 116. Commissioner Yeung Sik Yuen encouraged the Government to continue making efforts for the promotion and protection of children's rights and requested the Ministry to regularly use the media in fighting against trafficking and exploitation of women and children.

FRIDAY 29 AUGUST 2008

Meeting with the Secretary General of the Beninese Human Rights Commission

117. Commissioner Yeung Sik Yuen had a meeting with Mr. Antonin Moussouvikpo, Secretary General of the Beninese Human Rights Commission (CBDH).
118. Commissioner Yeung Sik Yuen indicated that the ACHPR was aware of the difficulties faced by the CBDH.
119. Mr. Moussouvikpo informed the delegation that the CBDH is confronted with both internal and external problems. Internally, the CBDH is faced with manpower shortage as some of the members had died and others transferred outside the country like in the case of its Chairman. The external problems stem from the tensions between the CBDH and the

Ministry of Human Rights (that is the Ministry of Justice). Mr. Moussouvikpo recalled that the CBDH was established in 1989, before the advent of democracy in Benin, in very difficult circumstances marked by suspicion, and it operated more or less like an NGO without any grant from the Government. To promote political changes in the country, steps were taken to clarify the status of the CBDH vis-à-vis the State. However, the recent creation of a National Human Rights Commission by (Decree No 97/603) under the Ministry of Justice complicated matters. The NHRC carries out certain functions that are within the purview of the CBDH, that provides advice to public authorities on all human rights issues, to NGOs, relevant Government departments and the CBDH are represented on there. The NHRC meets two times a year for ordinary sessions. The Department of Human Rights at the Ministry of Justice is the Permanent Secretariat.

120. Under the terms of the law that created it, the financial resources of the CBDH shall come from State grants, contributions by the members, and from gifts and bequests. In actual fact, the CBDH has been managed through the contributions of the members and gifts and bequests have rarely been provided. It is now facing a serious financial crunch. For the past five months, it has not had any Permanent Secretariat as it is not in a position to pay its staff, neither has it been able to produce any annual report for the past five years.

Meeting at the Cotonou Civil Prison

121. The delegation visited the Cotonou Civil Prison and had discussions with the Superintendent of the prison, Mr. François Houkpe and Mad. Huguette Falana, Director of Prison Administration.
122. The superintendent explained that at that material moment of the visit, there were 2485 prisoners in the Cotonou civil prison – a facility with a capacity of between 800 to 1000 prisoners – made up 1520 accused persons, 769 defendants, 45 indictees, 70 remand prisoners, and 81 convicted prisoners. This prison population comprises 78 minors, 142 women, and 16 condemned prisoners. A large number of prisoners can be explained by the fact that most of the convicted prisoners were transferred to the new Akponissrete international civil prison in Porto Novo. Even the 81 convicted prisoners in the Civil Prison in Cotonou should, in principle, have been transferred to the Porto Novo and not kept in Cotonou because their prison terms are nearing completion.
123. The Superintendent also indicated that the remand in custody could last for two years and the requests for bail can be made only when the investigation has been completed and that the provisional release does not interfere with the evidence produced. He informed the delegation that the Cotonou Civil Prison was opened in the 1960s to accommodate 400 prisoners and that extension works were carried out on the facility. The

Prison has a television in each block, games (draughts, ludo etc), workshops (dressmaking, soap making, milling, baking of cakes, etc.), a library, a chapel, a mosque, a health centre, a playing ground. The condemned persons are separated from the other detainees and there is the women's section and another for female minors.

124. The Superintendent declared that the overpopulation was also due to the strike action by the judges and stated that 52 prisoners were to be freed the day the ACHPR delegation was visiting the facility.
125. The security mechanism in Prison comprises 15 gendarmes and a reinforcement of 30 military personnel who guard the strategic points and the external fencing.
126. The Superintendent indicated that one meal per day was served the inmates. In addition to this daily ration, the minor detainees receive an additional food from the World Food Programme.
127. The delegation then visited the different sections and facilities at the Prison.

PART THREE: CONCLUSIONS, OBSERVATIONS & RECOMMENDATIONS

Conclusions and Observations

128. Immediately the Republic of Benin agreed to the mission, a Committee was put in place to work closely with the Secretariat of the ACHPR in order to make adequate preparation for the mission. Logistical problems, particularly theft problems retarded the mission by one day, that was 26 August instead of 25 August as scheduled.
129. Moreover, the Beninese Government was on recess at the time we undertook the mission, which did not allow the delegation to meet the topmost authorities of the country, especially members of Government.
130. Communication problems between the preparatory Committee and the other stakeholders to schedule meetings also delayed the mission's programme, thus compelling the delegation to either cancel some appointments as some of the people scheduled to meet the delegation were not informed in advance or meet with people of lower rank. Thus, the delegation could not meet the media and the only press conference arranged with the State media could not take place as a result of communication problems between the officials of this media house and the preparatory Committee. The delegation could also not meet the Ministers of Health, Interior, the Speaker of the National Assembly, the President of the Constitutional Court among other top functionaries.
131. Moreover, the delegation could not have a debriefing with the Minister of Justice at the end of the mission to brief him about the developments and the preliminary conclusions of the mission. As the delegation could not debrief the Minister, it deemed it inappropriate to hold any press conference and in lieu of that it issued a press statement.
132. These few problems did not prevent the mission from progressing smoothly. The different meetings held with the various stakeholders enabled the delegation to have a general overview of the human rights situation in Benin, to make observations and to identify the areas or efforts that needed to be deployed.
133. The different actors do agree and recognise that the human rights situation has improved in the country since the Conference which brought together peoples of all walks of life in 1990 and the start of the democratic process. Civil and political rights are respected and that has given birth to a vibrant media, political parties, trade unions and a growing civil society. Separation of powers is recognised and the different branches of Government work independently. The Judiciary is independent and the Constitutional Court sees to the respect of separation of powers and fundamental freedoms. Other institutions supporting democracy have been put in place, especially the Beninese Human Rights Commission and the National Anti- Corruption Observatory.

134. In the course of the mission, the delegation had discussions with members of Government including the Minister of Justice , Keeper of the Seals , senior officials in the Ministries of Maternal and Primary Education, Interior, of Children and Family Affairs, officials of other State Institutions among which are the Director General of the Gendarmerie, the Deputy Director General of the Police Service, the Permanent Secretary of the Ministry of Foreign Affairs , the National Anti-Corruption Observatory, the Director of Prisons Administration and the Superintendent of the Cotonou Civil Prison. All these State officials talked to the delegation about the human rights situation in the country and efforts being made by the Government to enable Beninese people enjoy their human rights, civil, political, economic, social and cultural.
135. The delegation also held discussions with non-governmental organizations and trade unions which briefed them about their activities and the difficulties that they face in their work.
136. The delegation also visited the Cotonou Civil Prison. The delegation held discussions with the Superintendant of the prison and the Director of Prisons Administration. These officials informed the delegation about the difficulties the country faced that had impacted negatively on prison conditions and briefed them about efforts being made to improve detention conditions. The delegation was able to visit the facilities and held discussions with the inmates concerning their detention conditions.
137. The delegation is satisfied with efforts that are being made for the enjoyment of rights by Beninese as guaranteed in the Charter. The delegation particularly commends the progress in the area of civil and political rights since the inception of the democratic process in 1990, which efforts have enabled institutions to be put in place to check abuses, notably, an independent Judiciary, the emergence of a vibrant civil society and a free press. The delegation is however disturbed about the ineffectiveness of the National Human Rights Commission, an institution whose role is critical in the promotion of human and peoples' rights. Efforts still need to be deployed in trade unionism, especially in the private sector where certain firms are against any attempt to form trade unions.
138. The delegation also observed efforts being made in the enjoyment of economic, social and cultural rights especially free education for all at the primary and tertiary levels and in the field of health , free health care for children under five years and free delivery and obstetrical care.
139. The delegation also took careful note that Benin had submitted its periodic report covering 2000 -2008 in line with Article 62 of the African Charter.

Recommendations

140. The ACHPR recommends to the Benin Government to take the following measures for the improvement of the human rights situation in the country:

- Submit regular reports to the Commission , that is every two years to ensure that there is constant dialogue between the Benin Government and the African Commission on the human rights situation in Benin ;
- Ratify the African human rights instruments to which the State has not yet acceded ;
- Take measures to align its legislation with international human rights obligations ;
- Take measures to guarantee the participation of women in the management of public affairs and their representation in positions of responsibility ;
- Take appropriate measures with the support of its partners to institute free secondary education ;
- Take measures to enable all workers to exercise their union rights especially the private sector, by taking appropriate steps where necessary in applying sanctions against employers who oppose the formation of workers unions in their companies;
- Take measures to protect workers, especially union leaders from unlawful dismissals ;
- Reactivate the Beninese National Human Rights Commission through the passage of a new law in conformity with the Paris Principles, by adequately resourcing the CBDH to enhance its operations and by clearly defining the mandates of the CBDH and the Human Rights Consultative Committee to avoid jurisdictional conflict between the two institutions ;
- Decongest the Cotonou Civil Prison by speeding up the process of transferring the condemned prisoners in the the Akponissrete Prison in Porto Novo ;
- Take measures to ensure the education of minors in the prisons ;
- Pass an anti-corruption legislation by incorporating international anti-corruption instruments to which Benin has acceded into the Benin legal system by defining corruption and related practices and providing sanctions applicable in the event of corrupt practices ;
- Reinforce the Anti-Corruption Observatory by providing it with adequate human, financial and material resources to enable it carry out its mission.

ANNEXES

- Mission programme
- Press Statement