

BENIN

CAT A/57/44 (2002)

30. The Committee considered the initial report of Benin (CAT/C/21/Add.3) at its 489th and 492nd meetings (CAT/C/SR.489 and 492), held on 15 and 16 November 2001, and adopted the following conclusions and recommendations.

A. Introduction

31. The Committee welcomes the initial report of Benin, although it notes that the report, due on 10 April 1993, was submitted seven years late. The report was prepared in accordance with the guidelines regarding the form and contents of initial reports of States parties. The Committee nevertheless notes that it does not contain specific examples of the implementation of the Convention. However, the Committee notes, as the head of the delegation explained, that the report refers only to the so-called "revolutionary" period and a short period following the promulgation of the 1990 Constitution, thus preventing the Committee from evaluating the current situation with regard to the implementation of the Convention.

32. The Committee welcomes the information provided by the delegation of Benin and the frank, honest and constructive dialogue which took place.

B. Positive aspects

33. The Committee takes note with satisfaction of the following elements:

- (a) The standing of the international treaties ratified by Benin under the Beninese Constitution, which ranks them higher than domestic law;
- (b) The strict prohibition of the practice of torture provided for in article 18 of the Constitution;
- (c) The ratification by the State party of a set of international treaties relating to the protection of human rights. The Committee takes note in particular of the signing on 24 September 1999 of the Rome Statute establishing the International Criminal Court;
- (d) The State party's commitment to put an end to the large-scale violations of human rights which took place during the so-called "revolutionary" period and to provide better protection for human rights through the adoption of legislation and regulations;
- (e) Article 558 of the Code of Criminal Procedure, which appears to be in conformity with the provisions of article 5, paragraph 2, of the Convention on universal jurisdiction;
- (f) The establishment of the Benin Human Rights Commission and of the Human Rights Department in the Ministry of Justice and Legislation, by Decree No. 97/30 of 29 January 1997;
- (g) The compensation of some persons who were subjected to torture during the so-called

"revolutionary" period, based on the recommendations of the Interministerial Commission set up by Degree No. 91-95 of 27 May 1991;

(h) The improvement of physical conditions in prisons inter alia through the construction of a new prison with a capacity of 1,000 prisoners.

C. Subjects of concern

34. The Committee is concerned about the following:

(a) The absence of a definition of torture strictly in keeping with article 1 of the Convention, and the lack of specific penalties for the crime of torture, thus creating a gap that does not allow for the full implementation of the Convention;

(b) Citizens' apparent mistrust of the police and justice system and the resulting recurring problem of mob justice;

(c) Overcrowding and deplorable physical conditions in prisons, particularly the lack of hygiene, adequate food or appropriate medical care, despite efforts by the State party and assistance from non-governmental organizations;

(d) The lack of attention paid to human rights, especially to the prohibition of torture, in training programmes for civilian and military law enforcement personnel and medical personnel, despite positive initiatives by the Benin Human Rights Commission and the Human Rights League.

(e) The possibility, under article 18 of the Constitution, of extending police custody for up to eight days in exceptional cases;

(f) The existence in Beninese legislation of legal provisions (arts. 327 and 328 of the Criminal Code) exonerating anyone found guilty of offences or crimes when such acts were ordered in accordance with the law or by a legitimate authority or were committed in self-defence, which is contrary to the provisions of article 2, paragraph 2, of the Convention with regard to torture;

(g) The lack of medical and psychological rehabilitation programmes for torture victims;

(h) The possibility of keeping female detainees incommunicado for three months;

(i) The danger that the Amnesty Law, adopted prior to the adoption of the Convention against Torture, might give rise to a situation of impunity.

D. Recommendations

35. The Committee makes the following recommendations:

- (a) In order genuinely to fulfil its treaty obligations, the State party must adopt a definition of torture that is fully in keeping with article 1 of the Convention and must provide for appropriate penalties;
- (b) Measures must be taken to establish regulations on the right of torture victims to fair and adequate compensation from the State and to set up programmes for victims' physical and psychological rehabilitation;
- (c) The State party should adopt the necessary legislative measures to bring the provisions of the Criminal Code into line with article 2 of the Convention;
- (d) The State party should strengthen human rights education and promotion activities, particularly on the prohibition of torture, for law enforcement officials and medical personnel;
- (e) The State party should take measures to eradicate the practice of mob justice;
- (f) The Committee reminds the State party of its obligation to conduct immediate and impartial investigations and to prosecute persons suspected of human rights violations, particularly torture;
- (g) The State party should continue to take steps to improve physical conditions in prisons and substantially to reduce the duration of incommunicado detention;
- (h) The Committee encourages the State party to make the declarations provided for in articles 21 and 22 of the Convention, in order to give better effect to its good intentions to ensure respect for human rights in general and the prohibition of torture in particular;
- (i) The State party should widely disseminate the Committee's conclusions and recommendations concerning Benin;
- (j) The State party should submit its second periodic report, which should have been submitted in April 1997, as soon as possible, in order to comply with the reporting frequency stipulated in article 19 of the Convention.