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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT**

**Concluding observations of the Committee on
Economic, Social and Cultural Rights**

BENIN

1. The Committee on Economic, Social and Cultural Rights considered the second periodic report of Benin on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/BEN/2) at its 10th and 11th meetings, held on 5 May 2008 (E/C.12/2008/SR.10 and 11), and adopted, at its 25th meeting, held on 16 May 2008, the following concluding observations.

A. Introduction

2. The Committee notes the timely submission of the second periodic report of Benin, which gives a straightforward account of the problems encountered by the State party in implementing the Covenant. Nevertheless, it finds that most of the written replies to the list of issues (E/C.12/Q/BEN/2 and Add.1) were not sufficiently detailed.

3. The Committee notes with regret that the late arrival of the State party's delegation prevented a truly constructive dialogue with the delegation owing to the lack of time to deal with all the issues that the Committee would have liked to raise.

B. Positive aspects

4. The Committee welcomes the legislative measures adopted by the State party to promote equality between men and women and to suppress exploitation of and sexual violence against women and children; in particular it welcomes:

(a) The adoption of Act No. 2002-07 on the Personal and Family Code of 24 August 2004, which prohibits polygamy, sets the marriageable age at 18 for men and women and provides, in article 1030, that “custom ceases to have the force of law in all matters covered by the present Code”;

(b) The adoption of Act No. 2003-03 of 3 March 2003 criminalizing the practice of female genital mutilation and Act No. 2003-04 of 3 March 2003 on sexual and reproductive health, article 9 of which prohibits all forms of violence against and sexual abuse of the human person;

(c) The adoption of Act No. 2006-04 of 5 April 2006 on conditions for the displacement of minors and suppression of child trafficking and the drafting of a national plan of action to combat trafficking in children for labour exploitation.

5. The Committee welcomes the adoption of Act No. 2005-31 of 10 April 2006 on the prevention, care and control of HIV/AIDS and of several framework documents which provide for the care of children and orphans at risk. It also welcomes the improvement in the HIV/AIDS prevalence rate, which fell from 4.1 per cent in 2001 to 2 per cent in 2005, and the provision of free antiretroviral drugs to persons affected by HIV/AIDS.

6. The Committee welcomes the fact that preschool and primary education is now free of charge in the State party’s public education institutions.

C. Factors and difficulties impeding the implementation of the Covenant

7. The Committee is of the view that there are no significant factors or difficulties impeding implementation of the Covenant in the State party.

D. Principal subjects of concern

8. The Committee notes with concern that the Benin Human Rights Commission has the status of a non-governmental organization and that its independence and funding are not adequately ensured.

9. The Committee regrets the lack of information on the direct or indirect applicability of the Covenant and on the court decisions of the State party which refer to the provisions of the Covenant.

10. The Committee notes with regret that the lack of disaggregated and updated statistical data on the extent to which the rights set forth in the Covenant are enjoyed prevents it from accurately assessing the State party’s implementation of the provisions of the Covenant.

11. The Committee is concerned that children born out of wedlock have the same rights and obligations as “legitimate children” only if they are recognized by their father and under certain conditions relating to inheritance rights (see E/C.12/BEN/2, para. 38).
12. The Committee is concerned by information that 25 per cent of Beninese children have not been registered at birth, which reportedly hinders their access to health services and education.
13. The Committee notes with concern that there is no specific law prohibiting discrimination against persons with disabilities and introducing legal obligations which guarantee access to buildings for such persons.
14. The Committee is concerned at the persistence of stereotyped traditions and attitudes that have an adverse effect on women’s equal enjoyment of economic, social and cultural rights, despite the adoption of the laws referred to in paragraph 4 above.
15. The Committee notes with concern the very high unemployment rate in the formal labour market. The Committee is also concerned that the informal sector accounts for 95 per cent of the working population, more than half of whom are women.
16. The Committee is concerned that the number of workers covered by the social security system established under Act No. 98-019 of 21 March 2003 on the Social Security Code is limited, that the law to provide for the organization and operation of the special scheme for self-employed farmers and workers in the informal economy has not yet been adopted and that benefits under and membership in the Mutual Social Security Association for the Informal Sector are inadequate.
17. The Committee is extremely concerned at the persistence of domestic violence, including marital rape, particularly in the context of forced marriages, and at the lack of any provision which specifically makes domestic violence a criminal offence. It is also greatly concerned about the reluctance of victims to file complaints and of judges, prosecutors and police officers to intervene under the existing provisions of criminal law.
18. The Committee is concerned at the high number of persons trafficked from and within the State party, particularly persons in transit through its territory, for purposes of sexual exploitation and forced labour. It is concerned that there are no specific provisions of criminal law prohibiting trafficking in adults.
19. The Committee is deeply concerned at reports of killings of so-called “witch children”, including infants with disabilities or whose mothers die following childbirth, which are motivated by traditional beliefs that persist among some groups in northern Benin.
20. The Committee is deeply concerned about the prevalence of child labour, including economic exploitation and frequent abuse of children working as domestic servants or “vidomegons”.
21. The Committee reiterates its concern that a significant percentage of the population is living below the national poverty line and that 73 per cent of Benin’s people live on less than two dollars a day.

22. The Committee notes with concern that 43 per cent of the population are suffering from chronic malnutrition.
23. The Committee is deeply concerned about reports of deplorable prison conditions, including overcrowding, and that persons deprived of their liberty receive only one meal of substandard quantity and quality per day.
24. The Committee notes with concern that public housing for disadvantaged and marginalized individuals and families remains inadequate, as most such housing is reserved for public sector employees.
25. The Committee is very concerned about the high maternal and infant mortality rate, especially in regions where health infrastructure is inadequate, and about the fact that women and girls have limited access to reproductive health services and antenatal assistance in rural areas.
26. The Committee continues to be concerned that, despite the State party's efforts to combat the practice of female genital mutilation (excision), this practice, which violates the rights and physical integrity of women, persists in certain regions of Benin and that the law criminalizing female genital mutilation and the law on sexual and reproductive health have not been enforced.
27. The Committee is concerned about reports of low secondary school attendance and low primary school attendance in rural areas, particularly with respect to girls.
28. The Committee notes with regret the lack of adequate information on steps taken by the State party to protect its linguistic and cultural heritage, in particular the various languages and dialects.

E. Suggestions and recommendations

29. The Committee recommends that the State party strengthen the legal status and ensure the independence and adequate funding of the Benin Human Rights Commission, in accordance with the Paris Principles (General Assembly resolution 48/134).
30. The Committee recommends that the State party ensure that the Covenant rights are directly applicable in domestic courts, that legal and judicial training take account of the justiciability of these rights, that the use of the Covenant as a source of domestic law is promoted and that case law on the application of the Covenant by domestic courts is systematically collected. It invites the State party to include in its next periodic report information on judicial decisions which give effect to the Covenant rights.
31. The Committee recommends that the State party include in its next periodic report updated statistical data on the enjoyment of Covenant rights, broken down by age, gender, urban and rural area and ethnic group. Particular attention should be given to disadvantaged and marginalized groups.
32. The Committee invites the State party to consider amending the Personal and Family Code with a view to guaranteeing full equality between children born in and out of wedlock and remove the phrase "legitimate children" from legal language.

33. The Committee recommends that the State party strengthen measures to ensure that all children are registered at birth by requiring public authorities and health and education services to register them, issuing birth certificates to unregistered children and abolishing registration fees.

34. The Committee invites the State party to consider adopting a specific law guaranteeing the rights of persons with disabilities and prohibiting all forms of discrimination against them, and to consider ratifying the Convention on the Rights of Persons with Disabilities of 13 December 2006 and the Optional Protocol thereto.

35. The Committee invites the State party to take steps to overcome stereotyped traditions and attitudes with respect to women and their role in society and to include in its next periodic report additional information on measures taken and their effectiveness.

36. The Committee invites the State party to include in its next periodic report updated data on the unemployment rate, broken down by gender, age, urban and rural area and ethnic group. The State party is also requested to provide information on the results of measures taken to increase employment opportunities in the formal sector and take measures to shrink the informal sector.

37. The Committee recommends that the State party ensure that all persons, regardless of the sector in which they are employed, are insured under social security systems that provide minimum adequate coverage against major life risks. In this context, the State party is invited to consider ratifying International Labour Organization (ILO) Convention No. 102 (1952) concerning Minimum Standards of Social Security.

38. The Committee urges the State party to adopt criminal law provisions that refer explicitly to domestic violence and marital rape as offences and provide for protection orders, to ensure that judges, prosecutors and police officers undergo training in the strict application of the relevant criminal law provisions and to establish victim assistance programmes. The Committee also recommends that the State party step up efforts to heighten public awareness in order to dispel the traditional belief that this phenomenon is a private family matter. It also requests the State party to provide in its next periodic report updated data on the number and nature of reported cases of domestic violence and of convictions and criminal sanctions against the perpetrators.

39. The Committee recommends that the State party continue and step up its efforts to combat human trafficking by ensuring adequate access to victim assistance and witness protection programmes and by providing training for police officers, prosecutors and judges in the strict enforcement of the relevant criminal law provisions. The Committee also recommends that the State party consider adopting a law against trafficking in adults, allocate sufficient funds for implementation of the national plan of action to combat child trafficking and for local child protection committees and increase cooperation with neighbouring States.

40. The Committee recommends that the State party step up its efforts to prevent and halt killings of so-called “witch children” by including provisions in criminal law to suppress this practice and organizing campaigns to heighten awareness of its criminal nature among local authorities, doctors, midwives and the population at large. The State party is requested to include in its next periodic report updated statistical data on the number of cases of infanticide reported to the police, the number of perpetrators brought to justice and the penalties imposed.

41. The Committee urges the State party to indicate in its next periodic report the measures taken to combat child labour and end the practice of “vidomegon”, and the outcome of such measures, and provide information on assistance given to the victims of these practices and their families.

42. The Committee recommends that the State party allocate sufficient funding for the implementation of its poverty reduction strategy, include in its next periodic report information on the results of steps taken under the strategy, ensure that economic, social and cultural rights are fully integrated into the strategy and specifically address the needs of disadvantaged and marginalized individuals and groups. In this regard, the State party is referred to the Committee’s statement on “Poverty and the International Covenant on Economic, Social and Cultural Rights” (E/C.12/2001/10).

43. The Committee recommends that the State party step up its efforts to offset the negative impact of rising food prices on family budgets, especially in the case of disadvantaged and marginalized individuals and families, in order to combat malnutrition and hunger.

44. The Committee recommends that the State party step up its efforts to combat prison overcrowding, in particular by focusing on alternatives to custodial measures, and ensure that all persons deprived of their liberty receive minimum nutrition, by increasing the prison food budget as well as the number of food quality checks in prisons and remand centres.

45. The Committee recommends that the State party include in its next periodic report information on the results of the implementation of its land security policy aimed at providing adequate housing for everyone, particularly disadvantaged and marginalized individuals and families, as well as updated, disaggregated data on access to public housing, homelessness and forced evictions.

46. The Committee recommends that the State party step up its efforts to ensure that pregnant women and girls receive proper medical care during pregnancy and during and after childbirth and have access to reproductive health services and antenatal assistance, including in rural areas, and that they are made aware of the importance of sexual and reproductive health. The Committee also recommends that the health of infants be monitored regularly.

47. The Committee recommends that the State party provide training for judges, prosecutors and police officers in the strict enforcement of the law prohibiting female genital mutilation and the law on sexual and reproductive health; conduct awareness-raising campaigns to combat and eradicate this traditional practice, which violates the rights and physical integrity of women; and strengthen programmes providing assistance to victims and reorientation and financial support to practitioners of excision who halt their activities. The Committee requests the State party to provide it with information in its next periodic report on the measures taken, together with updated, disaggregated data on the number of reported cases of excision, convictions and penalties imposed on the persons responsible.

48. The Committee recommends that the State party take effective measures to increase the primary and secondary school enrolment rate, particularly in rural areas and with respect to girls,

by increasing the number of classrooms and teachers, funding the provision of school textbooks and lunches and conducting public campaigns to promote awareness of the importance of education, including for girls.

49. The Committee requests the State party to include in its next periodic report information on measures taken to protect its linguistic and cultural heritage further to the recommendation contained in paragraph 47 of the Committee's concluding observations on the initial report of the State party (E/C.12/1/Add.78).

50. The Committee recommends that the State party include in its next periodic report updated information on the public and private health system, including with respect to basic health-care coverage for the entire population.

51. The Committee invites the State party to consider ratifying ILO Convention No. 169 (1989) concerning Indigenous and Tribal Peoples in Independent Countries.

52. The Committee invites the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

53. The Committee requests the State party to disseminate these concluding observations widely at all levels of society, particularly among government officials and judicial authorities, to translate and publicize them as far as possible in the languages and dialects of Benin and to inform the Committee in its next periodic report about the steps taken to implement them. It also encourages the State party to invite non-governmental organizations and other members of civil society to participate in the process of discussion at the national level prior to the submission of its next periodic report.

54. The Committee invites the State party to update its core document in accordance with the harmonized guidelines for the preparation of a common core document (HRI/GEN/2/Rev.4, chap. I, paras. 32 to 59).

55. Lastly, the Committee requests the State party to submit its third periodic report no later than 30 June 2010.
