



**International covenant
on civil and
political rights**

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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Initial report

BENIN*

[3 February 2004]

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Introduction

1. The Republic of Benin acquired international sovereignty on 1 August 1960 and went through a period of political instability culminating in the adoption, in 1974, of Marxist-Leninist ideology. This policy led to massive violations of human rights and an acute economic crisis: the banking system collapsed, internal and external debt accumulated, output capacity dwindled and the most vulnerable sectors of society sank into poverty as a result of rising unemployment.

2. This situation was one of the factors behind the holding, in February 1990, of the Conference of the Active Forces (*Forces Vives* of the Nation) which paved the way for the establishment of a State governed by the rule of law and guaranteeing fundamental freedoms, ushered in pluralist democracy and steered the economy towards liberalism.

3. In 1989, in an attempt to put an end to this difficult situation, the Government undertook a structural adjustment programme with the assistance of the World Bank and the International Monetary Fund. Benin is currently implementing its third structural adjustment programme. These programmes have given priority to macroeconomic restructuring at the expense of the social sectors. Moreover, the 50 per cent devaluation of the CFA franc (CFAF) in January 1994 lowered consumer purchasing power.

4. The Beninese economy is proving slow to get off the ground, with an agricultural sector that uses primitive techniques, an industrial sector that is still in its infancy, a bloated tertiary sector that is hard to control and the absence of an effective government policy on coordination, problems that have all been exacerbated by the adverse effects of the different structural adjustment programmes.

5. The development of a society requires all fundamental rights to be honoured, the nation's income, wealth and natural resources to be fairly distributed, and people to be entitled to defend their material moral and professional interests.

6. Being aware of this, and eager to secure these rights for all its citizens, the Government of the Republic of Benin has acceded to a number of international human rights instruments, including in particular, on 12 March 1992, the International Covenant on Civil and Political Rights.

7. With a view to translating this will into concrete action, the Government has gradually, to the extent that its capacities allow, taken both legal and practical steps to achieve that goal. The present initial report, which covers the period from 1992 to 1996, outlines the efforts that Benin has made to meet the obligations it assumed on becoming a party to the International Covenant on Civil and Political Rights.

8. The presentation of the Republic of Benin is divided into three parts, namely:

- The land, people and demography;
- The general political structure;
- The general legal framework for the protection of human rights.

I. LAND, PEOPLE AND DEMOGRAPHY

9. Basic facts:

Area:	114,763 km ²
Administrative capital:	Porto-Novo
Economic capital:	Cotonou
Date of independence:	1 August 1960
Administrative divisions:	12 departments and 77 communes
Working language:	French

10. The Republic of Benin is situated in West Africa. It is bordered by Niger to the north, Burkina Faso to the north-west, Togo to the west, the Atlantic Ocean to the south and Nigeria to the east.

11. According to the preliminary results of the third general population and housing census, Benin had a population of 6,753,569 inhabitants in February 2002. The population is growing rapidly, at an average of 2.8 per cent per year.

12. There are eight major ethnic groups in Benin, namely: the Adja, Bariba, Betamaribé, Dendi, Fon, Peulh, Yoa-Lokpa and Yoruba. The majority groups are the Fon and related groups (42.2 per cent), the Adja and related groups (15.6 per cent) and the Yoruba and related groups (12.1 per cent). The population is unevenly distributed throughout the country. The average population density is 59 persons per square kilometre; 52 per cent of the total population is concentrated in the country's six southern departments, on one tenth of its surface area.

13. Benin's population is young and predominantly female. A breakdown by age group shows that 48 per cent of the population are under 15 years of age, while only 4 per cent are aged 65 and over. In 2002, 51.35 per cent of the population were women. There are 94.7 males for every 100 females.

14. Life expectancy at birth is 53.4 years: 55.2 years for women and 51.7 for men.

15. Several religions coexist in Benin. They include animism, practised by 42 per cent of the population and Christianity, practised by 35 per cent, followed by Islam, which is practised by 20.6 per cent. Some 1.9 per cent of the population follow other religions and 0.5 per cent have no stated religion. Numerous sects have sprung up in recent years.

16. Benin is among a group of countries with low incomes and low human development indices. It ranked 158th out of 173 countries on the Human Development Index in 2000.

17. In 2000, the country's per capita Gross Domestic Product was estimated at CFAF 121,583.

18. Although, overall, Benin's macroeconomic situation gradually improved over the decade 1990-2000, this economic performance has had no significant impact on social conditions in the country or on people's living standards.

II. GENERAL POLITICAL STRUCTURE

19. The colony of Dahomey was created in 1894 by the merging of the ancient Kingdom of Abomey and regions to the north with territories already occupied by the French in the south, such as Allada, Porto Novo, Savi and Ouidah. The colony was administered by the governor of Porto Novo and controlled by the Government of French West Africa, whose Governor-General resided in Dakar. Before independence in 1960, Dahomey had a succession of 24 governors.

20. Dahomey became independent on 1 August 1960. From that date onwards, it was to face many difficulties as it learned the craft of exercising national sovereignty. Several Governments rose and fell in a series of coups d'état and within the space of 12 years the country had as many as 10 heads of State.

21. The country entered a new political era following the coup d'état of 25 October 1972.

22. For the 17 years from 1972 to 1989, Benin was ruled by a Marxist military regime with a single party, the People's Revolutionary Party of Benin, social dialogue with the trade unions, democratic centralism, Marxism-Leninism as the guiding political theory, the nationalization of the active sectors of the economy, etc. On 30 November 1975, the Republic of Dahomey became the People's Republic of Benin. From 1986 onwards, the country entered a prolonged economic crisis, which came to a head in 1989 when enormous financial difficulties made it impossible for the State to continue meeting the costs of sovereignty. The bankruptcy of the country's financial institutions and the ensuing failure to pay salaries triggered a series of strikes throughout the country. In 1990, all government departments ground to a halt, until the National Conference, also known as the Conference of the Active Forces of the Nation, took place.

23. Following the Conference of the Active Forces of the Nation, in February 1990, the People's Republic of Benin became the Republic of Benin. A new transitional Government ruled the country until the democratic presidential elections of March 1991. The Conference of the Active Forces opted for democracy and a full multiparty political system, choices that were later enshrined in the 1990 Constitution.

24. Since then, elections have been held every five years to appoint the President of the Republic and every four years to appoint the people's representatives to the National Assembly. The presidential and legislative elections that have been held testify to the fact that democratic procedures are gradually becoming part of the collective Beninese consciousness. All these elections passed off without any major incident.

III. GENERAL LEGAL FRAMEWORK

25. The Constitution of 11 December 1990 provides a framework for the protection of women against all forms of discrimination. Through the rules it sets forth, the Constitution has brought about improvements in the sense of more positive rights and freedoms for Beninese citizens.
26. The Constitution is the supreme law of the State. Title II is devoted to the rights and duties of the individual; article 114 provides for the institution of the Constitutional Court as the highest jurisdiction of the State in constitutional matters. The Court rules upon the constitutionality of laws and is responsible for guaranteeing fundamental individual rights and civil liberties.
27. The Constitution solemnly affirms the country's determination "to create a State governed by the rule of law and pluralist democracy, in which fundamental human rights, civil liberties, the dignity of the individual and justice are guaranteed, protected and promoted as a necessary condition for the truly harmonious development of each Beninese in the temporal, cultural and spiritual spheres".
28. Benin has incorporated into its Constitution (art. 7) the rights and duties guaranteed by the African Charter on Human and People's Rights, as adopted by the Organization of African Unity on 27 June 1981 and ratified by Benin on 20 January 1986. Moreover, referring to human rights as set forth in the Universal Declaration of Human Rights of 1948, the Constitution reaffirms the Beninese people's attachment to all international instruments, which take precedence over domestic law.
29. By declaring in article 8 that the human person is sacred and inviolable, the Constitution reaffirms the State's commitment to guaranteeing all human beings equal access to education, health, culture, information, vocational training and employment. Article 9 recognizes the right of all human beings to the development and full flowering of the individual in the material, temporal, intellectual and spiritual spheres.
30. The right to life, liberty, security and integrity of person is guaranteed by article 15. Article 18 prohibits torture and other cruel, inhuman or degrading treatment or punishment.
31. Article 36 provides that "Each Beninese citizen has the duty to respect his fellow men without any discrimination and to maintain such relations with others as are conducive to safeguarding, strengthening and promoting respect, dialogue and mutual tolerance in the interests of peace and national cohesion."
32. Reference may also be made to article 98 of the Constitution, which recognizes that matters pertaining, inter alia, to individuals' nationality, status and legal capacity; inheritance and matrimonial regimes; and the procedure for acknowledging tradition and custom and bringing them into line with domestic law, all fall within the domain of the law.
33. To this legal arsenal should be added all the provisions of the African Charter on Human and People's Rights, which forms an integral part of the Constitution and articles 2 and 18 of which deal more directly with discrimination.

34. Article 2 guarantees all individuals, regardless of their sex, all the rights recognized in the Charter, while paragraph 3 of article 18 provides that the State has the duty to “ensure the elimination of any discrimination against women and assure the protection of the rights of women and children as recognized in international declarations and conventions”.

35. As evidence of its determination to guarantee human rights, Benin has ratified or signed a number of international and regional human rights instruments, including the following:

- The International Convention on the Suppression and Punishment of the Crime of Apartheid, adopted on 30 November 1973 and ratified by Benin on 30 November 1974;
- The Slavery Convention, adopted on 25 September 1926, ratified by Benin on 4 April 1962;
- The International Covenant on Economic, Social and Cultural Rights, adopted on 16 December 1966 and ratified by Benin on 12 March 1992;
- The International Covenant on Civil and Political Rights, adopted on 16 December 1966 and ratified by Benin on 12 March 1992;
- The African Charter of Human and Peoples’ Rights, adopted by the Organization of African Unity on 27 June 1981 and ratified by Benin on 20 January 1986;
- The Convention on the Rights of the Child, adopted on 20 November 1989 and ratified by Benin on 3 August 1990;
- The African Charter on the Rights and Welfare of the African Child, adopted in July 1992 and ratified by Benin in May 1996;
- The Convention on the Elimination of All Forms of Discrimination against Women, adopted on 18 December 1979 and ratified on 12 March 1992;
- The International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965, signed by Benin on 7 February 1967;
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 10 December 1984 and ratified by Benin on 12 March 1992.

36. A national committee was formed pursuant to Decree No. 96-433 of 4 October 1996 to monitor the implementation of these international human rights instruments.

37. The Beninese are generally becoming more sensitive to the question of respect for human rights, a sign that the citizens of the country have spontaneously embraced the choice of a State governed by the rule of law.

Article 1

Constitutional provisions

38. In the preamble to the Constitution adopted on 11 December 1990 the Beninese people reaffirmed its fundamental opposition to “any political regime founded on arbitrariness, dictatorship, injustice, corruption, misappropriation of public funds, regionalism, nepotism, usurpation of power or personal power”.
39. It also solemnly affirmed its determination to “create a State governed by the rule of law and a pluralist democracy, in which fundamental human rights, civil liberties, the dignity of the individual and justice are guaranteed, protected and promoted as a necessary condition for the truly harmonious development of every Beninese in the temporal, cultural and spiritual spheres”.
40. It furthermore affirmed its commitment to democratic principles and human rights as defined by international instruments, as well as its willingness to cooperate with other peoples in those domains on the basis of equality, reciprocity and mutual respect for national sovereignty and territorial integrity.
41. The Beninese people has decided that the Republic of Benin is an indivisible, secular and democratic State (art. 2). National sovereignty belongs to the people (art. 3), and is to be exercised through their elected representatives and by means of referendums (art. 4).
42. Every human being has the right to the development and full flowering of the individual in the material, temporal, intellectual and spiritual spheres, provided that he or she does not violate the rights of others or breach the constitutional order or public morals (art. 9). All communities comprising the Beninese nation shall be free to use their spoken and written languages and to develop their own cultures while respecting that of others (art. 11). Everyone has the right to culture. The State has the duty to safeguard and promote the values of Beninese civilization both material and spiritual, and cultural traditions (art. 10). It must also promote the development of national languages used for communication (art. 11). Everyone has the right to own property. However, property may be expropriated in the public interest, provided that the victim receives just and prior compensation (art. 22).
43. In establishing a State governed by the rule of law in which the civil liberties, rights and duties of citizens are guaranteed, the Constitution also provided for national institutions with responsibility for ensuring respect for the will of the people.
44. The right of a country to freely dispose of its wealth and natural resources is a corollary of the principle of national sovereignty. Benin’s Constitution affirms the will of the people to bring about a State governed by the rule of law and democratic pluralism, which are the prerequisites for true development.
45. Fundamental human rights, civil liberties, human dignity and justice are guaranteed, protected and promoted as prerequisites for the truly harmonious development of each Beninese.

Specific provisions

46. The revision and updating of certain legal texts, in particular the Criminal Code and Code of Criminal Procedure, has been in progress for some time now.

47. Benin has opted for equitable and balanced economic liberalism. It favours the emergence of an enterprising, responsible society and intends to involve the people in economic development efforts while ensuring that they have the means to subsist. Thus it has embarked on:

- The liberalization of the public sector of the economy;
- The privatization of large public companies;
- The creation of national bodies to boost the private sector; the most dynamic such body is the Private Sector Support Unit

48. A national economic conference was held in 1997 to promote and further the initiatives that have already been undertaken.

49. The Constitution reaffirms the will of the people and the State to honour international commitments. The structural adjustment programme undertaken with the Bretton Woods institutions is proceeding smoothly in spite of the economic and social hardship it brings to the Beninese people. The devaluation of the CFAF in January 1994 added to the State's difficulties, and has had further economic and social consequences.

50. Conscious of the importance to domestic and foreign investors of a well-functioning system of justice, the Government has undertaken a root-and-branch reform of the entire judicial system.

51. The Government has set up consultative bodies and professional organizations with a view to involving them in the economic recovery effort (the Chamber of Agriculture, the Chamber of Commerce and Industry, professional groups and groups of skilled workers).

52. Benin does not administer any non-self-governing territories. It strives to support all peoples in their fight for liberation and self-determination (e.g. the Saharan people and the African National Congress in South Africa). It has re-established diplomatic relations with Israel and South Africa.

Article 2

Constitutional provisions

53. According to article 39 of the Constitution foreigners in the Republic of Benin enjoy the same rights and freedoms as Beninese citizens, subject to the conditions specified by law. These conditions apply to matters such as the possession of an entry visa and a residence permit for Benin, the need to obtain authorization to engage in commercial or other activity and the need for foreign workers to obtain a work contract and work permit.

54. The principles enunciated in the African Charter on Human and People's Rights were incorporated into Title II of the Constitution of 11 December 1990, which affirms the rights and duties of the individual in articles 7-13 and 25.

55. Everyone in Benin is equal before the law without distinction as to race, sex, religion, political opinion or social status (art. 26). Men and women have equal rights. The State protects the family, and in particular the mother and child. It cares for disabled and older persons (art. 26).

56. The Constitution of 11 December 1990 affirms the attachment of the Beninese people to the principles of democracy and human rights as defined by the Charter of the United Nations of 1945, the Universal Declaration of Human Rights of 1948 and the African Charter of Human and People's Rights of 1981.

57. Any individual or agent of the State who, during the exercise of his functions, commits acts of torture or inflicts cruel, inhuman and degrading treatment, whether on his own initiative or under orders, shall be punished in accordance with the law (art. 19).

58. Article 114 of the Constitution states that the Constitutional Court rules upon the constitutionality of laws. The Court upholds fundamental individual rights and public freedoms and regulates the activities of public institutions.

59. Any citizen may ask the Court to rule on the constitutionality of laws either directly or through the special action of unconstitutionality invoked in a case before a court involving that citizen.

60. Article 8 of the Constitution states that the human person is sacred and inviolable. The State has an absolute obligation to respect and protect it.

Special provisions

61. Women represent more than half the population (51.35 per cent). However, they are poorly represented in State institutions. There are very few of them at the helm of private sector companies. A few lead political parties, civil associations or non-governmental organizations (NGOs).

62. The Beninese State has incorporated into its legislation all the relevant provisions of the above-mentioned conventions. Many bills and codes are currently being drafted to take account of the improvements called for in international human rights instruments.

63. Act No. 90-023 of 13 August 1990, establishing the Charter of Political Parties, prohibits the preaching of intolerance, regionalism, ethnocentrism, fanaticism, racism and xenophobia and the incitement to, or use of, violence in all its forms. It is not permissible to found a political party on the basis of religious affiliation, gender, ethnic identity or professional status (art. 4).

64. As proof of this commitment to respecting and protecting citizens against all forms of abuse, Benin has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and has thereby undertaken to implement all its provisions.

65. With a view to applying the various measures adopted pursuant to the decisions of the Conference of the Active Forces of the Nation, the Government, by Decree No. 91-95 of 27 May 1991, set up a commission to compile an exhaustive list of the victims of torture and corporal punishment, to verify the circumstances in which some victims disappeared and to recommend a date for a national day to commemorate such victims.

66. The new democratic Benin is a State governed by the rule of law in which civil liberties and human rights are guaranteed. The courts in which decisions were delivered by people's judges have been abolished, pending a proper reform of the justice system. Act No. 90-0003 of 15 May 1990 reinstated Act No. 64-28 of 9 December 1964 on the organization of the judiciary. There are two levels of jurisdiction in all matters and the rulings of courts of first instance can be referred to the Court of Appeal and, in the last resort, to the Supreme Court.

67. From the date of its establishment until 1996, the Constitutional Court was seized of 47 cases; two in 1992, five in 1994, six in 1995, and 34 in 1996. These figures show that this institution has gradually been winning citizens' confidence.

68. Just after the National Conference of February 1990, the Beninese State took steps to bring proceedings against officials of the former regime who were implicated in cases of torture, misappropriation of public funds and acts breaching human rights and civil liberties during the exercise of their functions. Some such officials have already been tried and convicted, while others have simply been forced out of office.

69. Meanwhile, human rights defence associations and NGOs provide assistance to victims of torture and human rights abuses. Among the most active of these NGOs are the League for the Defence of Human Rights, the Association Against Torture and the Association Against Racism, Ethnocentrism and Regionalism.

70. The media in Benin are genuinely independent and play a decisive role in entrenching democracy. The print and broadcast media help to guarantee good governance by organizing debates in which institutional and administrative officials who have been challenged on a particular matter can explain themselves in public. The television corporation has a programme in its weekly schedule called "Invité du Dimanche" ("The Sunday Guest Speaker"). It offers citizens the chance to take part in a debate in which they can express their views on the political decisions taken by the State in the course of its business.

Article 3

Constitutional provisions

71. Equality of men and women before the law is a principle affirmed by the Constitution in article 26 and by the African Charter of Human and Peoples' Rights in article 3. Under the law in force in Benin, women are treated on an equal footing with men as regards legal capacity to conclude contracts and administer property. They can act as executors of the wills of their deceased relatives and spouses. Joint property is administered in accordance with the law and without discrimination from the moment of acquisition, which may be before, during or after marriage.

72. Men and women are equal before the law (article 26 of the Constitution and article 3 of the African Charter). Presumption of innocence, protection against torture and all forms of cruel, inhuman or degrading treatment, protection against arbitrary detention and a guaranteed right to health protection in the event of detention are rights recognized in Benin's legal arsenal and guaranteed to all without distinction as to sex. These provisions are set forth in articles 16 to 19 of the Constitution and article 7 of the African Charter. Thus, women enjoy the same access as men to all existing legal services. They can bring matters to court and their testimony is fully valid in court cases.

73. The legal provisions concerning voting rights explicitly recognize the right of women to participate as members of society in all consultations by means of which the people delegate the power to conduct State affairs to its elected representatives. The constitutional principle of equality between men and women confers upon Beninese women the right to stand as candidates for all elected posts on the same terms as men, be it in parliamentary, presidential or municipal elections or at trade union level. Articles 6 and 26 of the Constitution of 11 December 1990 provide, respectively, as follows:

With regard to participation in elections: "Suffrage shall be universal, equal and secret. All Beninese nationals of either sex aged 18 or over and in possession of their civil and political rights are entitled to vote under the conditions determined by law."

With regard to equal rights: "The State shall ensure equality before the law for all, without distinction as to origin, race, sex, religion, political opinion or social status ... The State shall protect the family, and in particular the mother and child ...".

Thus, no discrimination between men and women is envisaged in the laws that regulate citizens' lives.

Specific provisions

74. Benin has acceded to the International Convention on the Elimination of All Forms of Discrimination against Women and to the International Covenant on Economic, Social and Cultural Rights. The provisions of both these instruments are an integral part of its domestic law (article 147 of the Constitution).

75. Some women's associations and non-governmental organizations help the State and the general public to accomplish the aims set forth in article 3 of the Covenant. Women's associations are part of a federative movement. This federative structure provides a vehicle through which women can express their concerns about the major problems facing the nation.

76. However, judicial practice is based upon two different legal standards in traditional matters: the Civil Code and the customary law of Dahomey. Although, in law, women are equal to men, they are often subjected to violence by in-laws who will not respect their rights. Such cases occur in both villages and towns.

77. The draft Personal and Family Code sets out to resolve this dichotomy by providing for equality of the sexes in civil matters (marriage, inheritance, etc).

78. Judgements of Beninese courts, i.e. sentences of imprisonment, fines or damages, do not depend on the gender of the accused.

79. Legal assistance must be provided, without distinction as to sex, in the cases specified by law, e.g. criminal and juvenile court proceedings.

80. In other cases, women with sufficient means can hire the services of a lawyer. Free legal services are offered by certain NGOs.

81. As regards political rights, all citizens of voting age can participate freely in elections whatever their sex, but women are underrepresented in political institutions.

82. Between 1993 and 1997, the proportion of women in the National Assembly went from 3 women for every 61 men, to 5 for every 76 men and then 5 for every 79 men, respectively 5, 6.57 and 6.32 per cent of the total.

83. Within the executive, the proportion of female to male ministers went from 2 out of 20 ministers in 1993, to 1 out of 18 in 1996 and in 1997.

84. Between 1993 and 1997, the membership of the Constitutional Court changed once. During the first mandate, only one of the seven members of the Court was a woman; during the second, there were two women. This must be regarded as a positive development, especially as the Court has always been presided over by a woman.

85. During the same period, only one woman sat on the Economic and Social Council, while the Audiovisual and Telecommunications Authority had not a single female member.

86. Underrepresentation of women in the main decision-making bodies can be ascribed to several factors, including the following:

- Lack of awareness among women about the need to fight for the right to be involved in running the country;
- A lack of self-confidence among women;
- A lack of involvement of women in political life;
- The weight of tradition;
- Resistance or suspicion on the part of men vis-à-vis their wives' political activities;
- The fact that few women have had access to a good education, and that few of those who have hold advanced diplomas.

87. Moreover, participation in contemporary political life requires considerable resources, resources that are generally not available to women. Of the four political parties headed by women, only those that have already taken part in the administration of the State appear dynamic and capable of mobilizing their members.

88. However, several political parties are endeavouring to raise the level of political activism among women by organizing training for female leaders. These groups often enjoy the support of international NGOs that operate in the country.

89. Most parties have started women's movements of their own with a view to training and mobilizing female activists. Women do not hold strategic posts in political parties, but some, working behind the scenes, do have considerable influence on decisions.

Article 4

Constitutional provisions

90. The Constitution provides, in articles 68 and 69, for the possibility of exceptional measures in time of public emergency to ensure respect for fundamental rights and civil liberties.

91. According to article 68: "When the institutions of the Republic, the independence of the nation, the integrity of the national territory or the fulfilment of international commitments are faced with a grave and immediate threat and the regular exercise of political and constitutional authority is threatened or interrupted, the President of the Republic, after consulting the President of the National Assembly and the President of the Constitutional Court, shall, within the Council of Ministers, take such exceptional measures as the circumstances require without suspending the civil rights guaranteed under the Constitution. He shall so inform the nation in a public address. The National Assembly shall automatically meet in special session." Article 69 states that "The measures taken should be guided by the desire to give the public and constitutional authorities the means to accomplish their mission as soon as possible. The National Assembly shall establish a time-limit beyond which the President may no longer take exceptional measures."

Specific provisions

92. It is with a view to providing all necessary guarantees for the protection of fundamental human rights and civil liberties that the Constitution requires the Head of State to take these measures in close cooperation with the other State institutions, in particular, the national parliament.

93. The Beninese State has never resorted to these constitutional provisions. In 1994, the President asked the Constitutional Court for an immediate opinion on exceptional measures he wished to take in accordance with article 68 of the Constitution of 11 December 1960, namely a draft decree concerning the 1994 Finance Act and a draft decree concerning the Public Investment Programme for 1994. In its opinion CC-0002/94, dated 14 September 1994, the Court found that there was no need to adopt the decrees since "a finance act that has been voted through but not promulgated, and is therefore not enforceable, hardly poses a grave and immediate threat to the fulfilment of international commitments."

Article 5

Constitutional provisions

94. In its preamble, the Constitution reaffirms the determination of the Beninese people to establish a State governed by the rule of law and a pluralist democracy in which fundamental human rights, civil liberties, human dignity and justice are guaranteed, protected and promoted as prerequisites for the truly harmonious development of each Beninese in the temporal, cultural and spiritual spheres.

95. Article 34 stipulates that every Beninese citizen, whether civilian or military, has a sacred duty, under all circumstances, to respect the Constitution and the established constitutional order, together with the laws and regulations of the Republic.

96. These provisions are evidence of Benin's determination to outlaw all such conduct and to conform to the spirit of the relevant provisions of the Covenant.

97. In accordance with article 147 of the Constitution, duly ratified treaties or agreements acquire upon publication higher authority than laws, always provided that they are put into effect by the other party. This constitutional provision brings international conventions and instruments within the Beninese legal order and affirms their primacy over domestic laws.

98. Any derogation from these provisions not declared in a reservation entered by the Beninese Government would be unconstitutional. Thus anyone can bring any derogation from the Covenant to the attention of the Constitutional Court for action.

Specific provisions

99. Article 5 of Act No. 90-023 of 13 August 1990, establishing a charter for political parties, requires political groupings to conduct their activities in strict compliance with the Constitution, article 3 of which stipulates that national sovereignty is exercised by the people. No grouping, community, corporation, political party or association, trade union or individual may appropriate the exercise of that sovereignty.

Article 6

Constitutional provisions

100. The right to life is guaranteed under article 15 of the Constitution, which says that every individual has the right to life, liberty and security and integrity of person.

101. In Benin, the human person is sacred and inviolable (article 8 of the Constitution).

Specific provisions

102. The taking of a life is an act of such gravity that any conviction must be consistent with domestic and international legal instruments. The Criminal Code permits imposition of the death penalty. Because of its geopolitical situation, Benin has been forced to retain this extreme solution for those cases that are specified by law.

103. The crime rate in the subregion obliges the Government to retain the death penalty in its legal arsenal as a deterrent. Beninese public opinion is alarmed by the crime in the subregion and fears that abolishing the death penalty would turn the country into a haven for serious criminals.

104. The conditions under which the death penalty can be imposed are laid down in the Code of Criminal Procedure. Since the beginning of the era of democratic renewal, no one has been executed after being sentenced to death. The death penalty is imposed following a trial which affords the defendants full guarantees of the right to a defence. The procedure is begun either by the victim or his next of kin, or by the State prosecutor who orders the criminal investigation police to conduct the preliminary inquiry. The prosecutor may then ask for a judicial investigation. The investigating magistrate will then conduct such inquiries as may help to establish the guilt of the accused.

105. In addition to all the avenues of appeal on offer, a person sentenced to death may apply for a presidential pardon.

106. The Criminal Code and Code of Criminal Procedure specify the conditions and cases in which these different options may be exercised. Under article 60 of the Constitution, the President of the Republic has the right to grant a pardon, which he exercises subject to the conditions set out in article 130 of the Constitution. This states that the Supreme Council of the Judiciary shall examine applications for pardon and transmit them, together with its opinion and an explanation of its reasons, to the President of the Republic. The care Benin takes over these different procedures is clear.

107. No persons under the age of 18 or pregnant women have been served with a death sentence in Benin.

Article 7

Constitutional provisions

108. Article 18, paragraphs 1 and 2, of the Constitution protect individuals against torture, abuse and other cruel, inhuman or degrading treatment.

109. Article 19, provides that any individual or agent of the State who, during the exercise of his functions, commits acts of torture or inflicts cruel, inhuman and degrading treatment, whether on his own initiative or under orders, shall be punished in accordance with the law.

Specific provisions

110. The Conference of the Active Forces of the Nation held in February 1990 underscored the need to create appropriate bodies to monitor respect for human rights and ensure that the judicial authorities punish all violation. It also called for those who perpetrate or aid and abet in the commission of torture and physical abuse to be punished.

111. Benin has ratified the Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment. The relevant provisions of the Convention will be incorporated into the Criminal Code and Code of Criminal Procedure, currently being drafted.

112. In that connection and, in accordance with the decisions adopted by the National Conference, the Government created a committee, by Decree No. 91-95 of 27 May 1991, to compile an exhaustive list of the victims of torture and physical abuse, to establish the circumstances behind the disappearance of some victims and to recommend a date for a national day to commemorate those victims. The first such day was observed in July 1994.

113. The victims of torture and abuse have been invited to bring complaints against the perpetrators of these heinous acts.

114. Medical or scientific experiments on humans cannot be carried out in Benin without the free consent of the individuals concerned, given the sacred and inviolable nature of the human person. Any such act is punishable under criminal law.

115. Benin has no record of medical experiments having been carried out on human beings.

Article 8

Constitutional provisions

116. Under article 8 of the Constitution, the human person is sacred and inviolable.

117. Article 18 of the Constitution stipulates that “no one shall be subjected to torture, abuse or cruel, inhuman or degrading treatment”.

118. Article 36 of the Constitution provides that “all Beninese have a duty to respect and have regard for their fellow citizens without discrimination of any kind and to maintain such relations with others as will safeguard, strengthen and promote respect, dialogue and mutual tolerance with a view to ensuring peace and national cohesion”.

Specific provisions

119. Benin ratified the Slavery Convention on 4 April 1962 and adopted the International Convention on the Elimination of All Forms of Racial Discrimination on 21 December 1965. Benin’s Labour Code prohibits forced labour. Labour is governed in Benin by the following instruments:

- Ordinance No. 33/PR/MFPTT of 28 September 1967 containing the Labour Code;
- The State Agents (General Regulations) Act, No. 86-013, of 26 February 1986;
- Collective agreements.

A bill containing a new labour code is pending.

120. The working day is eight hours long. Workers are entitled to social security benefits. No worker in Benin is denied the right to rest, leave, leisure, normal working hours or paid public holidays.

121. Articles 107 and 108 of Ordinance No. 33/PR/MFPTT containing the Labour Code stipulate that children under 14 years of age “may not be employed in any enterprise, even as apprentices”. The nature of the work and the types of enterprise prohibited to young people, and the age up to which this prohibition applies, are established by decree.

122. The enforcement of sentences to forced labour is strictly regulated by the Code of Criminal Procedure. Such labour often involves sweeping the streets.

123. The 1994-1998 programme of cooperation between Benin and the United Nations Children’s Fund (UNICEF) led to a project called “Children in difficult situations”, which takes care of children in need (children who have been abandoned, ill-treated or taken away from their family environment, children working in the street, orphans, the children of divorced parents, etc.) who cannot fully exercise their rights under the Convention on the Rights of the Child or Title II of the Constitution of Benin. A national office was set up in October 1994 to monitor the project.

Article 9

Constitutional provisions

124. The preamble to the Constitution proclaims the determination of the Beninese people to create a State governed by the rule of law in which fundamental human rights, civil liberties, the dignity of the individual and justice are guaranteed, protected and promoted as a necessary condition for the truly harmonious development of each Beninese in the temporal, cultural and spiritual spheres.

125. In accordance with articles 16, 17 and 18, paragraph 4, of the Constitution and article 51 of the Code of Criminal Procedure, a person may be arrested or charged only under a law promulgated before the acts of which the person is accused took place and pre-trial detention may exceed 48 hours only with the authorization of the Public Prosecutor after the allegation has been submitted to the latter. In no case may the period of custody be extended by more than eight days.

126. Under article 17 of the Constitution, persons accused of criminal acts are presumed innocent until their guilt has been legally established during a public trial in which they have enjoyed all the guarantees necessary for their defence.

127. Under article 125 of the Constitution, the judiciary is independent of the legislature and the executive. Judges are subject only to the law when exercising their duties and members of the judiciary are irremovable (arts. 126 and 129).

Specific provisions

128. In order to give effect to these constitutional provisions, the Government has released all the political prisoners held in certain military camps and detention centres, the most notorious of which is in Ségbana, in northern Benin.

129. All laws authorizing arbitrary arrests, illegal detention and forced exile have been repealed.

130. Various human rights movements have subsequently come out of hiding. Property seized arbitrarily has been returned to individuals forced into exile, who have been entitled to compensation.

131. Since the adoption of Act No. 90-028 of 9 October 1990 granting amnesty for acts other than ordinary crimes committed between 26 October 1972 and the date of promulgation of the Act, there have been no more arbitrary arrests in Benin. Detention conditions have been improved and the limits on the length of custody have been respected. The Constitutional Court has been called upon to rule on cases recorded in this area.

132. Justice is now dispensed in Benin by the tribunals and courts. Court hearings are held in public except when doing so might jeopardize public order and decency.

133. The highest courts in Benin are the Supreme Court and the Constitutional Court. The Supreme Court acts as a court of first and last instance in administrative and accounting matters (Constitution, art. 113) and as a court of cassation in judicial matters.

134. The Constitutional Court rules on the constitutionality of laws and guarantees fundamental human rights and civil liberties. Any citizen may refer a case concerning the constitutionality of laws to the Court, either directly or by lodging an objection on grounds of unconstitutionality in a court case involving them.

Article 10

Constitutional provisions

135. Article 18, paragraph 3, of the Constitution stipulates that “no one may be detained in a penal establishment except under the provisions of a criminal law currently in force”.

136. Article 98 of the Constitution says that the organization of the prison system is a matter to be determined by the law.

Specific provisions

137. The prison system in Benin is governed by Decree No. 73-293 of 15 September 1973 and by articles 568 and 584 of the Code of Criminal Procedure. The prison service is under the authority of the Prison Service Department of the Ministry of Justice, Legislation and Human Rights.

138. The Beninese prison system is based largely on the French model. Long-stay and short-stay prisons have sections for each category of prisoner (women, men and juveniles). However, it should be remembered that economic and financial problems in Benin make it impossible to meet all the needs of the prison population.

139. Benin has a national centre for the protection of children and young persons in Agblangandan, on the road from Porto-Novo to Cotonou. Young offenders in the centre learn a trade that will help them find a job.

140. Non-governmental organizations (NGOs) are helping to improve prison conditions.

Article 11

Specific provisions

141. Contractual relationships are governed by the Civil Code and the Commercial Code. As Benin has opted for a liberal economic system, it is trying gradually to withdraw from this area of activity by setting up advisory bodies to enable individuals to settle contractual differences among themselves.

142. Failure to meet contractual obligations is a matter for civil proceedings. However, any offence against public order may give rise to a criminal prosecution.

143. Prison sentences are often handed down for fraud, forgery, the use of forgery with intent to defraud and embezzlement in relation to contractual obligations.

Article 12

Constitutional provisions

144. The principle of freedom of movement is enshrined in the Constitution (art. 25) and in the African Charter on Human and Peoples' Rights (art. 12), which has been incorporated into the Constitution.

Specific provisions

145. In practice, there are no restrictions based on sex. Women therefore have the same rights as men to freely choose their place of residence and domicile. The same rights are accorded to immigrants of either sex who are allowed to bring their spouses, partners and children to Benin. Neither modern nor customary law nor existing customary practice places any restriction upon women's enjoyment of this right.

146. However, the situation is different for married women. The law actually stipulates that spouses have a duty to be faithful to each other and to help and assist each other. In marriage, spouses enter into conjugal life and have a duty to see to their children's upbringing (Civil Code, art. 212 et seq.). A married woman has a duty to join her husband, who has a duty to take her in. In practice, couples choose their place of residence in light of their means and occupations.

147. It should be stressed that practice in this respect varies depending on whether the marriage is polygamous or not.

148. It is customary for the wife to reside with the husband unless other arrangements have been agreed upon by the couple.

149. In the case of a polygamous household or serious problems (such as marital disputes or financial difficulties), the man may allow the woman to live outside his domicile. It is common for a man to cohabit with several wives under the same roof or to have more than one residence depending on the number of wives he has.

150. In any event, a married woman's domicile depends on her husband's. Ceasing to live together is a ground for divorce.

151. In all cases, marriage restricts a woman's right to choose her own place of residence.

152. In the event of divorce or separation a woman may return to her original domicile. In practice, she can return to her family or take up residence elsewhere depending on her means.

153. The Government is working to put an end to the administrative harriving of foreigners and Beninese citizens entering or leaving the country, and to the harassment that such people suffered under the Marxist regime.

154. Benin is a party to the Treaty establishing the Economic Community of West African States, which establishes the principle of freedom of movement and establishment of citizens of member States. It ratified the initial treaty in 1975 and signed the revised version on 28 July 1993.

155. As far as foreigners from outside the Community are concerned, Benin is a party to bilateral treaties on establishment on the basis of reciprocity.

156. Benin is making efforts to promote tourism and to improve living conditions for arriving foreigners.

157. The Democratic Renewal regime has ended the banishment of political exiles and encouraged the Beninese diaspora to make their homes in Benin. As far as foreign political exiles are concerned, Benin has a consistent policy of accepting them, supporting them and helping them settle.

Article 13

Constitutional provisions

158. Article 39 of the Constitution stipulates that foreigners in Benin enjoy the same rights and freedoms as Beninese citizens under the conditions laid down by law. They are required to abide by the Constitution, laws and regulations of the Republic.

Specific provisions

159. Benin is a party to treaties on the extradition of foreigners with countries such as France (like other French-speaking countries) and with countries in the subregion such as Ghana, Nigeria and Togo (with which it signed a four-party extradition treaty on 12 October 1984). The various treaties refer to the procedure for implementing decisions on extradition.

160. The treaties require the parties to observe the rules of procedure and respect the right to a defence of a foreigner facing extradition proceedings. The State that receives the request for extradition must check that the judicial proceedings started by the State requesting extradition are lawful.

Article 14

Constitutional provisions

161. In Benin, the protection of the human person is enshrined in the Constitution, which stipulates in articles 8, 15 and 17 that every individual has the right to life, security and physical integrity. People may therefore only be charged and punished if their guilt is legally established during a public trial in which they are afforded all the guarantees necessary for their defence.

162. Article 114 of the Constitution makes the Constitutional Court the highest court in the land in constitutional matters. The Court rules on the constitutionality of laws and guarantees fundamental human rights and civil liberties. It is responsible for regulating the functioning of institutions and the activities of the public authorities.

163. Under article 122 of the Constitution, any citizen may refer a case concerning the constitutionality of laws to the Constitutional Court, either directly or by lodging an objection on grounds of unconstitutionality in a court case involving them. The court hearing their case must adjourn proceedings until the Constitutional Court's decision, which must be taken within 30 days.

Specific provisions

164. Under the Democratic Renewal, Ordinance No. 25/PR/M/L of 7 August 1967 containing the Code of Criminal Procedure remains in force. The special courts (State security courts and the criminal court) that operated under the former regime of the People's Revolutionary Party of Benin (PRPB) have been abolished.

165. Since the promulgation of Act No. 90-012 of 1 June 1990, justice has been administered by professional judges appointed in accordance with article 129 of the Constitution by the President of the Republic on the basis of a proposal by the Minister of Justice after the Supreme Council of Justice has given an opinion.

166. Hearings in the ordinary law courts are held in public except when doing so might jeopardize public order.

167. In accordance with article 125 of the Constitution and article 2 of Act No. 64-28 on the organization of the judiciary, reinstated by Act No. 90-003 of 15 May 1990, judicial power is exercised by the courts and tribunals. A bill on the organization of the judiciary is under preparation.

168. The Court of Appeal hears all appeals against rulings given by courts of first instance.

169. The Assize Court tries serious crimes: it sits in the Court of Appeal building, but may sit elsewhere if circumstances or needs so dictate.

170. The Supreme Court hears appeals on points of law and applications for judicial review. Such applications are dealt with by the administrative chamber, which is the court of first and last instance for administrative acts.

171. The Code of Criminal Procedure provides for alternative sentences for juveniles. The Government has set up a centre for the protection of children and young persons that takes in young offenders and offers them an apprenticeship to help them find a job. The centre is now operational and receives assistance from a number of NGOs and other donors.

172. As 80 per cent of the population in Benin is illiterate, the use of translators who know the national language has become indispensable in courts.

173. Benin has several bilingual schools and interpretation centres which offer their services to the people concerned.

174. In accordance with article 29 of the Code of Criminal Procedure, the Minister of Justice may report any criminal offences brought to his attention to the Public Prosecutor at the Court of Appeal, enjoining him to instigate proceedings, or to have them instigated, or to refer to the competent court such written admissions as he sees fit. He may also instigate proceedings to have cases referred to him set aside.

175. The law also gives victims the possibility of filing for damages in criminal proceedings to compensate for injuries.

176. Human rights organizations press for judicial decisions to be duly enforced in cases where human rights have been violated by the administrative authorities or other State institutions.

Article 15

Constitutional provisions

177. This article is taken into account in article 17, paragraph 2, of the Constitution, which stipulates that no one shall be sentenced for actions or omissions which, at the time when they were committed, did not constitute an offence under Beninese law. Likewise, no penalty may be imposed that is more severe than that applicable at the time when the offence was committed.

Specific provisions

178. No such cases have ever actually been tried by Beninese courts.

Article 16

Constitutional provisions

179. Title II of the Constitution deals with the rights and duties of the individual. Article 8 of the Constitution states that the human person is sacred and inviolable. The State has an absolute obligation to respect and protect the human person and guarantees personal fulfilment. To this end, it guarantees its citizens equal access to health care, education, culture, information, vocational training and employment. The following articles reaffirm this recognition of the legal personality to which every individual has a right.

Specific provisions

180. The institutions provided for by the Constitution contribute to the recognition of the rights and duties of all citizens having legal personality.

Article 17

Constitutional provisions

181. The inviolability of a person's home and correspondence, as provided for in articles 20 and 21 of the Constitution, is today a reality in Benin.

Specific provisions

182. Pursuant to the decisions of the Conference of the Active Forces of the Nation, the Beninese Government has put an end to the illegal expropriation of land and property carried out in the past in the name of the dictatorship of the proletariat.

183. Home visits and searches may only be carried out subject to the rules and conditions set out in the Code of Criminal Procedure (arts. 43-46, 65 and 66).

184. The law also guarantees privacy in correspondence and communications. However, there have been some unsubstantiated reports of phone-tapping.

185. Under the law granting amnesty to political exiles, property seized illegally by the previous regime is to be returned to its owner or to the owner's beneficiaries.

186. The Government of Benin has invited all the victims of such abuses to take legal action to obtain redress for the injury suffered.

Article 18

Constitutional provisions

187. Under article 2 of the Constitution, the Republic of Benin is one and indivisible, secular and democratic.

188. Freedom of thought, conscience and religion, including the freedom to adopt a religion or any other belief of one's own choice, is reaffirmed in article 23 of the Constitution.

189. Article 23, paragraph 1, of the Constitution stipulates that acts of worship are to be carried out with due respect for the secularity of the State.

Specific provisions

190. After the Conference of the Active Forces of the Nation, certain religions that had been banned for non-compliance with the requirements of the revolutionary regime resumed their

activities: they included Jehovah's Witnesses and followers of other religions. All religions are practised with complete independence under a system of civil liberties protected by law and by the institutions of the State.

191. All religions may be practised freely in Benin provided that they do not infringe upon public order, social peace or decency.

192. After the Conference of the Active Forces of the Nation, Benin authorized the reopening of denominational schools that had been banned and closed. The State returned the buildings that had housed the schools to the religious organizations concerned and the Government entered into negotiations with these institutions to enable them to resume their activities.

193. This decision ensures that parents have the freedom to choose a religious education for their children in accordance with their own beliefs.

Article 19

Constitutional provisions

194. Article 23 of the Constitution guarantees and protects freedom of opinion and freedom of expression. The large number of private newspapers (over 20) and radio stations (over 15) reflects the freedom to hold and express different opinions in Benin.

Specific provisions

195. Citizens freely express their views in discussions broadcast on radio or television, in press articles and in other media. Everyone has a right of reply.

196. Act No. 90-023, containing the political parties charter, requires citizens and political parties to abide fully by the Constitution and the law and to help protect fundamental freedoms and human rights. The restrictions imposed by law concern public order. The expression of a wide range of political views is one of the best guarantees of democracy.

197. There is no censorship of books, novels or research publications in Benin.

Article 20

Constitutional provisions

198. Under article 36 of the Constitution, all Beninese have a duty to respect and have regard for their fellow citizens without discrimination of any kind and to maintain relations with others such as to safeguard, strengthen and promote respect, dialogue and mutual tolerance with a view to ensuring peace and national cohesion.

199. In the preamble to the Constitution, Benin reaffirms its willingness to cooperate in peace and friendship with all peoples who share its ideals of liberty, justice, human solidarity based on equality, mutual interests and reciprocal respect for national sovereignty and territorial integrity.

Specific provisions

200. Benin shares the ideals of the international community. As a Member of the United Nations and as a member of the Organization of African Unity and various subregional institutions, it works tirelessly to maintain international peace and security.

201. Act No. 90-023, containing the political parties charter, prohibits intolerance, regionalism, ethnocentrism, fanaticism, racism and xenophobia, and the advocacy of war.

Article 21

Constitutional provisions

202. The right of peaceful assembly is one of the individual and collective civil liberties promoted and guaranteed by the Constitution in article 25, which provides that “the State shall recognize and guarantee, under conditions fixed by law, freedom of movement, of association, of assembly, of procession and of demonstration”.

Specific provisions

203. The right of peaceful assembly, freedom of association and the right to demonstrate have been respected since the Conference of the Active Forces of the Nation.

204. There are now several political parties and a growing number of NGOs.

205. Workers have joined trade unions of their own choosing and demonstrations, marches, meetings and press releases are authorized even when they are critical of government policy.

206. Political parties and national or foreign non-governmental associations and organizations meet freely. The only restriction on this freedom concerns demonstrations held on the public highway without prior authorization.

207. The organizers of such meetings may call on the police to maintain order.

Article 22

Constitutional provisions

208. Freedom of association, assembly, procession and demonstration is guaranteed by article 25 of the Constitution.

209. As required by article 31 of the Constitution, the State recognizes and guarantees the right to strike. All workers may defend their rights and interests under the conditions set out by law, either individually, collectively or through trade union action. The right to strike is exercised within limits laid down by law.

Specific provisions

210. There are a number of trade unions or associations in Benin, and they are free to form federations or collectives. There are no restrictions on this right.

211. Benin has ratified the International Labour Organization (ILO) Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and the ILO Right to Organize and Collective Bargaining Convention, 1949 (No. 98). It is also a party to the International Covenant on Economic, Social and Cultural Rights.

212. Since 1989, there have been several independent trade unions in Benin, and they are free to join international confederations of trade unions.

213. The right to strike is exercised under the conditions laid down by law, although the law is not always taken into account in determining the system of deductions to be applied following a strike.

Article 23

Constitutional provisions

214. Under article 8 of the Constitution, the human person is sacred and inviolable. The State has an absolute obligation to respect and protect the human person and guarantees the full flowering of the individual in the material, temporal, intellectual and spiritual spheres.

215. Article 15 of the Constitution recognizes that every individual has the right to life, liberty, security and physical integrity.

216. Article 26, paragraph 2, of the Constitution guarantees the protection of the family, and in particular the mother and child.

Specific provisions

217. A new personal and family code has been drafted and submitted to the National Assembly.

218. The State protects the family, and in particular the mother and child.

219. Any violation of their rights may be brought before the competent courts.

220. Benin also has a Ministry of Health, Social Protection and the Status of Women.

221. In the field of health, the decentralized departments of the Ministry of Health, Social Protection and the Status of Women organize vaccination campaigns and advisory sessions on how to prevent certain diseases.

222. Campaigns are organized to distribute medical supplies during epidemics. Mother-and-child care is always available.

223. The Labour Code protects working women and children against dangerous work and work harmful to their health. Pregnant women are entitled to 14 weeks' maternity leave - six before and eight after confinement - during which they receive daily allowances and retain the right to free health care and to any available benefits in kind if they are affiliated to the Beninese Office of Social Security.

224. They are entitled to one hour's break a day in which to feed the child, for 15 months after they return to work.
225. Pregnancy cannot serve as grounds for dismissal (arts. 166-171 and 173 of the Labour Code).
226. A worker who has been married before a registrar receives a social security benefit known as the "worker's home benefit".
227. A pregnant woman is paid maternity benefits and is entitled to free health care before and after confinement. During her 14 weeks' maternity leave, a woman wage-earner receives her full wage. Her child is entitled to free health care until the age of 5. The same applies to the children of male wage-earners.
228. Civil servants and their families receive a family allowance of 2,000 francs per child per month for up to six children, payable until the age of 18 for children serving apprenticeships and until 21 for children in full-time education.
229. Women who are not in paid employment are entitled to medical consultations at public or private health centres or at centres run by NGOs, on payment of a standard amount fixed by the Government or by the NGO.
230. However, there are not enough centres to cater for the number of people who need to attend them and who in some areas have to travel considerable distances to reach them.
231. This state of affairs is a direct consequence of the country's level of development, which does not allow it to tackle social problems of this scale.
232. Every person has the right to marry in accordance with the regulations on personal status contained in the Civil Code.
233. The marriageable age in Benin is 15 for women and 18 for men.
234. Benin has ratified the Convention on Consent for Marriage, Minimum Age for Marriage and Registration of Marriages. The Convention entered into force in Benin on 9 December 1964.
235. There are two types of marriage in Benin. One is customary marriage, for which the legal basis is the age-old customs and traditions of the various religious, linguistic or traditional communities. The other is marriage before an administrative authority, usually called a "civil marriage" as it is performed by a registrar.
236. In the first case, the dowry is proof that the marriage is valid - the girl is presumed to have consented when the dowry is accepted - whereas in the second case the consent of the future spouses is required for the marriage to be valid.

237. In customary marriages, the spouses share in the upkeep of the family by mutual agreement and according to their means. In polygamous households, the mother's contribution is far more noticeable and appears to reflect an unspoken rivalry. The marriage is dissolved when either one of the spouses leaves the marital home.

238. In the case of a civil marriage the spouses have the option of owning their property jointly or separately. Couples tend to choose the latter because of the problems that can arise when the marriage ends through separation or the death of one of the spouses. The Civil Code makes provision for resolving disputes in such circumstances and ensuring that the children are cared for.

Article 24

Constitutional provisions

239. Under the Constitution of Benin, nationality is a matter for the law (art. 98).

Specific provisions

240. Both legitimate and illegitimate children in Benin bear the name of the father, unless paternity is challenged, in which case they bear the mother's name. As a rule, filiation is patrilineal.

241. As a rule, and in accordance with article 184 of the Dahomey Code of Customary Law, a child born of an adulterous relationship becomes part of the husband's family, not the lover's, and is treated as a legitimate child. The husband may always refuse to accept custody of such a child and may obtain reimbursement from the biological father for the cost of the child's upkeep. Cases of children of incestuous relationships are quite rare in Benin. Any cases recorded fall within the authority of the head of the extended family. Some tribes, such as the Batonu, abandon children of this kind.

242. Under article 55 of the Civil Code, every birth of a child must be declared to the civil registry authorities within the three days following the birth. The declaration may be made by the parents, or, if that is not possible, by a physician, midwife, health official or any other person who was present at the birth. The certificate specifies the date, time and place of the birth, the sex of the child and the forenames the child will be given, together with the names, forenames, ages, occupations and places of residence of the father and mother and, where appropriate, those of the person making the declaration. In practice, however, some babies in isolated regions are delivered by older women from the village. Children born in such conditions do certainly receive a name and forenames, but their births are not declared immediately. The need to obtain a court order in lieu of the declaration arises only on certain occasions in their lives (school enrolment, marriage of illiterates or where a file has to be constituted).

243. False declarations, perjury and the alteration or wilful destruction of a civil register or civil registry certificate are criminal offences. In addition, civil registry officials are personally liable vis-à-vis individuals in respect of any fault or negligent act committed by them or the disappearance of registers occurring during the exercise or in the course of their duties, insofar as the individuals concerned suffer prejudice thereby. In addition, such acts may give rise to penal sanctions or disciplinary measures.

244. No change in civil status may be made, and no forenames may be added, except on application to the president of the court of first instance at the place of residence of the applicants or by decision of the judge responsible for civil status matters on the desirability of the change applied for.

245. In Benin, the legislation in force regarding nationality consists of:

- Act No. 65-617 of 23 June 1965, establishing the Nationality Code of the Republic of Dahomey;
- Decree No. 272-P-C/MJL of 11 August 1965, establishing the detailed provisions for the application of the Nationality Code.

246. Article 7 of Act No. 65-17, establishing the Nationality Code of the Republic of Dahomey, states that: “Any person born in Dahomey of a father who was himself born in that country is Dahomean. Any person habitually resident in the territory of the Republic of Dahomey and possessing Dahomean status is presumed to fulfil the two conditions. A newborn child found in Dahomey is presumed to have been born in Dahomey failing proof to the contrary.”

247. Under article 12 of the Nationality Code, the following have Beninese nationality:

- (1) A child born of a Beninese father;
- (2) A child born of a Beninese mother if the father is unknown or has no known nationality in accordance with article 13 of the Nationality Code, although a child not born in Benin may repudiate Beninese nationality during the six months before attaining the age of majority;
- (3) A child born of a Beninese mother and a father of foreign nationality.

248. The provisions relating to nationality are in keeping with the spirit of the Universal Declaration of Human Rights. The legislation still in force in Benin does not exclude dual nationality. A person born outside Benin, or born in Benin to parents of foreign nationality, is entitled to hold dual nationality. The acquisition of nationality entails the acquisition of all the rights pertaining thereto. A candidate for the position of Head of State must, among other things, be a Beninese national by birth or have held that nationality for at least 10 years.

249. The Government, with the help of United Nations agencies such as UNICEF and the United Nations Population Fund (UNFPA), is implementing programmes to protect mothers and children. Its efforts are supplemented by those of organizations working to protect mothers and children such as Terre des Hommes, SOS Enfants, Caritas and religious organizations.

250. The breakdown of the family structure as a result of social changes is not always conducive to children’s harmonious physical, psychological and social development.

251. Records of births in medical facilities (public hospitals, maternity clinics and health centres) make it possible to prepare the documents needed by registry offices to register the child.

252. In rural areas where births take place outside medical facilities, the ministry responsible for territorial administration and local authorities have started information campaigns to encourage parents to register births immediately.

253. The ministry responsible for demographic statistics supports these awareness-raising activities.

254. Every child of a Beninese father and/or mother has the right to Beninese nationality. Beninese nationality may be granted to any child born in Benin to foreign parents who so choose, under the conditions laid down by law.

Article 25

Constitutional provisions

255. Article 26 of the Constitution stipulates that in the Republic of Benin, “The State shall ensure equality before the law for all, without distinction as to origin, race, sex, religion, political opinion or social status. Men and women are equal under the law. The State shall protect the family, and in particular the mother and child.”

256. Article 6 of the Constitution provides as follows: “Suffrage shall be universal, equal and secret. All Beninese nationals of either sex aged 18 or over and in possession of their civil and political rights are entitled to vote under the conditions determined by law.”

257. The African Charter of Human and Peoples’ Rights, which is an integral part of the Beninese Constitution, stipulates in article 13 that all citizens have the right to participate freely in the government of their country, either directly or through freely chosen representatives, in accordance with the provisions of the law. All citizens also have the right of equal access to the public service of their country and every individual has the right of access to public property and services in strict equality of all persons before the law.

Specific provisions

258. The Conference of the Active Forces of the Nation and the institutions to which it gave rise laid the foundations for the introduction of a multiparty democracy in which political rights are respected.

259. There is no discrimination between men and women in the legislation governing the lives of Beninese citizens.

Article 26

Constitutional provisions

260. Equality of men and women before the law is a principle affirmed in article 26 of the Constitution and in article 3 of the African Charter of Human and Peoples’ Rights. Under the law in force in Benin, women are treated on an equal footing with men as regards legal capacity

to conclude contracts and administer property. They can act as executors of the wills of their deceased relatives and spouses. Joint property is administered in accordance with the law and without distinction as to the time of acquisition, which may be before, during or after marriage.

261. Men and women are equal before the law (article 26 of the Constitution and article 3 of the African Charter). The presumption of innocence, protection against torture, abuse and all forms of cruel, inhuman or degrading treatment, protection against arbitrary detention and a guaranteed right to health protection in the event of detention are rights recognized in Benin's legal arsenal and guaranteed to all without distinction as to sex. The same applies to the right to a defence and to a fair trial. These provisions are set forth in articles 16 to 19 of the Constitution and article 7 of the African Charter. Consequently, women enjoy the same access as men to all existing legal services. They can bring matters to court and their testimony is fully valid in court cases.

Specific provisions

262. National legislation does not provide for any particular forms of contracts or arrangements requiring women to renounce their personal negotiating rights in matters involving them.

263. The judgements of Beninese courts - that is, sentences to imprisonment, fines or payment of damages - do not depend on the sex of the accused.

264. Legal assistance is compulsory, without distinction as to sex, in cases provided for by law, such as criminal and juvenile court proceedings.

265. In other cases, women with sufficient means can hire the services of a lawyer or any other legal adviser. Free legal services are offered by certain NGOs.

Article 27

Constitutional provisions

266. The Constitution guarantees the protection of this right. Article 11 of the Constitution provides that all the communities that make up the Beninese nation shall enjoy the freedom to use their spoken and written languages and to develop their own cultures while respecting those of others.

267. Article 3 of the Constitution reaffirms that national sovereignty belongs to the people. No grouping, community, corporation, political party or association, trade union nor any individual may appropriate the exercise of that sovereignty.

Specific provisions

268. The relationship between all ethnic and religious communities in Benin is one of symbiosis. Benin has no problems with ethnic or religious minorities.
