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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Fortieth session

SUMMARY RECORD OF THE 10th MEETING

Held at the Palais Wilson, Geneva,
on Monday, 5 May 2008, at 3 p.m.

Chairperson: Mr. TEXIER

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Second periodic report of Benin (E/C.12/BEN/2; E/C.12/BEN/Q/2 and Add.1; HRI/CORE/1/Add.85)

1. At the invitation of the Chairperson, the members of the delegation of Benin took places at the Committee table.
2. The CHAIRPERSON welcomed the delegation of Benin. It was regrettable that a misunderstanding had prevented the Beninese delegation from attending the meeting scheduled for that morning, for the Committee would therefore have only one three-hour meeting, with perhaps an extra hour the following morning, in which to consider the State party's second periodic report.
3. Mr. AKIBOU (Benin) said that his Government attached great importance to the dialogue with the Committee and therefore sincerely regretted missing a meeting.
4. Mr. AKPOMEY (Benin), introducing Benin's second periodic report (E/C.12/BEN/2), gave a brief overview of his country's geographic and demographic situation. He drew attention to the State party's actions to implement the provisions of the Covenant during the reporting period, in particular the right to self-determination through the introduction of decentralization, equal rights of men and women, the right to work, the right to form trade unions and to strike, and the right to education, as described in detail in the periodic report. Although significant progress had been made in the implementation of those rights, the Government was aware that much remained to be done.
5. The CHAIRPERSON invited the members of the Committee to put questions to the delegation of Benin.
6. Mr. KERDOUN (Country Rapporteur) said that illiteracy levels in Benin remained high and education must therefore be prioritized. He expressed concern that, despite the adoption of measures for the advancement of women, women continued to be the victims of violence. He noted that certain traditional African practices could accentuate poverty. It was important to improve access to drinking water as part of the campaign against poverty and malnutrition.
7. He welcomed the introduction of minimum social standards in 1997 and the adoption of the National Community Development Programme in 1998. He also commended the adoption of legislation on female genital mutilation and sexual health in 2003 and of the Personal and Family Code in 2004: those laws must be translated and publicized among the general population.
8. The State party's replies to certain issues had been unsatisfactory, which made it difficult for the Committee to assess the progress made in the reporting period. He requested clarification

as to whether there had in fact been any court decisions that referred to the provisions of the Covenant. He asked about the time frame for the modernization of the judicial system and the introduction of a reliable statistics system.

9. He asked whether Benin had ratified or intended to ratify the Convention on the Rights of Persons with Disabilities. Lastly, he requested information on the countries of origin and numbers of refugees in Benin.

10. Mr. TIRADO MEJÍA asked whether there was a specific law on persons with disabilities. He wished to know how the Personal and Family Code was implemented. He would be interested to hear what penalties courts imposed for violations of the Code, such as under-age marriage. He noted with concern that there was still a distinction in domestic law between legitimate and natural children, and suggested that alternative terminology such as “children born outside wedlock” should be considered.

11. He expressed concern that the measures adopted to address HIV/AIDS in the State party did not seem commensurate with the vast scale of the problem. He requested additional information on what steps were actually being taken and asked what was understood by “awareness-raising work” undertaken in the ministries, as mentioned in the report (E/C.12/BEN/2, para. 277).

12. Ms. BARAHONA RIERA welcomed measures aimed at promoting equality between men and women, but requested clarification on the situation of children born outside marriage. She asked whether the Criminal Code would be amended to cover domestic violence and people trafficking, in particular trafficking in women and children. She also asked what the State party was doing to eliminate the traditional attitudes that contributed greatly to women’s overrepresentation in low-paid jobs in the agricultural and informal sectors.

13. Ms. BONOAN-DANDAN requested an explanation of the framework of national human rights institutions in Benin. She asked why the Benin Human Rights Commission was classified as a non-governmental organization. Noting that the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) had accorded the Commission C status only, she said that Benin had not complied with its obligation to make annual reports on its national human rights institutions. She also wondered what body or bodies, if any, were responsible for investigating and obtaining redress for human rights violations.

14. She would welcome more information on implementation of the State party’s poverty reduction strategy paper (PRSP) and second government programme of action (PAG II). She wondered to what extent human rights concerns and international treaty obligations were incorporated into poverty reduction strategies. She urged the State party to provide figures, not merely percentages, showing the number of individuals living below the poverty line or in extreme poverty. More information would likewise be welcome on what the Government was doing to promote implementation of the Millennium Development Goals. She asked what was being done to limit population growth, which contributed to poverty levels. Lastly, she said that she was concerned that women accounted for 90 per cent of those employed in the informal sector and wondered what was done to protect the rights of women who became pregnant or sick and unable to work, and of women who were their families’ sole breadwinners.

15. Mr. ABDEL-MONEIM, recalling the State party's high external debt, wondered whether the conditions and structural reforms demanded by international donors such as the Paris Club helped the State party meet its obligations under the Covenant. Referring to article 2, paragraph 1, of the Covenant, he wondered whether international economic and technical assistance and cooperation had been useful in helping the State party meet its obligations.

16. Mr. SADI said that, although the State party had ratified the Covenant in 1992, the Covenant had not been published in the Official Gazette until 2006. He wondered what the status of the Covenant had been in the State party between 1992 and 2006; could that delay explain the lack of case law relative to application of the Covenant? He asked whether the workshop organized in cooperation with Denmark, on capacity-building within the judiciary (E/C.12/BEN/Q/2/Add.1, para. 11), had increased awareness of the applicability of the Covenant among government officials and judges. He asked how bodies such as the Benin Human Rights Commission, the National Human Rights Advisory Council and the National Committee to Monitor the Implementation of International Human Rights Instruments coordinated their efforts, whether they were independent bodies and whether there was any overlap between their areas of responsibility.

17. He took note of the State party's efforts to introduce legislation banning customary practices such as polygamy and female genital mutilation. It was difficult to eradicate traditional practices by legislation alone, however, and he wondered how effective that legislation had been. He asked why only one quarter of births were registered and wondered whether the continued existence of polygamy might be a contributing factor.

18. Ms. BRAS GOMES expressed concern at the drawn-out nature of the legislative process and the long delays in implementing human rights measures. For example, although a National Policy for the Protection and Integration of Persons with Disabilities had been drafted, there was no plan of action for its implementation; the National Action Plan on the Family drafted in 2006 was still before the Council of Ministers; likewise, the law establishing a special social security regime for the self-employed, farmers and the informal sector had not yet been adopted. She asked why it took so long to implement such worthwhile measures.

19. She welcomed the establishment of Mutual Social Security Associations but wondered why membership in the Cotonou Association had declined between 2006 and 2007. She asked whether the State party intended to ratify International Labour Organization (ILO) Convention No. 102 concerning Minimum Standards of Social Security and other ILO conventions on social security. Lastly, she noted that steps had been taken to make primary education compulsory for all but expressed concern that primary education was not free of charge.

20. Mr. PILLAY said that he had found the written replies to the Committee's list of issues (E/C.12/BEN/Q/2/Add.1) rather vague and uninformative. For example, the reply to question 17, on the effectiveness of poverty reduction strategies, spoke of programmes and initiatives and good intentions but provided no real information on results obtained. The same applied to the replies to questions 18, on public housing, and 19, on the homeless. He was also concerned that, according to the report, public housing was allocated almost exclusively to State employees or

private company executives (E/C.12/BEN/2, para. 230). He stressed that public housing should prioritize the disadvantaged and homeless. The State party should provide more complete data on those issues in its next report.

21. Mr. MARCHÁN ROMERO, referring to article 15 of the Covenant, asked why, given Benin's numerous ethnic and tribal groups, the State party had still not ratified ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. He noted that 18 languages were in common use in the country but the working language was French, and he wondered whether any other languages had official status. He asked whether any assistance was available in court proceedings to individuals who did not speak French. Lastly, he requested more information on the implementation of the European Union-supported Cultural Outreach Support Programme and on the results of that programme.

22. Ms. WILSON wondered how effective Benin's initiatives on gender equality, such as the Personal and Family Code and the National Policy for the Advancement of Women, would be in the face of traditional attitudes. Women continued to be the victims of domestic violence and she expressed concern that, although domestic violence was a criminal offence, the police and judiciary were often reluctant to act and women themselves frequently hesitated to file complaints. That was an example of tradition or custom hindering the application of legislation and she wondered what was being done to change mindsets and increase awareness of women's rights.

23. She urged the State party to abolish the practice of "vidomégon", and ratify ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. She also expressed concern at Benin's chronic malnutrition, which was exacerbated by rapid population growth, and wondered what the Government was doing to ensure an adequate food supply.

24. Lastly, she took note of the Government's replies to questions 18 and 19 on the Committee's list of issues (E/C.12/BEN/Q/2/Add.1) but urged the State party to do more to inform the population of their rights and relevant legislation, including with regard to access to public housing.

25. Mr. ATANGANA said that the fact that the Ministry of Justice could transfer judges and that a prosecutor could apparently request a judge's removal from a case might have a negative effect on the independence of the judiciary. He took note of the Government's reply to the Committee's question on the status of the Covenant in domestic law, which referred to article 147 of the Constitution and to the application of agreements or treaties by the other party (E/C.12/BEN/Q/2/Add.1, para. 8), but stressed that it was essential for the State party to fulfil its obligations and implement the Covenant.

26. The reply to question 3 on the list of issues mentioned the National Policy for the Protection and Integration of Persons with Disabilities but made no reference to any corresponding legislation (*ibid.*, para. 16). In response to question 16 on the list of issues, the Government had indicated that 1,000 children had been removed from paid work situations in 2004, and he asked what had happened to them (*ibid.*, para. 61). Lastly, he urged the State party to provide primary education free of charge.

27. Mr. RIEDEL, referring to question 20 on the list of issues (E/C.12/BEN/Q/2), requested more detailed information on efforts to improve prison conditions, including measures to reduce overcrowding and improve prisoners' diet. Turning to question 21 on safe drinking water and sanitation, he again requested more detailed information on concrete progress, including disaggregated data on the costs of measures such as the laying of water pipelines and the protection of water resources from pollution, and information on the stakeholders involved.

28. Mr. MARTYNOV asked whether the State party intended to increase the number, activities and effectiveness of State vocational training centres, which could play an important role in reducing unemployment levels. He expressed concern that most of the working population was employed in the informal sector and relatively few enjoyed any social security benefits, despite the existence of Mutual Social Security Associations. He requested information on any other tools or mechanisms the Government envisaged introducing to reduce unemployment and increase social security coverage.

29. Mr. KOLOSOV enquired whether there were marked differences in the standards of living of the various ethnic groups in Beninese society. He also wondered, given the fact that only around 25 per cent of births were registered, how the authorities could reliably calculate population growth and indicators such as per capita GDP.

The meeting was suspended from 4.55 p.m. to 5.05 p.m.

30. The CHAIRPERSON invited the delegation of Benin to reply to the Committee members' questions.

31. Mr. AKPOMEY (Benin) pointed out that the information in his Government's second periodic report covered the period 2000 to 2004 and much had changed since then. He said that the Covenant had been published in the Official Gazette of Benin and that it took precedence over domestic law.

32. Ms. ZINKPE (Benin), replying to the questions concerning the independence of the judiciary, said that judges were not appointed by the Minister of Justice but by the Supreme Council of the Judiciary. The Minister submitted nominations to the Council, but the Council was not bound to follow them. The Council's decisions were based on a thorough consideration of the nominee's qualifications.

33. Prison overcrowding had been alleviated somewhat through the transfer of some 300 prisoners to a newly constructed prison in 2007. However, alternatives to imprisonment were needed in order to really address the problem.

34. Interpreters were available to assist parties to civil or criminal court proceedings if they were illiterate or not competent in the French language.

35. Mr. AKPOMEY (Benin) said that the principle of irremovability of judges was respected in Benin. If a decision of the Council of the Judiciary was found to violate that principle, it could be overturned by the Constitutional Court, which thus served as a powerful check on the Government's power with regard to the appointment of judges.

36. Regarding prison overcrowding, he said that additional prisons were to be constructed with funding from the Millennium Challenge Account.

37. Mr. TODJIHOUNDE (Benin) said that it was true that the Benin Human Rights Commission, created in 1990, had initially functioned as an NGO and had not been very effective, but that situation had now changed. A government fund had been created to support the work of all the human rights bodies in Benin, 10 per cent of which would be allocated to the Human Rights Commission.

38. The National Committee to Monitor the Implementation of International Human Rights Instruments and the National Human Rights Advisory Council were separate bodies with different functions. The latter was an advisory body composed of representatives of NGOs and government agencies, which made recommendations to the Government concerning the promotion and protection of human rights. The National Committee was a purely governmental institution which was responsible for preparing Benin's reports to the various treaty bodies. Both bodies had their secretariats within the Human Rights Office of the Ministry of Justice, which was charged with coordinating all human rights activities in Benin. There was thus no overlap in or conflict between the roles of the various human rights bodies.

39. Mr. HACHEME (Benin) said that Benin had not yet ratified the Convention on the Rights of Persons with Disabilities, but its Constitution prohibited discrimination against the disabled and the Government had formulated a policy on protection of their rights. A national forum of persons with disabilities to be held later in 2008 would yield recommendations for further action in that regard.

40. Ms. FAGNISSE (Benin) said that protection of the rights of persons with disabilities was a responsibility of the Ministry of Family Affairs, Social Welfare and Solidarity. The assistance available to such persons included access to financing to enable them to cover their subsistence needs and develop income-generating activities.

41. Ms. AKPOVO (Benin) said that free public education had been available to all children at the pre-primary and primary levels since the start of the 2006/07 academic year. The feasibility of offering free secondary and university education was under study. The introduction of free education had resulted in school overcrowding in some areas, and a project to construct new schools was therefore under way. Canteens were also being built to ensure that pupils received a midday meal.

42. Mr. AKPOMEY (Benin) said that there was no conflict between customary law and the provisions of the Personal and Family Code. Customary law no longer applied to any matter that was covered by the Code. Polygamy, for example, was illegal under the Code, and consequently polygamous marriages were not recognized as legally valid.

43. The problem of unregistered births was partly the result of Benin's high illiteracy rates. An initiative was under way to issue birth certificates at the village level, based on statements made by parents or school principals. Several hundred thousand certificates had been issued since 2007.

44. He said that female genital mutilation (FGM) was prohibited by law in Benin. Education and awareness-raising activities were being carried out among FGM practitioners and efforts were under way to assist them in developing new livelihoods.
45. Mr. TODJIHOUNDE (Benin) said that practices such as FGM continued, despite the legislative and awareness-raising measures taken. Some families took their girls to neighbouring countries to have them circumcised.
46. The practice of vidomégon also continued, although it had been greatly curbed. However, efforts to end the practice were thwarted by the fact that when children were returned to Benin, there was often no one to look after them. Neither the Government nor their families had sufficient resources to do so. Consequently, they often ended up being trafficked abroad again.
47. Ms. ZINKPE (Benin) said that the Government was endeavouring to monitor the situation of children who had been returned to Benin in order to prevent them being resold by their families. With regard to the issue of birth certificates, the Government was conducting an information campaign to make families aware of the importance of registering their children at birth.
48. At present, prisons served only one hot meal per day. The Government was aware that that was inadequate and was taking steps to ensure that all prisoners received two hot meals a day.
49. As to the differences in standards of living among different ethnic groups, there were no minorities in Benin. All segments of the population were treated equally.
50. Mr. PILLAY asked what exactly the State party was doing to enforce the law prohibiting female genital mutilation and whether that law also prohibited FGM being carried out as a surgical procedure in a medical setting. It appeared that the State party was not doing enough to protect victims of FGM and other forms of violence and abuse.
51. Ms. BRAS GOMES said that her questions concerning social security had not been answered. She wondered whether she had understood correctly that both nursery school and primary school were compulsory and free in Benin.
52. Ms. BARAHONA RIERA said that she was still waiting for a response to her questions about the informal sector and wage inequality between men and women. She enquired why domestic violence had not been explicitly classified as a criminal offence and requested clarification of the law on trafficking of adults, particularly women. She also sought information on the situation of children born outside wedlock. Did they have the same rights as children born to married couples? Lastly, she wished to know what action was being taken to reduce maternal and child mortality.
53. Mr. ZHAN Daode said that the State party's second periodic report showed that the Government had a serious and responsible attitude towards its obligations under the Covenant. He wished to know what sanctions were imposed against employers who failed to report occupational accidents and illnesses and why Benin had not yet become a party to the ILO Maternity Protection Convention (Revised), 1952 (No. 103).

54. Ms. BONOAN-DANDAN said that she was not entirely satisfied with the State party's explanations regarding the Benin Human Rights Commission. The delegation had stated that the Commission was no longer operating as an NGO, but the fact remained that the Constitution identified it as an NGO, which was inconsistent with the Paris Principles.

55. The State party's second periodic report, while commendably candid, had not fully responded to the Committee's concluding comments and recommendations on its initial report. The Committee would be grateful if the Government would do so in its third periodic report.

56. Ms. WILSON enquired whether the Government had any programmes aimed at raising awareness among the population about harmful practices that were violations of the Covenant. The delegation's responses seemed to indicate that such awareness-raising was left mainly to civil society.

57. Commending the State party for its candour about the food situation in Benin, she enquired what measures were in place to control food prices and what strategy the Government proposed to combat chronic malnutrition.

58. Mr. PILLAY said that his questions had not been answered and asked the delegation to address them at the next meeting.

59. Mr. KOLOSOV suggested that the State party should negotiate agreements with neighbouring countries on joint action to combat female genital mutilation. He pointed out that it was important to address not only the quantity of food served in prisons but also its quality and asked whether there was any body that provided independent monitoring of conditions in Beninese prisons. He also requested clarification of the delegation's remarks concerning differences in standards of living among the various ethnic groups.

60. Mr. TIRADO MEJÍA said that he was not satisfied with the delegation's replies to his questions concerning polygamous marriages. He wished to know what sanctions were applied if people illegally entered into such marriages. He would also like concrete information on what the Government was doing to address the AIDS situation in Benin.

61. Mr. KERDOUN said that his questions concerning refugees in Benin had not been answered. Where did the refugees come from and how many were there?

The meeting rose at 6.05 p.m.