

# TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

## COMMITTEE ON THE RIGHTS OF THE CHILD 43<sup>RD</sup> SESSION BENIN, 2<sup>ND</sup> REPORT

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### Information submitted to the Committee

On 20 April 2005, Benin submitted its second periodic report, due in 1997.<sup>1</sup> It also submitted written replies<sup>2</sup> to the list of issues provided by the Committee on the Rights of the Child (the Committee).<sup>3</sup> The introduction provided a brief explanation of the country's situation, and a detailed explanation of the follow-up measures undertaken since the last report. The structure of the rest of the report was in line with the guidelines of the Committee. The report was compiled by the Ministries of Justice, Legislation and Human Rights, as well as the Human Rights Office of Benin. In its concluding observations<sup>4</sup>, the Committee recommended that the State party cooperate more with civil society and NGOs in the fulfilment of its work.

Several non-governmental organisations (NGOs) submitted parallel reports<sup>5</sup> that were concerned the participation of children in society. According to these reports, there is a clear lack of input and feedback from children, which has led to numerous violations of their rights. An explanation given was that this could

<sup>1</sup> CRC/C/BEN/2, 24 November 2005

<sup>2</sup> CRC/C/BEN/Q/2/Add.1, 14 August 2006

<sup>3</sup> CRC/C/BEN/Q/2, 21 June 2006

<sup>4</sup> CRC/C/BEN/CO/2, 29 September 2006 (unedited)

<sup>5</sup> Child Helpline International, Comité de Liason des Organisations Sociales de Defense des Droits de l'Enfant, Organisation Mondiale Contre la Torture, Global Initiative to End All Corporal Punishment. NGO reports are available on the Child Rights Information Network at <http://www.crin.org/docs/resources/treaties/crc.25/annex-vi-crin.asp>.

be due to an alternative definition of the child, which was one of the issues raised by the Committee. One possible solution, raised by one NGO, was the setting up of a hotline for children to be able to make their complaints heard.

Benin does not have any reservations to the International Convention on the Rights of the Child (the Convention) and has signed both Optional Protocols without reservations.

## Themes and issues

The Committee was pleased with the high-level representation of the delegation.<sup>6</sup> It congratulated the Committee on the work done since their initial period report and for signing all the documents of the CRC with no reservations. The discussion was dynamic, with Committee members interrupting regularly to clarify comments and questions.

### Status of the Convention in domestic law

The country Rapporteur highlighted two main themes that affect the implementation of the convention in Benin. She found that poverty and the weight of tradition were the causes of much of the delay in the fulfilment of children's rights. In its opening statement, the delegation of Benin outlined that the constitution gave primacy to all international treaties or laws to which Benin is a party. Accordingly, the Convention's obligations would supersede any pre-existing contradicting domestic legislation. However, this did not prevent the delegation from warning that Benin law included "customary rights", which would require a gradual changing of traditional attitudes in order to be overcome.

Several Committee members also asked for more information regarding the various institutions in place to deal with Benin's obligations under the Convention. These are the National Commission for the Rights of Children, the Human Rights Commissioner, and the Brigade for the Protection of Children. One Committee members asked how these institutions worked together and complemented each other, and which of these could receive complaints. The delegation responded that the National Commission on the Rights of Children could receive complaints and could then assist the child in pursuing a case. However, it was also stated that these institutions lacked funding, and that this has made work in general, let alone cooperation, more difficult. In its concluding observations, the Committee expressed its appreciation for the creation of this National Commission for the Rights of Children. However, it urged the State party to ensure that all its domestic laws be reformed to be in line with the Convention. Finally, it also called on the State party to have an independent organ of monitoring of children rights, such as a human rights ombudsman.

### Health

As mentioned earlier, a major problem in Benin was that of poverty. While the Committee recognised that there had been improvements, this remained an area of great concern. The delegation stated that it was working on Poverty Reduction Strategy. The Committee proposed that the State consult children in this regard.

The Committee asked what the State party was doing to combat malaria, and what was being done to combat nutritional deficiencies at both the micro and macro levels. The delegation was vague, limiting its answer to stating that measures were in place and that it was working to increase the budget allocated to health. With

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<sup>6</sup> The State delegation was headed by the Permanent Representative of Benin in Geneva, the Director of Human Rights in Benin, the Chief of Service for the Promotion and Dispersion of Human Rights, the Director for the Judicial Protection of Children and Youth, the Secretary General of the Ministry of the Family, Woman, and Child, and the First Counsellor of the Permanent Mission of Benin in Geneva.

regards to malnutrition, the delegation stated that several NGOs were involved, but that they had lost interest and ceased their work. The Committee recommended that the State increase funding in this sector and make contact with third parties for help in the matter.

The Committee also requested to know what measures were in place to ensure children were aware of sexually transmitted diseases. The delegation responded by saying that there were many public education programs available, but that the problem of HIV/AIDS was no longer considered a health issue, and was now considered a developmental issue. In addition, the delegation stated that individuals are regularly tested for HIV during medical visits. In this regard, the Committee expressed concern that HIV testing may be done without the consent of the individual, and urged the State party to make sure that this is not the case. In a related matter, the Committee expressed concern about the ongoing practice of Female Genital Mutilation (FGM). While it noted the banning of the practice, it recommended that the State party do more to prevent the practice of FGM.

One Committee member inquired about certain traditional practices whereby children with disabilities or a child whose mother dies during childbirth are thought to be sorcerers' children and are subsequently killed. The delegation responded that this problem was being tackled through education, and that they were trying to reach community leaders in this respect. In its concluding observations, the Committee made a special point of urging the State party to do all it can to prevent such actions. It also recommended that the State party consider international rules on persons with disabilities.

Finally, the Committee asked about what was being done to ensure children were registered at birth. The delegation responded that the procedure had recently been simplified to allow all age groups to register if they had not been registered before.

### **Education**

While the Committee was pleased to hear that Benin's ten-year development package included a significant plan for the education of girls, the Committee remained concerned about the high dropout rate and overcrowding in classrooms. The delegation responded by saying that the image delivered by the report might be misleading, and that the high dropout rates were not as they appeared. Indeed, the delegation explained that many children leave school to do apprenticeships, and that these apprenticeships were not included as 'education' and so give the impression of higher dropout rates. Nevertheless, the State party stated that it was working to increase the education budget.

A few Committee members also asked if any educational programs were in place to deal with children with disabilities. The delegation responded that Benin had discussed various programs, but that these were still under review. In this regard, the delegation stated that the Ministry of the Family was in charge of this process.

Finally, the Committee requested further information on the status of religious schools in the country. The delegation stated that they had not yet taken these schools into consideration.

In its concluding observations, the Committee commended the work done, but urged the State party to continue the promotion and funding of education.

### **Employment/alternative care**

The Committee expressed concern regarding the situation of children neglected by their parents, abandoned as orphans, or the victims of human rights violations such as trafficking. The Committee feared that these children may easily enter the workforce at an early age because of the lack of support given to them. The delegation stated that there are inspectors in place to ensure children were not employed, but conceded that

there were not enough to deal with the issue. The problem of inspection was further accentuated by the fact that many children are employed in the informal sector in particularly bad situations. This was an issue raised by the Committee, which proposed a greater study of the issue. The Committee, however, commended the fact that Benin had signed all conventions relating to the employment of minors, mostly without reservations. In conclusion, the Committee recommended the continuation of inspections and cooperation with the International Labour Organisation (ILO).

### **Juvenile justice**

The Committee noted and appreciated that Children under the age of 13 are not subject to prison terms, but are instead 're-educated'. However, it did ask the delegation if there was a minimum age of criminal responsibility where a child cannot be considered to have committed a crime. The delegation stated it did not have a lower age limit.

Other members of the Committee asked about information regarding the length of preventive detentions. The delegation responded that this was not clear in Benin law, but that there were alternatives to imprisonment for minors, except for extremely serious crimes. When imprisonment is needed, the children are placed in specialised quarters of the prisons.

As to the judges themselves, the Committee stated that there were not enough, but was pleased to hear that efforts were under way to train them in dealing with children and in acting 'in the best interest of the child'. However, in its concluding observations, the Committee recommended that the State clarify what is the State's definition of 'in the best interest of the child', so that such trainings are in line with the obligations of the Convention.

Finally, the Committee expressed concern regarding 'children in moral danger', such as children using narcotics. The Committee expressed concern that these children are kept with children who had committed criminal offences. The fear was that "children in moral danger" be influenced to go on to a life of crime because of their contact with prison. The delegation recognised the problem but stated that facilities at the moment did not allow for separate detention centres.

### **Other issues**

The Committee was also concerned about physical abuse towards children, including corporal punishment, which the Committee urged the State to make illegal. The delegation responded that it was forbidden and that children could make their complaints heard through two hotlines. Secondly, the Committee requested that the State conduct a study to discover the extent of sexual abuse committed against children.

One Committee member inquired about corruption in the country. The delegation responded that the new government was actively working against corruption and that there had already been progress in the matter.

There was concern that the 'family fabric' of Benin was not as strong as it used to be. The delegation stated that programs were underway to support families in need.

Several Committee members inquired about the presence of measures to protect children from abuses of every kind. Primarily, the Committee was concerned with access to pornographic materials and drugs. The Committee was pleased to hear that the government already had institutions to deal with such concerns.

A concern raised in the parallel reports was that children may not have enough chances to be heard and to participate in society. In this respect, the Committee commended the creation of a 'Children's Parliament',

which had the capacity to create resolutions and present them to the real parliament. Furthermore, it was stated that each of the government ministry should be able to receive complaints from children. The Committee, deplored that there were no easy methods for children to make their complaints heard. In its concluding observations, the Committee recommended that the State party do more to ensure the respect of the views of the child.

## Conclusions and next steps

In her concluding statement, the Rapporteur stated that she had been most appreciative of this dialogue, and that the delegation had answered most of the questions effectively. She noted that, while much remained to be done, most of the issues were already addressed in some form or another. The main issue of concern was the lack of an independent monitoring mechanism. This made it more difficult to identify the problems in Benin. Together with the severe lack of statistics available in the report, it made it extremely difficult for the Committee to get a generalised view of the situation. Accordingly, the Committee requested that, in its next report, the State provide more statistics.

In its concluding observations, the Committee noted that several of the concerns expressed in its previous recommendations remain unchanged, and urged the State party to ensure that these are taken into consideration as well. Throughout its concluding observations, but particularly in the domain of health, the Committee recommended that the State request assistance from third parties, such as specialised UN agencies.

Finally, the Committee invited the State to submit a joint third, fourth, and fifth report by 1 March 2011, and also requested that it submit its reports on the optional protocols as soon as possible.

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The *Treaty Body Monitor* forms part of the Human Rights Monitor Series produced by ISHR. It reports on each country reviewed by the seven treaty bodies and provides an overview of every treaty body session. It is currently an online publication that can be found at <http://www.ishr.ch/hrm/TMBs>.

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