

FOLLOW UP TO THE PREVIOUS REVIEW

1. During Benin's third UPR in 2017, Benin supported 191 recommendations.¹ The seven recommendations the government noted aimed at ensuring that national legislation complies with international standards on freedom of expression and media freedom, adopting measures against child abuses, forced marriage and female genital mutilation, and combatting arbitrary detention, extrajudicial executions and excessive use of force.² Amnesty International regrets that these were merely noted as their swift implementation would be an important step to respond to current human rights issues (see section on Human Rights Situation on the Ground below).
2. Benin has partly responded to its commitment in the two previous reviews to ratify key international human rights instruments. On 7 November 2017, Benin ratified the International Convention for the protection of all persons from enforced disappearances. It also ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families³ on 6 July 2018, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure⁴ on 19 August 2019 and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women on 27 September 2019. But Benin failed to ratify other international human rights conventions such as the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which establishes a communication procedure.⁵
3. Benin accepted the visit of the Special Rapporteur on freedom of peaceful assembly and of association on 26 December 2018, but the visit has not been scheduled yet. However, Benin failed to respond to visit requests from the Special Rapporteur on the rights of persons with disabilities, the Special Rapporteur in the field of cultural rights, and in October 2019 postponed a scheduled visit by the Special Rapporteur on the right to water and sanitation.
4. The Benin Human Rights Commission was formally established in 2019 according to a 2013 law.⁶
5. In line with recommendations made during the last UPR, in February 2018, a presidential decree commuted the sentences of the last 14 death row prisoners to life imprisonment.⁷ And, Benin adopted a new criminal code in 2018 and a new constitution in 2019 which abolished the death penalty.⁸

THE NATIONAL HUMAN RIGHTS FRAMEWORK

6. The 2018 Criminal Code⁹ contains provisions which can be used to unduly restrict the rights to freedom of peaceful assembly and of expression. In particular, Article 237 prohibits "any prohibited non-armed gathering that could disturb public order".
7. On 10 December 2020, the National Assembly amended¹⁰ the 2018 Digital Code.¹¹ The Digital Code contains certain repressive provisions which can be used to silence any critics.¹² Notably, false information (Article 550) is punishable by one to six months of imprisonment. Libel is also sanctioned by a fine up to 10,000,000 XOF (€ 15,240). In its August 2020 Opinion on the case of Ignace Sossou, the UN Working Group on Arbitrary Detention considered some of the Code's articles to be "vague and too broad".¹³

8. Between April and June 2019, at least four protesters or bystanders were killed by firearms, according to Amnesty International.¹⁴ Kandissounon Djayane, a 19-year-old apprentice welder, died on 2 May 2019 in the northern city of Kandi, a day after he was shot in the abdomen. The same day, 37-year-old Prudence Amoussou, a mother of seven, died after being shot during a demonstration.
9. On 31 October 2019, the National Assembly adopted a law on amnesty for crimes, offences and infractions committed during the legislative elections of April 2019,¹⁵ in violation of the right of access to justice and effective remedies for victims of human rights violations. Promulgated on 7 November 2019, this law effectively shields the members of the security forces suspected of being responsible for human rights violations and abuses, including the killing of protesters, from prosecution. In December 2020, the African Court on Human and Peoples' Rights ordered Benin to take all measures to repeal the Amnesty Law.¹⁶
10. On 4 September 2018, the National Assembly adopted Law No. 2018-34 of 5 October 2018 amending and supplementing Law No. 2001-9 of 21 June 2002 on the exercise of the right to strike in the Republic of Benin, which threatens the right to strike. In March 2020, the UN Committee on Economic, Social and Cultural rights expressed concerns about the restrictions on the right to strike introduced by the law, in particular about "the conditions applicable to the duration of strikes, the prohibition against the exercise of the right to strike by certain categories of personnel (customs, water, forestry and hunting, health services personnel, etc.), the prohibition against solidarity strikes and the vague definition of the minimum service to be ensured in the event of a strike (art. 8)".¹⁷
11. Nearly six years after the promulgation on 15 February 2013 of the law establishing the Benin Human Rights Commission, the 11 members of the Commission were sworn in before the Constitutional Court on 28 December 2018 and were officially installed on 3 January 2019.¹⁸ In 2020, the UN Committee on Economic, Social and Cultural Rights regretted that "some of its members belong to the governing bodies of political organizations, contrary to the provisions of Act No. 2012-36 of 15 February 2013 establishing the Commission".¹⁹ As of 23 March 2022, the Commission had extended its presence in the country through the installation of "regional sections" in the departments of Atacora, Atlantique, Borgou, Mono, Ouémé and Zou.²⁰
12. On 21 January 2021, the Constitutional Court validated the withdrawal of Benin's declaration made under Article 34(6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, thus preventing NGOs and individuals from having direct access to the Court.²¹

THE HUMAN RIGHTS SITUATION ON THE GROUND

Excessive use of force

13. Demonstrations and riots erupted in several cities in the north and centre of the country several days before the 11 April 2021 presidential election. Defence and security forces were deployed and used live ammunition. According to the Beninese Human Rights Commission, several people were killed by the defence and security forces. At least five people were killed, including at least three in Bantè and at least two in Savè. The Ministry of Interior and Public Security stated on 14 April that 21 members of the defence and security forces received gunshot wounds when they cleared roadblocks.²² In a 4 May 2021 resolution, the African Commission on Human and Peoples' Rights condemned "the crackdown on demonstrations by the army" and called for the opening of "an independent and impartial investigation".²³ As of June 2022, no

information was available regarding the launch of a such investigation.

14. Between 28 April 2019 – the day of the legislative elections - and 2 May 2019, Amnesty International documented the deaths by firearm of at least four people, including a mother of seven children, a 19-year-old boy, and of two other men. The 2019 amnesty law prevented families of victims from exercising their right to justice.

Freedom of expression, peaceful assembly and freedom from arbitrary detention

15. On 7 December 2021, two journalists of Soleil Benin Info newspaper were released after they received a suspended six months' prison sentence and a fine in excess of 500,000 XOF (€760) for "harassment by means of electronic communication", under the Digital Code, after a series of articles on a land dispute. They had been in pre-trial detention since 18 November 2021.²⁴
16. On 19 May 2021, the Supreme Court upheld the May 2020 Appeal Court judgment sentencing journalist Ignace Sossou to 12 months in prison, six of which were suspended for "harassment by means of electronic communications" under the Digital Code after he quoted the Public Prosecutor in a Twitter post. Ignace Sossou's lawyers had wanted the Supreme Court to consider their client's detention as arbitrary, as the UN Working Group on Arbitrary Detention had done in August 2020.²⁵ Ignace Sossou was released from Cotonou prison on 24 June 2020, after spending six months in arbitrary detention.
17. Jean Kpoton, a pro-good-governance activist, was arrested on 13 January 2021 and sentenced on 9 February 2021 by the Cotonou Court of First Instance to 12 months in prison and a fine of 200,000 XOF (€305) after he commented on a post alleging that the car used by President Talon during a cross-country tour in January was rented for six million XOF per day (€9145).²⁶ He was convicted under the 2018 Digital Code for "harassment by means of electronic communication". He was released on 18 January 2022.
18. On 28 April 2019, the authorities shut down access to social media as the country's legislative elections were taking place without opposition parties. The authorities never gave any explanation about this internet shutdown.
19. On 18 April 2019, Casimir Kpedjo, the managing editor of the newspaper 'New Economy' (Nouvelle Economie), was arrested in relation to articles he shared on Facebook about the economic situation in Benin. Five days later, on 23 April, he was charged with publishing "false information" by the court for the repression of economic offences and terrorism (CRIET in French). He was released the same day pending trial. On 14 March 2022, the CRIET declared itself incompetent on this case.²⁷

Right to a fair trial

20. Several activists and political opponents were detained after they were arrested in connection with demonstrations and violence between protesters and security forces in several towns around the time of the 2021 presidential election. Joël Aïvo – whose candidacy to run for the presidential election was rejected - was convicted by the CRIET in December 2021 to 10 years in prison for "money laundering and endangering the security of the State". Rékiatou Madougou, a member of the opposition party Les Démocrates and

whose candidacy was also rejected, was arrested on 3 March 2021 in Porto-Novo and condemned by the CRIET on 11 December 2021 to 20 years in prison for complicity in terrorist acts. Lawyers for the two political opponents denounced violations of their rights to communicate with, and receive regular visits from, their families and to have confidential access to lawyers, constituting violations to their right to a fair trial.

Rights of LGBTI persons

21. On 30 April 2021, three transgender women were forced to undress before being beaten and robbed by a group of men in a bar in Cotonou.²⁸ The attack was filmed by the assailants who posted the video on social media. The three victims sought refuge with a local transgender association and continued to receive threats during several days, without receiving adequate protection from the police. LGBTI rights associations across Benin which supported the three women also received threats. On 29 June 2021, the Cotonou Court of First Instance sentenced one of the attackers to 12 months' imprisonment, including a six-month suspended sentence, for assault and battery, and to a 50,000 XOF fine (€75).
22. On 4 February 2022, a transgender woman was taken to Pahou Police station by motorbike taxi-drivers after being assaulted by the latter and residents of her neighborhood in the city of Ouidah. Instead of helping her, police officers allegedly beat her with sticks and machetes, stripped her naked and photographed her. She spent three days in arbitrary detention, where she was deprived of food and forced to remain completely naked. She was released on 6 February 2022 without any charges being brought against her.²⁹ As of June 2022, no information was available regarding whether a prompt, effective, thorough, impartial and independent investigation into the alleged human rights violations perpetrated by the police against the transgender woman had been launched.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Benin to:

Human rights framework

23. Implement previously supported recommendations to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which establishes a communication procedure, the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity and the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization.
24. Make the declaration under article 34.6 of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, which allows NGOs and individuals to have direct access to the Court.
25. Implement the previously supported recommendation to undertake the necessary steps to ensure that the national Human Rights Commission operates in accordance with the Paris Principles, particularly in terms of its financial independence and with sufficient human and material resources to enable it to effectively exercise its mandate.³⁰

Excessive use of force

26. Ensure the opening and conduct of a prompt and thorough investigation into every case of alleged excessive use of force by defence and security forces to guarantee access to justice and effective remedies for victims or their families.
27. Open an independent and impartial investigation into the killings of demonstrators by defence and security forces at the time of the 2021 presidential election and prosecute any alleged perpetrators of excessive use of force.
28. Repeal the 2019 Amnesty Law for crimes, offences and infractions committed at the time of the 2019 legislative elections, to comply with the decision taken by the African Court on Human and Peoples' Rights on December 2021.

Freedom of expression, freedom of peaceful assembly and freedom from arbitrary detention

29. Revise the Criminal Code, in particular Article 237, to guarantee the right to freedom of peaceful assembly in accordance with the ICCPR.
30. Revise the Digital Code, in particular Article 550, which unduly restricts the right to freedom of expression, notably by removing prison sentence for the offense of false information.
31. Revise Law No. 2018-34 of 5 October 2018 amending and supplementing Law No. 2001-9 of 21 June 2002 on the exercise of the right to strike in the Republic of Benin, to comply with international human rights norms notably regarding conditions applicable to the duration of strikes and the prohibition against the exercise of the right to strike by certain categories of personnel.

Right to a fair trial

32. Fully respect and ensure the right to a fair trial, including the right of any person prosecuted and tried before courts to be able to communicate with and receive visits from a lawyer of their choice.

LGBTI rights

33. Ensure prompt, effective, thorough, impartial and independent investigations into all threats and attacks against LGBTI people and organisations which defend them and that alleged perpetrators of any such attacks are tried before independent courts in proceedings that comply with fair trial standards.

1 UN Human Rights Council, *Report of the Human Rights Council on its thirty-seventh session*, 14 June 2018, UN Doc. A/HRC/37/2, Para 747

2 UN Human Rights Council, *Working Group on the Universal Periodic Review Report: Benin*, 3 January 2018, UN Doc. A/HRC/37/10, recommendations 119.1-7 (Kenya, Ireland, Haiti, Honduras, Italy, Croatia, Argentina)

3 WG UPR, Report: Benin (previously cited), A/HRC/37/10, Recommendation 118.4 (Guatemala)

4 WG UPR, Report: Benin (previously cited) A/HRC/37/10, Recommendation 118.2 (Montenegro)

5 A/HRC/37/10, Recommendation 118.10 (Armenia), 118.6 (Mexico), 118.8 (Guatemala)

6 WG UPR, Report: Benin (previously cited), A/HRC/37/10, Recommendation 118.25 (Senegal)

7 WG UPR, Report: Benin (previously cited), A/HRC/37/10, Recommendation 118.60 (Namibia)

8 WG UPR, Report: Benin (previously cited), A/HRC/37/10, Recommendations 118.32 (Georgia), 118.37 (Republic of Moldova), 118.60 (Namibia), 118.55 (Canada); 118.58 (Holy See), 118.39 (Zambia), 118.54 (Ukraine), 118.56 (Central African Republic), 118.57 (France); 118.59 (Ireland); 118.80 (Senegal),

9 Benin, Criminal Code, 2018, Article 237 (as amended on 4 June 2018) <https://documentation-anbenin.org/s/textes-de-lois/item/2074>

10 Benin, LoiNo. 2020-35 du 6 Janvier 2021 <https://documentation-anbenin.org/s/textes-de-lois/item/2170> modifiant la loi No 2017-20 du 20 Avril 2018, 10 December 2018

11 Benin, LoiNo. 2017-20 du 20 Avril 2018 portant code du numérique en République du Bénin

12 Amnesty International, Bénin : Au moins 17 personnes poursuivies en moins de deux ans (Communiqué de presse, 20 janvier 2020),

<http://www.amnesty.org/fr/latest/news/2020/01/benin-au-moins-personnes-poursuivies-en-moins-de-deux-ans/>

13 UN Working Group on Arbitrary Detention (WGAD) Opinions adopted by The Working Group on Arbitrary Detention at its 88th Session, 24-28 August 2020:

Opinion No. 46/2020 Concerning Ignace Sossou Benin, 6 October 2020, UN Doc.A/HRC/WGAD/2020/46,

www.ohchr.org/sites/default/files/Documents/Issues/Detention/Opinions/Session88/A_HRC_WGAD_2020_46_Advance_Edited_Version.pdf

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- 14 Amnesty International "Bénin. Une répression post-électorale inquiétante", 14 mai 2019, <https://www.amnesty.org/fr/latest/news/2019/05/benin-une-repression-postlectorale-inquietante-2/>
- 15 Benin, Loi No 2019-39 du 7 Novembre 2019 <https://sgg.gouv.bj/doc/loi-2019-39/>
- 16 African Court on Human and People's Right, *The Matter of Sébastien Germain Marie Aïkoue Ajavon V. Republic of Benin, Application No. 062/2019, Judgment 4* December 2020, <https://www.african-court.org/cpmt/storage/app/uploads/public/602/10a/50c/60210a50cb6e2538353022.pdf>
- 17 UN Committee on Economic, Social and Cultural Rights, Concluding observations on the third periodic report of Benin, 27 March 2020, UN Doc. E/C.12/BEN/CO/3, para.29
- 18 WG UPR, Report: Benin (previously cited), A/HRC/37/10, recommendation 118.14 (Côte d'Ivoire), 118.19 (Irak), 118.25 (Senegal), 118.27 (South Africa)
- 19 CESCR, Concluding Observation: Benin (previously cited), para.7
- 20 WG UPR, Report: Benin (previously cited), A/HRC/37/10, Recommendations 118.28 (Ukraine), 118.24 (Rwanda)
- 21 Cour Constitutionnelle du Benin, » DCC21-047 du 21 Janvier 2021/Recours en Inconstitutionnalité de la décision de retrait par le Benin de sa déclaration acceptant la compétence de la cour africaine des droits de l'homme et des peuples" <https://courconstitutionnelle.bj/dcc21-047-du-21-janvier-2021-recours-en-inconstitutionnalite-de-la-decision-de-retrait-par-le-benin-de-sa-declaration-acceptant-la-competence-de-la-cour-africaine-des-droits-de-lhomme-et-des-peuple/> (accessed on 29 June 2022)
- 22 Amnesty International, *The State of The World's Human Rights 2021/22*, March 2022, (Index: POL 10/4870/2022), p.96 <https://www.amnesty.org/en/wp-content/uploads/2022/03/WBPOL1048702022ENGLISH.pdf>
- 23 African Commission on Human and People's Rights (ACHPR), *Resolution on the Human Rights Situation in Benin*, adopted on 4 May 2019, ACHPR/Res. 479 (LXVIII) www.achpr.org/sessions/resolutions?id=510
- 24 Amnesty International, *The State of the World's Human Rights 2021/22* (previously cited) p.94.
- 25 WGAD, Opinions on Ignace Sossou (previously cited)
- 26 Amnesty International, *The State of the World's Human Rights 2021/22* (previously cited) p.94
- 27 Committee to Protect Journalists (CPJ) "Journalist Casimir Kpedjo detained, facing false news accusations in Benin", 30 April 2019, <https://cpj.org/2019/04/journalist-casimir-kpedjo-detained-facing-false-ne/>
- 28 Amnesty International, "Benin: Threat on transgender people and their defenders following the assault on three of them" 13 May 2021, <https://www.amnesty.org/en/latest/news/2021/05/benin-threat-on-transgender-people-and-their-defenders/>
- 29 Amnesty International, "Benin: Police accused of violently attacking transgender woman" - Amnesty International, 7 March 2022, <https://www.amnesty.ie/benin-police-accused-of-violently-attacking-transgender-woman/>
- 30 WG UPR, Report: Benin (previously cited), A/HRC/37/10, Recommendation 118.21 (Netherlands)