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U.S. Department of State

Benin Country Report on Human Rights Practices for 1997

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BENIN

The Republic of Benin is a constitutional democracy headed by President Mathieu Kerekou, who was inaugurated on April 4, 1996, after elections generally viewed as free and fair. President Kerekou, who ruled Benin as a Socialist military dictator from 1972-1989, succeeded his democratically elected predecessor and continued the civilian, democratic rule begun in the 1990-1991 constitutional process that ended his previous reign. There are 18 political parties represented in the unicameral, 82-member National Assembly; no party or political grouping commands a majority of seats. The Government respects the constitutional provision for an independent judiciary; however, the judiciary is inefficient and susceptible to corruption.

The civilian-controlled security forces consist of the armed forces, headed by a Minister Delegate for Defense Matters in the office of the President, and the police force under the Interior Minister. The two Ministers also share authority over the gendarmerie, which exercises police functions in rural areas. The armed forces continued to play an apolitical role in government affairs despite concerns about morale within its ranks and its ethnic imbalance.

An extremely poor country with average yearly per capita income below \$450, the economy is based largely on subsistence agriculture, cotton production, regional trade (including transshipment of goods neighboring countries), and small-scale offshore oil production. The port of Cotonou serves as a major conduit for goods entering neighboring Nigeria legally and illegally. The new Administration continued,

and in some cases stepped up, the austerity program begun by its predecessor; privatized state-owned enterprises; reduced fiscal expenditures; and deregulated trade. In spite of its bloated and inefficient bureaucracy, high debt servicing costs, and widespread unemployment, Benin's economic recovery continues under liberal economic policies instituted since the return to democracy. Inflation in 1997 was less than 3 percent with real growth estimated at between 5 and 6 percent.

The Government generally respected the human rights of its citizens. The major human rights problems continued to be the failure by police forces to curtail acts of vigilantism and mob justice; serious administrative delays in processing ordinary criminal cases with attendant denial of timely, fair trials; judicial corruption; harsh and unhealthy prison conditions; societal discrimination and violence against women; and the trafficking in and abuse of children. The practice of female genital mutilation (FGM) is also a problem. The Constitutional Court continued to demonstrate independence. In one high-profile case, it struck down provisions of the new media law as unconstitutional.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings by government officials. However, a rising crime rate and a lack of police responsiveness led to more reports of mob justice. Vigilantism reportedly resulted in several cases of suspected criminals being killed or severely injured, particularly thieves caught in the act. Although a number of these incidents took place in urban areas and were publicized in the press, the Government apparently made no concerted attempt to investigate or prosecute anyone involved. Some press accounts suggested that the police deliberately ignored vigilante attacks.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices and there were no reports that officials employed them. The Government continued to make payments to victims of torture under the military regime which ruled from 1972 to 1989.

Prison conditions continue to be extremely harsh. Extensive overcrowding and lack of proper sanitation and medical facilities pose a risk to prisoners' health. The prison diet is seriously inadequate with malnutrition and disease common. Prisoners are allowed to meet with visitors such as family members, lawyers, and others. In conjunction with nongovernmental organizations (NGO's), the Government has set up a plan for prison renovation and rehabilitation.

The Government permits prison visits by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest, detention or exile, however, at times the authorities arbitrarily arrested and detained persons. The Constitution prohibits detention for more than 48 hours without a

hearing by a magistrate whose order is required for continued detention. However, there were credible reports that authorities exceeded this 48-hour limit in many cases, sometimes by as long as a week, using the accepted practice of holding a person without specified time limit "at the disposition of" the public prosecutor's office before presenting the case to a magistrate. Approximately 75 percent of prisoners are pretrial detainees. Arbitrary arrest is not routine but does occur occasionally.

The National Assembly approved, and the President promulgated, a law on September 3 to grant amnesty to some 50 individuals convicted of crimes against national security during the previous administration. All amnestied individuals imprisoned in Benin were released.

The Constitution prohibits forced exile of citizens. Many citizens who went into exile prior to the establishment of democratic rule have returned.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary and the Government generally respects this provision in practice. However, the executive has important powers in regard to the judiciary.

The President appoints career magistrates as judges in civil courts, and the Constitution gives the Ministry of Justice administrative authority over judges, including the power to transfer them. Inadequate facilities, poorly-trained staff, and overcrowded dockets result in slow administration of justice. The low salaries of magistrates and clerks have a demoralizing effect on their commitment to efficient and timely justice and makes them susceptible to corruption.

The legal system is based on French civil law and local customary law. The Constitution provides for the right to a fair public trial. A defendant enjoys the presumption of innocence and has the right to be present at trial and to representation by an attorney, at public expense if necessary. In practice the court provides indigent defendants with court-appointed counsel upon request. A defendant also has the right to confront witnesses and to have access to government-held evidence. Trials are open to the public, but in exceptional circumstances the President of the court may decide to restrict access to preserve public order or to protect the parties.

A civilian court system operates on the national and provincial levels. Military disciplinary councils deal with minor offenses by military members, but have no jurisdiction over civilians. There is only one of appeals. The Supreme Court is the court of last resort in all administrative and judicial matters. The Constitutional Court is charged with passing on the constitutionality of laws and disputes between the President and the National Assembly and with resolving disputes regarding presidential and National Assembly elections. Its rulings against both the executive and legislative branches indicated its independence from both these branches of Government. The Constitution also provides for a High Court of Justice to convene in the event of crimes committed by the President or government ministers against the State. Implementing legislation to create the High Court of Justice was passed in June 1996. Although the legislation was passed, the Constitutional Court later found some of its provisions to be unconstitutional. As of year's end, the legislature had not passed revisions to bring the law into compliance with the Constitutional Court ruling.

There were no reports of political prisoners.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

The Constitution prohibits such practices and government authorities generally respect these

prohibitions in practice. Police are required to obtain a judicial warrant before entering a private home, and they usually observed this requirement in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government respects these rights in practice. The government entity with oversight responsibility for media operations is the High Authority for Audio-visual Media and Communications (HAAC), which requires broadcasters to submit weekly lists of planned programs and requires publishers to deposit copies of all publications with it. The requirement, however, is not observed by the media in practice.

There is a large and active privately owned press consisting of about a dozen newspapers. These publications criticize the Government freely and often, but their effect on public opinion is limited because of their urban concentration. The majority of Beninese are illiterate.

The National Assembly approved legislation on August 11 to privatize Benin's electronic news media. The law was submitted to the Constitutional Court for review and then promulgated by the President. The HAAC announced requirements to obtain commercial broadcasters licenses, and established October 10 as the deadline for applications. Private radio and television stations began broadcasting in December.

The Government, however, continued to own and operate the media most influential in reaching the public. Until December the only radio stations that transmitted locally were government owned: The Benin Office of Radio and Television (ORTB) transmits in FM, AM, and short wave, in French and local languages. Radio France International (RFI) also transmits over a local FM band under an agreement with the Government. Five rural radio stations governed by local committees broadcast several hours a day exclusively in local languages. These stations receive support from ORTB. Radio is probably the most important information medium.

A similar arrangement is in place for television transmissions: ORTB broadcasts 5 hours per day on a signal that is easily received in urban areas. Approximately 80 percent of ORTB's television programming is in French. TV5, a commercial venture with investments by television broadcasting organizations in France, Canada, Belgium, and Switzerland, broadcasts locally

24 hours a day entirely in French under an agreement with the Government. Although neither television station broadcasts partisan programs in support of or unduly critical of the Government, the vast majority of news programming centers on government officials' activities.

The Government does not censor works by foreign journalists, authors, or artists.

HAAC regulations govern satellite reception equipment and movie and video clubs. There is little enforcement of these regulations.

In general academic freedom is respected. University professors are permitted to lecture freely, conduct research, and publish their work.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for these rights, and the Government generally respects them in practice. The Government requires permits for use of public places for demonstrations and requires associations to register. It routinely grants such permits and registrations. The Government did not take any actions against nonregistered organizations for failure or refusal to register.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice.

In August the legislature voted to establish a national day to observe traditional religious practices, thereby affording traditionalist beliefs a status similar to that of more established religions, such as Christianity and Islam and implicitly recognizing them as part of domestic culture. The designation does not convey special status to traditional beliefs. President Kerekou, an evangelical Christian, has been criticized in the press for public statements against certain traditional religious practices and for expressing views that might violate the principle of separation of church and State.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respects them in practice. However, the presence of police, gendarmes, and illegal roadblocks impedes domestic movement. Although ostensibly meant to enforce automotive safety and customs regulations, many of these checkpoints serve as a means for officials to exact bribes from travelers. The Government maintained previously implemented measures to combat such petty corruption at roadblocks.

The Government's policy toward transhumance allows migratory Fulani herdsmen from other countries to enter freely; it does not enforce designated entry points. The local press reported that a cattle dispute on March 14 resulted in the destruction of a Fulani camp and the deaths of several herdsmen. Government authorities did not issue an official statement, nor have there been reports regarding official action to punish the guilty.

The Government does not restrict international travel for political reasons, and those who travel abroad may return without hindrance.

Historically, the Government has cooperated closely with the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees, including those in need of first asylum. The Government provided first asylum to up to 200,000 citizens of Togo during the 1993 political violence in that country. While most have returned to Togo, 1,653 (UNHCR estimate) remain. Despite severe economic pressures that limit its ability to provide education for its children, the Government has allowed these Togolese to enroll their children in local schools and to participate in some economic activities.

In late spring, the Government informed the UNHCR that it could no longer guarantee the safety of eight prominent Togolese dissidents and their families living in Benin under UNHCR auspices. The UNHCR found sponsors for the refugees in the Netherlands and Sweden, and they left Benin in June. UNHCR officials stated that the Government did everything reasonably possible to protect the eight Togolese dissidents; the UNHCR faults the dissidents for refusing to curtail their activities in Benin against the Togolese Government as the reason for their perceived insecurity and subsequent relocation.

In contrast some 995 Ogoni refugees from Nigeria, handicapped because they do not speak French, cannot work in Benin, nor can their children attend Beninese schools. UNHCR officials have warned

them to remain within the confines of the refugee camp.

In addition there are refugees from Nigeria, Algeria, Burundi, Cameroon, the Central African Republic, Chad, Congo, the Democratic Republic of the Congo, Ethiopia, Niger, Liberia, Rwanda, Sudan, and Sierra Leone. Their treatment is comparable to that accorded the Togolese and Ogonis.

There were no reports of forced expulsion of persons having a valid claim to refugee status.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right peacefully to change their government. Citizens exercised this right in legislative elections in 1991 and 1995, and in presidential elections in 1991 and 1996, all considered free and fair. The Constitution provides for a 5-year term of office for the President (who is limited to two terms) and 4-year terms for National Assembly members (who may serve an unlimited number of terms).

Women participate actively in the political parties, but are underrepresented in Government positions. There is now 1 woman in the 19-member Cabinet. The previous Government had four female cabinet members. There are 6 female deputies, including the leader of the opposition, in the 82-member unicameral National Assembly. The President of the Constitutional Court is a woman; the HAAC and the Economic and Social Council have female members.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of human rights groups--both domestic and international

--operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are generally cooperative and responsive to their views.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination based on race, sex, and religion, but societal discrimination against women continues.

Women

While no statistics are available, violence against women, including wife beating, occurs. The press sometimes reports

incidents of abuse of women, but judges and police are reluctant to intervene in domestic disputes, considering such disputes a family matter.

Although the Constitution provides for equality for women in the political, economic, and social spheres, women experience extensive societal discrimination, especially in rural areas where they occupy a subordinate role and are responsible for much of the hard labor on subsistence farms. In urban areas, women dominate the trading sector in the open-air markets. By law women have equal inheritance and property rights, but local custom in some areas prevents them from inheriting real property. Women do not enjoy the same educational opportunities as men, and female literacy is about 16 percent (compared with 32 percent for males).

There are active women's rights groups that have been effective in drafting a family code that would improve the status of women under the law. The draft code was scheduled for review by the National Assembly in late 1997, but by year's end it had not been passed. The code is designed to bring about significant enhancements to the human rights of women and children.

Children

The Ministry of Labor and Social Affairs is responsible for the protection of children's rights, primarily in the areas of education and health. In particular the Government is trying to boost primary school enrollment, which is only about

66 percent. In some parts of the country, girls receive no formal education.

Some traditional practices inflict hardship and violence on children, including most prominently the custom of "vidomegon," whereby poor, often rural, families place a child, primarily girls, in the home of more wealthy families. A privately owned newspaper reported in February that the daughter-in-law of a prominent government official was in pretrial detention for beating to death her 12-year old maid in November 1996. A medical report certified that the child was severely abused before being admitted to the hospital. At year's end, there was no indication of government action against the assailant.

Other traditional practices include the killing of deformed babies, breach babies, and one of two newborn twins (all of whom are thought to be sorcerers in some rural areas). There is also a tradition in which a groom abducts and rapes his prospective child (under 14 years of age) bride. Criminal courts mete out stiff sentences to criminals convicted of crimes against children, but many such crimes never reach the courts.

Trafficking in children, always a problem in Benin, was the subject of considerable media coverage. Most victims are abducted or leave home with traffickers who promise educational opportunities or other incentives. They are taken to foreign countries (according to the press, principally Nigeria, Cameroon, and Gabon) and sold into servitude to work in agriculture, as domestics, or as prostitutes (see Section 6.c.). The police stated that between January 1 and February 28, they thwarted attempts to smuggle out of Benin 297 children ranging in age from 8 to 15 years.

The Government in concert with NGO's, made serious efforts to combat child abuse and trafficking in children, including media campaigns, programs to assist street children, and greater border surveillance. Despite such efforts the abuse of children is a serious human rights problem.

The Government has been less successful in combating female genital mutilation (FGM), which is not illegal. FGM is widely condemned by international health experts as damaging to both physical and psychological health. FGM, or excision, is practiced on females ranging from infancy through 30 years of age. Studies vary widely and suggest that as few as 5 percent or as many as 50 percent of women are affected by this practice, mostly in the northern provinces. The actual incidence probably falls somewhere between these estimates. A prominent NGO, the Benin chapter of the Inter-African Committee, has made progress in raising awareness of the dangers of the practice; the Government has cooperated with its efforts. According to recent research, there is a strong profit motive in the continued practice of FGM by those who perform the operation, usually older women. In March the Government in cooperation with the World Health Organization unveiled an action plan to eliminate FGM.

People With Disabilities

Although the Constitution provides that the State look after the handicapped, the Government does not mandate accessibility for disabled persons. It operated a number of social centers for disabled persons to assist their social integration. Nonetheless, many are unable to find employment and must resort to begging to support themselves.

National/Racial/Ethnic Minorities

There is a long history of regional rivalries. Although Southerners dominate the Government's senior ranks, Northerners dominate the military. The South has enjoyed more advanced economic development, a larger population, and has traditionally held favored status. In the 1996 elections, a Northerner was elected President.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides workers with the freedom to organize, join unions, meet, and strike, and the Government usually respects these rights in practice. The labor force of about

2 million is primarily engaged in subsistence agriculture and other primary sector activities, with less than 2 percent of the population engaged in the modern (wage) sector. Approximately

75 percent of the wage earners belong to labor unions. There are four union confederations, and unions are generally independent of government and political parties. The Economic and Social Council, a constitutionally mandated body established in 1994, includes four union representatives. Teachers in public, technical, and vocational institutions went on 48-hour strikes in April and May to back up demands for a revision of their employment status and for payment of arrears. Strikes did not occur at all schools. In April port workers held a sit-in to privatize port operations. Speculation that a major fire in the port at the time of the protest actions had been set by labor agitators was subsequently disproved.

There were no known instances of efforts by the Government to retaliate against union activity. Laws prohibit employer retaliation against strikers, and the Government enforces them effectively.

Unions may freely form or join federations or confederations and affiliate with international bodies.

b. The Right to Organize and Bargain Collectively

The Labor Code provides for collective bargaining, and workers freely exercised these rights. Wages in the private sector are set in negotiations between unions and employers. A tripartite group, composed of unions, employers, and the Government, discussed and agreed to revisions in the Labor Code in 1995, but the new code had not been enacted into law by year's end. The Government sets wages in the public sector by law and regulation.

The Labor Code prohibits employers from taking union membership or activity into account regarding hiring, work distribution, professional or vocational training, or dismissal. The Government levies substantial penalties against employers who refuse to rehire workers dismissed for lawful union activities.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Labor Code prohibits forced or compulsory labor. Forced and bonded labor by children is specifically prohibited. However, some financially desperate parents indenture their children to "agents" recruiting farm hands or domestic workers, often on the understanding that money paid to the children would be sent to the parents. According to press reports, in some cases, unscrupulous individuals take the children to neighboring countries. The Government has taken steps to educate parents and to prevent such kidnaping of children. Also many rural children are sent to cities to live with relatives or family friends, often on the understanding that in return for performing domestic chores, they will be given an education. Host families do not always honor their part of the bargain and abuse of child domestic servants occurs. The Government has taken steps to curb abuses.

d. Status of Child Labor Practices and Minimum Age for Employment

The Labor Code prohibits the employment or apprenticeship of children under 14 years of age in any enterprise. However, the Ministry of Labor enforces the code in only a limited manner (and then only in the modern sector), due to the lack of inspectors. To help support their families, children continue to work on rural family farms, in small businesses, on construction sites in urban areas, and as domestic servants. Children also commonly work as street vendors.

The Government prohibits forced and bonded labor by children, but is unable to enforce these prohibitions except in the modern sector (see Section 6.c.).

Acceptable Conditions of Work

The Government administratively sets minimum wage scales for a number of occupations. On April 10, the Government increased the minimum wage by 8 percent from \$35 (cfa francs 20,300) per month to \$38 (cfa francs 21,924). The decision was made in consultation with trade unions. However, this increase is not sufficient to cover the costs for food and housing even of a single worker. Many workers must supplement their wages by subsistence farming or informal sector trade. Most workers in the wage sector, however, earn more than the minimum wage.

The Labor Code establishes a workweek of from 40 to 46 hours, depending on the type of work, and provides for at least one 24-hour rest period per week. The authorities generally enforce legal limits on workweeks in the modern sector. The Labor Code establishes health and safety standards, but the Ministry of Labor does not enforce them effectively. The Labor Code does not provide workers with the right to remove themselves from dangerous work situations without jeopardy to continued employment. The Ministry of Labor has the authority to require employers to remedy dangerous work conditions but does not do so effectively.

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