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1999 Country Reports on Human Rights Practices

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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 that generally were viewed as free and fair. President Kerekou, who ruled Benin as a Socialist military dictator from 1972 to 1989, succeeded his democratically elected predecessor and continued the civilian, democratic rule begun in the 1990-91 constitutional process that ended his previous reign. There are 19 political parties represented in the unicameral, 83-member National Assembly. The March 30 parliamentary elections, which were free, fair, and transparent resulted in significant gains by the opposition, notably the party of former President Nicephore Soglo, which gained 27 seats in Parliament. Although a loose alliance of progovernment deputies holds a 42 to 41 seat majority, some progovernment deputies side with the opposition, depending on the issue. Consequently, legislative power is shared between opposition and progovernment forces. For example the President of the National Assembly belongs to an opposition party. The Government respects the constitutional provision for an independent judiciary; however, the executive has important powers in regard to the judiciary, and the judiciary is inefficient and susceptible to corruption at some levels.

The civilian-controlled security forces consist of the armed forces, headed by the Minister Delegate for Defense Matters in the office of the President, and the police force under the Interior Minister. The Ministry of Defense supervises the gendarmerie, which exercises police functions in rural areas while the Ministry of Interior supervises other police forces. The armed forces continued to play an apolitical role in government affairs despite concerns about morale within its ranks and its ethnic imbalance within the forces. Members of the police committed some human rights abuses.

Benin is an extremely poor country with average yearly per capita income below \$400. The economy is based largely on subsistence agriculture, cotton production, regional trade (including transshipment of goods to 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 Kerekou 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 an inefficient bureaucracy and widespread unemployment, the country's economic recovery continued under liberal economic policies instituted since the return to democracy. Although the economy expanded, real growth was lower than in previous years. The Government estimated a 4 percent growth rate with inflation at 3.5 percent through August. The Government privatized the state-owned oil and cement companies.

The Government generally respected the human rights of its citizens; however, there were problems in several areas. Reports came to light of extrajudicial killings by police in 1998. There were credible reports that police sometimes beat suspects, and at times the authorities arbitrarily arrested and detained persons. The most prominent human rights problems continued to be the failure of police forces to curtail acts of vigilantism and mob justice; harsh and unhealthy prison conditions; serious administrative delays in processing ordinary criminal cases with attendant denial of timely, fair trials; judicial corruption; societal discrimination and violence against women; and trafficking in and abuse of children. The practice of female genital mutilation (FGM) and, to a lesser extent, infanticide also remain problems. Child labor continues to be a problem. The Constitutional Court continued to demonstrate independence. On several occasions during the year, the court ruled that legislation proposed by the Government and approved by the National Assembly was defective. On each occasion the legislation was redrafted to satisfy the court's objections, then reapproved by the legislature before promulgation. For example, the Constitutional Court ruled that some provisions of the decentralization law were unconstitutional; the legislature and the President accepted this decision.

RESPECT FOR HUMAN RIGHTS

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

Political and Other Extrajudicial Killing

There were no confirmed reports of political or other extrajudicial killings by government officials. According to Amnesty International, Florent Adoko, died at the principal police station in Cotonou in January 1998 after being beaten by a guard. There were also reports that other detainees may have been killed on the same day at the same police station. The report also alleges that police killed Adjakieje Alexandre while dispersing a peaceful demonstration in Gbendo, near Abomey, in May 1998. The State Prosecutor's office reportedly is investigating these allegations.

As in previous years, incidents of mob justice were reported by the media and other sources. These were most often cases of suspected criminals being killed or severely injured, particularly thieves caught in the act. Although a number of these incidents occurred in urban areas and were publicized in the press, the Government apparently made no concerted attempt to investigate or prosecute anyone involved. A rural demagogue incited mobs to lynch upwards of 100 suspected criminals in southwestern Benin between March and October. Most of the victims were burned alive, many after being abducted, beaten, and tortured by the demagogue's followers. Initially, police did not attempt to stop the so-called militias from carrying out the lynchings. The killings abated when soldiers dispatched by the Government extracted a promise from the

demagogue that he would order his followers to cease lynching suspected wrongdoers and instead turn them over to the authorities. However, credible reports indicate that individual incidents of mob justice continue to occur nationwide and that police frequently ignore 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; however, there were credible reports that police sometimes beat criminal suspects. The Government continued to make payments to victims of torture under the military regime that ruled from 1972 to 1989.

Mob justice resulted in serious injuries to a number of persons (also see Section 1.a.).

Prison conditions continued to be extremely harsh. Extensive overcrowding and lack of proper sanitation and medical facilities posed a risk to prisoners' health. The prison diet is seriously inadequate; malnutrition and disease are common. Prisoners are allowed to meet with visitors such as family members, lawyers, and others.

Some progress was made in 1998 with the opening of three modern facilities in the departments (provinces) of Borgou, Mono, and Atacora through foreign funding. The prisons provide, for the first time, separate units for men, women, and minors. The Government is expected to continue its plan for prison renovation, rehabilitation, and construction with assistance from foreign donors--both governments and nongovernmental organizations (NGO's).

The Government permits prison visits by human rights monitors. A special rapporteur from the Commission Africaine des Droits de l'Homme et des Peuples (African Human Rights Commission) visited prisons in August.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; 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 1 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 persons in prison are pretrial detainees.

The Constitution prohibits forced exile of citizens, and it is not practiced. 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, and the judiciary remains inefficient in some respects and is susceptible to corruption at some levels.

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 make them susceptible to corruption.

A civilian court system operates on the national and provincial levels. There is only one court 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 on 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, which were respected by both branches, demonstrated 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 1996. Although the legislation was passed, the Constitutional Court later found some of its provisions to be unconstitutional. In accordance with the court's ruling, the National Assembly revised the law and sent the new legislation to the President. In 1998 he, in turn, submitted it to the court for reconsideration; textual errors were corrected in January, but the law has not yet been promulgated. Inefficiency and corruption particularly affect the judiciary at the trial court and investigating magistrate level. Military disciplinary councils deal with minor offenses by members of the military services, but have no jurisdiction over civilians.

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.

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. However, this requirement is not observed by the media in practice.

There is a large and active privately owned press consisting of more than a dozen daily 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 citizens are illiterate and live in rural areas; they largely receive their news via radio. A nongovernmental media ethics commission (ODEM) was established in May and has censured a number of journalists for unethical conduct as well as commended some journalists for adherence to the standards of their profession.

In August a trial court sentenced five journalists to various jail terms not exceeding 1 year and fines for criminal libel in several cases that did not involve criticism of the Government. For example Vincent Foly, a reporter for *Le Point au Quotidien*, was arrested in January following a tough editorial and sentenced to 1 year in prison in August. At year's end, none of these sentences had been executed and appeals are pending.

New privately owned radio and television stations began broadcasting in December 1997. Throughout the year, they broadcast programs that criticized the Government without interference. It is unclear what effect the private electronic media have on public opinion; however, an increase in the number of "call-in" and panel shows has contributed to greater public involvement in political affairs and a heightened awareness of important national problems.

However, the Government continued to own and operate the media most influential in reaching the public. Until December 1997, it owned the only radio stations that transmitted locally. The Benin Office of Radio and Television (ORTB) transmits on the FM and AM bands and by short wave, in French and local languages. Radio France International (RFI) also transmits on a local FM band under an agreement with the Government. In June the British Broadcasting Corporation began French and English language broadcasting in Cotonou. Five rural radio stations governed by local committees broadcast several hours a day exclusively in local languages. These stations receive support from the ORTB. Radio is probably the most important information medium.

A similar arrangement is in place for television transmissions: the ORTB broadcasts 5 hours per day on a signal that is easily received in urban areas. Approximately 80 percent of the 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 per day entirely in French under an agreement with the Government. A new privately owned television station, LC-2, began broadcasting in Cotonou in 1997. LC-2 is owned entirely by a local businessman and features light entertainment and news, although news coverage requires payment in many circumstances. 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, government-sponsored conferences, and international

stories provided by French television or other foreign sources.

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 freedom of assembly, and the Government generally respects this right in practice. The Government requires permits for use of public places for demonstrations and routinely grants such permits.

The Constitution provides for freedom of association, and the Government generally respects this right in practice. The Government requires associations to register and routinely grants 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. Persons who wish to form a religious group must register with the Ministry of the Interior. Registration requirements are identical for all religious groups. There were no reports that any group has been refused permission to register or has been subjected to untoward delays or obstacles in the registration process. Religious groups are free from taxation.

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. Disputes have arisen between the herdsmen and local landowners over pasturage.

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 U.N. 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, the UNHCR estimates that some 1,300 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. During the year, the Government welcomed about 690 at-risk refugees from the Democratic Republic of the Congo destined for eventual resettlement in another country.

In contrast the UNHCR estimates that 250 Ogoni refugees from Nigeria, disadvantaged because they do not speak French, cannot work, nor can their children attend schools. UNHCR officials have warned them to remain within the confines of the refugee camp.

In addition there are lesser numbers of other refugees from Nigeria, Algeria, Burundi, Cameroon, the Central African Republic, Chad, the Republic of Congo, the Democratic Republic of Congo, Ethiopia, Niger, Liberia, Rwanda, Sudan, and Sierra Leone.

There were no reports of the 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 to change their government peacefully. Citizens exercised this right in legislative elections in 1991, 1995, and in presidential elections in 1991 and 1996, all of which were 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. Following a Cabinet reshuffle in June, there are 2 women in the 19-member Cabinet, 1 less than in the previous 18-member Cabinet. There are 5 female deputies in the 83-member, unicameral National Assembly, including the leader of the largest opposition party. The previous legislature consisted of 82 deputies with 6 female members. The President of the Constitutional Court and the Solicitor General are women.

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.

The Beninese branch of Amnesty International and other NGO's reported during the year without government interference of the alleged discovery of hundreds of bodies of victims of Togolese security forces washed up on Beninese beaches in 1998.

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 continued.

Women

While no statistics are available, violence against women, including wife beating, occurred. 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). However, elementary school pass rates in recent years highlighted significant progress by girls in literacy and scholastic achievement.

There are active women's rights groups that have been effective in drafting a family code that would improve the status of women and children under the law. The draft code has yet to be adopted by the National Assembly, although it has been on the legislature's agenda for more than a year and has been considered by parliamentary committees. Many observers believe that consideration of the draft was postponed because of provisions that would threaten male prerogatives, which is a highly volatile political issue. Action on the draft code is not anticipated until a new legislature convenes.

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 a daughter, in the home of a more wealthy family. In July the Ministry of Justice launched a nationwide publicity campaign to alert parents regarding the risks of placing their children in vidomegon and to inform adults with vidomegon children of their responsibilities and of the children's rights.

There were no reports of any action in the case of the official detained for beating a 12-year-old maid to death in 1996.

Other traditional practices include the killing of deformed babies, breech 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 Beninese children for purposes of forced labor or prostitution in other

countries remains a problem (see Sections 6.c. and 6.f.).

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 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 procedure, usually older women. The Government, in cooperation with NGO's, held workshops during the year aimed at eradicating the practice. One NGO paid those who perform the procedure to abandon their profession.

People with Disabilities

Although the Constitution provides that the State look after people with disabilities, the Government does not mandate accessibility for them. 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.

In 1998 a new labor code was promulgated that includes provisions to protect the rights of disabled workers.

National/Racial/Ethnic Minorities

There is a long history of regional rivalries. Although southerners are preeminent in the Government's senior ranks, many prominent military officers come from the north. 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. A new Labor Code went into effect on January 8. The code was approved after long discussions between the Government, labor unions, and the National Assembly. 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.

Although approximately 75 percent of the wage earners belong to labor unions, a much

smaller percentage of workers in the private sector are union members. There are several 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.

Although there were no serious strikes in the private sector during the year, public school teachers, principally in primary schools, held a series of strikes because of low wages, unpaid salary arrears, and poor working conditions. Labor unions continue to oppose the Government's merit-based promotion scheme. Unions also oppose a 1969 decree (which is still in effect) permitting the Government to dock the wages of striking public sector employees.

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 form freely 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.

The new Labor Code permits unions to become affiliated with international organizations. It also includes a section on the rights of disabled workers. 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, and specifically prohibits forced and bonded labor by children; however, forced child labor and trafficking in children are problems (see Section 6.f.). 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 (see Section 6.f.). The Government has taken steps to educate parents and to prevent such kidnappings 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 would receive an education. Host families do not always honor their part of the bargain, and abuse of child domestic servants occurs. The Government has taken some steps to curb abuses