

Status of Human Rights in Benin for the 42nd Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting human rights around the world. The ECLJ holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Republic of Benin (Benin) for the 42nd session of the Universal Periodic Review (UPR).

Background

2. Benin is located in western Africa with a population of approximately 13.7 million people.¹ Within the country, approximately 27% identify as Muslim, 25% as Catholic, 13% as Protestant, 11% as Vodoun, 9% as other Christian, 2% as other traditional religions, 2% as other, and 5% as having no religion.²

3. Benin's previous UPR was held on November 10, 2017.³ As a result of the review, Benin received 198 recommendations, 191 of which Benin supported.⁴ One of the recommendations made by Kenya, but only noted by Benin, was that the government "[r]esist calls to further liberalize abortion and instead implement laws aimed at protecting the right to life of the unborn, and recognize that life starts at conception."⁵ The United Kingdom of Great Britain and Northern Ireland recommended that the government "[t]ake all necessary steps to enforce laws on forced labour, modern slavery and human trafficking, in particular child trafficking."⁶ which Benin supported. There were no recommendations made regarding religious freedom.

Legal Framework

Abortion

4. Under Article 15 of the Constitution of Benin, "[e]ach individual has *the right to life, liberty, security and the integrity of his person.*"⁷

5. In December 2021, Benin adopted a new law that expanded its previous restrictions on abortion.⁸ Under the previous law, which was adopted in 2003, abortion was only permissible in cases of rape, if the baby would be born with a serious medical condition, or to save the life of the mother.⁹ Under the new law, abortion is available up until the twelfth week of gestation,¹⁰

upon the request of the pregnant woman, voluntary termination of pregnancy can be allowed when the pregnancy is likely to aggravate or cause a situation of material, educational, professional or moral distress incompatible with the interest of the woman and/or the unborn child¹¹

6. Benin is a party to the International Covenant on Civil and Political Rights (ICCPR) and is responsible for upholding the principles enshrined in it:¹² “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”¹³ Benin also has a responsibility to uphold pro-life principles enshrined in other international agreements such as the UN Charter, Universal Declaration of Human Rights (UDHR) and the 1994 Cairo Conference on Population and Development.

Human Trafficking

7. Under Article 15 of the Constitution of Benin, “[e]ach individual has *the right to . . . liberty, security and the integrity of his person.*”¹⁴

8. Articles 499 - 503 of Benin’s Penal Code establish the crime and punishments for human trafficking:

Article 499

The recruitment, transport, transfer, accommodation, reception of persons, by the threat of recourse or the use of force or other forms of coercion, by kidnapping, fraud, deception, abuse of authority or a situation of vulnerability, or through and the acceptance of payments or benefits to obtain the consent of a person having authority over another, for the purposes of exploitation constitutes an act of trafficking in persons.

Exploitation includes at least the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or organ removal.¹⁵

Article 500

Also constitutes an act of child trafficking the purpose of which is to dispose of the property, either free of charge or for a fee the freedom or the person of a child.¹⁶

Article 501

Trafficking in Persons shall be punished by criminal imprisonment time from ten (10) years to (20) years.

Trafficking in persons is punishable by life imprisonment when it has resulted or is aimed at the removal of organs.¹⁷

Article 502

Anyone who has entered into an agreement in the Republic of Benin for the purpose of alienating the freedom of a third person for a consideration, is punished by life imprisonment.

Money, goods and other objects or values received in execution of the agreement or as a deposit of a convention to intervene, are confiscated.¹⁸

Article 503

Is punished with the same penalty the act of introducing, or attempting introduce in the Republic of Benin, individuals destined to be the subject of the practice mentioned in the previous article or to remove or attempt to remove individuals from the Republic of Benin in view of such an agreement to be entered into abroad.¹⁹

9. Benin is also a party to the Convention on the Rights of the Child (CRC).²⁰ Under Article 32, Section 1 of the CRC, that States Parties recognize the right of children to be protected from economic exploitation, hazardous work or work interfering with the child's education or harmful to the child's overall health. Section 2 provides that States Parties shall take measures to ensure the implementation of the present article, particularly States Parties shall establish provisions for: a minimum age(s) for employment eligibility; appropriate regulation of hours and employment conditions; and appropriate penalties or other sanctions to ensure the effective enforcement of the present article.²¹ Article 34 provides that States Parties shall protect children from all forms of sexual exploitation and abuse. For these purposes, States Parties shall take all appropriate measures to prevent the inducement or coercion of a child to engage in illegal sexual activity; exploitative use of children in prostitution or other illegal sexual practices; and exploitative use of children in pornography.²²

10. Furthermore, under Article 8 of the ICCPR, “[n]o one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. No one shall be held in servitude.”²³

Abortion

11. In 2021, Benin expanded access to abortion up until twelve weeks gestation when the pregnancy “is likely to aggravate or cause a situation of material, educational, professional or moral distress incompatible with the interest of the woman and/or the unborn child.”²⁴ This is an addition to abortions that were permissible in cases of rape, incest, fetal abnormality, or to save the life of the mother.²⁵

12. Studies indicate that “[i]n Benin in 2015-2019, there were a total of 589,000 pregnancies annually. Of these, 227,000 pregnancies were unintended and 84,300 ended in abortion.”²⁶ Thus, despite the fact that prior to 2021, abortion was quite restricted by law, a high number of unexpected pregnancies – thirty-seven percent – ended in abortion. Now that abortion has been further expanded, we expect that the number of abortions carried out in Benin will rise.

13. There is no international right to abortion, a fact that can be seen when looking at each country's abortion legislation. Currently, a majority of the world has strict limitations when it comes to taking the life of a preborn baby. Out of the 193 member states of the U.N., an overwhelming majority (112) of them have strict limits on abortion: twenty countries prohibit abortion altogether; forty-two countries only permit abortion where the mother's life is at risk; and fifty only allow abortion to preserve the health of the mother. Even in the sixty-two countries

that have varying gestational limits for on-demand abortions, the majority of these (53) have a gestational limit of twelve weeks or less, while some allow only up to fourteen weeks, or somewhere in-between. Only eleven countries allow abortion throughout pregnancy for social and economic grounds, including for rape, incest, or fetal impairment. Only two countries broadly allow pre-viability abortion. And finally, there are only six extreme outliers among the nations, including China and North Korea, which do not have a law indicating any gestational limit on abortion, though their regulatory mechanisms vary.²⁷ Thus, had Benin accepted Kenya's recommendation from the previous UPR session to resist calls to expand abortion, it would hardly have been an anomaly among the nations.

14. While abortion laws and regulations vary across nations, what most countries do agree on is that the state has an interest, not only in protecting women and girls, but also in protecting the lives of all their citizens – including the unborn.²⁸ This interest is enshrined in national and international documents alike, as well as in the legislation of individual countries. Benin's own constitution contains a "right to life."²⁹

15. For instance, the UDHR states that "recognition of the inherent dignity and of the equal and inalienable rights of *all* members of the human family is the foundation of freedom, justice and peace in the world," and "[e]veryone has the right to life"³⁰ Again, Article 6 of the ICCPR likewise states that "[e]very human being has the inherent right to life. This right shall be protected by law."³¹ The preamble of the United Nations Charter states that "the peoples of the United Nations determined . . . to reaffirm faith in fundamental human rights, in the dignity and worth of the human person"³² It is important to note that, while virtually all international treaties contain provisions for the protection and promotion of the right to life, not one contains a "right to abortion." Furthermore, since the 1994 Cairo Conference on Population and Development, U.N. Member States have had an affirmative commitment to "reduce the recourse to abortion"³³ and to "take appropriate steps to help women avoid abortion, *which in no case should be promoted as a method of family planning.*"³⁴

16. Abortion is one of the gravest of all offenses against human life and justice because it entails the deliberate killing of an innocent human being. Benin must protect life at all stages. Any justification of abortion (aside from the extremely rare life vs. life situations where a mother is at risk of dying from continuing the pregnancy) fundamentally rests on the proposition that some members of the human race do not have even the most basic of human rights, i.e., the right to life. That proposition is incompatible with international law, as discussed above. Moreover, the value of human life is not dependent upon the nature in which it begins, and the life of a preborn baby conceived by rape or incest is no less valuable and deserving of life than any other. Furthermore, babies born with disabilities, such as Down syndrome, are no less deserving of life than otherwise completely healthy babies. In fact, babies born with Down syndrome are capable of living long and otherwise healthy lives.³⁵ Additionally, the tests used to detect these abnormalities are not consistently reliable.³⁶ As prenatal screenings are becoming more common, companies are trying to screen for more and more diseases and abnormalities. For example, studies found that a prenatal screening for Prader-Willi syndrome, a genetic multisystem disorder, returned an incorrect positive result 90% of the time.³⁷

17. Furthermore, abortion can also cause physical harm to the mother, beyond the harm (i.e., death) to the preborn child. This can result directly from the procedure itself (e.g., perforation of the uterus, laceration of the cervix), from the deprivation of the health benefits of continuing

pregnancy (e.g., eliminating the protective effect of a full-term pregnancy against breast cancer),³⁸ or by masking other dangerous symptoms (e.g., a woman with an infection or an ectopic pregnancy may believe her symptoms are merely normal after-effects of abortion, leading her to delay seeking medical help).³⁹ Remarkably, although completely partisan and lacking in legal authority, the World Health Organization’s newly published 2022 “Abortion care guideline,”⁴⁰ also acknowledges the complications of abortion.

18. In addition, post-abortive women experience a host of negative side-effects including:

- Depression
- Guilt/Remorse
- Self-hatred/anger at self/self-loathing/feelings of worthlessness/unworthy of love
- Shame
- Addiction, alcohol or drug abuse
- Regret
- Self-destructive behaviors including promiscuity, self-punishment, and poor choices
- Low self-esteem
- Anxiety/fear
- Suicidal/suicidal thoughts/wanting to die/self-harm/dangerous risks/suicidal attempts.⁴¹

All of these factors contribute to the negative and even devastating effects abortion has on women and girls, and are reasons why Benin should not have altered its abortion laws. Rather, Benin has a right – indeed, even a duty – to protect the lives of all its citizens, including the preborn.

Human Trafficking

19. Human trafficking is prevalent among children from low-income families.⁴² These children are targeted for exploitation in domestic service, agriculture, and markets.⁴³ Girls are targeted and forced into sex trafficking in urban areas.⁴⁴ In fact, “Benin is a country of origin, transit and destination of child trafficking. It is estimated that more than 40,000 victims of child trafficking live in this country—two percent of the 6- to 17-year-old population—most of whom are girls from uneducated families.”⁴⁵

20. As a result of extreme poverty, it is common for families suffering and desperate to provide for their families to “rent” their kids to individuals in other west African countries.⁴⁶ Employers of trafficked children promise to pay the parents a fixed monthly sum and provide food, clothes, and education for the children.⁴⁷ However, these promises are usually broken and very few parents know what actually happens to their child after they have been rented.⁴⁸

21. In addition to economic and food insecurity putting children at risk of trafficking, a lack of security and enforcement along the border makes it extremely easy for child traffickers to transport children to and from Benin.⁴⁹ In fact, “[t]he borders between Nigeria and Benin Republic are porous, with or without police checkpoints, and citizens of any country are easily admitted. It is, therefore, impossible to have accurate statistics of how many foreign immigrants

are in the country, how many are children, or where they are from.”⁵⁰

22. In August 2021, authorities arrested two individuals who were trafficking ten Nigerian girls through Benin.⁵¹ The ten victims were rescued in Benin before the traffickers were able to transport them to Dubai.⁵² According to the Assistant Inspector-General of Police:

Some passports for the victims were secured from Nigeria while others were from the Republic of Benin with the assistance of some immigration officers who backdated the stamps on their passports. On August 19, 2021, the victims were scheduled to be airlifted to Dubai. Ten girls were handed over to the National Agency for the Protection of Trafficking in Persons for further actions while the INTERPOL assists the agency in locating and arresting other traffickers in their countries of residence.⁵³

23. In January 2020, authorities in the Ivory Coast rescued 137 children trafficked from Benin, Niger, Nigeria, Ghana, and Togo.⁵⁴ “The children would have been destined to become child labourers and prostitutes.”⁵⁵ All 137 children rescued were between the ages of six and seventeen years old.⁵⁶

24. In April 2019, INTERPOL conducted an operation that rescued over 200 victims, many of whom were minors, of human trafficking between Benin and Nigeria.⁵⁷

Many of the victims rescued were transported as “merchandise” across the border, forced to work physically grueling jobs and some were sexually exploited. There were children between the ages of 11 and 16. The police found a boy who was forced to carry heavy goods clandestinely between two countries. All the victims were from Benin, Burkina Faso, Niger, and Togo.⁵⁸

25. These stories represent a small fraction of the instances of human trafficking that are taking place in Benin.

Recommendations

26. We strongly encourage Benin to reform its abortion laws in order to more greatly protect the lives of the mother and the preborn. In the interest of preserving innocent human life, Benin must commit to protecting preborn life at *all stages*, regardless of how the baby’s life began, potential birth defects, or if pregnancy would allegedly cause “material, educational, professional or moral distress.”⁵⁹ Abortion itself causes great harm to women, in addition to the destruction of innocent human life, and allowing abortion is contrary to Benin’s duty to protect the lives and well-being of all its citizens.

27. Furthermore, Benin must do more to prevent children from being trafficked in Benin and to other countries. Because so much of the child trafficking involves crossing international borders, resources and training must be allocated to border agents in order for them to be able to identify cases of human trafficking and provide immediate aid to the victims as well as investigate and prosecute the perpetrators. It is also within Benin’s interest to support families both by educating parents of the dangers that exists for children who are sent to work in other countries, and by providing as many food resources as possible.

¹ *Benin*, WORLD FACTBOOK (May 10, 2022), <https://www.cia.gov/the-world-factbook/countries/benin/>.

² *Id.*

³ *Universal Periodic Review*, UNHRC, <https://www.ohchr.org/en/hr-bodies/upr/bj-index>.

⁴ *UPR of Benin – Thematic List of Recommendations*, UNHRC, <https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session28/BJ/MatriceRecommendationsBenin.docx>.

⁵ *Id.* at A/HRC/37/10 – Para. 119.

⁶ *Id.* at A/HRC/37/10 – Para. 118.

⁷ Constitution of Benin art. 15, https://www.constituteproject.org/constitution/Benin_1990.pdf?lang=en.

⁸ Kouam Joel Honoré, *Benin’s New Abortion Law Stirs Opposition, Support*, VOA (December 13, 2021), <https://www.voanews.com/a/benin-s-new-abortion-law-stirs-opposition-support/6352115.html>.

⁹ *Benin’s Groundbreaking New Abortion Law will Save the Lives of Many Women*, CONVERSATION (Nov. 7, 2021), <https://theconversation.com/benins-groundbreaking-new-abortion-law-will-save-the-lives-of-many-women-170901>.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Ratification Status for Benin*, OHCHR, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=19&Lang=EN (last visited June 30, 2022).

¹³ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. 95-20, 6 I.L.M. 368 (1976), 999 U.N.T.S. 171, art 6.

¹⁴ Constitution of Benin art. 15, https://www.constituteproject.org/constitution/Benin_1990.pdf?lang=en.

¹⁵ Penal Code art. 499 (2018) (Benn.), <https://antislaverylaw.ac.uk/country/benin/> (unofficial translation).

¹⁶ *Id.* art. 500.

¹⁷ *Id.* art. 501.

¹⁸ *Id.* art. 502.

¹⁹ *Id.* art. 503.

²⁰ *Ratification Status for Benin*, OHCHR, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=19&Lang=EN.

²¹ Convention on the Rights of the Child, G.A. Res. 44/25, art. 32 (Nov. 20, 1989), https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_44_25.pdf.

²² *Id.* at art. 34.

²³ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. 95-20, 6 I.L.M. 368 (1976), 999 U.N.T.S. 171, art. 8.

²⁴ *Benin’s Groundbreaking New Abortion Law*, *supra* note 9.

²⁵ *Id.*

²⁶ *Country Profile Benin*, GUTTMACHER INSTITUTE, 2022, <https://www.guttmacher.org/geography/africa/benin>.

²⁷ *The World’s Abortion Laws*, CTR. FOR REPROD. RTS. (Feb. 23, 2021), https://reproductiverights.org/sites/default/files/WALM_2021update_V1.pdf.

²⁸ *Id.*

²⁹ Constitution of Benin art. 15, https://www.constituteproject.org/constitution/Benin_1990.pdf?lang=en.

³⁰ G.A. Res. 217 (III) A, Universal Declaration of Human Rights, preamble, art. 3 (Dec. 10, 1948) (emphasis added).

³¹ ICCPR, *supra* note 13 (emphasis added).

³² U.N. Charter preamble.

³³ Report of the International Conference on Population and Development, Cairo A/CONF/F.171/13/Rev.1 at 58 (5-13 Sept. 1994), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N95/231/26/IMG/N9523126.pdf?OpenElement>.

³⁴ *Id.* at 46 (emphasis added).

³⁵ *Data and Statistics on Down Syndrome*, CDC, <https://www.cdc.gov/ncbddd/birthdefects/downsyndrome/data.html> (last visited May 12, 2022).

³⁶ *When They Warn of Rare Disorders, These Prenatal Tests Are Usually Wrong*, NEW YORK TIMES (Jan. 1, 2022), <https://www.nytimes.com/2022/01/01/upshot/pregnancy-birth-genetic-testing.html>.

³⁷ *Id.*

³⁸ See Justin D. Heminger, *Big Abortion: What the Antiabortion Movement Can Learn from Big Tobacco*, 54 CATH. U.L. REV. 1273, 1288-89 & nn.119 & 121 (2005).

³⁹ See generally *Physical Effects of Abortion: Fact Sheets, News, Articles, Links to Published Studies and More*, UNCHOICE, www.theunchoice.com/physical.htm (listing sequelae and referencing sources).

⁴⁰ *Abortion Care Guideline*, WORLD HEALTH ORGANIZATION & HUMAN REPRODUCTION PROGRAMME 79 (Mar. 8, 2022), <https://www.who.int/publications/i/item/9789240039483>.

⁴¹ Priscilla K. Coleman, Ph.D., et al., *Women Who Suffered Emotionally from Abortion: A Qualitative Synthesis of Their Experiences*, JOURNAL OF AMERICAN PHYSICIANS & SURGEONS, Vol. 22 No. 4, p. 115, 116-17 (2017), <https://www.jpands.org/vol22no4/coleman.pdf>.

⁴² *Trafficking Risk in Sub-Saharan African Supply Chains: Benin Country Overview*, VERTITÉ, <https://www.verite.org/africa/explore-by-country/benin/>.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *EDUCO in Benin*, CHILD FUND ALLIANCE, <https://childfundalliance.org/our-members/work/benin/educos-in-benin>.

⁴⁶ ‘Kunle Adebajo, *Pushed Beyond Borders: A Peek into the Dark World of Child Trafficking between Benin and Nigeria (1)*, ICIR (Oct. 9, 2019), <https://www.icirnigeria.org/pushed-beyond-borders-a-peek-into-the-dark-world-of-child-trafficking-between-benin-and-nigeria-1/>.

⁴⁷ Karim Okanla, *Facing an Uncertain Future*, DEVELOPMENT AND COOPERATION (September 27, 2021), <https://www.dandc.eu/en/article/benins-children-face-systematic-exploitation-low-paid-labourers>.

⁴⁸ *Id.*

⁴⁹ ‘Kunle Adebajo, *supra* note 46.

⁵⁰ *Id.*

⁵¹ Deji Lambo, *Police Arrest Two, Rescue 10 Nigerian Girls in Benin Republic Being Trafficked to Dubai*, PUNCH (Aug. 28, 2021), <https://punchng.com/police-arrest-two-rescue-10-nigerian-girls-in-benin-republic-being-trafficked-to-dubai/>.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ Lerato Mogoatlhe & Pia Gralki, *Officials in Ivory Coast Just Rescued 137 Children from Trafficking*, GLOBAL CITIZEN (Jan. 21, 2020), <https://www.globalcitizen.org/en/content/ivory-coast-rescue-137-children-human-trafficking/>.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Human Trafficking: Hundreds Rescued in West Africa*, INTERPOL (Apr. 24, 2019), <https://www.interpol.int/en/News-and-Events/News/2019/Human-trafficking-hundreds-rescued-in-West-Africa>.

⁵⁸ *Id.*

⁵⁹ *Benin’s Groundbreaking New Abortion Law will Save the Lives of Many Women*, *supra* note 9.