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**Promoción y protección de todos los derechos humanos,
civiles, políticos, económicos, sociales y culturales,
incluido el derecho al desarrollo**

Visita a Benin

Informe del Relator Especial sobre la promoción y la protección de los derechos humanos y las libertades fundamentales en la lucha contra el terrorismo, Ben Saul*, **

Resumen

El Relator Especial sobre la promoción y la protección de los derechos humanos y las libertades fundamentales en la lucha contra el terrorismo, Ben Saul, realizó una visita a Benin del 18 al 27 de noviembre de 2024 para evaluar la conformidad de sus leyes y prácticas de lucha contra el terrorismo con el derecho internacional de los derechos humanos.

* Este informe se presentó a los servicios de conferencias para su tramitación fuera del plazo establecido a fin de incluir en él la información más reciente.

** El resumen del presente informe se distribuye en todos los idiomas oficiales. El informe propiamente dicho, que figura en el anexo, se distribuye únicamente en el idioma en que se presentó y en francés.



Anexo

Informe del Relator Especial sobre la promoción y la protección de los derechos humanos y las libertades fundamentales en la lucha contra el terrorismo, Ben Saul, acerca de su visita a Benin

I. Introduction

1. At the invitation of the Government of Benin, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Saul, conducted a country visit to Benin from 18 to 27 November 2024 to assess the consistency of its counter-terrorism laws and practices with international human rights law. He thanks the Government for its invitation, its efficient facilitation of his visit and the constructive dialogue. He particularly thanks the Ministry of Justice and the Ministry of Foreign Affairs for their well-organized support.

2. During his visit, he met with the Minister of Foreign Affairs, the Minister of Justice and Legislation, the Minister of State for Development and Coordination of Government Action, the Minister Delegate to the President in Charge of National Defence, the Minister of the Interior and Public Security, the Minister of Decentralization and Local Governance, the Chief of Staff of the Armed Forces, the High Commissioner for the Sedentarization of Herders and representatives of the Court for the Repression of Economic Offences and Terrorism, the Benin Penitentiary Agency, the Benin Agency for Integrated Border Management, the Directorate of Immigration and Emigration, the National Agency for Civil Protection, the Directorate of General Intelligence and Territorial Surveillance, the General Directorate of the Republican Police, the Permanent Secretariat for the National Commission for Countering Radicalization, Violent Extremism and Terrorism, the National Unit for Financial Intelligence, the National Agency for Employment Promotion and the Small and Medium-sized Enterprise Development Agency. He also met with the Beninese Human Rights Commission.

3. The Special Rapporteur visited Parakou and Kandi in northern Benin and Akpro-Misséréte Prison, which houses most individuals detained in terrorism-related cases. He engaged with local authorities, traditional and religious leaders, community members, displaced persons and victims of terrorism and met with lawyers, journalists and representatives of civil society organizations and the international community.

4. He also met with representatives of the United Nations system. He thanks the Resident Coordinator, the Office of the United Nations High Commissioner for Human Rights (OHCHR), the OHCHR Regional Representative for West Africa and the United Nations country team for their assistance.

II. Applicable human rights law frameworks

5. Benin is a party to the major international human rights instruments and has accepted inquiry procedures in relation to torture, persons with disabilities, child rights and discrimination against women. The Special Rapporteur encourages Benin to accept the individual complaint procedure under the International Covenant on Economic, Social and Cultural Rights. The Human Rights Council conducted a universal periodic review of Benin in 2023 and the Human Rights Committee examined Benin in 2024. Benin is a party to the Convention relating to the Status of Refugees and its Protocol and the Geneva Conventions of 12 August 1949 and the Protocols Additional to the Geneva Conventions of 1949. Benin was elected to the Human Rights Council for 2025–2027.

6. Benin is a party to major regional human rights instruments, including the African Charter on Human and Peoples' Rights and its Protocol on the Establishment of an African Court on Human and Peoples' Rights. In 2020, however, Benin withdrew its declaration

under article 34 (6) of that Protocol, preventing non-governmental organizations (NGOs) and individuals from submitting complaints to the Court. The Special Rapporteur encourages Benin to reconsider its withdrawal. Benin has been a member of the African Union since 1963 and is a founding member of the Economic Community of West African States (ECOWAS), whose mission in Benin monitors the implementation of ECOWAS instruments, including on human rights.

7. Under the Constitution of Benin, ratified treaties are superior to national laws (art. 147). The Constitution also comprehensively sets out economic, social, civil and political rights. The legal framework of Benin has been strengthened by the recent criminalization of torture and the abolition of the death penalty.¹ New laws concerning refugees and internally displaced persons were adopted in 2022.² A 2024 law established a national mechanism within the Beninese Human Rights Commission to prevent torture.³ Benin has committed to multilateralism, the values of the United Nations and human rights. The Government has an ambitious domestic reform agenda, including improved governance, economic policies and access to justice, transparency and accountability and a commitment to subregionalism, including security cooperation through ECOWAS and the Accra Initiative.

III. Terrorism in Benin

8. Since 2019, Benin has experienced terrorist infiltration across its northern borders with Burkina Faso, the Niger and Nigeria, part of the spillover of terrorism from Sahel States to Atlantic coastal States. Attacks have been reported against the police, the military, local authorities and the population. The latter have also been victims of kidnapping for ransom, forced recruitment, theft, extortion and reprisals for cooperating with the authorities. The indiscriminate use of mines and improvised explosive devices has increased civilian casualties. Terrorist activity has been concentrated in border areas, particularly in the Pendjari and W national parks and peripheral villages, resulting in human displacement, negative impacts on environmental conservation, tourism and the economy and possible linkages with the criminal trafficking of drugs, medicine, fuel and livestock. While the threat originated in neighbouring States, Beninese nationals have become involved. The most active group has been Jama'a Nusrat ul-Islam wa al-Muslimin, although others also operate.⁴ Attacks appear to have increased; one source identified 173 deaths in 2024. On 9 January 2025, Benin suffered its deadliest attack to date, with 28 soldiers reportedly killed.

9. Particularly since 2021, the Government has increased its security response in the north, adopting a whole-of-government, comprehensive approach that augmented security measures with efforts to prevent violent extremism and address conditions conducive to terrorism through economic and social development. The Government has been outward-looking, engaging with international, regional and bilateral partners to reform laws and institutions and build capacity and expertise.

IV. Criminal justice and human rights

A. Definition of a terrorist act

10. The definition of a terrorist act as set out in articles 161–163 of the Penal Code reflects, in part, best practice international standards. In article 161, the specific intent elements of the “aim of seriously intimidating the population or unduly coercing the public authorities” were drawn from those in Directive (EU) 2017/541 of the European Union,

¹ See Act No. 2019-40 of 7 November 2019 revising Law No. 90-32 of 11 December 1990 establishing the Constitution of Benin; and [A/HRC/WG.6/42/BEN/2](#), para. 5.

² Act No. 2022-31 of 20 December 2022 on the status of refugees and stateless persons in Benin; and Interministerial Order No. 239/MISP/MASM/MEF/DC/SGM/ANPC/SA/066SGG24.

³ Act No. 2024-22 of 26 July 2024.

⁴ Ansar al-Islam, Jama'a Nusrat ul-Islam wa al-Muslimin, Islamic State in the Greater Sahara and The Organization of Al-Qaida in the Islamic Maghreb.

which themselves were drawn from the International Convention for the Suppression of the Financing of Terrorism (Terrorist Financing Convention) and are reflected in Security Council resolution 1566 (2004). The requirements of “seriously” intimidating or “unduly” compelling raise the threshold and appropriately ensure that terrorism is limited to serious cases. The cumulative contextual requirement that the act also “may seriously harm the State”, also reflected in European Union law, further confines offences, although that element is too ambiguous. It is also preferable to require that the act not seriously harm the State.

11. The larger concern is that the definition provides three alternative intent elements: “perverting the fundamental values of society”, “destabilizing constitutional, political, economic structures and/or institutions of the nation” and “harming the interests of other countries or of an international organization”. Each goes beyond international standards, as their terms are vague and overly broad, infringing the principle of legality under article 15 of the International Covenant on Civil and Political Rights, which requires offences to be defined with sufficient clarity and specificity so that individuals can prospectively know the scope of liability. Vague references to social values, national structures and foreign State interests risk criminalizing the legitimate exercise of fundamental rights. The element of destabilizing structures is based on a heavily criticized element in Directive (EU) 2017/541.⁵ Repealing those elements would assist in aligning the definition in the Penal Code with the definition of “terrorist act” in article 2 of the recent Act No. 2024-01 of Benin on terrorist financing, which is based on the Terrorist Financing Convention.

12. The Government is encouraged to enact three exclusions to narrow the definition of terrorism and protect other important legal interests. Firstly, the definition should exclude acts of advocacy, protest, dissent or industrial action in a democratic society that do not intentionally cause death or serious injury⁶ to safeguard the rights to freedom of expression, opinion, assembly, association and political participation. Where such acts damage property, they should be prosecuted as ordinary offences. Secondly, it should exclude the independent and impartial provision of humanitarian assistance or other activities that support basic human needs.⁷ Thirdly, it should exclude the activities of armed forces in armed conflicts governed by international humanitarian law,⁸ or preferably where such activities are “in conformity with” humanitarian law, to ensure that terrorism offences do not interfere with the regulation of armed conflict by humanitarian law or undermine incentives for non-State armed groups to comply with it.

B. Terrorism offences

13. Articles 162 and 163 of the Penal Code contain a complex list of 21 different terrorist acts. Many exceed best practice international standards,⁹ encompassing acts that are not offences under international counter-terrorism conventions or not otherwise intended to cause death or serious personal injury. In article 162, they include computer offences, transport offences and conventional weapons- and munitions-related activities, while the act of “undermining the internal and/or external security of the State” conflates a different security threat with terrorism. Article 163 includes acts causing considerable economic loss, material damage or the degradation of the natural environment and using national territory or national ships or aircraft to commit terrorism against another State’s mere “interests”. The offence of “inciting ethnic, racial or religious fanaticism” confuses possible hate speech with terrorism. Article 163 requires other acts to have “the effect of endangering human life”, yet such offences do not require an intent to endanger life, thus setting liability too low.

⁵ See communication OTH 133/2024, available at <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=29418>.

⁶ See https://www.un.org/securitycouncil/ctc/sites/www.un.org.securitycouncil.ctc/files/un_acted_-_analytical_brief_-_criminalization_of_terrorist_offences_1.pdf, p. 17.

⁷ International Committee of the Red Cross, Customary International Humanitarian Law Database, rules 25, 26, 28–32, 55 and 56.

⁸ Consistent with the approach in the international counter-terrorism conventions adopted since 1997.

⁹ Security Council resolution 1566 (2004), the consensus definition in the International Convention for the Suppression of the Financing of Terrorism, the draft comprehensive convention on international terrorism and the model definition of the Special Rapporteur (A/HRC/16/51, paras. 26–28).

Article 163 also intermingles substantive terrorism offences with various preparatory or inchoate offences. The latter should be distinguished from the “terrorist acts” that they facilitate and penalties should be differentiated.

14. Article 163 (10) criminalizes “calling, by any means, for the commission of terrorist acts, inciting ethnic, racial or religious fanaticism or using any name, term, symbol or other sign for the purposes of glorifying a terrorist organization, any of its leaders or its activities”. The vagueness of “glorification” may infringe legality and enable its misuse to curtail freedom of expression. The Human Rights Committee has highlighted that prohibitions on the “encouragement,” “praising,” “glorification” or “justification” of terrorism or extremist activity must adhere to the strict requirements for limiting freedom of expression under article 19 (3) of the International Covenant on Civil and Political Rights.¹⁰ Laws addressing terrorist-related expression must: be precisely prescribed by law and avoid vague terms; be based on a precise definition of terrorism; be strictly necessary and proportionate; and include both an intent to incite terrorism and an objective risk that it will occur.¹¹

15. Article 165 appears to conflate the definition of a terrorist organization with the modes of criminal participation in such an organization, namely, attempt, complicity, organizing or inciting and conspiracy. Article 163 (5) also confusingly addresses a type of organizational conspiracy. Those provisions should be simplified to enhance legal certainty about the scope of liability relating to terrorist groups and reduce duplication.

C. Penalties

16. Article 166 of the Penal Code imposes mandatory life imprisonment for terrorist acts, irrespective of the characteristics of the crime, the circumstances of the offender, or mitigating factors. Terrorist acts vary widely in gravity, particularly where the definition of terrorism covers a wide range of acts, as under the law of Benin. Proportionality in sentencing requires that the penalty for a crime reflect its seriousness and the degree of personal culpability and ensure appropriate independent judicial discretion in sentencing. Proportionate sentences also encourage rehabilitation by offering convicts the possibility of release and reintegration into society, whereas mandatory life sentences undermine the prospects for rehabilitation, including the disengagement of offenders.

D. Arrest and police custody

17. Since 2019, hundreds of people have been arrested for suspected terrorist offences. From January to September 2024 alone, 276 people were arrested and brought to the prosecutor of the Court for the Repression of Economic Offences and Terrorism. Despite formal legal safeguards,¹² in some cases, no substantive reasons were reportedly given for the arrest, whether upon arrest or during subsequent detention, even after the person was formally charged. Article 9 (2) of the International Covenant on Civil and Political Rights requires authorities to inform a person of the reasons for their arrest at the time of arrest and to inform them promptly of any charges. Reasons must include not only the general legal basis of the arrest but also enough factual specifics to indicate the substance of the complaint, in a language that the person understands.¹³

18. The Special Rapporteur received numerous complaints of arrests being made without “serious and corroborating evidence” of involvement in terrorism, despite formal legal safeguards,¹⁴ including multiple arrests by the military, which could indicate arbitrary deprivations of liberty contrary to article 9 (1) of the Covenant. The release in August 2023 of 127 detainees was welcome. While 642 terrorism suspects were in pretrial detention, information was received of others arrested for periods of days or weeks before being

¹⁰ Human Rights Committee, general comment No. 34 (2011), paras. 24, 25, 46, 50 and 51.

¹¹ [A/HRC/16/51](#), para. 31.

¹² Criminal Procedure Code of Benin, art. 59.

¹³ Human Rights Committee, general comment No. 35 (2014), paras. 25 and 26.

¹⁴ Criminal Procedure Code, arts. 58 and 61.

released for lack of evidence, which could indicate a lack of sufficient grounds for the initial arrests.

19. Some arrests had reportedly been made on arbitrary grounds, such as innocent associations with terrorist suspects, including family members, proximity to the border or military areas, possession of a motorbike (a transport method also used by suspected terrorists), carrying large amounts of money in a market, religious affiliation or pressure on the police to “deliver results”. The authorities denied those accusations. Some individuals allegedly had been falsely accused of terrorism by others in the community in personal or communal disputes. In some instances, arrested individuals’ property, such as animals or land, was allegedly appropriated by others.

20. The discriminatory policing of the Fulani (Peulh) community, particularly of herders, was occasionally alleged. Such instances could fuel grievances and feelings of victimization, resulting in distrust of the authorities, impeding cooperation with law enforcement and risking radicalization. Dehumanizing language by some police officers was also reported. One non-governmental source had recorded 310 Fulani among 652 people detained on terrorism charges, although many were from abroad. Senior central and local government and security officials were aware of the need to avoid stigmatization, although some denied stigmatization existed. The law prohibits discrimination and police, military and local authorities are instructed to prevent it. The training and supervision of personnel must nonetheless be strengthened to guarantee that arrests are made only on reasonable grounds of suspicion of an offence according to law, not on the basis of unfounded accusations, discrimination or innocent associations. The Special Rapporteur welcomes that, in December 2024, the President of Benin met with Fulani representatives and affirmed that countering terrorism could not justify stigmatization and that inequalities that facilitated the terrorist recruitment of young people must be addressed. He committed the Government to sensitizing security personnel, expediting terrorism investigations and increasing the transparency of judicial proceedings, protecting land rights and establishing regular dialogue between security forces, local authorities and community leaders.

21. According to some reports, the Fulani community is underrepresented among criminal justice actors, including the police, military personnel, lawyers and judges. The Special Rapporteur encourages the Government to continue its efforts to diversify the police and the military, including by increasing access for those from disadvantaged backgrounds to enhance trust, reduce stigmatization and increase information-sharing and cooperation. That requires increasing literacy and education levels among potential recruits from disadvantaged backgrounds so that they can meet entry standards.

22. Women are also substantially underrepresented in the police force and, particularly, in the military.¹⁵ The Government should accelerate efforts to recruit and promote women and further implement Security Council resolution 1325 (2000) not only to promote gender equality but to ensure that those forces are representative and responsive to the gender dimensions of countering terrorism and enjoy greater public confidence and cooperation.

23. Charge sheets indicated that suspects were commonly charged for “belonging to a terrorist organization”, with a general reference to articles 161–163 of the Penal Code. It is unclear to which of the 21 offences in those articles such charges relate. The principal terrorist organization offence is found in article 165 and an organizational conspiracy offence in article 163 (5). The lack of clarity in the specification of charges may be inconsistent with the requirements under articles 9 (2) and 14 (3) (a) of the International Covenant on Civil and Political Rights to inform an arrested person of the charges, which should include the precise legal basis of the offence and the facts, nature and cause of the charge.¹⁶ Notably, few suspects appeared to have been charged with committing violent offences.

24. Suspects arrested in northern Benin are transferred to the Parakou criminal brigade, where investigations are conducted, and thereafter transferred south by road to the criminal brigade of the Republican Police in Cotonou. Some government sources indicated that that process normally took up to 24 hours. According to the Republican Police, however, a

¹⁵ See [CEDAW/C/BEN/CO/5](#).

¹⁶ Human Rights Committee, general comment No. 32 (2007), para. 31.

transfer from Parakou to Cotonou took from five to eight days, excluding the initial transfer to Parakou and processing time there. It was reported that some transfers had taken up to 15 days. The extended time frame arose from the transfer of suspects from one police station to another along the route from the far north to the south of Benin, highlighting the challenge posed by the remoteness of justice institutions from the places of arrest.

25. Under Benin law, police custody is limited to 48 hours, unless the prosecutor extends it, to a total maximum period of eight days.¹⁷ Protracted transfers from the north to the south of Benin have the effect of normalizing quasi-automatic extensions beyond 48 hours and risking rendering unlawful the period of custody. Some authorities suggested that the eight-day period was too short. Under article 9 (3) of the International Covenant on Civil and Political Rights, an arrested person must be brought promptly before a judge, normally within 48 hours, or 24 hours for juveniles, including transport time.¹⁸ The judicial authority must be independent, objective and impartial,¹⁹ which is not satisfied where the public prosecutor also authorizes the extension of police custody. Police custody for up to eight days without judicial review is inconsistent with the Covenant. The Special Rapporteur acknowledges the challenges of transportation from the north. The Government, however, should ensure judicial review within 48 hours in the north, as excessive periods of police custody are inconsistent with the Covenant.

E. Use of force

26. The Special Rapporteur received credible reports of individuals being beaten, whipped or kicked in police custody, particularly around the time of arrest, and being mistreated during transfers from the north to the south, including through rough handling in vehicles, blindfolding, shackling and the denial of food and water for protracted periods, sometimes in very hot weather.

27. He also received reports of the excessive use of force by the police or military, namely shootings causing death or injury, particularly in encounters with young men but also in the case of a woman carrying a child. Although such cases appeared to be uncommon and were clearly illegal under Benin law, there was insufficient information to fully assess the problem. A lack of independent, impartial investigations was reported in some cases.

F. Pretrial detention and fair trial

28. Once suspects are transferred to Cotonou for investigation, they are brought before the prosecutor, who requests the opening of an investigation to the investigative commission, which may authorize detention for six months (renewable) while the investigation is carried out.²⁰ The case may then be referred for trial to the Court for the Repression of Economic Offences and Terrorism, which must render judgment within six months,²¹ unless pretrial detention is extended, to a maximum of three further six-month periods. The law authorizes detention only for legitimate purposes, such as preserving evidence, preventing interference with witnesses, protecting the accused, ensuring their presence at trial or preventing public disorder.²² According to some reports, in practice, detention in terrorism cases appeared to be almost automatically ordered by the Court for the Repression of Economic Offences and Terrorism, without a sufficiently thorough assessment of its necessity. The alternative of conditional release on bail was uncommon. The automatic continuation of detention and the absence of judicial authorization violate the requirements that detention be strictly necessary and proportionate under article 9 (1) of the International Covenant on Civil and Political

¹⁷ Criminal Procedure Code, art. 61; and Constitution of Benin 1990, art. 18.

¹⁸ Human Rights Committee, general comment No. 35 (2014), para. 33.

¹⁹ *Ibid.*, para. 32.

²⁰ Criminal Procedure Code, art. 147.

²¹ *Ibid.*, art. 147.

²² *Ibid.*, art. 149.

Rights²³ and subject to independent judicial control under article 9 (3) and (4), read in conjunction with the right to an effective remedy in article 2 (3).

29. The Court for the Repression of Economic Offences and Terrorism was established as a specialized jurisdiction with competence over, *inter alia*, economic crimes and terrorism to speed up trials, modernize access to justice and combat corruption. Many terrorism suspects, however, have been held in protracted pretrial detention for two to three years and some for as long as five years, which is allowed under article 147 of the Code of Criminal Procedure. Under article 14 (3) (c) of the Covenant, suspects must be tried without undue delay and those on remand “as expeditiously as possible” to avoid leaving them in a state of uncertainty and to ensure that detention lasts only as long as necessary and serves the interests of justice.²⁴ Whether delay is unreasonable is determined by such factors as the complexity of the case and the conduct of the accused and the authorities.²⁵ The duration of terrorism cases contrasted with the Court’s disposal of other cases, perceived to have a political dimension, within very short periods, undermining public confidence in the Court’s independence and impartiality and potentially indicating insufficient prioritization of expeditious terrorism trials. Public confidence had further been undermined by the high conviction rate and rarity of acquittals.

30. The long pretrial detention periods could reflect the complexity of terrorism investigations, particularly given the clandestine nature of terrorist organizations, cross-border aspects, the distance between investigators and prosecutors in the south and the location of alleged crimes in the north, inadequate military evidence collection and sharing with law enforcement authorities, the poor quality of the initial police investigations in the north and the lack of modern investigative equipment and forensic capabilities. Authorities also reported a lack of sufficiently qualified staff, including intelligence officers in the north, and inadequate coordination between entities. The long delays could also be reflective of a lack of resources.

31. The Government should continue to enhance police training in relation to arrests, custody, transfers, investigations, including special investigative techniques and intelligence gathering, evidence collection and preservation, including by the military, personal data protection, privacy rights and the prohibition of torture, ill-treatment and forced confessions. The project to digitalize judicial records to improve case management, supported by the United Nations Development Programme, is welcome. Protracted pretrial detention could become a grievance that fuels radicalization, including since convicted terrorists are intermingled with those on remand. Sufficient resources should be devoted to urgently resolve protracted terrorism cases.

32. All suspects have the right to a lawyer in police custody, pretrial detention and trial proceedings under the law of Benin.²⁶ In practice, however, many detainees stated that they had never had a lawyer, including because they could not afford one. Some reported having paid large sums to lawyers who then had not represented them. There was also an acute shortage of lawyers, including in rural areas where initial arrests were often made. In practice, the lack of legal representation, in some cases, undermines the rights to liberty and a fair trial under articles 9 and 14 of the Convention. The Special Rapporteur welcomes the recent adoption of Decree No. 2024-1275 of 23 October 2024 regulating legal aid and urges the Government to ensure its prompt and full implementation.

33. Many detainees lacked understanding of the procedures of the Court for the Repression of Economic Offences and Terrorism and some had encountered difficulties with the French language. Many had attended court, only for detention to be extended, without their receiving any substantive information about allegations or the progress of investigations.

34. The Court for the Repression of Economic Offences and Terrorism in Cotonou is far from the north where alleged terrorist offences often occur and some suspects live, making

²³ Human Rights Committee, general comment No. 35 (2014), para. 12.

²⁴ Human Rights Committee, general comment No. 32 (2007), para. 35.

²⁵ *Ibid.*

²⁶ Criminal Procedure Code, arts. 59 and 78.

justice remote from affected communities and hindering family visits and support, partly due to transport expenses. Under article 5 (8) of Act No. 2020-07 of 17 February 2020, which amended the law on the Court, the Court could also hold hearings outside of Cotonou. That provision has yet to be applied in terrorism cases and should be appropriately used.

G. Detention conditions

35. At the time of the visit, 652 people were incarcerated for terrorism-related charges in the prison system of Benin, including 10 convicted prisoners and 22 women. All 10 convicts and 609 pretrial detainees were being held at Akpro-Misséréte Prison, the largest facility in Benin, constructed in 2007. The remainder were mainly being held in the Cotonou remand centre and the Porto Novo women's remand centre. The visit to Akpro-Misséréte Prison confirmed that all individuals in terrorism cases were being held in the general prison population, with no special security measures, reflecting a positive easing of the segregated, higher security conditions associated with the coronavirus disease (COVID-19) pandemic.

36. Remand suspects appeared to be held together with convicted prisoners.²⁷ Designated quarters for convicts were open to the rest of the prison during the day and common recreation spaces and key facilities were shared by all detainees. Article 10 (2) (a) of the International Covenant on Civil and Political Rights requires that accused persons normally be segregated from convicted persons and be granted treatment appropriate to their status.²⁸ While Benin notifies diplomatic representatives when their nationals are detained and authorizes visits, some foreign suspects mentioned that they had not enjoyed their right to consular access or had not been informed of it.

37. The authorities stated that no children had been detained on terrorism charges, that Benin had a "zero children in prison" policy and there were legal protections for child detainees. The Special Rapporteur identified one boy, claiming to be 14 years old, who was in detention with his father, also accused of terrorism, in Akpro-Misséréte Prison among the adult population. The boy had been in detention for one year and six months and had been arrested at the age of 13 years. Under article 37 (c) of the Convention on the Rights of the Child, every child in detention must be separated from adults unless it is in their best interest not to be. The Special Rapporteur encourages Benin to raise the age of criminal liability from 13 to 14 years.²⁹ The oldest terrorist suspect encountered was 82 years old, raising issues concerning the rights of older persons.

38. Prison authorities proclaimed their commitment to international standards of detention, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). No reports were received of physical mistreatment by prison staff. Inmates could meet with lawyers in a private room without time restrictions. Few suspects reported having access to lawyers in prison, however. Lawyers had to obtain a permit to communicate with their clients. Procedures should be implemented to ensure the right of individuals to adequate time and facilities to prepare their defence and to communicate with counsel of their own choosing, in accordance with article 14 of the International Covenant on Civil and Political Rights.

39. The same legal restrictions on visits applied to family members. Some terror suspects, both Beninese and foreigners resident in Benin, said that they had not received visits from family members due to the expense of travelling from northern Benin to the southern cities and the absence of alternative facilities in the north for investigations by the Court for the Repression of Economic Offences and Terrorism.

40. The Special Rapporteur appreciated the genuine efforts made by prison authorities to provide for detainees, including with food, religious facilities, a library, sports activities and income-generating opportunities. Classrooms were being built as part of a social

²⁷ See [CAT/C/BEN/CO/3](#); and Beninese Human Rights Commission, "Contribution to improving the environment in places of deprivation of liberty in Benin" (2023).

²⁸ United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), rule 11 (b).

²⁹ [CAT/C/BEN/CO/3](#), paras. 18 and 19. See also [CAT/OP/BEN/3](#) and [A/HRC/WG.6/42/BEN/2](#).

reintegration plan, including to enable inmates to sit for national exams. The prison had an infirmary staffed by a doctor, nurses and assistants. Common medications occasionally ran out and inmates had to pay for prescriptions, causing difficulties for those without financial support. A psychologist was available but there were significant unmet needs for mental health treatment, complex health conditions and disabilities. Untreated behavioural issues had caused tensions between prisoners. More equipment and facilities were needed for basic surgeries. There was an acute shortage of medical staff, given the number of prisoners. Emergency treatment was available by ambulance to a nearby hospital but a shortage of guards (one guard per 65 prisoners on average in Benin) was an impediment.

41. The Special Rapporteur shares the concerns raised by the human rights mechanisms and the Beninese Human Rights Commission about chronic overcrowding, poor sanitation, limited access to water, inadequate hygiene, bedding and food quality and quantity and insufficient medical services.³⁰ Akpro-Misséré Prison, designed to accommodate 1,000 inmates, held three times that capacity at the time of the visit. One dormitory cell measuring 11 by 6 m housed over 70 inmates, representing less than 1 m² per inmate. The cell had no fixed beds or other furniture and the inmates slept crowded together on the floor. Sanitation facilities were entirely inadequate, with one toilet and two bathrooms with one shower each for 70 inmates. There was a lack of water during the day and no mosquito nets to prevent malaria. There were four electric fans and electric lighting, but little natural light or ventilation and few windows, despite the hot and humid conditions. The prison authorities reported the need for more wells and electricity generators. The overcrowding had had acute adverse effects on the physical and mental health of the detainees. There was a stark contrast between the dormitory cells and the individual cells, with attached bathrooms, holding the 11 people convicted by the International Criminal Tribunal for Rwanda.

42. The Government has been taking genuine steps to respond to the overcrowding, including by redeveloping infrastructure, implementing diversion from detention, accelerating trials, reducing the length of pretrial detention, lightening sentences, making greater use of community service and increasing conditional releases. Presidential pardon is also possible. Nonetheless, the situation remains non-compliant with articles 7 and 10 of the International Covenant on Civil and Political Rights and the Nelson Mandela Rules, potentially amounting to cruel, inhuman or degrading treatment or punishment under article 7 of the Covenant and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The protracted nature of pretrial detention, coupled with its apparent arbitrariness in some cases, has placed many pretrial detainees in acute uncertainty and mental stress, exacerbating the inhuman conditions.

43. The Special Rapporteur is deeply concerned that article 160 of Decree No. 2024-1153 allows prison authorities to place individuals in prolonged solitary confinement (22 hours or more per day) for one to six months for third-degree disciplinary offences (art. 156), well beyond the 15-day limit for solitary confinement under rule 43 of the Nelson Mandela Rules.

H. Rehabilitation and reintegration

44. Akpro-Misséré Prison does not have a formal deradicalization programme. The United Nations Office on Drugs and Crime (UNODC) is supporting the Government to develop a tool to classify the individual risk and needs of prisoners. The prison psychologist can meet with inmates upon their request; patient confidentiality is maintained except in cases in which the person endangers themselves or others. Another programme available to all inmates involves sensitization and education, including by religious leaders, to prepare inmates to re-enter the community. Another plan, not yet implemented, would create a probation and reintegration service for prisoners after their release, which could also address the needs of terrorist offenders.

45. The Special Rapporteur underscores the need for effective reintegration programmes for individuals released by the Court for the Repression of Economic Offences and Terrorism

³⁰ See [CAT/C/BEN/CO/3](#); and Beninese Human Rights Commission, “Contribution to improving the environment in places of deprivation of liberty in Benin” (2023).

in relation to terrorism to address their economic, social, health and educational needs. Rule 90 of the Nelson Mandela Rules highlights the importance of post-detention support to facilitate successful reintegration. He welcomes the adoption, in January 2025, of the decree on prison work and highlights that support is also needed to assist released individuals to return to their homes in the north. The absence of reintegration programmes risks perpetuating poverty and exclusion that could stimulate radicalization. The Government is also encouraged to consider voluntary demobilization programmes, in accordance with international standards, to induce individuals to disengage from terrorism.

V. Operation Mirador

46. Operation Mirador, deployed since December 2021, comprises 3,000 military personnel across fortified military posts in the northern border areas. The Special Rapporteur visited the base in Kandi, Alibori Department. The operation is largely defensive: conducting patrols and searches, collecting intelligence and making arrests. It is legally premised on the existence of a non-international armed conflict against organized non-State armed groups governed by international humanitarian law, as reflected in the rules of engagement of Benin.³¹ The conflict appears to be of low intensity, at the margins of the threshold for armed conflict, with limited hostile engagements and weaponry limited to small arms and light weapons. The appropriateness of applying humanitarian law should be continuously reviewed as the intensity of violence changes over time. Applying humanitarian law authorizes the military to “shoot to kill”, whereas a peacetime law enforcement approach limits police to using graduated force in self-defence or in defence of others. It is equally important to identify which armed groups are involved in sufficiently intense violence to establish the existence of an armed conflict, since not all of the groups are so engaged.

47. The rules of engagement and for the conduct of soldiers³² are broadly consistent with international humanitarian law, requiring respect for the Geneva Conventions of 1949. The participation of Benin in the United Nations and subregional military operations and cooperation, including on the protection of civilians, has enhanced the humanitarian law culture and professionalism of its armed forces. Officer and predeployment training included instruction on humanitarian law and human rights; bilateral partners have also provided training.

48. Suspects arrested by the military are usually transferred into police custody on the same or the next day, with a report detailing the circumstances. Suspects are temporarily held in guarded tents or rooms, although northern military facilities are rudimentary. The military conducts joint patrols with the police force and coordinates with African Parks, a foreign African company that monitors the national parks and shares information but has no detention authority. Benin should ensure that the company is regulated to ensure respect for human rights in accordance with the Guiding Principles on Business and Human Rights, including in the company’s positive efforts to support local communities to have access to resources, livelihoods and services.

49. The Armed Forces, including its civil and military affairs units, have sought to build trust by bringing security to communities, providing occasional free health services and raising awareness about mines and improvised explosive devices. Like the police and local authorities, the military encourages the population to share information about threats as part of the State’s “coproduction of security” approach. Relations with the population have reportedly improved. Irregular changes of Government in neighbouring States have reduced cross-border military cooperation and intelligence-sharing and impeded the evolution of the Accra Initiative and the ECOWAS Standby Force. There are reportedly no State authorities on the other side of the border with Burkina Faso, where territory is controlled by armed groups, and the Niger has closed its border with Benin. Earlier “hot pursuit” agreements with both countries are no longer operative. Any future United Nations support to the security

³¹ Instruction from the Chief of General Staff on the rules of engagement in the Mirador theatre, No. 23-441EMG/CIDE/SA, 8 February 2023; and Soldier Rules of Conduct for Operation Mirador, No. 23-1942/EMG/CIDE/SA, 16 June 2023.

³² Ibid.

forces of Benin must comply with the human rights due diligence policy on United Nations support to non-United Nations security forces.

VI. Border security, refugees and internal displacement

50. The Government has strengthened border security in response to the predominantly cross-border terrorist threat and in the context of its historically porous colonial-era borders. It has established 40 border posts, although some are not functioning and equipping and staffing them is challenging. The International Organization for Migration (IOM) is assisting with the Migration Information and Data Analysis System, International Criminal Police Organization lists are checked at the borders, a joint project of the Office of Counter-Terrorism, UNODC and IOM on integrated border management is under way and efforts are being made to issue biometric identification to all people in border areas.

51. Benin is to be commended for its hospitality towards refugees, with significant numbers from Burkina Faso, the Niger and Togo. As of September 2024, the Office of the United Nations High Commissioner for Refugees (UNHCR) had recorded 16,141 refugees and 981 asylum-seekers who had fled from terrorist groups and counter-terrorist violence. Benin is a party to the Convention relating to the Status of Refugees and the Protocol thereto, the Convention relating to the Status of Stateless Persons and the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa. It has transposed its international obligations regarding refugees and stateless persons into its national legislation, through Act No. 2022-31, including regarding the obligation of non-refoulement, exclusion clauses and refugee rights.

52. Benin has accorded prima facie recognition of refugees arriving in mass influxes at the border. No reports of refoulement have been received. Benin is encouraged to expand its domestic prohibition on refoulement, which prohibits return if there is a risk of persecution, torture and other ill-treatment, to include the risk of arbitrary deprivation of life, arbitrary detention and denial of justice. Asylum-seekers at border posts are registered and referred to the central authorities for the determination of claims. Many refugees do not, however, cross at border posts, are unregistered and often lack identification documents, making their access to public services difficult. The Government and international partners are endeavouring to identify and register such refugees.

53. Refugees are not placed in camps but are hosted by and integrated into local communities, sometimes within the same ethnic or linguistic group. Support is provided by local authorities, including mayors and village chiefs, with assistance from the central authorities,³³ the United Nations, bilateral and NGO partners, including a Burkinabé diaspora association. Stakeholders have urged improved coordination among stakeholders.

54. Consultations with refugees, asylum-seekers and internally displaced persons from Banikoara and Bensékou revealed serious difficulties with access to clean water, adequate food, decent shelter, education, livelihood opportunities and land for cultivation or livestock. Many reported receiving little outside assistance. Some faced eviction by farmers or forestry authorities and flood risks along rivers. Access to healthcare was challenging, with refugees borrowing money to pay for children's treatment, while lacking the income to repay loans. There were significant unmet needs for the treatment of refugees traumatized by violence. Local communities reported being under stress from the hosting of refugees, given population pressures, competition over resources and the scarcity of public services. One local king warned that the situation could become explosive if not addressed. Support to refugees needed to be accompanied by adequate assistance to host communities.

55. Internally displaced persons hosted by local communities face similar concerns. UNHCR reported 13,452 internally displaced persons in February 2024, a significant increase from the previous year, with few people returning home. Benin, a party to the

³³ Particularly the National Commission for the Protection of Refugees and Stateless Persons, the National Agency for Civil Protection, Inter-agency Working Group for Preparedness and Response to Shocks, Beninese Agency for the Integrated Management of Border Areas and the Ministry of the Interior and Public Security.

African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, addressed internally displaced persons through a 2023 decree on civil protection and a 2024 interministerial decision imposing a duty to assist them.³⁴ Assistance from the United Nations and NGO partners includes cash transfers and food assistance. IOM has been tracking displacement and its impacts to inform responses. The Special Rapporteur recommends the Guiding Principles on Internal Displacement as a further tool to assist the response.

VII. Redress for victims of terrorism

56. Benin has no specific laws addressing victims of terrorism. The law providing for individuals injured or killed on official missions and their families is welcome.³⁵ Benin should consider adopting the necessary laws and institutional frameworks to assist and protect all victims of terrorism and to recognize their specific needs and vulnerabilities. Best practices are set out in the Model Legislative Provisions to Support the Needs and Protect the Rights of Victims of Terrorism.³⁶

57. The Government recognizes the difficulty of involving victims in terrorism trials due to the long distances from the north to the Court for the Repression of Economic Offences and Terrorism in Cotonou. Especially where whole communities are victims, transport is expensive and difficult. The Special Rapporteur encourages the implementation of the law³⁷ allowing hearings to be held outside of Cotonou, while guaranteeing a fair trial, and of the decree of 24 December 2024 regulating court fees, which allows the costs of victims' appearance to be covered. Efforts to protect witnesses and victims from terrorist reprisals should continue to be strengthened.

VIII. Addressing rights violations conducive to terrorism

58. The Government understands the imperative to complement security responses with holistic measures to address the conditions conducive to terrorism and prevent local support for terrorist groups, recruitment and radicalization. Empirical evidence of the drivers of such support in Benin is scarce. The Government has identified potential risk factors, however, such as poverty, feelings of abandonment by the State, a lack of essential services, employment, livelihoods and access to markets, particularly for young people, and the marginalization of minority groups, all of which engage human rights concerns. One local stakeholder described the north as the "fourth world", far from the central Government, economic activity and most of the population. Benin is ranked 173rd of 191 countries in the human development index and the north is the least developed area. Terrorist groups have offered money to local young people in exchange for supplies and information, and economic drivers seem more common than ideological motivations.

59. The National Strategy Single Reference Security Development Framework 2024–2028 addresses governance, security and development and is aimed at fostering a sense of citizenship and belonging among the northern population. Alongside the military deployment, the security pillar is aimed at expanding police stations to all 546 districts across Benin, although there have been challenges in completing, equipping and staffing them. Community policing, building trust in security forces, the "co-production" of security, along with early warning systems in communities, are key elements for identifying suspicious activity. Security forces host social cohesion days on which they open police stations to the public, provide free healthcare and plant trees. They also engage in sensitization activities with religious leaders. Strengthening border posts and reforming the intelligence sector are

³⁴ Decree No. 2023-334 of 21 June 2023 on measures and procedures for disaster reduction, health emergencies and civil protection and Interministerial Order No. 239/MISP/MASAM/MEF/DC/SGM/ANPC/SA/066S of 9 July 2024 defining the terms of access to State and partner assistance for internally displaced persons in the event of a crisis or disaster.

³⁵ Act No. 2022-28 of 7 December 2022.

³⁶ See <https://www.un.org/counterterrorism/publication/The-Model-Legislative-Provisions>.

³⁷ Act No. 2020-07 of 17 February 2020 on the organization of the judiciary, art. 6.

additional goals. Concerns have been raised about night curfews, imposed to counter terrorism, as too rigid and indiscriminate and as impediments to community access to services and livelihoods.

60. Development activities are aimed at addressing deficiencies in rural infrastructure, economic opportunities and essential social services. Various programmes are targeting northern border communities with employment and skills training for vulnerable young people, livelihood opportunities for women and support to microcredit initiatives and small enterprises. It was suggested there had been more progress in infrastructure development and macroeconomic reform than in social and human development indicators. Many northern areas lack accessible or adequate basic services, including water, sanitation, healthcare, schools, electricity and roads. The Special Rapporteur recommends redoubling development efforts in the north.

61. The Special Rapporteur echoes the recommendations of the Committee on Economic, Social and Cultural Rights.³⁸ The Government is conscious of its obligation under article 2 of the International Covenant on Economic, Social and Cultural Rights to progressively realize those rights to the maximum of its available resources, including by satisfying the minimum core content of each right, namely, access to essential food, primary healthcare, basic housing and primary education.³⁹ The Government must make every effort to use all the resources at its disposal and accept international assistance where necessary.⁴⁰ Benin has a predominantly informal economy, which produces a low revenue base, and the Government's commitment to expanding revenue is encouraging. The Government should also expand inclusive and participatory engagement with local communities, civil society and vulnerable groups in all development activities, including young people, women, minorities and persons with disabilities.

62. Tensions between cattle herders and settled farmers over land and water have contributed to social fragility, grievances and the potential for violence in the north, although there has been no direct connection to terrorism. Cooperation for mutual benefit between them persists but tensions have increased due to population growth and the expansion of mechanized and commercial farming and displacement. Incidents have sometimes involved violence. The rights of both groups have been secured through legislation,⁴¹ including regarding recognized corridors for moving livestock and dispute settlement procedures. Disputes appear to have decreased and become less violent in recent years. The implementation of herders' legal rights remains challenging, however, including because of social discrimination and low levels of schooling and literacy among the Fulani and a lack of instruction in Fulani or by Fulani language teachers.

63. The Government's policy of herder sedentarization is aimed at reducing tensions by improving access to cattle movement corridors, land, water and services, including schools and healthcare. Such efforts have encountered challenges, including resistance by local communities, tensions over resources and herders' reluctance to settle in unfamiliar or remote places. The policy reveals the attitude that nomadism is a traditional practice to be reduced through the modernization of agriculture. Yet herding reflects the culture and livelihood of a minority group, whose informed and voluntary participation in reforms must be guaranteed, in accordance with article 27 of the International Covenant on Civil and Political Rights. The High Commissioner for Herder Settlement is conscious of the challenges and committed to balancing competing interests. Authorities should give more attention to the impact of climate change on land use, resources and displacement.

64. Under the National Strategy Single Reference Security Development Framework, decentralization and local government reforms are aimed at making governance, including development and security, more responsive to local needs, more efficient, expert and professional and less corrupt. The legal framework faces implementation challenges, with stakeholders in the north indicating a lack of clarity regarding the responsibilities of different

³⁸ See [E/C.12/BEN/CO/3](#).

³⁹ Committee on Economic, Social and Cultural Rights, general comment No. 3 (1990), para. 10.

⁴⁰ *Ibid.*, paras. 10 and 13.

⁴¹ Act No. 2013-01 of 14 August 2013 on the Land and Domain Code as amended and Act No. 2018-20 of 23 April 2019 on the Pastoral Code.

levels of government. Central authority remains strong despite decentralization efforts, affecting the local responsiveness of development policy. Governance efforts also involve engaging traditional leaders, including kings, village chiefs and religious leaders, who are vital partners for security, development and the prevention of terrorism. The greater inclusion of women in local governance, including in security and development decision-making, and broader consultation with affected communities, civil society and excluded young people are necessary.

65. No national public strategy to prevent and counter violent extremism has been made public or available to the Special Rapporteur, although several confidential strategies or draft strategies have reportedly been prepared, apparently with limited public consultation. The National Strategy Single Reference Security Development Framework is more comprehensive, but a dedicated strategy to prevent and counter terrorism and violent extremism could still be beneficial. Various ad hoc social cohesion and prevention activities have been conducted by the authorities and partners, including awareness-raising and sensitization on the risks of terrorism and radicalization, engagement with at-risk young people, parents, religious leaders and traditional hunters, intercommunal and conflict-prevention dialogues and digital campaigns. The National Commission for the Countering of Terrorism, Violent Extremism and Radicalization coordinates such efforts.

66. The vulnerability of children in some Koranic schools,⁴² who often come from poor families and may lack access to State schools, is concerning, as is their access to rights. Curricula may be limited to religious learning in Arabic, without the provision of the public secular curriculum in French or other national languages, leaving students ill-equipped for vocational or professional employment. Some Beninese imams have studied in Gulf States and returned with a stricter form of Islam. The authorities have mapped religious schools and the Directorate of Religious Affairs has a monitoring role. Under article 13 (3) of the International Covenant on Economic, Social and Cultural Rights, the right of parents to choose religious schooling is subject to the limitation that schooling must conform to the State's minimum educational standards. The Government should strengthen efforts to apply a national curriculum in all religious schools and to expand access to State schools. Some children in Koranic schools are also forced to beg or engage in other forms of child labour prohibited under national and international law.⁴³ Malnutrition and inadequate living conditions have also been reported. The Special Rapporteur urges the Government to prioritize combating child labour and exploitation.

IX. Oversight and accountability

67. There are strong formal procedures for oversight and accountability of the exercise of police and military counter-terrorism powers in Benin. Terrorism suspects may challenge the lawfulness of detention before the investigating judge of the Court for the Repression of Economic Offences and Terrorism or the Constitutional Court; civil proceedings are also available for reparation for wrongful detention. The Special Rapporteur welcomes the renewed commitment, in 2024, of the Republican Police to address police misconduct, including through disciplinary action, dismissal and prosecution. He also welcomes the institutionalized training on public freedoms for police recruits and officers. The accountability of military personnel is enforced through orders, disciplinary rules and penal sanctions and by the military police.

68. Complaints about prison treatment can be made to the prison director, higher prison authorities, the Ministry of Justice, the Beninese Human Rights Commission and the courts. The Commission, international organizations and NGOs conduct periodic visits. The Special Rapporteur calls upon the Government to swiftly implement and adequately resource the national preventive mechanism against torture and ensure that the requirement for

⁴² A/HRC/25/48/Add.3, para. 35. See also <https://www.unicef.org/benin/media/146/file/sitan.pdf> (in French).

⁴³ Act No. 2015-08 on the Children's Code, arts. 376 and 377; Convention on the Rights of the Child, art. 19; Worst Forms of Child Labour Convention, 1999 (No. 182) of the International Labour Organization; and CRC/C/BEN/CO/3-5, para. 64. See also A/HRC/WG.6/42/BEN/3.

authorization under article 39 of Decree No. 2024-1153 does not unjustifiably restrict NGO access to detainees and their capacity to monitor violations.

69. The Commission has A accreditation under the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and no reports of political interference have been received. The Commission's free, accessible complaint system, backed by the capacity to resort to court proceedings failing dispute resolution, is important but it has not received any terrorism cases. From late 2023, internal governance disputes impeded the Commission's functioning, with the commissioners' mandate expiring in December 2023. The Government is encouraged to promptly implement the 2024 law aimed at improving the Commission's functioning, including by strengthening the duty of State authorities to cooperate with it.⁴⁴ The Commission's presence remains limited outside of the main urban centres; resources for geographical expansion would be beneficial.

70. Benin has adopted stringent legislative frameworks on intelligence activities, personal data protection and privacy rights⁴⁵ and the misuse of intelligence powers does not appear to be common. Oversight is provided by the National Commission for the Control of Surveillance Measures, the Data Protection Authority, the Beninese Human Rights Commission and the Constitutional Court. Implementation should be strengthened through training and oversight, including on preventing collateral intrusion on non-suspects' privacy. Legislative time limits should be established for special investigative techniques. The National Assembly, including its defence and security committee, could also play a stronger role in scrutinizing intelligence activities. The Special Rapporteur encourages Benin to consider the report on the oversight of intelligence agencies.⁴⁶

71. The Government should ensure that all oversight mechanisms are adequately resourced, independent, impartial, effective and capable of ensuring transparency and accountability. They must have sufficient powers and expertise to initiate and conduct investigations, unimpeded access to information, officials and facilities and the full cooperation of the authorities in interviewing witnesses and obtaining evidence. The Special Rapporteur refers the Government to the Brussels Memorandum on Good Practices for Oversight and Accountability Mechanisms in Counterterrorism of the Global Counterterrorism Forum.

72. The effectiveness of oversight and accountability requires ensuring access to justice, particularly when those affected by counter-terrorism measures come from disadvantaged backgrounds, lack knowledge of procedures and face language barriers and difficulties in access to lawyers. The Special Rapporteur welcomes the adoption of Decree No. 2024-1275 on legal aid to prevent and avoid discrimination in access to justice in civil cases, such as compensation for ill-treatment or wrongful detention. He is concerned that article 8 excludes foreign nationals (other than refugees and stateless persons) unless the State of nationality recognizes an equivalent right for nationals of Benin or an exception is made.

73. Equal access to legal aid is essential for all individuals in need, given the seriousness of terrorism cases. The Special Rapporteur endorses calls to ensure the adequate resourcing of legal aid, raise public awareness about its availability, particularly among vulnerable groups, and bring courts closer to remote regions.⁴⁷

74. Stakeholders have reported difficulties in access to public interest information about counter-terrorism activities, including regarding detentions and Court for the Repression of Economic Offences and Terrorism hearings, terrorist acts, military operations and complaint and accountability processes. Journalists have reportedly been threatened with legal action for reporting on security matters. While operational security may justify secrecy in exceptional cases, the Government is encouraged to publicize as much information as possible to ensure the public's right to information, improve transparency and public

⁴⁴ Act No. 2024-22 of 26 July 2024 on the Beninese Human Rights Commission.

⁴⁵ Act No. 217-44 of 5 February 2018 on intelligence services and Act No. 2017-20 of 20 April 2018 on the Digital Code.

⁴⁶ [A/HRC/10/3](#).

⁴⁷ [CERD/C/BEN/CO/1-9](#), para. 20; and [CEDAW/C/BEN/CO/5](#), paras. 13 and 14.

confidence and enable accountability and remedies. The 2015 access to information law⁴⁸ should be fully implemented.

X. Civil society and civil space

75. The Special Rapporteur underscores the pivotal role of civil society in preventing and countering terrorism and in improving governance, sustainable development, peacebuilding, gender equality and conflict resolution.⁴⁹ He recognizes the significant contributions of civil society in Benin to preventing terrorism and advocating for the protection of human rights while countering terrorism. He encourages the Government to more actively involve communities and civil society organizations in the design, implementation and evaluation of measures to prevent and counter terrorism.⁵⁰

76. He is concerned about the potential misuse of counter-terrorism laws against civil society. On 11 December 2021, the Court for the Repression of Economic Offences and Terrorism sentenced an opposition political leader to 20 years in prison for terrorism. The Working Group on Arbitrary Detention found her detention to be arbitrary.⁵¹ A significant number of young people were prosecuted for terrorism in relation to the 2021 presidential election.⁵² In August 2023, a journalist reporting on Benin was arrested and accused of participating in terrorism but was released without charges after nine days. The Government should ensure that counter-terrorism measures do not restrict legitimate civil society activities or fundamental freedoms.

77. Certain provisions in the Digital Code, the Penal Code and counter-terrorism legislation may unjustifiably interfere with the rights of human rights defenders, political activists and journalists and the rights to freedom of expression, association and peaceful assembly and access to information.⁵³ The Special Rapporteur encourages the Government to review those provisions, particularly those relating to gatherings and the dissemination of false information, to ensure that civil society can operate freely and without fear of reprisals, and consider alternatives to combat disinformation, including enhancing transparency and the flow of public information, strengthening media freedom and promoting media and digital literacy.⁵⁴

78. Act No. 2024-01 of 20 February 2024 on sanctions and countering terrorist financing positively established a risk-based approach to the terrorist financing risks of non-profit organizations, in accordance with international standards,⁵⁵ and provided for due process and judicial safeguards for sanctions pursuant to Security Council resolutions 1267 (1999) and 1373 (2001). The Government has identified risks concerning non-profit organizations involved in religious proselytism or receiving funds from high-risk countries. The Special Rapporteur encourages the implementation of the law to be rigorously risk-based, recognizing that most non-profit organizations pose no risk and require no specific regulation. He also cautions against adopting a unilateral sanctions list, pursuant to Security Council resolution 1373 (2001), based on the existing overly broad national definition of terrorism, which includes conduct that is not genuinely terrorist.

⁴⁸ Act No. 2015-07 of 20 March 2015 on the Information and Communication Code.

⁴⁹ A/78/520, para. 9.

⁵⁰ Security Council resolutions 2178 (2014) and 2419 (2018).

⁵¹ Opinion No. 51/2022.

⁵² Beninese Human Rights Commission, "Report on the state of human rights in Benin (2010–2021)".

⁵³ See E/C.12/BEN/CO/3.

⁵⁴ See A/HRC/47/25.

⁵⁵ See <https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf>.

XI. Conclusions and recommendations

A. Conclusion

79. Benin has already undertaken considerable reform to improve compliance with its international human rights obligations while countering terrorism, recognizing that protecting human rights enhances security. The Special Rapporteur welcomes the Government's positive cooperation with his visit and its genuine commitment to further align its national frameworks with human rights. His recommendations are focused on improvements in relation to criminal justice, human displacement, victims of terrorism, conditions conducive to terrorism and civil society and civic space. The high-level priorities include: (a) strengthening the procedures governing custody and pretrial detention, extending the availability of legal aid and ensuring prompt trials; (b) reducing prison overcrowding and improving conditions and visitor access; (c) increasing assistance to displaced persons and host communities; (d) improving socioeconomic rights in the north; (e) strengthening oversight and accountability mechanisms; and (f) removing unjustified restrictions on civil society, the media and civic space. He emphasizes the importance for foreign States, the United Nations and other international organizations to strengthen their support to the Government's efforts to enhance security in conformity with human rights, including by providing the necessary resources and technical assistance. He stands ready to advise and assist the Government in its commendable efforts to improve the protection of human rights while countering terrorism.

B. Recommendations

Criminal justice

80. The Special Rapporteur recommends that Benin:

- (a) Revise and narrow the definition of terrorism in article 161 of the Penal Code, including through exclusion clauses, the terrorism offences in articles 162 and 163 and the definition of "terrorist organization" in article 165 to make them consistent with international law;
- (b) Repeal the mandatory life imprisonment penalty for terrorist acts in article 166 of the Penal Code to reflect the principles of proportionality and judicial discretion in sentencing;
- (c) Strengthen police and military training and supervision to ensure that arrests are made strictly according to law and on a non-discriminatory basis where there is reasonable suspicion of a terrorist offence;
- (d) Diversify the recruitment and promotion of criminal justice and security personnel to better represent minorities and women;
- (e) Ensure that arrested persons are promptly and specifically informed of the charges;
- (f) Require any extension of police custody beyond 48 hours to be authorized by an independent judge;
- (g) Expedite the investigation and prompt trial of terrorism suspects;
- (h) Ensure regular and thorough periodic judicial review of pretrial detention, genuine consideration of alternatives to detention and the prompt release of individuals from detention where it is not justified;
- (i) Ensure that legal aid is available in practice, where necessary, in police custody, on remand and at trial;
- (j) Enhance the human rights training of police relating to all aspects of investigation, arrest and custody;

- (k) Exercise the legal power to hold the Court for the Repression of Economic Offences and Terrorism hearings outside of Cotonou;
- (l) Raise the age of criminal responsibility to at least 14 years, strengthen the segregation of children from adult detainees and minimize the imprisonment of children;
- (m) Strictly separate pretrial detainees from convicted prisoners;
- (n) Ensure the right of foreign national detainees to consular access and to be informed of such right;
- (o) Accelerate all measures to reduce prison overcrowding and improve detention conditions;
- (p) Develop reintegration and rehabilitation programmes for detainees released in terrorism cases;
- (q) Repeal the requirement for lawyers to obtain permits to visit their clients in detention;
- (r) Limit solitary confinement by law to no more than 15 days.

Human displacement

81. The Special Rapporteur recommends that Benin:

- (a) Expand the domestic prohibition on refoulement to forbid return to the arbitrary deprivation of life, arbitrary detention and denial of justice;
- (b) Expedite registration and documentation for unregistered refugees;
- (c) Expand efforts to provide material and legal assistance to refugees, asylum-seekers and internally displaced persons, with international assistance as necessary, and consider applying the Guiding Principles on Internal Displacement;
- (d) Adequately support communities hosting displaced persons;

Victims of terrorism

- (e) Adopt laws and practices to specifically protect victims of terrorism, based on the Model Legislative Provisions to Support the Needs and Protect the Rights of Victims of Terrorism;
- (f) Strengthen the protection of witnesses and victims from terrorist reprisals.

Conditions conducive to terrorism

82. The Special Rapporteur recommends that Benin:

- (a) Mobilize adequate financial and human resources to progressively realize economic, social and cultural rights to the maximum of available resources in areas vulnerable to terrorism and fulfil the minimum core obligations, including by expanding revenue and seeking international assistance;
- (b) Expand inclusive and participatory engagement with local communities and civil society, including women, young people and minorities, in the development, implementation and evaluation of all counter-terrorism measures, including development and governance;
- (c) Continue to combat the stigmatization of Fulani and herder communities, including through the sensitization of community and State officials and the implementation of herder land rights;
- (d) Address friction points in the decentralization of governance, including by enhancing local responsiveness and ownership of measures to address conditions conducive to terrorism and promote development;

(e) Extend the national curriculum to all religious schools while respecting religious freedom, expand access to public schools and combat child labour and mistreatment in religious schools.

Oversight, accountability and access to justice

83. The Special Rapporteur recommends that Benin:

(a) Ensure that allegations of misconduct by State personnel are promptly, independently and thoroughly investigated, perpetrators are held accountable, and victims are provided effective remedies;

(b) Ensure that the requirement for authorization to visit detainees does not unjustifiably restrict the access of NGOs;

(c) Expedite the implementation and resourcing of the national preventive mechanism for torture and the 2024 legal reforms of the Beninese Human Rights Commission;

(d) Strengthen training and oversight in intelligence activities;

(e) Fully implement Decree No. 2024-1275 to extend legal aid to all foreign nationals, including asylum-seekers, raise public awareness about legal aid and ensure adequate funding.

Civil society and civic space

84. The Special Rapporteur recommends that Benin:

(a) Remove unjustified restrictions on civil society and civic space, including by preventing the misuse of terrorism offences, avoiding unnecessary or disproportionate limitations on the freedoms of expression and the media, association and assembly and ensure that measures against terrorist financing are strictly risk-based and do not impinge on the legitimate activities of non-profit organizations;

(b) Increase public access to information about counter-terrorism measures, including about terrorist threats, criminal justice, military operations and accountability processes.

Other issues

85. The Special Rapporteur recommends that Benin:

(a) Continuously review the legal appropriateness of classifying armed conflicts and of applying humanitarian law as the intensity of violence changes over time;

(b) Establish voluntary demobilization and reconversion programmes to encourage disengagement from terrorist groups;

(c) Adopt a comprehensive national strategy to prevent and counter terrorism and violent extremism, with full respect for human rights and after meaningful consultation with civil society.

86. The Special Rapporteur recommends that the international community and international organizations:

(a) Provide the financial, human and technical resources necessary to assist Benin in meeting its human rights obligations while countering terrorism, as relevant to the above-mentioned issues;

(b) Fund a human rights adviser for the Office of the Resident Coordinator in Benin to strengthen national human rights capacities, enhance national human rights monitoring and facilitate human rights mainstreaming in United Nations country programmes.