

African Commission  
on Human  
& Peoples' Rights



Commission Africaine  
des Droits de l'Homme  
et des Peuples

## **PRISONS IN BENIN**

REPORT ON A VISIT

23 - 31 AUGUST 1999

BY

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SPECIAL RAPPORTEUR ON PRISONS AND  
CONDITIONS OF DETENTION IN AFRICA

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## PRISONS IN BENIN

### ACKNOWLEDGEMENTS

The government of Benin spared no effort to ensure the success of my mission. At the airport to welcome me was a four-member delegation comprising Mr. Lino Hadonou, Director of Prison Service, Ministry of Justice, Legislation and Human Rights; Mr. Cyrille Oguin, Director of Human Rights of the same Ministry; Mrs. Gisèle Balley of the Africa and Middle East Division of the Ministry of Foreign Affairs and Mr. Ebah Luc of the same Division and Ministry. Without sacrificing or compromising confidentiality and privacy, whenever desirable, Messrs. Lino Hadonou, Cyrille Oguin and Luc Ebah accompanied us throughout the mission. At least two vehicles were set aside throughout my visit to facilitate my work.

Governmental assistance went beyond the vehicular to the culinary. Not only was I a guest at a dinner hosted by the Minister of Justice for the Registrar of ICTR and his team, but on the eve of my departure from Benin, and against the background of melodious old tunes from Ghana, my hosts demonstrated beyond doubt that their standard was next to none in the art of cooking. That all who had worked with me, and many more partook of the delights of the dining hall was a matter of great delight to us all, particularly the present writer. Our gratitude to them in particular, and the government of Benin in general is immense.

Mr. Joseph Gnonlonfoun, Minister of Justice, Legislation and Human Rights granted us audience. He also extended an invitation to us to witness the signing of an agreement between Benin, acting through her Foreign Minister, Dr. Kolawole A. Idji and the International Criminal Tribunal for Rwanda at Arusha, acting through its Registrar, Mr. A. U. Okali for the purpose of providing prison space for the latter's convicts. Dr. Idji made time after the signing ceremony to have a discussion with me. To these Ministers and many other persons, some of whom will be named later, who contributed to the success of the mission I am most grateful.

Cécile Marcel of Penal Reform International (PRI), Paris acted as an interpreter for me, and also attended to administrative matters. The Secretariat of the Commission at Banjul, The Gambia and Penal Reform International, Paris

applied for, pursued and obtained the consent of the government of Benin for me to visit her prisons. I acknowledge my debt of gratitude to them.

Funds from the Norwegian Agency for Development Co-operation (NORAD) continue to support the work of the Special Rapporteur, and I am very appreciative of this assistance.

## INTRODUCTION

Having visited the prisons of two countries in West Africa, Mali and the Gambia, it would have been preferable to have seen the prisons of one of the sub-regions which is yet to play host to the Special Rapporteur, North, East and Central Africa. But as no positive response had been received from the countries in these regions with whom contacts had been established to make a mission possible, I had to direct my attention to a country which was willing to throw its prisons open to the Special Rapporteur.

Benin demonstrated, in readily accepting to receive the Special Rapporteur within a short time of permission being sought that it takes its obligations as a State Party to the African Charter on Human and Peoples' Rights (the Charter) seriously; and that it is anxious to co-operate with the African Commission on Human and Peoples' Rights (the Commission) in their common endeavour to promote and protect human rights in Africa.

I visited prisons and detention centres in Cotonou, Porto Novo, Abomey, Parakou, Lokossa and Natitingou. Prison visits, and indeed all meetings, began with a brief account of the mandate and work of the Commission and how these justified the instant mission. Briefing by prison officials with questions from the Special Rapporteur preceded a tour of the premises of the prisons. Interviews with prisoners alone was generally the last important event of a prison visit.

Whenever necessary suggestions for immediate remedial were proffered by the Special Rapporteur. It is a matter of delight to report that the appropriate authorities took the necessary action in all those cases; and they are to be congratulated for so doing.

Beyond prisons the Special Rapporteur met Ministers of State, high-ranking civil servants, journalists and members of non-governmental organisations.

An opportunity was not missed to remind the competent authorities that the initial Report from Benin to the Commission in accordance with Article 62 of the Charter was long overdue. It was gratifying to receive assurances that the Commission would soon receive the Report of Benin.

## THE COUNTRY

The territorial area of Benin formerly known as Dahomey is about 112,622 g. km and its neighbouring countries are Nigeria to the East, Togo to the West, and Burkina Faso and Niger to the North. The population is approximately 5,700,000.

Benin attained its independence from France in 1960 with Hubert Maga as its first President. Barely three years later, the first of many military take-overs of government to occur in Dahomey, was led by Colonel Christophe Soglo. A coalition government consisting of Sourou-Migan Apithy, a vice-president under Maga, and Justin Ahomadegbé, imposed on the country by the Colonel, ruled for two years, when Soglo staged another coup d'état in 1965. A third military intervention led by Maj. Maurice Kouandété, whom we met in Natitingou, resulted in Lt.-Col. Alphonse Alley being made head of state. A unique civilian triumvirate comprising Hubert Maga, Somou-Migan Apithy and Justin Ahomadegbé was imposed on Benin by the military in 1970.

The later to be longest-serving head of state, Maj. Mathieu Kérékou took over power in yet another coup d'état in 1972. He ruled until 1990, when a national conference produced a constitution which ended his power. The conference also resulted in an interim government headed by Nicéphore Soglo, nephew of the first coup leader Col. Cristophe Soglo, and eventually a multi-party democracy in 1991.

In March 1991 Nicéphore Soglo was elected President through universal adult suffrage, the first in the history of Benin. Predictably, because of the long denial of human rights, the national conference and the Constitution laid emphasis on human rights.

Benin being a very politically conscious society, 5,580 candidates contested 83 seats in the parliamentary election in 1995. In the second presidential election which was held in 1996, Mathieu Kérékou was returned to power.

A jail break by many prisoners, which had occurred shortly before our mission had been presaged by one in March 1993 involving over 100 prisoners from the prison at Ouidah.

For ease of reporting, a chronological account of the mission follows.

MONDAY 23 AUGUST 1999

### *Ministry of Foreign Affairs and Co-operation*

Mr. Francis Loko, Director for Africa and the Middle East of the above Ministry had a meeting with me. I outlined the work of the Commission with particular reference to the work of the Special Rapporteurs to the Director. I encouraged him to ensure the submission of the initial report of Benin to the Commission.

On his part, Mr. Loko spoke approvingly of my mission. It was the first of its kind: a visit with the main purpose of monitoring prison conditions. He acknowledged that although the human rights situation in Benin is generally satisfactory, there are problem areas such as prisons, violence against women. The economic circumstances of Benin do not make solution of the problems facing the prisons easy.

An era of rule of law and democracy into which Benin has been ushered accounts for the human rights record just described. Civil organisations such as the Human Rights Commission and Human Rights League are buttressing the fight for the protection of human rights. Since the National Conference, noted above, institutional violations of human rights have ceased. Public education to address violations by individuals has been planned.

Mr. Loko concluded his remarks with three questions addressed to the Special Rapporteur:

- a) What assistance has the Commission given or raised for States Parties?
- b) What are the training facilities which the Commission give to States Parties?
- c) Are we not trying to make prisons more comfortable than life outside?

#### Response:

- a) Limited by human and material resources itself, the Commission has not been able to give direct fiscal or material assistance to States Parties to the Charter.
- b) The Commission has conducted training sessions in state reporting

for officials of State Parties. In partnership with others, the Commission has organised conferences, workshops and seminars to raise the problems and offer solutions to such problems in critical areas such as prison conditions in Africa. But it does not have the means to train such officials as prison guards. Thought is, however, being given to how the Commission can help States Parties to concretely tackle the problems confronting them in the treatment of offenders. A start has been made in its espousal of Community Service as an alternative to imprisonment in appropriate cases, with gratitude to its partner Penal Reform International which has raised considerable sums of money from donors to initiate Community Service, with beneficial result towards humane treatment of prisoners, in Zimbabwe, Burkina Faso and other African countries.

- c) Almost all prisoners will give all they have to regain their freedom. We are not out to make hotels out of prisons, but deprived of their liberty, we consider it necessary that conditions of imprisonment should be made humane. It is towards this end that we are working.

### ***Benin Commission on Human Rights***

Representing the above Commission at the meeting were Dominique Adjahouinou, Acting President and also a Magistrate, and two other members Antonin Moussouvikpo and Clement Adjognon. Membership of the Commission is drawn from the bench (magistrates); the Bar; the medical profession; NGOs and members of the general public. This Commission was established first by Decree and later by National Assembly law to avoid dictation and interference by government in 1989 just before the national conference, by Parliament. It was a period when there was clamour for respect of human rights. It is concerned with the promotion and protection of human rights. Under the first objective, the Benin Commission has organised seminars and encouraged its government to ratify human rights instruments. With regard to the latter mandate, it has mediated between government and individuals. It also carries out investigations and collaborates with the public prosecutor to ensure speedy trial. For the latter purpose, members of the Commission have limited immunity, and the Supreme Court has to lift it before action may be taken against the members.

The Benin Commission has also campaigned for improvement in prison

conditions, and supplied food and medicine to prisoners. Additionally, it has visited prisons. In 1998, for instance, prisons in three provinces and ten detention centres in each province were visited by the Commission.

### **Funding**

The Benin Commission receives no subvention from the government, and relies on donors, specialized agencies and individuals for its operations.

### ***Mr. Joseph H. Gnonlonfoun, Minister of Justice, Legislation and Human Rights***

The minister welcomed the visit and noted the value of the comments of outsiders such as the SR on prisons in Benin. He acknowledged the need for improvement in prison conditions in Benin, especially in the areas of feeding and overcrowding.

In reply the SR congratulated Benin for being a model of democracy in Africa, having held two elections where there was smooth and peaceful transfer of power from one head of state to another. Hopefully, the report on Prisons in Benin would contribute to the improvement of prison conditions in that country.

### ***Police Headquarters (Commissariat Général de Police)***

Mr. Anki Dosso Ossen Maiga, Superintendent of Police (Commissaire de Police) answered my questions.

### **Detention without trial**

Generally no one should be detained without trial beyond 48 hours. But, at the request of the Prosecutor, the period of detention may be extended as far as it is necessary.

### **Problems facing the Police**

Shortage of staff: it was operating at 25% of the required strength or number. Lack of material resources, especially vehicles.

### **Police Misconduct**

Although violence against suspects by the police is prohibited by law, it occurs. When it is serious, disciplinary action is taken against the offending police officers. It may take the form of isolation, detention for up to 60 days, suspension

from duty for up to one year and criminal prosecution.

#### Gender in Commissariat

Of the 3,000 members of this force, 100 are women. The plan for one examination to be taken by both men and women applicants into the police is likely to increase the number of policewomen.

#### Suspects Food

The Police have no budget to feed suspects. Food is therefore provided by relatives and friends. Where suspects have no one to provide food for them, the Police usually deal with the difficulty satisfactorily.

#### ***Meeting with NGOs and the Press, Novotel Orisha, Cotonou***

A large number of representatives of NGOs attended this meeting (see attached Alist). In his introductory remarks, the Director of Prisons welcomed suggestions for improvement in prison conditions, including the revolt of some prisoners in Cotonou Prison.

After a brief presentation of the African System for the Protection of Human Rights, the SR encouraged the NGOs to seek observer status with the Commission, and also encouraged them to continue with their work in the promotion and protection of human rights.

Speaker after Speaker noted that it was the first time that a member of the African Commission had been to Benin.

The many questions posed to the SR were answered by him.

The meeting was televised and shown on national television on two different days. It also received press coverage.

## **TUESDAY 24 AUGUST 1999**

#### ***Centre for the Welfare of Juveniles and Adolescents, Aglanbanda***

Sited along the Cotonou-Porto-Novo Road, the above Centre was established in 1967. It was transferred to the present location in 1975. Because of financial constraints, it has been closed and re-opened many times. The latest re-opening was on 4 April 1995. It is a modest Centre with 15 inmates, all of them male. Having only one dormitory accounts partly for the single gender representation.

The Centre aims at rehabilitating young offenders and saving juveniles from moral degeneration. Consequently, the Centre houses two sets of youth. The first are young offenders who are brought by the prison service. The others are juveniles who are taken into the Centre upon the request of their parents. Concerning the latter group an assessment is made as to whether they would benefit from the regime at the Centre. Those considered not suitable for admission into the Centre are not given up for loss: social workers from the Centre maintain contact with the former and their families with a view to getting them to walk on the right path of the law.

The inmates of the Centre are given formal education, trained in trade skills and agriculture; and are provided with facilities to participate in sporting and cultural activities. Some of the training, like welding, is given at workshops in town.

The juveniles have classes twice a week. Tailoring, carpentry and joinery engage their attention for the rest of the time in addition to the recreational activities.

Rehabilitation and training of deviants are not the only concerns of the Centre: preventive action is also pursued. Officials of the Centre visit schools and counsel pupils against engaging in criminality.

A second Centre is to be built in Parakou so as not to confine to the environs of the capital the training given at Aglanbanda.

#### ***Visit of the premises***

##### Tailoring Workshop

Very spacious, it had five sewing machines, one of which was donated by the Red Cross and the rest supplied by the Ministry of Justice. The workshop was constructed by Red Cross.

### Classroom

It can seat 26 pupils. The blackboards showed that different subjects had been taught. Clean and tidy toilets with a sink indicated that the Centre set much store by cleanliness.

### Kitchen and Dining Hall

These had basic equipment.

### Dormitory

The dormitory had beds with mattresses, sheets and mosquito nets.

### Joinery

Although it had two modern machines, no one had been found to train the inmates in this trade.

### Carpentry shop

This was built out of money raised from the National Lottery.

### Vegetable Garden

A portion of the large tract of land at the Centre has been cultivated with vegetables.

An abandoned football field cried to be used again.

### ***Meeting with the Staff***

Members of the staff of the Centre stated some of the problems they face. The too open nature of the Centre makes escape tempting, and some of the inmates have taken advantage of it. Five staff members for the whole country is inadequate. In particular trained specialist staff is needed, and so is equipment for some of the workshops. It has no vehicle, which makes transportation in connection with work for the Centre difficult. A dispensary to cater for the immediate health needs of the inmates is needed.

### ***Porto Novo, Administrative Capital of Benin***

#### ***Gendarmerie (Direction Générale de la Gendarmerie de Porto Novo)***

**M**eeting with Pancrace E. J. Brathier, Deputy Director General and M. Sekou Adamou, Groupement Pénitentiaire.

In Benin, gendarmes serve as prison officers and directors. A wing of the gendarmerie (Groupement pénitentiaire) are in charge of prisons. The Ministry

of Defence has responsibility for the gendarmerie, but the gendarmes in prisons work for the Ministries of Justice and Interior.

Directors of Prisons are appointed by the Minister of Justice while the guards are selected by the Directors of Gendarmerie.

Although no specific training is given to Directors and prison guards they are taught to respect the rights of prisoners. The gendarmes work twenty hours a day with a day off in a week. However, difficult areas like Parakou have shorter hours of work with more guards.

136 gendarmes guard 3,937 prisoners.

### Discipline

The code of conduct of the army is followed, and an offending guard is disciplined in accordance with the regulations. In the event of the escape of a prisoner, a gendarme guarding such a prisoner is liable to 60 days of close arrest. He will also appear before a disciplinary committee.

A gendarme who abuses prisoners may be detained, suspended or even dismissed.

Because of this harsh regime, gendarmes are reluctant to become prison guards.

### Food

Families feed their relations who are detained in the cells of the gendarmerie. Food is provided by the gendarmes, where a suspect has no family member in the area of detention.

### Pre-trial detention

Mob justice is a serious issue in Benin, and it is safer for suspects to be kept in cells than to be let into the open. By law pre-trial detention is limited to 48 hours. But this period is sometimes exceeded, when the transfer from cells to the Prosecutor involves a long journey. Monitoring by NGOs of pre-trial detention ensures that the limitation period is not flagrantly abused.

#### ***Brigade de Gendarmerie de Porto Novo - Gendarmerie Cell***

**T**hree young persons occupied the cell. One of them had been in detention for two weeks for stealing. He had no relation in Porto Novo, and thankfully had to rely on the Chief Guard for food. A second inmate was in handcuffs.

The cell was very dirty and had a pungent scent, most probably from the heap of sand in a corner of the room, which was used as urinal. The SR inquired if a receptacle could not be used for the purpose for which the sand had been dumped in the corner, but there was no satisfactory answer.

### ***Brigade Nationale de Gendarmerie of Akpro-Misserete***

There were pictures on the walls at this station warning against violations of human rights and reminding officers not to keep detainees beyond 48 hours without an order from a magistrate. Magistrates themselves do not have the authority to order anyone to be detained beyond six months.

It was noteworthy that the detention centre of the station was part of the area where the gendarmes work, a very liberal regime. Dangerous detainees were transferred to the gendarmerie at Porto Novo. According to the records, 9 August 1999 was the last date on which a suspect was detained at the station.

### ***Porto Novo Civil Prison***

Built in 1892, it was renovated in 1996. But it had cracks, which explain the construction of a new prison to which we shall return. Mr. F. B. Fanou was the Director.

#### Basic Statistics

Built for 300 it housed 603 prisoners.

Men	575
Women	15, some of whom had 3 young children with them
Juveniles	13 out of whom 3 were girls.
Longest remand prisoners	12 years
Convicts	178
On trial	369
Remand	57

#### Meals

Once a day as below:

Monday:	Rice, fish and sauce
Tuesday:	Pasta, fish and sauce

Wednesday:	Gari and galette (flat bread)
Thursday:	Green beans, gari and stew
Friday:	Atazi (rice and beans)

Food is also brought in for sale to prisoners.

#### Health

The main illness at the time of the visit was chicken pox. There had also been cholera with two fatalities. Scabies, anaemia and tuberculosis are, however, the most common diseases generally.

A dispensary stopped functioning on the death of the officer in charge last year. There was a first aid box with medicine, which catered for such ailments as malaria. Serious cases were referred to the hospital. T.B. patients were isolated from the rest of the prisoners.

#### Visits

There is no limit to the number of visits an inmate could have, and these were paid between 10 - 1 p.m. and 3 - 6 p.m. Families bring along with them food for their relatives on these visits.

#### Correspondence

As in the case of visits, there is no limit to the number of letters which a prisoner may receive or write. They are however censored.

#### Discipline

The prisoners are generally well behaved, and discipline has not therefore been difficult to maintain. There is a cordial relationship between guards and prisoners.

Leg irons and handcuffs are used when prisoners are being transferred.

In the opinion of the Director, human rights education should be addressed more to the prisoners than to the guards. The latter are already being educated while the prisoners have no such exposure. Human rights posters had been displayed on the walls of the Director's office.

#### ***Visit of the Premises***

The yard adjacent to the Director's office had a chapel in which prisoners could worship. Vendors were all over this portion of the prison as over the other yards.

### Female Wing

It had 4 cells and one disciplinary cell, all the occupants of which I spoke to. The latter had one inmate, who had been there for 7 months. The other prisoners stated that the lone occupant was violent and fought the former.

Complaints - insufficient food and poor health care; two inmates had no one to visit them or bring them food.

### Juveniles Wing

One of them complained of being given medicine which had expired while another complained that he had not received the drug which had been prescribed for him. The food was described as bad.

I considered the following complaints as so serious as to bring them to the immediate attention of the Director. A particular guard was identified as mistreating the juveniles. While generally the doors to their cell were closed at 8 p.m. and opened at 7 a.m., the guard in question would sometimes keep the door closed in day time for 4 weeks continuously. He would also not allow them to go out to buy food. The Director promised to investigate and take remedial action.

### Male Wing

5 cells housing 49, 65, 63, 64 and 65 prisoners respectively were visited. They were all very crowded with pots and pans as well as clothes hanging on the walls. The cells had ceiling fans.

Some of the prisoners had no mats, and slept on cardboards. There were quite a number of the inmates who complained of long remand ranging from 7 years. Lokono Joseph claimed that he had been on remand for 12 years as a murder suspect.

### Other complaints (some stated in direct speech of the Complainants)

Corruption in the judiciary and injustice in the penal regime. The food is insufficient and of poor quality. No one in the prison attends to the health needs of the prisoners, and the prison had no medicine. They will receive prescription, but have no means to buy the medicine.

"One boy died about 2 weeks ago because he did not have money to buy medicine when he was sick. He was sick for 3 months without medical attention."

"Government does not provide jobs and so young people fall into criminality."

"If you come from a poor family, there is no hope for you."

Soap is supplied once in two weeks, but sometimes once in a month. Some inmates have no visits.

### Disciplinary Cell

The occupant of the cell stated that he had been there for 3 months. It was however spacious.

### Mr. Philibert Sorou

As we were leaving the prison, the above prisoner ran after us. He had been taken into custody as a murder suspect, but he himself had sustained a gunshot wound, probably self-inflicted in course of the conduct which had led to the deprivation of his liberty. However his wound was created, it was a pathetic sight. One did not have to be a doctor to conclude that life was ebbing out of him.

What should be done with him alternated between discharge and hospitalisation. Against the former course of action, there was no certainty that his end would not soon come for lack of adequate medical care. The latter was, therefore, decided upon; and it says so much for the understanding and co-operation of the relevant authorities in Benin that in a matter of days, and while we were still in Benin, Mr. Sorou was admitted into hospital for surgery.

Mr. Antoine Gouhouédé, Parquet Porto-Novo, who had to sign a warrant to get Mr. Sorou out of prison was a model of a gentleman. He set aside all that he was doing in his office, expressed regret that the Director of the Prison had not brought Mr. Sorou's condition to the former's attention. The magistracy could have sent the prisoner to hospital; and at the worst civil society groups could have helped.

Beyond the lone case of Mr. Sorou, Mr. Gouhouédé acknowledged the problem of long remand. The danger and fear was that, when allowed to go home to turn up for trial suspects would disappear. A number of them come from Nigeria, and they slip across the border beyond the reach of the authorities in Benin. But it is important that early trial is given those on remand.

**WEDNESDAY 25 AUGUST 1999**

***Ministry of Interior***

**M**r. Godfried Johnson, Chief of Cabinet deputised for the Minister of Interior. With him to meet us was his Assistant, Mr. Marc Guinikoukou.

Mr. Johnson heartily welcomed us to his office, inquired of the objectives of the mission and what he could do to facilitate them. The response was as follows:

- a) Visit places of detention in Benin. This objective was already being realised, and there was every indication that it would be fully realised by the end of the visit.
- b) Relatedly, to see the extent to which Benin is complying with her obligations under the Charter, especially with the standard of treatment of detainees.
- c) Find out the difficulties, if any, Benin is encountering in complying with his undertaking under the Charter, and how the Commission can help to overcome these difficulties.

Mr. Johnson expressed satisfaction at the objectives of the mission and with the fact that they were already being met.

He noted that the Ministry of Interior is not directly involved in the administration and management of prisons. This is the responsibility of the Ministries of Justice and Defence. The work of the Ministry of Interior arises before imprisonment: inquiry and investigation, detention in police and gendarmerie cells. The important thing is to observe the 48 hour detention rule. Shortage of staff and equipment affects negatively the respect of the 48 hour rule. The time is not long enough for the police to complete inquiry into allegations of commission of offences.

Training for staff, increase in their number as well as equipment are urgent needs.

Delays in trial, which result from the noted shortages, produce congestion in cells. The low figure of magistrates is a contributory factor in the delays.

A separate body trained to look after prisoners is needed.

Attention should also be paid to how the prisons are organised. The laws and regulations governing prisons need to be updated.

I pointed out to the Chief of Cabinet that the Commission does not have the resources to provide the equipment required for effective administration of prisons in Benin. The Commission should however begin to think of how it can help in the training of prison officers, especially since this seems to be a problem not peculiar to Benin.

Additionally, part of the recommendations of the report on prisons in Benin will be addressed to the donor community, and hopefully something good will come out of responses to these recommendations.

### ***Abomey Civil Prison***

This is an ancient prison which was built during the days of the kings of Abomey. It was built for a capacity of 200, but had 679 inmates at the time of the visit. 248 of these, made up of 244 men and 4 women, had been tried and convicted. 375 (346 men and 29 women) were standing trial. 56 (54 men and 2 women) were on remand. 7 juveniles were in prison.

Chief Adjutant Romain D. Kpoko was the Director of the Prison; and it had 13 guards. The living quarters of the guards were in a dilapidated state, as much as that of the prison.

#### Food

One meal a day was served to the inmates. The food was cooked in and brought from town, and it consists of beans or rice (Monday); beans and rice (Tuesday); maize paste and sauce (Wednesday); beans or rice (Thursday); Gari (Friday and Saturday) and maize paste and sauce (Sunday).

#### Health and Hygiene

The NGO, Terre des hommes visits the prison twice or three times in a week to take care of the medical needs of women, babies, juveniles and those about to end their sentence.

Other cases of illness are referred to the hospital. If the cost of medication for a sick inmate is expensive, relatives are asked to pay for it.

The prison has no dispensary or first aid kit.

Soap is supposed to be given once a week, but this is not regular.

#### Discipline

The director stated that, unlike Cotonou, he has had no problem with discipline. Anyone who attempts to escape is arraigned before Court.

#### Communication

Prisoners may be visited every day from 10-12 noon and 4-6 p.m.

Letters may be written or received by prisoners every day although these are censored.

#### Problems as stated by Guards

These are petty ones like insufficient food for the inmates and stealing among themselves (prisoners).

#### ***Visit of the Premises***

The prison has twelve cells.

#### Juveniles Section

All the juveniles were in one cell. Most of them were convicts. According to them, the mats in the cell were provided a day before my visit. Many of them had scabies, and they complained bitterly about the small quantity of food they were given.

#### Male Section

With few windows, ventilation was poor. Overcrowding was a serious problem. Not all the prisoners had mats. The prison had electricity, but lighting from this source was poor, and so hurricane lamps served as additional light. Personal effects of the prisoners, mostly in plastic bags, were hung on the walls and ceiling.

#### *Complaints of Prisoners*

Long remand without trial was a sore complaint from many prisoners. Detention without just cause was another complaint that prisoner after prisoner repeated. While reminding them that I was not in a position to judge their guilt or non-guilt, I assured them that I would convey their concerns to the appropriate authorities.

Allegations of rampant corruption in the criminal justice system were made by many inmates. In this, neither the prosecutor nor the magistrate was spared.

Equally, gendarme and prison guards were not absolved of this charge. Two allegations against gendarmes bear restatement.

"If you arrive at the prison, you have to give the gendarmes one thousand francs."

"On the day of discharge, a prisoner will have to pay money at the secretariat, if he does not want to leave the prison premises in the evening."

As regards the judiciary, one prisoner stated:

"The main problem is the judiciary. Prosecution in Abomey has become an avenue for getting money. If you do not have money, your case is never examined."

Most inmates found the food insufficient. It was added that, because I was visiting, the ration for the day was increased. The quality of the food also left much to be desired. One prisoner blurted out:

"If you complain that the food is not cooked, you are taken outside and beaten."

Many prisoners confirmed being beaten by guards.

Yet another complaint was that prisoners cleaned the toilets with their hands. Poor health care was stressed throughout the prison. One prisoner alleged that he had been ill for eight months without receiving any medical attention.

#### Old People's Cell

While there was no art to determine the exact age of the inmates, it was evident that they were very advanced in age. One claimed to be 120 years old while 80 and 90 were given as the respective age of two others. Length of remand without trial ranged from 10-4 years. The health needs of these inmates appeared to be quite acute. One of them had an extremely swollen scrotum (hernia). Lighting was poor and the cell had an offensive scent.

#### Female Wing

As in the case of their male counterparts, many of the female prisoners did not have mats.

They found the food small.

Assault and battery by prisoners, at the command of the guards, was rife. This occurred on the least pretext, like an argument among the inmates. 45 lashes with baton was not uncommon. They were also put into leg irons.

Their complaints and problems were not entertained by the chief guard.

They were not taken to hospital when they were sick.

The complaints included corruption.

"If you do not have money, the prosecutor will not sign your papers. Even if you give money to the magistrate, the prosecutor will ask for money," one prisoner lamented.

Of the five children in one cell, two were born in the prison. None of the 15 people in the cell had been tried, and 2 of them had been on remand for 7 and 6 years respectively. The age of an extremely old-looking inmate was put at 81.

The women and children had different toilets.

#### Last Cell

The last cell visited was inhabited by two extremely old people who had hardly any energy. Upon my recommendation, and with the co-operation of all concerned (Director of Prison, Chief of Guard and the Prosecutor), they were moved to the hospital. Sad to relate, one of them died on the day he was admitted into hospital.

#### Living Quarters of Gendarmes

The premises of the gendarmes guarding the prisoners were made of swish, and had deep cracks in the walls. It appeared that some of the walls could collapse at any moment.

#### ***Prosecutor of the Republic, Abomey (M. Paqui Nicolas)***

**I**t was at this meeting that I appealed to the Prosecutor to order the release of the two elderly and dying men.

The Prosecutor responded that he returned from a visit to Abomey Prison about one and a half months prior to my mission, depressed and sick from what he witnessed there. There were heart rending scenes of mothers with their babies

and sick people, for instance. He appealed to the judges to expedite the trial of those on remand. However, the legal vacation set matters further back.

**THURSDAY 26 AUGUST 1999**

***Prosecutor General, Court of Appeal, Cotonou (Madam Bernadette Kodjovie)***

In response to my inquiry about her office, the Prosecutor General explained as follows.

She has the responsibility for co-ordinating the work of all prosecutors in Benin. Each Tribunal of First Instance has one prosecutor, and there are eight such Tribunals in the country.

The work of the "parquet" (office of the prosecutor) extends beyond penal matters to civil, commercial and administrative cases.

The Prosecutor General plays a prominent role in the "Cour d'assise" which tries serious offences. She presents the evidence and suggests the sentence. Consequently her office is represented at each trial at the "Cour d'assise" by either herself or an assistant.

Nineteen magistrates work for the prosecution in Benin. Each prosecutor has an assistant.

The Prosecutor General saw her work as essentially that of protection of human rights. Having also been a member of the Supreme Court for four years, she was personally concerned with and interested in human rights issues.

I raised with the Prosecutor General (PG) some problems which I had noted on my mission. Remand was too long with some stretching to 12 years. Old male prisoners, too weak to cause harm to anyone, awaited death in their cells. There were prisoners who were seriously ill, but had no medical care. I also suggested that Benin could follow the example of Nigeria under General Abdulsalami, where amnesty was granted to a large number of prisoners on the basis of the recommendations of a Committee which visited prisons in Nigeria.

Decongestion of the prisons and improvement in prison conditions from the application of the saved expenditure on the released prisoners would be advantages which would result from the suggested amnesty.

In response the PG stated that Prosecutors met regularly to discuss problems. Just the previous week the question of the forty-eight hours limit to detention without trial engaged the attention of the Prosecutors. It was resolved that prosecutors

should take the initiative to go to the gendarmeries and commissariats to ensure the observance of the law on pre-trial detention. Prior consideration was also to be given to the trial of prisoners who had been on remand for the longest period; and an improvement has been noted in this area. With regard to health, the basic problem is lack of adequate resources. However, the particular case of the prisoner with a badly infected wound was receiving serious attention on the part of the authorities.

### ***Cotonou Central Police Station, Deputy Commissioner and Chief of the Judiciary Police***

Two of the many structures within the Commissariat Central deal with the Judiciary Police and Administrative Matters, and are connected with the detention of suspects.

The Deputy Commissioner admitted that very often the 48 hours limit for detention was not respected. In many other cases the period is extended at the request of the prosecutor. However, extensions by the prosecutor rarely exceed 72 hours.

Concerning when and under what conditions detainees were kept in handcuffs or leg irons, it was stated as follows. Policemen always have handcuffs with them and use them when they arrest suspects. These are, however, taken off when the suspects are placed in custody. The exception is in the case of dangerous detainees or criminals who are likely to escape; even in cells they are kept in leg-irons.

It was in response to questions from the SR that the Deputy Commissioner provided the above information.

### ***The Signing of an Agreement between the International Criminal Tribunal for Rwanda and the Government of Benin***

The SR was invited to be "Africa's witness", as the Minister of Justice M. Joseph H. Gnonlonfoun put it, at a ceremony for concluding an agreement between the government of Benin, represented by its Minister of Foreign Affairs M. Antonie Kolawolé Idji and the Tribunal, represented by its Registrar Mr. Agwu Okali for the custody of convicts of the Tribunal.

Present at the ceremony was also the Minister of Justice.

### ***Detention Centre at Central Police Station, Cotonou (M. Augustin Bonou, Commissioner)***

Detainees were kept in three cells, two for men and one for women.

#### Cell 1

There were 8 suspects in this cell which was very dark, but work was in progress to provide more ventilation and light. Two of the inmates had been handcuffed together. A third inmate said he had been in custody for 10 days (four days in gendarmerie cell and six days here) while two others had been in detention for three days. The inmate who had been with both the gendarmerie and the police had not been given any food by the police while he was fed by the gendarmes. A wound on one of the inmates was said to have been inflicted by the police during his arrest.

#### Cell 2

Bigger and more spacious than the first one, this cell had 32 inmates. One of them stated that he had been in custody for 2 months and 2 days. No statement had been taken from him. He had not been given food by the authorities. He bought his food and shared that of other inmates sometimes. He was arrested for wandering in the street. His case was that he had come from Nigeria to visit his brother and was looking for him, when he was arrested.

Some of the inmates alleged that one of them tried to kill a cellmate. The former was said to be mentally incapacitated. The officer in-charge of the station was aware of the insane person. He was waiting for the Embassy of the inmate to come and collect him.

The clothes of the inmates were taken from them before detention. These had been dumped in a car which was not protected from rain. The Africans in custody were aggrieved that two Europeans had been allowed to keep their clothes on. The explanation of the Officers that the two would soon be released did not sound convincing enough reason to treat the Africans differently.

A dustbin in the corner cried to be emptied.

To be fair to the officers at the station, an inmate in this cell indicated that the suspect with a wound had not shown it to the officers.

That the cell was mosquitoes infested; there were no mats in the cell; and the floor, predictably, was cold, were the last complaints made.

### Female cell

One of the 4 inmates claimed to have been in detention for 11 days, and another for 2 weeks. They had 3 mats. The cell had an unpleasant scent, and the roof leaked. Food was provided by friends and relatives.

I took up the matter of detention beyond the legal limit with the officers with a view to getting them to respect the law.

### ***Civil Prison, Cotonou (Director: Dieudonné Egnanfin)***

#### Data about the Prison

Built for 400 prisoners, it now housed 1,422, made up of :

Women:	55
Remand Prisoners:	969
Convicts:	453
Prison Guards:	22

One meal a day is served to the inmates.

#### Health

A guard is in charge of a sick bay. Serious cases are referred to the hospital. A doctor from the hospital has overall responsibility for the health of prisoners.

#### Visits and Correspondence

Visitors are allowed to visit inmates from 9 a.m. - 12 noon and 12 noon - 5 p.m. for male prisoners, and from 11 a.m. - 1 p.m. and 5 p.m. - 6 p.m. in the case of female. There is no limit to the number of letters which may be written or received by inmates.

#### Discipline

Prison regulations are enforced here in the case of both guards and prisoners.

#### Riot

A riot took place in the prison the previous week. Dangerous criminals wanted to mix with the other prisoners. The former barricaded themselves in their cells and refused to eat. It ended by the prisoners apologising for their conduct.

### ***Visit of the premises***

#### Encouraging Units

The prison has a library, TV Repair Unit and a shop. The last was manned by the Catholic Church, which also set it up. Inmates were busy at work in a tailoring shop while hair was being cut at a "barber's corner." NGOs provided 3 machines for the tailoring unit. Inmates had set up small shops to continue to ply their trade and skills. In the hope that other prisoners could learn from the skills of their mates, the prison administration encouraged the work just described.

#### Civil Servants Wing

This was quite commodious and clean. Two prisoners shared a room. Water closet facility was available. Television sets were available here.

#### Female Wing

This covered a big area with two sections. There were television sets in the cells as well as electricity, fans (ventilators), camp beds and mats for almost everyone.

Most of the inmates were awaiting trial, some with pathetic tales:

"I have been in custody for 5 years. I just go to court to sign papers time after time without being tried."

"The police were looking for my boyfriend, and when they could not find him, they arrested me."

"My husband brought me here".

While the truth of their allegations could not be confirmed, early trial will solve the problem.

An old inmate who could well be 70 years old had no relation, and the Chief Guard looked after her.

Five of these were Nigerians who were taken into custody for being in Benin without passport.

The kitchen in the female section was built by Soroptimist International.

#### Male Section

Predictably this section housed most of the prisoners. The SR visited two cells, each of which had 229 prisoners. They also had committees, which liaised with

the prison administration about their problems. Both cells were also overcrowded and most of the inmates did not have mats.

#### Prisoners Complaints

Some of these complaints are recorded verbatim.

"We are dumped here for years without being tried, and even when we are taken to court, we are just told to sign and are then brought back to prison."

"If you do not have money, you will not be released. If you have money you will be granted bail."

Excessive fines resulting in continued imprisonment, poor quality food, late serving of meal, no medical care, short visiting time (5 minutes), leaking roof and sometimes no water were other complaints heard from the inmates.

An inmate stated that he was handcuffed for 2 months at the Central Police Station before he was brought to the Prison.

#### Security Wing

The inmates here saw the SR by chance and insisted upon a meeting with him in their cell. As there had been a revolt the previous day and they were also in a threatening mood, the prison officials judged it too dangerous for the request to be granted. Instead they shouted their complaints. They resented being kept in cell throughout the day except when they were served food. They also protested at their categorisation as "dangerous". In their view there were more dangerous persons walking about the prison. A protest note to the SR in part read thus:

"Members of the delegation

Welcome. On the eve of the 3rd millennium, at a time when humanitarian organisations have even recognised the rights of animals, there still exist cells of torture in this country, an example of what is Democracy in Africa. There are limits that dignity impose on the submission of the most patient spirits. There are limits to the human state that marks the difference with the animal state [...]

Some of us have been here for 36 months and suffer from the eyes and from kidney diseases that, according to medical sources, could lead to paralysis [...]"

#### Juveniles Section

Of the 14 inmates none had been tried; and one had been in this state for 2 and 1/2 years. Their ages ranged from 14 to 18 years.

#### Complaints

Insufficient food (once a day), no soap and poor health care and hygienic conditions resulting in skin infection. Unjust imprisonment; father and uncle fought; the latter reported the matter to the police who came for the former and his son (one of the juveniles).

#### Recreation

The juveniles had a TV, Ludo and football.

#### Toilets

10 toilets served 800 prisoners.

## FRIDAY 27 AUGUST

### *Civil Prison, Parakou*

#### Data on the Prison

Director: M. Gounou-Yerima Tamou. He had been in this position for 3 years 4 months.

Total number of prisoners:	287
Original capacity:	150
Male:	284
Female:	3
Convicts:	143
Remand:	144 (24 not charged; 120 awaiting trial)

Two prisoners have been on remand for 17 years.

Inspection by the Judicial Service resulted in the release of a number of prisoners. Prior to that there were occasions when the prison housed as many as 350 prisoners.

#### Health

Prisoners are treated at the Medical Centre in Parakou. Serious cases are, however, referred to the hospital. The Prison Service pays for the treatment of prisoners. Tuberculosis patients were isolated in a cell, and not in the hospital because the latter was being renovated. However, a doctor from the hospital visited them everyday.

#### Communication

Inmates may receive visitors between 3-5 p.m. and may also write as many letters as they are able to do.

#### Discipline

19 guards used to be in charge of the prison. But 7 guards now man the prison and maintain discipline. They are assisted in their task by a body consisting of the head, deputy and "a wise man" for each cell, chosen by his cellmates.

The same system obtains at the court (a bigger segment of the prison than a cell) level. There are no disciplinary cells in the prison.

### Soap

Once every 10 days inmates are supplied with soap.

### Food

Twice a day, at noon and in the evening food is served. The food is prepared by people from outside the prison.

### *Visit of the Premises*

#### Female Wing

There were 3 women in a cell. One of them stated that she had been in custody for 18 years without trial. She was alleged to have poisoned 14 people. The Director could not confirm her allegation because her file could not be traced.

Each of the women had a mat. They were permitted to receive visitors although the alleged murderer has never had a visitor. They confirmed being given food twice a day.

They also had a shower and a storeroom to keep their belongings.

#### Juveniles Wing

As there were no juveniles in prison, male adults occupied the 2 cells in this part of the prison.

#### Cell 1

It had 15 prisoners, 5 of whom had no mats. For a month they have not had any soap. They did not have any problem with the guards. Their main concern was their health: they were afflicted with many illnesses such as malaria, tuberculosis, small pox and scabies. The cell was also lice infested. No doctor had come to see them, and because there were so few guards they were not taken to hospital when they were sick. They would be appreciative of more time outside their cell.

#### Cell 2

Although of the same size as Cell 1, this cell had 31 prisoners. Needless to say, it was very overcrowded. Most of them did not have mats. Only a small window provided ventilation. The cell was locked from 6.30 p.m. to 7 a.m. The ceiling leaked.

For 7 years one of the inmates has been waiting to be tried for attempt to steal.

As in the case of Cell 1, poor health was their main worry. They were taken to the medical centre nearby but never to the hospital. Whatever their ailment, the medical centre gives them two medicines: paracetamol and nivaquine. No doctor has ever come to see them.

Soap: the last time they were supplied with soap was in November 1998.

They emptied and cleaned the toilets with their bare hands.

#### Adult Wing

##### Cell 1

67 prisoners were crowded tightly in this cell.

With only one window, fresh air and ventilation were poor.

Two of the prisoners have been on remand for 10 and 8 years respectively.

The SR was informed that a gendarme killed a prisoner on 2 February 1997. The death occurred after he had, as spokesperson for a group of new prisoners, complained about insufficient food. He protested at being beaten when they were asking for food, whereupon he was shot by the guard.

Other complaints of the inmates were as follows:

Their requests for meeting with magistrates were not granted by the Director. He confiscated letters for such meetings. Some were held even after they had finished serving their sentences. The prison was no longer disinfected. Kerosene needed by prisoners to cook food brought to them was sold by the guards and their families at twice the market price.

##### Old People Cell

Two old prisoners inhabited one cell. A younger inmate who had had surgery had joined the two until he recovered. The last complained that he threw up all that he ate, and needed a different diet.

One of the two was the husband of the old woman who was being held on suspicion of having poisoned 14 people. Having been imprisoned at the same time as his wife, he had been on remand for 17 years. The other inmate has been on remand for 9 years for attempt to steal.

##### TB Patients

A cell was reserved for prisoners with tuberculosis.

### Two More Cells

Two more cells were visited. One had 90 prisoners while the other had 74, and both were very overcrowded.

They made similar complaints as the previous inmates. Additional observations and complaints were that too many people died in the prison. Sentences passed by the courts bore no relationship with the offences with which prisoners were charged. The former are too harsh. In saying that they did not have money to buy medicine prescribed at the hospital, it was an admission that some of the prisoners, at the very least were taken to hospital. They were given no training in the prison, and remained idle. The soap which they received on two occasions came from the Christian community. One inmate became mentally disturbed and prevented the others from sleeping in the night.

### Sick Bay

The prison has a sick bay consisting of two rooms. But there was nothing in either of the rooms.

### Place of Worship

A small room with no chair is used for worship. Mass is celebrated here by a priest who comes from town.

Muslims pray in the yard.

### Living Quarters of the Guards

The guards complained that their living conditions were no better than those of the prisoners. They were as much the victims of skin diseases as the prisoners.

In sum the living conditions of the guards need to be improved, I observed after visiting some of their houses. Those not visited did not appear to be any different from the rest.

### ***Session with the Director***

The SR decided to bring to the attention of the Director matters which could be addressed within a short time.

1. The sick bay could be used to house prisoners, at least the sick ones. This would reduce the acute congestion in the prison.

Director: It is easy to escape from the sick bay, and when prisoners were sent there they took the opportunity to do so.

2. An inquiry should be conducted into the alleged murder of a prisoner by a guard.

Director: The death occurred in the course of a riot by the prisoners. They tried to get arms and one was shot. The case was brought to the attention of the authorities but, as far as he knew, the father of the deceased decided not to pursue the matter in court.

3. On supply of soap, the Director explained that the prisoners sold the soap when they received their supply.

4. The case of the prisoner with mental problem should receive the attention of the Director.

Director: He has already referred this case to the Prosecutor, who promised that he would work on it. He was waiting for instructions from the Prosecutor.

The Director confirmed that the prisoner in question was sane when he came to the prison.

He also stated that there had been improvement since he assumed office three years ago. Guards had no chairs, for instance. It was only since the arrival of the new Director of Prisons that they have been getting equipment. Both gendarmes and prisoners use their hands in emptying toilets because there is no vehicle for that purpose in Parakou. The Prison was built in 1928, which partly explains its poor state.

## SATURDAY 28 AUGUST

### *Brigade Territoriale de la Gendarmerie, Parakou*

The visit was undertaken during the weekend. The two top officers of the station were away. The official at post was most uncomfortable answering questions without authorisation from his superiors.

Nevertheless there was no suspect in custody. The third official referred to above explained that in view of the 48 hour rule on detention it was not advisable to hold people over the weekend.

### *Central Police Station, Parakou*

A second storey was being added to one of the buildings at the station. Roofing had been completed.

The Officer in Charge of the Station, Deputy Commissioner Mama Sika Laris was called from his house to attend to us.

One of the 2 cells at the station was reserved for dangerous suspects/criminals and the other for the rest of the suspects. The former had no window. Women and children are kept behind the back of a counter, on a bench.

Commissioner Laris stated that were resources available there would have been more cells for different categories of offenders.

### Suspects in Custody

The only suspect in custody indicated that he was detained on Friday. Because he would have to wait until Monday before making his statement, the 48 hour rule would be broken. He had not been beaten in the course of his arrest.

Mr. Laris informed me that one of the buildings at the station was built by a local organisation.

Problems stated by Mr. Laris: Because there is no police camp, policemen live all over the city. Until 6 months ago when the station was given a vehicle from an agreement with France, it had none.

"Why is the World Bank not interested in Police Work?" was a question from Deputy Commissioner Laris to which I did not have a convincing answer.

The soap supplied to them was too acidic. Sometimes they would wait for two to three months before they would get soap.

"Two of us had been on remand for six years. After the other one paid money, he was released," one sorrowful prisoner narrated his ordeal.

#### Civil Servants Cell

There were 8 inmates here. Each of them had a mat and sufficient sleeping room. The longest remand period here was 3 years 2 months. T.B., pneumonia and anaemia bothered them.

They contributed to disinfect the cell and buy other things they needed. They either paid for the medication required to treat their diseases, or it was paid for by religious organisations.

"If you are sick and you do not have money, you are condemned to death."

"All my family members are in the south, and so I have had no visitor," were other complaints noted by the SR.

Before my departure, an inmate asked me to pray for them. With my back turned to the inmates and the Director of Prisons emerging to accompany me outside the prison, he asked:

"What have you done to them?" Perplexed by this unexpected question, I turned back to look at the prisoners. They all beamed with smile.

"I only prayed for them," was my response to the question.

The SR noted that even in the courtyard, there was congestion. A second surprise was hearing two of the inmates speaking in my mother tongue, Twi. One had lived in Ghana and the other had a Ghanaian mother.

Recommendation to the Director of the Prison: Please release the women early for their bath.

Director: Women are let out of their cell before the men, and the former's doors are also closed last to ensure segregation in the use of the toilet and bath facilities.

#### ***The New Prison in Natitingou***

A new prison had been built, with financial assistance from France. It was opened in April 1998 but had not been used because of serious cracks detected in the walls. Opinion leaders in the town, including a former President,

protested against transferring prisoners into the newly built prison because of the structural defects. Furthermore, built outside the town, access to the new prison was difficult. But budgetary allocation had been made to tackle the two problems.

The prison has a section each for men, women and juveniles. Facility has been provided for the sick. Guards are catered for within this big complex.

If the intended 600 prisoners were to be housed here, the problems of congestion and inadequate sanitary facilities noted in the old prison would rear their ugly heads.

It is a pity that no provision was made for elementary education for the prisoners. Equally, it is a matter of regret that provision was not made for a workshop or similar activity for the future inmates.

Although a large tract of land surrounds the prison, I was informed that there were no plans for gardening or farming by the prisoners because of security considerations. But this decision should be reviewed and appropriate security measures adopted to make utilisation of the land by the prisoners possible for its undoubted advantages: the food for the prisoners could be supplemented with produce from the farm; they would not be kept in cells for long hours and the budget for the prison could be reduced, for instance. The saved money could be usefully spent in other areas of the prison regime.

While we are on a new prison, it is recalled that near Porto Novo, a huge prison complex was under construction. When completed, it would ease the congestion in prisons considerably. It is noteworthy that this is being carried out with funds from the central government of Benin.

#### ***Brigade de Gendarmerie Territoriale, Natitingou***

There was no cell at the station. One suspect was writing his statement on our arrival. He was brought here on Thursday, and would be put before the Tribunal on Monday, an infringement of the 48 hour rule.

The suspect complained that he had not bathed since Thursday, and had also been bitten badly by mosquitoes in the night. He had not been physically assaulted by the guards, although he had been the victim of verbal abuse by the same officials.

## *Central Police Station, Natitingou*

The head and his deputy were not at the station. The only officer present was, at first, unwilling to open the cells for us, because he had had no instruction concerning my mission. But he relented and eventually allowed me into a cell with a suspect.

### Complaints of suspect

The officer in charge of the station put him in the other cell which has more light, but the officer we met forcibly moved him into his present dingy abode.

Against his protestation, his clothes were forcibly taken off; and he was butted and handcuffed. He had not eaten since the previous day. Although he had asked the gendarme (Officer) to inform his family about his detention this has not been done.

The Officer had his story to tell. Because he was the only one on duty, maximum security measures were needed, hence his treatment of the suspect. His clothes were taken off because some suspects tried to use belt buckle to open the door. He was not aware that the suspect had not eaten. He would have shared his food with him. Since he was alone he could not go to ask the family of the suspect to bring him food, which suggests that he must be aware that the suspect had not eaten.

The Deputy Commander arrived at the station, and expressed outrage at the handcuffing of the suspect and his treatment by the gendarme. The officer conveniently disappeared from his post while we were with the Deputy Commander.

Later in the day, the former President, referred to above, received us in his house. The SR expressed his appreciation of our host's commitment to improvement of prison conditions in Natitingou, and encouraged him to continue in this direction.

## **MONDAY 30 AUGUST**

### *Lokossa Civil Prison*

Meeting with the Director of the Prison. The two magistrates in the area, the Prosecutor and his assistant were present at this meeting. The Director recently assumed duty.

Asked of his plans to speed up prosecution, the Prosecutor answered that to get rid of the backlog a session has been scheduled for Tuesdays. An additional magistrate has also been assigned to the area. After the legal vacation, hearing of cases will resume, and all those not charged will be released.

There are many serious crimes in this area. 7 out of 10 crimes are serious. A military operation to help the understaffed gendarmes to deal with crime in the area has resulted in many more people being brought into custody. Furthermore, in order to save suspects from mob justice, which is rife in the area, they are taken into custody.

The Prosecutor would like to see a trained prison staff and not gendarmes. The SR promised to explore the realisation of this worthy objective.

### Data on Prison

Built for 200

Current population	397
Female	5
Male	392
Remand	246 (75 prévenus and 181 inculpés)
Convicts	151
Guards	Previously 11 but now only 6.

There was no juvenile in prison. Consequently the section for juveniles was inhabited by male prisoners.

### Food

Once a day food was brought from outside the prison. It is served between 12.30 - 1 p.m.

The prison has a six acre land adjacent to it. But because the prisoners tend to escape, they were not allowed to engage in any agriculture.

### Visiting Hours

Monday - Friday

9 a.m. - 1 p.m.; 3-6 p.m.

Week-end

9 a.m. - 2 p.m. 3.30 - 6 p.m.

### Correspondence

Unlimited but censored.

### Health

No sick bay or first aid kit.

### Discipline

3 disciplinary cells were provided for in the plan. One is used as such while the other 2 are used by the guards.

Fighting and stealing are the offences which land prisoners in the disciplinary cell.

The prison was opened on 12 December 1997. It was built with funds from France.

### *Visit of the premises*

The inmate in the disciplinary cell admitted that he tried to escape twice, each time just before his release. He had no complaint against the guards.

Two cells usually reserved for old or sick inmates were being used by other prisoners because of overcrowding.

Complaints and observations from one cell sum up those from the rest. Unique ones are noted. There was the general fear of reprisals after our visit for what was feared to have been said, as this had happened after similar visits. The Director was asked to kindly ensure that this did not happen.

### Cell 1

They all had mats but not sufficient sleeping room. The food was insufficient and the cell very warm. The Director does not offer them the opportunity to complain to him. They get no answers to their questions and problems, from the guards. Their remand is long. 9 years was the longest remand noted.

"If you are sick, you are abandoned to die. 9 prisoners have died this year. No amnesty has been given this year (a point made in other prisons)."

An inmate was left paralysed after receiving an injection from a visiting foreign doctor. He had asked the prosecutor to put him on the list for provisional release in order to get treatment elsewhere, but he has had no response.

Most of the prisoners have no families to help them. Their lawyers also never call to hear them.

"Human rights does not exist in Mono (district covering Lokossa). Small problems between man and wife may end you in prison."

### Cell 2

The last director was so bad that there was a riot. The new director is good. Prisoners are not made aware of their right to bail until after years in custody. They contribute to buy medicine for each other, otherwise nothing is done for them. Soap is given once a month. Many are brought into custody because it is claimed that the public would lynch them. Light is put on between 6 - 7 p.m. It was on this day in daytime because of my visit.

"In this prison if you do not have money, you do not have liberty. You have to give money to the judge for your case to be heard."

"Innocent people are taken into custody. A poor man has an argument with the rich; the latter complains, and the former is brought here."

### Kitchen

This is now used as a food store. But when prisoners die or are about to die, they are brought here.

### Female Wing

5 inmates, one with a child, lived in a spacious and very neat cell. A small garden had been raised in the courtyard.

Six years without trial was the longest remand time here. One of them was accused of witchcraft (killing through this medium). She was found guilty by an assize court. Another expressed surprise that women could be kept for a long time without contact with the outside world. They could not attend funeral of members of their family, for instance. Whenever they were sick, they had to support themselves.

### ***Institute For Development of Indigenous Studies (IDEE)***

Director: Prof. Honorat Aguessy

The institute aims at encouraging Africa to develop. All over Africa there is the potential for such an eventuality. There are Africans in every scientific field. He would support initiatives of the Director of Prisons or the Human Rights Division of the Ministry of Justice for improvement in prison conditions. Students of the Institute are encouraged to research into prison conditions. The Institute is also concerned about what to do to prevent people from getting into prison.

### ***Farm at Pahou***

We visited the site of a former farm operated by Koreans at Pahou. It covers an area of over 200 hectares. After the "revolution" in Benin it was abandoned and given to the government. It now belongs to the Ministry of Justice, which plans to turn it into a Prison farm: the infrastructure and equipment are in a poor state needing replacement.

### ***Constitutional Court***

The Secretary-General of the Court, Marceline Afauda granted us audience. It is the highest court in constitutional issues. It monitors the constitutionality of all laws.

Its mandate includes the interest of prisoners.

Individuals can appeal to the Court. Respect for human rights is an important concern of the court. Prisoners and detainees of gendarmerie and police cells may complain before the Court for violation of their rights. Arising out of such complaints the Court has visited gendarmeries and police stations. But it is yet to visit a prison.

The SR expressed the hope that the Court will have the opportunity to visit prisons all over Benin.

### ***Final meeting***

Mr. Lino Hadonou, Director of Prison Service, Ministry of Justice; M. Cyrille Oguin, Director of Human Rights, Ministry of Justice; M. Luc Ebah, Africa and Middle East Division, Ministry of Foreign Affairs.

It was an occasion for the SR to express his appreciation at the assistance which the government of Benin extended to him to ensure the success of his Mission.

I expressed my particular gratitude to the Ministries of Justice and Foreign Affairs with special mention of the above three gentlemen.

My interest in the training of prison staff was indicated.

The Director of Prison Services explained that it was most likely that there would be a new body of guards, but whether it will come out of newly recruited personnel or the present gendarmes is not clear. A Decree creating the National Commission for Prison Reform is likely to be submitted to the Cabinet shortly. This Commission will decide on the creation of the new body. When the decision is taken, the SR will be informed about it.

The Director of Prisons informed the SR of recent improvement in the prison regime. The daily allowance for a prisoner was raised from CFA 148 to CFA 200 in 1999. The government has allocated money for the construction of new prisons.

I was also informed of the hospitalisation of the prisoner from Porto Novo who had a sore on his head.

## RECOMMENDATIONS

### *To the Government*

The government of Benin is to be congratulated for the steps it has taken towards addressing the serious problem of overcrowding in prisons in Benin. The construction of new prisons and on-going efforts in the same direction is highly commendable. The premium placed on respect for and protection of human rights is also worthy of praise. It is a positive step to create a Division for Human Rights in the Ministry of Justice. The recommendations which follow are given to strengthen government's efforts in trying to give meaning to the enjoyment of rights by citizens, residents and all in Benin.

1. The care of the health needs of prisoners should be given the most urgent attention.
2. Poor health may partly result from prison conditions, of which overcrowding is a major problem. While applauding government for the construction of new prisons, lesser outlay of capital through release of prisoners will contribute positively towards the solution of the problem. A committee, preferably, presidential to reflect the urgency of the issue and the importance which government is seen to attach to respect of rights, may visit prisons to advise the Head of State and President on inmates deserving amnesty. These may be found to include:
  - a) Very old, sick or weak prisoners.
  - b) Those who have been on remand for a long time.
  - c) Those who have served a long sentence, and do not seem to pose any danger to security.
3. Corruption in the judiciary and the police are concerns which should be addressed.
4. Education against mob justice should be initiated and sustained.
5. Training of guards, as is envisaged in the national plan of action will address the issue of good relationship between prisoners and guards. While many prisoners testified to excellent relationship of the type just mentioned, allegations of torture, illustrated from this report should be discouraged and eliminated.

Guards should be given human rights education so that they will respect the rights of prisoners.

It is assumed that prisoners are educated on their duties and responsibilities. All their rights should also be made known to them on their entry into prisons.

6. The quantity and quality of food for prisoners is worthy of attention.

### ***Medical and Legal Profession***

1. Doctors are encouraged to supplement efforts of government in catering for the health needs of prisoners. Voluntary work by doctors may serve this end.
2. The national association of lawyers should ensure that its members carry out their obligations to their clients in prison. They may even consider providing legal aid to prisoners.

### ***Civil Society***

The Benin Human Rights Commission as well as NGOs working in prisons are encouraged to continue. They should motivate others to join them. They should also consider the establishment of a voluntary organisation such as "Prison Fellowship" (*Fraternité des prisons du Bénin*) subject to safeguard against abuse of prisoners, who will maintain contact with assigned needy prisoners with a view to helping them find solutions to their problems.

### ***Donor Community***

Assistance in provision of medical care and transportation will help a developing country such as Benin which is concerned about improving the conditions of its prisoners, having taken the lead in such areas as construction of new prisons and increasing budgetary allocation for each prisoner.

**LIST OF PARTICIPANTS AT THE MEETING  
WITH NGO's AND THE PRESS  
23 AUGUST 1999**

<b>Name and surname</b>	<b>Institution</b>	<b>Contact</b>
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GNIMAVO Edgar	Les Echos du Jour	33 18 33
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AMOSSOU A. Job	Fraternité des Prisons du Bénin	30 28 77
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# TERMS OF REFERENCE FOR THE SPECIAL RAPPORTEUR ON PRISONS AND CONDITIONS OF DETENTION IN AFRICA

## *Mandate*

1. In accordance with its mandate under Article 45 of the African Charter on Human and Peoples' Rights (The Charter), the African Commission on Human and Peoples' Rights (The Commission) hereby establishes the position of Special Rapporteur on Prisons and Conditions of Detention in Africa.
2. The Special Rapporteur is empowered to examine the situation of persons deprived of their liberty within the territories of States Parties to the African Charter on Human and Peoples' Rights.

## *Methods of work*

3. The Special Rapporteur shall
  - 3.1 Examine the state of prisons and conditions of detention in Africa and make recommendations with a view to improving them;
  - 3.2 Advocate adherence to the Charter and international human rights norms and standards concerning the rights of persons deprived of their liberty and the conditions in which they are held, examine the relevant national law and regulations in the respective States Parties as well as their implementation and make appropriate recommendations on their conformity with the Charter and with international law and standards;
  - 3.3 Make recommendations to the Commission as regards communications submitted to it, by individuals who have been deprived of their liberty, by their families or representatives, by NGOs or other persons or institutions;
  - 3.4 Propose appropriate urgent action.

4. The Special Rapporteur shall conduct studies into conditions or situations contributing to human rights violations of persons deprived of their liberty and recommend preventive measures. The Special Rapporteur shall coordinate activities with other relevant Special Rapporteurs and Working Groups of the African Commission and United Nations.
5. The Special Rapporteur shall submit an annual report to the Commission. The report shall be published and widely disseminated in accordance with the relevant provisions of the Charter.

## *Means of implementing the mandate*

6. The Special Rapporteur shall seek and receive information from States Parties to the Charter, individuals, national and international organisations and institutions as well as other relevant bodies on cases or situations which fall within the scope of the mandate described above.
7. In order to discharge his mandate effectively the Special Rapporteur should be given all the necessary assistance and co-operation to carry out on-site visits and receive information from individuals who have been deprived of their liberty, their families or representatives, from governmental or non-governmental organisations and individuals.
8. The Special Rapporteur shall seek co-operation with States Parties and assurance from the latter that persons, organisations or institutions rendering or providing information to the Special Rapporteur shall not be prejudiced thereby.
9. Every effort will be made to place at the disposal of the Special Rapporteur resources to carry out his/her mandate.

## *Duration of the mandate*

10. This mandate will last for an initial period of two years which may be renewed by the Commission.

*Mandate priorities for the first two years*

11. The Special Rapporteur shall focus on the following activities and in each case shall pay attention to problems related to gender:
  - 11.1 Evaluate conditions of detention, highlighting the main problem areas including: prison conditions, health issues, arbitrary or extra-legal detention or imprisonment, treatment of people deprived of their liberty and conditions of detention of especially vulnerable groups such as: refugees, persons suffering from physical or mental disabilities, or children. The Special Rapporteur shall draw on information and data provided by the States and other relevant sources.
  - 11.2 Make specific recommendations with a view to improving prisons conditions and conditions of detention in Africa and establishing early warning mechanisms in order to avoid disasters and epidemics in places of detention.
  - 11.3 Promote the implementation of the Kampala Declaration on Prisons and Conditions of Detention in Africa.
  - 11.4 Propose revised terms of reference if necessary, at the end of the two year-period to the African Commission and an overall programme for the following stage.

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