PROMOTIONAL MISSION REPORT OF COMMISSIONER
JAINABA JOHM TO THE REPUBLIC OF BENIN
(07 - 11 August 2000)
I. Introduction

1. In conformity with its mandate, which is to establish and maintain constructive dialogue with State parties to the African Charter on Human and Peoples' Rights, the African Commission undertakes regular promotional visits to State Parties. It is in the framework of these promotional visits that Commissioner Jainaba Johm who is the Commissioner in charge of the Republic of Benin\(^1\) embarked on a promotional mission to Benin from 7 to 11 of August 2000.

2. The promotional visit to Benin was amongst other issues a familiarisation tour of the various institutions dealing directly or indirectly with human rights since this was the first time that Commissioner Jainaba Johm was going to that country as the Commissioner now responsible for Benin.

3. After the exchange of some correspondences between the Secretariat of the Commission and the Government of Benin the mission that had been planned for early June was postponed owing to some difficulties. It eventually took place in August.

II. Terms of reference of the mission to the Republic of Benin

4. The terms of reference of the mission to the Republic of Benin were as follows:
   
a) Discuss with the Government of Benin the general situation of human rights in Benin;

b) Draw the attention of the Benin authorities to the respect of their obligations stemming from the provisions of the African Charter but more especially article 62. Benin ratified the Charter on 20/01/1986;

c) Given that Benin had submitted an up to date report to the Commission, the Commissioner will use this opportunity to sensitise the authorities so that the report is presented to the Commission at the forthcoming session scheduled to take place in Cotonou from 23\(^{rd}\) October to 6\(^{th}\) November 2000;

d) Promote human rights in general by meeting and briefing the NGO community, the Benin Bar Association, Government departments among others and explaining to them the work of the Commission;

e) Work toward establishing formal co-operation and exchange of information;

f) Visiting prisons in Cotonou and Porto-Novo to assess to what extent the conditions of detention match international standards.

Mr. Robert Kotchani, Legal Officer for Promotional Activities at the Secretariat of the Commission accompanied and assisted the Commissioner on her mission.

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\(^1\) There is a geographical distribution of State parties amongst Commissioners. The Commissioner in charge of the Republic of Benin, Gambia, Senegal, Liberia, Nigeria, Cape Verde and Togo is Mrs. Jainaba Johm.
III. Welcoming of the mission team and work organisation

5. Mr. Cyrille Ogain, Director of the Department of Human Rights at the Ministry of Justice and Human Rights welcomed the mission team. The team discussed the programme of work with him. Mr Ogain’s assistance and contribution was of great importance in the successful outcome of the mission.

IV. Personalities met and substance of the discussions and places visited

Thursday 10/08/2000

9h45-11h: Meeting with Mr. Pancrasse Brathier, General Director of the National Gendarmerie in Porto-Novo.

6. The mission team accompanied by Mr. Cyrille Ogain left Cotonou at 8.30 AM and reached Porto-Novo at 9.30 AM where Mr. Brathier granted us audience. He invited some of his colleagues, who joined us.

7. Commissioner Jainaba Johm thanked Mr. Brathier for receiving the team. She further briefed him on the role, organisation and functioning of the Commission and focussed more on the purpose of the mission she was undertaking in Benin. She said she wanted to familiarise herself with the country and meet all the authorities whose work entail human rights and security.

8. In return Mr. Brathier thanked her for coming and said the team was welcomed. He said the Gendarmerie is in charge of ensuring security in rural and urban areas. They also act as auxiliaries of justice. They detain a suspect until he is presented to a judge. As a military branch they are under the supervision of the Ministry of Interior and can be assigned military duties should the need arise. He said there are a lot of women who are part of the staff of the Gendarmerie.

9. Commissioner Johm pointed out that gendarmes are often accused of detaining people for very long periods of time (far more that the prescribed 48 hours) before presenting them to a judge. She concluded that as auxiliaries of justice the gendarmes must have a strong human rights background and that human rights should be part of their every day routine.

10. Mr. Brathier responded that human rights courses have formed part of their education and training. He further went on to say that the school of gendarmes of Porto-Novo is one of the best in West Africa and there is a programme on human rights that is offered. He agreed on the fact that the gendarmes should not detain anyone for more than 48 hours without the authorisation of a magistrate. He however acknowledged that sometimes the gendarmes do detain people for longer periods, but said that this is normally done to help in further investigations of cases. He however said that their work is further made difficult by their poor conditions of work. He also added that prison reforms were being initiated.

11. Commissioner Johm then asked him to enlighten us about their conditions of work and the problems gendarmes are facing.
12. In response Mr. Brathier said the gendarmes have the responsibility of detaining people before they are presented to a judge but do not have appropriate cells for that. On the other hand they do not have enough transportation (cars, vans, motorcycles) that can allow them to promptly bring a suspect to the judge. He however said the Government recently made some efforts to equip the Gendarmerie but stated that there is still a lot that needs to be done. He also stressed on the fact that Government has the political will but lacks the means. He later escorted the mission team on a tour of the prisons. In some of the cells we saw quite a good number of detainees (some minors) still awaiting trial, some had been there for longer than usual.

13. Later the mission team were taken to visit cells in the Brigade of Déguegare. The conditions of detention were very bad and some detainees had spent more than four days in cells without being charged with any offence or taken to a court of law. The conditions in the women's section were a bit better and there were no female detainees in the cells.

11h55-13h15: Meeting with Mrs. Avognon, administrative Secretary to the Parliament and two other MPs, Mrs. Rosine Soglo and Mrs. Karimou Rafiatou².

14. Mrs. Avognon welcomed the mission team. Commissioner Johm then briefed him about the mission. Mrs Avognon then explained what her job entailed. She further said there have been lots of improvements as relates to the human rights situation in Benin since 1990 when the National Conference was organised and multipartism adopted. The process of incorporating all treaties ratified by Benin into the national legislation had begun.

She also briefed the Commissioner on the organisation and work of the Parliament. She said the Parliament is composed of 83 (eighty-three) elected MPs in which only 5 (five) were women. She further went on to say that women were not well placed on electoral lists and that there is a concerted effort to raise women's awareness on the issue. She spoke about the situation of children in Benin and said they were suffering in Benin; she talked about trafficking in children, more especially to neighbouring countries. She however said that the Government is fighting against this and trying hard to put an end to this phenomenon.

After the audience with Mrs. Avognon, the Commissioner was taken to meet the two other MPs; Mrs. Rosine Soglo and Mrs. Karimou Rafiatou.

15. Commissioner Johm briefed them on the work of the Commission and more specifically on the purpose of the mission. Both Mrs. Rosine Soglo and Mrs. Karimou Rafiatou said the human rights situation in Benin was commendable. However they deplored the phenomenon of Vidomegon and that of trafficking in children, which is common in Benin and also said that Benin does not scrupulously apply the international conventions it is a party to. Mrs. Soglo added that she was not happy that the Family Code had still not been passed into law and blamed it on the men who form a majority in the Parliament. They agreed with the Commissioner that education especially at primary level should be made compulsory and free which would help curb some of these problems especially trafficking in children.

² Mrs. Rosine Soglo is an MP of the party "La Renaissance" du Bénin (opposition) and wife of Mr. Nicophore Soglo former President of Benin whereas Mrs. Karimou Rafiatou is an MP from the "mouvance présidentielle" (in power)
13h35-14h45: Visiting the Civil prison of Porto-Novo.

16. Mr. Nounagnon Sédogandji, Deputy Director of the prisons received the team. He gave a short history of the prison. The Porto-Novo prison he said has 754 detainees including 9 minors and 17 women. He said the prison is facing a lot of problems one of which is the fact that there are only 10 gendarmes to watch over the detainees. Furthermore the prison is an old one. The detainees are given food only once a day. Health care is also a problem; medicines are not always free of charge and only a nurse is in charge of all the detainees. He said that in spite of the improvements made to the prison over the years, assistance from the Government is insufficient. The families of the respective prisoners' provide food and buy medicines should the need arise.

17. The mission team visited some cells and talked to the detainees. Most women were accused of child abduction whereas the minors were charged with theft or use of drug. They all openly complained about their conditions of detention and more specifically on the delays in the prosecution of their cases. The Commissioner promised to take it up with the relevant authorities.

4h15-16h: Meeting with Mr. Zoumarou Moussa, Director of Cabinet of the Ministry of Social Welfare and Protection of the Family.

18. Mr. Zoumarou explained to the mission team the organisation and work of his Ministerial department focusing on the facilities the Government has created to take care of children in difficult situation, women and the family in general and the fight against the practices affecting them. He spoke about:
   - Training and rehabilitation centres that have been built for children in difficult situation or with disability;
   - The fact that the Government is fighting against the Vidomégon and trafficking in children and has made schooling free of charge for girls;
   - Micro projects that have been created to finance women's self employment;
   - The drafting of a family code, which aims at better protecting children and women's rights but one that, is waiting to be voted by the Parliament.

Mrs. John urged him to help make sure that the pending family code legislation be adopted by the Parliament, and to further enlighten Beninois about their rights under the Charter and the Constitution.

17h25-18h: Meeting with Mr. Jacques Migan, Head of the Benin Bar Association.

19. Mr. Vigan explained the work of the Bar to the mission team and described the whole organisation of the judicial system pointing out that there is insufficiency of lawyers and magistrates in Benin, since most of them go and work as civil servants because they are better paid there. He acknowledged that the judicial system in Benin enjoys freedom and independence. He however said that Benin should make some efforts towards fully incorporating ratified treaties into the national legislations.

20. Mr. Vigan also advocated for human rights to be taught in Benin not only at university level but even in the primary schools. He also said that a majority of the people are not aware of what is in their Constitution, not to talk of the African Charter and other international human rights instruments.
He however was quick to state that poverty is the main human right issue in Benin.

21. Mr. Vigan further addressed the issue of long detention in prisons saying that prisoners are not yet seen in Benin, as citizens who have rights as everyone and said this attitude must change. Mrs. John assured him of the full cooperation of the African Commission in tackling these problems.

19h-19h 20: Meeting with the Minister of Justice, Legislation and Human Rights.

22. The Minister enquired about the progress of the mission and the Commissioner gave him an account of the activities carried on so far as well as her observations. The Minister took note of the various observations and immediately arranged a meeting between the mission team and the members of the Consultative Committee for Human Rights for them to discuss the issues further. Finally the Minister said he was counting on the Commissioner to help make the 28th Ordinary Session of the Commission a success.

23. In her turn Commissioner John thanked the Minister and reminded him of the necessity for Benin to present its periodic reports during the Commission’s 28th session and to ratify the protocol to the Charter on the Establishment of an African Court on Human and Peoples’ Rights before the 28th session.

Friday 11/08/2000

8h30-9h50: Visiting the Central Civil Prison of Cotonou.

24. Captain Seydou B. Seydou, Director of the prison explained that the Central Civil Prison of Cotonou was built in 1952 to accommodate only 450 detainees. He said at present there are about 1,592 detainees in the Prison. These include those awaiting trial, and those serving court sentences. Amongst the detainees are 167 women and 8 minors. A visit of the cells and some discussion with the detainees revealed that detainees are fed only once a day and there is a serious problem of overcrowding.

25. The gendarmes who are also the prison authorities complained about their conditions of work, which they said were very poor in terms of personnel, salaries, working environment, transport and hygiene. The Commissioner raised the issue of long detention for those who are still awaiting trial and those who have not yet been charged before a court of law, Captain Seydou acknowledged these facts but said that the Ministry of Justice had made an effort and sent some magistrates to look into the files of detainees. As a result of this exercise some detainees who had been detained for longer than was necessary were released. The mission team was also informed that some partners (NGOs and Churches) help in the maintenance of the prison by donating various items like blankets, food, and medicines to mention a few.

26. The Commissioner expressed her delight at the fact that prisoners were free to express their religious affiliations in that there were churches and mosques within the prison complex.
Meeting with Mr. Kamala Souradjou, Technical Advisor for Education and Mrs. Sikiratou Adeothy Koumakpai, Technical Advisor for Health, Social Welfare and Women Issues, both of whom are technical advisors in the Office of the President of the Republic.

27. The Commissioner started by telling them about the progress of her mission so far, personalities she had met, places she had visited and the issues that were raised. She spoke about the forthcoming session and how important it is for Benin to present its periodic report at the 28th session of the Commission. She also said it was necessary that Benin quickly ratified the protocol establishing the African Court. She talked about the conditions of detention which ranged from congestion in prisons, to the issue of the prisons being warded by gendarmes, taking into consideration that they are the same body that arrest, detain and prosecute the inmates, the problem of long detention without trial.

28. She also raised the issue of the many pending legislations before the Parliament, Vidomégon, trafficking in children, and child domestic servants and urged that Government looks into these issues with a view to taking concrete action.

29. In response Mr. Kamala welcomed the mission team and expressed satisfaction on behalf of the Government. He said that the African Charter has been incorporated into their Constitution. He added that the Government of Benin was making all efforts to respect human rights. He further said the Head of State and Government are committed to the respect of human and peoples' rights. He said there were no political prisoners in Benin, and that press is indeed free. He further went on to say that Benin does not have enough lawyers and magistrates. He said a reason why court cases drag was that the courts only sit twice a year. He added that Government's weakness in some areas was due to lack of means but not lack of will.

30. He concluded by saying that the Government has been fighting against the plague of trafficking in children and has mandated the Ministry of Human Rights to look closely into this issue with a view to putting an end to this. He assured that Government would present its report at the 28th session. He further said that Government plans to make education free of charge at primary level from the coming year onwards.

31. Mrs. Johm thanked them for granting her an audience, and said she would relay their concern to the Commission. She further went on to say she is at their disposal at all times, as the Commissioner responsible for Benin.

32. Mrs. Adeothy Koumakpai reiterated what her colleague had said and added that the Government has been trying its best and is looking for assistance and advice from the Commission and all relevant organisations and associations working in the field of human rights.

17h-18h: Formal meeting with the staff of the Ministry for Justice, Legislation and Human Rights and Members of the Consultative Committee on Human Rights.

33. Mr. Cyrille Ogain and his colleagues presented to the mission team the structure and functioning of their Ministry and Committee stressing on the new projects they were embarking upon.
• Commissioner Johm talked about the conditions of detention in prisons and how badly reforms were needed. Mrs. Johm recommended that detainees be separated from prisoners. The suggestion of the Commissioner was welcomed.

• The Director of the Department in charge of Prisons informed her that only 8 prisons out of 10 are operational keeping some 5,000 detainees under the guard of some 100 gendarmes. He said the prisons were originally meant to cater for only 1950 inmates. Mrs. Johm was also informed that the ministry is aware of the problems that range from congestion to lack of guards and funding.

• The Director further added that a new and modern prison is being built in Porto-Novio; it is being built according to international standards. He said 3 other prisons are being renovated and that the welfare allowance for each prisoner will be increased. He added that Government was working towards assigning the Ministry of Justice control over the administration of the prisons.

• He said they were still awaiting the report of the Special Rapporteur on Prisons and Conditions of Detention in Africa, who had visited Benin sometimes ago. Mrs. Johm then told him she would inform the Special Rapporteur and the Commission accordingly.

• The Commissioner was also informed that a new corps of prison guards was being created and would soon be operational. It is also envisaged that hygiene and safety standards in prisons will be improved and the cases of detainees will be given a speedy trial, and that those detainees who had been in detention for unduly long period of time would be released.

• When the Commissioner raised the Mono problem i.e. a group of people taking justice into their hands, the Director of the Department of human rights said it is a national concern and that the Government has decided to take action to put an end to this problem but wants to act in a way that will preserve peace because the people involved have become popular among the population.

• The Commissioner was informed that Government since 1997 had started doing a lot of campaign on human rights issues through media, education, posters, and program of dissemination countrywide. This is being done in 10 local languages. The Commissioner was also informed that a Directorate for Youth and Children had been set up 2 years ago. Also that a National Commission on the Rights and Welfare of the Child was created in November 1999. Further that there is a concerted effort to stop trafficking and exploitation of children and to this end Government has set up a centre for rehabilitation and education.

• The Commissioner was informed that the Parliament has given the authorisation for Benin to ratify the Protocol to the Charter on the Establishment of an African Court on Human and People's Rights.
9h15-11h30: Meeting with the NGO Community

For more than two hours about 15 people representing 16 NGOs working in the field of human rights had a fruitful and frank discussion with the Commissioner at the conference room of the Ministry for Justice, Legislation and Human Rights.

34. The Commissioner introduced herself, and said Benin was under her mandate. She spoke about her mission so far and raised certain pertinent issues with the NGOS; issues like how much the NGO community was doing to help ameliorate prison conditions in Benin, dissemination of the African Charter, the Constitution and other treaties Benin is a party to, educating and enlightening the public, lobbying for the family code to be passed as a law, helping to stop the activities of the vigilante group in the Mono province, the many legislations pending before the Parliament waiting to be passed into law, the issue of child domestic servants and trafficking in children, to mention a few.

35. The Commissioner called for collaboration between the NGOs and the Commission, and said they were a link between the Commission, the Government of Benin and the average Beninois. She said they must take their role seriously and act as watchdogs for the citizens. They must also act as a neutral force and work in collaboration with each other, not on individual basis.

36. Furthermore she said they must create an NGO umbrella under which they could all meet once in a while to discuss issues affecting each of them and the citizens of Benin. Commissioner John further stressed on the fact that there must be networking, as there was surely the need to work together as a group with common interest and that interest is to make sure that the human rights and freedoms of the citizens of Benin are respected.

37. On their part the NGOs thanked the Commissioner for coming and hosting the meeting. They said it was the first time a Commissioner from the African Commission had come to Benin and hoped this trend would continue. They wanted to know how to go about getting observer status with the Commission, and the Commissioner explained and gave documents in relation to this issue. She urged the NGOs to seek observer status with the Commission during the 29th ordinary session.

38. The issue of the vigilante groups was raised, but NGOs said this came about because thieves were not being caught, security was lax, cases were not proceeding and criminals were being freed. They however agreed to continue looking into this matter with the Government with a view to bringing it to an end.

39. The NGOs asked that the OUA and the Commission should render technical assistance. The Commissioner said she would take it up with the Commission and report back to them.

40. NGOs also raised the fact that legislations in Benin have to be brought in conformity with Benin’s international obligations.

41. They also stressed the need to have not only free but compulsory education at primary and secondary levels of education. They however said that it is not just enough for Government
to say education is free, but that the people should see some practical measures towards this.

42. They further said that the Government media interviews on human rights issues should involve NGOs.

43. The NGOs finally agreed that they would try and work together, meeting as often as possible. They also agreed with the Commissioner that human rights issues, be they economic, social or cultural are inter-related.

V. Conclusions and Recommendations

1. Conclusions

Through frank and open discussions that the mission team had with heads of government department which included that of the prisons, the office of the president, the ministry of justice legislation and human rights, the ministry of social welfare and protection of the family, some parliamentarians, the president of the Bar association, the NGO community as well as the Gendarmerie and some individuals, it can be said that the human rights situation in Benin is quite satisfactory. The team noticed that freedom of expression and the independence of the judiciary were rights that were being enjoyed fully. However the rights of women, children and prisoners needs to be improved upon and the human rights situation generally in Benin needs to be further strengthened by the allocation of adequate means to the vital sectors of Government.

2. Recommendations

Convinced of the need for Benin to improve on the prevailing human rights situation the Commissioner is making the following recommendations:

- The Government of Benin should keep on guaranteeing the rights and freedoms stated in the African Charter on Human and People's Rights and other relevant human rights treaties the country is a party to;

- All the national legislations of Benin should be amended in line with international treaties Benin is a party to.

- The process of passing a Family Code into law should be speeded up as a step forward towards ameliorating women and children's rights.

- The Government should make schooling at primary level not only free of charge on a gradual basis as stated in the Constitution but also compulsory and allocate adequate means for that.

- The Government should take action regarding the allocation of adequate means to the prisons so as to help make the conditions of detention better and match them with international standards.
- Action should be taken so as to speed up the processing of detainees' cases to avoid long detention without trial.

- Gendarmes should not man the prisons.

- Government should look into the conditions of work of the prison staff.

- The conditions of the Prisons should be improved upon especially in terms of hygiene and safety standards.

- Ratify the Additional Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights and any other treaty it has not yet ratified.

- Government should create a strong link between itself and the NGO community so that they can work together towards disseminating the Constitution, other national laws and the international treaties Benin is a party to. Government should also work together with the NGO community towards putting an end to the activities of the vigilante group in the Mono province, as these activities are contrary to both the Constitution and the Charter.

- Government must continue working in collaboration with NGOs to put an end to child domestic labour and trafficking in children.

- Human rights should form part of school curricula.

- Government should provide better incentives for magistrates and judges so that they don’t leave to join the civil service, this would help speed up the backlog of cases.

- The NGOs have to form a united front and work closely with the Government towards helping the average Beninois enjoy their rights and freedoms as set out in the Constitution and the African Charter.