



**International covenant  
on civil and  
political rights**

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HUMAN RIGHTS COMMITTEE  
Seventy-sixth session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 40 OF THE COVENANT**

**Concluding observations of the Human Rights Committee**

**TOGO**

1. The Human Rights Committee considered the third periodic report of Togo (CCPR/C/TGO/2001/3) at its 2052nd and 2053rd meetings, held on 21 and 22 October 2002 (see CCPR/C/SR.2052 and 2053). It adopted the following concluding observations at its 2064th meeting (CCPR/C/SR.2064), held on 24 October 2002.

**A. Introduction**

2. The Committee welcomes the submission of the third periodic report of Togo, containing detailed information on Togolese legislation relating to civil and political rights, and the opportunity thus afforded to it to resume its dialogue with the State party after eight years. Nevertheless, the Committee regrets the lack of information concerning the practical implementation of the Covenant, and on the factors and difficulties encountered by the State party in that regard. The Committee notes that the information supplied orally by the delegation replied only in part to the questions and concerns expressed in the list of written questions and during consideration of the report.

3. The Committee wishes in particular to express its concern at the major contradictions between the many consistent allegations of serious violations of several provisions of the Covenant, notably articles 6, 7 and 19, and the sometimes categorical denials of the State party. In the view of the Committee, the State party has not demonstrated its resolve to get to the

bottom of the allegations. Noting that the submission and consideration of reports are designed to institute a constructive and sincere dialogue the Committee encourages the State party to make every effort to that end.

### **B. Positive aspects**

4. The Committee is gratified at the importance attached in article 50 of the Constitution of Togo to international human rights instruments, and particularly the Covenant, the provisions of which form an integral part of the Constitution.

5. The Committee welcomes the adoption on 17 November 1998 of an Act prohibiting female genital mutilation. The Committee takes note of the State party's commitment to pursue its efforts in that regard.

### **C. Principal subjects of concern and recommendations**

6. The Committee notes with concern that the process of bringing domestic laws, many of which predate the 1992 Constitution, into line with the provisions of the Constitution and international human rights instruments is at a standstill. Proposals drawn up with the help of the Office of the High Commissioner for Human Rights during the 1990s have not been followed up. The Committee is also concerned at the fact that many proposed reforms dealing in particular with the rights of children and women, some of them announced several years ago, have still not been enacted.

The State party should revise its legislation so as to bring it into line with the provisions of the Covenant.

7. The Committee notes that, notwithstanding the provisions of articles 50 and 140 of the Constitution, the provisions of the Covenant have not been directly invoked in any case before the Constitutional Court or ordinary courts.

The State party should provide training for judges, lawyers and court officers, including the persons already serving in those capacities, concerning the content of the Covenant and the other international human rights instruments that Togo has ratified.

8. The Committee would like to receive additional information on the structure, functions and results of the National Human Rights Commission, and welcomes the delegation's promise to forward the Commission's annual reports to it speedily (article 2 of the Covenant).

9. The Committee is concerned at:

- (i) information that many extrajudicial executions, arbitrary arrests, threats and intimidation perpetrated by the Togolese security forces, against members of the civilian population, in particular members of the opposition, have not been investigated in a credible manner. The Committee notes that the adoption of laws such as the December 1994 Amnesty Act is likely to reinforce the culture of impunity in Togo.

- (ii) The fact that the Joint United Nations/OAU International Commission of Inquiry concluded that “a situation involving systematic violations of human rights existed in Togo during 1998” (E/CN.4/2001/134, para. 68). Those violations relate, in particular, to article 6 of the Covenant, and also to articles 7 and 9. The categorical rejection of the Commission’s report, which the State party has declared to be inadmissible, and the creation some weeks later of a national commission of inquiry, which has clearly not sought to identify precisely those responsible for the violations drawn to the Government’s attention, also prompt the greatest concern on the part of the Committee.

The State party should adopt legislative or other measures to combat and prevent the perpetration of such violations, in keeping with articles 6 and 9 of the Covenant and the “Principles on the effective prevention and investigation of extra-legal, arbitrary and summary executions”. The State party should establish, through judicial proceedings, the individual responsibilities of the alleged perpetrators of these violations

10. The Committee notes with satisfaction that for several years no death sentence imposed by a court has been carried out in Togo, but it remains concerned by the vagueness of the crimes for which the death penalty may be imposed.

The State party should limit the cases in which the death penalty is imposed and ensure that it is applied only for the most serious crimes. The Committee requests that it be provided with precise information (procedure followed, copy of court decisions, etc.) on the persons who have been sentenced to death under articles 229 to 232 of the Penal Code, which relate to attacks against the internal security of the State. The Committee encourages the State party to abolish the death penalty and to accede to the Second Optional Protocol to the Covenant.

11. The Committee expresses its concern at the consistent information that law enforcement personnel make excessive use of force in student demonstrations and various gatherings organized by the opposition. The Committee is surprised at the State party’s reply in this regard, to the effect that the security forces never make excessive use of force and that the demonstrators are principally the victims of movements within the crowd. The Committee regrets that the State party has made no mention of any inquiry having been opened following these allegations.

The State party should open impartial inquiries following any allegation relating to the excessive use of force by the security forces. In particular, such inquiries should be carried out into the December 1999 demonstrations by students and teachers, and the demonstrations organized by non-governmental human rights organizations and political parties which were reported to have been violently broken up during 2001 and 2002.

12. The Committee notes with concern the many allegations that torture is common practice in Togo, particularly on arrest, during police custody and in places of detention, whereas the State party claims that only a few rare cases of torture have taken place and that they were punished (art. 7).

The State party should honour its promise to transmit to the Committee as soon as possible, written information concerning the treatment of detainees in Landja and Temedja camps.

The State party should ensure that all acts of torture constitute offences under its criminal law, and prohibit any statement obtained under torture from being used as evidence. Impartial and independent inquiries should be carried out with a view to addressing all allegations of torture and inhuman and degrading treatment ascribed to public officials, and bringing the presumed perpetrators of the violations to justice. The Committee requests the State party to provide it with statistics on complaints of torture, proceedings undertaken to address such complaints, and sentences passed.

13. The Committee, taking note of the State party's, acknowledgement that arbitrary arrests sometimes take place, is concerned at the many reports of the arbitrary arrest of members of the opposition and civil society, human rights defenders and journalists, in violation of article 9 of the Covenant.

The State party should identify the prisoners who have allegedly been detained for political reasons in Togo, and review their situation. The State party should also ensure that persons who have been arbitrarily arrested are released as soon as possible, and that judicial proceedings are instituted against the perpetrators of such violations.

14. The Committee notes with concern that, on the one hand, the provisions of the Code of Criminal Procedure relating to police custody contain no reference to notifying detainees of their rights, the presence of a lawyer or the right of the detainee to inform a member of his family of his arrest. On the other hand, a medical examination of the detainee is possible only at his request or at the request of a member of his family, and with the consent of the procurator's office. Moreover, the time limit of 48 hours for police custody is allegedly rarely observed in practice, and some persons have reportedly been detained for years without being charged.

The Committee welcomes the delegation's promise to reply to it in writing concerning the cases of the persons whose names have been transmitted to it. The State party should reform the provisions of its Code of Criminal Procedure that deal with police custody with a view to ensuring the effective prevention of violations of the physical and psychological integrity of persons held in police custody, and protecting their right to a defence, pursuant to articles 7, 9 and 14 of the Covenant. It should also ensure that justice is administered in a timely fashion, in accordance with article 14.

15. The Committee notes with concern that detention conditions in Togo are appalling, particularly in the civil prisons in Lomé and Kara, which are very overcrowded and where the food supply is uncertain and inadequate. This situation has been acknowledged by the State party, which draws attention to its financial difficulties and to its officers' lack of training.

The State party should develop alternative sentences to imprisonment. In addition, the State party should establish an independent inspectorate to carry out regular visits to all detention centres. That inspectorate should include elements independent of the Government, to ensure transparency and observance of articles 7 and 10 of the Covenant,

and should be charged with making all the necessary proposals concerning ways of improving detainees' rights and detention conditions, including access to health care.

16. The Committee is deeply concerned at the alleged harassment, continuous intimidation and arrest of journalists, including incidents that took place in 2001 and 2002, and at reports that several independent publications and radio stations have been banned since the beginning of the year. The Committee takes note of the delegation's assertions that such restrictions on freedom of expression are imposed in accordance with article 26 of the Constitution but finds that the Press and Broadcasting Code has been amended over the past two years in a particularly repressive spirit.

The State party should review the Press and Broadcasting Code and ensure that it is consistent with article 19 of the Covenant.

17. The Committee is concerned at reports that opposition political parties lack practical access to public audio-visual and sound media and that the members of such parties are the target of continuous public slander campaigns in the media (articles 19 and 26 of the Covenant).

The State party should guarantee the fair access of political parties to public and private media and ensure that their members are protected against slander. The Committee would like to receive additional information on the way in which the High Audio-visual and Communications Authority (HAAC) ensures, in practice, parties' fair access to the media, as well as on the results obtained. The substance of the regulations in that area should also be transmitted to the Committee.

18. The Committee is concerned at reports that peaceful demonstrations organized by civil society are regularly prohibited and forcibly dispersed by the authorities, while marches in support of the President of the Republic are regularly organized by the authorities.

The State party should ensure the practical enjoyment of the right of peaceful assembly and should restrict the exercise of that right only as a last resort, in accordance with article 21 of the Covenant.

19. The Committee is disturbed by the distinction that the State party makes between associations and non-governmental organizations, and reports that non-governmental human rights organizations have been unable to obtain permission to register.

The State party should provide information on the consequences of the distinction made between associations and non-governmental organizations. The State party should ensure that this distinction does not violate, in law or in practice, the provisions of article 22 of the Covenant.

The Committee notes the assurance given by the delegation that human rights defenders who have submitted information to the Committee will not be harassed in Togo.

20. The Committee takes note of the State party's decision to dissolve, in June 2002, on the basis of article 40 of the Electoral Code, the Independent National Electoral Commission (CENI)

that was the outcome of the Lomé Framework Agreement and was composed of representatives of various political parties. The Committee also takes note of the delegation's explanations in that regard, as well as of other reports that the State party has not made all the necessary efforts to ensure the smooth operation of CENI. In such conditions, the legislative elections of 27 October 2002, in which part of the opposition again refused to participate, might not have been sufficiently in keeping with the requirements of transparency and honesty under article 25 of the Covenant.

The State party should do everything in its power to ensure that the spirit and letter of the Lomé Framework Agreement are respected. The Committee also requests the State party to ensure the safety of all members of civil society, particularly the members of the opposition, during the forthcoming elections.

21. The Committee notes with great concern that the Individuals and Family Code, which has been under review since 1999, still contains provisions that discriminate against women, particularly with respect to the minimum age for marriage, the choice of the matrimonial home and freedom to work; that it authorizes polygamy and designates the husband as head of the family; and that it upholds the primacy of particularly discriminatory customary laws relating to marriage and succession.

The State party should bring the Individuals and Family Code into line with articles 3, 23 and 26 of the Covenant and bear in mind, in this regard, the concerns expressed by non-governmental organizations active in the field of women's rights.

22. The Committee is worried about continuing discrimination against women and girls with respect to access to education, employment, inheritance and political representation in Togo. Moreover, as the State party itself has acknowledged, certain cultural practices, as well as women's unawareness of their rights, give rise to many violations of women's rights.

The State party should eliminate all forms of discrimination against women, increase its efforts to educate girls and make the population more aware of women's rights, and carry out new programmes with a view to giving women access to employment and political posts.

23. The Committee recommends the introduction of a far-reaching human rights education programme for law enforcement personnel, particularly policemen, gendarmes and members of the armed forces, as well as all prison staff. Regular and specific training should be conducted with a view to combating torture and inhuman and degrading treatment and prohibiting extrajudicial executions and arbitrary arrests; such training should also include the treatment and rights of detainees. In this regard, the Committee suggests that the State party request assistance from the Office of the United Nations High Commissioner for Human Rights and from non-governmental organizations.

24. The State party should disseminate widely the text of its third periodic report and the present concluding observations.

25. In accordance with article 70, paragraph 5, of the Committee's rules of procedure, the State party should within one year provide information on the measures that it has taken or plans to take with a view to implementing the recommendations contained in paragraphs 9, 10, 12-14 and 20 of these observations. The Committee requests the State party to provide in its next report, which it is scheduled to submit by 1 November 2004, information on the other recommendations made and on the implementation of the Covenant as a whole.

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