



## **Defending the Defenders: Improving the Operating Environment for Human Rights Defenders in Benin**

by Lily Baron

Protests erupted in Benin in 2019 following President Talon's autocratic changes to the country's electoral code, through which he excluded his political opponents from participating in the upcoming parliamentary elections. Although bans on protests were swiftly enacted, many who continued to speak out were met with police violence. The internet was shut down on the day of the elections and protesters were disbanded by gunfire, setting a dangerous precedent for how human rights defenders could be treated in Benin for years to come. Arbitrary arrests, torture of suspects, and lack of food and water for prisoners are just a fraction of the new reality for human rights defenders in Benin, who must remain hypervigilant about their safety when they speak out against the government's interests.

Human rights defenders in Benin have learned to take personal responsibility for their safety. Many consider their whereabouts at all times and are even selective when it comes to choosing a location for their offices. For example, one human rights defender interviewed by Green Advocates International admitted to specifically choosing an office that had few neighbors. Generally, human rights defenders in Benin are forced to keep a low profile to ensure their safety, with some practicing self-censorship by taking care not to post content to social media that may put themselves or others at risk.

Benin recently enacted a law censoring the use of social media. The law—which is antithetical to freedom of speech and expression—imposes a large fine and imprisonment of six months to one year for violators. According to an individual interviewed by Green Advocates International, “the major concern is that these laws completely silence [human rights defenders] within Benin and only those living outside the country feel confident even posting on social media or [saying] anything.”

Human rights defenders who use social media are not the only ones targeted by Benin’s censorship laws. In 2017, Benin enacted a digital media law (Law No. 2017-20), which allows the government to silence journalists under the guise of preventing the spread of false news. According to the International Consortium of Investigative Journalists, the law allows for journalists to be prosecuted and jailed, even when the journalists can prove the accuracy of the publication.<sup>1</sup> Since the beginning of 2020, seventeen individuals have been prosecuted under the digital media censorship law.

While human rights defenders in Benin must operate largely in the shadows, with some even being forced to go into hiding, the government acts with impunity. In fact, the government remains relatively immune from being held culpable for their actions. For example, the National Anti-Corruption Authority, which hears complaints pertaining to corruption, lacks any legal enforcement powers. Additionally, although the Court of Punishment of Economic Crimes and Terrorism was designed to handle corruption cases, it has merely become a mechanism for targeting journalists and the government’s political opposition, including human rights defenders.

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<sup>1</sup> Will Fitzgibbon, *Press Freedom Fears After West Africa Leaks Reporter Convicted in Benin*, INT’L CONSORTIUM OF INVESTIGATIVE JOURNALISTS (Aug. 25, 2019), <https://www.icij.org/investigations/west-africa-leaks/press-freedom-fears-after-west-africa-leaks-reporter-convicted-in-benin/>.

Especially disconcerting is that Benin is the first West African country to withdraw the right of its citizens and of NGOs with observer status to submit complaints to the African Court on Human and Peoples' Rights (ACHPR). This news has been damaging for human rights defenders, who previously could use the Court to seek recourse for human rights violations. To date, there have been thirty-five applications submitted to the Court from Benin, more than any country except Tanzania and Cote d'Ivoire.<sup>2</sup> Notably, one of the last Beninese cases to be heard by the ACHPR challenged President Talon's changes to the country's electoral laws as unconstitutional and in violation of international law.<sup>3</sup>

Although Benin has truncated human rights defenders' access to international recourse via the ACHPR, Benin does have its own human rights mechanism, the Commission Béninoise des Droits de l'Homme. However, the Commission is not fully compliant with the Paris Principles and therefore does not constitute an adequate mechanism for human rights defenders to seek remedies and accountability.

To ensure that Benin recognizes human rights moving forward, the country should repeal its electoral law barring other political parties from participating in the election process. This law violates the human right of participation and directly and indirectly impacts human rights defenders working across all substantive issue areas.

Benin should also amend its social and digital media laws so that they align with the country's human rights obligations, including the obligation to uphold the right to freedom of expression as promised by Benin's ratification of various international treaties like the

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<sup>2</sup> *Applications Received by the Court*, AFRICAN COURT, <https://www.african-court.org/cpmt/statistic> (last visited March 22, 2021).

<sup>3</sup> Houngue Eric Noudehouenou, No. 003/2020, Judgment, African Court on Human and Peoples' Rights [Afr. Ct. H.P.R.] (Dec. 4, 2011), <https://www.african-court.org/cpmt/storage/app/uploads/public/5fc/fa5/8f0/5fcfa58f00c5c467702763.pdf>.

International Covenant on Civil and Political Rights. In June 2020, the ECOWAS Community Court of Justice ruled that neighboring Togo's 2017 internet shutdowns were in violation of the right to freedom of expression. The Court ordered Togo to pay 2 million CFA per plaintiff as punishment to deter future repetition, sending a message to other ECOWAS member states, Benin included, that have disrupted internet services during elections. If Benin is truly concerned about the spread of false news, the government should implement a mechanism that differentiates between differing views and actual false news, rather than shutting down the internet, censoring journalists and social media users alike, and jailing those who have different viewpoints than those of the government, including human rights defenders.

Benin should also improve its anti-corruption mechanism so it can actually be used to hold government actors accountable, rather than as a tool for abusing the rights and security of journalists and human rights defenders.

Finally, Benin should reinstate the ability of individuals and NGOs to bring complaints to the ACHPR. That way, human rights defenders can hold abusers accountable and seek remedy for harm on an international scale. Benin should also work to bring the Commission Béninoise des Droits de l'Homme in line with the Paris Principles to ensure that the country has a credible human rights mechanism that operates on a national scale.

Human rights defenders in Benin face various threats for speaking out against the government. Hopefully, by implementing the above-mentioned recommendations, as well as those further elucidated in the Frontline Grassroots Environmental and Human Rights Defenders Baseline report, the situation for human rights defenders in Benin can be vastly improved.