Submitted 30 March 2017

Submission by CIVICUS: World Alliance for Citizen Participation, NGO in General Consultative Status with ECOSOC

And

Groupe d’Action pour le Progrès et la Paix (GAPP)

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REPUBLIC OF BENIN
CONSOLIDATED JOINT SUBMISSION TO THE UN UNIVERSAL PERIODIC REVIEW
28TH SESSION OF THE UPR WORKING GROUP
1. (A) Introduction

1.1 CIVICUS is a global alliance of civil society organisations and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, we proudly promote marginalised voices, especially from the Global South, and have members in more than 170 countries throughout the world.

1.2 Groupe pour le Progrès et la Paix (GAPP Benin), hereafter GAPP, is a civil society organisation (CSO) dedicated to promoting human rights, democracy and good governance. Established in 2002, GAPP works to support the realisation of the rights to freedom of association, expression, peaceful assembly and advocates for the end of the death penalty and inhumane and degrading treatment in prisons.

1.3 In this document, CIVICUS and GAPP examine the Government of the Republic of Benin's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyze Benin’s fulfillment of the rights to freedom of association, assembly, and expression and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in October 2012. To this end, we assess Benin's implementation of recommendations received during the 2nd UPR cycle relating to these issues and provide a number of specific, action-orientated follow-up recommendations.

1.4 During the 2nd UPR cycle, the Government of Benin received 2 recommendations relating to civic space. Both of these were accepted. An evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrate that the Government of Benin has partially implemented these recommendations relating to civil society space. While the government has made significant strides in the decriminalisation of defamation, it has failed to address unwarranted restrictions on the freedom of expression and assembly since its last UPR examination. Benin is currently listed in the 'narrowed' category of the CIVICUS Monitor which rates respect for the freedoms of expression, association and peaceful assembly.

1.5 CIVICUS and GAPP are deeply concerned by undue restrictions on freedom of expression, including unwarranted restrictions and suspension of independent media outlets by the national media regulator.

1.6 CIVICUS and GAPP are further alarmed by the authorities’ targeted denial of permission to hold peaceful assemblies including a ban imposed by the government.

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1 The full version of this submission can be found [here](#).
in October 2016 on all on all activities, including protest activities, of student associations in public universities.

2. (B) Freedom of association

2.1 During Benin’s examination under the 2nd UPR cycle, the government received one recommendation on the right to freedom of association and creating an enabling environment for civil society organizations. The government accepted this recommendation which urged Benin to “guarantee in an effective manner and in line with the Constitution of Benin and the international instruments to which it is a party, the rights of workers including the right to strike, freedom of association and peaceful assembly.” However, as evidenced below, the government has failed to fully realize this recommendation, exemplified by the recent unwarranted ban and de facto suspension of university student associations and unions.

2.2 Article 25 of the 1990 Constitution guarantees the right to freedom of association. Moreover, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which the Republic of Benin is a state party, also guarantees freedom of association. The freedom of association is further regulated by the French Law of 1 July 1901 on the contract of associations and its implementing Decree of 16 August 1901. The law and implementing decree, which were retained in Benin’s legal framework following independence in 1960, establishes a declaration regime for associations, meaning CSOs need to declare the establishment of their association. Non-Governmental Organisations (NGOs) are further regulated by Decree No. 2001-234 of 12 July 2001 on the formation and operation of NGOs and their umbrella organisations.

3. (C) Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists

3.1 Under Benin’s previous UPR examination, the Government of Benin did not receive any recommendations on the protection of human rights defenders (HRDs), journalists and civil society representatives. However, despite the lack of recommendations made on these issues, as examined below, harassment and intimidation of HRDs and civil society activists related to their legitimate work occurred in the examined period.

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2 An NGO is defined as “any national or foreign, not-for-profit association, established by private initiative, regrouping physical and legal persons in view of exercising activities of a general interest, solidarity or voluntary cooperation for development activity” in article 1 of Decree No. 2001-234 of 12 July 2011.
3.2 Article 12 of the UN Declaration on Human Rights Defenders mandates states to take necessary measures to ensure protection to human rights defenders. The ICCPR further guarantees the freedoms of expression, association and assembly. However, in spite of these protections, in practice there have been cases of intimidation, and retaliation against human rights defenders and journalists.

4. (D) Freedom of expression, independence of the media and access to information

4.1 Under the 2nd UPR cycle, the government received one recommendation relating to freedom of expression and access to information. Under this recommendation, which was accepted, the government pledged to “take necessary steps to entrench, in practice as well as in legislation, freedom of expression and freedom of the media”. However, as discussed below, the government only partially implemented this recommendation.

4.2 Article 19 of the ICCPR guarantees the right to freedom of expression and opinion. Article 23 of the Constitution of the Republic of Benin also guarantees the right to freedom of expression, while article 24 of the Constitution safeguards freedom of the media. Despite the adoption in 2015 of the Information and Communication Code, which de-criminalised most media offences, some offences still remain punishable with prison sentences. In addition, the national media regulatory agency, the Haute Autorité de l'Audiovisuel et de la Communication (HAAC), has frequently used undue discretion to arbitrarily suspend and harass independent media outlets.

5. (E) Freedom of peaceful assembly

5.1 During Benin’s examination under the 2nd UPR cycle, the government received 1 recommendation on the right to freedom of assembly. Under this recommendation which was accepted, Government of Benin committed “to guarantee in an effective manner and in line with the Constitution of Benin and the international instruments to which it is a party, the rights of workers including the right to strike, freedom of association and peaceful assembly”. However, as evidenced below, the government has failed to adequately realize this recommendation, as is evidenced by the unwarranted restrictions that were introduced by the ban on the activities, including peaceful protests, on the student associations, federations and unions.

5.2 Article 21 of the ICCPR guarantees the freedom of peaceful assembly. In addition, article 25 of the 1990 Constitution of Benin also guarantees the right to freedom of assembly. However, despite the simple notification regime required to hold
peaceful assemblies in Benin, in practice the authorities routinely require explicit authorisation to hold assemblies.

6. **(F) Recommendations to the Government of the Republic of Benin**

CIVICUS and GAPP call on the Government of the Republic of Benin to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: freedom of association, freedom of expression, freedom of peaceful assembly, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state’s duty to protect. In light of this, the following specific recommendations are made:

### 6.1 Regarding freedom of association

- Take measures to foster a safe, respectful, enabling environment for civil society, including through removing practical barriers, which limit the right to association. Additionally we call on the Government of Benin to accelerate the study of the draft Framework Law on the freedom of association, assembly and expression.

- We request the Government of Benin to annul the decree of 5 October 2016 banning all activities of student associations and unions and to respect the freedom of association and assembly of students.

- We urge the government to cease all acts of intimidation and harassment of unions, including bans or prohibitions of union general assemblies.

### 6.2 Regarding the protection of human rights defenders

- Civil society members, journalists and human rights defenders should be provided a safe and secure environment to carry out their work.

- Conduct impartial, thorough and effective investigations into all cases of attacks, harassment, and intimidation against them and bring perpetrators of such offences to justice.
• All human rights defenders including, journalists and bloggers detained for exercising their right to fundamental rights to freedom of expression, association, assembly should be unconditionally and immediately released. Their cases should be reviewed to prevent further harassment.

• The Government should apply systematically legal provisions that promote and protect human rights and establish suitable mechanisms including a law on the protection of human rights defenders in accordance with Council resolution 27.31 of the Human Rights Council.

6.3 Regarding freedom of expression, independence of the media and access to information

• Ensure freedom of expression and media freedom by bringing all national legislation into line with international standards.

• All media outlets unwarrantedly closed should be reinstated.

• The media regulator, HAAC, should adhere to its role of the protector of press freedom, and stop all acts of intimidation and arbitrary suspension of media outlets.

• Reform defamation provisions in the 2015 Information and Communication Code in conformity with article 19 of the International Covenant on Civil and Political Rights (ICCPR).

• Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the Government may find sensitive.

• Take adequate steps to lift restrictions on freedom of expression and adopt a framework for the protection of journalists from persecution, intimidation and harassment.

• Implement legislative measures regarding access to information and establish mechanisms to facilitate public access in line with best practices.

• Amend the 2015 Information and Communication Code with the aim of ensuring access to information by journalists and the protection of sources.
• Adopt a law on access to information in order to fully promote the exercise of the right to freedom of expression and freedom of opinion.

6.4 Regarding freedom of assembly

• Best practices on freedom of peaceful assembly as put forward by the UN Special Rapporteur on the rights to peaceful assembly and of association in his annual report (2012), which calls for simple notification rather than explicit permission to assemble should be implemented without discrimination.

• All demonstrators, journalists and human rights defenders detained for exercising their right to freedom of peaceful assembly should be unconditionally and immediately released. Their cases should be reviewed to prevent further harassment.

• Review and if necessary update existing human rights training for police and security forces with the assistance of independent nongovernmental organizations to foster more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.

• Senior government officials should publically condemn the use of excessive and brutal force by security forces in the dispersal of protests. A formal investigation into such instances should be launched, and perpetrators should be brought to justice.

6.5 Regarding access to UN Special Procedures mandate holders

• The Government should extend a standing invitation to all UN Special Procedure mandate holders and prioritize official visits with the: 1) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 2) Special Rapporteur on the situation of human rights defenders; 3) Special Rapporteur on the rights to freedom of peaceful assembly and of association.

6.6 Regarding State engagement with civil society

• Implement transparent and inclusive mechanisms of public consultations with civil society organizations on all issues mentioned above and enable more effective involvement of civil society in the preparation of law and policy.
• Systematically consult with civil society and NGOs on the implementation of UPR including by holding periodical comprehensive consultations with a diverse range of civil society sectors.

• Incorporate the results of this UPR into its action plans for the promotion and protection of all human rights, taking into account the proposals of civil society and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.