



CASE STUDY

November 2024



**Democratic deconsolidation in
Benin**
*A backward step for a promising
young democracy*

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SUMMARY

- The Republic of Benin has been considered, since the 1990s, as a pioneer of democratisation in Africa. It adopted a democratic Constitution in December 1990 thanks to the holding of a National Conference, the first in Africa.
- Democracy seemed to be a stable horizon when Benin's last dictator, Mathieu Kérékou, accepted the rules of the democratic game, returned to power through the ballot box in 1996, and preserved the reforms established by his predecessor Nicéphore Soglo. He was re-elected in 2001, before relinquishing power in 2006, as the Constitution prohibits a third consecutive term.
- During the 2016 and 2019 elections, however, irregularities during the voting showed that compliance with electoral rules was waning.
- Democracy in Benin has become particularly fragile in recent years. Authoritarian excesses began under the presidency of Thomas Boni Yayi and have worsened under Patrice Talon.
- The Republic of Benin is a presidential system, with all that this can imply in terms of potential excesses and the personalisation of power: the President of the Republic is the keystone of the institutional system.
- Part of this case study is based on the analytical grid of the four behavioural signs of authoritarian drift, studied by Juan Linz¹ and taken up by Ziblatt and Levitsky.²

1 LINZ, Juan, 1978. *The Breakdown of Democratic Regimes*. Baltimore : Johns Hopkins University Press.

2 LEVITSKY, Steven et ZIBLATT, Daniel, 2018. *How Democracies Die*. New-York : Crown.

INTRODUCTION: FROM 'AFRICA'S SICK CHILD' TO THE CONTINENT'S DEMOCRATIC MODEL



Source : Evariste Amouzouvi (@Evariste0026), on Twitter, 18th avril 2019

This cartoon illustrates the worrying state of democracy in Benin, particularly since the spring 2019 legislative elections in which only parties close to President Patrice Talon, the Union Progressiste (UPR) and the Bloc Républicain (BR), were able to participate, due to restrictive reforms of the electoral code. The Beninese therefore had to choose between these two parties, even though the constitutional essence of the proportional representation system usually allows many parties to try their luck at the legislative elections, based on an ideal of representativeness between voters and elected representatives. More recently, during the 2023 legislative elections, seven parties managed to compete, four of them supporting President Talon and three others from the opposition.

The election saw the victory of the Head of State's supporters, with the UPR and BR together retaining an absolute majority of seats. Only one opposition party, Les Démocrates (LD), the party of the outgoing president Thomas Boni Yayi, managed to pass the electoral threshold of 10% of votes cast and enter the Assembly. For several years now, the situation has been worrying in a country that was once considered a showcase for democracy in Africa.

The transition from a colonial system directly administered by a foreign power to a new independent political system was not without its difficulties. Indeed, between 1960 and 1972, the country experienced twelve coups d'état, ten Presidents and no less than five changes of Constitution.³ Benin was therefore faced with chronic institutional instability, earning it the nickname of 'Africa's sick child'.

Matthieu Kérékou came to power in 1972 after a coup, and established a Marxist-Leninist dictatorship. The regime remained in power for eighteen years, but was weakened by economic, financial and budgetary difficulties during the 1980-1990 decade. Protests led to the end of the dictatorship, marked by the holding of the National Conference from 19 to 28 February 1990 to draft a new Constitution. This national conference system was subsequently adopted by several African countries.

³ BANÉGAS, Richard, Benin. Encyclopædia Universalis

In so doing, Benin has become a model of democratic transition in Africa, and in the process has earned the compliments of Western heads of state.⁴ In 2018, Freedom House estimated its freedom index at 82/100, a score close to that of Western democracies that have been consolidated for decades such as France (90/100). Nevertheless, recent presidential terms have been marked by further weakening of the democratic system as a whole.

The study of democratic deconsolidation in Benin makes sense in the global political climate: the democratic ideal has been weakened and there has been a certain overall decline in political freedoms even within consolidated Western democracies, as shown by the annual reports of Freedom House or The Economist.⁵ Benin is an example of a young democracy facing serious difficulties because of the authoritarian turn taken by its successive heads of state.



Patrice Talon, President of Benin

⁴ François Hollande says: 'You are a benchmark for democracy'. Anonymous, 2015. Hollande in Africa: 'Benin, a democratic reference'. Le Point [online]. 2 July 2015

⁵ Freedom House, *Democracy under siege, 2021, Freedom in the World* | Freedom House

I. THE RETURN TO POWER OF AUTHORITARIAN LEADERS

A) THE GRADUAL SLIDE TOWARDS NON-COMPLIANCE WITH THE RULES OF DEMOCRACY

Controversial reforms

Thomas Boni Yayi succeeded Mathieu Kérékou at the head of the country in 2006, and while he did not formally reject the Constitution, he did seek to circumvent some of its obligations. And in 2011, he attempted to change the Constitution: the transition to a new Republic should allow him to run for a third consecutive term, breaking with the original logic of the constitutional text. However, the Constitutional Court censured the proposed reform. Patrice Talon won the elections in 2016 and in turn undertook a constitutional revision. This desire for reform is divisive.

Opponents put forward several major arguments: they pointed to socio-economic issues that were more urgent to deal with than the revision, and denounced the lack of participation or democracy in the process.⁶ After weeks of protests, the President was unable to muster the three-quarters parliamentary majority needed to pass the reform, so it failed.

Beyond the attempts at constitutional reform that weakened pluralism, each of the authoritarian presidents adopted an ambiguous attitude towards the electoral process and citizens' political rights.

Thomas Boni Yayi thus launched a reform of the Permanent Computerised Electoral Roll (LEPI), which led to the use of a new electoral roll during the 2011 legislative elections. This reform was adopted under the guise of reducing electoral fraud and the cost of elections, in order to reduce the risk of disputes.

However, the register is still being strongly contested by the opposition, which is warning of a number of irregularities:⁷ foreigners are still on the list, and some departments seem to have seen a suspicious increase in population, while others have seen a significant drop in population, all without any valid reason. The new electoral register seemed to favour the interests of the government in power, and in 2011 the results of the presidential elections, in which Yayi won, were contested, even though the reform of the electoral register was supposed to consolidate the democratic process. The alarm had already been sounded two weeks before the first round, when the opposition denounced the fact that 1.3 million people had not been included on the lists,⁸ followed by doubts about the delays accumulated by the commission mandated to supervise the compilation of the list, thereby postponing the first round to 6 March 2011.

A few years later, Patrice Talon had a new electoral code adopted, introducing a minimum threshold of votes equivalent to 10% of the electorate in order to be able to sit in the Assembly, as well as strict financial conditions,⁹ preventing many opposition parties from standing in the legislative elections of April 2019.

⁶ BBC News Afrique, Benin: constitutional amendment rejected, 5 April 2017

⁷ RFI, In Benin, the electoral register for the March 6, 2011 presidential election still contested, February 23, 2011

⁸ Anonymous, 2011. Beninese Presidential Election: Controversy Surrounding the LEPI. Jeune Afrique [online]. February 22, 2011.

⁹ La Tribune Afrique, "Benin: New Electoral Code Adopted, Presidential Candidacy Deposit More Than Tenfold Increased," September 5, 2018

Voters are then left to choose between just two parties, both of which are pro-executive movements. More recently, in 2024, the Assembly adopted a new, even more restrictive reform of the electoral code, raising to 15% the number of sponsors required to take part in the presidential election. The threshold of votes required for a political party to take a seat in Parliament was doubled to 20% of votes cast.¹¹

Violation of civil liberties

Both presidents have successively adopted reforms to restrict the right to strike. Thomas Boni Yayi began by limiting that of the military and paramilitary forces in 2013,¹² followed by Patrice Talon who, in 2018, limited it to ten days a year for most trades, even abolishing it completely for health professionals.¹³ Patrice Talon is picking up where his rival and former president left off, by restricting the political rights of opposition movements.

Both Heads of State are quick to restrict civil liberties and, in particular, adopt measures to limit press freedom. President Boni Yayi introduced collaboration contracts aimed at the media sector in crisis. He offered subsidies to newspapers that allowed their content to be checked by the intelligence services¹⁴. While press supervision remained relatively limited under President Boni Yayi, it took a more critical turn under Patrice Talon.

In 2017, he introduced a digital law that criminalised the dissemination of 'fake news'. Talon goes even further: the new penal code adopted in 2018 condemns offences against symbols, republican values, communities and religions, further restricting freedom of expression. These measures deliberately keep the exact definition of these offences vague, giving judges broad powers of interpretation. Added to these measures is the criminalisation of unarmed gatherings that come to 'disturb the public tranquillity as well as incitement to such gatherings.

Finally, in 2019, on the day of the legislative elections, the state is cutting off internet networks throughout the country, in breach of the terms of the African Charter on Human and Peoples' Rights¹⁵. Patrice Talon's presidency has thus seen a clear retreat from democracy, in the form of reforms that restrict civil and political freedoms at all levels of Beninese society.

B-INTIMIDATION OF POLITICAL OPPONENTS

From words to deeds: intimidation of opponents under the Yayi presidency

The intimidation began after Thomas Boni Yayi was re-elected to his second term. They sometimes took the form of direct threats, such as those expressed during an interview on 1 August 2012, in which the incumbent president announced potential 'reprisals' against members of the opposition who were beginning to organise themselves.

10 In Benin, the sponsorship system for presidential candidates requires them to obtain the support of 15% of elected national and municipal representatives. In practical terms, this means that a candidate must be sponsored by 15% of the members of the National Assembly (deputies) and communal councils (mayors and municipal councillors).

11 Jeune Afrique, *Au Bénin pourquoi le nouveau code électoral fait débat*, 6 March 2024,

12 B. Millefort Quenum, "Benin," *International Legal News, Revue de droit comparé du travail et de la sécurité sociale*, 2013, no. 2.

13 "Anonymous, 2016. Benin: Crackdown on Protests and Wave of Arrests Fuel Tense Election Period. Amnesty International [online]. April 26, 2016."

14 METODJO, A. K., 2013. *The Making of the President: Voting, Legitimation, and Political Communication During the 2006 Presidential Election in Benin*. PhD thesis in Political Science. Paris: University of Paris I.

15 Anonymous, 2019. Benin: Shutting Down the Internet on Election Day Is a Direct Attack on Freedom of Expression. Amnesty International [online]. April 28, 2019.

He said: 'By smearing the name of the country and the name of the President, they don't know where the response will come from or how it will come about'. Intimidation also takes the form of arbitrary arrests of people who have criticised the regime. Potential checks and balances in the form of trade unions are also targeted, notably Pascal Todjinou, secretary general of the Confédération générale des travailleurs du Bénin (CGTB), who was arrested for not having insured his vehicle.¹⁶ Those suspected of being close to the opposition suffered other forms of punishment: the Prime Minister at the time, Pascal Irénée Koupaki, accused of being a supporter of Talon, was eventually dismissed.¹⁷

Talon's repressive stance intensifies

The regime's anti-democratic slide is accelerating under Patrice Talon. In connection with protests against the April 2019 elections, several opponents were arrested and held for some time, before being released.

Julien Agossou Bodé and Yibatou Sani Glélé, members of the Parti du Renouveau Démocratiques (PRD), were arrested for taking part in a peaceful demonstration at the Ouado market and accused of 'inciting an unauthorised unarmed gathering' Boni Yayi, who is affiliated to the FCBE, was placed under de facto house arrest for 52 days after the April 2019 elections, then fled the country after being released in June. The press has also been targeted: Amnesty International lists 17 journalists under surveillance as a result of the digital law.

For example, Casimir Kpedjo, who announced that the amount of Benin's debt and Benin's finance law were incompatible, was detained for five days in 2019. Added to this list of intimidations or forms of repression against those who do not respect censorship is the arbitrary closure of various media ordered by the Haute Autorité de l'audiovisuel, a body headed by a close associate of the president. Radio Soleil, Sikka TV, Eden TV and E-télé, which are close to the opposition, saw their broadcasts cut off on 29 November and 30 November 2016.¹⁸



16 BANÉGAS, Richard, 2014. "L'autoritarisme à pas de caméléon? The Drifts of the Passive Democratic Revolution in Benin." *Afrique contemporaine*, 2014, Vol. 249, No. 1, pp. 99-118.

17 HUGUEUX, Vincent, 2013. "L'affaire d'État qui empoisonne le Bénin." *L'Express* [online]. September 18, 2013.

18 "Anonymous, 2016. Four Broadcast Media Closed Arbitrarily in Benin. *Reporters Without Borders* [online]. December 2, 2016."

II. A JUSTICE SYSTEM SUBSERVIENT TO THE MARINA PALACE

The impartiality of the judiciary has been called into question following the terms of office of the last two presidents. The judiciary is now somewhat dependent on the executive.

A- THE RETURN OF THE OFFENCE OF 'INSULTING THE HEAD OF STATE'

First of all, the justice system is heavily exploited to the advantage of those in power. The return to force of the offence of 'insulting the Head of State', which had not been used since the dictatorship established by Mathieu Kérékou, has become a marker of the partiality of the justice system.

This particularly vague charge gives judges considerable discretionary power. Since the end of 2012, anyone who loses Boni Yayi's confidence has found himself arbitrarily persecuted, as in the case of lawyer Lionel Agbo, who was arrested after accusing the head of state of corruption and exposing the president's authoritarian tendencies. Criticism of the government in power is no longer tolerated and is systematically punished by threats and intimidation.

B- CREATION OF THE COURT FOR THE PUNISHMENT OF ECONOMIC OFFENCES AND TERRORISM

During Patrice Talon's term in office, judicial intimidation has continued, but the instrumentalisation of the justice system by the government in power culminated in the creation in 2018 of the Court for the Repression of Economic Offences and Terrorism (CRIET).

This court was created under the guise of fighting corruption, one of Talon's major electoral promises. In fact, the content of the trials held before the Court is highly political and confirms the authoritarian stagnation of the regime.

For example, Benin was condemned by the African Court on Human and Peoples' Rights on 29 March 2019 over the sentencing of Sébastien Ajavon (a well-known opponent of Talon) to 20 years' imprisonment for alleged involvement in drug trafficking. His lawyers had referred the case to the ACHPR, citing numerous procedural flaws during the trial.

In its ruling on the case, the court recognised no fewer than eleven human rights violations during the criminal proceedings against the accused. These serious procedural irregularities included a violation of the applicant's 'right to be tried by a competent court' and a breach of the principle that a person should not be punished twice for the same acts. The judgment also found that the Beninese CRIET was biased and not independent.¹⁹

More recently, in December 2021, opposition activist Reckya Madougou was sentenced to 20 years' imprisonment, and her lawyers and many observers denounced the political nature of this sentence, as well as the partiality of the Court.²⁰

¹⁹ PAT, M., 2019. "Benin: Justice at the Service of Patrice Talon?" *Mediapart* [online]. April 8, 2019.

²⁰ France Info, "Benin: An Authoritarian Drift That Raises Concerns," January 6, 2022 [online].

C) CONTROL ON THE SUPREME COURTS

This process of control of the judiciary by the executive has been made possible by the country's supreme courts, which successive presidents have controlled by placing their close allies in key positions. For example, the renewal of the Constitutional Court in June 2013 enabled President Boni Yayi to appoint three of his allies, Euloge Akpo, Simplicie Dato and Lamatou Nassirou, and thus facilitate the adoption of the constitutional reform planned with the aim of strengthening his power.²¹ The politicisation of the country's legal system has worsened during the presidential term of Patrice Talon, despite the fact that he was elected on the promise of an independent judiciary. For example, he appointed his former personal lawyer, Joseph Djogbenou, to head the Constitutional Court, a key position in the constitutional reform process.²²



Joseph Djogbenou,
President of the Constitutional Court

21 BANÉGAS, Richard, 2014. "Authoritarianism in Chameleon Steps? The Drifts of the Passive Democratic Revolution in Benin." *Afrique contemporaine*, 2014, Vol. 249, No. 1, pp. 99-118.

22 DEGBOE, Dario, 2016. "The Vicissitudes of the Protection of Rights and Freedoms by the Constitutional Court of Benin." *Les Annales de droit*, June 1, 2016, No. 10, pp. 119-138.

III. BENIN'S CIVIL SOCIETY VALUES DEMOCRACY, BUT STRUGGLES TO PRESERVE IT

The impartiality of the judiciary has been called into question following the terms of office of the last two presidents. The judiciary is now somewhat dependent on the executive.

A- CITIZENS COMMITTED TO RESPECTING DEMOCRATIC RULES

However, the Beninese people are attached to democracy and dissenting voices continue to be raised. In 2019, the opposition parties directly called for a general boycott of the elections. Nevertheless, the government attempted to stifle dissent by publishing an announcement on the government newspaper *La Nation* two days before the polls warning the population that any case of incitement to abstention would be followed by imprisonment and fines.²³ The government also announced that the internet would be cut off across the board on polling day, making it difficult to organise and hold demonstrations.

Despite this, the boycott was a success. The Autonomous National Electoral Commission (CENA) initially reported a 23% turnout, which was later raised to 27% by the Constitutional Court; in both cases, this score was well below the usual turnout rate, which has never fallen below 60%.

B- INCREASINGLY VIOLENT REPRESSION

Under Patrice Talon's mandate, pré and post-election demonstrations in April and May 2019 are punctuated by clashes between civilians and police or military, the latter making use of tear gas but also truncheons and blank bullets. The security forces are becoming more repressive without the executive condemning their actions. At least four civilians were killed by live ammunition during demonstrations during the April 2019 elections. Demonstrations were the scene of arrests without prior summons by plainclothes officers in unmarked vehicles, based on the mere suspicion of proximity with the opposition and participation in previous demonstrations.

Political activists have had to go into exile, accused of 'taking part in an unarmed gathering that could incite the population to revolt' or 'inciting hatred and violence through the use of social networks'. In January 2020, it was reported that live ammunition was again used during protest meetings organised in the town of Savè. A new police unit was then created, the 'tactical intervention group', responsible for managing 'serious public order disturbance situations' requiring particular expertise due to its specificity.²⁴

²³ KOHNERT, Dirk and PREUSS, Hans-Joachim, 2019. *The Stealthy Democide of Benin - How Africa's Model Democracy is Slowly Dying*. [online].

²⁴ Anonymous, Jacob, 2020. "Benin: Creation of a Force to Repress Public Order Disruption Protests." *La Nouvelle Tribune* [online]. April 5, 2020.

IV. CONCLUSION AND OUTLOOK

The Linz grid, a tool for analysing the content of a political regime through the observation of various key indicators, seems to make it possible to characterise the decline in Benin's democracy.

More recently, Ziblatt and Levitsky have taken up this analytical grid, offering a critical view of the various authoritarian excesses observed in Benin in recent years. Beninese citizens find themselves prevented from expressing their demands and restricted in their civil and political liberties, suffering various forms of state violence.

OPERATIONAL CONCLUSIONS FOR A RETURN TO DEMOCRACY

■ Strengthening democratic institutions

Independence of the Autonomous National Electoral Commission (CENA)

The creation of a permanent ANEC would be a crucial first step in guaranteeing the transparent management of electoral processes. This commission should be independent of the executive and political parties, with citizen and international monitoring mechanisms to ensure impartial election management. The procedures for registering voters, which are often criticised for being biased, also need to be revised.

Reform of the judicial system

It is essential to guarantee the independence of the judiciary, in particular by eliminating the influence of the executive on the Constitutional Court and the CRIET. This could be achieved through the transparent appointment of judges by a joint committee made up of representatives of civil society, international bodies and recognised Beninese jurists. Judges must also discourage the use of the law to repress the opposition, through the impartial exercise of justice.

■ Supporting civil society and promoting citizen participation

Protecting and strengthening NGOs and the independent media:

It is crucial to guarantee the freedom of the press and of non-governmental organisations (NGOs) so that they can monitor and report on democratic practices. This could include the establishment of dedicated funds to support independent media, financed by international donors, as well as stronger legal protection for journalists and activists.

Civic education and engagement:

Increase citizens' awareness of their political rights through civic education programmes, including in rural areas. Schools and universities should include courses on democracy, human rights and peaceful means of political participation, in order to strengthen democratic culture.

Encouraging national dialogue

Set up a permanent forum for national dialogue, where political actors, members of civil society and citizens can discuss the reforms needed to consolidate democracy and consensus between the different parties, along the lines of the Tunisian National Dialogue Quartet initiative of 2013 and 2014, which was awarded the Nobel Peace Prize in 2015.²⁵

■ Legislative reforms for an inclusive and democratic electoral framework

Revision of the Electoral Code

Removing excessively high electoral thresholds and financial barriers for political parties would enhance the representativeness of political groups. Reintroducing a more proportional system for allocating parliamentary seats would ensure better representation of the opposition and Benin's political diversity.

Regulation of Electoral Sponsorships

The sponsorship system for presidential and legislative elections, which currently favours parties aligned with the executive, should be revised to include measures that guarantee fair access for all candidates.

²⁵ « The Nobel Peace Prize 2015 », <https://www.nobelprize.org/prizes/peace/2015/summary/>

■ Combating Repression and Political Violence

Regulation of Security Forces

It is essential to train and monitor security forces to prevent the excessive use of force during protests. Reforming the code of conduct for law enforcement, with independent oversight (both national and international), would help prevent the repression of civil movements.

■ Engagement of International Actors

Diplomatic Pressure and International Cooperation

The international community, including regional organisations such as ECOWAS, should actively support democratic consolidation in Benin through observation missions and technical assistance.

Access to Conditional Funding

International donors should tie their aid to concrete reforms that promote adherence to democratic principles, such as electoral transparency and respect for civil liberties.

ANNEXES

The framework developed by Juan Linz, as adapted by Steven Levitsky and Daniel Ziblatt in their book *How Democracies Die*.

REJECTION OR WEAK COMMITMENT TO DEMOCRATIC RULES OF THE GAME

Do they reject the Constitution or express a desire to do so?

Do they suggest the need for anti-democratic measures such as cancelling elections, violating or suspending the Constitution, banning organizations, or restricting civil or political rights?

Do they attempt to use extra-constitutional means to change the government, such as coups, violent uprisings, or mass protests aimed at forcing a change of government?

Do they attempt to undermine the legitimacy of elections, for instance, by refusing to accept the credibility of electoral results?

DENIAL OF THE LEGITIMACY OF POLITICAL OPPONENTS

Do they describe their rivals as "subversive" or opposed to the existing constitutional order?

Do they proclaim that their rivals pose a significant threat to national security or to the preservation of their way of life?

Do they describe, without just cause, their rival supporters as criminals, whose alleged violation of the law (or potential to do so) disqualifies them from full participation in the political arena?

Do they suggest, without just cause, that their rivals are agents of foreign countries, secretly working in alliance (or through recruitment) with foreign governments (often enemy states)?

ANNEXES

TOLERANCE OR ENCOURAGEMENT OF VIOLENCE

Do they have connections with armed gangs, paramilitary forces, militias, guerrillas, or other organizations engaged in illicit violence?

Have they, or their partisan allies, sponsored or encouraged premeditated attacks on their opponents?

Have they tacitly approved of violence by their supporters by explicitly refusing to condemn or punish it?

Have they praised (or failed to condemn) other acts of political violence, either in the past or elsewhere in the world?

WILLINGNESS TO RESTRICT CIVIL LIBERTIES OF OPPONENTS AND THE MEDIA

Have they encouraged laws or public policies that restrict civil liberties, such as defamation laws, laws limiting the right to protest or criticize the government, or laws against maintaining certain civic or political organizations?

Have they threatened to take legal or other punitive actions against critics from opposition rivals, civil society, or the media?

Have they praised repressive measures taken by other governments, either in the past or elsewhere in the world?



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