



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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COMMITTEE AGAINST TORTURE
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Conclusions and recommendations of the Committee against Torture

CAMEROON

1. The Committee considered the third periodic report of Cameroon (CAT/C/34/Add.17) at its 585th, 588th and 590th meetings, held on 18, 19 and 20 November 2003 (CAT/C/SR.585, 588 and 590), and adopted the following conclusions and recommendations.

Introduction

2. The Committee welcomes the third report of Cameroon, which was prepared in conformity with the Committee's guidelines and contains responses to the Committee's previous recommendations. It nevertheless notes that the report, which was submitted at the end of 2002, covers only the period 1996-2000. The Committee welcomes the presence of a delegation of high-level experts to reply to the many questions put to them.

Positive aspects

3. The Committee takes note with satisfaction of the following:

- (a) The State party's efforts to pass legislation to give effect to the Convention;
- (b) The dissolution, in 2001, of the Douala operational command responsible for combating highway robbery, as recommended by the Committee;

- (c) The increase in the number of police officers, in conformity with the Committee's recommendation;
- (d) The plan to build additional prisons in order to remedy prison overcrowding, and the collective pardon granted in November 2002 enabling 1,757 detainees to be immediately released;
- (e) The assurance given by the delegation that the verification of the individual situations of detainees and appellants will eventually result in the release of the range of persons held in pre-trial detention, notably juveniles, women and sick persons;
- (f) The proposed restructuring of the National Committee on Human Rights and Freedoms to make it more independent of the executive and give it greater prominence.
- (g) The current finalization of a law against violence against women;
- (h) The establishment of the Ad Hoc Technical Committee for Implementation of the Rome Statute of the International Criminal Court, with a view to ratification of that Statute;
- (i) The establishment of nine new courts in 2001.

Subjects of concern

4. The Committee recalls that, in 2000, it found that torture seemed to be a very widespread practice in Cameroon, and expresses concern at reports that this situation still exists. It is troubled by the sharp contradictions between consistent allegations of serious violations of the Convention and the information provided by the State party. In particular, the Committee declares serious concern about:

- (a) Reports of the systematic use of torture in police and gendarmerie stations after arrest;
- (b) The continued existence of extreme overcrowding in Cameroonian prisons, in which living and hygiene conditions would appear to endanger the health and lives of prisoners and are tantamount to inhuman and degrading treatment. Medical care reportedly has to be paid for, and the separation of men and women is not always ensured in practice. The Committee notes with particular concern the large number of deaths at Douala central prison since the beginning of the year (25 according to the State party, 72 according to non-governmental organizations);
- (c) Reports of torture, ill-treatment and arbitrary detention perpetrated under the responsibility of certain traditional chiefs, sometimes with the support of the forces of law and order.

5. The Committee notes with concern that:

- (a) The draft code of criminal procedure has still not been adopted;

(b) The period of police custody may, under the draft code of criminal procedure, be extended by 24 hours for every 50 kilometres of distance between the place of arrest and the place of custody;

(c) The time limits on custody are reportedly not respected in practice;

(d) The periods of police custody under Act No. 90/054 of 19 December 1990 to combat highway robbery (15 days, renewable) and Act No. 90/047 of 19 December 1990 on states of emergency (up to 2 months, renewable) are too long;

(e) The use of registers in all places of detention has not yet been systematically organized;

(f) There is no legal provision establishing the maximum duration of pre-trial detention;

(g) The system of supervision of places of detention is not effective, responsibility for prison administration lies with the Ministry of Territorial Administration. The prison supervisory commissions have been unable to meet regularly and, according to some reports, public prosecutors and the National Committee on Human Rights and Freedoms seldom visit places of detention;

(h) The concept of a “manifestly illegal order” lacks precision and is liable to restrict the scope of application of article 2, paragraph 3, of the Convention;

(i) Appeals to the competent administrative court against deportation orders are not suspensive, and this may lead to a violation of article 3 of the Convention.

6. The Committee, while welcoming the effort made by the State party to transmit information relating to the prosecution of State officials responsible for violations of human rights, is concerned about reports of the impunity of perpetrators of acts of torture. It is particularly worried about:

(a) The fact that gendarmes can be prosecuted for offences committed in the line of duty only with the authorization of the Ministry of Defence;

(b) Reports that proceedings have actually been initiated against perpetrators of torture only in cases where the death of the victim was followed by public demonstrations;

(c) The fact that the case of the “Bépanda nine” remains unsolved;

(d) The reluctance of victims or their relatives to lodge complaints, through ignorance, distrust or fear of reprisals;

(e) Reports that evidence obtained through torture is admissible in the courts.

7. The Committee is also concerned about:

(a) The jurisdiction given to military courts to try civilians for offences against the laws on military weapons and weapons assimilated thereto;

(b) The absence of legislation banning female genital mutilation;

(c) The fact that the Criminal Code permits the exemption from punishment of a rapist if he subsequently marries the victim.

Recommendations

8. The Committee urges the State party to take all necessary measures to end the practice of torture on its territory. It recommends that the State party should:

(a) Immediately end torture in police and gendarmerie stations and prisons. It should ensure effective supervision of these places of detention, permit NGOs to visit them and give more authority to the prison supervision commissions. The National Committee on Human Rights and Freedoms and public prosecutors should pay more frequent visits to all places of detention;

(b) Immediately launch an independent investigation into the deaths at Douala central prison since the beginning of the year and bring those responsible to justice;

(c) Adopt urgent measures to reduce overcrowding in prisons. The State party should enact a law establishing the maximum duration of pre-trial detention, and consider immediately releasing offenders or suspects imprisoned for the first time for petty offences, particularly if they are under 18 years of age; such persons should not be imprisoned until the problem of prison overcrowding has been solved;

(d) Guarantee free medical care in prisons, ensure the right of prisoners to adequate food in practice, and effectively separate men and women;

(e) Immediately end the torture, ill-treatment and arbitrary detention perpetrated under the responsibility of the traditional chiefs in the north. The Committee notes the delegation's assurance that proceedings have been brought in such cases and urges the State party to step up its efforts in this direction. The peoples concerned should be duly informed of their rights and of the limits on the authority and powers of these traditional chiefs.

9. The Committee further recommends that the State party should:

(a) Adopt, as a matter of great urgency, and ensure the effective implementation of a law establishing the right of all persons held in police custody, during the initial hours of detention, of access to a lawyer of their choice and an independent doctor, and to inform their relatives of their detention. The Committee remarks that any extension of detention in custody ought to be approved by a judge;

(b) Abandon the notion, in its draft code of criminal procedure, of extending the period of police custody depending on the distance between the place of arrest and the place of custody, and ensure observance of the time limits on custody in practice;

(c) Ensure that detention in custody under the Act on states of emergency conforms to international human rights standards and is not prolonged beyond what the situation requires. The State party should abolish administrative and military custody as options;

(d) Systematically organize, as a matter of great urgency, the use of registers in all places of detention;

(e) Separate the police from the prison authorities, e.g. by transferring responsibility for prison administration to the Ministry of Justice;

(f) Clarify the concept of a “manifestly illegal order”, so that State employees, in particular police officers, members of the armed forces, prison guards, magistrates and lawyers, are clearly aware of the implications. Specific training on this point should be offered;

(g) Allow appeals by foreigners against decisions by the administrative court to confirm deportation orders to stay execution.

10. The Committee recommends that the State should greatly increase its efforts to end the impunity of perpetrators of acts of torture, in particular by:

(a) Removing all restrictions, notably by the Ministry of Defence, on the prosecution of gendarmes and by giving the ordinary courts jurisdiction to try offences committed by gendarmes in the line of policy duty;

(b) Pursuing its inquiry into the case of the “Bépanda nine”. The Committee also recommends a thorough investigation of the activities of the Douala operational command while it was in operation and, by extension, the activities of all anti-gang units that are still functioning;

(c) Ensuring that its authorities immediately undertake an impartial investigation whenever there is reasonable ground to believe that an act of torture has been committed. The Committee recommends an independent body with the authority to receive and investigate all allegations of torture and other ill-treatment at the hands of State employees;

(d) Ensuring the protection of victims and witnesses against any intimidation or ill-treatment, and by informing the public of their rights, notably with regard to complaints against State employees;

(e) Adopting, as soon as possible, and ensuring the practical enforcement of a law making evidence obtained under torture inadmissible in all proceedings.

11. The Committee further recommends that the Cameroonian authorities should:

(a) Reform the National Committee on Human Rights and Freedoms with a view to closer conformity to the Principles relating to the status of national institutions for the promotion and protection of human rights (the “Paris Principles”);

- (b) Restrict the jurisdiction of the military courts to military offences only;
- (c) Enact a law banning female genital mutilation;
- (d) Revise its legislation to end the exemption from punishment of rapists who marry their victims;
- (e) Consider ratifying the Optional Protocol to the Convention against Torture.

12. The Committee recommends that the present conclusions and recommendations, together with the summary records of the meetings devoted to consideration of the third periodic report of the State party, should be widely disseminated in the country in the appropriate languages.

13. The Committee recommends the inclusion in the next periodic report of detailed information on the current minimum safeguards governing court supervision and the rights of individuals in custody, and on how they apply in practice.

14. The Committee requests the State party to provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 8 (b) and (c), 9 (c) and (d) and 10 (a) above. It wishes in particular to be given information about any prosecutions of traditional chiefs, on what charges, and the sentences handed down. It also looks forward to a detailed account of the situation at Douala central prison.
