

## CAMEROON

### CAT A/45/44 (1990)

251. The Committee considered the initial report of Cameroon (CAT/C/5/Add.16) at its 34<sup>th</sup> and 35<sup>th</sup> meetings, held on 20 November 1989 (CAT/C/SR. 34-35).

252. In his introduction, the representative of the State party informed the Committee that the report would be supplemented by an updated and more detailed document at a later stage. He then referred to the provisions of the Constitution of 1972 and other domestic legislation demonstrating Cameroon's commitment to respect for human rights. The Penal Code, in particular, prohibited cruel, inhuman or degrading behavior which jeopardized the physical integrity, freedom and privacy of individuals or the security of children and the family. The Code of Criminal Procedure laid down the procedure to be followed to ensure the protection of a suspected person from the time of his arrest until his appearance before the competent magistrate.

253. Furthermore, Cameroon was a party to a number of international human rights instruments which did not require prior incorporation in domestic legislation in order to be applied by the authorities concerned. Accordingly, any person alleging violation of any provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment might invoke that provision before the competent courts to secure the condemnation of the perpetrator of the act in question and, if applicable, compensation for injury suffered.

254. Foremost among the competent authorities on matters covered by the Convention were the judiciary and the judicial police. Public officials and agents failing in their duties were subject to disciplinary penalties. However, the effective implementation of legislative, administrative and judicial measures could encounter practical obstacles, owing to Cameroon's very difficult economic situation. The representative also recalled that, on independence, Cameroon had inherited two legal systems, the French system and the British system. Efforts had been made to unify the two systems and that had been already achieved with respect to the Penal Code, the Labor Code and the organization of the courts.

255. The representative emphasized that Cameroonian penal legislation prohibited all acts of torture, attempts to commit such acts or participation in them. Acts of violence committed, in particular, by a public official in the exercise of his duties were punishable by imprisonment for six months to five years. The concept of violence was extended by article 285 of the Penal Code to other acts liable to constitute acts of torture such as the administration of any harmful substance, neglect of a person incapable of looking after himself, and the withholding of food or care from a person legally or actually in custody of another. A whole range of provisions punished these and even more severe offences which came under the heading of torture.

256. The members of the Committee congratulated the government of Cameroon on having subscribed without reservation to a number of international human rights instruments. They felt however that more information was necessary about the specific, practical applications of the laws

described in the report, particularly with respect to the prosecution of public officials for acts of torture. Statistics on the number of successful claims for compensation and information on prison conditions were also needed.

257. Furthermore, clarification and more information were requested about the legal framework in which the Convention was applied in Cameroon and, in particular, on the law which enlisted any victim of a violation of the rights set forth in the Convention to invoke Cameroonian law before the competent courts, and on the mechanism invoking it. In addition, members of the Committee wished to know who exercised powers over the judiciary similar to those which the President exercised over public officials, and whether military officers were also subject to the President's disciplinary powers and, if so, whether penalties had been imposed on military officers, and of what nature and on how many occasions, during the last five years. They also wished to receive information on how many times the death penalty had been imposed during the last five years and for what offences. It was also asked whether there has been any cases of slavery or trafficking in persons in Cameroon and, if so, how those responsible had been punished.

258. With regard to article 2 of the Convention, the question was raised whether a specific provision existed in Cameroonian law stating that an order from a superior officer or public authority could not be invoked in justification of torture.

259. More information was requested on how Cameroon implemented article 3 of the Convention and, in particular, on whether extradition was refused when there were substantial grounds for believing that the person in question would be in danger of being subjected to torture.

260. With regard to article 4 of the Convention, members of the Committee wished to know whether the Cameroonian Constitution and Cameroonian penal legislation specifically prohibited torture, since the provisions quoted in the report did not refer to torture by name and whether the general principles of law upheld by Cameroonian courts provided specific guarantees against torture. They observed that it was not clear whether Cameroonian law embodied an adequate definition of torture, including the concept of psychological and physical violence, and whether the penalties for such offences were commensurate with the penalties for other offences.

261. Members of the Committee further observed that it appeared from the information provided that the government of Cameroon had not fully implemented article 5 of the Convention, and they requested information, in particular, on how universal jurisdiction over offences of torture was applied in Cameroon.

262. Moreover, members of the Committee expressed the view that the information provided did not give adequate and clear explanations on how Cameroon implemented articles 6, 7, and 8 of the Convention.

263. With regard to article 9 of the Convention, it was recalled that its provisions obliged all States parties to co-operate with one another in providing legal assistance to prosecute acts of torture. It was therefore observed that making legal assistance subject to agreements that Cameroon had concluded with other countries, or to the authorization of the President of the Republic, was not in

conformity with the provisions of the Convention.

264. Turning to article 10 of the Convention, members of the Committee expressed concern about the lack of training in Cameroon with regard to the prohibition of torture which should be given to law enforcement personnel and others involved in the custody, interrogation or treatment of detainees and prisoners. They asked, in that connection, how the Government intended to fulfil its commitment under the Convention to provide prison officers and medical personnel with information on the prohibition of torture. They also requested detailed information on the legal training received by the Cameroonian law enforcement personnel before taking up their duties.

265. In connection with articles 11 and 12 of the Convention, members of the Committee made reference to a report of Amnesty International, dated May 1989, concerning conditions in Cameroonian prisons and asked whether the Cameroonian Government had seen that report, whether the Government had acknowledged any of the abuses alleged in the report and, if the allegations were true, how it intended to prevent such abuses from reoccurring. They asked also how the regulations governing the operation of prisons were enforced, whether any political detainees were being held incommunicado or without charge in Cameroonian prisons under so-called “administrative detention”, on what law the authority of the police to hold a person in custody was based, what judicial controls were exercised over the actions of the of the police, what was the role of the judicial authority with regard to detention during the preliminary investigation, whether prison conditions conformed to the United Nations Standard Minimum Rules for the Treatment of Prisoners, what were the conditions and maximum length of solitary confinement, what was the suicide rate in Cameroonian prisons and what was the number of suicides attributable to cruel treatment.

266. In connection with article 13 of the Convention, information was requested on the procedures to which a torture victim could have recourse in Cameroon and on the role and statute of the Special Criminal Court.

267. With reference to article 14 of the Convention, information was requested on the responsibility of the State for providing compensation to torture victims. In addition, clarification was requested about different procedures applicable for obtaining redress from senior and junior police officers and the relevant preliminary authorization to be given by the president of the court of appeal. It was also asked what recourse citizens had in the case of a claim against the president of the court of appeal himself or one of his officials.

268. With reference to article 15 of the Convention, clarification was requested about procedural legislation existing in Cameroon to implement that article and remedies designed to prevent extortion of evidence by a police officer. Details were also requested of any cases where truth drugs had been used on the detainees.

269. Replying to questions raised by the members of the Committee, the representative of Cameroon stated that in his country powers of appointment and punishment of judges were vested in the President of the Republic. As far as other public officials were concerned, the Disciplinary Council advised on any penalties to be imposed but had no functions with regard to appointments. Members

of the police and the armed forces who ill-treated or committed acts of violence against arrested persons were subject to disciplinary sanctions ordered by their commanding officer.

270. The representative then referred to offences such as murder or armed robbery, for which capital punishment could apply. He stressed that a person sentenced to capital punishment had the opportunity to exercise procedural remedies, including appeal and application for cassation, and could be pardoned by the Head of State. In addition, he pointed out that the Penal Code of Cameroon punished persons guilty of practising slavery and trafficking in persons with a penalty of imprisonment for 15 to 20 years if the victims were of age and 5 to 10 years if they were minors.

271. Referring to article 2 of the Convention, he stated that no express legal provision in Cameroon laid down that a person could not invoke an order from a superior to exonerate himself from responsibility for an act of torture.

272. With regard to article 3 of the Convention, he stressed that, in accordance with Cameroonian law, no foreign national could be compelled to return to any country, including his own. In no case had any person been extradited to a country if there was a well-founded fear of his being tortured there.

273. With regard to article 4 of the Convention, the representative stated that the principle of the primacy of the rules of international law and the provisions of international treaties over the provisions of internal law was set forth in article 2 of the Penal Code of Cameroon. There was no specific legislation concerning torture, because the provisions of the Convention formed part of the internal law of Cameroon. Moreover, several offences which were deemed to constitute acts of torture or could be assimilated to such acts were punishable under Cameroonian criminal law.

274. With reference to articles 5, 6 and 7 of the Convention, he stated that Cameroonian courts were empowered to deal with all offences contravening the Convention, pursuant to articles 7 and 10 of the Penal Code.

275. In connection with article 10 of the Convention, the representative pointed out that training centers had been especially established in Cameroon for judges, police officers, gendarmes and prison guards. The training and education imparted played an important role in the prevention of torture.

276. In relation to articles 11 and 12 of the Convention and, in particular to the report of Amnesty International on conditions of detention in Cameroon, the representative stressed that his Government was not insensitive to the situation in the central prisons of Yaounde and Douala. In the course of the past four years, efforts had been made to improve sanitary conditions and food rations in those institutions. The problem of prison overcrowding, however, had not yet been resolved. A number of senior officials of the Ministry of Justice and the Ministry of Territorial Administration, together with the competent public prosecutor, had recently visited the central prison of Yaounde to evaluate the situation and had agreed on various measures intended to remedy the growth of the prison population. Those measures included the provisional release of persons held in preventive detention under certain conditions and the transfer to other prisons of persons sentenced to long terms of imprisonment. Political prisoners existed in Cameroon as a result of the

unsuccessful attempt of a coup d'état in 1984, but they had been sentenced by competent courts. Police inspectors and judges were the only authorities empowered to arrest and detain a person under the control of the competent public prosecutor. The duration of custody was 24 hours, which could be extended three times on express authorization of the public prosecutor.

277. With regard to article 13 of the Convention, the representative provided some information on the remedies available to a torture victim who could either institute criminal proceedings or introduce civil proceedings to obtain redress. He also explained that the special criminal court was called upon to try persons guilty of offences against publicly owned property or of misappropriation of public funds. The court, however, had been abolished on the promulgation of the 1965 Penal Code, which had converted the offences assigned to it into ordinary offences within the purview of the High Court.

278. With reference to article 14 of the Convention, the representative stated that the victim of an act of torture committed by the official could claim redress from the State for the injury sustained. In this connection, he referred to an ordinance of 26 August 1972 specifying that the Supreme Court of Cameroon dealt with all administrative litigation against the State, public bodies or public institutions and that the ordinary courts dealt with all other lawsuits or litigation, even if public bodies were involved. In the matter of civil action available to a torture victim, which varied according to whether the torturer was a senior or junior police officer, the representative said that that procedure was rarely resorted to in practice, since victims preferred to indicate simpler procedures such as direct citation or filing a claim for damages with the investigating judge to obtain redress.

279. The members of the Committee thanked the representative of Cameroon for the replies given. They felt however, that there were still some points which needed clarification or additional information. Those points concerned, in particular, the independence of the judiciary, conformity of Cameroonian penal legislation with the provisions of the convention, questions relating to extradition, penalties to be applied for specific offence of torture, the principle of universal jurisdiction, the education of medical personnel and public officials on the prohibition of torture, conditions of detention, including solitary confinement, and measures taken by Cameroon for the implementation of articles 7, 9, and 15 of the Convention. The members of the Committee welcomed, therefore, the intention of the Cameroonian authorities to provide additional information in writing. They felt however that, in view of the large number of questions raised, it would be preferable and more rational for the Government of Cameroon to furnish a new additional report containing the information requested as provided for in rule 67, of the rules of procedure of the Committee. In accordance with paragraph 2 of rule 67, the Committee indicated that the additional report of Cameroon should be submitted by 30 June 1990.

## **CAT A/47/44 (1992)**

244. The additional report of Cameroon (CAT/C/5/Add.26) was considered by the Committee at its 101<sup>st</sup> and 102<sup>nd</sup> meetings, held on 20 November 1991 (CAT/C/SR.101 and 102).

245. The report was introduced by the representative of the State party, who recalled that Cameroon had ratified the Convention against Torture in June 1987 without reservations. According to article 2 of the Penal Code, treaties and agreements who had been duly ratified by Cameroon prevailed over any provision of the criminal law as soon as they has been promulgated, and there was no need, therefore, to incorporate them into domestic law before they could be applied. Cameroonian law was the result of constant efforts to combine the English and French systems inherited from the colonial past with traditional value. In the past year considerable changes had taken place and work was being carried out to bring the country's legislation into line with the deep-seated aspirations of the Cameroonian people.

246. The judiciary was based on a system of traditional courts, courts of first instance, courts of major jurisdiction and military courts. Courts of first instance were competent in penal matters to try all offences except serious crimes, while courts of major jurisdiction tried crimes and related offences. In all, there were 49 courts of major jurisdiction and some 150 courts of first instance. Military courts had jurisdiction to try persons over the age of 18 for offences laid down in the new article 5 of Order No. 72/5 of 26 August 1972, as amended by Act No. 90/048 of 19 December 1990. Since 1990 a number of offences had been removed from the jurisdiction of the military courts either because they were no longer offences or because they were to be tried by ordinary courts. Traditional courts were competent primarily in civil matters and defendants had to agree that cases should be tried by them; otherwise, the ordinary courts had jurisdiction.

247. The judiciary was an authority in its own right and its independence was guaranteed by the President, who had the power to appoint, transfer and punish judges, with the advice and assistance of the Supreme Judicial Council. Although torture was not specifically defined in the Penal Code, most types of behavior constituting acts of torture were covered by that Code. Its provisions were concerned more with physical violence and its sequelae than with mental and psychological suffering, but suggestions would be made to the Cameroonian authorities to adopt the necessary amendments.

248. The period of custody of suspects in Cameroon was limited to 24 hours and could only be extended by the Public Prosecutor, the maximum duration being four days. The Public Prosecutor was responsible for monitoring places of detention. During the period of custody, a suspect could contact his family, have access to legal counsel and undergo a medical examination. When charges had been brought, the accused could choose a defence counsel and was not required to make any statement in his counsel's absence. He could be held incommunicado for a period of 10 days, renewable for a further 10 days, but he was entitled to have contact with a lawyer during that period. Rules of evidence were based on the principle of the innermost conviction of the judge, who assessed the probative value of evidence and could therefore reject any confession which had been obtained through torture. Training of professionals in relation to the prohibition against torture had

not yet been introduced in Cameroon.

249. Members of the Committee thanked the Government of Cameroon for the additional report which provided fuller information than was contained in the initial report, as well as the representative of the State party for his introductory statement. They noted, however, that certain questions posed by them during the consideration of the initial report of Cameroon had not yet been answered. In that connection, they wished to know how the Convention against Torture was directly applicable in Cameroon and took precedence over domestic legislation in actual practice. Further details were also requested concerning the independence of the judiciary, the guarantees of such independence and the powers, functions and terms of office of the Supreme Judicial Council. Similarly, further information on the Court of National Security was requested, including the age at which minors could be brought before the court, as well as details of its composition, jurisdiction and procedure. With regard to military courts, it was asked, *inter alia*, whether there were cases where civilians still appeared before them.

250. Members of the Committee also wished to receive more information on how the President of Cameroon was elected, on the role of the Parliamentary National Assembly and on the relationship between the judiciary and the President of Cameroon, and asked whether there had been any cases where action by the Government had influenced the decisions of the Supreme Court or local courts on matters in which the Government had an interest. In addition, they wished to know when the current state of emergency has been declared in Cameroon, for what part of the territory, and what the current situation was in that regard; whether consultation with parliament and the judiciary preceded the issuance of a presidential decree proclaiming a state of emergency; and whether parliament continued to sit throughout a state of emergency.

251. Members of the Committee expressed concern at information received with regard to 60 persons who still being detained without having been charged or brought before a court, following events that had occurred in Cameroon in 1984. They asked, in particular, what the legal basis was for such detention and whether such persons were entitled to habeas corpus. Similarly, they requested information concerning or refuting reports of ill-treatment of prisoners and allegations of torture which had not been the subject of an official inquiry in Cameroon. In that connection, it was also noted that information received from Amnesty International indicated that the authorities had blocked civil actions for damages and that some persons had not been granted court hearings despite their complaints.

252. Noting that there were no specific measures incorporating the provisions of the Convention into Cameroonian domestic law, particularly in respect of the specific prohibition of the use of torture by officials, such as members of the judiciary, the police, prison staff or members of the armed forces, members of the Committee expressed the hope that torture, as defined in the Convention, would be made a specific offence under the new Penal Code now being drafted.

253. Concerning article 2, paragraph 1, of the Convention, members of the Committee wished to know whether there was an intention to make provision, under the new Penal code, for access by detainees to a lawyer, to regulate the periods between interrogations and to require that the duration of interrogations should be recorded in a register; whether medical examinations of detainees were

to be carried out by an independent physician; what the period would be within which a detained person had to be brought before a judge; and what the practice would be concerning the extension of periods of custody. It was noted, in that connection, that no mention had been made in the report of administrative detention. Moreover, it was asked what kind of contacts were permitted during the 20-day period of detention incommunicado and whether, in addition to the obligation under the Code of Criminal Procedure for the Public Prosecutor to make visits to persons held in police custody, there was also an obligation to visit prisons cells. With reference to the statement in the report that persons carrying out arrests were prohibited from using force except when defending themselves against assault, clarification was sought as to what was meant by the term “defense against assault” and whether the principle of proportionality applied.

254. With regard to article 2, paragraph 2, of the Convention, members of the Committee noted that under state of emergency powers custody could be ordered *inter alia*, by a minister for two months and extended for a further two months, and wished to know what guarantees were provided for the persons held for such long periods in custody in respect of access to their doctor, lawyer and family. Clarification was also sought as to whether persons in custody could be held in private houses, and when held in premises other than police premises, whether such persons could be held incommunicado.

255. With regard to article 3 of the Convention, members of the Committee were interested in receiving information on specific examples of persons returned or expelled who had been able to choose their country of destination. They observed that a person could risk torture on return to his country even when his life or freedom was not threatened for any of the reasons listed in the 1951 Convention relating to the Status of Refugees, and that the Convention would be contravened if foreigners who did not meet the conditions of entry into Cameroon were returned to a country where torture was practised. Finally, in noting that extradition was ordered by decree of the President, it was asked whether such a decree would take account of the requirements of article 3 of the Convention.

256. In respect of article 5 of the Convention and the competence of the Cameroonian courts to try acts of torture even if they had been perpetrated by a foreign national, it was asked what specific provision on that matter existed in the Cameroonian Penal Code.

257. Concerning article 6 of the Convention, it was observed that in weighing the need for swift and effective prosecution against the requirements of personal freedom, Cameroonian law might not be consistent with the requirements of paragraph 1 of that article, which was concerned with ensuring that custody was continued only for such time as necessary to enable criminal extradition proceedings to be instituted. It was also pointed out that the statements in the report relating to the implementation of paragraphs 3 and 4 of article 6 of the Convention were rather vague and did not meet all the requirements of the provisions contained in those paragraphs.

258. With regard to article 8 of the Convention, members recalled that the State party, under the provisions of paragraph 3 of that article, was obliged to make offences of torture extraditable.

259. In respect of article 10 of the Convention, members of the Committee wished to know whether



education and information regarding the prohibition against torture had been expressly recommended in administration of justice-related decrees, and whether the Government had taken any steps to organize training programs to provide instruction in human rights to various occupational groups.

260. With regard to article 11 of the Convention, members of the Committee expressed concern over information indicating that there were inadequacies in the prison inspection system and that ill-treatment of prisoners continued. In that connection, they asked for further information on the Cameroonian Commission on Prison Supervision and wished to know whether the Commission published an annual reports of its findings and how the Government of Cameroon intended to change the system of prison inspection. In addition, clarification was sought as to the periods of detention of suspects and their conditions of detention.

261. With reference to article 12 of the Convention, members of the Committee wished to know whether the police themselves conducted inquiries into cases of acts of torture perpetrated by the police and, if so, how impartiality was ensured. In that connection, it was noted that there appeared to be a defect in the mechanism for investigating suspected acts of torture since solidarity between the police and the gendarmerie could stand in the way of the reporting and punishment of such acts.

262. In respect of article 13 of the Convention, and especially in view of the information on allegations and details of ill-treatment received by the Committee, it was asked how many complaints of torture had been received, made public and investigated, and how many sentences had been handed down.

263. In connection with article 14 of the Convention, members of the Committee noted that no specific programme existed at present for the rehabilitation of torture victims in Cameroon and asked whether the Government intended to set up such a programme. They also sought information on how many successful actions for compensation for torture victims had been brought before the courts and about the average amount that had been offered to them. Clarification was also sought on the matter of Government liability in compensation actions.

264. With regard to article 15 of the Convention, it was observed that the provisions of that article required that judges must reject statements obtained under torture and not that judges were entitled to reject such statements.

265. In connection with article 16 of the Convention, clarification was sought as to how the provision in the Cameroonian Code of Criminal Investigation that the use of force in the process of arrest, detention or execution of a sentence was a crime interpreted and applied.

266. In reply to questions of a general nature, the representative of Cameroon stated that although the Convention took precedence over national law, the provisions of the Convention had not been incorporated into the Penal Code and the Constitution because they had been in existence long before the Convention. However, many reforms were under way in his country and the Government was determined to take account of and respect the provisions of all the conventions to which Cameroon was a party. The Court of National Security had sole competence to try crimes and offences against the internal and external security of the State unless such crimes and offences had been committed

by minors under the age of 14. Its procedures followed those of a court of first instance. Military courts were more competent to try cases of crimes committed by the military in the exercise of their duties. Civilians who were co-operators or accomplices of an act committed by members of the military were not subject to the jurisdiction of the military courts.

267. The President of Cameroon was selected by universal suffrage, as were the deputies to the National Assembly. To date, election had been held by a closed list system, but a special commission had recently been instructed to study which voting methods might best serve the interests of democracy during the forthcoming multiparty elections. The Government could influence court decision through, for example, the transfer of judges. The Supreme Judicial Council handed down opinions of judiciary regulations but derogations to those regulations could be made by order of the President of the Republic who was free not take into account the opinions of the Council. However, measures which would guarantee greater independence of the judiciary were currently under study.

268. Replying to concerns raised over the state of emergency situation, the representative referred to constitutional provisions and Act No. 90/047 of 19 December on the state of emergency. Article 2 of that Act, in particular, established that the state of emergency was proclaimed by presidential decree. If the situation which had led to the state of emergency continued to exist, the President of the Republic had to consult National Assembly. There was no law, outside of a state of emergency, authorizing administrative detention. The President had recently established a commission to propose amendments to the Constitution including the provisions on the state of emergency, in order to reflect the country's recent shift to democracy.

269. With regard to the reports of non-governmental organizations on the human rights situation in Cameroon, the representative indicated that the persons detained as a result of the attempted coup d'état in April 1984 had been tried in 1991 and that many of them had been released pursuant to an amnesty. Referring to certain particular cases of human right violations that had occurred recently in Cameroonian prisons, the representative expressed the Government's regrets and said that it had recently ordered the Prosecutor of Douala to open an inquiry into the arrest of the persons listed in the Amnesty International report.

270. Referring to specific provisions of the Convention, the representative informed the Committee that although the legislation in force did not contain any provisions relating to medical examinations of detained persons by independent physicians, the period of time between interrogations or the presence of a lawyer during interrogations, changes to deal with those matters were included in the draft code of penal procedure that was to be submitted shortly to the National Assembly.

271. Concerning article 2, paragraph 2, of the Convention, the representative explained that incommunicado detention could not last more than 20 days and was a measure rarely applied. It could take place only in connection with judicial inquiry proceedings and was governed by very specific provisions which had nothing to do with emergency measures. During a state of emergency the provisions of the Penal Code and of the Code of Penal Procedure were applied normally and justice was administrated according to the procedures provided by law.

272. With regard to article 3 of the Convention, the representative informed the Committee that the extradition procedure involved arresting any person for whom a warrant of arrest had been communicated by the requesting State. The arrested person was brought before the Court of Appeal, which had eight days to decide on the admissibility of the request for extradition. If the request was found admissible, it was then for the President of the Republic to take the final decision concerning extradition.

273. Replying to the question raised in connection with article 5 of the Convention, the representative indicated that the possibility existed for Cameroonian courts to judge a foreigner who had committed an act of torture outside Cameroon. That could be done, for example, according to multilateral treaties which listed crimes in addition to those provided for in article 10 of the Penal Code.

274. With regard to concerns raised by the Committee under article 6 of the Convention, the representative indicated that some time could elapse before the information on the detention of a foreigner reached the Ministry of Foreign Affairs in Cameroon, which was the only body authorized to contact the diplomatic or consular authorities of another State. In order to fill communication gaps and speed up the communication procedure within Cameroon, a department had been set up to contact the immigration services and to ascertain whether any foreigners were being detained.

275. In connection with article 10 of the Convention, the representative informed the Committee that several schools were making efforts with regard to the training of personnel, including the Senior Police School and the Yaoundé School of Medicine. All public officials responsible for inquiries received instruction in the Penal Code. Moreover, doctors had to be familiar with the provisions of the Penal Code because the judge sometimes had to decide on the basis of a medical report whether an offence had been committed and whether and whether compensation should be awarded.

276. In connection with article 11 of the Convention, the representative referred, in particular, to the recent establishment of the National Commission on Human Rights and Freedoms which had been given power to hear denunciations, conduct inquiries and, if necessary, to refer complaints to the competent authorities. Obstacles to the Supervision of police custody by judges were due to the fact that the subordination to the judicial authorities of the judicial police forces, which had broad powers, could not always be guaranteed.

277. With regard to article 12 of the Convention, the representative indicated that inquiries into allegations of torture when perpetrated by the police were not conducted only by the police, but could also be carried out by gendarmes or examining magistrates. Whereas in the past an official report prepared by the police had been regarded as evidence in court, under the new draft code of penal procedure statements by police officers could now be challenged.

278. With regard to article 13 of the Convention, the representative informed the Committee that in 1990, 72 police officers had been dismissed for having practised torture. Moreover, under the new code of penal procedure being drafted, if a police officer was guilty of torture the victim could have him brought to trial and could obtain damages.

279. Replying to questions raised under article 14 of the Convention, the representative indicated that a victim of torture requiring psychiatric care could be attended to in a centre in Yaoundé and that there was also a centre in Yaoundé to deal with cases of torture that had led to any form of disability.

280. In reply to the point made under article 15 of the Convention, the representative stated that, as a general rule, confessions obtained by torture were not admissible in court.

281. In connection with article 16 of the Convention, the representative informed the Committee that to his knowledge the words “to use force”, as contained in article 137 of Decree No. 60/280 relating to the gendarmerie, had never been interpreted by the courts.

### Concluding observations

282. In concluding the consideration of the report, the Committee welcomed the efforts made by the Government of Cameroon to respond to its questions and requested the authorities to take advantage of the opportunity afforded by the current reform of the Penal Code to amend certain provisions or to add new ones to make it possible to more effectively prevent torture from occurring in Cameroon.

283. The Committee also pointed to specific areas still causing concern in respect of the implementation of the Convention, such as the duration of police custody permissible by law and the need to provide persons in police custody with further guarantees of protection against abuse of power or ill-treatment; the need to guarantee the same rights to a person in administrative detention as to a person who had been deprived of his freedom according to judicial proceedings; the need to improve the provision of training and information to civilian or military law enforcement personnel, public officials, policemen and prison staff and to improve the independence of the judiciary and the supervision of conditions of detention in prisons; and the need to investigate alleged cases of torture or ill-treatment.

284. The Committee also suggested that the advisory services and technical assistance program of the Centre for Human Rights could be called upon to assist the Government in its efforts to improve the implementation of the provisions of the Convention, particularly by formulating training programmes for the various categories of officials.

## **CAT A/56/44 (2001)**

60. The Committee considered the second periodic report of Cameroon (CAT/C/17/Add.22) at its 448th, 451st and 454th meetings, held on 20, 21 and 23 November 2000 (CAT/C/SR.448, 451 and 454), and adopted the following conclusions and recommendations.

### **A. Introduction**

61. The Committee expresses its appreciation for the submission of the report of Cameroon, which covers the period until the end of 1996. The report, which was submitted seven years late, was prepared in conformity with the guidelines for the preparation of periodic reports.

62. The Committee also expresses its appreciation to the delegation of Cameroon for its professionalism and the diligence with which it provided detailed replies to the questions asked by the Committee, thereby demonstrating the interest taken by the State party in the work of the Committee.

### **B. Positive aspects**

63. The Committee takes note with satisfaction of the following elements:

(a) The remarkable efforts made by the State party to carry out far-reaching reforms of its legislation and practice in order to fulfil its obligations under the Convention;

(b) The agreement to receive the visit of the Special Rapporteur on the question of torture, who was able to complete his mission unhindered;

(c) The willingness of the State party to allow International Committee of the Red Cross (ICRC) inspectors to visit places of detention on their own terms;

(d) The scrupulous respect shown by the courts and political authorities in Cameroon for the State party's obligations under article 3 of the Convention, thus ensuring that a person was not extradited to a country where he was in danger of being subjected to torture or sentenced to death;

(e) Cooperation with the International Criminal Tribunal for Rwanda in the extradition of some indicted persons to Arusha;

(f) The promise by the representatives of the State party to permit the National Commission on Human Rights to visit detention centres on the terms recommended by the Special Rapporteur;

(g) The State party's decision to make the declarations provided for in articles 21 and 22 of the Convention;

(h) The initiation of a process for the ratification of the Statute of the International Criminal Court;

(i) The State party's recent contribution to the United Nations Voluntary Fund for Victims of Torture.

C. Factors and difficulties impeding the application of the Convention

64. The Committee is aware of the range of difficulties experienced by the State party, including those of an economic nature, which have led to a considerable reduction in its financial resources. It nevertheless points out that no exceptional circumstances of any kind can be invoked to justify torture.

D. Subjects of concern

65. The Committee is concerned about the following:

(a) The fact that, despite the policy pursued by the Government, torture seems to remain a widespread practice;

(b) The continuing practice of administrative detention, which allows the authorities reporting to or forming part of the executive branch (the Ministry of the Interior) to violate individual liberty, something which, under the rule of law, should come under the jurisdiction of the judiciary;

(c) The gap between the adoption of rules in accordance with human rights standards, including those designed to prevent the practice of torture, and the findings made *in situ* by an independent entity such as the Special Rapporteur on the question of torture, who reports the existence of numerous cases of torture;

(d) The imbalance between the large number of allegations of torture or ill-treatment and the small number of prosecutions and trials;

(e) The absence of legislative provisions for the compensation and rehabilitation of victims of torture, contrary to the provisions of article 14 of the Convention;

(f) The absence of legislative provisions rendering evidence obtained through torture inadmissible, pursuant to article 15 of the Convention;

(g) The fact that security considerations seem to be given precedence over all other matters, including the prohibition of torture;

(h) The maintenance of the prison administration under the authority of the Ministry of the Interior;

(i) The many human rights violations attributable to two special forces, the Operational Command and the Task Force of the National Gendarmerie.

E. Recommendations

66. The Committee recommends that the State party:

(a) Introduce a mechanism into its legislation for the fullest possible compensation and rehabilitation of the victims of torture;

(b) Introduce provisions into its legislation on the inadmissibility of evidence obtained through torture, except in the case of acts carried out against the perpetrator of torture in order to prove that an act of torture has been committed;

(c) Take advantage of the process of codification already under way to bring Cameroonian legislation into line with the provisions of articles 5, 6, 7 and 8 of the Convention;

(d) Ensure the effective implementation of the instructions from the Minister of Justice that pre-trial detention must take place only when absolutely necessary and that provisional release should be the rule, especially since this could help to deal with the problem of prison overcrowding;

(e) Consider transferring responsibility for prison administration from the Ministry of the Interior to the Ministry of Justice;

(f) Consider abolishing the special forces established to combat highway robbery, while at the same time lifting the freeze on the recruitment of law enforcement officials;

(g) Pursue energetically any inquiries already under way into allegations of human rights violations and, in cases which have yet to be investigated, give the order for prompt and impartial inquiries to be opened and inform the Committee of the results;

(h) Ensure scrupulous respect for the human rights of persons arrested in the context of efforts to combat highway robbery;

(i) Pursue the training programme for law enforcement personnel in human rights, with particular reference to the prohibition of torture;

(j) Consider establishing a regular system to assess the effectiveness of the implementation of legislation on the prohibition of torture, for instance by making the best use of the National Committee on Human Rights and non-governmental human rights organizations;

(k) Scrupulously maintain a registry of detained persons and make it publicly accessible.

## **CAT CAT/C/CR/31/6 (2003)**

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.